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UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

FORM 20-F

(Mark One)

REGISTRATION STATEMENT PURSUANT TO SECTION 12(B) OR 12(G) OF THE SECURITIES EXCHANGE ACT OF 1934

OR

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(D) OF THE SECURITIES EXCHANGE ACT OF 1934  
For the fiscal year ended March 31, 2018

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(D) OF THE SECURITIES EXCHANGE ACT OF 1934

OR

SHELL COMPANY REPORT PURSUANT TO SECTION 13 OR 15(D) OF THE SECURITIES EXCHANGE ACT OF 1934

Date of event requiring this shell company report.....

For the transition period from to

Commission file number 001-36614

**Alibaba Group Holding Limited**

(Exact name of Registrant as specified in its charter)

Cayman Islands

(Jurisdiction of incorporation or organization)

c/o Alibaba Group Services Limited  
26/F Tower One, Times Square  
1 Matheson Street, Causeway Bay  
Hong Kong

(Address of principal executive offices)

Timothy A. Steinert, Esq., General Counsel and Secretary  
Telephone: +852-2215-5100  
Facsimile: +852-2215-5200  
Alibaba Group Holding Limited  
c/o Alibaba Group Services Limited  
26/F Tower One, Times Square  
1 Matheson Street, Causeway Bay  
Hong Kong

(Name, Telephone, E-mail and/or Facsimile number and Address of Company Contact Person)

Securities registered or to be registered pursuant to Section 12(b) of the Act:

<u>Title of each class</u>	<u>Name of each exchange on which registered</u>
Ordinary Shares, par value US\$0.000025 per share American Depositary Shares, each representing one Ordinary Share	New York Stock Exchange

Securities registered or to be registered pursuant to Section 12(g) of the Act: **None**

Securities for which there is a reporting obligation pursuant to Section 15(d) of the Act: **None**

Indicate the number of outstanding shares of each of the issuer's classes of capital or common stock as of the close of the period covered by the annual report: 2,571,929,843 Ordinary Shares

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.

Yes  No

If this report is an annual or transition report, indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934.

Yes  No

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes  No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files).

Yes  No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer

Accelerated filer

Non-accelerated filer

Emerging growth company

If an emerging growth company that prepares its financial statements in accordance with U.S. GAAP, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act

Indicate by check mark which basis of accounting the registrant has used to prepare the financial statements included in this filing:

U.S. GAAP

International Financial Reporting Standards as issued  
by the International Accounting Standards Board

Other

If "Other" has been checked in response to the previous question, indicate by check mark which financial statement item the registrant has elected to follow.

Item 17  Item 18

If this is an annual report, indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Securities Exchange Act of 1934).

Yes  No

(APPLICABLE ONLY TO ISSUERS INVOLVED IN BANKRUPTCY PROCEEDINGS DURING THE PAST FIVE YEARS)

Indicate by check mark whether the registrant has filed all documents and reports required to be filed by Sections 12, 13 or 15(d) of the Securities Exchange Act of 1934 subsequent to the distribution of securities under a plan confirmed by a court.

Yes  No

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## CONVENTIONS THAT APPLY TO THIS ANNUAL REPORT ON FORM 20-F

Unless the context otherwise requires, references in this annual report on Form 20-F to:

- "ADSs" are to the American depositary shares, each of which represents one ordinary share;
- "Alipay" are to Alipay.com Co., Ltd., a company with which we have a long-term contractual relationship and which is a wholly-owned subsidiary of Ant Financial or, where the context requires, its predecessor entities. Although we have agreed to acquire a 33% equity interest in Ant Financial, we do not and, upon completion of our acquisition of such equity interest, will not have any control over either Ant Financial or Alipay;
- "Altaba" are to Altaba Inc. (formerly known as Yahoo! Inc.), Altaba Holdings Hong Kong Limited (formerly known as Yahoo! Hong Kong Holdings Limited) and Altaba HK MC Limited, collectively;
- "annual active consumers" are to user accounts that had one or more confirmed orders on the relevant platform during the previous twelve months, regardless of whether or not the buyer and seller settle the transaction;
- "annual active users" for Ant Financial are to user accounts that used one or more services provided by Ant Financial and its investees, such as payment, wealth management, financing, insurance and credit system, during the previous twelve months;
- "Ant Financial" are to Ant Small and Micro Financial Services Group Co., Ltd., a company organized under the laws of the PRC (in which we have agreed to acquire a 33% equity interest, subject to regulatory approvals and customary closing conditions) and, as context requires, its consolidated subsidiaries;
- "Cainiao Network" are to Cainiao Smart Logistics Network Limited, a company incorporated under the laws of the Cayman Islands, together with its subsidiaries, including Cainiao Network Technology Co., Ltd.;
- "China" and the "PRC" are to the People's Republic of China, excluding, for the purposes of this annual report only, Taiwan and the special administrative regions of Hong Kong and Macau;
- "China retail marketplaces" are to Taobao Marketplace and Tmall, collectively;
- "GMV" are to the value of confirmed orders of products and services on our marketplaces, regardless of how, or whether, the buyer and seller settle the transaction. Unless otherwise stated, GMV in reference to our marketplaces includes only GMV transacted on our China retail marketplaces. Our calculation of GMV for our China retail marketplaces includes shipping charges paid by buyers to sellers. As a prudential matter aimed at eliminating any influence on our GMV of potentially fraudulent transactions, we exclude from our calculation of GMV transactions in certain product categories over certain amounts and transactions by buyers in certain product categories over a certain amount per day;
- "HK\$" and "Hong Kong dollars" are to the legal currency of the Hong Kong Special Administrative Region of the People's Republic of China;
- "mobile MAUs" in a given month are to the number of unique mobile devices that were used to visit or access certain of our mobile applications at least once during that month;
- "orders" are to each confirmed order from a transaction between a buyer and a seller for products and services on the relevant platform, even if these orders include multiple items, during the specified period, whether or not the transaction is settled;
- "retail marketplaces" are to Taobao Marketplace, Tmall, and AliExpress, collectively;
- "RMB" and "Renminbi" are to the legal currency of China;
- "SMEs" are to small and medium-sized enterprises;

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- "SoftBank" are to SoftBank Group Corp. (formerly known as SoftBank Corp. before July 2, 2015), SBBM Corporation, West Raptor Holdings, LLC and Skywalk Finance GK, collectively;
- "variable interest entities" or "VIEs" are to our variable interest entities that are 100% owned by PRC citizens or by PRC entities owned by PRC citizens, where applicable, that hold the Internet content provider licenses, or ICP licenses, or other business operation licenses or approvals, and generally operate the various websites for our Internet businesses or other businesses in which foreign investment is restricted or prohibited, and are consolidated into our consolidated financial statements in accordance with U.S. GAAP as if they were our wholly-owned subsidiaries;
- "we," "us," "our company" and "our" are to Alibaba Group Holding Limited and its consolidated subsidiaries and its affiliated consolidated entities, including our variable interest entities and their subsidiaries;
- "wholesale marketplaces" are to 1688.com and Alibaba.com, collectively; and
- "US\$," "dollars" and "U.S. dollars" are to the legal currency of the United States.

Our reporting currency is the Renminbi. This annual report contains translations of Renminbi and Hong Kong dollar amounts into U.S. dollars for the convenience of the reader. Unless otherwise stated, all translations of Renminbi and Hong Kong dollars into U.S. dollars were made at RMB6.2726 to US\$1.00 and HK\$7.8484 to US\$1.00, the respective exchange rates on March 30, 2018 set forth in the H.10 statistical release of the Federal Reserve Board. We make no representation that the Renminbi, Hong Kong dollar or U.S. dollar amounts referred to in this annual report could have been or could be converted into U.S. dollars, Renminbi or Hong Kong dollars, as the case may be, at any particular rate or at all. On July 20, 2018, the noon buying rate for Renminbi and Hong Kong dollars was RMB6.7659 to US\$1.00 and HK\$7.8491 to US\$1.00, respectively.

## FORWARD-LOOKING STATEMENTS

This annual report on Form 20-F contains forward-looking statements that involve risks and uncertainties, including statements based on our current expectations, assumptions, estimates and projections about us, our industry and the regulatory environment in which we and companies integral to our ecosystem operate. All statements other than statements of historical facts are forward-looking statements. These forward-looking statements are made under the "safe harbor" provision under Section 21E of the Securities Exchange Act of 1934, as amended, and as defined in the Private Securities Litigation Reform Act of 1995. These statements involve known and unknown risks, uncertainties and other factors that may cause our actual results, performance or achievements to be materially different from those expressed or implied by the forward-looking statements. In some cases, these forward-looking statements can be identified by words or phrases such as "may," "will," "expect," "anticipate," "aim," "estimate," "intend," "plan," "believe," "potential," "continue," "is/are likely to" or other similar expressions. The forward-looking statements included in this annual report relate to, among others:

- our growth strategies;
- our future business development, results of operations and financial condition;
- trends in commerce and the overall technology and Internet industries, both globally and in the PRC;
- competition in our industries;
- fluctuations in general economic and business conditions in China and globally;
- expected changes in our revenues and certain cost and expense items and our operating margins;
- the completion of our investment transactions, including our subscription for an equity interest in Ant Financial, and regulatory approvals and other conditions that must be met in order to complete such investment transactions;
- the regulatory environment in which we and companies integral to our ecosystem operate; and
- assumptions underlying or related to any of the foregoing.

The global and PRC Internet, retail, wholesale, online and mobile commerce, cloud computing, digital media and entertainment, and data industries or markets may not grow at the rates projected by market data, or at all. The failure of these industries or markets to grow at the projected rates may have a material adverse effect on our business, financial condition and results of operations and the market price of our ADSs. If any one or more of the assumptions underlying the industry or market data turns out to be incorrect, actual results may differ from the projections based on these assumptions. You should not place undue reliance on these forward-looking statements.

The forward-looking statements made in this annual report relate only to events or information as of the date on which the statements are made in this annual report. We undertake no obligation to update any forward-looking statements to reflect events or circumstances after the date on which the statements are made or to reflect the occurrence of unanticipated events. You should read this annual report and the documents that we have referred to in this annual report completely and with the understanding that our actual future results may be materially different from what we expect.

**PART I**

**ITEM 1 IDENTITY OF DIRECTORS, SENIOR MANAGEMENT AND ADVISERS**

Not Applicable.

**ITEM 2 OFFER STATISTICS AND EXPECTED TIMETABLE**

Not Applicable.

**ITEM 3 KEY INFORMATION**

**A. Selected Financial Data**

The selected consolidated statements of operations data for the years ended March 31, 2016, 2017 and 2018, and the selected consolidated balance sheet data as of March 31, 2017 and 2018 have been derived from our audited consolidated financial statements included elsewhere in this annual report. Our selected consolidated statements of operations data for the years ended March 31, 2014 and 2015 and the selected consolidated balance sheet data as of March 31, 2014, 2015 and 2016 have been derived from our audited consolidated financial statements not included in this annual report. Our financial statements have been prepared in accordance with generally accepted accounting principles in the United States, or U.S. GAAP.

The following selected consolidated financial data for the periods and as of the dates indicated are qualified by reference to and should be read in conjunction with our audited consolidated financial statements and related notes and "Item 5. Operating and Financial Review and Prospects," both of which are included elsewhere in this annual report.

Our historical results for any prior period do not necessarily indicate our results to be expected for any future period.

**Consolidated Statements of Operations Data:**

	Year ended March 31,					
	2014	2015	2016	2017	2018	
	RMB	RMB	RMB	RMB	RMB	US\$
	(in millions, except per share data)					
Revenue	52,504	76,204	101,143	158,273	250,266	39,898
Cost of revenue	(13,369)	(23,834)	(34,355)	(59,483)	(107,044)	(17,065)
Product development expenses	(5,093)	(10,658)	(13,788)	(17,060)	(22,754)	(3,628)
Sales and marketing expenses	(4,545)	(8,513)	(11,307)	(16,314)	(27,299)	(4,352)
General and administrative expenses	(4,218)	(7,800)	(9,205)	(12,239)	(16,241)	(2,589)
Amortization of intangible assets	(315)	(2,089)	(2,931)	(5,122)	(7,120)	(1,135)
Impairment of goodwill	(44)	(175)	(455)	—	(494)	(79)
Income from operations	24,920	23,135	29,102	48,055	69,314	11,050
Interest and investment income, net	1,648	9,455	52,254	8,559	30,495	4,862
Interest expense	(2,195)	(2,750)	(1,946)	(2,671)	(3,566)	(568)
Other income, net	2,429	2,486	2,058	6,086	4,160	663
Income before income tax and share of results of equity investees	26,802	32,326	81,468	60,029	100,403	16,007
Income tax expenses	(3,196)	(6,416)	(8,449)	(13,776)	(18,199)	(2,901)
Share of results of equity investees	(203)	(1,590)	(1,730)	(5,027)	(20,792)	(3,315)
Net income	23,403	24,320	71,289	41,226	61,412	9,791
Net (income) loss attributable to noncontrolling interests	(88)	(59)	171	2,449	2,681	427
Net income attributable to Alibaba Group Holding Limited	23,315	24,261	71,460	43,675	64,093	10,218
Accretion of convertible preference shares <sup>(1)</sup> and mezzanine equity	(31)	(15)	—	—	(108)	(17)
Dividends accrued on convertible preference shares <sup>(1)</sup>	(208)	(97)	—	—	—	—
Net income attributable to ordinary shareholders	<u>23,076</u>	<u>24,149</u>	<u>71,460</u>	<u>43,675</u>	<u>63,985</u>	<u>10,201</u>
<b>Earnings per share/ADS attributable to ordinary shareholders:</b>						
Basic	10.61	10.33	29.07	17.52	25.06	4.00
Diluted	10.00	9.70	27.89	16.97	24.51	3.91
<b>Weighted average number of shares used in computing earnings per share:</b>						
Basic	2,175	2,337	2,458	2,493	2,553	
Diluted	2,332	2,500	2,562	2,573	2,610	
<b>Supplemental information: <sup>(2)</sup></b>						
Adjusted EBITDA	30,731	40,753	52,340	74,456	105,792	16,866
Adjusted EBITA	29,392	38,427	48,570	69,172	97,003	15,465
Non-GAAP net income	28,263	34,876	42,791	57,871	83,214	13,266
Non-GAAP diluted EPS	12.08	13.93	16.77	23.44	32.86	5.24
Free cash flow	32,269	48,121	51,279	68,790	99,362	15,841

(1) Upon the completion of our initial public offering in September 2014, all of our then outstanding convertible preference shares were converted into ordinary shares.  
(2) See "Non-GAAP Measures" below.



## **Non-GAAP Measures**

We use adjusted EBITDA (including adjusted EBITDA margin), adjusted EBITA (including adjusted EBITA margin), non-GAAP net income, non-GAAP diluted EPS and free cash flow, each a non-GAAP financial measure, in evaluating our operating results and for financial and operational decision-making purposes.

We believe that adjusted EBITDA, adjusted EBITA, non-GAAP net income and non-GAAP diluted EPS help identify underlying trends in our business that could otherwise be distorted by the effect of certain income or expenses that we include in income from operations, net income and diluted EPS. We believe that adjusted EBITDA, adjusted EBITA, non-GAAP net income and non-GAAP diluted EPS provide useful information about our core operating results, enhance the overall understanding of our past performance and future prospects and allow for greater visibility with respect to key metrics used by our management in its financial and operational decision-making.

We consider free cash flow to be a liquidity measure that provides useful information to management and investors about the amount of cash generated by our business that can be used for strategic corporate transactions, including investing in our new business initiatives, making strategic investments and acquisitions and strengthening our balance sheet.

Adjusted EBITDA, adjusted EBITA, non-GAAP net income, non-GAAP diluted EPS and free cash flow should not be considered in isolation or construed as an alternative to income from operations, net income, diluted EPS, cash flows or any other measure of performance or as an indicator of our operating performance. These non-GAAP financial measures presented here may not be comparable to similarly titled measures presented by other companies. Other companies may calculate similarly titled measures differently, limiting their usefulness as comparative measures to our data.

Adjusted EBITDA represents net income before (i) interest and investment income, net, interest expense, other income, net, income tax expenses and share of results of equity investees, (ii) certain non-cash expenses, consisting of share-based compensation expense, amortization, depreciation, impairment of goodwill and (iii) an equity-settled donation expense, which we do not believe are reflective of our core operating performance during the periods presented.

Adjusted EBITA represents net income before (i) interest and investment income, net, interest expense, other income, net, income tax expenses and share of results of equity investees, (ii) certain non-cash expenses, consisting of share-based compensation expenses, amortization and impairment of goodwill and (iii) an equity-settled donation expense, which we do not believe are reflective of our core operating performance during the periods presented.

Non-GAAP net income represents net income before share-based compensation expense, amortization, impairment of goodwill and investments, gain or loss on deemed disposals/disposals/revaluation of investments, amortization of excess value receivable arising from the restructuring of commercial arrangements with Ant Financial, immediate recognition of unamortized professional fees and upfront fees upon early repayment/termination of bank borrowings, an equity-settled donation expense, the expenses relating to the sale of shares by existing shareholders in our initial public offering and others, as adjusted for the tax effects on non-GAAP adjustments.

Non-GAAP diluted EPS represents non-GAAP net income attributable to ordinary shareholders divided by the weighted average number of shares outstanding during the periods on a diluted basis, including accounting for the effects of the assumed conversion of convertible preference shares prior to our initial public offering in September 2014.

Free cash flow represents net cash provided by operating activities as presented in our consolidated cash flow statement less purchases of property and equipment, intangible assets and licensed copyrights (excluding acquisition of land use rights and construction in progress), and adjusted for changes in loan receivables relating to micro loans of our SME loan business (which we transferred to Ant Financial in February 2015) and others. We

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present the adjustment for changes in loan receivables because such receivables are reflected under cash flow from operating activities, whereas the secured borrowings and other bank borrowings used to finance them are reflected under cash flows from financing activities, and accordingly, the adjustment is made to show cash flows from operating activities net of the effect of changes in loan receivables.

The following table sets forth a reconciliation of our net income to adjusted EBITA and adjusted EBITDA for the periods indicated:

	Year ended March 31,					
	2014	2015	2016	2017	2018	
	RMB	RMB	RMB	RMB	RMB	US\$
	(in millions)					
Net income	23,403	24,320	71,289	41,226	61,412	9,791
Less: Interest and investment income, net	(1,648)	(9,455)	(52,254)	(8,559)	(30,495)	(4,862)
Add: Interest expense	2,195	2,750	1,946	2,671	3,566	568
Less: Other income, net	(2,429)	(2,486)	(2,058)	(6,086)	(4,160)	(663)
Add: Income tax expenses	3,196	6,416	8,449	13,776	18,199	2,901
Add: Share of results of equity investees	203	1,590	1,730	5,027	20,792	3,315
Income from operations	24,920	23,135	29,102	48,055	69,314	11,050
Add: Share-based compensation expense	2,844	13,028	16,082	15,995	20,075	3,201
Add: Amortization of intangible assets	315	2,089	2,931	5,122	7,120	1,135
Add: Impairment of goodwill	44	175	455	—	494	79
Add: Equity-settled donation expense	1,269	—	—	—	—	—
Adjusted EBITA	29,392	38,427	48,570	69,172	97,003	15,465
Add: Depreciation and amortization of property and equipment and land use rights	1,339	2,326	3,770	5,284	8,789	1,401
Adjusted EBITDA	30,731	40,753	52,340	74,456	105,792	16,866

The following table sets forth a reconciliation of our net income to non-GAAP net income for the periods indicated:

	Year ended March 31,					
	2014	2015	2016	2017	2018	
	RMB	RMB	RMB	RMB	RMB	US\$
	(in millions)					
Net income	23,403	24,320	71,289	41,226	61,412	9,791
Add: Share-based compensation expense	2,844	13,028	16,082	15,995	20,075	3,201
Add: Amortization of intangible assets	315	2,089	2,931	5,122	7,120	1,135
Add: Impairment of goodwill and investments	163	1,032	2,319	2,542	20,463	3,262
Less: Gain on deemed disposals/disposals/revaluation of investments and others	(384)	(6,715)	(50,435)	(7,346)	(25,945)	(4,137)
Add: Amortization of excess value receivable arising from the restructuring of commercial arrangements with Ant Financial	—	166	264	264	264	42
Add: Immediate recognition of unamortized professional fees and upfront fees upon early repayment/termination of bank borrowings	664	830	—	—	92	15
Add: Equity-settled donation expense	1,269	—	—	—	—	—
Add: Expenses relating to the sale of shares by existing shareholders at initial public offering	—	231	—	—	—	—
Adjusted for tax effects on non-GAAP adjustments <sup>(1)</sup>	(11)	(105)	341	68	(267)	(43)
Non-GAAP net income	28,263	34,876	42,791	57,871	83,214	13,266

(1) Tax effects on non-GAAP adjustments are comprised of tax provisions on the amortization of intangible assets and certain gains on disposal of investments, as well as tax benefits from share-based awards.

The following table sets forth a reconciliation of our diluted EPS to non-GAAP diluted EPS for the periods indicated:

	Year ended March 31,					
	2014	2015	2016	2017	2018	
	RMB	RMB	RMB	RMB	RMB	US\$
	(in millions, except per share data)					
Net income attributable to ordinary shareholders	23,076	24,149	71,460	43,675	63,985	10,201
Add: Reversal of accretion upon assumed conversion of convertible preference shares	31	15	—	—	—	—
Add: Dividend eliminated upon assumed conversion of convertible preference shares	208	97	—	—	—	—
Less: Dilution effect on earnings arising from share-based awards operated by a subsidiary and equity investees	—	—	—	(11)	(21)	(3)
Net income attributable to ordinary shareholders for computing diluted EPS	23,315	24,261	71,460	43,664	63,964	10,198
Add: Non-GAAP adjustments to net income <sup>(1)</sup>	4,860	10,556	(28,498)	16,645	21,802	3,475
Non-GAAP net income attributable to ordinary shareholders for computing non-GAAP diluted EPS	28,175	34,817	42,962	60,309	85,766	13,673
Weighted average number of shares on a diluted basis	2,332	2,500	2,562	2,573	2,610	
Diluted EPS <sup>(2)</sup>	10.00	9.70	27.89	16.97	24.51	3.91
Add: Non-GAAP adjustments to net income per share <sup>(3)</sup>	2.08	4.23	(11.12)	6.47	8.35	1.33
Non-GAAP diluted EPS <sup>(4)</sup>	12.08	13.93	16.77	23.44	32.86	5.24

- (1) See the table above regarding the reconciliation of net income to non-GAAP net income for more information of these non-GAAP adjustments.  
(2) Diluted EPS is derived from net income attributable to ordinary shareholders for computing diluted EPS divided by weighted average number of shares on a diluted basis.  
(3) Non-GAAP adjustments to net income per share is derived from non-GAAP adjustments to net income divided by weighted average number of shares on a diluted basis.  
(4) Non-GAAP diluted EPS is derived from non-GAAP net income attributable to ordinary shareholders for computing non-GAAP diluted EPS divided by weighted average number of shares on a diluted basis.

The following table sets forth a reconciliation of net cash provided by operating activities to free cash flow for the periods indicated:

	Year ended March 31,					
	2014	2015	2016	2017	2018	
	RMB	RMB	RMB	RMB	RMB	US\$
	(in millions)					
Net cash provided by operating activities	26,379	41,217	56,836	80,326	125,171	19,955
Less: Purchase of property and equipment, intangible assets and licensed copyrights (excluding land use rights and construction in progress)	(3,285)	(4,770)	(5,438)	(12,220)	(25,809)	(4,114)
Add: Changes in loan receivables, net and others	9,175	11,674	(119)	684	—	—
Free cash flow	32,269	48,121	51,279	68,790	99,362	15,841

**Consolidated Balance Sheet Data:**

	As of March 31,					
	2014	2015	2016		2018	
	RMB	RMB	RMB	RMB	RMB	US\$
	(in millions)					
Cash and cash equivalents and short-term investments	43,632	122,341	111,518	146,747	205,395	32,745
Investment securities and investments in equity investees						
(1)	22,131	52,146	125,031	155,874	182,707	29,128
Property and equipment, net	5,581	9,139	13,629	20,206	66,489	10,600
Goodwill and intangible assets, net	13,699	48,508	87,015	139,528	189,614	30,228
<b>Total assets</b>	<b>111,549</b>	<b>255,434</b>	<b>364,245</b>	<b>506,812</b>	<b>717,124</b>	<b>114,326</b>
Current bank borrowings	1,100	1,990	4,304	5,948	6,028	961
Secured borrowings	9,264	—	—	—	—	—
Non-current bank borrowings	30,711	1,609	1,871	30,959	34,153	5,445
Unsecured senior notes <sup>(2)</sup>	—	48,994	51,391	54,825	85,372	13,610
<b>Total liabilities</b>	<b>70,731</b>	<b>97,363</b>	<b>114,356</b>	<b>182,691</b>	<b>277,685</b>	<b>44,270</b>
Convertible preference shares <sup>(3)</sup>	10,284	—	—	—	—	—
<b>Total Alibaba Group Holding Limited shareholders' equity</b>	<b>29,338</b>	<b>145,439</b>	<b>216,987</b>	<b>278,799</b>	<b>365,822</b>	<b>58,320</b>
<b>Total equity <sup>(4)</sup></b>	<b>30,417</b>	<b>157,413</b>	<b>249,539</b>	<b>321,129</b>	<b>436,438</b>	<b>69,578</b>

(1) Includes both current and non-current investment securities and investments in equity investees.

(2) Includes both current and non-current portion of unsecured senior notes.

(3) Upon the completion of our initial public offering in September 2014, all of our then outstanding convertible preference shares were converted into ordinary shares.

(4) The increase from March 31, 2014 to March 31, 2015 was primarily due to the issuance of our ordinary shares in connection with our initial public offering in September 2014 and net income for fiscal year 2015.

**Selected Operating Data**
**Annual active consumers**

The table below sets forth the number of annual active consumers on our China retail marketplaces for the periods indicated:

	Twelve months ended						
	Jun 30, 2016	Sep 30, 2016	Dec 31, 2016	Mar 31, 2017	Jun 30, 2017	Sep 30, 2017	Dec 31, 2017
	(in millions)						
Annual active consumers	434	439	443	454	466	488	515
							552

**Mobile MAUs**

The table below sets forth the mobile MAUs on our China retail marketplaces for the periods indicated:

	The month ended						
	Jun 30, 2016	Sep 30, 2016	Dec 31, 2016	Mar 31, 2017	Jun 30, 2017	Sep 30, 2017	Dec 31, 2017
	(in millions)						
Mobile MAUs	427	450	493	507	529	549	580
							617

**GMV**

The table below sets forth the GMV, in respect of our China retail marketplaces for the periods indicated:

	Year ended		
	Mar 31, 2016	Mar 31, 2017	Mar 31, 2018
	(in billions of RMB)		
<b>GMV</b>			
Taobao Marketplace GMV	1,877	2,202	2,689
Tmall GMV	1,215	1,565	2,131
Total GMV	3,092	3,767	4,820

**Exchange Rate Information**

Most of our revenues and expenses are denominated in Renminbi. This annual report contains translations of RMB amounts into U.S. dollars at specific rates solely for the convenience of the reader. Unless otherwise noted, all translations from RMB to U.S. dollars and from U.S. dollars to RMB in this annual report were made at a rate of RMB6.2726 to US\$1.00, the exchange rate on March 30, 2018 set forth in the H.10 statistical release of the Federal Reserve Board. We make no representation that any RMB or U.S. dollar amounts could have been, or could be, converted into U.S. dollars or RMB, as the case may be, at any particular rate, at the rates stated below, or at all. The PRC government imposes control over its foreign currency reserves in part through direct regulation of the conversion of RMB into foreign exchange and through restrictions on foreign trade. On July 20, 2018, the noon buying rate was RMB6.7659 to US\$1.00.

The following table sets forth, for the periods indicated, information concerning exchange rates between the RMB and the U.S. dollar based on the exchange rates set forth in the H.10 statistical release of the Federal Reserve Board.

Period	Noon buying rate			
	Period end	Average <sup>(1)</sup>	Low	High
	(RMB per US\$1.00)			
2014	6.2046	6.1704	6.2591	6.0402
2015	6.4778	6.2869	6.4896	6.1870
2016	6.9430	6.6549	6.9580	6.4480
2017	6.5063	6.7350	6.9575	6.4773
2018				
January	6.2841	6.4233	6.5263	6.2841
February	6.3280	6.3183	6.3471	6.2649
March	6.2726	6.3174	6.3565	6.2685
April	6.3325	6.2967	6.3340	6.2655
May	6.4096	6.3701	6.4175	6.3325
June	6.6171	6.4651	6.6235	6.3850
July (through July 20, 2018)	6.7659	6.6775	6.7701	6.6123

(1) Annual averages are calculated using the average of the rates on the last business day of each month during the relevant year. Monthly averages are calculated using the average of the daily rates during the relevant month.

**B. Capitalization and Indebtedness**

Not Applicable.

**C. Reasons for the Offer and Use of Proceeds**

Not Applicable.

## D. Risk Factors

### Risks Related to Our Business and Industry

***Maintaining the trusted status of our ecosystem is critical to our success and future growth, and any failure to do so could severely damage our reputation and brand, which would have a material adverse effect on our business, financial condition, results of operations and prospects.***

We have established a strong brand name and reputation for our ecosystem. Any loss of trust in our ecosystem or platforms could harm our reputation and the value of our brand and result in consumers, merchants, brands and other participants reducing their activity level in our ecosystem, which could materially reduce our revenue and profitability. Our ability to maintain our position as a trusted platform is based in large part upon:

- the quality, breadth and functionality of products, services and functions and the quality, variety and appeal of content available through our marketplaces and platforms, and offered by the merchants, developers, logistics providers, service providers and other participants in our ecosystem;
- the reliability and integrity of our platforms as well as the commitment to high levels of service, reliability and integrity by our company and the merchants, developers, logistics providers, service providers and other participants in our ecosystem;
- the safety, security and integrity of the data on our systems, as well as the effectiveness and security of the procedures and systems we have in place to maintain, and the commitment of the other participants in our ecosystem to maintaining, the security and privacy of data generated on our marketplaces and platforms;
- the effectiveness and perceived fairness of rules governing our marketplaces and other platforms and overall ecosystem;
- the strength of our consumer and intellectual property rights protection measures; and
- our ability to provide reliable and trusted payment and escrow services through our arrangements with Alipay.

***Sustained investment in our business, strategic acquisitions and investments as well as our focus on long-term performance and on maintaining the health of our ecosystem may negatively affect our margins and our net income.***

We have experienced significant growth in our business and our revenue also continued to increase in recent years. However, we cannot assure you that we will be able to maintain our growth at these levels, or at all. As we continue to invest in our business and make strategic acquisitions and investments, such as in logistics, our New Retail initiatives, our global expansion and our digital media and entertainment business, we expect our margins to decrease. From fiscal year 2017 to fiscal year 2018, adjusted EBITDA margin declined from 47% to 42%. Consistent with our focus on the long-term interests of our ecosystem participants, we may take actions that fail to generate positive short-term financial results or invest in businesses that have lower margins, and we cannot assure you that these actions will produce long-term benefits. There can be no assurance that we will be able to sustain our current net income growth rates or our margins.

We continue to increase our spending and investment in our business to support our future growth, including:

- expanding our core commerce offerings, including our New Retail initiatives, our cross-border and international businesses and Tmall Supermarket, as well as enhancing user experience;
- strengthening our logistics network and enhancing our logistics capabilities;
- researching and developing new technologies and improving our technological infrastructure and cloud computing capacity;
- developing and acquiring content for our digital media and entertainment business; and
- incubating new innovation initiatives.

All of these initiatives are crucial to the success of our business but will have the effect of increasing our costs and lowering our margins and profit, and this effect may be significant in the short term and potentially for longer periods. For example, sustained investments in our New Retail initiatives, such as Intime and Hema fresh food store chain, as well as our logistics network and logistics capabilities, will increase our costs and expenses, including significant operating expenses, capital expenditure and related amortization costs. As we develop our New Retail business, we may also be perceived to be competing with other participants in our ecosystem, such as certain merchants and retailers, which may negatively affect our relationships with them. Moreover, many of our business initiatives emphasize expanding our user base and enhancing user experience, rather than initially prioritizing monetization or profitability.

We have made, and intend to continue to make, strategic investments and acquisitions to expand our user base and geographic coverage and add complementary offerings and technologies to further strengthen our ecosystem. We may make such strategic investments and acquisitions in a range of areas either directly related to one or more of our businesses, or the infrastructure, technology, services or products that support our businesses and ecosystem. Our strategic investments and acquisitions are important to our overall business but may adversely affect our future financial results, at least in the short term. For example, acquisition of businesses with lower margins or which are loss-making, such as our acquisition of a controlling stake in Cainiao Network and our recent acquisition of Ele.me, will negatively affect our margins and net income. The performance of minority investments we have made and may continue to make may also adversely affect our net income. There is no assurance that we will be able to realize the expected benefits of synergies and growth opportunities in connection with these investments and acquisitions.

***We may not be able to maintain or grow our revenue or our business.***

We have experienced significant growth in revenue and in our business in recent years. Our ability to continue to generate and grow our revenue depends on a number of factors. If our services do not generate the rate of return we expect or offer prices that are competitive to alternatives, merchants, brands and marketers may reduce their spending on the services we offer. See "Item 5. Operating and Financial Review and Prospects — A. Operating Results — Factors Affecting Our Results of Operations — Our Ability to Create Value for Our Users and Generate Revenue" and "— Our Monetization Model."

Our future revenue growth also depends on our ability to continue to grow our core commerce, cloud computing business, digital media and entertainment business, as well as the businesses we have acquired or which we consolidate. We are exploring and will continue to explore in the future new business initiatives, including in industries in which we have limited or no experience, as well as new business models, which may be untested. In particular, New Retail, which we believe will be an important driver of our future growth, involves a new model of commerce. We may encounter difficulties or setbacks in the execution of our New Retail strategy, and it may not generate the expected returns in the timeframe we anticipate, or at all.

In addition, developing new businesses and initiatives requires significant investments of time and resources, and may present new and difficult technological, operational and legal challenges, as well as subject us to additional regulatory risks. For example, the expansion of our digital media and entertainment business requires substantial and long-term investment in high quality content, which may take an extended period of time to produce. Due to changes in industry trends, regulatory requirements and the business environment, we may be unable to produce or license quality content on commercially reasonable terms or at all, fail to attract, acquire and retain users, paying subscribers and marketers on our digital media and entertainment platforms, fail to expand or maintain our market share or anticipate or keep up with changes in user preferences, user behavior and technological developments, or fail to gain access to content distribution channels. We also face significant challenges in attracting brands and marketers and monetizing our digital media and entertainment content, such as that we offer through Youku. In addition, we may face challenges in expanding and operating our logistics network and cooperating with third-party logistics service providers, and we may be unable to continue to enhance our logistics data technology, or fail to expand our logistics capacity quickly enough to meet increasing demand and improve user experience. Expanding our logistics network will also require us to increase our employee count and

acquire more facilities, which will have attendant costs and risks, such as potential labor disputes and compliance costs and risks. In addition, as we expand the scope of our business operations, we are entering new business areas in which we have limited or no experience. We will face challenges in providing new services, including new compliance requirements and additional liabilities. For example, as we expand our direct sale businesses, such as Intime, Tmall Imports and Hema, and service offerings to enterprises, such as our cloud business, we will face new and increased challenges and risks relating to inventory procurement and management, accounts receivable and related potential impairment charges, as well as new and heightened regulatory requirements and increased liabilities specific to these new businesses, such as those relating to customs, quarantine and consumer protection. In order to continue expanding and offer products and services in new areas or markets, we may have to invest significant financial and human resources for an extended period of time, and may fail to achieve the strategic goals or financial returns that we expect, or at all. As we focus on the above efforts, we may miss out on other investments and growth opportunities.

We may also fail to identify or anticipate industry trends and competitive conditions or fail to allocate sufficient resources to new growth areas. In addition, our overall or segment revenue growth may slow or our revenues may decline for other reasons, including decreasing consumer spending, increasing competition and slowing growth of the China retail industry, as well as changes in government policies or general economic conditions.

In addition, although our revenue grew at a faster rate in fiscal year 2018 than fiscal year 2017, as our revenue grows to a higher base level, our revenue growth rate may slow in the future. Furthermore, due to the size and scale we have achieved to date, our user base may not continue to grow as quickly as prior periods, or at all.

***If we are unable to compete effectively, our business, financial condition and results of operations would be materially and adversely affected.***

We face increasingly intense competition, principally from established Chinese Internet companies, such as Tencent, and their respective affiliates, as well as global and regional e-commerce players, other service providers in cloud computing and digital media and entertainment areas. We mainly compete to:

- attract, engage and retain consumers based on the variety and value of products and services listed on our marketplaces, the engagement of digital media and entertainment content available on our platforms, the overall user experience of our products and services and the effectiveness of our consumer protection measures;
- attract and retain merchants, brands and retailers based on the size and the engagement of consumers on our platforms and the effectiveness of our products and services to help them build brand awareness and engagement, acquire and retain customers, complete transactions, expand service capabilities, protect intellectual property rights and enhance operating efficiency;
- attract and retain businesses of different sizes across various industries based on the effectiveness of our cloud service offerings to help them enhance operating efficiency and realize their digital transformation ambitions;
- attract and retain marketers, publishers and demand side platforms operated by agencies based on the reach and engagement of our media coverage, the depth of our consumer data insights and the effectiveness of our branding and marketing solutions;
- attract other participants of our ecosystem based on access to business opportunities created by the large scale of economic activity on our platforms, the strength of the network effect of our ecosystem, as well as tools and technologies that help them operate and grow their businesses;
- optimize the usefulness of the data and technologies we provide, including data-enabled customer relationship management tools, marketing data and data science, media ecosystem for branding, cloud



computing services, one-stop solutions, data processing capability, availability and quality of supporting services, including payment settlement and logistics services, and the quality of our customer service;

- thrive in new industries and sectors as we acquire new businesses and expand, bringing us into competition with major players in these and other industries and sectors;
- attract motivated and capable employees, including engineers and product developers who serve critical functions in the development of our products, services and our ecosystem;
- identify, bid for, and execute strategic investments, which may involve bidding wars resulting in higher prices and other terms that are less favorable to us; and
- attract and retain customers and merchants through subsidized programs or promotions, which may result in additional costs and expenses.

As we acquire new businesses and expand into new industries and sectors, we face competition from major players in these and other industries and sectors. In addition, as we expand our businesses and operations into an increasing number of international markets, including Southeast Asia, India and Russia, we increasingly face competition from domestic and international players operating in these markets.

Our ability to compete depends on a number of other factors as well, some of which may be beyond our control, including:

- the timely introduction and market acceptance of the products and services we offer, compared to those of our competitors;
- our ability to innovate and develop new technologies;
- our ability to maintain and enhance our leading position in retail commerce and cloud computing in China;
- our ability to adapt to new international and cross-border markets in a cost-effective manner;
- our ability to benefit from new business initiatives;
- alliances, acquisitions or consolidations within the Internet industry that may result in stronger competitors; and
- changes in the regulatory environment in the markets we operate, including implementation of regulatory restrictions on our ability to operate in overseas markets or relaxation of restrictions on foreign players' ability to offer products and services in China.

If we are not able to compete effectively, the level of economic activity and user engagement on our platforms may decrease significantly and the use of products and services we offer may not grow as fast as we expect, or at all, which could materially and adversely affect our business, financial condition and results of operations as well as our brand.

***We may not be able to maintain and improve the network effects of our ecosystem, which could negatively affect our business and prospects.***

Our ability to maintain a healthy and vibrant ecosystem that creates strong network effects among consumers, merchants and other participants is critical to our success. The extent to which we are able to maintain and strengthen these network effects depends on our ability to:

- offer secure and open platforms for all participants and balance the interests of these participants, including consumers, merchants, brands, service providers and others;
- provide tools and services that meet the evolving needs of consumers, merchants and brands;
- provide a wide range of high-quality product, service and content offerings to consumers;

- attract and retain merchants and brands of all sizes;
- provide merchants and brands with a high level of traffic flow with strong commercial intent and effective online marketing services;
- further enhance the attractiveness of our platforms;
- arrange secure and trusted payment settlement and escrow services;
- address user concerns with respect to data security and privacy measures on our platforms and of our systems, products and services;
- improve our logistics data platform and coordinate fulfillment and delivery services with third-party logistics service providers;
- attract and retain third-party service providers that are able to provide quality services on commercially reasonable terms to our merchants;
- maintain the quality of our customer service; and
- continue adapting to the changing demands of the market.

In addition, changes to current operations we may make to enhance and improve our ecosystem and balance the needs and interests of the various participants in our ecosystem, or to comply with regulatory requirements, may be viewed positively from one participant group's perspective, such as consumers, but may have negative effects from another group's perspective, such as merchants. If we fail to balance the interests of all participants in our ecosystem, consumers, merchants, brands and other participants may spend less time, mind share and resources on our platforms and conduct fewer transactions or use alternative platforms, any of which could result in a material decrease in our revenue and net income.

***We may not be able to maintain our culture, which has been a key to our success.***

Since our founding, our culture has been defined by our mission, vision and values, and we believe that our culture has been critical to our success. In particular, our culture has helped us serve the long-term interests of our customers, attract, retain and motivate employees and create value for our shareholders. We face a number of challenges that may affect our ability to sustain our corporate culture, including:

- failure to identify, attract, promote and retain people in leadership positions in our organization who share our culture, values and mission;
- failure to execute an effective management succession plan to replace our current generation of management leaders;
- the increasing size, complexity, geographic coverage and cultural diversity of our business and workforce;
- the integration of new personnel and businesses as we expand our existing businesses and acquire new businesses;
- challenges of effectively incentivizing and motivating employees, including members of senior management, and in particular those who have gained a substantial amount of personal wealth related to share-based incentives;
- competitive pressures to move in directions that may divert us from our mission, vision and values;
- the continued challenges of an ever-changing business environment;
- the pressure from the public markets to focus on short-term results instead of long-term value creation; and
- the increasing need to develop expertise in new areas of business, such as New Retail and expansion of our logistics network services, that affect us.

If we are not able to maintain our culture or if our culture fails to deliver the long-term results we expect to achieve, our business, financial condition, results of operations and prospects could be materially and adversely affected.

***If we are not able to continue to innovate or if we fail to adapt to changes in our industry, our business, financial condition and results of operations would be materially and adversely affected.***

The Internet industry is characterized by rapidly changing technology, evolving industry standards, new mobile apps, protocols and technologies, new service and product introductions, new media and entertainment content — including user-generated content — and changing customer demands and trends. Furthermore, our competitors are constantly developing innovations in Internet search, online marketing, communications, social networking, entertainment, logistics and other services, on both mobile devices and personal computers, to enhance users' online experience. As a result, we continue to invest significant resources in our infrastructure, research and development and other areas in order to enhance our technology and our existing products and services as well as to explore new growth strategies and introduce new high quality products and services to attract more participants to our platforms. Our investments in innovations and new technologies, which may be significant, may not increase our competitiveness or generate financial returns in the short term, or at all, and we may not be successful in adopting and implementing new technologies, such as artificial intelligence, or AI. The changes and developments taking place in our industry may also require us to re-evaluate our business model and adopt significant changes to our long-term strategies and business plans. Our failure to innovate and adapt to these changes and developments would have a material adverse effect on our business, financial condition and results of operations. Even if we timely innovate and adopt changes in our strategies and plans, we may nevertheless fail to realize the anticipated benefits of such changes or even generate lower levels of revenue as a result.

For example, we derive significant revenue from mobile, and the ways users access content, interact and transact on our mobile platforms develop rapidly. We may fail to continue to offer superior user experience in order to increase or maintain the level of mobile engagement on our platforms. The variety of technical and other configurations across different mobile devices and platforms increases the challenges associated with this environment, and we may fail to develop and provide products and services that work effectively with this wide range of configurations. If we are unable to continue to attract and retain significant numbers of mobile consumers and increase or maintain levels of mobile engagement on our platforms, our ability to maintain or grow our business would be materially and adversely affected.

***Our failure to manage the significant challenges involved in growing our business and operations could harm us.***

Our business has become increasingly complex as the scale, diversity and geographic coverage of our business and our workforce continue to grow. We have also significantly expanded our headcount, office facilities and infrastructure. For example, as Cainiao Network continues to expand, it will also face challenges relating to increases in its labor force as well as issues involved in acquiring land use rights to grow its network. We anticipate that further expansion in certain areas and geographies will be required. This expansion increases the complexity of our operations and places a significant strain on our management, operational and financial resources. We must continue to hire, train, integrate and effectively manage new employees to address the requirements from new businesses such as the New Retail initiatives and the expansion of Cainiao Network. In addition, the challenges involved in expanding our businesses require our existing employees to handle new and expanded responsibilities and duties. If our new hires or existing employees perform poorly or if we are unsuccessful in hiring, training, managing and integrating new employees or retraining and expanding the roles of our existing employees, our business, financial condition and results of operations may be materially harmed.

Moreover, our current and planned staffing, systems, policies, procedures and controls may not be adequate to support our future operations. To effectively manage the expected continuing expansion and growth of our operations and workforce, we will need to continue to improve our personnel management, transaction processing, operational and financial systems, policies, procedures and controls, which could be particularly challenging as we acquire new operations with different and incompatible systems in new industries or geographic areas. These

efforts will require significant managerial, financial and human resources. We cannot assure you that we will be able to effectively manage our growth or to implement all these systems, procedures and control measures successfully. If we are not able to manage our growth effectively, our business and prospects may be materially and adversely affected.

***We face risks relating to our acquisitions, investments and alliances.***

We have acquired and invested in a large number and a diverse range of businesses, technologies, services and products in recent years, including investments of varying sizes in equity investees and joint ventures, and, from time to time, we may have a number of pending investments and acquisitions that are subject to closing conditions. See "Item 5. Operating and Financial Review and Prospects — A. Operating Results — Recent Investment, Acquisition and Strategic Alliance Activities." We expect to continue to evaluate and consider a wide array of potential strategic transactions as part of our overall business strategy, including business combinations, acquisitions and dispositions of businesses, technologies, services, products and other assets, as well as strategic investments and alliances. At any given time we may be engaged in discussing or negotiating a range of these types of transactions. These transactions involve significant challenges and risks, including:

- difficulties in and significant and unanticipated additional costs and expenses resulting from integrating into our business operations, corporate structure and culture the large number of personnel, operations, products, services, technology, internal controls and financial reporting of companies we acquire;
- disruption of our ongoing business, distraction of and significant time and attention required from our management and employees and increase of our expenses;
- departure of skilled professionals and proven management teams of acquired businesses, as well as the loss of established client relationships of the businesses we invest in or acquire, which may adversely affect the growth of the acquired businesses;
- for investments over which we may not obtain management and operational control, we may lack influence over the controlling partner or shareholder, which may prevent us from achieving our strategic goals in these investments;
- regulatory requirements and compliance risks as well as publicity risks that we may become subject to, including as a result of acquisitions of businesses in new industries or geographic areas or otherwise, especially for acquisitions of companies which are subject to heightened regulatory requirements and scrutiny, both in China and in other countries we currently operate in or may expand into;
- actual or alleged misconduct or non-compliance by us or any company we acquire or invest in (or by its affiliates), including those relating to various regulated areas, such as food safety and online game operation, whether before, during or after our acquisition or investment, which may lead to negative publicity, litigation, government inquiries, investigations or actions against these companies or against us;
- unforeseen or hidden liabilities or additional operating losses, costs and expenses that may adversely affect us following our acquisitions or investments;
- negative impacts on our cash and credit profile from loans to or guarantees for the benefit of equity investees;
- actual or potential impairment charges or write-offs due to the changes in the fair value of our investments or acquired companies as a result of market volatility or other reasons that we may or may not control, particularly with respect to public investee companies, in the event that the market value of our investment has been significantly lower than its carrying value for an extended period of time, such as the significant impairment charge we made in connection with our investment in Alibaba Pictures in fiscal year 2018;
- regulatory hurdles including in relation to requirements, filings and approvals under the anti-monopoly and competition laws, rules and regulations of China and other jurisdictions in connection with any proposed

investments and acquisitions, as well as regulatory uncertainties, heightened restrictions on and regulatory scrutiny of investments and acquisitions in other jurisdictions, on national security grounds or otherwise, for example, by the Committee on Foreign Investment in the United States, or CFIUS, and by the NDRC with regard to outbound investment by companies based in China, and increased and conflicting regulatory compliance requirements;

- the risk that any of our pending or other future proposed acquisitions and investments fails to close, including as a result of political and regulatory challenges and protectionist policies; and
- challenges in maintaining or growing our acquired businesses, or achieving the expected benefits of synergies and growth opportunities in connection with these acquisitions and investments, including our acquisition of Youku and a controlling stake in Lazada, privatization of Intime, acquisition of a controlling stake in Cainiao Network, investment in Sun Art and recent acquisition of Ele.me.

We have concluded a number of significant acquisitions and investments in recent years, and we have limited experience in integrating major acquisitions. As we continue to implement our New Retail strategy and further expand our ecosystem, we expect that our acquisition and investment activity will continue at a rapid pace, with a large number and a diverse range of target companies, and we will continue to face significant challenges, including unanticipated ones, in integrating these businesses into our existing businesses.

***We may face challenges in expanding our international and cross-border businesses and operations.***

As we expand our international and cross-border businesses into an increasing number of international markets, such as Southeast Asia, India, Russia and the European Union, we will face risks associated with expanding into markets in which we have limited or no experience, in which we may be less well-known or have less local resources and in which we may need to localize our business practices, culture and operations. We may be unable to attract a sufficient number of customers and other participants, fail to anticipate competitive conditions or face difficulties in operating effectively in these new markets. We may also face protectionist policies that could, among other things, hinder our ability to execute our business strategies and put us at a competitive disadvantage relative to domestic companies in other jurisdictions. The expansion of our international and cross-border businesses will also expose us to risks inherent in operating businesses globally, including:

- inability to recruit international and local talent and challenges in replicating or adapting our company policies and procedures to operating environments different from that of China;
- lack of acceptance of our product and service offerings;
- challenges and increased expenses associated with staffing and managing international and cross-border operations and managing a multi-national organization;
- trade barriers, such as import and export restrictions, customs duties and other taxes, competition law regimes and other trade restrictions, as well as other protectionist policies;
- restrictions on foreign companies' ability to invest in or acquire companies in certain jurisdictions;
- restrictions and regulations on the development, import and export of certain technologies, particularly as we seek to establish and operate research and development centers abroad;
- heightened restrictions and barriers on the transfer of data between different jurisdictions;
- differing and potentially adverse tax consequences or the imposition of new taxes targeted at cross-border commerce, and related compliance obligations;
- the need for increased resources to manage regulatory compliance across our international businesses in multiple jurisdictions with different and sometimes conflicting requirements;
- challenges caused by distance, language, business customs and cultural differences;

- operational challenges and compliance costs related to investing or conducting business in less developed countries and regions where legal systems and business practices are less established and involve greater uncertainties;
- compliance with privacy laws and data security laws, including the European Union General Data Protection Regulation, or GDPR;
- increased costs to protect the security and stability of our information technology systems, intellectual property and personal data, including compliance costs related to different regulations relating to data privacy as well as data localization laws;
- availability, reliability and security of international and cross-border payment systems and logistics infrastructure;
- exchange rate fluctuations; and
- political instability and general economic or political conditions in particular countries or regions, including territorial or trade disputes, war and terrorism.

As we expand further into new regions and markets, these risks could intensify, and efforts we make to expand our international and cross-border businesses and operations may not be successful. Failure to expand our international and cross-border businesses and operations could materially and adversely affect our business, financial condition and results of operations.

Transactions conducted through our international and cross-border platforms may be subject to different customs, taxes and rules and regulations, and we may be adversely affected by the complexity of and developments in customs and import/export laws, rules and regulations in the PRC and other jurisdictions. See "Item 4. Information on the Company — B. Business Overview — Regulation — Tax Regulations."

***Changes in international trade policies and international barriers to trade, or the emergence of a trade war, may have an adverse effect on our business and expansion plans.***

Changes to trade policies, treaties and tariffs in the jurisdictions in which we operate, or the perception that these changes could occur, could adversely affect the financial and economic conditions in the jurisdictions in which we operate, as well as our international and cross-border operations, our financial condition and results of operations. The U.S. administration under President Donald Trump has advocated greater restrictions on trade generally and significant increases on tariffs on certain goods imported into the United States, particularly from China and has recently taken steps toward restricting trade in certain goods. For example, in March 2018, the United States began to enforce a 25% tariff on steel and a 10% tariff on aluminium imports. In addition, on June 15, 2018, President Trump announced that the United States would impose a 25% tariff on certain Chinese exports, valued at approximately US\$34 billion, to be implemented beginning July 6, 2018. President Trump further stated on June 22, 2018 that the United States would impose additional 10% tariffs on another US\$200 billion worth of Chinese imports if China retaliates against the U.S. tariffs announced on June 15. On July 20, 2018, President Trump indicated a willingness to have the United States impose tariffs on substantially all U.S. imports from China, valued at approximately US\$500 billion in 2017. The current U.S. administration has also created uncertainty with respect to, among other things, existing and proposed trade agreements, free trade generally, and potential significant increases on tariffs on goods imported into the U.S., particularly from Mexico, Canada and China. It is possible that further measures will be announced.

Changes to U.S. laws or policies (as described above or otherwise) may impact the supply chain strategies of, as well as the pace of outsourcing by, U.S. customers in the future, including the possibility of such customers' insourcing programs that were previously outsourced. This could have an adverse impact on Chinese manufacturing, which would in turn affect the demand for and activity levels on our commerce marketplaces. In addition, trade restrictions, regulatory sanctions or other restrictions, including on the basis of national security

grounds, placed on suppliers, merchants or technology partners could have an adverse effect on our ability to engage in cooperative ventures, expand our business and execute our strategy.

In addition, China and other countries have retaliated in response to new trade policies, treaties and tariffs implemented by the United States. For example, in response to the United States' tariff plan on steel and aluminium, China announced planned tariffs on various goods imported from the United States, including a 15% tariff on U.S. steel pipes, fresh fruit and wine, and a 25% tariff on pork and recycled aluminium. Further, China has announced plans to introduce tariffs on goods imported from the United States in response to the additional U.S. tariffs of June 15, 2018. Such policy retaliations could ultimately result in further trade policy responses by the United States and other countries, and result in an escalation leading to a trade war, which would have an adverse effect on manufacturing levels, trade levels and industries, including logistics, retail sales and other businesses and services that rely on trade, commerce and manufacturing. Any such escalation in trade tensions or a trade war, or news and rumors of the escalation of a potential trade war, could affect activity levels within our ecosystem and have a material and adverse effect on our business, results of operations and trading price of our ADSs.

***Our business generates and processes a large amount of data, including personal data, and the improper use or disclosure of data could harm our reputation as well as have a material adverse effect on the trading price of our ADSs, our business and prospects.***

Our business, including our marketplaces, cloud computing, entertainment and logistics businesses, generates and processes a large quantity of personal, transaction, demographic and behavioral data. Our privacy policies concerning the collection, use and disclosure of personal data are posted on our websites. We face risks inherent in handling and protecting large volumes of data, especially consumer data. In particular, we face a number of challenges relating to data from transactions and other activities on our platforms, including:

- protecting the data in and hosted on our system, including against attacks on our system by outside parties or fraudulent behavior or improper use by our employees;
- addressing concerns, challenges, negative publicity and litigation related to data privacy, collection, use and actual or perceived sharing (including sharing among our own businesses, with business partners or regulators), safety, security and other factors that may arise from our existing businesses or new businesses and technology, such as new forms of data (e.g., biometric data, location information and other demographic information) collected from our New Retail businesses, food delivery and other local services, IoT services and cloud services; and
- complying with applicable laws, rules and regulations relating to the collection, use, storage, transfer, disclosure and security of personal information, including any requests from regulatory and government authorities relating to this data.

Recently, there have been reports of a number of incidents relating to data security and unauthorized use of user data by high-profile Internet and technology companies and their business partners. If our user data is improperly used or disclosed, whether by unauthorized third-parties or by our company, subsidiaries, investee companies or other ecosystem participants, it could result in a loss of users, advertisers and other ecosystem participants, loss of confidence or trust in our platforms, litigation, regulatory investigations, penalties or actions against us, significantly damage our reputation, and have a material adverse effect on the trading price of our ADSs, our business and prospects.

Pursuant to our data sharing agreement with Ant Financial and Alipay, which sets forth data security and confidentiality protocols, and subject to relevant legal requirements and limitations, we have agreed to a broad sharing of depersonalized data with Ant Financial through a data sharing platform that we own and operate, subject to compliance with relevant law. Koubei and Alibaba Pictures have also entered into agreements with us to participate in the data sharing platform, subject to certain limits. As permitted by our privacy policies and user agreements, we also grant expressly limited access to specified data on our data platform to certain other participants in our ecosystem that provide services to merchants and consumers, such as retail operating partners,

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logistics service providers, mobile app developers, independent software vendors, or ISVs, cloud developers, marketing affiliates and various professional service providers. These ecosystem participants face the same challenges inherent in handling and protecting large volumes of data. Any systems failure or security breach or lapse on our part or on the part of any of our ecosystem participants that results in the release of user data could harm our reputation and brand and, consequently, our business, in addition to exposing us to potential legal liability. Any such event could also attract negative publicity from media outlets, privacy advocates, our competitors or others and could adversely affect the trading price of our ADSs.

***We rely on Alipay to conduct substantially all of the payment processing and all of the escrow services on our marketplaces. If Alipay's services are limited, restricted, curtailed or degraded in any way or become unavailable to us or our users for any reason, our business may be materially and adversely affected.***

Given the significant transaction volume on our platforms, Alipay provides convenient payment processing and escrow services to us through contractual arrangements on preferential terms. These services are critical to our platforms and the development of our ecosystem. In the twelve months ended March 31, 2018, approximately 70% of the GMV on our China retail marketplaces was settled through Alipay's escrow and payment processing services. We rely on the convenience and ease of use that Alipay provides to our users. If the quality, utility, convenience or attractiveness of Alipay's services declines for any reason, the attractiveness of our marketplaces could be materially and adversely affected.

Alipay's business is subject to a number of risks that could materially and adversely affect its ability to provide payment processing and escrow services to us, including:

- dissatisfaction with Alipay's services or lower use of Alipay by consumers and merchants;
- increasing competition, including from other established Chinese Internet companies, payment service providers and companies engaged in other financial technology services;
- changes to rules or practices applicable to payment systems that link to Alipay;
- breach of users' privacy and concerns over the use and security of information collected from customers and any related negative publicity relating thereto;
- service outages, system failures or failure to effectively scale the system to handle large and growing transaction volumes;
- increasing costs to Alipay, including fees charged by banks to process transactions through Alipay, which would also increase our cost of revenues;
- negative news about and social media coverage on Alipay, its business, its products and service offerings or matters relating to Alipay's data security and privacy; and
- failure to manage funds accurately or loss of funds, whether due to employee fraud, security breaches, technical errors or otherwise.

In addition, certain commercial banks in China impose limits on the amounts that may be transferred by automated payment from users' bank accounts to their linked accounts with third-party payment services. Although we believe the impact of these restrictions has not been and will not be significant in terms of the overall volume of payments processed for our China retail marketplaces, and automated payment services linked to bank accounts represent only one of many payment mechanisms that consumers may use to settle transactions, we cannot predict whether these and any additional restrictions that could be put in place would have a material adverse effect on our marketplaces.

Alipay's business is highly regulated and faces challenges in managing its regulatory risks. Alipay is required to comply with numerous complex and evolving laws, rules and regulations. In particular, regulators and third parties in China have been increasing their focus on online and mobile payment services, and recent regulatory and other developments could reduce the convenience or utility of Alipay users' accounts. In addition, as Alipay expands its



businesses and operations into more international markets, it will become subject to additional legal and regulatory risks and scrutiny. Furthermore, our commercial arrangements with Alipay may be subject to anti-competition challenges. See "— We and Ant Financial are subject to a broad range of laws and regulations, and future laws and regulations may impose additional requirements and other obligations on our business or otherwise that could materially and adversely affect our business, financial condition and results of operations," and "Item 4. Information on the Company — B. Business Overview — Regulation — Regulation Applicable to Alipay."

If we needed to migrate to another third-party payment service or significantly expand our relationship with other third-party payment services, the transition would require significant time and management resources, and the third-party payment service may not be as effective, efficient or well-received by consumers and merchants on our marketplaces. These third-party payment services also may not provide escrow services, and we may not be able to receive commissions based on GMV transacted through these systems. We would also receive less, or lose entirely, the benefit of the commercial agreement with Ant Financial and Alipay, which provides us with preferential terms, and would possibly be required to pay more for payment processing and escrow services than we currently pay. There can be no assurance that we would be able to reach an agreement with an alternative online payment service on acceptable terms or at all.

***We do not control Alipay or its parent entity, Ant Financial, over which Jack Ma effectively controls a majority of the voting interests. If conflicts that could arise between us and Alipay or Ant Financial are not resolved in our favor, our ecosystem, business, financial condition, results of operations and prospects may be materially and adversely affected.***

Although we rely on Alipay to conduct substantially all of the payment processing and all of the escrow services on our marketplaces and we have agreed to acquire a 33% equity interest in Ant Financial, we do not, and will not upon completion of the acquisition, have any control over Alipay. Alipay provides payment services to us on preferential terms pursuant to our long-term commercial agreement with Ant Financial and Alipay. Following the 2011 divestment and subsequent equity holding restructuring related to Ant Financial, an entity wholly owned by Jack Ma, our executive chairman, became the general partner of Hangzhou Junhan Equity Investment Partnership, or Junhan, and Junao Equity Investment Partnership, or Junao, each a PRC limited partnership, which are two major equity holders of Alipay's parent, Ant Financial. Accordingly, Jack has an economic interest in Ant Financial and is able to exercise the voting power of the equity interest in Ant Financial held by Junhan and Junao. We understand that through the exercise of this voting power, Jack continues to control a majority of the voting interests in Ant Financial.

If Alipay were not able to successfully manage the risks relating to its business, its ability to continue to deliver payment services to us on preferential terms may be undermined. Furthermore, if for any reason, Alipay sought to amend the terms of its agreements and arrangements with us, there is no assurance that Jack Ma, in light of his voting control over Alipay's parent, Ant Financial, would act in our interest. If Alipay were required by regulators to modify the commercial agreement under certain circumstances, Alipay may not have sufficient funds to adequately compensate us for the impact of the adjustment. If we were to lose the preferential terms with Alipay or if Alipay is unable to successfully manage its business, our ecosystem could be negatively affected, and our business, financial condition, results of operations and prospects could be materially and adversely affected.

Ant Financial also provides other financial services to participants in our ecosystem, including wealth management, financing (including consumer financing) and insurance, and may provide additional services in the future. Other conflicts of interest between us, on the one hand, and Alipay and Ant Financial, on the other hand, may arise relating to commercial or strategic opportunities or initiatives. Although we and Ant Financial have each agreed to certain non-competition undertakings, Ant Financial may provide services to our competitors from time to time and we cannot assure you that Ant Financial would not pursue other opportunities that would conflict with our interests. Jack Ma may not resolve these conflicts in our favor. Furthermore, our ability to explore alternative payment services other than Alipay for our marketplaces may be constrained due to Jack's relationship with Ant Financial.

In addition, we grant share-based awards to employees of Ant Financial, and Junhan grants share-based awards tied to the value of Ant Financial to our employees, and a wholly-owned subsidiary of Ant Financial grants RSU awards to our employees. The provision of awards to our employees tied to the value of Ant Financial is intended to enhance our strategic and financial relationship with Ant Financial. See "Item 7. Major Shareholders and Related Party Transactions — B. Related Party Transactions — Agreements and Transactions Related to Ant Financial and its Subsidiaries — Equity-based Award Arrangements." The share-based awards granted by Junhan and the Ant Financial subsidiary to our employees result in expenses that are recognized by our company. Subject to the approval of our audit committee, Jack (through his role with us and his control over Junhan) and Ant Financial could be in a position to propose and promote further share-based grants that result in additional, and potentially significant, expenses to our company. Accordingly, these and other potential conflicts of interest between us and Ant Financial or Alipay, and between us and Jack or Junhan or Junao, may not be resolved in our favor, which could have a material adverse effect on our business, financial condition, results of operations and prospects.

Moreover, because of our close association with Ant Financial and overlapping user base, events that negatively affect Ant Financial could also negatively affect customers', regulators' and other third parties' perception of us. In addition, any actual or perceived conflict of interest between us and Ant Financial, or any other company integral to the functioning of our ecosystem could also materially harm our reputation as well as our business and prospects.

***Our business is subject to complex and evolving domestic and international laws and regulation regarding privacy and data protection. Many of these laws and regulations are subject to change and uncertain interpretation and could result in claims, changes to our business practices, penalties, increased cost of operations, or declines in user growth or engagement, or otherwise affect our business.***

Regulatory authorities in China and around the world have implemented and are considering a number of further legislative and regulatory proposals concerning data protection, including measures to ensure that encryption of users' data does not hinder law enforcement agencies' access to that data. In addition, the interpretation and application of consumer and data protection laws in China and elsewhere are often uncertain and in flux. It is possible that these laws may be interpreted and applied in a manner that is inconsistent with our data practices.

The PRC regulatory and enforcement regime with regard to data security and data protection is evolving. According to the Cybersecurity Law, which was promulgated by the National People's Congress Standing Committee on November 7, 2016 and took effect as of June 1, 2017, as network operators we are obligated to provide technical assistance and support for public security and national security authorities to protect national security or assist with criminal investigations. In addition, the Cybersecurity Law provides that personal information and important data collected and generated by an operator of critical information infrastructure in the course of its operations in the PRC must be stored in the PRC, and the law imposes additional data security and privacy protection obligations on network operators. Further, on July 1, 2015, the National People's Congress Standing Committee promulgated the National Security Law, or the New National Security Law, which took effect on the same date and covers various types of national security including technology security and information security.

Compliance with the Cybersecurity Law, the New National Security Law, as well as additional laws and regulations that PRC regulatory bodies may enact in the future, may result in additional expenses to us and subject us to negative publicity which could harm our reputation with users and negatively affect the trading price of our ADSs. There are also uncertainties with respect to how the Cybersecurity Law and the New National Security Law will be implemented in practice. For example, certain of our businesses or technology infrastructure may be designated by PRC regulators as critical information infrastructure, which will be subject to heightened regulation. PRC regulators, including the Ministry of Industry and Information Technology, or the MIIT, and the Cyberspace Administration of China, or the Cyberspace Administration, have been increasingly focused on regulation in the areas of data security and data protection. We expect that these areas will receive greater attention and focus from regulators, as well as attract continued or greater public scrutiny and attention going forward, which could increase

our compliance costs and subject us to heightened risks and challenges associated with data security and protection. If we are unable to manage these risks, we could become subject to penalties, including fines, suspension of business and revocation of required licenses, and our reputation and results of operations could be materially and adversely affected.

As we expand our operations into international markets, we will be subject to additional laws in other jurisdictions where we operate and where our merchants, consumers, users, customers and other participants are located. The laws, rules and regulations of other jurisdictions, such as the United States and Europe, may be more comprehensive, detailed and nuanced in their scope, and impose more stringent or conflicting requirements and penalties than those in China. In addition, such laws, rules and regulations may restrict the transfer of data across jurisdictions, which could impose additional and substantial operational, administrative and compliance burdens on us, and may also restrict our business activities and expansion plans, as well as impede our data-driven business strategies. Complying with laws and regulations for an increasing number of jurisdictions could require significant resources and costs. Our continued expansion into cloud computing services, both within China and overseas, will also increase the number of users and the amount of data hosted on our system, as well as increase the number of jurisdictions in which we have information technology systems. This, as well as the increasing number of new legal requirements in various jurisdictions, such as the Russian Data Localization Law, which came into effect on September 1, 2015, and the GDPR, which came into effect on May 25, 2018, present increased challenges and risks in relation to policies and procedures relating to data collection, storage, transfer, disclosure, protection and privacy, and will impose significant penalties for non-compliance, including for example, penalties calculated as a percentage of global revenue under the GDPR. We anticipate that in addition to our internal personnel systems, the compliance requirements of the GDPR will affect a significant number of our businesses, including AliExpress, Alibaba Cloud, Alibaba.com, as well as certain aspects of other businesses such as UC Browser, Taobao Marketplace and our Fliggy business.

Any failure, or perceived failure, by us to comply with the above and other regulatory requirements or privacy protection-related laws, rules and regulations could result in reputational damages or proceedings or actions against us by governmental entities, consumers or others. These proceedings or actions could subject us to significant penalties and negative publicity, require us to change our business practices, increase our costs and severely disrupt our business, hinder our global expansion or negatively affect the trading price of our ADSs.

***Failure to maintain or improve our technology infrastructure could harm our business and prospects.***

We are constantly upgrading our platforms to provide increased scale, improved performance, additional built-in functionality (including functionality related to security) and additional capacity. Adopting new products and maintaining and upgrading our technology infrastructure, including our data centers, cloud operating systems, big data analytics platform and logistics data platform, require significant investments of time and resources, including adding new hardware, updating software and recruiting and training new engineering personnel. Any failure to maintain and improve our technology infrastructure could result in unanticipated system disruptions, slower response times, impaired user experience and delays in reporting accurate operating and financial information, which may be further deteriorated during certain time periods, such as on or around Singles Day or other promotional events, when user activity and transactions are significantly high on our marketplaces. In addition, much of the software and interfaces we use are internally developed and proprietary technology. If we experience problems with the functionality and effectiveness of our software or platforms, or are unable to maintain and constantly improve our technology infrastructure to handle our business needs, our business, financial condition, results of operations and prospects, as well as our reputation, could be materially and adversely affected.

In addition, our technology infrastructure and services, including our cloud product and service offerings, incorporate third-party-developed software, systems and technologies, as well as hardware purchased or commissioned from outside and overseas suppliers. As our technology infrastructure and services expand and become increasingly complex, we face increasingly serious risks to the performance and security of our technology infrastructure and services that may be caused by these third-party-developed components, including risks relating to incompatibilities among these components, service failures or delays or back-end procedures on hardware and

software. Finally, in order to ensure that our technology infrastructure can be comprehensively and rapidly upgraded, we need to constantly enhance our technology. Otherwise, we face the risk of our technology infrastructure becoming unstable and susceptible to security breaches, which we may be unable to identify or rectify rapidly and effectively. Such instability or susceptibility could create serious challenges to the security and uninterrupted operation of our platforms and services, which would materially and adversely affect our business and reputation.

***The successful operation of our business depends upon the performance, reliability and security of the Internet infrastructure in China and other countries in which we operate.***

Our business depends on the performance, reliability and security of the telecommunications and Internet infrastructure in China and other countries in which we operate. Substantially all of our computer hardware and a majority of our cloud computing services are currently located in China. Almost all access to the Internet in China is maintained through state-owned telecommunication operators under the administrative control and regulatory supervision of the MIIT. In addition, the national networks in China are connected to the Internet through state-owned international gateways, which are the only channels through which a domestic user can connect to the Internet outside of China. We may face similar or other limitations in other countries in which we operate. We may not have access to alternative networks in the event of disruptions, failures or other problems with the Internet infrastructure in China or elsewhere. In addition, the Internet infrastructure in the countries in which we operate may not support the demands associated with continued growth in Internet usage.

The failure of telecommunications network operators to provide us with the requisite bandwidth could also interfere with the speed and availability of our websites and mobile applications. We have no control over the costs of the services provided by the telecommunications operators. If the prices that we pay for telecommunications and Internet services rise significantly, our gross margins could be adversely affected. In addition, if Internet access fees or other charges to Internet users increase, our user traffic may decrease, which in turn may significantly decrease our revenues.

Moreover, if the security of domain names is compromised, we will be unable to use such domain names in our business operations, which could materially and adversely affect our business operations and brand image. If we fail to implement adequate encryption of data transmitted through the networks of the telecommunications and Internet operators we rely upon, there is a risk that such telecommunications and Internet operators or their business partners may misappropriate our data, which could materially and adversely affect our business operations and reputation.

***Our ecosystem could be disrupted by network interruptions.***

Our ecosystem depends on the efficient and uninterrupted operation of our computer and communications systems. System interruptions and delays may prevent us from efficiently processing the large volume of transactions on our marketplaces. In addition, a large number of merchants and customers maintain their important systems, such as enterprise resource planning, or ERP, and customer relationship management, or CRM, systems on our cloud computing platform, which contains substantial quantities of data relating to their accounts, transaction data, consumer information and other data that enables merchants and customers to operate and manage their businesses. Increasing media and entertainment content on our platforms also requires additional network capacity and infrastructure to process. Consumers expect our media and entertainment content to be readily available online, and any disruptions or delay to the delivery of content could affect the attractiveness and reputation of our media and entertainment platforms.

We and other participants in our ecosystem, including Ant Financial have experienced, and may experience in the future, system interruptions and delays that made websites and services (such as cloud services and payment services) temporarily unavailable or slow to respond. Although we have prepared for contingencies through redundancy measures and disaster recovery plans and also carry business interruption insurance, these preparations and insurance coverage may not be sufficient. Despite any precautions we may take, the occurrence of a natural

disaster, such as an earthquake, flood or fire, or other unanticipated problems at our facilities or the facilities of Ant Financial and other participants in our ecosystem, including power outages, system failures, telecommunications delays or failures, construction accidents, break-ins to information technology systems, computer viruses or human errors, could result in delays in or temporary outages of our platforms or services, loss of our, consumers' and customers' data and business interruption for us and our customers. Any of these events could damage our reputation, significantly disrupt our operations and the operations of the merchants, logistics service providers and other participants in our ecosystem and subject us to liability, heightened regulatory scrutiny and increased costs, which could materially and adversely affect our business, financial condition and results of operations.

***If third-party logistics service providers used by our merchants fail to provide reliable logistics services, or the logistics data platform operated by Cainiao Network were to malfunction, suffer an outage or otherwise fail, our business and prospects, as well as our financial condition and results of operations, may be materially and adversely affected.***

Our merchants use third-party logistics service providers to fulfill and deliver their orders. Cainiao Network cooperates with a number of third-party logistics service providers to help merchants on our platforms fulfill orders and deliver their products to consumers. Cainiao Network operates a logistics data platform that links our information system and those of logistics service providers. Interruptions to or failures in these third-parties' logistics services, or in Cainiao Network's logistics data platform, could prevent the timely or proper delivery of products to consumers, which would harm the reputation of our marketplaces and our ecosystem. These interruptions or failures may be due to events that are beyond our control or the control of Cainiao Network or these logistics service providers, such as inclement weather, natural disasters, accidents, transportation disruptions, including special or temporary restrictions or closings of facilities or transportation networks due to regulatory or political reasons, or labor unrest or shortages. These logistics services could also be affected or interrupted by business disputes, industry consolidation, insolvency or government shut-downs. The merchants on our marketplaces may not be able to find alternative logistics service providers to provide logistics services in a timely and reliable manner, or at all. We do not have agreements with logistics service providers that require them to offer services to our merchants. If the logistics data platform operated by Cainiao Network were to fail for any reason, the logistics service providers would be severely hindered from or unable to connect with our merchants, and their services and the functionality of our ecosystem could be severely affected. If the products sold on our marketplaces are not delivered in proper condition, on a timely basis or at shipping rates that marketplace participants are willing to bear, our business and prospects, as well as our financial condition and results of operations could be materially and adversely affected.

***If other third-party service providers in our ecosystem fail to provide reliable or satisfactory services, our reputation, business, financial condition and results of operations may be materially and adversely affected.***

Ant Financial and a number of other third-party participants, including retail operating partners, logistics service providers, mobile app developers, ISVs, cloud developers, marketing affiliates and various professional service providers, provide services to users on our platforms, including merchants, brands, consumers and users of our cloud computing services. To the extent these service providers are unable to provide satisfactory services to our users on commercially acceptable terms or at all or if we fail to retain existing or attract new quality service providers to our platforms, our ability to retain, attract or engage our users may be severely limited, which may have a material and adverse effect on our business, financial condition and results of operations. In addition, certain of these third-party service providers in our ecosystem have access to our user data to a limited extent in order to provide their services. These third-party service providers also engage in a broad range of other business activities outside of our platforms. If these third-party participants engage in activities that are negligent, illegal or otherwise harm the trustworthiness and security of our ecosystem, including, for example, the leak or negligent use of data, unauthorized use of our brand names, the handling, transport and delivery of prohibited or restricted content or items or failure to perform their contractual obligations, or users are otherwise dissatisfied with their service quality on or off our platforms, we could suffer reputational harm, even if these activities are not related to, attributable to or caused by us, or within our control.

***We depend on key management as well as experienced and capable personnel generally, and any failure to attract, motivate and retain our staff could severely hinder our ability to maintain and grow our business.***

Our future success is significantly dependent upon the continued service of our key executives and other key employees, particularly in new business areas we are expanding into such as New Retail. If we lose the services of any member of management or key personnel, we may not be able to locate suitable or qualified replacements, and may incur additional expenses to recruit and train new staff. In particular, Jack Ma, our lead founder, executive chairman and one of our principal shareholders, has been crucial to the development of our culture and strategic direction.

As our business develops and evolves, it may become difficult for us to continue to retain these employees. A number of our employees, including many members of management, may choose to pursue other opportunities outside of our company. If we are unable to motivate or retain these employees, our business may be severely disrupted and our prospects could suffer.

The size and scope of our ecosystem also require us to hire and retain a wide range of capable and experienced personnel who can adapt to a dynamic, competitive and challenging business environment. We will need to continue to attract and retain experienced and capable personnel at all levels, including members of management, as we expand our business and operations. Our various incentive initiatives may not be sufficient to retain our management and employees. Competition for talent in the PRC Internet industry is intense, and the availability of suitable and qualified candidates in China is limited. Competition for these individuals could cause us to offer higher compensation and other benefits to attract and retain them. Even if we were to offer higher compensation and other benefits, there is no assurance that these individuals will choose to join or continue to work for us. Any failure to attract or retain key management and personnel could severely disrupt our business and growth.

***Our revenue and net income may be materially and adversely affected by any economic slowdown in China as well as globally.***

The success of our business ultimately depends on consumer spending. Although we have operating subsidiaries in various countries and regions, our operations in China currently contribute a majority of our revenue. As a result, our revenue and net income are impacted to a significant extent by economic conditions in China and globally, as well as economic conditions specific to online and mobile commerce. The global economy, markets and levels of consumer spending are influenced by many factors beyond our control, including consumer perception of current and future economic conditions, political uncertainty (including potential impacts resulting from developments in international relations and trade policies, political and regulatory changes in the United States and the proposed exit of the United Kingdom from the European Union), levels of employment, inflation or deflation, real disposable income, interest rates, taxation and currency exchange rates.

The growth of the PRC economy has slowed in recent years compared to prior years. According to the National Bureau of Statistics of China, China's GDP growth rate was 6.9% in 2015, which slowed to 6.7% in 2016 and recovered to 6.9% in 2017. There have also been concerns about the relationships among China and other Asian countries, the relationship between China and the United States, as well as the relationship between the United States and certain Asian countries such as North Korea, which may result in or intensify potential conflicts in relation to territorial, regional security and trade disputes. Any disruptions or continuing or worsening slowdown could significantly reduce domestic commerce in China, including through the Internet generally and within our ecosystem. Although our financial performance is mainly affected by consumer spending, which may not be as adversely affected as other sectors of the economy, an economic downturn, whether actual or perceived, a further decrease in economic growth rates or an otherwise uncertain economic outlook in China or any other market in which we may operate could have a material adverse effect on consumer spending and therefore adversely affect our business, financial condition and results of operations.

***Security breaches and attacks against our systems and network, and any potentially resulting breach or failure to otherwise protect personal, confidential and proprietary information, could damage our reputation and negatively impact our business, as well as materially and adversely affect our financial condition and results of operations.***

Although we have employed significant resources to develop and enhance security measures against breaches to our systems and network, optimize technologies and continue to innovate, our cybersecurity measures may not detect, prevent or control all attempts to compromise our systems, including distributed denial-of-service attacks, viruses, Trojan horses, malicious software, break-ins, phishing attacks, third-party manipulation, security breaches, employee misconduct or negligence or other attacks, risks, data leakage and similar disruptions that may jeopardize the security of data stored in and transmitted by our systems or that we otherwise maintain. Breaches of our cybersecurity measures could result in unauthorized access to our systems, misappropriation of information or data, deletion or modification of user information, or a denial-of-service or other interruption to our business operations. As techniques used to obtain unauthorized access to or sabotage systems change frequently and may not be known until launched against us or our third-party service providers, we may be unable to anticipate, or implement adequate measures to protect against, these attacks.

We have in the past and are likely again in the future to be subject to these types of attacks, breaches and data leakage, although to date no attack, breach or data leakage has resulted in any material damages or remediation costs. If we are unable to avert these attacks and security breaches, we could be subject to significant legal and financial liability, our reputation would be harmed and we could sustain substantial revenue loss from lost sales and customer dissatisfaction. We may not have the resources or technical sophistication to anticipate or prevent rapidly evolving cyber-attacks. Cyber-attacks may target us, our merchants, consumers, users, customers or other participants, or the communication infrastructure on which we depend. We do not carry cybersecurity insurance. Actual or anticipated attacks and risks may cause us to incur significantly higher costs, including costs to deploy additional personnel and network protection technologies, train employees, and engage third-party experts and consultants. Cybersecurity breaches would not only harm our reputation and business, but also could materially decrease our revenue and net income.

***We may not be able to complete our acquisition of an equity ownership interest in Ant Financial.***

Pursuant to the amendment to the 2014 SAPA that we entered into in February 2018 (as amended, the 2018 SAPA Amendment), we have agreed to acquire a 33% equity interest in Ant Financial. The closing of this transaction is subject to the receipt of the necessary PRC regulatory approvals and the satisfaction of other conditions.

If Ant Financial does not receive the required PRC regulatory approvals mentioned above, we will not be able to complete the acquisition of the equity ownership interest in Ant Financial, and we would fail to benefit from any appreciation in its equity value beyond the date of a qualified IPO of Ant Financial or Alipay. Our inability to reap the benefits of any appreciation in equity value of Ant Financial, including in connection with a qualified IPO of Ant Financial or Alipay, could represent a significant missed opportunity that is beyond our control.

In addition, the 2018 SAPA provides that if Ant Financial's intended equity issuance to us is not completed for any reason, we will unwind the 2018 SAPA Amendment and restore the 2014 SAPA and other related agreements. As a result, we may incur additional costs to unwind the 2018 SAPA Amendment and be subject to significant negative publicity, which could have a material adverse effect on our business, financial condition and results of operations, as well as the trading price of our ADSs. Pursuant to the 2014 SAPA, in the event of a qualified IPO of Ant Financial or Alipay, if the equity issuance has not been completed or is subsequently unwound, we would be entitled, at our election, to receive a one-time payment equal to the 37.5% of the total equity value of Ant Financial immediately prior to the qualified IPO. If we elect to receive this one-time payment, it is possible that Ant Financial will not have sufficient funds to make the payment in a timely manner or on a schedule acceptable to us. See "Item 7. Major Shareholders and Related Party Transactions — B. Related Party Transactions — Agreements and Transactions Related to Ant Financial and its Subsidiaries — 2014 Restructuring of Our Relationship with Ant Financial and Alipay and 2014 Amendments."



***Tightening of tax compliance efforts that affect our merchants could materially and adversely affect our business, financial condition and results of operations.***

Tax legislation on the digital economy is still developing. Governments, both in China and in other jurisdictions, may promulgate or strengthen the implementation of tax regulations that impose obligations on e-commerce companies, which could increase the costs to consumers and merchants and make our platforms less competitive in these jurisdictions. Governments may require operators of marketplaces, such as our company, to assist in the enforcement of tax registration requirements and the collection of taxes with respect to the revenue or profit generated by merchants from transactions conducted on their platforms. We may also be requested by tax authorities to supply information on our merchants, such as transaction records and bank account information, and assist in the enforcement of other tax regulations, including the payment and withholding obligations against our merchants. As a result of more stringent tax compliance requirements and liabilities, we may lose existing merchants and potential merchants might not be willing to open storefronts on our marketplaces, which could in turn negatively affect us. Stricter tax enforcement by tax authorities may also reduce the activities by merchants on our platforms and result in liability to us. For example, as a result of stricter enforcement on VAT and VAT refunds, we substantially increased our allowance for doubtful accounts for VAT receivables in relation to our VAT refund service in fiscal year 2017.

Potential heightened enforcement against participants in our ecosystem (including imposition of reporting or withholding obligations on operators of marketplaces with respect to value-added tax of merchants and stricter tax enforcement against merchants generally) could have a material adverse effect on our business, financial condition and results of operations.

***We have been and may continue to be subject to allegations, lawsuits and negative publicity claiming that items listed and content available on our marketplaces and websites are pirated, counterfeit or illegal.***

We have been the subject in the past, and may continue to be the subject in the future, of allegations that items offered, sold or made available through our online marketplaces by third parties or that content we make available through other services, such as our online video and music platforms or through our smart devices, infringe third-party copyrights, trademarks and patents or other intellectual property rights. Although we have adopted measures to proactively verify the products sold on our marketplaces for infringement and to minimize potential infringement of third-party intellectual property rights through our intellectual property infringement complaint and take-down procedures, these measures may not always be successful. In the event that alleged counterfeit or infringing products are listed or sold on our marketplaces or allegedly infringing content are made available through our other services, we could face claims and negative publicity relating to these activities or for our alleged failure to act in a timely or effective manner in response to infringement or to otherwise restrict or limit these activities. We may also choose to compensate consumers for any losses, although we are currently not legally obligated to do so. If, as a result of regulatory developments, we are required to compensate consumers, we would incur additional expenses.

We may implement further measures in an effort to strengthen our protection against these potential liabilities, including working with brands and government authorities to assist in their offline investigations and taking legal actions against sellers of counterfeit goods on our marketplaces. These measures could require us to spend substantial additional resources and/or experience reduced revenues. In addition, these measures may reduce the attractiveness of our marketplaces and other services to consumers, merchants, brands and other participants. A merchant or online marketer whose content is removed or whose services are suspended or terminated by us, regardless of our compliance with the applicable laws, rules and regulations, may dispute our actions and commence action against us for damages based on breach of contract or other causes of action, make public complaints or allegations or organize group protests and publicity campaigns against us or seek compensation. Any costs incurred as a result of liability or asserted liability relating to the sale of unlawful goods or other infringement could harm our business.



We also have been and may continue to be subject to allegations of civil or criminal liability based on allegedly unlawful activities or unauthorized distribution of products or content carried out by third parties through our online marketplaces. We have also acquired certain companies, such as Youku, Lazada and Ele.me, that are from time to time subject to allegations and lawsuits regarding alleged infringement of third-party intellectual property or other rights, and we may continue to acquire other companies that are subject to similar disputes.

In addition, we have been and may continue to be subject to significant negative publicity in China and other countries based on similar claims and allegations. For example, in December 2016 and January 2018, the Office of the U.S. Trade Representative, or USTR, again identified Taobao Marketplace as a "notorious market" after having removed Taobao from such list in 2012. The USTR may continue to identify Taobao Marketplace as a notorious market, and there is no assurance that the USTR will not identify our other businesses as notorious markets in the future. In addition, government authorities have in the past accused, and may in the future accuse, us of perceived problems and failures of our platforms, including alleged failures to crack down on the sale of counterfeit goods and other alleged illegal activities on our China retail marketplaces. As a result of any such claims or accusations by government authorities, by industry watchdog organizations, by brand and intellectual property rights holders or by enterprises, there may be a public perception that counterfeit or pirated items are commonplace on our marketplaces or that we delay the process of removing these items. This perception, even if factually incorrect, and existing or new litigation and regulatory pressure or action related to intellectual property rights protection could damage our reputation with consumers, harm our business, diminish the value of our brand name and negatively affect trading price of our ADSs.

***Failure to deal effectively with any fraud perpetrated and fictitious transactions conducted on our marketplaces and other sources of customer dissatisfaction would harm our business.***

We face risks with respect to fraudulent activities on our marketplaces and periodically receive complaints from consumers who may not have received the goods that they had purchased, complaints from merchants who have not received payment for the goods that a consumer had contracted to purchase, as well as other types of actual and alleged fraudulent activities. See "Item 4. Information on the Company — B. Business Overview — Transaction Platform Safety Programs" for more details about the measures we have adopted against fraudulent activities. Although we have implemented various measures to detect and reduce the occurrence of fraudulent activities on our marketplaces, there can be no assurance that these measures will be effective in combating fraudulent transactions or improving overall satisfaction among our merchants, consumers and other participants. Additional measures that we take to address fraud could also negatively affect the attractiveness of our marketplaces to consumers or merchants. In addition, merchants on our marketplaces contribute to a fund to provide consumer protection guarantees. If our merchants do not perform their obligations under these programs, we may use funds that have been deposited by merchants in a consumer protection fund to compensate consumers. If the amounts in the fund are not sufficient, we may choose to compensate consumers for losses although currently we are not legally obligated to do so. If, as a result of regulatory developments, we are required to compensate consumers, we would incur additional expenses. Although we have recourse against our merchants for any amounts we incur, there is no assurance that we would be able to collect from our merchants.

In addition to fraudulent transactions with legitimate consumers, merchants may also engage in fictitious or "phantom" transactions with themselves or collaborators in order to artificially inflate their own ratings on our marketplaces, reputation and search results rankings, an activity sometimes referred to as "brushing." This activity may harm other merchants by enabling the perpetrating merchant to be favored over legitimate merchants, and may harm consumers by deceiving them into believing that a merchant is more reliable or trusted than the merchant actually is.

Moreover, illegal, fraudulent or collusive activities by our employees could also subject us to liability or negative publicity. We have discovered cases in which certain of our employees had accepted payments from merchants or other service providers in order to receive preferential treatment on our marketplaces. Although we dismiss the employees responsible for these incidents and have implemented internal controls and policies with regard to the review and approval of merchant accounts, sales activities and other relevant matters, we cannot

assure you that our controls and policies will prevent fraud or illegal activity by our employees or that similar incidents will not occur in the future. Any illegal, fraudulent or collusive activity could severely damage our brand and reputation as an operator of trusted marketplaces, which could drive users and consumers away from our marketplaces, and materially and adversely affect our business, financial condition and results of operations.

Government authorities, industry watchdog organizations or other third-parties may issue reports or engage in other forms of public communications concerning alleged fraudulent or deceptive conduct on our platform. Negative publicity and user sentiment generated as a result of such reports or allegations could severely diminish consumer confidence in and use of our services, reduce our ability to attract new or retain current merchants, consumers and other participants, damage our reputation, result in shareholder or other litigation and diminish the value of our brand names, and materially and adversely affect our business, financial condition and results of operations.

***We may increasingly become a target for public scrutiny, including complaints to regulatory agencies, negative media coverage, including social media and malicious reports, all of which could severely damage our reputation and materially and adversely affect our business and prospects.***

We process an extremely large number of transactions on a daily basis on our marketplaces, and the high volume of transactions taking place on our marketplaces and publicity about our business creates the possibility of heightened attention from the public, regulators, the media and our ecosystem participants. Heightened regulatory and public concern over consumer protection, including consumer data and privacy protection, and consumer safety issues may subject us to additional legal and social responsibilities and increased scrutiny and negative publicity over these issues, due to the increasing scope of our overall business operations, including our acquisition of a controlling stake in Cainiao Network. In addition, changes in our services or policies have resulted and could result in objections by members of the public, the media, including social media, participants in our ecosystem or others. From time to time, these objections or allegations, regardless of their veracity, may result in public protests or negative publicity, which could result in government inquiry or harm our reputation.

Corporate transactions we or related parties undertake, such as our partnership with the International Olympic Committee, our investment in Sun Art, our recent acquisition of the remaining equity interest in Ele.me, our recent agreement to acquire a 33% equity interest in Ant Financial, our recent agreement to acquire a minority interest in Focus Media, and other initiatives to implement our New Retail strategy and expand into international markets, may also subject us to increased media exposure and public scrutiny in Hong Kong, China and internationally. Moreover, as our business expands and grows domestically and internationally, we will be exposed to heightened regulatory scrutiny in jurisdictions where we already operate as well as in new jurisdictions in areas including consumer safety, public health and public trust. There is no assurance that we would not become a target for regulatory or public scrutiny in the future or that scrutiny and public exposure would not severely damage our reputation as well as our business and prospects.

In addition, our directors and management have been, and continue to be, subject to scrutiny by the media and the public regarding their activities in and outside Alibaba Group, which may result in unverified, inaccurate or misleading information about them being reported by the press. Negative publicity about our executive chairman or other founders, directors or management, even if untrue or inaccurate, may harm our reputation.

***We and Ant Financial are subject to a broad range of laws and regulations, and future laws and regulations may impose additional requirements and other obligations that could materially and adversely affect our business, financial condition and results of operations.***

The industries in which we and Ant Financial operate in the PRC and other countries, including online and mobile commerce and payments, financial services, cloud computing and digital media and entertainment and other online content offerings, are highly regulated. We are required to obtain licenses, permits, approvals and qualifications for many of our businesses, such as those relating to content production and distribution (including

news and audio/video programs, either as stand-alone businesses or as integrated services on our platforms), food, healthcare and safety.

As we and Ant Financial expand into new regions and markets, we will become subject to additional regulatory compliance requirements, which may be complex and potentially conflicting. In particular, the PRC government authorities are likely to continue to issue new laws, rules and regulations governing these industries, enhance enforcement of existing laws, rules and regulations. They have imposed, and may continue to impose, requirements relating to, among other things, new and additional licenses, permits and approvals or governance or ownership structures on us, Ant Financial and our users. For example, the third draft of the E-commerce Law was published for solicitation of public comment in June 2018. The draft E-commerce Law proposes a series of requirements on e-commerce operators including e-commerce platform operators, merchants operating on the platform and the individuals and entities carrying out business online. Under the draft E-commerce Law, e-commerce platform operators are required to establish a credit evaluation system and publish the credit evaluation rules, and provide consumers with methods to evaluate products sold or services provided on the platform. In addition, e-commerce platform operators who fail to take necessary actions when they know or should have known that merchants on the platform infringe upon the intellectual property rights of others or the products or services provided by merchants on the platform do not meet personal and property security requirements, or otherwise infringe upon consumers' legitimate rights, will be required to assume joint liability with the merchants. With respect to the products or services affecting consumers' health and safety, e-commerce platform operators will be held jointly liable with merchants on their platforms if they fail to review the qualifications of merchants or fail to safeguard the interests of consumers. Certain third-party platforms, although offering products and services competing with our marketplaces, may not be deemed as e-commerce operators and may be subject to less stringent requirements with respect to merchant regulation and consumer protection. The platform governance measures we adopt in response to the enhanced regulatory requirements may lead to our loss of merchants to those platforms.

These and other laws, rules and regulations and their application could result in additional regulatory requirements applicable to us or Ant Financial, or take a direction that is adverse to our or Ant Financial's business at any time. In addition, there is no assurance that any required licenses, permits and approvals could be obtained or any new requirements can be satisfied in a timely or cost-effective manner, and failure to obtain or maintain them could lead to suspension or termination of, substantial fines upon or other regulatory actions against the affected business, which could have a material adverse effect on our business, financial condition and results of operations. Changes in regulatory enforcement as well as tax policy in the PRC and other countries could also result in additional compliance obligations and increased costs or place restrictions upon our current or future operations. Any legislation or regulation of this kind could also severely disrupt and constrain our business and the payment services used on our marketplaces.

We have from time to time been subject, and are likely again in the future to be subject, to PRC and foreign government inquiries and investigations, including those relating to website content, alleged third-party intellectual property infringement, cybersecurity and privacy laws, and securities laws and regulations. We also face scrutiny, and have been subject and continue to be subject to inquiries and investigations, from PRC and foreign governmental bodies that focus on cross-border trade, tax, intellectual property protection, our investment activities, human rights, user privacy and data protection matters and fraudulent or other criminal transactions. We may also face protectionist policies and regulatory scrutiny on national security grounds in foreign countries in which we conduct business or investment activities. None of these inquiries and investigations has resulted in significant restrictions on our business operations. However, as we continue to grow in scale and significance, we expect to face increased scrutiny, which will, at a minimum, result in our having to continue to increase our investment in compliance and related capabilities and systems.

The increasing sophistication and development of our user base and our expansion into the mobile and entertainment businesses will also subject us to additional regulations and increase the need for higher standards of user protection, privacy protection and dispute management. Any increased involvement in inquiries or investigations could result in significantly higher legal and other costs, restraints on our ability to enforce the

contracts we have entered into, loss of business and revenue, liability for breach of contracts with third parties, diversion of management and other resources, as well as negative publicity, which could harm our business and reputation and materially reduce our revenue and net income.

Ant Financial, which through Alipay provides the substantial majority of the payment processing services on our marketplaces as well as other financial and value-added services, such as wealth management, financing and insurance, is subject to various laws, rules and regulations in the PRC and other countries where it operates, including those governing banking, privacy, cross-border and domestic money transmission, anti-money laundering, counter-terrorist financing and consumer protection laws, rules and regulations. In recent years, the PRC government has increasingly focused on regulation of the financial industry, including laws, rules and regulations relating to the provision of payment services. See "Item 4. Information on the Company — B. Business Overview — Regulation — Regulation Applicable to Alipay." These laws, rules and regulations are highly complex, constantly evolving and could change or be reinterpreted to be burdensome, difficult or impossible for Ant Financial to comply with.

As Ant Financial expands into international markets, it will increasingly become subject to additional legal and regulatory compliance requirements as well as political and regulatory challenges, including scrutiny on data privacy and security, anti-money laundering compliance and national security grounds, to its business and investment activities in these markets. In addition, Alipay or its affiliates are required to maintain payment business licenses in the PRC and are also required to obtain and maintain other applicable payment, money transmitter or other related licenses and approvals in other countries or regions where they operate. In certain jurisdictions where Alipay currently does not have the required licenses, Alipay provides payment processing and escrow services through third-party service providers. If Alipay or its partners fail to obtain and maintain all required licenses and approvals or otherwise fails to comply with applicable laws, rules and regulations, if new laws, rules or regulations come into effect that impact Alipay or its partners' businesses, or if any of Alipay's partners ceases to provide services to Alipay, its services could be suspended or severely disrupted, and our business, financial condition and results of operations would be materially and adversely affected.

***We may be accused of infringing intellectual property rights of third parties or violating content restrictions under relevant laws.***

Third parties may claim that the technology used in the operation of our platforms or our service offerings or the content on our platforms, including content available through our digital media and entertainment business, search business, online reading platform, news feed features and Internet of Things, or IoT, devices infringe upon their intellectual property rights or are provided beyond the authorized scope. Although we have not in the past faced material litigation involving direct claims of infringement by us, the possibility of intellectual property claims against us, whether in China or other jurisdictions, increases as we continue to grow, particularly internationally. We have also acquired businesses, such as Youku, that have been, and may continue to be, subject to liabilities for infringement of third-party intellectual property rights or other allegations based on the content available on their websites or the services they provide. In addition, we expect our ecosystem to involve more and more user-generated content, including the entertainment content on Youku and our smart speakers, the interactive media content displayed on Taobao Marketplace and Tmall, including livestreams, as well as the data generated, uploaded and saved by users of our cloud computing services, over which we have limited control and we may be subject to claims for infringement of third-party intellectual property rights, or subject us to additional scrutiny by the relevant government authorities. These claims or scrutiny, whether or not having merit, may result in our expenditure of significant financial and management resources, injunctions against us or payment of damages. We may need to obtain licenses from third parties who allege that we have infringed their rights, but these licenses may not be available on terms acceptable to us or at all. These risks have been amplified by the increase in the number of third parties whose sole or primary business is to assert these claims.

China has enacted laws and regulations governing Internet access and the distribution of products, services, news, information, audio-video programs and other content through the Internet. The PRC government has prohibited the distribution of information through the Internet that it deems to be in violation of PRC laws and

regulations, impairs the national dignity of China or the public interest, or is obscene, superstitious, fraudulent or defamatory. Users of certain of our websites and platforms, including Youku, can upload content, to these websites and platforms, which is generally referred to as user-generated content. Due to the significant amount of content uploaded by our users, we may not be able to identify all the videos or other content that may violate relevant laws and regulations. If any of the information disseminated through our marketplaces and websites, including videos and other content (including user-generated content) displayed on Youku's or our other websites or on our Tmall set-top boxes, smart speakers and smart televisions, were deemed by the PRC government to violate any content restrictions, we would not be able to continue to display these content and could become subject to penalties, including confiscation of income, fines, suspension of business and revocation of required licenses, which could materially and adversely affect our business, financial condition and results of operations. The outcome of any claims, investigations and proceedings is inherently uncertain, and in any event defending against these claims could be both costly and time-consuming, and could significantly divert the efforts and resources of our management and other personnel. An adverse determination in any of these litigation matters or proceedings could cause us to pay damages, as well as legal and other costs, limit our ability to conduct business or require us to change the manner in which we operate and harm our reputation. As we expand our operations internationally, we expect that we will become subject to similar laws and regulations in other jurisdictions.

***We may be subject to claims under consumer protection laws, including health and safety claims and product liability claims, if property or people are harmed by the products and services sold on our marketplaces.***

Due to several high-profile incidents involving safety, including food safety, and consumer complaints that have occurred in China in recent years, the PRC government, media outlets and public advocacy groups are increasingly focused on consumer protection. Government authorities in other countries where we operate also place high importance on consumer protection. Moreover, as part of our growth strategy, we expect to increase our focus on food, food supplements and beverages, mother care, baby care and healthcare products and services, and electronics products. For example, through Tmall Supermarket and Hema, we offer products that are frequently purchased by consumers, such as groceries and FMCG. We have also invested in companies involved in these sectors. These activities could expose us to increasing liability associated with consumer protection laws in those areas. Operators of e-commerce platforms are subject to certain provisions of consumer protection laws even where the operator is not the merchant of the product or service purchased by the consumer. For example, under applicable consumer protection laws in China, e-commerce platform operators may be held liable for consumer claims relating to damage if they are unable to provide consumers with the true name, address and contact details of merchants or service providers. In addition, if we do not take appropriate remedial action against merchants or service providers for actions they engage in that we know, or should have known, would infringe upon the rights and interests of consumers, we may be held jointly liable for infringement alongside the merchant or service provider. Moreover, applicable consumer protection laws in China hold that trading platforms will be held liable for failing to meet any undertakings that the platforms make to consumers with regard to products listed on their websites. Furthermore, we are required to report to the State Administration for Market Regulation, or the SAMR, formerly known as the State Administration for Industry and Commerce, or the SAIC, or its local branches any violation of applicable laws, regulations or SAMR rules by merchants or service providers, such as sales of goods without proper license or authorization, and we are required to take appropriate remedial measures, including ceasing to provide services to the relevant merchants or service providers. We may also be held jointly liable with merchants who do not possess the proper licenses or authorizations to sell goods or who sell goods that do not meet product standards.

In addition, we are facing increasing levels of activist litigation in China by plaintiffs claiming damages based on consumer protection laws. This type of activist litigation could increase in the future, and if it does, we could face increased costs defending these suits and damages should we not prevail, which could materially and adversely affect our reputation and brand and our results of operations.

As our business expands outside of China, we may also face increasing scrutiny from consumer protection regulators and activists, as well as increasingly become target for litigation, in the United States, Europe and other jurisdictions. If claims are brought against us under any of these laws, we could be subject to damages and reputational damage as well as action by regulators, which could have a material adverse effect on our business, financial condition and results of operations. We do not maintain product liability insurance for products and services transacted on our marketplaces, and our rights of indemnity from the merchants on our marketplaces may not adequately cover us for any liability we may incur. Even unsuccessful claims could result in significant expenditure of funds and diversion of management time and resources, which could materially and adversely affect our business operations, net income and profitability.

***We may be subject to liability for content available in our ecosystem that is alleged to be socially destabilizing, obscene, defamatory, libelous or otherwise unlawful.***

Under PRC law and the laws of certain other jurisdictions in which we operate, we are required to monitor our websites and the websites hosted on our servers and mobile interfaces, as well as our services and devices that generate or host content, for items or content deemed to be socially destabilizing, obscene, superstitious or defamatory, as well as for items, content or services that are illegal to sell online or otherwise in other jurisdictions in which we operate our marketplaces, and promptly take appropriate action with respect to the relevant items, content or services. We may also be subject to potential liability in China or other jurisdictions for any unlawful actions of our merchants, marketing customers or users of our websites or mobile interfaces, or for content we distribute or that is linked from our platforms that is deemed inappropriate. It may be difficult to determine the type of content that may result in liability to us, our websites and platforms, such as our cloud computing services, which allow users to upload and save massive data on our cloud data centers, or Youku, which allows users to upload videos and other content to our websites, may make this even more difficult. If we are found to be liable, we may be subject to negative publicity, fines, have our relevant business operation licenses revoked, or be prevented from operating our websites or mobile interfaces in China or other jurisdictions.

In addition, claims may be brought against us for defamation, libel, negligence, copyright, patent or trademark infringement, tort (including personal injury), other unlawful activity or other theories and claims based on the nature and content of information posted on our platforms, including user-generated content, product reviews and message boards, by our consumers, merchants and other participants.

Regardless of the outcome of any dispute or lawsuit, we may suffer from negative publicity and reputational damage as a result of these actions.

***We may be subject to material litigation and regulatory proceedings.***

We have been involved in a high volume of litigation in China and a small volume of potentially high-value litigation outside China relating principally to third-party and principal intellectual property infringement claims, contract disputes involving merchants and consumers on our platforms, consumer protection claims, employment related cases and other matters in the ordinary course of our business. As our ecosystem expands, including across jurisdictions and through the addition of new businesses, we have encountered and may face an increasing number and a wider variety of these claims, including those brought against us pursuant to anti-monopoly or unfair competitions laws or involving higher amounts of alleged damages. We are subject to laws and regulations in China and the other jurisdictions where our merchants, consumers, users, customers and other participants to our ecosystem are located. These laws, rules and regulations may vary in their scope and overseas laws and regulations may impose requirements which are more stringent than, or which conflict with, those in China. We have acquired and may acquire companies that have been subject to or may become subject to litigation, including shareholder class action lawsuits in the case of companies we acquire that are or were publicly-listed companies, as well as regulatory proceedings. In addition, in connection with litigation or regulatory proceedings we may be subject to in various jurisdictions, we may be prohibited by laws, regulations or government authorities in one jurisdiction from complying with subpoenas, orders or other requests from courts or regulators of other jurisdictions, including those relating to data held in or with respect to persons in such jurisdictions. Our failure or inability to comply with such

subpoenas, orders or requests could subject us to fines, penalties or other legal liability, which could have a material adverse effect on our reputation, business, results of operations and the trading price of our ADSs.

As publicly-listed companies, we and certain of our subsidiaries face additional exposure to claims and lawsuits inside and outside China. We will need to defend against these lawsuits, including any appeals should our initial defense be successful. The litigation process may utilize a material portion of our cash resources and divert management's attention from the day-to-day operations of our company, all of which could harm our business. There can be no assurance that we will prevail in any of these cases, and any adverse outcome of these cases could have a material adverse effect on our reputation, business and results of operations. In particular, we have been named as a defendant in certain purported shareholder class action lawsuits described in "Item 8. Financial Information — A. Consolidated Statements and Other Financial Information — Legal and Administrative Proceedings." We are currently unable to estimate the possible loss or possible range of loss, if any, associated with the resolution of these lawsuits. An unfavorable outcome from the lawsuits, including any plaintiff's appeal of the judgment in these lawsuits, could have a material adverse effect on our financial condition, results of operations, or cash flows in the future. In addition, although we have obtained directors' and officers' liability insurance, the insurance coverage may not be adequate to cover our obligations to indemnify our directors and officers, fund a settlement of litigation in excess of insurance coverage or pay an adverse judgment in litigation.

In early 2016, the SEC informed us that it had initiated an investigation into whether there have been any violations of the federal securities laws. The SEC has requested that we voluntarily provide it with documents and information relating to, among other things: our consolidation policies and practices (including our prior practice of accounting for Cainiao Network as an equity method investee), our policies and practices applicable to related party transactions in general, and our reporting of operating data from Singles Day. We are cooperating with the SEC and, through our legal counsel, have been providing the SEC with requested documents and information. The SEC advised us that the initiation of a request for information should not be construed as an indication by the SEC or its staff that any violation of the federal securities laws has occurred. This matter is ongoing, and, as with any regulatory proceeding, we cannot predict when it will be concluded. The existence of litigation, claims, investigations and proceedings may harm our reputation and adversely affect the trading price of our ADSs. The outcome of any claims, investigations and proceedings is inherently uncertain, and in any event defending against these claims could be both costly and time-consuming, and could significantly divert the efforts and resources of our management and other personnel. An adverse determination in any litigation, investigation or proceeding could cause us to pay damages as well as legal and other costs, limit our ability to conduct business or require us to change the manner in which we operate.

***Our reputation and our business may be harmed by aggressive marketing and communications strategies of our competitors.***

Due to intense competition in our industry, we have been and may be the target of incomplete, inaccurate and false statements and complaints about our company and our products and services that could damage our reputation and materially deter consumers from making purchases on our marketplaces. In addition, competitors have used, and may continue to use, methods such as lodging complaints with regulators, initiating frivolous and nuisance lawsuits, and other forms of attack litigation and "lawfare" that attempt to harm our reputation, hinder our operations, force us to expend resources on responding to and defending against such claims, and otherwise gain a competitive advantage over us by means of litigious and accusatory behavior. Our ability to respond on share price-sensitive information to our competitors' misleading marketing efforts, including lawfare, may be limited during our self-imposed quiet periods around quarter ends or due to legal prohibitions on permissible public communications by us during certain other periods.

***Our results of operations fluctuate significantly from quarter to quarter which may make it difficult to predict our future performance.***

Our results of operations is generally characterized by seasonal fluctuations due to various reasons, including seasonal buying patterns and economic cyclical changes, as well as promotions on our marketplaces. Historically,



the fourth quarter of each calendar year generally contributes the largest portion of our annual revenues due to a number of factors, such as merchants allocating a significant portion of their online marketing budgets to the fourth calendar quarter, promotions, such as Singles Day on November 11 of each year, and the impact of seasonal buying patterns in respect of certain categories such as apparel. The first quarter of each calendar year generally contributes the smallest portion of our annual revenues, primarily due to a lower level of allocation of marketing budgets by merchants at the beginning of the calendar year and the Chinese New Year holiday, during which time consumers generally spend less and businesses in China are generally closed. We may also introduce new promotions or change the timing of our promotions in ways that further cause our quarterly results to fluctuate and differ from historical patterns. In addition, seasonal weather patterns may affect the timing of buying decisions. The performance of our equity investees and of major businesses in which we have made investments, may also result in fluctuations in our results of operations. Fluctuations in our results of operations related to our investments may also result from the accounting implication of re-measurement of fair values of certain financial instruments, share-based awards and previously held equity interests upon disposal or step acquisitions. Given that the fair value movements of the underlying equities of financial instruments, share-based awards or equity interests are beyond the control of our management, the magnitude of the related accounting impact is unpredictable and may affect our results of operations significantly.

Our results of operations will likely fluctuate due to these and other factors, some of which are beyond our control. In addition, our growth in the past may have masked the seasonality that might otherwise be apparent in our results of operations. As the rate of growth of our business declines in comparison to prior periods, we expect that the seasonality in our business may become more pronounced. Moreover, as our business grows, we expect that our fixed costs and expenses, such as payroll and benefits, bandwidth and co-location fees, will continue to increase, which will result in operating leverage in seasonally strong quarters but can significantly pressure operating margins in seasonally weak quarters.

Our quarterly and annual financial results will likely differ from our historical performance. To the extent our results of operations are below the expectations of public market analysts and investors in the future, or if there are significant fluctuations in our financial results, the market price of our ADSs could fluctuate significantly.

***We may not be able to protect our intellectual property rights.***

We rely on a combination of trademark, fair trade practice, patent, copyright and trade secret protection laws in China and other jurisdictions, as well as confidentiality procedures and contractual provisions, to protect our intellectual property rights. We also enter into confidentiality agreements with our employees and any third parties who may access our proprietary information, and we rigorously control access to our proprietary technology and information. In addition, as our business expands and we increase our acquisition of and management of content, we expect to incur greater costs to acquire, license and enforce our rights to content.

Intellectual property protection may not be sufficient in China or other countries in which we operate. Confidentiality agreements may be breached by counterparties, and there may not be adequate remedies available to us for these breaches. Accordingly, we may not be able to effectively protect our intellectual property rights or to enforce our contractual rights in China or elsewhere. In addition, policing any unauthorized use of our intellectual property is difficult, time-consuming and costly and the steps we have taken may be inadequate to prevent the misappropriation of our intellectual property. In the event that we resort to litigation to enforce our intellectual property rights, the litigation could result in substantial costs and a diversion of our managerial and financial resources. We can provide no assurance that we will prevail in any litigation. In addition, our trade secrets may be leaked or otherwise become available to, or be independently discovered by, our competitors. Any failure in protecting or enforcing our intellectual property rights could have a material adverse effect on our business, financial condition and results of operations.



***We may suffer reputational harm and the price of our ADSs may decrease significantly due to business dealings by, or connections of, merchants or consumers on our marketplaces with sanctioned countries or persons.***

The U.S. government imposes broad economic and trade restrictions on dealings with certain countries and regions, including the Crimea, Cuba, Iran, North Korea and Syria, or the Sanctioned Countries, and numerous individuals and entities, including those designated as having engaged in activities relating to terrorism, drug trafficking, cybercrime, the rough diamond trade, proliferation of weapons of mass destruction or human rights violations, or the Sanctioned Persons. Additionally, the U.S. government also imposes more targeted sanctions on certain dealings with countries such as Russia, among others. The U.S. government has also imposed targeted sanctions on certain dealings with the Government of Venezuela and Petroleos de Venezuela, S.A. Recently, the U.S. government has expanded or suggested that it will expand economic sanctions concerning Iran, North Korea and Russia and there is risk of further enhanced economic sanctions concerning those geographies. It is not, however, possible to predict with a reasonable degree of certainty how the regulatory environment concerning U.S. economic sanctions may develop. The United Nations, the European Union, or the EU, the United Kingdom, or the UK, and other countries also impose economic and trade restrictions, including on certain Sanctioned Countries and Sanctioned Persons. We do not have employees or operations in any of the Sanctioned Countries, and, although our websites are open and available worldwide, we do not actively solicit business from the Sanctioned Countries or Sanctioned Persons.

As a Cayman Islands company, we are generally not required to comply with U.S., UK, and EU sanctions to the same extent as U.S., UK or EU entities. However, our U.S., UK, and EU subsidiaries, our employees who are U.S. persons or UK or EU nationals, activities in the U.S., UK, or EU, activities involving U.S.-origin goods, technology or services, and certain conduct or dealings involving Iran and North Korea, among other activities, are subject to applicable sanctions requirements. In the case of Alibaba.com, our aggregate cash revenue from members in these Sanctioned Countries in fiscal year 2018 accounted for a negligible portion of our total revenue. In the case of AliExpress and our China retail marketplaces, an insignificant percentage of orders have been placed by consumers from the Sanctioned Countries, with an aggregate GMV settled of approximately US\$7.4 million in the twelve months ended March 31, 2018 through transactions conducted voluntarily among merchants and consumers on our marketplaces. As all transaction fees on AliExpress and our China retail marketplaces are paid by merchants, primarily based in China, we do not earn any fees or commission from consumers in Sanctioned Countries in respect of transactions conducted on these platforms.

We cannot assure you that current or future economic and trade sanctions regulations or developments will not have a negative impact on our business or reputation. International economic and trade sanctions are complex and subject to frequent change, including jurisdictional reach and the lists of countries, entities, and individuals subject to the sanctions. Hence, we may incur significant costs related to current, new, or changing sanctions programs, as well as investigations, fines, fees or settlements, which may be difficult to predict. We also could face increased sanctions-related compliance costs and risks as we expand globally and into additional businesses, such as cloud computing, hardware and data hosting. In addition, our expanding network of investee companies, global business partners, joint venture partners or other parties that have collaborative relationships with us or our affiliates may engage in activities in or with Sanctioned Countries or Sanctioned Persons, which might result in negative publicity, governmental investigations and reputational harm. Any of the above may cause the price of our ADSs to decline significantly, and thus materially reduce the value of your investment in our ADSs.

Certain institutional investors, including state and municipal governments in the United States and universities, as well as financial institutions, have proposed or adopted divestment or similar initiatives regarding investments in companies that do business with Sanctioned Countries. Accordingly, as a result of activities on our marketplaces involving users based in the Sanctioned Countries, certain investors may not wish to invest in us, certain financial institutions may not wish to lend or extend credit and may divest their investment in, or seek early repayment of loans made to us, and certain financial institutions and other businesses with which we partner or may partner may seek to avoid business relationships with us. These divestment initiatives may negatively impact our reputation, business and results of operations, and may materially and adversely affect the trading price of our ADSs.

***Failure to comply with the terms of our indebtedness could result in acceleration of indebtedness, which could have an adverse effect on our cash flow and liquidity.***

As of March 31, 2018, we had US\$13.7 billion in aggregate principal amount of unsecured senior notes outstanding. We have also entered into a five-year term loan facility of US\$4.0 billion, which has been fully drawn down. In addition, in April 2017, we replaced our US\$3.0 billion revolving credit facility, which was not drawn, with a new US\$5.15 billion revolving credit facility, which we have not yet drawn. Under the terms of our unsecured senior notes and credit facilities and under any debt financing arrangement that we may enter into in the future, we are, and may be in the future, subject to covenants that could, among other things, restrict our business and operations. If we breach any of these covenants, our lenders under our credit facilities and holders of our unsecured senior notes will be entitled to accelerate our debt obligations. Any default under our credit facilities or unsecured senior notes could require that we repay these debts prior to maturity as well as limit our ability to obtain additional financing, which in turn may have a material adverse effect on our cash flow and liquidity.

***We may need additional capital but may not be able to obtain it on favorable terms or at all.***

We may require additional cash resources due to future growth and development of our business, including any investments or acquisitions we may decide to pursue. If our cash resources are insufficient to satisfy our cash requirements, we may seek to issue additional equity or debt securities or obtain new or expanded credit facilities. Our ability to obtain external financing in the future is subject to a variety of uncertainties, including our future financial condition, results of operations, cash flows, trading price of our ADSs, liquidity of international capital and lending markets and PRC governmental regulations over foreign investment and cross-border financing and the Internet industry in the PRC. For example, offshore incorporated companies directly or indirectly controlled by individual PRC residents are required to complete filings before the launch of any offshore debt issuance with a term of one year or more in accordance with applicable laws and regulations. The filing procedure takes time which may result in our missing the best market windows for debt issuances in the future. In addition, incurring indebtedness would subject us to increased debt service obligations and could result in operating and financial covenants that would restrict our operations. There can be no assurance that financing will be available in a timely manner or in amounts or on terms acceptable to us, or at all. Any failure to raise needed funds on terms favorable to us, or at all, could severely restrict our liquidity as well as have a material adverse effect on our business, financial condition and results of operations. Moreover, any issuance of equity or equity-linked securities could result in significant dilution to our existing shareholders.

***We are subject to interest rate risk in connection with our indebtedness.***

We are exposed to interest rate risk related to our indebtedness. The interest rates under certain of our offshore credit facilities are based on a spread over LIBOR. As a result, the interest expenses associated with such indebtedness will be subject to the potential impact of any fluctuation in LIBOR. Any increase in LIBOR could impact our financing costs if not effectively hedged. Our RMB denominated bank borrowings are also subject to interest rate risk. Although from time to time, we use hedging transactions in an effort to reduce our exposure to interest rate risk, these hedges may not be effective.

***We may not have sufficient insurance coverage to cover our business risks.***

We have obtained insurance to cover certain potential risks and liabilities, such as property damage, business interruptions and public liabilities. However, insurance companies in China and other jurisdictions in which we operate may offer limited business insurance products. As a result, we may not be able to acquire any insurance for all types of risks we face in our operations in China and elsewhere, and our coverage may not be adequate to compensate for all losses that may occur, particularly with respect to loss of business or operations. We do not maintain product liability insurance, nor do we maintain key-man life insurance. This potentially insufficient coverage could expose us to potential claims and losses. Any business disruption, litigation, regulatory action, outbreak of epidemic disease or natural disaster could also expose us to substantial costs and diversion of

resources. We cannot assure you that our insurance coverage is sufficient to prevent us from any loss or that we will be able to successfully claim our losses under our current insurance policy on a timely basis, or at all. If we incur any loss that is not covered by our insurance policies, or the compensated amount is significantly less than our actual loss, our business, financial condition and results of operations could be materially and adversely affected.

***An occurrence of a natural disaster, widespread health epidemic or other outbreaks could have a material adverse effect on our business, financial condition and results of operations.***

Our business could be materially and adversely affected by natural disasters, such as snowstorms, earthquakes, fires or floods, the outbreak of a widespread health epidemic, such as swine flu, avian influenza, severe acute respiratory syndrome, or SARS, Ebola, Zika or other events, such as wars, acts of terrorism, environmental accidents, power shortage or communication interruptions. The occurrence of a disaster or a prolonged outbreak of an epidemic illness or other adverse public health developments in China or elsewhere in the world could materially disrupt our business and operations. These events could also significantly impact our industry and cause a temporary closure of the facilities we use for our operations, which would severely disrupt our operations and have a material adverse effect on our business, financial condition and results of operations. Our operations could be disrupted if any of our employees or employees of our business partners were suspected of having the swine flu, avian influenza, SARS, Ebola, Zika or other disease epidemics, since this could require us or our business partners to quarantine some or all of these employees or disinfect the facilities used for our operations. In addition, our revenue and profitability could be materially reduced to the extent that a natural disaster, health epidemic or other outbreak harms the global or PRC economy in general. Our operations could also be severely disrupted if our consumers, merchants or other participants were affected by natural disasters, health epidemics or other outbreaks.

### **Risks Related to our Corporate Structure**

***The Alibaba Partnership and related voting agreements limit the ability of our shareholders to nominate and elect directors.***

Our articles of association allow the Alibaba Partnership to nominate or, in limited situations, appoint a simple majority of our board of directors. If at any time our board of directors consists of less than a simple majority of directors nominated or appointed by the Alibaba Partnership for any reason, including because a director previously nominated by the Alibaba Partnership ceases to be a member of our board of directors or because the Alibaba Partnership had previously not exercised its right to nominate or appoint a simple majority of our board of directors, the Alibaba Partnership will be entitled (in its sole discretion) to nominate or appoint such number of additional directors to the board as necessary to ensure that the directors nominated or appointed by the Alibaba Partnership comprise a simple majority of our board of directors.

In addition, we have entered into a voting agreement pursuant to which SoftBank, Altaba, Jack Ma and Joe Tsai have agreed to vote their shares in favor of the Alibaba Partnership director nominees at each annual general shareholders meeting for so long as SoftBank owns at least 15% of our outstanding ordinary shares. Furthermore, the voting agreement provides that SoftBank has the right to nominate one director to our board until SoftBank owns less than 15% of our outstanding ordinary shares, and that right is also reflected in our articles of association. In addition, pursuant to the voting agreement, Altaba, Jack Ma and Joe Tsai have agreed to vote their shares (including shares for which they have voting power) in favor of the election of the SoftBank director nominee at each annual general shareholders meeting in which the SoftBank nominee stands for election. Moreover, subject to certain exceptions, pursuant to the voting agreement SoftBank and Altaba have agreed to give Jack and Joe a proxy over, with respect to SoftBank, any portion of its shareholdings exceeding 30% of our outstanding shares and, with respect to Altaba, all of its shareholdings up to a maximum of 121.5 million of our ordinary shares. These proxies will remain in effect until Jack Ma owns less than 1% of our ordinary shares on a fully diluted basis or we materially breach the voting agreement.

This governance structure and contractual arrangement limit the ability of our shareholders to influence corporate matters, including any matters determined at the board level. In addition, the nomination right granted to the Alibaba Partnership will remain in place for the life of the Alibaba Partnership unless our articles of association are amended to provide otherwise by a vote of shareholders representing at least 95% of shares that vote at a shareholders meeting. The nomination rights of the Alibaba Partnership will remain in place notwithstanding a change of control or merger of our company and, for so long as SoftBank and Alibaba remain substantial shareholders, we expect the Alibaba Partnership nominees will receive a majority of votes cast at any meeting for the election of directors and will be elected as directors. These provisions and agreements could have the effect of delaying, preventing or deterring a change in control and could limit the opportunity of our shareholders to receive a premium for their ADSs, and could also materially decrease the price that some investors are willing to pay for our ADSs, as of the date of this annual report, the parties to the voting agreement and the partners of the Alibaba Partnership held in the aggregate more than 50% of our outstanding ordinary shares (including shares underlying vested and unvested awards). See "Item 6. Directors, Senior Management and Employees — A. Directors and Senior Management — Alibaba Partnership."

***The interests of the Alibaba Partnership may conflict with the interests our shareholders.***

The nomination and appointment rights of the Alibaba Partnership limit the ability of our shareholders to influence corporate matters, including any matters to be determined by our board of directors. The interests of the Alibaba Partnership may not coincide with the interests of our shareholders, and the Alibaba Partnership or its director nominees may make decisions with which they disagree, including decisions on important topics such as compensation, management succession, acquisition strategy and our business and financial strategy. For example, because the Alibaba Partnership will continue to be largely comprised of members of our management team, the Alibaba Partnership and its director nominees, consistent with our operating philosophy, may focus on the long-term interests of our ecosystem participants at the expense of our short-term financial results, which may differ from the expectations and desires of shareholders unaffiliated with the Alibaba Partnership. To the extent that the interests of the Alibaba Partnership differ from the interests of any of our shareholders, our shareholders may be disadvantaged by any action that the Alibaba Partnership may seek to pursue.

***Our articles of association contain anti-takeover provisions that could adversely affect the rights of holders of our ordinary shares and ADSs.***

Our articles of association contain certain provisions that could limit the ability of third parties to acquire control of our company, including:

- a provision that grants authority to our board of directors to establish from time to time one or more series of preferred shares without action by our shareholders and to determine, with respect to any series of preferred shares, the terms and rights of that series;
- a provision that a business combination, if it may adversely affect the right of the Alibaba Partnership to nominate or appoint a simple majority of our board of directors, including the protective provisions for such right under our articles of association, shall be approved upon vote of shareholders representing at least 95% of the votes in person or by proxy present at a shareholders meeting; and
- a classified board with staggered terms that will prevent the replacement of a majority of directors at one time.

These provisions could have the effect of delaying, preventing or deterring a change in control, and could limit the opportunity for our shareholders to receive a premium for their ADSs, and could also materially decrease the price that some investors are willing to pay for our ADSs.

***SoftBank owns approximately 29.0% of our outstanding ordinary shares and its interests may differ from those of our other shareholders.***

As of March 31, 2018, SoftBank owned approximately 29.0% of our outstanding ordinary shares. Subject to certain exceptions, SoftBank has agreed to grant the voting power of any portion of its shareholding exceeding 30% of our outstanding ordinary shares to Jack Ma and Joe Tsai by proxy. Under the terms of the voting agreement we entered into with SoftBank, SoftBank also has the right to nominate one member of our board of directors, and Altaba, Jack and Joe have agreed to vote their shares (including shares for which they have voting power) in favor of the SoftBank director nominees at each annual general shareholders meeting in which the SoftBank nominee stands for election until such time as SoftBank holds less than 15% of our outstanding ordinary shares. SoftBank's director nomination right is also reflected in our articles of association. Except with regard to shareholder votes relating to the Alibaba Partnership director nominees, SoftBank will have significant influence over the outcome of matters that require shareholder votes and accordingly over our business and corporate matters. SoftBank may exercise its shareholder rights in a way that it believes is in its own best interest, which may conflict with the interest of our other shareholders. These actions may be taken even if SoftBank is opposed by our other shareholders.

For more information, see "Item 7. Major Shareholders and Related Party Transactions — B. Related Party Transactions — Transactions and Agreements with SoftBank and Altaba — Voting Agreement."

***If the PRC government deems that the contractual arrangements in relation to our variable interest entities do not comply with PRC governmental restrictions on foreign investment, or if these regulations or the interpretation of existing regulations changes in the future, we could be subject to penalties, or be forced to relinquish our interests in those operations, which would materially and adversely affect our business, financial results and the trading price of our ADSs.***

Foreign ownership of certain types of Internet businesses, such as Internet information services, is subject to restrictions under applicable PRC laws, rules and regulations. The principal regulations governing foreign investment in our business in China include the Guidance Catalogue of Industries for Foreign Investment, or the Foreign Investment Catalogue, the latest version of which came into effect on July 28, 2017, the latest amendment of which is to become effective as of July 28, 2018, and other applicable laws, rules and regulations. Under these laws and regulations, foreign investors are generally not permitted to own more than 50% of the equity interests in a value-added telecommunication service provider. Any foreign investor must also have experience and a good track record in providing value-added telecommunications services overseas. Although according to the Notice on Lifting the Restriction to Foreign Shareholding Percentage in Online Data Processing and Transaction Processing Business (Operational E-commerce) promulgated by the MIIT on June 19, 2015, foreign investors are allowed to hold up to 100% of all equity interests in the online data processing and transaction processing business (operational e-commerce) in China, other requirements provided by the Foreign Investment Telecommunications Rules (such as the track record and experience requirement for a major foreign investor) still apply. There still exist uncertainties with respect to the interpretation and implementation of such notice by authorities.

While the significant majority of our revenue was generated by our wholly-foreign owned enterprises in fiscal year 2018, we provide Internet information services in China, which are critical to our business, through a number of PRC incorporated variable interest entities. Contractual arrangements between us and the variable interest entities and their equity holders give us effective control over each of the variable interest entities and enable us to obtain substantially all of the economic benefits arising from the variable interest entities as well as consolidate the financial results of the variable interest entities in our results of operations. Although the structure we have adopted is consistent with longstanding industry practice, and is commonly adopted by comparable companies in China, the PRC government may not agree that these arrangements comply with PRC licensing, registration or other regulatory requirements, with existing policies or with requirements or policies that may be adopted in the future. We are in the process of enhancing the structure of our variable interest entities. See "—We are in the process of enhancing the structure of some of our variable interest entities, and its completion is subject to uncertainties."

In the opinion of Fangda Partners, our PRC counsel, the ownership structures of our material wholly-foreign owned enterprises and our material variable interest entities in China do not and will not violate any applicable PRC law, regulation or rule currently in effect; and the contractual arrangements between our material wholly-foreign owned enterprises, our material variable interest entities and their respective equity holders governed by PRC law are valid, binding and enforceable in accordance with their terms and applicable PRC laws and regulations currently in effect and will not violate any applicable PRC law, rule or regulation currently in effect, except that the pledges of the partnership interests will not be deemed validly created security interests until they are registered. See "— We are in the process of enhancing the structure of our variable interest entities, and the timing of its completion is subject to uncertainties" and "Item 4. Information on the Company — C. Organizational Structure." However, Fangda Partners has also advised us that there are substantial uncertainties regarding the interpretation and application of current PRC laws, rules and regulations. Accordingly, the PRC regulatory authorities and PRC courts may in the future take a view that is contrary to the opinion of our PRC legal counsel.

It is uncertain whether any new PRC laws, rules or regulations relating to variable interest entity structures will be adopted or if adopted, what they would provide. Please also see "— Substantial uncertainties exist with respect to the enactment timetable, interpretation and implementation of draft PRC Foreign Investment Law."

If we or any of our variable interest entities are found to be in violation of any existing or future PRC laws, rules or regulations, or fail to obtain or maintain any of the required permits or approvals, the relevant PRC regulatory authorities would have broad discretion to take action in dealing with these violations or failures, including revoking the business and operating licenses of our PRC subsidiaries or the variable interest entities, requiring us to discontinue or restrict our operations, restricting our right to collect revenue, blocking one or more of our websites, requiring us to restructure our operations or taking other regulatory or enforcement actions against us. The imposition of any of these measures could result in a material adverse effect on our ability to conduct all or any portion of our business operations. In addition, it is unclear what impact the PRC government actions would have on us and on our ability to consolidate the financial results of any of our variable interest entities in our consolidated financial statements, if the PRC government authorities were to find our legal structure and contractual arrangements to be in violation of PRC laws, rules and regulations. If the imposition of any of these government actions causes us to lose our right to direct the activities of any of our material variable interest entities or otherwise separate from any of these entities and if we are not able to restructure our ownership structure and operations in a satisfactory manner, we would no longer be able to consolidate the financial results of our variable interest entities in our consolidated financial statements. Any of these events would have a material adverse effect on our business, financial condition and results of operations.

***We are in the process of enhancing the structure of some of our variable interest entities, and its completion is subject to uncertainties.***

In order to further improve our control over our material variable interest entities, reduce key man risks associated with having certain individuals be the equity holders of the material variable interest entities, and address the uncertainty resulting from any potential disputes between us and the individual equity holders of the material variable interest entities that may arise, we are in the process of enhancing the structure of our material variable interest entities and certain other variable interest entities, or the VIE Structure Enhancement.

Prior to the completion of the VIE Structure Enhancement, the variable interest entities were owned, or are owned, by a few PRC citizens who are our founders or employees or by PRC entities owned by these PRC citizens. After completion of the VIE Structure Enhancement, those variable interest entities will be directly owned by PRC limited liability companies that are indirectly held by selected members of the Alibaba Partnership or our management who are PRC citizens through PRC limited partnerships jointly established by such individuals. We will enter into contractual arrangements, which are substantially similar to the contractual arrangements we have historically used for our VIEs, with the above-mentioned multiple layers of legal entities and variable interest entity interest holders. The contractual arrangements, both before and after the VIE Structure Enhancement, give us effective control over each of those variable interest entities and enable us to obtain substantially all of the economic benefits arising from those variable interest entities as well as consolidate the financial results of those

variable interest entities in our results of operations. Please also see "Item 4. Information on the Company — C. Organizational Structure."

After completion of the VIE Structure Enhancement, PRC limited liability companies and limited partnerships will become the variable interest entity equity holders, and those PRC limited liability companies and limited partnerships will enter into contractual arrangements with us, including the equity pledge agreements. With respect to the VIE Structure Enhancement that has been completed as of the date of this Annual Report, we have completed the equity pledges in connection with the variable interest entity. However, as there are no implementing rules for the registration of the pledges of the partnership interests, we have not been able to register the pledges of the partnership interests of the LLPs. Those pledges will not be deemed validly created security interests under the PRC Property Rights Law until they are registered. Until the equity pledges are registered, we may not be able to successfully enforce these pledges, and will not be able to prevent any third party from acquiring in good faith the interests in the LLPs. While we believe the new structure is consistent with longstanding industry practice, the PRC government may not agree that these arrangements comply with PRC licensing, registration or other regulatory requirements, with existing policies or with requirements or policies that may be adopted in the future. The VIE Structure Enhancement process is subject to a number of uncertainties, including registration of the transfer of the equity interests, registration of the new equity pledges, whether the local SAMR will accept the registration of pledges on partnership interests, and the receipt of required approvals of amendments to certain operating permits, including the Value-added Telecommunication Business Operation Permit, Network Culture Permit and the License for Transmission of Audio-Visual Programs through Information Network. If we are unable to successfully complete these processes involved in the VIE Structure Enhancement, we will be unable to enjoy the expected benefits, including the anticipated enhanced control over those variable interest entities, or reduced key man risks or the uncertainty resulting from any potential disputes among us and the individual equity holders of those variable interest entities as discussed above.

For further information, See "— If the PRC government deems that the contractual arrangements in relation to our variable interest entities do not comply with PRC governmental restrictions on foreign investment, or if these regulations or the interpretation of existing regulations changes in the future, we could be subject to penalties or be forced to relinquish our interests in those operations" and "Item 4. Information on the Company — C. Organizational Structure."

***Substantial uncertainties exist with respect to the enactment timetable, interpretation and implementation of draft PRC Foreign Investment Law.***

The MOFCOM published a discussion draft of the proposed Foreign Investment Law in January 2015 aiming to, upon its enactment, replace the major existing laws and regulations governing foreign investment in China, and completed the solicitation of comments on this draft in February 2015. It was reported in early November 2017 that after considering the public comments, a draft was produced for further review. According to the State Council's 2018 Legislation Plan published in March 2018, the draft Foreign Investment Law will be submitted to the National People's Congress Standing Committee for review in 2018. The National People's Congress Standing Committee's Legislation Work Plan for 2018 issued on April 17, 2018 also stated that the draft Foreign Investment Law will be reviewed by National People's Congress Standing Committee for the first time in December 2018. However, the revised draft Foreign Investment Law has not been made available to the public, and there are still substantial uncertainties with respect to the enactment timetable and the final content of the Foreign Investment Law.

Among other things, the discussion draft of the Foreign Investment Law purports to introduce the principle of "actual control" in determining whether a company is considered a foreign invested enterprise, or an FIE. The discussion draft specifically provides that entities established in China but "controlled" by foreign investors will be treated as FIEs, whereas an entity organized in a foreign jurisdiction, but cleared by the MOFCOM as "controlled" by PRC entities and/or citizens, would nonetheless be treated as a PRC domestic entity for investment



in the "restriction category" on the "negative list." In this connection, "control" is broadly defined in the draft law to cover any of the following summarized categories:

- holding 50% or more of the voting rights or similar rights and interests of the subject entity;
- holding less than 50% of the voting rights or similar rights and interests of the subject entity but having the power to directly or indirectly appoint or otherwise secure at least 50% of the seats on the board or other equivalent decision making bodies, or having the voting power to materially influence the board, the shareholders' meeting or other equivalent decision making bodies; or
- having the power to exert decisive influence, via contractual or trust arrangements, over the subject entity's operations, financial, staffing and technology matters.

Once an entity is determined to be an FIE, and its investment amount exceeds certain thresholds or its business operation falls within a "negative list" purported to be separately issued by the State Council in the future, market entry clearance by the MOFCOM or its local counterparts would be required.

The "variable interest entity" structure, or VIE structure, has been adopted by many PRC-based companies, including us and certain of our equity investees such as Weibo, to obtain necessary licenses and permits in the industries that are currently subject to foreign investment restrictions in China. Under the discussion draft of the Foreign Investment Law, variable interest entities that are controlled via contractual arrangements would also be deemed as FIEs, if they are ultimately "controlled" by foreign investors. For any companies with a VIE structure in an industry category that is in the "restriction category" on the "negative list," the existing VIE structure may be deemed legitimate only if the ultimate controlling person(s) is/are of PRC nationality (either PRC state owned enterprises or agencies, or PRC citizens). Conversely, if the actual controlling person(s) is/are of foreign nationalities, then the variable interest entities will be treated as FIEs and any operation in the industry category on the "negative list" without market entry clearance may be considered as illegal.

Based on the definition of "control" in the discussion draft of the Foreign Investment Law, we believe that there are strong basis for a determination that we and our variable interest entities are ultimately controlled by PRC citizens for the following reasons:

- Alibaba Partnership has an exclusive right to nominate and appoint up to a simple majority of the members of our board of directors and therefore it effectively controls the board and all management decisions of our company;
- nearly all of the partners of Alibaba Partnership are PRC citizens; and
- Alibaba Partnership exercises its nomination rights by a majority of votes of all its partners.

See "Item 6. Directors, Senior Management and Employees — A. Directors and Senior Management — Alibaba Partnership."

However, there are significant uncertainties as to how the control status of our company, our variable interest entities and our equity investees with a VIE structure would be determined under the enacted version of the Foreign Investment Law. In addition, it is uncertain whether any of the businesses that we currently operate or plan to operate in the future through our consolidated entities and the businesses operated by our equity investees with a VIE structure would be on the to-be-issued "negative list" and therefore be subject to any foreign investment restrictions or prohibitions. We also face uncertainties as to whether the enacted version of the Foreign Investment Law and the final "negative list" would mandate further actions, such as MOFCOM market entry clearance, to be completed by companies with existing VIE structure and whether this clearance can be timely obtained, or at all. If we or our equity investees with a VIE structure were not considered as ultimately controlled by PRC domestic investors under the enacted version of the Foreign Investment Law, further actions required to be taken by us or these equity investees under the enacted Foreign Investment Law may materially and adversely affect our business and financial condition.



In addition, our corporate governance practice may be materially impacted and our compliance costs could increase if we were not considered as ultimately controlled by PRC entities and/or citizens under the enacted version of the Foreign Investment Law. For instance, the discussion draft of the Foreign Investment Law purports to impose stringent ad hoc and periodic information reporting requirements on foreign investors and the applicable FIEs. Aside from investment implementation report and investment amendment report that would be required for each investment and alteration of investment specifics, an annual report would be mandatory, and key foreign investors meeting certain criteria would be required to report on a quarterly basis. Any company found to be non-compliant with these information reporting obligations could potentially be subject to fines and/or administrative or criminal liabilities, and the persons directly responsible could be subject to criminal liabilities.

***Our contractual arrangements may not be as effective in providing control over the variable interest entities as direct ownership.***

We rely on contractual arrangements with our variable interest entities to operate part of our Internet businesses in China and other businesses in which foreign investment is restricted or prohibited. For a description of these contractual arrangements, see "Item 4. Information on the Company — C. Organizational Structure — Contractual Arrangements among Our Wholly-foreign Owned Enterprises, Variable Interest Entities and the Variable Interest Entity Equity Holders." These contractual arrangements may not be as effective as direct ownership in providing us with control over our variable interest entities.

If we had direct ownership of the variable interest entities, we would be able to exercise our rights as an equity holder directly to effect changes in the boards of directors of those entities, which could effect changes at the management and operational level. Under our contractual arrangements, we may not be able to directly change the members of the boards of directors of these entities and would have to rely on the variable interest entities and the variable interest entity equity holders to perform their obligations in order to exercise our control over the variable interest entities. The variable interest entity equity holders may have conflicts of interest with us or our shareholders, and they may not act in the best interests of our company or may not perform their obligations under these contracts. For example, our variable interest entities and their respective equity holders could breach their contractual arrangements with us by, among other things, failing to conduct their operations, including maintaining our websites and using our domain names and trademarks which the relevant variable interest entities have exclusive rights to use, in an acceptable manner or taking other actions that are detrimental to our interests. Pursuant to the call option, we may replace the equity holders of the variable interest entities at any time pursuant to the contractual arrangements. However, if any equity holder is uncooperative in the replacement of the equity holders or there is any dispute relating to these contracts that remains unresolved, we will have to enforce our rights under the contractual arrangements through the operations of PRC law and arbitral or judicial agencies, which may be costly and time-consuming and will be subject to uncertainties in the PRC legal system. See "— Any failure by our variable interest entities or their equity holders to perform their obligations under the contractual arrangements would have a material adverse effect on our business, financial condition and results of operations." Consequently, the contractual arrangements may not be as effective in ensuring our control over the relevant portion of our business operations as direct ownership.

***Any failure by our variable interest entities or their equity holders to perform their obligations under the contractual arrangements would have a material adverse effect on our business, financial condition and results of operations.***

If our variable interest entities or their equity holders fail to perform their respective obligations under the contractual arrangements, we may have to incur substantial costs and expend additional resources to enforce the arrangements. Although we have entered into call option agreements in relation to each variable interest entity, which provide that we may exercise an option to acquire, or nominate a person to acquire, ownership of the equity in that entity or, in some cases, its assets, to the extent permitted by applicable PRC laws, rules and regulations, the exercise of these call options is subject to the review and approval of the relevant PRC governmental authorities. We have also entered into equity pledge agreements with the equity shareholders and, in the case of VIEs that have started, or will start, the VIE Structure Enhancement, the limited partnerships with respect to each

variable interest entity to secure certain obligations of such variable interest entity or its equity holders to us under the contractual arrangements. However, we have not been able to register certain of the pledges due to the absence of implementing rules for the registration of pledges of partnership interests. In addition, the enforcement of these agreements through arbitral or judicial agencies, if any, may be costly and time-consuming and will be subject to uncertainties in the PRC legal system. Moreover, our remedies under the equity pledge agreements are primarily intended to help us collect debts owed to us by the variable interest entities or the variable interest entity equity holders under the contractual arrangements and may not help us in acquiring the assets or equity of the variable interest entities.

In addition, with respect to the VIEs that have not completed the VIE Structure Enhancement, although the terms of the contractual arrangements provide that they will be binding on the successors of the variable interest entity equity holders, as those successors are not a party to the agreements, it is uncertain whether the successors in case of the death, bankruptcy or divorce of a variable interest entity equity holder will be subject to or will be willing to honor the obligations of such variable interest entity equity holder under the contractual arrangements. If the relevant variable interest entity or its equity holder (or its successor), as applicable, fails to transfer the shares of the variable interest entity according to the respective call option agreement or equity pledge agreement, we would need to enforce our rights under the call option agreement or equity pledge agreement, which may be costly and time-consuming and may not be successful.

The contractual arrangements are governed by PRC law and provide for the resolution of disputes through arbitration or court proceedings in China. Accordingly, these contracts would be interpreted in accordance with PRC law and any disputes would be resolved in accordance with PRC legal procedures. The legal system in the PRC is not as developed as in some other jurisdictions, such as the United States. Moreover, there are very few precedents and little formal guidance as to how contractual arrangements in the context of a variable interest entity should be interpreted or enforced under PRC law, and as a result it may be difficult to predict how an arbitration panel or court would view these contractual arrangements. Uncertainties in the PRC legal system could limit our ability to enforce the contractual arrangements. Under PRC law, if the losing parties fail to carry out the arbitration awards or court judgments within a prescribed time limit, the prevailing parties may only enforce the arbitration awards or court judgments in PRC courts, which would require additional expense and delay. In the event we are unable to enforce the contractual arrangements, we may not be able to exert effective control over the variable interest entities, and our ability to conduct our business, as well as our financial condition and results of operations, may be materially and adversely affected.

***We may lose the ability to use, or otherwise benefit from, the licenses, approvals and assets held by our variable interest entities, which could severely disrupt our business, render us unable to conduct some or all of our business operations and constrain our growth.***

Although the significant majority of our revenues are generated, and the significant majority of our operational assets are held, by our wholly-foreign owned enterprises, which are our subsidiaries, our variable interest entities hold licenses and approvals and assets that are necessary for our business operations, as well as equity interests in a series of our portfolio companies, to which foreign investments are typically restricted or prohibited under applicable PRC law. The contractual arrangements contain terms that specifically obligate variable interest entity equity holders to ensure the valid existence of the variable interest entities and restrict the disposal of material assets of the variable interest entities. However, in the event the variable interest entity equity holders breach the terms of these contractual arrangements and voluntarily liquidate our variable interest entities, or any of our variable interest entities declares bankruptcy and all or part of its assets become subject to liens or rights of third-party creditors, or are otherwise disposed of without our consent, we may be unable to conduct some or all of our business operations or otherwise benefit from the assets held by the variable interest entities, which could have a material adverse effect on our business, financial condition and results of operations. Furthermore, if any of our variable interest entities undergoes a voluntary or involuntary liquidation proceeding, its equity holder or unrelated third-party creditors may claim rights to some or all of the assets of the variable interest entity, thereby hindering our ability to operate our business as well as constrain our growth.

***The equity holders, directors and executive officers of the variable interest entities may have potential conflicts of interest with our company.***

PRC laws provide that a director and an executive officer owes a fiduciary duty to the company he or she directs or manages. The directors and executive officers of the variable interest entities, including, with respect to VIEs that have not completed the VIE Structure Enhancement, Jack Ma, our lead founder and executive chairman, and, with respect to VIEs that have completed or will soon complete the VIE Structure Enhancement, the relevant members of the Alibaba Partnership or our management, must act in good faith and in the best interests of the variable interest entities and must not use their respective positions for personal gain. On the other hand, as a director of our company, Jack and the other relevant individuals have a duty of care and loyalty to our company and to our shareholders as a whole under Cayman Islands law. We control our variable interest entities through contractual arrangements and the business and operations of our variable interest entities are closely integrated with the business and operations of our subsidiaries. Nonetheless, conflicts of interests for these individuals may arise due to dual roles both as equity holders, directors and executive officers of the variable interest entities and as directors or employees of our company.

We cannot assure you that these individual shareholders of our variable interest entities will always act in the best interests of our company should any conflicts of interest arise, or that any conflicts of interest will always be resolved in our favor. We also cannot assure you that these individuals will ensure that the variable interest entities will not breach the existing contractual arrangements. If we cannot resolve any of these conflicts of interest or any related disputes, we would have to rely on legal proceedings to resolve these disputes and/or take enforcement action under the contractual arrangements. There is substantial uncertainty as to the outcome of any of these legal proceedings. See "— Any failure by our variable interest entities or their equity holders to perform their obligations under the contractual arrangements would have a material adverse effect on our business, financial condition and results of operations."

Furthermore, a company controlled by Jack serves as one of the general partners of a PRC limited partnership that made a minority investment in Wasu. Yuzhu Shi, the founder, chairman and a principal shareholder of Giant Interactive, a China-based online game company that was previously listed on the New York Stock Exchange, and an entrepreneur with significant experience in and knowledge of the media industry in China, serves as the other general partner and the executive partner. The interest of the general partner controlled by Jack in the limited partnership is limited to a return of its RMB10,000 capital contribution. In addition, Simon Xie, a former employee who is one of our founders and an equity holder in certain of our variable interest entities, is a limited partner in this PRC limited partnership. To fund this investment, in April 2015 Simon was granted a financing with an aggregate principal of up to RMB6.9 billion by a major financial institution in the PRC. The financing is secured by a pledge of the Wasu shares acquired by the PRC limited partnership, and a pledge of certain wealth management products we purchased. In addition, we entered into a loan agreement for a principal amount of up to RMB2.0 billion with Simon in April 2015 to finance the repayment by Simon of the principal and interest under the above financing. We entered into these arrangements to strengthen our strategic business arrangements with Wasu to pursue our strategy of expanding entertainment offerings to consumers. See "Item 7. Major Shareholders and Related Party Transactions — B. Related Party Transactions — Pledge for the Benefit of and Loan Arrangement with a Related Party."

We cannot assure you that Jack Ma will act in our interest given his ability to control one of the general partners of the PRC limited partnership invested in Wasu, nor can we assure you that he will not breach his obligations to us as our director, including obligations not to compete with us. In addition, the interests of Mr. Shi, as an independent third-party, may not coincide with those of Jack, or with our interests in pursuing our entertainment strategy. If any conflicts of this kind arise between Jack and Mr. Shi in conducting the business of the PRC limited partnership, it could potentially have a material adverse effect on our relationship with the shareholder of Wasu and, consequently, on our ability to benefit from our alliance with Wasu. Furthermore, there is no assurance that Simon will have sufficient resources to repay the loans in a timely manner or at all. The loan that we provided to Simon is secured by a pledge of Simon's limited partnership interest in the PRC limited partnership. However, if Simon fails to repay the loan, our enforcement of our secured interests could be costly and time-consuming and would be subject to the uncertainties in the PRC legal system.

***The contractual arrangements with our variable interest entities may be subject to scrutiny by the PRC tax authorities. Any pricing adjustment of a related party transaction could lead to additional taxes, and therefore substantially reduce our consolidated net income and the value of your investment.***

The tax regime in China is rapidly evolving and there is significant uncertainty for taxpayers in China as PRC tax laws may be interpreted in significantly different ways. The PRC tax authorities may assert that we or our subsidiaries or the variable interest entities or their equity holders are required to pay additional taxes on previous or future revenue or income. In particular, under applicable PRC laws, rules and regulations, arrangements and transactions among related parties, such as the contractual arrangements with our variable interest entities, may be subject to audit or challenge by the PRC tax authorities. If the PRC tax authorities determine that any contractual arrangements were not entered into on an arm's length basis and therefore constitute a favorable transfer pricing, the PRC tax liabilities of the relevant subsidiaries and/or variable interest entities and/or variable interest entity equity holders could be increased, which could increase our overall tax liabilities. In addition, the PRC tax authorities may impose late payment interest. Our net income may be materially reduced if our tax liabilities increase.

#### **Risks Related to Doing Business in the People's Republic of China**

***Changes in the political and economic policies of the PRC government may materially and adversely affect our business, financial condition and results of operations and may result in our inability to sustain our growth and expansion strategies.***

Although we have operating subsidiaries located in various countries and regions, our operations in China currently contribute the large majority of our revenue. Accordingly, our financial condition and results of operations are affected to a significant extent by economic, political and legal developments in the PRC.

The PRC economy differs from the economies of most developed countries in many respects, including the extent of government involvement, level of development, growth rate, control of foreign exchange and allocation of resources. Although the PRC government has implemented measures emphasizing the utilization of market forces for economic reform, the reduction of state ownership of productive assets, and the establishment of improved corporate governance in business enterprises, a substantial portion of productive assets in China is still owned by the government. In addition, the PRC government continues to play a significant role in regulating industry development by imposing industrial policies. The PRC government also exercises significant control over China's economic growth by allocating resources, controlling payment of foreign currency-denominated obligations, setting monetary policy, regulating financial services and institutions and providing preferential treatment to particular industries or companies.

While the PRC economy has experienced significant growth in the past four decades, growth has been uneven, both geographically and among various sectors of the economy. The PRC government has implemented various measures to encourage economic growth and guide the allocation of resources. Some of these measures may benefit the overall PRC economy, but may also have a negative effect on us. Our financial condition and results of operations could be materially and adversely affected by government control over capital investments or changes in tax regulations that are applicable to us. In addition, the PRC government has implemented in the past certain measures, including interest rate increases, to control the pace of economic growth. These measures may cause decreased economic activity. Any prolonged slowdown in the Chinese economy could lead to a reduction in demand for our services and consequently have a material adverse effect on our businesses, financial condition and results of operations.

***There are uncertainties regarding the interpretation and enforcement of PRC laws, rules and regulations.***

Most of our operations are conducted in the PRC, and are governed by PRC laws, rules and regulations. Our PRC subsidiaries are subject to laws, rules and regulations applicable to foreign investment in China. The PRC legal system is a civil law system based on written statutes. Unlike the common law system, prior court decisions may be cited for reference but have limited precedential value.

In 1979, the PRC government began to promulgate a comprehensive system of laws, rules and regulations governing economic matters in general. The overall effect of legislation over the past four decades has significantly enhanced the protections afforded to various forms of foreign investment in China. However, China has not developed a fully integrated legal system, and recently enacted laws, rules and regulations may not sufficiently cover all aspects of economic activities in China or may be subject to significant degree of interpretation by PRC regulatory agencies and courts. In particular, because these laws, rules and regulations are relatively new, and because of the limited number of published decisions and the non-precedential nature of these decisions, and because the laws, rules and regulations often give the relevant regulator significant discretion in how to enforce them, the interpretation and enforcement of these laws, rules and regulations involve uncertainties and can be inconsistent and unpredictable. Therefore, it is possible that our existing operations may be found not to be in full compliance with relevant laws and regulations in the future. In addition, the PRC legal system is based in part on government policies and internal rules, some of which are not published on a timely basis or at all, and which may have a retroactive effect. As a result, we may not be aware of our violation of these policies and rules until after the occurrence of the violation.

Any administrative and court proceedings in China may be protracted, resulting in substantial costs and diversion of resources and management attention. Since PRC administrative and court authorities have significant discretion in interpreting and implementing statutory and contractual terms, it may be more difficult to evaluate the outcome of administrative and court proceedings and the level of legal protection we enjoy than in more developed legal systems. These uncertainties may impede our ability to enforce the contracts we have entered into and could materially and adversely affect our business, financial condition and results of operations.

***PRC regulations regarding acquisitions impose significant regulatory approval and review requirements, which could make it more difficult for us to pursue growth through acquisitions.***

Under the PRC Anti-Monopoly Law, companies undertaking acquisitions relating to businesses in China must notify the anti-monopoly enforcement agency, in advance of any transaction where the parties' revenues in the China market exceed certain thresholds and the buyer would obtain control of, or decisive influence over, the other party. In addition, on August 8, 2006, six PRC regulatory agencies, including the MOFCOM, the State-Owned Assets Supervision and Administration Commission, the State Administration of Taxation, the SAIC, the China Securities Regulatory Commission, or the CSRC, and the State Administration of Foreign Exchange, or SAFE, jointly adopted the Regulations on Mergers and Acquisitions of Domestic Enterprises by Foreign Investors, or the M&A Rules, which came into effect on September 8, 2006 and was amended on June 22, 2009. Under the M&A Rules, the approval of MOFCOM must be obtained in circumstances where overseas companies established or controlled by PRC enterprises or residents acquire domestic companies affiliated with such PRC enterprises or residents. Applicable PRC laws, rules and regulations also require certain merger and acquisition transactions to be subject to security review.

Due to the level of our revenues, our proposed acquisition of control of, or decisive influence over, any company with revenues within China of more than RMB400 million in the year prior to any proposed acquisition would be subject to the SAMR merger control review. As a result of our size, many of the transactions we may undertake could be subject to SAMR merger review. Complying with the requirements of the relevant regulations to complete these transactions could be time-consuming, and any required approval processes, including approval from SAMR, may delay or inhibit our ability to complete these transactions, which could affect our ability to expand our business or maintain our market share.

According to the Regulations on Enterprise Outbound Investment newly issued by the NDRC in December 2017 which came into effect on March 1, 2018, we may also need to report to the NDRC relevant information on overseas investments with an amount of US\$300 million or more in non-sensitive areas, and even get the NDRC's approval for our overseas investments in sensitive areas, if any, before the closing of such acquisitions. Accordingly, these new regulations may restrict our ability to make investments in some regions and industries overseas, and may subject any proposed investments to heightened scrutiny, including after the investment has been made.

Our ability to carry out our investment and acquisition strategy may be materially and adversely affected by the regulatory authorities' current practice, which creates significant uncertainty as to whether transactions that we may undertake would subject us to fines or other administrative penalties and negative publicity and whether we will be able to complete large acquisitions in the future in a timely manner or at all.

***Anti-monopoly and unfair competition claims against us may result in our being subject to fines as well as constraints on our business.***

The PRC anti-monopoly enforcement agencies have in recent years strengthened enforcement under the PRC Anti-Monopoly Law, including levying significant fines, with respect to concentration of undertakings and cartel activity, mergers and acquisitions, as well as abusive behavior by companies with market dominance. In March 2018, the SAMR was formed as a new governmental agency to take over, among other things, the anti-monopoly enforcement functions from the relevant departments under the Ministry of Commerce, or the MOFCOM, the National Development and Reform Commission, or the NDRC, and the SAIC, respectively. We expect that the SAMR will continue to strengthen enforcement in the above areas.

The PRC Anti-Monopoly Law also provides a private right of action for competitors, business partners or customers to bring anti-monopoly claims against companies. In recent years, an increased number of companies have been exercising their right to seek relief under the PRC Anti-Monopoly Law. As public awareness of the rights under the PRC Anti-Monopoly Law increases, more companies, including our competitors, business partners and customers may resort to seeking the remedies available under the law, such as through complaints to regulators or as plaintiffs in private litigation, to hinder our business operations and improve their competitive position, regardless of the merits of their claims.

From time to time, we have received and expect to continue to receive close scrutiny from government agencies under the PRC Anti-Monopoly Law in connection with our business practices, investments and acquisitions. Any anti-monopoly lawsuit or administrative proceeding initiated against us could result in our being subject to profit disgorgement, heavy fines and various constraints on our business, or result in negative publicity which could harm our reputation and negatively affect the trading prices of our ADSs. These constraints could include forced termination of any agreements or arrangements that are determined by governmental authorities to be in violation of anti-monopoly laws, required divestitures and limitations on certain pricing and business practices, which may limit our ability to continue to innovate, diminish the appeal of our services and increase our operating costs. These constraints could also enable our competitors to develop websites, products and services that mimic the functionality of our services, which could decrease the popularity of our marketplaces, products and services among merchants, consumers and other participants, and cause our revenue and net income to decrease materially. Given the scale and rapid expansion of our business, we may be subject to greater scrutiny, which could in turn increase the likelihood that we will face regulatory action, which could result in fines or restrictions on our business as well as negative publicity and adversely affect our reputation and the trading price of our ADSs.

***PRC regulations relating to investments in offshore companies by PRC residents may subject our PRC-resident beneficial owners or our PRC subsidiaries to liability or penalties, limit our ability to inject capital into our PRC subsidiaries or limit our PRC subsidiaries' ability to increase their registered capital or distribute profits.***

SAFE promulgated the Circular on Relevant Issues Concerning Foreign Exchange Control on Domestic Residents' Offshore Investment and Financing and Roundtrip Investment through Special Purpose Vehicles, or SAFE Circular 37, on July 4, 2014, which replaced the former circular commonly known as "SAFE Circular 75" promulgated by SAFE on October 21, 2005. SAFE Circular 37 requires PRC residents to register with local branches of SAFE in connection with their direct establishment or indirect control of an offshore entity, for the purpose of overseas investment and financing, with such PRC residents' legally owned assets or equity interests in domestic enterprises or offshore assets or interests, referred to in SAFE Circular 37 as a "special purpose vehicle." SAFE Circular 37 further requires amendment to the registration in the event of any significant changes with respect to the special purpose vehicle, such as increase or decrease of capital contributed by PRC individuals, share transfer or exchange, merger, division or other material event. In the event that a PRC shareholder holding

interests in a special purpose vehicle fails to fulfill the required SAFE registration, the PRC subsidiaries of that special purpose vehicle may be prohibited from making profit distributions to the offshore parent and from carrying out subsequent cross-border foreign exchange activities, and the special purpose vehicle may be restricted in its ability to contribute additional capital into its PRC subsidiary. Moreover, failure to comply with the various SAFE registration requirements described above could result in liability under PRC law for evasion of foreign exchange controls.

We have notified substantial beneficial owners of ordinary shares who we know are PRC residents of their filing obligation, and pursuant to SAFE Circular 37, we have periodically filed and updated the above-mentioned foreign exchange registration on behalf of certain employee shareholders who we know are PRC residents. However, we may not be aware of the identities of all of our beneficial owners who are PRC residents. We do not have control over our beneficial owners and cannot assure you that all of our PRC-resident beneficial owners will comply with SAFE Circular 37 and subsequent implementation rules. The failure of our beneficial owners who are PRC residents to register or amend their SAFE registrations in a timely manner pursuant to SAFE Circular 37 and subsequent implementation rules, or the failure of future beneficial owners of our company who are PRC residents to comply with the registration procedures set forth in SAFE Circular 37 and subsequent implementation rules, may subject the beneficial owners or our PRC subsidiaries to fines and legal sanctions. On February 13, 2015, SAFE promulgated a Notice on Further Simplifying and Improving Foreign Exchange Administration Policy on Direct Investment, or SAFE Notice 13, which became effective on June 1, 2015. Pursuant to SAFE Notice 13, entities and individuals are required to apply for foreign exchange registration of foreign direct investment and overseas direct investment, including those required under the SAFE Circular 37, with designated domestic banks, instead of SAFE. The designated domestic banks will directly review the applications and conduct the registration.

Furthermore, since it is unclear how those new SAFE regulations, and any future regulation concerning offshore or cross-border transactions, will be interpreted, amended and implemented by the relevant PRC government authorities, we cannot predict how these regulations will affect our business operations or future strategy. Failure to register or comply with relevant requirements may also limit our ability to contribute additional capital to our PRC subsidiaries and limit our PRC subsidiaries' ability to distribute dividends to our company. These risks may have a material adverse effect on our business, financial condition and results of operations.

***Any failure to comply with PRC regulations regarding our employee equity incentive plans may subject the PRC participants in the plans, us or our overseas and PRC subsidiaries to fines and other legal or administrative sanctions.***

Pursuant to SAFE Circular 37, PRC residents who participate in share incentive plans in overseas non-publicly-listed companies may submit applications to SAFE or its local branches for the foreign exchange registration with respect to offshore special purpose companies. In the meantime, our directors, executive officers and other employees who are PRC citizens or who are non-PRC residents residing in the PRC for a continuous period of not less than one year, subject to limited exceptions, and who have been granted restricted shares, options or restricted share units, or RSUs, by us or our overseas listed subsidiaries may follow the Notice on Issues Concerning the Foreign Exchange Administration for Domestic Individuals Participating in Stock Incentive Plan of Overseas Publicly Listed Company, issued by SAFE in February 2012, to apply for the foreign exchange registration. According to those regulations, employees, directors and other management members participating in any stock incentive plan of an overseas publicly listed company who are PRC citizens or who are non-PRC citizens residing in China for a continuous period of not less than one year, subject to limited exceptions, are required to register with SAFE through a domestic qualified agent, which may be a PRC subsidiary of the overseas listed company, and complete certain other procedures. Failure to complete the SAFE registrations may subject them to fines and legal sanctions and may also limit their ability to make payment under the relevant equity incentive plans or receive dividends or sales proceeds related thereto in foreign currencies, or our ability to contribute additional capital into our domestic subsidiaries in China and limit our domestic subsidiaries' ability to distribute dividends to us. We also face regulatory uncertainties under PRC law that could restrict our ability or the ability of our overseas listed subsidiaries to adopt additional equity incentive plans for our directors and employees who are PRC citizens



or who are non-PRC residents residing in the PRC for a continuous period of not less than one year, subject to limited exceptions.

In addition, the State Administration of Taxation has issued circulars concerning employee share options, restricted shares or RSUs. Under these circulars, employees working in the PRC who exercise share options, or whose restricted shares or RSUs vest, will be subject to PRC individual income tax. The PRC subsidiaries of an overseas listed company have obligations to file documents related to employee share options or restricted shares with relevant tax authorities and to withhold individual income taxes of those employees related to their share options, restricted shares or RSUs. Although we and our overseas listed subsidiaries currently withhold income tax from our PRC employees in connection with their exercise of options and the vesting of their restricted shares and RSUs, if the employees fail to pay, or the PRC subsidiaries fail to withhold, their income taxes according to relevant laws, rules and regulations, the PRC subsidiaries may face sanctions imposed by the tax authorities.

***We rely to a significant extent on dividends, loans and other distributions on equity paid by our principal operating subsidiaries in China.***

We are a holding company and rely to a significant extent on dividends, loans and other distributions on equity paid by our principal operating subsidiaries for our offshore cash and financing requirements, including the funds necessary to pay dividends and other cash distributions to our shareholders, fund inter-company loans, service any debt we may incur outside of China and pay our expenses. When our principal operating subsidiaries incur additional debt, the instruments governing the debt may restrict their ability to pay dividends or make other distributions or remittances, including loans, to us. Furthermore, the laws, rules and regulations applicable to our PRC subsidiaries and certain other subsidiaries permit payments of dividends only out of their retained earnings, if any, determined in accordance with applicable accounting standards and regulations.

Under PRC laws, rules and regulations, each of our subsidiaries incorporated in China is required to set aside a portion of its net income each year to fund certain statutory reserves. These reserves, together with the registered equity, are not distributable as cash dividends. As a result of these laws, rules and regulations, our subsidiaries incorporated in China are restricted in their ability to transfer a portion of their respective net assets to their shareholders as dividends. In addition, registered share capital and capital reserve accounts are also restricted from withdrawal in the PRC, up to the amount of net assets held in each operating subsidiary. As of March 31, 2018, these restricted net assets totalled RMB77.9 billion (US\$12.4 billion).

***Pay-for-performance services are considered, in part, to constitute Internet advertisement, which subjects us to other laws, rules and regulations as well as additional obligations.***

On July 4, 2016, the SAIC promulgated the Interim Administrative Measures on Internet Advertising, or the Internet Advertising Measures, which came into effect as of September 1, 2016 and define Internet advertisements as any commercial advertising that directly or indirectly promotes goods or services through Internet media in any form including paid-for search results. See "Item 4. Information on the Company — B. Business Overview — Regulation — Regulation of Advertising Services."

Since the Internet Advertising Measures came into effect recently, there exist substantial uncertainties with respect to its interpretation and implementation in practice by various government authorities. We derive a significant amount of our revenue from pay-for-performance, or P4P, services and other related services. Our P4P services and other related services may be considered to, in part, constitute Internet advertisement. We may face increased scrutiny from the tax authorities and may incur additional taxes in connection with our P4P and other related services. Moreover, PRC advertising laws, rules and regulations require advertisers, advertising operators and advertising distributors to ensure that the content of the advertisements they prepare or distribute is fair and accurate and is in full compliance with applicable law. Violation of these laws, rules or regulations may result in penalties, including fines, confiscation of advertising fees and orders to cease dissemination of the advertisements. In circumstances involving serious violations, the PRC government may suspend or revoke a violator's business license or license for operating an advertising business. In addition, the Internet Advertising Measures require



paid-for search results to be obviously distinguished from organic search results so that consumers will not misunderstand the nature of these search results. Therefore, we are obligated to distinguish from others the merchants who purchase the above-mentioned P4P and related services or the relevant listings by these merchants. Complying with these requirements, including any penalties or fines for any failure to comply, may significantly reduce the attractiveness of our platforms and increase our costs and could have a material adverse effect on our business, financial condition and results of operations.

In addition, for advertising content related to specific types of products and services, advertisers, advertising operators and advertising distributors must confirm that the advertisers have obtained requisite government approvals, including the advertiser's operating qualifications, proof of quality inspection of the advertised products, and, with respect to certain industries, government approval of the content of the advertisement and filing with the local authorities. Pursuant to the Internet Advertising Measures, we are required to take steps to monitor the content of advertisements displayed on our platforms. This requires considerable resources and time, and could significantly affect the operation of our business, while also subjecting us to increased liability under the relevant laws, rules and regulations. The costs associated with complying with these laws, rules and regulations, including fines or any other penalties for our failure to so comply if required, could have a material adverse effect on our business, financial condition and results of operations. Any further change in the classification of our P4P and other related services by the PRC government may also significantly disrupt our operations and materially and adversely affect our business and prospects.

***We may be treated as a resident enterprise for PRC tax purposes under the PRC Enterprise Income Tax Law, and we may therefore be subject to PRC income tax on our global income.***

Under the PRC Enterprise Income Tax Law and its implementing rules, both of which came into effect on January 1, 2008, enterprises established under the laws of jurisdictions outside of China with "de facto management bodies" located in China may be considered PRC tax resident enterprises for tax purposes and may be subject to the PRC enterprise income tax at the rate of 25% on their global income. "De facto management body" refers to a managing body that exercises substantive and overall management and control over the production and business, personnel, accounting books and assets of an enterprise. The State Administration of Taxation issued the Notice Regarding the Determination of Chinese-Controlled Offshore-Incorporated Enterprises as PRC Tax Resident Enterprises on the basis of de facto management bodies, or Circular 82, on April 22, 2009. Circular 82 provides certain specific criteria for determining whether the "de facto management body" of a Chinese-controlled offshore-incorporated enterprise is located in China. Although Circular 82 only applies to offshore enterprises controlled by PRC enterprises, not those controlled by foreign enterprises or individuals, the determining criteria set forth in Circular 82 may reflect the State Administration of Taxation's general position on how the "de facto management body" test should be applied in determining the tax resident status of offshore enterprises, regardless of whether they are controlled by PRC enterprises. If we were to be considered a PRC resident enterprise, we would be subject to PRC enterprise income tax at the rate of 25% on our global income. In such case, our profitability and cash flow may be materially reduced as a result of our global income being taxed under the Enterprise Income Tax Law. We believe that none of our entities outside of China is a PRC resident enterprise for PRC tax purposes. However, the tax resident status of an enterprise is subject to determination by the PRC tax authorities and uncertainties remain with respect to the interpretation of the term "de facto management body."

***Dividends payable to foreign investors and gains on the sale of our ADSs or ordinary shares by our foreign investors may become subject to PRC taxation.***

Under the Enterprise Income Tax Law and its implementation regulations issued by the State Council, a 10% PRC withholding tax is applicable to dividends payable by a resident enterprise to investors that are non-resident enterprises, which do not have an establishment or place of business in the PRC or which have such establishment or place of business but the dividends are not effectively connected with such establishment or place of business, to the extent such dividends are derived from sources within the PRC, subject to any reduction set forth in applicable

tax treaties. Similarly, any gain realized on the transfer of shares of a resident enterprise by these investors is also subject to PRC tax at a current rate of 10%, subject to any exemption set forth in relevant tax treaties, if such gain is regarded as income derived from sources within the PRC. If we are deemed a PRC resident enterprise, dividends paid on our ordinary shares or ADSs, and any gain realized by the investors from the transfer of our ordinary shares or ADSs, may be treated as income derived from sources within the PRC and as a result be subject to PRC taxation. See "Item 4. Information on the Company — B. Business Overview — Regulation — Tax Regulations." Furthermore, if we are deemed a PRC resident enterprise, dividends payable to individual investors who are non-PRC residents and any gain realized on the transfer of ADSs or ordinary shares by these investors may be subject to PRC tax at a current rate of 20%, subject to any reduction or exemption set forth in applicable tax treaties. It is unclear if we or any of our subsidiaries established outside China are considered a PRC resident enterprise, whether holders of our ADSs or ordinary shares would be able to claim the benefit of income tax treaties or agreements entered into between China and other countries or areas and claim foreign tax credit if applicable. If dividends payable to our non-PRC investors, or gains from the transfer of our ADSs or ordinary shares by these investors are subject to PRC tax, the value of your investment in our ADSs or ordinary shares may decline significantly.

***Discontinuation of preferential tax treatments we currently enjoy or other unfavorable changes in tax law could result in additional compliance obligations and costs.***

Chinese companies operating in the high-technology and software industry that meet relevant requirements may qualify for three main types of preferential treatment, which are high and new technology enterprises, software enterprises and key software enterprises within the scope of the PRC national plan. For a qualified high and new technology enterprise, the applicable enterprise income tax rate is 15%. The high and new technology enterprise qualification is re-assessed by the relevant authorities every three years. Moreover, a qualified software enterprise is entitled to a tax holiday consisting of a two-year tax exemption beginning from the first profit-making calendar year and a 50% tax reduction for the subsequent three calendar years. The software enterprise qualification is subject to an annual assessment. For a qualified key software enterprise within the scope of the PRC national plan, the applicable enterprise tax rate for a calendar year is 10%. The key software enterprise qualification is subject to an annual assessment.

A number of our China operating entities enjoy these preferential tax treatments. The discontinuation of any of the various types of preferential tax treatment we enjoy could materially and adversely affect our results of operations. See "Item 5. Operating and Financial Review and Prospects — A. Operating Results — Taxation — PRC Income Tax."

***We and our shareholders face uncertainties with respect to indirect transfers of equity interests in PRC resident enterprises or other assets attributed to a PRC establishment of a non-PRC company.***

On February 3, 2015, the State Administration of Taxation issued the Bulletin on Issues of Enterprise Income Tax on Indirect Transfers of Assets by Non-PRC Resident Enterprises, or Bulletin 7, which has been further amended by the Announcement on Issues Concerning the Withholding of Enterprise Income Tax at Source on Non-PRC Resident Enterprises, or Bulletin 37, issued by the State Administration of Taxation on October 17, 2017. Pursuant to these bulletins, an "indirect transfer" of assets, including equity interests in a PRC resident enterprise, by non-PRC resident enterprises may be recharacterized and treated as a direct transfer of PRC taxable assets, if the arrangement does not have a reasonable commercial purpose and was established for the purpose of avoiding payment of PRC enterprise income tax. As a result, gains derived from this indirect transfer may be subject to PRC enterprise income tax.

According to Bulletin 7 as amended, "PRC taxable assets" include assets attributed to an establishment or a place of business in China, immovable properties located in China, and equity investments in PRC resident enterprises, in respect of which gains from their transfer by a direct holder, being a non-PRC resident enterprise, would be subject to PRC enterprise income taxes. When determining whether there is a "reasonable commercial purpose" of the transaction arrangement, factors to be taken into consideration include: whether the main value of

the equity interest of the relevant offshore enterprise directly or indirectly derives from PRC taxable assets; whether the assets of the relevant offshore enterprise mainly consists of direct or indirect investment in China or if its income mainly derives from China, directly or indirectly; whether the offshore enterprise and its subsidiaries directly or indirectly holding PRC taxable assets have real commercial nature which is evidenced by their actual function and risk exposure; the duration of existence of the business model and organizational structure; the foreign income tax liabilities arising from the indirect transfer of PRC taxable assets; the substitutability of the transaction by direct transfer of PRC taxable assets; and the applicable tax treaties or similar arrangements. In respect of an indirect offshore transfer of assets of a PRC establishment or place of business, the resulting gain is to be included with the enterprise income tax filing of the PRC establishment or place of business being transferred, and would consequently be subject to PRC enterprise income tax at a rate of 25%. Where the underlying transfer relates to the immovable properties located in China or to equity investments in a PRC resident enterprise, which is not related to a PRC establishment or place of business of a non-resident enterprise, a PRC enterprise income tax at 10% would apply, subject to available preferential tax treatment under applicable tax treaties or similar arrangements, and the party who is obligated to make the transfer payments has the withholding obligation. Where the payor fails to withhold any or sufficient tax, the transferor shall declare and pay such tax to the tax authority by itself within the statutory time limit. Late payment of applicable tax will subject the transferor to default interest. Bulletin 7 does not apply to transactions of sale of shares by investors through a public stock exchange where the shares were acquired from a transaction through a public stock exchange.

There are uncertainties as to the application of Bulletin 7 and Bulletin 37. Bulletin 7 may be determined by the tax authorities to be applicable to some of our offshore restructuring transactions or sale of the shares of our offshore subsidiaries or investments where PRC taxable assets are involved. The transferors and transferees may be subject to the tax filing and the transferees may be subject to withholding or tax payment obligation, while our PRC subsidiaries may be requested to assist in the filing. Furthermore, we, our non-resident enterprises and PRC subsidiaries may be required to spend valuable resources to comply with Bulletin 7 or to establish that we and our non-resident enterprises should not be taxed under Bulletin 7, for our previous and future restructuring or disposal of shares of our offshore subsidiaries, which may have a material adverse effect on our financial condition and results of operations.

The PRC tax authorities have the discretion under Bulletin 7 to make adjustments to the taxable capital gains based on the difference between the fair value of the taxable assets transferred and the cost of investment. If the PRC tax authorities make adjustments to the taxable income of the transactions under Bulletin 7, our income tax costs associated with potential acquisitions or disposals will increase, which may have an adverse effect on our financial condition and results of operations.

***Restrictions on currency exchange may limit our ability to utilize our PRC revenue effectively.***

Substantially all of our revenue is denominated in Renminbi. The Renminbi is currently convertible under the "current account," which includes dividends, trade and service-related foreign exchange transactions, but requires approval from or registration with appropriate government authorities or designated banks under the "capital account," which includes foreign direct investment and loans, including loans we may secure from our onshore subsidiaries or variable interest entities. Currently, our PRC subsidiaries, which are wholly-foreign owned enterprises, may purchase foreign currency for settlement of "current account transactions," including payment of dividends to us, without the approval of SAFE by complying with certain procedural requirements. However, the relevant PRC governmental authorities may limit or eliminate our ability to purchase foreign currencies in the future for current account transactions.

Since 2016, PRC governmental authorities have imposed more stringent restrictions on outbound capital flows, including heightened scrutiny over "irrational" overseas investments for certain industries, as well as over four kinds of "abnormal" offshore investments, which are:

- investments through enterprises established for only a few months without substantive operation;

- investments with amounts far exceeding the registered capital of onshore parent and not supported by its business performance shown on financial statements;
- investments in targets which are unrelated to onshore parent's main business; and
- investments with abnormal sources of Renminbi funding suspected to be involved in illegal transfer of assets or illegal operation of underground banking.

On January 26, 2017, SAFE promulgated the Circular on Further Improving Reform of Foreign Exchange Administration and Optimizing Genuineness and Compliance Verification, which tightened the authenticity and compliance verification of cross-border transactions and cross-border capital flow, including requiring banks to verify board resolutions, tax filing forms and audited financial statements before wiring foreign invested enterprises' foreign exchange dividend distribution of over US\$50,000. See "Item 4. Information on the Company — B. Business Overview — Regulation — Regulation of Foreign Exchange and Dividend Distribution — Foreign Exchange Regulation." In addition, the Outbound Investment Sensitive Industry Catalogue (2018) lists certain sensitive industries that are subject to NDRC pre-approval requirements prior to remitting investment funds offshore, which subjects us to increased approval requirements and restrictions with respect to our overseas investment activity. Since a significant amount of our PRC revenue is denominated in Renminbi, any existing and future restrictions on currency exchange may limit our ability to utilize revenue generated in Renminbi to fund our business activities outside of the PRC, make investments, service any debt we may incur outside of China or pay dividends in foreign currencies to our shareholders, including holders of our ADSs.

***Fluctuations in exchange rates could result in foreign currency exchange losses to us.***

The value of the Renminbi against the U.S. dollar and other currencies may fluctuate and is affected by, among other things, changes in political and economic conditions and the foreign exchange policy adopted by the PRC government. For instance, in August 2015, the People's Bank of China, or PBOC, changed the way it calculates the mid-point price of Renminbi against the U.S. dollar, requiring the market-makers who submit for reference rates to consider the previous day's closing spot rate, foreign-exchange demand and supply as well as changes in major currency rates. In 2016 and 2017, the value of the Renminbi depreciated approximately 7.2% and appreciated 6.3% against the U.S. dollar, respectively. From the end of 2017 through the end of June 2018, the value of the Renminbi depreciated by approximately 1.7% against the U.S. dollar. It is difficult to predict how market forces or PRC or U.S. government policy, including any interest rate increases by the Federal Reserve, may impact the exchange rate between the Renminbi and the U.S. dollar in the future. There remains significant international pressure on the PRC government to adopt a more flexible currency policy, including from the U.S. government, which has threatened to label China as a "currency manipulator," which could result in greater fluctuation of the Renminbi against the U.S. dollar.

A substantial percentage of our revenues and costs are denominated in Renminbi, and a significant portion of our financial assets are also denominated in Renminbi while the majority of our debt is denominated in U.S. dollars. We are a holding company and we rely on dividends, loans and other distributions on equity paid by our operating subsidiaries in China. Any significant fluctuations in the value of the Renminbi may materially and adversely affect our liquidity and cash flows. If we decide to convert our Renminbi into U.S. dollars for the purpose of repaying principal or interest expense on our outstanding U.S. dollar-denominated debt, making payments for dividends on our ordinary shares or ADSs or other business purposes, appreciation of the U.S. dollar against the Renminbi would have a negative effect on the U.S. dollar amount we would receive. Conversely, to the extent that we need to convert U.S. dollars into Renminbi for our operations, appreciation of the Renminbi against the U.S. dollar would have an adverse effect on the Renminbi amount we would receive. From time to time we enter into hedging activities with regard to exchange rate risk. We cannot assure you that our hedging activities will successfully mitigate these risks adequately or at all, and in addition hedging activities may result in greater volatility in our financial results.

***The audit report included in this annual report is prepared by auditors who are not inspected fully by the Public Company Accounting Oversight Board and, as such, our shareholders are deprived of the benefits of such inspection.***

As an auditor of companies that are publicly traded in the United States and a firm registered with the Public Company Accounting Oversight Board, or PCAOB, PricewaterhouseCoopers is required under the laws of the United States to undergo regular inspections by the PCAOB. However, because we have substantial operations within the People's Republic of China, a jurisdiction where the PCAOB is currently unable to conduct inspections without the approval of the Chinese government authorities, our auditor and its audit work is not currently inspected fully by the PCAOB.

Inspections of other auditors conducted by the PCAOB outside of China have at times identified deficiencies in those auditors' audit procedures and quality control procedures, which may be addressed as part of the inspection process to improve future audit quality. The lack of PCAOB inspections of audit work undertaken in China prevents the PCAOB from regularly evaluating our auditor's audits and its quality control procedures. As a result, shareholders may be deprived of the benefits of PCAOB inspections, and may lose confidence in our reported financial information and procedures and the quality of our financial statements.

***Restrictions on the direct production of audit work papers to foreign regulators could result in our financial statements being determined to not be in compliance with the requirements of the Exchange Act.***

In late 2012, the SEC commenced administrative proceedings under Rule 102(e) of its Rules of Practice and also under the Sarbanes-Oxley Act of 2002 against the mainland Chinese affiliates of the "big four" accounting firms, including the affiliate of our auditor, and also against Dahua, the former BDO affiliate in China. The Rule 102(e) proceedings initiated by the SEC related to the failure of these firms to produce documents, including audit work papers, in response to the request of the SEC pursuant to Section 106 of the Sarbanes-Oxley Act of 2002, as the auditors located in China are not in a position lawfully to produce documents directly to the SEC because of restrictions under PRC law and specific directives issued by the CSRC. The issues raised by the proceedings are not specific to the Chinese affiliate of our auditor or to us, but potentially affect equally all PCAOB-registered audit firms based in China and all businesses based in China (or with substantial operations in China) with securities listed in the United States. In addition, auditors based outside of China are subject to similar restrictions under PRC law and CSRC directives in respect of audit work that is carried out in China which supports the audit opinions issued on financial statements of entities with substantial China operations.

In February 2015, each of the "big four" accounting firms agreed to a censure and to pay a fine to the SEC to settle the dispute with the SEC. The settlement stays the current proceeding for four years, during which time the firms are required to follow detailed procedures to seek to provide the SEC with access to Chinese firms' audit documents via the CSRC. If a firm does not follow the procedures, the SEC would impose penalties such as suspensions, or commence a new, expedited administrative proceeding against the non-compliant firm or it could restart the administrative proceeding against all four firms. In addition, the limitations imposed by the PRC on the production of workpapers reflecting audit work performed in the PRC could likewise result in the imposition of penalties on our independent registered accounting firm by the PCAOB or the SEC, such as suspensions of our audit firm's ability to practice before the SEC.

If our independent registered public accounting firm, or the affiliate of our independent registered public accounting firm, were denied, even temporarily, the ability to practice before the SEC, we would need to consider alternate support arrangements for the audit of our operations in China. If our auditor, or an affiliate of that firm, were unable to address issues related to the production of documents, and we were unable to timely find another independent registered public accounting firm to audit and issue an opinion on our financial statements, our financial statements could be determined to not be in compliance with the requirements of the Exchange Act. A determination of this type could ultimately lead to delisting of our ADSs from the New York Stock Exchange or deregistration from the SEC, or both. This would materially and adversely affect the market price of our ADSs and substantially reduce or effectively terminate the trading of our ADSs in the United States.

## Risks Related to Our ADSs

*The trading price of our ADSs has been and is likely to continue to be volatile, which could result in substantial losses to holders of our ADSs.*

The trading price of our ADSs has been and is likely to continue to be volatile and could fluctuate widely in response to a variety of factors, many of which are beyond our control. For example, the high and low sale prices of our ADSs in fiscal year 2018 were US\$206.20 and US\$106.76, respectively. In addition, the performance and fluctuation of the market prices of other companies with business operations located mainly in China that have listed their securities in the United States may affect the volatility in the price of and trading volumes for our ADSs. Some of these companies have experienced significant volatility, including significant price declines after their initial public offerings. The trading performances of these PRC companies' securities at the time of or after their offerings may affect the overall investor sentiment towards other PRC companies listed in the United States and consequently may impact the trading performance of our ADSs. In addition to market and industry factors, the price and trading volume for our ADSs may be highly volatile for specific business reasons, including:

- variations in our results of operations;
- announcements about our earnings that are not in line with analyst expectations;
- publication of operating or industry metrics by third parties, including government statistical agencies, that differ from expectations of industry or financial analysts;
- changes in financial estimates by securities research analysts;
- announcements made by us or our competitors of new product and service offerings, acquisitions, strategic relationships, joint ventures or capital commitments;
- press and other reports, whether or not true, about our business;
- negative reports published by short sellers, regardless of their veracity or materiality to our company;
- changes or developments in the PRC or global regulatory environment;
- litigation and regulatory allegations or proceedings that involve us;
- changes in pricing we or our competitors adopt;
- conditions in our industries;
- additions to or departures of our management;
- actual or perceived general economic and business conditions and trends in China and globally, as some investors or analysts may invest in or value our ADSs based on the economic performance of the Chinese economy, which may not be correlated to our financial performance;
- fluctuations of exchange rates between the Renminbi and the U.S. dollar;
- release or expiry of transfer restrictions on our outstanding ordinary shares or ADSs;
- sales or perceived potential sales or other dispositions of existing or additional ordinary shares or ADSs or other equity or equity-linked securities, including by Altaba and our other principal shareholders, our directors, officers and other affiliates, which could depress the trading price of our ADSs; and
- the creation by our major shareholders of vehicles that hold our ordinary shares.

Any of these factors may result in large and sudden changes in the volume and trading price of our ADSs. In addition, the stock market has from time to time experienced significant price and volume fluctuations that are unrelated to the operating performance of particular companies and industries. These fluctuations may include a so-called "bubble market" in which investors temporarily raise the price of the stocks of companies in certain industries, such as the e-commerce industry, to unsustainable levels. These market fluctuations may significantly

affect the trading price of our ADSs. In the past, following periods of volatility in the market price of a company's securities, shareholders have often instituted securities class action litigation against that company. We have been named as a defendant in certain purported shareholder class action lawsuits described in "Item 8. Financial Information — A. Consolidated Statements and Other Financial Information — Legal and Administrative Proceedings." The litigation process may utilize a material portion of our cash resources and divert management's attention from the day-to-day operations of our company, all of which could harm our business. If adversely determined, the class action suits may have a material adverse effect on our financial condition and results of operations.

***Substantial future sales or perceived potential sales of our ADSs, ordinary shares or other equity or equity-linked securities in the public market could cause the price of our ADSs to decline significantly.***

Sales of our ADSs, ordinary shares or other equity or equity-linked securities in the public market, or the perception that these sales could occur, could cause the market price of our ADSs to decline significantly. As of March 31, 2018, we had 2,571,929,843 ordinary shares outstanding, and 1,571,612,109 of our ordinary shares were represented by ADSs. All of our ordinary shares represented by ADSs were freely transferable by persons other than our affiliates without restriction or additional registration under the Securities Act of 1933, or the Securities Act. The ordinary shares held by our affiliates and other shareholders are also available for sale, subject to volume and other restrictions as applicable under Rules 144 and 701 under the Securities Act, under sales plans adopted pursuant to Rule 10b5-1 or otherwise.

On June 7, 2018, Altaba, one of our principal shareholders, announced a tender offer to purchase up to 195,000 shares of its common stock in exchange for consideration consisting of our ADSs and cash value based on the volume-weighted average price of our ADSs. The tender offer expires on August 8, 2018. If Altaba, or any vehicles that have been created or may be created to hold our shares, among other assets, takes any further to divest itself of all or a portion of its holdings in our ordinary shares in the form of ADSs in the public market, including through periodic small-scale sales, this could cause the price of our ADSs to decline significantly.

Certain major holders of our ordinary shares will have the right to cause us to register under the Securities Act the sale of their shares. Registration of these shares under the Securities Act would result in ADSs representing these shares becoming freely tradable without restriction under the Securities Act immediately upon the effectiveness of the registration. Sales of these registered shares in the form of ADSs in the public market could cause the price of our ADSs to decline significantly.

***As a foreign private issuer, we are permitted to and we will, rely on exemptions from certain New York Stock Exchange corporate governance standards applicable to domestic U.S. issuers. This may afford less protection to holders of our ordinary shares and the ADSs.***

We are exempted from certain corporate governance requirements of the New York Stock Exchange by virtue of being a foreign private issuer. We are required to provide a brief description of the significant differences between our corporate governance practices and the corporate governance practices required to be followed by domestic U.S. companies listed on the New York Stock Exchange. The standards applicable to us are considerably different than the standards applied to domestic U.S. issuers. For instance, we are not required to:

- have a majority of the board be independent (although all of the members of the audit committee must be independent under the U.S. Securities Exchange Act of 1934, as amended, or the Exchange Act);
- have a compensation committee or a nominating or corporate governance committee consisting entirely of independent directors;
- have regularly scheduled executive sessions for non-management directors; or
- have executive sessions of solely independent directors each year.

We have relied on and intend to continue to rely on some of these exemptions. As a result, holders of our ADSs may not be provided with the benefits of certain corporate governance requirements of the New York Stock Exchange.



***As a foreign private issuer, we are exempt from certain disclosure requirements under the Exchange Act, which may afford less protection to holders of our ADSs than they would enjoy if we were a domestic U.S. company.***

As a foreign private issuer, we are exempt from, among other things, the rules prescribing the furnishing and content of proxy statements under the Exchange Act and the rules relating to selective disclosure of material nonpublic information under Regulation FD. In addition, our executive officers, directors and principal shareholders are exempt from the reporting and short-swing profit and recovery provisions contained in Section 16 of the Exchange Act. We are also not required under the Exchange Act to file periodic reports and financial statements with the SEC as frequently or as promptly as domestic U.S. companies with securities registered under the Exchange Act. As a result, holders of our ADSs may be afforded less protection than they would under the Exchange Act rules applicable to domestic U.S. companies.

***We may in the future conduct a public offering and listing of our shares in China, which may result in increased regulatory scrutiny and compliance costs as well as increased fluctuations in the prices of our ordinary shares and ADSs listed in overseas markets.***

We may conduct a public offering and/or listing of our shares on a stock exchange in China in the future. We have not set a specific timetable or decided on any specific form for an offering in China and may not ultimately conduct such an offering and listing. The precise timing of the offering and/or listing of our shares in China would depend on a number of factors, including relevant regulatory developments and market conditions. If we complete a public offering or listing in China, we would become subject to the applicable laws, rules and regulations governing public companies listed in China, in addition to the various laws, rules and regulations that we are subject to in the United States as a reporting company. The listing and trading of our securities in multiple jurisdictions and multiple markets may lead to increased compliance costs for us, and we may face the risk of significant intervention by regulatory authorities in these jurisdictions and markets.

In addition, under current PRC laws, rules and regulations, our ordinary shares will not be interchangeable or fungible with any shares we may decide to list on a PRC stock exchange, and there is no trading or settlement between these markets in the United States and mainland China. Furthermore, these two markets have different trading characteristics and investor bases, including different levels of retail and institutional participation. As a result of these differences, the trading prices of our ADSs, accounting for the share-to-ADS ratio, may not be the same as the trading prices of any shares we may decide to list on a PRC stock exchange. The issuance of a separate class of shares and fluctuations in its trading price may also lead to increased volatility in, and may otherwise materially decrease, the prices of our ordinary shares and ADSs.

***Our shareholders may face difficulties in protecting their interests, and their ability to protect their rights through the U.S. federal courts may be limited because we are incorporated under Cayman Islands law, we conduct substantially all of our operations in China and most of our directors and substantially all of our executive officers reside outside the United States.***

We are incorporated in the Cayman Islands and conduct substantially all of our operations in China through our wholly-foreign owned enterprises and the variable interest entities. Most of our directors and substantially all of our executive officers reside outside the United States and a substantial portion of their assets are located outside of the United States. As a result, it may be difficult or impossible for our shareholders (including holders of ADSs) to bring an action against us or against these individuals in the Cayman Islands or in China in the event that they believe that their rights have been infringed under the securities laws of the United States or otherwise. Even if shareholders are successful in bringing an action of this kind, the laws of the Cayman Islands and China may render them unable to enforce a judgment against our assets or the assets of our directors and officers. There is no statutory recognition in the Cayman Islands of judgments obtained in the United States or China, although the courts of the Cayman Islands will generally recognize and enforce a non-penal judgment of a foreign court of competent jurisdiction without retrial on the merits.



Our corporate affairs are governed by our memorandum and articles of association, as amended and restated from time to time, and by the Companies Law (2016 Revision) and common law of the Cayman Islands. The rights of shareholders to take legal action against us and our directors, actions by minority shareholders and the fiduciary duties of our directors are to a large extent governed by the common law of the Cayman Islands. The common law of the Cayman Islands is derived in part from comparatively limited judicial precedent in the Cayman Islands as well as from English common law, which provides persuasive, but not binding, authority in a court in the Cayman Islands. The rights of our shareholders and the fiduciary duties of our directors under Cayman Islands law are not as clearly established as they would be under statutes or judicial precedents in the United States. In particular, the Cayman Islands has a less developed body of securities laws than the United States and provides significantly less protection to investors. In addition, shareholders in Cayman Islands companies may not have standing to initiate a shareholder derivative action in U.S. federal courts.

In addition, our articles of association provide that in the event that any shareholder initiates or asserts any claim or counterclaim against us, or joins, offers substantial assistance to or has a direct financial interest in any claim or counterclaim against us, and does not obtain a judgment on the merits in which the initiating or asserting party prevails, then the shareholder will be obligated to reimburse us for all fees, costs and expenses (including, but not limited to, all reasonable attorneys' fees and other litigation expenses) that we may incur in connection with a claim or counterclaim. These fees, costs and expenses that may be shifted to a shareholder under this provision are potentially significant and this fee-shifting provision is not limited to specific types of actions, but is rather potentially applicable to the fullest extent permitted by law.

Our fee-shifting provision may dissuade or discourage our shareholders (and their attorneys) from initiating lawsuits or claims against us or may impact the fees, contingency or otherwise, required by attorneys to represent our shareholders. Fee-shifting provisions such as ours are relatively new and untested. We cannot assure you that we will or will not invoke our fee-shifting provision in any particular dispute, or that we will be successful in obtaining fees if we choose to invoke the provision.

As a result of the foregoing, our public shareholders may have more difficulty in protecting their interests through actions against us, our management, our directors or our major shareholders than would shareholders of a corporation incorporated in a jurisdiction in the United States.

***The voting rights of holders of our ADSs are limited by the terms of the deposit agreement.***

Holders of our ADSs may exercise their voting rights with respect to the ordinary shares underlying their ADSs only in accordance with the provisions of the deposit agreement. Upon receipt of voting instructions from them in the manner set forth in the deposit agreement, the depositary for our ADSs will endeavor to vote their underlying ordinary shares in accordance with these instructions. Under our articles of association, the minimum notice period required for convening a general meeting is ten days. When a general meeting is convened, holders of our ADSs may not receive sufficient notice of a shareholders' meeting to permit them to withdraw their ordinary shares to allow them to cast their votes with respect to any specific matter at the meeting. In addition, the depositary and its agents may not be able to send voting instructions to holders of our ADSs or carry out their voting instructions in a timely manner. We will make all reasonable efforts to cause the depositary to extend voting rights to holders of our ADSs in a timely manner, but they may not receive the voting materials in time to ensure that they can instruct the depositary to vote the ordinary shares underlying their ADSs. Furthermore, the depositary and its agents will not be responsible for any failure to carry out any instructions to vote, for the manner in which any vote is cast or for the effect of any such vote. As a result, holders of our ADSs may not be able to exercise their rights to vote and they may lack recourse if the ordinary shares underlying their ADSs are not voted as they requested.

***The depositary for our ADSs will give us a discretionary proxy to vote our ordinary shares underlying the ADSs if holders of these ADSs do not vote at shareholders' meetings, except in limited circumstances, which could adversely affect the interests of holders of our ADSs.***

Under the deposit agreement for our ADSs, the depositary will give us a discretionary proxy to vote the ordinary shares underlying the ADSs at shareholders' meetings if holders of these ADSs do not give voting instructions to the depositary, unless:

- we have failed to timely provide the depositary with our notice of meeting and related voting materials;
- we have instructed the depositary that we do not wish a discretionary proxy to be given;
- we have informed the depositary that there is substantial opposition as to a matter to be voted on at the meeting;
- a matter to be voted on at the meeting would have a material adverse impact on shareholders; or
- voting at the meeting is made on a show of hands.

The effect of this discretionary proxy is that, if holders of our ADSs fail to give voting instructions to the depositary, they cannot prevent our ordinary shares underlying their ADSs from being voted, absent the situations described above, and it may make it more difficult for shareholders to influence our management. Holders of our ordinary shares are not subject to this discretionary proxy.

***Holders of our ADSs may be subject to limitations on transfer of their ADSs.***

ADSs are transferable on the books of the depositary. However, the depositary may close its transfer books at any time or from time to time when it deems expedient in connection with the performance of its duties. In addition, the depositary may refuse to deliver, transfer or register transfers of ADSs generally when our books or the books of the depositary are closed, or at any time if we or the depositary deems it advisable to do so because of any requirement of law or of any government or governmental body, or under any provision of the deposit agreement, or for any other reason.

***Holders of our ADSs may not receive distributions on our ordinary shares or any value for them if it is illegal or impractical to make them available to them.***

The depositary of our ADSs has agreed to pay holders of our ADSs the cash dividends or other distributions it or the custodian for our ADSs receives on our ordinary shares or other deposited securities after deducting its fees and expenses. Holders of our ADSs will receive these distributions in proportion to the number of our ordinary shares that their ADSs represent. However, the depositary is not responsible for making these payments or distributions if it is unlawful or impractical to make a distribution available to any holders of ADSs. For example, it would be unlawful to make a distribution to a holder of ADSs if it consists of securities that require registration under the Securities Act but that are not properly registered or distributed pursuant to an applicable exemption from registration. The depositary is not responsible for making a distribution available to any holders of ADSs if any government approval or registration required for the distribution cannot be obtained after reasonable efforts made by the depositary. We have no obligation to take any other action to permit the distribution of our ADSs, ordinary shares, rights or anything else to holders of our ADSs. This means that holders of our ADSs may not receive the distributions we make on our ordinary shares or any value for them if it is illegal or impractical for us to make them available. These restrictions may materially reduce the value of the ADSs.

***There could be adverse United States federal income tax consequences to United States investors if we were or were to become a passive foreign investment company.***

While we do not believe we are or will become a passive foreign investment company, or PFIC, there can be no assurance that we were not a PFIC in the past and will not become a PFIC in the future. The determination of whether or not we are a PFIC is made on an annual basis and will depend on the composition of our income and

assets from time to time. Specifically, we will be classified as a PFIC for United States federal income tax purposes if either: (1) 75% or more of our gross income in a taxable year is passive income, or (2) the average percentage of our assets by value in a taxable year which produce or are held for the production of passive income (which includes cash) is at least 50%. The calculation of the value of our assets will be based, in part, on the quarterly market value of our ADSs, which is subject to change. See "Item 10. Additional Information — E. Taxation — Material United States Federal Income Tax Considerations — Passive Foreign Investment Company."

Although we do not believe we were or will become a PFIC, it is not entirely clear how the contractual arrangements between us and our variable interest entities will be treated for purposes of the PFIC rules. If it were determined that we do not own the stock of our variable interest entities for United States federal income tax purposes (for instance, because the relevant PRC authorities do not respect these arrangements), we may be treated as a PFIC. See "Item 10. Additional Information — E. Taxation — Material United States Federal Income Tax Considerations — Passive Foreign Investment Company."

If we were or were to become a PFIC, adverse United States federal income tax consequences to our shareholders that are United States investors could result. For example, if we are a PFIC, our United States investors will become subject to increased tax liabilities under United States federal income tax laws and regulations and will become subject to burdensome reporting requirements. We cannot assure you that we were not or will not become a PFIC for any taxable year. You are urged to consult your own tax advisors concerning United States federal income tax consequence on the application of the PFIC rules. See "Item 10. Additional Information — E. Taxation — Material United States Federal Income Tax Considerations — Passive Foreign Investment Company."

## **ITEM 4 INFORMATION ON THE COMPANY**

### **A. History and Development of the Company**

Alibaba Group Holding Limited is a Cayman Islands holding company established under the Companies Law of the Cayman Islands (as amended) on June 28, 1999, and we conduct our business in China through our subsidiaries and variable interest entities. Our ADSs are listed on the NYSE under the symbol "BABA."

Our significant subsidiaries, as that term is defined under Section 1-02 of Regulation S-X under the Securities Act, include the following entities:

- Taobao Holding Limited, an exempted company incorporated with limited liability under the laws of the Cayman Islands, which is our wholly-owned subsidiary and the indirect holding company of the PRC subsidiaries relating to Taobao Marketplace and Tmall.
- Taobao China Holding Limited, a Hong Kong limited liability company, which is the direct wholly-owned subsidiary of Taobao Holding Limited and the direct holding company of certain PRC subsidiaries relating to Taobao Marketplace and Tmall.
- Taobao (China) Software Co., Ltd., a limited liability company incorporated under the laws of the PRC, which is an indirect subsidiary of Taobao Holding Limited and a wholly-foreign owned enterprise, and provides software and technology services for Taobao Marketplace.
- Zhejiang Tmall Technology Co., Ltd., a limited liability company incorporated under the laws of the PRC, which is an indirect subsidiary of Taobao Holding Limited and a wholly-foreign owned enterprise, and provides software and technology services for Tmall.
- Alibaba Investment Limited, a company incorporated with limited liability under the laws of the British Virgin Islands, which is our wholly-owned subsidiary and the principal holding company for our strategic investments, including Youku.

The principal executive offices of our main operations are located at 969 West Wen Yi Road, Yu Hang District, Hangzhou 311121, People's Republic of China. Our telephone number at this address

is +86-571-8502-2088. Our registered office in the Cayman Islands is located at the offices of Trident Trust Company (Cayman) Limited, Fourth Floor, One Capital Place, P.O. Box 847, George Town, Grand Cayman, Cayman Islands. Our agent for service of process in the United States is Corporation Service Company located at 1180 Avenue of the Americas, Suite 210, New York, New York 10036. Our corporate website is [www.alibabagroup.com](http://www.alibabagroup.com).

We have a demonstrated track record of successful organic business creation. In addition to organic growth, we have made, or have entered into agreements to make strategic investments, acquisitions and alliances that are intended to increase our product and service offerings and expand our capabilities. See "Item 5. Operating and Financial Review and Prospects — A. Operating Results — Recent Investment, Acquisition and Strategic Alliance Activities" for more information.

## **Share Repurchase Program**

On May 18, 2017, we announced the adoption of a share repurchase program in an aggregate amount of up to US\$6.0 billion over a period of two years, or the 2017 Share Repurchase Program. The program replaced, and cancelled the remaining amount under our share repurchase program announced in 2015. See "Item 16E. Purchases of Equity Securities by the Issuer and Affiliated Purchasers."

## **B. Business Overview**

### **Our Mission**

Our mission is to make it easy to do business anywhere.

Our founders started our company to champion small businesses, in the belief that the Internet would level the playing field by enabling small enterprises to leverage innovation and technology to grow and compete more effectively in the domestic and global economies. We believe that concentrating on customer needs and solving their problems — whether those customers are consumers, merchants or enterprises — ultimately will lead to the best outcome for our business. We have developed a large ecosystem that enables participants to create and share value on our platforms. Our decisions are guided by how they serve our mission over the long term, not by the pursuit of short-term gains.

### **Our Vision**

We aim to build the future infrastructure of commerce. We envision that our customers will meet, work and live at Alibaba, and that we will be a company that lasts at least 102 years.

**Meet @ Alibaba.** We enable commercial and social interactions among hundreds of millions of users, between consumers and merchants, and among businesses every day.

**Work @ Alibaba.** We empower our customers with the fundamental infrastructure for commerce and new technology, so that they can build businesses and create value that can be shared among our ecosystem participants.

**Live @ Alibaba.** We strive to expand our products and services to become central to the everyday lives of our customers.

**102 Years.** For a company that was founded in 1999, lasting at least 102 years means we will have spanned three centuries, an achievement that few companies can claim. Our culture, business models and systems are built to last, so that we can achieve sustainability in the long run.

### **Our Values**

Our values are fundamental to the way we operate and how we recruit, evaluate and compensate our people.

Our six values are:

- **Customer First** — The interests of our community of consumers, merchants and enterprises must be our first priority.
- **Teamwork** — We believe teamwork enables ordinary people to achieve extraordinary things.
- **Embrace Change** — In this fast-changing world, we must be flexible, innovative and ready to adapt to new business conditions in order to maintain sustainability and vitality in our business.
- **Integrity** — We expect our people to uphold the highest standards of honesty and to deliver on their commitments.
- **Passion** — We expect our people to approach everything with fire in their belly and never give up on doing what they believe is right.
- **Commitment** — Employees who demonstrate perseverance and excellence are richly rewarded. Nothing should be taken for granted as we encourage our people to "work happily and live seriously."

## Company Overview

To fulfill our mission "to make it easy to do business anywhere," we enable businesses to transform the way they market, sell, operate and improve their efficiencies. We provide the technology infrastructure and marketing reach to help merchants, brands and other businesses to leverage the power of new technology to engage with their users and customers and operate in a more efficient way.

Our businesses are comprised of core commerce, cloud computing, digital media and entertainment, and innovation initiatives. In addition, Ant Financial, a company in which we have agreed to acquire a 33% equity stake, provides payment and financial services to consumers and merchants on our platforms. An ecosystem has developed around our platforms and businesses that consists of consumers, merchants, brands, retailers, other businesses, third-party service providers and strategic alliance partners.

### Core Commerce

#### Retail Commerce

*Retail commerce in China.* According to Analysys, we are the largest retail commerce business in the world in terms of GMV in the twelve months ended March 31, 2018. We operate Taobao Marketplace, China's largest mobile commerce destination, and Tmall, China's largest third-party platform for brands and retailers, in each case in terms of GMV in 2017, according to Analysys. In fiscal year 2018, we generated approximately 71% of our revenue from our retail commerce business in China.

We have introduced New Retail initiatives to transform the retail landscape and reengineer the fundamentals of retail operations. New Retail represents the convergence of online and offline retail by leveraging digitized operating systems, in-store technology, supply chain systems, consumer insights and mobile ecosystem to provide a seamless experience for consumers.

*Retail commerce — cross-border and global.* Lazada operates a leading e-commerce platform across Southeast Asia with local language websites and mobile apps in Indonesia, Malaysia, the Philippines, Singapore, Thailand and Vietnam. AliExpress, one of our global retail marketplaces, enables consumers from around the world to buy directly from manufacturers and distributors primarily in China. Tmall Global is a platform for overseas brands and retailers to reach Chinese consumers.

#### Wholesale Commerce

*Wholesale commerce in China.* 1688.com, China's largest integrated domestic wholesale marketplace in 2017 by revenue, according to Analysys, connects wholesale buyers and sellers in a wide range of categories. A

significant number of merchants on our China retail marketplaces source their inventory on 1688.com. Lingshoutong, a digital retail sourcing platform, allows local mom-and-pop shops to directly source products from a broad selection of brands at competitive prices.

*Wholesale commerce — cross-border and global.* We operate Alibaba.com, China's largest integrated international online wholesale marketplace in 2017 by revenue, according to Analysys. As of March 31, 2018, buyers on Alibaba.com were located in over 190 countries.

### ***Logistics Services***

Cainiao Network operates a logistics data platform and a nationwide fulfillment network that leverages the capacity and capabilities of logistics partners to offer domestic and international one-stop-shop logistics services and supply chain management solutions, fulfilling various logistics needs of merchants and consumers at scale, serving our ecosystem and beyond. It uses data insights and technology to improve efficiency across the logistics value chain, including providing real-time access to data for merchants to better manage their inventory and warehousing and for consumers to track their orders, and leveraging data to optimize the delivery routes used by express courier companies.

### ***Consumer Services***

We use mobile and online technology to enhance the efficiency, effectiveness and convenience of consumer services for both service providers and their customers. We have applied this technology to a range of areas, including food ordering and delivery, local services and online travel booking.

### ***Cloud Computing***

Alibaba Cloud offers a complete suite of cloud services, including elastic computing, database, storage, network virtualization services, large scale computing, security, management and application services, big data analytics, a machine learning platform, and IoT services, serving our ecosystem and beyond. Alibaba Cloud is China's largest provider of public cloud services by revenue in 2017, including PaaS services and IaaS services, according to IDC (Source: IDC Semiannual Public Cloud Services Tracker, 2017). Alibaba Cloud was also the world's third largest IaaS service provider by revenue in 2017, according to Gartner (Source: Market Share Analysis: IAAS and IUS, Worldwide, 2017, Colleen Graham et al, June 28, 2018). Alibaba Cloud has more than one million paying customers.

### ***Digital Media and Entertainment***

Digital media and entertainment is a key piece of our Live@Alibaba vision and a natural extension of our strategy to capture consumption beyond our core commerce business. Insights we gain from our retail commerce business and our proprietary data technology enable us to deliver relevant digital media and entertainment content to consumers. This synergy delivers a superior entertainment experience, increases customer loyalty and return on investment for advertisers, and improves monetization for content providers across the ecosystem.

Youku and UC Browser serve as our two key distribution platforms for digital media and entertainment content. These key distribution platforms and our content platforms, including news feeds, games, literature and music, allow users to discover and consume content as well as interact with each other.

### ***Innovation Initiatives***

We continue to develop new service offerings to meet the needs of our customers and expand the reach of our ecosystem. For example, AutoNavi provides digital map, navigation and real-time traffic information to users in China. Its digital map big data technology also empowers our businesses and third-party mobile apps. Our Internet of Things (IoT) initiative is focused on developing a wide range of IoT technologies, including platform-as-a-service (PaaS), microchip design and development frameworks, operating systems and cloud

computing, for use in transportation, homes, mobile devices, public facilities and industrial applications, among other uses, to provide innovative solutions that improve efficiency and accuracy and enhance economic benefit.

***Our Ecosystem***

An ecosystem has developed around our platforms and businesses that consists of consumers, merchants, brands, retailers, other businesses, third-party service providers and strategic alliance partners. At the nexus of this ecosystem are our technology platform, our marketplace rules and the role we play in connecting these participants to make it possible for them to discover, engage and transact with each other and manage their businesses anytime and anywhere. Much of our effort, time and energy is spent on initiatives that are for the greater good of the ecosystem and on balancing the interests of its participants. We feel a strong responsibility for the continued development of the ecosystem and we take ownership in this development. Accordingly, we refer to this as "our ecosystem." Our ecosystem has strong self-reinforcing network effects benefitting its various participants, who are in turn invested in our ecosystem's growth and success.

The following chart sets forth the key businesses and services provided by us and selected major investee companies and cooperation partners.



\* Indicates entities that we do not consolidate in our financial statements as of the date of this annual report.



## **Our Strategies**

We aim to strengthen and expand our ecosystem in order to achieve long-term growth by:

- increasing active consumers and improving consumer experience and our wallet share through geographic expansion, new product and service categories, as well as by leveraging our data capabilities to better identify, analyze and serve their needs through personalization across channels;
- expanding product and service offerings to consumers beyond physical goods, including entertainment, healthcare, travel and local services;
- reinventing our platforms as go-to destinations for brands to lift awareness and affinity, manage and engage with customers, expand channels and innovate on products;
- applying data and cloud computing technologies in everything we do for our customers and for ourselves and creating value for merchants, brands, retail operators and other businesses in our ecosystem through online and offline integration, marketing and distribution, retail space reinvention and operational efficiency improvement driven by big data and world-class technology;
- continuing to be an innovator in products and technology as well as an enabler of new business models and more efficient value chains for traditional industries that are facing challenges from digital disruption.

Our long-term strategic goal is to serve two billion consumers around the world and support ten million businesses to operate profitably on our platforms. We have embarked on three key initiatives to achieve this strategic goal: globalization, rural expansion and big data and cloud computing.

### ***Globalization***

We are globalizing a number of our businesses. We aim to address each of the three pillars of cross-border commerce as follows:

- *From the world to China.* Our China retail marketplaces provide the gateway for international brands, retailers and small businesses to gain access to Chinese consumers. Through Tmall Global, overseas brands and retailers can reach Chinese consumers and build brand awareness without the need for physical operations in China. Taobao Global further facilitates cross-border commerce by helping Taobao merchants to engage Chinese consumers with a rich variety of global products sourced from suppliers outside of China.
- *From China to the world.* Through our Alibaba.com wholesale marketplace, we facilitate global trade by connecting Chinese suppliers to importers, wholesalers and distributors around the world. On the retail front, AliExpress enables consumers worldwide to buy directly from manufacturers and distributors in China.
- *From the world to the world.* Through Lazada we operate an e-commerce platform across Southeast Asia, an important region for our globalization strategy. More broadly, we aim to create a free, innovative and inclusive international trading environment by promoting public-private dialogues and sharing best business practices. Our Electronic World Trade Platform (eWTP) initiative was officially included in the 2016 G20 Leaders' Communique Hangzhou Summit and is now internationally recognized. In March 2017, we launched the first eWTP pilot program, the Malaysia Digital Free Trade Zone.

### ***Rural Expansion***

As of December 31, 2017, 576 million people in China resided in rural areas, according to the National Bureau of Statistics of China. Geographic and infrastructural limitations highly restrict their access to goods and services. We have established operations that give rural residents greater access to a broader variety of high quality goods and services through our Rural Taobao program. At the same time, we provide farmers with easier access to urban consumers which enables them to earn more for their agricultural products.

## ***Big Data and Cloud Computing***

We believe our world is rapidly transitioning from an information technology, or IT, economy to a data technology, or DT, economy. Traditionally unstructured, undiscovered and underutilized data can now be captured, activated and leveraged as a new source of intelligence that supports business growth and decisions. In the future, with cloud computing as a cost-saving public service, and data as a value-enhancing resource, we believe that new technology will play a fundamental role in social and commercial interactions. While maintaining a strong commitment to data security and privacy, we will continue to implement our data strategy through the application of artificial intelligence to all aspects of our business and to invest in our cloud computing platform to support our own businesses and those of third parties.

## **Our Businesses**

### ***Core Commerce***

Our core commerce business is comprised of the following businesses:

- Retail commerce in China;
- Retail commerce — cross-border and global;
- Wholesale commerce in China;
- Wholesale commerce — cross-border and global;
- Logistics services; and
- Consumer services.

### ***Retail Commerce in China***

Our retail commerce business in China, empowered by our commerce technologies and services, is primarily comprised of Taobao Marketplace, Tmall, Rural Taobao, New Retail initiatives and Alibaba Health. Together, they have become an important part of the everyday life of Chinese consumers, as evidenced by the 552 million annual active consumers we had in the twelve months ended March 31, 2018.

Our retail commerce businesses in China offer the following value propositions to consumers:

- *Broad selection.* We offer a comprehensive selection of products and services. Our China retail marketplaces had over 1.5 billion listings as of March 31, 2018.
- *Convenience.* As our technology and innovation gradually eliminate the boundaries between online and offline commerce, consumers increasingly enjoy a seamless experience anytime, anywhere.
- *Engaging, personalized experience.* Our Taobao App and Tmall App provide consumers a unique social commerce experience through highly relevant content, personalized shopping recommendations and opportunities for social engagement.
- *Value for money.* Our marketplace business model ensures that merchants offer competitive prices to consumers.
- *Merchant quality.* Consumers can rate a merchant after completion of a transaction on Taobao or Tmall based on whether the product matches its description, the merchant's service level and delivery timeliness. Consumer feedback is factored into the search algorithm that determines the merchant's ranking on the search results pages of our China retail marketplaces.
- *Authentic products.* Consumers can expect products purchased from our China retail marketplaces to be protected by merchant quality ratings, clear refund and return policies and the Alipay escrow system. These

protections are especially valuable in lower-tier cities and rural villages where it has been difficult to distribute and purchase authentic branded products.

As a result of our broad value propositions to consumers, we have seen increased engagement over time. The longer consumers have been with us, the larger numbers of orders they tend to place, across a more diverse range of product categories, and the more they tend to spend on our China retail marketplaces. For example, in the twelve months ended March 31, 2018, consumers who have been with us for approximately five years placed an average of 132 orders in 23 product categories with average spending of approximately RMB12,000 in terms of GMV, whereas consumers who have been with us for approximately one year placed an average of 27 orders in 6 product categories with average spending of approximately RMB3,000 in terms of GMV. In the twelve months ended March 31, 2018, the average annual active consumer on our China retail marketplaces placed 90 orders in 16 product categories with average spending of approximately RMB9,000 in terms of GMV.

With data and technology, we are committed to enabling merchants, brands and retailers by delivering the following value propositions:

- *Customer engagement, acquisition and retention.* In March 2018, the various mobile apps that consumers use to access our China retail marketplaces had 617 million mobile MAUs. In addition, the 552 million annual active consumers for the twelve months ended March 31, 2018 represent an unparalleled amount of purchasing power. Consumers come to our platforms with strong commercial intent, which drives high conversion rates and return on investment (ROI) for merchants, brands and retailers. The consumer behavior data from our platforms enable merchants, brands and retailers to more effectively attract, engage, acquire and retain their customers, through campaign testing, targeted marketing and a personalized user interface.
- *Brand identity.* Brands use their Tmall storefronts to distinguish their own brands and build brand proposition and awareness. They leverage the multi-media capabilities of our platforms, such as social media, videos and dynamic graphics, to tell their unique brand stories. Brands are increasingly recognizing us as the top marketing platform, where the life-time value of customers can be built to benefit their businesses both online and offline.
- *Efficient operations.* Merchants, brands and retailers use our commerce technologies and services to improve their sales channels, marketing, supply chain management and logistics, as well as our cloud computing services to lower their technology costs.
- *New consumer experience.* We offer mobile and enterprise technology to enable merchants, brands and retailers to offer a seamless online and in-store shopping experience. These solutions integrate online and offline inventory, membership and services that enable them to fulfill online orders with store-based inventories (store pick-up or delivery from the nearest store) and allow consumers to purchase products unavailable in stores.
- *Consumer insights.* Consumers come to our China retail marketplaces to browse for ideas, look for new trends, receive merchant and product updates, compare products, share shopping experiences and to be entertained. Consumer actions on our platforms, such as searching, browsing, reading news feeds, bookmarking and adding products to shopping carts, generate valuable data about user intentions. We focus heavily on protecting the privacy and security of consumer-derived data. The consumer insights provided by these actions are unique to our platforms and are not easy for merchants to obtain anywhere else.

#### *Taobao Marketplace*

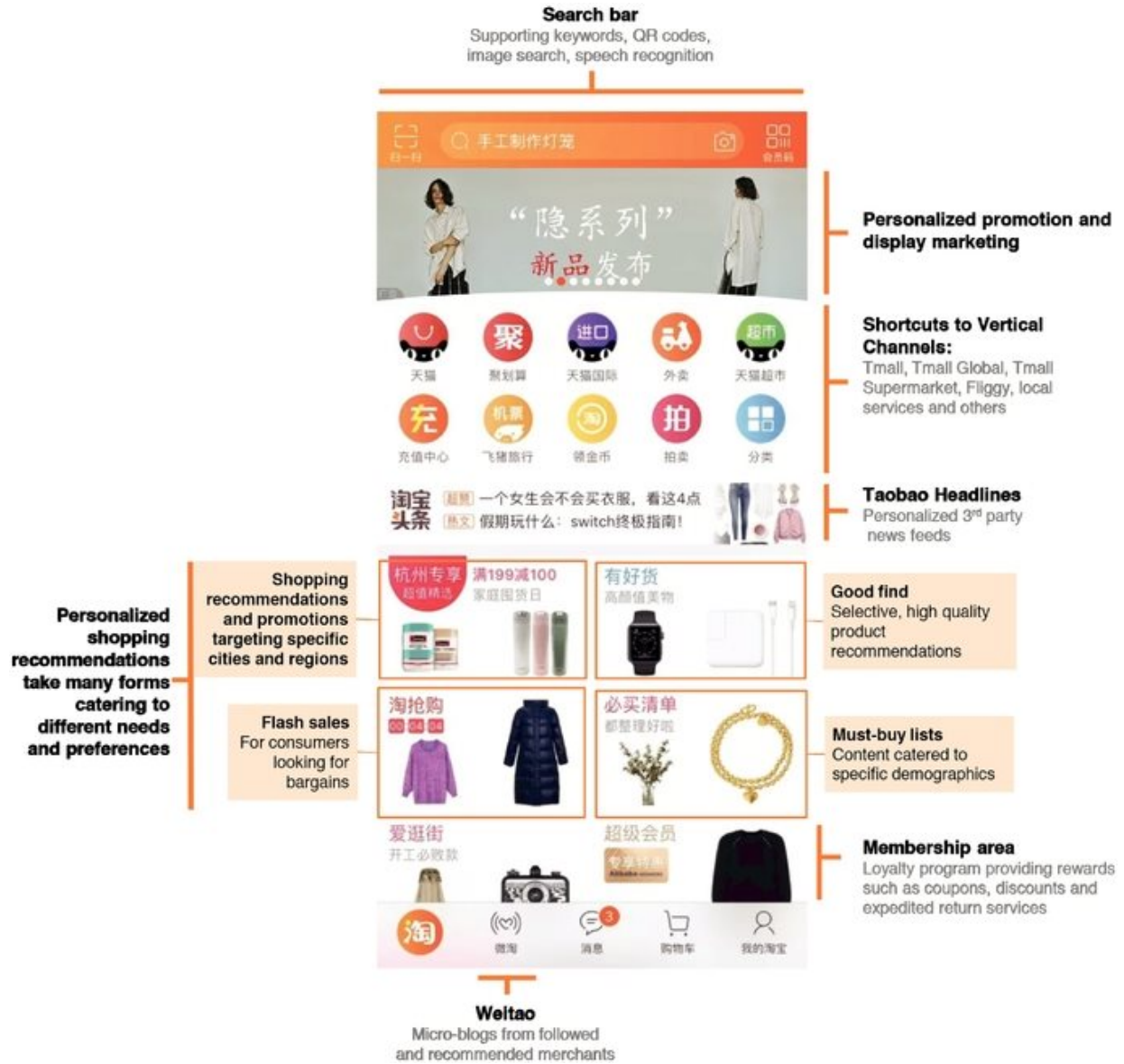
Taobao means "search for treasure" in Chinese. Through the website at [www.taobao.com](http://www.taobao.com) and the Taobao App, Taobao Marketplace is positioned as the starting point and destination portal for the shopping journey. Consumers come to Taobao Marketplace to enjoy an engaging, personalized shopping experience, optimized by our big data analytics. Through highly relevant and engaging content and real-time updates from merchants, consumers can learn about products and new trends. They can also interact with each other and their favorite merchants and brands. With a broad offering of interactive features such as live broadcast, groups and short videos, Taobao Marketplace has become an established social commerce platform.

Taobao Marketplace provides a top-level traffic funnel that directs users to the various marketplaces, channels and features within our ecosystem. For example, a search result on Taobao Marketplace displays listings not only from Taobao Marketplace merchants but also from Tmall merchants, thereby generating traffic for Tmall.

Taobao Marketplace reaches a vast consumer base, including consumers from large cities and beyond. The substantial majority of users access Taobao Marketplace through mobile devices. Below is a visual presentation of various features of the Taobao App:

### Taobao App — Homepage

*Taobao App offers a unique social commerce experience through highly relevant content, personalized shopping recommendations and opportunities for social engagements*



### Taobao App — Personalized Shopping Experience

Consumers see different content based on relevancy to them

#### User 1: Woman with an Active Lifestyle

	Homepage	Search results	Shopping recommendations
Promotion: Healthy lifestyle			
Personalized homepage showing sportswear and swimsuits			

#### User 2: Married Woman with Kids

	Homepage	Search results	Shopping recommendations
Promotion: Children's products			
Personalized homepage showing children's clothes			



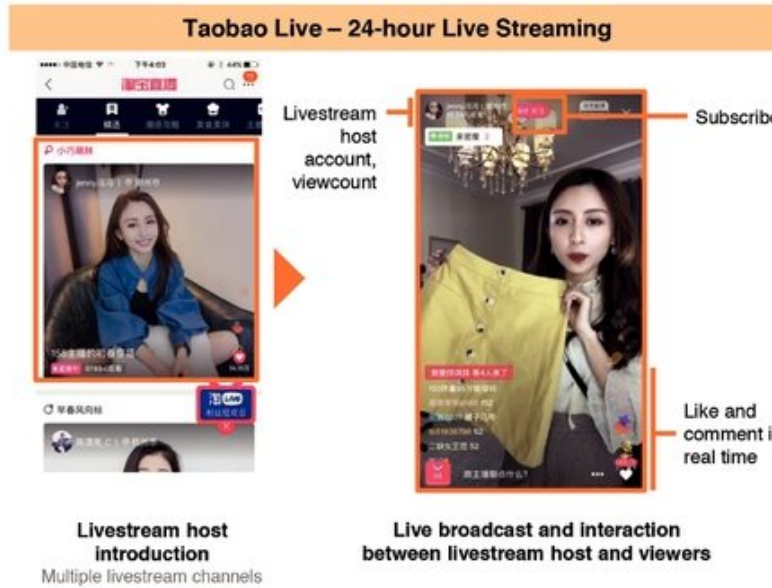
Taobao App — Rich and Engaging Content for Consumers

Consumers come to Taobao App to discover new trends and browse for ideas



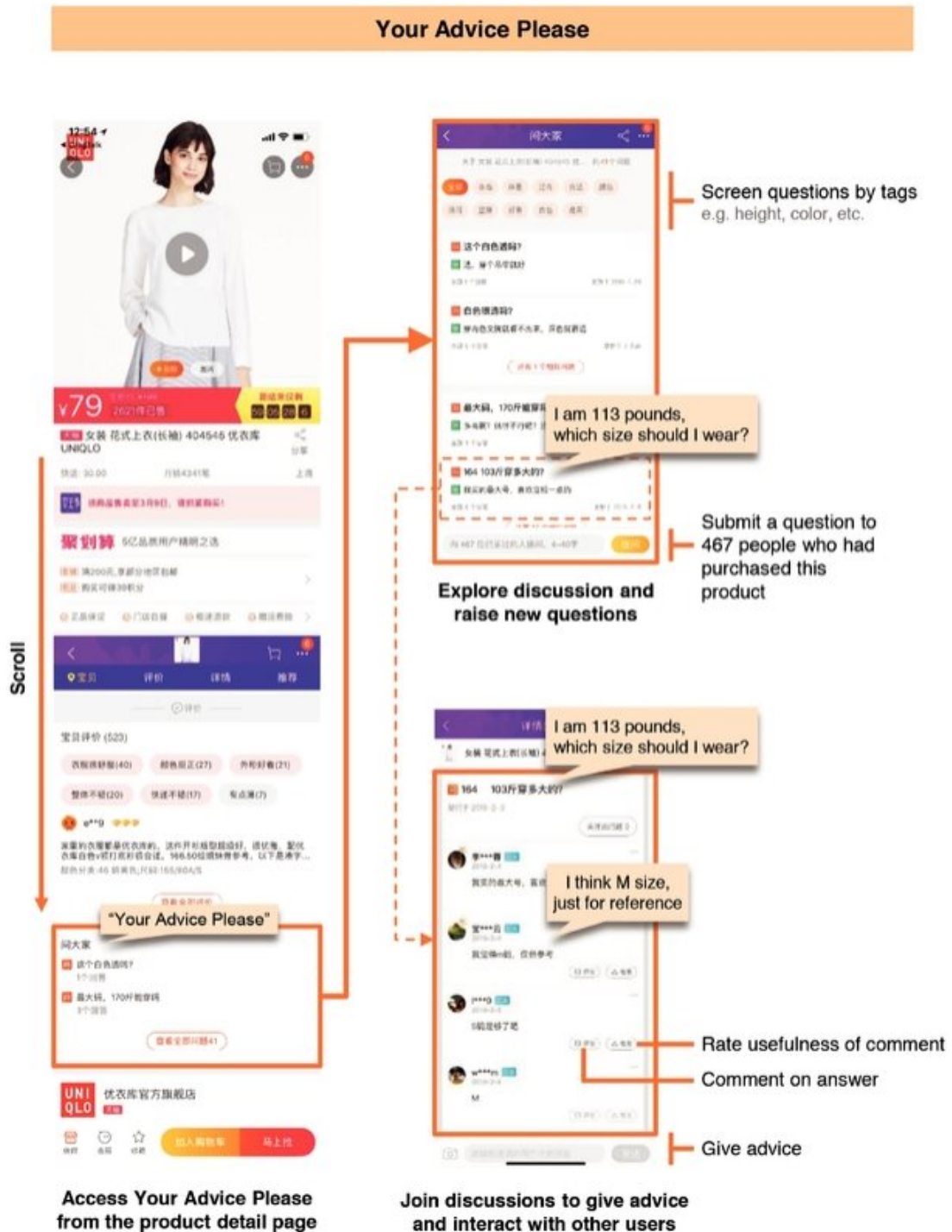
## Taobao App — Enabling Merchants to Engage with Consumers

*Taobao App offers features like social media, live video streaming and storefront chat groups which allow merchants to engage with consumers beyond their storefronts*



## Taobao App — Enable Massive Consumer Base to Interact with One Another

Interest-based interactive platform for consumers to share shopping experiences, interact with one another and answer each other's questions





Taobao Marketplace is also the entry point to verticals, such as second-hand auctions, and online travel booking, which may also be accessed through their own independent mobile apps.

Merchants on Taobao Marketplace are primarily individuals and small businesses. Merchants can create storefronts and listings on Taobao Marketplace free of charge. The escrow payment services provided by Alipay are free of charge to consumers and merchants unless payment is funded through a credit product such as a credit card, in which case Alipay charges a fee to the merchant based on the related bank fees charged to Alipay. Taobao Marketplace merchants can purchase P4P and display marketing services to direct traffic to their storefronts. In addition, merchants can acquire additional traffic from third-party marketing affiliates. Taobao Marketplace merchants can also pay for advanced storefront software that helps to upgrade, decorate and manage their online storefronts.

### *Tmall*

Tmall caters to consumers looking for branded products and a premium shopping experience. A large number of international and Chinese brands and retailers have established storefronts on Tmall. We have positioned Tmall as a trusted platform for consumers in China and overseas to buy both homegrown and international branded products as well as products not available in traditional retail outlets. According to Analysys, Tmall was the largest B2C platform in China in terms of GMV in 2017. We believe Tmall was also the largest and fastest-growing B2C platform for physical merchandise in China in the twelve months ended March 31, 2018.

In 2009, Tmall pioneered November 11, known as "Singles Day" in China, as an annual shopping festival. Singles Day has become the most important shopping event in China and we believe it generated the highest one-day retail sales volume in the world: on November 11, 2017, our China retail marketplaces and AliExpress generated GMV of RMB168.2 billion (US\$25.3 billion) settled within a 24-hour period, reflecting the strength of our infrastructure and the scale of the entire Alibaba ecosystem.

Tmall is the partner of choice for brands. Brands and retailers operate their own stores on the Tmall platform with unique brand identities and look and feel, accompanied by full control over their own branding and merchandising. As of March 31, 2018, there were over 150,000 brands on Tmall, including 76% of the consumer brands ranked in the Forbes Top 100 World's Most Valuable Brands for 2018. Because of the presence of a large number of global brands and the stringent standards required for merchants to join and operate on Tmall, a presence on Tmall has become a validation of quality, allowing merchants to take advantage of our significant traffic to extend and build brand awareness and customer engagement. Major international brands that have physical operations in China are well represented on Tmall. In addition, Tmall Global, an extension of Tmall, addresses the increasing demand from Chinese consumers for international products and brands that do not have physical operations in China.

Brands and retailers turn to Tmall not only for its broad user base, but also for its data insights and technology that enable them to digitize their operations, engage, acquire and retain consumers, build brand recognition, innovate on products, manage their supply chains and enhance their operational efficiency.

We also seek to build our mind-share among consumers to position Tmall as the premier shopping destination for everyday items, highlighting value and convenience. For example, through Tmall Supermarket, we offer consumers frequently purchased products, such as FMCG, in densely populated top-tier cities. We have strengthened consumer recognition of Tmall's value proposition in consumer electronics and home appliances through promotional events and strategic partnerships.

Like Taobao Marketplace merchants, Tmall merchants have access to P4P and display marketing services and storefront software, which they can use to fully customize their storefronts right down to the software code.

### *Rural Taobao*

As of December 31, 2017, 576 million people in China resided in rural areas, according to the National Bureau of Statistics of China. Geographic and infrastructural limitations highly constrain consumption and

commerce in rural areas, as the cost of distribution to geographically dispersed and remote locations is prohibitively high. We aim to increase the level of consumption and commerce in rural China through our Rural Taobao program, which had established service centers in over 26,000 villages as of March 31, 2018, to give rural residents greater access to goods and services and the ability to sell what they produce to urban consumers.

Villagers can place orders at service stations, and the goods, such as consumer goods, electronic appliances and agricultural supplies, ordered online are delivered to county-level service centers and then distributed by local couriers to service stations in the villages for pick up. Our Rural Taobao program also helps rural Chinese villages to create a production economy by enabling rural residents and businesses to sell high quality agricultural products to urban consumers.

Through our Rural Taobao program, we are pioneering a two-way distribution infrastructure to connect commerce between cities and rural areas in China. We believe Rural Taobao brings significant benefits to rural residents by improving their quality of life, and to brands and retailers who wish to extend their reach by accessing China's vast rural population.

#### *New Retail initiatives*

We have introduced New Retail initiatives to transform the retail landscape and reengineer the fundamentals of retail operations. New Retail represents the convergence of online and offline retail by leveraging digitized operating systems, in-store technology, supply chain systems, consumer insights and the mobile ecosystem to provide a seamless experience for consumers. We believe the lack of real-time consumer insights is one of the key issues facing China's traditional retail sector today. Through consumer insights and technology, our New Retail initiatives focus on enabling traditional retailer partners to reinvigorate their businesses by digitalizing their operations and increasing their catchment area online and offline, thereby improving sales productivity. We are also empowering retailers with our new technology to significantly improve operating efficiency and allow them to react to consumer demands on a real-time basis.

Our New Retail initiatives consist of creating new and transforming old business models, through organic incubation and strategic investments and alliances. We started with the transformation of the FMCG category and launched a comprehensive New Retail pilot model by establishing Hema (盒马). Hema is a premium fresh food store chain that innovatively uses its physical retail spaces to simultaneously function as storefronts, including for in-store dining, and warehouse for online orders. Its proprietary fulfillment system enables 30-minute delivery to customers living within a three-kilometer radius of a Hema store. Hema offers a mobile app that allows consumers to search products and place orders while browsing the store. To improve consumer experience, transaction data is used to personalize recommendations, while geographic data helps to plan the most efficient delivery routes. Hema is also shortening the sourcing process and increasing supply chain transparency and visibility through data technology. We believe that additional New Retail formats can be rolled out in other categories in the future.

At the current initial stage, we are developing this New Retail model as our own business initiative, and expect to make it available as a platform to our ecosystem participants in the future. For example, in November 2017, we invested in and formed a strategic alliance with Sun Art, the number one hypermarket chain in China in 2017 by retail value sales, according to Euromonitor International Ltd, to explore New Retail opportunities in China's food retail sector. We have started to equip Sun Art with our proprietary technology and know-how to implement its digital transformation.

Aside from the FMCG sector, we are also pursuing other New Retail initiatives. For example, in the clothing and accessories retail sector, we have acquired Intime Retail, a leading department store chain in China with a focus on prime shopping locations, to transform the traditional retail sector. Intime Retail has established a leading position in Zhejiang province and secured strategic footholds in Beijing and other provinces. In electronics, Tmall has collaborated with Suning to introduce a range of experimental New Retail business model initiatives.

### *Alibaba Health*

Alibaba Health is our flagship vehicle for bringing innovative solutions to the healthcare industry. It sells healthcare products, provides e-commerce platform services, operates product tracking platforms and develops intelligent medicine and health management services.

### ***Branding and Monetization Platforms***

#### *Alimama*

Alimama is our monetization platform. Using data technology, this platform matches the marketing demands of merchants and brands with the media resources on our own platforms and third-party properties, and enables us to monetize our core commerce and digital media and entertainment businesses. The platform supports P4P marketing services based on keyword search rankings or display marketing in fixed positions that are bid on through auctions, as well as cost per thousand impression (CPM)-based, time-based marketing formats, or individual campaigns at fixed cost, through the display of photos, graphics and videos.

The ranking of P4P search results on our core commerce platforms is based upon proprietary algorithms that take into account the bid price of keywords, the popularity of an item or merchant, customer feedback ranking of merchants and quality of product displays. For display marketing, the Alimama platform serves marketing messages based on data from our ecosystem. The relevance and comprehensiveness of data based on commercial activity and user activity in our ecosystem provide a unique advantage for Alimama to target the most relevant information to users.

Alimama also has an affiliate marketing program that places marketing displays on third-party websites and apps, thereby enabling marketers, if they so choose, to extend their marketing and promotional reach to properties and users beyond our own marketplaces. Our affiliate marketing program not only provides additional traffic to our core commerce platforms, but also generates revenue to us.

Alimama operates the Taobao Ad Network and Exchange, or TANX, one of the largest real-time online bidding marketing exchanges in China. TANX helps publishers to monetize their media inventories both on web properties and mobile apps. TANX automates the buying and selling of billions of marketing impressions on a daily basis. Participants on TANX include publishers, marketers and demand side platforms operated by agencies.

#### *Marketing for Brands*

Drawing on our big data capabilities, we have developed a Uni Marketing approach that digitizes consumer-brand relationships and empowers brands to build robust relationships with consumers throughout their lifecycles in our ecosystem. We aim to help brands reach consumers by leveraging our marketplaces, Youku, UC Browser, strategic partners in our ecosystem, as well as other major third-party Internet properties in China. We intend to become the key partner for brand building by creating an open, inclusive and transparent platform where brands and marketing agencies are able to design, execute, track and optimize their brand building activities using our data and tools.

### ***Commerce technologies and services***

We provide commerce technologies and services to enable merchants and brands on Taobao marketplace and Tmall to enhance their online and offline operational capabilities. Through our commerce technologies, innovative services and data capabilities, merchants and brands can acquire, retain and further deepen their engagement with

consumers in an efficient and effective manner, thereby enhancing the merchants' and brands' loyalty to our platforms. These commerce technologies and services include two key components:

*Core Operations Control Panel*

We provide an integrated online control panel that allows merchants to conduct core operations through a unified interface. It offers essential business tools, such as an operations dashboard and direct messaging, access to business software marketplace and access to a wide range of offline services such as fashion modeling and photography, among others.

Merchants on our China retail marketplaces use this control panel to conduct day-to-day operations, such as managing stores and product listings, fulfilling orders, managing inventory and transactions, conducting sales and marketing activities, servicing customers, managing procurement process, interacting and collaborating with other businesses and seeking credit financing provided by Ant Financial.

*Big Data Support and Engagement Platform*

Equipped with our "intelligent store" solution, designed to improve offline operations, brands on our secure cloud-based data insights platform have access to a sophisticated databank and analytics services that consolidate online and offline data and help brands gain insights into each stage of the consumer journey and provide a personalized online and offline shopping experience for consumers.

***Retail Commerce — Cross-border and global***

Our retail commerce — cross-border and global businesses include Lazada, AliExpress, Tmall Global and certain other initiatives. In the twelve months ended March 31, 2018, Lazada and AliExpress had more than 90 million annual active consumers.

*Lazada*

Lazada operates a leading e-commerce platform across Southeast Asia, with local language websites and mobile apps in Indonesia, Malaysia, the Philippines, Singapore, Thailand and Vietnam. Lazada offers merchants and brands a one-stop marketplace solution to access consumers in these six countries. Lazada also sells products on its platform directly via its own retail operations. In addition, it has an extensive in-house logistics operation, which is supported by our highly scalable warehouse management system, to ensure quick and reliable order fulfillment.

*AliExpress*

AliExpress is a global marketplace targeting consumers from around the world and enabling them to buy directly from manufacturers and distributors primarily in China. In addition to the global English-language site, AliExpress operates sixteen local language sites, including sites in Russian, Portuguese, Spanish and French. Consumers can access the marketplace through its websites or the AliExpress App. Top consumer markets where AliExpress is popular are Russia, the United States, Brazil, Spain and France.

*Tmall Global*

Through Tmall Global, an extension of Tmall, we address the increasing Chinese consumer demand for international products and brands. Tmall Global is the premier platform for overseas brands and retailers to reach Chinese consumers, build brand awareness and gain valuable consumer insights in forming their overall China strategy, without the need for physical operations in China. Tmall Global includes Tmall Imports, which is an important part of our New Retail initiatives. According to Analysys, for fiscal year 2018, Tmall Global was the number one import e-commerce platform in China based on transaction value.

*Other Initiatives*

In January 2017, we and the International Olympic Committee launched a historic long-term partnership that will last through 2028. Joining The Olympic Partner (TOP) worldwide sponsorship program, Alibaba has become the official "E-Commerce Services" Partner and "Cloud Services" Partner and a founding partner of the Olympic Channel through the 2028 Games in Los Angeles.

***Wholesale Commerce in China***

*1688.com China domestic wholesale marketplace*

1688.com, China's largest integrated domestic wholesale marketplace in 2017 by revenue, according to Analysys, connects wholesale buyers and sellers in China who trade in apparel, general merchandise, home decoration and furnishing materials, electronics, shoes, packaging materials and food and beverages, among others. A significant number of merchants on our China retail marketplaces source their inventory on 1688.com. Listing items on 1688.com is free. Sellers may purchase a China TrustPass membership for an annual subscription fee to reach customers, provide quotations and transact on the marketplace. Paying members may also pay for additional services, such as premium data analytics and upgraded storefront management tools, as well as customer management services. As of March 31, 2018, 1688.com had over 887,000 paying members.

*Lingshoutong retail sourcing platform*

Lingshoutong, a digital sourcing platform, allows local mom-and-pop shops in China to directly source products from a broad selection of brands at competitive prices. The platform allows these shop owners to increase their sales opportunities and lower operating costs. The brand partners distributing through Lingshoutong benefit from deeper distribution channels, especially in lower tier cities in China where the retail network is less developed.

***Wholesale Commerce — Cross-border and global***

Alibaba.com is China's largest integrated international online wholesale marketplace in 2017 by revenue, according to Analysys. Sellers on Alibaba.com may purchase an annual Gold Supplier membership to reach customers, provide quotations and transact on the marketplace. Sellers may also purchase an upgraded membership package to receive value-added services such as upgraded storefront management tools and P4P services. Buyers on Alibaba.com were located in over 190 countries as of March 31, 2018. Buyers are typically trade agents, wholesalers, retailers, manufacturers and SMEs engaged in the import and export business. Alibaba.com also offers its members and other SMEs import/export supply chain services, including customs clearance, trade financing and logistics services. As of March 31, 2018 Alibaba.com had over 164,000 paying members.

***Logistics Services***

Through Cainiao Network, we are committed to further strengthening the capabilities of our global logistics network. Our logistics vision is to be able to fulfill consumer orders within 24 hours in China and within 72 hours anywhere else in the world. To fulfill this vision, Cainiao Network adopts a platform approach to establish a nationwide fulfillment network that leverages the capacities and capabilities of logistics partners to offer domestic and international one-stop-shop logistics services and supply chain management solutions, fulfilling various logistics needs of merchants and consumers at scale.

*Platform approach*

As of March 31, 2018, Cainiao Network's 15 strategic express courier partners employed over 1.9 million delivery personnel in more than 700 cities and 31 provinces in China, according to data provided by them. Collectively they operated more than 200,000 hubs and sorting stations. During fiscal year 2018, Cainiao Network

and its logistics partners enabled the delivery of 20.6 billion packages that originated from our China retail marketplaces.

#### *Scalable fulfillment network*

The vast geographical area of China and wide distribution of Chinese consumers and merchants require a large and distributed logistics infrastructure. Cainiao Network has established a scalable, nationwide fulfillment network that consists of fulfillment hubs at key strategic locations, package sorting and distribution centers, and last mile stations, which are owned, leased or partnered with logistics data providers. The fulfillment network is connected by Cainiao Network's proprietary logistics data platform. This network facilitates the execution of our New Retail strategy. With this nationwide fulfillment network, medium and large merchants can place inventory across multiple locations in advance based on sales forecasts to optimize supply chain efficiency and provide fast delivery to consumers.

#### *Data technology capabilities*

Cainiao Network uses data insights and technology to improve efficiency across the logistics value chain. Powered by large-scale computing and machine learning capabilities, Cainiao Network's e-shipping label and value-added services optimize delivery routes and improve efficiency for express delivery couriers, leading to more accurate and speedy delivery to consumers.

#### *Comprehensive logistics solutions*

Leveraging its platform approach and data technology capabilities, Cainiao Network provides solutions to meet various logistics needs. Internationally, Cainiao Network provides cross-border fulfillment solutions to merchants on Tmall Global and AliExpress. In rural areas, Cainiao Network arranges the delivery from county level Rural Taobao stations to villages. In urban areas, Cainiao Network provides smart last-mile solutions, such as self-pickup by consumers from stations around urban communities and on college campuses, as well as package shipping.

#### *Consumer Services*

Our consumer services platforms consist of:

*Ele.me.* Ele.me (饿了么) (which means "Are you hungry?" in Chinese), a leading on-demand delivery and local services platform in China, enables consumers to use the Ele.me mobile delivery app to order meals, snacks and beverages online. Through a delivery network of direct-managed and agent-managed personnel, the company's service covered over 670 cities in China as of March 31, 2018. Under a cooperation agreement, Ele.me fulfills food orders generated from the Taobao App and Alipay App.

*Koubei.* Koubei, our equity investee and one of the leading local services platforms in China, generates traffic to restaurants and other local service providers by offering consumers a "closed loop" experience, from content discovery to finding the store to claiming discounts to payments.

*Fliggy.* Fliggy, a leading online travel platform in China, provides comprehensive reservation services for airline tickets, accommodation, train tickets, car rental, package tour and destination attractions. Fliggy enhances user experience through data technology that enables partnered hotels to identify travelers with good credit and provide travel privileges such as zero-deposit hotel booking, express check-out and automatic post-stay billing.

#### *Cloud Computing*

Alibaba Cloud is China's largest provider of public cloud services by revenue in 2017, including PaaS services and IaaS services, according to IDC (Source: IDC Semiannual Public Cloud Services Tracker, 2017), and world's third largest IaaS service provider by revenue in 2017, according to Gartner (Source: Market Share Analysis: IaaS and IUS, Worldwide, 2017, Colleen Graham et al, June 28, 2018). The technologies that power Alibaba Cloud

grew out of our own need to operate the massive scale and complexity of our core commerce business, including related payments and logistics elements. In 2009, we founded Alibaba Cloud to make these technologies available to third-party customers.

Alibaba Cloud offers a complete suite of cloud services to customers worldwide, including elastic computing, database, storage, network virtualization services, large scale computing, security, management and application services, big data analytics, a machine learning platform and IoT services. Products that differentiate Alibaba Cloud from our domestic peers include proprietary security and middleware products, large scale computing services and analytic capabilities supported by our big data platform. These products enable customers to quickly build IT infrastructure services on-line without on-premises work. We also operate data centers in a number of countries including Indonesia, Malaysia, India, Australia, Singapore, Germany, Japan, the United States and others.

As a major part of our partnership with the International Olympic Committee, we unveiled Alibaba Cloud ET Sports Brain, built on Alibaba Cloud's high-performance infrastructure of world-class data centers, network virtualization services and market-leading security services, which integrate data intelligence and machine learning to re-define engagement between fans, organizers, venues and athletes.

Our cloud computing segment information is presented after elimination of inter-company transactions. See "Item 5. Operating and Financial Review and Prospects — A. Operating Results — Segment Information for Fiscal Years 2016, 2017 and 2018." Furthermore, in fiscal year 2018, cloud computing revenue from related parties only contributed approximately 9% of our total cloud computing revenue.

### ***Digital Media and Entertainment***

Our digital media and entertainment business leverages our deep data insights to serve the broader interests of consumers through two key distribution platforms, Youku and UC Browser, and through diverse content platforms that provide movies, TV drama series, online dramas, variety shows, news feeds, games, literature and music, among other areas.

#### ***Key Distribution Platforms***

##### *Youku*

Youku is the third largest online video platform in China based on MAUs in March 2018, according to QuestMobile. It enables users to search, view and share high-quality video content quickly and easily across multiple devices. The Youku brand is among the most recognized online video brands in China.

Insights we gain from our retail commerce business and our proprietary data technology enable Youku to deliver relevant digital media and entertainment content to its users. At the same time, Youku helps drive customer loyalty to our core commerce business in the form of complementary content offerings for users. For example, a loyalty program member of our core commerce business can purchase a Youku membership at a preferential rate or be rewarded a membership free of charge. Youku is also the exclusive online video platform to live stream major events of our core commerce business such as the Countdown Gala Celebration for the 11.11 Global Shopping Festival, which is supported by interactive features to drive consumer engagement.

##### *UC Browser*

UC Browser is one of the top three mobile browsers in the world and the number two mobile browser in India and Indonesia by page view market share in March 2018, according to StatCounter (<http://gs.statcounter.com>).

#### ***Key Content Platforms***

We offer a diverse range of digital media and entertainment content using a sustainable production and acquisition approach. First, we provide self-produced content. We also jointly produce content through

arrangements with studios and directors that commission them to produce and distribute some or all of their content exclusively on our platforms. Third, we acquire rights to display content on our digital media and entertainment platforms pursuant to licensing agreements with rights holders. Last, we offer an open-platform on which user-generated content and professionally-generated content are generated and distributed. Our digital media and entertainment offerings include online videos, movies, news feeds, games, literature, music and sports.

We offer content from Alibaba Pictures, which is principally engaged in the production, promotion and distribution of entertainment content, serving consumers, studios, and cinema operators. Alibaba Games is a platform dedicated to the development, distribution and operation of mobile games. Alibaba Literature is our platform for distributing literature online, and it offers content for use in derivative works or tie-in entertainment. Our music platform provides music streaming and digital music online publishing services, as well as enabling the discovery and support of independent musicians.

### ***Innovation Initiatives***

#### ***AutoNavi***

AutoNavi is the largest provider of mobile digital map, navigation and real-time traffic information in China by MAUs in December 2017, according to Questmobile. In addition to providing these services to end users directly, AutoNavi also operates a leading open platform in China that powers many major mobile apps in different industries such as food delivery, ride service, taxi-hailing and social networking with its digital mapping technology, powered by big data. It also empowers major platforms and infrastructural service providers in our ecosystem including our China retail marketplaces, Cainiao Network and Alipay.

#### ***DingTalk***

DingTalk, our proprietary enterprise communication and collaboration platform, provides a unified interface for communications in different forms (including text messages, photo, voice, video and e-mail), workflow management and collaboration among team members and enterprises of various sizes. DingTalk's open platform also attracts ISVs to develop third-party enterprise applications or business services that are seamlessly integrated with DingTalk.

#### ***Tmall Genie***

Tmall Genie, our AI-powered voice assistant, helps consumers to shop, order local services, search for information, control smart appliances and play interactive content, including educational stories and music for children.

### **Ant Financial — Financial Technology Services**

Ant Financial, an unconsolidated related party, is a technology company focused on providing inclusive financial services to small and micro enterprises and consumers in China and across the world through sustained technological innovation and cooperation with financial institutions. It primarily operates a digital payment services business as well as financial technology platform services for wealth management, micro financing, insurance and other areas.

#### ***Digital payment service***

Ant Financial operates Alipay, a leading global third-party mobile payment platform. Through Alipay, Ant Financial provides digital payment processing services predominantly to online and offline merchants and consumers globally. This provides Alipay with deep insights into the needs of merchants and consumers, which allow it to continuously expand use cases and increase user mindshare, and thereby become a comprehensive platform and entry point for payment, lifestyle and innovative financial services. Alipay provides digital payment and escrow services for transactions on Taobao Marketplace, Tmall, 1688.com and a number of our other platforms and charges a fee based on a certain percentage of the payment amount processed. During fiscal year 2018, Alipay, together with its global JV partners, served approximately 870 million annual active users all over the world.



### *Financial technology platform services*

Ant Financial's financial technology services platform is a comprehensive and open platform where users can access and purchase a wide variety of wealth management, micro financing and insurance products and related services. The vast majority of such financial products are provided by third-party financial institutions. Ant Financial's platform primarily serves three sectors in China:

- *Wealth management.* Financial institutions, including fund management companies and insurance companies, offer money market funds, fixed income products, debt and equity securities funds, as well as other wealth management products through Ant Financial' wealth management platform. The platform also distributes money market funds under the name of Yu'eobao.
- *Micro-financing.* Banks and lenders offer credit services mainly to small and micro enterprises through Ant Financial's micro-financing platform, and also offer small-amount, short-term consumer credit services to consumers. Leveraging its deep user insights and technology capabilities, Ant Financial provides its partners with relevant technology services, thereby assisting financial institutions to serve more micro and small enterprise customers, reduce their credit risk and enhance user experience.
- *Insurance.* Ant Financial partners with insurance companies to provide innovative insurance products, including goods return freight insurance and account security insurance, thereby meeting the potential insurance needs inherent to the new Internet economy. Through its insurance platform, Ant Financial also helps insurance company partners to continuously engage in product innovation and customer engagement.

Apart from satisfying the needs of Chinese consumers and small and micro enterprises, Ant Financial continues to pursue its globalization strategy. Ant Financial cooperates with overseas strategic partners to launch local e-wallets in major developing countries using experience and innovative technology developed in China. It also offers inclusive digital payment and financial technology services to local consumers and small and micro enterprises.

For additional details on our commercial relationship with Ant Financial and Alipay, see "Item 7. Major Shareholders and Related Party Transactions — B. Related Party Transactions Agreements and Transactions Related to Ant Financial and its Subsidiaries."

### **Customer Service for China Retail Marketplaces**

Our customer service representatives serve consumers and merchants on our marketplaces through telephone hotlines, real-time instant messaging and online inquiry systems. In addition, merchants on our platforms serve their customers with commerce technologies and services we provide. Based on big data analytics, we provide numerous methods to facilitate the resolution of disputes. Aside from disputes referred to our customer service representatives for resolution and disputes handled automatically by our system, consumers may also choose adjudication by a large panel of experienced consumers and merchants.

With certain exceptions, consumers on our China retail marketplaces may return the purchased goods within seven days from receipt. Alipay's escrow payment services ensure efficient refunds. In addition, for qualified consumers with good credit history, we may accelerate refund procedure by making the refund payment upon the buyer's submission of a refund application and proof of shipment for the returned goods.

### **Consumer Protection**

We believe every consumer has the right to protection from false and misleading claims and harmful products. We encourage our merchants to make product quality a priority and have set up various programs to this end. All Tmall merchants are required to contribute to and maintain a consumer protection fund for the benefit of consumers. Consumer protection fund deposit requirements vary by product category and typically range from RMB10,000 to RMB500,000 per storefront. For Tmall Global merchants, the consumer protection fund deposit requirement typically ranges from RMB150,000 to RMB300,000 for standard storefronts. The majority of Taobao

Marketplace merchants maintain individual consumer protection funds with minimum amounts ranging from RMB1,000 to RMB50,000. All Tmall and Taobao Marketplace merchants are required to sign agreements with us authorizing us to deduct consumer protection funds from their Alipay accounts in the event of confirmed consumer claims. Merchants who have failed to maintain a minimum amount in their consumer protection funds are blocked from showing product listings in our search results.

The consumer protection fund amounts are displayed on each merchant's information page. Many merchants on Tmall and Taobao Marketplace provide a larger deposit than required and make additional service commitments, such as expedited shipment, free maintenance for electronics and installation services for furniture purchases, to demonstrate to their customers their confidence in the quality of their services and products. In addition, Alipay's escrow payment services offer consumers further protection by applying a risk-adjusted payment release schedule to merchants based on merchants' historical track records including service level, product quality and dispute rate.

### **Transaction Platform Safety Programs**

Preserving the integrity of our marketplaces is fundamental to our business. We are committed to protecting intellectual property rights and eliminating counterfeit merchandise and fictitious activities. Infringement of intellectual property, both online and offline, is an industry-wide issue globally. By working with rights holders, trade associations and governments around the world, we have made significant progress in combating the issue of intellectual property rights infringement. As of March 31, 2018, there were over 150,000 brands on Tmall, including 76% of the consumer brands ranked in the Forbes Top 100 World's Most Valuable Brands for 2018, a demonstration of the trust such brands place in the integrity of our marketplaces.

#### ***Product Authenticity***

We are committed to offering authentic, high quality products across our platforms, including high quality overseas products on Tmall Global, grocery and FMCG products on Tmall Supermarket. At the same time, we are committed to partnering with brands, rights holders and law enforcement authorities both online and offline to monitor product authenticity and protect intellectual property across our platforms. We have called for collective efforts in the fight against counterfeiting that include stronger law enforcement measures and harsher penalties for those found to be engaged in criminal activity. In addition, we also initiate civil actions against counterfeiters.

Our product authenticity initiatives have produced effective results. As part of our commitment to allow only authentic product listings on our platforms, we employ big data and technology to proactively identify and shut down storefronts selling infringing products and remove suspect product listings. Our offline product authenticity initiatives also have borne tangible results as we have provided law enforcement authorities with evidence to successfully track down and arrest violators of intellectual property rights in a number of instances.

By leveraging our advanced technologies, as well as engaging in close collaboration with stakeholders, including rights holders, trade associations and governments, we have implemented the following best practices:

- *Notice and take down system.* We operate a rigorous notice-and-takedown system that allows rights holders to request the removal of potentially infringing listings from our platforms. We offer qualified rights holders a simplified takedown program pursuant to which we expedite claims and simplify the notification procedure. We collaborate with rights holders to proactively identify suspicious listings, giving them an opportunity to review these listings and submit takedown requests.
- *Proactive monitoring (identification and take down) powered by big data.* We utilize our proprietary algorithms to proactively detect the presence of suspicious goods. We also have developed the capability to perform real-time scanning of suspicious product specifications during a merchant's listing creation process, which helps us prevent merchants from uploading infringing content. For example, we employ Optical Character Recognition (OCR) and logo recognition technologies to conduct text and logo detection on images used in product listings in order to ensure that the products offered are authentic. Our detection technology is

capable of constantly improving through machine learning. Our ability to quickly and efficiently monitor and remove problematic products is constantly improving as more and more brands and rights holders contribute information about their intellectual property to our systems.

- *Offline enforcement.* We also work closely with brands and law enforcement authorities to assist in their offline investigations against counterfeiting. With insights drawn from our data analytics, we help law enforcement authorities to identify manufacturers and dealers of suspicious goods so they can be brought to justice.

#### ***Alibaba Anti-Counterfeiting Alliance (AACA)***

In January 2017, we established the AACA to encourage collaboration among industry participants in the promotion of intellectual property rights protection. Famous global consumer brands, such as 3M, Amway, Ford, Johnson & Johnson, Mars, Procter & Gamble and Spalding, participate in the AACA as founding members and today the membership has expanded to 105 brands in 12 industries, including consumer goods, automotives and pharmaceuticals.

The AACA is committed to using Internet technology and data to combat IP infringement. The goal is to encourage rights holders, e-commerce platforms, and law enforcement agencies to work collaboratively to protect intellectual property rights through increased communication and the exchange of information. The AACA shares best practices among the members and engages in joint media outreach to educate the public and consumers about the damage counterfeit products cause, including with respect to health, the environment and safety.

The AACA has established an Advisory Board aimed at creating an efficient channel for rights holders to provide feedback on significant IP enforcement-related strategies and policies, and acts as a leading industry forum to discuss new trends in online IP infringement activities, litigation and platform practices.

#### ***Combatting Fictitious Transactions***

With respect to fictitious activities, we have and will continue to invest significant resources in protecting the trust and credit system we have built on our marketplaces. Measures to prevent, detect and reduce the occurrence of fictitious transactions on Taobao Marketplace and Tmall we have implemented include:

- requiring the use of merchants' real identities when opening accounts;
- analyzing transaction patterns to identify anomalies;
- enabling consumers and merchants to report suspicious transactions;
- maintaining a "blacklist" of merchants who have previously been involved in fictitious transactions; and
- collaborating with law enforcement authorities to combat fictitious activities by merchants and websites that enable fictitious activity.

#### ***Penalties***

We aim to protect consumers by excluding suspicious merchandise and fictitious transactions from the ranking system, credit system and transaction volume statistics. When these activities are confirmed, we penalize the parties involved, based on the severity of the violation, through a number of means including: permanently banning merchants from opening accounts on our platforms, closing down storefronts, limiting merchants' ability to add listings, imposing restrictions on participation in promotional activities on our marketplaces, and placing merchants' product listings at the bottom in search ranking results.

#### **Our Technology**

Technology is key to our success in achieving efficiency, improving user experience, and enabling innovation. Our world-class proprietary technology supports peak order volumes of up to hundreds of thousands per second,

delivers tens of billions of online marketing impressions per day, and enables millions of merchants, brands and other businesses to conduct their operations efficiently and effectively. The uniqueness of our technology lies in the unparalleled large-scale application environment due to the scale of our businesses. By constantly applying our technology across our businesses, we generate knowledge and innovations that drive improvements and further technological development.

As of March 31, 2018, we employed over 24,000 research and development personnel. Members of our research and development personnel play key roles in various international standardization organizations in areas such as e-commerce, security and IoT. In addition, we are also active in open source communities. In October 2017, we announced the launch of the DAMO Academy, a global research program in cutting-edge technology that aims to integrate science with industry and speed up information exchange between them. It encourages a collaborative environment where scientific discoveries can be more rapidly applied to real-life problems.

Key components of our technology include those described below:

***Technology Infrastructure***

Our data centers utilize leading technologies in distributed structure, innovative cooling techniques, distributed power technology and intelligent monitoring, and we believe we operate at the lowest power usage effectiveness, or PUE, ratio worldwide. The multi-region availability of our transaction system data centers provides scalability and stable redundancy.

***Cloud Operating System***

Aspara, our cloud computing operating system, is a proprietary general purpose distributed computing operating system that provides Alibaba Cloud customers with enhanced computing power to support their business growth in the new technology era.

***Big Data Analytics Platform***

We have developed a distributed data analytics platform that can efficiently handle the complex computing tasks of hundreds of millions of data dimensions, providing deep data insights to our businesses and our cloud computing customers. Our big data analytics platform includes MaxCompute, an offline data storage and computing platform, StreamCompute, a real-time data storage and computing platform, and OneData, a data integration and management system.

***Artificial Intelligence***

We believe we are one of the few companies in the world with a proprietary, distributed deep learning platform that has access to consumer insights across diverse businesses involving a rich variety of consumer experiences. As a result, we believe we are in a unique position to develop large-scale commercial use of artificial intelligence, or AI. We have applied various AI technologies across our ecosystem to enhance the consumer experience. These enhancements include personalized search results and shopping recommendations empowered by deep learning and data analytics, speech recognition and image analysis technology adopted in search functions, and intelligent customer service. In addition, our AI capabilities enable us to introduce innovative products, such as Tmall Genie, our AI-powered voice assistant.

***Internet of Things***

We are engaged in the development of a wide range of IoT technologies, such as PaaS, microchip design and development framework, operating systems and cloud computing capabilities for transportation, home, mobile, public and industrial applications. Our IoT PaaS and data allow hardware to work in more application scenarios and solutions as well as for applications to have more hardware options.

### ***Security***

We have established a comprehensive situational awareness and risk management security infrastructure that spans across our entire network, covering our systems, apps, data, services and individual end users. Our back-end security system handles hundreds of millions of instances of malicious attacks each day to provide effective security for our commerce and cloud platforms.

### **Sales and Marketing**

As Taobao Marketplace is China's largest mobile commerce destination with an exceptionally wide range of product offerings and Tmall is China's largest third-party platform for brands and retailers, we have wide consumer recognition of our brand and enjoy significant organic traffic through word-of-mouth. We believe the reputation and ubiquitous awareness of our brand and platforms in China and, increasingly, abroad, provide us with the best and most cost-efficient marketing channel. In addition, we also use other marketing initiatives to promote our platforms. In January 2017, we and the International Olympic Committee launched a historic long-term partnership that will last through the 2028 Games in Los Angeles, and during the most recent fiscal year, we increased our marketing efforts, such as a highly coordinated marketing and promotional campaigns on Tmall for the Singles' Day Global Shopping Festival, to expand the user base of our China retail commerce business. We expect to continue our marketing activities in the future. We also expect to enhance our monetization capability through leveraging our data technologies to develop and offer more personalized and innovative services, so as to improve customer experience and wallet share. Further, our major business segments and other elements in our ecosystem provide synergetic advantages and create cross-promotional opportunities. For example, the large number of consumers on our marketplaces attracts a large number of merchants who become customers for our online marketing services.

### **Socially Responsible Mindset**

At Alibaba, we believe acting in a socially responsible way is part of our business model. Since our founding, we have been highly committed to supporting and participating in charitable and socially responsible projects that align with our core values and mission, and to establishing a technology-driven charitable ecosystem to extend the benefits of our technological capabilities to the community at large.

Our major corporate social responsibility achievements and initiatives include:

#### ***Creating Job Opportunities***

The breadth of our ecosystem and the range of different types of service providers needed within it create substantial employment opportunities. In addition to providing direct business opportunities for merchants, our ecosystem has created new opportunities for service providers in logistics, marketing, consulting, operations outsourcing, training and other online and mobile commerce professions. AliResearch, our research division, estimates that our China retail marketplaces had contributed to the creation of over 36 million direct and indirect job opportunities in China, including people working directly for online storefronts, service providers to merchants and other businesses across the value chain.

With the power of new technology, our platforms have leveled the playing fields for businesses in many aspects, helping to foster an inclusive economy for everyone to thrive and prosper. In fiscal year 2018, approximately half of the annual active sellers on our China retail marketplaces were female.

#### ***Supporting Rural Development in China***

As we expand to rural areas in China, we have created opportunities for rural residents to improve their standard of living by helping them sell agricultural produce to urban consumers and providing them with greater access to more varieties of high quality goods and services through online shopping. As of March 31, 2018, our

Rural Taobao program had established service centers in over 26,000 villages in China, approximately 8,000 of which were in state-designated impoverished counties.

### ***Poverty Relief Programs***

We are committed to contributing to China's poverty relief initiatives. Apart from using our own resources, we also leverage our platform's reach to maximize our influence and our technological capabilities to increase the efficiency of these initiatives.

In December 2017, we announced plans to launch a RMB10 billion Alibaba Poverty Relief Program, as part of our ongoing efforts to promote positive social change and combat poverty in China. The program focuses on education, rural commerce advancement, empowering women, healthcare and environmental sustainability. The program will primarily be funded by donations from us and the partners in the Alibaba Partnership.

We also provide health insurance funded by donations collected on our platforms to cover major illnesses to breadwinners in impoverished households in selected provinces. As part of this initiative, we use our technology to enable insurers to accept and verify insurance applications online and donors to track the use of their donations. These measures help to reduce the operating costs of insurance companies, allowing a greater portion of the donations to be used to pay out insurance claims. As of March 31, 2018, we have raised approximately RMB38 million and provided health insurance to 810,000 families in 10 impoverished counties.

Taobao University offers e-commerce classes to entrepreneurs and rural villager. Taobao University offers online courses in approximately 98.9% of state-designated impoverished counties. In fiscal year 2018, over 210,000 students from 823 state-designated impoverished counties took approximately 2,300 online courses on Taobao University.

### ***Contributing to Environmental Sustainability***

We work with enterprises and users to implement environmentally sustainable business models across various sectors, such as manufacturing, retail, logistics and cloud computing. Our cloud computing business not only helps enterprises reduce their need for computing hardware, its technology is also built on the idea of environment sustainability. For example, we launched a data center featuring an innovative cooling system that uses lake water to cut energy costs. Furthermore, Cainiao Network and other major Chinese express courier companies formed the Cainiao Green Alliance to promote green logistics initiatives, including "green packaging," that utilizes biologically degradable courier bags, tape-free boxes and package recycling bins, and "green warehouses," which have installed solar panels. Cainiao Network has also developed a packaging optimization algorithm, which on average reduces the use of packaging materials by approximately 15%, and was used in over 250 million delivery boxes and courier bags in fiscal year 2018.

### ***Charitable Contributions and Public Service***

We have always encouraged the active participation in public service by our company and our employees. Since 2010, we have established a special fund to encourage environmental awareness and conservation as well as other corporate social responsibility initiatives. In 2011, we established the Alibaba Foundation, a private charity fund that focuses on supporting environmental protection in China and helping the disadvantaged. In fiscal year 2018, we and the Alibaba Foundation made approximately RMB230 million (US\$37 million) in donations. Since September 2015, we have encouraged our employees to perform a minimum of three hours of public service every year.

We also leverage our ecosystem to extend the reach of our charitable initiatives and encourage merchants, consumers and other ecosystem participants to engage in public service. For instance, to support the United Nation's annual September 5 International Day of Charity, we initiated multiple public charity activities that attracted over 270 million instances of participation.

Charitable organizations can also set up storefronts on our marketplaces to raise funds and engage with volunteers. Merchants can designate a percentage of their sales proceeds generated on our platforms to go to charitable organizations. Consumers can contribute to charitable causes by purchasing public interest products, participating in charity auctions hosted on our platforms or directly making donations. Through our platforms, we supported over 1.7 million merchants and over 360 million users to donate to domestic and overseas charitable projects and enabled charitable organizations to raise approximately RMB320 million (US\$51 million) in donations in fiscal year 2018, which benefited approximately 3.3 million disadvantaged people.

Furthermore, our "Reunion" platform connects our and our partners' mobile apps to help locate missing children across China. Since its initial launch in mid 2016 and up to March 31, 2018, this platform has helped law enforcement authorities successfully locate 2,777 missing children, reflecting a 97.6% success rate. The "Reunion" platform has received international attention. To support the global effort on child protection, we hosted a global leadership conference in 2018 to share the technology and thinking behind our "Reunion" platform with organization from over 20 countries.

## Competition

We face competition principally from established Chinese Internet companies, such as Tencent, and their respective affiliates, global and regional e-commerce players, cloud computing service providers, such as Amazon, and digital media and entertainment providers. These competitors generate significant traffic and have established brand recognition, significant technological capabilities and significant financial resources. Although foreign e-commerce companies currently have a limited presence in China, we face significant competition from them in the areas of cross-border commerce. The areas in which we compete primarily include:

- *Consumers* — We compete to attract, engage and retain consumers based on the variety and value of products and services listed on our marketplaces, the engagement of digital media and entertainment content available on our platforms, the overall user experience of our products and services and the effectiveness of our consumer protection measures.
- *Merchants, Brands, Retailers and other Businesses* — We compete to attract and retain merchants, brands and retailers based on the size and the engagement of consumers on our platforms and the effectiveness of our products and services to help them build brand awareness and engagement, acquire and retain customers, complete transactions, expand service capabilities, protect intellectual property rights and enhance operating efficiency. In addition, we compete to attract and retain businesses of different sizes across various industries based on the effectiveness of our cloud service offerings to help them enhance operating efficiency and realize their digitization transformation ambitions.
- *Marketers* — We compete to attract and retain marketers, publishers and demand side platforms operated by agencies based on the reach and engagement of our properties, the depth of our consumer data insights and the effectiveness of our branding and marketing solutions.
- *Talent* — We compete for motivated and capable talent, including engineers and product developers to build compelling apps, tools, and functions and to provide services for all participants in our ecosystem.

As we acquire new businesses and expand into new industries and sectors, we face competition from major players in these and other industries and sectors. In addition, as we expand our businesses and operations into an increasing number of international markets, such as Southeast Asia, India and Russia, we increasingly face competition from domestic and international players operating in these markets. See "Item 3. Key Information — D. Risk Factors — Risks Related to Our Business and Industry — If we are unable to compete effectively, our business, financial condition and results of operations would be materially and adversely affected."

## Seasonality

Our overall operating results fluctuate from quarter to quarter as a result of a variety of factors, including seasonal factors and economic cycles that influence consumer spending as well as promotions.

Historically, we have experienced the highest levels of revenues in the fourth calendar quarter of each year due to a number of factors, including merchants allocating a significant portion of their online marketing budgets to the fourth calendar quarter, promotions, such as Singles Day on November 11 of each year, and the impact of seasonal buying patterns in respect of certain categories such as apparel. We have also experienced lower levels of revenues in the first calendar quarter of each year due to a lower level of operating activities by merchants at the beginning of the calendar year and the Chinese New Year holiday, during which time consumers generally spend less and businesses in China are generally closed. Moreover, as our fixed costs and expenses, such as payroll and benefits, bandwidth and location fees, grow at a relatively stable rate compared to our revenue growth, we will enjoy increased operating leverage in seasonally strong quarters, but will face significant margin pressure in seasonally weak quarters.

## **Regulation**

We operate in an increasingly complex legal and regulatory environment. We and our key service provider, Ant Financial, are subject to a variety of PRC and foreign laws, rules and regulations across a number of aspects of our business. As we have expanded our operations to other countries, we have become increasingly subject to applicable regulations in these jurisdictions. This section primarily summarizes the principal PRC laws, rules and regulations relevant to our business and operations, because the PRC remains the country where we conduct the substantial majority of our business and generate the substantial majority of our revenues. Other jurisdictions where we conduct business have their own laws and regulations that cover many of the areas covered by PRC laws and regulations, but their focus, specifics and approaches may differ considerably. Areas in which we are subject to laws, rules and regulations outside of the PRC include data protection and privacy, consumer protection, content regulation, intellectual property, competition, cross-border trade, taxation, anti-money laundering and anti-corruption. We may also face protectionist policies and regulatory scrutiny on national security grounds in foreign countries in which we conduct business or investment activities. See "Item 3. Key Information — D. Risk Factors — Risks Related to Our Business and Industry — We and Ant Financial are subject to a broad range of laws and regulations, and future laws and regulations may impose additional requirements and other obligations that could materially and adversely affect our business, financial condition and results of operations."

Our online and mobile commerce businesses are classified as value-added telecommunication businesses by the PRC government. Current PRC laws, rules and regulations generally restrict foreign ownership in value-added telecommunication services. As a result, we operate our online and mobile commerce businesses and other businesses in which foreign investment is restricted or prohibited through variable interest entities, each of which is owned by PRC citizens or by PRC entities owned by PRC citizens, and holds all licenses associated with these businesses.

The applicable PRC laws, rules and regulations governing value-added telecommunication services may change in the future. We may be required to obtain additional approvals, licenses and permits and to comply with any new regulatory requirements adopted from time to time. Moreover, substantial uncertainties exist with respect to the interpretation and implementation of these PRC laws, rules and regulations. See "Item 3. Key Information — D. Risk Factors — Risks Related to Doing Business in the People's Republic of China — There are uncertainties regarding the interpretation and enforcement of PRC laws, rules and regulations."

### ***Regulation of Foreign Investment***

The Foreign Investment Catalogue, the latest version of which came into effect on July 28, 2017, was promulgated by the MOFCOM and the National Development and Reform Commission, with the latest amendment to become effective as of July 28, 2018, and governs investment activities in the PRC by foreign investors. The recently amended Foreign Investment Catalogue includes two categories, i.e., "Category of Industries Encouraged for Foreign Investment" and "Special Administrative Measures (Negative List) for Foreign Investment Access," or the "Negative List." Industries not listed in the Foreign Investment Catalogue are generally deemed "permitted" for foreign investment. The Negative List expands the scope of industries for which foreign investment is permitted by reducing the number of industries that fall within the Negative List where foreign



investment is prohibited or restrictions on the shareholding percentage or requirements on the composition of board or senior management still exist. However, industries such as value-added telecommunication services, including Internet information services, remain restricted from foreign investment. Among our significant subsidiaries, Taobao (China) Software Co., Ltd. and Zhejiang Tmall Technology Co., Ltd. are registered in China and mainly engaged in software development, technical services and consultations, and Zhejiang Cainiao Supply Chain Co., Ltd. is also registered in China and mainly engaged in logistics services and supply chain solutions, all of which fall into the encouraged or permitted category under the latest Foreign Investment Catalogue. These three significant subsidiaries have obtained all material approvals required for their business operations. The Foreign Investment Catalogue does not apply to our significant subsidiaries that are registered and domiciled in Hong Kong, the British Virgin Islands or the Cayman Islands, and operate outside China. The businesses of our other PRC subsidiaries — including PRC subsidiaries of our significant subsidiaries — are generally software development, technical services and consulting, which fall into the encouraged or permitted category. Industries such as value-added telecommunication services, including Internet information services, are generally restricted to foreign investment pursuant to the latest Foreign Investment Catalogue. We conduct business operations that are restricted or prohibited to foreign investment through our variable interest entities.

In January 2015, the MOFCOM published a discussion draft of the proposed Foreign Investment Law, which embodies an expected PRC regulatory trend to rationalize its foreign investment regulatory regime in line with prevailing international practice and the legislative efforts to unify the corporate legal requirements for both foreign and domestic investments. The MOFCOM completed the solicitation of comments on this discussion draft in February 2015. The National People's Congress Standing Committee's Legislation Work Plan for 2018 issued on April 17, 2018 mentioned that Foreign Investment Law will be reviewed by the National People's Congress Standing Committee for the first time in December 2018, but substantial uncertainties exist with respect to its enactment timetable, the final version, interpretation and implementation. For more details, see "Item 3. Key Information — Risks Related to our Corporate Structure — Substantial uncertainties exist with respect to the enactment timetable, interpretation and implementation of draft PRC Foreign Investment Law."

In addition, on January 12, 2017, the State Council issued the Notice on Several Measures for Expansion of Opening-up Policy and Active Use of Foreign Capital, or the Notice No. 5, which purports to relax restrictions on foreign investment in sectors including service, manufacturing and mining. Specifically, the Notice No. 5 proposes to gradually open up telecommunication, Internet, culture, education and transportation industries to foreign investors. However, there are still substantial uncertainties with respect to the implementing rules and regulations of Notice No. 5.

### ***Regulation of Telecommunications and Internet Information Services***

#### ***Regulation of Telecommunication Services***

Under the Telecommunications Regulations of the PRC, or the Telecommunications Regulations, promulgated on September 25, 2000 by the State Council of the PRC and most recently amended in February 2016, a telecommunication service provider in China must obtain an operating license from the MIIT, or its provincial counterparts. The Telecommunications Regulations categorize all telecommunication services in China as either basic telecommunications services or value-added telecommunications services. Our online and mobile commerce businesses, as well as Youku's online video businesses, are classified as value-added telecommunications services. The Administrative Measures for Telecommunications Business Operating License, promulgated by the MIIT in December 2001 and most recently amended in September 2017, set forth more specific provisions regarding the types of licenses required to operate value-added telecommunications services, the qualifications and procedures for obtaining such licenses and the administration and supervision of such licenses.

Foreign investment in telecommunications businesses is governed by the State Council's Administrative Rules for Foreign Investments in Telecommunications Enterprises, or the Foreign Investment Telecommunications Rules, issued by the State Council on December 11, 2001 and most recently amended in February 2016, under which a foreign investor's beneficial equity ownership in an entity providing value-added telecommunications services in

China is not permitted to exceed 50%. In addition, for a foreign investor to acquire any equity interest in a business providing value-added telecommunications services in China, it must demonstrate a positive track record and experience in providing these services. However, according to the Notice on Lifting the Restriction to Foreign Shareholding Percentage in Online Data Processing and Transaction Processing Business (Operational E-commerce) promulgated by the MIIT on June 19, 2015, foreign investors are allowed to hold up to 100% of all equity interest in the online data processing and transaction processing business (operational e-commerce) in China, while other requirements provided by the Foreign Investment Telecommunications Rules shall still apply. It is unclear how this notice will be implemented and there exist high uncertainties with respect to its interpretation and implementation by authorities. The MIIT's Notice Regarding Strengthening Administration of Foreign Investment in Operating Value-Added Telecommunication Businesses, or the MIIT Notice, issued on July 13, 2006 prohibits holders of these services licenses from leasing, transferring or selling their licenses in any form, or providing any resource, sites or facilities, to any foreign investors intending to conduct this type of businesses in China.

In addition to restricting dealings with foreign investors, the MIIT Notice contains a number of detailed requirements applicable to holders of value-added telecommunications services licenses, including that license holders or their shareholders must directly own the domain names and trademarks used in their daily operations and each license holder must possess the necessary facilities for its approved business operations and maintain its facilities in the regions covered by its license, including maintaining its network and providing Internet security in accordance with the relevant regulatory standards. The MIIT or its provincial counterparts have the power to require corrective actions after they discover any non-compliance by license holders, and where license holders fail to take those steps, the MIIT or its provincial counterparts have the power to revoke the value-added telecommunications services licenses.

On December 28, 2016, the MIIT promulgated the Notice on Regulating Telecommunication Services Agreement Matters, or the Telecommunication Services Agreement Notice, which came into effect on February 1, 2017. According to the Telecommunication Services Agreement Notice, telecommunication service providers must require their users to present valid identification certificates and verify the users' identification information before provision of services. Telecommunication service providers are not permitted to provide services to users with unverifiable identity or who decline identity verification.

### ***Regulation of Internet Information Services***

As a subsector of the telecommunications industry, Internet information services are regulated by the Administrative Measures on Internet Information Services, or the ICP Measures, promulgated on September 25, 2000 by the State Council and amended on January 8, 2011. "Internet information services" are defined as services that provide information to online users through the Internet. Internet information service providers, also called Internet content providers, or ICPs, that provide commercial services are required to obtain an operating license from the MIIT or its provincial counterpart.

To the extent the Internet information services provided relate to certain matters, including news, publication, education or medical and healthcare (including pharmaceutical products and medical equipment), approvals must also be obtained from the relevant industry regulators in accordance with the laws, rules and regulations governing those industries.

### ***Regulation of Advertising Services***

The principal regulations governing advertising businesses in China are:

- the Advertising Law of the PRC (2015, as amended);
- the Advertising Administrative Regulations (1987);
- the Regulations on Internet Information Search Services (2016); and
- the Interim Measures for Administration of Internet Advertising (2016).

These laws, rules and regulations require companies such as ours that engage in advertising activities to obtain a business license that explicitly includes advertising in the business scope from the SAMR, formerly the SAIC, or its local branches.

Applicable PRC advertising laws, rules and regulations contain certain prohibitions on the content of advertisements in China (including prohibitions on misleading content, superlative wording, socially destabilizing content or content involving obscenities, superstition, violence, discrimination or infringement of the public interest). Advertisements for anesthetic, psychotropic, toxic or radioactive drugs are prohibited, and the dissemination of advertisements of certain other products, such as tobacco, patented products, pharmaceuticals, medical instruments, agrochemicals, foodstuff, alcohol and cosmetics, are also subject to specific restrictions and requirements.

Advertisers, advertising operators and advertising distributors, including the businesses that certain of the variable interest entities operate, are required by applicable PRC advertising laws, rules and regulations to ensure that the content of the advertisements they prepare or distribute are true and in compliance with applicable laws, rules and regulations. Violation of these laws, rules and regulations may result in penalties, including fines, confiscation of advertising income, orders to cease dissemination of the advertisements and orders to publish an advertisement correcting the misleading information. In circumstances involving serious violations, the SAMR or its local branches may revoke the violator's license or permit for advertising business operations. In addition, advertisers, advertising operators or advertising distributors may be subject to civil liability if they infringe the legal rights and interests of third parties, such as infringement of intellectual proprietary rights, unauthorized use of a name or portrait and defamation.

On June 25, 2016, the Cyberspace Administration of China promulgated the Administrative Regulations on Internet Information Search Services, or the Internet Search Regulations, which came into effect on August 1, 2016. According to the Internet Search Regulations, Internet search service providers must verify paid-search service customers' qualifications, limit the ratio of paid-search results on each webpage, and clearly distinguish paid-search results from natural search results.

The Internet Advertising Measures, which were promulgated by the SAIC on July 4, 2016 and came into effect on September 1, 2016, define Internet advertising as any commercial advertising that directly or indirectly promotes goods or services through websites, webpages, Internet applications and other Internet media in the forms of words, picture, audio, video or others, including promotion through emails, texts, images, video with embedded links and paid-for search results. The Internet Advertising Measures set out, among other things, the following requirements for Internet advertising activities:

- online advertisements for prescription medicine or tobacco are not allowed, while advertisements for special commodities or services such as medical treatment, pharmaceuticals, food for special medical purposes, medical instruments, agrochemicals, veterinary medicine and other health foods must be reviewed by competent authorities before online publication;
- Internet advertisements must be visibly marked as "advertisement," while paid-search results must be obviously distinguished from natural search results; and
- Internet advertisements must not affect users' normal use of the Internet; "pop-up ads" must be clearly marked with a "close" sign and be closable with one click; and no deceptive means may be used to lure users into clicking on advertisements.

According to the Internet Advertising Measures, Internet information service providers must prevent those advertisements they know or should have known to be illegal from being published through their information services. Furthermore, according to the Internet Advertising Measures, Internet advertisers are responsible for the authenticity of the content of Internet advertisements, while Internet advertisement publishers and advertisement agencies are required to verify the identities of Internet advertisers and their qualifications, review the content of Internet advertisement, and employ inspectors who are familiar with PRC laws and regulations governing Internet advertising.

***Regulation of Online and Mobile Commerce***

China's online and mobile commerce industry is at an early stage of development and there are few PRC laws, regulations or rules specifically regulating this industry. The SAIC adopted the Interim Measures for the Administration of Online Commodities Trading and Relevant Services on May 31, 2010 and replaced those measures with the Administrative Measures for Online Trading on January 26, 2014, which became effective on March 15, 2014. On December 24, 2014, the MOFCOM promulgated the Provisions on the Procedures for Formulating Transaction Rules of Third Party Online Retail Platforms (Trial) to regulate the formulation, revision and enforcement of transaction rules for online retail marketplace platforms. These measures impose more stringent requirements and obligations on online trading or service operators as well as marketplace platform providers. For example, marketplace platform providers are obligated to make public and file their transaction rules with MOFCOM or their respective provincial counterparts, examine the legal status of each third-party merchant selling products or services on their platforms and display on a prominent location on a merchant's web page the information stated in the merchant's business license or a link to its business license, and group buying website operators must only allow a third-party merchant with a proper business license to sell products or services on their platforms. Where marketplace platform providers also act as online distributors, these marketplace platform providers must make a clear distinction between their online direct sales and sales of third-party merchant products on their marketplace platforms.

Since the promulgation of the Administrative Measures for Online Trading, the SAIC had issued a number of guidelines and implementing rules aimed at adding greater specificity to these regulations. The relevant governmental authorities continue to consider and issue guidelines and implementing rules, and we expect that there will be further development of regulation in this industry. For example, three PRC governmental authorities (the Ministry of Finance, General Administration of Customs and State Administration of Taxation) issued a notice on March 24, 2016 to regulate cross-border e-commerce trading which has experienced rapid growth in recent years. The New Cross-Border E-commerce Tax Notice, which became effective on April 8, 2016, introduced the concept of the Cross-Border E-Commerce Retail Importation Goods Inventory, or the Cross-Border E-Commerce Goods Inventory, which are to be issued and updated by the three authorities together with other relevant authorities from time to time. Goods beyond the scope of the Cross-Border E-commerce Goods Inventory will have no tax codes and be effectively removed from cross-border e-commerce platforms. Two batches of the Cross-Border E-Commerce Goods Inventory have been issued on April 6, 2016 and April 15, 2016, respectively. Cosmetics imported for the first time, nutrition supplements and other special food products required to be registered with the State Drug Administration, formerly known as State Food and Drug Administration, are excluded from the Cross-Border E-Commerce Goods Inventory and will not be able to be sold on the relevant cross-border e-commerce platforms. However, pursuant to a transition policy issued by the General Administration of Customs, goods which have been imported to or in transit to the bonded areas and special regulated areas of customs before April 8, 2016 can still be sold on the cross-border e-commerce platforms no matter whether these goods are included in the Cross-Border E-Commerce Goods Inventory or not. Further, pursuant to the Notice of Relevant Matters on Implementation of New Cross-Border E-Commerce Retail Importation Supervision and Administration Requirements, or the New Cross-Border E-Commerce Tax Implementation Notice, issued by the General Administration of Customs on May 24, 2016, the implementation of certain provisions of the New Cross-Border E-commerce Tax Notice will be suspended until the expiration of a transition period, which will conclude by the end of 2017. According to the New Cross-Border E-Commerce Tax Implementation Notice, the requirement of presenting customs clearance for bonded goods purchased online is suspended in ten cities, and the requirement of presenting first-time import license, registration or filing for online purchased cosmetics imported for the first time, nutrition supplements and other special food products, are suspended until the end of the transition period. Further, according to an official MOFCOM news release issued on March 17, 2017, from January 1, 2018 retail goods imported on cross-border e-commerce platforms will be temporarily treated as personal items which are not subject to stricter regulation and higher tax rates applicable to normal imported goods in 15 cross-border e-commerce trial areas. On September 20, 2017, the State Council decided to extend the transition period for cross-border e-commerce retail import regulations to the end of 2018, during which period cross-border e-commerce retail import goods were to be temporarily regulated as personal items in ten pilot cities. Further,

according to a December 7, 2017 statement by the Ministry of Commerce, starting on January 1, 2018, the transitional period policy will be extended to 15 pilot cities.

### ***Regulation of Mobile Applications***

On June 28, 2016, the Cyberspace Administration of China promulgated the Regulations for the Administration of Mobile Internet Application Information Services, which came into effect as of August 1, 2016, requiring ICPs who provide information services through mobile Internet applications, or "Apps," to:

- verify the real identities of registered users through mobile phone numbers or other similar channels;
- establish and improve procedures for protection of user information;
- establish and improve procedures for information content censorship;
- ensure that users are given adequate information concerning an App, and are able to choose whether an App is installed and whether or not to use an installed App and its functions;
- respect and protect intellectual property rights; and
- keep records of users' log-in information for 60 days.

If an ICP who provides information services through Apps violates these regulations, mobile application stores through which the ICP distributes its Apps may issue warnings, suspend the release of its Apps, or terminate the sale of its Apps, and/or report the violations to governmental authorities.

### ***Regulation of Internet Content***

The PRC government has promulgated measures relating to Internet content through various ministries and agencies, including the MIIT, the News Office of the State Council, the Ministry of Culture and Tourism and the General Administration of Press and Publication. In addition to various approval and license requirements, these measures specifically prohibit Internet activities that result in the dissemination of any content which is found to contain pornography, promote gambling or violence, instigate crimes, undermine public morality or the cultural traditions of the PRC or compromise State security or secrets. ICPs must monitor and control the information posted on their websites. If any prohibited content is found, they must remove the content immediately, keep a record of it and report to the relevant authorities. If an ICP violates these measures, the PRC government may impose fines and revoke any relevant business operation licenses.

#### ***Regulations on Broadcasting Audio/Video Programs through the Internet***

On April 13, 2005, the State Council announced Several Decisions on Investment by Non-state-owned Companies in Culture-related Business in China. These decisions encourage and support non-state-owned companies to enter certain culture-related business in China, subject to restrictions and prohibitions for investment in audio/video broadcasting, website news and certain other businesses by non-state-owned companies. These decisions authorize the State Administration of Radio, Film, and Television, or the SARFT, the Ministry of Culture and the General Administration of Press and Publication, or the GAPP, to adopt detailed implementing rules according to these decisions.

On December 20, 2007, the SARFT and the MIIT jointly issued the Rules for the Administration of Internet Audio and Video Program Services, commonly known as Circular 56, which came into effect on January 31, 2008 and was amended on August 28, 2015. Among other things, Circular 56 requires all online audio/video service providers to be either wholly state-owned or state-controlled. According to relevant official answers to press questions published on the SARFT's website dated February 3, 2008, officials from the SARFT and the MIIT clarified that online audio/video service providers that already had been operating lawfully prior to the issuance of Circular 56 may re-register and continue to operate without becoming state-owned or controlled, provided that the providers have not engaged in any unlawful activities. This exemption will not be granted to online audio/video

service providers established after Circular 56 was issued. These policies have been reflected in the Application Procedure for Audio/Video Program Transmission License.

On March 17, 2010, the SARFT issued the Internet Audio/Video Program Services Categories (Provisional), or the Provisional Categories, which were amended on March 10, 2017. The amended Provisional Categories classified Internet audio/video programs into four categories, which are further divided into seventeen sub-categories.

In 2009, the SARFT released a Notice on Strengthening the Administration of Online Audio/Video Content. This notice reiterated, among other things, that all movies and television shows released or published online must comply with relevant regulations on the administration of radio, film and television. In other words, these movies and television shows, whether produced in the PRC or overseas, must be pre-approved by the SARFT, and the distributors of these movies and television shows must obtain an applicable permit before releasing any of these movie or television shows. In 2012, the SARFT and the State Internet Information Office of the PRC issued a Notice on Improving the Administration of Online Audio/Video Content Including Internet Drama and Micro Films. In 2014, the General Administration of Press and Publication, Radio, Film and Television, or GAPPRT (which was recently split into the State Administration of Radio and Television, or SART, and the State Administration of News and Publication in March 2018) released a Supplemental Notice on Improving the Administration of Online Audio/Video Content Including Internet Drama and Micro Films. This notice stresses that entities producing online audio/video content, such as Internet dramas and micro films, must obtain a permit for radio and television program production and operation, and that online audio/video content service providers should not release any Internet dramas or micro films that were produced by any entity lacking the permit. For Internet dramas or micro films produced and uploaded by individual users, the online audio/video service providers transmitting this content will be deemed responsible as the producer. Further, under this notice, online audio/video service providers can only transmit content uploaded by individuals whose identity has been verified and the content must comply with the relevant content management rules. This notice also requires that online audio/video content, include Internet drama and micro films, be filed with the relevant authorities before release.

On October 28, 2011, the SARFT issued the Administrative and Operational Requirements for Licensed Internet TV Organizations, commonly known as Circular 181, which came into effect on the same date. Circular 181 requires that Smart TVs must be exclusively connected to a specific licensed Internet TV organization and must not have access to the public Internet or network operators' databases. Up to now, there are only seven licensed Internet TV organizations and all are state-owned companies.

On September 2, 2014, the GAPPRT promulgated a Notice on Further Implementing the Relevant Provisions for the Administration of Broadcasting Foreign Films and TV dramas. The notice stresses that any foreign film or TV drama must have a License for Film Publication or a TV drama Issuance License before being broadcast online, and that the annual total number of foreign films and TV dramas broadcast by a website must not exceed 30% of the total amount of domestic films and TV dramas broadcast by the relevant website in the preceding year. Furthermore, online video operators are required to report their annual plans for the import of foreign films and TV dramas to the GAPPRT before the end of the preceding year. If the online video operators' import plans are approved, the samples, contracts, copyright certificates, plot summaries and other materials relevant to the foreign films and TV dramas are subject to further content examination before the issuance of Licenses for Film Publication or the TV drama Issuance Licenses. The notice also requires these online video operators to upload information about the foreign films and TV dramas to be broadcast to a unified platform for registration before March 31, 2015. Since April 1, 2015, unregistered foreign films and TV dramas are no longer allowed to be broadcast online.

On April 25, 2016, the GAPPRT promulgated the Administration Measures on Audio/Video Program Services via Special Network and Directional Transmission, or Circular 6, which came into effect on June 1, 2016 and replaced the Rules for the Administration of Broadcasting of Audio/Video Programs through the Internet and Other Information Networks, which was promulgated in July 2004. Pursuant to Circular 6, providers of audio/video program services via special network and directional transmission, including content providing, integrated

broadcasting controlling and transmission and delivery, must obtain an audio/video program transmission license, with a term of three years, issued by the GAPPRFT and operate pursuant to the scope as provided in such licenses. Foreign invested enterprises are not allowed to engage in these businesses.

On March 16, 2018, the GAPPRFT promulgated the Notice on Further Regulating the Transmission of Internet Audio/Video Programs, which requires that, among other things, audio/video platforms must: (i) not re-edit, re-dub, re-caption or otherwise ridicule classic works, radio and television programs, or original Internet audio/video programs without authorization, (ii) not broadcast clips and trailers of audio/video programs without due approval or those already sanctioned by the GAPPRFT, (iii) not transmit re-edited programs which unfairly distort the original content, (iv) strictly monitor the adapted content uploaded by platform users and not provide transmission channels for illicit content, and (v) immediately take down unauthorized content upon receipt of complaints from copyright owners, radio and television stations, or film and television production institutions. Pursuant to this notice, online audio/video programs may not cooperate with entities that illegally conduct Internet audio/video program services without approval, including accepting sponsorship or endorsement from such entities.

### ***Regulations on Internet Publication***

The SARFT is responsible for nationwide supervision and administration of publishing activities in China. On February 4, 2016, the GAPPRFT, the SARFT's predecessor, and the MIIT jointly promulgated the Online Publication Service Administration Rules, or the Online Publication Rules, which took effect on March 10, 2016 and replaced the Internet Publication Tentative Administrative Measures, which was promulgated in June 2002. Pursuant to the Online Publication Rules, an online publication service provider must obtain the Online Publication Service License from the GAPPRFT. The term "online publication service" is defined as the provision of online publications to the public through information networks. The term "online publications" is defined as digital works characteristic of publishing such as editing, production or processing provided to the public through information networks, and primarily includes:

- original digital works such as texts, pictures, maps, games, cartoons and audio-visual reading materials in the fields of literature, art, science, etc., which are of knowledge or ideology;
- digital works, the content of which is the same as that which has already been published, such as books, newspapers, periodicals and electronic publications;
- digital works such as online document databases formed by way of selecting, compiling or collecting the abovementioned works; and
- other types of digital works determined by the GAPPRFT.

The Online Publication Rules expressly prohibit foreign invested enterprises from providing online publication services. In addition, if an online publication service provider intends to cooperate for an online publication services project with foreign invested enterprises, overseas organizations or overseas individuals, it must report to the GAPPRFT and obtain an approval in advance. Also, an online publication service provider is prohibited from lending, leasing, selling or otherwise transferring the Online Publication Service License, or to allow any other online information service provider to provide online publication services in its name.

Pursuant to the Online Publication Rules, book, audio-visual, electronic, newspaper or periodical publishers who intend to engage in online publication services must have:

- a specific publishing platform, such as domain name and smart terminal application, for conducting online publication business;
- a specific online publication service scope; and
- necessary technical equipment for the provision of online publication services, with the related server and storage equipment located within the territory of the PRC.



Other entities which intend to engage in online publication services must have:

- a specific name and articles of association which is not identical to the name of any other publication service provider;
- a legal representative and key responsible persons who shall be a PRC citizen living permanently in the PRC who has full civil capacity to act, and at least one of these legal representatives or key responsible persons must have a mid-level or higher professional qualification in the field of publication;
- at least eight full-time editing and publishing staff, other than the legal representative and key responsible persons, who have professional qualifications in publishing or other relevant fields recognized by the GAPPRFT and meet the needs of the entity's scope of online publication services, among whom at least three must have mid-level or higher professional qualification;
- a content review system meeting the needs of the provision of online publication services;
- fixed working premises; and
- other items as required by relevant laws, administrative regulations or the GAPPRFT.

***Regulations on Internet Drug Information Service***

The State Food and Drug Administration, or the SFDA, the predecessor of the State Drug Administration, promulgated the Administrative Measures on Internet Drug Information Service in July 2004 and further amended the same in November 2017. Since the promulgation of the Administrative Measures on Internet Drug Information Service, the SFDA had issued certain implementing rules and notices aimed at adding specificity to these regulations. These measures set out regulations governing the classification, application, approval, content, qualifications and requirements for Internet drug information services. An ICP service operator that provides information regarding drugs or medical equipment must obtain an Internet Drug Information Service Qualification Certificate from the applicable provincial level counterpart of the State Drug Administration.

***Regulations on Internet News Information Services***

Publishing and disseminating news through the Internet are highly regulated in the PRC. On November 7, 2000, the State Council Information Office, or SCIO, and the MIIT jointly promulgated the Provisional Measures for Administrating Internet Websites Carrying on the News Publication Business, or Internet News Measures. These measures require an ICP operator (other than a government authorized news unit) to obtain the approval from SCIO to publish news on its website or disseminate news through the Internet. Furthermore, any disseminated news is required to be obtained from government-approved sources based on contracts between the ICP operator and these sources. The copies of these contracts must be filed with relevant government authorities.

On September 25, 2005, the SCIO and the MIIT jointly issued the Provisions on the Administration of Internet News Information Services, requiring Internet news information service organizations to provide services as approved by the SCIO, subject to annual inspection under the new provisions. These Provisions also provide that no foreign invested enterprise, whether jointly or wholly owned by the foreign investment, may be an Internet news information service organization, and no cooperation between Internet news information service organizations and foreign invested enterprises is allowed before the SCIO completes the security evaluation.

On May 2, 2017, the Cyberspace Administration issued the Administrative Provisions on Internet News Information Services, or the 2017 Internet News Information Provisions, which came into effect on June 1, 2017 and redefine news information as reports and commentary on political, economic, military, diplomatic and other social and public affairs, as well as reports and commentary on emergency social events. Pursuant to the 2017 Internet News Information Provisions, the Cyberspace Administration and its local counterparts replaced the SCIO as the government department in charge of supervision and administration of Internet news information. Further, an ICP operator must obtain approval from the Cyberspace Administration in order to provide Internet news



information services, including through websites, applications, forums, blogs, microblogs, public accounts, instant messaging tools, and webcasts.

### ***Regulations on Internet Culture Activities***

On February 17, 2011, the Ministry of Culture, the predecessor of the Ministry of Culture and Tourism, promulgated the Internet Culture Administration Tentative Measures, or the Internet Culture Measures, which was most recently amended in December 2017. The Internet Culture Measures require ICP operators engaging in "Internet culture activities" to obtain a permit from the Ministry of Culture and Tourism. The term "Internet culture activities" includes, among other things, online dissemination of Internet cultural products (such as audio-video products, gaming products, performances of plays or programs, works of art and cartoons) and the production, reproduction, importation, publication and broadcasting of Internet cultural products.

On November 20, 2006, the Ministry of Culture issued Several Suggestions of the Ministry of Culture on the Development and Administration of the Internet Music, or the Suggestions, which became effective on November 20, 2006. The Suggestions, among other things, reiterate the requirement for an Internet service provider to obtain an Internet culture business permit to carry on any business relating to Internet music products. In addition, foreign investors are prohibited from operating Internet culture businesses. However, the laws and regulations on Internet music products are still evolving, and there have not been any provisions stipulating whether or how music video will be regulated by the Suggestions.

On August 12, 2013, the Ministry of Culture promulgated the Notice on Implementing the Administrative Measures for the Content Self-examination of Internet Culture Business Entities. According to this notice, any cultural product or service shall be reviewed by the provider before being released to the public and the review process shall be done by persons who have obtained the relevant content review certificate.

On October 23, 2015, the Ministry of Culture promulgated the Notice on Further Strengthening and Improving the Content Review of Online Music, which took effect on January 1, 2016 and stipulated that ICPs shall carry out self-examination in respect of the content management of online music, which shall be regulated by the cultural administration departments in process or afterwards. According to this notice, ICP operators are required to submit their content administrative system, review procedures, and work standards to the provincial culture administrative department where they are located for filing within a prescribed period.

### ***Regulations on Producing Audio/Video Programs***

On July 19, 2004, the SARFT promulgated the Administrative Measures on the Production and Operation of Radio and Television Programs, effective as of August 20, 2004 and amended on August 28, 2015. These Measures provide that anyone who wishes to produce or operate radio or television programs must first obtain an operating permit for their business.

On December 25, 2001, the State Council promulgated the Regulations for the Administration of Films, or the Film Regulations, which became effective on February 1, 2002. The Film Regulations set forth the general regulatory guidelines for China's film industry and address practical issues with respect to production, censorship, distribution and screening. They also establish the SARFT as the sector's regulatory authority, and serve as the foundation for all other legislation promulgated in this area. The Film Regulations provide the framework for an industry-wide licensing system operated by the SARFT, under which separate permits (and permit application procedures) apply.

### ***Regulation of Express Delivery Services***

The PRC Postal Law, which took effect in October 2009 and was most recently amended in 2015, sets forth the fundamental rules on the establishment and operation of an express delivery company. According to the Postal Law, an enterprise that operates and provides express delivery services is required to obtain a Courier Service Operation Permit. Pursuant to the Postal Law, "delivery" refers to delivery of correspondence, parcels, printed

materials and other items to specific individuals or entities according to the names and addresses on the envelopes or packages, including mail acceptance, sorting, transportation, delivery, and "express delivery" refers to rapid mail "delivery" within a specified time limit. The above-mentioned requirements are also provided for in the Administrative Measures for Express Delivery Market, which were promulgated by the Ministry of Transport in January 2013 and became effective in March 2013.

The PRC Postal Law also requires that a company operating express delivery services must apply for and obtain the Courier Service Operation Permit prior to applying for its business license. Pursuant to the Administrative Measures on Courier Service Operation Permits, which was promulgated by the Ministry of Transport in June 2015, any entity engaging in express delivery services is required to obtain a Courier Service Operation Permit from the State Post Bureau or its local counterpart and is subject to their supervision and regulation. The express delivery business must be operated within the permitted scope and the valid term of the Courier Service Operation Permit.

On March 2, 2018, the State Council promulgated the Provisional Regulations for Express Delivery, or the Provisional Regulations, which came into effect on May 1, 2018. The Provisional Regulations reiterate that a company operating express delivery services must obtain the Courier Service Operation Permit and sets forth specific rules and security requirements for express delivery operations.

### ***Regulation of Internet Security***

The Decision in Relation to Protection of the Internet Security enacted by the Standing Committee of the National People's Congress of China on December 28, 2000 provides that the following activities conducted through the Internet are subject to criminal punishment:

- gaining improper entry into a computer or system of strategic importance;
- disseminating politically disruptive information or obscenities;
- leaking State secrets;
- spreading false commercial information; or
- infringing intellectual property rights.

The Administrative Measures on the Security Protection of Computer Information Network with International Connections, issued by the Ministry of Public Security on December 16, 1997 and amended on January 8, 2011, prohibit the use of the Internet in a manner that would result in the leakage of State secrets or the spread of socially destabilizing content. The Provisions on Technological Measures for Internet Security Protection, or the Internet Security Protection Measures, promulgated on December 13, 2005 by Ministry of Public Security require all ICPs to keep records of certain information about their users (including user registration information, log-in and log-out time, IP address, content and time of posts by users) for at least 60 days and submit the above information as required by laws and regulations. Under these measures, value-added telecommunications services license holders must regularly update information security and content control systems for their websites and must also report any public dissemination of prohibited content to local public security authorities. If a value-added telecommunications services license holder violates these measures, the Ministry of Public Security and the local security bureaus may revoke its operating license and shut down its websites.

The Communication Network Security Protection Administrative Measures, which were promulgated by the MIIT on January 21, 2010, require that all communication network operators, including telecommunications service providers and Internet domain name service providers, divide their own communication networks into units. These communication network units shall be rated in accordance with degree of damage to national security, economic operation, social order and public interest in the event a unit is damaged. Communication network operators must file the division and ratings of their communication network with MIIT or its local counterparts. If a communication network operator violates these measures, the MIIT or its local counterparts may order rectification or impose a fine up to RMB30,000 in case a violation is not duly rectified.

Internet security in China is also regulated and restricted from a national security standpoint. On July 1, 2015, the National People's Congress Standing Committee promulgated the New National Security Law, which took effect on the same date and replaced the former National Security Law promulgated in 1993. According to the New National Security Law, the state shall ensure that the information system and data in important areas are secure and controllable. In addition, according to the New National Security Law, the state shall establish national security review and supervision institutions and mechanisms, and conduct national security reviews of key technologies and IT products and services that affect or may affect national security. There are uncertainties on how the New National Security Law will be implemented in practice.

On November 7, 2016, the National People's Congress Standing Committee promulgated the Cybersecurity Law, which came into effect on June 1, 2017, and apply to the construction, operation, maintenance and use of networks as well as the supervision and administration of cybersecurity in China. The Cybersecurity Law defines "networks" as systems that are composed of computers or other information terminals and relevant facilities used for the purpose of collecting, storing, transmitting, exchanging and processing information in accordance with certain rules and procedures. "Network operators," who are broadly defined as owners and administrator of networks and network service providers, are subject to various security protection related obligations including:

- complying with security protection obligations in accordance with tiered cybersecurity system's protection requirements, which include formulating internal security management rules and manual, appointing cybersecurity responsible personnel, adopting technical measures to prevent computer virus and cybersecurity endangering activities, adopting technical measures to monitor and record network operation status, cybersecurity events, retaining user logs for at least six months and adopting measures such as data classification, key data backup and encryption, for the purpose of securing networks from interference, vandalization, or unauthorized visit and preventing network data from leakage, theft or tampering;
- verifying user's identities before signing agreements or providing services such as network access, domain name registration, landline telephone or mobile phone access, information publishing or real-time communication services;
- formulating cybersecurity emergency response plans, timely handling security risks, initiating emergency response plans, taking appropriate remedial measures and reporting to regulatory authorities; and
- providing technical assistance and support for public security and national security authorities for protection of national security and criminal investigations.

According to the Cybersecurity Law, network service providers must inform users about and report to the relevant authorities any known security defects and bugs, and must provide constant security maintenance services for their products and services. Network products and service providers shall not contain or provide malware. Network service providers who do not comply with the Cybersecurity Law may be subject to fines, suspension of their businesses, shutdown of their websites, and revocation of their business licenses.

On April 11, 2017, the Cyberspace Administration of China released the draft Measures on Security Assessment of the Cross-Border Transfer of Personal Information and Important Data, or the draft Cross-Border Transfer Measures, which requires personal information and important data collected by and produced by all network operators during the course of their operations within China to be stored within China. According to the draft Cross-Border Transfer Measures, self-assessment by network operators or assessment by industrial regulatory authority or the national cyberspace authority under certain circumstances must be completed before transferring personal information or important data overseas.

According to the draft Cross-Border Transfer Measures, personal information or important data may not be transferred overseas without consent from the concerned individual(s), or if the transfer endangers the interests of individuals, the public or national security. The export of the following data shall be pre-assessed by industrial regulatory authority or the national cyberspace authority:

- personal information of 500,000 individuals or more;

- data with volume of 1,000 gigabytes or more;
- data in relation to nuclear facilities, chemistry and biology, national defense and military, health of the population, mega project activities, ocean environment, and sensitive geographical information;
- network security information involving system bugs and security protection of key information infrastructure;
- personal information and important data provided by key information infrastructure operators; and
- other data that may affect national security and societal public interests, and considered by the industrial administration authority or regulatory authority necessary to be subject to their assessment.

The Cyberspace Administration of China completed the solicitation of comments on the draft Cross-Border Transfer Measures in May 2017 but has not promulgated the final measures. There are still substantial uncertainties with respect to its final content and enactment timetable.

On May 2, 2017, the Cyberspace Administration issued the Measures for Security Review of Cyber Products and Services, or the Cybersecurity Review Measures, which came into effect on June 1, 2017. According to the Cybersecurity Review Measures, the following cyber products and services will be subject to cybersecurity review:

- important cyber products and services purchased by networks and information systems related to national security; and
- the purchase of cyber products and services by operators of critical information infrastructure in important industries and fields such as public communications and information services, energy, transportation, water resources, finance, public service and electronic administration, and other critical information infrastructure, which may affect national security.

The Cyberspace Administration is responsible for organizing and implementing cybersecurity review, while the competent departments in key industries such as finance, telecommunications, energy and transport shall be responsible for organizing and implementing security review of cyber products and services in their respective industries or fields. There are still substantial uncertainties with respect to the interpretation and implementation of the Cybersecurity Review Measures.

#### ***Regulation of Privacy Protection***

Under the ICP Measures, ICPs are prohibited from producing, copying, publishing or distributing information that is humiliating or defamatory to others or that infringes upon the lawful rights and interests of others. Depending on the nature of the violation, ICPs may face criminal charges or sanctions by PRC security authorities for these acts, and may be ordered to suspend temporarily their services or have their licenses revoked.

Under the Several Provisions on Regulating the Market Order of Internet Information Services, issued by the MIIT on December 29, 2011, ICPs are also prohibited from collecting any personal user information or providing any information to third parties without the consent of the user. The Cybersecurity Law provides an exception to the consent requirement where the information is anonymous, not personally identifiable and unrecoverable. ICPs must expressly inform the users of the method, content and purpose of the collection and processing of user personal information and may only collect information necessary for its services. ICPs are also required to properly maintain the user personal information, and in case of any leak or likely leak of the user personal information, ICPs must take remedial measures immediately and report any material leak to the telecommunications regulatory authority.

In addition, the Decision on Strengthening Network Information Protection promulgated by the Standing Committee of the National People's Congress on December 28, 2012 emphasizes the need to protect electronic information that contains individual identification information and other private data. The decision requires ICPs to establish and publish policies regarding the collection and use of personal electronic information and to take necessary measures to ensure the security of the information and to prevent leakage, damage or loss. Furthermore, MIIT's Rules on Protection of Personal Information of Telecommunications and Internet Users promulgated on

July 16, 2013 contain detailed requirements on the use and collection of personal information as well as the security measures to be taken by ICPs.

The PRC government retains the power and authority to order ICPs to provide an Internet user's personal information if a user posts any prohibited content or engages in any illegal activities through the Internet.

According to the Cybersecurity Law, individuals may request that network operators make corrections to or delete their personal information in case the information is wrong or was collected or used beyond an individuals' agreement with network operators.

### ***Regulation of Consumer Protection***

Our online and mobile commerce business is subject to a variety of consumer protection laws, including the PRC Consumer Rights and Interests Protection Law, as amended and effective as of March 15, 2014, and the Administrative Measures for Online Trading, both of which have provided stringent requirements and obligations on business operators, including Internet business operators and platform service providers like us. For example, consumers are entitled to return goods purchased online, subject to certain exceptions, within seven days upon receipt of goods for no reason. On January 6, 2017, the SAIC issued the Interim Measures for No Reason Return of Online Purchased Commodities within Seven Days, which came into effect on March 15, 2017, further clarifying the scope of consumers' rights to make returns without a reason, including exceptions, return procedures and online marketplace platform providers' responsibility to formulate seven-day no-reason return rules and related consumer protection systems, and supervise the merchants for compliance with these rules. To ensure that merchants and service providers comply with these laws and regulations, we, as platform operators, are required to implement rules governing transactions on our platform, monitor the information posted by merchants and service providers, and report any violations by merchants or service providers to the relevant authorities. In addition, online marketplace platform providers may, pursuant to PRC consumer protection laws, be exposed to liabilities if the lawful rights and interests of consumers are infringed in connection with consumers' purchase of goods or acceptance of services on online marketplace platforms and the platform service providers fail to provide consumers with the contact information of the merchant or manufacturer. In addition, platform service providers may be jointly and severally liable with merchants and manufacturers if they are aware or should be aware that the merchant or manufacturer is using the online platform to infringe upon the lawful rights and interests of consumers and fail to take measures necessary to prevent or stop this activity.

Failure to comply with these consumer protection laws could subject us to administrative sanctions, such as the issuance of a warning, confiscation of illegal income, imposition of a fine, an order to cease business operations, revocation of business licenses, as well as potential civil or criminal liabilities.

### ***Regulation of Pricing***

In China, the prices of a very small number of products and services are guided or fixed by the government. According to the Pricing Law, business operators must, as required by the government departments in charge of pricing, mark the prices explicitly and indicate the name, production origin, specifications, and other related particulars clearly. Business operators may not sell products at a premium or charge any fees that are not explicitly indicated. Business operators must not commit the specified unlawful pricing activities, such as colluding with others to manipulate the market price, providing fraudulent discounted price information, using false or misleading prices to deceive consumers to transact, or conducting price discrimination against other business operators. Failure to comply with the Pricing Law or other rules or regulations on pricing may subject business operators to administrative sanctions such as warning, orders to cease unlawful activities, payment of compensation to consumers, confiscation of illegal gains, and/or fines. The business operators may be ordered to suspend business for rectification, or have their business licenses revoked if the circumstances are severe. Merchants on Tmall and Taobao Marketplace undertake the primary obligation under the Pricing Law. However, in some cases, we have been and may in the future be held liable and be subject to fines or other penalties if the authorities determine that, as the platform operator, our guidance for platform-wide promotional activities resulted in unlawful pricing.

activities by the merchants on our platforms or if the pricing information we provided for platform-wide promotional activities was determined to be untrue or misleading.

### ***Regulation of Intellectual Property Rights***

***Patent.*** Patents in the PRC are principally protected under the Patent Law of the PRC. The duration of a patent right is either 10 years or 20 years from the date of application, depending on the type of patent right.

***Copyright.*** Copyright in the PRC, including copyrighted software, is principally protected under the Copyright Law of the PRC and related rules and regulations. Under the Copyright Law, the term of protection for copyrighted software is 50 years. The Regulation on the Protection of the Right to Communicate Works to the Public over Information Networks, which was most recently amended on January 30, 2013, provides specific rules on fair use, statutory license, and a safe harbor for use of copyrights and copyright management technology and specifies the liabilities of various entities for violations, including copyright holders, libraries and Internet service providers.

***Trademark.*** Registered trademarks are protected under the Trademark Law of the PRC and related rules and regulations. Trademarks are registered with the State Intellectual Property Office, formerly the Trademark Office of the SAIC. Where registration is sought for a trademark that is identical or similar to another trademark which has already been registered or given preliminary examination and approval for use in the same or similar category of commodities or services, the application for registration of this trademark may be rejected. Trademark registrations are effective for a renewable ten-year period, unless otherwise revoked.

***Domain Name.*** Domain names are protected under the Administrative Measures on Internet Domain Names promulgated by the MIIT on August 24, 2017 and effective as of November 1, 2017. Domain name registrations are handled through domain name service agencies established under the relevant regulations, and applicants become domain name holders upon successful registration.

### ***Regulation of Anti-counterfeiting***

According to the Trademark Law of the PRC, counterfeit or unauthorized production of the label of another person's registered trademark, or sale of any label that is counterfeited or produced without authorization will be deemed as an infringement of the exclusive right to use a registered trademark. The infringing party will be ordered to cease infringement immediately, a fine may be imposed and the counterfeit goods will be confiscated. The infringing party may also be held liable for damages suffered by the owner of the intellectual property rights, which will be equal to the gains obtained by the infringing party or the losses suffered by the owner as a result of the infringement, including reasonable expenses incurred by the owner in connection with enforcing its rights.

Under the Tort Liability Law of the PRC, an Internet service provider may be subject to joint liability if it is aware that an Internet user is infringing upon the intellectual property rights of others through its Internet services, such as selling counterfeit products, and fails to take necessary measures to stop that activity. If an Internet service provider receives a notice from an infringed party regarding an infringement, the Internet service provider is required to take certain measures, including deleting, blocking and unlinking the infringing content, in a timely manner.

In addition, under the Administrative Measures for Online Trading issued by the SAIC on January 26, 2014, as an operator of an online trading platform, we must adopt measures to ensure safe online transactions, protect consumers' rights and prevent trademark infringement.

### ***Tax Regulations***

#### ***PRC Enterprise Income Tax***

The PRC enterprise income tax, or EIT, is calculated based on the taxable income determined under the applicable EIT Law and its implementation rules, which became effective on January 1, 2008 and were most

recently amended on February 24, 2017. The EIT Law generally imposes a uniform enterprise income tax rate of 25% on all resident enterprises in China, including foreign-invested enterprises.

The EIT Law and its implementation rules permit certain High and New Technologies Enterprises, or HNTes, to enjoy a reduced 15% enterprise income tax rate subject to these HNTes meeting certain qualification criteria. In addition, the relevant EIT laws and regulations also provide that entities recognized as Software Enterprises are able to enjoy a tax holiday consisting of a 2-year-exemption commencing from their first profitable calendar year and a 50% reduction in ordinary tax rate for the following three calendar years, while entities qualified as key software enterprises can enjoy a preferential EIT rate of 10%. A number of our PRC subsidiaries and operating entities enjoy these types of preferential tax treatment. See "Item 10. Additional Information — E. Taxation — People's Republic of China Taxation."

Uncertainties exist with respect to how the EIT Law applies to the tax residence status of Alibaba Group and our offshore subsidiaries. Under the EIT Law, an enterprise established outside of China with a "de facto management body" within China is considered a "resident enterprise," which means that it is treated in the same manner as a Chinese enterprise for enterprise income tax purposes. Although the implementation rules of the EIT Law define "de facto management body" as a managing body that exercises substantive and overall management and control over the production and business, personnel, accounting books and assets of an enterprise, the only official guidance for this definition currently available is set forth in Circular 82 issued by the State Administration of Taxation in April 2009 and most recently amended in December 2017. Circular 82 provides guidance on the determination of the tax residence status of a Chinese-controlled offshore incorporated enterprise, defined as an enterprise that is incorporated under the laws of a foreign country or territory and that has a PRC enterprise or enterprise group as its primary controlling shareholder. Although Alibaba Group Holding Limited does not have a PRC enterprise or enterprise group as our primary controlling shareholder and is therefore not a Chinese-controlled offshore incorporated enterprise within the meaning of Circular 82, in the absence of guidance specifically applicable to us, we have applied the guidance set forth in Circular 82 to evaluate the tax residence status of Alibaba Group and our subsidiaries organized outside the PRC.

According to Circular 82, a Chinese-controlled offshore incorporated enterprise will be regarded as a PRC tax resident by virtue of having a "de facto management body" in China and will be subject to PRC enterprise income tax on its worldwide income only if all of the following criteria are met:

- the primary location of the day-to-day operational management is in the PRC;
- decisions relating to the enterprise's financial and human resource matters are made or are subject to approval by organizations or personnel in the PRC;
- the enterprise's primary assets, accounting books and records, company seals, and board and shareholders meeting minutes are located or maintained in the PRC; and
- 50% or more of voting board members or senior executives habitually reside in the PRC.

We do not believe that we meet any of the conditions outlined in the immediately preceding paragraph. Alibaba Group Holding Limited and our offshore subsidiaries are incorporated outside the PRC. As a holding company, our key assets and records, including the resolutions and meeting minutes of our board of directors and the resolutions and meeting minutes of our shareholders, are located and maintained outside the PRC. In addition, we are not aware of any offshore holding companies with a corporate structure similar to ours that have been deemed a PRC "resident enterprise" by the PRC tax authorities. Accordingly, we believe that Alibaba Group Holding Limited and our offshore subsidiaries should not be treated as a "resident enterprise" for PRC tax purposes if the criteria for "de facto management body" as set forth in Circular 82 were deemed applicable to us. However, as the tax residency status of an enterprise is subject to determination by the PRC tax authorities and uncertainties remain with respect to the interpretation of the term "de facto management body" as applicable to our offshore entities, we will continue to monitor our tax status. See "Item 3. Key Information — D. Risk Factors — Risks Related to Doing Business in the People's Republic of China — We may be treated as a resident



enterprise for PRC tax purposes under the PRC Enterprise Income Tax Law, and we may therefore be subject to PRC income tax on our global income."

In the event that Alibaba Group Holding Limited or any of our offshore subsidiaries is considered to be a PRC resident enterprise:

- Alibaba Group Holding Limited or our offshore subsidiaries, as the case may be, may be subject to the PRC enterprise income tax at the rate of 25% on our worldwide taxable income;
- dividend income that Alibaba Group Holding Limited or our offshore subsidiaries, as the case may be, received from our PRC subsidiaries may be exempt from the PRC withholding tax; and
- dividends paid to our overseas shareholders or ADS holders who are non-PRC resident enterprises as well as gains realized by these shareholders or ADS holders from the transfer of our shares or ADSs may be regarded as PRC-sourced income and as a result be subject to PRC withholding tax at a rate of up to 10%, subject to any reduction or exemption set forth in relevant tax treaties, and similarly, dividends paid to our overseas shareholders or ADS holders who are non-PRC resident individuals, as well as gains realized by these shareholders or ADS holders from the transfer of our shares or ADSs, may be regarded as PRC-sourced income and as a result be subject to PRC withholding tax at a rate of 20%, subject to any reduction or exemption set forth in relevant tax treaties.

Bulletin 7 was issued by the State Administration of Taxation on February 3, 2015 and most recently amended pursuant to Bulletin 37, which was issued by the State Administration of Taxation on October 17, 2017 and became effective as of December 1, 2017. Pursuant to Bulletin 7, an "indirect transfer" of assets, including equity interests in a PRC resident enterprise, by non-PRC resident enterprises may be re-characterized and treated as a direct transfer of PRC taxable assets, if the arrangement does not have a reasonable commercial purpose and was established for the purpose of avoiding payment of PRC enterprise income tax. As a result, gains derived from an indirect transfer may be subject to PRC enterprise income tax. According to Bulletin 7, "PRC taxable assets" include assets attributed to an establishment or a place of business in China, immovable properties in China, and equity investments in PRC resident enterprises. In respect of an indirect offshore transfer of assets of a PRC establishment or place of business, the relevant gain is to be regarded as effectively connected with the PRC establishment or a place of business and therefore included in its enterprise income tax filing, and would consequently be subject to PRC enterprise income tax at a rate of 25%. Where the underlying transfer relates to the immovable properties in China or to equity investments in a PRC resident enterprise, which is not effectively connected to a PRC establishment or a place of business of a non-resident enterprise, a PRC enterprise income tax at 10% would apply, subject to available preferential tax treatment under applicable tax treaties or similar arrangements, and the party who is obligated to make the transfer payments has the withholding obligation. There is uncertainty as to the implementation details of Bulletin 7. If Bulletin 7 was determined by the tax authorities to be applicable to some of our transactions involving PRC taxable assets, our offshore subsidiaries conducting the relevant transactions might be required to spend valuable resources to comply with Bulletin 7 or to establish that the relevant transactions should not be taxed under Bulletin 7, which may materially and adversely affect us. See "Item 3. Key Information — D. Risk Factors — Risks Related to Doing Business in the People's Republic of China — We and our shareholders face uncertainties with respect to indirect transfers of equity interests in PRC resident enterprises or other assets attributed to a PRC establishment of a non-PRC company."

According to Bulletin 37, if a non-PRC resident fails to comply with the tax payment obligations, the tax authority may seek the payment of tax arrears and late fees payable from other income of such non-PRC resident within the territory of China.

#### ***PRC Business Tax and Value-Added Tax***

Before August 2013 and pursuant to applicable PRC tax regulations, any entity or individual conducting business in the service industry is generally required to pay a business tax at the rate of 5% on the revenues



generated from providing services. However, if the services provided are related to technology development and transfer, the business tax may be exempted subject to approval by the relevant tax authorities.

In November 2011, the Ministry of Finance and the State Administration of Taxation promulgated the Pilot Plan for Imposition of Value-Added Tax to Replace Business Tax. In May and December 2013, April 2014, March 2016 and July 2017, the Ministry of Finance and the State Administration of Taxation promulgated Circular 37, Circular 106, Circular 43, Circular 36 and Circular 58 to further expand the scope of services which are to be subject to Value-Added Tax, or VAT, instead of business tax. Pursuant to these tax rules, from August 1, 2013, a VAT was imposed to replace the business tax in certain service industries, including technology services and advertising services, and from May 1, 2016, VAT replaced business tax in all industries, on a nationwide basis. On November 19, 2017, the State Council further amended the Interim Regulation of the People's Republic of China on Value Added Tax to reflect the normalization of such pilot program. A VAT rate of 6% applies to revenue derived from the provision of certain services. Unlike business tax, a taxpayer is allowed to offset the qualified input VAT paid on taxable purchases against the output VAT chargeable on the revenue from services provided. Accordingly, although the 6% VAT rate is higher than the previously applicable 5% business tax rate, no materially different tax cost to us has resulted nor do we expect one to result from the replacement of the business tax with a VAT on our services.

On April 4, 2018, the Ministry of Finance and the State Administration of Taxation issued the Notice on Adjustment of VAT Rates, which came into effect on May 1, 2018. According to the abovementioned notice, the taxable goods previously subject to VAT rates of 17% and 11% respectively become subject to lower VAT rates of 16% and 10% respectively starting from May 1, 2018. No change of VAT rate is made with respect to our services.

### ***PRC Import Tax***

Consumer goods imported through cross-border e-commerce platforms were originally classified as "personal baggage or postal articles" under the Notice on Pilot Bonded Area Import Pattern of Cross-Border Trade E-Commerce Services issued by PRC General Administration of Customs on March 4, 2014. A personal baggage or postal articles tax was levied on these goods before the online retailers could deliver the same to buyers. The personal baggage or postal articles tax was exempted if the payable amount was lower than RMB50. The rate of personal baggage or postal articles tax was respectively 10%, 20%, 30% and 50% for different categories of products imported. Under this tax pattern, a quota of RMB1,000 for each purchase order was imposed on online buyers, otherwise the imported goods were classified as normal goods, which are subject to value-added tax, consumption tax and tariff.

The above-mentioned notice was abolished pursuant to the New Cross-Border E-commerce Tax Notice. The goods imported through cross-border e-commerce platforms are now treated as normal goods rather than "personal baggage or postal articles" and subject to the usual value-added tax, consumption tax and tariff. In general, a value-added tax at the rate of 17% (before May 1, 2018) and 16% (from May 1, 2018 onwards) is levied on most products sold on the cross-border e-commerce platform and a 15% consumption tax on high-end cosmetics, while no consumption tax is levied on skin care products, maternity and baby care products. As a preferential tax treatment, the New Cross-Border E-commerce Tax Notice provides that, if the goods imported through cross-border e-commerce platforms are within the quota of RMB2,000 per purchase order and RMB20,000 per year per buyer, there is a 30% discount off the applicable value-added tax and the consumption tax, and the tariff is waived.

### ***PRC Export Tax***

According to the Notice on the Taxation Policies for Cross-border E-Commerce Retail Export, or the E-Commerce Export Taxation Notice, which was jointly issued by the Ministry of Finance and the State Administration of Taxation and took effect as of January 1, 2014, an e-commerce export enterprise may be exempt from or refunded with consumption tax and VAT upon satisfaction of the following conditions:

- it is a general VAT taxpayer, and has been granted the export tax refund/exemption eligibility;

- the customs export declarations (specifically for export tax refund) for exported goods have been obtained and information thereon is consistent with the electronic information of the customs export declarations;
- the foreign exchange for the exported goods is received prior to the deadline of tax refund or tax exemption; and
- where the e-commerce export enterprise is a foreign trade enterprise, it must have obtained corresponding special VAT invoices, special payment statements for consumption tax (split pages) or special customs statements for payment of import VAT or consumption tax for purchase of the goods for export, and relevant information on the foregoing documents shall be consistent with that contained in the customs export declarations (specifically for export tax refunds).

Even if an e-commerce export enterprise does not satisfy the foregoing conditions, it may also be exempt from consumption tax and VAT if it meets the following requirements:

- it has completed tax registration;
- it has obtained customs export declarations for the exported goods; and
- it has obtained legal and valid proof for purchase of the exported goods.

Third-party e-commerce platforms providing transaction services for e-commerce export enterprises are not eligible for a tax refund or exemption under the E-Commerce Export Taxation Notice.

### ***Regulation of Foreign Exchange and Dividend Distribution***

#### ***Foreign Exchange Regulation***

The principal regulations governing foreign currency exchange in China are the Regulations on Foreign Exchange Administration of the PRC. Under the PRC foreign exchange regulations, payments of current account items, such as profit distributions and trade and service-related foreign exchange transactions, may be made in foreign currencies without prior approval from SAFE by complying with certain procedural requirements. By contrast, approval from or registration with appropriate government authorities is required where RMB is to be converted into foreign currency and remitted out of China to pay capital expenses such as the repayment of foreign currency-denominated loans or foreign currency is to be remitted into China under the capital account, such as a capital increase or foreign currency loans to our PRC subsidiaries.

In August 2008, SAFE issued the Circular on the Relevant Operating Issues Concerning the Improvement of the Administration of the Payment and Settlement of Foreign Currency Capital of Foreign-Invested Enterprises, or SAFE Circular 142, regulating the conversion by a foreign-invested enterprise of foreign currency-registered capital into RMB by restricting how the converted RMB may be used. In addition, SAFE promulgated Circular 45 on November 9, 2011 in order to clarify the application of SAFE Circular 142. Under SAFE Circular 142 and Circular 45, the RMB capital converted from foreign currency registered capital of a foreign-invested enterprise may only be used for purposes within the business scope approved by the applicable government authority and may not be used for equity investments within the PRC. In addition, SAFE strengthened its oversight of the flow and use of RMB capital converted from foreign currency registered capital of foreign-invested enterprises. The use of RMB capital may not be changed without SAFE's approval, and RMB capital may not in any case be used to repay RMB loans if the proceeds of such loans have not been used.

Since SAFE Circular 142 has been in place for more than five years, SAFE decided to further reform the foreign exchange administration system in order to satisfy and facilitate the business and capital operations of foreign invested enterprises, and issued the Circular on the Relevant Issues Concerning the Launch of Reforming Trial of the Administration Model of the Settlement of Foreign Currency Capital of Foreign-Invested Enterprises in Certain Areas in July 2014, which became effective on August 4, 2014. This circular suspends the application of SAFE Circular 142 in certain areas and allows a foreign-invested enterprise registered in these areas with a business scope including "investment" to use the RMB capital converted from foreign currency registered capital

for equity investments within the PRC. SAFE released the Notice on the Reform of the Administration Method for the Settlement of Foreign Exchange Capital of Foreign-invested Enterprises, or SAFE Circular 19, in March 2015, which came into force and superseded SAFE Circular 142 on June 1, 2015. Circular 19 allows foreign invested enterprises to settle their foreign exchange capital on a discretionary basis according to the actual needs of their business operation and provides the procedures for foreign invested companies to use Renminbi converted from foreign currency-denominated capital for equity investment. Nevertheless, Circular 19 also reiterates the principle that Renminbi converted from foreign currency-denominated capital of a foreign-invested company may not be directly or indirectly used for purposes beyond its business scope.

In November 2012, SAFE promulgated the Circular of Further Improving and Adjusting Foreign Exchange Administration Policies on Direct Investment, which substantially amends and simplifies the current foreign exchange procedure. Pursuant to this circular, the opening of various special purpose foreign exchange accounts, such as pre-establishment expenses accounts, foreign exchange capital accounts and guarantee accounts, the reinvestment of RMB proceeds by foreign investors in the PRC, and remittance of foreign exchange profits and dividends by a foreign-invested enterprise to its foreign shareholders no longer require the approval or verification of SAFE, and multiple capital accounts for the same entity may be opened in different provinces, which was not possible previously. In addition, SAFE promulgated the Circular on Printing and Distributing the Provisions on Foreign Exchange Administration over Domestic Direct Investment by Foreign Investors and the Supporting Documents in May 2013, which specifies that the administration by SAFE or its local branches over direct investment by foreign investors in the PRC shall be conducted by way of registration and banks shall process foreign exchange business relating to the direct investment in the PRC based on the registration information provided by SAFE and its branches. In February 2015, SAFE promulgated the Circular of Further Simplifying and Improving the Policies of Foreign Exchange Administration Applicable to Direct Investment, or SAFE Circular 13, which became effective on June 1, 2015. Under SAFE Circular 13, the current foreign exchange procedures will be further simplified, and foreign exchange registrations of direct investment will be handled by the banks designated by the foreign exchange authority instead of SAFE and its branches. However, the foreign invested enterprises were still prohibited by SAFE Circular 13 to use the RMB converted from foreign currency-registered capital to extend entrustment loans, repay bank loans or inter-company loans.

In June 2016, SAFE issued the Circular on Reforming and Regulating Policies on the Control over Foreign Exchange Settlement of Capital Accounts, or Circular 16, which took effect on the same day. Compared to Circular 19, Circular 16 provides that discretionary foreign exchange settlement applies to foreign exchange capital, foreign debt offering proceeds and remitted foreign listing proceeds, and the corresponding Renminbi obtained from foreign exchange settlement are not restricted from extending loans to related parties or repaying the inter-company loans (including advances by third parties). However, since Circular 16 came into effect recently, there exist substantial uncertainties with respect to its interpretation and implementation in practice.

On January 26, 2017, SAFE promulgated the Circular on Further Improving Reform of Foreign Exchange Administration and Optimizing Genuineness and Compliance Verification, or Circular 3, which took effect on the same day. Circular 3 sets out various measures, including the following:

- relaxing the policy restriction on foreign exchange inflow to further enhance trade and investment facilitation, including:
  - expanding the scope of foreign exchange settlement for domestic foreign exchange loans,
  - allowing the capital repatriation for offshore financing against domestic guarantee,
  - facilitating the centralized management of foreign exchange funds of multinational companies, and
  - allowing offshore institutions within pilot free trade zones to settle foreign exchange in domestic foreign exchange accounts; and

- tightening genuineness and compliance verification of cross-border transactions and cross-border capital flow, including:
  - improving the statistics of current account foreign currency earnings deposited offshore,
  - requiring banks to verify board resolutions, tax filing form, and audited financial statements before wiring foreign invested enterprises' foreign exchange distribution above US\$50,000,
  - strengthening genuineness and compliance verification of foreign direct investments, and
  - implementing full scale management of offshore loans in Renminbi and foreign currencies by requiring the total amount of offshore loans be no higher than 30% of the onshore lender's equity shown on its audited financial statements of the last year.

We typically do not need to use our offshore foreign currency to fund our PRC operations. In the event we need to do so, we will apply to obtain the relevant approvals of SAFE and other PRC government authorities as necessary. Our PRC subsidiaries' distributions to their offshore parents and our cross-border foreign exchange activities are required to comply with the various requirements as described above.

*SAFE Circular 37*

SAFE promulgated the Circular on Relevant Issues Concerning Foreign Exchange Control on Domestic Residents' Offshore Investment and Financing and Roundtrip Investment through Special Purpose Vehicles, or SAFE Circular 37, on July 4, 2014, which replaced the former circular commonly known as "SAFE Circular 75" promulgated by SAFE on October 21, 2005. SAFE Circular 37 requires PRC residents to register with local branches of SAFE in connection with their direct establishment or indirect control of an offshore entity, for the purpose of overseas investment and financing, with their legally owned assets or equity interests in domestic enterprises or offshore assets or interests, referred to in SAFE Circular 37 as a "special purpose vehicle." SAFE Circular 37 further requires amendment to the registration in the event of any significant changes with respect to the special purpose vehicle, such as increase or decrease of capital contributed by PRC individuals, share transfer or exchange, merger, division or other material event. In the event that a PRC shareholder holding interests in a special purpose vehicle fails to fulfill the required SAFE registration, the PRC subsidiaries of that special purpose vehicle may be prohibited from making profit distributions to the offshore parent and from carrying out subsequent cross-border foreign exchange activities, and the special purpose vehicle may be restricted in its ability to contribute additional capital into its PRC subsidiary. Furthermore, failure to comply with the various SAFE registration requirements described above could result in liability under PRC law for evasion of foreign exchange controls. On February 13, 2015, SAFE released SAFE Circular 13, under which local banks will examine and handle foreign exchange registration for overseas direct investment, including the initial foreign exchange registration and amendment registration, from June 1, 2015. There exist substantial uncertainties with respect to its interpretation and implementation by governmental authorities and banks.

We have notified substantial beneficial owners of ordinary shares who we know are PRC residents of their filing obligation, and we have periodically filed SAFE Circular 75 reports prior to the promulgation of SAFE Circular 37, on behalf of certain employee shareholders whom we know are PRC residents. However, we may not be aware of the identities of all our beneficial owners who are PRC residents. In addition, we do not have control over our beneficial owners and cannot assure you that all of our PRC resident beneficial owners will comply with SAFE Circular 37. The failure of our beneficial owners who are PRC residents to register or amend their SAFE registrations in a timely manner pursuant to SAFE Circular 37 or the failure of future beneficial owners of our company who are PRC residents to comply with the registration procedures set forth in SAFE Circular 37 may subject these beneficial owners or our PRC subsidiaries to fines and legal sanctions. Failure to register or amend the registration may also limit our ability to contribute additional capital to our PRC subsidiaries or receive dividends or other distributions from our PRC subsidiaries or other proceeds from disposal of our PRC subsidiaries, or we may be penalized by SAFE.

*Share option rules*

Under the Administration Measures on Individual Foreign Exchange Control issued by the People's Bank of China, or the PBOC, on December 25, 2006, all foreign exchange matters involved in employee share ownership plans and share option plans in which PRC citizens participate require approval from SAFE or its authorized branch. Pursuant to SAFE Circular 37, PRC residents who participate in share incentive plans in overseas non-publicly-listed companies may submit applications to SAFE or its local branches for the foreign exchange registration with respect to offshore special purpose companies. In addition, under the Notices on Issues concerning the Foreign Exchange Administration for Domestic Individuals Participating in Share Incentive Plans of Overseas Publicly-Listed Companies, or the Share Option Rules, issued by SAFE on February 15, 2012, PRC residents who are granted shares or share options by companies listed on overseas stock exchanges under share incentive plans are required to (i) register with SAFE or its local branches, (ii) retain a qualified PRC agent, which may be a PRC subsidiary of the overseas listed company or another qualified institution selected by the PRC subsidiary, to conduct the SAFE registration and other procedures with respect to the share incentive plans on behalf of the participants, and (iii) retain an overseas institution to handle matters in connection with their exercise of share options, purchase and sale of shares or interests and funds transfers.

*Regulation of dividend distribution*

The principal laws, rules and regulations governing dividend distribution by foreign-invested enterprises in the PRC are the Company Law of the PRC, as amended, the Wholly Foreign-owned Enterprise Law and its implementation regulations and the Chinese-foreign Equity Joint Venture Law and its implementation regulations. Under these laws, rules and regulations, foreign-invested enterprises may pay dividends only out of their accumulated profit, if any, as determined in accordance with PRC accounting standards and regulations. Both PRC domestic companies and wholly-foreign owned PRC enterprises are required to set aside as general reserves at least 10% of their after-tax profit, until the cumulative amount of their reserves reaches 50% of their registered capital. A PRC company is not permitted to distribute any profits until any losses from prior fiscal years have been offset. Profits retained from prior fiscal years may be distributed together with distributable profits from the current fiscal year.

***Labor Laws and Social Insurance***

Pursuant to the PRC Labor Law and the PRC Labor Contract Law, employers must execute written labor contracts with full-time employees. All employers must comply with local minimum wage standards. Violations of the PRC Labor Contract Law and the PRC Labor Law may result in the imposition of fines and other administrative and criminal liability in the case of serious violations.

In addition, according to the PRC Social Insurance Law and the Regulations on the Administration of Housing Funds, employers in China must provide employees with welfare schemes covering pension insurance, unemployment insurance, maternity insurance, work-related injury insurance, medical insurance and housing funds.

***Anti-monopoly Law***

The PRC Anti-monopoly Law, which took effect on August 1, 2008, prohibits monopolistic conduct, such as entering into monopoly agreements, abuse of dominant market position and concentration of undertakings that have the effect of eliminating or restricting competition.

***Monopoly Agreement***

Competing business operators may not enter into monopoly agreements that eliminate or restrict competition, such as by boycotting transactions, fixing or changing the price of commodities, limiting the output of commodities, fixing the price of commodities for resale to third parties, among others, unless the agreement will satisfy the exemptions under the Anti-monopoly Law, such as improving technologies, increasing the efficiency and competitiveness of small and medium-sized undertakings, or safeguarding legitimate interests in cross-border trade

and economic cooperation with foreign counterparts. Sanctions for violations include an order to cease the relevant activities, and confiscation of illegal gains and fines (from 1% to 10% of sales revenue from the previous year, or RMB500,000 if the intended monopoly agreement has not been performed).

#### ***Abuse of Dominant Market Position***

A business operator with a dominant market position may not abuse its dominant market position to conduct acts, such as selling commodities at unfairly high prices or buying commodities at unfairly low prices, selling products at prices below cost without any justifiable cause, and refusing to trade with a trading party without any justifiable cause. Sanctions for violation of the prohibition on the abuse of dominant market position include an order to cease the relevant activities, confiscation of the illegal gains and fines (from 1% to 10% of sales revenue from the previous year).

#### ***Concentration of Undertakings***

Where a concentration of undertakings reaches the declaration threshold stipulated by the State Council, a declaration must be approved by the anti-monopoly authority before the parties implement the concentration.

Concentration refers to (1) a merger of undertakings; (2) acquiring control over other undertakings by acquiring equities or assets; or (3) acquisition of control over, or the possibility of exercising decisive influence on, an undertaking by contract or by any other means. If business operators fail to comply with the mandatory declaration requirement, the anti-monopoly authority is empowered to terminate and/or unwind the transaction, dispose of relevant assets, shares or businesses within certain periods and impose fines of up to RMB500,000.

See "Item 3. Key Information — D. Risk Factors — Risks Related to Our Business and Industry — Anti-monopoly and unfair competition claims against us may result in our being subject to fines as well as constraints on our business."

#### ***Anti-Terrorism Law***

The PRC Anti-Terrorism Law, which was promulgated on December 27, 2015 and came into effect on January 1, 2016, imposes obligations on telecommunication business operators and Internet service providers to provide technical interfaces and technical assistance in decryption and other efforts to public and national security authorities in terrorism prevention and investigation. Also, the Anti-Terrorism Law requires Internet service providers to implement network security and information and content monitoring systems and adopt technical security measures to prevent the dissemination of information containing terrorist or extremist content. Once content of this type is detected, Internet service providers shall cease the transmission of the information, keep the relevant records, delete the information and report to public and national security bodies. In addition, the Anti-Terrorism Law requires telecommunication business operators and Internet service providers to verify the identity of their clients, and to not provide services to anyone whose identity is unclear or who declines to verify his/her identity. However, the Anti-Terrorism Law does not further specify the required verification measures. Since the Anti-Terrorism Law was promulgated recently, there exist substantial uncertainties with respect to its interpretation and implementation by governmental authorities.

#### ***Regulation Applicable to Alipay***

##### ***Regulation of Non-financial Institution Payment Services***

According to the Administrative Measures for the Payment Services Provided by Non-financial Institutions, or the Payment Services Measures, promulgated by the PBOC on June 14, 2010 and effective as of September 1, 2010, a payment institution, a non-financial institution providing monetary transfer services as an intermediary between payees and payers, including online payment, issuance and acceptance of prepaid cards or bank cards, and other payment services specified by the PBOC, is required to obtain a payment business license. Any non-financial institution or individual engaged in the payment business without this license may be ordered to cease its payment

services and be subject to administrative sanctions and even criminal liabilities. Applications for payment business licenses are examined by the local branches of the PBOC and then submitted to the PBOC for approval. The registered capital of an applicant that engages in a nationwide payment business must be at least RMB100 million, while that of an applicant engaging in a payment business within a province must be at least RMB30 million.

A payment institution is required to conduct its business within the scope of business indicated in its payment business license, and may not undertake any business beyond that scope or outsource its payment business. No payment institution may transfer, lease or lend its payment business license.

On January 20, 2015, the SAFE promulgated the Guiding Opinions on the Pilot Services of Cross-Border Foreign Exchange Payment by Payment Institutions, or the Guiding Opinions, which replaced the previous guiding opinion issued by SAFE on February 1, 2013. Pursuant to the Guiding Opinions, a payment institution is required to obtain approval from the SAFE in order to engage in pilot cross-border foreign exchange payment services and may only provide cross-border foreign exchange payment services for trade in goods or trade in services with real and legitimate transaction background. The payment institution must also verify the real names and identity information of the customers involved in the cross-border transactions, maintain records of the relevant transactions and make monthly reports to the local branch of the SAFE.

In addition, on December 28, 2015, the PBOC promulgated the Administrative Measures for the Online Payment Business of Non-bank Payment Institutions, or the Online Payment Measures, which came into effect on July 1, 2016. The Online Payment Measures require online payment institutions to conduct "know your client" checks and implement the real name system for payment accounts. The Online Payment Measures classify online payment accounts into three categories and require online payment institutions to impose real-name based, classified management, including imposing limits on annual payment volume with respect to different categories of online payment accounts. In addition, a payment account can only be opened by a payment institution with Internet payment business license at the request of customers.

On January 13, 2017, the PBOC issued the Notice on Matters Related to Implementation of Centralized Custody of Clients' Reserve Funds of Payment Institutions, which requires that from April 17, 2017, payment institutions transfer a portion of customer reserve funds to a specifically designated bank account upon the request of the PBOC and that no interest shall accrue upon the transferred customer reserve funds.

We rely on Alipay to provide payment services on our marketplaces and Alipay has obtained a payment business license from the PBOC as well as approval for cross-border foreign exchange payment services from the SAFE.

#### ***Anti-money Laundering Regulations***

The PRC Anti-money Laundering Law, which became effective on January 1, 2007, sets forth the principal anti-money laundering requirements applicable to both financial and non-financial institutions with anti-money laundering obligations, such as Alipay, including the adoption of precautionary and supervisory measures, establishment of various systems for client identification, preservation of clients' identification information and transactions records, and reports on block transactions and suspicious transactions. The Payment Services Measures also require that the payment institution follow the rules associated with anti-money laundering and comply with their anti-money laundering obligations.

In addition, the PBOC promulgated the Administrative Measures for Payment Institutions Regarding Anti-money Laundering and Counter Terrorism Financing on March 5, 2012, or the Anti-money Laundering Measures, according to which the payment institution must establish and improve unified anti-money laundering internal control systems and file their systems with the local branch of the PBOC. The Anti-money Laundering Measures also require the payment institution to set up an anti-money laundering department or designate an internal department to be responsible for anti-money laundering and counter terrorism financing work.



Alipay is in the process of expanding its business internationally, and it may become subject to additional laws, rules and regulations of the jurisdictions in which it chooses to operate. These regulatory regimes may be complex and require extensive time and resources to ensure compliance.

#### ***Data Protection Regulation in Europe***

On May 25, 2018, EU Directive 95/46/EEC was replaced by the GDPR on the protection of natural persons with regard to the processing of personal data and on the free movement of such data. The GDPR applies directly in all European Union member states from May 25, 2018 and applies to companies with an establishment in the European Economic Area, or the EEA, and to certain other companies not in the EEA that offer or provide goods or services to individuals located in the EEA or monitor individuals located in the EEA. The GDPR implements more stringent operational requirements for controllers of personal data, including, for example, expanded disclosures about how personal information is to be used, limitations on retention of information and pseudonymized data, increased cyber security requirements, mandatory data breach notification requirements and higher standards for controllers to demonstrate that they have obtained a valid legal basis for certain data processing activities.

The activities of data processors will be regulated for the first time, and companies undertaking processing activities are required to offer certain guarantees in relation to the security of such processing and the handling of personal data. Contracts with data processors will also need to be updated to include certain terms prescribed by the GDPR, and negotiating such updates may not be fully successful in all cases. Failure to comply with EU laws, including failure under the GDPR and other laws relating to the security of personal data may result in fines up to €20,000,000 or up to 4% of the total worldwide annual turnover of the preceding financial year, if greater, and other administrative penalties including criminal liability.

#### ***Disclosure of Iranian Activities under Section 13(r) of the Exchange Act***

Section 219 of the Iran Threat Reduction and Syria Human Rights Act of 2012 added Section 13(r) to the Securities Exchange Act of 1934. Section 13(r) requires an issuer to disclose in its annual or quarterly reports, as applicable, whether it or any of its affiliates knowingly engaged in certain activities, including, among other matters, transactions or dealings relating to the government of Iran. Disclosure is required even where the activities, transactions or dealings are conducted outside the U.S. by non-U.S. affiliates in compliance with applicable law, and whether or not the activities are sanctionable under U.S. law.

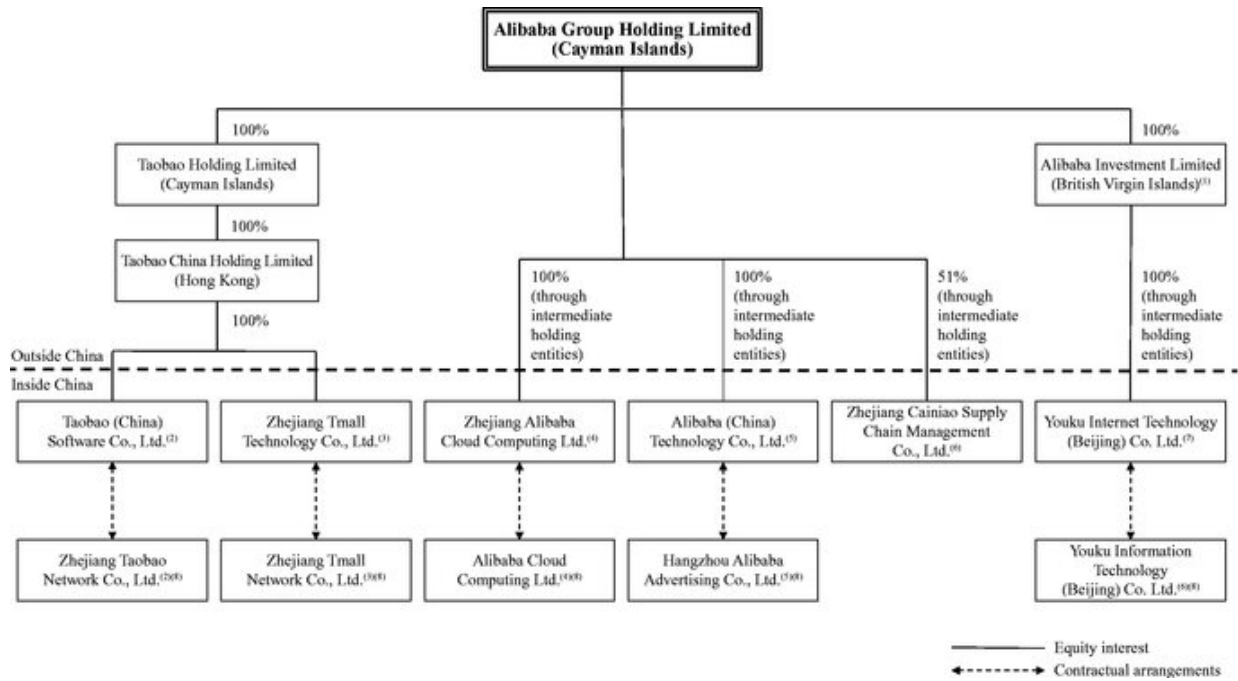
Softbank is one of our substantial shareholders. During fiscal year 2018, SoftBank, through one of its non-U.S. subsidiaries, provided roaming services in Iran through Telecommunications Services Company (MTN Irancell), which is or may be a government-controlled entity. During fiscal year 2018, SoftBank had no gross revenues from such services and no net profit was generated. This subsidiary also provided telecommunications services in the ordinary course of business to accounts affiliated with the Embassy of Iran in Japan. During fiscal year 2018, SoftBank estimates that gross revenues and net profit generated by such services were both under US\$15,000. We were not involved in, and did not receive any revenue from, any of these activities. These activities have been conducted in accordance with applicable laws and regulations, and they are not sanctionable under U.S. or Japanese law. Accordingly, with respect to Telecommunications Services Company (MTN Irancell), the relevant SoftBank subsidiary intends to continue such activities. With respect to services provided to accounts affiliated with the Embassy of Iran in Japan, the relevant SoftBank subsidiary is obligated under contract to continue such services.

In addition, during fiscal year 2018, SoftBank, through one of its non-U.S. indirect subsidiaries, provided office supplies to the Embassy of Iran in Japan. SoftBank estimates that gross revenue and net profit generated by such services were under US\$5,600 and US\$1,300, respectively. We were not involved in, and did not receive any revenue from any of these activities. The relevant SoftBank subsidiary intends to continue such activities.



**C. Organizational Structure**

As of March 31, 2018, we conducted our business operations across approximately 500 subsidiaries and consolidated entities incorporated in China and approximately 420 subsidiaries and consolidated entities incorporated in other jurisdictions. The chart below summarizes our corporate legal structure and identifies the subsidiaries and variable interest entities that are material to our business:



- (1) The principal holding company for our strategic investments.
- (2) Primarily involved in the operation of Taobao Marketplace.
- (3) Primarily involved in the operation of Tmall.
- (4) Primarily involved in the operation of our cloud computing business.
- (5) Primarily involved in the operation of Alibaba.com, 1688.com and AliExpress.
- (6) Primarily involved in the operation of Cainiao Network's business.
- (7) Primarily involved in the operation of Youku's business.
- (8) Each of these variable interest entities is owned by PRC citizens or PRC entities owned and/or controlled by PRC citizens.

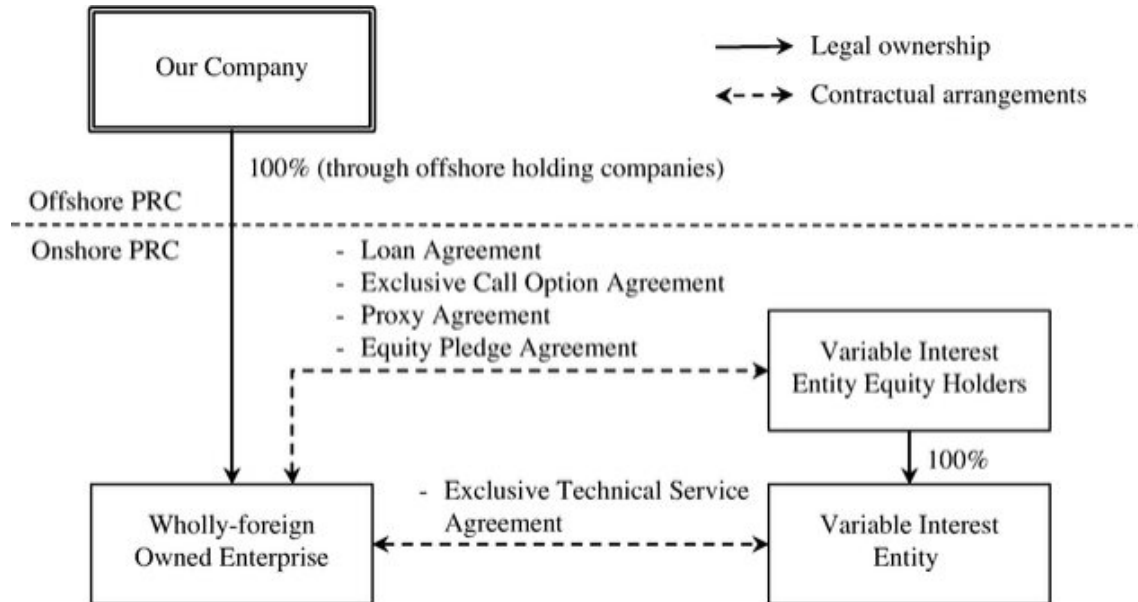
**Contractual Arrangements among Our Wholly-foreign Owned Enterprises, Variable Interest Entities and the Variable Interest Entity Equity Holders**

Due to legal restrictions on foreign ownership and investment in, among other areas, value-added telecommunications services, which include the operations of Internet content providers, or ICPs, we, similar to all other entities with foreign-incorporated holding company structures operating in our industry in China, operate our Internet businesses and other businesses in which foreign investment is restricted or prohibited in the PRC through wholly-foreign owned enterprises, majority-owned entities and variable interest entities. The relevant variable interest entities, which are incorporated in the PRC and 100% owned by PRC citizens or PRC entities owned and/or controlled by PRC citizens, hold the ICP licenses and other regulated licenses and operate our Internet businesses and other businesses in which foreign investment is restricted or prohibited. Specifically, our variable interest entities that are material to our business are Zhejiang Taobao Network Co., Ltd., Zhejiang Tmall Network Co., Ltd., Alibaba Cloud Computing Ltd., Hangzhou Alibaba Advertising Co., Ltd. and Youku Information Technology (Beijing) Co., Ltd. We have entered into certain contractual arrangements, as described in more detail below, which collectively enable us to exercise effective control over the variable interest entities and realize substantially all of the economic risks and benefits arising from the variable interest entities. As a result, we

include the financial results of each of the variable interest entities in our consolidated financial statements in accordance with U.S. GAAP as if they were our wholly-owned subsidiaries.

Other than the ICP licenses and other licenses and approvals for businesses in which foreign ownership is restricted or prohibited that are held by our variable interest entities, we hold our material assets in, and conduct our material operations through, our wholly-foreign owned enterprises, which primarily provide technology and other services to our customers. We primarily generate our revenue directly through our wholly-foreign owned enterprises, which directly capture the profits and associated cash flow from operations without having to rely on contractual arrangements to transfer cash flow from the variable interest entities to the wholly-foreign owned enterprises.

The following diagram is a simplified illustration of the ownership structure and contractual arrangements that we typically have in place for our variable interest entities:



**VIE Structure Enhancement**

**Overview**

We are in the process of enhancing the structure we use to hold our variable interest entities so that we can better ensure the stability and proper governance of our variable interest entities as an integral part of our company, or the VIE Structure Enhancement. The VIE Structure Enhancement maintains the primary legal framework that we and many peer companies in our industry have adopted to operate businesses in which foreign investment is restricted or prohibited in the PRC. We target to complete the VIE Structure Enhancement for the majority of our VIEs in 2019.

Upon the completion of the VIE Structure Enhancement for each VIE, the equity interest of each such variable interest entity will, instead of being held by a few individuals, be directly held by a PRC limited liability company, which in turn will be indirectly held (through a layer of PRC limited partnerships) by selected members of the Alibaba Partnership or our management who are PRC citizens. This new structure institutionalizes the governance framework of our VIEs.

Compared with the existing VIE shareholder structure we and many peer companies in our industry have adopted, which uses natural persons to serve as direct or indirect equity holders of the variable interest entity, we have designed the VIE Structure Enhancement to:

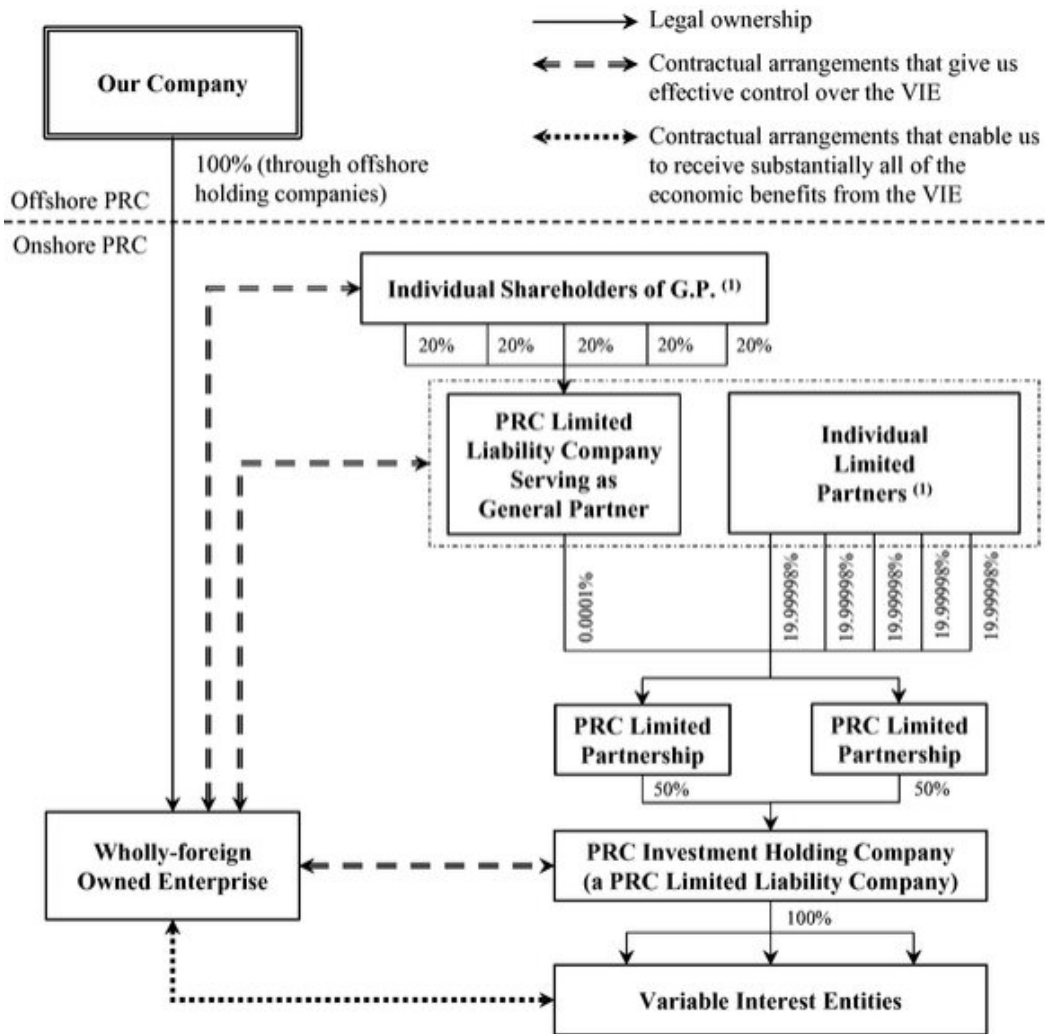
- reduce the key man and succession risks associated with natural person VIE equity holders, through a new structure that has widely dispersed interests among natural person interest holders;
- create a VIE ownership structure that is more stable and self-sustaining, by distancing the natural person interest holders with the VIE with multiple layers of legal entities, including a partnership structure; and
- further enhance our control over the VIEs through multiple layers of contractual arrangements.

***VIE equity holders before and after the VIE Structure Enhancement***

Prior to the VIE Structure Enhancement, four of our material variable interest entities were owned by two PRC natural persons: Jack Ma, our lead founder, executive chairman and one of our principal shareholders, and Simon Xie, one of our founders and a former employee of our company, while Youku Information Technology (Beijing) Co., Ltd. is owned by Hangzhou Ali Venture Capital Co., Ltd. (66.67%), which is a variable interest entity owned by Jack Ma and Simon Xie, and by two of our former employees (33.33%). See the diagram under "— Contractual Arrangements among Our Wholly-foreign Owned Enterprises, Variable Interest Entities and the Variable Interest Equity Holders" above.

Following the VIE Structure Enhancement, a PRC limited liability company, which we refer to as the PRC investment holding company, will become the direct equity holder of each of our material variable interest entities. This PRC investment holding company will in turn be owned by two PRC limited partnerships, each of which will hold 50% of the equity interest. Each of these partnerships is comprised of (i) a PRC limited liability company, as general partner (which is formed by a number of selected members of the Alibaba Partnership and our management who are PRC citizens), and (ii) the same group of natural persons, as limited partners. Under the terms of the relevant partnership agreements, the natural person limited partners must be members of the Alibaba Partnership or our management who are PRC citizens and as designated by the general partner of the partnership. We may also create additional holding structures in the future in connection with the VIE Structure Enhancement.

The following diagram is a simplified illustration of the typical ownership structure and contractual arrangements of the VIEs following the VIE Structure Enhancement.



(1) Selected members of the Alibaba Partnership or our management who are PRC citizens.

Following the VIE Structure Enhancement, our designated wholly-foreign owned entity, on the one hand, and the VIE and the multiple layers of legal entities above the VIE, as well as the natural persons described above, on the other hand, will enter into contractual arrangements, which are substantially similar to the contractual arrangements we have historically used for our variable interest entities. See "— Contracts that Give us Effective Control of the Variable Interest Entities" and "— Contracts that Enable us to Receive Substantially All of the Economic Benefits from the Variable Interest Entities" below.

Although we believe the VIE Structure Enhancement will further improve our control over our variable interest entities, there continue to be risks associated with the VIE structure in general, as well as with the completion of the VIE Structure Enhancement. See "Item 3. Key Information — D. Risk Factors — Risks Related to Our Corporate Structure."

The following is a summary of our typical contractual arrangements.

***Contracts that Give Us Effective Control of the Variable Interest Entities***

***Loan agreements.*** Pursuant to the relevant loan agreement, the respective wholly-foreign owned enterprise has granted a loan to the relevant variable interest entity equity holders, which may only be used for the purpose of its business operation activities agreed by the wholly-foreign owned enterprise. The wholly-foreign owned enterprise may require acceleration of repayment at its absolute discretion. When the variable interest entity equity holders make early repayment of the outstanding amount, the wholly-foreign owned enterprise or a third-party designated by it may purchase the equity interests in the variable interest entity at a price equal to the outstanding amount of the loan, subject to any applicable PRC laws, rules and regulations. The variable interest entity equity holders undertake not to enter into any prohibited transactions in relation to the variable interest entity, including the transfer of any business, material assets, intellectual property rights or equity interests in the variable interest entity to any third-party. The parties to the loan agreement for each of our material variable interest entities are Jack Ma and Simon Xie or other shareholders of those entities (in respect of the existing VIE structure) or, following the VIE Structure Enhancement, the relevant PRC investment holding company, on the one hand, and Taobao (China) Software Co., Ltd., Zhejiang Tmall Technology Co., Ltd., Alibaba (China) Technology Co., Ltd., Zhejiang Alibaba Cloud Computing Ltd. and Youku Internet Technology (Beijing) Co., Ltd., the respective wholly-foreign owned enterprise, on the other hand.

***Exclusive call option agreements.*** The variable interest entity equity holder has granted the wholly-foreign owned enterprise an exclusive call option to purchase its equity interest in the variable interest entity at an exercise price equal to the higher of (i) the paid-in registered capital in the variable interest entity; and (ii) the minimum price as permitted by applicable PRC laws. Each relevant variable interest entity has further granted the relevant wholly-foreign owned enterprise an exclusive call option to purchase its assets at an exercise price equal to the book value of the assets or the minimum price as permitted by applicable PRC law, whichever is higher. Following the VIE Structure Enhancement, each relevant variable interest entity and its equity holders will also jointly grant the relevant wholly-foreign owned enterprise (A) an exclusive call option to request the relevant variable interest entity to decrease its registered capital at an exercise price equal to the higher of (i) the paid-in registered capital in the relevant variable interest entity and (ii) the minimum price as permitted by applicable PRC law, or the capital decrease price, and (B) an exclusive call option to subscribe for the increased capital of relevant variable interest entity at a price equal to the sum of the capital decrease price and the unpaid registered capital, if applicable, as of the capital decrease. The wholly-foreign owned enterprise may nominate another entity or individual to purchase the equity interest or assets, or to subscribe for the relevant increased capital, if applicable, under the call options. Execution of each call option shall not violate the applicable PRC laws, rules and regulations. Each variable interest entity equity holders has agreed that the following amounts, to the extent in excess of the original registered capital that they contributed to the variable interest entity (after deduction of relevant tax expenses), belong to and shall be paid to the relevant wholly-foreign owned enterprises: (i) proceeds from the transfer of its equity interests in the variable interest entity, (ii) proceeds received in connection with a capital decrease in the variable interest entity, and (iii) distributions or liquidation residuals from the disposal of its equity interests in the variable interest entity upon termination or liquidation. Moreover, any profits, distributions or dividends (after deduction of relevant tax expenses) received by the variable interest entity also belong to and shall be paid to the wholly-foreign owned enterprise. The exclusive call option agreements remain in effect until the equity interest or assets that are the subject of these agreements are transferred to the wholly foreign owned enterprise. The parties to the exclusive call option agreement for each of our material variable interest entities are the relevant variable interest entity equity holders, the relevant variable interest entity and its corresponding wholly-foreign owned enterprise.

***Proxy agreements.*** Pursuant to the relevant proxy agreement, each of the variable interest entity equity holders irrevocably authorizes any person designated by the wholly-foreign owned enterprise to exercise his rights as the equity holder of the variable interest entity, including without limitation the right to vote and appoint directors. The parties to the proxy agreement for each of our material variable interest entities are the relevant variable interest entity equity holder, the relevant variable interest entity and its corresponding wholly-foreign owned enterprise.

*Equity pledge agreements.* Pursuant to the relevant equity pledge agreement, the relevant variable interest entity equity holders have pledged all of their interests in the equity of the variable interest entity as a continuing first priority security interest in favor of the corresponding wholly-foreign owned enterprise to secure the outstanding amounts advanced under the relevant loan agreements described above and to secure the performance of obligations by the variable interest entity and/or its equity holders under the other structure contracts. Each wholly-foreign owned enterprise is entitled to exercise its right to dispose of the variable interest entity equity holders' pledged interests in the equity of the variable interest entity and has priority in receiving payment by the application of proceeds from the auction or sale of the pledged interests, in the event of any breach or default under the loan agreement or other structure contracts, if applicable. These equity pledge agreements remain in force until the later of (i) the full performance of the contractual arrangements by the relevant parties, and (ii) the full repayment of the loans made to the relevant variable interest entity equity holders. The parties to the equity pledge agreement for each of our material variable interest entities are the relevant variable interest entity equity holders, the relevant variable interest entity and its corresponding wholly-foreign owned enterprise.

***Contracts that Enable Us to Receive Substantially All of the Economic Benefits from the Variable Interest Entities***

*Exclusive technology services agreements or exclusive services agreements.* Each relevant variable interest entity has entered into an exclusive technology services agreement or, following the VIE Structure Enhancement, an exclusive service agreement with the respective wholly-foreign owned enterprise, pursuant to which the relevant wholly-foreign owned enterprise provides exclusive services to the variable interest entity. In exchange, the variable interest entity pays a service fee to the wholly-foreign owned enterprise, the amount of which shall be determined, to the extent permitted by applicable PRC laws as proposed by the wholly-foreign owned enterprise, resulting in a transfer of substantially all of the profits from the variable interest entity to the wholly-foreign owned enterprise.

The exclusive call option agreements described above also entitle the wholly-foreign owned enterprise to all profits, distributions or dividends (after deduction of relevant tax expenses) to be received by the variable interest entity, and the following amounts, to the extent in excess of the original registered capital that they contributed to the variable interest entity (after deduction of relevant tax expenses) to be received by each variable interest entity equity holder: (i) proceeds from the transfer of its equity interests in the variable interest entity, (ii) proceeds received in connection with a capital decrease in the variable interest entity, and (iii) distributions or liquidation residuals from the disposal of its equity interests in the variable interest entity upon termination or liquidation.

In the opinion of Fangda Partners, our PRC legal counsel:

- the ownership structures of our material wholly-foreign owned enterprises and our material variable interest entities in China do not and will not violate any applicable PRC law, regulation, or rule currently in effect; and
- the contractual arrangements between our material wholly-foreign owned enterprises, our material variable interest entities and the variable interest entity equity holders governed by PRC laws are valid, binding and enforceable in accordance with their terms and applicable PRC laws, rules, and regulations currently in effect, and will not violate any applicable PRC law, regulation, or rule currently in effect, except that the pledges of the partnership interests will not be deemed validly created security interests under the PRC Property Rights Law until they are registered.

However, we have been further advised by our PRC legal counsel, Fangda Partners, that there are substantial uncertainties regarding the interpretation and application of current and future PRC laws, rules and regulations. Accordingly, the PRC regulatory authorities may in the future take a view that is contrary to the opinion of our PRC legal counsel. We have been further advised by our PRC legal counsel that if the PRC government finds that the agreements that establish the structure for operating our Internet-based business do not comply with PRC government restrictions on foreign investment in the aforesaid business we engage in, we could be subject to severe penalties including being prohibited from continuing operations. See "Item 3. Key Information — D. Risk Factors — Risks Related to Our Corporate Structure."

## **D. Property, Plant and Equipment**

As of March 31, 2018, we occupied facilities around the world with an aggregate gross floor area of office buildings owned by us totaling approximately 5.7 million square meters. We maintain offices in many countries and regions, including China, Hong Kong, Singapore, the United States and the United Kingdom. In addition, we maintain data centers in a number of countries including Indonesia, Malaysia, India, Australia, Singapore, Germany, Japan and the United States.

### **ITEM 4A. UNRESOLVED STAFF COMMENTS**

Not Applicable.

## **ITEM 5 OPERATING AND FINANCIAL REVIEW AND PROSPECTS**

### **A. Operating Results**

*The following discussion and analysis of our financial condition and results of operations should be read in conjunction with our audited consolidated financial statements and the related notes included elsewhere in this annual report and in particular, "Item 4. Information on the Company — B. Business Overview." This discussion contains forward-looking statements that involve risks and uncertainties. Our actual results and the timing of selected events could differ materially from those anticipated in these forward-looking statements as a result of various factors, including those set forth under "Item 3. Key Information — D. Risk Factors" and elsewhere in this annual report. We have prepared our financial statements in accordance with U.S. GAAP. Our fiscal year ends on March 31 and references to fiscal years 2016, 2017 and 2018 are to the fiscal years ended March 31, 2016, 2017 and 2018, respectively.*

#### **Overview**

We achieved significant growth and strong operating results in fiscal year 2018. Our total revenue increased by 56% from RMB101,143 million in fiscal year 2016 to RMB158,273 million in fiscal year 2017, and further increased by 58% to RMB250,266 million (US\$39,898 million) in fiscal year 2018. Our net income decreased by 42% from RMB71,289 million in fiscal year 2016 to RMB41,226 million in fiscal year 2017, and increased by 49% to RMB61,412 million (US\$9,791 million) in fiscal year 2018. Our net income in fiscal year 2016 included a deemed disposal gain of RMB24,734 million arising from the deconsolidation of Alibaba Pictures and a gain of RMB18,603 million from the revaluation of our previously held equity interests in Alibaba Health when we obtained control over Alibaba Health in July 2015, respectively. Our non-GAAP net income, which excludes the effect of these disposal and revaluation gains, share-based compensation and certain other items, increased by 35% from RMB42,791 million in fiscal year 2016 to RMB57,871 million in fiscal year 2017, and further increased by 44% to RMB83,214 million (US\$13,266 million) in fiscal 2018. For further information on non-GAAP financial measures we use in evaluating our operating results and for financial and operational decision-making purposes, see "Item 3. Key Information — A. Selected Financial Data — Non-GAAP Measures."

We believe our focus on long-term strategic priorities — globalization, rural expansion, and big data and cloud computing — has laid a strong foundation for future growth.

#### **Our Operating Segments**

Since the beginning of fiscal year 2017, we have organized and reported our business in four operating segments:

- Core commerce;
- Cloud computing;
- Digital media and entertainment; and
- Innovation initiatives and others.

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This presentation reflects how we manage our business to maximize efficiency in allocating resources. This presentation also provides further transparency to our various businesses that are executing different phases of growth and operating leverage trajectories.

We present segmental information after elimination of inter-company transactions. In general, revenue, cost of revenue and operating expenses are directly attributable, and are allocated, to each segment. We allocate costs and expenses that are not directly attributable to individual segments, such as those that support infrastructure across different operating segments, to different operating segments mainly on the basis of usage, revenue or headcount, depending on the nature of the relevant costs and expenses.

In discussing the operating results of these four segments, we present each segment's revenue, income from operations and adjusted earnings before interest, taxes and amortization ("adjusted EBITA").

Our reported segments are described below:

**Core commerce.** The core commerce segment is comprised of platforms operating in retail and wholesale commerce in China, retail and wholesale commerce — cross-border and global, logistics services and others.

**Cloud computing.** The cloud computing segment is comprised of Alibaba Cloud, which offers a complete suite of cloud services, including elastic computing, database, storage, network virtualization services, large scale computing, security, management and application services, big data analytics, a machine learning platform, IoT and other service offerings for enterprises of different sizes across various industries.

**Digital media and entertainment.** The digital media and entertainment businesses leverage our deep data insights to serve the broader interests of consumer through two key distribution platforms or Youku and UC Browser, and through diverse content platforms that provide movies, TV drama series, online dramas, variety shows, games, literature and music.

**Innovation initiatives and others.** The innovation initiatives and others segment includes businesses such as AutoNavi, DingTalk, Tmall Genie and others.

The table below sets forth supplemental financial information of our reported segments for fiscal year 2018:

	Year ended March 31, 2018					Consolidated	
	Core commerce RMB	Cloud computing RMB	Digital media and entertainment RMB	Innovation initiatives and others RMB	Unallocated (1) RMB	RMB	US\$
Revenue	214,020	13,390	19,564	3,292	—	250,266	39,898
Income (loss) from operations	102,743	(3,085)	(14,140)	(6,901)	(9,303)	69,314	11,050
Add: Share-based compensation expense	8,466	2,274	2,142	3,707	3,486	20,075	3,201
Add: Amortization of intangible assets	2,891	12	3,693	198	326	7,120	1,135
Add: Impairment of goodwill	—	—	—	—	494	494	79
Adjusted EBITA	114,100	(799)	(8,305)	(2,996)	(4,997)	97,003	15,465
Adjusted EBITA margin	53%	(6)%	(42)%	(91)%		39%	





commissions and other revenue. The following table sets forth the revenue from our China commerce retail business, in absolute amounts and as percentages of our total revenue, for the fiscal years presented:

	Year ended March 31,						
	2016		2017		2018		
	RMB	% of revenue	RMB	% of revenue	RMB	US\$	
	(in millions, except percentages)						
Customer management	52,396	52%	77,530	49%	114,285	18,220	46%
Commissions	25,829	25%	34,066	21%	46,525	7,417	19%
Others	1,808	2%	2,513	2%	15,749	2,511	6%
Total China commerce retail	80,033	79%	114,109	72%	176,559	28,148	71%

*Customer management.*

We derive a substantial majority of our China commerce retail revenue from customer management, which primarily consists of:

- *P4P marketing services*, where merchants primarily bid for keywords through our online auction system that match product or service listings appearing in search or browser results on a cost-per-click, or CPC, basis. Whether and where the listing will be displayed, and the corresponding prices for such display are determined by the algorithm of our online auction system based on a number of factors with various weights and through a market-based bidding mechanism.
- *Display marketing services*, where merchants bid for display positions at fixed prices or prices established by a market-based bidding system on a cost-per-thousand impression, or CPM, basis.

In addition to the above-mentioned P4P marketing services and display marketing services directly provided on our marketplaces, we also provide such services through collaboration with other third-party marketing affiliates. These third parties are primarily third-party online media, such as search engines, news feeds and video entertainment websites. These third-party online media enter into agreements with us to connect their designated online resources to our online auction system so that the merchants' listings or other marketing information can be displayed on those third-party online media resources. Revenue from P4P and display marketing services provided through third-party marketing affiliates represented 3%, 3% and 2% of our total revenue in fiscal years 2016, 2017 and 2018, respectively.

- *Taobaoke program*, where we collaborate with shopping guide platforms, medium- and small-sized websites, individuals and other third parties, collectively "Taobaokes," to offer marketing services. Taobaokes display the marketing information of our merchants on their media which facilitate our merchants to market and transact. Merchants pay commissions to such Taobaokes based on a percentage of transaction value generated from users under the Taobaoke program. Commissions on Taobaoke are set by the merchants. Revenue from the Taobaoke program represented 3%, 3% and 3% of our total revenue in fiscal years 2016, 2017 and 2018, respectively.

*Commissions on transactions.* In addition to purchasing customer management services, merchants also pay a commission based on a percentage of transaction value generated on Tmall and certain other marketplaces. The commission percentages typically range from 0.3% to 5.0% depending on the product category.

*Other.* Other revenue from our China commerce retail is primarily generated by our New Retail business, mainly Intime, Tmall Imports and Hema, and primarily consists of revenue from product sales, commissions on transactions and software service fees.

*China Commerce Wholesale.* We generate revenue from our China commerce wholesale business primarily through membership fees, value-added services and customer management services. Revenue from membership fees are primarily fixed annual fees from the sale of China TrustPass memberships for paying members to reach

customers, provide quotations and transact. Paying members may also purchase additional value-added services, such as premium data analytics and upgraded storefront management tools, the prices of which are determined based on the types and duration of the value-added services. Revenue from customer management services is primarily derived from P4P marketing services.

**International Commerce Retail.** We generate revenue from our international commerce retail businesses primarily through commissions, direct sales and customer management services through AliExpress and Lazada. Merchants pay a commission based on a percentage of the transaction value they generate, mainly on AliExpress. The commissions on AliExpress are typically 5% to 8% of the transaction value. We also generate revenue from direct sales of merchandise, primarily through Lazada. In addition, we generate revenue from customer management services, primarily from AliExpress's collaboration with third-party websites and P4P marketing services.

**International Commerce Wholesale.** We generate revenue from our wholesale commerce — cross-border and global primarily through membership fees, value-added services and customer management services. Revenue from membership fees are primarily fixed annual fees from the sale of Gold Supplier memberships for paying members to reach customers, provide quotations and transact. Revenue from value-added services primarily consists of fees for services such as customs clearance services, the prices of which are determined based on the types, usage and duration of the value-added services. Revenue from customer management services is primarily derived from P4P marketing services.

**Logistics Services.** We charge merchants and third-party logistics service providers fees based upon the number of contracted orders completed and other value-added services we provide.

### **Cloud Computing**

We primarily generate cloud computing revenue from enterprise customers based on the duration and usage of the service.

### **Digital Media and Entertainment**

Revenue from digital media and entertainment business is primarily comprised of customer management services and membership subscription fees. Customer management services fees are generally generated from advertisers and advertising agencies and the monetization model is substantially similar to the customer management services fees for our China commerce retail business. Membership subscription fees are mainly charged from paying consumers.

### **Innovation Initiatives and Others**

In this segment we primarily generate revenue from enterprise customers and consumers. For example, AutoNavi charges a software service fee to enterprise customers. Other revenue includes annual fees payable by Ant Financial or its affiliates in relation to the SME loans business that we transferred to Ant Financial in February 2015. See "Item 7.B. Related Party Transactions — Agreements and Transactions Related to Ant Financial and Its Subsidiaries."

## **Factors Affecting Our Results of Operations**

**Our Ability to Create Value for Our Users and Generate Revenue.** Our ability to create value for our users and generate revenue is driven by the factors described below:

- *Number and engagement of consumers.* Consumers are attracted to our platforms by the breadth of personalized content and the interactive user experience these platforms offer. Our platforms include a comprehensive selection of product and service offerings as well as engaging content, such as news feeds on our Taobao App and UC Browser, entertainment content on Youku, music and sports. Consumers enjoy an

engaging social experience by interacting with each other and with merchants and brands on our platforms. We leverage our data insights to further optimize the relevance of this rich content we provide to our users. The engagement of consumers in our ecosystem is affected by our ability to continue to enhance and expand our product and service offerings and improve user experience.

- *Broader value offered to merchants, brands, retailers and other businesses.* Merchants, brands and other businesses use our products and services to help them acquire and retain customers, build brand awareness and engagement, complete transactions, and enhance their operating efficiency. We offer merchants a complete suite of services and tools powered by our data insights, to help them effectively engage consumers, efficiently manage their operations and provide seamless online and offline consumer experience. In addition, we empower businesses of different sizes across various industries through our comprehensive enterprise cloud service offerings.
- *Empowering data and technology.* Our ability to engage consumers and empower merchants, brands and other businesses is affected by the breadth and depth of our data insights, such as the accuracy of our shopping recommendations and of our targeted marketing, and our technology capabilities and infrastructure, such as cloud computing, and our continued ability to develop scalable products and services that adapt to the quickly evolving industry trends and consumer preferences.

**Operating Leverage of Our Business Model.** Our primary business model has significant operating leverage and our ecosystem enables us to realize structural cost savings. For example, Taobao Marketplace drives significant traffic to Tmall as Tmall product listings also appear on Taobao Marketplace search result pages. Further, the large number of consumers on our marketplaces attracts a large number of merchants, who become customers for our customer management and storefront services. In addition, the vast consumer base of our ecosystem presents cross-selling opportunities to a variety of our platforms, such as our ability to promote our digital media and entertainment services, including Youku, to consumers on our marketplaces. These network effects allow for lower traffic acquisition costs and provide synergies across our businesses.

**Our Investment in User Base, Technology, People and Infrastructure.** We have made, and will continue to make, significant investments in our platforms and ecosystem to attract consumers and merchants, enhance user experience and expand the capabilities and scope of our platforms. We expect our investments will include expanding our core commerce offerings, enhancing our cloud computing business, acquiring content and users to further develop our digital media and entertainment business, cultivating innovation initiatives and new technologies as well as executing our globalization strategy. Our operating leverage and margin levels enable us to continue to invest in our people, particularly engineers, scientists and product management personnel, as well as in our technology capabilities and infrastructure. In addition, as a result of our financial strength, we expect to invest in the above mentioned new and existing businesses which will lower our margins but deliver overall long-term growth.

**Strategic Investments and Acquisitions.** We have made, and intend to make, strategic investments and acquisitions. We do not make investments and acquisitions for purely financial reasons. Our investment and acquisition strategy is focused on strengthening our ecosystem, creating strategic synergies across our businesses, and enhancing the overall value of our company. Our strategic investments and acquisitions may affect our future financial results, including our margins and our net income. For example, we expect that our acquisitions of Youku and controlling stakes in Lazada, Cainiao Network and Ele.me and our privatization of Intime will have a negative effect on our financial results, at least in the short term. In addition, some of our acquisitions and investments may not be successful. We have incurred impairment charges in the past and may incur impairment charges in the future.

## Recent Investment, Acquisition and Strategic Alliance Activities

In addition to organic growth, we have made, or have entered into agreements to make, strategic investments, acquisitions and alliances that are intended to further our strategic objectives. The financial results for these strategic transactions that were completed are reflected in our operating results beginning with the period of their respective completion. Investments in which we did not obtain control are accounted for under the equity method if we have significant influence over the investee through investment in common stock or in-substance common stock. Otherwise, investments are accounted for under the cost method or as investment securities based on our accounting policies over different categories of investments and merger and acquisition activities. For the details of our accounting policies for each category of our investments, see notes 2(d), 2(t) and 2(u) to our audited consolidated financial statements included elsewhere in this annual report.

We take a deliberate and staged approach to our investment and acquisition strategy. In some cases, we may begin with an initial minority investment followed by business cooperation. We have chosen to make minority investments in some circumstances instead of full acquisitions for one or more of the following reasons: (i) the investee has strong management, where we allow them to have operating independence and potential upside tied to their business in order to retain them; (ii) the investee does not fit within our core business operations but can generate strategic synergies through an equity relationship; and/or (iii) the investee demonstrates clear strategic value to us but capital or integration risk in the near term suggests a deliberate and phased-in approach. When the business results, cooperation and the overall relationship established with the management of the investee company show increasing value to our ongoing business strategy, we may increase our investment or acquire the investee company completely. Examples of this type of approach include our investments in UCWeb, AutoNavi, Youku, Intime, Cainiao Network and Ele.me, where the period from initial investment to eventual acquisition and/or consolidation spanned more than one fiscal year.

We have funded our strategic acquisitions and investments primarily from cash generated from our operations and through debt and equity financing. Our debt financing primarily consists of unsecured senior notes and bank borrowings. We issued an aggregate of US\$8.0 billion unsecured senior notes in November 2014, of which US\$1.3 billion was repaid in November 2017, and an additional aggregate US\$7.0 billion unsecured senior notes in December 2017. We completed the drawdown of a five-year term loan facility of US\$4.0 billion in fiscal year 2017. In addition, in April 2017, we obtained a new US\$5.15 billion revolving credit facility which we have not yet drawn. Going forward, we expect to fund additional investments through cash generated from our operations and through debt and equity financing when opportunities arise in the future. Although we expect our margins to be negatively affected by acquisitions of target companies with lower or negative margins, such as our acquisitions and consolidations of Youku, Lazada, Intime, Cainiao Network and Ele.me, we do not expect our investment activities to have any significant negative impact on our liquidity or operations. We believe acquired businesses operating at a loss do not detract from the total value of our company because they bring clear strategic value to us in the long run. However, there can be no assurance that our future financial results would not be materially and adversely affected if our strategic investments and acquisitions are not successful. See "Item 3. Key Information — D. Risk Factors — Risks Related to Our Business and Industry — Increased investments in our business, strategic acquisitions and investments as well as our focus on long-term performance and maintaining the health of our ecosystem may negatively affect our margins and our net income" and "Item 3. Key Information — D. Risk Factors — Risks Related to Our Business and Industry — We face risks relating to our acquisitions, investments and alliances."

Our significant strategic investments and acquisitions (including those that are under definitive agreement but have not closed) in fiscal year 2018 and the period through the date of this annual report are set forth below. For those investments and acquisitions described below that have not yet closed, there can be no assurance that the closing conditions will be satisfied in a timely manner or at all.

**Core Commerce and New Retail**

*Focus Media Information Technology Co., Ltd.*, or Focus Media, a company that is listed on the Shenzhen Stock Exchange, operates a media network for advertisements, including within cinemas, and advertising posters and displays in elevators of office and residential buildings. In July 2018, we and our affiliates agreed to acquire a total equity interest of approximately 8% in Focus Media for a cash consideration of approximately RMB11.6 billion (US\$1.8 billion). In addition, we agreed to acquire a 10% equity interest of an entity controlled by the founder and chairman of Focus Media, which holds an approximately 23% equity interest in Focus Media, for a cash consideration of US\$511 million. The completion of these transactions is subject to customary closing conditions.

*DSM Grup Danışmanlık İletişim Ve Satış Ticaret Anonim Şirketi*, or Trendyol, a leading online fashion retailer in Turkey. In June 2018, we entered into an agreement under which we will invest into Trendyol as well as acquire shares from certain existing investors, representing a controlling equity interest, for a cash consideration of US\$728 million. The investment underscores our commitment to international expansion. The completion of this transaction is subject to customary closing conditions.

*Kaiyuan Commerce Co., Ltd.*, or Kaiyuan, a leading department store operator in the northwestern part of China. In April 2018, we acquired a 100% equity interest in Kaiyuan for a cash consideration of RMB3.4 billion (US\$536 million). We expect that the acquisition will complement our New Retail initiatives to transform the retail landscape and reengineer the fundamentals of retail operations.

*Beijing Shiji Information Technology Co., Ltd.*, or Shiji Information, a company that is listed on the Shenzhen Stock Exchange and is primarily engaged in the development and sale of hotel information management system software, system integration and technical services. In April 2018, we acquired a 38% equity interest of Shiji Retail Information Technology Co., Ltd., or Shiji Retail, for a cash consideration of US\$486 million. Shiji Retail is a subsidiary of Shiji Information, which had injected certain businesses and investments that are engaged in the provision of retail information system solutions into Shiji Retail.

*Beijing Easyhome Furnishing Chain Group Co., Ltd.*, or Easyhome, a company that operates one of the largest home improvement supplies and furniture chains in China. In March 2018, we acquired a 10% equity interest in Easyhome for a cash consideration of RMB3.6 billion (US\$580 million). The business cooperation between Easyhome and us will provide both online and offline customers with a comprehensive home improvement solution.

*Sun Art Retail Group Limited*, or Sun Art, a leading hypermarket operator in China that is listed on the Hong Kong Stock Exchange. In December 2017 and January 2018, we completed investments in existing ordinary shares of Sun Art and existing ordinary shares of A-RT Retail Holdings Limited, a limited liability company incorporated in Hong Kong that holds an approximately 51% equity interest in Sun Art, for an aggregate consideration of HK\$19.3 billion (US\$2.5 billion), representing an approximately 31% effective equity interest in Sun Art.

*Intime Retail (Group) Company Limited*, or Intime, a leading department store operator in China that was previously listed on the Hong Kong Stock Exchange. Pursuant to an initial investment in July 2014 and a conversion of convertible debt securities into equity in June 2016, we owned an approximately 28% equity interest in Intime immediately before its privatization. In May 2017, we and Mr. Shen Guo Jun, the founder of Intime, completed the privatization of Intime. We paid a total cash consideration of HK\$12.6 billion (US\$1.6 billion) in the privatization. Upon the completion of the privatization, we increased our shareholding in the company to approximately 74% and became the controlling shareholder. In February 2018, we acquired additional equity interest of Intime from certain minority shareholders of Intime for a total cash consideration of HK\$6.7 billion (US\$855 million). Our shareholding in the company increased to approximately 98%. We expect Intime to support our strategy to transform conventional retail by leveraging our substantial consumer reach, rich data and technology.

### **Local Services**

*Rajax Holding*, or Ele.me (饿了么), a leading on-demand delivery and local services platform in China, covering over 670 cities in China as of March 31, 2018. In April and August 2017, we and Ant Financial, through a joint investment vehicle, invested a total of US\$1.2 billion in the preferred shares of Ele.me, of which our investment totaled US\$864 million. In May 2018, we invested, through the joint investment vehicle, a total consideration of US\$5.5 billion to acquire all outstanding shares of Ele.me that it did not already own. Upon the completion of the acquisition, we became the controlling shareholder of Ele.me. We expect that the acquisition will deepen Ele.me's integration into our ecosystem and advance our New Retail strategy to provide a seamless online and offline consumer experience in the local services sector.

### **Digital Media and Entertainment**

*Wanda Film Holding Co., Ltd.*, or Wanda Film, a company that is principally engaged in the investment and management of cinemas and film distribution businesses and is listed on the Shenzhen Stock Exchange. In March 2018, we acquired an approximately 8% equity interest in Wanda Film from an existing shareholder of Wanda Film for a cash consideration of RMB4.7 billion (US\$745 million). We believe that our partnership with Wanda Film will complement other digital media and entertainment businesses in our ecosystem, such as the Youku platform and the online ticketing platform.

### **Logistics**

*Cainiao Smart Logistics Network Limited*, or Cainiao Network, a company that operates a logistics data platform which leverages the capacity and capabilities of logistics partners to offer domestic and international one-stop-shop logistics services and supply chain management solutions, fulfilling various logistics needs of merchants and consumers at scale. It uses data insights and technology to improve efficiency across the logistics value chain. In October 2017, as a further step to implement our New Retail strategy, we completed a subscription for newly issued ordinary shares of Cainiao Network for a cash consideration of US\$803 million. Following the completion of the transaction, our equity interest in Cainiao Network increased from an approximately 47% to an approximately 51% and Cainiao Network became our consolidated subsidiary. We expect that Cainiao Network will help enhance the overall logistics experience for consumers and merchants across our ecosystem, and enable greater efficiencies and lower costs in the logistics sector in China.

### **International Expansion**

*PT Tokopedia*, or Tokopedia, a company that operates one of the leading e-commerce platforms in Indonesia. In fiscal year 2018, we completed a minority investment in existing and newly issued preferred shares of Tokopedia for a total cash consideration of US\$445 million. In connection with the transaction, we also agreed to subscribe for up to US\$500 million of additional preferred shares of Tokopedia at the then fair market value if so elected by Tokopedia during a 24-month period after the completion of the initial investment. The investment in Tokopedia further expands our presence in the Southeast Asia consumer market.

### **Others**

*Huitongda Network Co., Ltd.*, or Huitongda, a company that operates a rural online services platform in China. In April 2018, we acquired existing and newly issued shares of Huitongda for a cash consideration of RMB4.5 billion (US\$717 million), representing a 20% equity interest in Huitongda. The investment in Huitongda complements our strategic initiative in rural expansion.

*China United Network Communications Ltd.*, or China Unicom, a major telecommunications company in China that is listed on the Shanghai Stock Exchange. In October 2017, we completed a RMB4.3 billion (US\$690 million) investment in newly issued ordinary shares of China Unicom, representing an approximately 2% equity interest in China Unicom. We expect that this investment can help us build an alliance relationship with China Unicom. By



leveraging China Unicom's expertise in network operations and customer service, we believe that our alliance will help expand our cloud computing coverage across different industries in China.

### ***Intangible Assets and Goodwill***

When we make an acquisition, consideration that exceeds the fair value of the acquired assets and liabilities is allocated to intangible assets and goodwill. We have and will continue to incur amortization expenses as we amortize intangible assets over their estimated useful life on a straight-line basis. We do not amortize goodwill. We test intangible assets and goodwill periodically for impairment, and any impairment may materially and adversely affect our financial condition and results of operations. Some of our acquisitions and investments may not be successful, and we may incur impairment charges in the future. For additional information, see "— Critical Accounting Policies and Estimates — Impairment Assessment on Goodwill and Intangible Assets" and "Item 3. Key Information — D. Risk Factors — Risks Related to Our Business and Industry — We face risks relating to our acquisitions, investments and alliances."

### **Key Financial Information of Selected Equity Method Investees**

Our investments in the following companies are accounted for under the equity method. Consistent with our accounting policies for investments in equity method investees, we record our share of results of the following companies on a one quarter in arrears basis within share of results of equity investees in the consolidated income statements.

#### ***Koubei***

The following table is a summary of key unaudited financial information of Koubei:

Income statement data:

	Twelve months ended December 31, 2016 RMB	Twelve months ended December 31, 2017 RMB
	(in millions)	
Revenue	313	1,207
Net loss	(2,312)	(4,429)

Balance sheet data:

	As of December 31,	
	2016 RMB	2017 RMB
	(in millions)	
Total assets	3,971	7,989
Total liabilities	1,068	1,548
Total equity and mezzanine equity	2,903	6,441

We recorded our share of the net loss of Koubei of RMB990 million and RMB1,340 million (US\$214 million) in fiscal years 2017 and 2018, respectively. We have ceased to recognize our share of losses of Koubei as our cumulative share of losses exceeded our investment in Koubei.

**Alibaba Pictures**

The following table is a summary of key unaudited financial information of Alibaba Pictures:

Income statement data:

	<u>Twelve months ended December 31, 2016</u> RMB	<u>Twelve months ended December 31, 2017</u> RMB
	(in millions)	
Revenue	905	2,366
Net loss	(976)	(1,052)

Balance sheet data:

	<u>As of December 31,</u>	
	<u>2016</u>	<u>2017</u>
	<u>RMB</u>	<u>RMB</u>
	(in millions)	
Total assets	19,563	16,654
Total liabilities	2,431	1,795
Total equity	17,132	14,859

We recorded our share of the net loss of Alibaba Pictures of RMB482 million and RMB461 million (US\$73 million) in fiscal years 2017 and 2018, respectively. We also recorded an impairment charge of RMB18,116 million (US\$2,888 million) in connection with our investment in Alibaba Pictures in share of results of equity investees in our consolidated income statement for fiscal year 2018. See "— Comparison of Fiscal Years 2017 and 2018" for additional information regarding the impairment charge.

## Components of Results of Operations

### Revenue

The following table sets forth the principal components of our revenue for the periods indicated:

	Year ended March 31,					
	2016		2017		2018	
	RMB	% of revenue	RMB	% of revenue	RMB	US\$ % of revenue
	(in millions, except percentages)					
<b>Core commerce:</b>						
China commerce retail	80,033	79%	114,109	72%	176,559	28,148 71%
China commerce wholesale	4,288	4%	5,679	4%	7,164	1,142 3%
International commerce retail	2,204	2%	7,336	5%	14,216	2,266 6%
International commerce wholesale	5,425	6%	6,001	4%	6,625	1,056 2%
Cainiao logistics services	—	—	—	—	6,759	1,078 3%
Others	385	0%	755	0%	2,697	430 1%
Total core commerce	92,335	91%	133,880	85%	214,020	34,120 86%
Cloud computing	3,019	3%	6,663	4%	13,390	2,135 5%
Digital media and entertainment	3,972	4%	14,733	9%	19,564	3,119 8%
Innovation initiatives and others	1,817	2%	2,997	2%	3,292	524 1%
Total	101,143	100%	158,273	100%	250,266	39,898 100%

We generate most of our revenue from our core commerce segment. We also earn revenue from services associated with our cloud computing segment, digital media and entertainment segment as well as innovation initiatives and others segment. A substantial majority of our revenue is attributable to our businesses in China. See "— Our Monetization Model" for additional information regarding our revenue.

### Cost of Revenue

The principal components of our cost of revenue include: cost of inventory; logistics costs; expenses associated with the operation of our websites, such as bandwidth and co-location fees, and depreciation and maintenance expenses for our computers, servers, call centers and other equipment; salary, bonuses, benefits and share-based compensation expense relating to customer service and web operation personnel and payment processing consultants; content acquisition costs paid to third parties for our online media properties; traffic acquisition costs paid to third-party marketing affiliates either at a fixed price or on a revenue-sharing basis; payment processing fees paid to Alipay or other financial institutions; and other miscellaneous costs.

### Product Development Expenses

Product development expenses primarily include salaries, bonuses, benefits and share-based compensation expense for research and development personnel and other expenses which are directly attributable to the development of new technologies and products for our businesses, such as the development of the Internet infrastructure, applications, operating systems, software, databases and networks. We expense all of our product development costs as they are incurred.

### Sales and Marketing Expenses

Sales and marketing expenses primarily consist of online and offline advertising expenses, promotion expenses, salaries, bonuses, benefits and share-based compensation expense for our employees engaged in sales and marketing functions, and sales commissions paid for membership acquisition for our wholesale marketplaces.

### ***General and Administrative Expenses***

General and administrative expenses consist mainly of salaries, bonuses, benefits and share-based compensation expense for our management and administrative employees, professional services fees, office facilities, other support overhead costs and charitable contributions.

### ***Interest and Investment Income, Net***

Interest and investment income, net consists of interest income, impairment of cost method investees and investment securities and gain or loss on deemed disposals, disposals and revaluation of our long term equity investments. Our interest and investment income, net was more significant in fiscal year 2016 and 2018 as a result of a deemed disposal gain of RMB24,734 million arising from the deconsolidation of Alibaba Pictures in fiscal year 2016 and gains of RMB18,603 million and RMB22,442 million (US\$3,578 million), respectively, from the revaluation of our previously held equity interest in Alibaba Health in fiscal year 2016 and Cainiao Network in fiscal year 2018 when we obtained control over these two companies.

### ***Interest Expense***

Our interest expense is comprised of interest payments and amortization of upfront fees and incidental charges primarily associated with our unsecured senior notes issued in November 2014, the US\$4.0 billion five-year term loan facility drawn down in fiscal year 2017 and an additional aggregate of US\$7.0 billion unsecured senior notes issued in December 2017. In addition, in April 2017, we obtained a new US\$5.15 billion revolving credit facility, which we have not yet drawn as of the date of this annual report.

### ***Other Income, Net***

Other income, net primarily consists of royalty fees and software technology service fees paid by Ant Financial, exchange gain or loss, as well as government grants. Ant Financial pays us royalty fees and software technology service fees pursuant to an intellectual property and software technology services agreement, as amended in August 2014, or the 2014 IPLA. See "Item 7. Major Shareholders and Related Party Transactions — B. Related Party Transactions — Agreements and Transactions Related to Ant Financial and its Subsidiaries — Share and Asset Purchase Agreement — Alipay Intellectual Property License and Software Technology Services Agreement" for further information on the arrangements between us and Ant Financial. Exchange gain or loss, arising from our operations and treasury management activities, recognized in our income statement is largely a result of depreciation or appreciation of RMB, respectively. The amount is also partially affected by the currency movements on our hedging activities related to the portion that is deemed ineffective from an accounting perspective. Government grants primarily relate to grants by central and local governments in connection with our contributions to technology development and investments in local business districts. These grants may not be recurring in nature, and we recognize the income when the grants are received and no further conditions need to be met.

### ***Income Tax Expense***

Our income tax expense is comprised primarily of current tax expense, mainly attributable to certain profitable subsidiaries in China, and deferred tax expense, mainly including withholding tax on dividends to be distributed by our major subsidiaries operating in China.

### **Taxation**

#### ***Cayman Islands Tax***

Under Cayman Islands law, our company is not subject to income, corporation or capital gains tax, and no withholding tax is imposed upon the payment of dividends.

### ***Hong Kong Profits Tax***

Our company's subsidiaries incorporated in Hong Kong were subject to Hong Kong profits tax at a rate of 16.5% in fiscal years 2016, 2017 and 2018.

### ***PRC Income Tax***

Under the PRC Enterprise Income Tax Law, or EIT Law, the standard enterprise income tax rate is 25%. Entities qualifying as High and New Technology Enterprises enjoy a preferential tax rate of 15%. Entities recognized as Software Enterprises are exempt from the EIT for two years beginning from their first profitable calendar year and are entitled to a 50% reduction in EIT for the following three calendar years. Furthermore, entities recognized as Key Software Enterprises within the PRC national plan enjoy a preferential EIT rate of 10%.

Certain subsidiaries received the above preferential tax treatments during calendar years 2015, 2016, 2017 and 2018. One of our major subsidiaries in China, Zhejiang Tmall Technology Co. Ltd., or Tmall China, which is a wholly foreign-owned enterprise primarily involved in the operation of Tmall, was recognized as a Software Enterprise and was subject to an EIT rate of 12.5% (or 50% of the standard statutory rate) in calendar year 2015. In calendar year 2016, Tmall China was recognized as a Key Software Enterprise and was subject to an EIT rate of 10%. Tmall China will be subject to an EIT rate of 10% or 15% for future years as long as it continues to qualify as a Key Software Enterprise or a High and New Technology Enterprise. Two of our subsidiaries in China, Taobao (China) Software Co. Ltd., or Taobao China, and Alibaba (China) Technology Co. Ltd., or Alibaba China, which are also wholly foreign owned enterprises primarily involved in the operations of Taobao Marketplace and wholesale marketplaces respectively, were recognized as Key Software Enterprises in calendar years of 2015 and 2016 and they were subject to an EIT rate of 10%.

Key Software Enterprise status is subject to review by the relevant authorities every year and the timing of annual review and notification by the relevant authorities may vary from year to year. The annual review and notification relating to the renewal of the Key Software Enterprise status for the calendar year of 2017 had not yet been obtained as of March 31, 2018. Accordingly Alibaba China, Taobao China and Tmall China continued to apply an EIT rate of 15% as High and New Technology Enterprises for the accounting of taxation during calendar year 2017. The related tax adjustments in relation to the change in applicable EIT rate will be accounted for in the period prospectively in which Key Software Enterprise status is recognized.

### ***VAT and Other Levies***

Our major PRC subsidiaries are subject to VAT on revenue earned for our services under a national VAT reform program. In general, the applicable VAT rate on the revenue earned for services is 6% with companies entitled to credit VAT paid on certain purchases against VAT on sales. Revenue is recognized net of VAT in our consolidated income statement.

### ***PRC Withholding Tax***

Pursuant to the EIT Law, a 10% withholding tax is generally levied on dividends declared by companies in China to their non-resident enterprise investors. A lower withholding tax rate of 5% is applicable for direct foreign investors incorporated in Hong Kong with at least 25% equity interest in the PRC company and meeting the relevant conditions or requirements pursuant to the tax arrangement between the PRC and Hong Kong. As the equity holders of our major subsidiaries in China are qualified Hong Kong incorporated companies, our deferred tax liabilities for distributable earnings are calculated at a 5% withholding tax rate. As of March 31, 2018, we have fully accrued the withholding tax on the earnings distributable by all of our subsidiaries in China, except for those being reserved for permanent reinvestment in China of RMB28.6 billion (US\$4.6 billion).

**Share-based Compensation**

We have various equity incentive plans pursuant to which the employees, consultants and directors of our company, our affiliates and certain other companies, such as Ant Financial, are granted options or awarded RSUs to acquire our ordinary shares. We believe share-based awards are vital to attract, incentivize and retain our employees and consultants. In addition to on-hire grants for new recruits above a specific job level, we also make performance grants on an annual basis and promotion grants on a semi-annual basis to our top performing employees. RSUs and options granted in the above categories are generally subject to a four-year vesting schedule. Depending on the nature and the purpose of the grant, options and RSUs generally vest 25% upon the first anniversary of the vesting commencement date or 50% upon the second anniversary of the vesting commencement date, and thereafter 25% every year. Certain options and RSUs granted to our senior management members are subject to a six-year pro rata vesting schedule. We believe share-based awards are the appropriate tool to align the interests of the grantees with those of our shareholders.

In addition, Junhan, a major equity holder of Ant Financial, has granted certain share-based awards similar to share appreciation awards linked to the valuation of Ant Financial to a significant number of our employees. These share-based awards have vesting schedules that are conditioned upon the fulfillment of requisite services to us, and the awards will be settled in cash by Junhan upon disposal by our employees. In addition, since April 2018, Ant Financial, through a wholly-owned subsidiary, has granted certain RSU awards to our employees. We have no obligation to reimburse Junhan, Ant Financial or its subsidiaries for the cost associated with these awards. See "Item 7. Major Shareholders and Related Party Transactions — B. Related Party Transaction — Agreements and Transactions Related to Ant Financial and its Subsidiaries — Equity-based Award Arrangements."

We recognized share-based compensation expense of RMB16,082 million, RMB15,995 million and RMB20,075 million (US\$3,201 million) in fiscal years 2016, 2017 and 2018, respectively, representing 16%, 10% and 8% of our revenue in those respective periods. The following table sets forth an analysis of share-based compensation expense by function for the periods indicated.

	Year ended March 31,			
	2016	2017	2018	
	RMB	RMB	RMB	US\$
		(in millions)		
Cost of revenue	4,003	3,893	5,505	878
Product development expenses	5,703	5,712	7,374	1,176
Sales and marketing expenses	1,963	1,772	2,037	325
General and administrative expenses	4,413	4,618	5,159	822
<b>Total</b>	<b>16,082</b>	<b>15,995</b>	<b>20,075</b>	<b>3,201</b>

Share-based compensation expense increased in fiscal year 2018 as compared to fiscal year 2017 due to the increase in average fair market value of the awards granted. In addition, as a result of "mark-to-market" accounting required under U.S. GAAP, the increase in share-based compensation expense also reflected the re-measurement charge relating to our share-based awards granted to the employees of Ant Financial and

share-based awards relating to Ant Financial granted to our employees by Junhan. The following table sets forth an analysis of share-based compensation expense by type of awards:

	Year ended March 31,			
	2016	2017	2018	
	RMB	RMB	RMB	US\$
	(in millions)			
Alibaba Group share-based awards granted to:				
— Our employees	9,596	11,810	15,267	2,434
— Ant Financial employees and other consultants <sup>(1)</sup>	889	1,277	1,603	256
Ant Financial share-based awards granted to our employees <sup>(1)</sup>	5,506	2,188	2,278	363
Others	91	720	927	148
Total share-based compensation expense	<u>16,082</u>	<u>15,995</u>	<u>20,075</u>	<u>3,201</u>

(1) Awards subject to mark-to-market accounting treatment.

The expense arising from share-based awards relating to Ant Financial granted to our employees represents a non-cash charge that will not result in any economic costs or equity dilution to our shareholders. We believe that the grant of these equity awards to our employees will encourage mutually beneficial cooperation between us and Ant Financial.

We expect that our share-based compensation expense will continue to be affected by the change in fair value of our shares, our subsidiaries' share-based awards and the quantity of awards we grant to our employees and consultants in the future. Furthermore, our share-based compensation expense will also be affected by the anticipated increase in fair value of share-based awards of Ant Financial. As a result of these factors, we expect that our share-based compensation expense will likely increase. See "— Critical Accounting Policies and Estimates — Share-based Compensation Expense and Valuation of the Underlying Awards" for additional information regarding our share-based compensation expense.

**Results of Operations**

The following table sets out our consolidated results of operations for the periods indicated:

	Year ended March 31,			
	2016	2017	2018	
	RMB	RMB	RMB	US\$
	(in millions, except per share data)			
<b>Revenue</b>				
Core commerce	92,335	133,880	214,020	34,120
Cloud computing	3,019	6,663	13,390	2,135
Digital media and entertainment	3,972	14,733	19,564	3,119
Innovation initiatives and others	1,817	2,997	3,292	524
Total	101,143	158,273	250,266	39,898
<b>Cost of revenue</b>	(34,355)	(59,483)	(107,044)	(17,065)
Product development expenses	(13,788)	(17,060)	(22,754)	(3,628)
Sales and marketing expenses	(11,307)	(16,314)	(27,299)	(4,352)
General and administrative expenses	(9,205)	(12,239)	(16,241)	(2,589)
Amortization of intangible assets	(2,931)	(5,122)	(7,120)	(1,135)
Impairment of goodwill	(455)	—	(494)	(79)
Income from operations	29,102	48,055	69,314	11,050
Interest and investment income, net	52,254	8,559	30,495	4,862
Interest expense	(1,946)	(2,671)	(3,566)	(568)
Other income, net	2,058	6,086	4,160	663
Income before income tax and share of results of equity investees	81,468	60,029	100,403	16,007
Income tax expenses	(8,449)	(13,776)	(18,199)	(2,901)
Share of results of equity method investees	(1,730)	(5,027)	(20,792)	(3,315)
Net income	71,289	41,226	61,412	9,791
Net loss attributable to noncontrolling interests	171	2,449	2,681	427
Net income attributable to Alibaba Group Holding Limited	71,460	43,675	64,093	10,218
Accretion of mezzanine equity	—	—	(108)	(17)
Net income attributable to ordinary shareholders	71,460	43,675	63,985	10,201
<b>Earnings per share/ADS attributable to ordinary shareholders:</b>				
Basic	29.07	17.52	25.06	4.00
Diluted	27.89	16.97	24.51	3.91



	Year ended March 31,		
	2016 %	2017 %	2018 %
	(as percentage of revenue)		
Revenue			
Core commerce	91	85	86
Cloud computing	3	4	5
Digital media and entertainment	4	9	8
Innovation initiatives and others	2	2	1
Total	100	100	100
Cost of revenue	(34)	(38)	(43)
Product development expenses	(14)	(11)	(9)
Sales and marketing expenses	(11)	(10)	(11)
General and administrative expenses	(9)	(8)	(6)
Amortization of intangible assets	(3)	(3)	(3)
Impairment of goodwill	—	—	—
Income from operations	29	30	28
Interest and investment income, net	52	6	12
Interest expense	(2)	(2)	(1)
Other income, net	2	4	1
Income before income tax and share of results of equity investees	81	38	40
Income tax expenses	(8)	(9)	(7)
Share of results of equity investees	(2)	(3)	(8)
Net income	71	26	25
Net loss attributable to noncontrolling interests	—	2	1
Net income attributable to Alibaba Group Holding Limited	71	28	26
Accretion of mezzanine equity	—	—	—
Net income attributable to ordinary shareholders	71	28	26

#### Segment Information for Fiscal Years 2016, 2017 and 2018

The table below sets forth certain financial information of our operating segments for the periods indicated:

	Year ended March 31, 2018						Consolidated	
	Core commerce RMB	Cloud computing RMB	Digital media and entertainment RMB	Innovation initiatives and others RMB	Unallocated <sup>(1)</sup> RMB		RMB	US\$
	(in millions, except percentages)							
Revenue	214,020	13,390	19,564	3,292	—	250,266	39,898	
Income (loss) from operations	102,743	(3,085)	(14,140)	(6,901)	(9,303)	69,314	11,050	
Add: Share-based compensation expense	8,466	2,274	2,142	3,707	3,486	20,075	3,201	
Add: Amortization of intangible assets	2,891	12	3,693	198	326	7,120	1,135	
Add: Impairment of goodwill	—	—	—	—	494	494	79	
Adjusted EBITA	114,100	(799)	(8,305)	(2,996)	(4,997)	97,003	15,465	
Adjusted EBITA margin	53%	(6)%	(42)%	(91)%		39%		

	Year ended March 31, 2017					
	<u>Core commerce</u> <u>RMB</u>	<u>Cloud computing</u> <u>RMB</u>	<u>Digital media and entertainment</u> <u>RMB</u>	<u>Innovation initiatives and others</u> <u>RMB</u>	<u>Unallocated <sup>(1)</sup></u> <u>RMB</u>	<u>Consolidated</u> <u>RMB</u>
	(in millions, except percentages)					
Revenue	133,880	6,663	14,733	2,997	—	158,273
Income (loss) from operations	74,180	(1,681)	(9,882)	(6,798)	(7,764)	48,055
Add: Share-based compensation expense	5,994	1,201	1,454	3,017	4,329	15,995
Add: Amortization of intangible assets	2,258	4	1,886	656	318	5,122
Adjusted EBITA	<u>82,432</u>	<u>(476)</u>	<u>(6,542)</u>	<u>(3,125)</u>	<u>(3,117)</u>	<u>69,172</u>
Adjusted EBITA margin	62%	(7)%	(44)%	(104)%		44%

	Year ended March 31, 2016					
	<u>Core commerce</u> <u>RMB</u>	<u>Cloud computing</u> <u>RMB</u>	<u>Digital media and entertainment</u> <u>RMB</u>	<u>Innovation initiatives and others</u> <u>RMB</u>	<u>Unallocated <sup>(1)</sup></u> <u>RMB</u>	<u>Consolidated</u> <u>RMB</u>
	(in millions, except percentages)					
Revenue	92,335	3,019	3,972	1,817	—	101,143
Income (loss) from operations	51,153	(2,605)	(4,112)	(7,216)	(8,118)	29,102
Add: Share-based compensation expense	6,224	1,349	981	3,092	4,436	16,082
Add: Amortization of intangible assets	659	4	1,321	657	290	2,931
Add: Impairment of goodwill	—	—	—	—	455	455
Adjusted EBITA	<u>58,036</u>	<u>(1,252)</u>	<u>(1,810)</u>	<u>(3,467)</u>	<u>(2,937)</u>	<u>48,570</u>
Adjusted EBITA margin	63%	(41)%	(46)%	(191)%		48%

(1) Unallocated expenses are primarily related to corporate administrative costs and other miscellaneous items that are not allocated to individual segments.

**Comparison of Fiscal Years 2017 and 2018**

**Revenue**

	Year ended March 31,			% Change
	2017	2018		
	RMB	RMB	US\$	
(in millions, except percentages)				
Core commerce:				
China commerce retail	114,109	176,559	28,148	55%
China commerce wholesale	5,679	7,164	1,142	26%
International commerce retail	7,336	14,216	2,266	94%
International commerce wholesale	6,001	6,625	1,056	10%
Cainiao logistics services	—	6,759	1,078	N/A
Others	755	2,697	430	257%
Total core commerce	133,880	214,020	34,120	60%
Cloud computing	6,663	13,390	2,135	101%
Digital media and entertainment	14,733	19,564	3,119	33%
Innovation initiatives and others	2,997	3,292	524	10%
Total revenue	158,273	250,266	39,898	58%

Total revenue increased by 58% from RMB158,273 million in fiscal year 2017 to RMB250,266 million (US\$39,898 million) in fiscal year 2018. The increase was mainly driven by the continued rapid growth of our China and international commerce retail businesses, Alibaba Cloud as well as the consolidation of newly acquired businesses, mainly Cainiao Network and Intime.

*Core commerce segment*

China commerce retail

	Year ended March 31,			% Change
	2017	2018		
	RMB	RMB	US\$	
(in millions, except percentages)				
Revenue				
China commerce retail business				
Customer management	77,530	114,285	18,220	47%
Commission	34,066	46,525	7,417	37%
Others	2,513	15,749	2,511	527%
Total	114,109	176,559	28,148	55%

Revenue from our China commerce retail business increased by 55% from RMB114,109 million in fiscal year 2017 to RMB176,559 million (US\$28,148 million) in fiscal year 2018. The robust revenue growth reflected the growth of our New Retail initiatives, including the Hema fresh food grocery business, the import business and Intime. In addition, revenue from our China retail marketplaces continued to see strong growth. The growth was primarily driven by the robust growth of customer management revenue, which increased by 47% from RMB77,530 million in fiscal year 2017 to RMB114,285 million (US\$18,220 million) in fiscal year 2018. The growth reflected our ability to deliver more relevant content to consumers through our improved data technology, which enabled merchants, brands and retailers to more effectively attract, engage, acquire and retain their customers. These value propositions resulted in higher spending on our customer management services by an increasing

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number of brands and merchants. Commission revenue increased by 37% from RMB34,066 million in fiscal year 2017 to RMB46,525 million (US\$7,417 million) in fiscal year 2018, primarily due to the strong growth in physical goods GMV on Tmall. Other revenue was RMB15,749 million (US\$2,511 million) in fiscal year 2018, a significant increase compared to RMB2,513 million in fiscal year 2017, primarily driven by our New Retail businesses, including the consolidation of Intime and contribution from Tmall Import and Hema.

### China commerce wholesale

Revenue from our China commerce wholesale business increased by 26% from RMB5,679 million in fiscal year 2017 to RMB7,164 million (US\$1,142 million) in fiscal year 2018. The increase was due to an increase in average revenue from paying members on our 1688.com platform.

### International commerce retail

Revenue from our international commerce retail business increased by 94% from RMB7,336 million in fiscal year 2017 to RMB14,216 million (US\$2,266 million) in fiscal year 2018. The increase was primarily due to an increase in revenue generated from Lazada and AliExpress, primarily driven by robust GMV growth on these two marketplaces.

### International commerce wholesale

Revenue from our international commerce wholesale business increased by 10% from RMB6,001 million in fiscal year 2017 to RMB6,625 million (US\$1,056 million) in fiscal year 2018. The increase was due to an increase in customer management revenue and membership fees.

### Cainiao logistics services

Revenue from Cainiao logistics services represents revenue from the domestic and international one-stop-shop logistics services and supply chain management solutions provided by Cainiao Network, after elimination of inter-company transactions. We started to consolidate Cainiao Network in mid-October 2017.

### *Cloud computing segment*

Revenue from our cloud computing business in fiscal year 2018 was RMB13,390 million (US\$2,135 million), an increase of 101% compared to RMB6,663 million in fiscal year 2017, primarily driven by an increase in the number of paying customers and also an increase in their usage of and spending on our cloud computing services, including more complex offerings, such as our network virtualization and database services.

### *Digital media and entertainment segment*

Revenue from our digital media and entertainment business in fiscal year 2018 was RMB19,564 million (US\$3,119 million), an increase of 33% compared to RMB14,733 million in fiscal year 2017. The increase was primarily due to an increase in revenue from mobile value-added services provided by UCWeb, such as news feeds and mobile search, and an increase in subscription revenue from Youku.

### *Innovation initiatives and others segment*

Revenue from innovation initiatives and others in fiscal year 2018 was RMB3,292 million (US\$524 million), an increase of 10% compared to RMB2,997 million in fiscal year 2017. Starting from fiscal year 2018, we have reclassified Hema, previously reported under this segment, as revenue from China commerce retail because Hema has moved beyond the incubation stage.

**Cost of Revenue**

	Year ended March 31,			% Change
	2017	2018		
	RMB	RMB	US\$	
	(in millions, except percentages)			
Cost of revenue	59,483	107,044	17,065	80%
Percentage of revenue	38%	43%		
Share-based compensation expense included in cost of revenue	3,893	5,505	878	41%
Percentage of revenue	2%	2%		
Cost of revenue excluding share-based compensation expense	55,590	101,539	16,187	83%
Percentage of revenue	36%	41%		

Our cost of revenue increased by 80% from RMB59,483 million in fiscal year 2017 to RMB107,044 million (US\$17,065 million) in fiscal year 2018. The increase was primarily due to an increase of RMB13,439 million in cost of inventory in relation to our New Retail businesses and Lazada, an increase of RMB11,796 million in logistics costs relating to fulfillment services provided by Cainiao Network, an increase of RMB6,111 million in bandwidth and co-location fees and depreciation expenses as a result of investments in our cloud computing and core commerce businesses, an increase of RMB4,751 million in content acquisition costs for online media properties. Without the effect of share-based compensation expense, cost of revenue as a percentage of revenue would have increased from 36% in fiscal year 2017 to 41% in fiscal year 2018. This increase was primarily due to an increase in cost of inventory incurred by our New Retail businesses and Lazada, as well as investments in Cainiao Network and our spending in growing user base and improving user experience. As we continue to invest in New Retail, globalization, user acquisition, user experience and infrastructure, we expect our cost of revenue will increase in absolute dollar amounts and will likely increase as a percentage of revenue.

**Product Development Expenses**

	Year ended March 31,			% Change
	2017	2018		
	RMB	RMB	US\$	
	(in millions, except percentages)			
Product development expenses	17,060	22,754	3,628	33%
Percentage of revenue	11%	9%		
Share-based compensation expense included in product development expenses	5,712	7,374	1,176	29%
Percentage of revenue	4%	3%		
Product development expenses excluding share-based compensation expense	11,348	15,380	2,452	36%
Percentage of revenue	7%	6%		

Our product development expenses increased by 33% from RMB17,060 million in fiscal year 2017 to RMB22,754 million (US\$3,628 million) in fiscal year 2018. The increase was largely due to an increase in payroll and benefits expenses, including share-based compensation expense. Without the effect of share-based compensation expense, product development expenses as a percentage of revenue would have decreased from 7% in fiscal year 2017 to 6% in fiscal year 2018, due to operating leverage. We expect our product development expenses will increase in absolute amounts and may increase as a percentage of revenue, as we increase our investments in technology, research and development.

### Sales and Marketing Expenses

	Year ended March 31,			% Change
	2017	2018		
	RMB	RMB	US\$	
	(in millions, except percentages)			
Sales and marketing expenses	16,314	27,299	4,352	67%
Percentage of revenue	10%	11%		
Share-based compensation expense included in sales and marketing expenses	1,772	2,037	325	15%
Percentage of revenue	1%	1%		
Sales and marketing expenses excluding share-based compensation expense	14,542	25,262	4,027	74%
Percentage of revenue	9%	10%		

Our sales and marketing expenses increased by 67% from RMB16,314 million in fiscal year 2017 to RMB27,299 million (US\$4,352 million) in fiscal year 2018. The increase was due primarily to an increase in marketing and promotional spending for user acquisition that led to the significant increase in annual active consumers and MAUs in fiscal year 2018. Without the effect of share-based compensation expense, sales and marketing expenses as a percentage of revenue would have increased from 9% in fiscal year 2017 to 10% in fiscal year 2018. We expect our sales and marketing expenses will increase in absolute amounts and may increase as a percentage of revenue as we continue to invest in marketing and promotion.

### General and Administrative Expenses

	Year ended March 31,			% Change
	2017	2018		
	RMB	RMB	US\$	
	(in millions, except percentages)			
General and administrative expenses	12,239	16,241	2,589	33%
Percentage of revenue	8%	6%		
Share-based compensation expense included in general and administrative expenses	4,618	5,159	822	12%
Percentage of revenue	3%	2%		
General and administrative excluding share-based compensation expense	7,621	11,082	1,767	45%
Percentage of revenue	5%	4%		

Our general and administrative expenses increased by 33% from RMB12,239 million in fiscal year 2017 to RMB16,241 million (US\$2,589 million) in fiscal year 2018. The increase was primarily due to an increase in payroll and benefits expenses, including share-based compensation, as well as an increase in other administrative expenses. Without the effect of share-based compensation expense, general and administrative expenses as a percentage of revenue would have decreased from 5% in fiscal year 2017 to 4% in fiscal year 2018.

### Amortization of Intangible Assets

	Year ended March 31,			% Change
	2017	2018		
	RMB	RMB	US\$	
	(in millions, except percentages)			
Amortization of intangible assets	5,122	7,120	1,135	39%
Percentage of revenue	3%	3%		

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Amortization of intangible assets increased by 39% from RMB5,122 million in fiscal year 2017 to RMB7,120 million (US\$1,135 million) in fiscal year 2018. This increase was due to an increase in intangible assets recognized relating to our strategic acquisitions and investments. As we consolidate newly acquired businesses, we expect that our amortization of intangible assets will increase in the future.

**Income from Operations and Operating Margin**

	Year ended March 31,			% Change
	2017	2018		
	RMB	RMB	US\$	
	(in millions, except percentages)			
Income from operations	48,055	69,314	11,050	44%
Percentage of revenue	30%	28%		
Share-based compensation expense included in income from operations	15,995	20,075	3,201	26%
Percentage of revenue	10%	8%		
Income from operations excluding share-based compensation expense	64,050	89,389	14,251	40%
Percentage of revenue	40%	36%		

Our income from operations increased by 44% from RMB48,055 million, or 30% of revenue, in fiscal year 2017 to RMB69,314 million (US\$11,050 million), or 28% of revenue, in fiscal year 2018. Without the effect of share-based compensation expense, our operating margin would have decreased from 40% in fiscal year 2017 to 36% in fiscal year 2018, primarily due to our investments in New Retail, the consolidation of Cainiao Network, investments in Lazada and spending in growing our user base and improving user experience.

**Adjusted EBITA and adjusted EBITA margin**

Adjusted EBITA and adjusted EBITA margin by segments are set forth in the table below. See the section entitled "— Segment Information for Fiscal Years 2016, 2017 and 2018" above for a reconciliation of income from operations to adjusted EBITA.

	Year ended March 31,				
	2017		2018		
	RMB	% of Segment Revenue	RMB	US\$	% of Segment Revenue
	(in millions, except percentages)				
Core commerce	82,432	62%	114,100	18,190	53%
Cloud computing	(476)	(7)%	(799)	(127)	(6)%
Digital media and entertainment	(6,542)	(44)%	(8,305)	(1,324)	(42)%
Innovation initiatives and others	(3,125)	(104)%	(2,996)	(478)	(91)%

*Core commerce segment*

Adjusted EBITA increased by 38% to RMB114,100 million (US\$18,190 million) in fiscal year 2018, compared to RMB82,432 million in fiscal year 2017. Adjusted EBITA margin decreased to 53% in fiscal year 2018 from 62% in fiscal year 2017. Core commerce adjusted EBITA margin was lower mainly due to our investments in New Retail, the consolidation of Cainiao Network, investments in Lazada and spending in growing our user base and improving user experience. Excluding New Retail, the consolidation of Cainiao Network and investments in Lazada, adjusted core commerce EBITA margin would have been 63% for fiscal year 2018. Our New Retail businesses primarily include Intime, Hema and Tmall Import.

*Cloud computing segment*

Adjusted EBITA in fiscal year 2018 was a loss of RMB799 million (US\$127 million), compared to a loss of RMB476 million in fiscal year 2017. Adjusted EBITA margin improved to negative 6% in fiscal year 2018 from negative 7% in fiscal year 2017.

*Digital media and entertainment segment*

Adjusted EBITA in fiscal year 2018 was a loss of RMB8,305 million (US\$1,324 million), compared to a loss of RMB6,542 million in fiscal year 2017. Adjusted EBITA margin improved to negative 42% in fiscal year 2018 from negative 44% in fiscal year 2017, primarily due to improved results from UCWeb and other media and entertainment businesses, partially offset by an increase in content acquisition costs of Youku.

*Innovation initiatives and others segment*

Adjusted EBITA in fiscal year 2018 was a loss of RMB2,996 million (US\$478 million), compared to a loss of RMB3,125 million in fiscal year 2017. Adjusted EBITA margin was negative 91% in fiscal year 2018, as compared to negative 104% in fiscal year 2017.

***Interest and Investment Income, Net***

Our net interest and investment income increased from RMB8,559 million in fiscal year 2017 to RMB30,495 million (US\$4,862 million) in fiscal year 2018. The increase was primarily due to a non-cash gain of RMB22,442 million (US\$3,578 million) arising from the revaluation of our previously held equity interest in Cainiao Network when we acquired control over Cainiao Network in mid-October 2017.

***Interest Expense***

Our interest expense increased by 34% from RMB2,671 million in fiscal year 2017 to RMB3,566 million (US\$568 million) in fiscal year 2018. The increase in interest expense was primarily due to an increase in average debt outstanding, including an additional US\$7.0 billion unsecured senior notes issued in December 2017.

***Other Income, Net***

Our other income, net decreased by 32% from RMB6,086 million in fiscal year 2017 to RMB4,160 million (US\$663 million) in fiscal year 2018. The decrease was primarily due to an increase in foreign exchange loss, partly offset by an increase in income recognized in respect of royalty fees and software technology services fees from Ant Financial, which increased from RMB2,086 million in fiscal year 2017 to RMB3,444 million (US\$549 million) in fiscal year 2018.

***Income Tax Expenses***

Our income tax expenses increased by 32% from RMB13,776 million in fiscal year 2017 to RMB18,199 million (US\$2,901 million) in fiscal year 2018. Our effective tax rate decreased to 18% in fiscal year 2018 from 23% in fiscal year 2017. Income before income tax and share of results of equity investees in fiscal year 2018 included a gain of RMB22,442 million (US\$3,578 million) from revaluation of our previously held equity interest in Cainiao Network when we acquired control over Cainiao Network in mid-October 2017, which was non-taxable, leading to a lower effective tax rate in fiscal year 2018. Excluding share-based compensation expense, impairment of goodwill and investments, as well as other unrealized investment gain/loss, our effective tax rate would have remained stable at 18% in fiscal year 2018, compared to fiscal year 2017.



**Share of Results of Equity Investees**

Share of results of equity investees in fiscal years 2017 and 2018 consisted of the following:

	Year ended March 31,		
	2017	2018	
	RMB	RMB	US\$
	(in millions)		
Share of (loss) profit of equity investees:			
Koubei	(990)	(1,340)	(214)
Cainiao Network <sup>(1)</sup>	(1,056)	(518)	(83)
Others	(838)	1,040	166
Impairment loss	(245)	(18,153)	(2,894)
Dilution loss	(336)	(128)	(20)
Others <sup>(2)</sup>	(1,562)	(1,693)	(270)
	<u>(5,027)</u>	<u>(20,792)</u>	<u>(3,315)</u>

(1) We started to consolidate Cainiao Network in mid-October 2017 after obtaining control over Cainiao Network.

(2) Others mainly include amortization of intangible assets of equity investees and share-based compensation expenses

During fiscal year 2018, we took an impairment loss of RMB18,116 million (US\$2,888 million) with respect to Alibaba Pictures, our affiliated movie production business. The impairment represented the difference between the market value and our carrying value of this investment as of December 31, 2017. In June 2015, following a financing transaction that diluted our shareholding from a controlling position to minority investment, we were required to write up the carrying value to the substantially increased market value of Alibaba Pictures at the time. As a result, we booked a non-cash accounting gain of RMB24,734 million, which increased the carrying value of our investment in Alibaba Pictures from RMB4,818 million to RMB29,552 million. Since July 2015, the market value of Alibaba Pictures has declined and remained below our increased carrying value. The continued low market price combined with Alibaba Pictures' strategic decision made in early 2018 to increase investments and expenses for market share growth of its online movie ticketing business caused us to conclude that the decline in market value against our carrying value may be "other-than-temporary," which led us to take the impairment in fiscal year 2018.

**Net Income**

As a result of the foregoing, our net income increased by 49% from RMB41,226 million in fiscal year 2017 to RMB61,412 million (US\$9,791 million) in fiscal year 2018.

**Comparison of Fiscal Years 2016 and 2017**

**Revenue**

	Year ended March 31,		% Change
	2016 RMB	2017 RMB	
(in millions, except percentages)			
Core commerce:			
China commerce retail	80,033	114,109	43%
China commerce wholesale	4,288	5,679	32%
International commerce retail	2,204	7,336	233%
International commerce wholesale	5,425	6,001	11%
Others	385	755	96%
Total core commerce	92,335	133,880	45%
Cloud computing	3,019	6,663	121%
Digital media and entertainment	3,972	14,733	271%
Innovation initiatives and others	1,817	2,997	65%
Total revenue	101,143	158,273	56%

Total revenue increased by 56% from RMB101,143 million in fiscal year 2016 to RMB158,273 million in fiscal year 2017. The increase was mainly driven by the continued rapid growth of our China commerce retail business, Alibaba Cloud as well as the consolidation of newly acquired businesses, mainly Youku and Lazada.

*Core commerce segment*

China commerce retail

	Year ended March 31,		% Change
	2016 RMB	2017 RMB	
(in millions, except percentages)			
Revenue			
China commerce retail business			
Customer management	52,396	77,530	48%
Commission	25,829	34,066	32%
Others <sup>(1)</sup>	1,808	2,513	39%
Total	80,033	114,109	43%

(1) Primarily consists of storefront fees.

Revenue from our China commerce retail business increased by 43% from RMB80,033 million in fiscal year 2016 to RMB114,109 million in fiscal year 2017, primarily driven by an increase of 48% in customer management revenue and an increase of 32% in commission revenue.

Customer management revenue increased by 48% from RMB52,396 million in fiscal year 2016 to RMB77,530 million in fiscal year 2017. The growth was primarily driven by our ability to deliver more relevant content to consumers through our improved data technology, which resulted in higher spending on our customer management services by an increasing number of brands and merchants, leading to a 47% increase in the number of clicks attributable to our P4P marketing services, and a 1% increase in the cost-per-click paid by merchants. The growth also reflected the full effect of customer management inventory we added in 2015.

Commission revenue increased by 32% from RMB25,829 million in fiscal year 2016 to RMB34,066 million in fiscal year 2017, primarily driven by an increase of 29% in Tmall GMV.

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GMV transacted on Taobao Marketplace increased by 17% from RMB1,877 billion in fiscal year 2016 to RMB2,202 billion in fiscal year 2017, and GMV transacted on Tmall increased by 29% from RMB1,215 billion in fiscal year 2016 to RMB1,565 billion in fiscal year 2017. The overall increase in total GMV transacted on these marketplaces was primarily driven by a 14% increase in the average level of their spending and a 7% increase in the number of annual active consumers.

### China commerce wholesale

Revenue from our China commerce wholesale business increased by 32% from RMB4,288 million in fiscal year 2016 to RMB5,679 million in fiscal year 2017. The increase was due to an increase in average revenue from paying members and an increase in paying members.

### International commerce retail

Revenue from our international commerce retail business increased by 233% from RMB2,204 million in fiscal year 2016 to RMB7,336 million in fiscal year 2017. The increase was primarily due to the consolidation of Lazada and an increase in GMV transacted on AliExpress.

### International commerce wholesale

Revenue from our international commerce wholesale business increased by 11% from RMB5,425 million in fiscal year 2016, of which 67% was from membership fees and customer management revenue and 33% was from value-added services, to RMB6,001 million in fiscal year 2017, of which 65% was from membership fees and customer management services and 35% was from value-added services. The increase in revenue was primarily due to growth in revenue generated by import/export related services, and to a lesser extent, to an increase in customer management revenue from China wholesale suppliers.

### *Cloud computing segment*

Revenue from our cloud computing business in fiscal year 2017 was RMB6,663 million, an increase of 121% compared to RMB3,019 million in fiscal year 2016, primarily driven by an increase in the number of paying customers to 874,000, representing a year-over-year increase of 70%, and also an increase in their usage of and spending on our cloud computing services including more complex offerings, such as our network virtualization and database services.

### *Digital media and entertainment segment*

Revenue from our digital media and entertainment business in fiscal year 2017 was RMB14,733 million, an increase of 271% compared to RMB3,972 million in fiscal year 2016. The increase was primarily due to the consolidation of Youku, and also to an increase in revenue from mobile value-added services provided by UCWeb, such as mobile search, news feeds and game publishing.

### *Innovation initiatives and others segment*

Revenue from innovation initiatives and others in fiscal year 2017 was RMB2,997 million, an increase of 65% compared to RMB1,817 million in fiscal year 2016, primarily due to an increase in revenue from AliOS and other new initiatives.

**Cost of Revenue**

	Year ended March 31,		
	2016	2017	
	RMB	RMB	% Change
	(in millions, except percentages)		
Cost of revenue	34,355	59,483	73%
Percentage of revenue		34%	38%
Share-based compensation expense included in cost of revenue	4,003	3,893	(3)%
Percentage of revenue		4%	2%
Cost of revenue excluding share-based compensation expense	30,352	55,590	83%
Percentage of revenue		30%	36%

Our cost of revenue increased by 73% from RMB34,355 million in fiscal year 2016 to RMB59,483 million in fiscal year 2017. This increase was primarily due to an increase of RMB6,986 million in content acquisition costs for online media properties as a result of the consolidation of Youku, an increase of RMB4,432 million in bandwidth and co-location fees and depreciation expenses as a result of our consolidation of Youku and investments in our cloud computing business and our data platform, an increase of RMB3,239 million in costs of inventory as a result of our consolidation of Lazada, an increase of RMB3,526 million in logistics costs mainly relating to fulfillment services provided to us by our affiliate Cainiao Network, which amounted to RMB4,444 million, or 3% of our revenue, in fiscal year 2017, primarily related to Tmall Supermarket. Without the effect of share-based compensation expense, cost of revenue as a percentage of revenue would have increased from 30% in fiscal year 2016 to 36% in fiscal year 2017, primarily due to an increase in content acquisition costs by Youku, cost of inventory by Lazada and logistics costs relating to fulfillment services provided to Tmall Supermarket by our affiliate Cainiao Network, as discussed above.

**Product Development Expenses**

	Year ended March 31,		
	2016	2017	
	RMB	RMB	% Change
	(in millions, except percentages)		
Product development expenses	13,788	17,060	24%
Percentage of revenue		14%	11%
Share-based compensation expense included in product development expenses	5,703	5,712	0%
Percentage of revenue		6%	4%
Product development expenses excluding share-based compensation expense	8,085	11,348	40%
Percentage of revenue		8%	7%

Our product development expenses increased by 24% from RMB13,788 million in fiscal year 2016 to RMB17,060 million in fiscal year 2017. The increase was largely due to an increase of RMB2,881 million in payroll and benefits expenses. Without the effect of share-based compensation expense, product development expenses as a percentage of revenue would have decreased from 8% in fiscal year 2016 to 7% in fiscal year 2017, due to operating leverage.

**Sales and Marketing Expenses**

	Year ended March 31,		
	2016	2017	
	RMB	RMB	% Change
	(in millions, except percentages)		
Sales and marketing expenses	11,307	16,314	44%
Percentage of revenue	11%	10%	
Share-based compensation expense included in sales and marketing expenses	1,963	1,772	(10)%
Percentage of revenue	2%	1%	
Sales and marketing expenses excluding share-based compensation expense	9,344	14,542	56%
Percentage of revenue	9%	9%	

Our sales and marketing expenses increased by 44% from RMB11,307 million in fiscal year 2016 to RMB16,314 million in fiscal year 2017. The increase was primarily due to the consolidation of Youku and Lazada, as well as an increase in advertising and promotional spending mainly to promote our business initiatives, such as Tmall Supermarket and UCWeb during fiscal year 2017 and an increase of RMB1,222 million in payroll and benefit expenses. Without the effect of share-based compensation expense, sales and marketing expenses as a percentage of revenue would have remained stable at 9% in fiscal year 2016 and fiscal year 2017.

**General and Administrative Expenses**

	Year ended March 31,		
	2016	2017	
	RMB	RMB	% Change
	(in millions, except percentages)		
General and administrative expenses	9,205	12,239	33%
Percentage of revenue	9%	8%	
Share-based compensation expense included in general and administrative expenses	4,413	4,618	5%
Percentage of revenue	4%	3%	
General and administrative excluding share-based compensation expense	4,792	7,621	59%
Percentage of revenue	5%	5%	

Our general and administrative expenses increased by 33% from RMB9,205 million in fiscal year 2016 to RMB12,239 million in fiscal year 2017. The increase was primarily due to a significant increase of RMB1,358 million in payroll and benefits expenses, as well as an increase in depreciation and other administrative expenses. Without the effect of share-based compensation expense, general and administrative expenses as a percentage of revenue would have remained stable at 5% in both fiscal year 2016 and 2017.

**Amortization of Intangible Assets**

	Year ended March 31,		
	2016	2017	
	RMB	RMB	% Change
	(in millions, except percentages)		
Amortization of intangible assets	2,931	5,122	75%
Percentage of revenue	3%	3%	

Amortization of intangible assets increased by 75% from RMB2,931 million in fiscal year 2016 to RMB5,122 million in fiscal year 2017. This increase was due to an increase in intangible assets recognized arising from our strategic acquisitions and investments, including Youku and Lazada.

### *Income from Operations and Operating Margin*

	Year ended March 31,		
	2016	2017	
	RMB	RMB	% Change
	(in millions, except percentages)		
Income from operations	29,102	48,055	65%
Percentage of revenue	29%	30%	
Share-based compensation expense included in income from operations	16,082	15,995	(1)%
Percentage of revenue	16%	10%	
Income from operations excluding share-based compensation expense	45,184	64,050	42%
Percentage of revenue	45%	40%	

Our income from operations increased by 65% from RMB29,102 million, or 29% of revenue, in fiscal year 2016 to RMB48,055 million, or 30% of revenue, in fiscal year 2017. Without the effect of share-based compensation expense, our operating margin would have decreased from 45% in fiscal year 2016 to 40% in fiscal year 2017, primarily attributable to our consolidation of Youku and Lazada, partially offset by operating leverage.

### *Adjusted EBITA and adjusted EBITA margin*

Adjusted EBITA and adjusted EBITA margin by segments are set forth in the table below. See the section entitled "— Segment Information for Fiscal Years 2016, 2017 and 2018" above for a reconciliation of income from operations to adjusted EBITA.

	Year ended March 31,			
	2016		2017	
	RMB	% of Segment Revenue	RMB	% of Segment Revenue
	(in millions, except percentages)			
Core commerce	58,036	63%	82,432	62%
Cloud computing	(1,252)	(41)%	(476)	(7)%
Digital media and entertainment	(1,810)	(46)%	(6,542)	(44)%
Innovation initiatives and others	(3,467)	(191)%	(3,125)	(104)%

#### *Core commerce segment*

Adjusted EBITA increased by 42% to RMB82,432 million in fiscal year 2017, compared to RMB58,036 million in fiscal year 2016. Adjusted EBITA margin decreased to 62% in fiscal year 2017 from 63% in fiscal year 2016, primarily due to our investments in globalization (including the consolidation of Lazada), user base and user experience, partially offset by operating leverage.

#### *Cloud computing segment*

Adjusted EBITA in fiscal year 2017 was a loss of RMB476 million, compared to a loss of RMB1,252 million in fiscal year 2016. Adjusted EBITA margin improved to negative 7% in fiscal year 2017 from negative 41% in fiscal year 2016, primarily due to robust growth in revenue and economies of scale.

*Digital media and entertainment segment*

Adjusted EBITA in fiscal year 2017 was a loss of RMB6,542 million, compared to a loss of RMB1,810 million in fiscal year 2016. Adjusted EBITA margin improved to negative 44% in fiscal year 2017 from negative 46% in fiscal year 2016, primarily due to improved margins at UCWeb driven by an increase in revenue from mobile value-added services, partially offset by the consolidation of Youku.

*Innovation initiatives and others segment*

Adjusted EBITA in fiscal year 2017 was a loss of RMB3,125 million, compared to a loss of RMB3,467 million in fiscal year 2016. Adjusted EBITA margin improved to negative 104% in fiscal year 2017 from negative 191% in fiscal year 2016, primarily due to an increase in revenue from new business initiatives.

***Interest and Investment Income, Net***

Our net interest and investment income decreased from RMB52,254 million in fiscal year 2016 to RMB8,559 million in fiscal year 2017. Interest and investment income in fiscal year 2016 included a deemed disposal gain of RMB24,734 million arising from the deconsolidation of Alibaba Pictures and a gain of RMB18,603 million from the revaluation of our previously held equity interest in Alibaba Health when we obtained control over Alibaba Health in July 2015.

***Interest Expense***

Our interest expense increased by 37% from RMB1,946 million in fiscal year 2016 to RMB2,671 million in fiscal year 2017. The increase in interest expense was primarily due to an increase in average debt outstanding, including an additional US\$4.0 billion five-year term loan facility drawn down in fiscal year 2017.

***Other Income, Net***

Our other income, net increased by 196% from RMB2,058 million in fiscal year 2016 to RMB6,086 million in fiscal year 2017. The increase was primarily due to an increase in exchange gains and income recognized in respect of royalty fees and software technology services fees from Ant Financial, which increased from RMB1,122 million in fiscal year 2016 to RMB2,086 million in fiscal year 2017.

***Income Tax Expenses***

Our income tax expenses increased by 63% from RMB8,449 million in fiscal year 2016 to RMB13,776 million in fiscal year 2017. The increase in income tax expenses was primarily due to the increase in taxable income from our operations in China. Our effective tax rate increased to 23% in fiscal year 2017 from 10% in fiscal year 2016. Profit before income tax in fiscal year 2016 included a deemed disposal gain of RMB24,734 million arising from the deconsolidation of Alibaba Pictures and a gain of RMB18,603 million from the revaluation of our previously held equity interest in Alibaba Health, which was non-taxable, leading to a lower effective tax rate in fiscal year 2016. Excluding share-based compensation expense, impairment of goodwill and investments, as well as other unrealized investment gain/loss, our effective tax rate would have been 18% in fiscal year 2017, compared to 15% in fiscal year 2016, primarily due to the consolidation of Youku and Lazada, which are both loss-making.

**Share of Results of Equity Investees**

Share of losses of equity investees in fiscal year 2017 was RMB5,027 million, an increase of 191% compared to RMB1,730 million in fiscal year 2016. Share of results of equity investees in fiscal years 2016 and 2017 consisted of the following:

	Year ended	
	March 31,	
	2016	2017
	RMB	RMB
	(in millions)	
Share of (loss) profit of equity investees:		
Koubei	(867)	(990)
Youku	(391)	—
Cainiao Network	(295)	(1,056)
Others	62	(838)
Impairment loss	—	(245)
Dilution gain (loss)	827	(336)
Others	(1,066)	(1,562)
	<u>(1,730)</u>	<u>(5,027)</u>

The increase in share of losses of equity investees in fiscal year 2017 compared to fiscal year 2016 was primarily due to an increase in our share of losses of Cainiao Network and other equity investees, as well as an accounting loss related to the dilution of our ownership interest in Weibo in fiscal year 2017, which resulted from Weibo's issuance of share-based compensation, as compared to accounting gains related to the dilution of our ownership interests in Cainiao Network and Evergrande FC, as these investees each raised capital at a higher valuation in fiscal year 2016.

**Net Income**

As a result of the foregoing, our net income decreased by 42% from RMB71,289 million in fiscal year 2016 to RMB41,226 million in fiscal year 2017.

**B. Liquidity and Capital Resources**

We fund our operations and strategic investments from cash generated from our operations and through debt and equity financing. We generated RMB56,836 million, RMB80,326 million and RMB125,171 million (US\$19,955 million) of cash from operating activities for fiscal years 2016, 2017 and 2018, respectively. As of March 31, 2018, we had cash and cash equivalents and short-term investments of RMB199,309 million (US\$31,775 million) and RMB6,086 million (US\$970 million), respectively. Short-term investments consist primarily of investments in fixed deposits with maturities between three months and one year and investments in money market funds or other investments whereby we have the intention to redeem within one year.

In November 2014, we issued unsecured senior notes, including floating rate and fixed rate notes, with varying maturities for an aggregate principal amount of US\$8.0 billion. Interest on the unsecured senior notes are payable in arrears, quarterly for the floating rate notes and semiannually for the fixed-rate notes. We used the proceeds from the issuance of the unsecured senior notes to refinance our previous syndicated loan arrangements in the same amount. We are not subject to any financial covenant or other significant operating covenants under the unsecured senior notes. See note 20 to our audited consolidated financial statements included elsewhere in this annual report for further information.

In March 2016, we signed a five-year US\$3.0 billion syndicated loan agreement with a group of eight lead arrangers which was subsequently drawn down in April 2016. The loan was upsized from US\$3.0 billion to





RMB15,995 million, amortization of intangible assets and licensed copyrights of RMB9,008 million, realized and unrealized gain of RMB5,488 million related to investment securities, depreciation and amortization of property and equipment and land use rights of RMB5,284 million and share of results of equity investees of RMB5,027 million. Changes in working capital and other activities primarily consisted of an increase of RMB5,312 million in accrued expenses, accounts payable and other current liabilities as a result of the growth of our business, an increase of RMB4,698 million in income tax payable and an increase of RMB4,611 million in deferred revenue and customer advances, partially offset by an increase of RMB8,237 million in prepayment, receivables and other assets.

Cash provided by operating activities in fiscal year 2016 was RMB56,836 million and primarily consisted of net income of RMB71,289 million, as adjusted for non-cash items and the effects of changes in working capital and other activities. Adjustments for non-cash items primarily included a deemed disposal gain of RMB24,734 million arising from the deconsolidation of Alibaba Pictures, a gain of RMB18,603 million from the revaluation of our previously held equity interest related to Alibaba Health, share-based compensation expense of RMB16,082 million, depreciation and amortization of property and equipment and land use rights of RMB3,770 million, amortization of intangible assets and licensed copyrights of RMB3,278 million and a gain of RMB3,089 million from disposals of equity investees. Changes in working capital and other activities primarily consisted of an increase of RMB7,757 million in accrued expenses, accounts payable and other current liabilities as a result of the growth of our business and an increase of RMB2,350 million in deferred revenue and customer advances, partially offset by an increase of RMB4,504 million in prepayment, receivables and other assets.

#### ***Cash Used in Investing Activities***

Cash used in investing activities was RMB83,890 million (US\$13,374 million) in fiscal year 2018 and was primarily attributable to RMB66,134 million (US\$10,543 million) in acquisition of investment securities and equity investments mainly held for strategic purposes, including Sun Art Group Limited, Ele.me, Wanda Film, Easyhome and Tokopedia, and cash paid for business combinations, net of cash acquired, including Intime and Cainiao Network, capital expenditures of RMB29,836 million (US\$4,756 million) primarily in connection with the purchase of computer equipment and licensed copyrights, as well as the continued expansion of our corporate campuses, partially offset by proceeds from disposal of subsidiaries, equity investees and investment securities of RMB13,381 million (US\$2,134 million).

Cash used in investing activities was RMB78,364 million in fiscal year 2017 and was primarily attributable to RMB77,552 million in acquisition of investment securities and equity investments mainly held for strategic purposes, including Suning, Ele.me, Didi Chuxing, Paytm and Weibo, and cash paid for business combinations, net of cash acquired, including Youku and Lazada, capital expenditures of RMB17,546 million primarily in connection with the purchase of computer equipment and licensed copyrights, as well as the continued expansion of our corporate campuses, partially offset by proceeds from disposal of subsidiaries, equity investees and investment securities of RMB9,545 million and net decrease in short-term investments of RMB5,761 million.

Cash used in investing activities was RMB42,831 million in fiscal year 2016 and was primarily attributable to RMB54,483 million in acquisition of investment securities and equity investments mainly held for strategic purposes, including Ele.me, Koubei, Magic Leap, CMC and Cainiao Network, and cash paid for business combinations, net of cash acquired, capital expenditures of RMB10,845 million primarily in connection with the purchase of computer equipment and the continued expansion of our corporate campuses, partially offset by proceeds from disposal of subsidiaries, equity investees and investment securities of RMB17,088 million and net decrease in short-term investments of RMB4,619 million.

#### ***Cash Provided by (Used in) Financing Activities***

Cash provided by financing activities was RMB20,359 million (US\$3,246 million) in fiscal year 2018, and was primarily attributable to proceeds from issuance of senior notes of US\$7.0 billion, partly offset by net repayment of unsecured senior notes and bank borrowings of RMB12,192 million (US\$1,944 million) and cash used to acquire

additional shares of non-wholly owned subsidiaries, primarily including Lazada and Intime, of RMB13,627 million (US\$2,173 million).

Cash provided by financing activities was RMB32,914 million in fiscal year 2017, and was primarily attributable to net proceeds from borrowings of RMB29,333 million and proceeds from issuance of ordinary shares of RMB14,607 million, primarily representing shares issued to Suning, partially offset by cash used in share repurchase of RMB13,182 million.

Cash used in financing activities was RMB15,846 million in fiscal year 2016, and was primarily attributable to cash used in share repurchase of RMB19,795 million, partially offset by net proceeds from borrowings of RMB2,478 million.

### **Capital Expenditures**

Our capital expenditures have been incurred primarily in relation to (1) the acquisition of land use rights and construction of corporate campuses and office facilities in Hangzhou, Beijing, Guangzhou and Shenzhen; (2) the acquisition of computer equipment relating to the operation of our websites, furniture and office equipment and leasehold improvements for our office facilities; and (3) acquisitions of intangible assets and licensed copyrights. In fiscal years 2016, 2017 and 2018, our capital expenditures totaled RMB10,845 million, RMB17,546 million and RMB29,836 million (US\$4,756 million), respectively.

### **Holding Company Structure**

We are a holding company with no operation other than ownership of operating subsidiaries in Hong Kong, China and elsewhere that own and operate our marketplaces and other businesses as well as a portfolio of intellectual property rights. As a result, we rely on dividends and other distributions paid by our operating subsidiaries, including funds to pay dividends to our shareholders or to service our outstanding debts. If our operating subsidiaries incur additional debt on their own behalf in the future, the instruments governing the debt may restrict the ability of our operating subsidiaries to pay dividends or make other distributions to us. In addition, applicable PRC law permits payment of dividends to us by our operating subsidiaries in China only out of their retained earnings, if any, determined in accordance with PRC accounting standards and regulations. Moreover, our operating subsidiaries in China are also required to set aside a portion of their net income, if any, each year to fund general reserves for appropriations until this reserve has reached 50% of the related subsidiary's registered capital. These reserves are not distributable as cash dividends. In addition, registered share capital and capital reserve accounts are also restricted from distribution. As of March 31, 2018, these restricted net assets totaled RMB77,891 million (US\$12,418 million). See note 22 to our audited consolidated financial statements included elsewhere in this annual report.

Our holding company structure differs from some of our peers in that we hold our material assets and operations, except for ICP and other licenses for regulated activities as well as certain equity investments in restricted businesses, in our wholly-foreign owned enterprises and most of our revenue is generated directly by the wholly-foreign owned enterprises. As revenue is generated directly by our wholly-foreign owned enterprises, the wholly-foreign owned enterprises directly capture the profits and associated cash flow from operations, without having to rely on contractual arrangements to transfer cash flow from the variable interest entities to the wholly-foreign owned enterprises. In fiscal years 2016, 2017 and 2018, the significant majority of our revenues were generated by our wholly-foreign owned enterprises in China. See "Item 4. Information on the Company — C. Organizational Structure" for a description of these contractual arrangements and the structure of our company.

### **Inflation**

Inflation in China has not materially impacted our results of operations in recent years. According to the National Bureau of Statistics of China, the year-over-year increase in the consumer price index in calendar years 2015, 2016 and 2017 was 1.4%, 2.0% and 1.6%, respectively. Although we have not been materially affected by

inflation in the past, we can provide no assurance that we will not be affected in the future by higher inflation rates in China.

### **Critical Accounting Policies and Estimates**

Our significant accounting policies are set forth in note 2 to our audited consolidated financial statements included elsewhere in this annual report. The preparation of our consolidated financial statements requires our management to make estimates and assumptions that affect the amounts reported in the consolidated financial statements. Our management periodically re-evaluates these estimates and assumptions based on historical experience and other factors, including expectations of future events that they believe to be reasonable under the circumstances. Actual results may differ significantly from those estimates and assumptions. We have identified the following accounting policies as the most critical to an understanding of our financial position and results of operations, because the application of these policies requires significant and complex management estimates, assumptions and judgment, and the reporting of materially different amounts could result if different estimates or assumptions were used or different judgments were made.

#### ***Principles of Consolidation***

A subsidiary is an entity in which (i) we directly or indirectly control more than 50% of the voting power; or (ii) we have the power to appoint or remove the majority of the members of the board of directors or to cast a majority of votes at the meetings of the board of directors or to govern the financial and operating policies of the investee pursuant to a statute or under an agreement among the shareholders or equity holders. However, there are situations in which consolidation is required even though these usual conditions of consolidation do not apply. Generally, this occurs when an entity holds an interest in another business enterprise that was achieved through arrangements that do not involve voting interests, which results in a disproportionate relationship between the entity's voting interests in, and its exposure to the economic risks and potential rewards of, the other business enterprise. This disproportionate relationship results in what is known as a variable interest, and the entity in which we have the variable interest is referred to as a "VIE." We consolidate a VIE if we are determined to be the primary beneficiary of the VIE. The primary beneficiary has both (i) the power to direct the activities of the VIE that most significantly impact the entity's economic performance, and (ii) the obligation to absorb losses or the right to receive benefits from the VIE that could potentially be significant to the VIE.

For the entities that we invested in or are associated with but in which the usual conditions of consolidation mentioned above do not apply, we continuously reassess whether these entities possess any of the characteristic of a VIE and whether we are the primary beneficiary.

We consolidate our subsidiaries and the VIEs of which we are the primary beneficiary. On a periodic basis, we reconsider the initial determination of whether a legal entity is a consolidated entity upon the occurrence of certain events provided in Accounting Standards Codification ("ASC") 810. We also continuously reconsider whether we are the primary beneficiary of our affiliated entities as facts and circumstances change.

#### ***Recognition of Revenue***

Revenue is principally comprised of customer management revenue, commissions on transactions, membership fees, cloud computing services revenue and other revenue. Revenue represents the fair value of the consideration received or receivable for sales of goods and the provision of services in the ordinary course of our activities and is recorded net of VAT. Consistent with the criteria of ASC 605 "Revenue Recognition," we recognize revenue when the following four revenue recognition criteria are met: (i) persuasive evidence of an arrangement exists, (ii) delivery has occurred or services have been provided, (iii) the selling price is fixed or determinable, and (iv) collectability is reasonably assured.

The application of various accounting principles related to the measurement and recognition of revenue requires us to make judgments and estimates. Specifically, complex arrangements with non-standard terms and conditions may require relevant contract interpretation to determine the appropriate accounting treatment, including whether the deliverables specified in a multiple element arrangement should be treated as separate units of accounting. Other significant judgments include determining whether we are acting as the principal or the agent from an accounting perspective in a transaction.

For multiple element arrangements with customers, which primarily relate to the sale of membership packages and customer management services on our wholesale marketplace and Youku's platforms, the arrangement consideration is allocated at the inception of the arrangement to each element based on their relative fair values for revenue recognition purposes. The consideration is allocated to each element using vendor-specific objective evidence or third-party evidence of the standalone selling price for each deliverable, or if neither type of evidence is available, using management's best estimate of selling price. Significant judgment is required in assessing the fair values of these elements by considering standalone selling price and other observable data. Changes in the estimated fair values may cause the revenue recognized for each element to change but not the total amount of revenue allocated within a contract. We periodically re-assess the fair value of the elements as a result of changes in market conditions. These multiple element arrangements are currently not significant to our operations. Revenue recognition for P4P marketing service and display marketing on our China retail marketplaces does not require us to exercise significant judgment or estimate.

For other arrangements, we apply significant judgment in determining whether we are acting as the principal or agent in a transaction. We record P4P marketing services revenue and display marketing revenue generated through third-party marketing affiliate programs on a gross basis; and revenue relating to the Taobao program generated through third-party marketing affiliate partners' websites where we do not take inventory risks on a net basis. In addition, revenue generated from certain platforms in which we operate as a primary obligor is reported on a gross basis while such revenue was insignificant for each of the periods presented. Generally, when we are primarily obligated in a transaction and are subject to inventory risk or have latitude in establishing prices and selecting suppliers, or have several but not all of these indicators, we record revenue on a gross basis. We record the net amount as revenue earned if we are not primarily obligated and do not have inventory risk or latitude in establishing prices. These judgments could have significant implications on the amount of revenue we recognize.

### ***Share-based Compensation Expense and Valuation of the Underlying Awards***

#### *Granting of share options, restricted shares and RSUs relating to our ordinary shares*

We account for various types of share-based awards granted to the employees, consultants and directors of our company, our affiliates and certain other companies, such as Ant Financial, in accordance with the authoritative guidance on share-based compensation expense. Under the fair value recognition provision of this guidance, compensation for share-based awards granted, including share options, restricted shares and RSUs, is measured at the grant date, or at the future vesting dates in the case of consultants or other non-employee grantees, based on the fair value of the awards and is recognized as expense over the requisite service period, which is generally the vesting period of the respective award, on an accelerated attribution method. In the case of share-based awards granted to non-employees, the fair value of the unvested portion is re-measured each period, with the resulting difference, if any, recognized as an expense during the period when the related services are rendered. Under the accelerated attribution method, each vesting installment of a graded vesting award is treated as a separate share-based award, and accordingly each vesting installment is separately measured and attributed to expense, resulting in accelerated recognition of share-based compensation expense.

Share-based compensation expense is recorded net of estimated forfeitures in our consolidated income statements and as such is recorded only for those share-based awards that are expected to vest. We estimate the forfeiture rate based on historical forfeitures of equity awards and adjust the rate to reflect changes when necessary. We revise our estimated forfeiture rate if actual forfeitures significantly differ from the initial estimates.

Determining the fair value of share-based awards requires significant judgment. We estimate the fair value of share options using the Black-Scholes valuation model, which requires inputs such as the fair value of our ordinary shares, risk-free interest rate, expected dividend yield, expected life and expected volatility.

The fair value of restricted shares and RSUs is determined based on the fair value of our ordinary shares. The market price of our publicly traded ADSs is used as an indicator of fair value for our ordinary shares.

If the fair value of the underlying equity and any of the assumptions used in the Black-Scholes model changes significantly, share-based compensation expense for future awards may differ materially compared with the awards granted previously.

*Subscription for rights to acquire our restricted shares*

Beginning in 2013, we offered selected members of the Alibaba Partnership rights to acquire our restricted shares. The fair value of the rights is determined using the Black-Scholes valuation model. For the rights offered before 2016, a discount for post-vesting sales restriction was applied to arrive at the estimated value of the restricted shares. We record share-based compensation expense equivalent to the entire fair value of these rights less the initial subscription price in the period of subscription. For the rights offered in 2016 and 2017, we recognize share-based compensation expense equivalent to the entire fair value of these rights over the requisite service period.

*Share-based awards relating to Ant Financial*

Junhan made grants of certain share-based awards similar to share appreciation awards linked to the valuation of Ant Financial to certain of our employees. The vesting of these awards is conditional upon the fulfillment of certain requisite service conditions, and these awards will be settled in cash by Junhan upon their disposal by the holders. Junhan has the right to repurchase the vested awards from the holders upon an initial public offering of Ant Financial or the termination of the holder's employment with us at a price to be determined based on the then fair market value of Ant Financial. We have no obligation to reimburse Junhan, Ant Financial or its subsidiaries for the cost associated with these awards.

The awards meet the definition of a financial derivative. The cost relating to the share-based awards is recognized by us and the related expense is recognized over the requisite service period in the consolidated income statements with a corresponding credit to additional paid-in capital. Subsequent changes in the fair value of the awards are recorded in the consolidated income statements through the date on which the underlying awards are settled by Junhan. See note 8(d) to our audited consolidated financial statements included elsewhere in this annual report. The fair values of the underlying equity are primarily determined by reference to the business enterprise value, or BEV, of Ant Financial which is based on the contemporaneous valuation reports or recent financing transactions. Given that the determination of the BEV of Ant Financial requires judgments and is beyond our control, the magnitude of the related accounting impact is unpredictable and may affect our consolidated income statements significantly.

As of March 31, 2018, total unamortized share-based compensation expense related to our ordinary shares that we expect to recognize was RMB19,514 million (US\$3,111 million), with a weighted-average remaining requisite service period of 2.1 years. To the extent the actual forfeiture rate is different from what we have anticipated, share-based compensation expense related to these awards will be different. Furthermore, share-based compensation expense will be affected by changes in the fair value of our shares, as certain share-based awards were granted to non-employees where the unvested portions of the awards are re-measured at each reporting date through the vesting dates in the future. As of March 31, 2018, 141,000 outstanding share options and 1,983,785 outstanding RSUs were held by non-employees, who consist primarily of employees of Ant Financial. In addition, share-based compensation expense will also be affected by changes in the fair value of awards granted to our employees by Junhan, which is controlled by Jack Ma. Ant Financial has informed us that they expect Junhan will also issue additional share-based awards to our employees from time to time in the future. In addition, since April 2018, Ant Financial, through a wholly-owned subsidiary, has granted certain RSU awards to our employees.

See "Item 7. Major Shareholders and Related Party Transactions — B. Related Party Transactions — Agreements and Transactions Related to Ant Financial and its Subsidiaries — Ownership of Ant Financial and Alipay." The expenses associated with these awards will be recognized across the functions in which the award recipients are employed and may continue to be significant in future periods.

***Recognition of Income Taxes and Deferred Tax Assets/Liabilities***

We are mainly subject to income tax in China, but are also subject to taxation on profit arising in or derived from the tax jurisdiction where our subsidiaries are domiciled and operate outside China. Income taxes are assessed and determined on an entity basis. There are transactions (including entitlement to preferential tax treatment and deductibility of expenses) where the ultimate tax determination is uncertain until the final tax position is confirmed by relevant tax authorities. In addition, we recognize liabilities for anticipated tax audit issues based on estimates of whether additional taxes could be due. Where the final tax outcome of these matters is different from the amounts that were initially recorded, the differences will impact the income tax and deferred tax provisions in the period in which the determination is made.

Deferred income tax is recognized for all temporary differences, carry forward of unused tax credits and unused tax losses, to the extent that it is probable that taxable profit will be available in the future against which the temporary differences, the carry forward of unused tax credits and unused tax losses could be utilized. Deferred income tax is provided in full, using the liability method. The deferred tax assets recognized are mainly related to the temporary differences arising from amortization of licensed copyrights and accrued expenses which are not deductible until paid under the applicable PRC tax laws. We have also recognized deferred tax liabilities on the undistributed earnings generated by our subsidiaries in China, which are subject to withholding taxes when they resolve to distribute dividends to us. As of March 31, 2018, we have fully accrued the withholding tax on the earnings distributable by all of our subsidiaries in China, except for those undistributed earnings that we intend to invest indefinitely in China. If our intent changes or if these funds are in fact distributed outside of China, we would be required to accrue or pay the withholding tax on some or all of these undistributed earnings and our effective tax rate would be adversely affected.

***Fair Value Determination Related to the Accounting for Business Combinations***

A component of our growth strategy has been to acquire and integrate complementary businesses into our ecosystem. We complete business combinations from time to time which require us to perform purchase price allocations. In order to recognize the fair value of assets acquired and liabilities assumed, mainly consisting of intangible assets and goodwill, as well as the fair value of any contingent consideration to be recognized, we use valuation techniques such as discounted cash flow analysis and ratio analysis in comparison to comparable companies in similar industries under the income approach, market approach and cost approach. Major factors considered include historical financial results and assumptions including future growth rates, an estimate of weighted average cost of capital and the effect of expected changes in regulation. Most of the valuations of our acquired businesses have been performed by independent valuation specialists under our management's supervision. We believe that the estimated fair value assigned to the assets acquired and liabilities assumed are based on reasonable assumptions and estimates that market participants would use. However, these assumptions are inherently uncertain and actual results could differ from those estimates.

***Fair Value Determination Related to Financial Instruments Accounted for at Fair Value***

We have a significant amount of investments and liabilities that are classified as Level 2 and Level 3 according to ASC 820 "Fair Value Measurement." The valuations for the investments and liabilities classified as Level 2 relating to financial derivatives, interest rate swaps and forward exchange contracts are provided by independent third parties such as the custodian banks. The valuations for the investments and liabilities classified as Level 3 relating to investment securities accounted for under the fair value option and contingent consideration in relation to investments and acquisitions are determined based on unobservable inputs, such as historical financial results



and assumptions about future growth rates, which require significant judgment to determine the appropriateness of these assumptions and estimates.

***Impairment Assessment on Goodwill and Intangible Assets***

We test annually, or whenever events or circumstances indicate that the carrying value of assets exceeds the recoverable amounts, whether goodwill and intangible assets have suffered any impairment in accordance with the accounting policy stated in note 2 to our audited consolidated financial statements included elsewhere in this annual report. For the impairment assessment on goodwill, we have elected to perform a qualitative assessment to determine whether the two-step impairment testing of goodwill is necessary. In this assessment, we consider primary factors such as industry and market considerations, overall financial performance of the reporting unit, and other specific information related to the operations. Based on the qualitative assessment, if it is more likely than not that the fair value of a reporting unit is less than the carrying amount, the quantitative impairment test is performed.

For the quantitative assessment of goodwill impairment, we identify the reporting units and compare the fair value of each reporting unit to its carrying amount, including goodwill. If the fair value of the reporting unit exceeds its carrying amount, goodwill is not considered to be impaired and the second step will not be required. If the carrying amount of a reporting unit exceeds its fair value, the second step compares the implied fair value of goodwill to the carrying value of a reporting unit's goodwill.

For intangible assets other than licensed copyrights, we perform an impairment assessment whenever events or changes in circumstances indicate the carrying value of an asset may not be recoverable. These assessments primarily use cash flow projections based on financial forecasts prepared by management and an estimated terminal value. The expected growth in revenues and operating margin, timing of future capital expenditures, an estimate of weighted average cost of capital and terminal growth rate are based on actual and prior year performance and market development expectations. The periods of the financial forecasts generally range from three to five years or a longer period if necessary. Judgment is required to determine key assumptions adopted in the cash flow projections and changes to key assumptions can significantly affect these cash flow projections and the results of the impairment tests.

***Impairment Assessment on Licensed Copyrights***

We evaluate the program usefulness of licensed copyrights pursuant to the guidance in ASC 920 "Entertainment — Broadcasters" which provides that the rights be reported at the lower of unamortized cost or estimated net realizable value. When there is a change in the expected usage of licensed copyrights, we estimate net realizable value of licensed copyrights to determine if any impairment exists. The net realizable value of licensed copyrights is determined by estimating the expected cash flows from advertising, less any direct costs, over the remaining useful lives of the licensed copyrights. We monetize our licensed copyrights with branding customers based on the different content channels available on our entertainment distribution platforms. Therefore, we estimate advertising cash flows for each category of content separately, such as movies, television series, variety shows, animations and other video content. Estimates that impact advertising cash flows include anticipated levels of demand for our advertising services and the expected selling prices of advertisements. Judgment is required to determine the key assumptions adopted in the cash flow projections and changes to key assumptions can significantly affect these cash flow projections and the results of the impairment tests.

***Impairment Assessment on Investments in Equity Investees***

We continually review our investments in equity investees to determine whether a decline in fair value below the carrying value is "other-than-temporary." The primary factors that we consider include:

- the severity and length of time that the fair value of the investment is below its carrying value;



- the stage of development, the business plan, the financial condition, the sufficiency of funding and the operating performance of the investee companies; strategic collaboration with and the prospects of the investee companies;
- the geographic region, market and industry in which the investee companies operate; and
- other entity specific information such as recent financing rounds completed by the investee companies and post balance sheet date fair value of the investment.

Fair value of the listed securities is subject to volatility and may be materially affected by market fluctuations. Judgment is required to determine the weighting and impact of the aforementioned factors and changes to such determination can significantly affect the results of the impairment tests. The market value of our investment in Alibaba Pictures has remained below its carrying value based on its quoted market prices since July 2015. The continued low market price combined with Alibaba Pictures' strategic decision in early 2018 to increase investments and expenses for market share growth of its online movie ticketing business caused us to conclude that the decline in market value against our carrying value may be "other-than-temporary," which led us to take an impairment loss of RMB18,116 million with respect to Alibaba Pictures during the year ended March 31, 2018. The impairment represented the difference between the market value and our carrying value of this investment as of December 31, 2017. Our original investment amount in Alibaba Pictures was RMB4,955 million, which was paid in June 2014. As a result of the placement of newly issued ordinary shares to third-party investors by Alibaba Pictures which diluted our equity interest from approximately 60% to 49.5%, we deconsolidated the financial results of Alibaba Pictures in June 2015, and recognized a significant accounting gain of RMB24,734 million based on a revaluation of our remaining equity interest in Alibaba Pictures in accordance with ASC 810, together with a corresponding significant increase to the carrying value of our investment in Alibaba Pictures. Nonetheless, the market value of our investment in Alibaba Pictures as of March 31, 2018 remains well above our original investment amount that we paid in June 2014.

#### ***Depreciation and Amortization***

The costs of property and equipment and intangible assets are charged ratably as depreciation and amortization expenses, respectively, over the estimated useful lives of the respective assets using the straight-line method. We periodically review changes in technology and industry conditions, asset retirement activity and residual values to determine adjustments to estimated remaining useful lives and depreciation and amortization rates. Actual economic lives may differ from estimated useful lives. Periodic reviews could result in a change in estimated useful lives and therefore depreciation and amortization expenses in future periods.

#### ***Allowance for Doubtful Accounts Relating to VAT Receivables***

VAT receivables mainly represent receivables from relevant PRC tax authorities in relation to OneTouch's VAT refund service. We record allowances for doubtful accounts primarily on VAT receivables according to our best estimate of the losses inherent in the outstanding portfolio of VAT receivables. The collection periods for the VAT receivables generally range from three to six months. We estimate the allowances by multiplying pre-determined percentages to the outstanding VAT receivable amounts based on the aging of the VAT receivables or any events that may affect the collectability of the VAT receivables. We monitor the aging of the VAT receivables and assess the collectability of these VAT receivables. Judgment is required to determine the allowance amounts and whether the amounts are adequate to cover potential bad debts, and periodic reviews are performed to ensure such amounts continue to reflect our best estimate of the losses inherent in the outstanding portfolio of debts.

#### **Recent Accounting Pronouncements**

In May 2014, the FASB issued ASU 2014-09, "Revenue from Contracts with Customers (Topic 606)" and issued subsequent amendments to the initial guidance or implementation guidance between August 2015 and December 2016 within ASU 2015-14, ASU 2016-08, ASU 2016-10, ASU 2016-12 and ASU 2016-20 (collectively,

including ASU 2014-09, "ASC 606"). ASC 606 supersedes the revenue recognition requirements in ASC 605 and requires entities to recognize revenue in a way that depicts the transfer of promised goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services. The new guidance is effective retrospectively for us for the year ending March 31, 2019 and interim reporting periods during the year ending March 31, 2019. The new guidance is required to be applied either retrospectively to each prior reporting period presented (the "full retrospective method") or retrospectively with the cumulative effect of initially applying the guidance recognized at the date of initial application (the "modified retrospective method"). We applied the new guidance beginning on April 1, 2018 using the modified retrospective method. Upon the adoption of ASC 606, we began to recognize revenue relating to the non-cash consideration received from merchants for advertising barter transactions. The adoption of ASC 606 also impacted our revenue recognition in other areas, including the estimation of variable consideration from merchants at contract inception, which affected the timing and the amount of revenue to be recognized. The cumulative impact of these adjustments on retained earnings as of April 1, 2018 was not material.

In January 2016, the FASB issued ASU 2016-01, "Financial Instruments — Overall (Subtopic 825-10): Recognition and Measurement of Financial Assets and Financial Liabilities" and issued certain technical corrections and improvements to the initial guidance within ASU 2018-03 in February 2018. ASU 2016-01 amends various aspects of the recognition, measurement, presentation, and disclosure for financial instruments. The new guidance also simplifies the impairment assessment and enhances the disclosure requirements of equity investments. The new guidance is effective for us for the year ending March 31, 2019 and interim reporting periods during the year ending March 31, 2019. With respect to our consolidated financial statements, the most significant impact relates to the accounting for equity investments (except for those accounted for under the equity method or those that result in the consolidation of the investee). Under the new guidance, our equity investments are required to be measured at fair value with changes in fair value recognized in net income. For those investments without readily determinable fair values, we will elect to record these investments at cost, less impairment, with subsequent adjustments for observable price changes. We applied the new guidance beginning on April 1, 2018 and unrealized gains and losses for our available-for-sale securities recorded in accumulated other comprehensive income as of March 31, 2018 was reclassified into retained earnings as of April 1, 2018.

In February 2016, the FASB issued ASU 2016-02, "Leases (Topic 842)" and issued certain transitional guidance and subsequent amendments within ASU 2018-01 and ASU 2018-10 in January 2018 and July 2018, respectively. ASU 2016-02 creates a new topic in ASC 842 "Leases ("ASC 842")" to replace the current topic in ASC 840 "Leases," which increases transparency and comparability among organizations by recognizing lease assets and lease liabilities in the consolidated balance sheet and disclosing key information about leasing arrangements. ASU 842 affects both lessees and lessors, although for the latter the provisions are similar to the current model, but are updated to align with certain changes to the lessee model and also the new revenue recognition provisions contained in ASC 606. The new guidance is effective for us for the year ending March 31, 2020 and interim reporting periods during the year ending March 31, 2020. Early adoption is permitted. We are evaluating the effects of the adoption of ASC 842 and currently believes that it will impact the accounting of our operating leases.

In June 2016, the FASB issued ASU 2016-13, "Financial Instruments — Credit Losses (Topic 326): Measurement on Credit Losses on Financial Instruments," which introduces new guidance for credit losses on instruments within its scope. The new guidance introduces an approach based on expected losses to estimate credit losses on certain types of financial instruments, including trade and other receivables, held-to-maturity debt securities, loans and net investments in leases. The new guidance also modifies the impairment model for available-for-sale debt securities and requires entities to determine whether all or a portion of the unrealized loss on an available-for-sale debt security is a credit loss. Further, the new guidance indicates that entities may not use the length of time a security has been in an unrealized loss position as a factor in concluding whether a credit loss exists. The new guidance is effective for us for the year ending March 31, 2021 and interim reporting periods during the year ending March 31, 2021. Early adoption is permitted for us for the year ending March 31, 2020 and interim reporting periods during the year ending March 31, 2020. We are evaluating the effects, if any, of the adoption of this guidance on our financial position, results of operations and cash flows.

In October 2016, the FASB issued ASU 2016-16, "Income Taxes (Topic 740): Intra-Entity Transfers of Assets Other than Inventory," which amends the accounting for income taxes. The new guidance requires recognition of income tax consequences of an intra-entity asset transfer, other than transfers of inventory, when the transfer occurs. For intra-entity transfers of inventory, the income tax effects will continue to be deferred until the inventory has been sold to a third party. The new guidance is effective for us for the year ending March 31, 2019 and interim reporting periods during the year ending March 31, 2019. The new guidance is required to be applied on a modified retrospective basis through a cumulative effect adjustment directly recorded to retained earnings as of the beginning of the period of adoption. We do not expect that the adoption of this guidance will have a material impact on our financial position, results of operations and cash flows.

In November 2016, the FASB issued ASU 2016-18, "Statement of Cash Flows (Topic 230): Restricted Cash," which requires the amounts generally described as restricted cash and restricted cash equivalents to be included with cash and cash equivalents when reconciling the beginning-of-period and end-of-period total amounts shown on the statement of cash flows. The new guidance is effective for us for the year ending March 31, 2019 and interim reporting periods during the year ending March 31, 2019. The guidance requires application using a retrospective transition method. We believe that the adoption of this guidance will impact the presentation of our consolidated statements of cash flows.

In January 2017, the FASB issued ASU 2017-04, "Intangibles — Goodwill and Other (Topic 350): Simplifying the Test for Goodwill Impairment," which simplifies how an entity is required to test goodwill for impairment by eliminating step two from the goodwill impairment test. Step two of the goodwill impairment test measures a goodwill impairment loss by comparing the implied fair value of a reporting unit's goodwill with its carrying amount. The new guidance is effective prospectively for us for the year ending March 31, 2021 and interim reporting periods during the year ending March 31, 2021. Early adoption is permitted for interim or annual goodwill impairment tests performed on testing dates after January 1, 2017. We are evaluating the effects, if any, of the adoption of this guidance on our financial position, results of operations and cash flows.

In May 2017, the FASB issued ASU 2017-09, "Compensation — Stock Compensation (Topic 718): Scope of Modification Accounting," which provides guidance about which changes to the terms or conditions of a share-based payment award require an entity to apply modification accounting in ASC 718 "Compensation — Stock Compensation" ("ASC 718"). Under the new guidance, modification accounting is required only if the fair value, the vesting condition, or the classification of the award (as equity or liability) changes as a result of the change in terms or conditions. The new guidance is effective prospectively for us for the year ending March 31, 2019 and interim reporting periods during the year ending March 31, 2019. We do not expect that the adoption of this guidance will have a material impact on our financial position, results of operations and cash flows.

In August 2017, the FASB issued ASU 2017-12, "Derivatives and Hedging (Topic 815): Targeted Improvements to Accounting for Hedging Activities," which simplifies the application of hedge accounting and makes more financial and nonfinancial hedging strategies eligible for hedge accounting. It also amends the presentation and disclosure requirements and changes how companies assess effectiveness. The new guidance permits a qualitative effectiveness assessment for certain hedges instead of a quantitative test after the initial qualification, if the company can reasonably support an expectation of high effectiveness throughout the term of the hedge. Also, for cash flow hedges and net investment hedges, if the hedge is highly effective, all changes in the fair value of the derivative hedging instrument will be recorded in other comprehensive income. The new guidance is effective prospectively for us for the year ending March 31, 2020 and interim reporting periods during the year ending March 31, 2020. Early adoption is permitted. We are evaluating the effects, if any, of the adoption of this guidance on our financial position, results of operations and cash flows.

In June 2018, the FASB issued ASU 2018-07, "Compensation — Stock Compensation (Topic 718): Improvements to Nonemployee Share-Based Payment Accounting," which expands the scope of ASC 718 to include share-based payment transactions for acquiring goods and services from non-employees. An entity should apply the requirements of ASC 718 to non-employee awards except for specific guidance on inputs to an option pricing model and the attribution of cost. The amendments specify that ASC 718 applies to all share-based

payment transactions in which a grantor acquires goods or services to be used or consumed in a grantor's own operations by issuing share-based payment awards. The new guidance is effective for us for the year ending March 31, 2020 and interim reporting periods during the year ending March 31, 2020. Early adoption is permitted. We are evaluating the effects of the adoption of this guidance and currently believes that it will impact the accounting of the share-based awards granted to non-employees.

### **C. Research and Development, Patents and Licenses, etc.**

#### **Research and Development**

We have built our core technology for our e-commerce and cloud computing businesses in-house. As of March 31, 2018, we employed over 24,000 research and development personnel engaged in building our technology platform and developing new online and mobile products. We recruit top and experienced talent locally and overseas, and we have advanced training programs designed specifically for new campus hires.

#### **Intellectual Property**

We believe the protection of our trademarks, copyrights, domain names, trade names, trade secrets, patents and other proprietary rights is critical to our business. We rely on a combination of trademark, fair trade practice, copyright and trade secret protection laws and patent protection in China and other jurisdictions, as well as confidentiality procedures and contractual provisions to protect our intellectual property and our trademarks. We also enter into confidentiality and invention assignment agreements with all of our employees, and we rigorously control access to our proprietary technology and information. As of March 31, 2018, we had 3,003 issued patents and 8,882 publicly filed patent applications in China and 2,731 issued patents and 6,903 publicly filed patent applications in various countries and jurisdictions internationally. We do not know whether any of our pending patent applications will result in the issuance of patents or whether the examination process will require us to narrow our claims.

### **D. Trend Information**

Other than as disclosed elsewhere in this annual report, we are not aware of any trends, uncertainties, demands, commitments or events for the current fiscal year that are reasonably likely to have a material effect on our net revenues, income, profitability, liquidity or capital reserves, or that caused the disclosed financial information to be not necessarily indicative of future operating results or financial conditions.

### **E. Off-Balance Sheet Arrangements**

We did not have any material off-balance sheet arrangements in fiscal years 2016, 2017 or 2018.

**F. Contractual Obligations**

The following table sets forth our contractual obligations and commercial commitments as of March 31, 2018.

	Payment due by period				
	Total	Less than 1 Year	1 – 3 Years	3 – 5 Years	More than 5 Years
(in millions of RMB)					
<b>Contractual Obligations</b>					
Short-term borrowings <sup>(1)</sup>	6,031	6,031	—	—	—
Long-term borrowings <sup>(2)</sup>	9,198	—	3,848	721	4,629
US\$4.0 billion syndicated loan denominated in US\$ <sup>(3)</sup>	25,109	—	—	25,109	—
Unsecured senior notes <sup>(4)</sup>	85,996	—	14,123	9,416	62,457
<b>Contractual Commitments</b>					
Purchase of property and equipment	3,181	3,049	106	6	20
Construction in progress	2,607	1,075	1,434	98	—
Leases for office facility and transportation equipment	22,352	2,760	4,224	3,428	11,940
Licensed copyrights, co-location, bandwidth fees and marketing expenses	35,506	19,737	7,779	4,318	3,672
Investment commitments <sup>(5)</sup>	15,174	15,174	—	—	—
<b>Total</b>	<b>205,154</b>	<b>47,826</b>	<b>31,514</b>	<b>43,096</b>	<b>82,718</b>

- (1) Excluding estimated interest payments of RMB54 million assuming the applicable interest rates in effect as of March 31, 2018. The majority of the borrowings are subject to floating interest rates.
- (2) Excluding estimated interest payments of RMB2,191 million in total (RMB435 million, RMB609 million, RMB474 million and RMB673 million over the periods of less than one year, one to three years, three to five years and more than five years from April 1, 2018, respectively), assuming the applicable interest rates in effect as of March 31, 2018. Substantially all of the borrowings are subject to floating interest rates.
- (3) Excluding estimated interest payments of RMB2,328 million in total (RMB752 million, RMB1,505 million and RMB71 million over the periods of less than one year, one to three years and three to five years from April 1, 2018, respectively), assuming the applicable interest rate in effect as of March 31, 2018. The syndicated loan is subject to a floating interest rate.
- (4) Excluding estimated interest payments of RMB43,832 million in total (RMB3,009 million, RMB5,545 million, RMB4,913 million and RMB30,365 million over the periods of less than one year, one to three years, three to five years and more than five years from April 1, 2018, respectively). The unsecured senior notes are subject to fixed interest rates.
- (5) Including the consideration for the investments in Kaiyuan and Shiji Retail of RMB3,362 million and US\$486 million, respectively. Both of the investments in Kaiyuan and Shiji Retail were completed in April 2018.

In addition, according to our partnership arrangement with the International Olympic Committee, we will provide at least US\$815 million worth of cash, cloud infrastructure services and cloud computing services, as well as marketing and media support through 2028, in connection with various Olympic initiatives, events and activities, including the Olympic Games and the Winter Olympic Games. As of March 31, 2018, the aggregate amount of cash to be paid and value of services to be provided in the future is approximately US\$770 million.

**G. Safe Harbor**

See "Forward-Looking Statements."

**ITEM 6 DIRECTORS, SENIOR MANAGEMENT AND EMPLOYEES**

**A. Directors and Senior Management**

The following table sets forth certain information relating to our directors and executive officers.

Name	Age	Position/Title
Jack Yun MA †(1) (c)	53	Executive Chairman
Joseph C. TSAI †(2) (a)	54	Executive Vice Chairman
Daniel Yong ZHANG †(1) (b)	46	Director and Chief Executive Officer
J. Michael EVANS †(2) (a)	60	Director and President
Eric Xiandong JING †(2) (a)	45	Director
Masayoshi SON ‡(3) (c)	61	Director
Chee Hwa TUNG (2) (b)	81	Independent director
Walter Teh Ming KWAUK (2) (c)	65	Independent director
Jerry YANG (2) (b)	49	Independent director
Börje E. EKHOLM (2) (a)	55	Independent director
Wan Ling MARTELLO (2) (b)	60	Independent director
Maggie Wei WU (2)	50	Chief Financial Officer
Judy Wenhong TONG (1)	47	Chief People Officer
Jeff Jianfeng ZHANG (1)	45	Chief Technology Officer
Sophie Minzhi WU (1)	42	Chief Customer Officer
Timothy A. STEINERT (2)	58	General Counsel and Secretary
Jessie Junfang ZHENG (1)	44	Chief Risk Officer and Chief Platform Governance Officer
Angel Ying ZHAO (1)	44	Head, Alibaba Globalization Leadership Group
Chris Pen-hung TUNG (1)	48	Chief Marketing Officer and President, Alimama
Simon Xiaoming HU (1)	48	President, Alibaba Cloud
Trudy Shan DAI (1)	42	President, Wholesale Marketplaces
Weidong YANG (1)	44	President, Alibaba Digital Media & Entertainment Group
Fan JIANG (1)	32	President, Taobao
Jet Jie JING (1)	43	President, Tmall

† Director nominated by the Alibaba Partnership.  
‡ Director nominated by SoftBank.  
(a) Group I directors. Current term of office will expire at our 2018 annual general meeting.  
(b) Group II directors. Current term of office will expire at our 2019 annual general meeting.  
(c) Group III directors. Current term of office will expire at our 2020 annual general meeting.  
(1) c/o 969 West Wen Yi Road, Yu Hang District, Hangzhou 311121, the People's Republic of China.  
(2) c/o Alibaba Group Services Limited, 26/F Tower One, Times Square, 1 Matheson Street, Causeway Bay, Hong Kong S.A.R.  
(3) SoftBank Group Corp., 1-9-1 Higashi-shimbashi, Minato-ku, Tokyo, 105-7303, Japan.

**Biographical Information**

**Jack Yun MA ( 馬雲 )** is our lead founder and, since May 2013, has served as our executive chairman. From our founding in 1999 and until May 2013, Jack served as our chairman and chief executive officer. He is also the founder of the Zhejiang-based Jack Ma Foundation. Jack currently serves on the board of SoftBank Group Corp., one of our major shareholders and a Japanese corporation listed on the Tokyo Stock Exchange. He is also a member of the Foundation Board of the World Economic Forum, chairman of the Zhejiang Chamber of Commerce, as well as chairman of the China Entrepreneur Club. In January 2016, he was named a Sustainable

Development Goals (SDGs) advocate by the United Nations. Jack graduated from Hangzhou Teacher's Institute with a major in English language education.

**Joseph C. TSAI (蔡崇信)** joined our company in 1999 as a member of the Alibaba founding team and has served on our board of directors since our inception. He is currently our executive vice chairman and is responsible for our strategic investments, mergers and acquisitions. Joe is a member of Ant Financial's investment committee and serves on the boards of several of our investee companies. Prior to May 2013, Joe served as our chief financial officer. From 1995 to 1999, he worked in Hong Kong with Investor AB, the main investment vehicle of Sweden's Wallenberg family, where he was responsible for Asian private equity investments. Prior to that, he was vice president and general counsel of Rosecliff, Inc., a management buyout firm based in New York. From 1990 to 1993, Joe was an associate attorney in the tax group of Sullivan & Cromwell LLP, a New York-based international law firm. He is qualified to practice law in the State of New York and received his bachelor's degree in Economics and East Asian Studies from Yale College and a juris doctor degree from Yale Law School.

**Daniel Yong ZHANG (张勇)** has been our Chief Executive Officer since May 2015 and our director since September 2014. Mr. Zhang is also currently a member of Ant Financial's investment committee. Prior to his current role, he served as our Chief Operating Officer from September 2013 to May 2015. He joined our company in August 2007 as Chief Financial Officer of Taobao Marketplace and served in this position until June 2011. He took on the additional role of general manager for Tmall.com in August 2008, which he served in concurrence until appointment as president of Tmall.com in June 2011 when Tmall.com became an independent platform. Prior to joining Alibaba, Mr. Zhang served as Chief Financial Officer of Shanda Interactive Entertainment Limited, an online game developer and operator then listed on NASDAQ, from August 2005 to August 2007. From 2002 to 2005, he was a senior executive of PricewaterhouseCoopers' Audit and Business Advisory Division in Shanghai. Mr. Zhang is the chairman of Sun Art, a company listed on the Hong Kong Stock Exchange. He also serves on the board of Weibo, a company listed on the NYSE. Mr. Zhang received a bachelor's degree in finance from Shanghai University of Finance and Economics.

**J. Michael EVANS** has been our president since August 2015 and our director since September 2014. Mr. Evans served as Vice Chairman of The Goldman Sachs Group, Inc. from February 2008 until his retirement in December 2013. Mr. Evans served as chairman of Asia operations at Goldman Sachs from 2004 to 2013 and was the global head of Growth Markets at Goldman Sachs from January 2011 to December 2013. He also co-chaired the Business Standards Committee of Goldman Sachs from 2010 to 2013. Mr. Evans joined Goldman Sachs in 1993, became a partner of the firm in 1994 and held various leadership positions within the firm's securities business while based in New York and London, including global head of equity capital markets and global co-head of the equities division, and global co-head of the securities business. Mr. Evans is a board member of City Harvest. He is also a trustee of the Asia Society and a member of the Advisory Council for the Bendheim Center for Finance at Princeton University. In August 2014, Mr. Evans joined the board of Barrick Gold Corporation. In October 2014, Mr. Evans was appointed as an independent board member of Castleton Commodities International LLC. Mr. Evans received his bachelor's degree in politics from Princeton University in 1981.

**Eric Xiandong JING (井贤栋)** has been our director since September 2016. He is currently the chief executive officer of Ant Financial, and has also served as chairman of Ant Financial starting in April 2018. Prior to his current position, Mr. Jing served as president of Ant Financial from June 2015 to October 2016, and chief operating officer of Ant Financial from October 2014 to June 2015. Prior to that, he served as Alipay's chief financial officer. Before joining Alipay in September 2009, he was senior corporate finance director and corporate finance vice president of Alibaba.com from 2007 to 2009. Previously, Mr. Jing was the chief financial officer of Guangzhou Pepsi Cola Beverage Co. from 2004 to 2006. He also held management positions in several Coca-Cola bottling companies across China. Currently, Mr. Jing also serves as a director of Hundsun Technologies, a company listed on the Shanghai Stock Exchange. Mr. Jing received an MBA degree from the Carlson School of Management at the University of Minnesota and a bachelor's degree in economics from Shanghai Jiao Tong University.



**Masayoshi SON** has been our director since 2005 and is the founder, chairman and chief executive officer of SoftBank Group Corp., a Japanese corporation listed on the Tokyo Stock Exchange, with operations in broadband, mobile and fixed-line telecommunications, e-commerce, Internet, technology services, media and marketing, and other businesses. Mr. Son founded SoftBank Group Corp. in 1981. Mr. Son also serves as director of several other SoftBank subsidiaries and affiliates, including serving as chairman of SoftBank Group Corp. as well as director of Yahoo Japan Corporation since 1996, and chairman of the board of Sprint Corporation since 2013. Mr. Son received a bachelor's degree in Economics from the University of California, Berkeley.

**Chee Hwa TUNG (董建华)** has been our director since September 2014 and is the Vice Chairman of the Thirteenth National Committee of the Chinese People's Political Consultative Conference of the PRC, which is an important institution of multiparty cooperation and political consultation in the PRC. Mr. Tung is the Founding Chairman of the China-United States Exchange Foundation, which is a non-profit organization registered in Hong Kong to promote understanding and strengthening relationships between China and the United States. Mr. Tung is also the chairman and director of Our Hong Kong Foundation Limited, a non-government, non-profit organization dedicated to promoting the long-term and overall interests of Hong Kong. Mr. Tung also serves in various public sector and advisory positions, including as a member of the J.P. Morgan International Council, the China Development Bank International Advisory Committee and the Advisory Board of the Schwarzman Scholars Program at Tsinghua University. Prior to these appointments, Mr. Tung served as the First Chief Executive of the Hong Kong Special Administrative Region from July 1997 to March 2005. Mr. Tung had a successful and distinguished career in business, including serving as the Chairman and Chief Executive Officer of Orient Overseas (International) Limited, an SEHK-listed company with its principal business activities in container transport and logistics services on a global scale. Mr. Tung received a bachelor's degree in science from the University of Liverpool.

**Walter Teh Ming KWAUK (郭德明)** has been our director since September 2014. He previously served as an independent non-executive director and chairman of the audit committee of Alibaba.com Limited, one of our subsidiaries, which was listed on the SEHK, from October 2007 to July 2012. Mr. Kwauk is currently a senior adviser of Motorola Solutions (China) Co., Ltd. and serves as an independent non-executive director and chairman of the audit committee of each of Sinosoft Technology Group Limited, a company listed on the SEHK, and WuXi Biologics (Cayman) Inc., a company listed on the SEHK; and as a director of several private companies. Mr. Kwauk was a vice president of Motorola Solutions, Inc. and its director of corporate strategic finance and tax, Asia Pacific from 2003 to 2012. Mr. Kwauk served with KPMG from 1977 to 2002 and held a number of senior positions, including the general manager of KPMG's joint venture accounting firm in Beijing, the managing partner in KPMG's Shanghai office and a partner in KPMG's Hong Kong Office. He is a member of the Hong Kong Institute of Certified Public Accountants. Mr. Kwauk received a bachelor's degree in science and a licentiate's degree in accounting from the University of British Columbia.

**Jerry YANG (杨致远)** has been our director since September 2014. Mr. Yang previously served as our director from October 2005 to January 2012. Since March 2012, Mr. Yang has served as the founding partner of AME Cloud Ventures, a venture capital firm. Mr. Yang is a co-founder of Yahoo! Inc., and served as Chief Yahoo! and as a member of its board of directors from March 1995 to January 2012. In addition, he served as Yahoo!'s Chief Executive Officer from June 2007 to January 2009. From January 1996 to January 2012, Mr. Yang served as a director of Yahoo! Japan. Mr. Yang also served as an independent director of Cisco Systems, Inc. from July 2000 to November 2012. He is currently an independent director of Workday Inc., a company listed on the New York Stock Exchange, and Lenovo Group Ltd., a company listed on the SEHK. He also serves as a director of various private companies and foundations. Mr. Yang received a bachelor's degree and a master's degree in electrical engineering from Stanford University, where he is serving on the University's Board of Trustees beginning in October 2017. He was previously on Stanford's Board of Trustees from 2005 to 2015, including being a vice chair.



**Börje E. EKHOLM** has been our director since June 2015. Mr. Ekholm is currently the president and Chief Executive Officer of Ericsson. Prior to his current position, Mr. Ekholm was head of Patricia Industries, a newly created division of Investor AB, a Swedish investment company, where he has held a variety of management positions since joining the firm in 1992. Mr. Ekholm previously served as president and Chief Executive Officer and a member of the board of directors of Investor AB. Prior to becoming president and Chief Executive Officer in 2005, Mr. Ekholm was a member of the management group of Investor AB. Previously, Mr. Ekholm worked at McKinsey & Co. Inc. Mr. Ekholm currently serves as a member of the board of Ericsson and as a member of the board of trustees of the private school Choate Rosemary Hall. Mr. Ekholm received a master's degree in electrical engineering from KTH Royal Institute of Technology and a master's degree in business administration from INSEAD.

**Wan Ling MARTELLO** has been our director since September 2015. She is currently the executive vice president and chief executive officer for Asia, Oceania, Sub-Saharan Africa of Nestlé S.A. Prior to this appointment, Ms. Martello was executive vice president, chief financial officer of Nestlé S.A., and joined the company in November 2011. Before joining Nestlé S.A., Ms. Martello worked at Wal-Mart Stores Inc. from 2005 to 2011 where she served as executive vice president, global e-commerce, and senior vice president and chief financial officer, Walmart International, at different times. Prior to that, Ms. Martello worked at NCH Marketing Services Inc. from 1998 to 2005 and Borden Foods Corporation from 1995 to 1998, where she held various senior management positions. Previously, Ms. Martello worked at Kraft Foods, Inc. from 1985 to 1995. Ms. Martello received a master's degree in business administration (management information systems) from the University of Minnesota and a bachelor's degree in business administration and accountancy from the University of the Philippines. She is a certified public accountant in the Philippines.

**Maggie Wei WU ( 武卫 )** has been our chief financial officer since May 2013. Ms. Wu served as our deputy chief financial officer from October 2011 to May 2013. Ms. Wu joined our company in July 2007 as chief financial officer of Alibaba.com and was responsible for instituting Alibaba.com's financial systems and organization leading up to its initial public offering in Hong Kong in November of that year, as well as co-leading the privatization of Alibaba.com in 2012. She was voted best CFO in FinanceAsia's annual poll for Asia's Best Managed Companies in 2010. Before joining our company, Ms. Wu was an audit partner at KPMG in Beijing. In her 15 years with KPMG, she was lead audit partner for the initial public offerings and audits of several major large-cap Chinese companies listed in international capital markets and provided audit and advisory services to major multinational corporations operating in China. Ms. Wu is a member of the Association of Chartered Certified Accountants (ACCA) and a member of the Chinese Institute of Certified Public Accountants. She received a bachelor's degree in accounting from Capital University of Economics and Business.

**Judy Wenhong TONG ( 董文红 )** has been our chief people officer since January 2017. Since joining our company in 2000, she served as director and senior director in various departments in our company, including administration, customer service and human resources. Between 2007 and 2013, she served as vice president and senior vice president in various departments, including construction, real estate and procurement. Starting in 2013, Ms. Tong led the formation of Cainiao Network and served at various times as chief operating officer, president, chief executive officer and non-executive chairwoman, overseeing the operations of the company. Ms. Tong currently also serves as a board member of YTO Express Group Co., Ltd., a leading express courier company in China listed on Shanghai Stock Exchange. Ms. Tong received a bachelor's degree from Zhejiang University.

**Jeff Jianfeng ZHANG ( 张建锋 )** has served as our chief technology officer since April 2016. Prior to his current position, Mr. Zhang was president of China retail marketplaces from May 2015 to April 2016, and president of Taobao Marketplace and the wireless business division prior to that. He joined our company in July 2004 and has held various management positions, at different times leading Taobao Marketplace's technology infrastructure team, the B2C development team and Taobao Marketplace's product technology development team from 2004 to 2011. He served as vice president of product technology and operations of Taobao Marketplace from June 2011 to March 2012, and vice president of website and technology of Alibaba.com's China operations from March 2012 to January 2013. From January 2013 to February 2014, he oversaw Juhuasuan (a sales and marketing platform for

flash sales for Tmall and Taobao Marketplace merchants), local services, 1688.com, and Tmall.com. Mr. Zhang studied computer science at Zhejiang University.

**Sophie Minzhi WU (吴敏芝)** has been our chief customer officer since January 2017. Prior to her current position, Ms. Wu served as president of Alibaba.com and 1688.com, our international and China wholesale marketplaces. From October 2014 to February 2015, she also led the Rural Taobao team. Previously, she was vice president of Alibaba.com's supplier service division, responsible for leading her team to optimize service to China gold Supplier members and enhancing supplier quality. In July 2012, she was appointed the head of Alibaba.com's international operations and later also took charge of 1688.com. Ms. Wu joined our company in November 2000 and has served in several sales management roles, including general manager of regional sales, director and vice president of China Gold Supplier sales, and vice president of China TrustPass sales. Before joining Alibaba Group, Ms. Wu was sales and customer manager at a technology development company wholly owned by Zhejiang University. She holds a bachelor's degree in international trade from Zhejiang University and an EMBA degree from China Europe International Business School.

**Timothy A. STEINERT** has been our general counsel since July 2007 and also serves as our secretary. Mr. Steinert represents Alibaba on the NYSE Listed Company Advisory Board. From 1999 until he joined our company, Mr. Steinert was a partner in the Hong Kong office of Freshfields Bruckhaus Deringer. From 1994 to 1999, he was an associate attorney at Davis Polk & Wardwell in Hong Kong and New York, and from 1989 to 1994, he was an associate attorney at Coudert Brothers in Beijing and New York. Mr. Steinert is qualified to practice law in the State of New York and in Hong Kong. He received a bachelor's degree in history from Yale College and a juris doctor degree from Columbia University School of Law.

**Jessie Junfang ZHENG (郑俊芳)** has been our chief risk officer since December 2017, responsible for data and information security across our platforms, and our chief platform governance officer since December 2015, responsible for the governance of our retail and wholesale marketplaces. Prior to her current position, she served as our deputy chief financial officer from November 2013 to June 2016, and financial vice president of Alibaba.com from December 2010 to October 2013. Before joining our company, Ms. Zheng was an audit partner at KPMG. Jessie received a bachelor's degree in accounting from Northeastern University in China.

**Angel Ying ZHAO (赵颖)** has been the head of our Globalization Leadership Group since July 2017. She has also served as vice president of Ant Financial since May 2013. Prior to this role, Ms. Zhao served as vice president of finance of Taobao, Tmall and Alimama from October 2009 to April 2013. Prior to that, she served as senior director of finance of Yahoo! China. Before joining our company in 2005, Ms. Zhao was the finance director of Danaher Motion, a manufacturer of motion control products. Ms. Zhao is a certified public accountant and a certified public valuer. She received an executive MBA degree from China Europe International Business School and a master's degree in accounting from Tianjin University of Finance and Economics.

**Chris Pen-hung TUNG (董本洪)** joined our company as chief marketing officer in January 2016. He has also been the president of Alimama since November 2017. Prior to his current position, he was the chief executive officer of VML China, a marketing agency, from October 2010 to January 2016. Prior to joining VML, he was at PepsiCo China from October 2004 to October 2010 where he served as vice president of marketing. Prior to that, Mr. Tung worked at Procter & Gamble from 1995 to 1998, Gigamedia from 1998 to 2001 and L'Oréal from 2001 to 2003 in various senior management positions. He received a bachelor's degree in electrical engineering from National Taiwan University and a master's degree in industrial engineering from University of Michigan, Ann Arbor.

**Simon Xiaoming HU (胡晓明)** has been the president of Alibaba Cloud since November 2014. Prior to his current position, Mr. Hu served in various management positions at our company and at Ant Financial since he joined us in June 2005. He served as chief risk officer of Ant Financial from November 2013 to October 2014. From July 2009 to November 2013, he was general manager of our SME loan business. Before joining our company, Mr. Hu worked in financial institutions including China Construction Bank and China Everbright Bank

for over ten years. Mr. Hu received a bachelor's degree in finance from Zhejiang University and an executive MBA degree from China Europe International Business School.

**Trudy Shan DAI (戴珊)** joined our company in 1999 as a member of our founding team and has been president of Alibaba.com and 1688.com, our international and China wholesale marketplaces since January 2017, as well as AliExpress, our international retail marketplace. Prior to her current position, Ms. Dai was our chief customer officer from June 2014 to January 2017 and served as senior vice president of human resources and administration of Taobao and Alibaba.com as well as our deputy chief people officer and chief people officer from 2009 to 2014. She was general manager of Alibaba.com's international operations from 2007 to 2008. Prior to that, she was vice president of human resources of China Yahoo! and the first general manager of Alibaba.com's Guangzhou branch, in charge of field and telephone sales, marketing and human resources in Guangdong Province. From 2002 to 2005, Ms. Dai served as senior sales director of China TrustPass in Alibaba.com's China marketplace division. She received a bachelor's degree in engineering from Hangzhou Institute of Electrical Engineering.

**Weidong YANG (杨伟东)** has served as president of our Digital Media & Entertainment Group since December 2017. He has also served as president of our Youku business group since October 2016 and chief executive officer of Alibaba Music since May 2018. Prior to that, he headed the operations of the Youku business group and other digital media and entertainment businesses in various senior executive roles since joining our company in May 2016. Before joining our company, Mr. Yang was an executive officer of Youku, serving as president of Tudou.com from March 2013 to May 2016. Before joining Youku, he served as chief executive officer of Max Times, a youth entertainment content and marketing company, from November 2011 to March 2013. From January 2009 to November 2011, he served as marketing activation director of Nokia Greater China, where he held various positions in advertising and marketing. Mr. Yang received a bachelor's degree in Chinese literature from Hohai University in Nanjing.

**Fan JIANG (蒋凡)** has served as president of Taobao since December 2017. Prior to his current position, he had been responsible for the Taobao App since joining our company in August 2013. Previously, he founded and served as the chief executive officer of Umeng, a provider of mobile app analytics solutions for developers, which we acquired. Before founding Umeng in 2010, he worked in product development at Google China. Mr. Jiang received a bachelor's degree in computer science from Fudan University.

**Jet Jing JIE (靖捷)** has served as president of Tmall since December 2017. Prior to his current position, he served as vice president in various functions, including Tmall marketing, strategic partnership development and FMCG. Before joining our company in 2015, he worked at China National Cereals, Oil and Foodstuffs Corporation, where he served as the general manager of brand management and general manager of convenience foods, and was in charge of the e-commerce business of China Foods Limited. Before that, he worked at P&G (Guangzhou) Ltd. from 1998 to 2012, serving numerous brands including Rejoice, Crest, SK-II, Olay, Pampers, Living Artist and P&G, as well as working in numerous brand operations businesses, including shopper marketing, in-store operations, digital marketing, CRM and e-commerce. He received a bachelor's degree and a master's degree in computer science from Nanjing University.

### **Alibaba Partnership**

Since our founders first gathered in Jack Ma's apartment in 1999, they and our management have acted in the spirit of partnership. We view our culture as fundamental to our success and our ability to serve our customers, develop our employees and deliver long-term value to our shareholders. In July 2010, in order to preserve this spirit of partnership and to ensure the sustainability of our mission, vision and values, we decided to formalize our partnership as Lakeside Partners, named after the Lakeside Gardens residential community where Jack and our other founders started our company. We refer to the partnership as the Alibaba Partnership.

We believe that our partnership approach has helped us to better manage our business, with the peer nature of the partnership enabling senior managers to collaborate and override bureaucracy and hierarchy. The Alibaba Partnership currently has 36 members. The number of partners in Alibaba Partnership is not fixed and may change

from time to time due to the election of new partners, the retirement of partners and the departure of partners for other reasons.

Our partnership is a dynamic body that rejuvenates itself through admission of new partners each year, which we believe enhances our excellence, innovation and sustainability. Unlike dual-class ownership structures that employ a high-vote class of shares to concentrate control in a few founders, our approach is designed to embody the vision of a large group of management partners. This structure is our solution for preserving the culture shaped by our founders while at the same time accounting for the fact that founders will inevitably retire from the company.

Consistent with our partnership approach, all partnership votes are made on a one-partner-one-vote basis.

The partnership is governed by a partnership agreement and operates under principles, policies and procedures that have evolved with our business and are further described below.

### ***Nomination and Election of Partners***

The Alibaba Partnership elects new partners annually after a nomination process whereby existing partners propose candidates to the partnership committee, or the partnership committee, as described below. The partnership committee reviews the nominations and determines whether the nomination of a candidate will be proposed to the entire partnership for election. Election of new partners requires the approval of at least 75% of all of the partners.

To be eligible for election, a partner candidate must have demonstrated the following attributes:

- a high standard of personal character and integrity;
- continued service with Alibaba Group, our affiliates and/or certain companies with which we have a significant relationship such as Ant Financial for not less than five years;
- a track record of contribution to the business of Alibaba Group; and
- being a "culture carrier" who shows a consistent commitment to, and traits and actions consonant with, our mission, vision and values.

We believe the criteria and process of the Alibaba Partnership applicable to the election of new partners, as described above, promote accountability among the partners as well as to our customers, employees and shareholders. In order to align the interests of partners with the interests of our shareholders, we require that each partner maintain a meaningful level of equity interests in our company during his or her tenure as a partner. Since a partner nominee must have been our employee or an employee of one of our related companies or affiliates for at least five years, as of the time he or she becomes a partner, he or she will typically already own or have been awarded a personally meaningful level of equity interest in our company through our equity incentive and share purchase plans.

### ***Duties of Partners***

The main duty of partners in their capacity as partners is to embody and promote our mission, vision and values. We expect partners to be evangelists for our mission, vision and values, both within our organization and externally to customers, business partners and other participants in our ecosystem.

### ***Partnership Committee***

The partnership committee must consist of at least five partners, including partnership committee continuity members, and is currently comprised of Jack Ma, Joe Tsai, Daniel Zhang, Lucy Peng and Eric Jing. The partnership committee is responsible for administering partner elections and allocating the relevant portion of the annual cash bonus pool for all partner members of management, with any amounts payable to partners who are our executive officers or directors or members of the partnership committee subject to approval of the

compensation committee of our board of directors. Either one or two partners may be designated as partnership committee continuity partners, and Jack Ma and Joe Tsai are the initial partnership committee continuity members. Other than partnership committee continuity members, the partnership committee members serve for a term of three years and may serve multiple terms. Elections of partnership committee members are held once every three years. Partnership committee continuity members are not subject to election, and may serve until they cease to be partners, retire from the partnership committee or are unable to discharge duties as partnership committee members as a result of illness or permanent incapacity. A partnership committee continuity partner is either designated by a retiring or, as the case may be, the remaining, partnership committee continuity member. Prior to each election, the partnership committee will nominate a number of partners equal to the number of partnership committee members that will serve in the next partnership committee term plus three additional nominees less the number of the serving partnership committee continuity members. Each partner votes for a number of nominees equal to the number of partnership committee members that will serve in the next partnership committee term less the number of the serving partnership committee continuity members, and all except the three nominees who receive the least votes from the partners are elected to the partnership committee.

### ***Director Nomination and Appointment Rights***

Pursuant to our articles of association, the Alibaba Partnership has the exclusive right to nominate or, in limited situations, appoint up to a simple majority of the members of our board of directors.

The election of each director nominee of the Alibaba Partnership will be subject to the director nominee receiving a majority vote from our shareholders voting at an annual general meeting of shareholders. If an Alibaba Partnership director nominee is not elected by our shareholders or after election departs our board of directors for any reason, the Alibaba Partnership has the right to appoint a different person to serve as an interim director of the class in which the vacancy exists until our next scheduled annual general meeting of shareholders. At the next scheduled annual general meeting of shareholders, the appointed interim director or a replacement Alibaba Partnership director nominee (other than the original nominee) will stand for election for the remainder of the term of the class of directors to which the original nominee would have belonged.

If at any time our board of directors consists of less than a simple majority of directors nominated or appointed by the Alibaba Partnership for any reason, including because a director previously nominated by the Alibaba Partnership ceases to be a member of our board of directors or because the Alibaba Partnership had previously not exercised its right to nominate or appoint a simple majority of our board of directors, the Alibaba Partnership will be entitled (in its sole discretion and without the need for any additional shareholder action) to appoint such number of additional directors to the board as necessary to ensure that the directors nominated or appointed by the Alibaba Partnership comprise a simple majority of our board of directors.

In determining the Alibaba Partnership director nominees who will stand for election to our board, the partnership committee will propose director nominees who will be voted on by all of the partners, and those nominees who receive a simple majority of the votes of the partners will be selected for these purposes. The director nominees of the Alibaba Partnership may be partners of the Alibaba Partnership or other qualified individuals who are not affiliated with the Alibaba Partnership.

The Alibaba Partnership's right to nominate or appoint up to a simple majority of our directors is conditioned on the Alibaba Partnership being governed by the partnership agreement in effect as of the completion of our initial public offering in September 2014, or as may be amended in accordance with its terms from time to time. Any amendment to the provisions of the partnership agreement relating to the purpose of the partnership, or to the manner in which the Alibaba Partnership exercises its right to nominate a simple majority of our directors, will be subject to the approval of the majority of our directors who are not nominees or appointees of the Alibaba Partnership and are "independent directors" within the meaning of Section 303A of the New York Stock Exchange Listed Company Manual. The provisions relating to nomination rights and procedures described above are incorporated in our articles of association. Pursuant to our articles of association, the Alibaba Partnership's

nomination rights and related provisions of our articles of association may only be changed upon the vote of shareholders representing 95% of the votes present in person or by proxy at a general meeting of shareholders.

Our board of directors currently consists of eleven members, and five of these directors are Alibaba Partnership nominees. Pursuant to its right to nominate or appoint directors as discussed above, the Alibaba Partnership is entitled to nominate or appoint two additional directors to our board, which would increase the total number of directors to thirteen. We have entered into a voting agreement pursuant to which both SoftBank and Altaba have agreed to vote their shares in favor of the Alibaba Partnership director nominees at each annual general shareholders meeting so long as SoftBank owns at least 15% of our outstanding ordinary shares. Accordingly, for so long as SoftBank and Altaba remain substantial shareholders, we expect the Alibaba Partnership nominees will receive a majority of votes cast at any meeting for the election of directors and will be elected as directors. See "Item 7. Major Shareholders and Related Party Transactions — B. Related Party Transactions — Transactions and Agreements with SoftBank and Altaba — Voting Agreement."

**Current Partners**

The following table sets forth the names, in alphabetical order by surname, and other information regarding the current partners of the Alibaba Partnership as of the date of this annual report.

Name	Age	Gender	Year Joined Alibaba Group	Current position with Alibaba Group or related/affiliated companies
Jingxian CAI (蔡景现)	41	M	2000	Senior Researcher
Li CHENG (程立)	43	M	2005	Chief Technology Officer, Ant Financial
Trudy Shan DAI (戴珊)	42	F	1999	President, Wholesale Marketplaces
Luyuan FAN (樊路远)	45	M	2007	Chairman and Chief Executive Officer, Alibaba Pictures
Yongxin FANG (方永新)	44	M	2000	Senior Director, DingTalk
Felix Xi HU (胡喜)	37	M	2007	Deputy Chief Technology Officer, Ant Financial
Simon Xiaoming HU (胡晓明)	48	M	2005	President, Alibaba Cloud
Jane Fang JIANG (蒋芳)	44	F	1999	Deputy Chief People Officer
Eric Xiandong JING (井贤栋)†	45	M	2007	Chairman and Chief Executive Officer, Ant Financial
Zhenfei LIU (刘振飞)	46	M	2006	President, AutoNavi
Jack Yun MA (马云)†	53	M	1999	Executive Chairman
Xingjun NI (倪行军)	40	M	2003	President, Alipay, Ant Financial
Lucy Lei PENG (彭蕾)†	44	F	1999	Chairwoman and Chief Executive Officer, Lazada
Sabrina Yijie PENG (彭翼捷)	39	F	2000	Vice President, Ant Financial
Xiaofeng SHAO (邵晓锋)	52	M	2005	Secretary-General
Timothy A. STEINERT	58	M	2007	General Counsel and Secretary
Lijun SUN (孙利军)	41	M	2002	General Manager of Social Responsibility
Judy Wenhong TONG (童文红)	47	F	2000	Chief People Officer
Joseph C. TSAI (蔡崇信)†	54	M	1999	Executive Vice Chairman
Jian WANG (王坚)	55	M	2008	Chairman, Technology Steering Committee
Lei WANG (王磊)	38	M	2003	Chief Executive Officer, Ele.me
Shuai WANG (王帅)	43	M	2003	Chairman, Marketing and Public Relations Committee
Winnie Jia WEN (闻佳)	41	F	2007	Vice President, Office of the Chairman
Sophie Minzhi WU (吴敏芝)	42	F	2000	Chief Customer Officer
Maggie Wei WU (武卫)	50	F	2007	Chief Financial Officer
Eddie Yongming WU (吴泳铭)	43	M	1999	Chairman, Alibaba Health
Zeming WU (吴泽明)	37	M	2004	Vice President, Tmall Technical Department
Sara Siying YU (俞思瑛)	43	F	2005	Deputy General Counsel
Yongfu YU (俞永福)	41	M	2014	Head of eWTP Investment Working Group
Ming ZENG (曾鸣)	48	M	2006	Chief Strategist
Sam Songbai ZENG (曾松柏)	51	M	2012	Senior Vice President, Human Resources, Ant Financial
Jeff Jianfeng ZHANG (张建锋)	45	M	2004	Chief Technology Officer
Daniel Yong ZHANG (张勇)†	46	M	2007	Chief Executive Officer
Yu ZHANG (张宇)	48	F	2004	Vice President
Angel Ying ZHAO (赵颖)	44	F	2005	Head of Alibaba Globalization Leadership Group
Jessie Junfang ZHENG (郑俊芳)	44	F	2010	Chief Risk Officer and Chief Platform Governance Officer

† Member of the partnership committee.

***Bonus Pool***

Our board of directors, acting on the recommendation of our compensation committee, approves an annual cash bonus pool for management of our company (which in fiscal year 2018 comprised over 290 individuals) equal to a percentage of our adjusted pre-tax operating profits. Once the annual cash bonus pool is calculated, our compensation committee will then first determine the proportion to be allocated to the non-partner members of our management. Any remaining portion will then be available for the partner members of our management. The partnership committee will determine the allocation of the relevant portion of the annual cash bonus pool for all partner members of management, with any amounts payable to partners who are our executive officers or directors or members of the partnership committee subject to approval of the compensation committee of our board of directors. We understand that a partner's level of contribution to our business and to the promoting of our mission, vision and values will be a key factor in determining his or her allocation from the bonus pool. A portion of the annual cash bonus pool that is available to the partner members of management may, upon the recommendation of the partnership committee and approval of our compensation committee, be deferred, with the allocations of deferred payment determined by the partnership committee with any amounts payable to our executive officers or directors who are partners or members of the partnership committee subject to approval of the compensation committee of our board of directors. We understand that participation in deferred distributions, other than retirement pension payments funded out of the deferred pool, is conditioned on a partner's continued employment with us, our affiliates and/or certain companies with which we have a significant relationship, such as Ant Financial.

***Retirement and Removal***

Partners may elect to retire from the partnership at any time. All partners except continuity partners are required to retire upon reaching the age of sixty or upon termination of their qualifying employment. Jack Ma and Joe Tsai are designated as continuity partners, who may remain partners until they reach the age of seventy (and this age limit may be extended by a majority votes of all partners), elect to retire from the partnership, die or are incapacitated or are removed as partners. Any partner, including continuity partners, may be removed upon the vote of a simple majority of all partners present at a duly-called meeting of partners for violations of certain standards set forth in the partnership agreement, including failure to actively promote our mission, vision and values, fraud, gross misconduct or gross negligence. As with other partners, continuity partners must maintain the shareholding levels required by us of all partners as described below. Partners who retire from the partnership upon meeting certain age and service requirements may be designated as honorably retired partners by the partnership committee. Honorably retired partners may not act as partners, but may be entitled to allocations from the deferred portion of the annual cash bonus pool described below as retirement pension payments. Continuity partners will not be eligible to receive allocations from the annual cash bonus pool if they cease to be our employees even if they remain partners, but may be entitled to receive allocations from the deferred bonus pool if they are honorably retired partners.

***Restrictive Provisions***

Under our articles of association, in connection with any change of control, merger or sale of our company, the partners and other holders of our ordinary shares shall receive the same consideration with respect to their ordinary shares in connection with any of these types of transactions. In addition, our articles of association provide that the Alibaba Partnership may not transfer or otherwise delegate or give a proxy to any third-party with respect to its right to nominate directors, although it may elect not to exercise its rights in full. In addition, as noted above, our articles of association also provide that the amendment of certain provisions of the Alibaba Partnership agreement relating to the purpose of the partnership or the manner in which the partnership exercises its rights to nominate or appoint a majority of our board of directors will require the approval of a majority of directors who are not appointees of the Alibaba Partnership and are "independent directors" within the meaning of Section 303A of the New York Stock Exchange Listed Company Manual.



## **Amendment of Alibaba Partnership Agreement**

Pursuant to the partnership agreement, amendment of the partnership agreement requires the approval of 75% of the partners in attendance at a meeting of the partners at which not less than 75% of all the partners are in attendance, except that the general partner may effect certain administrative amendments. In addition, certain amendments relating to the purposes of the Alibaba Partnership or the manner in which it exercises its nomination rights with respect to our directors require the approval of a majority of our independent directors not nominated or appointed by the Alibaba Partnership.

## **Alibaba Group Equity Interest Holding Requirements for Partners**

Each of the partners holds his or her equity interests in our company directly as an individual or through his or her affiliates. We have entered into share retention agreements with each partner. These agreements provide that a period of three years from the date on which a person becomes a partner, or for 24 of the existing partners, from January 1, 2014, three of the existing partners, from August 26, 2014, four of the existing partners, from November 25, 2015, four of the existing partners, from January 4, 2017, and one of the existing partners, from January 14, 2018, we require that each partner retain at least 60% of the equity interests (including shares underlying vested and unvested awards) that he or she held on the starting date of the three-year period. Following the initial three-year holding period and for so long as he or she remains a partner, we require that the partner retain at least 40% of the equity interests (including shares underlying vested and unvested awards) that he or she held on the starting date of the initial three-year holding period. Exceptions to the holding period rules described in the share retention agreements must be approved by a majority of the independent directors.

## **B. Compensation**

### **Compensation of Directors and Executive Officers**

For fiscal year 2018, we paid and accrued aggregate fees, salaries and benefits (excluding equity-based grants) of up to approximately RMB587 million (US\$94 million) to our directors and executive officers as a group and granted 427,000 RSUs to our directors and executive officers.

The board, acting on the recommendation of our compensation committee, may determine the remuneration to be paid to non-employee directors. We do not provide employee directors with any additional remuneration for serving as directors other than their remuneration as our employees. Pursuant to our service agreements with our directors, neither we nor our subsidiaries provide benefits to directors upon termination of employment. We do not separately set aside any amounts for pensions, retirement or other benefits for our executive officers, other than pursuant to relevant statutory requirements. Management members who are partners of the Alibaba Partnership may receive retirement payments from the deferred portion of the annual cash bonus pool available to the Alibaba Partnership.

Mr. Chee Hwa Tung has indicated to us his intention to donate all cash compensation and equity-based awards he receives from us as an independent director to one or more non-profit or charitable organizations to be designated by him.

For information regarding equity-based grants to directors and executive officers, see "— Equity Incentive Plans."

### **Employment Agreements**

We have entered into employment agreements with each of our executive officers. We may terminate their employment at any time, with cause, and we are not required to provide any prior notice of the termination. We may also terminate their employment in circumstances prescribed under and in accordance with the requirements of applicable labor law, including notice and payment in lieu. Executive officers may terminate their employment with us at any time upon written notice. Although our employment agreements with our executive officers do not provide for severance pay, where severance pay is mandated by law, our executive officers will be entitled to

severance pay in the amount mandated by law when his or her employment is terminated. We have been advised by our PRC counsel, Fangda Partners, that we may be required to make severance payments upon termination without cause to comply with the PRC Labor Law, the labor contract law and other relevant PRC regulations, which entitle employees to severance payments in case of early termination of "de facto employment relationships" by PRC entities without statutory cause regardless of whether there exists a written employment agreement with these entities.

Our grant letter agreements under our equity incentive plans also contain, among other rights, restrictive covenants that enable us to terminate grants and repurchase shares at par or the exercise price paid for the shares in the event of a grantee's termination for cause for breaching these covenants. See "— Equity Incentive Plans" below.

### **Equity Incentive Plans**

We have adopted a number of equity incentive plans since our inception. The following equity incentive plans are those currently in effect:

- 2011 Equity Incentive Plan, or the 2011 Plan; and
- 2014 Post-IPO Equity Incentive Plan, or the 2014 Plan.

Currently, awards are only available for issuance under our 2014 Plan. If an award under the 2011 Plan terminates, expires or lapses, or is cancelled for any reason, ordinary shares subject to the award become available for the grant of a new award under the 2014 Plan. As of March 31, 2018, there were:

- 7,941,140 ordinary shares issuable upon exercise of outstanding options;
- 68,854,972 ordinary shares subject to unvested RSUs; and
- 29,376,187 ordinary shares authorized for issuance under the 2014 Plan; plus, on April 1, 2015 and each anniversary thereof, an additional amount equal to the lesser of 25,000,000 ordinary shares and such lesser number of ordinary shares determined by our board of directors.

Our equity incentive plans provide for the granting of incentive and non-statutory options, restricted shares, RSUs, dividend equivalents, share appreciation rights and share payments to any directors, employees, and consultants of ours, our affiliates and certain other companies, such as Ant Financial. Share options and RSUs granted are generally subject to a four-year vesting schedule as determined by the administrator of the respective plans. Depending on the nature and the purpose of the grant, share options and RSUs in general vest 25% upon the first anniversary of the vesting commencement date for annual incentive awards or 50% upon the second anniversary of the vesting commencement date for on-hire awards, and 25% every year thereafter. Certain options and RSUs granted to our senior management members are subject to a six-year pro rata vesting schedule. We believe equity-based awards are vital to attract, motivate and retain our directors, employees and consultants, and those of certain of our affiliates and other companies, such as Ant Financial, and are the appropriate tool to align their interests with our shareholders. Accordingly, we will continue to grant equity-based awards to the employees, consultants and directors of our company, our affiliates and certain other companies as an important part of their compensation packages.

In addition, our equity incentive award agreements generally provide that, in the event of a grantee's termination for cause or violation of a non-competition undertaking, we will have the right to repurchase the shares acquired by the grantee, generally at par or the exercise price paid for the shares.

The following paragraphs summarize other key terms of our equity incentive plans.

*Plan administration.* Subject to certain limitations, our equity incentive plans are generally administered by the compensation committee of the board (or a subcommittee thereof), or such other committee of the board to which the board has delegated power to act; provided, that in the absence of any such committee, our equity incentive plans will be administered by the board. Grants to any executive directors of the board must be approved by the disinterested directors of our board.

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*Types of awards.* The equity incentive plans provide for the granting of incentive and non-statutory options, restricted shares, RSUs, dividend equivalents, share appreciation rights, share payments and other rights.

*Award agreements.* Generally, awards granted under the equity incentive plans are evidenced by an award agreement providing for the number of ordinary shares subject to the award, and the terms and conditions of the award, which must be consistent with the relevant plan.

*Eligibility.* Any employee, consultant or director of our company, our affiliates or certain other companies, such as Ant Financial, is eligible to receive grants under the equity incentive plans, but only employees of our company, our affiliates and certain other companies, such as Ant Financial, are eligible to receive incentive stock options.

*Term of awards.* The term of awards granted under our equity incentive plans are generally not to exceed ten years from the date of grant.

*Acceleration, waiver and restrictions.* The administrator of our equity incentive plans has sole discretion in determining the terms and conditions of any award, any vesting acceleration or waiver of forfeiture restrictions, and any restrictions regarding any award or the ordinary shares relating thereto.

*Change in control.* If a change in control of our company occurs, the plan administrator may, in its sole discretion:

- accelerate the vesting, in whole or in part, of any award;
- purchase any award for an amount of cash or ordinary shares of our company equal to the value that could have been attained upon the exercise of the award or the realization of the plan participant's rights had the award been currently exercisable or payable or fully vested; or
- provide for the assumption, conversion or replacement of any award by the successor corporation, or a parent or subsidiary of the successor corporation, with other rights or property selected by the plan administrator in its sole discretion, or the assumption or substitution of the award by the successor or surviving corporation, or a parent or subsidiary of the surviving or successor corporation, with appropriate adjustments as to the number and kind of shares and prices as the plan administrator deems, in its sole discretion, reasonable, equitable and appropriate.

*Amendment and termination.* Unless earlier terminated, our equity incentive plans continue in effect for a term of ten years. The board may at any time terminate or amend a plan in any respect, including amendment of any form of any award agreement or instrument to be executed, provided, however, that to the extent necessary and desirable to comply with applicable laws or stock exchange rules, shareholder approval of any amendment to a plan shall be obtained in the manner and to the degree required.

### **Senior Management Equity Incentive Plan**

We adopted the Senior Management Equity Incentive Plan in 2010, pursuant to which selected management of our company subscribed for preferred shares in a special purpose vehicle, Alternate Solutions Management Limited, which holds our ordinary shares. These preferred shares, subject to a non-compete provision, are redeemable by the holders thereof for our ordinary shares upon the earlier to occur of an initial public offering of our shares (subject to statutory and contractual lock-up periods), and five years from the respective dates of issuance of the preferred shares to the participants. The maximum number of our ordinary shares redeemable upon the redemption of the preferred shares issued under this plan by the participants is 15,000,000. The underlying ordinary shares have already been issued to the special purpose vehicle and are included in our total outstanding share number. The preferred shares are subject to forfeiture if a holder engages in certain activities that compete with us.

## Partner Capital Investment Plan

We adopted the Partner Capital Investment Plan in 2013 to provide partners of the Alibaba Partnership an opportunity to invest in interests in our ordinary shares in order to align further their interests with the interests of our shareholders. Pursuant to the Partner Capital Investment Plan, eligible partners subscribed for rights, issued by two special purpose vehicles, to acquire our ordinary shares. These rights are subject to non-compete provisions, transfer restrictions, exercise restrictions and/or vesting schedules, which are longer than the vesting schedules under our equity incentive plans. The maximum number of our ordinary shares underlying these rights is 18,000,000. The underlying ordinary shares have already been issued by us to the special purpose vehicles and are included in our total outstanding share number. The Partner Capital Investment Plan permits the issuance of additional shares to the partners as the board may approve from time to time.

## Share-based Awards Held by Our Directors and Officers

The following table summarizes, the outstanding options, RSUs and other rights held as of March 31, 2018 by our directors and executive officers, as well as by their affiliates, under our equity incentive plans, as well as equity held through their investments in our Senior Management Equity Incentive Plan and Partner Capital Investment Plan.

Name	Ordinary shares underlying outstanding options / RSUs / other rights granted or subscribed	Exercise price (US\$/Share)	Date of grant <sup>(5)</sup>	Date of expiration
Jack Yun MA	50,000 <sup>(2)</sup>	—	January 27, 2016	January 27, 2024
	83,334 <sup>(2)</sup>	—	August 10, 2016	August 10, 2024
	75,000 <sup>(2)</sup>	—	May 17, 2017	May 17, 2025
Joseph C. TSAI	1,200,000 <sup>(1)</sup>	5.00	November 12, 2010	—
	30,000 <sup>(2)</sup>	—	January 27, 2016	January 27, 2024
	29,167 <sup>(2)</sup>	—	August 10, 2016	August 10, 2024
	20,000 <sup>(2)</sup>	—	May 17, 2017	May 17, 2025
Daniel Yong ZHANG	* <sup>(3)</sup>	14.50	July 26, 2013	—
	* <sup>(4)</sup>	56.00	July 2, 2014	July 2, 2022
	* <sup>(2)</sup>	—	July 2, 2014	July 2, 2022
	* <sup>(4)</sup>	87.06	May 10, 2015	May 10, 2023
	* <sup>(2)</sup>	—	May 10, 2015	May 10, 2023
	* <sup>(2)</sup>	—	January 27, 2016	January 27, 2024
	* <sup>(2)</sup>	—	March 17, 2016	March 17, 2024
	* <sup>(2)</sup>	—	August 10, 2016	August 10, 2024
J. Michael EVANS	* <sup>(4)</sup>	79.96	July 31, 2015	July 31, 2023
	* <sup>(2)</sup>	—	July 31, 2015	July 31, 2023
	* <sup>(2)</sup>	—	August 10, 2016	August 10, 2022
	* <sup>(2)</sup>	—	May 17, 2017	May 17, 2023
Eric Xiandong JING	* <sup>(3)</sup>	14.50	July 26, 2013	—
	* <sup>(2)</sup>	—	July 2, 2014	July 2, 2022
Masayoshi SON	—	—	—	—
Chee Hwa TUNG	* <sup>(2)</sup>	—	October 28, 2017	October 28, 2023
Walter Teh Ming KWAUK	* <sup>(2)</sup>	—	October 28, 2017	October 28, 2023
Jerry YANG	* <sup>(2)</sup>	—	October 28, 2017	October 28, 2023
Börje E. EKHOLM	* <sup>(2)</sup>	—	June 1, 2015	June 1, 2021
Wan Ling MARTELLO	* <sup>(2)</sup>	—	October 28, 2017	October 28, 2023

<u>Name</u>	<u>Ordinary shares underlying outstanding options / RSUs / other rights granted or subscribed</u>	<u>Exercise price (US\$/Share)</u>	<u>Date of grant <sup>(5)</sup></u>	<u>Date of expiration</u>
Maggie Wei WU	* (3)	14.50	July 26, 2013	—
	* (2)	—	July 2, 2014	July 2, 2022
	* (2)	—	January 27, 2016	January 27, 2024
	* (2)	—	August 10, 2016	August 10, 2024
	* (2)	—	May 17, 2017	May 17, 2025
Judy Wenhong TONG	* (3)	14.50	July 26, 2013	—
	* (2)	—	July 2, 2014	July 2, 2022
	* (2)	—	May 17, 2017	May 17, 2025
Jeff Jianfeng ZHANG	* (3)	14.50	July 26, 2013	—
	* (2)	—	July 2, 2014	July 2, 2022
	* (4)	69.54	January 27, 2016	January 27, 2024
	* (2)	—	January 27, 2016	January 27, 2024
	* (2)	—	August 10, 2016	August 10, 2024
	* (2)	—	May 17, 2017	May 17, 2025
Sophie Minzhi WU	* (3)	14.50	July 26, 2013	—
	* (2)	—	July 2, 2014	July 2, 2022
	* (2)	—	January 27, 2016	January 27, 2024
	* (2)	—	August 10, 2016	August 10, 2024
Timothy A. STEINERT	* (1)	5.00	November 12, 2010	—
	* (3)	14.50	July 26, 2013	—
	* (2)	—	July 2, 2014	July 2, 2022
	* (2)	—	January 27, 2016	January 27, 2024
	* (2)	—	August 10, 2016	August 10, 2024
	* (2)	—	May 17, 2017	May 17, 2025
Jessie Junfang ZHENG	* (2)	—	May 22, 2014	May 22, 2020
	* (2)	—	August 21, 2014	August 21, 2020
	* (2)	—	August 21, 2015	August 21, 2021
	* (3)	23.00	May 23, 2016	May 23, 2027
	* (2)	—	August 10, 2016	August 10, 2024
	* (2)	—	May 17, 2017	May 17, 2025
Angel Ying ZHAO	* (2)	—	August 21, 2014	August 21, 2020
	* (2)	—	August 21, 2015	August 21, 2021
	* (3)	23.00	May 23, 2016	May 23, 2027
Chris Pen-hung TUNG	* (4)	67.28	February 21, 2016	February 21, 2022
	* (2)	—	February 21, 2016	February 21, 2022
	* (2)	—	May 17, 2017	May 17, 2023
Simon Xiaoming HU	* (3)	14.50	July 26, 2013	—
	* (2)	—	July 2, 2014	July 2, 2022
	* (2)	—	January 27, 2016	January 27, 2024
	* (2)	—	August 10, 2016	August 10, 2024
	* (2)	—	November 15, 2016	November 15, 2024
	* (2)	—	May 17, 2017	May 17, 2025

Name	Ordinary shares underlying outstanding options / RSUs / other rights granted or subscribed	Exercise price (US\$/Share)	Date of grant <sup>(5)</sup>	Date of expiration
Trudy Shan DAI	* (3)	14.50	July 26, 2013	—
	* (2)	—	July 2, 2014	July 2, 2022
	* (2)	—	January 27, 2016	January 27, 2024
	* (2)	—	August 10, 2016	August 10, 2024
	* (2)	—	May 17, 2017	May 17, 2025
Weidong YANG	* (2)	—	November 15, 2016	November 15, 2022
	* (2)	—	May 22, 2017	May 22, 2023
Fan JIANG	* (2)	—	May 22, 2014	May 22, 2020
	* (2)	—	August 21, 2014	August 21, 2020
	* (2)	—	August 21, 2015	August 21, 2021
	* (2)	—	May 16, 2016	May 16, 2022
	* (2)	—	May 22, 2017	May 22, 2023
	* (2)	—	October 1, 2017	October 1, 2023
Jie JING	* (2)	—	October 5, 2015	October 5, 2021
	* (2)	—	May 16, 2016	May 16, 2022
	* (2)	—	May 22, 2017	May 22, 2023

- \* The options, RSUs and other rights to acquire ordinary shares in aggregate held by each of these directors and executive officers and their affiliates represent less than 1% of our total outstanding shares.
- (1) Represents rights under the Senior Management Equity Incentive Plan subscribed for at a subscription price of US\$0.50 per preference share in 2010.
- (2) Represents RSUs.
- (3) Represents rights under the Partner Capital Investment Plan. See note 8(c) to our audited consolidated financial statements included elsewhere in this annual report for further information.
- (4) Represents options.
- (5) Date of grant represents the original grant date of the options, RSUs and other rights held by the respective director or executive officer. Options and RSUs granted prior to the adoption of our 2014 Plan that are not held by a U.S. resident were cancelled and replaced with a new grant under the terms of the 2014 Plan (as described herein) with terms and conditions that are substantially similar to those that applied to the cancelled awards.

### C. Board Practices

#### Nomination and Terms of Directors

Pursuant to our articles of association, our board of directors is classified into three classes of directors designated as Group I, Group II and Group III, each generally serving a three-year term unless earlier removed. The Group I directors currently consist of Joe Tsai, Michael Evans, Eric Jing and Börje Ekholm; the Group II directors currently consist of Daniel Zhang, Chee Hwa Tung, Jerry Yang and Wan Ling Martello; and the Group III directors currently consist of Jack Ma, Masayoshi Son and Walter Kwauk. The terms of office of the current Group I, Group II and Group III directors will expire, respectively, at our 2018 annual general meeting, 2019 annual general meeting and 2020 annual general meeting. Unless otherwise determined by the shareholders in a general meeting, our board will consist of not less than nine directors for so long as SoftBank has a director nomination right. The Alibaba Partnership has the exclusive right to nominate up to a simple majority of our board of directors, and SoftBank has the right to nominate one director for so long as SoftBank owns at least 15% of our outstanding shares. If at any time our board of directors consists of less than a simple majority of directors nominated or appointed by the Alibaba Partnership for any reason, including because a director previously nominated by the Alibaba Partnership ceases to be a member of our board of directors or because the Alibaba Partnership had previously not exercised its right to nominate or appoint a simple majority of our board of directors, the Alibaba Partnership shall be entitled (in its sole discretion) to appoint such number of additional

directors to the board as necessary to ensure that the directors nominated or appointed by the Alibaba Partnership comprise a simple majority of our board of directors. The remaining members of the board of directors will be nominated by the nominating and corporate governance committee of the board. Director nominees will be elected by the simple majority vote of shareholders at our annual general meeting.

If a director nominee is not elected by our shareholders or departs our board of directors for any reason, the party or group entitled to nominate that director has the right to appoint a different person to serve as an interim director of the class in which the vacancy exists until our next scheduled annual general meeting of shareholders. At the next scheduled annual general meeting of shareholders, the appointed interim director or a replacement director nominee (who, in the case of Alibaba Partnership nominees, cannot be the original nominee) will stand for election for the remainder of the term of the class of directors to which the original nominee would have belonged.

For additional information, see "Item 6. Directors, Senior Management and Employees — A. Directors and Senior Management — Alibaba Partnership" and "Item 7. Major Shareholders and Related Party Transactions — B. Related Party Transactions — Transactions and Agreements with SoftBank and Alibaba — Voting Agreement."

### **Code of Ethics and Corporate Governance Guidelines**

We have adopted a code of ethics, which is applicable to all of our directors, executive officers and employees. Our code of ethics is publicly available on our website.

In addition, our board of directors has adopted a set of corporate governance guidelines covering a variety of matters, including approval of related party transactions. Our corporate governance guidelines also provide that any adoption of a new equity incentive plan and any material amendments to those plans will be subject to the approval of our non-executive directors and also provide that the director nominated by SoftBank is entitled to notices and materials for all meetings of committees of our board of directors and, by giving prior notice, may attend, observe and participate in any discussions at any committee meetings. The guidelines reflect certain guiding principles with respect to our board's structure, procedures and committees. The guidelines are not intended to change or interpret any applicable law, rule or regulation or our articles of association.

### **Duties of Directors**

Under Cayman Islands law, all of our directors owe us fiduciary duties, including a duty of loyalty, a duty to act honestly and a duty to act in good faith and in a manner they believe to be in our best interests. Our directors also have a duty to exercise the skill they actually possess and such care and diligence that a reasonably prudent person would exercise in comparable circumstances. In fulfilling their duty of care to us, our directors must ensure compliance with our articles of association, as amended and restated from time to time. We have the right to seek damages if a duty owed by any of our directors is breached.

### **Board Committees**

Our board of directors has established an audit committee, a compensation committee and a nominating and corporate governance committee. Our corporate governance guidelines provide that a majority of the members of our compensation committee and nominating and corporate governance committee will be independent directors within the meaning of Section 303A of the New York Stock Exchange Listed Company Manual. All members of our audit committee shall be independent within the meaning of Section 303A of the New York Stock Exchange Listed Company Manual and will meet the criteria for independence set forth in Rule 10A-3 of the Exchange Act by the end of the one year transition period for companies following an initial public offering.

#### ***Audit Committee***

Our audit committee currently consists of Walter Kwauk, Börje Ekholm and Wan Ling Martello. Mr. Kwauk is the chairman of our audit committee. Mr. Kwauk satisfies the criteria of an audit committee financial expert as set

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forth under the applicable rules of the SEC. Mr. Kwauk, Mr. Ekholm and Ms. Martello satisfy the requirements for an "independent director" within the meaning of Section 303A of the New York Stock Exchange Listed Company Manual and meet the criteria for independence set forth in Rule 10A-3 of the Exchange Act.

The audit committee oversees our accounting and financial reporting processes and the audits of our financial statements. Our audit committee is responsible for, among other things:

- selecting, and evaluating the qualifications, performance and independence of, the independent auditor;
- pre-approving or, as permitted, approving auditing and non-auditing services permitted to be performed by the independent auditor;
- considering the adequacy of our internal accounting controls and audit procedures;
- reviewing with the independent auditor any audit problems or difficulties and management's response;
- reviewing and approving related party transactions between us and our directors, senior management and other persons specified in Item 6B of Form 20-F;
- reviewing and discussing the quarterly financial statements and annual audited financial statements with management and the independent auditor;
- establishing procedures for the receipt, retention and treatment of complaints received from our employees regarding accounting, internal accounting controls or auditing matters and the confidential, anonymous submission by our employees of concerns regarding questionable accounting or auditing matters;
- meeting separately, periodically, with management, internal auditors and the independent auditor; and
- reporting regularly to the full board of directors.

### ***Compensation Committee***

Our compensation committee currently consists of Jerry Yang, Walter Kwauk and Joe Tsai. Mr. Yang is the chairman of our compensation committee. Mr. Yang and Mr. Kwauk satisfy the requirements for an "independent director" within the meaning of Section 303A of the New York Stock Exchange Listed Company Manual.

Our compensation committee is responsible for, among other things:

- determining the amount of the annual cash bonus pool to be allocated to each executive officer and determining the total proportions of the annual cash bonus pool to be allocated in aggregate to the non-partner members of our management and in aggregate to the partners we employ;
- reviewing, evaluating and, if necessary, revising our overall compensation policies;
- reviewing and evaluating the performance of our directors and executive officers and determining the compensation of our directors and executive officers;
- reviewing and approving our executive officers' employment agreements with us;
- determining performance targets for our executive officers with respect to our incentive compensation plan and equity-based compensation plans;
- administering our equity-based compensation plans in accordance with the terms thereof; and
- carrying out such other matters that are specifically delegated to the compensation committee by our board of directors from time to time.

### ***Nominating and Corporate Governance Committee***

Our nominating and corporate governance committee currently consists of Jack Ma, Chee Hwa Tung and Jerry Yang. Jack is the chairman of our nominating and corporate governance committee. Mr. Tung and Mr. Yang



satisfy the "independence" requirements of Section 303A of the New York Stock Exchange Listed Company Manual.

Our nominating and corporate governance committee is responsible for, among other things:

- selecting the board nominees (other than the director nominees to be nominated by the Alibaba Partnership and SoftBank) for election by the shareholders or appointment by the board;
- periodically reviewing with the board the current composition of the board with regards to characteristics such as independence, knowledge, skills, experience and diversity;
- making recommendations on the frequency and structure of board meetings and monitoring the functioning of the committees of the board; and
- advising the board periodically with regards to significant developments in corporate governance law and practices as well as our compliance with applicable laws and regulations, and making recommendations to the board on corporate governance matters.

#### ***Committee Observer***

In accordance with our articles and the voting agreement entered into among us, Jack Ma, Joe Tsai, SoftBank and Altaba, we have agreed that the director nominated by SoftBank is entitled to receive notices and materials for all meetings of our committees and to join as an observer in meetings of the audit committee, the compensation committee, the nominating and corporate governance committee and/or our other board committees we may establish upon notice to the relevant committee.

#### **D. Employees**

##### **Employees**

As of March 31, 2016, 2017 and 2018, we had a total of 36,446, 50,097 and 66,421 full-time employees, respectively. Substantially all of our employees are based in China.

The following table sets out the breakdown of our full-time employees by functions as of March 31, 2018:

<u>Function</u>	<u>Number of employees (1)(2)</u>	<u>% of total employees (1)</u>
Operations and customer service	24,964	37.6%
Research and development	24,820	37.3%
Sales and marketing	10,143	15.3%
General and administrative	6,494	9.8%
<b>Total</b>	<b>66,421</b>	<b>100.0%</b>

(1) The number of employees presented in this table does not include third-party consultants and contractors that we employ from time to time.

(2) Our total number of employees increased to 66,421 as of March 31, 2018 from 50,097 as of March 31, 2017, primarily due to our recent acquisitions and our organic business growth.

We believe that we have a good working relationship with our employees and we have not experienced any significant labor disputes.

#### **E. Share Ownership**

For information regarding the share ownership of our directors and officers, see "Item 7. Major Shareholders and Related Party Transactions — A. Major Shareholders." For information as to stock options granted to our directors, executive officers and other employees, see "Item 6. Directors, Senior Management and Employees — B. Compensation — Equity Incentive Plans."

**ITEM 7 MAJOR SHAREHOLDERS AND RELATED PARTY TRANSACTIONS**

**A. Major Shareholders**

The following table sets forth information with respect to beneficial ownership of our ordinary shares as of July 18, 2018 by:

- each of our directors and executive officers;
- our directors and executive officers as a group; and
- each person known to us to beneficially own 5% and more of our ordinary shares.

Beneficial ownership is determined in accordance with the rules and regulations of the SEC and includes the power to direct the voting or the disposition of the securities or to receive the economic benefit of the ownership of the securities. In computing the number of shares beneficially owned by a person and the percentage ownership of that person, we have included shares that the person has the right to acquire within 60 days of this annual report, including through the exercise of any option or other right and the vesting of restricted shares. These shares, however, are not included in the computation of the percentage ownership of any other person. The calculations of percentage ownership in the table below are based on 2,592,184,258 ordinary shares outstanding as of July 18, 2018.

<u>Name</u>	<u>Ordinary shares beneficially owned</u>	<u>Percent</u>
<b>Directors and Executive Officers:</b>		
Jack Yun MA <sup>(1)</sup>	167,159,739	6.4%
Joseph C. TSAI <sup>(2)</sup>	59,316,886	2.3%
Daniel Yong ZHANG	*	*
J. Michael EVANS	*	*
Eric Xiandong JING	*	*
Masayoshi SON	—	—
Chee Hwa TUNG	*	*
Walter Teh Ming KWAUK	*	*
Jerry YANG	*	*
Börje E. EKHOLM	*	*
Wan Ling MARTELLO	*	*
Maggie Wei WU	*	*
Judy Wenhong TONG	*	*
Jeff Jianfeng ZHANG	*	*
Sophie Minzhi WU	*	*
Timothy A. STEINERT	*	*
Jessie Junfang ZHENG	*	*
Angel Ying ZHAO	*	*
Chris Pen-hung TUNG	*	*
Simon Xiaoming HU	*	*
Trudy Shan DAI	*	*
Weidong YANG	*	*
Fan JIANG	*	*
Jie JING	*	*
All directors and executive officers as a group	247,552,556	9.5%
<b>Greater than 5% Beneficial Owners:</b>		
SoftBank <sup>(3)</sup>	746,998,571	28.8%
Altaba <sup>(4)</sup>	383,565,416	14.8%

Notes:

- \* This person beneficially owns less than 1% of our outstanding ordinary shares.
- (1) Represents (i) 343,333 ordinary shares held directly by Jack Ma, (ii) 35,000,000 ordinary shares held by APN Ltd., a Cayman Islands company with its registered address at Fourth Floor, One Capital Place, P.O. Box 847, Grand Cayman, KY1-1103, Cayman Islands, in which Jack holds a 70% equity interest, which ordinary shares, together with Jack's equity interest in APN Ltd., have been pledged to us to support certain obligations under the 2014 SAPA, (iii) 12,073,921 ordinary shares held by Yun Capital Limited, a British Virgin Islands company with its

registered address at Woodbourne Hall, Road Town, Tortola, British Virgin Islands, which has granted Jack a revocable proxy over such shares and which is wholly-owned by The Jack Ma Philanthropic Foundation, (iv) 12,073,921 ordinary shares held by Ying Capital Limited, a British Virgin Islands company with its registered address at Woodbourne Hall, Road Town, Tortola, British Virgin Islands, which has granted Jack a revocable proxy over such shares and which is wholly owned by The Jack Ma Philanthropic Foundation, (v) 54,367,988 ordinary shares held by JC Properties Limited, a British Virgin Islands company with its registered address at Woodbourne Hall, Road Town Tortola, British Virgin Islands, which is wholly-owned by a trust established for the benefit of Jack and his family and (vi) 53,300,576 ordinary shares held by JSP Investment Limited, a British Virgin Islands company with the address of P.O. Box 916, Woodbourne Hall, Road Town, Tortola, British Virgin Islands, which is wholly-owned by a trust established for the benefit of Jack and his family. Excludes shares held by SoftBank representing SoftBank's share ownership in excess of 30% of our outstanding ordinary shares as of the most recent record date with respect to any shareholders action and up to 121,500,000 ordinary shares held by Altaba, over which Jack and Joe will share voting power pursuant to the voting agreement that we, Jack, Joe, SoftBank and Altaba entered into as described in "Item 7. Major Shareholders and Related Party Transactions — B. Related Party Transactions — Transactions and Agreements with Altaba and SoftBank — Voting Agreement." Jack has historically voted the ordinary shares held by the family trusts and he is deemed a beneficial owner of the ordinary shares held by the family trusts. Jack does not have any pecuniary interests in the 24,147,842 ordinary shares held by Yun Capital Limited and Ying Capital Limited. Jack's business address is 969 West Yi Road, Yu Hang District, Hangzhou 311121, the People's Republic of China.

- (2) Represents (i) 1,605,463 ordinary shares held directly by Joe Tsai, (ii) 15,000,000 ordinary shares held by APN Ltd., in which Joe holds a 30% equity interest and serves as a director, which ordinary shares, together with Joe's equity interest in APN Ltd., have been pledged to us to support certain obligations under the 2014 SAPA, (iii) 5,982,293 ordinary shares held by Joe and Clara Tsai Foundation Limited, a company incorporated under the law of the Island of Guernsey with its registered address at Helvetia Court, South Esplanade, St. Peter Port, Guernsey GY1 4EE, that has granted Joe a revocable proxy over such shares and which is wholly-owned by Joe and Clara Tsai Foundation, (iv) 18,405,952 ordinary shares and 1,200,000 ordinary shares underlying preferred shares of Alternate Solutions Management Limited, in each case held by Parufam Limited, a Bahamas corporation with its registered address at Suite 200B, 2nd Floor, Centre of Commerce, One Bay Street, P.O. Box N-3944, Nassau, Bahamas, and over which, Joe, as a director of Parufam Limited, has been delegated sole voting and disposition power and (v) 17,123,178 ordinary shares held by PMH Holding Limited, a British Virgin Islands corporation with its registered address at Trident Chambers, P.O. Box 146, Road Town, Tortola, British Virgin Islands, and over which, Joe, as sole director of PMH Holding Limited, has voting and dispositive power. Excludes shares held by SoftBank representing SoftBank's share ownership in excess of 30% of our outstanding ordinary shares as of the most recent record date with respect to any shareholders action and up to 121,500,000 ordinary shares held by Altaba, over which Joe and Jack will share voting power pursuant to the voting agreement that we, Jack, Joe, SoftBank and Altaba have entered into as described in "Item 7. Major Shareholders and Related Party Transactions — B. Related Party Transactions — Transactions and Agreements with Altaba and SoftBank — Voting Agreement." Joe does not have any pecuniary interests in the 5,982,293 ordinary shares held by Joe and Clara Tsai Foundation Limited. Joe's business address is c/o Alibaba Group Services Limited, 26/F Tower One, Times Square, 1 Matheson Street, Causeway Bay, Hong Kong S.A.R.
- (3) Represents (i) 475,934,571 ordinary shares owned by SoftBank Group Corp. with its registered office at 1-9-1 Higashi-Shimbashi Minato-ku, Tokyo 105-7303, Japan, (ii) 15,000,000 ordinary shares owned by SBBM Corporation with its registered office at 1-9-1 Higashi-Shimbashi Minato-ku, Tokyo 105-7303, Japan, (iii) 86,064,000 ordinary shares owned by West Raptor Holdings, LLC with its registered office at 251 Little Falls Drive, Wilmington, New Castle County, DE 19808, and (iv) 170,000,000 ordinary shares owned by Skywalk Finance GK with its registered office at 1-9-1, Higashi-Shimbashi, Minato-ku, Tokyo, Japan.
- (4) Represents (i) 92,626,716 ordinary shares held by U.S. Bank National Association for the benefit of Altaba Inc. with its registered office at 140 East 45<sup>th</sup> Street, 15<sup>th</sup> Floor, New York, NY 10017, the United States, (ii) 262,938,700 ordinary shares held by U.S. Bank National Association for the benefit of Altaba Holdings Hong Kong Limited with its registered office at 15/F Caroline Centre, 28 Yun Ping Road, Causeway Bay, Hong Kong S.A.R. and (iii) 28,000,000 ordinary shares held by U.S. Bank National Association for the benefit of Altaba HK MC Limited with its registered office at Level 12, 28 Hennessey Road, Wanchai, Hong Kong. Altaba Inc., formerly known as Yahoo! Inc., is a public company listed on the NASDAQ Global Select Market.

We have one class of ordinary shares, and each holder of our ordinary shares is entitled to one vote per share.

As of July 18, 2018, 2,592,184,258 of our ordinary shares were outstanding. To our knowledge, 1,669,625,497 ordinary shares, representing approximately 64% of our total outstanding shares, were held by 128 record shareholders with registered addresses in the United States, including brokers and banks that hold securities in street name on behalf of their customers. We are not aware of any arrangement that may at a subsequent date, result in a change of control of our company.

## **B. Related Party Transactions**

### **Our Related Party Transaction Policy**

In order to prevent risks of conflicts of interest or the appearance of conflicts of interest, all of our directors and employees are subject to our code of business conduct and other policies which require, among other things, that any potential transaction between us and an employee or director, their relatives and closely connected persons and certain entities in which they, their relatives or closely connected persons have an interest be approved in writing by an appropriate supervisor or compliance officer.

We have also adopted a related party transaction policy to which all of our directors, senior management and other key management personnel, all close family members (as defined in the policy) of the foregoing individuals, Ant Financial and its subsidiaries as well as the Alibaba Partnership and certain other related entities are subject. This policy is intended to supplement the procedures set forth in our code of business conduct and our other corporate governance policies and does not exempt any person from more restrictive provisions that may exist in our existing procedures and policies.

This related party transaction policy provides, among other things, that, unless otherwise pre-approved by our board of directors:

- each related party transaction, and any material amendment or modification to a related party transaction, shall be adequately disclosed to, and reviewed and approved or ratified by, our audit committee or any committee composed solely of disinterested independent directors or by the disinterested members of such committee; and
- any employment relationship or similar transaction involving our directors or senior management of our company and any related compensation shall be approved by the disinterested members of our compensation committee or recommended by the disinterested members of the compensation committee to our board for its approval.

Our related party transaction policy, code of business conduct and our other corporate governance policies are subject to periodic review and revision by our board.

## Summary of Major Related Party Transactions

As disclosed in greater details in the following paragraphs, the table below summarizes the major related party transactions in fiscal years 2016, 2017 and 2018.

<u>Related Party</u>	<u>Transaction Description</u>
SoftBank	<p>Voting agreement among us, Jack Ma, Joe Tsai, SoftBank and Altaba which, among others, provides that SoftBank, Altaba, Jack Ma and Joe Tsai will vote their shares in favor of the Alibaba Partnership director nominees, and provides SoftBank with the right to nominate a director</p> <p>We repurchased our ordinary shares from SoftBank</p> <p>Various investments involving SoftBank</p>
Altaba	<p>Voting agreement among us, Jack Ma, Joe Tsai, SoftBank and Altaba which, among others, provides that SoftBank, Altaba, Jack Ma and Joe Tsai will vote their shares in favor of the Alibaba Partnership director nominees, and provides SoftBank with the right to nominate a director</p>
Ant Financial and its affiliates	<p>Alipay provides payment and escrow services to us</p> <p>2014 SAPA, which was subsequently amended in 2018 and provides a series of transactions, including our acquisition of an equity interest in Ant Financial</p> <p>2014 IPLA, which was subsequently amended in 2018 and provides that we and our subsidiaries license to Ant Financial and/or its subsidiaries certain intellectual property rights and provide various software technology services, and Ant Financial pays us profit share payments</p> <p>We, Ant Financial, our controlled affiliates and certain other affiliates, contribute all data collected or generated (subject to applicable law, industry rules and contractual requirements) to a data platform that we operate and maintain, and to which all of the full data sharing participants will have access</p> <p>We and Ant Financial cooperate with each other with respect to the enforcement of each other's rights and the provision of certain financial services to our customers and merchants in connection with the SME loan business</p> <p>We granted Ant Financial a license for it to continue to use certain trademarks and domain names</p> <p>We and Ant Financial provide certain administrative and support services to each other and our respective affiliates</p> <p>We and Ant Financial provide various other services to each other</p> <p>Various investments involving Ant Financial</p> <p>We have granted options and awarded RSUs to acquire our ordinary shares to employees of Ant Financial and its subsidiaries; Junhan, a major equity holder of Ant Financial, has granted to our employees certain share-based awards that are similar to share appreciation awards linked to the valuation of Ant Financial; Ant Financial, through a wholly-owned subsidiary, has granted certain RSU awards to our employees</p>

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<u>Related Party</u>	<u>Transaction Description</u>
Alibaba Pictures	Alibaba Pictures purchased our online movie ticketing business and movie and TV series financing platform
Jack Ma, Joe Tsai, and J. Michael Evans	We agreed to assume the cost of maintenance, crew and operation of the personal aircrafts of these directors and officers where the cost is allocated for business purposes
Investment funds affiliated with Jack Ma	Various investments involving investment funds affiliated with Jack Ma
Jack Ma	Jack made certain commitments to us  In connection with strengthening our strategic cooperation with Wasu, we entered into financing arrangements with a limited partner of a PRC limited partnership that invested in Wasu. A company controlled by Jack Ma serves as one of the general partners of the PRC limited partnership.
Cainiao Network	We disposed a wholly-owned subsidiary to Cainiao Network  Cainiao Network provides logistics services to us  We provide Cainiao Network with various administrative and support services
Weibo	Weibo provides us with certain marketing services  We provide Weibo with certain cloud computing services
Equity investees	We have commercial arrangements with certain of our equity investees and other related parties to provide and receive certain marketing, logistics, traffic acquisition, cloud computing and other services, as well as, after Cainiao Network became one of our consolidated subsidiaries, logistics services provided by our equity investees to Cainiao Network
Variable interest entities and variable interest entity equity holders	We operate certain of our businesses in China through contractual arrangements between our wholly-foreign owned enterprises, our variable interest entities and variable interest entity equity holders
Directors and executive officers	We entered into indemnification agreements with our directors and executive officers  We entered into employment agreements with our directors and executive officers  We grant equity incentive awards to our directors and executive officers

The following table summarizes the services fees paid to certain related parties in fiscal years 2016, 2017 and 2018.

Related Party	Transaction	Year Ended March 31,			
		2016 RMB	2017 RMB	2018 RMB US\$	
Ant Financial and its affiliates	Payment processing and escrow services fee	4,898	5,487	6,295	1,004
	Administrative and support services	56	15	84	13
	Marketing support services in connection with membership management and other services	243	937	1,810	289
Cainiao Network	Logistics service fee	2,370	4,444	3,437	548
Weibo	Marketing service fee	715	340	615	98

Certain of our equity investees have entered into commercial arrangements with Cainiao Network in connection with certain logistics services they provide to Cainiao Network. In fiscal year 2018, following our consolidation of Cainiao Network in our financial statements, we incurred costs and expenses of RMB5,608 million (US\$894 million) for such logistics services, accounting for 3.2% of our costs and expenses in fiscal 2018. Other than the foregoing, the aggregate service fees we paid to other related parties accounted for less than 1% of total cost and expenses in each of fiscal years 2016, 2017 and 2018.

The following table summarizes the services fees received from related parties in fiscal year 2016, 2017 and 2018.

Related Party	Transaction	Year Ended March 31,			
		2016 RMB	2017 RMB	2018 RMB US\$	
Ant Financial	Software technology services fee and license fee	1,122	2,086	3,444	549
	Reimbursement payment for software technology services fee	274	245	37	6
Ant Financial and its affiliates	Annual fee for SME loan business	708	847	956	152
	Administrative and support services	670	531	676	108
	Marketplace software technology services fee	246	409	497	79
	Cloud computing services fee	104	264	482	77
	Others	66	90	524	84
	Reimbursement payment for options and RSUs <sup>(1)</sup>	113	54	5	1
Cainiao Network	Administrative and support service fee	86	152	123	20
Weibo	Cloud computing service fee	38	105	223	36

Note:

- (1) We entered into agreements with Ant Financial under which we will receive reimbursements for options and RSUs relating to our ordinary shares granted to the employees of Ant Financial and its subsidiaries during the period from December 14, 2011 to March 31, 2014. Grants of options and RSUs made subsequent to March 31, 2014 are not subject to these reimbursement arrangements.

Other than the related party transactions summarized above, the aggregate payments we received from other related parties accounted for less than 1% of total revenue in each of the fiscal years 2016, 2017 and 2018.

## Transactions and Agreements with SoftBank and Alibaba

### *Voting Agreement*

We have entered into a voting agreement with Jack Ma, Joe Tsai, SoftBank and Alibaba, which provides SoftBank with the right to nominate one director to our board of directors who will, subject to certain conditions, have the right to receive notices and materials for all meetings of our committees and to join these meetings as an observer, which rights are also reflected in our memorandum and articles of association. These nomination rights will terminate when SoftBank's shareholding declines below 15% of our outstanding shares. The voting agreement also contains provisions to the effect that:

- SoftBank agrees to:
  - vote its shares in favor of the election of the Alibaba Partnership's director nominees at each annual general shareholders meeting until SoftBank's shareholding declines below 15% of our outstanding shares, and
  - grant the voting power of any portion of its shareholdings exceeding 30% of our outstanding ordinary shares to Jack and Joe by proxy;
- Jack and Joe will vote their shares and any other shares over which they hold voting rights in favor of the election of the SoftBank director nominee at each annual general shareholders meeting in which the SoftBank nominee stands for election until SoftBank's shareholding declines below 15% of our outstanding ordinary shares;
- Alibaba agrees to:
  - vote its shares in favor of the election of all of the Alibaba Partnership's director nominees and the SoftBank director nominee, if so standing for election, at each annual general shareholders meeting until SoftBank's shareholding declines below 15% of our outstanding shares, and
  - grant the voting power over any shares it owns, up to 121.5 million of our ordinary shares, to Jack and Joe by proxy;
- each party to the voting agreement will use its commercially reasonable efforts to cause any other person with whom it jointly files a statement (or an amendment to a statement) on Schedule 13D or Schedule 13G pursuant to the Exchange Act to become a party to the voting agreement and vote its shares in favor of SoftBank's and the Alibaba Partnership's director nominees pursuant to the foregoing; and
- SoftBank and Alibaba will receive certain information rights in connection with the preparation of their financial statements.

SoftBank's and Alibaba's proxy obligations described in clause (ii) in the first bullet and the third bullet above, respectively, shall (a) not apply in respect of any proposal submitted to our shareholders that may result in an issuance of shares or other equity interests of us, including securities exchangeable or convertible into shares, that would increase the amount of our then-outstanding shares by 3% or more and (b) terminate when Jack owns less than 1% of our outstanding shares on a fully diluted basis or if we materially breach the voting agreement.

### *Our Repurchase of Ordinary Shares from SoftBank*

On June 2, 2016, we entered into a share purchase agreement with SoftBank, pursuant to which we repurchased 27,027,027 ordinary shares from SoftBank at US\$74.00 per share for an aggregate amount of US\$2 billion. Members of the Alibaba Partnership, acting collectively, also purchased 5,405,405 ordinary shares from SoftBank at the same price per share for an aggregate amount of US\$400 million.



### ***Investments Involving SoftBank***

We have invested in businesses in which SoftBank is a shareholder or co-invested with SoftBank in other businesses. SoftBank has also invested in businesses in which we or our controlled entities are shareholders. For instance, in June 2015, we announced that we agreed to invest in SoftBank's robotics business. In April 2017, SoftBank participated in a new round of equity financing completed by Didi Chuxing, in which we hold an equity interest. In September 2017, we sold a portion of our investment in Didi Chuxing to SoftBank for cash consideration of US\$639 million. We may continue to co-invest with SoftBank, invest in businesses in which SoftBank is already an existing investor, and may also bring SoftBank as an investor into our new businesses or businesses in which we are an existing investor.

### **Agreements and Transactions Related to Ant Financial and Its Subsidiaries**

#### ***Ownership of Ant Financial and Alipay***

We originally established Alipay in December 2004 to operate our payment services business. In June 2010, the PBOC issued new regulations that required non-bank payment companies to obtain a license in order to operate in China. These regulations provided specific guidelines for license applications only for domestic PRC-owned entities. These regulations stipulated that, in order for any foreign-invested payment company to obtain a license, the scope of business, the qualifications of any foreign investor and any level of foreign ownership would be subject to future regulations to be issued, which in addition would require approval by the PRC State Council. Further, the regulations required that any payment company that failed to obtain a license must cease operations by September 1, 2011. Although Alipay was prepared to submit its license application in early 2011, at that time the PBOC had not issued any guidelines applicable to license applications for foreign-invested payment companies. In light of the uncertainties relating to the license qualification and application process for a foreign-invested payment company, our management determined that it was necessary to restructure Alipay as a company wholly-owned by PRC citizens in order to avail Alipay of the specific licensing guidelines applicable only to domestic PRC-owned entities. Accordingly, we divested all of our interest in and control over Alipay in 2011, which resulted in deconsolidation of Alipay from our financial statements. This action enabled Alipay to obtain a payment business license in May 2011 without delay and without any detrimental impact to our China retail marketplaces or to Alipay.

Following the divestment of our interest in and control over Alipay, effective in the first calendar quarter of 2011, the ownership structure of Alipay's parent entity, Ant Financial, was changed such that Jack Ma held a substantial majority of the equity ownership interest in Ant Financial. The ownership structure of Ant Financial has subsequently been further restructured. Ant Financial has also completed several rounds of equity financing. On February 1, 2018, pursuant to the 2014 SAPA, we agreed to acquire a 33% equity interest in Ant Financial through an onshore PRC subsidiary and terminate the profit share payments that we currently receive from Ant Financial, subject to the receipt of the necessary PRC regulatory approvals and the satisfaction of other conditions set forth in the 2018 SAPA. As of the date of this annual report, approximately 42.46% of Ant Financial's equity interest is held by Junhan, approximately 32.14% of its equity interest is held by Junao and approximately 25.40% of its equity interest is held by other shareholders.

Economic interests of Ant Financial through Junhan are owned by Jack Ma, Simon Xie and other employees of our company and Ant Financial and its affiliates and investee companies. These economic interests are in the form of limited partnership interests and interests similar to share appreciation rights tied to potential appreciation in the value of Ant Financial. The economic interests in Junao are held in the form of limited partnership interests by certain members of the Alibaba Partnership.

We understand that it is the intention of the shareholders of Ant Financial that:

- Jack Ma's direct and indirect economic interest in Ant Financial will be reduced over time to a percentage that does not exceed his and his affiliates' interest in our company as of the time immediately prior to the completion of our initial public offering (the percentage of our ordinary shares Jack and his affiliates

beneficially owned immediately prior to the completion of our initial public offering was 8.8%) and that this reduction will be caused in a manner by which neither Jack nor any of his affiliates would receive any economic benefit. See "— Commitments of Jack Ma to Alibaba Group." We have been informed by Ant Financial that the proposed reduction of Jack's economic interest is expected to be accomplished through a combination of future equity-based incentive awards to employees and dilutive issuances of equity in Ant Financial, among others;

- from time to time, additional economic interests in Ant Financial in the form of interests similar to share appreciation rights issued by Junhan will be transferred to employees of Ant Financial and our employees; and
- Ant Financial will raise equity capital from investors in the future in order to finance its business expansion, with the effect that the shareholding of Junao and Junhan in Ant Financial will be reduced through dilution (the amount of dilution would depend on future valuations and the amount of equity capital to be raised), but it is the intention that the combined ownership of Junao and Junhan will continue to constitute a majority of the outstanding equity interests of Ant Financial (prior to the closing of our acquisition of a 33% equity interest in Ant Financial).

Jack Ma is able to exercise the voting power of Junao and Junhan as the major shareholders of Ant Financial because the general partner of both Junao and Junhan is an entity 100% owned by him.

#### ***Our Commercial Arrangements with Ant Financial and Alipay***

After the divestment of our interest in and control over Alipay, we entered into a framework agreement in July 2011, or the 2011 framework agreement, with SoftBank, Alibaba, Alipay, Ant Financial, Jack Ma and Joe Tsai and certain of their affiliates. At the same time, we also entered into various implementation agreements that included a commercial agreement, or the Alipay commercial agreement, an intellectual property license and software technology service agreement, or the 2011 IPLA, and a shared services agreement, which together governed our financial and commercial relationships with Ant Financial and Alipay.

#### ***Alipay Commercial Agreement***

Under the Alipay commercial agreement among us, Alipay and Ant Financial, which agreement still remains in place following the 2014 restructuring and the 2018 amendments to our agreements with Ant Financial, each as described below, Alipay provides payment processing and escrow services to us. These services enable settlement of transactions on our marketplaces through a secure payment platform and escrow process. We pay Alipay a fee for these services on terms that are preferential to us. These preferential terms enable us, with certain exceptions, to make available basic payment processing and escrow services to consumers and merchants on our marketplaces free of charge. We believe that these services provide us with a competitive advantage that otherwise would be diminished without the preferential terms of the Alipay commercial agreement.

The fees that we pay Alipay are based on fee rates and actual payment volumes processed on our marketplaces. The fee rates reflect, among other things, Alipay's bank-processing costs and operating costs allocable to the services provided to us, and accordingly are subject to adjustment on an annual basis to the extent these costs increase or decline. In connection with the 2014 restructuring, the Alipay commercial agreement was amended to provide that, a special independent committee formed by our independent directors and the director designated by SoftBank, or the Independent Committee, must approve the fee rates in advance on an annual basis. The fee rates for the immediately preceding year remain in effect until such time as such annual approval by the Independent Committee has been obtained. In fiscal years 2016, 2017 and 2018, service fees in connection with the payment services provided by Alipay amounted to RMB4,898 million, RMB5,487 million and RMB6,295 million (US\$1,004 million), respectively, under this agreement. The Alipay commercial agreement has an initial term of 50 years, and is automatically renewable for further periods of 50 years, subject to our right to terminate at any time upon one year's prior written notice. If the Alipay commercial agreement is required by applicable regulatory authorities, including under stock exchange listing rules, to be modified in certain circumstances, a one-time

payment may be payable to us by Ant Financial to compensate us for the impact of the adjustment. Certain conforming amendments were made to the Alipay commercial agreement as part of the 2018 amendments to our agreements with Ant Financial and Alipay described below.

### ***2014 Restructuring of Our Relationship with Ant Financial and Alipay and 2018 Amendments***

On August 12, 2014, we entered into a share and asset purchase agreement, or the 2014 SAPA, and entered into or amended certain ancillary agreements including an amendment and restatement of the 2011 IPLA, or the 2014 IPLA. Pursuant to these agreements, we restructured our relationships with Ant Financial and Alipay, its wholly-owned subsidiary, and terminated the 2011 framework agreement. On February 1, 2018, we amended both the 2014 SAPA, the amended version of which we refer to as the 2018 SAPA, and the Alipay commercial agreement, and agreed with Ant Financial and certain other parties on forms of certain ancillary agreements, including an amendment and restatement of the 2014 IPLA, or the 2018 IPLA. The 2018 amendments were entered into to facilitate our planned acquisition of a 33% equity interest in Ant Financial, and the forms of certain ancillary agreements will be entered into and/or become effective upon the closing of our acquisition of such equity interest.

Apart from the amended provisions described below, the key terms of our agreements with Ant Financial and Alipay from the 2014 Restructuring remain substantially unchanged.

### ***2014 Share and Asset Purchase Agreement***

#### ***Sale of SME Loan Business and Certain Other Assets***

Pursuant to the 2014 SAPA, we agreed to sell certain securities and assets primarily relating to our SME loan business and other related services to Ant Financial. The sale was completed in February 2015. In addition, pursuant to software system use and service agreements relating to the know-how and related intellectual property that we agreed to sell together with the SME loan business and related services, we will receive annual fees for a term of seven years. These fees, which are recognized as other revenue, are determined as follows: for calendar years 2015 to 2017, the entities operating the SME loan business paid an annual fee equal to 2.5% of the average daily balance of the SME loans provided by these entities, and in calendar years 2018 to 2021, these entities will pay an annual fee equal to the amount of the fees paid in calendar year 2017. In fiscal years 2016, 2017 and 2018, the annual fees we received from Ant Financial and its affiliates in connection with the SME loan business amounted to RMB708 million, RMB847 million and RMB956 million (US\$152 million), respectively.

For regulatory reasons, we retained approximately RMB1,225 million of the existing SME loan portfolio upon the completion of the transfer of the SME loan business. These loans have been repaid. We will not conduct any new SME loan business going forward.

#### ***Planned Issuance of Equity Interest***

Pursuant to the 2014 SAPA, we are entitled to receive up to a 33% equity interest in Ant Financial under certain circumstances. To facilitate our acquisition of equity interest in Ant Financial contemplated under the 2014 SAPA, the 2018 SAPA provides that Ant Financial will issue new securities to us representing a 33% equity interest in Ant Financial, subject to the receipt of the necessary PRC regulatory approvals and the satisfaction of other conditions set forth in the 2018 SAPA. Upon closing, we will hold our equity interest in Ant Financial through an onshore PRC subsidiary. We expect the planned acquisition of the 33% equity interest in Ant Financial will strengthen our strategic relationship pursuant to the series of agreements reached with Ant Financial in 2014.

Under the 2014 SAPA and the 2018 SAPA, the consideration we are required to pay to acquire the 33% equity interest in Ant Financial will be fully funded by payments from Ant Financial and its subsidiaries to us in consideration for certain intellectual property and assets that we will transfer at the closing of the equity issuance. Ant Financial may elect to defer certain offshore transfer payments, in which case our obligations to pay corresponding consideration for the equity issuance will also be deferred. If we have made all our outstanding

equity issuance consideration payments at a time when Ant Financial has not made all corresponding transfer payments to us, for example to facilitate an Ant Financial or Alipay qualified IPO process, Ant Financial or its relevant subsidiaries will issue interest-bearing promissory notes to our transferor entities in respect of the transfer payments unpaid at such time. In any event, Ant Financial must complete all outstanding transfer payments to us, or settle all related promissory notes, by the earlier of (i) the first anniversary of an Ant Financial IPO meeting certain minimum criteria for a qualified IPO set forth in the 2018 SAPA, and (ii) the fifth anniversary of the equity issuance closing.

As a condition to these transfers, at the closing of the equity issuance we will enter into a cross license agreement with Ant Financial providing for a license of certain patents and software by Ant Financial to us (ensuring our continued right to use those transferred patents and software), and by us to Ant Financial. The large majority of the intellectual property and assets to be transferred as part of these arrangements was previously planned to be transferred to Ant Financial pursuant to the 2014 SAPA.

Upon closing of the equity issuance, we will enter into the 2018 IPLA and the profit share payments under the 2014 IPLA will automatically terminate. For more information, see "Alipay Intellectual Property License and Software Technology Services Agreement" below.

#### ***Removal of Liquidity Event Payment Obligation***

Under the 2014 SAPA, in the event of a qualified IPO of Ant Financial or Alipay, if we had not acquired equity interest in Ant Financial prior to the closing of such IPO, we were entitled, at our election, to receive a one-time liquidity event payment equal to 37.5% of the equity value, immediately prior to the qualified IPO, of Ant Financial as a whole. If we had acquired equity interest in Ant Financial, but in an aggregate amount less than 33%, the percentage of Ant Financial's equity value used to calculate such liquidity event payment would be adjusted proportionately.

In lieu of receiving the liquidity event payment, we could instead elect to receive profit share payments under the 2014 IPLA described below in perpetuity, subject to the receipt of regulatory approvals, including under applicable stock exchange listing rules, required to permit continuation of the profit share payments following a qualified IPO of Ant Financial or Alipay. If we so elected, in connection with a qualified IPO, Ant Financial would have been required to use its commercially reasonable efforts to obtain these regulatory approvals. If these approvals were not obtained, then Ant Financial would have been obligated to pay us the liquidity event payment described above.

The 2018 SAPA no longer provides for this liquidity event payment, as we have agreed to acquire the entire 33% equity interest in Ant Financial at the closing of the equity issuance. If the equity issuance does not close, the 2014 SAPA and the liquidity event payment obligation will be restored, as discussed below under "— Regulatory Unwind and Long-Stop Date" below.

Jack Ma and Joe Tsai contributed 35,000,000 and 15,000,000 of our ordinary shares held by them to APN Ltd., a vehicle they established to hold these shares. The shares of APN Ltd., as well as the 50,000,000 ordinary shares in us held by APN Ltd., were pledged to us to secure the liquidity event payment and certain other obligations of Ant Financial under the 2014 SAPA and the Alipay commercial agreement, as well as the direct liability of APN Ltd. for up to US\$500 million of the liquidity event payment whenever any liquidity event payment becomes due. These shares remain pledged to us to secure certain obligations of Ant Financial under the 2018 SAPA and the Alipay commercial agreement.

#### ***Regulatory Unwind and Long-Stop Date***

The 2018 SAPA provides that, if a relevant governmental authority prohibits us from owning all or a portion of our equity interest in Ant Financial after the equity issuance has occurred through enactment of a law, rule or regulation, or explicitly requires Ant Financial to redeem such equity interest, and such prohibition or request is not subject to appeal and cannot otherwise be resolved, then to the extent necessary, Ant Financial will redeem

the equity interest; the related intellectual property and asset transfers, and ancillary transactions under the 2018 SAPA will be unwound; and the terms of the 2014 SAPA, the 2014 IPLA, and other related agreements will be restored, including the prior profit share payments and liquidity event payment terms discussed above. If there is a partial unwind where we retain a portion of our equity interest in Ant Financial, but less than the full 33%, then pursuant to the terms of the 2014 SAPA and the 2014 IPLA, the prior profit share payment arrangement and liquidity event payment amount will be proportionately reduced based on the amount of equity interest retained by us.

Similarly, if a governmental authority prohibits the equity issuance through enactment of a law, rule or regulation, and such prohibition is not subject to appeal and cannot otherwise be resolved, or if the closing of the equity issuance has not occurred by the first anniversary of our establishment of a PRC subsidiary to acquire the relevant equity interest, which time period may be extended in certain circumstances, then the 2018 SAPA and related agreements will terminate, and the 2014 SAPA and other related agreements will come back into effect.

#### ***Pre-emptive Rights***

As was the case under the 2014 SAPA, under the 2018 SAPA, following our receipt of equity interest in Ant Financial, we will have pre-emptive rights to participate in other issuances of equity securities by Ant Financial and certain of its affiliates prior to the time of a qualified IPO of Ant Financial. These pre-emptive rights entitle us to maintain the equity ownership percentage we held in Ant Financial immediately prior to any such issuances. In connection with our exercise of our pre-emptive rights we are also entitled to receive certain payments from Ant Financial, effectively funding our subscription for these additional equity interest, up to a value of US\$1.5 billion, subject to certain adjustments, or the pre-emptive rights funded payments. In addition to these pre-emptive rights and the pre-emptive rights funded payments, under the 2018 SAPA, in certain circumstances we are permitted to exercise pre-emptive rights through an alternative arrangement which will further protect us from dilution.

#### ***Certain Restrictions on the Transfer of Ant Financial Equity Interests***

As was the case under the 2014 SAPA, under the 2018 SAPA and the 2014 IPLA, certain parties thereto, including us in some cases, are subject to restrictions on the transfer of equity interests in Ant Financial, including:

- prior to our acquisition of the full 33% equity interest in Ant Financial, none of Jack Ma, Junao, Junhan, our company or Ant Financial may transfer any shares of Ant Financial that would result in Jack Ma, Junao, Junhan and our company, collectively, no longer having beneficial ownership of a majority voting interest in Ant Financial;
- prior to our acquisition of the full 33% equity interest in Ant Financial, none of Jack Ma, Joe Tsai (if he holds any equity interest at that time), Junao, Junhan, Ant Financial or Alipay may transfer any equity interest in Ant Financial or Alipay if, to his or its knowledge, the transfer would result in a non-PRC person or entity acquiring beneficial ownership of any equity interest in Ant Financial or Alipay;
- following our acquisition of the full 33% equity interest in Ant Financial and until the earlier of a qualified IPO of Ant Financial or the termination of the independent director rights provided in the 2018 SAPA, none of Jack Ma, Joe Tsai (if he holds any equity interest at that time), Junao, Junhan or Ant Financial may knowingly transfer any equity in Ant Financial to a third-party who would thereby acquire more than 50% of the voting or economic rights in, or assets of, Ant Financial; and
- in the event we acquire an equity interest in Ant Financial, any transfer of equity interests in Ant Financial by Junao or Junhan, on the one hand, or our company, on the other hand, will be subject to a right of first refusal by the other party.

#### ***Non-competition Undertakings***

As was the case under the 2014 SAPA, under the 2018 SAPA, subject to certain limitations and unless both parties agree, Ant Financial may not engage in any business conducted by us from time to time or logical

extensions thereof, and we are restricted from engaging in specified business activities within the scope of business of Ant Financial, including the provision and distribution of credit facilities and insurance, the provision of investment management and banking services, payment transaction processing and payment clearing services, leasing, lease financing and related services, trading, dealing and brokerage with respect to foreign exchange and financial instruments, distribution of securities, commodities, funds, derivatives and other financial products and the provision of credit ratings, credit profiles and credit reports. Each party may, however, make passive investments in competing businesses below specified thresholds, in some cases after offering the investment opportunity to the other party.

### ***Corporate Governance Provisions***

As was the case under the 2014 SAPA, the 2018 SAPA provides that, we and Ant Financial will recommend one independent nominee who Ant Financial will nominate as a member of its board, and Jack Ma, Joe Tsai (as long as he holds any equity interest in us), Junhan and Junao will agree to vote the equity interests in Ant Financial controlled by them in favor of such nomination. If this independent director resigns or such seat otherwise becomes vacant, so long as SoftBank owns at least 20% of our outstanding ordinary shares, and certain other conditions are satisfied, SoftBank and Jack, acting jointly, will select on our behalf the individual to be designated as a replacement director, subject to the approval of the Independent Committee. This Independent Committee, which was formed pursuant to the 2014 SAPA, is required to approve certain actions that we may take in connection with the 2018 SAPA and related agreements.

Under the 2018 SAPA, upon the closing of the equity issuance, in addition to the Ant Financial independent director discussed above, we will have the right to nominate two of our officers or employees for election to the board of Ant Financial. In each case, these director nomination rights will continue unless required to be terminated by applicable laws and regulations or listing rules in connection with an Ant Financial qualified IPO process or we cease to own a certain amount of our post-issuance equity interests in Ant Financial.

### ***Additional Alibaba Rights***

In addition to the rights discussed above, the 2014 SAPA provided us with certain other rights with respect to Ant Financial. These included, among others:

- customary information rights;
- approval rights over certain Ant Financial or Alipay actions; and
- rights to ensure our ability to participate in any qualified IPO of Ant Financial.

Except as otherwise discussed "— Termination of Alibaba Rights" below, these rights have been substantially retained in the 2018 SAPA. Following the closing of the equity issuance, the 2018 SAPA will also provide the Independent Committee with new approval rights over:

- increases to the size of the Ant Financial board resulting in the number of board seats exceeding a certain specific number; and
- any Alipay IPO or equity issuance (other than in the context of an IPO).

### ***Termination of Alibaba Rights***

As was the case under the 2014 SAPA, under the 2018 SAPA certain of our rights with respect to Ant Financial will terminate upon our receiving the full 33% equity interest in Ant Financial, upon a qualified IPO of Ant Financial, or upon other specified events.

In addition, the 2018 SAPA provides that, in connection with Ant Financial or Alipay commencing an IPO process, we and Ant Financial will discuss in good faith the amendment or termination of our rights to the extent necessary or advisable to achieve an efficient and successful IPO. Certain of our rights that would be incremental to the rights of other shareholders of Ant Financial as of the consummation of the IPO (excluding, among other things, our information rights) will terminate if required by a relevant stock exchange or governmental authority, or if necessary to obtain a legal opinion in connection with the IPO application. If the IPO application is withdrawn or rejected by the relevant authorities, or if the IPO is not consummated within a certain period of time, then any of our rights that were terminated or amended in anticipation of the IPO will be restored.

#### ***Ancillary Agreements***

In connection with the 2014 SAPA, we also entered into the 2014 IPLA, a data sharing agreement, an amended and restated shared services agreement, a SME loan cooperation framework agreement and a trademark agreement, each of which is described below. We also entered into a binding term sheet in respect of a technology services agreement pursuant to which we agreed to provide certain cloud computing, database service and storage, computing services and certain other services to Ant Financial on a cost-plus basis. We further agreed with Ant Financial on a new form of cross license agreement to be entered into under the 2014 SAPA, providing for a license of certain patents and software by Ant Financial to us (ensuring our continued right to use those transferred patents and software), and by us to Ant Financial.

In connection with the 2018 SAPA, we also agreed on the form of the 2018 IPLA, which we will enter into upon closing of the equity issuance, agreed to certain revisions to the previously-agreed form of cross license agreement, and agreed on new forms of various intellectual property transfer agreements to be entered into in connection with, and to implement, the contemplated intellectual property and asset transfers described in "— Planned Issuance of Equity Interest" above.

#### ***Alipay Intellectual Property License and Software Technology Services Agreement***

##### ***2014 IPLA***

Pursuant to the original 2011 framework agreement, we entered into the 2011 IPLA, pursuant to which we and our subsidiaries licensed to Alipay certain intellectual property rights and provided various software technology services to Alipay and its subsidiaries. In August 2014, we entered into the 2014 IPLA.

Under the 2011 IPLA, Alipay paid us a royalty and software technology services fee equal to the sum of an expense reimbursement plus 49.9% of the consolidated pre-tax income of Alipay and its subsidiaries until a liquidity event of Alipay or Ant Financial. The calculation of the profit share percentage was subject to downward adjustments upon certain dilutive equity issuances by Alipay or Ant Financial. Under the 2014 IPLA, we receive, in addition to a software technology service fee, royalty streams related to Alipay and other current and future businesses of Ant Financial, which we refer to collectively as the profit share payments. The profit share payments are paid at least annually and equal the sum of an expense reimbursement plus 37.5% of the consolidated pre-tax income of Ant Financial (subject to certain adjustments), including not only Alipay but all of Ant Financial's subsidiaries.

The 2014 IPLA will terminate, and the remainder (if any) of the intellectual property exclusively related to the business of Ant Financial will be transferred to Ant Financial after the termination of the 2014 IPLA, (i) after our total equity interest ownership in Ant Financial has reached the full 33%, when either the full payment of all pre-emptive rights funded payments under the 2014 SAPA is completed or a qualified IPO of Ant Financial or Alipay occurs; (ii) after a qualified IPO of Ant Financial or Alipay has occurred, when our total equity interest ownership in Ant Financial reaches the full 33%; (iii) if and when the liquidity event payment as described above under "— Share and Asset Purchase Agreement — Removal of Liquidity Event Payment Obligation" becomes payable or (iv) upon transfer of certain intellectual property to Ant Financial as required by the relevant stock exchange or securities authority in order to obtain approval for a qualified IPO of either Ant Financial or Alipay. However, as discussed above, we expect the 2014 IPLA to be amended and restated upon the closing of our

planned acquisition of a 33% equity interest in Ant Financial, in which case the termination provisions described in "2018 IPLA" below will apply instead.

In fiscal years 2016, 2017 and 2018, under the 2014 IPLA, we recognized royalty and software technology services fees, net of costs incurred by our company, amounting to RMB1,122 million, RMB2,086 million and RMB3,444 million (US\$549 million), respectively, as other income, and the relevant expense reimbursement amounted to RMB274 million, RMB245 million and RMB37 million (US\$6 million), respectively, over the same periods.

### ***2018 IPLA***

Pursuant to the 2018 SAPA, we, Ant Financial and Alipay agreed to enter into the 2018 IPLA upon the closing of our planned acquisition of a 33% equity interest in Ant Financial, at which time we will also transfer certain intellectual property and assets to Ant Financial and its subsidiaries and the current arrangement of profit share payments will immediately terminate, as described in "— Share and Asset Purchase Agreement — Planned Issuance of Equity Interest" above.

While the current profit share payments will be terminated under the 2018 IPLA, Ant Financial may in certain circumstances continue to make certain royalty payments to us (as agreed to by Ant Financial and the Independent Committee) which may be used as pre-emptive rights funded payments under the 2018 SAPA, as described in "— Share and Asset Purchase Agreement — Pre-emptive Rights" above.

Additionally, pursuant to the 2018 IPLA, Ant Financial and its subsidiaries will receive expanded rights to apply for, register and manage certain intellectual property related to their businesses, subject to certain continuing restrictions and our rights, and we will cease to provide certain software technology services to Ant Financial and its subsidiaries.

The 2018 IPLA will terminate upon the earliest of:

- the full payment of all pre-emptive rights funded payments under the 2018 SAPA;
- the closing of a qualified IPO of Ant Financial or Alipay; and
- our transfer to Ant Financial of intellectual property we own that is exclusively related to the business of Ant Financial.

### ***Data Sharing Agreement***

We and Ant Financial have entered into a data sharing agreement dated August 12, 2014.

Pursuant to the data sharing agreement, we, Ant Financial, our controlled affiliates and certain other affiliates, which we refer to hereinafter as full data sharing participants, will contribute all data collected or generated as a result of the use by users of our or their respective products or services (subject to applicable law, industry rules and contractual requirements) to a data platform that we operate and maintain, and to which all of the full data sharing participants will have access. A data platform management committee established by us and Ant Financial may also approve non-controlled affiliates of us and Ant Financial and unaffiliated third parties to have certain access to and contribute data to the platform, subject to execution of a data platform participation agreement containing the terms and restrictions on access to and use of the data sharing platform and shared data as the data management committee shall determine. No fees or other compensation are required to be paid by any of the full data sharing participants for access to the data platform, other than the obligation for participants to share in the costs of the operation of the data platform on a fair and reasonable basis. The data sharing agreement provides that none of the participants may reproduce any of the data on the data platform for transfer to their own servers, except that a participant may retain its own data that it has contributed to the data platform. As of the date of this annual report, Koubei and Alibaba Pictures have entered into data platform participation agreements with us.



The data sharing agreement initially had a minimum term of 10 years. In May 2015, our board approved the extension of the term of the agreement to a total of 50 years.

#### ***SME Loan Cooperation Framework Agreement***

We and Ant Financial entered into a SME loan cooperation framework agreement dated August 12, 2014, pursuant to which each party agreed to cooperate with, and provide certain services with respect to, the other party's enforcement of certain rights of the other party against users of its platforms and services and with respect to the provision of certain financial services to our customers and merchants. In particular, we agreed, upon Ant Financial's request, to close down or suspend online storefronts and restrict marketing activities on our platforms of persons defaulting on loans made by Ant Financial and persons in violation of Alipay rules and regulations, and to publish notices on our platforms and provide information regarding these persons, in each case in a manner to be further agreed upon from time to time. Ant Financial agreed, upon our request, to make loans and/or extensions of credit and related financial services available to our users, freeze and pay over to us funds in accounts of users violating our rules and regulations or agreements with us, accelerate loans and terminate credit facilities of these users, restrict marketing activities on its platforms by these users, and provide information regarding these users, in each case in a manner to be further agreed upon from time to time. Neither party is required to pay any fees in consideration for the services provided by the other party, and apart from the provision of these services, there will be no other exchange of value in connection with this agreement. The cooperation agreement has an initial term of five years, with automatic renewals upon expiry for additional five-year periods. From time to time, we expect to enter into similar commercial arrangements with respect to cooperation matters and the provision of services between us and Ant Financial and to our respective customers.

#### ***Trademark Agreement***

We and Ant Financial entered into a trademark agreement dated August 12, 2014, pursuant to which we granted Ant Financial a non-transferable, non-assignable and non-sublicensable (except to its subsidiaries) license for it and its sublicensed subsidiaries to continue to use certain trademarks and domain names based on trademarks owned by us, in connection with their payment services business and the SME loan business transferred by us to them, and in the same manner of use as of August 12, 2014, and a non-transferable, non-assignable and non-sublicensable (except to its subsidiaries) license to use other trademarks and domain names based on trademarks owned by us, and in such manner, as we may agree to allow in the future. Pursuant to the trademark agreement, each of the parties further agreed to the rights and limitations that each would have to use the "Ali" name or prefix and the "e-commerce" (and its Chinese equivalent) name, prefix or logo as part of a trademark or domain name in each party's and its subsidiaries' respective businesses. Neither party is required to pay any fees under this agreement, and apart from the licenses and rights set forth in the agreement, there will be no other exchange of value in connection with this agreement. Pursuant to the 2018 SAPA, upon the closing of our planned acquisition of a 33% equity interest in Ant Financial, we will transfer to Ant Financial ownership of several of the trademarks and domain names licensed by us to Ant Financial. However, the trademark agreement will remain in effect in accordance with its terms following such transaction to provide for a continued license of other trademarks that we will continue to own.

#### ***Shared Services Agreement with Ant Financial***

We and Ant Financial have entered into a shared services agreement, which was amended and restated as of August 12, 2014 in connection with the 2014 SAPA. Pursuant to the shared services agreements, we and Ant Financial provide certain administrative and support services to each other and our respective affiliates.

Service fees in connection with the administrative and support services provided by us to Ant Financial and its affiliates under the agreement amounted to RMB670 million, RMB531 million and RMB676 million (US\$108 million) in fiscal years 2016, 2017 and 2018, respectively. Service fees in connection with the administrative and support services provided by Ant Financial and its affiliates to us amounted to RMB56 million, RMB15 million and RMB84 million (US\$13 million) in fiscal years 2016, 2017 and 2018, respectively.

### ***Other Commercial Arrangements with Ant Financial***

We also provide Ant Financial, its subsidiaries and affiliates with marketplace software technology services, cloud computing services and other services. Meanwhile, Ant Financial and its affiliates provide us with marketing support services in connection with membership management and other services. In fiscal years 2016, 2017 and 2018, under these arrangements, service fees in connection with various services provided by us to Ant Financial and its affiliates amounted to RMB416 million, RMB763 million and RMB1,503 million (US\$240 million), respectively. During the same periods, service fees in connection with the marketing support services and other services provided by Ant Financial amounted to RMB243 million, RMB937 million and RMB1,810 million (US\$289 million), respectively.

### ***Investments Involving Ant Financial***

We have invested in businesses in which Ant Financial is a shareholder or co-invested with Ant Financial in other businesses. For instance, in September 2015, we established a joint venture under the brand name Koubei with Ant Financial. We and Ant Financial injected certain related businesses into Koubei and each invested RMB3.0 billion in this joint venture. In March 2016, we agreed to invest US\$900 million in a co-investment with Ant Financial in Ele.me. In April and August 2017, we and Ant Financial invested in the preferred shares of Ele.me, with our investment totaling US\$864 million. In addition, in August 2016, we and Ant Financial co-invested in AGTech, a company listed on the Hong Kong Stock Exchange. Ant Financial is also a shareholder of both Paytm, a mobile payment platform in India, and Paytm Mall, an e-commerce platform in India, which are our investees.

### ***Equity-based Award Arrangements***

In order to encourage mutually beneficial cooperation, we have granted options and awarded RSUs to acquire our ordinary shares to employees of Ant Financial and its subsidiaries. In addition, Junhan, a major equity holder of Ant Financial, has granted to our employees certain share-based awards that are similar to share appreciation awards linked to the valuation of Ant Financial, and Ant Financial, through a wholly-owned subsidiary, has granted certain RSU awards to our employees.

We grant options and RSUs relating to our ordinary shares to the employees of Ant Financial. As of March 31, 2016, 2017 and 2018, there were 4,362,339, 2,967,982 and 1,628,309 of our ordinary shares, respectively, underlying outstanding options and unvested RSUs held by employees of Ant Financial.

We entered into agreements with Ant Financial in calendar years 2012 and 2013 under which we will receive reimbursements for options and RSUs relating to our ordinary shares granted to the employees of Ant Financial and its subsidiaries during the period from December 14, 2011 to March 31, 2014. Grants of options and RSUs made subsequent to March 31, 2014 are not subject to these reimbursement arrangements. Pursuant to these agreements, we will, upon vesting of these options and RSUs, receive a cash reimbursement equal to their respective grant date fair value. The amounts of these reimbursements in fiscal years 2016, 2017 and 2018 were RMB113 million, RMB30 million and RMB5 million (US\$1 million), respectively.

We understand that Jack Ma, who effectively controls the majority voting interest in Ant Financial, believes that providing equity-related awards to our employees tied to the success of Ant Financial will enhance the value of our business because of the strategic importance of Alipay to our marketplaces and because, through our strategic and financial relationship with Ant Financial, we have a significant participation in the profits and value accretion of Ant Financial. In March 2014, Junhan, the general partner of which is an entity controlled by Jack Ma, made a grant of certain equity-based awards similar to share-appreciation rights linked to the valuation of Ant Financial to most of our employees. Since then, Junhan has granted similar equity-based performance awards to our employees on an annual basis.

Since March 2014, Junhan has granted certain share-based awards similar to share appreciation awards linked to the valuation of Ant Financial to our employees, and since April 2018, Ant Financial, through a wholly-owned

subsidiary, has granted certain RSU awards to our employees. The grants by Junhan and the Ant Financial subsidiary to our employees are subject to approval by our audit committee and the employees who will receive such awards and the actual number of awards he/she will receive are determined by our senior management. The terms and conditions of the awards granted by Junhan and by the Ant Financial subsidiary are substantially similar to those of our incentive plans with respect to the eligibility of participants, vesting and cancellation of the awards. The awards granted by Junhan will be settled in cash by Junhan upon disposal of these awards by the holders. The awards granted by the Ant Financial subsidiary may be settled in cash or equity by the Ant Financial subsidiary upon vesting of the awards. Junhan and the Ant Financial subsidiary have the right to repurchase the vested awards or RSUs (or any underlying shares of vested RSUs) granted by it, as applicable, from the holders upon an initial public offering of Ant Financial or the termination of the holders' employment with us at a price to be determined based on the then fair market value of Ant Financial. We have no obligation to reimburse Junhan, Ant Financial or its subsidiaries for the cost associated with these awards.

Subsequent to our initial public offering, based on the arrangements agreed to in the 2014 SAPA, we, Junhan and Ant Financial entered into an agreement, under which we agreed to continue granting our share-based awards to employees of Ant Financial, and Junhan and Ant Financial agreed that Junhan and/or Ant Financial through one of its subsidiaries will continue granting equity-based performance awards to our employees on an annual basis. Due to the mutually beneficial nature of this arrangement, the parties agreed that none of them has any obligation to reimburse any other party any expenses relating to the equity-based awards. This agreement has a term of three years and will be automatically renewed for another three years, unless otherwise terminated by written agreement among the parties or unilaterally by Ant Financial if it is required under applicable laws (including any regulatory requirements applicable to a public offer of Ant Financial's shares) to terminate the agreement.

#### **Transactions with Alibaba Pictures**

In June 2014, as part of our digital media and entertainment strategy, we completed an investment of HK\$6,244 million in newly issued ordinary shares representing approximately 60% of the issued share capital of Alibaba Pictures. In addition, in June 2015, Alibaba Pictures placed newly issued ordinary shares to unrelated third-party investors for aggregate proceeds of approximately HK\$12,179 million. Our equity interest in Alibaba Pictures was therefore diluted to 49.5% upon completion of this transaction. In December 2015, Alibaba Pictures completed its purchase of our online movie ticketing business and movie and TV series financing platform for a cash consideration of US\$350 million plus certain reimbursement amounts.

#### **Transactions with Entities Affiliated with Our Directors and Officers**

Jack Ma, our executive chairman, Joe Tsai, our executive vice chairman, and J. Michael Evans, our president, have purchased their own aircraft for both business and personal use. The use of the above-mentioned executive officers' own aircraft in connection with the performance of their duties as our employees is free of charge to us, and we have agreed to assume the cost of maintenance, crew and operation of the aircraft where the cost is allocated for business purposes.

#### **Relationship with Investment Funds Affiliated with Jack Ma**

Jack Ma currently holds minority interests in the general partners of a number of Yunfeng investment funds, in which he is entitled to receive a portion of carried interest proceeds. We refer to these funds collectively as the Yunfeng Funds. He also holds minority interests in certain investment advisor entities of certain Yunfeng Funds. In addition, Jack, his wife, certain trusts established for the benefit of his family and certain entities controlled by Jack and his wife have committed, or are expected to commit, funds to the general partners or as limited partners of certain Yunfeng Funds.

Jack has either non-voting interests or has waived the exercise of his voting power with respect to his interests in each of the investment advisor entities and the managing entities of certain Yunfeng Funds. Jack has also agreed

to donate all distributions of (x) carried interest proceeds he may receive in respect of the Yunfeng Funds and (y) dividends he may receive with respect to his holdings of shares in any investment advisor entity of the Yunfeng Funds, which we collectively refer to as the Yunfeng Distributions, to, or for the benefit of, the Alibaba Group Charitable Fund or other entities identified by Jack that serve charitable purposes. In addition, Jack has agreed that he will not claim any deductions from his applicable income tax obligations resulting from payment of the Yunfeng Distributions to the Alibaba Group Charitable Fund or any other entity identified by Jack that serves charitable purposes. See "— Commitments of Jack Ma to Alibaba Group." We believe that, through its expertise, knowledge base and extensive network of contacts in private equity in China, Yunfeng Capital will assist us in developing a range of relevant strategic investment opportunities.

Yunfeng Funds have historically entered into co-investment transactions with us and third parties. We have also invested in other businesses in which Yunfeng Funds are shareholders, such as Damai, a leading online ticketing platform for live events in China.

### **Commitments of Jack Ma to Alibaba Group**

Jack Ma, our executive chairman, has confirmed the following commitments to our board of directors:

- He intends to reduce and thereafter limit his direct and indirect economic interest in Ant Financial over time, to a percentage that does not exceed his and his affiliates' interest in our company immediately prior to our initial public offering and that the reduction will occur in a manner by which neither Jack nor any of his affiliates would receive any economic benefit;
- He will donate all of his Yunfeng Distributions to, or for the benefit of, the Alibaba Group Charitable Fund or other entities identified by him that serve charitable purposes;
- He will not claim any deductions from his applicable income tax obligations resulting from donating his Yunfeng Distributions to the Alibaba Group Charitable Fund or any other entity identified by him that serves charitable purposes; and
- If required by us, while he remains an Alibaba executive, he will assume for our benefit legal ownership of investment vehicles, holding companies and variable interest entities that further our business interests in Internet, media and telecom related businesses and, in such circumstances, he will disclaim all economic benefits from his ownership and enter into agreements to transfer any benefits to us (or as we may direct) when permitted by applicable law.

### **Pledge for the Benefit of and Loan Arrangement with a Related Party**

In May 2015, we entered into a pledge with a financial institution in the PRC in connection with certain wealth management products with an aggregate principal amount of RMB7.3 billion we invested in to secure a RMB6.9 billion financing provided by this financial institution to Simon Xie, one of our founders and an equity holder in certain of our variable interest entities, to finance the minority investment by a PRC limited partnership in Wasu, a company listed on the Shenzhen Stock Exchange and engaged in the business of digital media broadcasting and distribution in China. As of March 31, 2018, RMB420 million of the pledge had been released. In addition, we entered into a loan agreement for a principal amount of up to RMB2.0 billion with Simon Xie in April 2015 to finance the repayment by Simon of the principal and interest under this financing. These arrangements strengthen our strategic business cooperation with Wasu to enhance our entertainment strategy. Our loan to Simon will be made at an interest rate equal to SHIBOR as specified by us from time to time and is repayable in five years. The loan is secured by a pledge of Simon's limited partnership interest in the PRC limited partnership. As of March 31, 2018, the balance of this loan was RMB1,137 million (US\$181 million).

We have entered into strategic cooperation agreements with a major shareholder of Wasu in order to enhance our capabilities and influence in the entertainment sector in China. A company controlled by Jack Ma serves as one of the general partners of the PRC limited partnership. Yuzhu Shi, the founder, chairman and a principal shareholder of Giant Interactive, a China-based online game company that was previously listed on the New York

Stock Exchange, and who is also an entrepreneur with significant experience in and knowledge of the media industry in China, serves as the other general partner. Jack, through his control of one of the general partners, and Mr. Shi, as the other general partner and the executive partner, jointly control this PRC limited partnership. The interest of the general partner controlled by Jack in the limited partnership is limited to the return of its RMB10,000 contributed capital.

#### **Transactions with Cainiao Network**

During fiscal year 2016, we disposed of a wholly-owned subsidiary to Cainiao Network for cash consideration of US\$33 million. The gain on disposal in fiscal year 2016 was RMB3 million. The major asset of the disposed subsidiary consisted of a land use right in the PRC.

We have commercial arrangements with Cainiao Network to receive certain logistics services which are conducted on an arm's length basis. Service fees in connection with the logistics services provided by Cainiao Network in fiscal years 2016, 2017 and 2018 (prior to its becoming our consolidated subsidiary) amounted to RMB2,370 million, RMB4,444 million and RMB3,437 million (US\$548 million), respectively.

We also provided Cainiao Network with various administrative and support services. Service fees in connection with the administrative and support services we provided to Cainiao Network amounted to RMB86 million, RMB152 million and RMB123 million (US\$20 million) in fiscal years 2016, 2017 and 2018 (prior to its becoming our consolidated subsidiary), respectively.

In October 2017, our equity interest in Cainiao Network increased to approximately 51% and it became one of our consolidated subsidiaries.

#### **Transactions with Weibo**

We entered into a strategic collaboration agreement and a marketing cooperation agreement with Weibo, one of our equity investees, during fiscal year 2014. These agreements expired in January 2016. In fiscal years 2016, 2017 and 2018, service fees in connection with the marketing services provided by Weibo pursuant to these agreements and other commercial arrangements amounted to RMB715 million, RMB340 million and RMB615 million (US\$98 million), respectively.

We also have other commercial arrangements with Weibo primarily relating to the provision of cloud computing services. Service fees in connection with the cloud computing services provided by us amounted to RMB38 million, RMB105 million and RMB223 million (US\$36 million) in fiscal years 2016, 2017 and 2018, respectively.

#### **Transactions with other equity investees**

Cainiao Network has commercial arrangements with our equity investees to receive certain logistics services. Fees in connection with the logistics service provided by our equity investees to Cainiao Network after it became one of our consolidated subsidiaries in fiscal year 2018 amounted to RMB5,608 million (US\$894 million).

#### **Other commercial transactions with equity investees**

Other than the transactions disclosed above, we also have commercial arrangements with certain of our equity investees and other related parties to provide and receive certain marketing, logistics, traffic acquisition, cloud computing and other services. The amounts relating to these services provided and received represent less than 1% of our revenue and total costs and expenses, respectively, for the years ended March 31, 2016, 2017 and 2018.

## **Contractual Arrangements among Our Wholly-foreign Owned Enterprises, Variable Interest Entities and the Variable Interest Entity Equity Holders**

Chinese law restricts foreign ownership in enterprises that provide value-added telecommunications services, which includes the ICPs. As a result, we operate our Internet businesses and other businesses in which foreign investment is restricted or prohibited in China through contractual arrangements between our wholly-foreign owned enterprises, our variable interest entities, which, where applicable, hold the ICP licenses and other regulated licenses and generally operate our Internet businesses and other businesses in which foreign investment is restricted or prohibited, and the variable interest entity equity holders. For a description of these contractual arrangements, see "Item 4. Information on the Company — C. Organizational Structure — Contractual Arrangements among Our Wholly-foreign Owned Enterprises, Variable Interest Entities and the Variable Interest Entity Equity Holders."

### **Indemnification Agreements**

We have entered into indemnification agreements with our directors and executive officers. These agreements require us to indemnify these individuals, to the fullest extent permitted by law, for certain liabilities to which they may become subject as a result of their affiliation with us.

### **Employment Agreements**

See "Item. 6 Directors, Senior Management and Employees — B. Compensation — Employment Agreements."

### **Share Options**

See "Item. 6 Directors, Senior Management and Employees — B. Compensation — Equity Incentive Plans."

## **C. Interests of Experts and Counsel**

Not applicable.

## **ITEM 8 FINANCIAL INFORMATION**

### **A. Consolidated Statements and Other Financial Information**

See "Item 18. Financial Statements."

### **Legal and Administrative Proceedings**

We are involved from time to time, and may in the future be involved in, litigation, claims or other disputes in the ordinary course of business regarding, among other things, contract disputes with our customers, copyright, trademark and other intellectual property infringement claims, consumer protection claims, employment related cases and other matters in the ordinary course of our and disputes between our merchants and consumers.

We establish balance sheet provisions relating to potential losses from litigation based on estimates of the losses. For this purpose, we classify potential losses as remote, reasonably possible or probable. We analyze potential outcomes from current and potential litigation and proceedings as loss contingencies in accordance with U.S. GAAP. Our management believes that the risk of loss in connection with the proceedings discussed below is currently remote and that these proceedings will not have a material adverse effect on our financial condition, either individually or in the aggregate. However, in light of the inherent uncertainties involved in these matters, some of which are beyond our control, the risk of loss may become more likely and an adverse outcome of one or more of these matters could be material to our results of operations or cash flows for any particular reporting period. See note 2 to our audited consolidated financial statements included elsewhere in this annual report for more information on our provisioning policy with regard to legal and administrative proceedings.

**Class Action Lawsuits**

***Federal Consolidated Exchange Act Actions***

In January 2015, we were named as a defendant in the first of seven putative shareholder class action lawsuits filed in the United States District Courts for the Southern District of New York, Central District of California and Northern District of California. The operative complaint is brought on behalf of a putative class of shareholders who acquired our American Depositary Shares from October 21, 2014 through January 29, 2015, inclusive. The complaints assert claims under the United States Securities Exchange Act of 1934.

In June 2015, the U.S. Judicial Panel on Multidistrict Litigation ordered transfer of the actions in the Central District of California to the Southern District of New York for coordinated or consolidated pretrial proceedings with the four actions before that court. In June 2015, the Panel ordered transfer of the action pending in the Northern District of California to the Southern District of New York. The actions in the Southern District of New York were consolidated under the master caption, *Christine Asia Co., Ltd. et al. v. Alibaba Group Holding Limited et al.*, No. 1:15-md-02631-CM (S.D.N.Y.), and related cases.

The Southern District of New York appointed a Lead Plaintiff and Lead Counsel on behalf of the putative class pursuant to the Private Securities Litigation Reform Act.

In June 2015, the Lead Plaintiff filed a consolidated amended complaint, which generally alleged that the registration statement and prospectus filed in connection with our initial public offering and various other public statements contained misrepresentations regarding our business operations and financial prospects, and failed to disclose, among other things, regulatory scrutiny by the SAIC prior to our initial public offering. Specifically, plaintiffs alleged that we should have disclosed a 2014 SAIC anti-counterfeiting initiative in the e-commerce market, a July 16, 2014 administrative guidance meeting we had with the SAIC that was later the subject of a self-described "white paper" issued and then withdrawn by the SAIC, and the alleged impact of the sale of counterfeit goods on our financial results. Plaintiffs asserted claims against our company and Executive Chairman Jack Yun Ma, Executive Vice Chairman Joseph C. Tsai, then Chief Executive Officer Jonathan Zhaoxi Lu and Chief Financial Officer Maggie Wei Wu for violation of sections 10(b) and 20(a) of the United States Exchange Act and Rule 10b-5. Plaintiffs sought unspecified damages, attorneys' fees and costs.

In July 2015, the Defendants filed a motion to dismiss the complaint for failure to state a claim. In June 2016, the Southern District of New York issued an order granting Defendants' motion to dismiss without leave to amend. The order held that Plaintiffs failed to plead that Defendants made actionable misstatements or omissions or that Defendants acted with scienter.

In July 2016, Plaintiffs filed a notice of appeal to the U.S. Court of Appeals for the Second Circuit.

On December 5, 2017, the Second Circuit issued a summary order vacating the Southern District of New York's dismissal order and remanding the case to the Southern District of New York for further proceedings.

On March 12, 2018, Plaintiffs filed a motion for class certification and appointment of class representatives and class counsel. Among other things, Plaintiffs requested that the Southern District of New York certify a class of all persons and/or entities that purchased or otherwise acquired our American Depositary Shares or purchased call options or sold put options on our American Depositary Shares between September 19, 2014 and January 28, 2015, inclusive, with certain exclusions. The Southern District of New York granted the motion on May 1, 2018.

Discovery in the action is ongoing.

### ***California State Consolidated Securities Act Actions***

In October 2015, we were named as a defendant in the first of three securities class action lawsuits filed in the Superior Court of the State of California, San Mateo County. The three actions were consolidated in October 2015, and plaintiffs filed a consolidated complaint on March 25, 2016. A fourth named plaintiff was added on February 14, 2017 with the filing of the First Amended Consolidated Complaint. The consolidated action is captioned *Gary Buelow, et al. v. Alibaba Group Holding Limited, et al.*, No. CIV-535692 (San Mateo Sup. Ct.). The consolidated action is brought on behalf of a putative class of investors who purchased Alibaba American Depository Shares pursuant or traceable to the IPO. The complaint alleges violations of Sections 11, 12(a)(2) and 15 of the United States Securities Act of 1933.

The consolidated complaint names our company, Executive Chairman Jack Yun Ma, Executive Vice Chairman Joseph C. Tsai, then Chief Executive Officer Jonathan Zhaoxi Lu, Chief Financial Officer Maggie Wei Wu, Director Masayoshi Son, General Counsel and Secretary Timothy A. Steinert, and 34 separate underwriters of our initial public offering. It alleges that our company, our senior officers who signed the registration statement, and the underwriters made material misrepresentations in our initial offering materials similar to those alleged in the above federal consolidated complaint.

In May 2016, we filed a demurrer for failure to state a claim and lack of subject matter jurisdiction in response to the consolidated complaint. In December 2016, the Superior Court sustained the demurrer as to Sections 12(a)(2) and 15 and overruled the demurrer as to Section 11 with regard to the three original plaintiffs. In January 2017, we answered the consolidated complaint, asserting a general denial as to all allegations and setting forth affirmative defenses.

In September 2016, we filed a motion for summary judgment on the grounds that the three original plaintiffs lack statutory standing. In February 2017, a First Amended Consolidated Complaint was filed that added a new plaintiff to the action. In March 2017, we filed a demurrer to the First Amended Consolidated Complaint.

In March 2018, Messrs. Son and Steinert were dismissed from the case by agreement of the parties.

On March 12, 2018, Plaintiffs filed a motion for class certification, requesting, among other things, that the Superior Court certify a class of all persons who purchased or otherwise acquired our American Depository Shares pursuant or traceable to the Registration Statement issued in connection with our IPO. The motion is pending before the Superior Court.

Discovery in the action is ongoing.

### ***Pending SEC Inquiry***

In early 2016, the SEC informed us that it had initiated an investigation into whether there have been any violations of the federal securities laws. The SEC has requested that we voluntarily provide it with documents and information relating to, among other things: our consolidation policies and practices (including our prior practice of accounting for Cainiao Network as an equity method investee), our policies and practices applicable to related party transactions in general, and our reporting of operating data from Singles Day. We are voluntarily disclosing this SEC request for information and cooperating with the SEC and, through our legal counsel, have been providing the SEC with requested documents and information. The SEC advised us that the initiation of a request for information should not be construed as an indication by the SEC or its staff that any violation of the federal securities laws has occurred.

### ***Kering Lawsuit***

In May 2015, we were named as a defendant in a lawsuit filed in the Southern District of New York by Gucci America Inc., Balenciaga S.A., Balenciaga America, Inc., Bottega Veneta S.A., Bottega Veneta Inc., Yves Saint Laurent America, Inc., Luxury Goods International (L.G.I.) S.A. and Kering S.A. The case is captioned *Gucci America, Inc. et al. v. Alibaba Group Holding Ltd. et al.*, No. 15 cv 03784 PKC (S.D.N.Y.). A second amended



complaint was filed in September 2015. The complaint generally alleges that merchants on our marketplaces sold allegedly counterfeit or otherwise trademark infringing merchandise, purportedly with our actual or constructive knowledge, and that we purportedly supported these merchants and this merchandise. In their complaint, the plaintiffs assert multiple claims against our company and seek unspecified damages. In August 2016, the Court granted our motion to dismiss Plaintiffs' Racketeer Influenced and Corrupt Organizations Act, or RICO, claims. On August 3, 2017, the Court dismissed this lawsuit with prejudice pursuant to the parties' stipulation.

### **Dividend Policy**

Since our inception, we have not declared or paid any dividends on our ordinary shares. We have no present plan to pay any dividends on our ordinary shares in the foreseeable future. We intend to retain most, if not all, of our available funds and any future earnings to operate and expand our business.

Any future determination to pay dividends will be made at the discretion of our board of directors and may be based on a number of factors, including our future operations and earnings, capital requirements and surplus, general financial condition, contractual restrictions and other factors that the board of directors may deem relevant. If we pay any dividends, the depository will pay our ADS holders to the same extent as holders of our ordinary shares, subject to the terms of the deposit agreement, including the fees and expenses payable thereunder. Cash dividends on our ordinary shares, if any, will be paid in U.S. dollars.

We are a holding company incorporated in the Cayman Islands. In order for us to distribute any dividends to our shareholders and ADS holders, we rely on dividends, loans, and other distributions on equity paid by our operating subsidiaries in China and on remittances, including loans, from our variable interest entities in China. Dividend distributions from our PRC subsidiaries to us are subject to PRC taxes, such as withholding tax. In addition, regulations in the PRC currently permit payment of dividends of a PRC company only out of accumulated distributable after-tax profits as determined in accordance with its articles of association and the accounting standards and regulations in China. See "Item 3. Key Information — D. Risk Factors — Risks Related to Doing Business in the People's Republic of China — We rely to a significant extent on dividends, loans and other distributions on equity paid by our principal operating subsidiaries in China and on remittances, including loans, from the variable interest entities in China to fund offshore cash and financing requirements."

### **B. Significant Changes**

We have not experienced any significant changes since the date of our audited consolidated financial statements included in this annual report.

## **ITEM 9 THE OFFER AND LISTING**

### **A. Offer and Listing Details**

Our ADSs, each representing one of our ordinary shares, have been listed on the New York Stock Exchange since September 19, 2014 under the symbol "BABA." The table below shows, for the periods indicated, the high

and low market prices, based on the highest and lowest intraday sales prices, on the New York Stock Exchange for our ADSs through July 26, 2018.

	Market Price <sup>(1)</sup> (US\$)	
	High	Low
<b>Annual highs and lows</b>		
Fiscal year 2015 (from September 19, 2014)	120.00	80.03
Fiscal year 2016	95.06	57.20
Fiscal year 2017	110.45	73.30
Fiscal year 2018	206.20	106.76
<b>Quarterly highs and lows</b>		
Second calendar quarter 2016	85.89	73.30
Third calendar quarter 2016	109.87	77.68
Fourth calendar quarter 2016	109.00	86.01
First calendar quarter 2017	110.45	88.08
Second calendar quarter 2017	148.29	106.76
Third calendar quarter 2017	180.87	139.50
Fourth calendar quarter 2017	191.75	164.25
First calendar quarter 2018	206.20	168.88
Second calendar quarter 2018	211.70	166.13
<b>Monthly highs and lows</b>		
January 2018	206.20	175.70
February 2018	199.49	168.88
March 2018	201.50	175.45
April 2018	183.63	166.13
May 2018	202.28	175.77
June 2018	211.70	182.04
July 2018 (through July 26, 2018)	198.35	181.06

(1) Source: Bloomberg

#### **B. Plan of Distribution**

Not applicable.

#### **C. Markets**

Our ADSs, each representing one of our ordinary shares, have been listed on the New York Stock Exchange since September 19, 2014 under the symbol "BABA."

#### **D. Selling Shareholders**

Not applicable.

#### **E. Dilution**

Not applicable.

#### **F. Expenses of the Issue**

Not applicable.

## ITEM 10 ADDITIONAL INFORMATION

### A. Share Capital

Not applicable.

### B. Memorandum and Articles of Association

We incorporate by reference into this annual report the description of our amended and restated memorandum and articles of association contained in our F-1 registration statement (File No. 333-195736), as amended, initially filed with the SEC on May 6, 2014. Our shareholders adopted our amended and restated memorandum and articles of association by a special resolution on September 2, 2014, and effective upon completion of our initial public offering of ordinary shares represented by our ADSs.

### C. Material Contracts

We have not entered into any material contracts other than in the ordinary course of business and other than those described in "Item 4. Information on the Company," "Item 5. Operating and Financial Review and Prospects" or elsewhere in this annual report.

### D. Exchange Controls

See "Item 4. Information on the Company — B. Business Overview — Regulation — Regulation of Foreign Exchange and Dividend Distribution — Foreign Exchange Regulation."

### E. Taxation

The following is a general summary of certain Cayman Islands, PRC and United States federal income tax consequences relevant to an investment in our ADSs and ordinary shares. The discussion is not intended to be, nor should it be construed as, legal or tax advice to any particular prospective purchaser. The discussion is based on laws and relevant interpretations thereof in effect as of the date of this annual report, all of which are subject to change or different interpretations, possibly with retroactive effect. The discussion does not address U.S. state or local tax laws, or tax laws of jurisdictions other than the Cayman Islands, the People's Republic of China and the United States. You should consult your own tax advisors with respect to the consequences of acquisition, ownership and disposition of our ADSs and ordinary shares. To the extent that this discussion relates to matters of Cayman Islands tax law, it is the opinion of Maples and Calder (Hong Kong) LLP, our special Cayman Islands counsel. To the extent that the discussion states definitive legal conclusions under PRC tax laws and regulations, it is the opinion of Fangda Partners, our special PRC counsel.

#### Cayman Islands Taxation

The Cayman Islands currently levies no taxes on individuals or corporations based upon profits, income, gains or appreciation and there is no taxation in the nature of inheritance tax or estate duty or withholding tax applicable to us or to any holder of our ADSs and ordinary shares. There are no other taxes likely to be material to us levied by the Government of the Cayman Islands except for stamp duties which may be applicable on instruments executed in, or after execution brought within, the jurisdiction of the Cayman Islands. No stamp duty is payable in the Cayman Islands on the issue of shares by, or any transfers of shares of, Cayman Islands companies (except those which hold interests in land in the Cayman Islands). The Cayman Islands is not party to any double tax treaties that are applicable to any payments made to or by our company. There are no exchange control regulations or currency restrictions in the Cayman Islands.

Payments of dividends and capital in respect of our ADSs and ordinary shares will not be subject to taxation in the Cayman Islands and no withholding will be required on the payment of a dividend or capital to any holder of our ADSs or ordinary shares, as the case may be, nor will gains derived from the disposal of our ADSs or ordinary shares be subject to Cayman Islands income or corporation tax.

## People's Republic of China Taxation

We are a holding company incorporated in the Cayman Islands and we gain substantial income by way of dividends from our PRC subsidiaries. The EIT Law and its implementation rules, both of which became effective on January 1, 2008 and the EIT Law being most recently amended on February 24, 2017, provide that China-sourced income of foreign enterprises, such as dividends paid by a PRC subsidiary to its equity holders that are non-resident enterprises, will normally be subject to PRC withholding tax at a rate of 10%, unless any foreign investor's jurisdiction of incorporation has a tax treaty with China that provides for a lower withholding tax rate for which the foreign investor is eligible.

Under the EIT Law, an enterprise established outside of China with a "de facto management body" within China is considered a "resident enterprise," which means that it is treated in the same manner as a Chinese enterprise for enterprise income tax purposes. Although the implementation rules of the EIT Law define "de facto management body" as a managing body that exercises substantive and overall management and control over the production and business, personnel, accounting books and assets of an enterprise, the only official guidance for this definition currently available is set forth in Circular 82 issued by the State Administration of Taxation, which provides guidance on the determination of the tax residence status of a Chinese-controlled offshore incorporated enterprise, defined as an enterprise that is incorporated under the laws of a foreign country or territory and that has a PRC enterprise or enterprise group as its primary controlling shareholder. Although Alibaba Group Holding Limited does not have a PRC enterprise or enterprise group as our primary controlling shareholder and is therefore not a Chinese-controlled offshore incorporated enterprise within the meaning of Circular 82, in the absence of guidance specifically applicable to us, we have applied the guidance set forth in Circular 82 to evaluate the tax residence status of Alibaba Group Holding Limited and its subsidiaries outside the PRC.

According to Circular 82, a Chinese-controlled offshore incorporated enterprise will be regarded as a PRC tax resident by virtue of having a "de facto management body" in China and will be subject to PRC enterprise income tax on its worldwide income only if all of the following criteria are met:

- the primary location of the day-to-day operational management is in the PRC;
- decisions relating to the enterprise's financial and human resource matters are made or are subject to approval by organizations or personnel in the PRC;
- the enterprise's primary assets, accounting books and records, company seals, and board and shareholders meeting minutes are located or maintained in the PRC; and
- 50% or more of voting board members or senior executives habitually reside in the PRC.

We do not believe that we meet any of the conditions outlined in the immediately preceding paragraph. Alibaba Group Holding Limited and its offshore subsidiaries are incorporated outside the PRC. As a holding company, our key assets and records, including the resolutions and meeting minutes of our board of directors and the resolutions and meeting minutes of our shareholders, are located and maintained outside the PRC. In addition, we are not aware of any offshore holding companies with a corporate structure similar to ours that has been deemed a PRC "resident enterprise" by the PRC tax authorities. Accordingly, we believe that Alibaba Group Holding Limited and our offshore subsidiaries should not be treated as a "resident enterprise" for PRC tax purposes if the criteria for "de facto management body" as set forth in Circular 82 were deemed applicable to us. However, as the tax residency status of an enterprise is subject to determination by the PRC tax authorities and uncertainties remain with respect to the interpretation of the term "de facto management body" as applicable to our offshore entities, we will continue to monitor our tax status.

The implementation rules of the EIT Law provide that, (i) if the enterprise that distributes dividends is domiciled in the PRC or (ii) if gains are realized from transferring equity interests of enterprises domiciled in the PRC, then the dividends or capital gains are treated as China-sourced income. It is not clear how "domicile" may be interpreted under the EIT Law, and it may be interpreted as the jurisdiction where the enterprise is a tax resident. Therefore, if we are considered a PRC tax resident enterprise for PRC tax purposes, any dividends we

pay to our overseas shareholders or ADS holders which are non-resident enterprises as well as gains realized by those shareholders or ADS holders from the transfer of our shares or ADSs may be regarded as China-sourced income and as a result become subject to PRC withholding tax at a rate of 10%, unless any of the non-resident enterprises' jurisdictions has a tax treaty with China that provides for a preferential treatment.

Furthermore, if we are considered a PRC resident enterprise and the competent PRC tax authorities consider dividends we pay with respect to our shares or ADSs and the gains realized from the transfer of our shares or ADSs to be income derived from sources within the PRC, the dividends we pay to our overseas shareholders or ADS holders who are non-resident individuals, and gains realized by those shareholders or ADS holders from the transfer of our shares or ADSs, may be subject to PRC individual income tax at a rate of 20%, unless any of the non-resident individuals' jurisdictions has a tax treaty with China that provides for a preferential tax rate or a tax exemption. It is also unclear whether, if we are considered a PRC resident enterprise, holders of our shares or ADSs would be able to claim the benefit of income tax treaties or agreements entered into between China and other countries or areas.

See "Item 3. Key Information — D. Risk Factors — Risks Related to Doing Business in the People's Republic of China — We may be treated as a resident enterprise for PRC tax purposes under the PRC Enterprise Income Tax Law, and we may therefore be subject to PRC income tax on our global income." and "Item 3. Key Information — D. Risk Factors — Risks Related to Doing Business in the People's Republic of China — Dividends payable to foreign investors and gains on the sale of our ADSs or ordinary shares by our foreign investors may become subject to PRC taxation."

### **Material United States Federal Income Tax Considerations**

The following summary describes the material United States federal income tax consequences of the ownership of our ordinary shares and ADSs as of the date of this annual report. The discussion set forth below is applicable only to United States Holders. Except where noted, this summary deals only with ordinary shares and ADSs held as capital assets. As used herein, the term "United States Holder" means a beneficial owner of an ordinary share or ADS that is for United States federal income tax purposes:

- an individual citizen or resident of the United States;
- a corporation (or other entity treated as a corporation for United States federal income tax purposes) created or organized in or under the laws of the United States, any state thereof or the District of Columbia;
- an estate the income of which is subject to United States federal income taxation regardless of its source; or
- a trust if it is subject to the primary supervision of a court within the United States and one or more United States persons has or have the authority to control all substantial decisions of the trust, or if it has a valid election in effect under applicable United States Treasury regulations to be treated as a United States person.

This summary does not represent a detailed description of the United States federal income tax consequences applicable to you if you are subject to special treatment under the United States federal income tax laws, including if you are:

- a dealer in securities or currencies;
- a financial institution;
- a regulated investment company;
- a real estate investment trust;
- an insurance company;
- a tax-exempt organization;

- a person holding our ordinary shares or ADSs as part of a hedging, integrated or conversion transaction, a constructive sale or a straddle;
- a trader in securities that has elected the mark-to-market method of accounting for your securities;
- a person liable for alternative minimum tax;
- a person who owns or is deemed to own 10% or more of our stock (by vote or value);
- a person required to accelerate the recognition of any item of gross income with respect to our ordinary shares or ADSs as a result of such income being recognized on an applicable financial statement;
- a partnership or other pass-through entity for United States federal income tax purposes; or
- a person whose "functional currency" is not the U.S. dollar.

The discussion below is based upon the provisions of the Internal Revenue Code of 1986, as amended, or the Code, and regulations, rulings and judicial decisions thereunder as of the date of this annual report, and the relevant authorities may be replaced, revoked or modified so as to result in United States federal income tax consequences different from those discussed below. In addition, this summary is based, in part, upon representations made by the depository to us and assumes that the deposit agreement, and all other related agreements, will be performed in accordance with their terms.

If a partnership holds our ordinary shares or ADSs, the tax treatment of a partner will generally depend upon the status of the partner and the activities of the partnership. If you are a partner of a partnership holding our ordinary shares or ADSs, you should consult your tax advisors.

This summary does not contain a detailed description of all the United States federal income tax consequences to you in light of your particular circumstances and does not address the Medicare tax on net investment income, or the effects of any state, local or non-United States tax laws. If you are considering the purchase, ownership or disposition of our ordinary shares or ADSs, you should consult your own tax advisors concerning the United States federal income tax consequences to you in light of your particular situation as well as any consequences arising under the laws of any other taxing jurisdiction.

#### ***ADSs***

If you hold ADSs, for United States federal income tax purposes, you generally will be treated as the owner of the underlying ordinary shares that are represented by the ADSs. Accordingly, deposits or withdrawals of ordinary shares for ADSs will not be subject to United States federal income tax.

#### ***Taxation of Dividends***

Subject to the discussion under "— Passive Foreign Investment Company" below, the gross amount of distributions on the ADSs or ordinary shares (including any amounts withheld to reflect PRC withholding taxes) will be taxable as dividends, to the extent paid out of our current or accumulated earnings and profits, as determined under United States federal income tax principles. The income (including withheld taxes) will be includable in your gross income as ordinary income on the day actually or constructively received by you, in the case of the ordinary shares, or by the depository, in the case of ADSs. The dividends will not be eligible for the dividends received deduction allowed to corporations under the Code. The following discussion assumes that all dividends will be paid in U.S. dollars.

With respect to non-corporate United States investors, certain dividends received from a qualified foreign corporation may be subject to reduced rates of taxation. A foreign corporation is treated as a qualified foreign corporation with respect to dividends received from that corporation on ordinary shares (or ADSs backed by such shares) that are readily tradable on an established securities market in the United States. United States Treasury Department guidance indicates that our ADSs (which are listed on the New York Stock Exchange) are readily tradable on an established securities market in the United States. Thus, we believe that dividends we pay on our

ordinary shares that are represented by ADSs will meet the conditions required for the reduced tax rates. Since we do not expect that our ordinary shares will be listed on an established securities market in the United States, we do not believe that dividends that we pay on our ordinary shares that are not represented by ADSs currently meet the conditions required for these reduced tax rates. There can be no assurance that our ADSs will be considered readily tradable on an established securities market in subsequent years. A qualified foreign corporation also includes a foreign corporation that is eligible for the benefits of certain income tax treaties with the United States. In the event that we were deemed to be a PRC resident enterprise under the EIT Law, although no assurance can be given, we might be eligible for the benefits of the income tax treaty between the United States and the PRC, which is hereinafter referred to as the Treaty, and if we were eligible for such benefits, dividends we pay on our ordinary shares, regardless of whether the shares are represented by ADSs, would be eligible for the reduced rates of taxation. See "— People's Republic of China Taxation." Non-corporate United States Holders that do not meet a minimum holding period requirement during which they are not protected from the risk of loss or that elect to treat the dividend income as "investment income" pursuant to Section 163(d)(4) of the Code will not be eligible for the reduced rates of taxation regardless of our status as a qualified foreign corporation. In addition, the rate reduction will not apply to dividends if the recipient of a dividend is obligated to make related payments with respect to positions in substantially similar or related property. This disallowance applies even if the minimum holding period has been met. You should consult your own tax advisors regarding the application of these rules given your particular circumstances.

Non-corporate United States Holders will not be eligible for reduced rates of taxation on any dividends received from us if we are a PFIC in the taxable year in which the dividends are paid or in the preceding taxable year. See "— Passive Foreign Investment Company" below.

In the event that we were deemed to be a PRC resident enterprise under the EIT Law, you might be subject to PRC withholding taxes on dividends paid to you with respect to the ADSs or ordinary shares. See "— People's Republic of China Taxation." In that case, subject to certain conditions and limitations, PRC withholding taxes on dividends would be treated as foreign taxes eligible for credit against your United States federal income tax liability. For purposes of calculating the foreign tax credit, dividends paid on the ADSs or ordinary shares will be treated as foreign-source income and will generally constitute passive category income. However, in certain circumstances, if you have held the ADSs or ordinary shares for less than a specified minimum period during which you are not protected from risk of loss, or are obligated to make payments related to the dividends, you will not be allowed a foreign tax credit for any PRC withholding taxes imposed on dividends paid on the ADSs or ordinary shares. If you are eligible for Treaty benefits, any PRC taxes on dividends will not be creditable against your United States federal income tax liability to the extent withheld at a rate exceeding the applicable Treaty rate. The rules governing the foreign tax credit are complex. You are urged to consult your tax advisor regarding the availability of the foreign tax credit under your particular circumstances.

To the extent that the amount of any distribution exceeds our current and accumulated earnings and profits for a taxable year, as determined under United States federal income tax principles, the distribution will first be treated as a tax-free return of capital, causing a reduction in the adjusted basis of the ADSs or ordinary shares (thereby increasing the amount of gain, or decreasing the amount of loss, to be recognized by you on a subsequent disposition of the ADSs or ordinary shares), and the balance in excess of adjusted basis will be taxed as capital gain recognized on a sale or exchange, as described below under "— Taxation of Capital Gains." Consequently, any distributions in excess of our current and accumulated earnings and profits would generally not give rise to foreign source income and you would generally not be able to use the foreign tax credit arising from any PRC withholding tax imposed on those distributions unless the credit can be applied (subject to applicable limitations) against United States federal income tax due on other foreign source income in the appropriate category for foreign tax credit purposes. However, we do not expect to keep earnings and profits in accordance with United States federal income tax principles. Therefore, you should expect that a distribution will generally be treated as a dividend (as discussed above).

Distributions of ADSs, ordinary shares or rights to subscribe for ordinary shares that are received as part of a pro rata distribution to all of our shareholders generally will not be subject to United States federal income tax.

Consequently, these distributions generally will not give rise to foreign source income and you generally will not be able to use the foreign tax credit arising from any PRC withholding tax imposed on the distributions unless the credit can be applied (subject to applicable limitations) against United States federal income tax due on other foreign source income in the appropriate category for foreign tax credit purposes.

***Passive Foreign Investment Company***

Based on the projected composition of our income and assets and the valuation of our assets, including goodwill, we do not expect to be a PFIC for our current taxable year, and we do not expect to become one in the future, although there can be no assurance in this regard.

In general, we will be a PFIC for any taxable year in which:

- at least 75% of our gross income is passive income; or
- at least 50% of the value (determined on a quarterly basis) of our assets is attributable to assets that produce or are held for the production of passive income.

For this purpose, passive income generally includes dividends, interest, royalties and rents (other than royalties and rents derived in the active conduct of a trade or business and not derived from a related person). If we own at least 25% (by value) of the stock of another corporation, we will be treated, for purposes of the PFIC tests, as owning our proportionate share of the other corporation's assets and receiving our proportionate share of the other corporation's income. Although we do not expect to be a PFIC, it is not entirely clear how the contractual arrangements between us and our variable interest entities will be treated for purposes of the PFIC rules. If it were determined that we do not own the stock of our variable interest entities for United States federal income tax purposes (for instance, because the relevant PRC authorities do not respect these arrangements), we may be treated as a PFIC.

The determination of whether we are a PFIC is made annually. Accordingly, it is possible that we may become a PFIC in the current or any future taxable year due to changes in our asset or income composition. Because we have valued our goodwill based on the market value of our ADSs, a decrease in the price of our ADSs may also result in our becoming a PFIC. If we are a PFIC for any taxable year during which you hold our ADSs or ordinary shares, you will be subject to special tax rules discussed below.

If we are a PFIC for any taxable year during which you hold our ADSs or ordinary shares and you do not make a timely mark-to-market election (as discussed below), you will be subject to special tax rules with respect to any "excess distribution" received and any gain realized from a sale or other disposition, including a pledge, of ADSs or ordinary shares. Distributions received in a taxable year that are greater than 125% of the average annual distributions received during the shorter of the three preceding taxable years or your holding period for the ADSs or ordinary shares will be treated as excess distributions. Under these special tax rules:

- the excess distribution or gain will be allocated ratably over your holding period for the ADSs or ordinary shares;
- the amount allocated to the current taxable year, and any taxable year prior to the first taxable year in which we were a PFIC, will be treated as ordinary income; and
- the amount allocated to each other year will be subject to tax at the highest tax rate in effect for that year and the interest charge generally applicable to underpayments of tax will be imposed on the resulting tax attributable to each relevant year.

In addition, non-corporate United States Holders will not be eligible for reduced rates of taxation on any dividends received from us if we are a PFIC in the taxable year in which the dividends are paid or in the preceding taxable year. You will generally be required to file Internal Revenue Service Form 8621 if you hold our ADSs or ordinary shares in any year in which we are classified as a PFIC.



If we were a PFIC for any taxable year during which you hold our ADSs or ordinary shares and any of our non-United States subsidiaries was also a PFIC, a United States Holder would be treated as owning a proportionate amount (by value) of the shares of the lower-tier PFIC for purposes of the application of these rules. You are urged to consult your tax advisors about the application of the PFIC rules to any of our subsidiaries.

In certain circumstances, in lieu of being subject to the excess distribution rules discussed above, you may make an election to include gain on the stock of a PFIC as ordinary income under a mark-to-market method, provided that the stock is regularly traded on a qualified exchange. Under current law, the mark-to-market election may be available to United States Holders of ADSs since the ADSs are listed on the New York Stock Exchange, which constitutes a qualified exchange, provided the ADSs are "regularly traded" for purposes of the mark-to-market election (for which no assurance can be given). It should also be noted that only the ADSs and not the ordinary shares are listed on the New York Stock Exchange. Consequently, if you are a United States Holder of ordinary shares that are not represented by ADSs, you generally will not be eligible to make a mark-to-market election if we are or were to become a PFIC.

If you make an effective mark-to-market election, you will include in each year that we are a PFIC as ordinary income the excess of the fair market value of your ADSs at the end of the year over your adjusted tax basis in the ADSs. You will be entitled to deduct as an ordinary loss in each relevant year the excess of your adjusted tax basis in the ADSs over their fair market value at the end of the year, but only to the extent of the net amount previously included in income as a result of the mark-to-market election. If you make an effective mark-to-market election, in each year that we are a PFIC any gain you recognize upon the sale or other disposition of your ADSs will be treated as ordinary income and any loss will be treated as ordinary loss, but only to the extent of the net amount previously included in income as a result of the mark-to-market election.

Your adjusted tax basis in the ADSs will be increased by the amount of any income inclusion and decreased by the amount of any deductions under the mark-to-market rules. If you make a mark-to-market election it will be effective for the taxable year for which the election is made and all subsequent taxable years unless the ADSs are no longer regularly traded on a qualified exchange or the Internal Revenue Service consents to the revocation of the election. You are urged to consult your tax advisor about the availability of the mark-to-market election, and whether making the election would be advisable in your particular circumstances.

Alternatively, you can sometimes avoid the rules described above by electing to treat a PFIC as a "qualified electing fund" under Section 1295 of the Code. However, this option is not available to you because we do not intend to comply with the requirements necessary to permit you to make this election.

You are urged to consult your tax advisors concerning the United States federal income tax consequences of holding ADSs or ordinary shares if we are considered a PFIC in any taxable year.

### ***Taxation of Capital Gains***

For United States federal income tax purposes, you will recognize taxable gain or loss on any sale or exchange of ADSs or ordinary shares in an amount equal to the difference between the amount realized for the ADSs or ordinary shares and your tax basis in the ADSs or ordinary shares. Subject to the discussion under "— Passive Foreign Investment Company" above, this gain or loss will generally be capital gain or loss. Capital gains of individuals derived with respect to capital assets held for more than one year are eligible for reduced rates of taxation. The deductibility of capital losses is subject to limitations. Any gain or loss recognized by you will generally be treated as United States source gain or loss. However, if we were treated as a PRC resident enterprise for EIT Law purposes and PRC tax were imposed on any gain, and if you are eligible for the benefits of the Treaty, you may elect to treat this gain as PRC source gain under the Treaty. If you are not eligible for the benefits of the Treaty or you fail to make the election to treat any gain as PRC source, then you may not be able to use the foreign tax credit arising from any PRC tax imposed on the disposition of our ADSs or ordinary shares unless the credit can be applied (subject to applicable limitations) against tax due on other income derived from foreign sources. You will be eligible for the benefits of the Treaty if, for purposes of the Treaty, you are a resident of the United States, and you meet other requirements specified in the Treaty. Because the determination of whether you

qualify for the benefits of the Treaty is fact-intensive and depends upon your particular circumstances, you are specifically urged to consult your tax advisors regarding your eligibility for the benefits of the Treaty. You are also urged to consult your tax advisor regarding the tax consequences in case any PRC tax is imposed on gain on a disposition of our ADSs or ordinary shares, including the availability of the foreign tax credit and the election to treat any gain as PRC source, under your particular circumstances.

### ***Information Reporting and Backup Withholding***

In general, information reporting will apply to dividends in respect of our ADSs or ordinary shares and the proceeds from the sale, exchange or redemption of our ADSs or ordinary shares that are paid to you within the United States (and in certain cases, outside the United States), unless you are an exempt recipient. A backup withholding tax may apply to these payments if you fail to provide a taxpayer identification number or certification of other exempt status or, in the case of dividend payments, if you fail to report in full dividend and interest income.

Any amounts withheld under the backup withholding rules will be allowed as a refund or a credit against your United States federal income tax liability provided the required information is furnished to the Internal Revenue Service in a timely manner.

Under the Hiring Incentives to Restore Employment Act of 2010, certain United States Holders are required to report information relating to ADSs or ordinary shares, subject to certain exceptions (including an exception for ADSs or ordinary shares held in accounts maintained by certain financial institutions), by attaching a complete Internal Revenue Service Form 8938, Statement of Specified Foreign Financial Assets, with their tax return for each year in which they hold ADSs or ordinary shares. You are urged to consult your own tax advisors regarding information reporting requirements relating to your ownership of the ADSs or ordinary shares.

### **F. Dividends and Paying Agents**

Not applicable.

### **G. Statement by Experts**

Not applicable.

### **H. Documents on Display**

We have previously filed with the SEC our registration statement on Form F-1 (File No. 333-195736), as amended, with respect to our ordinary shares and ADSs. As allowed by the SEC, in Item 19 of this annual report, we incorporate by reference certain information we previously filed with the SEC. This means that we can disclose important information to you by referring you to another document filed separately with the SEC. The information incorporated by reference is considered to be part of this annual report.

You may read and copy this annual report, including the exhibits incorporated by reference in this annual report, at the SEC's Public Reference Room at 100 F Street, N.E., Washington, D.C. 20549 and at the SEC's regional offices in New York, New York and Chicago, Illinois. You can also request copies of this annual report, including the exhibits incorporated by reference in this annual report, upon payment of a duplicating fee, by writing information on the operation of the SEC's Public Reference Room.

The SEC also maintains a website at [www.sec.gov](http://www.sec.gov) that contains reports and other information regarding registrants that file electronically with the SEC. Our annual report and some of the other information submitted by us to the SEC may be accessed through this website.

As a foreign private issuer, we are exempt from the rules under the Exchange Act prescribing the furnishing and content of quarterly reports and proxy statements, and officers, directors and principal shareholders are exempt from the reporting and short-swing profit recovery provisions contained in Section 16 of the Exchange Act.

In accordance with NYSE Rule 203.01, we will post this annual report on our website [www.alibabagroup.com](http://www.alibabagroup.com). In addition, we will provide hardcopies of our annual report to shareholders, including ADS holders, free of charge upon request.

## **I. Subsidiary Information**

Not applicable.

## **ITEM 11 QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK**

### **Market Risks**

#### ***Interest Rate Risk***

Our main interest rate exposure relates to bank borrowings. We also have interest-bearing assets, including cash and cash equivalents, short-term investments and restricted cash. We manage our interest rate exposure with a focus on reducing our overall cost of debt and exposure to changes in interest rates. When considered appropriate, we use derivatives, such as interest rate swaps, to manage our interest rate exposure.

As of March 31, 2018, approximately 31% of our total debt (including bank borrowings and unsecured senior notes) carries floating interest rates and the remaining 69% carries fixed interest rates. We have entered into various agreements with various financial institutions as counterparties to swap a certain portion of our floating interest rate debt to effectively become fixed interest rate debt. After taking these interest rate swaps into consideration, approximately 21% of our total debt carries floating interest rates and the remaining 79% carries fixed interest rates as of March 31, 2018. All of the aforementioned interest rate derivatives are designated as cash flow hedges and we expect these hedges to be highly effective.

As of March 31, 2017 and 2018, if interest rates increased/decreased by 1%, with all other variables having remained constant, and assuming the amount of interest-bearing assets and debts that bear floating interest were outstanding for the entire respective years, our profit attributable to equity owners would have been RMB1,302 million and RMB1,829 million (US\$292 million) higher/lower, respectively, mainly as a result of higher/lower interest income from our cash and cash equivalents and short-term investments. The analysis does not include floating interest rate debts whose interests are hedged by interest rate swaps.

#### ***Foreign Exchange Risk***

Foreign currency risk arises from future commercial transactions, recognized assets and liabilities and net investments in foreign operations. Although we operate businesses in different countries, most of our revenue-generating transactions, and a majority of our expense-related transactions, are denominated in Renminbi, which is the functional currency of our major operating subsidiaries and the reporting currency of our financial statements. When considered appropriate, we enter into hedging activities with regard to exchange rate risk.

The value of the Renminbi against the U.S. dollar and other currencies may fluctuate and is affected by, among other things, changes in political and economic conditions and the foreign exchange policy adopted by the PRC government. For instance, in August 2015, the PBOC changed the way it calculates the mid-point price of Renminbi against the U.S. dollar, requiring the market-makers who submit for reference rates to consider the previous day's closing spot rate, foreign-exchange demand and supply as well as changes in major currency rates. In 2016 and 2017, the value of the Renminbi depreciated approximately 7.2% and appreciated 6.3% against the U.S. dollar, respectively. From the end of 2017 through the end of June 2018, the value of the Renminbi depreciated by approximately 1.7% against the U.S. dollar. It is difficult to predict how market forces or PRC or U.S. government policy may impact the exchange rate between the Renminbi and the U.S. dollar in the future. There remains significant international pressure on the PRC government to adopt a more flexible currency policy, which could result in greater fluctuations of the Renminbi against the U.S. dollar.

To the extent that we need to convert U.S. dollars into Renminbi for our operations, appreciation of the Renminbi against the U.S. dollar would reduce the Renminbi amount we receive from the conversion. Conversely, if we decide to convert Renminbi into U.S. dollars for the purpose of making payments for dividends on our ordinary shares or ADSs, servicing our outstanding debts, or for other business purposes, appreciation of the U.S. dollar against the Renminbi would reduce the U.S. dollar amounts available to us.

As of March 31, 2017, we had Renminbi-denominated cash and cash equivalents and short-term investments of RMB83,467 million and U.S. dollar-denominated cash and cash equivalents and short-term investments of US\$8,811 million. Assuming we had converted RMB83,467 million into U.S. dollars at the exchange rate of RMB6.8832 for US\$1.00 as of March 31, 2017, our total U.S. dollar cash balance would have been US\$20,937 million. If the Renminbi had depreciated by 10% against the U.S. dollar, our U.S. dollar cash balance would have been US\$19,835 million.

As of March 31, 2018, we had Renminbi-denominated cash and cash equivalents and short-term investments of RMB131,433 million and U.S. dollar-denominated cash and cash equivalents and short-term investments of US\$11,352 million. Assuming we had converted RMB131,433 million into U.S. dollars at the exchange rate of RMB6.2726 for US\$1.00 as of March 31, 2018, our total U.S. dollar cash balance would have been US\$32,305 million. If the Renminbi had depreciated by 10% against the U.S. dollar, our U.S. dollar cash balance would have been US\$30,400 million.

### **Market Price Risk**

We are exposed to market price risk primarily with respect to investment securities, to a lesser extent interest rate swaps and forward exchange contracts, held by us which are reported at fair value. A substantial portion of our investments in equity investees are all held for long-term appreciation or for strategic purposes. All of these are accounted for under cost or equity method and not subject to market price risk. We are not exposed to commodity price risk.

The sensitivity analysis is determined based on the exposure of financial assets at fair value to market price risks related to equity and debt securities at the end of each reporting period. The securities we hold are investment securities accounted for under the fair value option or available-for-sale securities. Their changes in fair values are recorded as income for investment securities accounted for under the fair value option or through equity for available-for-sale securities, respectively. If market prices of the respective instruments held by us had been 1% higher/lower as of March 31, 2017 and March 31, 2018, our investment securities would have been approximately RMB234 million and RMB305 million (US\$49 million) higher/lower, respectively, of which RMB2 million and RMB18 million (US\$3 million) relating to investment securities accounted for under the fair value option would be recognized as income or loss during the respective period.

## **ITEM 12 DESCRIPTION OF SECURITIES OTHER THAN EQUITY SECURITIES**

### **A. Debt Securities**

Not applicable.

### **B. Warrants and Rights**

Not applicable.

### **C. Other Securities**

Not applicable.

**D. American Depositary Shares Fees Paid by Our ADS Holders**

As an ADS holder, you will be required to pay the following service fees to the depositary, Citibank, N.A.:

<u>Persons depositing or withdrawing shares or ADS holders must pay:</u>	<u>For:</u>
Up to US\$5.00 per 100 ADSs (or fraction thereof)	<ul style="list-style-type: none"><li>• Issuance of ADSs upon deposit of Shares (excluding issuances as a result of distributions of ADSs pursuant to (i) stock dividends or other free stock distributions, or (ii) exercise of rights to purchase additional ADSs).</li><li>• Delivery of ordinary shares against surrender of ADSs.</li><li>• Distribution of cash dividends or other cash distributions.</li><li>• Distribution of ADSs pursuant to (i) stock dividends or other free stock distributions, or (ii) exercise of rights to purchase additional ADSs.</li><li>• Distribution of securities other than ADSs or rights to purchase additional ADSs.</li></ul>
Up to US\$5.00 per 100 ADS per calendar year	<ul style="list-style-type: none"><li>• ADS services</li></ul>

As an ADS holder you will also be responsible to pay certain fees and expenses incurred by the depositary and certain taxes and governmental charges such as:

- taxes (including applicable interest and penalties) and other governmental charges;
- fees for the transfer and registration of ordinary shares charged by the registrar and transfer agent for the ordinary shares in the Cayman Islands (i.e., upon deposit and withdrawal of ordinary shares);
- expenses incurred for converting foreign currency into U.S. dollars;
- expenses for cable, telex and fax transmissions and for delivery of securities;
- fees and expenses as are incurred by the depositary in connection with compliance with applicable exchange control regulations; and
- fees and expenses incurred in connection with the delivery or servicing of ordinary shares on deposit.

Depositary fees payable upon the issuance and cancellation of ADSs are typically paid to the depositary bank by the brokers (on behalf of their clients) receiving the newly issued ADSs from the depositary bank and by the brokers (on behalf of their clients) delivering the ADSs to the depositary bank for cancellation. The brokers in turn charge these fees to their clients. Depositary fees payable in connection with distributions of cash or securities to ADS holders and the depositary services fee are charged by the depositary bank to the holders of record of ADSs as of the applicable ADS record date.

The Depositary fees payable for cash distributions are generally deducted from the cash being distributed. In the case of distributions other than cash (i.e., stock dividend, rights), the depositary bank charges the applicable fee to the ADS record date holders concurrent with the distribution. In the case of ADSs registered in the name of the investor (whether certificated or uncertificated in direct registration), the depositary bank sends invoices to the applicable record date ADS holders. In the case of ADSs held in brokerage and custodian accounts (via DTC), the depositary bank generally collects its fees through the systems provided by DTC (whose nominee is the registered holder of the ADSs held in DTC) from the brokers and custodians holding ADSs in their DTC accounts. The brokers and custodians who hold their clients' ADSs in DTC accounts in turn charge their clients' accounts the amount of the fees paid to the depositary banks.

In the event of refusal to pay the depositary fees, the depositary bank may, under the terms of the deposit agreement, refuse the requested service until payment is received or may set off the amount of the depositary fees from any distribution to be made to the ADS holder.

Note that the fees and charges you may be required to pay may vary over time and may be changed by us and by the depositary. You will receive prior notice of these changes.

**Fees and Payments from the Depositary to Us**

Our depositary has agreed to reimburse us for certain expenses we incur that are related to the administration and maintenance of the ADS program. There are limits on the amount of expenses for which the depositary will reimburse us, but the amount of reimbursement available to us is not related to the amounts of fees the depositary collects from investors. The depositary has reimbursed us for any expenses related to the administration and maintenance of the facility in an amount of US\$16.2 million, after deduction of applicable U.S. taxes, for fiscal year 2018.

## PART II

### ITEM 13 DEFAULTS, DIVIDEND ARREARAGES AND DELINQUENCIES

None.

### ITEM 14 MATERIAL MODIFICATIONS TO THE RIGHTS OF SECURITY HOLDERS AND USE OF PROCEEDS

See "Item 10. Additional Information" for a description of the rights of securities holders, which remain unchanged.

### ITEM 15 CONTROLS AND PROCEDURES

#### Evaluation of Disclosure Controls and Procedures

We maintain disclosure controls and procedures designed to provide reasonable assurance that information required to be disclosed in reports filed under the Exchange Act is recorded, processed, summarized and reported within the specified time periods and accumulated and communicated to our management, including our chief executive officer and chief financial officer, as appropriate, to allow timely decisions regarding required disclosure.

Our management, under the supervision and with the participation of our principal executive officer and our principal financial officer, evaluated the effectiveness of our disclosure controls and procedures, as defined in Rules 13a-15(e) or 15d-15(e) promulgated under the Exchange Act, at March 31, 2018. Based on that evaluation, our principal executive officer and principal financial officer have concluded that our disclosure controls and procedures are effective in ensuring that information required to be disclosed in the reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the SEC's rules and forms, and that information required to be disclosed in the reports that we file or submit under the Exchange Act is accumulated and communicated to our management, including our chief executive officer and chief financial officer, to allow timely decisions regarding required disclosure.

#### Management's Annual Report on Internal Control over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act. As required by Rule 13a-15(c) of the Exchange Act, our management conducted an evaluation of our company's internal control over financial reporting as of March 31, 2018 based on the framework in Internal Control — Integrated Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission. Based on this evaluation, our management concluded that our internal control over financial reporting was effective as of March 31, 2018.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness of our internal control over financial reporting to future periods are subject to the risks that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Our independent registered public accounting firm, PricewaterhouseCoopers, has audited the effectiveness of our internal control over financial reporting as of March 31, 2018, as stated in its report, which appears on page F-2 of this annual report.

#### Changes in Internal Control over Financial Reporting

There were no changes in our internal controls over financial reporting that occurred during the period covered by this annual report on Form 20-F that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

**ITEM 16A. AUDIT COMMITTEE FINANCIAL EXPERT**

Our Board of Directors has determined that Mr. Walter Kwauk, an independent director within the meaning of Section 303A of the New York Stock Exchange Listed Company Manual and a member of our audit committee, qualifies as "audit committee financial expert" as defined in Item 16A of Form 20-F.

**ITEM 16B. CODE OF ETHICS**

Our board of directors has adopted a code of ethics that applies to all of our directors, executive officers and employees. We have filed our code of ethics as an exhibit to our registration statement on Form F-1 (File Number 333-195736), as amended, initially filed with the Commission on May 6, 2014. The code is also available on our official website under the investor relations section at [www.alibabagroup.com](http://www.alibabagroup.com).

**ITEM 16C. PRINCIPAL ACCOUNTANT FEES AND SERVICES**

The following table sets forth the aggregate fees by categories specified below in connection with certain professional services rendered by PricewaterhouseCoopers, our principal external auditors, for the periods indicated. We did not pay any other fees to our auditors during the periods indicated below.

	Year ended March 31,	
	2017	2018
	(in thousands of RMB)	
Audit Fees <sup>(1)</sup>	52,315	66,606
Audit-related Fees <sup>(2)</sup>	3,936	7,753
Tax Fees <sup>(3)</sup>	730	753
All Other Fees <sup>(4)</sup>	1,023	5,442
<b>Total</b>	<b>58,004</b>	<b>80,554</b>

- (1) "Audit Fees" represents the aggregate fees billed or to be billed for each of the fiscal years listed for professional services rendered by our principal auditors for the audit of our annual financial statements and assistance with and review of documents filed with the SEC and other statutory and regulatory filings.
- (2) "Audit-related Fees" represents the aggregate fees billed in each of the fiscal years listed for the assurance and related services rendered by our principal auditors that are reasonably related to the performance of the audit or review of our financial statements and not reported under "Audit Fees."
- (3) "Tax Fees" represents the aggregate fees billed in each of the fiscal years listed for the professional tax services rendered by our principal auditors.
- (4) "All Other Fees" represents the aggregate fees billed in each of the fiscal years listed for services rendered by our principal auditors other than services reported under "Audit Fees," "Audit-related Fees" and "Tax Fees."

The policy of our audit committee is to pre-approve all audit and non-audit services provided by PricewaterhouseCoopers, including audit services, audit-related services, tax services and other services as described above, other than those for de minimis services which are approved by the audit committee prior to the completion of the audit.

**ITEM 16D. EXEMPTIONS FROM THE LISTING STANDARDS FOR AUDIT COMMITTEE**

Not applicable.

**ITEM 16E. PURCHASES OF EQUITY SECURITIES BY THE ISSUER AND AFFILIATED PURCHASERS**

On May 18, 2017, we announced the adoption of the 2017 Share Repurchase Program in an aggregate amount of up to US\$6.0 billion over a period of two years. The new program replaced, and cancelled the remaining US\$900 million under, our share repurchase program announced in 2015, or the 2015 Share Repurchase Program.



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In addition, our equity incentive award agreements generally provide that, in the event of a grantee's termination for cause or violation of a non-competition undertaking, we will have the right to repurchase the shares acquired by the grantee, generally at par or the exercise price paid for these shares. See "Item 6. Directors, Senior Management and Employees — B. Compensation — Equity Incentive Plans." In addition, when an employee leaves our company, we repurchase any shares acquired by the employee pursuant to early-exercised but unvested options.

The table below summarizes the repurchases we made in the periods indicated.

<u>Month</u>	<u>Total Number of Ordinary Shares Purchased <sup>(1)</sup></u>	<u>Total Price Paid <sup>(1)</sup> (US\$)</u>	<u>Average Price Paid Per Ordinary Share <sup>(1)</sup> (US\$)</u>	<u>Total Number of Ordinary Shares Purchased as Part of Share Repurchase Program</u>	<u>Approximate Dollar Value of Ordinary Shares that May Yet Be Purchased Under Share Repurchase Program <sup>(2)</sup> (US\$, in millions)</u>
April, 2017	—	—	—	—	900
May 2017	—	—	—	—	6,000
June 2017	—	—	—	—	6,000
July 2017	—	—	—	—	6,000
August 2017	—	—	—	—	6,000
September 2017	—	—	—	—	6,000
October 2017	—	—	—	—	6,000
November 2017	—	—	—	—	6,000
December 2017	—	—	—	—	6,000
January 2018	—	—	—	—	6,000
February 2018	4,871	—	Par value	—	6,000
March 2018	—	—	—	—	6,000

(1) Ordinary shares we repurchased pursuant to our equity incentive award agreements were generally repurchased at par or the exercise price paid by the grantee for these shares.

(2) Our 2017 Share Repurchase Program, which was adopted in May 2017 and replaces, and cancels the remaining US\$900 million under, the 2015 Share Repurchase Program, authorized the repurchase in an aggregate amount of up to US\$6.0 billion over a period of two years.

**ITEM 16F. CHANGE IN REGISTRANT'S CERTIFYING ACCOUNTANT.**

Not applicable.

**ITEM 16G. CORPORATE GOVERNANCE.**

We are a "foreign private issuer" (as such term is defined in Rule 3b-4 under the Exchange Act), and our ADSs, each representing one ordinary share, are listed on the New York Stock Exchange. Under Section 303A of the New York Stock Exchange Listed Company Manual, New York Stock Exchange listed companies that are foreign private issuers are permitted to follow home country practice in lieu of the corporate governance provisions specified by the New York Stock Exchange with limited exceptions. The following summarizes some significant ways in which our corporate governance practices differ from those followed by domestic companies under the listing standards of the New York Stock Exchange.

Under the New York Stock Exchange Listed Company Manual, or the NYSE Manual, U.S. domestic listed companies are required to have a majority independent board, which is not required under the Companies Law of the Cayman Islands, our home country. Currently, our board of directors is composed of eleven members, five of whom are independent directors. In addition, the NYSE Manual requires U.S. domestic listed companies to have a compensation committee and a nominating/corporate governance committee, each composed entirely of independent directors, which are not required under the Companies Law of the Cayman Islands. Currently, our

compensation committee is composed of three members, only two of whom are independent directors. Our nominating and corporate governance committee is composed of three members, only two of whom are independent directors. In addition, the NYSE Manual requires shareholder approval for certain matters, such as requiring that shareholders must be given the opportunity to vote on all equity compensation plans and material revisions to those plans, which is not required under the Cayman Islands law. We intend to comply with the requirements of Cayman Islands law only in determining whether shareholder approval is required.

**ITEM 16H. MINE SAFETY DISCLOSURE.**

Not applicable.

**PART III**

**ITEM 17 FINANCIAL STATEMENTS.**

We have provided financial statements pursuant to Item 18.

**ITEM 18 FINANCIAL STATEMENTS.**

The following financial statements are filed as part of this annual report, together with the report of the independent auditors:

- Report of Independent Registered Public Accounting Firm
- Consolidated Income Statements for the years ended March 31, 2016, 2017 and 2018
- Consolidated Statements of Comprehensive Income for the years ended March 31, 2016, 2017 and 2018
- Consolidated Balance Sheets as of March 31, 2017 and 2018
- Consolidated Statements of Changes in Shareholders' Equity for the years ended March 31, 2016, 2017 and 2018
- Consolidated Statements of Cash Flows for the years ended March 31, 2016, 2017 and 2018
- Notes to the Consolidated Financial Statements

**ITEM 19 EXHIBITS.**

Exhibit Number	Description of Document
1.1 (1)	<a href="#">Form of Amended and Restated Memorandum and Articles of Association of the Registrant as currently in effect</a>
2.1 (2)	Registrant's Form of Ordinary Share Certificate
2.2 (3)	<a href="#">Form of Deposit Agreement between the Registrant, the depository and holders and beneficial holders of American Depositary Shares evidenced by American Depositary Receipts issued thereunder, including the form of American Depositary Receipt</a>
2.3 (3)	<a href="#">Form of American depository receipt evidencing American depository shares (included in Exhibit 2.2)</a>
2.4 (1)	<a href="#">Amended and Restated Registration Rights Agreement among the Registrant and the persons whose names are set out in Schedule I thereto, dated September 18, 2012</a>
2.5 (1)	<a href="#">Voting Agreement by and among the Registrant, Yahoo! Inc., SoftBank Corp., the Management Members as defined therein and certain other shareholders of the Registrant</a>
2.6 (4)	<a href="#">Indenture, dated as of November 28, 2014 between the Registrant and Bank of New York Mellon as Trustee</a>
2.7 (4)	<a href="#">Third Supplemental Indenture, dated as of November 28, 2014 between the Registrant and Bank of New York Mellon as Trustee</a>
2.8 (4)	<a href="#">Fourth Supplemental Indenture, dated as of November 28, 2014 between the Registrant and Bank of New York Mellon as Trustee</a>
2.9 (4)	<a href="#">Fifth Supplemental Indenture, dated as of November 28, 2014 between the Registrant and Bank of New York Mellon as Trustee</a>
2.10 (4)	<a href="#">Sixth Supplemental Indenture, dated as of November 28, 2014 between the Registrant and Bank of New York Mellon as Trustee</a>
2.11 (4)	<a href="#">Form of 2.500% Senior Notes Due 2019 (included in Exhibit 2.7)</a>

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<b>Exhibit Number</b>	<b>Description of Document</b>
2.12 (4)	<a href="#">Form of 3.125% Senior Notes Due 2021 (included in Exhibit 2.8)</a>
2.13 (4)	<a href="#">Form of 3.600% Senior Notes Due 2024 (included in Exhibit 2.9)</a>
2.14 (4)	<a href="#">Form of 4.500% Senior Notes Due 2034 (included in Exhibit 2.10)</a>
2.15	<a href="#">Indenture, dated as of December 6, 2017, between the Registrant and Bank of New York Mellon as Trustee</a>
2.16	<a href="#">First Supplemental Indenture, dated as of December 6, 2017 between the Registrant and Bank of New York Mellon as Trustee</a>
2.17	<a href="#">Second Supplemental Indenture, dated as of December 6, 2017 between the Registrant and Bank of New York Mellon as Trustee</a>
2.18	<a href="#">Third Supplemental Indenture, dated as of December 6, 2017 between the Registrant and Bank of New York Mellon as Trustee</a>
2.19	<a href="#">Fourth Supplemental Indenture, dated as of December 6, 2017 between the Registrant and Bank of New York Mellon as Trustee</a>
2.20	<a href="#">Fifth Supplemental Indenture, dated as of December 6, 2017 between the Registrant and Bank of New York Mellon as Trustee</a>
2.21	<a href="#">Form of 2.800% Senior Notes Due 2023 (included in Exhibit 2.16)</a>
2.22	<a href="#">Form of 3.400% Senior Notes Due 2027 (included in Exhibit 2.17)</a>
2.23	<a href="#">Form of 4.000% Senior Notes Due 2037 (included in Exhibit 2.18)</a>
2.24	<a href="#">Form of 4.200% Senior Notes Due 2047 (included in Exhibit 2.19)</a>
2.25	<a href="#">Form of 4.400% Senior Notes Due 2057 (included in Exhibit 2.20)</a>
2.26 (8)	<a href="#">Amendment to the Amended and Restated Registration Rights Agreement among the Registrant and the persons whose names are set out in Schedule I thereto, dated January 24, 2018</a>
4.1 (1)	<a href="#">2011 Equity Incentive Plan of the Registrant</a>
4.2 (1)	<a href="#">Senior Management Equity Incentive Plan</a>
4.3 (1)	<a href="#">Partner Capital Investment Plan</a>
4.4 (1)	<a href="#">Form of Indemnification Agreement between the Registrant and its directors and executive officers</a>
4.5 (1)	<a href="#">Form of Employment Agreement between the Registrant and its executive officers</a>
4.6 (1)	<a href="#">English translation of Loan Agreements entered into by and among Jack Ma, Simon Xie and Taobao (China) Software Co., Ltd., dated January 1, 2009, as amended on October 11, 2010 and March 13, 2013</a>
4.7 (1)	<a href="#">English translation of Exclusive Call Option Agreement entered into by and among Jack Ma, Simon Xie, Taobao (China) Software Co., Ltd. and Zhejiang Taobao Network Co., Ltd., dated January 21, 2009</a>
4.8 (1)	<a href="#">English translation of Proxy Agreement entered into by and among Jack Ma, Simon Xie, Taobao (China) Software Co., Ltd. and Zhejiang Taobao Network Co., Ltd., dated January 21, 2009</a>
4.9 (1)	<a href="#">English translation of Equity Pledge Agreements entered into by and among Jack Ma, Simon Xie, Taobao (China) Software Co., Ltd. and Zhejiang Taobao Network Co., Ltd., dated January 21, 2009, as amended on March 13, 2013</a>
4.10 (1)	<a href="#">English translation of Exclusive Technical Services Agreement entered into by and between Taobao (China) Software Co., Ltd. and Zhejiang Taobao Network Co., Ltd., dated January 21, 2009</a>

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<b>Exhibit Number</b>	<b>Description of Document</b>
4.11 (1)	<a href="#"><u>Commercial Agreement by and among the Registrant, Zhejiang Alibaba E-Commerce Co., Ltd. and Alipay.com Co., Ltd., dated July 29, 2011</u></a>
4.12 (1)	<a href="#"><u>Amendment to Commercial Agreement by and among the Registrant, Zhejiang Alibaba E-Commerce Co., Ltd. and Alipay.com Co., Ltd., dated December 14, 2011</u></a>
4.13 (4)	<a href="#"><u>English Translation of Loan Agreement between Simon Xie and Taobao (China) Software Co., Ltd., dated April 22, 2015</u></a>
4.14	<a href="#"><u>Schedules of Material Differences of Contractual Arrangements of Material Variable Interest Entities of the Registrant</u></a>
4.15 (1)	<a href="#"><u>Share and Asset Purchase Agreement by and among the Registrant, Zhejiang Ant Small and Micro Financial Services Group Co., Ltd., Yahoo! Inc., SoftBank Corp. and the other Parties named therein, dated August 12, 2014</u></a>
4.16 (1)	<a href="#"><u>Second Amendment to Commercial Agreement by and among the Registrant, Zhejiang Ant Small and Micro Financial Services Group Co., Ltd. (formerly known as Zhejiang Alibaba E-Commerce Co., Ltd.) and Alipay.com Co., Ltd., dated August 12, 2014</u></a>
4.17 (1)	<a href="#"><u>Amended and Restated Intellectual Property License and Software Technology Services Agreement by and among the Registrant, Zhejiang Ant Small and Micro Financial Services Group Co., Ltd. and Alipay.com Co., Ltd., dated August 12, 2014</u></a>
4.18 (1)	<a href="#"><u>Data Sharing Agreement by and between the Registrant and Zhejiang Ant Small and Micro Financial Services Group Co., Ltd., dated August 12, 2014</u></a>
4.19 (1)	<a href="#"><u>English Translation of Software System Use and Service Agreement between Alibaba (China) Co., Ltd. and Chongqing Alibaba Small Loan Co. Ltd., dated August 12, 2014</u></a>
4.20 (1)	<a href="#"><u>Form of 2014 Post-IPO Equity Incentive Plan</u></a>
4.21 (1)	<a href="#"><u>Form of Share Retention Agreement between the Registrant and certain members of management</u></a>
4.22 (4)	<a href="#"><u>English Translation of Pledge Agreement between ICBC Credit Suisse Investment Management Co., Ltd. and Taobao (China) Software Co., Ltd., dated May 28, 2015</u></a>
4.23 (5)	<a href="#"><u>US\$3,000,000,000 Facility Agreement between the Registrant and other parties named therein, dated March 9, 2016</u></a>
4.24 (5)	<a href="#"><u>Syndication and Amendment Agreement, dated May 3, 2016, in respect of a US\$3,000,000,000 Facility Agreement dated March 9, 2016</u></a>
4.25	<a href="#"><u>US\$5,150,000,000 Facility Agreement between the Registrant and other parties named therein, dated April 7, 2017</u></a>
4.26	<a href="#"><u>English translation of Loan Agreement, between Hangzhou Zhenxi Investment Management Co., Ltd. and Zhejiang Tmall Technology Co., Ltd., dated January 10, 2018</u></a>
4.27	<a href="#"><u>English translation of Exclusive Call Option Agreement entered into by and among Hangzhou Zhenxi Investment Management Co., Ltd., Zhejiang Tmall Technology Co., Ltd. and Zhejiang Tmall Network Co., Ltd., dated January 10, 2018</u></a>
4.28	<a href="#"><u>English translation of Shareholder's Voting Rights Proxy Agreement entered into by and among Hangzhou Zhenxi Investment Management Co., Ltd., Zhejiang Tmall Technology Co., Ltd. and Zhejiang Tmall Network Co., Ltd., dated January 10, 2018</u></a>
4.29	<a href="#"><u>English translation of Equity Pledge Agreement entered into by and among Hangzhou Zhenxi Investment Management Co., Ltd., Zhejiang Tmall Technology Co., Ltd. and Zhejiang Tmall Network Co., Ltd., dated January 10, 2018</u></a>

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<b>Exhibit Number</b>	<b>Description of Document</b>
4.30	<a href="#">English translation of Exclusive Services Agreement entered into between Zhejiang Tmall Network Co., Ltd. and Zhejiang Tmall Technology Co., Ltd., dated January 10, 2018</a>
4.31 (7)	<a href="#">Amendment to Share and Asset Purchase Agreement by and among the Registrant, Ant Small and Micro Financial Services Group Co., Ltd. (formerly known as Zhejiang Alibaba E-Commerce Co., Ltd.), SoftBank Group Corp., Jack Ma, Joseph C. Tsai, and the other Parties named therein, dated February 1, 2018</a>
4.32 (7)	<a href="#">Amended and Restated Commercial Agreement by and among the Registrant, Zhejiang Ant Small and Micro Financial Services Group Co., Ltd. (formerly known as Zhejiang Alibaba E-Commerce Co., Ltd.) and Alipay.com Co., Ltd., dated February 1, 2018</a>
4.33	<a href="#">Subscription Agreement by and between Cainiao Smart Logistics Network Limited and Ali CN Investment Holding Limited, dated September 25, 2017</a>
4.34	<a href="#">Share Purchase Agreement relating to the sale and purchase of shares in A-RT Retail Holdings Limited between Concord Greater China Limited and Taobao China Holding Limited, dated November 20, 2017</a>
4.35	<a href="#">Share Purchase Agreement relating to the sale and purchase of shares in Sun Art Retail Group Limited between Concord Greater China Limited and Taobao China Holding Limited, dated November 20, 2017</a>
4.36	<a href="#">Share Purchase Agreement relating to the sale and purchase of shares in A-RT Retail Holdings Limited between Kofu International Limited and Taobao China Holding Limited, dated November 20, 2017</a>
4.37	<a href="#">Share Purchase Agreement relating to the sale and purchase of shares in Sun Art Retail Group Limited between Kofu International Limited and Taobao China Holding Limited, dated November 20, 2017</a>
4.38	<a href="#">Share Purchase Agreement by and among Ali Panini Investment Limited, Ali Panini Investment Holding Limited, Rajax Holding and the other parties named therein, dated April 2, 2018</a>
4.39	<a href="#">Share Purchase Agreement between Alibaba Health Information Technology Limited and Ali JK Nutritional Products Holding Limited, dated May 28, 2018</a>
4.40 (9)	<a href="#">Share Purchase Agreement among ZTO Express (Cayman) Inc., Taobao China Holding Limited, Cainiao Smart Logistics Investment Limited and the other parties named therein, dated May 29, 2018</a>
4.41	<a href="#">Share Purchase Agreement by and among Alibaba Investment Limited, New Retail Strategic Opportunities Fund, L.P. and Giovanna Investment Cayman Limited, dated July 16, 2018</a>
4.42	<a href="#">Share Purchase Agreement by and among Alibaba Investment Limited, New Retail Strategic Opportunities Fund, L.P., Gio2 Cayman Holdings Ltd and Gio2 Hong Kong Holdings Limited, dated July 16, 2018</a>
4.43	<a href="#">Share Transfer Agreement between Power Star Holdings (Hong Kong) Limited and Glossy City (HK) Limited and Alibaba (China) Technology Co., Ltd., dated July 17, 2018</a>
8.1	<a href="#">Significant Subsidiaries and Consolidated Entities of the Registrant</a>
11.1 (1)	<a href="#">Code of Ethics of the Registrant</a>
12.1	<a href="#">Principal Executive Officer Certification Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002</a>
12.2	<a href="#">Principal Financial Officer Certification Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002</a>
13.1 (6)	<a href="#">Principal Executive Officer Certification Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002</a>
13.2 (6)	<a href="#">Principal Financial Officer Certification Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002</a>

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<b>Exhibit Number</b>	<b>Description of Document</b>
15.1	<a href="#">Consent of PricewaterhouseCoopers — Independent Registered Public Accounting Firm</a>
15.2	<a href="#">Consent of Fangda Partners</a>
15.3	<a href="#">Consent of Maples and Calder (Hong Kong) LLP</a>
101.INS	XBRL Instance Document
101.SCH	XBRL Taxonomy Extension Schema Document
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document
101.LAB	XBRL Taxonomy Extension Label Linkbase Document
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document

- (1) Previously filed with the Registration Statement on Form F-1 (File No. 333-195736), initially filed on May 6, 2014 and incorporated herein by reference.
- (2) No exhibit to be filed as the Company does not issue physical ordinary share certificates.
- (3) Previously filed with the Registration Statement on Form F-6 (File No. 333-198401), dated August 27, 2014 and incorporated herein by reference.
- (4) Previously filed with our Annual Report on Form 20-F for the Fiscal Year Ended on March 31, 2015 (File No. 001-36614), filed on June 25, 2015 and incorporated herein by reference.
- (5) Previously filed with our Annual Report on Form 20-F for the Fiscal Year Ended on March 31, 2016 (File No. 001-36614), filed on May 24, 2016 and incorporated herein by reference.
- (6) Furnished with this annual report on Form 20-F
- (7) Previously filed on Form 6-K, dated February 2, 2018 and incorporated herein by reference.
- (8) Previously filed on Form 6-K, dated February 26, 2018 and incorporated herein by reference.
- (9) Previously filed on Schedule 13D, dated June 21, 2018 and incorporated herein by reference.

**SIGNATURES**

The registrant hereby certifies that it meets all of the requirements for filing on Form 20-F and that it has duly caused and authorized the undersigned to sign this annual report on its behalf.

**Alibaba Group Holding Limited**

By: /s/ DANIEL YONG ZHANG

\_\_\_\_\_  
Name: Daniel Yong Zhang  
Title: Chief Executive Officer

Date: July 27, 2018

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**ALIBABA GROUP HOLDING LIMITED**

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## Report of Independent Registered Public Accounting Firm

To the Board of Directors and Shareholders of Alibaba Group Holding Limited

### ***Opinions on the Financial Statements and Internal Control over Financial Reporting***

We have audited the accompanying consolidated balance sheets of Alibaba Group Holding Limited and its subsidiaries (the "Company") as of March 31, 2017 and 2018, and the related consolidated income statements, consolidated statements of comprehensive income, changes in shareholders' equity and cash flows for each of the three years in the period ended March 31, 2018, including the related notes (collectively referred to as the "consolidated financial statements"). We also have audited the Company's internal control over financial reporting as of March 31, 2018, based on criteria established in *Internal Control — Integrated Framework* (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of the Company as of March 31, 2017 and 2018, and the results of their operations and their cash flows for each of the three years in the period ended March 31, 2018 in conformity with accounting principles generally accepted in the United States of America. Also in our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of March 31, 2018, based on criteria established in *Internal Control — Integrated Framework* (2013) issued by the COSO.

### ***Basis for Opinions***

The Company's management is responsible for these consolidated financial statements, for maintaining effective internal control over financial reporting, and for its assessment of the effectiveness of internal control over financial reporting, included in Management's Annual Report on Internal Control over Financial Reporting appearing under Item 15. Our responsibility is to express opinions on the Company's consolidated financial statements and on the Company's internal control over financial reporting based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) ("PCAOB") and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud, and whether effective internal control over financial reporting was maintained in all material respects.

Our audits of the consolidated financial statements included performing procedures to assess the risks of material misstatement of the consolidated financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements. Our audit of internal control over financial reporting included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audits also included performing such other procedures as we considered necessary in the circumstances. We believe that our audits provide a reasonable basis for our opinions.

### ***Definition and Limitations of Internal Control over Financial Reporting***

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in

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accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

/s/ PricewaterhouseCoopers

PricewaterhouseCoopers  
Hong Kong, July 27, 2018

We have served as the Company's auditor since 1999.

**ALIBABA GROUP HOLDING LIMITED**  
**CONSOLIDATED INCOME STATEMENTS**

	Notes	Year ended March 31,			
		2016	2017	2018	
		RMB	RMB	RMB	US\$
		(Note 2(a))			
		(in millions, except per share data)			
<b>Revenue</b>	5, 21	101,143	158,273	250,266	39,898
Cost of revenue	21	(34,355)	(59,483)	(107,044)	(17,065)
Product development expenses	21	(13,788)	(17,060)	(22,754)	(3,628)
Sales and marketing expenses	21	(11,307)	(16,314)	(27,299)	(4,352)
General and administrative expenses	21	(9,205)	(12,239)	(16,241)	(2,589)
Amortization of intangible assets	15	(2,931)	(5,122)	(7,120)	(1,135)
Impairment of goodwill	16	(455)	—	(494)	(79)
<b>Income from operations</b>		29,102	48,055	69,314	11,050
Interest and investment income, net		52,254	8,559	30,495	4,862
Interest expense		(1,946)	(2,671)	(3,566)	(568)
Other income, net	6, 21	2,058	6,086	4,160	663
<b>Income before income tax and share of results of equity investees</b>		81,468	60,029	100,403	16,007
Income tax expenses	7	(8,449)	(13,776)	(18,199)	(2,901)
Share of results of equity investees	13	(1,730)	(5,027)	(20,792)	(3,315)
<b>Net income</b>		71,289	41,226	61,412	9,791
Net loss attributable to noncontrolling interests		171	2,449	2,681	427
<b>Net income attributable to Alibaba Group Holding Limited</b>		71,460	43,675	64,093	10,218
Accretion of mezzanine equity		—	—	(108)	(17)
<b>Net income attributable to ordinary shareholders</b>		71,460	43,675	63,985	10,201
<b>Earnings per share/ADS attributable to ordinary shareholders</b>	9				
Basic		29.07	17.52	25.06	4.00
Diluted		27.89	16.97	24.51	3.91
<b>Weighted average number of shares/ADSs used in computing earnings per share/ADS (million shares)</b>	9				
Basic		2,458	2,493	2,553	
Diluted		2,562	2,573	2,610	

The accompanying notes form an integral part of these consolidated financial statements.

**ALIBABA GROUP HOLDING LIMITED**  
**CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME**

	Year ended March 31,			
	2016	2017	2018	
	RMB	RMB	RMB	US\$
	(in millions)			
	(Note 2(a))			
<b>Net income</b>	<u>71,289</u>	<u>41,226</u>	<u>61,412</u>	<u>9,791</u>
<b>Other comprehensive income (loss):</b>				
- Foreign currency translation:				
Change in unrealized gains (losses)	312	(2,191)	(805)	(128)
Reclassification adjustment for losses recorded in net income	21	44	—	—
Net change	<u>333</u>	<u>(2,147)</u>	<u>(805)</u>	<u>(128)</u>
- Available-for-sale securities:				
Change in unrealized gains	2,278	8,911	769	123
Reclassification adjustment for (gains) losses recorded in net income	(422)	(5,764)	57	9
Tax effect	(488)	(1,042)	385	61
Net change	<u>1,368</u>	<u>2,105</u>	<u>1,211</u>	<u>193</u>
- Share of other comprehensive income of equity method investees:				
Change in unrealized gains (losses)	65	780	(930)	(148)
- Interest rate swaps under hedge accounting:				
Change in unrealized gains	—	433	143	23
- Forward exchange contracts under hedge accounting:				
Change in unrealized (losses) gains	(168)	169	(85)	(14)
Other comprehensive income (loss)	<u>1,598</u>	<u>1,340</u>	<u>(466)</u>	<u>(74)</u>
<b>Total comprehensive income</b>	<u>72,887</u>	<u>42,566</u>	<u>60,946</u>	<u>9,717</u>
Total comprehensive loss attributable to noncontrolling interests	102	389	2,215	353
<b>Total comprehensive income attributable to ordinary shareholders</b>	<u>72,989</u>	<u>42,955</u>	<u>63,161</u>	<u>10,070</u>

The accompanying notes form an integral part of these consolidated financial statements.

**ALIBABA GROUP HOLDING LIMITED**  
**CONSOLIDATED BALANCE SHEETS**

	Notes	As of March 31,		
		2017	2018	
		RMB	RMB	US\$
		(in millions)		
<b>Assets</b>				
Current assets:				
Cash and cash equivalents	2(p)	143,736	199,309	31,775
Short-term investments	2(q)	3,011	6,086	970
Restricted cash and escrow receivables	10	2,655	3,417	545
Investment securities	11	4,054	4,815	768
Prepayments, receivables and other assets	12	28,408	43,228	6,891
Total current assets		181,864	256,855	40,949
Investment securities	11	31,452	38,192	6,089
Prepayments, receivables and other assets	12	8,703	16,897	2,694
Investments in equity investees	13	120,368	139,700	22,271
Property and equipment, net	14	20,206	66,489	10,600
Land use rights, net	2(w)	4,691	9,377	1,495
Intangible assets, net	15	14,108	27,465	4,378
Goodwill	16	125,420	162,149	25,850
<b>Total assets</b>		<b>506,812</b>	<b>717,124</b>	<b>114,326</b>
<b>Liabilities, mezzanine equity and shareholders' equity</b>				
Current liabilities:				
Current bank borrowings	19	5,948	6,028	961
Current unsecured senior notes	20	8,949	—	—
Income tax payable		6,125	13,689	2,181
Escrow money payable	10	2,322	3,053	487
Accrued expenses, accounts payable and other liabilities	18	46,979	81,165	12,940
Merchant deposits	2(ad)	8,189	9,578	1,527
Deferred revenue and customer advances	17	15,052	22,297	3,555
Total current liabilities		93,564	135,810	21,651
Deferred revenue	17	641	993	158
Deferred tax liabilities	7	10,361	19,312	3,079
Non-current bank borrowings	19	30,959	34,153	5,445
Non-current unsecured senior notes	20	45,876	85,372	13,610
Other liabilities	18	1,290	2,045	327
<b>Total liabilities</b>		<b>182,691</b>	<b>277,685</b>	<b>44,270</b>

The accompanying notes form an integral part of these consolidated financial statements.

**ALIBABA GROUP HOLDING LIMITED**  
**CONSOLIDATED BALANCE SHEETS (CONTINUED)**

	Notes	As of March 31,		
		2017	2018	
		RMB	RMB	US\$
		(in millions)		
				(Note 2(a))
Commitments and contingencies	23, 24	—	—	—
Mezzanine equity		2,992	3,001	478
Shareholders' equity:				
Ordinary shares, US\$0.000025 par value; 4,000,000,000 shares authorized as of March 31, 2017 and 2018; 2,529,364,189 and 2,571,929,843 shares issued and outstanding as of March 31, 2017 and 2018, respectively		1	1	—
Additional paid-in capital		164,585	186,764	29,775
Treasury shares, at cost	2(ag)	(2,823)	(2,233)	(356)
Restructuring reserve	4(a)	(624)	(361)	(58)
Subscription receivables	2(ah)	(63)	(163)	(26)
Statutory reserves	2(ai)	4,080	4,378	698
Accumulated other comprehensive income				
Cumulative translation adjustments		(3,618)	(3,594)	(573)
Unrealized gains on available-for-sale securities, interest rate swaps and others		8,703	8,677	1,383
Retained earnings		108,558	172,353	27,477
Total shareholders' equity		278,799	365,822	58,320
Noncontrolling interests		42,330	70,616	11,258
<b>Total equity</b>		<b>321,129</b>	<b>436,438</b>	<b>69,578</b>
<b>Total liabilities, mezzanine equity and equity</b>		<b>506,812</b>	<b>717,124</b>	<b>114,326</b>

The accompanying notes form an integral part of these consolidated financial statements.





reserves	—	—	—	—	—	—	529	—	—	(529)	—	—	—
Balance as of													
March 31, 2016	<u>2,473,927,859</u>	<u>1</u>	<u>132,206</u>	<u>—</u>	<u>(888)</u>	<u>(172)</u>	<u>3,244</u>	<u>(1,050)</u>	<u>4,894</u>	<u>78,752</u>	<u>216,987</u>	<u>32,552</u>	<u>249,539</u>

The accompanying notes form an integral part of these consolidated financial statements.



cost	—	—	15,610	—	—	—	—	—	—	—	15,610	487	16,097
Tax benefits from share-based awards	—	—	689	—	—	—	—	—	—	—	689	—	689
Issuance of ordinary shares (Note 4(ac))	26,324,689	—	14,012	(2,823)	—	—	—	—	—	—	11,189	—	11,189
Amortization of restructuring reserve and others	—	—	—	—	264	—	—	—	—	—	264	—	264
Exercise of right of subscription by noncontrolling interest for Partner Capital Investment Plan (Note 8(c))	—	—	—	—	—	—	—	—	—	—	—	100	100
Dividend paid by non-wholly owned subsidiaries to noncontrolling interests	—	—	—	—	—	—	—	—	—	—	—	(187)	(187)
Appropriation to statutory reserves	—	—	—	—	—	—	836	—	—	(836)	—	—	—
Balance as of March 31, 2017	<u>2,529,364,189</u>	<u>1</u>	<u>164,585</u>	<u>(2,823)</u>	<u>(624)</u>	<u>(63)</u>	<u>4,080</u>	<u>(3,618)</u>	<u>8,703</u>	<u>108,558</u>	<u>278,799</u>	<u>42,330</u>	<u>321,129</u>

The accompanying notes form an integral part of these consolidated financial statements.

**ALIBABA GROUP HOLDING LIMITED**  
**CONSOLIDATED STATEMENTS OF CHANGES IN SHAREHOLDERS' EQUITY (CONTINUED)**

	<u>Ordinary shares</u>					Subscription receivables	Statutory reserves	Cumulative translation adjustments	Accumulated other comprehensive income (loss)	Unrealized gains (losses) on available- for-sale securities, interest rate swaps and others	Retained earnings	Total shareholders' equity	Noncontrolling interests	Total equity
	Share	Amount RMB	Additional paid-in capital RMB	Treasury shares RMB	Restructuring reserve (Note 4(a)) RMB									
	(in millions, except share data)													
Balance as of April 1, 2017	2,529,364,189	1	164,585	(2,823)	(624)	(63)	4,080	(3,618)	8,703	108,558	278,799	42,330	321,129	
Foreign currency translation adjustment	—	—	—	—	—	14	—	24	(366)	—	(328)	(463)	(791)	
Net change in unrealized gains on available-for- sale securities	—	—	—	—	—	—	—	—	1,212	—	1,212	(1)	1,211	
Share of additional paid-in capital and other comprehensive income of equity method investees	—	—	(525)	—	—	—	—	—	(930)	—	(1,455)	—	(1,455)	
Change in fair value of forward exchange contracts under hedge accounting	—	—	—	—	—	—	—	—	(85)	—	(85)	—	(85)	
Change in fair value of interest rate swaps under hedge accounting	—	—	—	—	—	—	—	—	143	—	143	—	143	
Net income for the year	—	—	—	—	—	—	—	—	—	64,093	64,093	(1,751)	62,342	
Acquisition of subsidiaries	—	—	—	—	—	—	—	—	—	—	—	40,087	40,087	
Issuance of shares, including exercise of share options and vesting of early exercised options and RSUs, including repayment of related employee loans	42,565,654	—	3,945	—	—	(114)	—	—	—	—	3,831	—	3,831	
Acquisition of additional shares of non- wholly owned subsidiaries	—	—	(1,083)	—	—	—	—	—	—	—	(1,083)	(11,193)	(12,276)	
Capital injection from noncontrolling interests	—	—	897	—	—	—	—	—	—	—	897	680	1,577	
Amortization of compensation cost	—	—	19,053	—	—	—	—	—	—	—	19,053	1,039	20,092	
Partial disposal of the Company's shares by Suning (Note 4(ac))	—	—	—	590	—	—	—	—	—	—	590	—	590	
Appropriation to statutory reserves	—	—	—	—	—	—	298	—	—	(298)	—	—	—	
Others	—	—	(108)	—	263	—	—	—	—	—	155	(112)	43	
Balance as of March 31, 2018	<u>2,571,929,843</u>	<u>1</u>	<u>186,764</u>	<u>(2,233)</u>	<u>(361)</u>	<u>(163)</u>	<u>4,378</u>	<u>(3,594)</u>	<u>8,677</u>	<u>172,353</u>	<u>365,822</u>	<u>70,616</u>	<u>436,438</u>	

The accompanying notes form an integral part of these consolidated financial statements.



**ALIBABA GROUP HOLDING LIMITED**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS**

	Year ended March 31,			
	2016	2017	2018	
	RMB	RMB	RMB	US\$ (Note 2(a))
	(in millions)			
<b>Cash flows from operating activities:</b>				
Net income	71,289	41,226	61,412	9,791
Adjustments to reconcile net income to net cash provided by operating activities:				
Revaluation of previously held equity interest	(18,603)	(770)	(24,436)	(3,896)
Gain on disposals of equity investees	(3,089)	(536)	(2,971)	(474)
Realized and unrealized gain related to investment securities	(906)	(5,488)	(70)	(11)
Change in fair value of other assets and liabilities	84	(759)	1,415	225
(Gain) Loss on disposals of subsidiaries	(26,913)	35	(14)	(2)
Depreciation and amortization of property and equipment and land use rights	3,770	5,284	8,789	1,401
Amortization of intangible assets and licensed copyrights	3,278	9,008	13,231	2,109
Tax benefits from share-based awards	(1,120)	(1,369)	—	—
Share-based compensation expense	16,082	15,995	20,075	3,201
Impairment of cost method investees and investment securities	1,864	2,298	1,816	290
Impairment of goodwill and licensed copyrights	455	857	1,295	207
(Gain) Loss on disposals of property and equipment	(11)	34	(95)	(15)
Amortization of restructuring reserve	264	264	264	42
Share of results of equity investees	1,730	5,027	20,792	3,315
Deferred income taxes	1,226	281	976	156
Allowance for doubtful accounts	483	1,680	610	97
Changes in assets and liabilities, net of effects of acquisitions and disposals:				
Escrow receivables	—	(2,528)	(643)	(103)
Prepayments, receivables and other assets	(4,504)	(8,237)	(14,765)	(2,355)
Income tax payable	1,237	4,698	6,610	1,054
Escrow money payable	—	2,528	643	103
Accrued expenses, accounts payable and other liabilities	7,757	5,312	23,158	3,692
Merchant deposits	113	875	1,389	221
Deferred revenue and customer advances	2,350	4,611	5,690	907
Net cash provided by operating activities	<u>56,836</u>	<u>80,326</u>	<u>125,171</u>	<u>19,955</u>
<b>Cash flows from investing activities:</b>				
Decrease (Increase) in short-term investments, net	4,619	5,761	(730)	(117)
Decrease (Increase) in restricted cash	746	452	(121)	(19)
Decrease in trading securities, net	9	1,229	—	—
Payments for settlement of forward exchange contracts	—	(256)	(582)	(94)
Acquisitions of available-for-sale and other investment securities	(15,363)	(4,669)	(11,872)	(1,892)
Disposals of available-for-sale and other investment securities	2,177	4,354	7,223	1,152
Acquisitions of equity investees	(37,625)	(39,429)	(53,742)	(8,568)
Disposals of equity investees	10,021	4,941	6,185	986
Acquisitions of:				
Land use rights and construction in progress	(5,407)	(5,326)	(4,027)	(642)
Other property and equipment, intangible assets and licensed copyrights	(5,438)	(12,220)	(25,809)	(4,114)
Cash paid for business combinations, net of cash acquired	(1,495)	(33,454)	(520)	(83)
Deconsolidation and disposal of subsidiaries, net of cash proceeds	4,890	250	(27)	(4)
Loans to employees, net of repayments	35	3	132	21
Net cash used in investing activities	<u>(42,831)</u>	<u>(78,364)</u>	<u>(83,890)</u>	<u>(13,374)</u>

The accompanying notes form an integral part of these consolidated financial statements.

**ALIBABA GROUP HOLDING LIMITED**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS (CONTINUED)**

	Year ended March 31,			
	2016	2017	2018	
	RMB	RMB	RMB	US\$ (Note 2(a))
	(in millions)			
<b>Cash flows from financing activities:</b>				
Issuance of ordinary shares, including repayment of loan and interest receivable on employee loans for the exercise of ordinary shares	693	14,607	399	65
Repurchase of ordinary shares	(19,795)	(13,182)	—	—
Acquisition of additional equity interests in non-wholly owned subsidiaries	—	—	(13,627)	(2,173)
Payment for settlement of contingent consideration	—	—	(770)	(123)
Subscription of rights for Partner Capital Investment Plan (Note 8(c))	—	87	—	—
Dividend paid by a non-wholly owned subsidiary to noncontrolling interests	(3)	(163)	(112)	(18)
Capital injection from noncontrolling interests	56	1,543	1,124	180
Tax benefits from share-based awards	725	689	—	—
Proceeds from current bank borrowings	28,208	68,296	25,645	4,088
Repayment of current bank borrowings	(26,349)	(67,169)	(29,844)	(4,758)
Proceeds from non-current bank borrowings	765	28,381	1,179	188
Repayment of non-current bank borrowings	(146)	(175)	(570)	(91)
Proceeds from unsecured senior notes	—	—	45,817	7,304
Repayment of unsecured senior notes	—	—	(8,602)	(1,371)
Upfront fee payment for a revolving credit facility	—	—	(280)	(45)
Net cash (used in) provided by financing activities	(15,846)	32,914	20,359	3,246
Effect of exchange rate changes on cash and cash equivalents	466	2,042	(6,067)	(967)
(Decrease) Increase in cash and cash equivalents	(1,375)	36,918	55,573	8,860
Cash and cash equivalents at beginning of year	108,193	106,818	143,736	22,915
Cash and cash equivalents at end of year	106,818	143,736	199,309	31,775

The accompanying notes form an integral part of these consolidated financial statements.

**ALIBABA GROUP HOLDING LIMITED**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS (CONTINUED)****Supplemental disclosures of cash flow information:***Payment of income taxes*

Income tax paid was RMB6,465 million, RMB9,652 million and RMB10,058 million, for the years ended March 31, 2016, 2017 and 2018, respectively.

*Payment of interest*

Interest paid was RMB1,560 million, RMB2,465 million and RMB2,884 million for the years ended March 31, 2016, 2017 and 2018, respectively.

*Business combinations*

	Year ended March 31,		
	2016	2017	2018
	(in millions of RMB)		
Cash paid for business combinations	(3,055)	(41,836)	(17,300)
Cash acquired in business combinations	1,560	8,382	16,780
	<u>(1,495)</u>	<u>(33,454)</u>	<u>(520)</u>

*Restructuring of equity investments*

During the year ended March 31, 2016, RMB6,202 million included in both acquisitions and disposals of equity investees under investing activities were related to the restructuring of certain equity investments, including Cainiao Network (Note 4(b)) and others, to establish new holding companies. The Company withdrew the investments in such underlying equity investees and the proceeds from the withdrawals were reinvested in full in their new holding companies established.

The accompanying notes form an integral part of these consolidated financial statements.



**ALIBABA GROUP HOLDING LIMITED**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
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**1. Organization and principal activities**

Alibaba Group Holding Limited (the "Company") is a limited liability company which was incorporated in the Cayman Islands on June 28, 1999. The Company is a holding company and conducts its businesses primarily through its subsidiaries. In these consolidated financial statements, where appropriate, the term "Company" also refers to its subsidiaries as a whole. The Company provides the technology infrastructure and marketing reach to help merchants, brands and other businesses to leverage the power of new technology to engage with their users and customers in the People's Republic of China (the "PRC" or "China") and internationally. Major shareholders of the Company include SoftBank Group Corp. ("SoftBank") and Altaba Inc. (formerly known as Yahoo! Inc.) ("Altaba").

The Company has four operating and reportable segments, namely core commerce, cloud computing, digital media and entertainment, and innovation initiatives and others.

The Company's core commerce segment is mainly comprised of (i) the retail and wholesale commerce businesses in China and internationally and (ii) a logistics data platform and a nationwide fulfillment network through Cainiao Network (Note 4(b)). Retail commerce businesses in China operated by the Company primarily include the China mobile commerce destination ("Taobao Marketplace") and the China third-party platform for brands and retailers ("Tmall"). International retail commerce businesses operated by the Company include the e-commerce platform across Southeast Asia operated by Lazada (Note 4(h)) and the global retail marketplace enabling consumers from around the world to buy directly from manufacturers and distributors primarily in China ("AliExpress"). Wholesale commerce businesses in China operated by the Company include the China integrated domestic wholesale marketplace ("1688.com"). International wholesale commerce businesses operated by the Company include the integrated international online wholesale marketplace ("Alibaba.com").

The Company's cloud computing segment is comprised of Alibaba Cloud, which offers a complete suite of cloud services including elastic computing, database, storage, network virtualization services, large scale computing, security, management and application services, big data analytics, and machine learning platform and Internet of Things ("IoT") services for customers in different sizes across various industries.

The Company's digital media and entertainment segment operates businesses through (i) Youku (Note 4(g)), (ii) UC Browser and (iii) other diverse content platforms that provide movies, TV drama series, online dramas, variety shows, games, literature and music.

The Company's innovation initiatives and others segment primarily includes businesses such as AutoNavi, DingTalk and others.

The Company has a profit sharing interest in Zhejiang Ant Small and Micro Financial Services Group Co., Ltd. ("Ant Financial") (Note 4(a)), the financial services group that operates mainly through Alipay.com Co., Ltd. ("Alipay"), a third-party online payment platform in China. Alipay provides payment processing and escrow services to the Company, which allow the transactions on the Company's marketplaces to be settled through a secure payment platform and escrow process.

**2. Summary of significant accounting policies**

**(a) Basis of presentation**

The accompanying consolidated financial statements are prepared in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP").

**ALIBABA GROUP HOLDING LIMITED**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
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**2. Summary of significant accounting policies (Continued)**

**(a) Basis of presentation (Continued)**

Translations of balances in the consolidated balance sheet, consolidated income statement, consolidated statement of comprehensive income and consolidated statement of cash flows from Renminbi ("RMB") into the United States Dollar ("US\$") as of and for the year ended March 31, 2018 are solely for the convenience of the readers and are calculated at the rate of US\$1.00=RMB6.2726, representing the exchange rate set forth in the H.10 statistical release of the Federal Reserve Board on March 30, 2018. No representation is made that the RMB amounts could have been, or could be, converted, realized or settled into US\$ at such rate, or at any other rate.

**(b) Use of estimates**

The preparation of the consolidated financial statements in conformity with U.S. GAAP requires the Company to make estimates and assumptions that affect the reported amounts of assets and liabilities, disclosure of contingent assets and liabilities as of the date of the consolidated financial statements and the reported amounts of revenue and expenses during the reporting period. Actual results could differ from those estimates. The Company bases its estimates on historical experience and on various other assumptions that are believed to be reasonable, the results of which form the basis for making judgments about the carrying values of assets and liabilities.

**(c) Consolidation**

The consolidated financial statements include the financial statements of the Company and its subsidiaries, which include the wholly-foreign owned enterprises ("WFOEs") and variable interest entities ("VIEs") over which the Company is the primary beneficiary. All transactions and balances among the Company and its subsidiaries have been eliminated upon consolidation. The results of subsidiaries acquired or disposed of are recorded in the consolidated income statements from the effective date of acquisition or up to the effective date of disposal, as appropriate.

A subsidiary is an entity in which (i) the Company directly or indirectly controls more than 50% of the voting power; or (ii) the Company has the power to appoint or remove the majority of the members of the board of directors or to cast a majority of votes at the meeting of the board of directors or to govern the financial and operating policies of the investee pursuant to a statute or under an agreement among the shareholders or equity holders. A VIE is required to be consolidated by the primary beneficiary of the entity if the equity holders in the entity do not have the characteristics of a controlling financial interest or do not have sufficient equity at risk for the entity to finance its activities without additional subordinated financial support from other parties.

Due to legal restrictions on foreign ownership and investment in, among other areas, value-added telecommunications services, which include the operations of Internet content providers, the Company operates its Internet and other businesses in which foreign investment is restricted or prohibited in the PRC through certain PRC domestic companies. The equity interests of these PRC domestic companies are held by PRC citizens or by PRC entities owned and/or controlled by PRC citizens. Specifically, these PRC domestic companies that are material to the Company's business are Zhejiang Taobao Network Co., Ltd., Zhejiang Tmall Network Co., Ltd., Alibaba Cloud Computing Ltd., Hangzhou Alibaba Advertising Co., Ltd. and Youku Information Technology (Beijing) Co., Ltd. The registered capital of these PRC domestic companies was funded by the Company through loans extended to the equity holders of these PRC domestic companies. The

**ALIBABA GROUP HOLDING LIMITED**  
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**2. Summary of significant accounting policies (Continued)**

**(c) Consolidation (Continued)**

Company has entered into certain exclusive technical services agreements with these PRC domestic companies, which entitle it to receive a majority of their residual returns and make it obligatory for the Company to absorb a majority of the risk of losses from their activities. In addition, the Company has entered into certain agreements with the equity holders of these PRC domestic companies, including loan agreements that require them to contribute registered capital to those PRC domestic companies, exclusive call option agreements to acquire the equity interests in these companies when permitted by the PRC laws, rules and regulations, equity pledge agreements of the equity interests held by those equity holders, and proxy agreements that irrevocably authorize individuals designated by the Company to exercise the equity owner's rights over these PRC domestic companies.

Details of the typical structure of the Company's significant VIEs are set forth below:

(i) Contracts that give the Company effective control of VIEs

*Loan agreements*

Pursuant to the relevant loan agreements, the respective WFOEs have granted loans to the equity holders of the VIEs, which may only be used for the purpose of its business operation activities agreed by the WFOEs. The WFOEs may require acceleration of repayment at their absolute discretion. When the equity holders of the VIEs make early repayment of the outstanding amount, the WFOEs or a third-party designated by the WFOEs may purchase the equity interests in the VIEs at a price equal to the outstanding amount of the loan, subject to any applicable PRC laws, rules and regulations. The equity holders of the VIEs undertake not to enter into any prohibited transactions in relation to the VIEs, including the transfer of any business, material assets, intellectual property rights or equity interests in the VIEs to any third party.

*Exclusive call option agreements*

The equity holders of the VIEs have granted the WFOEs exclusive call options to purchase their equity interest in the VIEs at an exercise price equal to the higher of (i) the paid-in registered capital in the VIEs; and (ii) the minimum price as permitted by applicable PRC law. Each relevant VIE has further granted the relevant WFOE an exclusive call option to purchase its assets at an exercise price equal to the book value of the assets or the minimum price as permitted by applicable PRC laws, whichever is higher. Certain VIEs and their equity holders will also jointly grant the WFOEs (A) exclusive call options to request the VIEs to decrease their registered capital at an exercise price equal to the higher of (i) the paid-in registered capital in the VIEs and (ii) the minimum price as permitted by applicable PRC law (the "Capital Decrease Price"), and (B) exclusive call options to subscribe for the increased capital of the VIEs at a price equal to the sum of the Capital Decrease Price and the unpaid registered capital, if applicable, as of the capital decrease. The WFOEs may nominate another entity or individual to purchase the equity interest or assets, or to subscribe for the increased capital, if applicable, under the call options. Execution of each call option shall not violate the applicable PRC laws, rules and regulations. Each equity holder of the VIE has agreed that the following amounts, to the extent in excess of the original registered capital that they contributed to the VIE (after deduction of relevant tax expenses), belong to and shall be paid to the WFOEs: (i) proceeds from the transfer of its equity interests in the VIE, (ii) proceeds received in connection with a capital decrease in the VIE, and (iii) distributions or liquidation residuals

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**2. Summary of significant accounting policies (Continued)**

**(c) Consolidation (Continued)**

from the disposal of its equity interests in the VIE upon termination or liquidation. Moreover, any profits, distributions or dividends (after deduction of relevant tax expenses) received by the VIEs also belong to and shall be paid to the WFOEs. The exclusive call option agreements remain in effect until the equity interest or assets that are the subject of these agreements are transferred to the WFOEs.

*Proxy agreements*

Pursuant to the relevant proxy agreements, the equity holders of the VIEs irrevocably authorize any person designated by the WFOEs to exercise their rights as the equity holders of the VIEs, including without limitation the right to vote and appoint directors.

*Equity pledge agreements*

Pursuant to the relevant equity pledge agreements, the equity holders of the VIEs have pledged all of their interests in the equity of the VIEs as a continuing first priority security interest in favor of the corresponding WFOEs to secure the outstanding amounts advanced under the relevant loan agreements described above and to secure the performance of obligations by the VIEs and/or the equity holders under the other structure contracts. Each WFOE is entitled to exercise its right to dispose of the pledged interests in the equity of the VIE held by the equity holders and has priority in receiving payment by the application of proceeds from the auction or sale of such pledged interests, in the event of any breach or default under the loan agreement or other structure contracts, if applicable. These equity pledge agreements remain in force until the earlier of (i) the full performance of the contractual arrangements by the relevant parties, and (ii) the full repayment of the loans made to the equity holders of the VIEs.

- (ii) Contracts that enable the Company to receive substantially all of the economic benefits from the VIEs

*Exclusive technology services agreements or exclusive services agreements*

Each relevant VIE has entered into an exclusive technology services agreement or an exclusive services agreement with the respective WFOE, pursuant to which the relevant WFOE provides exclusive services to the VIE. In exchange, the VIE pays a service fee to the WFOE, the amount of which shall be determined, to the extent permitted by applicable PRC laws as proposed by the WFOE, resulting in a transfer of substantially all of the profits from the VIE to the WFOE.

*Other arrangements*

The exclusive call option agreements described above also entitle the WFOEs to all profits, distributions or dividends (after deduction of relevant tax expenses) to be received by the VIEs, and the following amounts, to the extent in excess of the original registered capital that they contributed to the VIEs (after deduction of relevant tax expenses) to be received by each equity holder of the VIEs: (i) proceeds from the transfer of its equity interests in the VIEs, (ii) proceeds received in connection with a capital decrease in the VIEs, and (iii) distributions or liquidation residuals from the disposal of its equity interests in the VIEs upon termination or liquidation.

Based on these contractual agreements, the Company believes that the PRC domestic companies as described above should be considered as VIEs because the equity holders do not have significant equity at risk nor do

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**2. Summary of significant accounting policies (Continued)**

**(c) Consolidation (Continued)**

they have the characteristics of a controlling financial interest. Given that the Company is the primary beneficiary of these PRC domestic companies, the Company believes that these VIEs should be consolidated based on the structure as described above.

The following financial information of the VIEs in the PRC was recorded in the accompanying consolidated financial statements:

	<u>As of March 31,</u>	
	<u>2017</u>	<u>2018</u>
	<u>(in millions of RMB)</u>	
Cash and cash equivalents and short-term investments	7,586	7,507
Investments in equity investees and investment securities	17,371	26,611
Accounts receivable, net of allowance	3,301	5,733
Amounts due from non-VIE subsidiaries of the Company	1,400	1,949
Prepayment for licensed copyrights	1,469	1,736
Property and equipment and intangible assets	4,738	6,788
Others	2,926	4,139
Total assets	38,791	54,463
Amounts due to non-VIE subsidiaries of the Company	25,317	41,090
Accruals for purchase of licensed copyrights	2,244	3,686
Accrued expenses, account payable and other liabilities	7,545	10,931
Deferred revenue and customer advances	3,338	4,997
Deferred tax liabilities	1,481	995
Total liabilities	39,925	61,699

	<u>Year ended March 31,</u>		
	<u>2016</u>	<u>2017</u>	<u>2018</u>
	<u>(in millions of RMB)</u>		
Revenue (i)	8,558	24,712	32,898
Net income (loss) (i)	35	(4,688)	(6,167)
Net cash provided by operating activities	1,224	3,220	5,547
Net cash used in investing activities	(7,160)	(2,557)	(20,366)
Net cash provided by financing activities	6,494	2,688	14,286

- (i) Revenue and net income (loss) earned and incurred by the VIEs are primarily from mobile media and entertainment services, cloud computing services and others.

The VIEs did not have any material related party transactions except for the related party transactions which are disclosed in Note 21 or elsewhere in these consolidated financial statements, and those transactions with other subsidiaries that are not VIEs, which were eliminated upon consolidation.

Under the contractual arrangements with the VIEs, the Company has the power to direct activities of the VIEs and can have assets transferred out of the VIEs under its control. Therefore, the Company considers that there is no asset in any of the VIEs that can be used only to settle obligations of the VIEs, except for registered capital and PRC statutory reserves. As all VIEs are incorporated as limited liability companies

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**2. Summary of significant accounting policies (Continued)**

**(c) Consolidation (Continued)**

under the Company Law of the PRC, creditors of the VIEs do not have recourse to the general credit of the Company for any of the liabilities of the VIEs.

Currently there is no contractual arrangement which requires the Company to provide additional financial support to the VIEs. However, as the Company conducts its businesses primarily based on the licenses and approvals held by its VIEs, the Company has provided and will continue to provide financial support to the VIEs considering the business requirements of the VIEs, as well as the Company's own business objectives in the future.

Unrecognized revenue-producing assets held by the VIEs include certain Internet content provision and other licenses, domain names and trademarks. The Internet content provision and other licenses are required under relevant PRC laws, rules and regulations for the operation of Internet businesses in the PRC, and therefore are integral to the Company's operations. The Internet content provision licenses require that core PRC trademark registrations and domain names are held by the VIEs that provide the relevant services.

**(d) Business combinations and noncontrolling interests**

The Company accounts for its business combinations using the acquisition method of accounting in accordance with Accounting Standards Codification ("ASC") 805 "Business Combinations." The cost of an acquisition is measured as the aggregate of the acquisition date fair value of the assets transferred to the sellers and liabilities incurred by the Company and equity instruments issued. Transaction costs directly attributable to the acquisition are expensed as incurred. Identifiable assets and liabilities acquired or assumed are measured separately at their fair values as of the acquisition date, irrespective of the extent of any noncontrolling interests. The excess of (i) the total costs of acquisition, fair value of the noncontrolling interests and acquisition date fair value of any previously held equity interest in the acquiree over (ii) the fair value of the identifiable net assets of the acquiree is recorded as goodwill. If the cost of acquisition is less than the fair value of the net assets of the subsidiary acquired, the difference is recognized directly in the consolidated income statements. During the measurement period, which can be up to one year from the acquisition date, the Company may record adjustments to the assets acquired and liabilities assumed with the corresponding offset to goodwill. Upon the conclusion of the measurement period or final determination of the values of assets acquired or liabilities assumed, whichever comes first, any subsequent adjustments are recorded to the consolidated income statements.

In a business combination achieved in stages, the Company re-measures the previously held equity interest in the acquiree immediately before obtaining control at its acquisition date fair value and the re-measurement gain or loss, if any, is recognized in the consolidated income statements.

When there is a change in ownership interests or a change in contractual arrangements that results in a loss of control of a subsidiary, the Company deconsolidates the subsidiary from the date control is lost. Any retained noncontrolling investment in the former subsidiary is measured at fair value and is included in the calculation of the gain or loss upon deconsolidation of the subsidiary.

For the Company's non-wholly owned subsidiaries, a noncontrolling interest is recognized to reflect portion of equity that is not attributable, directly or indirectly, to the Company. When the noncontrolling interest is contingently redeemable upon the occurrence of a conditional event, which is not solely within the control of the Company, the noncontrolling interest is classified as mezzanine equity. The Company accretes changes in

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**2. Summary of significant accounting policies (Continued)**

**(d) Business combinations and noncontrolling interests (Continued)**

the redemption value over the period from the date that it becomes probable that the mezzanine equity will become redeemable to the earliest redemption date using the effective interest method. Consolidated net income in the consolidated income statements includes net income (loss) attributable to noncontrolling interests and mezzanine equity holders when applicable. Net income (loss) attributable to mezzanine equity holders is included in net loss attributable to noncontrolling interests in the consolidated income statements, while it is excluded from the consolidated statements of changes in shareholders' equity. During the year ended March 31, 2018, net loss attributable to mezzanine equity holders amounted to RMB930 million. The cumulative results of operations attributable to noncontrolling interests, along with adjustments for share-based compensation expense arising from outstanding share-based awards relating to subsidiaries' shares, are also recorded as noncontrolling interests in the Company's consolidated balance sheets. Cash flows related to transactions with noncontrolling interests are presented under financing activities in the consolidated statements of cash flows.

**(e) Segment reporting**

Operating segments are reported in a manner consistent with the internal reporting provided to the chief operating decision maker (the "CODM"), which is comprised of certain members of the Company's management team. Historically, the Company had one single operating and reportable segment, namely the provision of online and mobile commerce and related services. Starting from the year ended March 31, 2017, the Company implemented operational changes in how the CODM manages the businesses of the Company to maximize efficiency in allocating resources and assessing performance. Consequently, the Company presents four operating and reportable segments as set out in Notes 1 and 25 to reflect the change.

**(f) Foreign currency translation**

The functional currency of the Company is US\$. The Company's subsidiaries with operations in the PRC, Hong Kong, the United States and other jurisdictions generally use their respective local currencies as their functional currencies. The reporting currency of the Company is RMB as the major operations of the Company are within the PRC. The financial statements of the Company's subsidiaries, other than the subsidiaries with the functional currency of RMB, are translated into RMB using the exchange rate as of the balance sheet date for assets and liabilities and the average daily exchange rate for each month for income and expense items. Translation gains and losses are recorded in accumulated other comprehensive income or loss as a component of shareholders' equity.

In the financial statements of the Company's subsidiaries, transactions in currencies other than the functional currency are measured and recorded in the functional currency using the exchange rate in effect at the date of the transaction. At the balance sheet date, monetary assets and liabilities that are denominated in currencies other than the functional currency are translated into the functional currency using the exchange rate at the balance sheet date. All gains and losses arising from foreign currency transactions are recorded in the consolidated income statements during the year in which they occur.

**(g) Revenue recognition**

Revenue is principally comprised of customer management revenue, commissions on transactions, membership fees, cloud computing services revenue and other revenue. Revenue represents the fair value of the

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**2. Summary of significant accounting policies (Continued)**

**(g) Revenue recognition (Continued)**

consideration received or receivable for the sales of goods and the provision of services in the ordinary course of the Company's activities and is recorded net of value-added tax ("VAT"). Consistent with the criteria of ASC 605 "Revenue Recognition" ("ASC 605"), the Company recognizes revenue when the following four revenue recognition criteria are met: (i) persuasive evidence of an arrangement exists, (ii) delivery has occurred or services have been provided, (iii) the selling price is fixed or determinable, and (iv) collectability is reasonably assured.

Revenue arrangements with multiple deliverables are divided into separate units of accounting. The arrangement consideration is allocated at the inception of the arrangement to each element based on their relative fair values for revenue recognition purposes. The consideration is allocated to each element using vendor-specific objective evidence or third-party evidence of the standalone selling price for each deliverable, or if neither type of evidence is available, using management's best estimate of selling price. Revenue arrangements with multiple deliverables primarily relate to the sale of membership packages and customer management services on wholesale marketplaces and Youku's platforms, which are not significant to the Company's total revenue.

The Company evaluates if it is a principal or an agent in a transaction to determine whether revenue should be recorded on a gross or net basis. When the Company is primarily obligated in a transaction, is subject to inventory risk, has latitude in establishing prices and selecting suppliers, or has several but not all of these indicators, revenue is recorded on a gross basis. When the Company is not the primary obligor, does not bear the inventory risk and does not have the ability to establish the price, revenue is recorded on a net basis.

When services are exchanged or swapped for other services, revenue will be recognized based on the value of services being exchanged. The amount of revenue recognized for barter transactions was not material for each of the periods presented.

Revenue recognition policies for each type of services are as follows:

(i) Customer management revenue

Within the core commerce segment, the Company provides the following customer management services to merchants on the Company's retail and wholesale marketplaces and certain third-party marketing affiliates' websites:

*Pay for performance ("P4P") marketing services*

P4P marketing services allow merchants to bid for keywords that match product or service listings appearing in search or browser results on the Company's marketplaces. Merchants bid for keywords through an online bidding system. The positioning of such listings and the price for such positioning are determined through an online auction system, which facilitates price discovery through a market-based mechanism. In general, merchants prepay for P4P marketing services and the related revenue is recognized when a user clicks their product or service listings.

*Display marketing services*

Display marketing services allow merchants to place advertisements in particular areas of a web page of the Company's marketplaces, at fixed prices or prices established by a real-time bidding system and in



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**2. Summary of significant accounting policies (Continued)**

**(g) Revenue recognition (Continued)**

particular formats. In general, merchants need to prepay for display marketing and revenue is recognized ratably over the period in which the advertisement is displayed or when an advertisement is clicked or viewed by users.

The Company also places P4P marketing services content and display marketing content through the third-party marketing affiliate program. A substantial portion of customer management revenue generated through the third-party marketing affiliate program represented P4P marketing services revenue. In delivery of these customer management services, the Company, through the third-party marketing affiliate program, places the P4P marketing services content of the participating merchants on third-party websites in the forms of picture or text links through contextual relevance technology to match merchants' marketing content to the textual content of the third-party website and the users' attributes based on the Company's systems and algorithms. When such links on third-party websites are clicked, users are diverted to a landing page of the Company's marketplaces where listings of the participating merchant as well as similar products or services of other merchants are presented. In limited cases, the Company may embed a search box for one of its marketplaces on such third-party websites, and when a keyword is input into the search box, the user will be diverted to the Company's website where search results are presented. Revenue is recognized when such users further click on the P4P marketing content on such landing pages. The Company places display marketing content on third-party websites in a similar manner. Revenue is recognized ratably over the period in which the advertisement is displayed or when users click or view the advertisement.

P4P marketing services revenue as well as display marketing revenue generated on the Company's marketplaces or through the third-party marketing affiliate program are recorded on a gross basis when the Company is the primary obligor to the merchants in the arrangements. For third-party marketing affiliates with whom the Company has an arrangement to share such revenue, traffic acquisition cost is also recognized at the same time if the P4P marketing content on the landing page clicked by the users is from merchants participating in the third-party marketing affiliate program.

*Taobaoke services*

In addition, the Company offers the Taobaoke program which generates commissions from merchants for transactions completed by consumers sourced from certain third-party marketing affiliates' websites. The commission rates on Taobaoke are set by the merchants. The Company's portion of commission revenue is recognized at the time when the underlying transaction is completed and is recorded on a net basis principally because the Company is not the primary obligor as it does not have latitude in establishing prices or does not have inventory risk. In certain occasions where the Company is the primary obligor of the arrangement (such as arrangements where the Company is obligated to pay for website inventory costs in fixed amounts to third-party marketing affiliates regardless of whether commission revenue is generated from these marketing affiliates), such commission revenue is recorded on a gross basis.

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**2. Summary of significant accounting policies (Continued)**

**(g) Revenue recognition (Continued)**

Within the digital media and entertainment segment, the Company offers P4P marketing services to merchants and marketers on websites and mobile media operated by UCWeb. Revenue is recognized when a user clicks their product or service listings. In addition, marketers can also place advertisements on websites and mobile media operated by UCWeb and Youku's platforms in different formats, including video, banners, links, logos and buttons. Revenue is recognized ratably over the period in which the advertisement is displayed or when users click or view the advertisement.

(ii) Commissions on transactions

The Company earns commissions from merchants when transactions are completed on certain retail marketplaces of the Company. Such commissions are generally determined as a percentage based on the value of merchandise being sold by the merchants. Revenue related to commissions is recognized in the consolidated income statements at the time when the underlying transaction is completed.

(iii) Membership fees

The Company earns membership fees revenue from wholesale sellers in respect of the sale of membership packages and subscriptions which allow them to host premium storefronts on the Company's wholesale marketplaces, as well as the provision of other value-added services, and from customers in respect of the sale of membership packages which allow them to access premium content on Youku's paid content platforms. These service fees are paid in advance for a specific contracted service period. All these fees are initially deferred when received and revenue is recognized ratably over the term of the respective service contracts as the services are provided.

(iv) Cloud computing services revenue

The Company earns cloud computing services revenue from the provision of services such as elastic computing, database, storage, network virtualization services, large scale computing, security, management and application services, big data analytics, and machine learning platform and IoT services. Revenue is recognized at the time when the services are provided or ratably over the term of the service contracts as appropriate.

(v) Other revenue

Other revenue primarily consists of revenue from the sales of goods, which is mainly generated from Lazada (Note 4(h)) and Intime (Note 4(c)). Revenue from the sales of goods is recognized when the customer has accepted the goods and related risks and rewards of ownership. Receipts of fees in respect of all other incidental services provided by the Company are recognized when services are delivered and the amounts relating to such incidental services are not material to the Company's total revenue for each of the periods presented.

**(h) Cost of revenue**

Cost of revenue consists primarily of cost of inventory, logistics costs, co-location and bandwidth fees, depreciation and maintenance costs for computers and other equipment, content costs, staff costs and share-based compensation expense, traffic acquisition costs, payment processing fees and other related incidental expenses that are directly attributable to the Company's principal operations.

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**2. Summary of significant accounting policies (Continued)**

**(i) Product development expenses**

Product development expenses consist primarily of staff costs and share-based compensation expense for research and development personnel and other expenses which are directly attributable to the development of new technologies and products for the businesses of the Company, such as the development of the Internet infrastructure, applications, operating systems, software, database and network.

The Company expenses all costs that are incurred in connection with the planning and implementation phases of development and costs that are associated with repair or maintenance of the existing websites or the development of software and website content. Costs incurred in the development phase are capitalized and amortized over the estimated product life. However, since the inception of the Company, the amount of costs qualifying for capitalization has been insignificant and as a result, all website and software development costs have been expensed as incurred.

**(j) Sales and marketing expenses**

Sales and marketing expenses consist primarily of online and offline advertising expenses, promotion expenses, staff costs and share-based compensation expense, sales commissions and other related incidental expenses that are incurred directly to attract or retain consumers and merchants for the Company's marketplaces, mobile products, transaction and service platforms as well as entertainment distribution platforms.

The Company expenses the costs of producing advertisements at the time production occurs, and expenses the costs of delivering advertisements in the period in which the advertising space or airtime is used. Advertising and promotional expenses totaled RMB5,524 million, RMB8,799 million and RMB16,814 million during the years ended March 31, 2016, 2017 and 2018, respectively.

**(k) Share-based compensation**

Share-based awards granted are measured at fair value on grant date and share-based compensation expense is recognized (i) immediately at the grant date if no vesting conditions are required, or (ii) using the accelerated attribution method, net of estimated forfeitures, over the requisite service period. The fair value of share options is determined using the Black-Scholes valuation model and the fair value of restricted shares and restricted share units ("RSUs") is determined with reference to the fair value of the underlying shares. Share-based awards granted to non-employees are initially measured at fair value on the grant date and re-measured at each reporting date through the vesting date. Such value is recognized as an expense over the respective service period, net of estimated forfeitures. Share-based compensation expense, when recognized, is charged to the consolidated income statements with the corresponding entry to additional paid-in capital, liability or noncontrolling interests as disclosed in Note 2(d).

On each measurement date, the Company reviews internal and external sources of information to assist in the estimation of various attributes to determine the fair value of the share-based awards granted by the Company, including the fair value of the underlying shares, expected life and expected volatility. The Company is required to consider many factors and makes certain assumptions during this assessment. If any of the assumptions used to determine the fair value of the share-based awards change significantly in the future, share-based compensation expense may differ materially. The Company recognizes the impact of any revisions to the original forfeiture rate assumptions in the consolidated income statements, with a corresponding adjustment to equity.

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**2. Summary of significant accounting policies (Continued)**

**(l) Other employee benefits**

The Company's subsidiaries in the PRC participate in a government-mandated multi-employer defined contribution plan pursuant to which certain retirement, medical and other welfare benefits are provided to employees. The relevant labor regulations require the Company's subsidiaries in the PRC to pay the local labor and social welfare authorities monthly contributions based on the applicable benchmarks and rates stipulated by the local government. The relevant local labor and social welfare authorities are responsible for meeting all retirement benefits obligations and the Company's subsidiaries in the PRC have no further commitments beyond their monthly contributions. The contributions to the plan are expensed as incurred. During the years ended March 31, 2016, 2017 and 2018, contributions to such plan amounting to RMB2,094 million, RMB2,710 million and RMB3,587 million, respectively, were charged to the consolidated income statements.

The Company also makes payments to other defined contribution plans for the benefit of employees employed by subsidiaries outside of the PRC. Amounts contributed during the years ended March 31, 2016, 2017 and 2018 were insignificant.

**(m) Income taxes**

The Company accounts for income taxes using the liability method, under which deferred income taxes are recognized for future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred taxes of a change in tax rates is recognized as income or expense in the period that includes the enactment date. Valuation allowance is provided on deferred tax assets to the extent that it is more likely than not that the asset will not be realizable in the foreseeable future.

Deferred taxes are also recognized on the undistributed earnings of subsidiaries, which are presumed to be transferred to the parent company and are subject to withholding taxes, unless there is sufficient evidence to show that the subsidiary has invested or will invest the undistributed earnings indefinitely or that the earnings will be remitted in a tax-free liquidation.

The Company adopts ASC 740 "Income Taxes" which prescribes a more likely than not threshold for financial statement recognition and measurement of a tax position taken or expected to be taken in a tax return. It also provides guidance on derecognition of income tax assets and liabilities, classification of current and deferred income tax assets and liabilities, accounting for interest and penalties associated with tax positions, accounting for income taxes in interim periods and income tax disclosures. The Company did not have significant unrecognized uncertain tax positions or any unrecognized liabilities, interest or penalties associated with unrecognized tax benefit as of and for the years ended March 31, 2016, 2017 and 2018.

**(n) Government grants**

Government grants are recognized as income in other income, net or as a reduction of specific costs and expenses for which the grants are intended to compensate. Such amounts are recognized in the consolidated income statements upon receipts and all conditions attached to the grants are fulfilled.

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**2. Summary of significant accounting policies (Continued)**

**(o) Leases**

Leases are classified as either capital or operating leases. Leases that transfer substantially all the benefits and risks incidental to the ownership of assets are accounted for as capital leases as if there was an acquisition of an asset and incurrence of an obligation at the inception of the lease. All other leases are accounted for as operating leases wherein rental payments (net of any incentives received from the lessor) are recognized in the consolidated income statements on a straight-line basis over the lease terms. The Company had no significant capital leases for the years ended March 31, 2016, 2017 and 2018.

**(p) Cash and cash equivalents**

The Company considers all short-term, highly liquid investments with an original maturity of three months or less, when purchased, to be cash equivalents. Cash and cash equivalents primarily represent bank deposits, fixed deposits with maturities less than three months and investments in money market funds. As of March 31, 2017 and 2018, the Company had certain amounts of cash held in accounts managed by Alipay in connection with the provision of online and mobile commerce and related services for a total amount of RMB991 million and RMB1,687 million, respectively, which have been classified as cash and cash equivalents in the consolidated balance sheets.

**(q) Short-term investments**

Short-term investments consist primarily of investments in fixed deposits with maturities between three months and one year and investments in money market funds or other investments whereby the Company has the intention to redeem within one year. As of March 31, 2017 and 2018, the investments in fixed deposits that were recorded as short-term investments amounted to RMB1,075 million and RMB2,919 million, respectively. As of the same dates, the Company had certain amounts of short-term investments held in accounts managed by Alipay for a total amount of RMB982 million and RMB890 million, respectively.

**(r) VAT receivables**

VAT receivables mainly represent the advance settlement of relevant VAT refund amounts provided by the Company to its customers prior to receiving such VAT refund from tax authorities. Such amounts are recorded at the claimed refund amount less allowance for doubtful accounts relating to VAT receivables, and include accrued interest receivable as of the balance sheet date. Allowance for doubtful accounts relating to VAT receivables represent the Company's best estimate of the losses inherent in the outstanding portfolio of VAT receivables. The collection periods related to the VAT receivables generally range from three to six months. Judgment is required to determine the allowance amounts and whether such amounts are adequate to cover potential bad debts, and periodic reviews are performed to ensure such amounts continue to reflect the best estimate of the losses inherent in the outstanding portfolio of debts. For the years ended March 31, 2016, 2017 and 2018, allowance for doubtful accounts relating to VAT receivables amounting to RMB474 million, RMB1,321 million and RMB153 million were recorded in cost of revenue within the Company's core commerce segment. For the years ended March 31, 2016, 2017 and 2018, the charge-offs and recoveries in relation to the allowance for doubtful accounts relating to VAT receivables were insignificant.

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**2. Summary of significant accounting policies (Continued)**

**(s) Inventories**

Inventories mainly consist of merchandise for sales. They are accounted for using the weighted average cost and stated at the lower of cost and net realizable value. Net realizable value is the estimated selling price in the ordinary course of business less the estimated costs of completion and the estimated costs necessary to make the sale.

**(t) Investment securities**

The classification of investment securities is based on the Company's intent, which is re-evaluated periodically, with respect to those securities. The securities that the Company has positive intent and ability to hold to maturity are classified as held-to-maturity securities and stated at amortized cost. The maturities of the held-to-maturity securities held by the Company generally range from one to ten years. Other investment securities classified as available-for-sale are carried at fair value with unrealized gains and losses recorded in accumulated other comprehensive income (loss) as a component of shareholders' equity. Realized gains and losses and provision for decline in value judged to be other-than-temporary, if any, are recognized in the consolidated income statements. In computing realized gains and losses on available-for-sale securities, the Company determines cost based on amounts paid, including direct costs such as commissions to acquire the security, using the average cost method. Other than the above, the Company has elected the fair value option for certain investments including convertible and exchangeable bonds subscribed. Such fair value option permits the irrevocable election on an instrument-by-instrument basis at initial recognition of an asset or liability or upon an event that gives rise to a new basis of accounting for that instrument. The investments accounted for under the fair value option are carried at fair value with realized or unrealized gains and losses recorded in the consolidated income statements.

Interest income from investment securities is recognized using the effective interest method which is reviewed and adjusted periodically based on changes in estimated cash flows. Dividend income is recognized when the right to receive the payment is established.

**(u) Investments in equity investees**

Equity investments represent the Company's investments in privately held companies and listed securities. The Company applies the equity method to account for an equity investment in common stock or in-substance common stock, according to ASC 323 "Investment — Equity Method and Joint Ventures," over which it has significant influence but does not own a majority equity interest or otherwise control.

An investment in in-substance common stock is an investment in an entity that has risk and reward characteristics that are substantially similar to that entity's common stock. The Company considers subordination, risks and rewards of ownership and obligation to transfer value when determining whether an investment in an entity is substantially similar to an investment in that entity's common stock.

Under the equity method, the Company's share of the post-acquisition profits or losses of the equity investee is recognized in the consolidated income statements and its share of post-acquisition movements in accumulated other comprehensive income is recognized in other comprehensive income. The Company records its share of the results of such equity investees on a one quarter in arrears basis. The excess of the carrying amount of the investment over the underlying equity in net assets of the equity investee represents goodwill and intangible assets acquired. When the Company's share of losses in the equity investee equals or exceeds

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**2. Summary of significant accounting policies (Continued)**

**(u) Investments in equity investees (Continued)**

its interest in the equity investee, the Company does not recognize further losses, unless the Company has incurred obligations or made payments or guarantees on behalf of the equity investee.

For other equity investments that are not considered as debt securities or equity securities that have readily determinable fair values and over which the Company neither has significant influence nor control through investment in common stock or in-substance common stock, the cost method is used.

Under the cost method, the Company carries the investment at cost and recognizes income to the extent of dividends received from the distribution of the equity investee's post-acquisition profits.

**(v) Property and equipment, net**

Property and equipment are stated at cost less accumulated depreciation and any impairment loss. Depreciation is computed using the straight-line method with no residual value based on the estimated useful lives of the various classes of assets, which range as follows:

Computer equipment and software	3 – 5 years
Furniture, office and transportation equipment	3 – 10 years
Buildings	20 – 50 years
Property improvements	shorter of remaining lease period or estimated useful life

Construction in progress represents buildings and related premises under construction, which is stated at actual construction cost less any impairment loss. Construction in progress is transferred to the respective category of property and equipment when completed and ready for its intended use.

Costs of repairs and maintenance are expensed as incurred and asset improvements are capitalized. The cost and related accumulated depreciation of assets disposed of or retired are removed from the accounts, and any resulting gain or loss is reflected in the consolidated income statements.

**(w) Land use rights, net**

Land use rights represent lease prepayments to the local government authorities. Land use rights are carried at cost less accumulated amortization and any impairment loss. Amortization is provided to write off the cost of lease prepayments on a straight-line basis over the period of the right which is 30 – 50 years.

**(x) Intangible assets other than licensed copyrights**

Intangible assets mainly include those acquired through business combinations and purchased intangible assets. Intangible assets acquired through business combinations are recognized as assets separate from goodwill if they satisfy either the "contractual-legal" or "separability" criterion. Intangible assets arising from business combinations are recognized and measured at fair value upon acquisition. Purchased intangible assets are initially recognized and measured at cost upon acquisition. Separately identifiable intangible assets that have

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**2. Summary of significant accounting policies (Continued)**

**(x) Intangible assets other than licensed copyrights (Continued)**

determinable lives continue to be amortized over their estimated useful lives using the straight-line method as follows:

User base and customer relationships	1 – 16 years
Trade names, trademarks and domain names	3 – 20 years
Developed technology and patents	2 – 5 years
Non-compete agreements	over the contracted term up to 6 years

**(y) Licensed copyrights**

Licensed copyrights related to titles to movies, television series, variety shows, animations and other video content acquired from external parties are carried at the lower of unamortized cost or net realizable value. The terms of the licenses for professionally produced content vary depending on the type of content and producers, but the terms for movies and television serial dramas typically range from six months to ten years. Licensed copyrights are presented in the consolidated balance sheets as current assets under prepayments, receivables and other assets, or non-current assets under intangible assets, net, based on estimated time of usage. Licensed copyrights are generally amortized using an accelerated method based on historical viewership consumption patterns. Estimates of the consumption patterns for licensed copyrights are reviewed periodically and revised if necessary. For the years ended March 31, 2016, 2017 and 2018, amortization expenses in connection with the licensed copyrights of RMB347 million, RMB3,886 million and RMB6,111 million were recorded in cost of revenue within the Company's digital media and entertainment segment.

On a periodic basis, the Company evaluates the program usefulness of its licensed copyrights pursuant to the guidance in ASC 920 "Entertainment — Broadcasters" which provides that such rights be reported at the lower of unamortized cost or estimated net realizable value. When there is a change in the expected usage of licensed copyrights, the Company estimates net realizable value of licensed copyrights to determine if any impairment exists. The net realizable value of licensed copyrights is determined by estimating the expected cash flows from advertising, less any direct costs, over the remaining useful lives of such licensed copyrights. The Company estimates advertising cash flows for each category of content separately. Estimates that impact advertising cash flows include anticipated levels of demand for the Company's advertising services and the expected selling prices of the Company's advertisements on the entertainment distribution platforms. For the years ended March 31, 2016, 2017 and 2018, impairment charges in connection with the licensed copyrights of nil, RMB857 million and RMB801 million were recorded in cost of revenue within the Company's digital media and entertainment segment.

**(z) Goodwill**

Goodwill represents the excess of the purchase consideration over the fair value of the identifiable tangible and intangible assets acquired and liabilities assumed from the acquired entity as a result of the Company's acquisitions of interests in its subsidiaries. Goodwill is not amortized but is tested for impairment on an annual basis, or more frequently if events or changes in circumstances indicate that it might be impaired. The Company first assesses qualitative factors to determine whether it is necessary to perform the two-step quantitative goodwill impairment test. In the qualitative assessment, the Company considers primary factors such as industry and market considerations, overall financial performance of the reporting unit, and other specific information related to the operations. Based on the qualitative assessment, if it is more likely than not



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**2. Summary of significant accounting policies (Continued)**

**(z) Goodwill (Continued)**

that the fair value of a reporting unit is less than the carrying amount, the quantitative impairment test is performed.

In performing the two-step quantitative impairment test, the first step compares the fair value of each reporting unit to its carrying amount, including goodwill. If the fair value of the reporting unit exceeds its carrying amount, goodwill is not considered to be impaired and the second step will not be required. If the carrying amount of a reporting unit exceeds its fair value, the second step compares the implied fair value of goodwill to the carrying value of a reporting unit's goodwill. The implied fair value of goodwill is determined in a manner similar to accounting for a business combination with the allocation of the assessed fair value determined in the first step to the assets and liabilities of the reporting unit. The excess of the fair value of the reporting unit over the amounts assigned to the assets and liabilities is the implied fair value of goodwill. This allocation process is only performed for the purposes of evaluating goodwill impairment and does not result in an entry to adjust the value of any assets or liabilities. Application of a goodwill impairment test requires significant management judgment, including the identification of reporting units, allocation of assets, liabilities and goodwill to reporting units, and determination of the fair value of each reporting unit.

**(aa) Impairment of long-lived assets other than goodwill and licensed copyrights**

The Company reviews long-lived assets for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of assets to be held and used is measured by a comparison of the carrying amount of an asset to the future undiscounted net cash flows expected to be generated by the asset. If such assets are considered to be impaired, the impairment recognized is measured by the amount by which the carrying amount of the assets exceeds the fair value of the assets. No impairment of long-lived assets other than investments in equity investees and investment securities was recognized for the years ended March 31, 2016, 2017 and 2018.

**(ab) Derivatives and hedging**

All contracts that meet the definition of a derivative are recognized in the consolidated balance sheets as either assets or liabilities and recorded at fair value. Changes in the fair value of derivatives are either recognized periodically in the consolidated income statements or in other comprehensive income depending on the use of the derivatives and whether they qualify for hedge accounting and are so designated as cash flow hedges, fair value hedges or net investment hedges.

To qualify for hedge accounting, the hedge relationship is designated and formally documented at inception, detailing the particular risk management objective and strategy for the hedge (which includes the item and risk that is being hedged), the derivative that is being used and how hedge effectiveness is being assessed. A derivative has to be effective in accomplishing the objective of offsetting either changes in fair value or cash flows for the risk being hedged. The effectiveness of the hedging relationship is evaluated on a prospective and retrospective basis using qualitative and quantitative measures of correlation. Qualitative methods may include comparison of critical terms of the derivative to those of the hedged item. Quantitative methods include a comparison of the changes in the fair value or discounted cash flow of the hedging instrument to that of the hedged item. A hedging relationship is considered effective if the results of the hedging instrument are within a ratio of 80% to 125% of the results of the hedged item.

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**2. Summary of significant accounting policies (Continued)**

**(ab) Derivatives and hedging (Continued)**

*Interest rate swaps*

Interest rate swaps designated as hedging instruments to hedge against the cash flows attributable to recognized assets or liabilities or forecasted payments may qualify as cash flow hedges. The Company entered into interest rate swap contracts to swap floating interest payments related to certain borrowings for fixed interest payments to hedge the interest rate risk associated with certain forecasted payments and obligations. The effective portion of changes in the fair value of interest rate swaps that are designated and qualify as cash flow hedges is recognized in accumulated other comprehensive income. The gain or loss relating to the ineffective portion is recognized immediately in interest and investment income, net in the consolidated income statements. Amounts in accumulated other comprehensive income shall be reclassified into earnings in the same period during which the hedged forecasted transaction affects earnings.

*Forward exchange contracts*

Forward exchange contracts designated as hedging instruments to hedge against the future changes in currency exposure of net investments in foreign operations may qualify as net investment hedges. The Company entered into forward exchange contracts to hedge the foreign currency risk associated with investments in net assets of certain subsidiaries with operations in the PRC of which the functional currency is RMB. The effective portion of the changes in fair value of the forward exchange contracts that are designated and qualify as net investment hedges is recognized in accumulated other comprehensive income to offset the cumulative translation adjustments relating to those subsidiaries. The gain or loss relating to the ineffective portion, which is measured based on changes in forward exchange rates, is recognized immediately in other income, net in the consolidated income statements. Amounts accumulated are removed from accumulated other comprehensive income and recognized in the consolidated income statements upon disposal of those subsidiaries. Once the hedge becomes ineffective, hedge accounting is discontinued prospectively.

Changes in the fair value of the derivatives not qualified for hedge accounting are reported in the consolidated income statements. The estimated fair value of the derivatives is determined based on relevant market information. These estimates are calculated with reference to the market rates using industry standard valuation techniques.

**(ac) Bank borrowing and unsecured senior notes**

Bank borrowings and unsecured senior notes are recognized initially at fair value, net of upfront fees, debt discounts or premiums, debt issuance costs and other incidental fees. Upfront fees, debt discounts or premiums, debt issuance costs and other incidental fees are recorded as a reduction of the proceeds received and the related accretion is recorded as interest expense in the consolidated income statements over the estimated term of the facilities using the effective interest method.

**(ad) Merchant deposits**

The Company collects deposits representing an annual upfront service fee from merchants on Tmall and AliExpress before the beginning of each calendar year. These deposits are initially recorded as a liability by the Company. Such deposits are refundable to a merchant depending on the level of sales volume that is generated by that merchant on Tmall and AliExpress during the period. If the transaction volume target is not

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**2. Summary of significant accounting policies (Continued)**

**(ad) Merchant deposits (Continued)**

met at the end of each calendar year, the relevant deposits will become non-refundable and such portion of the deposits is recognized as revenue in the consolidated income statements.

**(ae) Deferred revenue and customer advances**

Deferred revenue and customer advances generally represent cash received from customers that relate to goods or services to be provided in the future. Deferred revenue, mainly relating to membership fees and cloud computing services revenue, is stated at the amount of service fees received less the amount previously recognized as revenue upon the provision of the respective services over the terms of the respective service contracts.

**(af) Commitments and contingencies**

In the normal course of business, the Company is subject to contingencies, such as legal proceedings and claims arising out of its business, that cover a wide range of matters. Liabilities for such contingencies are recorded when it is probable that a liability has been incurred and the amount of the liability can be reasonably estimated.

Certain conditions may exist as of the date the consolidated financial statements are issued, which may result in a loss to the Company, but which will only be resolved when one or more future events occur or fail to occur. The Company assesses such contingent liabilities which inherently involves judgment. In assessing loss contingencies related to legal proceedings that are pending against the Company or unasserted claims that may result in such proceedings, the Company, in consultation with its legal counsel, evaluates the perceived merits of any legal proceedings or unasserted claims as well as the perceived merits of the amount of relief sought or expected to be sought therein.

If the assessment of a contingency indicates that it is probable that a material loss has been incurred and the amount of the liability can be estimated, then the estimated liability would be accrued in the consolidated financial statements. If the assessment indicates that a potentially material loss contingency is not probable, or is probable but cannot be estimated, then the nature of the contingent liability, together with an estimate of the range of the reasonably possible loss, if determinable and material, would be disclosed.

Loss contingencies considered remote are generally not disclosed unless they involve guarantees, in which case the nature of the guarantee would be disclosed.

**(ag) Treasury shares**

The Company accounts for treasury shares using the cost method. Under this method, the cost incurred to purchase the shares is recorded in the treasury shares account in the consolidated balance sheets. At retirement, the ordinary shares account is charged only for the aggregate par value of the shares. The excess of the acquisition cost of treasury shares over the aggregate par value is allocated between additional paid-in capital (up to the amount credited to the additional paid-in capital upon original issuance of the shares) and retained earnings. The treasury shares account includes 20,789,596 and 20,789,596 ordinary shares issued at par to wholly-owned subsidiaries of the Company for the purpose of certain equity investment plans for management as of March 31, 2017 and 2018, respectively.

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**2. Summary of significant accounting policies (Continued)**

**(ag) Treasury shares (Continued)**

The Company applies the treasury stock method for the accounting of the reciprocal relationship in which Suning (Note 4(ac)) holds ordinary shares of the Company. The treasury shares account includes 5,262,306 and 4,162,856 ordinary shares representing the Company's share of Suning's investment in the Company as of March 31, 2017 and 2018, respectively.

**(ah) Subscription receivables**

The Company made available loans to certain employees of the Company and its related companies in order to finance their exercise of share options and subscription for ordinary shares of the Company. The participants of all such loans have pledged the ownership of their ordinary shares or restricted shares as security for these loans. The Company also had arrangements with its related companies such that the Company will receive cash reimbursements from its related companies upon the vesting of options and RSUs underlying the Company's ordinary shares granted to their employees. For accounting purposes, loans and reimbursements outstanding with respect to the exercise of vested options and share subscription are recorded as subscription receivables in equity. Further, unvested options that were exercised are recorded as other current liabilities and they are transferred to equity upon vesting.

**(ai) Statutory reserves**

In accordance with the relevant regulations and their articles of association, subsidiaries of the Company incorporated in the PRC are required to allocate at least 10% of their after-tax profit determined based on the PRC accounting standards and regulations to the general reserve until such reserve has reached 50% of the relevant subsidiary's registered capital. Appropriations to the enterprise expansion fund and staff welfare and bonus fund are at the discretion of the respective board of directors of the subsidiaries. These reserves can only be used for specific purposes and are not transferable to the Company in the form of loans, advances or cash dividends. During the years ended March 31, 2016, 2017 and 2018, appropriations to the general reserve amounted to RMB529 million, RMB836 million and RMB298 million, respectively. No appropriations to the enterprise expansion fund and staff welfare and bonus fund have been made by the Company.

**(aj) Reclassification of comparative figures**

In April 2017, the Company adopted Accounting Standards Update ("ASU") 2015-17, "Income Taxes (Topic 740): Balance Sheet Classification of Deferred Taxes," which was issued by the Financial Accounting Standards Board ("FASB") and effective for the Company for the year ended March 31, 2018 and interim reporting periods during the year ended March 31, 2018. This ASU simplifies the presentation of deferred income taxes by requiring deferred tax assets and liabilities to be classified as non-current in the consolidated balance sheet. The Company adopted the ASU retrospectively to all periods presented and accordingly, the consolidated balance sheet as of March 31, 2017 was retrospectively adjusted with current deferred tax assets amounting to RMB652 million reclassified from current prepayments, receivables and other assets to non-current prepayments, receivables and other assets, and current deferred tax liabilities amounting to RMB207 million reclassified from accrued expenses, accounts payable and other liabilities to deferred tax liabilities.

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**3. Recent accounting pronouncements**

In May 2014, the FASB issued ASU 2014-09, "Revenue from Contracts with Customers (Topic 606)" and issued subsequent amendments to the initial guidance or implementation guidance between August 2015 and December 2016 within ASU 2015-14, ASU 2016-08, ASU 2016-10, ASU 2016-12 and ASU 2016-20 (collectively, including ASU 2014-09, "ASC 606"). ASC 606 supersedes the revenue recognition requirements in ASC 605 and requires entities to recognize revenue in a way that depicts the transfer of promised goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services. The new guidance is effective retrospectively for the Company for the year ending March 31, 2019 and interim reporting periods during the year ending March 31, 2019. The new guidance is required to be applied either retrospectively to each prior reporting period presented (the "full retrospective method") or retrospectively with the cumulative effect of initially applying the guidance recognized at the date of initial application (the "modified retrospective method"). The Company will apply the new guidance beginning on April 1, 2018 using the modified retrospective method. Upon the adoption of ASC 606, the Company will begin to recognize revenue relating to the non-cash consideration received from merchants for advertising barter transactions. The adoption of ASC 606 will also impact the Company's revenue recognition in other areas, including the estimation of variable consideration from merchants at contract inception, which will affect the timing and the amount of revenue to be recognized. The cumulative impact of these adjustments on retained earnings as of April 1, 2018 is not expected to be material.

In January 2016, the FASB issued ASU 2016-01, "Financial Instruments — Overall (Subtopic 825-10): Recognition and Measurement of Financial Assets and Financial Liabilities" and issued certain technical corrections and improvements to the initial guidance within ASU 2018-03 in February 2018. ASU 2016-01 amends various aspects of the recognition, measurement, presentation, and disclosure for financial instruments. The new guidance also simplifies the impairment assessment and enhances the disclosure requirements of equity investments. The new guidance is effective for the Company for the year ending March 31, 2019 and interim reporting periods during the year ending March 31, 2019. With respect to the Company's consolidated financial statements, the most significant impact relates to the accounting for equity investments (except for those accounted for under the equity method or those that result in the consolidation of the investee). Under the new guidance, these equity investments of the Company are required to be measured at fair value with changes in fair value recognized in net income. For those investments without readily determinable fair values, the Company will elect to record these investments at cost, less impairment, with subsequent adjustments for observable price changes. The Company will apply the new guidance beginning on April 1, 2018 and unrealized gains and losses for the Company's available-for-sale securities recorded in accumulated other comprehensive income as of March 31, 2018 will be reclassified into retained earnings as of April 1, 2018.

In February 2016, the FASB issued ASU 2016-02, "Leases (Topic 842)" and issued certain transitional guidance and subsequent amendments within ASU 2018-01 and ASU 2018-10 in January 2018 and July 2018, respectively. ASU 2016-02 creates a new topic in ASC 842 "Leases" ("ASC 842") to replace the current topic in ASC 840 "Leases," which increases transparency and comparability among organizations by recognizing lease assets and lease liabilities in the consolidated balance sheet and disclosing key information about leasing arrangements. ASC 842 affects both lessees and lessors, although for the latter the provisions are similar to the current model, but are updated to align with certain changes to the lessee model and also the new revenue recognition provisions contained in ASC 606. The new guidance is effective for the Company for the year ending March 31, 2020 and interim reporting periods during the year ending March 31, 2020. Early adoption is permitted. The Company is evaluating the effects of the adoption of ASC 842 and currently believes that it will impact the accounting of the Company's operating leases.

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**3. Recent accounting pronouncements (Continued)**

In June 2016, the FASB issued ASU 2016-13, "Financial Instruments — Credit Losses (Topic 326): Measurement on Credit Losses on Financial Instruments," which introduces new guidance for credit losses on instruments within its scope. The new guidance introduces an approach based on expected losses to estimate credit losses on certain types of financial instruments, including trade and other receivables, held-to-maturity debt securities, loans and net investments in leases. The new guidance also modifies the impairment model for available-for-sale debt securities and requires entities to determine whether all or a portion of the unrealized loss on an available-for-sale debt security is a credit loss. Further, the new guidance indicates that entities may not use the length of time a security has been in an unrealized loss position as a factor in concluding whether a credit loss exists. The new guidance is effective for the Company for the year ending March 31, 2021 and interim reporting periods during the year ending March 31, 2021. Early adoption is permitted for the Company for the year ending March 31, 2020 and interim reporting periods during the year ending March 31, 2020. The Company is evaluating the effects, if any, of the adoption of this guidance on the Company's financial position, results of operations and cash flows.

In October 2016, the FASB issued ASU 2016-16, "Income Taxes (Topic 740): Intra-Entity Transfers of Assets Other than Inventory," which amends the accounting for income taxes. The new guidance requires recognition of income tax consequences of an intra-entity asset transfer, other than transfers of inventory, when the transfer occurs. For intra-entity transfers of inventory, the income tax effects will continue to be deferred until the inventory has been sold to a third party. The new guidance is effective for the Company for the year ending March 31, 2019 and interim reporting periods during the year ending March 31, 2019. The new guidance is required to be applied on a modified retrospective basis through a cumulative effect adjustment directly recorded to retained earnings as of the beginning of the period of adoption. The Company does not expect that the adoption of this guidance will have a material impact on the Company's financial position, results of operations and cash flows.

In November 2016, the FASB issued ASU 2016-18, "Statement of Cash Flows (Topic 230): Restricted Cash," which requires the amounts generally described as restricted cash and restricted cash equivalents to be included with cash and cash equivalents when reconciling the beginning-of-period and end-of-period total amounts shown on the statement of cash flows. The new guidance is effective for the Company for the year ending March 31, 2019 and interim reporting periods during the year ending March 31, 2019. The guidance requires application using a retrospective transition method. The Company believes that the adoption of this guidance will impact the presentation of the Company's consolidated statements of cash flows.

In January 2017, the FASB issued ASU 2017-04, "Intangibles — Goodwill and Other (Topic 350): Simplifying the Test for Goodwill Impairment," which simplifies how an entity is required to test goodwill for impairment by eliminating step two from the goodwill impairment test. Step two of the goodwill impairment test measures a goodwill impairment loss by comparing the implied fair value of a reporting unit's goodwill with its carrying amount. The new guidance is effective prospectively for the Company for the year ending March 31, 2021 and interim reporting periods during the year ending March 31, 2021. Early adoption is permitted for interim or annual goodwill impairment tests performed on testing dates after January 1, 2017. The Company is evaluating the effects, if any, of the adoption of this guidance on the Company's financial position, results of operations and cash flows.

In May 2017, the FASB issued ASU 2017-09, "Compensation — Stock Compensation (Topic 718): Scope of Modification Accounting," which provides guidance about which changes to the terms or conditions of a share-based payment award require an entity to apply modification accounting in ASC 718 "Compensation — Stock Compensation" ("ASC 718"). Under the new guidance, modification accounting is required only if the

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**3. Recent accounting pronouncements (Continued)**

fair value, the vesting condition, or the classification of the award (as equity or liability) changes as a result of the change in terms or conditions. The new guidance is effective prospectively for the Company for the year ending March 31, 2019 and interim reporting periods during the year ending March 31, 2019. The Company does not expect that the adoption of this guidance will have a material impact on the Company's financial position, results of operations and cash flows.

In August 2017, the FASB issued ASU 2017-12, "Derivatives and Hedging (Topic 815): Targeted Improvements to Accounting for Hedging Activities," which simplifies the application of hedge accounting and makes more financial and nonfinancial hedging strategies eligible for hedge accounting. It also amends the presentation and disclosure requirements and changes how companies assess effectiveness. The new guidance permits a qualitative effectiveness assessment for certain hedges instead of a quantitative test after the initial qualification, if the company can reasonably support an expectation of high effectiveness throughout the term of the hedge. Also, for cash flow hedges and net investment hedges, if the hedge is highly effective, all changes in the fair value of the derivative hedging instrument will be recorded in other comprehensive income. The new guidance is effective prospectively for the Company for the year ending March 31, 2020 and interim reporting periods during the year ending March 31, 2020. Early adoption is permitted. The Company is evaluating the effects, if any, of the adoption of this guidance on the Company's financial position, results of operations and cash flows.

In June 2018, the FASB issued ASU 2018-07, "Compensation — Stock Compensation (Topic 718): Improvements to Nonemployee Share-Based Payment Accounting," which expands the scope of ASC 718 to include share-based payment transactions for acquiring goods and services from non-employees. An entity should apply the requirements of ASC 718 to non-employee awards except for specific guidance on inputs to an option pricing model and the attribution of cost. The amendments specify that ASC 718 applies to all share-based payment transactions in which a grantor acquires goods or services to be used or consumed in a grantor's own operations by issuing share-based payment awards. The new guidance is effective for the Company for the year ending March 31, 2020 and interim reporting periods during the year ending March 31, 2020. Early adoption is permitted. The Company is evaluating the effects of the adoption of this guidance and currently believes that it will impact the accounting of the share-based awards granted to non-employees.

**4. Significant restructuring transaction, mergers and acquisitions and equity investments**

*Restructuring transaction*

**(a) Restructuring of the relationship with Ant Financial and Alipay**

**(i) Restructuring in 2011**

In light of the uncertainties relating to the license qualification and application process for a foreign-invested payment company, the Company's management determined that it was necessary to restructure Alipay as a company wholly-owned by PRC nationals in order to avail Alipay of the specific licensing guidelines applicable only to domestic PRC-owned entities. Accordingly, the Company divested all of its interest in and control over Alipay, which resulted in deconsolidation of Alipay from the consolidated financial statements.

In 2011, the Company entered into certain commercial arrangements with APN Ltd. (a company owned by two directors of the Company), Altaba, SoftBank, Alipay, Ant Financial, and Ant Financial's equity

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**4. Significant restructuring transaction, mergers and acquisitions and equity investments (Continued)**

**(a) Restructuring of the relationship with Ant Financial and Alipay (Continued)**

holders, setting out the mechanism for the future collaboration among the relevant parties relating to Ant Financial.

**(ii) 2014 restructuring of the relationship with Ant Financial and Alipay and 2018 amendments**

In August 2014, the Company entered into a share and asset purchase agreement (the "2014 SAPA"), and entered into or amended certain ancillary agreements including an amendment and restatement of the intellectual property license agreement with Alipay (the "2014 IPLA"). Pursuant to these agreements, the Company restructured its relationships with Ant Financial and Alipay.

As of August 2014, the fair value of the restructured arrangement exceeded the fair value of the pre-existing arrangement with Ant Financial by RMB1.3 billion. As Ant Financial was controlled by a director and major shareholder of the Company, the excess value provided to the Company in this related party transaction was accounted for as an equity contribution by the shareholder in the statement of changes in shareholders' equity. Given the nature of this transaction, the corresponding asset representing the excess value receivable by the Company was accounted for as a restructuring reserve in equity and amortized as an expense in the consolidated income statements over the expected term of the restructured arrangement which is estimated to be five years. The amortization of the excess value of RMB264 million, RMB264 million and RMB264 million were recorded in other income, net in the consolidated income statements for the years ended March 31, 2016, 2017 and 2018, respectively (Note 6).

In February 2018, the Company amended both the 2014 SAPA (the amended version of which is referred to as the "2018 SAPA") and the Alipay commercial agreement, and agreed with Ant Financial and certain other parties on forms of certain ancillary agreements, including an amendment and restatement of the 2014 IPLA ("the 2018 IPLA"). The 2018 SAPA and amendment to the Alipay commercial agreement were entered into to facilitate the planned acquisition of a 33% equity interest in Ant Financial, and the forms of certain ancillary agreements will be entered into and/or become effective upon the closing of the acquisition of such equity interest.

Apart from the amended provisions described below, the key terms of the agreements with Ant Financial and Alipay from the 2014 restructuring remain substantially unchanged.

***2014 SAPA and 2018 SAPA***

***Sale of SME loan business and certain other assets***

Pursuant to the 2014 SAPA, the Company agreed to sell certain securities and assets primarily relating to the SME loan business and other related services to Ant Financial for an aggregate cash consideration of RMB3,219 million. The sale was completed in February 2015. In addition, pursuant to software system use and service agreements relating to the know-how and related intellectual property that we agreed to sell together with the SME loan business and related services, the Company will receive annual fees (the "SME Annual Fee") for a term of seven years. These SME Annual Fees, which are recognized as other revenue, are determined as follows: for calendar years 2015 to 2017, the entities operating the SME loan business paid an annual fee equal to 2.5% of the average daily balance of the SME loans provided by these entities, and in calendar years 2018 to 2021, these entities will pay an annual fee equal to the amount of the fees paid in calendar year 2017. The Company accounts for the SME Annual Fee in the periods when the services are provided, where such payments are expected to approximate the estimated



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**4. Significant restructuring transaction, mergers and acquisitions and equity investments (Continued)**

**(a) Restructuring of the relationship with Ant Financial and Alipay (Continued)**

fair values of the services provided. The SME Annual Fee of RMB708 million, RMB847 million and RMB956 million were recorded in revenue in the consolidated financial statements for the years ended March 31, 2016, 2017 and 2018, respectively (Note 21).

*Planned issuance of equity interest*

Pursuant to the 2014 SAPA, the Company is entitled to receive up to 33% equity interest in Ant Financial under certain circumstances. To facilitate the acquisition of equity interest in Ant Financial contemplated under the 2014 SAPA, the 2018 SAPA provides that Ant Financial will issue new securities to the Company representing a 33% equity interest in Ant Financial, subject to the receipt of the necessary PRC regulatory approvals and the satisfaction of other conditions set forth in the 2018 SAPA.

Under the 2014 SAPA and the 2018 SAPA, the consideration to acquire the 33% equity interest in Ant Financial will be fully funded by payments from Ant Financial and its subsidiaries to the Company in consideration for certain intellectual property and assets that the Company will transfer at the closing of the equity issuance. Such consideration is determined based on the fair value of the underlying assets. The Company currently estimates the total consideration for the acquisition of the 33% equity interest in Ant Financial will be approximately RMB12.2 billion before deducting expenses in connection with such transfers and share subscription. The large majority of the intellectual property and assets to be transferred as part of these arrangements was previously planned to be transferred to Ant Financial pursuant to the 2014 SAPA. Ant Financial may elect to defer certain offshore transfer payments, in which case the Company's obligations to pay corresponding consideration for the equity issuance will also be deferred. If the Company has made all its outstanding equity issuance consideration payments at a time when Ant Financial has not made all corresponding transfer payments to the Company, Ant Financial or its subsidiaries will issue interest-bearing promissory notes to the Company. In any event, Ant Financial must complete all outstanding transfer payments to the Company, by the earlier of (i) the first anniversary of an Ant Financial IPO meeting certain minimum criteria for a qualified IPO set forth in the 2018 SAPA (a "Qualified IPO"), and (ii) the fifth anniversary of the equity issuance closing.

Upon closing of the equity issuance, the Company will enter into the 2018 IPLA and the Profit Share Payments under the 2014 IPLA will automatically terminate.

*Removal of liquidity event payment obligation*

Under the 2014 SAPA, in the event of a qualified IPO of Ant Financial or Alipay, if the Company had not acquired equity interest in Ant Financial prior to the closing of such IPO, the Company was entitled, at its election, to receive a one-time liquidity event payment equal to 37.5% of the equity value, immediately prior to the qualified IPO. If the Company had acquired equity interest in Ant Financial, but in an aggregate amount less than 33%, the percentage of Ant Financial's equity value used to calculate such liquidity event payment would be adjusted proportionately. In lieu of receiving the liquidity event payment, the Company could instead elect to receive the Profit Share Payments under the 2014 IPLA described below in perpetuity, subject to the receipt of regulatory approvals. If the Company so elected, in connection with the qualified IPO, Ant Financial would have been required to use its commercially reasonable efforts to obtain these regulatory approvals. If these approvals were not obtained, then Ant Financial would have been obligated to pay the Company the liquidity event payment described above.

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**4. Significant restructuring transaction, mergers and acquisitions and equity investments (Continued)**

**(a) Restructuring of the relationship with Ant Financial and Alipay (Continued)**

The 2018 SAPA no longer provides for this liquidity event payment, as the Company has agreed to acquire the entire 33% equity interest in Ant Financial at the closing of the equity issuance.

*Regulatory unwind and long-stop date*

The 2018 SAPA provides that, if a relevant governmental authority prohibits the Company from owning all or a portion of its equity interest in Ant Financial after the equity issuance has occurred through enactment of a law, rule or regulation, or explicitly requires Ant Financial to redeem such equity interest, and such prohibition or request is not subject to appeal and cannot otherwise be resolved, then to the extent necessary, Ant Financial will redeem the equity interest; the related intellectual property and asset transfers, and ancillary transactions under the 2018 SAPA will be unwound; and the terms of the 2014 SAPA, the 2014 IPLA, and other related agreements will be restored, including the prior Profit Share Payments and liquidity event payment terms discussed above. If there is a partial unwind where the Company retains a portion of its equity interest in Ant Financial, but less than the full 33%, then pursuant to the terms of the 2014 SAPA and the 2014 IPLA, the prior Profit Share Payments arrangement and liquidity event payment amount will be proportionately reduced based on the amount of equity interest retained by the Company.

Similarly, if a governmental authority prohibits the equity issuance through enactment of a law, rule or regulation, and such prohibition is not subject to appeal and cannot otherwise be resolved, or if the closing of the equity issuance has not occurred by the first anniversary of the establishment of a PRC subsidiary to acquire the relevant equity interest, which time period may be extended in certain circumstances, then the 2018 SAPA and related agreements will terminate, and the 2014 SAPA and other related agreements will come back into effect.

*Pre-emptive rights*

As was the case under the 2014 SAPA, under the 2018 SAPA, following the receipt of equity interest in Ant Financial, the Company will have pre-emptive rights to participate in other issuances of equity securities by Ant Financial and certain of its affiliates prior to the time of a Qualified IPO of Ant Financial. These pre-emptive rights entitle the Company to maintain the equity ownership percentage the Company held in Ant Financial immediately prior to any such issuances. In connection with the exercise of the pre-emptive rights the Company is also entitled to receive certain payments from Ant Financial, effectively funding the subscription for these additional equity interest, up to a value of US\$1.5 billion, subject to certain adjustments. In addition, under the 2018 SAPA, in certain circumstances the Company is permitted to exercise pre-emptive rights through an alternative arrangement which will further protect the Company from dilution.

*Corporate governance provisions*

Under the 2018 SAPA, upon the closing of the equity issuance, in addition to an independent director, the Company will have the right to nominate two officers or employees of the Company for election to the board of Ant Financial. In each case, these director nomination rights will continue unless required to be terminated by applicable laws and regulations or listing rules in connection with an Ant Financial

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**4. Significant restructuring transaction, mergers and acquisitions and equity investments (Continued)**

**(a) Restructuring of the relationship with Ant Financial and Alipay (Continued)**

Qualified IPO process or the Company ceases to own a certain amount of its post-issuance equity interest in Ant Financial.

In connection with the 2018 SAPA, the Company also agreed on the form of the 2018 IPLA, agreed to certain revisions to the previously-agreed form of cross license agreement, and agreed on new forms of various intellectual property transfer agreements to be entered into in connection with, and to implement, the contemplated intellectual property and asset transfers.

***2014 IPLA and 2018 IPLA***

*2014 IPLA*

Under the 2014 IPLA, the Company receives, in addition to a software technology service fee, royalty streams related to Alipay and other current and future businesses of Ant Financial (collectively, the "Profit Share Payments"). The Profit Share Payments are paid at least annually and equal the sum of an expense reimbursement plus 37.5% of the consolidated pre-tax income of Ant Financial, subject to certain adjustments. The expense reimbursement represents the costs and expenses incurred by the Company in the provision of software technology services. The Company accounts for the Profit Share Payments in the periods when the services are provided, where such payments are expected to approximate the estimated fair values of the services provided. In addition, if the Company acquires any equity interest in Ant Financial, the Profit Share Payments will also be reduced in proportion to such equity issuances made to the Company. The Profit Share Payments will be terminated upon the closing of the planned acquisition of a 33% equity interest in Ant Financial.

Income in connection with the Profit Share Payments, net of costs incurred by the Company, of RMB1,122 million, RMB2,086 million and RMB3,444 million, were recorded in other income, net in the consolidated income statements for the years ended March 31, 2016, 2017 and 2018, respectively (Notes 6 and 21).

*2018 IPLA*

Pursuant to the 2018 SAPA, the Company, Ant Financial and Alipay agreed to enter into the 2018 IPLA upon the closing of the planned acquisition of a 33% equity interest in Ant Financial, at which time the Company will also transfer certain intellectual property and assets to Ant Financial and its subsidiaries and the current arrangement of Profit Share Payments will immediately terminate.

The 2018 IPLA will terminate upon the earliest of:

- the full payment of all pre-emptive rights funded payments under the 2018 SAPA;
- the closing of a Qualified IPO of Ant Financial or Alipay; and
- the transfer to Ant Financial of intellectual property the Company owns that is exclusively related to the business of Ant Financial.

The 2018 amendments are effective subject to the receipt of the necessary PRC regulatory approvals and the satisfaction of other conditions set forth in the 2018 SAPA.

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**4. Significant restructuring transaction, mergers and acquisitions and equity investments (Continued)**

*Mergers and acquisitions*

**(b) Acquisition of Cainiao Smart Logistics Network Limited ("Cainiao Network")**

Cainiao Network operates a logistics data platform which leverages the capacity and capabilities of logistics partners to offer domestic and international one-stop-shop logistics services and supply chain management solutions, fulfilling various logistics needs of merchants and consumers at scale. It uses data insights and technology to improve efficiency across the logistics value chain. In March 2016, the Company participated in Cainiao Network's equity financing round, after which the Company's investment in Cainiao Network increased from RMB2,400 million to RMB6,992 million. The Company's equity interest in Cainiao Network was diluted to approximately 47% after this financing round and a gain of RMB448 million arising from such deemed disposal was recognized in share of results of equity investees in the consolidated income statement for the year ended March 31, 2016. The Company's investment in Cainiao Network was accounted for under the equity method.

In October 2017, the Company completed the subscription for newly issued ordinary shares of Cainiao Network for a cash consideration of US\$803 million (RMB5,322 million). Following the completion of the transaction, the Company's equity interest in Cainiao Network increased to approximately 51% and Cainiao Network became a consolidated subsidiary of the Company.

The allocation of the purchase price as of the date of acquisition is summarized as follows:

	<u>Amounts</u> <u>(in millions of RMB)</u>
Net assets acquired (i)	23,937
Amortizable intangible assets (ii)	
User base and customer relationships	9,344
Trade names, trademarks and domain names	4,965
Developed technology and patents	459
Goodwill	32,418
Deferred tax assets	920
Deferred tax liabilities	(5,197)
Noncontrolling interests (iii)	(33,189)
Total	<u>33,657</u>

	<u>Amounts</u> <u>(in millions of RMB)</u>
Total purchase price is comprised of:	
- cash consideration	5,322
- fair value of previously held equity interests	28,335
Total	<u>33,657</u>

- (i) Net assets acquired primarily include the cash consideration of RMB5,322 million, property and equipment of RMB15,144 million and bank borrowings of RMB5,288 million as of the date of acquisition.
- (ii) Acquired amortizable intangible assets have estimated amortization periods not exceeding 16 years and a weighted-average amortization period of 14.3 years.

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**4. Significant restructuring transaction, mergers and acquisitions and equity investments (Continued)**

**(b) Acquisition of Cainiao Smart Logistics Network Limited ("Cainiao Network") (Continued)**

(iii) Fair value of the noncontrolling interests is estimated with reference to the purchase price per share as of the acquisition date.

A gain of RMB22,442 million in relation to the revaluation of the previously held equity interests was recorded in interest and investment income, net in the consolidated income statement for the year ended March 31, 2018. The fair value of the previously held equity interests was estimated based on the purchase price per share of Cainiao Network as of the acquisition date.

The Company expects that the acquisition of control over Cainiao Network will help enhance the overall logistics experience for consumers and merchants across the ecosystem of the Company, and enable greater efficiencies and lower costs in the logistics sector in the PRC. Goodwill arising from this acquisition was attributable to the synergies expected from the combined operations of Cainiao Network and the Company, the assembled workforce and their knowledge and experience in the logistics sector in the PRC. The goodwill recognized was not expected to be deductible for income tax purpose.

**(c) Acquisition of Intime Retail (Group) Company Limited ("Intime")**

Intime is one of the leading department store operators in the PRC that was previously listed on the Hong Kong Stock Exchange ("HKSE"). The Company owned a 9.9% equity interest in Intime which was accounted for as an available-for-sale security and subscribed for a convertible bond which was accounted for under the fair value option and recorded under investment securities.

In June 2016, the Company completed the conversion of all of the convertible bond that the Company previously subscribed for into newly issued ordinary shares of Intime, at a conversion price of Hong Kong Dollar ("HK\$") 7.13 per share. Upon the completion of the conversion, the Company's equity interest in Intime increased to approximately 28% and the investment was accounted for under the equity method. The sum of the market value of the previously held equity interests in Intime and the fair value of the convertible bond on the date of conversion, amounting to RMB4,758 million, was recognized as the cost of investment under the equity method upon the completion of the conversion. Out of this amount, RMB250 million was allocated to amortizable intangible assets, RMB426 million was allocated to deferred tax liabilities and RMB4,934 million was allocated to net assets acquired.

In May 2017, the Company and the founder of Intime completed the privatization of Intime, upon which all of the issued and outstanding shares of Intime that the Company, the founder of Intime and certain other shareholders did not own were cancelled in exchange for a payment of HK\$10.00 per share in cash. The Company paid a cash consideration of HK\$12,605 million (RMB11,131 million) in the privatization. Upon the completion of the privatization, the Company increased its shareholding in Intime to approximately 74% and Intime became a consolidated subsidiary of the Company. Following the completion of the transaction, the listing of the shares of Intime on the HKSE was withdrawn.

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**4. Significant restructuring transaction, mergers and acquisitions and equity investments (Continued)**

**(c) Acquisition of Intime Retail (Group) Company Limited ("Intime") (Continued)**

The allocation of the purchase price as of the date of acquisition is summarized as follows:

	<u>Amounts</u> <u>(in millions of RMB)</u>
Net assets acquired (i)	20,920
Amortizable intangible assets (ii)	
Trade names, trademarks and domain names	1,131
User base and customer relationships	72
Developed technology and patents	16
Goodwill	4,757
Deferred tax liabilities	(2,790)
Noncontrolling interests (iii)	(6,301)
Total	<u>17,805</u>

	<u>Amounts</u> <u>(in millions of RMB)</u>
Total purchase price is comprised of:	
- cash consideration	11,131
- fair value of previously held equity interests	6,674
Total	<u>17,805</u>

- (i) Net assets acquired primarily include property and equipment of RMB23,492 million and bank borrowings of RMB4,110 million as of the date of acquisition.
- (ii) Acquired amortizable intangible assets have estimated amortization periods not exceeding eleven years and a weighted-average amortization period of 10.1 years.
- (iii) Fair value of the noncontrolling interests is estimated with reference to the purchase price of HK\$10.00 per share in the privatization.

A gain of RMB1,861 million in relation to the revaluation of the previously held equity interests was recorded in interest and investment income, net in the consolidated income statement for the year ended March 31, 2018. The fair value of the previously held equity interests was estimated with reference to the purchase price of HK\$10.00 per share in the privatization.

The Company expects Intime to support its strategy to transform conventional retail by leveraging its substantial consumer reach, rich data and technology. Goodwill arising from this acquisition was attributable to the synergies expected from the combined operations of Intime and the Company, the assembled workforce and their knowledge and experience in the retail business in the PRC. The goodwill recognized was not expected to be deductible for income tax purpose.

In February 2018, the Company purchased additional ordinary shares of Intime from certain minority shareholders for a cash consideration of HK\$6,712 million (RMB5,428 million). This resulted in a reduction of noncontrolling interests amounting to RMB5,854 million. As of March 31, 2018, the Company's equity interest in Intime was approximately 98%.

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**4. Significant restructuring transaction, mergers and acquisitions and equity investments (Continued)**

**(d) Acquisition of Pony Media Holdings Inc. ("Damai")**

Damai is a leading online ticketing platform for live events such as concerts and theater shows in the PRC. In March 2017, the Company completed an acquisition of all of the issued and outstanding shares of Damai that the Company did not already own for a cash consideration of US\$393 million (RMB2,711 million). Prior to this transaction, the Company held an approximately 32% equity interest on a fully diluted basis in Damai. The investment was accounted for under the cost method. Yunfeng, which is comprised of certain investment funds of which the executive chairman of the Company has equity interests in the general partners of such funds, was one of the shareholders of Damai.

The allocation of the purchase price as of the date of acquisition is summarized as follows:

	<u>Amounts</u> <u>(in millions of RMB)</u>
Net assets acquired	100
Amortizable intangible assets (i)	
Trade names, trademarks and domain names	684
Non-compete agreements	271
Developed technology and patents	267
Goodwill	2,693
Deferred tax assets	16
Deferred tax liabilities	(202)
Total	<u>3,829</u>

	<u>Amounts</u> <u>(in millions of RMB)</u>
Total purchase price is comprised of:	
- cash consideration	2,711
- fair value of previously held equity interests	1,118
Total	<u>3,829</u>

- (i) Acquired amortizable intangible assets have estimated amortization periods not exceeding ten years and a weighted-average amortization period of 7.4 years.

A gain of RMB201 million in relation to the revaluation of previously held equity interests was recorded in interest and investment income, net in the consolidated income statement for the year ended March 31, 2017. The fair value of the previously held equity interests was determined using an income approach. As Damai is a private company, the fair value of the previously held equity interests is estimated based on significant inputs that market participants would consider, which mainly include revenue growth rate, operating margin, discount rate and other factors that may affect such fair value estimation.

The Company believes Damai will form a strategic part of the value chain in the Company's digital media and entertainment business. Goodwill arising from this acquisition was attributable to the synergies expected from the combined operations of Damai and the Company, the assembled workforce and their knowledge and experience in the entertainment industry in the PRC. The goodwill recognized was not expected to be deductible for income tax purpose.

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**4. Significant restructuring transaction, mergers and acquisitions and equity investments (Continued)**

**(e) Acquisition of AGTech Holdings Limited ("AGTech")**

AGTech, a company that is listed on the Hong Kong Growth Enterprise Market, is an integrated technology and services company engaged in the lottery and mobile games and entertainment market with a focus on the PRC and selected international markets. In August 2016, an investment vehicle which is 60% owned by the Company and 40% owned by Ant Financial completed an acquisition of newly issued ordinary shares of AGTech for a cash consideration of HK\$1,675 million (RMB1,436 million), representing an approximately 49% equity interest in AGTech. In addition, the investment vehicle completed the subscription for convertible bonds, which are convertible into ordinary shares of AGTech, for a purchase price of HK\$713 million (RMB611 million). A portion of the convertible bonds with a total principal amount of HK\$205 million (RMB176 million) was converted into ordinary shares of AGTech upon closing of the acquisition. Consequently, the investment vehicle's equity interest in AGTech increased to approximately 53%. The Company obtained control over AGTech through its control over the investment vehicle and AGTech became a consolidated subsidiary of the Company.

The allocation of the total purchase price of HK\$1,880 million (RMB1,612 million), representing the cost of acquisition for the newly issued ordinary shares and the partial conversion of the convertible bonds by the investment vehicle, as of the date of acquisition is summarized as follows:

	<u>Amounts</u> <u>(in millions of RMB)</u>
Net assets acquired (i)	1,638
Amortizable intangible assets (ii)	
Developed technology and patents	414
Trade names, trademarks and domain names	44
Non-compete agreements	38
Others	33
Goodwill	7,782
Deferred tax assets	4
Deferred tax liabilities	(86)
Noncontrolling interests (iii)	(8,255)
Total	<u>1,612</u>

- (i) Net assets acquired include the cash consideration of RMB1,612 million.
- (ii) Acquired amortizable intangible assets have estimated amortization periods and a weighted-average amortization period of 3.0 years.
- (iii) Fair value of the noncontrolling interests is estimated with reference to the market price per ordinary share of AGTech as of the acquisition date.

The Company believes that AGTech will serve as its vehicle for participating in the online lottery business in the PRC. Goodwill arising from this acquisition was attributable to the synergies expected from the combined operations of AGTech and the Company, the assembled workforce and their knowledge and experience surrounding lottery related businesses in the PRC. The goodwill recognized was not expected to be deductible for income tax purpose.



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**4. Significant restructuring transaction, mergers and acquisitions and equity investments (Continued)**

**(e) Acquisition of AGTech Holdings Limited ("AGTech") (Continued)**

In March 2017, an additional portion of the convertible bonds with a total principal amount of HK\$175 million (RMB155 million) was converted into ordinary shares of AGTech. The conversion was accounted for as a reduction of noncontrolling interests. As of March 31, 2018, the investment vehicle's equity interest in AGTech was approximately 55%.

**(f) Acquisition of South China Morning Post and other media businesses ("SCMP")**

In April 2016, the Company acquired the business of South China Morning Post, the premier English newspaper in Hong Kong. Apart from the flagship South China Morning Post, the Company also acquired the recruitment, outdoor media, events and conferences, education and digital media businesses in the same transaction. The cash consideration of HK\$2,134 million (RMB1,780 million) was paid upon the closing of the transaction. These acquired businesses became wholly-owned by the Company after the completion of the transaction.

The allocation of the purchase price as of the date of acquisition is summarized as follows:

	<u>Amounts</u> <u>(in millions of RMB)</u>
Net assets acquired	800
Amortizable intangible assets (i)	
Trade names, trademarks and domain names	378
User base and customer relationships	166
Others	15
Goodwill	529
Deferred tax assets	1
Deferred tax liabilities	(109)
Total	<u>1,780</u>

(i) Acquired amortizable intangible assets have estimated amortization periods and a weighted-average amortization period of 3.0 years.

By combining the heritage and editorial excellence of SCMP with the Company's digital expertise, the Company intended to provide comprehensive and insightful news and analysis of the big stories in Hong Kong and the PRC so as to expand the readership globally through digital distribution and allow easier access to content. Goodwill arising from this acquisition was attributable to the synergies expected from the combined operations of SCMP and the Company, the assembled workforce and their knowledge and experience in the provision and distribution of content to reach global audience. The goodwill recognized was not expected to be deductible for income tax purpose.

**(g) Acquisition of Youku Tudou Inc. ("Youku")**

Youku is one of the largest online video platforms in the PRC that was previously listed on the New York Stock Exchange ("NYSE"). In April 2016, the Company completed an acquisition of all of the issued and outstanding shares of Youku that the Company or Yunfeng did not previously own, at a purchase price of US\$27.60 per American Depositary Share ("ADS"). Following the completion of the transaction, the Company

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**4. Significant restructuring transaction, mergers and acquisitions and equity investments (Continued)**

**(g) Acquisition of Youku Tudou Inc. ("Youku") (Continued)**

held an approximately 98% equity interest in Youku. As a result, Youku became a consolidated subsidiary of the Company, with Yunfeng holding approximately 2% noncontrolling interests. The listing of the ADS of Youku on the NYSE was withdrawn upon the closing of the transaction.

The cash consideration of US\$4,443 million (RMB28,724 million) was paid upon the closing of the transaction. The allocation of the purchase price as of the date of acquisition is summarized as follows:

	<u>Amounts</u> <u>(in millions of RMB)</u>
Net assets acquired (i)	5,923
Amortizable intangible assets (ii)	
Trade names, trademarks and domain names	4,047
User base and customer relationships	284
Developed technology and patents	143
Others	175
Goodwill	26,395
Deferred tax assets	73
Deferred tax liabilities	(1,167)
Noncontrolling interests (iii)	(773)
Total	<u>35,100</u>

	<u>Amounts</u> <u>(in millions of RMB)</u>
Total purchase price is comprised of:	
- cash consideration	28,724
- fair value of previously held equity interests	6,376
Total	<u>35,100</u>

- (i) Net assets acquired primarily include cash and cash equivalents and short-term interest-bearing deposits with total balance of RMB5,857 million and licensed copyrights of RMB703 million as of the date of acquisition.
- (ii) Acquired amortizable intangible assets have estimated amortization periods not exceeding 20 years and a weighted-average amortization period of 17.4 years.
- (iii) Fair value of the noncontrolling interests is estimated with reference to the purchase price of US\$27.60 per ADS in the step acquisition.

A gain of RMB518 million in relation to the revaluation of the previously held equity interests was recorded in interest and investment income, net in the consolidated income statement for the year ended March 31, 2017. The fair value of the previously held equity interests was estimated with reference to the purchase price of US\$27.60 per ADS in the step acquisition.

Youku is a core part of the Company's strategy to offer digital entertainment to consumers in the Company's ecosystem, thereby strengthening user engagement and loyalty as well as enabling a new marketing channel for

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**4. Significant restructuring transaction, mergers and acquisitions and equity investments (Continued)**

**(g) Acquisition of Youku Tudou Inc. ("Youku") (Continued)**

the merchants and brands in the Company's ecosystem. Further, Youku creates additional revenue sources for the Company from advertising and membership subscriptions. Goodwill arising from this acquisition was attributable to the synergies expected from the combined operations of Youku and the Company, the assembled workforce and their knowledge and experience in the digital entertainment business. The goodwill recognized was not expected to be deductible for income tax purpose.

Subsequent to the completion of the transaction and as a resolution to negotiations with certain former management members and shareholders of Youku with respect to an option to purchase up to 15% of its equity, the Company issued 1.3 million ordinary shares and 3.4 million restricted share units of the Company to certain former management members and shareholders in April 2017. An expense of RMB994 million relating to the 1.3 million ordinary shares issued was recorded in interest and investment income, net in the consolidated income statement. The 3.4 million restricted share units contain vesting conditions pursuant to a non-compete agreement which was entered into by the Company and a former management member of Youku in April 2017 (Note 15).

In December 2017, the Company made a capital injection of US\$132 million (RMB870 million) in Youku, which resulted in the Company holding substantially all of the shares in Youku and a reduction of noncontrolling interests.

**(h) Acquisition of Lazada Group S.A. ("Lazada")**

Lazada operates a leading e-commerce platform across Southeast Asia, with local language websites and mobile apps in Indonesia, Malaysia, the Philippines, Singapore, Thailand and Vietnam. In April 2016, the Company completed an acquisition of an approximately 54% equity interest in Lazada for a cash consideration of US\$1,020 million (RMB6,607 million). Lazada became a consolidated subsidiary of the Company after the completion of the transaction.

The allocation of the purchase price as of the date of acquisition is summarized as follows:

	<u>Amounts</u> <u>(in millions of RMB)</u>
Net assets acquired	2,874
Amortizable intangible assets (i)	
User base and customer relationships	2,014
Non-compete agreements	959
Trade names, trademarks and domain names	292
Developed technology and patents	79
Goodwill	5,216
Deferred tax assets	616
Deferred tax liabilities	(1,027)
Noncontrolling interests (ii)	(4,416)
Total	<u>6,607</u>

- (i) Acquired amortizable intangible assets have estimated amortization periods not exceeding three years and a weighted-average amortization period of 2.5 years.
- (ii) Fair value of the noncontrolling interests is estimated with reference to the purchase price per share as of the acquisition date. The noncontrolling interests is classified as mezzanine equity due to certain put and call arrangements with other Lazada shareholders.

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**4. Significant restructuring transaction, mergers and acquisitions and equity investments (Continued)**

**(h) Acquisition of Lazada Group S.A. ("Lazada") (Continued)**

Lazada offers merchants and brands a one-stop marketplace solution to access consumers in the six countries. Lazada also sells products on its platforms directly via its own retail operations. In addition, it has an in-house logistics operation, which is supported by the highly scalable warehouse management system, to ensure quick and reliable order fulfilment. The Company believes that Lazada will be the vehicle for expansion into the Southeast Asia consumer market, including potential cross-border opportunities to introduce Chinese merchants and international brands to Southeast Asian consumers. Goodwill arising from this acquisition was attributable to the synergies expected from the combined operations of Lazada and the Company, the assembled workforce and their knowledge and experience in e-commerce in Southeast Asia. The goodwill recognized was not expected to be deductible for income tax purpose.

During the year ended March 31, 2018, the Company purchased additional equity interest in Lazada for a cash consideration of US\$1,016 million (RMB6,877 million) as a result of the partial exercise of the put and call arrangement with minority shareholders. In addition, the Company made capital injections amounting to US\$483 million (RMB3,124 million) into Lazada and acquired additional equity interest held by certain management members and employees of Lazada for a total consideration of US\$87 million (RMB578 million) during the year ended March 31, 2018. These transactions resulted in a reduction of noncontrolling interests amounting to RMB1,681 million. As of March 31, 2018, the Company's equity interest in Lazada was approximately 91%.

**(i) Acquisition of Alibaba Health Information Technology Limited ("Alibaba Health")**

Alibaba Health, a company that is listed on the HKSE, is engaged in self-operated healthcare product sales, e-commerce platform services, tracking services and innovation healthcare related services in the PRC. The Company and Yunfeng hold a total equity and voting interest of approximately 54% in Alibaba Health through their investments in a special purpose entity. The Company holds an approximately 70% equity interest in the special purpose entity and Yunfeng holds the remaining equity interests. Cash consideration of HK\$932 million (RMB741 million) was paid upon the closing of the transaction by the Company to acquire its equity interests in the special purpose entity in 2014. Although the Company controls the board of the special purpose entity, the investment and shareholders agreement provided that the underlying shares in Alibaba Health are voted by the Company and Yunfeng separately based on their respective effective equity interests, including voting rights. The Company exercised significant influence over Alibaba Health through its effective equity and voting interest of approximately 38% in Alibaba Health, and accounted for Alibaba Health under the equity method.

In July 2015, in preparation of the transfer of the Tmall online pharmacy business operations of the Company to Alibaba Health (of which the agreement was subsequently terminated), the investment and shareholders agreement was amended under which Yunfeng agreed to irrevocably give up its separate voting rights with respect to its indirect interest in Alibaba Health at no consideration. Such control is important for the Company to execute its digital and data-driven healthcare strategy through Alibaba Health as its flagship vehicle in this sector, indirectly benefiting all shareholders including Yunfeng economically. As a result of the amendment, the Company obtained control over the entire 54% equity interest in Alibaba Health through its control over the board and majority of voting rights of the special purpose entity. Consequently, Alibaba Health became a consolidated subsidiary while the Company's effective equity interest in Alibaba Health remained at approximately 38%.

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**4. Significant restructuring transaction, mergers and acquisitions and equity investments (Continued)**

**(i) Acquisition of Alibaba Health Information Technology Limited ("Alibaba Health") (Continued)**

The equity value of Alibaba Health of HK\$64,319 million (RMB50,723 million), estimated based on the market price of the issued shares of Alibaba Health listed on the HKSE which was the more readily determinable fair value as of the deemed acquisition date, was used to allocate the fair value of net assets acquired and the fair value of noncontrolling interests, and calculate the gain of RMB18,603 million. Such gain relating to the revaluation of previously held equity interests upon obtaining control of Alibaba Health was recorded in interest and investment income, net in the consolidated income statement for the year ended March 31, 2016.

The allocation of the equity value of Alibaba Health as of the date of the deemed acquisition is summarized as follows:

	<u>Amounts</u> <u>(in millions of RMB)</u>
Net assets acquired	1,290
Amortizable intangible assets (i)	
Developed technology and patents	70
Trade names, trademarks and domain names	35
User base and customer relationships	8
Goodwill	49,320
Deferred tax assets	19
Deferred tax liabilities	(19)
Total	<u>50,723</u>
The equity value is comprised of:	
- fair value of previously held equity interests	19,264
- fair value of noncontrolling interests (ii)	31,459
Total	<u>50,723</u>

- (i) Acquired amortizable intangible assets have estimated amortization periods not exceeding three years and a weighted-average amortization period of 2.6 years.
- (ii) Fair value of the noncontrolling interests is estimated with reference to the market price per share as of the deemed acquisition date.

This transaction will enable the Company to benefit from the focused healthcare expertise of Alibaba Health in the operation of the online pharmacy business and foster consumer trust through the sale of authentic pharmaceuticals through Alibaba Health's verification and authentication technology. Goodwill arising from this acquisition was attributable to the synergies expected from the combined business which will create a technology enabled solution provider to consumers and other participants in the healthcare industry in the PRC. The goodwill recognized was not expected to be deductible for income tax purpose.

In June 2017, the Company transferred its business relating to certain regulated health food products on Tmall to Alibaba Health, in exchange for approximately 1.2 billion newly issued ordinary shares of Alibaba Health. After this transaction, the Company's effective equity interests in Alibaba Health increased to approximately 46%. The transfer of business was accounted for as a transaction under common control, which resulted in a reduction of noncontrolling interests amounting to RMB3,962 million.

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**4. Significant restructuring transaction, mergers and acquisitions and equity investments (Continued)**

**(i) Acquisition of Alibaba Health Information Technology Limited ("Alibaba Health") (Continued)**

In January 2018, the Company purchased approximately 442 million newly issued ordinary shares of Alibaba Health for a cash consideration of HK\$1,770 million (RMB1,469 million). This resulted in a reduction of noncontrolling interests amounting to RMB468 million. As of March 31, 2018, the Company's effective equity interest in Alibaba Health was approximately 48%.

In May 2018, the Company agreed to transfer its business relating to certain medical devices, healthcare and adult products and the medical and healthcare services on Tmall to Alibaba Health for an aggregate consideration of HK\$10.6 billion, which will be settled through the issuance of approximately 1.8 billion newly issued ordinary shares of Alibaba Health. The completion of this transaction is subject to a number of conditions including the approval by the shareholders of Alibaba Health and certain regulatory authorities. Upon the closing of this transaction, the Company's effective equity ownership of Alibaba Health will increase to approximately 56%.

**(j) Other acquisitions**

Other acquisitions that constitute business combinations are summarized in the following table:

	<b>Year ended March 31,</b>		
	<b>2016</b>	<b>2017</b>	<b>2018</b>
	<b>(in millions of RMB)</b>		
Net assets (liabilities)	350	(223)	(58)
Identifiable intangible assets	876	593	411
Deferred tax liabilities	(198)	(36)	(60)
	1,028	334	293
Noncontrolling interests and mezzanine equity	(10)	(110)	(77)
Net identifiable assets acquired	1,018	224	216
Goodwill	1,403	793	618
Total purchase consideration	2,421	1,017	834
Fair value of previously held equity interests	—	(51)	(133)
Purchase consideration settled	(2,360)	(771)	(575)
Contingent/deferred consideration as of year end	61	195	126
Total purchase consideration is comprised of:			
- cash consideration	2,421	966	701
- fair value of previously held equity interests	—	51	133
Total	<u>2,421</u>	<u>1,017</u>	<u>834</u>

In relation to the revaluation of previously held equity interests, the Company recognized a gain of nil, RMB51 million and RMB133 million in the consolidated income statements for the years ended March 31, 2016, 2017 and 2018, respectively, for the other acquisitions that constitute business combinations.

Pro forma results of operations for these acquisitions have not been presented because they are not material to the consolidated income statements for the years ended March 31, 2016, 2017 and 2018, either individually or in aggregate.

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**4. Significant restructuring transaction, mergers and acquisitions and equity investments (Continued)**

*Equity investments and others*

**(k) Investment in Wanda Film Holding Co., Ltd. ("Wanda Film")**

Wanda Film, a company that is listed on the Shenzhen Stock Exchange, is principally engaged in the investment and management of cinemas and film distribution businesses. In March 2018, the Company completed an investment in existing ordinary shares of Wanda Film for a cash consideration of RMB4,676 million, representing an approximately 8% equity interest in Wanda Film. Such investment is accounted for under the cost method (Note 13) given that a readily determinable fair value is not available due to the suspension of trading of its shares for an extended period as of March 31, 2018.

**(l) Investment in Beijing Easyhome Furnishing Chain Group Co., Ltd. ("Easyhome")**

Easyhome is one of the largest home improvement supplies and furniture chains in the PRC. In March 2018, the Company completed an investment in Easyhome for a cash consideration of RMB3,635 million, representing a 10% equity interest in Easyhome. Yunfeng and the Onshore Retail Fund (Note 4(w)) are also the investors in this transaction. Such investment is accounted for under the cost method (Note 13).

**(m) Investment in OFO International Limited ("OFO")**

OFO is one of the leading bike-sharing companies in the PRC. During the year ended March 31, 2018, the Company completed an investment in existing and newly issued preferred shares of OFO for a total cash consideration of US\$343 million (RMB2,272 million). As of March 31, 2018, the Company's equity interest in OFO was approximately 12% on a fully diluted basis. Ant Financial is also an existing minority shareholder of OFO. Such investment is accounted for under the cost method (Note 13).

**(n) Investment in Sun Art Retail Group Limited ("Sun Art")**

Sun Art, a company that is listed on the HKSE, is a leading hypermarket operator in the PRC. In December 2017, the Company completed investments in existing ordinary shares of Sun Art and existing ordinary shares of A-RT Retail Holdings Limited, a limited liability company incorporated in Hong Kong that holds an approximately 51% equity interest in Sun Art, for an aggregate consideration of HK\$19,303 million (RMB16,264 million). In January 2018, the Company acquired additional ordinary shares of Sun Art from public shareholders through a mandatory general offer as required under Hong Kong regulations, for a cash consideration of HK\$2 million (RMB2 million). After the completion of these transactions, the Company's effective equity interest in Sun Art was approximately 31%, which is comprised of the direct equity interest of 21% and the indirect equity interest through its shareholding in A-RT Retail Holdings Limited. The Offshore Retail Fund (Note 4(w)) is also an investor in this transaction.

The investment in Sun Art is accounted for under the equity method (Note 13). Out of the total cash consideration, RMB2,499 million was allocated to amortizable intangible assets, RMB2,953 million was allocated to goodwill, RMB2,187 million was allocated to deferred tax liabilities and RMB12,999 million was allocated to net assets acquired.

**(o) Investment in CMC Holdings Limited ("CMC")**

CMC is an investment platform that focuses on the media and entertainment sectors. In December 2015, the Company completed an investment in newly issued preferred shares of CMC for a cash consideration of US\$197 million (RMB1,270 million). In November 2017, the Company made an additional investment in CMC

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**4. Significant restructuring transaction, mergers and acquisitions and equity investments (Continued)**

**(o) Investment in CMC Holdings Limited ("CMC") (Continued)**

for a cash consideration of US\$165 million (RMB1,093 million). As of March 31, 2018, the Company held an approximately 21% equity interest on a fully diluted basis in CMC. The preferred shares are not considered to be in-substance common stock given that such shares contain certain terms such as dividend and liquidation preferences over ordinary shares. As a result, such investment is accounted for under the cost method (Note 13).

In addition, the Company also acquired equity interest in a limited partnership in the PRC which is managed by the founder of CMC. The objective of the limited partnership is consistent with that of CMC. A cash consideration of RMB1,250 million was paid upon the closing of the transaction in December 2015. In November 2017, the Company made an additional investment in this limited partnership for a cash consideration of RMB590 million. As of March 31, 2018, the Company held an approximately 21% equity interest on a fully diluted basis in this limited partnership. Such investment is accounted for under the equity method (Note 13).

**(p) Shanghai Yiguo E-Commerce Co., Ltd. ("Yiguo")**

Yiguo is one of the largest fresh produce online marketplaces in the PRC. In November 2017, the Company completed an additional investment in Yiguo for a cash consideration of RMB1,977 million. As of March 31, 2018, the Company's equity interest in Yiguo was approximately 35% on a fully diluted basis. Yunfeng is also an existing minority shareholder of Yiguo. The equity interest in Yiguo held by the Company is not considered in-substance common stock given that such equity interest contain certain terms such as liquidation preference over ordinary shares. As a result, such investment is accounted for under the cost method (Note 13).

**(q) Investment in China United Network Communications Ltd. ("China Unicom")**

China Unicom, a company that is listed on the Shanghai Stock Exchange, is a major telecommunications company in the PRC. In October 2017, the Company completed an investment in newly issued ordinary shares of China Unicom for a cash consideration of RMB4,325 million, representing an approximately 2% equity interest in China Unicom. Such investment is accounted for as an available-for-sale security (Note 11).

**(r) Investment in Souche Holdings Ltd. ("SouChe")**

SouChe provides digital sales solutions to offline car dealerships in the PRC. In October 2017, the Company completed an investment in newly issued preferred shares of SouChe for a cash consideration of US\$241 million (RMB1,596 million), representing an approximately 27% equity interest on a fully diluted basis. Ant Financial is also an existing minority shareholder of SouChe. The preferred shares are not considered in-substance common stock given that such shares contain certain terms such as liquidation preference over ordinary shares. As a result, such investment is accounted for under the cost method (Note 13).

**(s) Investment in Magic Leap, Inc. ("Magic Leap")**

Magic Leap is a technology company that focuses on the development of augmented reality technology. In December 2015, the Company completed an investment in newly issued convertible preferred shares of Magic Leap for a cash consideration of US\$430 million (RMB2,775 million). In October 2017, the Company made an additional cash investment of US\$68 million (RMB451 million) in Magic Leap. As of March 31, 2018, the Company's equity interest in Magic Leap was approximately 9% on a fully diluted basis. Such investment is accounted for under the cost method (Note 13).



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**4. Significant restructuring transaction, mergers and acquisitions and equity investments (Continued)**

**(t) Investment in BEST Inc. (formerly known as Best Logistics Technologies Limited) ("Best Logistics")**

Best Logistics is a provider of comprehensive supply-chain solutions and services. In September 2017, in connection with the completion of Best Logistics' initial public offering on the NYSE, all preferred shares of Best Logistics held by the Company were automatically converted into ordinary shares of Best Logistics. Concurrently, the Company acquired additional equity interest in Best Logistics for a cash consideration of US\$100 million (RMB657 million), after which the equity interest in Best Logistics held by the Company increased to approximately 23%. Upon the completion of the share conversion, the original investment with a carrying value of US\$256 million (RMB1,679 million) was reclassified from a cost method investment to an equity method investment (Note 13). Out of the total purchase price, which included the cash consideration and the carrying amount of the previously held interests in Best Logistics, RMB1,072 million was allocated to amortizable intangible assets, RMB443 million was allocated to goodwill, RMB214 million was allocated to deferred tax liabilities and RMB1,035 million was allocated to net assets acquired.

Cainiao Network (Note 4(b)) is also an existing shareholder of Best Logistics with an approximately 5% equity interest. Upon the consolidation of Cainiao Network in October 2017, the Company began to account for Cainiao Network's investment in Best Logistics under the equity method (Note 13), and the fair value of this investment at the time amounting to US\$215 million (RMB1,420 million) was recognized as the new investment cost. Out of this amount, RMB652 million was allocated to amortizable intangible assets, RMB270 million was allocated to goodwill, RMB131 million was allocated to deferred tax liabilities and RMB629 million was allocated to net assets acquired.

After the completion of these transactions, the Company's equity interest in Best Logistics was approximately 28%.

**(u) Investment in PT Tokopedia ("Tokopedia")**

Tokopedia operates one of the leading e-commerce platforms in Indonesia. During the year ended March 31, 2018, the Company completed a minority investment in existing and newly issued preferred shares of Tokopedia for a total cash consideration of US\$445 million (RMB2,920 million). In connection with the transaction, the Company also agreed to subscribe for up to US\$500 million in additional preferred shares of Tokopedia at the then fair market value if so elected by Tokopedia during a 24-month period after the completion of the initial investment. The preferred shares are not considered in-substance common stock given that such shares contain certain terms such as liquidation preference over ordinary shares. As a result, such investment is accounted for under the cost method (Note 13).

**(v) Investment in Xiaoju Kuaizhi Inc. ("Didi Chuxing")**

Didi Chuxing is a leading transportation network company that provides vehicles and taxis for hire in the PRC via smartphone applications. During the years ended March 31, 2017 and 2018, the Company completed additional investments in preferred shares of Didi Chuxing for a total cash consideration of US\$400 million (RMB2,652 million). In September 2017, the Company completed a partial disposal of its investment in Didi Chuxing to Softbank for a cash consideration of US\$639 million (RMB4,198 million), and a disposal gain of RMB2,096 million was recognized in interest and investment income, net in the consolidated income statement for the year ended March 31, 2018. As of March 31, 2018, the Company's equity interest in Didi Chuxing was approximately 5% on a fully diluted basis. Such investment is accounted for under the cost method (Note 13).

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**4. Significant restructuring transaction, mergers and acquisitions and equity investments (Continued)**

**(w) Investments in Hangzhou Hanyun Xinling Equity Investment Fund Partnership (the "Onshore Retail Fund") and New Retail Strategic Opportunities Fund, L.P. (the "Offshore Retail Fund")**

The Onshore Retail Fund and the Offshore Retail Fund were set up to raise capital to invest in retail related businesses in the PRC and internationally, respectively. The Company is able to exercise significant influence over the investment decisions in both funds. In August 2017 and January 2018, the Company made a commitment to invest RMB1.6 billion and US\$200 million in the Onshore Retail Fund and the Offshore Retail Fund, relating to which the Company has funded RMB462 million and US\$77 million as of March 31, 2018, respectively. As of March 31, 2018, the Company held an approximately 20% equity interest in the Onshore Retail Fund and an approximately 19% equity interest in the Offshore Retail Fund. Such investments are accounted for under the equity method (Note 13).

**(x) Investment in Rajax Holding ("Ele.me")**

Ele.me is one of the leading on-demand delivery and local services platforms in the PRC. In March 2016, the Company and Ant Financial completed a portion of the subscription for newly issued preferred shares in Ele.me through a joint investment vehicle, based on a total combined commitment of US\$1,250 million, of which the Company's total commitment was US\$900 million (RMB5,891 million). The Company paid a cash consideration of US\$540 million (RMB3,512 million) for the initial subscription in March 2016, and the remaining committed balance of US\$360 million (RMB2,394 million) was settled by cash in August 2016. After the initial subscription, the effective equity interest in Ele.me held by the Company was approximately 20% on a fully diluted basis.

In April and August 2017, the joint investment vehicle completed additional investments in newly issued preferred shares in Ele.me for a total investment amount of US\$1,200 million (RMB8,090 million), of which the Company's investment was US\$864 million (RMB5,824 million). As a result, the Company's effective equity interest in Ele.me increased to approximately 27% on a fully diluted basis.

The preferred shares are not considered in-substance common stock given that such shares contain certain terms such as dividend and liquidation preferences over ordinary shares. As a result, such investment was accounted for under the cost method (Note 13).

In May 2018, the joint investment vehicle completed the acquisition of all outstanding shares of Ele.me that it does not already own at a consideration of US\$5.5 billion. Upon the completion of the acquisition, the Company became the controlling shareholder of Ele.me. The Company expects that the acquisition will deepen Ele.me's integration into the Company's ecosystem and advance the Company's New Retail strategy to provide a seamless online and offline consumer experience in the local services sector. Upon the issuance of the consolidated financial statements, the accounting of such business combination, including the purchase price allocation and the gain or loss arising from this transaction, has not been finalized.

**(y) Investment in Paytm E-Commerce Private Limited ("Paytm Mall")**

In March 2017, One97 Communications Limited ("Paytm"), one of the largest mobile payment platforms in India which is an equity investee of the Company, completed the spin-off of its e-commerce business, Paytm Mall, to the shareholders of Paytm. Upon the establishment of Paytm Mall, the Company, together with other shareholders of Paytm, subscribed for newly issued common shares of Paytm Mall at par value in proportion to their respective shareholding in Paytm, after which the Company obtained an approximately 8% equity interest in Paytm Mall. In March 2017, the Company subsequently subscribed for newly issued preferred

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**4. Significant restructuring transaction, mergers and acquisitions and equity investments (Continued)**

**(y) Investment in Paytm E-Commerce Private Limited ("Paytm Mall") (Continued)**

shares in Paytm Mall for a cash consideration of US\$177 million (RMB1,220 million). In March 2018, the Company committed to invest an additional US\$45 million in Paytm Mall, of which US\$10 million (RMB63 million) was paid in March 2018. The remaining committed balance was fully paid in April and May 2018. As of March 31, 2018, the Company's equity interest in Paytm Mall was approximately 31% on a fully diluted basis. Ant Financial is also a shareholder of both Paytm and Paytm Mall.

The investment in the common shares of Paytm Mall is accounted for under the equity method (Note 13). The investment in preferred shares of Paytm Mall is not considered to be in-substance common stock given that such shares contain certain terms such as dividend and liquidation preferences over ordinary shares. As a result, such investment is accounted for under the cost method (Note 13).

**(z) Investment in Qingdao Goodaymart Logistics Co., Ltd. ("RRS")**

RRS is primarily engaged in the logistics business in the PRC and is a subsidiary of Haier Electronics Group Co., Ltd., a company that is listed on the HKSE and in which the Company has an approximately 2% equity interest. In January 2017, the Company exchanged the convertible and exchangeable bond that the Company held into an approximately 24% effective equity interest in RRS. After the exchange, the equity interests in RRS held by the Company increased from 10% to 34%, and the investment in RRS will continue to be accounted for under the equity method (Note 13). The fair value of the convertible and exchangeable bond on the date of exchange amounting to RMB1,225 million was recognized as the cost of the approximately 24% equity interest in RRS. Out of this amount, RMB296 million was allocated to amortizable intangible assets, RMB312 million was allocated to goodwill, RMB107 million was allocated to deferred tax liabilities and RMB724 million was allocated to net assets acquired. In May 2017, the Company made an additional cash investment of RMB340 million in RRS. As of March 31, 2018, the Company's shareholding in RRS was approximately 31%.

**(aa) Investment in Sanjiang Shopping Club Co., Ltd. ("Sanjiang")**

Sanjiang, a company that is listed on the Shanghai Stock Exchange, is one of the leading neighborhood grocery chains in Zhejiang province of the PRC. In November 2016, the Company agreed to acquire existing and newly issued ordinary shares, representing an approximately 32% equity interest in Sanjiang, for a total cash consideration of approximately RMB1,960 million. In January 2017, the Company completed the transaction relating to the acquisition of ordinary shares from an existing shareholder, representing an approximately 9% equity interest in Sanjiang, for a cash consideration of RMB439 million. Such investment is accounted for under the equity method (Note 13). RMB290 million of the purchase price was allocated to goodwill, amortizable intangible assets and the corresponding deferred tax liabilities and RMB149 million was allocated to net assets acquired. The completion of the subscription of newly issued ordinary shares is subject to the approval by certain regulatory authorities. The Onshore Retail Fund (Note 4(w)) is also a holder of the exchangeable bonds issued by a shareholder of Sanjiang.

**(ab) Investment in YTO Express Group Co., Ltd. ("YTO Express")**

YTO Express is one of the leading express delivery companies in the PRC. The Company initially acquired an ownership interest of 12% for a cash consideration of RMB1,500 million in May 2015. In September 2016, YTO Express completed its reverse takeover of a company listed on the Shanghai Stock Exchange. All registered capital of YTO Express previously held by the Company was converted into newly issued ordinary

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**4. Significant restructuring transaction, mergers and acquisitions and equity investments (Continued)**

**(ab) Investment in YTO Express Group Co., Ltd. ("YTO Express") (Continued)**

shares of the listed entity of YTO Express, representing an approximately 10% equity interest. Concurrently, the Company subscribed for newly issued shares of YTO Express for a cash consideration of RMB420 million and its equity interest in YTO Express increased to approximately 11%. Such investment is accounted for as an available-for-sale security (Note 11).

**(ac) Investment in Suning Commerce Group Co., Ltd. ("Suning")**

Suning, a company that is listed on the Shenzhen Stock Exchange, is one of the largest consumer electronics retail chains in the PRC. In May 2016, the Company completed the subscription for newly issued ordinary shares for a cash consideration of RMB28.2 billion, representing a 19.99% equity interests in Suning. Such investment is accounted for under the equity method (Note 13).

Concurrent with the Company's investment in Suning, Suning subscribed for approximately 26.3 million newly issued ordinary shares of the Company which represent an 1.1% equity interest in the Company for a cash consideration of US\$81.51 per ordinary share. The Company's share of Suning's investment in the Company amounting to US\$429 million (RMB2,823 million) was deducted from the investment cost of Suning and recognized as an issuance of treasury shares during the year ended March 31, 2017.

Out of the total purchase consideration, net of the amount related to the treasury shares described above, RMB5,100 million was allocated to amortizable intangible assets, RMB9,113 million was allocated to goodwill, RMB1,582 million was allocated to deferred tax liabilities and RMB12,778 million was allocated to net assets acquired.

In December 2017, Suning completed a partial disposal of its equity interest in the Company. Accordingly, RMB590 million was added back to the investment cost of Suning and the recognition of the corresponding treasury shares was reversed.

**(ad) Investment in Beijing Shiji Information Technology Co., Ltd. ("Shiji Information")**

Shiji Information, a company that is listed on the Shenzhen Stock Exchange, is primarily engaged in the development and sale of hotel information management system software, system integration and technical service. In November 2015, the Company completed an investment in newly issued ordinary shares of Shiji Information for a cash consideration of RMB2,389 million, representing an approximately 13% equity interest in Shiji Information. Such investment is accounted for as an available-for-sale security (Note 11).

**(ae) Investment in Huayi Brothers Media Corporation ("Huayi Brothers")**

Huayi Brothers, a company that is listed on the Shenzhen Stock Exchange, is primarily engaged in the production of television programs and movies in the PRC. In August 2015, the Company completed an investment in newly issued ordinary shares of Huayi Brothers for a cash consideration of RMB1,533 million, representing an approximately 4% equity interest in Huayi Brothers. Such investment is accounted for as an available-for-sale security (Note 11).

**(af) Investment in Koubei Holding Limited ("Koubei")**

Koubei is one of the leading local services platforms in the PRC. In June 2015, the Company and Ant Financial set up Koubei, a joint venture in which the Company and Ant Financial each held a 49.6% equity

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**4. Significant restructuring transaction, mergers and acquisitions and equity investments (Continued)**

**(af) Investment in Koubei Holding Limited ("Koubei") (Continued)**

interest, while an unrelated third party affiliated with a major Chinese establishment held the remaining minority equity interests.

The capital injection from the Company included cash of RMB3.0 billion as well as the injection of certain related businesses. The injection of cash and businesses was completed as of March 31, 2016. A gain of RMB128 million approximating the fair value of the businesses being injected, was recognized in relation to the contribution of the businesses of which the carrying amount was insignificant to Koubei, in interest and investment income, net in the consolidated income statement for the year ended March 31, 2016. Such investment is accounted for under the equity method (Note 13). As of March 31, 2018, the Company held an approximately 38% equity interest in Koubei on a fully diluted basis.

**(ag) Investment in wealth management products in relation to a founder's investment in Wasu Media Holding Co., Ltd. ("Wasu")**

In April 2015, the Company entered into an arrangement with a bank in the PRC to invest in wealth management products with an aggregate principal amount of RMB7.3 billion, of which RMB420 million was redeemed in January 2017. The wealth management products carry an interest rate of 5% per annum, with a maturity of five years and the return of principal and interest income on the products are guaranteed by the bank. The wealth management products have been served as collateral to the issuing bank for the issuance of a financing amounting to RMB6.9 billion to one of the founders of the Company to support his minority investment through a PRC limited partnership in Wasu, a company listed on the Shenzhen Stock Exchange which is engaged in the business of digital media broadcasting and distribution in the PRC. The financing has also been collateralized by the equity interests of Wasu held by such PRC limited partnership. The founder is exposed to the risks and rewards of the Wasu shares held by the PRC limited partnership. The Company does not have the power to direct the activities of the PRC limited partnership. The Company entered into strategic cooperation agreements with a major shareholder of Wasu in order to enhance the Company's capabilities and profile in the entertainment sector in the PRC. Such investment in the wealth management products is accounted for as a held-to-maturity security.

In addition, the Company entered into a loan agreement for a principal amount of up to RMB2.0 billion with the founder in April 2015 to finance the repayment by the founder of the principal and interest under the above financing. The founder has also pledged his interest in the PRC limited partnership to the Company. Loan balances of nil, RMB749 million and RMB1,137 million were drawn down as of March 31, 2016, 2017 and 2018, respectively.

***Equity transactions and acquisitions that were not completed as of March 31, 2018***

**(ah) Investment in Focus Media Information Technology Co., Ltd. ("Focus Media")**

Focus Media, a company that is listed on the Shenzhen Stock Exchange, operates a media network for advertisements, including within cinemas, and advertising posters and displays in elevators of office and residential buildings. In July 2018, the Company and its affiliates agreed to acquire a total interest of approximately 8% in Focus Media for a cash consideration of approximately RMB1.6 billion. In addition, the Company agreed to acquire a 10% equity interest of an entity controlled by the founder and chairman of Focus Media, which holds an approximately 23% equity interest in Focus Media, for a cash consideration of

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**4. Significant restructuring transaction, mergers and acquisitions and equity investments (Continued)**

**(ah) Investment in Focus Media Information Technology Co., Ltd. ("Focus Media") (Continued)**

US\$511 million. The completion of the transactions as described above is subject to customary closing conditions.

**(ai) Acquisition of DSM Grup Danışmanlık İletişim Ve Satış Ticaret Anonim Şirketi ("Trendyol")**

Trendyol is one of the leading online fashion retailers in Turkey. In June 2018, the Company entered into an agreement under which the Company will invest into Trendyol as well as acquire shares from certain existing investors, representing a controlling equity interest for a cash consideration of US\$728 million. The investment underscores the Company's commitment to international expansion. The completion of this transaction is subject to customary closing conditions.

**(aj) Investment in ZTO Express (Cayman) Inc. ("ZTO Express")**

ZTO Express, a company that is listed on the NYSE, is one of the leading express delivery companies in the PRC. In June 2018, the Company completed an investment in newly issued ordinary shares of ZTO Express for a cash consideration of US\$1,100 million, representing an approximately 8% equity interest in ZTO Express. The Offshore Retail Fund (Note 4(w)) is also an investor in this transaction.

**(ak) Investment in Huitongda Network Co., Ltd. ("Huitongda")**

Huitongda operates a rural online services platform in the PRC. In April 2018, the Company completed an investment in existing and newly issued shares of Huitongda for a cash consideration of RMB4,500 million, representing a 20% equity interest in Huitongda.

**(al) Investment in Shiji Retail Information Technology Co., Ltd. ("Shiji Retail")**

Shiji Retail, a subsidiary of Shiji Information (Note 4(ad)), is engaged in the provision of retail information system solutions. In April 2018, the Company acquired a 38% equity interest in Shiji Retail for a cash consideration of US\$486 million.

**(am) Acquisition of Kaiyuan Commerce Co., Ltd. ("Kaiyuan")**

Kaiyuan is one of the leading department store operators in the northwestern part of the PRC. In April 2018, the Company acquired a 100% equity interest in Kaiyuan for a cash consideration of RMB3,362 million. The Company expects that Kaiyuan will complement the Company's New Retail initiatives to transform the retail landscape and reengineer the fundamentals of retail operations. Upon the issuance of the consolidated financial statements, the accounting of such business combination has not been finalized.

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**(am) Acquisition of Kaiyuan Commerce Co., Ltd. ("Kaiyuan") (Continued)**

**5. Revenue**

Revenue by segment is as follows:

	Year ended March 31,		
	2016	2017	2018
	(in millions of RMB)		
<b>Core commerce:</b>			
China commerce retail (i)			
- Customer management	52,396	77,530	114,285
- Commission	25,829	34,066	46,525
- Others	1,808	2,513	15,749
	<u>80,033</u>	<u>114,109</u>	<u>176,559</u>
China commerce wholesale (ii)	4,288	5,679	7,164
International commerce retail (iii)	2,204	7,336	14,216
International commerce wholesale (iv)	5,425	6,001	6,625
Cainiao logistics services (v)	—	—	6,759
Others	385	755	2,697
Total core commerce	<u>92,335</u>	<u>133,880</u>	<u>214,020</u>
Cloud computing (vi)	3,019	6,663	13,390
Digital media and entertainment (vii)	3,972	14,733	19,564
Innovation initiatives and others (viii)	1,817	2,997	3,292
Total	<u><u>101,143</u></u>	<u><u>158,273</u></u>	<u><u>250,266</u></u>

- (i) Revenue from China commerce retail is primarily generated from the Company's China retail marketplaces and includes revenue from customer management, commissions and sales of goods.
- (ii) Revenue from China commerce wholesale is primarily generated from 1688.com and includes fees from memberships and value-added services and revenue from customer management.
- (iii) Revenue from international commerce retail is primarily generated from AliExpress and Lazada (Note 4(h)) and includes revenue from customer management, commissions and sales of goods.
- (iv) Revenue from international commerce wholesale is primarily generated from Alibaba.com and includes fees from memberships and value-added services and revenue from customer management.
- (v) Revenue from Cainiao logistics services represents revenue from the domestic and cross-border fulfilment services provided by Cainiao Network (Note 4(b)).
- (vi) Revenue from cloud computing is primarily generated from the provision of services, such as elastic computing, database, storage, network virtualization services, large scale computing, security, management and application services, big data analytics, and machine learning platform and IoT services.
- (vii) Revenue from digital media and entertainment is primarily generated from Youku (Note 4(g)) and UCWeb and includes revenue from P4P marketing services, display marketing services and subscriptions.
- (viii) Revenue from innovation initiatives and others is primarily generated from businesses such as AutoNavi and other innovation initiatives. Other revenue also includes SME Annual Fee received from Ant Financial and its affiliates (Note 4(a)).

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**5. Revenue (Continued)**

Revenue by type of services is as follows:

	Year ended March 31,		
	2016	2017	2018
	(in millions of RMB)		
Customer management services			
P4P and display marketing	53,185	83,581	119,822
Other customer management services	3,963	5,706	9,076
Total customer management services	57,148	89,287	128,898
Commission	27,793	37,848	52,411
Membership fees and value-added services	7,627	10,638	13,823
Cainiao logistics services	—	—	6,759
Cloud computing services	3,019	6,663	13,390
Sales of goods and other revenue (i)	5,556	13,837	34,985
Total	<u>101,143</u>	<u>158,273</u>	<u>250,266</u>

- (i) This mainly represents sales of goods and other revenue generated by Lazada (Note 4(h)), Intime (Note 4(c)) and UCWeb, as well as SME Annual Fee received from Ant Financial and its affiliates (Note 4(a)).

**6. Other income, net**

	Year ended March 31,		
	2016	2017	2018
	(in millions of RMB)		
Profit Share Payments (Note 4(a))	1,122	2,086	3,444
Government grants (i)	401	451	555
Amortization of restructuring reserve (Note 4(a))	(264)	(264)	(264)
Exchange differences	(563)	2,328	(1,679)
Others	1,362	1,485	2,104
Total	<u>2,058</u>	<u>6,086</u>	<u>4,160</u>

- (i) Government grants mainly represent amounts received from central and local governments in connection with the Company's investments in local business districts and contributions to technology development.



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**7. Income tax expenses**

*Composition of income tax expenses*

	Year ended March 31,		
	2016	2017	2018
	(in millions of RMB)		
Current income tax expense	7,223	13,495	17,223
Deferred taxation	1,226	281	976
	<u>8,449</u>	<u>13,776</u>	<u>18,199</u>

Under the current laws of the Cayman Islands, the Company is not subject to tax on its income or capital gains. In addition, upon payments of dividends by the Company to its shareholders, no Cayman Islands withholding tax is imposed. The Company's subsidiaries incorporated in Hong Kong were subject to the Hong Kong profits tax rate at 16.5% for the years ended March 31, 2016, 2017 and 2018. The Company's subsidiaries incorporated in other jurisdictions were subject to income tax charges calculated according to the tax laws enacted or substantially enacted in the countries where they operate and generate income.

Current income tax expense primarily includes the provision for PRC Enterprise Income Tax ("EIT") for subsidiaries operating in the PRC and withholding tax on earnings that have been declared for distribution by PRC subsidiaries to offshore holding companies. Substantially all of the Company's income before income tax and share of results of equity investees are generated by these PRC subsidiaries. These subsidiaries are subject to EIT on their taxable income as reported in their respective statutory financial statements adjusted in accordance with the relevant tax laws, rules and regulations in the PRC.

Under the PRC Enterprise Income Tax Law (the "EIT Law"), the standard enterprise income tax rate for domestic enterprises and foreign invested enterprises is 25%. In addition, the EIT Law provides for, among others, a preferential tax rate of 15% for enterprises qualified as High and New Technology Enterprises. Further, certain subsidiaries were recognized as Software Enterprises and thereby entitled to full exemption from EIT for two years beginning from their first profitable calendar year and a 50% reduction for the subsequent three calendar years. In addition, a duly recognized Key Software Enterprise within China's national plan can enjoy a preferential EIT rate of 10%. The Key Software Enterprise status is subject to review by the relevant authorities every year. The timing of the annual review and notification by the relevant authorities may vary from year to year, and the related tax adjustments in relation to the change in applicable EIT rate as a result of notification of qualification are accounted for in the period in which the Key Software Enterprise status is recognized and notified.

The tax status of the subsidiaries of the Company with major taxable profits is described below:

- Alibaba (China) Technology Co., Ltd. ("Alibaba China") and Taobao (China) Software Co., Ltd. ("Taobao China"), entities primarily engaged in the operations of the Company's wholesale marketplaces and Taobao Marketplace, respectively, obtained the annual review and notification relating to the renewal of the Key Software Enterprises status for the taxation years of 2015 and 2016 in the quarters ended September 30, 2016 and 2017, respectively. Accordingly, Alibaba China and Taobao China, which had qualified as High and New Technology Enterprises and applied an EIT rate of 15% for the taxation years of 2015 and 2016, reflected the reduction in tax rate to 10% for the taxation years of 2015 and 2016 in the consolidated income statements for the years ended March 31, 2017 and 2018.

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**7. Income tax expenses (Continued)**

- Zhejiang Tmall Technology Co., Ltd. ("Tmall China"), an entity primarily engaged in the operations of Tmall, was recognized as a High and New Technology Enterprise and also granted the Software Enterprise status and was thereby entitled to an income tax exemption for two years beginning from its first profitable taxation year of 2012, and a 50% reduction for the subsequent three years starting from the taxation year of 2014. Accordingly, Tmall China was entitled to an EIT rate of 12.5% during the taxation years of 2014, 2015 and 2016. Tmall China obtained notification of recognition as a Key Software Enterprises for the taxation year of 2016 in the quarter ended September 30, 2017. Accordingly, Tmall China, which had applied an EIT rate of 12.5% for the taxation year of 2016, reflected the reduction in tax rate to 10% for the taxation year of 2016 in the consolidated income statement for the year ended March 31, 2018.

The total tax adjustments for Alibaba China, Taobao China, Tmall China and certain other PRC subsidiaries of the Company, amounting to nil, RMB720 million and RMB2,295 million, were recorded in the consolidated income statements for the years ended March 31, 2016, 2017 and 2018, respectively. The annual review and notification relating to the renewal of the Key Software Enterprises status for the taxation year of 2017 has not yet been obtained as of March 31, 2018. Accordingly, Alibaba China, Taobao China and Tmall China continued to apply an EIT rate of 15% for the taxation year of 2017 as High and New Technology Enterprises.

Most of the remaining PRC entities of the Company are subject to EIT at 25% for the years ended March 31, 2016, 2017 and 2018.

Pursuant to the EIT Law, a 10% withholding tax is levied on dividends declared by PRC companies to their foreign investors. A lower withholding tax rate of 5% is applicable if direct foreign investors with at least 25% equity interest in the PRC company are incorporated in Hong Kong and meet the relevant requirements pursuant to the tax arrangement between the PRC and Hong Kong. Since the equity holders of the major PRC subsidiaries of the Company are Hong Kong incorporated companies and meet the relevant requirements pursuant to the tax arrangement between the PRC and Hong Kong, the Company has used 5% to provide for deferred tax liabilities on retained earnings which are anticipated to be distributed. As of March 31, 2018, the Company had fully accrued the withholding tax on the earnings distributable by all of the subsidiaries of the Company in the PRC, except for those undistributed earnings that the Company intends to invest indefinitely in the PRC which amounted to RMB28.6 billion.

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**7. Income tax expenses (Continued)**

*Composition of deferred tax assets and liabilities*

	<u>As of March 31,</u>	
	<u>2017</u>	<u>2018</u>
	<u>(in millions of RMB)</u>	
<i>Deferred tax assets</i>		
Licensed copyrights	574	1,191
Tax losses carried forward and others (i)	5,969	9,467
	6,543	10,658
Valuation allowance	(5,505)	(8,476)
Total deferred tax assets	1,038	2,182
<i>Deferred tax liabilities</i>		
Identifiable intangible assets	(2,358)	(9,181)
Withholding tax on undistributed earnings (ii)	(6,377)	(8,375)
Available-for-sale securities and others	(1,626)	(1,756)
Total deferred tax liabilities	(10,361)	(19,312)
Net deferred tax liabilities	(9,323)	(17,130)

- (i) Others is primarily comprised of property and equipment, deferred revenue and customer advances, as well as accrued expenses which are not deductible until paid under PRC tax laws.
- (ii) The related deferred tax liabilities as of March 31, 2017 and 2018 were provided on the assumption that 100% of the distributable reserves of the major PRC subsidiaries will be distributed as dividends, except for those undistributed earnings that the Company intends to invest indefinitely in the PRC which amounted to RMB28.2 billion and RMB28.6 billion, respectively.

Valuation allowances have been provided on the deferred tax assets mainly related to the tax losses carried forward due to the uncertainty surrounding their realization. If events occur in the future that improve the certainty of realization, an adjustment to the valuation allowances will be made and consequently income tax expenses will be reduced.

As of March 31, 2018, the accumulated tax losses of subsidiaries incorporated in Singapore, Indonesia and Hong Kong, subject to the agreement of the relevant tax authorities, of RMB3,343 million, RMB2,412 million and RMB1,755 million, respectively, are allowed to be carried forward to offset against future taxable profits. Such carry forward of tax losses in Hong Kong and Singapore has no time limit, while the tax losses in Indonesia will expire, if unused, in the years ending March 31, 2019 through 2023. The accumulated tax losses of subsidiaries incorporated in the PRC, subject to the agreement of the PRC tax authorities, of RMB17,672 million as of March 31, 2018 will expire, if unused, in the years ending March 31, 2019 through 2023.

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**7. Income tax expenses (Continued)**

*Reconciliation of the differences between the statutory EIT rate applicable to profits of the consolidated entities and the income tax expenses of the Company:*

	<b>Year ended March 31,</b>		
	<b>2016</b>	<b>2017</b>	<b>2018</b>
	<b>(in millions of RMB, except per share data)</b>		
Income before income tax and share of result of equity investees	81,468	60,029	100,403
Income tax computed at statutory EIT rate (25%)	20,367	15,007	25,101
Effect of different tax rates available to different jurisdictions	(869)	(772)	392
Effect of tax holiday and preferential tax benefit on assessable profits of subsidiaries incorporated in the PRC	(6,680)	(10,507)	(14,782)
Non-deductible expenses and non-taxable income, net (i)	(4,994)	6,090	1,780
Tax savings from additional deductions on certain research and development expenses available for subsidiaries incorporated in the PRC (ii)	(1,205)	(1,694)	(2,330)
Withholding tax on the earnings distributed and anticipated to be remitted	1,573	3,009	4,393
Change in valuation allowance, deduction of certain share-based compensation expense and others (iii)	257	2,643	3,645
<b>Income tax expenses</b>	<b>8,449</b>	<b>13,776</b>	<b>18,199</b>
Effect of tax holidays inside the PRC on basic earnings per share/ADS (RMB)	2.72	4.21	5.79

- (i) Expenses not deductible for tax purposes and non-taxable income primarily represent investment income (loss), share-based compensation expense, interest expense and exchange differences. Investment income (loss) during the year ended March 31, 2016 included gains from the revaluation of the Company's remaining equity interest in Alibaba Pictures Group Limited ("Alibaba Pictures") (Note 13) and from the revaluation of previously held equity interest relating to the acquisition of Alibaba Health (Note 4(i)). Investment income (loss) during the year ended March 31, 2017 included gains from the revaluation of previously held equity interest relating to the acquisition of Damai (Note 4(d)) and Youku (Note 4(g)). Investment income (loss) during the year ended March 31, 2018 included gains from the revaluation of previously held equity interest relating to the acquisition of Cainiao Network (Note 4(b)) and Intime (Note 4(c)).
- (ii) This amount represents tax incentives relating to the research and development expenses of certain major operating subsidiaries in the PRC. This tax incentive enables the Company to claim an additional tax deduction amounting to 50% of the qualified research and development expenses incurred.
- (iii) This amount primarily represents valuation allowance against the deferred tax assets associated with operating losses, amortization of licensed copyrights and other timing differences which may not be realized as a tax benefit.

**8. Share-based awards**

Share-based awards such as incentive and non-statutory options, restricted shares, RSUs, dividend equivalents, share appreciation rights and share payments may be granted to any directors, employees and consultants of the Company or affiliated companies under the employee share option plans adopted in 1999, 2004, 2005, the share incentive plan adopted in 2007 and the equity incentive plan adopted in 2011, which govern the terms of

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**8. Share-based awards (Continued)**

the awards. In September 2014, the Company adopted a post-IPO equity incentive plan (the "2014 Plan") which has a ten-year term. Share-based awards are only available for issuance under the 2014 Plan. If an award under the previous plan terminates, expires or lapses, or is cancelled for any reason, ordinary shares subject to the award become available for the grant of a new award under the 2014 Plan. On April 1, 2015 and each anniversary thereof, an additional amount equal to the lesser of (A) 25,000,000 ordinary shares, and (B) such lesser number of ordinary shares determined by the board of directors will become available for the grant of a new award under the 2014 Plan. All share-based awards granted under the 2014 Plan are subject to dilution protection should the capital structure of the Company be affected by a share split, reverse share split, share dividend or other dilutive action. The 2014 Plan has substantially similar terms as the plan adopted in 2011 except that (i) the 2014 Plan is administered by the compensation committee of the board (or a subcommittee thereof), or such other committee of the board to which the board has delegated power to act, or the board in the absence of any such committee, and (ii) certain terms are adjusted for the purposes of compliance with the Sarbanes-Oxley Act of 2002, U.S. Securities Act of 1933 and the regulations thereunder, as amended from time to time and U.S. Securities Exchange Act of 1934 and the regulations thereunder, as amended from time to time, among others. As of March 31, 2018, the number of shares authorized but unissued was 29,376,187 ordinary shares.

Share options and RSUs granted are generally subject to a four-year vesting schedule as determined by the administrator of the plans. Depending on the nature and the purpose of the grant, share options and RSUs in general vest 25% or 50% upon the first or second anniversary of the vesting commencement date, respectively, as provided in the grant agreement, and 25% every year thereafter. No outstanding share options or RSUs will be exercisable or subject to vesting after the expiry of a maximum of six years from the date of grant. Certain share options and RSUs granted to the senior management members of the Company are subject to a six-year pro rata vesting schedule. No outstanding share options or RSUs will be exercisable or subject to vesting after the expiry of a maximum of eight years from the date of grant.

**(a) Share options relating to ordinary shares of the Company**

A summary of the changes in the share options related to ordinary shares granted by the Company during the year ended March 31, 2018 is as follows:

	Number of share options	Weighted average exercise price US\$	Weighted average remaining contractual life (in years)
Outstanding as of April 1, 2017	11,713,003	61.94	5.0
Exercised	(3,628,263)	43.51	
Cancelled/forfeited/expired	(146,725)	76.16	
Outstanding as of March 31, 2018	<u>7,938,015</u>	<u>70.10</u>	4.5
Vested and exercisable as of March 31, 2018	2,231,589	70.47	4.2
Vested and expected to vest as of March 31, 2018 (i)	7,691,058	69.85	4.5

- (i) The share options expected to vest are the result of applying the pre-vesting forfeiture rate assumptions to total outstanding share options.

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**8. Share-based awards (Continued)**

**(a) Share options relating to ordinary shares of the Company (Continued)**

As of March 31, 2017 and 2018, 347,513 and 141,000 outstanding share options were held by non-employees, respectively. These share options are subject to re-measurement through each vesting date to determine the appropriate amount of the expense.

As of March 31, 2018, the aggregate intrinsic value of all outstanding options was RMB5,652 million. As of the same date, the aggregate intrinsic value of options that were vested and exercisable and options that were vested and expected to vest is RMB1,584 million and RMB5,489 million, respectively.

During the years ended March 31, 2016, 2017 and 2018, the weighted average grant date fair value of share options granted was US\$28.65, US\$22.89 and nil, respectively, and the total grant date fair value of options vested during the same years was RMB602 million, RMB348 million and RMB452 million, respectively. During the same years, the aggregate intrinsic value of share options exercised was RMB556 million, RMB1,799 million and RMB1,980 million, respectively.

Cash received from option exercises under the share option plans, including repayment of loans and interest receivable on employee loans for the exercise of vested options, for the years ended March 31, 2016, 2017 and 2018 was RMB693 million, RMB287 million and RMB174 million, respectively.

No share options were granted during the year ended March 31, 2018. The fair value of each option grant is estimated on the date of grant using the Black-Scholes model and the assumptions below:

	<u>Year ended March 31,</u>	
	<u>2016</u>	<u>2017</u>
Risk-free interest rate (i)	1.24% – 1.79%	1.23% – 1.30%
Expected dividend yield (ii)	0%	0%
Expected life (years) (iii)	4.25 – 5.75	4.38
Expected volatility (iv)	33.4% – 35.7%	31.7% – 33.2%

- (i) Risk-free interest rate is based on the yields of United States Treasury securities with maturities similar to the expected life of the share options in effect at the time of grant.
- (ii) Expected dividend yield is assumed to be 0% as the Company has no history or expectation of paying a dividend on its ordinary shares.
- (iii) Expected life of share options is based on the average between the vesting period and the contractual term for each grant.
- (iv) Expected volatility is assumed based on the historical volatility of the Company's comparable companies in the period equal to the expected life of each grant.

As of March 31, 2018, there were RMB245 million of unamortized compensation costs related to these outstanding share options, net of expected forfeitures and after re-measurement applicable to the awards granted to non-employees. These amounts are expected to be recognized over a weighted average period of 2.0 years.

During the years ended March 31, 2016, 2017 and 2018, the Company recognized share-based compensation expense of RMB578 million, RMB524 million and RMB270 million, respectively, in connection with the above share options, net of cash reimbursement from related companies, including Ant Financial (Note 21).

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**8. Share-based awards (Continued)**

**(b) RSUs relating to ordinary shares of the Company**

A summary of the changes in the RSUs related to ordinary shares granted by the Company during the year ended March 31, 2018 is as follows:

	<u>Number of RSUs</u>	<u>Weighted- average grant date fair value US\$</u>
Awarded and unvested as of April 1, 2017	69,595,719	69.18
Granted	29,544,661	142.05
Vested	(26,025,540)	63.62
Cancelled/forfeited	(4,689,982)	95.89
Awarded and unvested as of March 31, 2018	<u>68,424,858</u>	<u>100.93</u>
Expected to vest as of March 31, 2018 (i)	<u>56,965,205</u>	99.94

(i) RSUs expected to vest are the result of applying the pre-vesting forfeiture rate assumptions to total outstanding RSUs.

As of March 31, 2017 and 2018, 4,594,874 and 1,983,785 outstanding RSUs were held by non-employees, respectively. These RSUs are subject to re-measurement through each vesting date to determine the appropriate amount of the expense.

As of March 31, 2018, there were RMB18,207 million of unamortized compensation costs related to these outstanding RSUs, net of expected forfeitures and after re-measurement applicable to the awards granted to non-employees. These amounts are expected to be recognized over a weighted average period of 2.0 years.

During the years ended March 31, 2016, 2017 and 2018, the Company recognized share-based compensation expense of RMB9,915 million, RMB12,322 million and RMB16,165 million, respectively, in connection with the above RSUs, net of cash reimbursement from related companies, including Ant Financial (Note 21).

**(c) Partner Capital Investment Plan relating to ordinary shares of the Company**

Beginning in 2013, the Company offered selected members of the Alibaba Partnership rights to acquire restricted shares of the Company. For the rights offered before 2016, such rights and the underlying restricted shares were subject to a non-compete provision, and the holders were entitled to purchase restricted shares at a price of US\$14.50 per share during a four-year period. Upon the exercise of such rights, the underlying ordinary shares may not be transferred for a period of eight years from the date of subscription of the relevant rights. For the rights offered in 2016 and 2017, such rights and the underlying restricted shares were subject to certain service provisions that were not related to employment, and holders were entitled to purchase restricted shares at a price of US\$23.00 and US\$26.00 per share, respectively, over a period of ten years from the vesting commencement date.

The number of ordinary shares underlying these rights is 18,000,000 shares, of which the rights to subscribe for 17,300,000 shares were offered and subscribed up to March 31, 2018. The rights offered before 2016 were accounted for as noncontrolling interests of the Company as such rights were issued by the Company's subsidiaries and classified as equity at the subsidiary level. The rights offered in the subsequent periods were accounted for as share options issued by the Company.

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**8. Share-based awards (Continued)**

**(c) Partner Capital Investment Plan relating to ordinary shares of the Company (Continued)**

As of March 31, 2018, there were RMB1,062 million of unamortized compensation costs related to these rights, net of expected forfeitures and after re-measurement applicable to the awards granted to non-employees. These amounts are expected to be recognized over a weighted average period of 4.7 years. Share-based compensation expense of nil, RMB241 million and RMB435 million was recognized in connection with these rights for the years ended March 31, 2016, 2017 and 2018, respectively.

The fair value of each right to acquire restricted shares is estimated on the subscription date using the Black-Scholes model and the assumptions below:

	Year ended March 31,	
	2017	2018
Risk-free interest rate (i)	1.86%	2.07%
Expected dividend yield (ii)	0%	0%
Expected life (years) (iii)	8.25	8.25
Expected volatility (iv)	39.0%	34.2%

- (i) Risk-free interest rate is based on the yields of United States Treasury securities with maturities similar to the expected life of the share-based awards in effect at the time of grant.
- (ii) Expected dividend yield is assumed to be 0% as the Company has no history or expectation of paying a dividend on its ordinary shares.
- (iii) Expected life of the rights is based on management's estimate on timing of redemption for ordinary shares by the participants.
- (iv) Expected volatility is assumed based on the historical volatility of the Company's comparable companies in the period equal to expected life of each right.

**(d) Share-based awards relating to Ant Financial**

Junhan, the general partner of which is a company wholly-owned by the executive chairman of the Company and a major equity holder of Ant Financial, made grants of share economic rights similar to share appreciation awards linked to the valuation of Ant Financial (the "SERs") to certain employees of the Company. The vesting of the SERs is conditional upon the fulfillment of certain requisite service conditions, and the SERs will be settled in cash by Junhan upon the disposal by the holders. Junhan has the right to repurchase the vested SERs from the holders upon an initial public offering of Ant Financial or the termination of holders' employment with the Company at a price to be determined based on the then fair market value of Ant Financial. The Company has no obligation to reimburse Junhan, Ant Financial or its subsidiaries for the cost associated with these SERs.

For accounting purposes, the SERs meet the definition of a financial derivative. The cost relating to such SERs is recognized by the Company and the related expense is recognized over the requisite service period in the consolidated income statements with a corresponding credit to additional paid-in capital. Subsequent changes in the fair value of the SERs are recorded in the consolidated income statements through the date on which the underlying SERs are settled by Junhan.



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**8. Share-based awards (Continued)**

During the years ended March 31, 2016, 2017 and 2018, the Company recognized expenses of RMB5,506 million, RMB2,188 million and RMB2,278 million in respect of the share-based awards relating to Ant Financial granted by Junhan, respectively.

**(e) Share-based compensation expense by function**

	Year ended March 31,		
	2016	2017	2018
	(in millions of RMB)		
Cost of revenue	4,003	3,893	5,505
Product development expenses	5,703	5,712	7,374
Sales and marketing expenses	1,963	1,772	2,037
General and administrative expenses	4,413	4,618	5,159
Total	16,082	15,995	20,075

**9. Earnings per share**

Basic earnings per share is computed by dividing net income attributable to ordinary shareholders by the weighted average number of outstanding ordinary shares, adjusted for treasury shares.

For the calculation of diluted earnings per share, net income attributable to ordinary shareholders for basic earnings per share is adjusted by the effect of dilutive securities, including share-based awards, under the treasury stock method. Potentially dilutive securities, of which the amounts are insignificant, have been excluded from the computation of diluted net income per share if their inclusion is anti-dilutive.

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**9. Earnings per share (Continued)**

**(e) Share-based compensation expense by function (Continued)**

The following table sets forth the computation of basic and diluted net income per share/ADS for the following periods:

	<u>Year ended March 31,</u>		
	<u>2016</u>	<u>2017</u>	<u>2018</u>
	<u>(in millions of RMB, except share data and per share data)</u>		
<b><u>Numerator:</u></b>			
Net income attributable to ordinary shareholders for computing net income per ordinary share — basic	71,460	43,675	63,985
Dilution effect arising from share-based awards issued by a subsidiary and equity investees	—	(11)	(21)
Net income attributable to ordinary shareholders for computing net income per ordinary share — diluted	71,460	43,664	63,964
<b><u>Shares (denominator):</u></b>			
Weighted average number of shares used in calculating net income per ordinary share — basic (million shares)	2,458	2,493	2,553
Adjustments for dilutive share options and RSUs (million shares)	104	80	57
Weighted average number of shares used in calculating net income per ordinary share — diluted (million shares)	2,562	2,573	2,610
Net income per ordinary share/ADS — basic (RMB)	<u>29.07</u>	<u>17.52</u>	<u>25.06</u>
Net income per ordinary share/ADS — diluted (RMB)	<u>27.89</u>	<u>16.97</u>	<u>24.51</u>

**10. Restricted cash and escrow receivables**

	<u>As of March 31,</u>	
	<u>2017</u>	<u>2018</u>
	<u>(in millions of RMB)</u>	
Money received or receivable on escrow services offered by AliExpress (i)	2,528	3,171
Others	127	246
	<u>2,655</u>	<u>3,417</u>

- (i) The amount represents customer funds held by external payment networks outside the PRC relating to AliExpress with a corresponding liability recorded under escrow money payable.

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**(e) Share-based compensation expense by function (Continued)**

**11. Investment securities and fair value disclosure**

	As of March 31, 2017				Fair value
	Original cost	Gross unrealized gains	Gross unrealized losses	Provision for decline in value	
(in millions of RMB)					
<b>Assets</b>					
Available-for-sale securities:					
Listed equity securities	15,325	9,792	(836)	(1,019)	23,262
Held-to-maturity securities	12,241	—	—	(180)	12,061
Investment securities accounted for under the fair value option	183	—	—	—	183
	<u>27,749</u>	<u>9,792</u>	<u>(836)</u>	<u>(1,199)</u>	<u>35,506</u>

	As of March 31, 2018				Fair value
	Original cost	Gross unrealized gains	Gross unrealized losses	Provision for decline in value	
(in millions of RMB)					
<b>Assets</b>					
Available-for-sale securities:					
Listed equity securities	20,303	10,990	(1,587)	(983)	28,723
Held-to-maturity securities	12,642	—	—	(179)	12,463
Investment securities accounted for under the fair value option	1,754	67	—	—	1,821
	<u>34,699</u>	<u>11,057</u>	<u>(1,587)</u>	<u>(1,162)</u>	<u>43,007</u>

Details of the significant additions of the investment securities during the years ended March 31, 2016, 2017 and 2018 are set out in Note 4.

During the years ended March 31, 2016, 2017 and 2018, gross realized gains of RMB1,012 million, RMB6,306 million and nil and gross realized losses of RMB410 million, RMB534 million and nil from disposals of investment securities were recognized in interest and investment income, net in the consolidated income statements, respectively. During the same period, impairment losses of RMB962 million, RMB173 million and RMB63 million were charged in interest and investment income, net in the consolidated income statements, respectively, as a result of other-than-temporary decline in values related to listed equity securities and held-to-maturity securities.

As of March 31, 2016, 2017 and 2018, net unrealized gains of RMB5,502 million, RMB8,956 million and RMB9,403 million on available-for-sale securities were recorded in accumulated other comprehensive income, respectively. For available-for-sale securities with unrealized losses, their related aggregate fair values amounted to RMB1,751 million, RMB4,366 million and RMB7,636 million as of March 31, 2016, 2017 and 2018, respectively. The carrying amounts of available-for-sale securities that were in a loss position over twelve months were insignificant as of the same dates.

The carrying amount of long-term held-to-maturity investments approximates their fair value due to the fact that the related interest rates approximate rates currently offered by financial institutions for similar debt instruments of comparable maturities.

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**11. Investment securities and fair value disclosure (Continued)**

**(e) Share-based compensation expense by function (Continued)**

Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. To increase the comparability of fair value measures, the following hierarchy prioritizes the inputs to valuation methodologies used to measure fair value:

- Level 1 - Valuations based on unadjusted quoted prices for identical assets and liabilities in active markets.
- Level 2 - Valuations based on observable inputs other than quoted prices included in Level 1, such as quoted prices for similar assets and liabilities in active markets, quoted prices for identical or similar assets and liabilities in markets that are not active, or other inputs that are observable or can be corroborated by observable market data.
- Level 3 - Valuations based on unobservable inputs reflecting assumptions, consistent with reasonably available assumptions made by other market participants. These valuations require significant judgment.

Fair value of short-term investments and listed equity securities are based on quoted prices in active markets for identical assets or liabilities. All other financial instruments, such as interest rate swaps and forward exchange contracts, are valued based on quoted market prices of similar instruments and other significant inputs derived from or corroborated by observable market data. Convertible and exchangeable bonds are valued using binomial model with unobservable inputs including risk-free interest rate, expected volatility and dividend yield. Contingent consideration is valued using an expected cash flow method with unobservable inputs including the probability to achieve the operating and financial targets, which is assessed by the Company, in connection with the contingent consideration arrangements.

The following table summarizes the Company's assets and liabilities that are measured at fair value on a recurring basis and are categorized using the fair value hierarchy:

	As of March 31, 2017			Total
	Level 1	Level 2	Level 3	
	(in millions of RMB)			
<b>Assets</b>				
Short-term investments	3,011	—	—	3,011
Restricted cash and escrow receivables	2,655	—	—	2,655
Available-for-sale securities:				
Listed equity securities	23,262	—	—	23,262
Investment securities accounted for under the fair value option	—	—	183	183
Interest rate swap contracts	—	436	—	436
	<u>28,928</u>	<u>436</u>	<u>183</u>	<u>29,547</u>
<b>Liabilities</b>				
Forward exchange contracts	—	78	—	78
Contingent consideration in relation to investments and acquisitions	—	—	921	921
	<u>—</u>	<u>78</u>	<u>921</u>	<u>999</u>

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**11. Investment securities and fair value disclosure (Continued)**

**(e) Share-based compensation expense by function (Continued)**

	As of March 31, 2018			Total
	Level 1	Level 2	Level 3	
<b>Assets</b>				
Short-term investments	6,086	—	—	6,086
Restricted cash and escrow receivables	3,417	—	—	3,417
Available-for-sale securities:				
Listed equity securities	28,723	—	—	28,723
Investment securities accounted for under the fair value option	—	—	1,821	1,821
Interest rate swap contracts	—	542	—	542
	<u>38,226</u>	<u>542</u>	<u>1,821</u>	<u>40,589</u>
<b>Liabilities</b>				
Contingent consideration in relation to investments and acquisitions	—	—	120	120
	<u>—</u>	<u>—</u>	<u>120</u>	<u>120</u>

Convertible and exchangeable bonds accounted for under the fair value option:

	Amounts (in millions of RMB)
Balance as of April 1, 2016	4,622
Decrease in fair value	(113)
Conversion or exchange (Notes 4(c) and 4(z))	(4,678)
Foreign currency translation adjustments	169
Balance as of March 31, 2017	—
Additions	1,264
Foreign currency translation adjustments	(8)
Balance as of March 31, 2018	<u>1,256</u>

Contingent consideration in relation to investments and acquisitions:

	Amounts (in millions of RMB)
Balance as of April 1, 2016	1,264
Additions	293
Net decrease in fair value	(642)
Foreign currency translation adjustments	6
Balance as of March 31, 2017	921
Repayment	(770)
Net decrease in fair value	(17)
Foreign currency translation adjustments	(14)
Balance as of March 31, 2018	<u>120</u>

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**12. Prepayments, receivables and other assets**

	<u>As of March 31,</u>	
	<u>2017</u>	<u>2018</u>
	(in millions of RMB)	
Current:		
VAT receivables, net of allowance (i)	8,810	8,915
Amounts due from related companies (ii)	4,131	8,080
Accounts receivable, net of allowance	4,388	7,284
Inventories	957	4,535
Prepaid cost of revenue, sales and marketing expenses and others	2,431	4,283
Deferred direct selling costs (iii)	1,283	1,643
Advances to customers and merchants	788	1,477
Licensed copyrights	327	964
Interest receivables	447	672
Loan receivables, net	812	419
Employee loans and advances (iv)	176	183
Receivable for proceeds from disposal of investments	2,786	—
Others	1,072	4,773
	<u>28,408</u>	<u>43,228</u>
Non-current:		
Prepayment for acquisition of property and equipment	4,018	5,933
Prepayment for licensed copyrights and others	1,639	5,614
Deferred tax assets (Note 7)	1,038	2,182
Fair value of interest rate swap contracts	436	542
Employee loans (iv)	451	344
Deferred direct selling costs (iii)	114	188
Prepaid upfront fees related to long-term borrowings / unsecured senior notes	53	170
Others	954	1,924
	<u>8,703</u>	<u>16,897</u>

- (i) VAT receivables mainly represent VAT receivable from relevant PRC tax authorities arising from the Company's VAT refund service. The Company provides advance settlement of relevant VAT refund amounts to its customers prior to receiving such VAT refund from tax authorities. To provide this service, the Company relies on short-term banking facilities and takes on credit risk if the Company fails to recover the prepaid VAT amount.
- (ii) Amounts due from related companies primarily represent balances arising from transactions with Ant Financial and its subsidiaries (Notes 4(a) and 21). The balances are unsecured, interest free and repayable within the next twelve months.
- (iii) The Company is obligated to pay certain costs upon the receipt of membership fees from merchants or other customers, which primarily consist of sales commissions. The membership fees are initially deferred and recognized as revenue in the consolidated income statements in the period in which the services are rendered. As such, the related costs are also initially deferred and recognized in the consolidated income statements in the same period as the related service fees are recognized.

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**12. Prepayments, receivables and other assets (Continued)**

- (iv) Employee loans mainly include loans extended under an interest-free loan program, with a term of five years, to eligible employees for purchase of their first residential properties.

**13. Investments in equity investees**

	Cost method	Equity method	Total
	(in millions of RMB)		
Balance as of April 1, 2016	33,264	58,197	91,461
Additions (i)	8,860	35,154	44,014
Share of results, other comprehensive income and other reserves (ii)	—	(2,074)	(2,074)
Disposals	(2,512)	(324)	(2,836)
Transfers (iii)	(3,763)	(5,891)	(9,654)
Impairment loss (iv)	(2,125)	(245)	(2,370)
Foreign currency translation adjustments	1,680	147	1,827
Balance as of March 31, 2017	35,404	84,964	120,368
Additions (i)	34,121	26,391	60,512
Share of results, other comprehensive income and other reserves (ii)	—	(3,660)	(3,660)
Disposals	(3,051)	(474)	(3,525)
Transfers (iii)	(1,725)	(9,011)	(10,736)
Impairment loss (iv)	(1,753)	(18,153)	(19,906)
Foreign currency translation adjustments	(3,054)	(299)	(3,353)
Balance as of March 31, 2018	<u>59,942</u>	<u>79,758</u>	<u>139,700</u>

- (i) Details of the significant additions of the investments in equity investees are set out in Note 4.
- (ii) Share of results, other comprehensive income and other reserves included the share of results of the equity investees, the gain or loss arising from the deemed disposal of the equity investees and the amortization of basis differences. The balance excluded the expenses in connection with the share-based awards relating to ordinary shares of the Company and Ant Financial granted to employees of certain equity investees (Note 8(d)).
- (iii) During the year ended March 31, 2017, transfers under the cost method were primarily related to the completion of the listing of YTO Express (Note 4(ab)) and the step acquisition of Damai (Note 4(d)). Transfers under the equity method were primarily related to the step acquisition of Youku (Note 4(g)).

During the year ended March 31, 2018, transfers under the equity method were primarily related to the consolidation of Cainiao Network (Note 4(b)) and Intime (Note 4(c)) upon the acquisition of control by the Company.

- (iv) The Company continually reviews its investments in equity investees to determine whether a decline in fair value below the carrying value is other-than-temporary. The primary factors the Company considers in its determination include the financial condition, operating performance and the prospects of the equity investee; other company specific information such as recent financing rounds; the geographic region, market and industry in which the equity investee operates; and the length of time that the fair value of the investment is below its carrying value. If the decline in fair value is deemed to be other-than-temporary, the carrying value of the equity investee is written down to fair value. Impairment charges in connection with the equity method investments of nil, RMB245 million and

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**13. Investments in equity investees (Continued)**

RMB18,153 million were recorded in share of results of equity investees in the consolidated income statements for the years ended March 31, 2016, 2017 and 2018, respectively. Impairment charges in connection with the cost method investments of RMB902 million, RMB2,125 million and RMB1,753 million were recorded in interest and investment income, net in the consolidated income statements for the years ended March 31, 2016, 2017 and 2018, respectively.

Out of the impairment charges relating to the equity method investments for the year ended March 31, 2018, RMB18,116 million was related to the Company's investment in Alibaba Pictures. The impairment amount represented the difference between the market value and the carrying value of this investment as of December 31, 2017. In June 2015, following a financing transaction that diluted the Company's shareholding from a controlling position to minority investment, the Company deconsolidated the financial results of Alibaba Pictures and accounted for the investment in the remaining equity interest under the equity method. A gain of RMB24,734 million arising from the revaluation of the Company's remaining equity interest in Alibaba Pictures was recognized in interest and investment income, net in the consolidated income statement for the year ended March 31, 2016, with a corresponding increase in the carrying value of the investment. Since July 2015, the market value of Alibaba Pictures has declined and remained below the increased carrying value of this investment. Given the market price trend and Alibaba Pictures' strategic decision made in early 2018 to increase investments and expenses for market share growth of its online movie ticketing business, the Company determined that the decline in the market value against the carrying value of this investment was other-than-temporary and an impairment charge was recorded for the year ended March 31, 2018. The fair value measurements with respect to the impairments of other equity investees were individually insignificant and utilized a number of different unobservable inputs not subject to meaningful aggregation.

As of March 31, 2018, equity method investments with an aggregate carrying amount of RMB65,639 million that are publicly traded have increased in value and the total market value of these investments amounted to RMB118,357 million. As of March 31, 2017 and 2018, cost method investments with an aggregate carrying amount of RMB17,273 million and RMB30,318 million have appreciated in value and the Company estimated the fair value to be approximately RMB46,351 million and RMB61,936 million, respectively.

As of the same dates, for certain other cost method investments with an aggregate carrying amount of RMB18,131 million and RMB29,624 million, the Company identified no events or changes in circumstances that may have a significant adverse effect on the fair value of the investments and determined that it is not practicable to estimate their fair values, respectively.

For the years ended March 31, 2017 and 2018, equity method investments held by the Company in aggregate have met the significance criteria as defined under Rule 4-08 (g) of Regulation S-X. As such, the Company is required to present summarized financial information for all of its equity method investments as a group as follows:

	Year ended March 31,		
	2016	2017	2018
	(in millions of RMB)		
Operating data:			
Revenue	20,808	125,701	284,706
Cost of revenue	(17,505)	(109,790)	(242,068)
Loss from operations	(5,429)	(9,071)	(7,072)
Net (loss) income	(1,504)	(6,743)	195



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**13. Investments in equity investees (Continued)**

	As of March 31,	
	2017	2018
	(in millions of RMB)	
Balance sheet data:		
Current assets	137,900	200,742
Non-current assets	122,844	184,310
Current liabilities	93,354	162,340
Non-current liabilities	12,375	26,107
Noncontrolling interests and mezzanine equity	7,443	16,586

**14. Property and equipment, net**

	As of March 31,	
	2017	2018
	(in millions of RMB)	
Buildings and property improvements	10,529	45,909
Computer equipment and software	18,427	33,852
Construction in progress	2,627	5,110
Furniture, office and transportation equipment	884	2,057
	32,467	86,928
Less: accumulated depreciation and amortization	(12,261)	(20,439)
Net book value	20,206	66,489

Depreciation and amortization expenses recognized for the years ended March 31, 2016, 2017 and 2018 were RMB3,699 million, RMB5,177 million and RMB8,654 million, respectively.

**15. Intangible assets, net**

	As of March 31,	
	2017	2018
	(in millions of RMB)	
Trade names, trademarks and domain names	8,100	14,198
User base and customer relationships	4,169	13,510
Licensed copyrights	6,087	9,182
Non-compete agreements (i)	5,915	7,820
Developed technology and patents	4,793	5,463
Others	32	225
	29,096	50,398
Less: accumulated amortization and impairment	(14,988)	(22,933)
Net book value	14,108	27,465

- (i) In April 2017, the Company entered into a non-compete agreement with a former management member of Youku (Note 4(g)), with a fair value of RMB2,528 million. As of March 31, 2018, the remaining amortization period of such non-compete agreement was two years.

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**15. Intangible assets, net (Continued)**

Amortization expenses recognized for the years ended March 31, 2016, 2017 and 2018 amounted to RMB3,278 million, RMB9,008 million and RMB13,231 million, respectively.

The estimated aggregate amortization expenses for each of the five succeeding fiscal years and thereafter are as follows:

	<u>Amounts</u> <u>(in millions of RMB)</u>
For the year ending March 31,	
2019	6,764
2020	3,408
2021	1,962
2022	1,513
2023	1,391
Thereafter	12,427
	<u>27,465</u>

**16. Goodwill**

Changes in the carrying amount of goodwill by segment for the years ended March 31, 2017 and 2018 were as follows:

	<u>Core</u> <u>commerce</u>	<u>Cloud</u> <u>computing</u>	<u>Digital media</u> <u>and</u> <u>entertainment</u> <small>(in millions of RMB)</small>	<u>Innovation</u> <u>initiatives and</u> <u>others</u>	<u>Total</u>
Balance as of April 1, 2016	66,223	368	10,378	4,676	81,645
Additions (i)	13,298	—	30,110	—	43,408
Foreign currency translation adjustments	334	—	33	—	367
Balance as of March 31, 2017	79,855	368	40,521	4,676	125,420
Additions (i)	37,458	—	335	—	37,793
Impairment	—	—	(494)	—	(494)
Foreign currency translation adjustments	(515)	—	(55)	—	(570)
Balance as of March 31, 2018	<u>116,798</u>	<u>368</u>	<u>40,307</u>	<u>4,676</u>	<u>162,149</u>

(i) During the year ended March 31, 2017, additions under the digital media and entertainment segment were primarily related to the acquisition of Youku (Note 4(g)).

During the year ended March 31, 2018, additions under the core commerce segment were primarily related to the acquisition of Cainiao Network (Note 4(b)).

Gross goodwill balances were RMB128,870 million and RMB166,093 million as of March 31, 2017 and 2018, respectively. Accumulated impairment losses were RMB3,450 million and RMB3,944 million as of the same dates, respectively.

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**16. Goodwill (Continued)**

In the annual goodwill impairment assessment, the Company concluded that the carrying amounts of certain reporting units exceeded their respective fair values and recorded impairment losses of RMB455 million, nil and RMB494 million during the years ended March 31, 2016, 2017 and 2018, respectively. The impairment losses were resulted from a revision of long-term financial outlook and the change in business model of those reporting units. The impairment loss was determined by comparing the carrying amounts of goodwill associated with the reporting units with their respective implied fair values of the goodwill. The goodwill impairment is presented as an unallocated item in the segment information (Note 25) because the CODM of the Company does not consider this as part of the segment operating performance measure.

**17. Deferred revenue and customer advances**

Deferred revenue and customer advances primarily represent service fees prepaid by merchants or customers for which the relevant services have not been provided. The respective balances are as follows:

	As of March 31,	
	2017	2018
	(in millions of RMB)	
Deferred revenue	9,643	13,350
Customer advances	6,050	9,940
	15,693	23,290
Less: current portion	(15,052)	(22,297)
Non-current portion	641	993

All service fees received in advance are initially recorded as customer advances. These amounts are transferred to deferred revenue upon commencement of the provision of services by the Company and are recognized in the consolidated income statements in the period in which the services are provided. In general, service fees received in advance are non-refundable after such amounts are transferred to deferred revenue.

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**18. Accrued expenses, accounts payable and other liabilities**

	<u>As of March 31,</u>	
	<u>2017</u>	<u>2018</u>
	<u>(in millions of RMB)</u>	
<b>Current:</b>		
Payables and accruals for cost of revenue and sales and marketing expenses	20,165	40,363
Accrued bonus and staff costs, including sales commission	8,249	11,212
Payable to merchants and third party marketing affiliates	3,177	6,584
Other deposits and advances received	2,314	6,271
Payables and accruals for purchases of property and equipment	2,554	6,095
Other taxes payable (i)	1,549	2,382
Amounts due to related companies (ii)	2,167	1,996
Accrued donations	880	1,215
Accrued professional services expenses	709	889
Accrual for interest expense	445	885
Contingent and deferred consideration in relation to investments and acquisitions	2,311	807
Others	2,459	2,466
	<u>46,979</u>	<u>81,165</u>
<b>Non-current:</b>		
Contingent and deferred consideration in relation to investments and acquisitions	630	408
Others	660	1,637
	<u>1,290</u>	<u>2,045</u>

- (i) Other taxes payable represent business tax, VAT and related surcharges and PRC individual income tax of employees withheld by the Company.
- (ii) Amounts due to related companies primarily represent balances arising from the transactions with Ant Financial and its subsidiaries (Note 21). The balances are unsecured, interest free and repayable within the next twelve months.

**19. Bank borrowings**

Bank borrowings are analyzed as follows:

	<u>As of March 31</u>	
	<u>2017</u>	<u>2018</u>
	<u>(in millions of RMB)</u>	
US\$4.0 billion syndicated loan denominated in US\$ (i)	27,346	24,957
Long-term other borrowings (ii)	3,613	9,196
Short-term other borrowings (iii)	5,948	6,028
	<u>36,907</u>	<u>40,181</u>
Less: current portion	<u>(5,948)</u>	<u>(6,028)</u>
Non-current portion	<u>30,959</u>	<u>34,153</u>

- (i) As of March 31, 2017 and 2018, the Company had a five-year US\$4.0 billion syndicated loan, which was entered into with a group of eight lead arrangers. The loan has a five-year bullet maturity and is priced at

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**19. Bank borrowings (Continued)**

110 basis points over LIBOR. The related floating interest payments are hedged by certain interest rate swap contracts entered into by the Company. The proceeds of the loan were used for general corporate and working capital purposes (including acquisitions).

- (ii) As of March 31, 2017 and 2018, the Company had long-term borrowings from banks with weighted average interest rates of approximately 4.6% and 4.5% per annum, respectively. Such borrowings are all denominated in RMB.
- (iii) As of March 31, 2017 and 2018, the Company had short-term borrowings from banks which were repayable within one year or on demand and charged interest rates ranging from 1.7% to 4.8% and 2.2% to 6.1% per annum, respectively. Such borrowings are primarily denominated in RMB or US\$.

Certain other bank borrowings are collateralized by a pledge of certain bank deposits, buildings and property improvements, construction in progress and land use rights in the PRC with carrying values of RMB6,715 million and RMB20,927 million, as of March 31, 2017 and 2018, respectively. As of March 31, 2018, the Company is in compliance with all covenants in relation to bank borrowings.

In April 2017, the Company obtained a new revolving credit facility provided by certain financial institutions for an amount of US\$5.15 billion which has not yet been drawn down. The interest rate on any outstanding utilized amount under this new credit facility is calculated based on LIBOR plus 95 basis points. This facility is reserved for general corporate and working capital purposes (including acquisitions).

As of March 31, 2018, the borrowings will be due according to the following schedule:

	<u>Principal amounts</u> <u>(in millions of RMB)</u>
Within 1 year	6,031
Between 1 to 2 years	3,101
Between 2 to 3 years	747
Between 3 to 4 years	25,400
Between 4 to 5 years	430
Beyond 5 years	4,629
	<u>40,338</u>

**20. Unsecured senior notes**

In November 2014, the Company issued unsecured senior notes including floating rate and fixed rate notes with varying maturities for an aggregate principal amount of US\$8.0 billion (the "2014 Senior Notes"), of which US\$1.3 billion was repaid in November 2017. The 2014 Senior Notes are senior unsecured obligations which are listed on the HKSE, and interest is payable in arrears, quarterly for the floating rate notes and semiannually for the fixed-rate notes.

In December 2017, the Company issued another series of unsecured fixed rate senior notes with varying maturities for an aggregate principal amount of US\$7.0 billion (the "2017 Senior Notes"). The 2017 Senior Notes are senior unsecured obligations which are listed on the Singapore Stock Exchange, and interest is payable in arrears semiannually.

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**20. Unsecured senior notes (Continued)**

The following table provides a summary of the Company's unsecured senior notes as of March 31, 2018:

	<u>Amounts</u> <u>(in millions of RMB)</u>	<u>Effective</u> <u>interest rate</u>
US\$2,250 million 2.500% notes due 2019	14,083	2.67%
US\$1,500 million 3.125% notes due 2021	9,365	3.26%
US\$700 million 2.800% notes due 2023	4,372	2.90%
US\$2,250 million 3.600% notes due 2024	14,050	3.68%
US\$2,550 million 3.400% notes due 2027	15,848	3.52%
US\$700 million 4.500% notes due 2034	4,339	4.60%
US\$1,000 million 4.000% notes due 2037	6,219	4.06%
US\$1,750 million 4.200% notes due 2047	10,880	4.25%
US\$1,000 million 4.400% notes due 2057	6,216	4.44%
Carrying value	85,372	
Unamortized discount and debt issuance costs	624	
Total principal amounts of unsecured senior notes	85,996	
Less: current portion of principal amounts of unsecured senior notes	—	
Non-current portion of principal amounts of unsecured senior notes	85,996	

The 2014 Senior Notes and the 2017 Senior Notes were issued at a discount with a total amount of US\$47 million (RMB297 million). The debt issuance costs of US\$82 million (RMB517 million) were presented as a direct deduction from the principal amount of the unsecured senior notes in the consolidated balance sheets. The effective interest rates for the unsecured senior notes include the interest charged on the notes as well as amortization of the debt discounts and debt issuance costs.

The 2014 Senior Notes and the 2017 Senior Notes contain covenants including, among others, limitation on liens, consolidation, merger and sale of the Company's assets. As of March 31, 2018, the Company is in compliance with all such covenants. In addition, the 2014 Senior Notes and the 2017 Senior Notes rank senior in right of payment to all of the Company's existing and future indebtedness expressly subordinated in right of payment to the notes and rank at least equally in right of payment with all of the Company's existing and future unsecured unsubordinated indebtedness (subject to any priority rights pursuant to applicable law).

The proceeds from issuance of the 2014 Senior Notes were used in full to refinance a previous syndicated loan in the same amount. The proceeds from the issuance of the 2017 Senior Notes were used for general corporate purposes.

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**20. Unsecured senior notes (Continued)**

As of March 31, 2018, the future principal payments for the Company's unsecured senior notes will be due according to the following schedule:

	<u>Principal amounts</u> <u>(in millions of RMB)</u>
Within 1 year	—
Between 1 to 2 years	14,123
Between 2 to 3 years	—
Between 3 to 4 years	9,416
Between 4 to 5 years	—
Thereafter	62,457
	<u>85,996</u>

As of March 31, 2018, the fair value of the Company's unsecured senior notes, based on Level 2 inputs, was US\$13,317 million (RMB83,590 million).

**21. Related party transactions**

During the years ended March 31, 2016, 2017 and 2018, other than disclosed elsewhere, the Company had the following material related party transactions:

*Transactions with Ant Financial and its affiliates*

	<u>Year ended March 31,</u>		
	<u>2016</u>	<u>2017</u>	<u>2018</u>
	<u>(in millions of RMB)</u>		
<b>Amount earned by the Company</b>			
Profit Share Payments (i)	1,122	2,086	3,444
SME Annual Fee (ii)	708	847	956
Reimbursement on options and RSUs (iii)	113	54	5
Commission on transactions (iv)	246	409	497
Cloud computing revenue (iv)	104	264	482
Other services (iv)	736	621	1,200
	<u>3,029</u>	<u>4,281</u>	<u>6,584</u>
<b>Amount incurred by the Company</b>			
Payment processing fee (v)	4,898	5,487	6,295
Other fees (iv)	299	952	1,894
	<u>5,197</u>	<u>6,439</u>	<u>8,189</u>

- (i) In 2014, the Company entered into the 2014 IPLA with Ant Financial. Under the 2014 IPLA, the Company receives the Profit Share Payments amounting to the sum of an expense reimbursement plus 37.5% of the consolidated pre-tax income of Ant Financial, subject to certain adjustments (Note 4(a)).

Profit Share Payments were recognized in consolidated income statements, net of the costs incurred for the provision of the software technology services reimbursed by Ant Financial. The amounts reimbursed

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**21. Related party transactions (Continued)**

by Ant Financial to the Company were RMB274 million, RMB245 million and RMB37 million for the years ended March 31, 2016, 2017 and 2018, respectively.

- (ii) The Company entered into software system use and service agreements with Ant Financial in 2014. In calendar years 2015 to 2017, the Company received the SME Annual Fee equal to 2.5% of the average daily balance of the SME loans made by Ant Financial and its affiliates. In calendar years 2018 to 2021, the Company received or will receive the SME Annual Fee equal to the amount paid in calendar year 2017 (Note 4(a)).
- (iii) The Company entered into agreements with Ant Financial in 2012 and 2013 under which the Company will receive a reimbursement for options and RSUs relating to the ordinary shares granted to the employees of Ant Financial and its subsidiaries during the period from December 14, 2011 to March 31, 2014. Pursuant to the agreements, the Company will, upon vesting of such options and RSUs, receive a cash reimbursement equal to their respective grant date fair value. As this arrangement relates to share-based awards previously granted by the Company, the reimbursement is recognized as a reduction of share-based compensation expense. The Company also entered into a similar agreement relating to share-based awards granted to the employees of Koubei and its subsidiaries, and the amounts are not material.
- (iv) The Company also has other commercial arrangements, treasury management arrangements and cost sharing arrangements with Ant Financial, its subsidiaries and affiliates (including Koubei) on various sales and marketing, cloud computing, treasury management and other administrative services.
- (v) The Company and Alipay, among others, entered into a commercial agreement in 2011 whereby the Company receives payment processing services in exchange for a payment processing fee, which was recognized in cost of revenue.

As of March 31, 2017 and 2018, the Company had certain amounts of cash and short-term investments held in accounts managed by Alipay.

*Transactions with Cainiao Network*

The Company entered into an agreement with Cainiao Network during the year ended March 31, 2016 whereby the Company disposed of a wholly-owned subsidiary to Cainiao Network for cash consideration of US\$33 million (RMB204 million). The major asset of the disposed subsidiary consisted of a land use right in the PRC. The gain on disposal for the year ended March 31, 2016 amounted to RMB3 million.

The Company has commercial arrangements with Cainiao Network to receive certain logistics services. Expenses incurred in connection with the logistics services provided by Cainiao Network of RMB2,370 million, RMB4,444 million and RMB3,437 million were recorded in the consolidated income statements for the years ended March 31, 2016, 2017 and for the period from April 1, 2017 to the date of consolidation of Cainiao Network in October 2017, respectively.

The Company also has cost sharing and other services arrangements with Cainiao Network and its subsidiaries primarily related to various administrative and support services. In connection with these services provided by the Company, RMB86 million, RMB152 million and RMB123 million were recorded in the consolidated income statements for the years ended March 31, 2016, 2017 and for the period from April 1, 2017 to the date of consolidation of Cainiao Network in October 2017, respectively.



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**21. Related party transactions (Continued)**

*Transactions with Weibo Corporation ("Weibo")*

The strategic collaboration agreement and the marketing cooperation agreement that were entered into between the Company and Weibo, an equity investee of the Company, were expired in January 2016. Expenses incurred in connection with the marketing services provided by Weibo pursuant to these agreements and other commercial arrangements of RMB715 million, RMB340 million and RMB615 million were recorded in the cost of revenue and sales and marketing expenses in the consolidated income statements for the years ended March 31, 2016, 2017 and 2018, respectively.

The Company also has other commercial arrangements with Weibo primarily related to cloud computing services. In connection with such services provided by the Company, RMB38 million, RMB105 million and RMB223 million were recorded in revenue in the consolidated income statements for the years ended March 31, 2016, 2017 and 2018, respectively.

*Transactions with other equity investees*

Cainiao Network has commercial arrangements with certain equity investees of the Company to receive logistics services. Expenses incurred in connection with such services of RMB5,608 million were recorded in the consolidated income statement for the period from the date of consolidation of Cainiao Network in October 2017 to March 31, 2018.

*Repurchase of ordinary shares from Softbank*

In June 2016, the Company entered into a share purchase agreement with SoftBank, pursuant to which the Company repurchased 27,027,027 ordinary shares from SoftBank at US\$74.00 per share for an aggregate consideration of approximately US\$2.0 billion. Such ordinary shares were cancelled upon the completion of the transaction.

*Other transactions*

The Company's ecosystem offers different platforms on which different enterprises operate and the Company believes that all transactions on the Company's platforms are conducted on terms obtained in arms-length transactions with similar unrelated parties.

Other than the transactions disclosed above or elsewhere in the consolidated financial statements, the Company has commercial arrangements with SoftBank, its equity investees and other related parties to provide and receive certain marketing, logistics, traffic acquisition, cloud computing and other services and products. The amounts relating to these services provided and received represent less than 1% of the Company's revenue and total costs and expenses, respectively, for the years ended March 31, 2016, 2017 and 2018.

In addition, the Company has made certain acquisitions and equity investments together with related parties from time to time during the years ended March 31, 2016, 2017 and 2018. The agreements for acquisitions and equity investments were entered into by the parties involved and conducted on fair value basis. The significant acquisitions and equity investments together with related parties are included in Note 4.

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**22. Restricted net assets**

PRC laws and regulations permit payments of dividends by the Company's subsidiaries incorporated in the PRC only out of their retained earnings, if any, as determined in accordance with PRC accounting standards and regulations. In addition, the Company's subsidiaries incorporated in the PRC are required to annually appropriate 10% of their net income to the statutory reserve prior to payment of any dividends, unless such reserve have reached 50% of their respective registered capital. Furthermore, registered share capital and capital reserve accounts are also restricted from distribution. As a result of the restrictions described above and elsewhere under PRC laws and regulations, the Company's subsidiaries incorporated in the PRC are restricted in their ability to transfer a portion of their net assets to the Company in the form of dividends. Such restriction amounted to RMB77,891 million as of March 31, 2018. Except for the above or disclosed elsewhere, there is no other restriction on the use of proceeds generated by the Company's subsidiaries to satisfy any obligations of the Company.

**23. Commitments**

**(a) Capital commitments**

Capital expenditures contracted for are analyzed as follows:

	As of March 31,	
	2017	2018
	(in millions of RMB)	
Contracted but not provided for:		
Purchase of property and equipment	1,771	3,181
Construction of corporate campuses	2,838	2,607
	<u>4,609</u>	<u>5,788</u>

**(b) Operating lease commitments for office facility and transportation equipment**

The Company has leased office premises and transportation equipment under non-cancellable operating lease agreements. These leases have different terms and renewal rights. The future aggregate minimum lease payments under non-cancellable operating leases are as follows:

	As of March 31,	
	2017	2018
	(in millions of RMB)	
No later than 1 year	862	2,760
Later than 1 year and no later than 5 years	1,593	7,652
More than 5 years	834	11,940
Total	<u>3,289</u>	<u>22,352</u>

For the years ended March 31, 2016, 2017 and 2018, the Company incurred rental expenses under operating leases of RMB451 million, RMB747 million and RMB2,279 million, respectively.

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**23. Commitments (Continued)**

**(c) Commitments for co-location and bandwidth fees, licensed copyrights and marketing expenses**

	<u>As of March 31,</u>	
	<u>2017</u>	<u>2018</u>
	<u>(in millions of RMB)</u>	
No later than 1 year	8,295	19,737
Later than 1 year and no later than 5 years	10,593	12,097
More than 5 years	3,678	3,672
Total	<u>22,566</u>	<u>35,506</u>

**(d) Investment commitments**

The Company was obligated to pay up to RMB17,495 million and RMB15,174 million for business combinations and the acquisition of investment securities and equity investees under various arrangements as of March 31, 2017 and 2018, respectively. The commitment balance as of March 31, 2017 primarily included the consideration for the privatization of Intime (Note 4(c)) and the investments in Ele.me (Note 4(x)) and Sanjiang (Note 4(aa)), in which the commitments relating to Intime and Ele.me were settled during the year ended March 31, 2018. The commitment balance as of March 31, 2018 primarily includes the consideration for the investment in Shiji Retail (Note 4(al)) and the acquisition of Kaiyuan (Note 4(am)).

**(e) Sponsorship commitment**

In January 2017, the Company entered into a framework agreement with the International Olympic Committee (the "IOC") and the United States Olympic Committee for a long-term partnership arrangement through 2028. Joining in The Olympic Partner worldwide sponsorship program, the Company has become the official "E-Commerce Services" Partner and "Cloud Services" Partner of the IOC. In addition, the Company has been granted certain marketing rights, benefits and opportunities relating to future Olympic Games and related initiatives, events and activities. The Company will provide at least US\$815 million worth of cash, cloud infrastructure services and cloud computing services, as well as marketing and media support in connection with various Olympic initiatives, events and activities, including the Olympic Games and the Winter Olympic Games through 2028. As of March 31, 2017 and 2018, the aggregate amount of cash to be paid and value of services to be provided in the future approximates US\$800 million and US\$770 million, respectively.

**24. Risks and contingencies**

- (a) The Company is incorporated in the Cayman Islands and considered as a foreign entity under PRC laws. Due to legal restrictions on foreign ownership and investment in, among other areas, value-added telecommunications services, which include the operations of Internet content providers, the Company conducts its Internet businesses and other businesses through various contractual arrangements with VIEs that are held by PRC citizens or by PRC entities owned and/or controlled by PRC citizens. The VIEs hold the licenses and approvals that are essential for their business operations in the PRC and the Company has entered into various agreements with the VIEs and their equity holders such that the Company has the right to benefit from their licenses and approvals and generally has control of the VIEs. In the Company's opinion, the current ownership structure and the contractual arrangements with the VIEs and their equity holders as well as the operations of the VIEs are in substantial compliance with all existing PRC laws, rules and regulations. However, there may be changes and other developments in PRC laws,

**ALIBABA GROUP HOLDING LIMITED**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**FOR THE YEARS ENDED MARCH 31, 2016, 2017 AND 2018**

**24. Risks and contingencies (Continued)**

**(e) Sponsorship commitment (Continued)**

rules and regulations. Accordingly, the Company gives no assurance that PRC government authorities will not take a view in the future that is contrary to the opinion of the Company. If the current ownership structure of the Company and its contractual arrangements with the VIEs and their equity holders were found to be in violation of any existing or future PRC laws or regulations, the Company's ability to conduct its business could be impacted and the Company may be required to restructure its ownership structure and operations in the PRC to comply with the changes in the PRC laws which may result in deconsolidation of the VIEs.

- (b) The PRC market in which the Company operates poses certain macro-economic and regulatory risks and uncertainties. These uncertainties extend to the ability of the Company to operate or invest in online and mobile commerce or other Internet related businesses, representing the principal services provided by the Company, in the PRC. The information and technology industries are highly regulated. Restrictions are currently in place or are unclear regarding what specific segments of these industries foreign owned enterprises, like the Company, may operate. If new or more extensive restrictions were imposed on the segments in which the Company is permitted to operate, the Company could be required to sell or cease to operate or invest in some or all of its current businesses in the PRC.
- (c) The Company's sales, purchase and expense transactions are generally denominated in RMB and a significant portion of the Company's assets and liabilities are denominated in RMB. RMB is not freely convertible into foreign currencies. In the PRC, foreign exchange transactions are required by law to be transacted only by authorized financial institutions at exchange rates set by the People's Bank of China ("PBOC"). Remittances in currencies other than RMB by the Company in the PRC must be processed through the PBOC or other PRC foreign exchange regulatory bodies and require certain supporting documentation in order to effect the remittance. If such foreign exchange control system prevents the Company from obtaining sufficient foreign currencies to satisfy its currency demands, the Company may not be able to pay dividends in foreign currencies and the Company's ability to fund its business activities that are conducted in foreign currencies could be adversely affected.
- (d) Financial instruments that potentially subject the Company to significant concentration of credit risk consist principally of cash and cash equivalents, short-term investments, restricted cash and investment securities. As of March 31, 2016, 2017 and 2018, substantially all of the Company's cash and cash equivalents, short-term investments, restricted cash and investment securities were held by major financial institutions located worldwide, including Hong Kong and the PRC. If the banking system or the financial markets deteriorate or become volatile, the financial institutions and other issuers of financial instruments held by the Company could become insolvent and the markets for these instruments could become illiquid, in which case the Company could lose some or all of the value of its investments.
- (e) During the years ended March 31, 2016, 2017 and 2018, the Company offered a trade assurance program on the international wholesale marketplaces at no charge to the wholesale buyers and sellers. If the wholesale sellers who participate in this program do not deliver the products in their stated specifications to the wholesale buyers on schedule, the Company may compensate the wholesale buyers for their losses on behalf of the wholesale sellers up to a pre-determined amount following a review of each particular case. In turn, the Company will seek a full reimbursement from the wholesale sellers for the prepaid reimbursement amount, yet the Company is exposed to a risk over the collectability of such reimbursement from the wholesale sellers. During the years ended March 31, 2016, 2017 and 2018, the Company did not incur any material losses with respect to the compensation provided under this program. Given that the maximum compensation for each wholesale seller is pre-determined based on

**ALIBABA GROUP HOLDING LIMITED**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**FOR THE YEARS ENDED MARCH 31, 2016, 2017 AND 2018**

**24. Risks and contingencies (Continued)**

**(e) Sponsorship commitment (Continued)**

their individual risk assessments by the Company considering their credit profile or other relevant information, the Company determined that the likelihood of material default on such payments are not probable and therefore no provisions have been made in relation to this program.

- (f) In the ordinary course of business, the Company makes strategic investments in privately held companies and listed securities to increase the service offerings and expand capabilities. The Company continually reviews its investments to determine whether a decline in fair value below the carrying value is other-than-temporary. The primary factors which the Company considers in its determination include the length of time that the fair value of the investment is below the Company's carrying value; post-balance sheet date fair value of the investment; the financial condition, operating performance, strategic collaboration with and the prospects of the investee; the economic or technological environment in which the investee operates; and other entity specific information such as recent financing rounds completed by the investee companies. Fair value of the listed securities is subject to volatility and may be materially affected by market fluctuations. If the decline in fair value is significant and other-than-temporary, the carrying value of the investment is written down to its fair value and this may negatively impact the results of operations of the Company.
- (g) In the ordinary course of business, the Company is from time to time involved in legal proceedings and litigations relating to disputes relating to trademarks and other intellectual property, among others. There are no legal proceedings and litigations that have in the recent past had, or to the Company's knowledge, are reasonably possible to have, a material impact on the Company's financial positions, results of operations or cash flows. The Company did not accrue any material loss contingencies in this respect as of March 31, 2016, 2017 and 2018 as the Company did not consider an unfavorable outcome in any material respects in these legal proceedings and litigations to be probable.

**25. Segment information**

The Company presents segment information after elimination of inter-company transactions. In general, revenue, cost of revenue and operating expenses are directly attributable, or are allocated, to each segment. The Company allocates costs and expenses that are not directly attributable to a specific segment, such as those that support infrastructure across different segments, to different segments mainly on the basis of usage, revenue or headcount, depending on the nature of the relevant costs and expenses. The Company does not allocate assets to its segments as the CODM does not evaluate the performance of segments using asset information.

**ALIBABA GROUP HOLDING LIMITED**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**FOR THE YEARS ENDED MARCH 31, 2016, 2017 AND 2018**

**25. Segment information (Continued)**

**(e) Sponsorship commitment (Continued)**

The following tables present the summary of each segment's revenue, income from operations and adjusted earnings before interest, taxes and amortization ("Adjusted EBITA") which is considered as a segment operating performance measure, for the years ended March 31, 2016, 2017 and 2018:

	Year ended March 31, 2016						Unallocated (i)	Consolidated
	Core commerce	Cloud computing	Digital media and entertainment	Innovation initiatives and others	Total segments	(in millions of RMB, except percentages)		
<b>Revenue</b>	92,335	3,019	3,972	1,817	101,143	—	101,143	
<b>Income (Loss) from operations</b>	51,153	(2,605)	(4,112)	(7,216)	37,220	(8,118)	29,102	
Add: share-based compensation expense	6,224	1,349	981	3,092	11,646	4,436	16,082	
Add: amortization of intangible assets	659	4	1,321	657	2,641	290	2,931	
Add: impairment of goodwill	—	—	—	—	—	455	455	
<b>Adjusted EBITA (ii)</b>	<u>58,036</u>	<u>(1,252)</u>	<u>(1,810)</u>	<u>(3,467)</u>	<u>51,507</u>	<u>(2,937)</u>		
<b>Adjusted EBITA margin (iii)</b>	63%	(41)%	(46)%	(191)%				

	Year ended March 31, 2017						Unallocated (i)	Consolidated
	Core commerce	Cloud computing	Digital media and entertainment	Innovation initiatives and others	Total segments	(in millions of RMB, except percentages)		
<b>Revenue</b>	133,880	6,663	14,733	2,997	158,273	—	158,273	
<b>Income (Loss) from operations</b>	74,180	(1,681)	(9,882)	(6,798)	55,819	(7,764)	48,055	
Add: share-based compensation expense	5,994	1,201	1,454	3,017	11,666	4,329	15,995	
Add: amortization of intangible assets	2,258	4	1,886	656	4,804	318	5,122	
<b>Adjusted EBITA (ii)</b>	<u>82,432</u>	<u>(476)</u>	<u>(6,542)</u>	<u>(3,125)</u>	<u>72,289</u>	<u>(3,117)</u>		
<b>Adjusted EBITA margin (iii)</b>	62%	(7)%	(44)%	(104)%				

**ALIBABA GROUP HOLDING LIMITED**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**FOR THE YEARS ENDED MARCH 31, 2016, 2017 AND 2018**

**25. Segment information (Continued)**

**(e) Sponsorship commitment (Continued)**

	Year ended March 31, 2018					Unallocated (i)	Consolidated
	Core commerce	Cloud computing	Digital media and entertainment	Innovation initiatives and others	Total segments		
	(in millions of RMB, except percentages)						
<b>Revenue</b>	214,020	13,390	19,564	3,292	250,266	—	250,266
<b>Income (Loss) from operations</b>	102,743	(3,085)	(14,140)	(6,901)	78,617	(9,303)	69,314
Add: share-based compensation expense	8,466	2,274	2,142	3,707	16,589	3,486	20,075
Add: amortization of intangible assets	2,891	12	3,693	198	6,794	326	7,120
Add: impairment of goodwill	—	—	—	—	—	494	494
<b>Adjusted EBITA (ii)</b>	<u>114,100</u>	<u>(799)</u>	<u>(8,305)</u>	<u>(2,996)</u>	<u>102,000</u>	<u>(4,997)</u>	
<b>Adjusted EBITA margin (iii)</b>	53%	(6)%	(42)%	(91)%			

The following table presents the reconciliation from the Adjusted EBITA to the consolidated net income for the years ended March 31, 2016, 2017 and 2018:

	Year ended March 31,		
	2016	2017	2018
	(in millions of RMB)		
Total Segments Adjusted EBITA	51,507	72,289	102,000
Unallocated (i)	(2,937)	(3,117)	(4,997)
Share-based compensation expense	(16,082)	(15,995)	(20,075)
Amortization of intangible assets	(2,931)	(5,122)	(7,120)
Impairment of goodwill	(455)	—	(494)
<b>Consolidated income from operations</b>	<u>29,102</u>	<u>48,055</u>	<u>69,314</u>
Interest and investment income, net	52,254	8,559	30,495
Interest expenses	(1,946)	(2,671)	(3,566)
Other income, net	2,058	6,086	4,160
Income tax expenses	(8,449)	(13,776)	(18,199)
Share of results of equity investees	(1,730)	(5,027)	(20,792)
<b>Consolidated net income</b>	<u>71,289</u>	<u>41,226</u>	<u>61,412</u>

**ALIBABA GROUP HOLDING LIMITED**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**FOR THE YEARS ENDED MARCH 31, 2016, 2017 AND 2018**

**25. Segment information (Continued)**

**(e) Sponsorship commitment (Continued)**

The following table presents the total depreciation and amortization expenses of property and equipment and land use rights by segment for the years ended March 31, 2016, 2017 and 2018:

	Year ended March 31,		
	2016	2017	2018
	(in millions of RMB)		
Core commerce	1,696	2,124	3,784
Cloud computing	1,116	1,438	3,047
Digital media and entertainment	316	752	986
Innovation initiatives and others	333	407	437
Unallocated (i)	309	563	535
Total depreciation and amortization expenses of property and equipment and land use rights	<u>3,770</u>	<u>5,284</u>	<u>8,789</u>

- (i) Unallocated expenses are primarily related to corporate administrative costs and other miscellaneous items that are not allocated to individual segments.
- (ii) Adjusted EBITA represents net income before (i) interest and investment income, net, other income, net, interest expense, income tax expenses and share of results of equity investees, and (ii) certain non-cash expenses, consisting of share-based compensation expense, amortization of intangible assets and impairment of goodwill, which are not reflective of the Company's core operating performance.
- (iii) Adjusted EBITA margin represents Adjusted EBITA divided by revenue.

Details of the Company's revenue by segment are set out in Note 5. As substantially all of the Company's long-lived assets are located in the PRC and substantially all of the Company's revenue is derived from within the PRC, no geographical information is presented.





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**INDENTURE**

**Dated as of**

**December 6, 2017**

**Between**

**ALIBABA GROUP HOLDING LIMITED**

**as Company**

**and**

**THE BANK OF NEW YORK MELLON**

**as Trustee**

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**DEBT SECURITIES**

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**ALIBABA GROUP HOLDING LIMITED**

Reconciliation and tie between Trust Indenture Act of 1939 and the Indenture, dated as of December 6, 2017 <sup>1</sup>

Trust Indenture Act Section		Indenture Section
Sec. 310	(a)(1)	10.04(a)
	(a)(2)	10.04(a)
	(a)(3)	TIA
	(a)(4)	N.A.
	(a)(5)	TIA
	(b)	10.04(b); 10.05
Sec. 311	(a)	10.01(f)
	(b)	10.01; 10.04
Sec. 312	(a)	9.03
	(b)	10.10
	(c)	10.10
Sec. 313	(a)	9.01(a)
	(b)(1)	9.01(a)
	(b)(2)	9.01(b),
	(c)	9.01(b)
	(d)	9.01(b)
Sec. 314	(a)	9.02; 5.10
	(b)	N.A.
	(c)	15.01(a)
	(c)(2)	15.01(a)
	(c)(3)	N.A.
	(d)	N.A.
	(e)	15.01(b)
(f)	N.A.	
Sec. 315	(a)(1)	10.02(b)(i)
	(a)(2)	10.02(b)(ii)
	(b)	10.03
	(c)	10.02(a)
	(d)	10.02(c)
	(e)	6.08
Sec. 316	(a)(last sentence)	1.01 (definition of "Outstanding")
	(a)(1)(A)	6.06
	(a)(1)(B)	6.06
	(b)	6.07
	(c)	7.02(e); 13.02(d)
Sec. 317	(a)(1)	6.04
	(a)(2)	6.04
	(b)	5.03
Sec. 318	(a)	15.02

<sup>1</sup> Note: This reconciliation and tie shall not be deemed to be part of the indenture for any purpose.

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INDENTURE dated as of December 6, 2017, between Alibaba Group Holding Limited, an exempted company incorporated in the Cayman Islands (the “Company”), and The Bank of New York Mellon, as trustee (the “Trustee”).

**WITNESSETH:**

WHEREAS, the Company has duly authorized the execution and delivery of this Indenture to provide for the issuance of debentures, notes, bonds or other evidences of indebtedness (the “Securities”) in an unlimited aggregate principal amount to be issued from time to time in one or more series as provided in this Indenture; and

WHEREAS, all things necessary to make this Indenture a valid and legally binding agreement of the Company, in accordance with its terms, have been done.

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

That, in consideration of the premises and the purchase of the Securities by the Holders (as defined below) thereof for the equal and proportionate benefit of all of the present and future Holders of the Securities, each party agrees and covenants as follows:

**ARTICLE I**

**DEFINITIONS**

Section 1.01 Definitions.

(a) Unless otherwise defined in this Indenture or the context otherwise requires, all terms used herein shall have the meanings assigned to them in the Trust Indenture Act.

(b) Unless the context otherwise requires, the terms defined in this Section 1.01(b) shall for all purposes of this Indenture have the meanings hereinafter set forth, the following definitions to be equally applicable to both the singular and the plural forms of any of the terms herein defined:

“ Additional Amounts ” has the meaning provided in Section 5.07(a).

“ Affiliate ” means, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under direct or indirect common control with, such Person. For the purposes of this definition, “ control ” when used with respect to any Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms “ controlling ” and “ controlled ” have meanings correlative to the foregoing.

“ Applicable Procedures ” means, with respect to any transfer or transaction involving a Global Security or beneficial interest therein, the rules and procedures of the Depository for such Global Security, to the extent applicable to such transaction or exchange and as in effect from time to time.



“ Authenticating Agent ” has the meaning provided in Section 10.09.

“ Bankruptcy Code ” means Title 11 of the United States Code.

“ Board of Directors ” means the board of directors elected or appointed by the shareholders of the Company to manage its business or any committee of such board of directors duly authorized to take the action purported to be taken by such committee; or, in the case that the Company is not a corporation, the group exercising the authority generally vested in a board of directors of a corporation.

“ Board Resolution ” means any resolution of the Board of Directors taking an action which it is authorized to take and adopted at a meeting duly called and held at which a quorum of disinterested members (if so required) was present and acting throughout or adopted by written resolution executed by every member of the Board of Directors.

“ Business Day ” means a Monday, Tuesday, Wednesday, Thursday or Friday, unless banking institutions or trust companies in The City of New York, Hong Kong, Singapore or Beijing are authorized or obligated by law, regulation or executive order to remain closed on such day.

“ Capital Stock ” of any Person means any and all shares, interests, rights to purchase, warrants, options, participations or other equivalents of or interests in (however designated) equity of such Person, including any Preferred Shares and limited liability or partnership interests (whether general or limited), but excluding any debt securities convertible or exchangeable into such equity.

“ Certificated Security ” means a certificated Security that evidences all or part of the Securities of any series and bears the legends set forth in Exhibit A hereto (or such legends as may be specified as contemplated by Section 3.01 for such Securities) and is registered in the name of the Holder.

“ Change in Law ” means a change in or amendment to the laws, regulations and rules of the PRC or the official interpretation or official application thereof.

“ Code ” means the U.S. Internal Revenue Code of 1986, as amended.

“ Company ” means the Person named as the “ Company ” in the recitals, until a successor Person shall have become such pursuant to the applicable provisions of this Indenture, and thereafter “ Company ” shall mean such successor Person.

“ Company Order ” means a written request or order signed in the name of the Company by an Officer of the Company and delivered to the Trustee.

“ Consolidated Affiliated Entity ” of any Person means any corporation, association or other entity which is or is required to be consolidated with such Person under Accounting Standards Codification subtopic 810-10, Consolidation: Overall (including any changes, amendments or supplements thereto) or, if such Person prepares its financial statements in accordance with accounting principles other than U.S. GAAP, the equivalent of Accounting Standards Codification subtopic 810-10, Consolidation: Overall under such accounting principles. Unless otherwise specified herein, each reference to a Consolidated Affiliated Entity will refer to a Consolidated Affiliated Entity of the Company.

“Controlled Entity” of any Person means a Subsidiary or a Consolidated Affiliated Entity of such Person.

“Corporate Trust Office,” or other similar term, means the principal office of the Trustee at which at any particular time its corporate trust business shall be administered, which office at the date hereof is located at 101 Barclay Street, New York, NY 10286, United States of America, Attention: Global Corporate Trust - Alibaba Group Holding Limited, or such other address as the Trustee may designate from time to time by notice to the Holders and the Company, or the principal corporate trust officer of any successor Trustee (or such other address as such successor Trustee may designate from time to time by notice to the Holders and the Company).

“Covenant Defeasance” has the meaning provided in Section 11.03(c).

“CUSIP” means the identification number provided by the Committee on Uniform Securities Identification Procedures.

“Currency” means U.S. Dollars or Foreign Currency.

“Currency Determination Agent” has the meaning provided in Section 3.11(d).

“Default” has the meaning provided in Section 10.03.

“Defaulted Interest” has the meaning provided in Section 3.08(b).

“Depository” means, with respect to the Securities of any series issuable in whole or in part in the form of one or more Global Securities, the Person designated as Depository by the Company pursuant to Section 3.01 until a successor Depository shall have become such pursuant to the applicable provisions of this Indenture, and thereafter “Depository” shall mean or include each Person who is then a Depository hereunder, and if at any time there is more than one such Person, “Depository” as used with respect to the Securities of any such series shall mean the Depository with respect to the Securities of that series. The “Depository” shall initially be DTC, its nominees and its successors.

“Designated Currency” has the meaning provided in Section 3.11(a).

“Discharged” has the meaning provided in Section 11.03(b).

“DTC” means The Depository Trust Company, New York, New York.

“Event of Default” has the meaning provided in Section 6.01.

“Exchange Act” means the U.S. Securities Exchange Act of 1934, as amended.

“Exchange Rate” has the meaning provided in Section 3.11(d).

“FATCA” has the meaning provided in Section 5.07(a)(viii).

“Floating Rate Security” means a Security that provides for the payment of interest at a variable rate determined periodically by reference to an interest rate index specified pursuant to Section 3.01.

“Foreign Currency” means a currency issued by the government of any country other than the United States or a composite currency, the value of which is determined by reference to the values of the currencies of any group of countries.

“Global Security” means a Security that evidences all or part of the Securities of any series and bears the legend set forth in Exhibit A hereto (or such legend as may be specified as contemplated by Section 3.01 for such Securities).

“Group” means the Company and its Controlled Entities.

“Holder,” “Holder of Securities,” or “Securityholder” mean the Person in whose name Securities are registered in the Register.

“Indebtedness” means any and all obligations of a Person for money borrowed which, in accordance with U.S. GAAP, would be reflected on the balance sheet of such Person as a liability on the date as of which Indebtedness is to be determined.

“Indenture” means this instrument and all indentures supplemental hereto and any amendments or modifications to the foregoing, in each case, entered into pursuant to the applicable provisions hereof and shall include the terms of particular series of Securities established in accordance with Section 3.01.

“Independent Legal Counsel” means an independent legal firm of internationally recognized standing that is reasonably acceptable to the Trustee.

“Independent Tax Consultant” means an independent accounting firm or consultant of internationally recognized standing that is reasonably acceptable to the Trustee.

“Indirect Participant” means a Person who holds a beneficial interest in a Security through a Participant.

“Interest Payment Date” means, with respect to any Security, the Stated Maturity of an installment of interest on such Security.

“ISIN” means the International Securities Identification Number.

“Issue Date” means, with respect to any Security, the date on which such Security is originally issued under this Indenture.

“Judgment Currency” has the meaning provided in Section 15.06.

“Legal Defeasance” has the meaning provided in Section 11.03(b).

“Lien” means any mortgage, charge, pledge, lien or other form of encumbrance or security interest.

“Maturity” means, with respect to any Security, the date on which the principal of such Security, or any installment of principal, shall become due and payable as therein and herein provided, whether at the Stated Maturity or by declaration, call for redemption or otherwise.

“Members” has the meaning provided in Section 3.03(h).

“Non-recourse Obligation” means Indebtedness or other obligations substantially related to (1) the acquisition of assets not previously owned by the Company or any of its Controlled Entities or (2) the financing of a project involving the purchase, development, improvement or expansion of properties of the Company or any of its Controlled Entities, as to which the obligee with respect to such Indebtedness or obligation has no recourse to the Company or any of its Controlled Entities or to the Company’s or any such Controlled Entity’s assets other than the assets which were acquired with the proceeds of such transaction or the project financed with the proceeds of such transaction (and the proceeds thereof).

“Officer” means the Executive Chairman of the Board, the Executive Vice Chairman, the Chief Executive Officer, the Chief Financial Officer or the Corporate Secretary of the Company or, in the event that the Company is a partnership or a limited liability company that has no such officers, a person duly authorized under applicable law by the general partner, managers, members or a similar body to act on behalf of the Company.

“Officer’s Certificate” means a certificate signed by an Officer of the Company.

“Opinion of Counsel” means an opinion in writing reasonably acceptable to the Trustee signed by legal counsel, who may be an employee of or counsel to the Company or who may be other counsel, that meets the applicable requirements provided for in Section 15.01. Opinions of Counsel may have qualifications customary for opinions of the type required.

“Original Issue Discount Security” means any Security that is issued with “original issue discount” within the meaning of Section 1273(a) of the Code and the regulations thereunder and any other Security designated by the Company as issued with original issue discount for United States federal income tax purposes.

“Outstanding” means, when used with respect to Securities, as of the date of determination, all Securities theretofore authenticated and delivered under this Indenture, except:

(i) Securities theretofore cancelled by the Paying Agent or delivered to the Paying Agent for cancellation;

(ii) Securities or portions thereof for which payment or redemption money in the necessary amount has been theretofore deposited with the Trustee or any Paying Agent (other than the Company) in trust or set aside and segregated in trust by the Company (if the Company shall act as its own Paying Agent) for the Holders of such Securities or Securities as to which the Company’s obligations have been Discharged; provided, however, that if such Securities or portions thereof are to be redeemed, notice of such redemption has been duly given pursuant to this Indenture or provision therefor satisfactory to the Trustee has been made; and

(iii) Securities that have been paid pursuant to Section 3.07(b) or in exchange for or in lieu of which other Securities have been authenticated and delivered pursuant to this Indenture, other than any such Securities in respect of which there shall have been presented to a Responsible Officer of the Trustee proof satisfactory to it that such Securities are held by a protected purchaser in whose hands such Securities are valid obligations of the Company;

(iv) Securities to which defeasance has been effected pursuant to Section 11.03;

provided, however, that in determining whether the Holders of the requisite principal amount of Securities of a series Outstanding have performed any action (including the making of any demand or request, the giving of any notice, consent or waiver or the taking of any other action) hereunder, Securities owned by the Company or any other obligor upon the Securities of such series or any Affiliate of the Company or of such other obligor shall be disregarded and deemed not to be Outstanding unless the Company, such Affiliate or such other obligor owns all of such Securities, except that, in determining whether the Trustee shall be protected in relying upon any such action, only Securities of such series for which the Trustee has received written notice to be so owned shall be so disregarded. Securities so owned that have been pledged in good faith may be regarded as Outstanding if the pledgee establishes its right to act with respect to such Securities and that the pledgee is not the Company or any other obligor upon such Securities or any Affiliate of the Company or of such other obligor. Upon request of the Trustee, the Company shall furnish to the Trustee promptly an Officer's Certificate listing and identifying all such Securities, if any, known by the Company to be owned or held by or for the account of any of the above described Persons; and, subject to the provisions of Section 10.01, the Trustee shall be entitled to accept such Officer's Certificate as conclusive evidence of the facts therein set forth and of the fact that all such Securities not listed therein are Outstanding for the purpose of any such determination. In determining whether the Holders of the requisite principal amount of Outstanding Securities of a series have performed any action hereunder, the principal amount of an Original Issue Discount Security that shall be deemed to be Outstanding for such purpose shall be the amount of the principal thereof that would be due and payable as of the date of such determination upon a declaration of acceleration of the Maturity thereof pursuant to Section 6.02 and the principal amount of a Security denominated in a Foreign Currency that shall be deemed to be Outstanding for such purpose shall be the amount calculated pursuant to Section 3.11(b).

“Participant” means, with respect to any Depository, a person who is a participant or has an account with such Depository.

“Paying Agent” means any Person authorized by the Company to pay the principal of, premium, if any, or interest on any Securities on behalf of the Company. The Company may act as Paying Agent with respect to Securities of any series issued hereunder.

“Person” means any individual, corporation, firm, limited liability company, partnership, joint venture, undertaking, association, joint stock company, trust, unincorporated organization, trust, state, government or any agency or political subdivision thereof or any other entity (in each case whether or not being a separate legal entity).

“Place of Payment” has the meaning provided in Section 3.01(h).

“PRC” means the People’s Republic of China, excluding, for purposes of this definition, the Hong Kong Special Administrative Region, the Macau Special Administrative Region and Taiwan.

“Predecessor Security” means, with respect to any Security, every previous Security evidencing all or a portion of the same debt as that evidenced by such particular Security, and, for the purposes of this definition, any Security authenticated and delivered under Section 3.07 in lieu of a lost, destroyed or stolen Security shall be deemed to evidence the same debt as the lost, destroyed or stolen Security.

“Preferred Shares,” as applied to the Capital Stock of any corporation, means Capital Stock of any class or classes (however designated) that is preferred as to the payment of dividends upon liquidation, dissolution or winding up.

“Principal Controlled Entities” at any time shall mean one of the Controlled Entities of the Company:

(i) as to which one or more of the following conditions is/are satisfied:

(A) its total revenue or (in the case of one of the Controlled Entities of the Company which has one or more Controlled Entities) consolidated total revenue attributable to the Group is at least 5% of the consolidated total revenue of the Group;

(B) its net profit or (in the case of one of the Controlled Entities of the Company which has one or more Controlled Entities) consolidated net profit attributable to the Group (in each case before taxation and exceptional items) is at least 5% of the consolidated net profit of the Group (before taxation and exceptional items); or

(C) its net assets or (in the case of one of the Controlled Entities of the Company which has one or more Controlled Entities) consolidated net assets attributable to the Group (in each case after deducting minority interests in Subsidiaries ) are at least 10% of the consolidated net assets of the Group (after deducting minority interests in Subsidiaries of the Company);

all as calculated by reference to the then latest audited financial statements (consolidated or, as the case may be, unconsolidated) of the Controlled Entity of the Company and the then latest audited consolidated financial statements of the Company; provided that, in relation to clauses (A), (B) and (C) above:

(1) in the case of a corporation or other business entity becoming a Controlled Entity after the end of the financial period to which the latest consolidated audited accounts of the Company relate, the reference to the then latest consolidated audited accounts of the Company and its Controlled Entities for the purposes of the calculation above shall, until the consolidated audited accounts of the Company for the financial period in which the relevant corporation or other business entity becomes a Controlled Entity are issued, be deemed to be a reference to the then latest consolidated audited accounts of the Company and its Controlled Entities adjusted to consolidate the latest audited accounts (consolidated in the case of a Controlled Entity which itself has Controlled Entities) of such Controlled Entity in such accounts;

(2) if at any relevant time in relation to the Company or any Controlled Entity which itself has Controlled Entities, no consolidated accounts are prepared and audited, total revenue, net profit or net assets of the Company and/or any such Controlled Entity shall be determined on the basis of pro forma consolidated accounts prepared for this purpose by or on behalf of the Company;

(3) if at any relevant time in relation to any Controlled Entity, no accounts are audited, its net assets (consolidated, if appropriate) shall be determined on the basis of pro forma accounts (consolidated, if appropriate) of the relevant Controlled Entity prepared for this purpose by or on behalf of the Company; and

(4) if the accounts of any Controlled Entity (not being a Controlled Entity referred to in proviso (1) above) are not consolidated with the accounts of the Company, then the determination of whether or not such Controlled Entity is a Principal Controlled Entity shall be based on a pro forma consolidation of its accounts (consolidated, if appropriate) with the consolidated accounts of the Company (determined on the basis of the foregoing); or

(ii) that Principal Controlled Entity merges with or into, or to which is transferred all or substantially all of the assets of a Controlled Entity which immediately prior to the transfer was a Principal Controlled Entity; provided that, with effect from such transfer, the Controlled Entity which so transfers its assets and undertakings shall cease to be a Principal Controlled Entity (but without prejudice to paragraph (i) above) and the Controlled Entity to which the assets are so transferred shall become a Principal Controlled Entity.

An Officer's Certificate delivered to the Trustee certifying in good faith as to whether or not a Controlled Entity is a Principal Controlled Entity shall be conclusive in the absence of manifest error.

“Prospectus” means the prospectus, dated November 24, 2017, relating to the offering of Securities.

“Record Date” means, with respect to any interest payable on any Security on any Interest Payment Date, the close of business on such date specified in such Security for the payment of interest.

“Redemption Date” means, when used with respect to any Security to be redeemed, in whole or in part, the date fixed for such redemption by or pursuant to this Indenture and the terms of such Security.

“Redemption Price” means, when used with respect to any Security to be redeemed or repurchased, in whole or in part, the price at which it is to be redeemed pursuant to the terms of the Security and this Indenture.

“Register” has the meaning provided in Section 3.05(a).

“Registrar” has the meaning provided in Section 3.05(a).

“Relevant Indebtedness” means any Indebtedness which is in the form of, or represented or evidenced by, bonds, notes, debentures or other securities which for the time being are, or are intended to be or are commonly, quoted, listed or dealt in or traded on any stock exchange or over-the-counter or other securities market, but shall exclude any bank debt, bank loans or securitizations.

“Relevant Jurisdiction” has the meaning provided in Section 5.07(a).

“Responsible Officer” means, with respect to the Trustee, any managing director, vice-president, trust associate, relationship manager, transaction manager, client service manager, any trust officer or any other officer assigned to the Corporate Trust Department (or any successor division or unit) of the Trustee located at the Specified Corporate Trust Office, who customarily performs functions similar to those performed by any persons who at the time shall be such officers, respectively, or who shall have direct responsibility for the administration of this Indenture, and any other officer of the Trustee to whom any corporate trust matter is referred because of such officer’s knowledge of and familiarity with the particular subject.

“SEC” means the United States Securities and Exchange Commission, as constituted from time to time.

“Security” or “Securities” means any security or securities, as the case may be, duly authenticated by the Trustee and delivered under this Indenture.

“Securities Act” means the Securities Act of 1933, as amended.

“Security Custodian” means the custodian with respect to any Global Security appointed by the Depository, or any successor Person thereto, and shall initially be The Bank of New York Mellon.

“Special Record Date” has the meaning provided in Section 3.08(b)(i).

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“Specified Corporate Trust Office” means The Bank of New York Mellon, Hong Kong Branch, Level 24, Three Pacific Place, 1 Queen’s Road East, Hong Kong, attention: Corporate Trust — Alibaba Group Holding Limited, facsimile:

“Stated Maturity” means, when used with respect to any Security or any installment of principal thereof or interest thereon, the date specified in such Security as the fixed date on which the principal (or any portion thereof) of or premium, if any, on such Security or such installment of principal or interest is due and payable.

“Subsidiary” of any Person means (i) any corporation, association or other business entity (other than a partnership, joint venture, limited liability company or similar entity) of which more than 50% of the total ordinary voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof (or Persons performing similar functions) or (ii) any partnership, joint venture limited liability company or similar entity of which more than 50% of the capital accounts, distribution rights, total equity and voting interests or general or limited partnership interests, as applicable, is, in the case of clauses (i) and (ii), voting at the time owned or controlled, directly or indirectly, by (A) such Person, (B) such Person and one or more Subsidiaries of such Person or (C) one or more Subsidiaries of such Person. Unless otherwise specified herein, each reference to a Subsidiary will refer to a Subsidiary of the Company.

“Successor Jurisdiction” has the meaning provided in Section 5.07(d).

“Tax Change” has the meaning provided in Section 4.07(a).

“Taxes” has the meaning provided in Section 5.07(a).

“Triggering Event” means (A) any Change in Law that results in (x) the Group (as in existence immediately subsequent to such Change in Law), as a whole, being legally prohibited from operating substantially all of the business operations conducted by the Group (as in existence immediately prior to such Change in Law) as of the last date of the period described in the Company’s consolidated financial statements for the most recent fiscal quarter and (y) the Company being unable to continue to derive substantially all of the economic benefits from the business operations conducted by the Group (as in existence immediately prior to such Change in Law) in the same manner as reflected in the Company’s consolidated financial statements for the most recent fiscal quarter prior to such Change in Law and (B) the Company has not furnished to the Trustee, prior to the date that is twelve months after the date of the Change in Law, an opinion from an independent financial advisor or an Independent Legal Counsel stating either that (1) the Company is able to continue to derive substantially all of the economic benefits from the business operations conducted by the Group (as in existence immediately prior to such Change in Law), taken as a whole, as



reflected in the Company's consolidated financial statements for the most recent fiscal quarter prior to such Change in Law (including after giving effect to any corporate restructuring or reorganization plan of the Company) or (2) such Change in Law would not materially adversely affect the Company's ability to make principal, premium, if any, and interest payments on the Securities of any series when due.

“Triggering Event Offer” has the meaning set forth in Section 5.06(a).

“Triggering Event Payment” has the meaning set forth in Section 5.06(a).

“Triggering Event Payment Date” has the meaning set forth in Section 5.06(a)(ii).

“Trust Indenture Act” or “TIA” means the Trust Indenture Act of 1939, as amended.

“Trustee” means the Person named as the “Trustee” in the first paragraph of this Indenture until a successor Trustee shall have become such with respect to one or more series of Securities pursuant to the applicable provisions of this Indenture, and thereafter “Trustee” shall mean or include each Person who is then a Trustee hereunder, and if at any time there is more than one such Person, “Trustee” as used with respect to the Securities of any series shall mean the Trustee with respect to Securities of that series.

“U.S. Dollars” or “US\$” means such currency of the United States as at the time of payment shall be legal tender for the payment of public and private debts.

“U.S. GAAP” refers to generally accepted accounting principles in the United States.

“U.S. Government Obligations” means securities that are (i) direct obligations of the United States for the payment of which its full faith and credit is pledged or (ii) obligations of an agency or instrumentality of the United States the payment of which is unconditionally guaranteed as a full faith and credit obligation by the United States, and shall also include a depository receipt issued by a bank or trust company as custodian with respect to any such U.S. Government Obligation or a specific payment of interest on or principal of any such U.S. Government Obligation held by such custodian for the account of the holder of a depository receipt; provided that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depository receipt from any amount received by the custodian in respect of the U.S. Government Obligation or the specific payment of interest on or principal of the U.S. Government Obligation evidenced by such depository receipt.

“United States” shall mean the United States of America (including the States and the District of Columbia), its territories and its possessions and other areas subject to its jurisdiction.

Section 1.02 Rules of Construction. For all purposes of this Indenture, except as otherwise expressly provided or unless the context otherwise requires:

(a) the words “herein”, “hereof” and “hereunder” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision;

(b) the words “including” and words of similar import when used in this Indenture shall mean “including, without limitation”;

(c) references to “ Article ” or “ Section ” or other subdivision herein are references to an Article, Section or other subdivision of this Indenture, unless the context otherwise requires; and

(d) references to any agreement, instrument, statute or regulation defined or referred to herein or in any instrument establishing the terms of any Securities (or executed in connection therewith) are references to such agreement, instrument, statute or regulation as from time to time amended, modified, supplemented or replaced, including (in the case of agreements or instruments) by waiver or consent and by succession of comparable successor agreements, instruments, statutes or regulations; and

(e) “or” is not exclusive.

## ARTICLE II

### FORMS OF SECURITIES

#### Section 2.01 Form Generally.

(a) The Securities of each series shall be substantially in the forms set forth in Exhibit A hereto or as shall be established pursuant to a Company Order, Officer’s Certificate or in one or more indentures supplemental hereto, in each case, with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Indenture, and may have such letters, numbers or other marks of identification or designation and such legends or endorsements placed thereon as the Company may deem appropriate and as are not inconsistent with the provisions of this Indenture, or as may be required to comply with any law or with any rule or regulation made pursuant thereto or with any rule or regulation of any securities exchange on which any series of the Securities may be listed or of any automated quotation system on which any such series may be quoted, or to conform to usage, all as determined by the officers executing such Securities as conclusively evidenced by their execution of such Securities.

(b) The terms and provisions of the Securities shall constitute, and are hereby expressly made, a part of this Indenture, and, to the extent applicable, the Company and the Trustee, by their execution and delivery of this Indenture expressly agree to such terms and provisions and to be bound thereby.

#### Section 2.02 Form of Trustee’s Certificate of Authentication.

(a) Only such of the Securities as shall bear thereon a certificate substantially in the form of the Trustee’s certificate of authentication hereinafter recited, executed by the Trustee by manual signature, shall be valid or become obligatory for any purpose or entitle the Holder thereof to any right or benefit under this Indenture.

(b) Each Security shall be dated the date of its authentication.

(c) The form of the Trustee’s certificate of authentication to be borne by the Securities shall be substantially as follows:

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This is one of the Securities of the series designated therein referred to in the within-mentioned Indenture.

Date of authentication: \_\_\_\_\_

[NAME OF TRUSTEE],  
as Trustee

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

Section 2.03 Form of Trustee's Certificate of Authentication by an Authenticating Agent. If at any time there shall be an Authenticating Agent appointed with respect to any series of Securities, then the Trustee's certificate of authentication by such Authenticating Agent to be borne by Securities of each such series shall be substantially as follows:

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This is one of the Securities issued referred to in the within-mentioned Indenture.

Date of authentication: \_\_\_\_\_

[NAME OF TRUSTEE],  
as Trustee

By: [NAME OF AUTHENTICATING AGENT]  
as Authenticating Agent

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

**ARTICLE III**

**THE DEBT SECURITIES**

Section 3.01 Amount Unlimited; Issuable in Series. The aggregate principal amount of Securities which may be authenticated and delivered under this Indenture is unlimited. The Securities may be issued from time to time in one or more series. There shall be set forth in a Company Order, Officer's Certificate or in one or more indentures supplemental hereto, prior to the issuance of Securities of any series:

(a) the title of the Securities of the series (which shall distinguish the Securities of such series from the Securities of all other series, except to the extent that additional Securities of an existing series are being issued);

(b) any limit upon the aggregate principal amount of the Securities of the series that may be authenticated and delivered under this Indenture (except for Securities authenticated and delivered upon transfer of, or in exchange for, or in lieu of, other Securities of such series pursuant to Section 3.04, 3.06, 3.07, 4.06, or 13.05) and the percentage or percentages of principal amount at which the Securities of the series will be issued;

(c) the dates on which or periods during which the Securities of the series may be issued, and the dates on, or the range of dates within, which the principal of and premium, if any, on the Securities of such series are or may be payable or the method by which such date or dates shall be determined or extended;

(d) the rate or rates at which the Securities of the series shall bear interest, if any, or the method by which such rate or rates shall be determined, the date or dates from which such interest shall accrue, or the method by which such date or dates shall be determined, the Interest Payment Dates on which any such interest shall be payable, and the Record Dates for the determination of Holders to whom interest is payable on such Interest Payment Dates or the method by which such date or dates shall be determined, the right, if any, to extend or defer interest payments and the duration of such extension or deferral;

(e) if other than U.S. Dollars, the Foreign Currency in which Securities of the series shall be denominated or in which payment of the principal of, premium, if any, or interest on the Securities of the series shall be payable and any other terms applicable thereto;

(f) if the amount of payment of principal of, premium, if any, or interest on, the Securities of the series may be determined with reference to an index, formula or other method including, but not limited to, an index based on a Currency or Currencies other than that in which the Securities are stated to be payable, the manner in which such amounts shall be determined;

(g) if the principal of, premium, if any, or interest on, Securities of the series are to be payable, at the election of the Company or a Holder thereof, in a Currency other than that in which the Securities are denominated or stated to be payable without such election, the period or periods within which, and the terms and conditions upon which, such election may be made and the time and the manner of determining the Exchange Rate (in addition to or in lieu of the provision set forth in Section 3.11) between the Currency in which the Securities are denominated or payable without such election and the Currency in which the Securities are to be paid if such election is made;

(h) the place or places, if any, in addition to or instead of the Corporate Trust Office of the Trustee where the principal of, premium, if any, and interest on Securities of the series shall be payable, and where Securities of any series may be presented for registration of transfer, exchange or conversion, and the place or places where notices and demands to or upon the Company in respect of the Securities of such series may be made (each such place, the “Place of Payment”);

(i) the price or prices at which, the period or periods within which or the date or dates on which, and the terms and conditions upon which Securities of the series may be redeemed, in whole or in part, at the option of the Company, if the Company is to have that option;

(j) the obligation or right, if any, of the Company to redeem, purchase or repay Securities of the series at the option of a Holder thereof and the price or prices at which, the period or periods within which or the date or dates on which, the Currency or Currencies in which and the terms and conditions upon which Securities of the series shall be redeemed, purchased or repaid, in whole or in part, pursuant to such right or obligation;

(k) if other than denominations of US\$2,000 and multiples of US\$1,000 in excess thereof, the denominations in which Securities of the series shall be issuable;

(l) if other than the principal amount thereof, the portion of the principal amount of the Securities of the series which shall be payable upon declaration of acceleration of the Maturity thereof pursuant to Section 6.02;

(m) whether the Securities of the series are to be issued as Original Issue Discount Securities and the amount of discount or premium, if any, with which such Securities may be issued;

(n) provisions, if any, for the defeasance of Securities of the series in whole or in part and any addition or change in the provisions related to satisfaction and discharge;

(o) whether the Securities of the series are to be issued in whole or in part in the form of one or more Global Securities and, in such case, (i) the Depository for such Global Security or Securities, (ii) the form of legend in addition to or in lieu of that in Section 3.03(f) which shall be borne by such Global Security and (iii) the terms and conditions, if any, upon which interests in such Global Security or Securities may be exchanged in whole or in part for the individual Securities represented thereby;

(p) the date as of which any Global Security of the series shall be dated if other than the original issuance of the first Security of the series to be issued;

(q) if other than fully registered form without interest coupons, the form of the Securities of the series;

(r) whether the Securities of the series are subject to subordination and the terms of such subordination;

(s) whether the Securities of the series shall be secured;

(t) whether the Securities are to be convertible into or exchangeable for cash and/or any Securities or other property of any person (including us), the terms and conditions upon which such Securities will be so convertible or exchangeable;

(u) the securities exchange(s) or automated quotation system(s) on which the Securities of the series will be listed or admitted to trading, as applicable, if any;

- (v) any restriction or condition on the transferability of the Securities of the series;
- (w) any addition or change in the provisions related to compensation and reimbursement of the Trustee which applies to the Securities of the series;
- (x) any addition or change in the provisions related to supplemental indentures set forth in Sections 13.01, 13.02 and 13.04 which applies to the Securities of the series;
- (y) provisions, if any, granting special rights to Holders upon the occurrence of specified events;
- (z) any addition to or change in the Events of Default which applies to any Securities of the series and any change in the right of the Trustee or the requisite Holders of such Securities to declare the principal amount thereof due and payable pursuant to Section 6.02 and any addition or change in the provisions set forth in Article VI which applies to Securities of the series;
- (aa) any addition to or change in the covenants set forth in Article V which applies to the Securities of the series; and
- (bb) any other terms of the Securities of the series (which terms shall not be inconsistent with the provisions of this Indenture, except as permitted by Section 13.01, but which may modify or delete any provision of this Indenture insofar as it applies to such series), including any terms which may be required by or advisable under the laws of the United States or regulations thereunder or advisable (as determined by the Company) in connection with the marketing of Securities of the series.

All Securities of any one series shall be substantially identical, except as to denomination and except as may otherwise be provided herein or set forth in a Company Order, Officer's Certificate or in one or more indentures supplemental hereto; provided that, if additional Securities of an existing series are issued, such additional Securities shall not be issued unless such additional Securities are fungible with the Securities of such series then Outstanding for U.S. federal income tax purposes.

Section 3.02 Denominations. In the absence of any specification pursuant to Section 3.01 with respect to Securities of any series, the Securities of such series shall be issuable only as Securities in denominations of US\$2,000 and multiples of US\$1,000 in excess thereof, and shall be payable only in U.S. Dollars.

Section 3.03 Execution, Authentication, Delivery and Dating.

(a) The Securities shall be executed in the name and on behalf of the Company by an Officer. Such signatures may be the manual or facsimile signature of the present or any future such Officer. If the Person whose signature is on a Security no longer holds that office at the time the Security is authenticated and delivered, the Security shall nevertheless be valid.

(b) At any time and from time to time after the execution and delivery of this Indenture, the Company may deliver Securities of any series executed by the Company to the Trustee for authentication, together with a Company Order for the authentication and delivery of such Securities and, if required pursuant to Section 3.01, a supplemental indenture, Company Order or Officer's Certificate setting forth the terms of the Securities of a series. The Trustee shall thereupon authenticate and deliver such Securities without any further action by the Company. The Company Order shall specify the principal amount of Securities to be authenticated and the date on which the original issue of Securities is to be authenticated.

(c) In authenticating the first Securities of any series and accepting the additional responsibilities under this Indenture in relation to such Securities, the Trustee shall receive, and (subject to Section 10.02) shall be fully protected in relying upon, an Officer's Certificate, prepared in accordance with Section 15.01 stating that the conditions precedent, if any, provided for in this Indenture have been complied with, and an Opinion of Counsel, prepared in accordance with Section 15.01 and substantially in the form set forth below:

(i) that the form or forms of such Securities have been established in accordance with Article II and Section 3.01 and in conformity with the other provisions of this Indenture;

(ii) that the terms of such Securities have been established in accordance with Section 3.01 and in conformity with the other provision of this Indenture;

(iii) that such Securities, when authenticated and delivered by the Trustee and issued by the Company in the manner and subject to any conditions specified in such Opinion of Counsel, will constitute valid and legally binding obligations of the Company, enforceable in accordance with their terms, subject to (A) bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance and other laws of general applicability relating to or affecting the enforcement of creditors' rights, (B) general equitable principles (whether considered in a proceeding, judicial or otherwise) and (C) an implied covenant of good faith and fair dealing;

(iv) if applicable, that the supplemental indenture, setting forth the terms of such Securities, when executed and delivered by the Trustee in the manner and subject to any conditions specified in such Opinion of Counsel, will constitute a valid and legally binding obligation of the Company, enforceable in accordance with its terms, subject to (A) bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance and other laws of general applicability relating to or affecting the enforcement of creditors' rights, (B) general equitable principles (whether considered in a proceeding, judicial or otherwise) and (C) an implied covenant of good faith and fair dealing; and

(v) that all conditions precedent, if any, provided for in this Indenture in respect of the authentication and delivery by the Company of such Securities have been complied with.

Notwithstanding the provisions of the preceding paragraph, if all Securities of a series are not to be originally issued at one time, it shall not be necessary to deliver the Officer's Certificate or Opinion of Counsel otherwise required pursuant to such preceding paragraph at or prior to the authentication of each Security of such series if such Officer's Certificate or Opinion of Counsel is delivered at or prior to the authentication upon original issuance of the first Security of such series to be issued; provided that nothing in this clause (c) is intended to derogate Trustee's rights to receive an Officer's Certificate and Opinion of Counsel under Section 15.01.



(d) The Trustee shall have the right to decline to authenticate and deliver the Securities under this Section 3.03 if the issue of the Securities pursuant to this Indenture will affect the Trustee's own rights, duties or immunities under the Securities and this Indenture or otherwise.

(e) Each Security shall be dated the date of its authentication.

(f) If the Company shall establish pursuant to Section 3.01 that the Securities of a series are to be issued in whole or in part in the form of one or more Global Securities, then the Company shall execute and the Trustee shall authenticate and deliver one or more Global Securities that (i) shall represent an aggregate amount equal to the aggregate principal amount of the Outstanding Securities of such series to be represented by such Global Securities, (ii) shall be registered, if in registered form, in the name of the Depository for such Global Security or Securities or the nominee of such Depository, (iii) shall be delivered by the Trustee to such Depository or pursuant to such Depository's instruction and (iv) shall bear a legend substantially to the following effect:

UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR THE INDIVIDUAL SECURITIES REPRESENTED HEREBY IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN THE INDENTURE REFERRED TO ON THE REVERSE HEREOF, THIS GLOBAL SECURITY MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITORY TO A NOMINEE OF THE DEPOSITORY OR BY A NOMINEE OF THE DEPOSITORY TO THE DEPOSITORY OR ANOTHER NOMINEE OF THE DEPOSITORY OR BY THE DEPOSITORY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITORY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITORY.

The aggregate principal amount of each Global Security may from time to time be increased or decreased by adjustments made on the records of the Security Custodian, as provided in this Indenture.

(g) Each Depository designated pursuant to Section 3.01 for a Global Security in registered form must, at the time of its designation an at all times while it serves as such Depository, be a clearing agency registered under the Exchange Act and any other applicable statute or regulation.

(h) Members of, or participants in, the Depository ("Members") shall have no rights under this Indenture with respect to any Global Security held on their behalf by the Depository or by the Security Custodian under such Global Security, and the Depository may be treated by the Company, the Trustee, the Paying Agent and the Registrar and any of their agents as the absolute owner of such Global Security for all purposes whatsoever. Notwithstanding the foregoing, nothing herein shall prevent the Company, the Trustee, the Paying Agent or the Registrar or any of their agents from giving effect to any written certification, proxy or other authorization furnished by the Depository or impair, as between the Depository and its Members, the operation of customary practices of the Depository governing the exercise of the rights of an owner of a beneficial interest in any Global Security. The Holder of a Global Security may grant proxies and otherwise authorize any Person, including Members and Persons that may hold interests through Members, to take any action that a Holder is entitled to take under this Indenture or the Securities.

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(i) No Security shall be entitled to any benefit under this Indenture or be valid or obligatory for any purpose unless there appears on such Security a certificate of authentication substantially in one of the forms provided for herein duly executed by the Trustee or an Authenticating Agent by manual signature of an authorized signatory of the Trustee or the Authenticating Agent, as the case may be, and such certificate upon any Security shall be conclusive evidence, and the only evidence, that such Security has been duly authenticated and delivered hereunder and is entitled to the benefits of this Indenture. Notwithstanding the foregoing, if any Security shall have been authenticated and delivered hereunder but never issued and sold by the Company, and the Company shall deliver such Security to the Paying Agent for cancellation as provided in Section 3.09, for all purposes of this Indenture such Security shall be deemed never to have been authenticated and delivered hereunder and shall never be entitled to the benefits of this Indenture.

#### Section 3.04 Temporary Securities.

(a) Pending the preparation of definitive Securities of any series, the Company may execute and, upon receipt of a Company Order, the Trustee shall authenticate and deliver, temporary Securities that are printed, lithographed, typewritten, mimeographed or otherwise reproduced, in any authorized denomination, substantially of the tenor of the definitive Securities in lieu of which they are issued, in registered form and with such appropriate insertions, omissions, substitutions and other variations as the officers executing such temporary Securities may determine, as conclusively evidenced by their execution of such temporary Securities. Any such temporary Security may be in global form, representing all or a portion of the Outstanding Securities of such series. Every such temporary Security shall be executed by the Company and shall be authenticated and delivered by the Trustee upon the same conditions and in substantially the same manner, and with the same effect, as the definitive Security or Securities in lieu of which it is issued.

(b) If temporary Securities of any series are issued, the Company shall cause definitive Securities of such series to be prepared without unreasonable delay. After the preparation of definitive Securities of such series, the temporary Securities of such series shall be exchangeable for definitive Securities of such series upon surrender of such temporary Securities at the office or agency maintained by the Company in a Place of Payment for such purposes provided in Section 5.02, without charge to the Holder. Upon surrender for cancellation of any one or more temporary Securities of any series, the Company shall execute and the Trustee shall authenticate and deliver in exchange therefor a like principal amount of definitive Securities of the same series of authorized denominations and of like tenor. Until so exchanged, the temporary Securities of any series shall in all respects be entitled to the same benefits under this Indenture as definitive Securities of such series.

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(c) Upon any exchange of a portion of a temporary Global Security for a definitive Global Security or for the individual Securities represented thereby pursuant to this Section 3.04 or Section 3.06, the temporary Global Security shall be endorsed by the Registrar to reflect the reduction of the principal amount evidenced thereby, whereupon the principal amount of such temporary Global Security shall be reduced for all purposes by the amount so exchanged and endorsed.

Section 3.05 Registrar.

(a) The Company shall keep, at an office or agency to be maintained by it in a Place of Payment where Securities may be presented for registration or presented and surrendered for registration of transfer or of exchange, and where Securities of any series that are convertible or exchangeable may be surrendered for conversion or exchange, as applicable (the “Registrar”), a security register for the registration and the registration of transfer or of exchange of the Securities (the registers maintained in such office and in any other office or agency of the Company in a Place of Payment being herein sometimes collectively referred to as the “Register”), as in this Indenture provided, which Register shall be open for inspection by the Trustee during business hours on business days in the location of the Registrar. Such Register shall be in written form or in any other form capable of being converted into written form within a reasonable time. The Company may have one or more co-Registrars; the term “Registrar” includes any co-registrar.

(b) The Company shall enter into an appropriate agency agreement with any Registrar or co-Registrar not a party to this Indenture. The agreement shall implement the provisions of this Indenture that relate to such agent. The Company shall notify the Trustee of the name and address of each such agent. If the Company fails to maintain a Registrar for any series, the Trustee shall act as such. The Company or any Affiliate thereof may act as Registrar, co-Registrar or transfer agent.

(c) The Company hereby initially appoints The Bank of New York Mellon at its Corporate Trust Office as Registrar in connection with the Securities and this Indenture, until such time as another Person is appointed as such in replacement of the Trustee as such. So long as the Trustee serves as Registrar, it will be entitled as Registrar to the same rights of compensation, reimbursement and indemnification under Section 10.01 and Section 10.02 as if it were Trustee. No Person shall at any time be appointed as or act as Registrar unless such Person is at such time empowered under applicable law to act as such Registrar.

Section 3.06 Transfer and Exchange.

(a) Generally.

(i) Upon surrender for registration of transfer of any Security of any series at the Registrar, the Company shall execute, and the Trustee shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Securities of the same series of any authorized denominations and of like tenor and aggregate principal amount. The transfer of any Security shall not be valid as against the Company or the Trustee unless registered at the Registrar at the request of the Holder, or at the request of his, her or its attorney duly authorized in writing.

(ii) Subject to this Section 3.06(a) and Section 3.06(b), at the option of the Holder, Securities of any series may be exchanged for other Securities of the same series of any authorized denominations and of like tenor and aggregate principal amount, upon surrender of the Securities to be exchanged at such office or agency. Whenever any Securities are so surrendered for exchange, the Company shall execute, and the Trustee shall authenticate and deliver, the Securities which the Holder making the exchange is entitled to receive. All Securities issued upon any registration of transfer or exchange of Securities shall be the valid obligations of the Company evidencing the same debt, and entitled to the same benefits under this Indenture, as the Securities surrendered upon such registration of transfer or exchange. Every Security presented or surrendered for registration of transfer or for exchange shall (if so required by the Company or the Trustee) be duly endorsed, or be accompanied by a written instrument of transfer in form satisfactory to the Company and the Registrar, duly executed by the Holder thereof or his attorney duly authorized in writing.

(iii) The provisions of clauses (A), (B), (C) and (D) below shall apply only to Global Securities:

(A) Each Global Security authenticated under this Indenture shall be registered in the name of the Depository designated for such Global Security or a nominee thereof and delivered to such Depository or a nominee thereof or custodian therefor, and each such Global Security shall constitute a single Security for all purposes of this Indenture.

(B) Notwithstanding any other provision in this Indenture, and subject to such applicable provisions, if any, as may be specified as contemplated in Section 3.01, no Global Security may be exchanged in whole or in part for Securities registered, and no transfer of a Global Security in whole or in part may be registered, in the name of any Person other than the Depository for such Global Security or a nominee thereof unless (A) such Depository (i) has notified the Company that it is unwilling or unable to continue as Depository for such Global Security or (ii) has ceased to be a clearing agency registered under the Exchange Act, and in each case, a successor depository is not appointed within 90 days, (B) there shall have occurred and be continuing a Default with respect to such Global Security, or (C) the Company, at its option, notifies the Trustee in writing that it elects to cause such transfer.

(C) Subject to clause (B) above, and subject to such applicable provisions, if any, as may be specified as contemplated in Section 3.01, any exchange of a Global Security for other Securities may be made in whole or in part, and all Securities issued in exchange for a Global Security or any portion thereof shall be registered in such names as the Depository for such Global Security shall direct.

(D) Every Security authenticated and delivered upon registration of transfer of, or in exchange for or in lieu of, a Global Security or any portion thereof shall be authenticated and delivered in the form of, and shall be, a Global Security, unless such Security is registered in the name of a Person other than the Depository for such Global Security or a nominee thereof.

(b) *Certain Transfers and Exchanges* . Transfers and exchanges of Securities and beneficial interests in a Global Security of the kinds specified in this Section 3.06(b) shall be made only in accordance with this Section 3.06(b).

(i) *Transfer of Beneficial Interests in Global Securities*. The transfer of beneficial interests in Global Securities will be effected through the applicable Depository, in accordance with the provisions of this Indenture and the Applicable Procedures. The transferor of such beneficial interest in a Global Security must deliver to the Registrar both (A) a written order from a Participant or an Indirect Participant given to the applicable Depository in accordance with the Applicable Procedures directing the applicable Depository to credit or cause to be credited a beneficial interest in another Global Security in an amount equal to the beneficial interests in a Global Security to be transferred or exchanged, and (B) instructions given in accordance with the Applicable Procedures containing information regarding the Participant account to be credited with such increase.

(ii) *Transfer or Exchange of Beneficial Interests for Certificated Securities* . If any one of the events listed in Section 3.06(a)(iii)(B) has occurred, (y) the Company has elected to cause the issuance of certificated Securities, transfers or exchanges of beneficial interests in a Global Security for a certificated Security shall be effected, or (z) any holder of a beneficial interest in a Global Security proposes to exchange such beneficial interest for a Certificated Security or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Certificated Security, then, upon satisfaction of the conditions set forth in Section 3.06(b)(i) hereof, the Trustee will cause the aggregate principal amount of the applicable Global Security to be reduced accordingly pursuant to Section 3.06(c) hereof, and the Company will execute and upon receipt of a Company Order the Trustee will authenticate and deliver to the Person designated in the instructions a Certificated Security in the appropriate principal amount. Any Certificated Security issued in exchange for a beneficial interest pursuant to this Section 3.06(b)(ii) will be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest shall instruct the Registrar through instructions from the Depository and the Participant or Indirect Participant. The Trustee shall deliver such Certificated Securities to the Persons in whose names such Securities are so registered. Any Certificated Security issued in exchange for a beneficial interest in a Global Security pursuant to this Section 3.06(b)(ii) will not bear a restrictive security legend.

(iii) *Transfer and Exchange of Certificated Securities for Beneficial Interests.* A Holder of a Certificated Security may exchange such Security for a beneficial interest in a Global Security or transfer such Certificated Security to a Person who takes delivery thereof in the form of a beneficial interest in a Global Security at any time. Upon receipt of a request for such an exchange or transfer, the Paying Agent will cancel the applicable Certificated Security and increase or cause to be increased the aggregate principal amount of one of the Global Securities. If any such exchange or transfer from a Certificated Security to a beneficial interest in a Global Security is effected at a time when an Global Security has not yet been issued, the Company will issue and, upon receipt of a Company Order, the Trustee will authenticate one or more Global Securities in an aggregate principal amount equal to the principal amount of Certificated Securities so transferred.

(iv) *Transfer of Certificated Securities for Certificated Securities.* A Holder of Certificated Securities may transfer such Securities to a Person who takes delivery thereof in the form of an Certificated Security. Upon request by a Holder of Certificated Securities and such Holder's compliance with the provisions of this Section 3.06(b)(iv), the Registrar will register the transfer of Certificated Securities pursuant to the instructions from the Holder thereof. Prior to such registration of transfer or exchange, the requesting Holder must present or surrender to the Registrar the Certificated Securities duly endorsed or accompanied by a written instruction of transfer in form satisfactory to the Registrar duly executed by such Holder or by its attorney, duly authorized in writing..

(c) *Cancellation and/or Adjustment of Global Securities.* At such time as all beneficial interests in a particular Global Security have been exchanged for Certificated Securities or a particular Certificated Security has been redeemed, repurchased or canceled in whole and not in part, each such Global Security will be returned to or retained and canceled by the Paying Agent in accordance with Section 3.09 hereof. At any time prior to such cancellation, if any beneficial interest in a Global Security is exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Security or for Certificated Securities, the principal amount of Securities represented by such Global Security will be reduced accordingly and an endorsement will be made on such Global Security by the Registrar or by the Depository at the direction of the Registrar to reflect such reduction; and if the beneficial interest in a Global Security is being exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Security, such other Global Security will be increased accordingly and an endorsement will be made on such Global Security by the Registrar or by the Depository at the direction of the Registrar to reflect such increase.

(d) The Trustee shall have no obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer or exchange imposed under this Indenture or under applicable law with respect to any transfer or exchange of any interest in any Security (including any transfers between or among Participants or beneficial owners in any Global Security) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by, the terms of this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

Section 3.07 Mutilated, Destroyed, Lost and Stolen Securities.

(a) If (i) any mutilated Security is surrendered to the Trustee at its Corporate Trust Office or (ii) the Company and the Trustee receive evidence to their satisfaction of the destruction, loss or theft of any Security, and there is delivered to the Company and the Trustee security or indemnity satisfactory to them to save each of them and any Paying Agent harmless, and neither the Company nor the Trustee receives notice that such Security has been acquired by a protected purchaser, then the Company shall execute and upon Company Order the Trustee shall authenticate and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen Security, a new Security of the same series and of like tenor, form, terms and principal amount, bearing a number not contemporaneously Outstanding, and neither gain nor loss in interest shall result from such exchange or substitution.

(b) In case any such mutilated, destroyed, lost or stolen Security has become or is about to become due and payable, the Company in its discretion may, instead of issuing a new Security, pay the amount due on such Security in accordance with its terms.

(c) Upon the issuance of any new Security under this Section 3.07, the Company may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in respect thereto and any other expenses (including the fees and expenses of the Trustee) in connection therewith.

(d) Every new Security of any series issued pursuant to this Section 3.07 shall constitute an original additional contractual obligation of the Company, whether or not the destroyed, lost or stolen Security shall be at any time enforceable by anyone, and shall be entitled to all the benefits of this Indenture equally and proportionately with any and all other Securities of that series duly issued hereunder.

(e) The provisions of this Section 3.07 are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities.

Section 3.08 Payment of Interest; Interest Rights Preserved.

(a) Interest on any Security which is payable, and is punctually paid or duly provided for, on any Interest Payment Date shall be paid to the Person in whose name such Security (or one or more Predecessor Securities) is registered at the close of business on the Record Date for such interest notwithstanding the cancellation of such Security upon any transfer or exchange subsequent to the Record Date. Payment of interest on Securities shall be made at the Corporate Trust Office (except as otherwise specified pursuant to Section 3.01) or, at the option of the Company by check mailed to the address of the Person entitled thereto as such address shall appear in the Register or, in accordance with arrangements satisfactory to the Trustee, by wire transfer to an account designated by the Holder.

(b) Any interest on any Security that is payable, but is not punctually paid or duly provided for, on any Interest Payment Date (herein called “Defaulted Interest”) shall forthwith cease to be payable to the Holder on the relevant Record Date by virtue of his, her or its having been such a Holder, and such Defaulted Interest may be paid by the Company, at its election in each case, as provided in clause (i) or (ii) below:

(i) The Company may elect to make payment of any Defaulted Interest to the Persons in whose names such Securities (or their respective Predecessor Securities) are registered at the close of business on a special record date for the payment of such Defaulted Interest (a “Special Record Date”), which shall be fixed in the following manner. The Company shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each such Security and the date of the proposed payment, and at the same time the Company shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Interest as in this clause provided. Thereupon the Trustee shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 days and not less than 10 days prior to the date of the proposed payment and not less than 10 days after the receipt by the Trustee of the notice of the proposed payment. The Trustee shall promptly notify the Company of such Special Record Date and, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be given to each Holder of Securities of such series, not less than 10 days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor having been given as aforesaid, such Defaulted Interest shall be paid to the Persons in whose names such Securities (or their respective Predecessor Securities) are registered at the close of business on such Special Record Date and shall no longer be payable pursuant to the following clause (ii).

(ii) The Company may make payment of any Defaulted Interest on Securities in any other lawful manner not inconsistent with the requirements of any securities exchange on which such Securities may be listed or of any automated quotation system on which any such Securities may be quoted, and upon such notice as may be required by such exchange or quotation system, as applicable, if, after notice given by the Company to the Trustee of the proposed payment pursuant to this clause, such manner of payment shall be deemed practicable by the Trustee.

(c) Subject to the foregoing provisions in this Section 3.08, each Security delivered under this Indenture in exchange or substitution for, or upon registration of transfer of, any other Security shall carry all the rights to interest accrued and unpaid, if any, and to accrue, which were carried by such other Security.

Section 3.09 Cancellation. Unless otherwise specified pursuant to Section 3.01 for Securities of any series, all Securities surrendered for payment, redemption, registration of transfer or exchange or otherwise shall, if surrendered to any Person other than the Paying Agent, be delivered to the Paying Agent for cancellation and shall be promptly cancelled by it and, if surrendered to the Paying Agent, shall be promptly cancelled by it. The Company may at any time deliver to the Paying Agent for cancellation any Securities previously authenticated and delivered hereunder that the Company may have acquired in any manner whatsoever, and may deliver to the Paying Agent for cancellation any Securities previously authenticated hereunder that the Company has not issued or sold, and all Securities so delivered shall be promptly cancelled by the Paying Agent. No Securities shall be authenticated in lieu of or in exchange for any Securities cancelled as provided in this Section, except as expressly permitted by this Indenture. The Paying Agent shall dispose of all cancelled Securities held by it in accordance with its then customary procedures, unless otherwise directed by a Company Order, and deliver a certificate of such disposal to the Company upon its request therefor. The acquisition of any Securities by the Company shall not operate as a redemption or satisfaction of the Indebtedness represented thereby unless and until such Securities are surrendered to the Paying Agent for cancellation.

Section 3.10 Computation of Interest. Except as otherwise specified pursuant to Section 3.01 for Securities of any series, interest on the Securities of each series shall be computed on the basis of a 360-day year of twelve 30-day months.

Section 3.11 Currency of Payments in Respect of Securities.

(a) The Company may provide pursuant to Section 3.01 for Securities of any series that (i) the obligation, if any, of the Company to pay the principal of, premium, if any, and interest on, the Securities of any series in a Foreign Currency or U.S. Dollars (the “Designated Currency”) as may be specified pursuant to Section 3.01 is of the essence and agrees that, to the fullest extent possible under applicable law, judgments in respect of such Securities shall be given in the Designated Currency; (ii) the obligation of the Company to make payments in the Designated Currency of the principal of, premium, if any, and interest on such Securities shall, notwithstanding any payment in any other Currency (whether pursuant to a judgment or otherwise), be discharged only to the extent of the amount in the Designated Currency that the Holder receiving such payment may, in accordance with normal banking procedures, purchase with the sum paid in such other Currency (after any premium and cost of exchange) on the business day in the country of issue of the Designated Currency or in the international banking community (in the case of a composite currency) immediately following the day on which such Holder receives such payment; (iii) if the amount in the Designated Currency that may be so purchased for any reason falls short of the amount originally due, the Company shall pay such additional amounts as may be necessary to compensate for such shortfall; and (iv) any obligation of the Company not discharged by such payment shall be due as a separate and independent obligation and, until discharged as provided herein, shall continue in full force and effect. Notwithstanding the foregoing, unless otherwise specified pursuant to Section 3.01 for Securities of any series, payment of the principal of, premium, if any, and interest on, Securities of such series shall be made in U.S. Dollars.

(b) If the principal of, premium, if any, or interest, on any Security is payable in a Foreign Currency and such Currency is not available to the Company for making payment thereof due to the imposition of exchange controls or other circumstances beyond the control of the Company, the Company shall be entitled to satisfy its obligations to Holders of the Securities by making such payment in U.S. Dollars in an amount equivalent of the amount payable in such other Currency at the Exchange Rate as determined pursuant to clause (d) below. Notwithstanding any provisions to the contrary herein, any payment made under such circumstances in U.S. Dollars where the required payment is in a Currency other than U.S. Dollars shall not constitute an Event of Default under this Indenture.



(c) For purposes of any provision of this Indenture where the Holders of Outstanding Securities may perform an action that requires that a specified percentage of the Outstanding Securities of all series perform such action and for purposes of any determination by the Trustee of amounts due and unpaid for the principal of, premium, if any, and interest on, the Securities of all series in respect of which moneys are to be disbursed ratably, the principal of, premium, if any, and interest on, the Outstanding Securities denominated in a Foreign Currency shall be the amount in U.S. Dollars based upon the Exchange Rate as determined pursuant to clause (d) below (or as specified pursuant to Section 3.01, if applicable) for Securities of such series, as of the date for determining whether the Holders entitled to perform such action have performed it or as of the date of such determination by the Trustee, as the case may be.

(d) Any decision or determination to be made regarding the Exchange Rate shall be made by the Company or an agent appointed by the Company (the Company, in such capacity, or such agent, the “Currency Determination Agent”); provided that such agent shall accept such appointment in writing and the terms of such appointment shall, in the opinion of the Company at the time of such appointment, require such agent to make such determination by a method consistent with the method provided pursuant to Section 3.01 for the making of such decision or determination. Unless otherwise specified pursuant to Section 3.01, “Exchange Rate” shall mean, for any Currency, the noon buying rate in New York City for cable transfers for such Currency as the applicable Exchange Rate, as such rate is reported or otherwise made available by the Federal Reserve Bank of New York on the date of such payment, or, if such rate is not then available, on the basis of the most recently available rate. All decisions and determinations of such agent regarding the Exchange Rate shall, in the absence of manifest error, be conclusive for all purposes and irrevocably binding upon the Company, the Trustee and all Holders of the Securities.

Section 3.12 CUSIP Numbers. The Company in issuing any Securities may use CUSIP, ISIN or other similar numbers, if then generally in use, and thereafter with respect to such series, the Trustee may use such numbers in any notice of redemption or exchange, as a convenience to Holders, with respect to such series; provided that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Securities or as contained in any notice of a redemption and that reliance may be placed only on the other identification numbers printed on the Securities, and any such redemption shall not be affected by any defect in or omission of such numbers. The Company shall promptly notify the Trustee and the Agents of any change in the CUSIP, ISIN or other similar numbers.

## ARTICLE IV

### REDEMPTION OF SECURITIES

Section 4.01 Applicability of Right of Redemption. Redemption of Securities permitted by the terms of any series of Securities shall be made (except as otherwise specified pursuant to Section 3.01 for Securities of any series) in accordance with this Article IV; provided, however, that if any such terms of a series of Securities shall conflict with any provision of this Article IV, the terms of such series shall govern.

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#### Section 4.02 Selection of Securities to be Redeemed

(a) If the Company shall at any time elect to redeem all or any portion of the Securities of a series then Outstanding, it shall at least 15 days (or such shorter period acceptable to the Trustee) prior to the date the notice of redemption is to be mailed, notify the Trustee of such Redemption Date and of the principal amount of Securities to be redeemed. If less than all of the Securities in any series are to be redeemed, the Securities for redemption will be selected as follows: (i) if such Securities are listed on any securities exchange, in compliance with the requirements of the securities exchange on which such Securities are then traded or if such Securities are held through the clearing systems, in compliance with the requirements of the applicable clearing systems; or (ii) if such Securities are not listed on any securities exchange, on a pro rata basis, by lot or by such other method as the Trustee deems fair and appropriate, unless otherwise required by law; provided that, in each case, the unredeemed portion of the principal amount of any Security shall be in an authorized denomination (which shall not be less than the minimum authorized denomination) for such Security. In any case where more than one Security of such series is registered in the same name, the Trustee may treat the aggregate principal amount so registered as if it were represented by one Security of such series.

(b) For all purposes of this Indenture, unless the context otherwise requires, all provisions relating to the redemption of Securities shall relate, in the case of any Security redeemed or to be redeemed only in part, to the portion of the principal amount of such Security that has been or is to be redeemed. If the Company shall so direct, Securities registered in the name of the Company, any Affiliate or any Subsidiary thereof shall not be included in the Securities selected for redemption.

#### Section 4.03 Notice of Redemption

(a) Notice of redemption shall be given by the Company or, at the Company’s request (which may be rescinded or revoked at any time prior to the time at which the Trustee shall have given such notice to the Holders), by the Trustee in the name and at the expense of the Company, not less than 30 days nor more than 60 days prior to the Redemption Date, to the Holders of Securities of any series to be redeemed in whole or in part pursuant to this Article IV, in the manner provided in Section 15.04; provided that the Trustee be provided with the draft notice at least 15 days (or such shorter period acceptable to the Trustee) prior to sending such notice of redemption. Any notice given in the manner herein provided shall be conclusively presumed to have been duly given, whether or not the Holder receives such notice. Failure to give such notice, or any defect in such notice to the Holder of any Security of a series designated for redemption, in whole or in part, shall not affect the sufficiency of any notice of redemption with respect to the Holder of any other Security of such series.

(b) All notices of redemption shall identify the Securities to be redeemed (including CUSIP, ISIN or other similar numbers, if available) and shall state:

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- (i) such election by the Company to redeem Securities of such series pursuant to provisions contained in this Indenture or the terms of the Securities of such series in a Company Order, Officer's Certificate or a supplemental indenture establishing such series, if such be the case;
- (ii) the Redemption Date;
- (iii) the Redemption Price (or the manner in which the Redemption Price will be calculated);
- (iv) if less than all Outstanding Securities of any series are to be redeemed, the identification (and, in the case of partial redemption, the principal amounts) of the Securities of such series to be redeemed;
- (v) that on the Redemption Date the Redemption Price shall become due and payable upon each such Security to be redeemed, and that, if applicable, interest thereon shall cease to accrue on and after said date; and
- (vi) (if the Notes are in certificated form) the Place or Places of Payment where such Securities are to be surrendered for payment of the Redemption Price.

Section 4.04 Deposit of Redemption Price. On or prior to 10:00 a.m., New York City time, on each Redemption Date for any Securities, the Company shall deposit with the Trustee or with a Paying Agent (or, if the Company is acting as its own Paying Agent, segregate and hold in trust as provided in Section 5.03) an amount of money in the Currency in which such Securities are denominated (except as provided pursuant to Section 3.01) sufficient to pay the Redemption Price of and accrued interest on such Securities or any portions thereof that are to be redeemed on that date. The Paying Agent shall not be bound to make any payment until it has received in immediately available and cleared funds the full amount due to be paid to it pursuant to this Section 4.04.

Section 4.05 Securities Payable on Redemption Date. If notice of redemption has been given as above provided, any Securities so to be redeemed shall, on the Redemption Date, become due and payable at the Redemption Price and from and after such date (unless the Company shall Default in the payment of the Redemption Price) such Securities shall cease to bear interest, and, except as provided in Section 11.07, such Securities shall cease from and after the Redemption Date to be entitled to any benefit or security under this Indenture, and the Holders thereof shall have no right in respect of such Securities except the right to receive the Redemption Price thereof and unpaid interest to the Redemption Date. Upon surrender of any such Security for redemption in accordance with said notice, such Security shall be paid by the Trustee or Paying Agent with the moneys deposited in accordance with Section 4.04 above at the Redemption Price (unless the Company shall Default in the payment of the Redemption Price); provided, however, that (unless otherwise provided pursuant to Section 3.01) installments of interest that have a Stated Maturity on or prior to the Redemption Date for such Securities shall be payable according to the terms of such Securities and the provisions of Section 3.08.

If any Security called for redemption shall not be so paid upon surrender thereof for redemption, the principal thereof shall, until paid or duly provided for, bear interest from the Redemption Date at the rate prescribed therefor in the Security.

Section 4.06 Securities Redeemed in Part. Any Security that is to be redeemed only in part shall be surrendered at the Corporate Trust Office or such other office or agency of the Company as is specified pursuant to Section 3.01 with, if the Company, the Registrar or the Trustee so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Company, the Registrar and the Trustee duly executed by the Holder thereof or his, her or its attorney duly authorized in writing, and the Company shall execute, and the Trustee shall authenticate and deliver to the Holder of such Security, without service charge, a new Security or Securities of the same series, of like tenor and form, of any authorized denomination as requested by such Holder in aggregate principal amount equal to and in exchange for the unredeemed portion of the principal of the Security so surrendered; provided that if a Global Security is so surrendered, the Company shall execute, and the Trustee shall authenticate and deliver to the Depository for such Global Security, without service charge, a new Global Security in a denomination equal to and in exchange for the unredeemed portion of the principal of the Global Security so surrendered. In the case of a Security providing appropriate space for such notation, at the option of the Holder thereof, the Trustee, in lieu of delivering a new Security or Securities as aforesaid, may make a notation on such Security of the payment of the redeemed portion thereof.

Section 4.07 Tax Redemption.

(a) Each series of Securities may be redeemed at any time, at the option of the Company, in whole but not in part, upon notice as described below, at a redemption price equal to 100% of the principal amount thereof, together with accrued and unpaid interest, if any, to, but not including, the Redemption Date (subject to the right of Holders of record on the relevant Record Date to receive interest due on the relevant Interest Payment Date), if (i) as a result of any change in, or amendment to, the laws or regulations of the Relevant Jurisdiction (or, in the case of Additional Amounts payable by a successor Person to the Company, the applicable Successor Jurisdiction), or any change in the official application or official interpretation of such laws or regulations, which change or amendment becomes effective on or after the Issue Date (or, in the case of Additional Amounts payable by a successor Person to the Company, the date on which such successor Person to the Company became such pursuant to this Indenture) (a “Tax Change”), the Company or any such successor Person to the Company is, or would be, obligated to pay Additional Amounts upon the next payment of principal, premium, if any, or interest in respect of such Securities and (ii) such obligation cannot be avoided by the Company or any such successor Person to the Company taking reasonable measures available to it, provided that changing the jurisdiction of organization or tax residency of the Company or such successor Person to the Company is not a reasonable measure for purposes of this Section 4.07(a).

(b) Prior to the giving of any notice of redemption of the Securities pursuant to Section 4.07(a), the Company or any such successor Person to the Company shall deliver to the Trustee (i) a notice of such redemption election, (ii) an opinion of an Independent Legal Counsel or an opinion of an Independent Tax Consultant to the effect that the Company or any such successor Person to the Company is, or would become, obligated to pay such Additional Amounts as the result of a Tax Change and (iii) an Officer’s Certificate from the Company or any such successor Person to the Company, stating that such amendment or change has occurred, describing the facts leading thereto and stating that such requirement cannot be avoided by the Company or any such successor Person to the Company taking reasonable measures available to it.

(c) Notice of such a redemption of the Securities shall be given to the Holders of such Securities not less than 30 days nor more than 60 days prior to the Redemption Date. Notice having been given, the Securities shall become due and payable on the Redemption Date and will be paid at the Redemption Price, together with accrued and unpaid interest, if any, to, but not including, the Redemption Date (subject to the right of Holders of record on the relevant Record Date to receive interest due on the relevant Interest Payment Date), at the place or places of payment and in the manner specified in the Securities or this Indenture. From and after the Redemption Date, if moneys for the redemption of the Securities shall have been made available as provided in this Indenture for redemption on the Redemption Date, the Securities shall cease to bear interest, and the only right of the Holders of the Securities shall be to receive payment of the Redemption Price and accrued and unpaid interest, if any, to, but not including, the Redemption Date.

Section 4.08 Open Market Purchase. The Company or any of its Controlled Entities may, in accordance with all applicable laws and regulations, at any time purchase the Notes in the open market or otherwise at any price, so long as such purchase does not otherwise violate the terms of the Indenture. The Notes so purchased, while held by or on behalf of the Company or any of its Controlled Entities, shall not be deemed to be outstanding for the purposes of determining whether the Holders of the requisite principal amount of outstanding Notes have given any request, demand, authorization, direction, notice, consent or waiver hereunder. The Notes that the Company or its Affiliates purchase may, in the discretion of the Company, be held, resold or canceled, but will only be resold in compliance with applicable requirements or exemptions under the relevant securities laws.

## ARTICLE V

### PARTICULAR COVENANTS OF THE COMPANY

The Company hereby covenants and agrees as follows:

Section 5.01 Payments of Principal, Premium and Interest. The Company, for the benefit of each series of Securities, shall duly and punctually pay or cause to be paid the principal of, premium, if any, and interest on, each series of Securities, at the dates and place and in the manner provided in the Securities and in this Indenture.

Section 5.02 Maintenance of Office or Agency; Paying Agent.

(a) The Company shall maintain in each Place of Payment for any series of Securities, if any, an office or agency where Securities may be presented or surrendered for payment, where Securities of such series may be surrendered for registration of transfer or exchange, and where notices and demands to or upon the Company in respect of the Securities and this Indenture may be served. The Company shall give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee. The Company hereby initially appoints The Bank of New York Mellon as Paying Agent to receive all presentations, surrenders, notices and demands. So long as the Trustee serves as Paying Agent, it will be entitled as Paying Agent to the same rights of compensation, reimbursement and indemnification under Section 10.01 and Section 10.02 as if it were Trustee.

(b) The Company may also from time to time designate different or additional offices or agencies where the Securities of any series may be presented or surrendered for any or all such purposes (in or outside of such Place of Payment), and may from time to time rescind any such designations; provided, however, that no such designation or rescission shall in any manner relieve the Company of its obligations described in the preceding paragraph. The Company shall give prompt written notice to the Trustee of any such additional designation or rescission of designation and of any change in the location of any such different or additional office or agency. The Company shall enter into an appropriate agency agreement with any Paying Agent not a party to this Indenture. The agreement shall implement the provisions of this Indenture that relate to such agent. The Company shall notify the Trustee of the name and address of each such agent. The Company or any Affiliate thereof may act as Paying Agent and shall inform the Trustee of the same.

(c) With respect to any Global Security, and except as otherwise may be specified for such Global Security as contemplated by Section 3.01, the Corporate Trust Office of the Trustee shall be the Place of Payment where such Global Security may be presented or surrendered for payment or for registration of transfer or exchange, or where successor Securities may be delivered in exchange therefor; provided, however, that any such payment, presentation, surrender or delivery effected pursuant to the Applicable Procedures of the Depository for such Global Security shall be deemed to have been effected at the Place of Payment for such Global Security in accordance with the provisions of this Indenture.

Section 5.03 To Hold Payment in Trust.

(a) If the Company or an Affiliate thereof shall at any time act as Paying Agent with respect to any series of Securities, then, on or before the date on which the principal of, premium, if any, or interest, on any of the Securities of that series by their terms or as a result of the calling thereof for redemption shall become payable, the Company or such Affiliate shall segregate and hold in trust for the benefit of the Holders of such Securities or the Trustee a sum sufficient to pay such principal, premium, if any, or interest, which shall have so become payable until such sums shall be paid to such Holders or otherwise disposed of as herein provided, and shall notify the Trustee of its action or failure to act in that regard.

Upon any proceeding under the Bankruptcy Code or any applicable state bankruptcy laws with respect to the Company or any Affiliate thereof, if the Company or such Affiliate is then acting as Paying Agent, the Trustee shall promptly replace the Company or such Affiliate as Paying Agent.

(b) If the Company shall appoint, and at the time have, a Paying Agent for the payment of the principal of, premium, if any, or interest, on any series of Securities, then prior to 10:00 a.m., New York City time, on the date on which the principal of, premium, if any, or interest, on any of the Securities of that series shall become payable as above provided, whether by their terms or as a result of the calling thereof for redemption, the Company shall deposit with such Paying Agent a sum sufficient to pay such principal, premium, if any, or interest, such sum to be held in trust for the benefit of the Holders of such Securities, and (unless such Paying Agent is the Trustee), the Company or any other obligor of such Securities shall promptly notify the Trustee of its payment or failure to make such payment. The Paying Agent shall not be bound to make any payment until it has received in immediately available and cleared funds the full amount due to be paid to it pursuant to this Section 5.03(b).

(c) If the Paying Agent shall be a Person other than the Trustee, the Company shall cause such Paying Agent to execute and deliver to the Trustee an instrument in which such Paying Agent shall agree with the Trustee, subject to the provisions of this Section 5.03, that such Paying Agent shall:

(i) comply with the provisions of the Trust Indenture Act applicable to it as Paying Agent;

(ii) hold all moneys held by it for the payment of the principal of, premium, if any, or interest, on the Securities of that series in trust for the benefit of the Holders of such Securities until such sums shall be paid to such Holders or otherwise disposed of as herein provided;

(iii) give to the Trustee notice of any Default by the Company or any other obligor upon the Securities of that series in the making of any payment of the principal of, premium, if any, or interest, on the Securities of that series; and

(iv) at any time during the continuance of any such Default, upon the written request of the Trustee, pay to the Trustee all sums so held in trust by such Paying Agent.

(d) Anything in this Section 5.03 to the contrary notwithstanding, the Company may at any time, for the purpose of obtaining a release, satisfaction or discharge of this Indenture or for any other reason, pay or cause to be paid to the Trustee all sums held in trust by the Company or by any Paying Agent other than the Trustee as required by this Section 5.03, such sums to be held by the Trustee upon the same trusts as those upon which such sums were held by the Company or such Paying Agent and, upon such payment by a Paying Agent to the Trustee, such Paying Agent shall be released from all further liability with respect to such moneys.

(e) Any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of, premium, if any, or interest, on any Security of any series and remaining unclaimed for two years after such principal, premium, if any, or interest, has become due and payable shall be paid to the Company upon Company Order and the Holder of such Security shall thereafter, as an unsecured general creditor, look only to the Company for payment of such amounts without interest thereon, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, shall thereupon cease; provided, however, that the Trustee or such Paying Agent before being required to make any such repayment, may at the expense of the Company cause to be published once, in a newspaper published in the English language, customarily published on each Business Day and of general circulation in the City of New York, notice that such money remains unclaimed and that, after a date specified therein, which shall not be less than 30 days from the date of such publication, any unclaimed balance of such money then remaining shall be repaid to the Company. Subject to written instructions from the Company, any unclaimed funds held by the Trustee or the Paying Agent (as the case may be) may be invested and any interest accumulated thereon shall be paid to the Company by the Trustee or the Paying Agent (as the case may be). If the bank or institution with which the unclaimed funds are invested is the Trustee or a Subsidiary, holding or associated company of the Trustee, it need only account for an amount of interest equal to the amount of interest which would, at the then current rates, be payable by it on such a deposit to an independent customer. The Trustee or the Paying Agent (as the case may be) shall not be responsible for any resulting loss from any such investment made in accordance with the written direction of the Company, whether by depreciation in value, change in exchange rates or interest rates or otherwise and shall not be liable to the Company, the Holders or any other Person.

Section 5.04 Merger, Consolidation and Sale of Assets. Except as otherwise provided as contemplated by Section 3.01 with respect to any series of Securities:

(a) The Company shall not consolidate with or merge into any other Person in a transaction in which the Company is not the surviving entity, or convey, transfer or lease its properties and assets substantially as an entirety to, any Person, unless

(i) any Person formed by such consolidation or into or with which the Company is merged or to whom the Company has conveyed, transferred or leased its properties and assets substantially as an entirety is a corporation, partnership, trust or other entity validly existing under the laws of the British Virgin Islands, the Cayman Islands, the PRC or Hong Kong and such Person expressly assumes by an indenture supplemental to this Indenture all the obligations of the Company under this Indenture and the Securities, including the obligation to pay Additional Amounts with respect to any jurisdiction in which it is organized or resident for tax purposes;

(ii) immediately after giving effect to the transaction, no Event of Default, and no event which, after notice or lapse of time or both, would become an Event of Default, shall have occurred and be continuing; and

(iii) the Company has delivered to the Trustee an Officer's Certificate and an opinion of Independent Legal Counsel, each stating that such consolidation, merger, conveyance, transfer or lease and such supplemental indenture comply with this Indenture and that all conditions precedent therein provided for relating to such transaction have been complied with.

(b) Upon any consolidation with or merger into any other entity, or any sale other than for cash, or any conveyance or lease, of all or substantially all of the assets of the Company in accordance with this Section 5.04, the successor entity formed by such consolidation or into or with which the Company is merged or to which the Company is sold or to which such conveyance, transfer or lease is made shall succeed to, and be substituted for, and may exercise every right and power of, the Company under this Indenture with the same effect as if such successor entity had been named as the Company herein, and thereafter, except in the case of a lease, the predecessor Company shall be relieved of all obligations and covenants under this Indenture and the Securities, and from time to time such successor entity may exercise each and every right and power of the Company under this Indenture, in the name of the Company, or in its own name; and any act or proceeding by any provision of this Indenture required or permitted to be done by the Board of Directors or any officer of the Company may be done with like force and effect by the like board of directors or officer of any entity that shall at the time be the successor of the Company hereunder. In the event of any such sale or conveyance, but not any such lease, the Company (or any successor entity which shall theretofore have become such in the manner described in this Section 5.04) shall be discharged from all obligations and covenants under this Indenture and the Securities and may thereupon be dissolved and liquidated.

Section 5.05      [Reserved]

Section 5.06      Repurchase Upon Triggering Event. The following shall apply with respect to the Securities so long as any of the Securities remain outstanding:

(a) If a Triggering Event occurs, unless the Company has exercised its right to redeem all of the Securities of a particular series pursuant to Section 3.01 or Section 4.07 hereof, the Company shall make an offer to repurchase all or, at the Holder's option, any part (equal to US\$2,000 or multiples of US\$1,000 in excess thereof (or such other denominations in which such Securities are issuable)) of each Holder's Securities pursuant to the offer described below (the "Triggering Event Offer"), at a purchase price in cash equal to 101% of the aggregate principal amount of Securities repurchased plus accrued and unpaid interest, if any, on the Securities repurchased to, but not including, the date of purchase (the "Triggering Event Payment") (subject to the right of Holders of record on the relevant Record Date to receive interest due on the relevant Interest Payment Date). Within 30 days following any Triggering Event, unless the Company has exercised its right to redeem all of the Outstanding Securities pursuant Section 3.01 or Section 4.07 hereof, the Company will send a notice of such Triggering Event Offer to each Holder or otherwise give notice in accordance with the Applicable Procedures, with a copy to the Trustee, stating:

(i) that a Triggering Event Offer is being made pursuant to this Section 5.06, including a description of the transaction or transactions that constitute the Triggering Event, and that all Securities properly tendered pursuant to such Triggering Event Offer will be accepted for purchase by the Company at a purchase price in cash equal to 101% of the aggregate principal amount of such Securities plus accrued and unpaid interest, if any, on such Securities to the date of purchase (subject to the right of Holders of record on the relevant Record Date to receive interest due on the relevant Interest Payment Date);



(ii) the purchase date (which shall be no earlier than 30 days and no later than 60 days from the date such notice is sent) (the “Triggering Event Payment Date”);

(iii) that the Securities of any series must be tendered in amounts of US\$2,000 or multiples of US\$1,000 in excess thereof (or such other denominations in which such Securities are issuable), and any Security not properly tendered will remain outstanding and continue to accrue interest;

(iv) that, unless the Company defaults in the payment of the Triggering Event Payment, any Security accepted for payment pursuant to the Triggering Event Offer will cease to accrue interest on and after the Triggering Event Payment Date;

(v) that Holders electing to have any Securities purchased pursuant to a Triggering Event Offer will be required to surrender such Securities, with the form entitled “Option of Holder to Elect Purchase” on the reverse of such Securities completed, to the Paying Agent specified in the notice at the address specified in the notice prior to the close of business on the third Business Day preceding the Triggering Event Payment Date;

(vi) that Holders shall be entitled to withdraw their tendered Securities and their election to require the Company to purchase such Securities; provided that the Paying Agent receives at the address specified in the notice, not later than the close of business on the 30th day following the date of the Triggering Event notice, a telegram, facsimile transmission or letter setting forth the name of the Holder of the Securities, the principal amount of Securities tendered for purchase, and a statement that such Holder is withdrawing its tendered Securities and its election to have such Securities purchased;

(vii) that if a Holder is tendering less than all of its Securities, such Holder will be issued new Securities equal in principal amount to the unpurchased portion of the Securities surrendered (the unpurchased portion of the Securities must be equal to US\$2,000 or an integral multiple of US\$1,000 in excess thereof (or such other denominations in which such Securities are issuable)); and

(viii) the other instructions, as determined by the Company consistent with this Section 5.06, that a Holder must follow.

The notice, if sent in a manner herein provided, shall be conclusively presumed to have been given, whether or not the Holder receives such notice. If (A) the notice is sent in a manner herein provided and (B) any Holder fails to receive such notice or a Holder receives such notice but it is defective, such Holder’s failure to receive such notice or such defect shall not affect the validity of the proceedings for the purchase of the Securities as to all other Holders that properly received such notice without defect.

(b) On the Triggering Event Payment Date, the Company will, to the extent lawful:

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(i) accept for payment all Securities or portions of Securities (of US\$2,000 or integral multiples of US\$1,000 in excess thereof or such other denominations for which such securities are issuable) properly tendered pursuant to the Triggering Event Offer;

(ii) deposit with the Paying Agent, one Business Day prior to the Triggering Event Payment Date, an amount of cash in U.S. Dollars equal to the Triggering Event Payment in respect of all Securities or portions of Securities properly tendered at least three Business Days prior to the Triggering Event Payment Date; and

(iii) deliver or cause to be delivered to the Paying Agent for cancellation the Securities properly accepted together with an Officer’s Certificate stating the aggregate principal amount of Securities or portions of Securities being purchased by the Company in accordance with the terms of this Section 5.06.

(c) The Paying Agent shall promptly send, to each Holder who properly tendered Securities, the purchase price for such Securities properly tendered, and the Trustee shall promptly authenticate and send (or cause to be transferred by book-entry) to each such Holder a new Security equal in principal amount equal to any unpurchased portion of the Securities surrendered, if any; provided that each new Security will be in a principal amount of US\$2,000 or a multiple of US\$1,000 in excess thereof (or such other denominations in which such Securities are issuable) (or, if less, the remaining principal amount thereof).

(d) If the Triggering Event Payment Date is on or after the relevant Record Date and on or before the related Interest Payment Date, any accrued and unpaid interest, if any, to the Triggering Event Payment Date shall be paid on such Interest Payment Date to the Person in whose name a Security is registered at the close of business on such Record Date.

(e) The Company will not be required to make a Triggering Event Offer upon a Triggering Event if a third party makes such an offer in the manner, at the times and otherwise in compliance with the requirements for an offer made by the Company and such third party purchases all Securities properly tendered and not withdrawn under its offer. In the event that such third party terminates or defaults its offer, the Company will be required to make a Triggering Event Offer treating the date of such termination or default as though it were the date of the Triggering Event.

(f) The Company shall comply with the requirements of Rule 14e-1 under the Exchange Act, to the extent applicable, and any other securities laws and regulations thereunder to the extent those laws and regulations are applicable in connection with the repurchase of the Securities as a result of a Triggering Event. To the extent that the provision of any such securities laws or regulations conflicts with the Triggering Event Offer provisions of the Securities, the Company will comply with those securities laws and regulations and will not be deemed to have breached its obligations under the Triggering Event Offer provisions of the Securities by virtue of any such conflict.

#### Section 5.07 Additional Amounts.

(a) All payments of principal, premium, if any, and interest made by the Company in respect of any Security shall be made without withholding or deduction for, or on account of, any present or future taxes, duties, assessments or governmental charges of whatever nature (collectively, “Taxes”) imposed or

levied by or within the Cayman Islands or the PRC (in each case, including any political subdivision or any authority therein or thereof having power to tax) (each, a “Relevant Jurisdiction”), unless such withholding or deduction of such Taxes is required by law. If the Company is required to make such withholding or deduction, the Company shall pay such additional amounts (“Additional Amounts”) as will result in receipt by each Holder of Securities of such amounts as would have been received by such Holder had no such withholding or deduction of such Taxes been required, except that no such Additional Amounts shall be payable:

(i) in respect of any such Taxes that would not have been imposed, deducted or withheld but for the existence of any connection (whether present or former) between the Holder or beneficial owner of a Security and the Relevant Jurisdiction other than merely holding such Security or receiving principal, premium, if any, or interest, in respect thereof (including such Holder or beneficial owner being or having been a national, domiciliary or resident of such Relevant Jurisdiction or treated as a resident thereof or being or having been physically present or engaged in a trade or business therein or having or having had a permanent establishment therein);

(ii) in respect of any Security presented for payment (where presentation is required) more than 30 days after the relevant date, except to the extent that the Holder thereof would have been entitled to such Additional Amounts on presenting the same for payment on the last day of such 30-day period. For this purpose, the “relevant date” in relation to any Security means the later of (a) the due date for such payment or (b) the date such payment was made or duly provided for;

(iii) in respect of any Taxes that would not have been imposed, deducted or withheld but for a failure of the Holder or beneficial owner of a Security to comply with a timely request by the Company addressed to the Holder or beneficial owner to provide information concerning such Holder’s or beneficial owner’s nationality, residence, identity or connection with any Relevant Jurisdiction, if and to the extent that due and timely compliance with such request is required under the tax laws of such jurisdiction in order to reduce or eliminate any withholding or deduction as to which Additional Amounts would have otherwise been payable to such Holder;

(iv) in respect of any Taxes imposed as a result of a Security being presented for payment (where presentation is required) in the Relevant Jurisdiction, unless such Security could not have been presented for payment elsewhere;

(v) in respect of any estate, inheritance, gift, sale, use, value added, excise, transfer, personal property, wealth, interest equalization or similar Taxes (other than any value added Taxes imposed by the PRC or any political subdivision thereof if the Company were to be deemed a PRC tax resident);

(vi) to any Holder of a Security that is a fiduciary, partnership or person other than the sole beneficial owner of any payment to the extent that such payment would be required by the laws of the Relevant Jurisdiction to be included in the income, for tax purposes, of a beneficiary or settlor with respect to the fiduciary, or a member of that partnership or a beneficial owner who would not have been entitled to such Additional Amounts had that beneficiary, settlor, partner or beneficial owner been the Holder thereof;

(vii) [Reserved]

(viii) with respect to any withholding or deduction that is imposed in connection with Sections 1471-1474 of the Code and U.S. Treasury Regulations thereunder (“FATCA”), any intergovernmental agreement between the United States and any other jurisdiction implementing or relating to FATCA or any non-U.S. law, regulation or guidance enacted or issued with respect thereto;

(ix) in respect of any such Taxes payable otherwise than by deduction or withholding from payments under or with respect to any Security; or

(x) in respect of any combination of Taxes referred to in the preceding clauses (i) through (ix) above.

(b) In the event that any withholding or deduction for or on account of any Taxes is required and Additional Amounts are payable with respect thereto, at least 30 days prior to each date of payment of principal of, premium, if any, or interest, on the Securities, the Company shall furnish to the Trustee and the Paying Agent, if other than the Trustee, an Officer’s Certificate specifying the amount required to be withheld or deducted on such payments to Holders, certifying that the Company shall pay such amounts required to be withheld to the appropriate governmental authority and certifying to the fact that the Additional Amounts will be payable and the amounts so payable to each Holder, and that the Company will pay to the Trustee or such Paying Agent the Additional Amounts required to be paid; provided that no such Officer’s Certificate will be required prior to any date of payment of principal of, premium, if any, or interest, on such Securities if there has been no change with respect to the matters set forth in a prior Officer’s Certificate. The Trustee and each Paying Agent may rely on the fact that any Officer’s Certificate contemplated by this Section 5.07(b) has not been furnished as evidence of the fact that no withholding or deduction for or on account of any Taxes is required. The Company covenants to indemnify the Trustee and any Paying Agent for and to hold them harmless against any loss or liability incurred without fraud, gross negligence or willful misconduct on their part arising out of or in connection with actions taken or omitted by any of them in reliance on any such Officer’s Certificate furnished pursuant to this Section 5.07(b) or on the fact that any Officer’s Certificate contemplated by this Section 5.07(b) has not been furnished.

(c) Whenever in this Indenture there is mentioned, in any context, the payment of principal, premium, if any, or interest, in respect of any Security, such mention shall be deemed to include the payment of Additional Amounts provided for in this Indenture, to the extent that, in such context, Additional Amounts are, were or would be payable in respect thereof pursuant to this Indenture.

(d) Sections 5.07(a), (b) and (c) shall apply in the same manner with respect to the jurisdiction in which any successor Person to the Company is organized or resident for tax purposes or any authority therein or thereof having the power to tax (a “Successor Jurisdiction”), substituting such Successor Jurisdiction for the Relevant Jurisdiction.

(e) The obligation of the Company to make payments of Additional Amounts under this Section 5.07 shall survive any termination, defeasance or discharge of this Indenture.

Section 5.08 Payment for Consent. The Company will not, and will not permit any of its Controlled Entities to, directly or indirectly, pay or cause to be paid any consideration to or for the benefit of any Holder for or as an inducement to any consent, waiver or amendment of any of the terms or provisions of this Indenture or any series of the Securities unless such consideration is offered to be paid and is paid to all Holders of such series of Securities as may be affected thereby that consent, waive or agree to amend in the time frame set forth in the solicitation documents relating to such consent, waiver or amendment

Section 5.09 [Reserved]

Section 5.10 Compliance Certificate. The Company shall furnish to the Trustee (a) annually, within 120 days after the end of each fiscal year of the Company and, (b) upon written request by the Trustee, within 14 days of such request, a brief certificate from the principal executive officer, principal financial officer, principal accounting officer or treasurer as to his or her knowledge of the Company’s compliance with all conditions and covenants under this Indenture (which compliance shall be determined without regard to any period of grace or requirement of notice provided under this Indenture), specifying if any Default has occurred and, in the event that any Default has occurred, specifying each such Default and the nature and status thereof of which such person may have knowledge.

Section 5.11 Conditional Waiver by Holders of Securities. Except as otherwise specified or contemplated by Section 3.01 for Securities of such series, anything in this Indenture to the contrary notwithstanding, the Company may fail or omit in any particular instance to comply with any covenant or condition set forth herein with respect to any series of Securities if the Company shall have obtained and filed with the Trustee, prior to the time of such failure or omission, evidence (as provided in Article VII) of the consent of the Holders of a majority in aggregate principal amount (or such other number of Holders as may be required by Section 13.02) of the Securities of such series affected by such waiver and at the time Outstanding, either waiving such compliance in such instance or generally waiving compliance with such covenant or condition, but no such waiver shall extend to or affect such covenant or condition except to the extent so expressly waived, or impair any right consequent thereon and, until such waiver shall have become effective, the obligations of the Company and the duties of the Trustee in respect of any such covenant or condition shall remain in full force and effect.

Section 5.12 Statement by Officers as to Default. The Company shall deliver to the Trustee promptly and in any event within 30 days after the Company becomes aware of the occurrence of any Event of Default or an event which, with the giving of notice or the lapse of time or both, would constitute an Event of Default, an Officer’s Certificate setting forth the details of such Event of Default or Default and the action which the Company proposes to take with respect thereto.

## ARTICLE VI

### REMEDIES OF TRUSTEE AND SECURITYHOLDERS

Section 6.01 Events of Default. Except where otherwise indicated by the context or where the term is otherwise defined for a specific purpose, the term “Event of Default” as used in this Indenture with respect to Securities of any series shall mean one of the following described events unless it is either inapplicable to a particular series or it is specifically deleted or modified in the manner contemplated in Section 3.01:

- (a) the Company fails to pay principal or premium, if any, in respect of a Security of such series by the due date for such payment (whether at Stated Maturity or upon repurchase, acceleration, redemption or otherwise);
- (b) the Company fails to pay interest on a Security of such series within 30 days after the due date for such payment;
- (c) the Company defaults in the performance of or breaches its obligations under Section 5.04;
- (d) the Company, subject to the provisions of Section 5.11, defaults in the performance of or breaches any covenant or agreement in this Indenture or under the Securities of such series (other than a default specified in clause (a), (b) or (c) above) and such default or breach continues for a period of 30 consecutive days after written notice by the Trustee or the Holders of 25% or more in aggregate principal amount of the Securities of such series then Outstanding;
- (e) the entry by a court having jurisdiction in the premises of (i) a decree or order for relief in respect of the Company or any Principal Controlled Entity of the Company in an involuntary case or proceeding under any applicable bankruptcy, insolvency or other similar law or (ii) a decree or order adjudging the Company or any Principal Controlled Entity of the Company bankrupt or insolvent, or approving as final and nonappealable a petition seeking reorganization, arrangement, adjustment, or composition of or in respect of the Company or any Principal Controlled Entity of the Company under any applicable bankruptcy, insolvency or other similar law, or appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator, or other similar official of the Company or any Principal Controlled Entity of the Company or of any substantial part of its or their respective property, or ordering the winding up or liquidation of their respective affairs (or any similar relief granted under any foreign laws), and in any such case the continuance of any such decree or order for relief or any such other decree or order unstayed and in effect for a period of 90 consecutive days;
- (f) the commencement by the Company or any Principal Controlled Entity of the Company of a voluntary case or proceeding under any applicable federal, state or foreign bankruptcy, insolvency or other similar law or of any other case or proceeding to be adjudicated bankrupt or insolvent, or the consent by the Company or any Principal Controlled Entity to the entry of a decree or order for relief in respect of the Company or any Principal Controlled Entity of the Company in an involuntary case or proceeding under any applicable bankruptcy, insolvency or other similar law or the commencement of any bankruptcy or insolvency case or proceeding against the Company or any Principal Controlled Entity, or the filing by the Company or any Principal Controlled Entity of a petition or answer or consent seeking reorganization or relief with respect to the Company or any Principal Controlled Entity of the Company under any applicable bankruptcy, insolvency or other similar law, or the consent by the Company or any Principal Controlled Entity to the filing of such petition or to the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator, or other similar official of the Company or any Principal Controlled Entity of the Company or of any substantial part of its or their respective property pursuant to any such law, or the making by the Company or any Principal Controlled Entity of the Company of a general assignment for the benefit of creditors in respect of any indebtedness as a result of an inability to pay such indebtedness as it becomes due, or the admission by the Company or any Principal Controlled Entity of the Company in writing of the inability of the Company to pay its debts generally as they become due, or the taking of corporate action by the Company or any Principal Controlled Entity of the Company that resolves to commence any such action;

(g) the Securities of such series or this Indenture is or becomes or is claimed by the Company to be unenforceable, invalid or ceases to be in full force and effect otherwise than is permitted by this Indenture; or

(h) the occurrence of any other Event of Default with respect to Securities of such series as provided in Section 3.01;

provided, however, that a Default under Section 6.01(d) above will not constitute an Event of Default until the Trustee or the Holders of 25% or more in aggregate principal amount of the Securities of such series then Outstanding provide written notice to the Company of the Default and the Company does not cure such Default within the time specified in Section 6.01(d) above after receipt of such written notice. In the case of such written notice given to the Company by the Holders, the Company will provide a copy of such written notice to the Trustee.

Section 6.02 Acceleration; Rescission and Annulment

(a) Except as otherwise provided as contemplated by Section 3.01 with respect to any series of Securities, if any one or more of the above-described Events of Default (other than an Event of Default specified in Section 6.01(e) or 6.01(f)) shall occur and be continuing with respect to Securities any series at the time Outstanding, then, and in each and every such case, during the continuance of any such Event of Default, the Trustee or the Holders of not less than 25% in aggregate principal amount of the Securities of such series then Outstanding may, and the Trustee upon written directions of holders of at least 25% in aggregate principal amount of the Securities of such Series outstanding shall (subject to being indemnified secured and/or pre-funded to its satisfaction), declare the unpaid principal (or, if the Securities of that series are Original Issue Discount Securities, such portion of the unpaid principal amount as may be specified in the terms of that series) of and accrued but unpaid interest, if any, on (and any Additional Amount payable in respect of) all the Securities of such series then Outstanding to be due and payable by a notice in writing to the Company (and to the Trustee if given by Holders), and upon receipt of such notice, such unpaid principal amount and accrued but unpaid interest, if any, shall become immediately due and payable. If an Event of Default specified in Section 6.01(e) or 6.01(f) occurs and is continuing, then in every such case, the unpaid principal amount of all of the Securities of that series then Outstanding and all accrued and unpaid interest, if any, thereon shall automatically, and without any declaration or any other action on the part of the Trustee or any Holder, become due and payable immediately. Upon payment of such amounts in the Currency in which such Securities are denominated (subject to Section 3.11 and except as otherwise provided pursuant to Section 3.01), all obligations of the Company in respect of the payment of principal of and interest on the Securities of such series shall terminate.

(b) At any time after such a declaration of acceleration with respect to the Securities of any series has been made and before a judgment or decree for payment of the money due has been obtained by the Trustee as hereinafter provided in this Article VI, the Holders of at least a majority in aggregate principal amount of the Securities of such series at the time Outstanding may, subject to Sections 6.06 and 13.02, waive all past Defaults and rescind and annul such acceleration if:

(i) the rescission of the acceleration with respect to the Securities of such series would not conflict with any judgment or decree of a court of competent jurisdiction; and

(ii) all Events of Default with respect to the Securities of such series, other than the non-payment of principal, premium, if any, or interest, on the Securities of such series that became due solely because of such acceleration, have been cured or waived as provided in Section 6.06.

(c) No rescission as provided in this Section 6.02 shall affect any subsequent default or impair any right consequent thereon.

(d) For all purposes under this Indenture, if a portion of the principal of any Original Issue Discount Securities shall have been accelerated and declared due and payable pursuant to the provisions hereof, then, from and after such declaration, unless such declaration has been rescinded and annulled, the principal amount of such Original Issue Discount Securities shall be deemed, for all purposes hereunder, to be such portion of the principal thereof as shall be due and payable as a result of such acceleration, and payment of such portion of the principal thereof as shall be due and payable as a result of such acceleration, together with interest, if any, thereon and all other amounts owing thereunder, shall constitute payment in full of such Original Issue Discount Securities.

Section 6.03 Other Remedies. If the Company shall fail for a period of 30 days to pay any installment of interest on the Securities of any series or shall fail to pay the principal of and premium, if any, on any of the Securities of such series when and as the same shall become due and payable, whether at Maturity, or by call for redemption, by declaration as authorized by this Indenture, or otherwise, then, upon demand of the Trustee, the Company shall pay to the Paying Agent, for the benefit of the Holders of Securities of such series then Outstanding, the whole amount which then shall have become due and payable on all the Securities of such series, with interest on the overdue principal and premium, if any, and (so far as the same may be legally enforceable) on the overdue installments of interest at the rate borne by the Securities of such series, and all amounts owing the Trustee and any predecessor trustee hereunder under Section 10.01(a).



In case the Company shall fail forthwith to pay such amounts upon such demand, the Trustee, in its own name and as trustee of an express trust, shall be entitled and empowered to institute any action or proceeding, judicial or otherwise for the collection of the sums so due and unpaid, and may prosecute any such action or proceeding to judgment or final decree, and may enforce any such judgment or final decree against the Company or any other obligor upon the Securities of such series, and collect the moneys adjudged or decreed to be payable out of the property of the Company or any other obligor upon the Securities of such series, wherever situated, in the manner provided by law. Every recovery of judgment in any such action or other proceeding, subject to the payment to the Trustee of all amounts owing the Trustee and any predecessor trustee hereunder under Section 10.01(a), shall be for the ratable benefit of the Holders of such series of Securities which shall be the subject of such action or proceeding. All rights of action upon or under any of the Securities or this Indenture may be enforced by the Trustee without the possession of any of the Securities and without the production of any thereof at any trial or any proceeding relative thereto.

Section 6.04 Trustee as Attorney-in-Fact. The Trustee is hereby appointed, and each and every Holder of the Securities, by receiving and holding the same, shall be conclusively deemed to have appointed the Trustee, the true and lawful attorney-in-fact of such Holder, with authority to make or file (whether or not the Company shall be in Default in respect of the payment of the principal of, premium, if any, or interest, on, any of the Securities), in its own name and as trustee of an express trust or otherwise as it shall deem advisable, in any receivership, insolvency, liquidation, bankruptcy, reorganization or other judicial proceeding relative to the Company or any other obligor upon the Securities or to their respective creditors or property, any and all claims, proofs of claim, proofs of debt, petitions, consents, other papers and documents and amendments of any thereof, as may be necessary or advisable in order to have the claims of the Trustee and any predecessor trustee hereunder and of the Holders of the Securities allowed in any such proceeding and to collect and receive any moneys or other property payable or deliverable on any such claim, and to execute and deliver any and all other papers and documents and to do and perform any and all other acts and things, as it may deem necessary or advisable in order to enforce in any such proceeding any of the claims of the Trustee and any predecessor trustee hereunder and of any of such Holders in respect of any of the Securities; and any receiver, assignee, trustee, custodian or debtor in any such proceeding is hereby authorized, and each and every Holder of the Securities, by receiving and holding the same, shall be conclusively deemed to have authorized any such receiver, assignee, trustee, custodian or debtor, to make any such payment or delivery only to or on the order of the Trustee, and to pay to the Trustee any amount due it and any predecessor trustee hereunder under Section 10.01(a); provided, however, that nothing herein contained shall be deemed to authorize or empower the Trustee to consent to or accept or adopt, on behalf of any Holder of Securities, any plan of reorganization or readjustment affecting the Securities or the rights of any Holder thereof, or to authorize or empower the Trustee to vote in respect of the claim of any Holder of any Securities in any such proceeding. In no event shall the foregoing attorney-in-fact authorization be construed as imposing any duty or obligation on the Trustee.

Section 6.05 Priorities. Any moneys or properties collected by the Trustee, or, after an Event of Default, any moneys or other property distributable in respect of the Company's obligations under this Indenture, in either case with respect to a series of Securities under this Article VI shall be applied in the following order, at the date or dates fixed by the Trustee for the distribution of such moneys or properties and, in the case of the distribution of such moneys or properties on account of the Securities of any series, upon presentation of the Securities of such series, and stamping thereon the payment, if only partially paid, and upon surrender thereof, if fully paid:

First: To the payment of all amounts due to the Trustee, any predecessor trustee, the Paying Agent, the transfer agent and the Registrar under Section 10.01(a) and the properly incurred expenses and disbursements of their agents, delegates, attorneys and counsel.

Second: In case the principal of the Outstanding Securities of such series shall not have become due and be unpaid, to the payment of interest ratably on the Securities of such series, in the chronological order of the Stated Maturity of the installments of such interest, with interest (to the extent that such interest has been collected by the Trustee) upon the overdue installments of interest at the rate borne by such Securities, such payments to be made ratably to the Persons entitled thereto.

Third: In case the principal of the Outstanding Securities of such series shall have become due, by declaration or otherwise, to the payment of the whole amount then owing and unpaid upon the Securities of such series for principal and premium, if any, and interest with interest on the overdue principal and premium, if any, and (to the extent that such interest has been collected by the Trustee) upon overdue installments of interest at the rate borne by the Securities of such series, and in case such moneys shall be insufficient to pay in full the whole amounts so due and unpaid upon the Securities of such series, then to the payment of such principal and premium, if any, and interest without preference or priority of principal and premium, if any, over interest, or of interest over principal and premium, if any, or of any installment of interest over any other installment of interest, or of any Security of such series over any other Security of such series, ratably to the aggregate of such principal and premium, if any, and accrued and unpaid interest, if any.

Fourth: Any surplus then remaining shall be paid to the Company, its successors or assigns, or to whomsoever may be determined by a court of competent jurisdiction to be so entitled.

Section 6.06 Control by Securityholders; Waiver of Past Defaults. The Holders of not less than a majority in principal amount of the Securities of any series at the time Outstanding may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee hereunder, or of exercising any trust or power hereby conferred upon the Trustee with respect to the Securities of such series; provided, however, that, subject to the provisions of Section 10.02, the Trustee shall have the right to decline to follow any such direction if the Trustee determines that the action so directed may not lawfully be taken or would involve the Trustee in personal liability. The Holders of not less than a majority in aggregate principal amount of such series of Securities at the time Outstanding may on behalf of all Holders of the Securities of such series waive any existing or past Default or Event of Default and its consequences hereunder, except a continuing Default or Event of Default (i) in the payment of principal of, premium, if any, or interest, on (or Additional Amount payable in respect of), the Securities of such series then Outstanding, in which event the consent of all Holders of the Securities of such series then Outstanding affected thereby is required, or (ii) in respect of a covenant or provision which under Section 13.02 cannot be modified or amended without the consent of the Holder of each Security of such series then Outstanding affected thereby. Upon any such waiver, the Company, the Trustee and the Holders of the Securities of such series shall be restored to their former positions and rights hereunder, respectively; provided that no such waiver shall extend to any subsequent or other Default or Event of Default or impair any right consequent thereon. Whenever any Default or Event of Default hereunder shall have been waived as permitted by this Section 6.06, said Default or Event of Default shall for all purposes of the Securities of such series and this Indenture be deemed to have been cured and to be not continuing.

Section 6.07 Limitation on Suits. No Holder of any Security of any series shall have any right to institute any proceeding, judicial or otherwise, for the execution of any trust hereunder or for the appointment of a receiver or for any other remedy hereunder, in each case with respect to an Event of Default with respect to such series of Securities, unless (i) such Holder previously shall have given to the Trustee written notice of a continuing Events of Default herein specified with respect to such series of Securities, (ii) the Holders of not less than 25% in aggregate principal amount of the Securities of such series then Outstanding shall have requested the Trustee in writing to take action in respect of the matter complained of, (iii) there shall have been offered to the Trustee pre-funding, security and/or indemnity satisfactory to it against the costs, expenses and liabilities to be incurred therein or thereby, and (iv) the Trustee, for 60 days after receipt of such notification, request and offer of security, pre-funding and/or indemnity, shall have failed to institute any such proceeding and have not received from the Holders of a majority in aggregate principal amount of the Securities of such series then Outstanding a direction inconsistent with such request; and such notification, request and offer of security, pre-funding and/or indemnity are hereby declared in every such case to be conditions precedent to any such proceeding by any Holder of any Security of such series; it being understood and intended that no one or more of the Holders of Securities of such series shall have any right in any manner whatsoever by his, her, its or their action to enforce any right hereunder, except in the manner herein provided, and that every proceeding, judicial or otherwise, shall be instituted, had and maintained in the manner herein provided and for the equal benefit of all Holders of the Outstanding Securities of such series; provided, however, that nothing in this Indenture or in the Securities of such series shall affect or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of, premium, if any, and interest on, the Securities of such series to the respective Holders of such Securities at the respective due dates in such Securities stated, or affect or impair the right, which is also absolute and unconditional, of such Holders to institute suit to enforce the payment thereof.

Section 6.08 Undertaking for Costs. All parties to this Indenture and each Holder of any Security, by such Holder's acceptance thereof, shall be deemed to have agreed that any court may in its discretion require, in any action, suit or proceeding for the enforcement of any right or remedy under this Indenture, or in any action, suit or proceeding against the Trustee for any action taken or omitted by it as Trustee, the filing by any party litigant in such action, suit or proceeding of an undertaking to pay the costs of such action, suit or proceeding, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees and expenses, against any party litigant in such action, suit or proceeding, having due regard to the merits and good faith of the claims or defenses made by such party litigant; provided, however, that the provisions of this Section 6.08 shall not apply to any action, suit or proceeding instituted by the Trustee, to any action, suit or proceeding instituted by any one or more Holders of Securities holding in the aggregate more than 10% in principal amount of the Securities of any series Outstanding, or to any action, suit or proceeding instituted by any Holder of Securities of any series for the enforcement of the payment of the principal of, premium, if any, or the interest, on, any of the Securities of such series, on or after the respective due dates expressed in such Securities.



Section 6.09 Remedies Cumulative; Delay or Omission Not Waiver. No remedy herein conferred upon or reserved to the Trustee or to the Holders of Securities of any series is intended to be exclusive of any other remedy or remedies, and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. No delay or omission of the Trustee or of any Holder of the Securities of any series to exercise any right or power accruing upon any Default or Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Default or Event of Default or an acquiescence therein; and every power and remedy given by this Article VI to the Trustee and to the Holders of Securities of any series, respectively, may be exercised from time to time and as often as may be deemed expedient by the Trustee or by the Holders of Securities of such series, as the case may be. In case the Trustee or any Holder of Securities of any series shall have proceeded to enforce any right under this Indenture and the proceedings for the enforcement thereof shall have been discontinued or abandoned because of waiver or for any other reason, or shall have been adjudicated adversely to the Trustee or to such Holder of Securities, then and in every such case, subject to any determinations in such proceedings, the Company, the Trustee and the Holders of the Securities of such series shall severally and respectively be restored to their former positions and rights hereunder, and thereafter all rights, remedies and powers of the Trustee and the Holders of the Securities of such series shall continue as though no such proceedings had been taken, except as to any matters so waived or adjudicated.

## ARTICLE VII

### CONCERNING THE SECURITYHOLDERS

Section 7.01 Evidence of Action of Securityholders. Whenever in this Indenture it is provided that the Holders of a specified percentage or a majority in aggregate principal amount of the Securities or of any series of Securities may take any action (including the making of any demand or request, the giving of any notice, consent or waiver or the taking of any other action), the fact that at the time of taking any such action the Holders of such specified percentage or majority have joined therein may be evidenced by (a) any instrument or any number of instruments of similar tenor executed by Securityholders in person, by an agent or by a proxy appointed in writing, including through an electronic system for tabulating consents operated by the Depository for such series or otherwise (such action becoming effective, except as herein otherwise expressly provided, when such instruments or evidence of electronic consents are delivered to the Trustee and, where it is hereby expressly required, to the Company), or (b) by the record of the Holders of Securities voting in favor thereof at any meeting of Securityholders duly called and held in accordance with the provisions of Article VIII, or (c) by a combination of such instrument or instruments and any such record of such a meeting of Securityholders.

Section 7.02 Proof of Execution or Holding of Securities. Proof of the execution of any instrument by a Securityholder or his, her or its agent or proxy and proof of the holding by any Person of any of the Securities shall be sufficient if made in the following manner:

(a) The fact and date of the execution by any Person of any such instrument may be proved (i) by the certificate of any notary public or other officer in any jurisdiction who, by the laws thereof, has power to take acknowledgments or proof of deeds to be recorded within such jurisdiction, that the Person who signed such instrument did acknowledge before such notary public or other officer the execution thereof, or (ii) by the affidavit of a witness of such execution sworn to before any such notary or other officer. Where such execution is by a Person acting in other than his or her individual capacity, such certificate or affidavit shall also constitute sufficient proof of his or her authority.

(b) The ownership of Securities of any series shall be proved by the Register of such Securities or by a certificate of the Registrar for such series.

(c) The record of any Holders' meeting shall be proved in the manner provided in Section 8.06.

(d) The Trustee may require such additional proof of any matter referred to in this Section 7.02 as it shall deem appropriate or necessary, so long as the request is a reasonable one.

(e) If the Company shall solicit from the Holders of Securities of any series any action, the Company may, at its option, fix in advance a record date for the determination of Holders of Securities entitled to take such action, but the Company shall have no obligation to do so. Any such record date shall be fixed at the Company's discretion; provided that such record date shall not be more than 30 days prior to the first solicitation of any consent or waiver or more than 30 days prior to the date of the most recent list of Holders furnished to the Trustee prior to such solicitation pursuant to Section 312 of the TIA. If such a record date is fixed, such action may be sought or given before or after the record date, but only the Holders of Securities of record at the close of business on such record date shall be deemed to be Holders of Securities for the purpose of determining whether Holders of the requisite proportion of Outstanding Securities of such series have authorized or agreed or consented to such action, and for that purpose the Outstanding Securities of such series shall be computed as of such record date.

Section 7.03 Persons Deemed Owners.

(a) The Company, the Trustee and any agent of the Company or the Trustee may treat the Person in whose name any Security is registered in the Register as the owner of such Security for the purpose of receiving payment of principal of and premium, if any, and (subject to Section 3.08) interest, on, such Security and for all other purposes whatsoever, whether or not such Security be overdue, and neither the Company, the Trustee nor any agent of the Company or the Trustee shall be affected by notice to the contrary. All payments made to any Holder, or upon his, her or its order, shall be valid, and, to the extent of the sum or sums paid, effectual to satisfy and discharge the liability for moneys payable upon such Security.

(b) None of the Company, the Trustee, any Paying Agent or the Registrar shall have any responsibility or liability for any aspect of the records relating to or payments made on account of beneficial ownership interests in a Global Security or for maintaining, supervising or reviewing any records relating to such beneficial ownership interests.

Section 7.04 Effect of Consents. After an amendment, supplement, waiver or other action becomes effective as to any series of Securities, a consent to it by a Holder of such series of Securities is a continuing consent conclusive and binding upon such Holder and every subsequent Holder of the same Securities or portion thereof, and of any Security issued upon the transfer thereof or in exchange therefor or in place thereof, even if notation of the consent is not made on any such Security. An amendment, supplement or waiver becomes effective in accordance with its terms and thereafter binds every Holder.

## ARTICLE VIII

### SECURITYHOLDERS' MEETINGS

Section 8.01 Purposes of Meetings. A meeting of Securityholders of any or all series may be called at any time and from time to time pursuant to the provisions of this Article VIII for any of the following purposes:

- (a) to give any notice to the Company or to the Trustee, or to give any directions to the Trustee, or to consent to the waiving of any Default or Event of Default hereunder and its consequences, or to take any other action authorized to be taken by Securityholders pursuant to any of the provisions of Article VII;
- (b) to remove the Trustee and nominate a successor trustee pursuant to the provisions of Article X;
- (c) to consent to the execution of an Indenture or of indentures supplemental hereto pursuant to the provisions of Section 13.02; or
- (d) to take any other action authorized to be taken by or on behalf of the Holders of any specified aggregate principal amount of the Securities of any one or more or all series, as the case may be, under any other provision of this Indenture or under applicable law.

Section 8.02 Call of Meetings by Trustee. The Trustee may at any time call a meeting of all Securityholders of all series that may be affected by the action proposed to be taken, to take any action specified in Section 8.01, to be held at such time and at such place as the Trustee shall determine. Notice of every meeting of the Securityholders of a series, setting forth the time and the place of such meeting and in general terms the action proposed to be taken at such meeting, shall be mailed to Holders of Securities of such series at their addresses as they shall appear on the Register. Such notice shall be mailed not less than 20 days nor more than 90 days prior to the date fixed for the meeting.

Section 8.03 Call of Meetings by Company or Securityholders. In case at any time the Company or the Holders of at least 25% in aggregate principal amount of the Securities of a series (or of all series, as the case may be) then Outstanding that may be affected by the action proposed to be taken shall have requested the Trustee to call a meeting of Securityholders of such series (or of all series), by written request setting forth in reasonable detail the action proposed to be taken at the meeting, and the Trustee shall not have mailed the notice of such meeting within 20 days after receipt of such request, then the Company or such Securityholders may determine the time and the place for such meeting and may call such meeting to take any action authorized in Section 8.01, by mailing notice thereof as provided in Section 8.02.

Section 8.04 Qualifications for Voting. To be entitled to vote at any meeting of Securityholders, a Person shall (a) be a Holder of one or more Securities affected by the action proposed to be taken at the meeting or (b) be a Person appointed by an instrument in writing as proxy by a Holder of one or more such Securities. The only Persons who shall be entitled to be present or to speak at any meeting of Securityholders shall be the Persons entitled to vote at such meeting and their counsel and any representatives of the Trustee and its counsel and any representatives of the Company and its counsel.

Section 8.05 Regulation of Meetings.

(a) Notwithstanding any other provisions of this Indenture, the Trustee may make such reasonable regulations as it may deem advisable for any meeting of Securityholders, in regard to proof of the holding of Securities and of the appointment of proxies, and in regard to the appointment and duties of inspectors of votes, the submission and examination of proxies, certificates and other evidence of the right to vote, and such other matters concerning the conduct of the meeting as it shall deem fit.

(b) The Trustee shall, by an instrument in writing, appoint a temporary chairman of the meeting, unless the meeting shall have been called by the Company or by Securityholders as provided in Section 8.03, in which case the Company or the Securityholders calling the meeting, as the case may be, shall in like manner appoint a temporary chair. A permanent chairman and a permanent secretary of the meeting shall be elected by majority vote of the meeting.

(c) At any meeting of Securityholders of a series, each Securityholder of such series of such Securityholder's proxy shall be entitled to one vote for each US\$1,000 principal amount of Securities of such series Outstanding held or represented by him or her; provided, however, that no vote shall be cast or counted at any meeting in respect of any Security challenged as not Outstanding and ruled by the chairman of the meeting to be not Outstanding. The chairman of the meeting shall have no right to vote other than by virtue of Securities of such series held by him or her or instruments in writing as aforesaid duly designating him or her as the Person to vote on behalf of other Securityholders. At any meeting of the Securityholders duly called pursuant to the provisions of Section 8.02 or 8.03, the presence of Persons holding or representing Securities in an aggregate principal amount sufficient to take action upon the business for the transaction of which such meeting was called shall be necessary to constitute a quorum, and any such meeting may be adjourned from time to time by a majority of those present, whether or not constituting a quorum, and the meeting may be held as so adjourned without further notice.

Section 8.06 Voting. The vote upon any resolution submitted to any meeting of Securityholders of a series shall be by written ballots on which shall be subscribed the signatures of the Holders of Securities of such series or of their representatives by proxy and the principal amounts of the Securities of such series held or represented by them. The permanent chairman of the meeting shall appoint two inspectors of votes who shall count all votes cast at the meeting for or against any resolution and who shall make and file with the secretary of the meeting their verified written reports in duplicate of all votes cast at the meeting. A record in duplicate of the proceedings of each meeting of Securityholders shall be prepared by the secretary of the meeting and there shall be attached to said record the original reports of the inspectors of votes on any vote by ballot taken thereat and affidavits by one or more Persons having knowledge of the facts setting forth a copy of the notice of the meeting and showing that said notice was mailed as provided in Section 8.02. The record shall show the principal amounts of the Securities voting in favor of or against any resolution. The record shall be signed and verified by the affidavits of the permanent chairman and secretary of the meeting and one of the duplicates shall be delivered to the Company and the other to the Trustee to be preserved by the Trustee.

Any record so signed and verified shall be conclusive evidence of the matters therein stated.

Section 8.07 No Delay of Rights by Meeting. Nothing contained in this Article VIII shall be deemed or construed to authorize or permit, by reason of any call of a meeting of Securityholders of any series or any rights expressly or impliedly conferred hereunder to make such call, any hindrance or delay in the exercise of any right or rights conferred upon or reserved to the Trustee or to the Securityholders of such series under any of the provisions of this Indenture or of the Securities of such series.

## ARTICLE IX

### REPORTS BY THE COMPANY AND THE TRUSTEE AND SECURITYHOLDERS' LISTS

Section 9.01 Reports by Trustee.

(a) So long as any Securities are Outstanding, the Trustee shall transmit to Holders such reports concerning the Trustee and its actions under this Indenture as may be required pursuant to the Trust Indenture Act at the times and in the manner provided therein.

(b) The Trustee shall, at the time of the transmission to the Holders of Securities of any report pursuant to the provisions of this Section 9.01, file a copy of such report with each securities exchange upon which the Securities are listed or each automated quotation system on which the Securities are quoted, if any, and also with the SEC in respect of a Security listed and registered on a national securities exchange or automated quotation system, if any. The Company agrees to notify the Trustee when, as and if the Securities become listed or delisted on any securities exchange or admitted to trading on any automated quotation system and of any delisting thereof.



(c) The Company shall reimburse the Trustee for all reasonable expenses incurred in the preparation and transmission of any report pursuant to the provisions of this Section 9.01 and of Section 9.02.

Section 9.02 Reports by the Company. The Company shall file with the Trustee and the SEC, and transmit to Holders, such information, documents and other reports, and such summaries thereof, as may be required pursuant to the Trust Indenture Act at the times and in the manner provided in the Trust Indenture Act; provided that, any such information, documents or reports required to be filed with the SEC pursuant to Section 13 or 15(d) of the Exchange Act shall be filed with the Trustee within 30 days after the same is filed with the SEC; provided further that the filing of the reports specified in Section 13 or 15(d) of the Exchange Act by an entity that is the direct or indirect parent of the Company shall satisfy the requirements of this Section 9.02 so long as such entity is an obligor or guarantor on the Securities; provided further that the reports of such entity shall not be required to include condensed consolidating financial information for the Company in a footnote to the financial statements of such entity.

Delivery of such reports, information and documents to the Trustee is for informational purposes only and the Trustee's receipt of such shall not constitute actual or constructive notice or knowledge of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officer's Certificates). It is expressly understood that materials transmitted electronically by the Company to the Trustee or filed pursuant to the SEC's EDGAR system (or any successor electronic filing system) shall be deemed filed with the Trustee and transmitted to Holders for purposes of this Section 9.02.

The Trustee shall have no obligation or duty to monitor or inquire as to compliance with the Company's performance of its obligations under this Section 9.02 or with respect to Section 314(a) of the Trust Indenture Act.

Section 9.03 Securityholders' Lists. The Company covenants and agrees that it shall furnish or cause to be furnished to the Trustee:

(a) semi-annually, within 15 days after each Record Date, but in any event not less frequently than semi-annually, a list in such form as the Trustee may reasonably require of the names and addresses of the Holders of Securities to which such Record Date applies, as of such Record Date, and

(b) at such other times as the Trustee may request in writing, within 30 days after receipt by the Company of any such request, a list of similar form and content as of a date not more than 15 days prior to the time such list is furnished;

provided, however, that so long as the Trustee shall be the Registrar, such lists shall not be required to be furnished.

**ARTICLE X**

**CONCERNING THE TRUSTEE**

Section 10.01 Rights of Trustees; Compensation and Indemnity. The Trustee accepts the trusts created by this Indenture upon the terms and conditions hereof, including the following, to all of which the parties hereto and the Holders from time to time of the Securities agree:

(a) The Trustee shall be entitled to such compensation as the Company and the Trustee shall from time to time agree in writing for all services rendered by it hereunder (including in any agent capacity in which it acts). The compensation of the Trustee shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust. The Company shall reimburse the Trustee promptly upon its request for all out-of-pocket expenses, disbursements and advances (including costs of collection) properly incurred or made by the Trustee in accordance with this Indenture (including, without limitation, the properly incurred expenses and disbursements of its agents, delegates, attorneys and counsel), except any such expense, disbursement or advance caused by its own negligence, fraud or willful misconduct.

The Company also agrees to indemnify each of the Trustee and any predecessor Trustee hereunder for, and to hold it harmless against, any and all loss, liability, damage, claim, or expense incurred without its own negligence, fraud or willful misconduct, arising out of or in connection with the acceptance or administration of the trust or trusts hereunder and the performance of its duties (including in any agent capacity in which it acts), as well as the properly incurred costs and expenses of defending itself against any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder, except those caused by its own negligence, fraud or willful misconduct. The Trustee shall, in so far as reasonably practicable, notify the Company promptly of any claim for which it may seek indemnity; provided, however, that the failure to so notify the Company shall not affect the obligations of the Company hereunder to indemnify.

As security for the performance of the obligations of the Company under this Section 10.01(a), the Trustee shall have a lien upon all property and funds held or collected by the Trustee as such, except funds held in trust by the Trustee to pay principal of and interest on any Securities. Notwithstanding any provisions of this Indenture to the contrary, the obligations of the Company to compensate and indemnify the Trustee under this Section 10.01(a) shall survive the resignation or removal of the Trustee, any satisfaction and discharge under Article XI, the payment of any Securities and the termination of this Indenture for any reason. In addition to and without prejudice to its other rights hereunder, when the Trustee incurs expenses or renders services after an Event of Default specified in clause (e) or (f) of Section 6.01 occurs, the expenses and compensation for the services are intended to constitute expenses of administration under the Bankruptcy Code or any applicable state bankruptcy, insolvency or similar laws.

(b) The Trustee may execute any of the trusts or powers hereof and perform any duty hereunder either directly or by its agents, delegates and attorneys and shall not be responsible for any misconduct or negligence on the part of any agent, delegate or attorney appointed with due care by it hereunder.

(c) The Trustee shall not be responsible in any manner whatsoever for the correctness of the recitals herein or in the Securities (except its certificates of authentication thereon) contained, all of which are made solely by the Company; and the Trustee shall not be responsible or accountable in any manner whatsoever for or with respect to the validity or execution or sufficiency of this Indenture or of the Securities (except its certificates of authentication thereon), and the Trustee makes no representation with respect thereto, except that the Trustee represents that it is duly authorized to execute and deliver this Indenture, authenticate the Securities and perform its obligations hereunder and that the statements made by it in a Statement of Eligibility on Form T-1 supplied to the Company are true and accurate, subject to the qualifications set forth therein. The Trustee shall not be accountable for the use or application by the Company of any Securities, or the proceeds of any Securities.

(d) The Trustee may consult with counsel of its selection, and, subject to Section 10.02, the advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by the Trustee hereunder in reliance thereon.

(e) The Trustee, subject to Section 10.02, may rely upon the certificate of the Secretary or one of the Assistant Secretaries of the Company as to the adoption of any Board Resolution or resolution of the stockholders of the Company, and any request, direction, order or demand of the Company mentioned herein shall be sufficiently evidenced by, and whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee may rely upon, an Officer's Certificate of the Company (unless other evidence in respect thereof be herein specifically prescribed).

(f) Subject to Section 10.04, the Trustee or any agent of the Trustee, in its individual or any other capacity, may become the owner or pledgee of Securities and, subject to Sections 310(b) and 311 of the TIA, may otherwise deal with the Company with the same rights it would have had if it were not the Trustee or such agent.

(g) Money held by the Trustee in trust hereunder need not be segregated from other funds except to the extent required by law. The Trustee shall be under no liability for interest on or investment of any money received by it hereunder except as otherwise agreed in writing with the Company.

(h) Any action taken by the Trustee pursuant to any provision hereof at the request or with the consent of any Person who at the time is the Holder of any Security shall be conclusive and binding in respect of such Security upon all future Holders thereof or of any Security or Securities which may be issued for or in lieu thereof in whole or in part, whether or not such Security shall have noted thereon the fact that such request or consent had been made or given.

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(i) The Trustee may conclusively rely and shall be fully protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, approval, bond, debenture or other paper or document (including any document provided electronically) believed by it to be genuine and to have been signed, delivered or presented by the proper party or parties.

(j) The Trustee shall not be under any obligation to exercise any of the rights or powers vested in it by this Indenture at the request, order or direction of any of the Holders of the Securities, pursuant to any provision of this Indenture, unless such Holders of the Securities shall have offered to the Trustee pre-funding, security and/or indemnity satisfactory to it against the costs, expenses and liabilities which may be incurred by it therein or thereby.

(k) The Trustee shall not be liable for any action taken, suffered or omitted to be taken by it in good faith and believed by it to be authorized or within its discretion or within the rights or powers conferred upon it by this Indenture.

(l) The Trustee shall not be deemed to have knowledge or be charged with notice of any Default or Event of Default with respect to any Securities unless a Responsible Officer of the Trustee has actual knowledge by way of written notice thereof or unless the Holders of not less than 25% of the Outstanding Securities notify the Trustee thereof by a written notice to the Trustee that is received by the Trustee at its Corporate Trust Office and such notice references such Securities and this Indenture.

(m) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of Indebtedness or other paper or document; provided, however, that the Trustee, may, but shall not be required to, make further inquiry or investigation into such facts or matters as it may see fit at the expense of the Company and shall incur no liability of any kind by reason of such inquiry or investigation.

(n) The rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be secured, pre-funded and/or indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and to each agent, custodian and other person employed to act hereunder.

(o) In no event shall the Trustee, the Paying Agent, the transfer agent or the Registrar, be responsible or liable for special, indirect, punitive, or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit), whether or not foreseeable and irrespective of whether the Trustee has been advised of the possibility of such loss or damage and regardless of the form of action.

(p) The Trustee may request that the Company deliver an Officer's Certificate setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant to this Indenture, which Officer's Certificate may be signed by any person authorized to sign an Officer's Certificate, including any person specified as so authorized in any such certificate previously delivered and not superseded.

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(q) The permissive right of the Trustee to take or refrain from taking action hereunder shall not be construed as a duty.

(r) The Trustee may refrain from taking any action in any jurisdiction if taking such action in that jurisdiction would, in the reasonable opinion of the Trustee based on written legal advice received from qualified legal counsel in the relevant jurisdiction, be contrary to any law of that jurisdiction or, to the extent applicable, the State of New York. Furthermore, the Trustee may refrain from taking such action if, in the reasonable opinion of the Trustee based on such legal advice, it would otherwise render the Trustee liable to any person in that jurisdiction or the State of New York and there has not been offered to the Trustee pre-funding, security and/or indemnity satisfactory to it against the liabilities to be incurred therein or thereby, or the Trustee would not have the legal capacity to take such action in that jurisdiction by virtue of applicable law in that jurisdiction or the State of New York or by virtue of a written order of any court or other competent authority in that jurisdiction that the Trustee does not have such legal capacity.

(s) The Trustee shall have no obligation or duty to monitor, determine or inquire as to compliance with any of the Company's covenants or obligations contained in this Indenture or with respect to the TIA.

Section 10.02 Duties of Trustee.

(a) If one or more of the Events of Default specified in Section 6.01 with respect to the Securities of any series shall have happened, then, during the continuance thereof, the Trustee shall, with respect to such Securities, exercise such of the rights and powers vested in it by this Indenture, and shall use the same degree of care and skill in its exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(b) Unless and until an Event of Default specified in Section 6.01 with respect to the Securities of any series shall have happened which at the time is continuing,

(i) the Trustee undertakes to perform such duties and only such duties with respect to the Securities of such series as are specifically set out in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee, whose duties and obligations shall be determined solely by the express provisions of this Indenture; and

(ii) the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, in the absence of bad faith on the part of the Trustee, upon certificates and opinions furnished to it pursuant to the express provisions of this Indenture; provided that, in the case of any such certificates or opinions which, by the provisions of this Indenture, are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture (but need not confirm or investigate the accuracy of mathematical calculations or other facts, statements, opinions or conclusions stated therein).

(c) None of the provisions of this Indenture shall be construed as relieving the Trustee from liability for its own negligent action, negligent failure to act, or its own willful misconduct, except that, anything in this Indenture contained to the contrary notwithstanding,

(i) the Trustee shall not be liable to any Holder of Securities or to any other Person for any error of judgment made in good faith by a Responsible Officer of the Trustee, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts;

(ii) the Trustee shall not be liable to any Holder of Securities or to any other Person with respect to any action taken or omitted to be taken by it in good faith, in accordance with the direction of Securityholders given as provided in Section 6.06, relating to the time, method and place of conducting any proceeding for any remedy available to it or exercising any trust or power conferred upon it by this Indenture;

(iii) none of the provisions of this Indenture shall require the Trustee to expend or risk its own funds or otherwise to incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate security, pre-funding and/or indemnity against such risk or liability is not reasonably assured to it; and

(iv) this subsection (c) shall not be construed to limit the effect of subsection (b) of this Section 10.02.

(d) Whether or not therein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section 10.02.

Section 10.03 Notice of Defaults. Within 90 days after the occurrence thereof and if known to the Trustee, the Trustee shall give to the Holders of the Securities of a series notice of each Default or Event of Default with respect to the Securities of such series known to the Trustee, by transmitting such notice to Holders at their addresses as the same shall then appear on the Register, unless such Default shall have been cured or waived before the giving of such notice (the term “Default” being hereby defined to be the events specified in Section 6.01, which are, or after notice or lapse of time or both would become, Events of Default as defined in said Section).

Section 10.04 Eligibility; Disqualification.

(a) The Trustee shall at all times satisfy the requirements of Section 310(a) of the TIA. The Trustee shall have a combined capital and surplus of at least US\$50,000,000 as set forth in its most recent published annual report of condition, and shall have a Corporate Trust Office. If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section 10.04, it shall resign immediately in the manner and with the effect hereinafter specified in this Article X.

(b) The Trustee shall comply with Section 310(b) of the TIA; provided, however, that there shall be excluded from the operation of Section 310(b)(i) of the TIA any indenture or indentures under which other securities or certificates of interest or participation in other securities of the Company are Outstanding if the requirements for such exclusion set forth in Section 310(b)(1) of the TIA are met. If the Trustee has or shall acquire a conflicting interest within the meaning of Section 310(b) of the TIA, the Trustee shall either eliminate such interest or resign, to the extent and in the manner provided by, and subject to the provisions of, the Trust Indenture Act and this Indenture. If Section 310(b) of the TIA is amended any time after the date of this Indenture to change the circumstances under which a Trustee shall be deemed to have a conflicting interest with respect to the Securities of any series or to change any of the definitions in connection therewith, this Section 10.04 shall be automatically amended to incorporate such changes.

Section 10.05 Resignation and Notice; Removal. The Trustee, or any successor to it hereafter appointed, may at any time resign and be discharged of the trusts hereby created with respect to any one or more or all series of Securities by giving to the Company notice in writing. Such resignation shall take effect upon the appointment of a successor Trustee and the acceptance of such appointment by such successor Trustee. Any Trustee hereunder may be removed with respect to any series of Securities at any time by the filing with such Trustee and the delivery to the Company of an instrument or instruments in writing signed by the Holders of a majority in principal amount of the Securities of such series then Outstanding, specifying such removal and the date when it shall become effective.

If at any time:

(1) the Trustee shall fail to comply with the provisions of Section 310(b) of the TIA after written request therefor by the Company or by any Holder who has been a *bona fide* Holder of a Security for at least six months, or

(2) the Trustee shall cease to be eligible under Section 10.04 and shall fail to resign after written request therefor by the Company or by any Holder who has been a *bona fide* Holder of a Security for at least six months, or

(3) the Trustee shall become incapable of acting or shall be adjudged bankrupt or insolvent or a receiver of the Trustee or of its property shall be appointed or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation,

then, in any such case, (i) the Company by written notice to the Trustee may remove the Trustee and appoint a successor Trustee with respect to all Securities, or (ii) subject to Section 315(e) of the TIA, any Securityholder who has been a *bona fide* Holder of a Security for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee with respect to all Securities and the appointment of a successor Trustee or Trustees.

Upon its resignation or removal, any Trustee shall be entitled to the payment of reasonable compensation for the services rendered hereunder by such Trustee and to the payment of all properly incurred expenses incurred hereunder and all moneys then due to it hereunder. The Trustee's rights to indemnification and its lien provided in Section 10.01(a) shall survive its resignation or removal, the satisfaction and discharge of this Indenture and the termination of this Indenture for any reason.

(a) In case at any time the Trustee shall resign, or shall be removed (unless the Trustee shall be removed as provided in Section 10.04 (b), in which event the vacancy shall be filled as provided in Section 10.04(b)), or shall become incapable of acting, or shall be adjudged bankrupt or insolvent, or if a receiver of the Trustee or of its property shall be appointed, or if any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation with respect to the Securities of one or more series, a successor Trustee with respect to the Securities of that or those series (it being understood that any such successor Trustee may be appointed with respect to the Securities of one or more or all of such series and that at any time there shall be only one Trustee with respect to the Securities of any series) may be appointed by the Holders of a majority in aggregate principal amount of the Securities of that or those series then Outstanding, by an instrument or instruments in writing signed in duplicate by such Holders and filed, one original thereof with the Company and the other with the successor Trustee; provided that, until a successor Trustee shall have been so appointed by the Holders of Securities of that or those series as herein authorized, the Company, or, in case all or substantially all the assets of the Company shall be in the possession of one or more custodians or receivers lawfully appointed, or of trustees in bankruptcy or reorganization proceedings (including a trustee or trustees appointed under the provisions of the Bankruptcy Code), or of assignees for the benefit of creditors, such receivers, custodians, trustees or assignees, as the case may be, by an instrument in writing, shall appoint a successor Trustee with respect to the Securities of such series. Subject to the provisions of Sections 10.04 and 10.05, upon the appointment as above provided of a successor Trustee with respect to the Securities of any series, the Trustee with respect to the Securities of such series shall cease to be Trustee hereunder. After any such appointment other than by the Holders of Securities of that or those series, the Person making such appointment shall forthwith cause notice thereof to be mailed to the Holders of Securities of such series at their addresses as the same shall then appear on the Register but any successor Trustee with respect to the Securities of such series so appointed shall, immediately and without further act, be superseded by a successor Trustee appointed by the Holders of Securities of such series in the manner above prescribed, if such appointment be made prior to the expiration of one year from the date of the mailing of such notice by the Company, or by such receivers, trustees or assignees.

(b) If any Trustee with respect to the Securities of one or more series shall resign or be removed and a successor Trustee shall not have been appointed by the Company or by the Holders of the Securities of such series within 30 days of any notice of resignation or removal or, if any successor Trustee so appointed shall not have accepted its appointment within 30 days after such appointment shall have been made, the resigning Trustee at the expense of the Company may appoint a successor Trustee or apply to any court of competent jurisdiction for the appointment of a successor Trustee. If in any other case a successor Trustee shall not be appointed pursuant to the foregoing provisions of this Section 10.06 within three months after such appointment might have been made hereunder, the Holder of any Security of the applicable series or any retiring Trustee at the expense of the Company may apply to any court of competent jurisdiction to appoint a successor Trustee. Such court may thereupon, in any such case, after such notice, if any, as such court may deem proper and prescribe, appoint a successor Trustee.

(c) Any successor Trustee appointed hereunder with respect to the Securities of one or more series shall execute, acknowledge and deliver to its predecessor Trustee and to the Company, or to the receivers, trustees, assignees or court appointing it, as the case may be, an instrument accepting such appointment hereunder, and thereupon such successor Trustee, without any further act, deed or conveyance, shall become vested with all the authority, rights, powers, trusts, immunities, duties and obligations with respect to such series of such predecessor Trustee with like effect as if originally named as Trustee hereunder, and such predecessor Trustee, upon payment of its charges and disbursements then unpaid, shall thereupon become obligated to pay over, and such successor Trustee shall be entitled to receive, all moneys and properties held by such predecessor Trustee as Trustee hereunder, subject nevertheless to its lien provided for in Section 10.01(a). Nevertheless, on the written request of the Company or of the successor Trustee or of the Holders of at least 10% in aggregate principal amount of the Securities of such series then Outstanding, such predecessor Trustee, upon payment of its said charges and disbursements, shall execute and deliver an instrument transferring to such successor Trustee upon the trusts herein expressed all the rights, powers and trusts of such predecessor Trustee and shall assign, transfer and deliver to the successor Trustee all moneys and properties held by such predecessor Trustee, subject nevertheless to its lien provided for in Section 10.01(a); and, upon request of any such successor Trustee and the Company shall make, execute, acknowledge and deliver any and all instruments in writing for more fully and effectually vesting in and confirming to such successor Trustee all such authority, rights, powers, trusts, immunities, duties and obligations. In case of the appointment hereunder of a successor Trustee with respect to the Securities of one or more (but not all) series, then, the predecessor Trustee and each successor Trustee with respect to such Securities shall execute and deliver an indenture supplemental hereto wherein each successor Trustee shall accept such appointment and which shall add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, it being understood that nothing herein or in such supplemental indenture shall constitute such Trustees co-trustees of the same trust and that each such Trustee shall be trustee of a trust or trusts hereunder separate and apart from any trust or trusts hereunder administered by any other such Trustee.

Section 10.07 Successor Trustee by Merger. Any Person into which the Trustee or any successor to it in the trusts created by this Indenture shall be merged or converted, or any Person with which it or any successor to it shall be consolidated, or any Person resulting from any merger, conversion or consolidation to which the Trustee or any such successor to it shall be a party, or any Person to which the Trustee or any successor to it shall sell or otherwise transfer all or substantially all of the corporate trust business of the Trustee, shall be the successor Trustee under this Indenture without the execution or filing of any paper or any further act on the part of any of the parties hereto; provided that such Person shall be otherwise qualified and eligible under this Article X. In case at the time such successor to the Trustee shall succeed to the trusts created by this Indenture with respect to one or more series of Securities, any of such Securities shall have been authenticated but not delivered by the Trustee then in office, any successor to such Trustee may adopt the certificate of authentication of any predecessor Trustee, and deliver such Securities so authenticated with the same effect as if such successor Trustee had itself authenticated such Securities; and in case at that time any of the Securities shall not have been authenticated, any successor to such Trustee may authenticate such Securities either in the name of any predecessor Trustee hereunder or in the name of the successor Trustee; and in all such cases such certificates shall have the full force which it is anywhere in the Securities or in this Indenture provided that the certificate of the Trustee shall have; provided, however, that the right to adopt the certificate of authentication of any predecessor Trustee or authenticate Securities in the name of any predecessor Trustee shall apply only to its successor or successors by merger, conversion or consolidation.



Section 10.08 Right to Rely on Officer's Certificate. Subject to Section 10.02, and subject to the provisions of Section 15.01 with respect to the certificates required thereby, whenever in the administration of the provisions of this Indenture the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of bad faith or willful misconduct on the part of the Trustee, be deemed to be conclusively proved and established by an Officer's Certificate with respect thereto delivered to the Trustee, and such Officer's Certificate, in the absence of bad faith or willful misconduct on the part of the Trustee, shall be full warrant to the Trustee for any action taken, suffered or omitted by it under the provisions of this Indenture upon the faith thereof.

Section 10.09 Appointment of Authenticating Agent. The Trustee may appoint an agent (the "Authenticating Agent") reasonably acceptable to the Company to authenticate the Securities, and the Trustee shall give written notice of such appointment to the Company and all Holders of Securities of the series with respect to which such Authenticating Agent shall serve. Unless limited by the terms of such appointment, any such Authenticating Agent may authenticate Securities whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by the Authenticating Agent. Securities so authenticated shall be entitled to the benefits of this Indenture and shall be valid and obligatory for all purposes as if authenticated by the Trustee hereunder.

Each Authenticating Agent shall at all times be a corporation organized and doing business and in good standing under the laws of the United States, any State thereof or the District of Columbia, authorized under such laws to act as Authenticating Agent, having a combined capital and surplus of not less than US\$50,000,000 and subject to supervision or examination by federal or state authority. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of said supervising or examining authority, then for the purposes of this Article X, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time an Authenticating Agent shall cease to be eligible in accordance with the provisions of this Article X, it shall resign immediately in the manner and with the effect specified in this Article X.

Any Person into which an Authenticating Agent may be merged or converted or with which it may be consolidated, or any Person resulting from any merger, conversion or consolidation to which such Authenticating Agent shall be a party, or any Person succeeding to all or substantially all of the corporate agency or corporate trust business of an Authenticating Agent, shall continue to be an Authenticating Agent, provided such Person shall be otherwise eligible under this Article X, without the execution or filing of any paper or any further act on the part of the Trustee or the Authenticating Agent.

An Authenticating Agent may resign at any time by giving written notice thereof to the Trustee and to the Company. The Trustee may at any time terminate the agency of an Authenticating Agent by giving written notice thereof to such Authenticating Agent and to the Company. Upon receiving such a notice of resignation or upon such a termination, or in case at any time such Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section 10.09, the Trustee may appoint a successor Authenticating Agent which shall be acceptable to the Company and shall give written notice of such appointment to all Holders of Securities of the series with respect to which such Authenticating Agent shall serve. Any successor Authenticating Agent upon acceptance of its appointment hereunder shall become vested with all the rights, powers and duties of its predecessor hereunder, with like effect as if originally named as an Authenticating Agent. No successor Authenticating Agent shall be appointed unless eligible under the provisions of this Section 10.09.

The Company agrees to pay to each Authenticating Agent from time to time reasonable compensation for its services under this Section 10.09.

Section 10.10 Communications by Securityholders with Other Securityholders. Holders of Securities may communicate pursuant to Section 312(b) of the TIA with other Holders with respect to their rights under this Indenture or the Securities. The Company, the Trustee, the Registrar and anyone else shall have the protection of Section 312(c) of the TIA with respect to such communications.

## ARTICLE XI

### SATISFACTION AND DISCHARGE; DEFEASANCE

Section 11.01 Applicability of Article. The provisions of this Article shall be applicable to any series of Securities except as otherwise specified pursuant to Section 3.01 for Securities of such series. Defeasance provisions, if any, for Securities denominated in a Foreign Currency may be specified pursuant to Section 3.01.

Section 11.02 Satisfaction and Discharge of Indenture.

(a) This Indenture, with respect to the Securities of any series (if all series issued under this Indenture are not to be affected), shall cease to be of further effect (except as to any surviving rights of registration of transfer or exchange of such Securities herein expressly provided for and rights to receive payments of principal of, premium, if any, and interest on, such Securities) when:

(i) either:

(A) all Securities of such series that have been authenticated, except (x) lost, stolen or destroyed Securities that have been replaced or paid and (y) Securities for whose payment money has been deposited in trust and thereafter repaid to the Company, have been delivered to the Paying Agent for cancellation; or

(B) all Securities of such series that have not been delivered to the Paying Agent for cancellation have become due and payable by reason of the sending of a notice of redemption or otherwise or will become due and payable within one year and the Company has irrevocably deposited or caused to be deposited with the Trustee as trust funds in trust solely for the benefit of the Holders of such series of Securities, cash in U.S. Dollars, U.S. Government Obligations, or a combination of cash in U.S. Dollars and U.S. Government Obligations, in amounts as will be sufficient (in the case of a deposit not entirely in cash, in the opinion of an internationally recognized investment bank, appraisal firm or firm of independent public accountants), without consideration of any reinvestment of interest, to pay and discharge the entire amount Outstanding on such Securities not delivered to the Paying Agent for cancellation for principal, premium, if any, and accrued interest, to the Stated Maturity or Redemption Date, as the case may be;

(ii) no Default or Event of Default under this Indenture has occurred and is continuing with respect to Securities of such series on the date of the deposit (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit);

(iii) the Company has paid or caused to be paid all sums payable by it under this Indenture with respect to all Securities of such series; and

(iv) the Company has delivered irrevocable instructions to the Trustee under this Indenture to apply the deposited money toward the payment of the Securities of such series at the Stated Maturity or Redemption Date, as the case may be.

(b) The Company must deliver an Officer's Certificate and an opinion of Independent Legal Counsel (which may be subject to customary assumptions and exclusions) to the Trustee stating that all conditions precedent to satisfaction and discharge have been satisfied.

(c) Notwithstanding the satisfaction and discharge of this Indenture, if money shall have been deposited with the Trustee pursuant to subclause (A)(y) of clause (i) of Section 11.02(a), the obligations of the Trustee under Section 11.07 and Section 5.03(e) shall survive such satisfaction and discharge.

#### Section 11.03 Defeasance upon Deposit of Moneys or U.S. Government Obligations.

(a) The Company may, at its option and at any time, elect to have either Section 11.03(b) or Section 11.03(c) applied to all Outstanding Securities of any series upon compliance with the conditions set forth below in this Section 11.03.

(b) Upon the Company's exercise under Section 11.03(a) of the option applicable to this Section 11.03(b), the Company shall, subject to the satisfaction of the conditions set forth in Section 11.03(d), be deemed to have been Discharged from its obligations with respect to all Outstanding Securities of such series on the date such conditions are satisfied ("Legal Defeasance"). For this purpose, "Legal Defeasance" means that the Company shall be deemed to have paid and Discharged the entire Indebtedness represented by the Securities of such series then Outstanding and to have satisfied all of its other obligations under the Securities of such series and this Indenture, except for the following provisions which shall survive until otherwise terminated or discharged hereunder:

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(i) the rights of Holders of the Securities of such series then Outstanding to receive payments in respect of the principal of, or interest or premium on such Securities when such payments are due from the trust referred to in Section 11.03(d);

(ii) the Company's obligations concerning issuing temporary Securities, registration of Securities, mutilated, destroyed, lost or stolen Securities and the maintenance of an office or agency for payment and money for security payments held in trust;

(iii) the rights, powers, trusts, duties and immunities of the Trustee, and the Company's obligations in connection therewith; and

(iv) this Section 11.03(b) and Section 11.03(c) with respect to the Securities of such series.

Following the Company's exercise of its Legal Defeasance option, payment of the Securities of such series may not be accelerated because of an Event of Default. Subject to compliance with this Article XI, the Company may exercise its option under this Section 11.03(b) notwithstanding the prior exercise of its option under Section 11.03(c).

"Discharged" means that the Company shall be deemed to have paid and discharged the entire Indebtedness represented by, and obligations under, the Securities of a series and to have satisfied all the obligations under this Indenture relating to the Securities of such series (and the Trustee, at the expense of the Company, shall execute proper instruments acknowledging the same), except (A) the rights of Holders of Securities of such series to receive, from the trust fund described in clause (i) of 11.03(d), payment of the principal of, premium, if any, or interest, on such Securities when such payments are due, (B) the Company's obligations with respect to Securities of such series under Sections 3.04, 3.06, 3.07, 5.02, 5.03, 11.06 and 11.07 and (C) the rights, powers, trusts, duties and immunities of the Trustee hereunder.

(c) Upon the Company's exercise under Section 11.03(a) of the option applicable to this Section 11.03(c), the Company shall, subject to the satisfaction of the conditions set forth in Section 11.03(d), be released from its obligations under the covenants contained in Section 5.04, Section 5.08 and as provided pursuant to Section 3.01(z), on and after the date the conditions set forth in Section 11.03(d) are satisfied ("Covenant Defeasance"). For this purpose, "Covenant Defeasance" means that, with respect to this Indenture and the Securities of such series then Outstanding, the Company may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document, and such omission to comply shall not constitute a Default or an Event of Default under Section 6.01, but, except as specified above, the remainder of this Indenture and the Securities shall be unaffected thereby. In addition, upon the Company's exercise under Section 11.03(a) of the option applicable to this Section 11.03(c), subject to the satisfaction of the conditions set forth in Section 11.03(d), Sections 6.01(c), and 6.01(d) (only with respect to covenants that are released as a result of such Covenant Defeasance), in each case, shall not constitute Events of Default.



(d) The following shall be the conditions to the exercise of either the Legal Defeasance option under Section 11.03(b) or the Covenant Defeasance option under Section 11.03(c):

(i) the Company must irrevocably deposit with the Trustee, in trust, for the benefit of the Holders of all Securities subject to Legal Defeasance or Covenant Defeasance, cash in U.S. Dollars, U.S. Government Obligations, or a combination of cash in U.S. Dollars and U.S. Government Obligations, in amounts as will be sufficient (in the case of a deposit not entirely in cash, in the opinion of an internationally recognized investment bank, appraisal firm or firm of independent public accountants) to pay the principal of, or interest and premium on such Securities that are then Outstanding on the applicable Stated Maturity or Redemption Date, as the case may be, and the Company must specify whether such Securities are being defeased to maturity or to a particular Redemption Date;

(ii) in the case of Legal Defeasance, the Company must deliver to the Trustee an opinion of Independent Legal Counsel reasonably acceptable to the Trustee confirming that (A) the Company has received from, or there has been published by, the U.S. Internal Revenue Service a ruling or (B) since the date of this Indenture, there has been a change in the applicable federal income tax law, in either case to the effect that, and based thereon such opinion of Independent Legal Counsel will confirm that, the Holders of the Securities of such series then Outstanding will not recognize income, gain or loss for federal income tax purposes as a result of such Legal Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;

(iii) in the case of Covenant Defeasance, the Company must deliver to the Trustee an opinion of Independent Legal Counsel reasonably acceptable to the Trustee confirming that the Holders of the Securities of such series then Outstanding will not recognize income, gain or loss for federal income tax purposes as a result of such Covenant Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;

(iv) no Default or Event of Default with respect to the Securities of such series must have occurred and be continuing on the date of such deposit (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit);

(v) the Company must deliver to the Trustee an Officer's Certificate stating that the deposit was not made by it with the intent of preferring the Holders of Securities over the Company's other creditors with the intent of defeating, hindering, delaying or defrauding its creditors or others; and

(vi) the Company must deliver to the Trustee an Officer's Certificate and an opinion of Independent Legal Counsel, each stating that all conditions precedent relating to the Legal Defeasance or the Covenant Defeasance have been complied with.

Section 11.04 Repayment to Company. The Trustee and any Paying Agent shall promptly pay to the Company (or to its designee) upon Company Order any excess moneys or U.S. Government Obligations held by them at any time, including any such moneys or U.S. Government Obligations held by the Trustee under any escrow trust agreement entered into pursuant to Section 11.06. The provisions of the last paragraph of Section 5.03 shall apply to any moneys or U.S. Government Obligations held by the Trustee or any Paying Agent under this Article that remains unclaimed for two years after the Maturity of any series of Securities for which moneys or U.S. Government Obligations have been deposited pursuant to Section 11.03.

Section 11.05 Indemnity for U.S. Government Obligations. The Company shall pay and shall indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the deposited U.S. Government Obligations or the principal or interest received on such U.S. Government Obligations other than any such tax, fee or charge which by law is for the account of the Holders of the Outstanding Securities being defeased.

Section 11.06 Deposits to Be Held in Escrow. Any deposits with the Trustee referred to in Section 11.03 above shall be irrevocable (except to the extent provided in Sections 11.04 and 11.07) and shall be made under the terms of an escrow trust agreement. As contemplated under this Article XI, if any Outstanding Securities of a series are to be redeemed prior to their Stated Maturity, pursuant to any optional redemption provisions, the applicable escrow trust agreement shall provide therefor and the Company shall make such arrangements as are satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Company.

If Securities of a series with respect to which such deposits are made may be subject to later redemption at the option of the Company, the applicable escrow trust agreement may, at the option of the Company, provide therefor. In the case of an optional redemption in whole or in part, such agreement shall require the Company to deposit with the Trustee on or before the date notice of redemption is given funds sufficient to pay the Redemption Price of the Securities to be redeemed together with all unpaid interest thereon to the Redemption Date. Upon such deposit of funds, the Trustee shall pay or deliver over to the Company as excess funds pursuant to Section 11.04 all funds or obligations then held under such agreement and allocable to the Securities to be redeemed.

Section 11.07 Application of Trust Money.

(a) Neither the Trustee nor any other paying agent shall be required to pay interest on any moneys deposited pursuant to the provisions of this Indenture, except such as it shall agree with the Company in writing to pay thereon. Any moneys so deposited for the payment of the principal of, or premium, if any, or interest, if any, on the Securities of any series and remaining unclaimed for two years after the date of the maturity of the Securities of such series or the date fixed for the redemption of all the Securities of such series at the time Outstanding, as the case may be, shall be applied as provided in Section 5.03(e).

(b) Subject to the provisions of clause (a) above, any moneys or U.S. Government Obligations which at any time shall be deposited by the Company or on its behalf with the Trustee or any other paying agent for the purpose of paying the principal of, premium, if any, and interest on any of the Securities shall be and are hereby assigned, transferred and set over to the Trustee or such other paying agent in trust for the respective Holders of the Securities for the purpose for which such moneys or U.S. Government Obligations shall have been deposited; provided that such moneys or U.S. Government Obligations need not be segregated from other funds except to the extent required by law.

Section 11.08 Deposits of Non-U.S. Currencies. Notwithstanding the foregoing provisions of this Article, if the Securities of any series are payable in a Currency other than U.S. Dollars, the Currency or the nature of the government obligations to be deposited with the Trustee under the foregoing provisions of this Article XI shall be as set forth in the Officer's Certificate or established in the supplemental indenture under which the Securities of such series are issued.

## ARTICLE XII

### IMMUNITY OF CERTAIN PERSONS

Section 12.01 No Personal Liability. No recourse shall be had for the payment of the principal of, or the premium, if any, or interest, on, any Security or for any claim based thereon or otherwise in respect thereof or of the Indebtedness represented thereby, or upon any obligation, covenant or agreement of this Indenture, against any incorporator, stockholder, officer, employee or director, as such, past, present or future, of the Company or of any successor thereto, either directly or through the Company or any successor thereto, whether by virtue of any constitutional provision, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise; it being expressly agreed and understood that this Indenture and the Securities are solely corporate obligations, and that no personal liability whatsoever shall attach to, or be incurred by, any incorporator, stockholder, officer, employee or director, as such, past, present or future, of the Company or of any successor thereto, either directly or through the Company or any successor corporation, because of the incurring of the Indebtedness hereby authorized or under or by reason of any of the obligations, covenants, promises or agreements contained in this Indenture or in any of the Securities, or to be implied herefrom or therefrom, and that all liability, if any, of that character against every such incorporator, stockholder, officer, employee and director is, by the acceptance of the Securities and as a condition of, and as part of the consideration for, the execution of this Indenture and the issue of the Securities expressly waived and released.

## ARTICLE XIII

### SUPPLEMENTAL INDENTURES

Section 13.01 Without Consent of Securityholders. Except as otherwise provided as contemplated by Section 3.01 with respect to any series of Securities, the Company and the Trustee, at any time and from time to time, may enter into one or more indentures supplemental hereto, in form satisfactory to the Trustee, for any one or more of or all the following purposes:

- (a) to cure any ambiguity, omission, defect or inconsistency contained herein or in any supplemental indenture; provided, however, that such amendment does not materially and adversely affect the rights of Holders;
- (b) to evidence the succession of another corporation, partnership, trust or other entity to the Company in accordance with Section 5.04, or successive successions, and the assumption by such successor of the covenants and obligations of the Company contained in the Securities of one or more series and in this Indenture or any supplemental indenture;
- (c) to comply with the rules of any applicable Depository;
- (d) to secure any series of Securities;
- (e) to add to the covenants and agreements of the Company, to be observed thereafter and during the period, if any, in such supplemental indenture or indentures expressed, and to add Events of Default, in each case for the protection or benefit of the Holders of all or any series of the Securities (and if such covenants, agreements and Events of Default are to be for the benefit of fewer than all series of Securities, stating that such covenants, agreements and Events of Default are expressly being included for the benefit of such series as shall be identified therein), or to surrender any right or power herein conferred upon the Company;
- (f) to make any change in any series of Securities that does not adversely affect the legal rights under this Indenture of any Holder of such Securities in any material respect;
- (g) to evidence and provide for the acceptance of an appointment under this Indenture of a successor Trustee; provided that the successor Trustee is otherwise qualified and eligible to act as such under the terms hereof;
- (h) to conform the text of this Indenture or any series of the Securities to any provision of the section entitled "Description of the Debt Securities" in the Prospectus to the extent that such provision in such Prospectus was intended to be a verbatim recitation of a provision of this Indenture or such series of the Securities as evidenced by an Officer's Certificate;
- (i) to make any amendment to the provisions of this Indenture relating to the transfer and legending of such series of Securities as permitted by this Indenture, including, but not limited to, facilitating the issuance and administration of any series of the Securities or, if incurred in compliance with this Indenture, additional Securities; provided, however, that (i) compliance with this Indenture as so amended would not result in such series of the Securities being transferred in violation of the Securities Act, or any applicable securities law and (ii) such amendment does not materially and adversely affect the rights of Holders to transfer Securities;



(j) to make any amendment to this Indenture necessary to qualify this Indenture under the Trust Indenture Act;

(k) to establish the form and terms of Securities of any series as permitted in Section 3.01, or to provide for the issuance of additional Securities in accordance with the limitations set forth in this Indenture or to add to the conditions, limitations or restrictions on the authorized amount, terms or purposes of issue, authentication or delivery of the Securities of any series, as herein set forth, or other conditions, limitations or restrictions thereafter to be observed; and

(l) to add guarantors or co-obligors with respect to any series of Securities.

Subject to the provisions of Section 13.03, the Trustee is authorized to join with the Company in the execution of any such supplemental indenture, to make the further agreements and stipulations which may be therein contained and to accept the conveyance, transfer, assignment, mortgage or pledge of any property or assets thereunder.

Any supplemental indenture authorized by the provisions of this Section 13.01 may be executed by the Company and the Trustee without the consent of the Holders of any of the Securities at the time Outstanding, notwithstanding any of the provisions of Section 13.02.

Section 13.02 With Consent of Securityholders: Limitations.

(a) With the consent of the Holders (evidenced as provided in Article VII) of a majority in aggregate principal amount of the Outstanding Securities of each series affected by such supplemental indenture voting separately, the Company and the Trustee may, from time to time and at any time, enter into an indenture or indentures supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any provisions of this Indenture or of modifying or changing in any manner the rights of the Holders of the Securities of such series to be affected; provided, however, that no such supplemental indenture shall, without the consent of the Holder of each Outstanding Security of each such series affected thereby,

- (i) change the Stated Maturity of the principal of and premium, if any, or any installment of interest on any Security;
- (ii) reduce the principal amount of, payments of interest, on or stated time for payment of interest, on any Security;
- (iii) change any obligation of the Company to pay Additional Amounts with respect to any Security;
- (iv) change the Currency in which the principal of and premium, if any, or interest on such Security is denominated or payable;

(v) impair the right to institute suit for the enforcement of any payment due on or with respect to any Security;

(vi) reduce the percentage in principal amount of the Outstanding Securities of any series, the consent of whose Holders is required for any supplemental indenture;

(vii) reduce the percentage in principal amount of the Outstanding Securities of any series, the consent of whose Holders is required for any waiver of compliance with certain provisions of this Indenture or certain Defaults hereunder and their consequences provided for in this Indenture;

(viii) modify any of the provisions of this Section 13.02, Section 5.11, Section 6.06, except to increase any such percentage or provide that certain other provisions of this Indenture cannot be modified or waived without the consent of the Holder of each Outstanding Security affected thereby; provided, however, that this clause shall not be deemed to require the consent of any Holder with respect to changes in the references to the “Trustee” and concomitant changes in this Section 13.02 and Section 5.11, or the deletion of this proviso, in accordance with the requirements of Sections 10.06 and 13.01(g);

(ix) amend, change or modify any provision of this Indenture or the related definitions affecting the ranking of any series of Securities in a manner which adversely affects the Holders of such Securities; or

(x) reduce the amount of the premium payable upon the redemption or repurchase of any Security or change the time at which any Security may be redeemed or repurchased as described in Section 4.07.

(b) A supplemental indenture that changes or eliminates any provision of this Indenture which has expressly been included solely for the benefit of one or more particular series of Securities or which modifies the rights of the Holders of Securities of such series with respect to such covenant or other provision, shall be deemed not to affect the rights under this Indenture of the Holders of Securities of any other series.

(c) It shall not be necessary for the consent of the Securityholders under this Section 13.02 to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such consent shall approve the substance thereof. Any such consent of Securityholders given in connection with a tender of such Securityholders’ Securities of such series will not be rendered invalid by such tender.

(d) The Company may set a record date pursuant to Section 7.02(e) for purposes of determining the identity of the Holders of each series of Securities entitled to give a written consent or waive compliance by the Company as authorized or permitted by this Section 13.02.

(e) After the execution by the Company and the Trustee of any supplemental indenture pursuant to the provisions of this Section 13.02, the Company shall mail a notice, setting forth in general terms the substance of such supplemental indenture, to the Holders of Securities at their addresses as the same shall then appear in the Register. Any failure of the Company to mail such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such supplemental indenture.

Section 13.03 Trustee Protected. Upon the request of the Company, accompanied by the Officer's Certificate and Opinion of Counsel required by Section 15.01 stating that the execution of such supplemental indenture to be entered into pursuant to Section 13.01 or Section 13.02 is authorized or permitted by this Indenture, and evidence reasonably satisfactory to the Trustee of consent of the Holders if the supplemental indenture is to be executed pursuant to Section 13.02, the Trustee shall join with the Company in the execution of said supplemental indenture unless said supplemental indenture affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion, but shall not be obligated to, enter into said supplemental indenture. The Trustee shall be fully protected in relying upon such Officer's Certificate and an Opinion of Counsel.

Section 13.04 Effect of Execution of Supplemental Indenture. Upon the execution of any supplemental indenture pursuant to the provisions of this Article XIII, this Indenture shall be deemed to be modified and amended in accordance therewith and, except as herein otherwise expressly provided, the respective rights, limitations of rights, obligations, duties and immunities under this Indenture of the Trustee, the Company and the Holders of all of the Securities or of the Securities of any series affected, as the case may be, shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments, and all the terms and conditions of any such supplemental indenture shall be and be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

Section 13.05 Notation on or Exchange of Securities. Securities of any series authenticated and delivered after the execution of any supplemental indenture pursuant to the provisions of this Article may bear a notation in the form approved by the Trustee as to any matter provided for in such supplemental indenture. If the Company or the Trustee shall so determine, new Securities so modified as to conform, in the opinion of the Trustee and the Company, to any modification of this Indenture contained in any such supplemental indenture may be prepared and executed by the Company and authenticated and delivered by the Trustee in exchange for the Securities then Outstanding in equal aggregate principal amounts, and such exchange shall be made without cost to the Holders of the Securities.

Section 13.06 Conformity with TIA. Every supplemental indenture executed pursuant to the provisions of this Article XIII shall conform to the requirements of the Trust Indenture Act as then in effect.

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#### ARTICLE XIV

[RESERVED.]

#### ARTICLE XV

#### MISCELLANEOUS PROVISIONS

##### Section 15.01 Certificates and Opinions as to Conditions Precedent.

(a) Upon any request or application by the Company to the Trustee to take any action under any of the provisions of this Indenture, the Company shall furnish to the Trustee an Officer's Certificate stating that all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with and an Opinion of Counsel stating that in the opinion of such counsel all such conditions precedent have been complied with, except that in the case of any such application or demand as to which the furnishing of such document is specifically required by any provision of this Indenture relating to such particular application or request, no additional certificate or opinion need be furnished.

(b) Each certificate or opinion provided for in this Indenture and delivered to the Trustee with respect to compliance with a condition or covenant provided for in this Indenture (other than the certificates provided pursuant to Section 5.07 of this Indenture) shall include (i) a statement that the Person giving such certificate or opinion has read such covenant or condition; (ii) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based; (iii) a statement that in the opinion of such Person, he or she has made such examination or investigation as is necessary to enable such Person to express an informed view or opinion as to whether or not such covenant or condition has been complied with; and (iv) a statement as to whether or not, in the opinion of such Person, such condition or covenant has been complied with.

(c) Any certificate, statement or opinion of an officer of the Company may be based, insofar as it relates to legal matters, upon a certificate or opinion of, or representations by, counsel, unless such officer knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to the matters upon which his or her certificate, statement or opinion is based are erroneous. Any certificate, statement or opinion of counsel may be based, insofar as it relates to factual matters, upon a certificate, statement or opinion of, or representations by, governmental or other officials, customary for opinions of the type required, or an officer or officers of the Company stating that the information with respect to such factual matters is in the possession of the Company, unless such counsel knows, or in the exercise of reasonable care should know, that the certificate, statement or opinion or representations with respect to such matters are erroneous.

(d) Any certificate, statement or opinion of an officer of the Company or of counsel to the Company may be based, insofar as it relates to accounting matters, upon a certificate or opinion of, or representations by, an accountant or firm of accountants, unless such officer or counsel, as the case may be, knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to the accounting matters upon which his or her certificate, statement or opinion may be based are erroneous. Any certificate or opinion of any firm of independent registered public accountants filed with the Trustee shall contain a statement that such firm is independent.

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(e) In any case where several matters are required to be certified by, or covered by an opinion of, any specified Person, it is not necessary that all such matters be certified by, or covered by the opinion of, only one such Person, or that they be so certified or covered by only one document, but one such Person may certify or give an opinion with respect to some matters and one or more other such Persons as to other matters, and any such Person may certify or give an opinion as to such matters in one or several documents.

(f) Where any Person is required to make, give or execute two or more applications, requests, consents, certificates, statements, opinions or other instruments under this Indenture, they may, but need not, be consolidated and form one instrument.

Section 15.02 Trust Indenture Act Controls. If and to the extent that any provision of this Indenture limits, qualifies or conflicts with the duties imposed by, or with a provision included in this Indenture which is required to be included in this Indenture by any of the provisions of Sections 310 to 318, inclusive, of, the TIA, such imposed duties or incorporated provision shall control. If any provision of this Indenture modifies or excludes any provision of the TIA, which may be so modified or excluded, the latter provision shall be deemed to apply to this Indenture as so modified or excluded, as the case may be.

Section 15.03 Notices to the Company and Trustee. Any notice or demand authorized or permitted by this Indenture to be made upon, given or furnished to, or filed with, the Company or the Trustee shall be sufficiently made, given, furnished or filed for all purposes if it shall be mailed, by regular mail or overnight courier, delivered or faxed to:

(a) the Company, at Alibaba Group Holding Limited, c/o Alibaba Group Services Limited, 26/F Tower One, Times Square, 1 Matheson Street, Causeway Bay, Hong Kong, Facsimile No.: \_\_\_\_\_, Attn: Timothy A. Steinert, Esq., or at such other address or facsimile number as may have been furnished in writing to the Trustee by the Company.

(b) the Trustee, at the Corporate Trust Office of the Trustee with a copy to the Specified Corporate Trust Office.

Any such notice, demand or other document shall be in the English language. Anything herein to the contrary notwithstanding, no such notice or demand shall be effective as to the Trustee unless it is actually received by the Trustee at its Corporate Trust Office and at its Specified Corporate Trust Office.

The Trustee agrees to accept and act upon instructions or directions pursuant to this Indenture sent by unsecured e-mail, pdf, facsimile transmission or other similar unsecured electronic methods; provided, however, that the Trustee shall have received an incumbency certificate listing persons designated to give such instructions or directions and containing specimen signatures of such designated persons, which such incumbency certificate shall be amended and replaced whenever a person is to be added or deleted from the listing. If the Company elects to give the Trustee e-mail or facsimile instructions (or instructions by a similar electronic method), the Trustee's understanding of such instructions shall be deemed controlling. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The Company agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties.

Section 15.04 Notices to Securityholders; Waiver. Any notice required or permitted to be given to Securityholders shall be sufficiently given (unless otherwise herein expressly provided), if to Holders, if given in writing by first class mail, postage prepaid, to such Holders at their addresses as the same shall appear on the Register. Notwithstanding the foregoing sentence, where this Indenture provides for notice of any event to a Holder of a Global Security, such notice shall be sufficiently given if given to the Depository for such Security (or its designee), pursuant to the Applicable Procedures of the Depository, not later than the latest date, if any, and not earlier than the earliest date, if any, prescribed for the giving of such notice by this Indenture.

(a) In the event of suspension of regular mail service or by reason of any other cause it shall be impracticable to give notice by mail, then such notification as shall be given with the approval of the Trustee shall constitute sufficient notice for every purpose hereunder.

(b) Where this Indenture provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance on such waiver. In any case where notice to Holders is given by mail, neither the failure to mail such notice nor any defect in any notice so mailed to any particular Holder shall affect the sufficiency of such notice with respect to other Holders, and any notice that is mailed in the manner herein provided shall be conclusively presumed to have been duly given. In any case where notice to Holders is given by publication, any defect in any notice so published as to any particular Holder shall not affect the sufficiency of such notice with respect to other Holders, and any notice that is published in the manner herein provided shall be conclusively presumed to have been duly given.

Section 15.05 Legal Holiday. Unless otherwise specified pursuant to Section 3.01, in any case where any Interest Payment Date, Redemption Date, Maturity or other scheduled date of payment of any Security of any series shall not be a Business Day at any Place of Payment for the Securities of that series, then payment of principal and premium, if any, or interest, need not be made at such Place of Payment on such date, but may be made on the next succeeding Business Day at such Place of Payment with the same force and effect as if made on such Interest Payment Date, Redemption Date or Maturity, as the case may be, and no interest shall accrue on such payment for the period from and after such Interest Payment Date, Redemption Date or Maturity, as the case may be, to such Business Day if such payment is made or duly provided for on such Business Day.

Section 15.06 Judgment Currency. To the fullest extent permitted by law, the obligations of the Company to any Holder under this Indenture or the Securities of any series, as the case may be, shall, notwithstanding any judgment in a currency (the “Judgment Currency”) other than U.S. Dollars, be discharged only to the extent that on the Business Day following receipt by such Holder or the Trustee, as the case may be, of any amount in the Judgment Currency, such Holder or the Trustee, as the case may be, may in accordance with normal banking procedures purchase the U.S. Dollars with the Judgment Currency. To the fullest extent permitted by law, if the amount of U.S. Dollars so purchased is less than the amount originally to be paid to such Holder or the Trustee, as the case may be, in U.S. Dollars, the Company agrees, as a separate obligation and notwithstanding such judgment, to pay the difference, and if the amount of U.S. Dollars so purchased exceeds the amount originally to be paid to such Holder, such Holder or the Trustee, as the case may be, agrees to pay to or for the account of the Company such excess; provided that such Holder shall not have any obligation to pay any such excess as long as a Default by the Company in its obligations under this Indenture or such series of Securities has occurred and is continuing, in which case such excess may be applied by such Holder to such obligations. In the event the Trustee is required or requested to make such purchases of U.S. Dollars with the Judgment Currency, the Trustee will in good faith select a recognized banking institution in the City of New York through which the Trustee will purchase the U.S. Dollars with the Judgment Currency; provided that the Trustee will not be liable for any losses or shortfalls in amounts so paid as a result of the foreign exchange rate applied by such banking institution to such purchases of the U.S. Dollars with the Judgment Currency in accordance with normal banking procedures.

Section 15.07 Effects of Headings and Table of Contents. The Article and Section headings herein and the Table of Contents are for convenience only and shall not affect the construction hereof.

Section 15.08 Successors and Assigns. All covenants and agreements in this Indenture by the parties hereto shall bind their respective successors and assigns and inure to the benefit of their permitted successors and assigns, whether so expressed or not.

Section 15.09 Severability. If any provision hereof shall be held to be invalid, illegal or unenforceable under applicable law, then the remaining provisions hereof shall be construed as though such invalid, illegal or unenforceable provision were not contained herein.

Section 15.10 Benefits of Indenture. Nothing in this Indenture expressed and nothing that may be implied from any of the provisions hereof is intended, or shall be construed, to confer upon, or to give to, any Person other than the parties hereto and their successors and the Holders of the Securities any benefit or any right, remedy or claim under or by reason of this Indenture or any covenant, condition, stipulation, promise or agreement hereof, and all covenants, conditions, stipulations, promises and agreements in this Indenture contained shall be for the sole and exclusive benefit of the parties hereto and their successors and of the Holders of the Securities.

Section 15.11 Counterparts. This Indenture may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument.

Section 15.12 Governing Law; Waiver of Trial by Jury. This Indenture and the Securities shall be governed by, and construed in accordance with, the laws of the State of New York.

EACH OF THE PARTIES HERETO IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS INDENTURE OR THE SECURITIES.

Section 15.13 Submission to Jurisdiction. The Company irrevocably and unconditionally submits to the non-exclusive jurisdiction of any U.S. federal or New York State court located in the Borough of Manhattan, the City of New York over any suit, action or proceeding arising out of or relating to this Indenture or the Securities. Service of any process, summons, notice or document by registered mail addressed to the Company's agent, Corporation Services Company, located at 1180 Avenue of the Americas, Suite 210, New York, NY 10036-8401, shall be effective service of process against the Company for any suit, action or proceeding brought in any such court. The Company irrevocably and unconditionally waives any objection to the laying of venue of any such suit, action or proceeding brought in any such court and any claim that any such suit, action or proceeding has been brought in an inconvenient forum. A final judgment in any such suit, action or proceeding brought in any such court shall be conclusive and binding upon the Company and may be enforced in any other courts to whose jurisdiction the Company is or may be subject, by suit upon judgment. The Company further agrees that nothing herein shall affect any Holder's right to effect service of process in any other manner permitted by law or bring a suit action or proceeding (including a proceeding for enforcement of a judgment) in any other court or jurisdiction in accordance with applicable law.

Section 15.14 Waiver of Immunity. To the extent that the Company or any of its properties, assets or revenues may have or may hereafter become entitled to, or have attributed to each of the Company, any right of immunity, on the grounds of sovereignty or otherwise, from any legal action, suit or proceeding, from the giving of any relief in any such legal action, suit or proceeding, from setoff or counterclaim, from the jurisdiction of any Cayman Islands, PRC, New York state or U.S. federal court, from service of process, from attachment upon or prior to judgment, from attachment in aid of execution of judgment, or from execution of judgment, or other legal process or proceeding for the giving of any relief or for the enforcement of any judgment, in any such court in which proceedings may at any time be commenced, with respect to the obligations and liabilities of the Company or any other matter under or arising out of or in connection with this Indenture, the Company hereby irrevocably and unconditionally waives or will waive such right to the extent permitted by applicable law, and agree not to plead or claim, any such immunity and consent to such relief and enforcement.

Section 15.15 Force Majeure. In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

Section 15.16 No Adverse Interpretation of Other Agreements. This Indenture may not be used to interpret any other indenture, loan or debt agreement of the Company or its Subsidiaries or of any other Person. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

[Signatures on following page]



IN WITNESS WHEREOF, the parties have caused this Indenture to be duly executed as of the date first written above.

ALIBABA GROUP HOLDING LIMITED,  
as Issuer

By: /s/ Maggie Wei Wu  
Name: Maggie Wei Wu  
Title: Chief Financial Officer

THE BANK OF NEW YORK MELLON,  
as Trustee

By: /s/ Thomas Scollon  
Name: Thomas Scollon  
Title: Vice President

EXHIBIT A

[FORM OF FACE OF SECURITY]

[if a Global Security]

**UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR THE INDIVIDUAL SECURITIES REPRESENTED HEREBY IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN THE INDENTURE REFERRED TO ON THE REVERSE HEREOF, THIS GLOBAL SECURITY MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITORY TO A NOMINEE OF THE DEPOSITORY OR BY A NOMINEE OF THE DEPOSITORY TO THE DEPOSITORY OR ANOTHER NOMINEE OF THE DEPOSITORY OR BY THE DEPOSITORY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITORY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITORY.**

[if a Definitive Security]

**IN CONNECTION WITH ANY TRANSFER, THE HOLDER WILL DELIVER TO THE REGISTRAR AND TRUSTEE SUCH CERTIFICATES AND OTHER INFORMATION AS THE REGISTRAR AND THE TRUSTEE MAY REASONABLY REQUIRE TO CONFIRM THAT THE TRANSFER COMPLIES WITH THE FOREGOING RESTRICTIONS.**

FORM OF [    % NOTES DUE 20 ] [ FLOATING RATE NOTES DUE 20 ]

Alibaba Group Holding Limited

[    % Note Due 20 ] [ Floating Rate Notes Due 20 ]

PRINCIPAL AMOUNT: US\$ \_\_\_\_\_

CUSIP:

ISIN:

No.: \_\_\_\_\_

Alibaba Group Holding Limited, an exempted company incorporated in the Cayman Islands (the "Company," which term includes any successor thereto under the Indenture referred to on the reverse hereof), for value received, hereby promises to pay to Cede & Co., or registered assigns, the principal sum of \_\_\_\_\_ U.S. DOLLARS (US\$ \_\_\_\_\_) (or such other principal amount as shall be set forth in the Schedule of Increases or Decreases in Note attached hereto) on \_\_\_\_\_, 20\_\_\_\_, or on such earlier date as the principal hereof may become due in accordance with the provisions of this Note.

Interest Rate: [    % per annum] [The applicable rate with respect to a particular Interest Period will be a rate equal to three-month LIBOR as determined by the calculation agent on the interest determination date plus    %].

Interest Payment Dates: \_\_\_\_\_ of each year, commencing on \_\_\_\_\_.

[Interest Period: the period commencing on and including an Interest Payment Date and ending on but excluding the next succeeding Interest Payment Date, with the exception that the first Interest Period shall commence on and include the Issue Date and end on and exclude \_\_\_\_\_, 20\_\_.]

Record Dates: \_\_\_\_\_.

Reference is made to the further provisions of this Note set forth on the reverse hereof. Such further provisions shall for all purposes have the same effect as though fully set forth at this place.

This Note shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been manually signed by the Trustee under the Indenture referred to on the reverse hereof.

IN WITNESS WHEREOF, Alibaba Group Holding Limited has caused this Note to be duly executed.

ALIBABA GROUP HOLDING LIMITED

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

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CERTIFICATE OF AUTHENTICATION

This is one of the Securities of the series designated therein referred to in the within-mentioned Indenture.

Date of authentication:

THE BANK OF NEW YORK MELLON,  
as Trustee

By: \_\_\_\_\_

Name:

Title:

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[FORM OF REVERSE OF SECURITY]

ALIBABA GROUP HOLDING LIMITED

[ % Note Due 20 ][ Floating Rate Notes Due 20 ]

This Note is one of a duly authorized issue of debt securities of the Company of the series designated as the [“ % Note Due 20 “][“ Floating Rate Notes Due 20 “](the “Notes”), all issued or to be issued under and pursuant to an Indenture, dated as of December 6, 2017 (the “Base Indenture”), duly executed and delivered by and between the Company and The Bank of New York Mellon, as trustee (the “Trustee,” which term includes any successor trustee), as supplemented by the Supplemental Indenture, dated as of , 20 (the “Supplemental Indenture”), duly executed and delivered by and between the Company and the Trustee. The Base Indenture as supplemented and amended by the Supplemental Indenture is referred to herein as the “Indenture”. Capitalized terms used herein and not otherwise defined shall have the meanings given them in the Indenture. To the extent any provision of this Note conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling.

1. Interest. The Company promises to pay interest on the principal amount of this [Note at a rate of % per annum][at the applicable rate as described below determined by the calculation agent (or its successor) for each Interest Period]. The date from which interest shall accrue on the Notes shall be [ ], or the most recent Interest Payment Date to which interest has been paid or provided for. [The applicable rate with respect to a particular Interest Period will be a rate equal to [ ]. Promptly upon determination, the calculation agent will inform the Company of the applicable rate for the next Interest Period.] The Company will pay interest [semi-annually][quarterly] in arrears on [ ] of each year, beginning [ ], 20 . In any case in which an Interest Payment Date, Redemption Date, Maturity or other payment date is not a Business Day as defined in the Indenture at a Place of Payment, payment may be made at that place on the next succeeding day that is a Business Day. Any payment made on such Business Day will have the same force and effect as if made on the date on which the payment is due, and no interest shall accrue for the intervening period. Interest shall be computed on the basis of [a 360-day year of twelve 30-day months][the actual number of days that have elapsed in the applicable Interest Period and a 360-day year].

[All percentages resulting from any calculation of any interest rate for the Notes will be rounded, if necessary, to the nearest one hundred thousandth of a percentage point, with five one-millionths of a percentage point rounded upward (e.g., 3.876545% (or .03876545) would be rounded to 3.87655% (or .0387655)), and all U.S. Dollar amounts will be rounded to the nearest cent, with one-half cent being rounded upward. Each calculation of the interest rate on the Notes by the calculation agent will (in the absence of manifest error) be final and binding on the Holders of the Notes and the Company.

Upon written request from any Holder of the Notes, the calculation agent will provide the applicable rate in effect on such Notes for the current Interest Period and, if it has been determined, the applicable rate to be in effect for the next Interest Period.]

2. Method of Payment. The Company shall pay interest on the Notes (except Defaulted Interest), if any, to the Persons in whose name such Notes are registered at the close of business on the Record Date referred to on the face of this Note immediately preceding the related Interest Payment Date, even if such Notes are canceled, repurchased or redeemed on or after such Record Date and on or before such Interest Payment Date. Payment of interest on the Notes shall be made, in the currency of the United States of America that at the time is legal tender for payment of public and private debts, at the Corporate Trust Office or, at the option of the Company, by check mailed to the address of the Person entitled thereto as such address shall appear in the Register or, in accordance with arrangements satisfactory to the Paying Agent, by wire transfer to an account designated by the Holder.

3. Paying Agent, Authenticating Agent and Registrar. Initially, The Bank of New York Mellon will act as Paying Agent, Authenticating Agent and Registrar. The Company may change or appoint any Paying Agent or Registrar without notice to any Holder. The Company may act in any such capacity.

4. Indenture. The terms of the Notes include those stated in the Indenture and those made part of the Indenture by reference to the Trust Indenture Act of 1939, as amended (“TIA”), as in effect on the date the Indenture is qualified. The Notes are subject to all such terms, and Holders are referred to the Indenture and TIA for a statement of such terms. The Notes are unsecured general obligations of the Company and constitute the series designated on the face of this Note as the [“ % Note Due 20 “[Floating Rate Notes Due 20 ”], initially limited to US\$ in aggregate principal amount. The Company will furnish to any Holder upon written request and without charge a copy of the Base Indenture, and the Supplemental Indenture. Requests may be made to: Alibaba Group Holding Limited, c/o Alibaba Group Services Limited, 26/F Tower One, Times Square, 1 Matheson Street, Causeway Bay, Hong Kong, Attn: Timothy A. Steinert, Esq..

5. Redemption and Repurchase. The Notes are [not]subject to optional redemption [other than as set forth in the Base Indenture], [and][but] are the subject of a Triggering Event Offer, as further described in the Indenture. The Company shall not be required to make mandatory redemption or sinking fund payments with respect to the Notes.

6. Denominations, Transfer, Exchange. The Notes are in registered form without coupons in the denominations of US\$2,000 or any integral multiple of US\$1,000 in excess thereof (or such other denominations in which such Securities are issuable). The transfer of Notes may be registered and Notes may be exchanged as provided in the Indenture. The Notes may be presented for exchange or for registration of transfer (duly endorsed or with the form of transfer endorsed thereon duly executed if so required by the Company or the Registrar) at the office of the Registrar or at the office of any transfer agent designated by the Company for such purpose. The Company need not exchange or register the transfer of any Note or portion of a Note selected for redemption or tendered for repurchase upon a Triggering Event Offer, except for the unredeemed and unpurchased portion of any Note being redeemed or repurchased in part.

7. [Reserved]

8. Persons Deemed Owners. The registered Holder may be treated as its owner for all purposes.

9. Amendments, Supplements and Waivers. The Indenture and the Notes may be amended or supplemented as provided in the Indenture. Any consent or waiver by the Holders as provided in the Indenture shall be conclusive and binding upon such Holders and upon all future Holders and holders of any security issued upon the registration of transfer hereof or in exchange herefor or in lieu hereof, whether or not notation of such consent or waiver is made upon the Notes.

10. Defaults and Remedies. The Events of Default relating to the Notes are defined in Section 6.01 of the Base Indenture. Upon the occurrence of an Event of Default, the rights and obligations of the Company, the Trustee and the Holders shall be as set forth in the applicable provisions of the Indenture.

11. No Recourse Against Others. No recourse under or upon any obligation, covenant or agreement contained in the Indenture or the Notes, or because of any indebtedness evidenced thereby, shall be had against any incorporator as such, or against any past, present or future stockholder, officer, director or employee, as such, of the Company or of any successor, either directly or through the Company or any successor, under any rule of law, statute or constitutional provision or by the enforcement of any assessment or by any legal or equitable proceeding or otherwise, all such liability being expressly waived and released by the acceptance hereof and as part of the consideration for the issue hereof.

12. Authentication. This Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose until authenticated by the manual signature of the Trustee.

13. Governing Law. The Base Indenture, the Supplemental Indenture and this Note shall be governed by, and construed in accordance with, the laws of the State of New York.

14. CUSIP and ISIN Numbers. Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP and ISIN numbers to be printed on the Notes, and the Trustee may use CUSIP and ISIN numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

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#### ASSIGNMENT

To assign this Security, fill in the form below: I or we assign and transfer this Security to

(Print or type assignee's name, address and zip code)

(Insert assignee's soc. sec. or tax I.D. No.)

and irrevocably appoint agent to transfer this Security on the books of the Company. The agent may substitute another to act for him.

Date:            Your Signature:

Sign exactly as your name appears on the other side of this Security.

\_\_\_\_\_  
Signature Guarantee:

\_\_\_\_\_  
Signature must be guaranteed

\_\_\_\_\_  
Signature

#### SIGNATURE GUARANTEE

Signatures must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program ("STAMP") or such other "signature guarantee program" as may be determined by the Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

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OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have this Note purchased by the Company pursuant to Section 5.06 of the Indenture, check the box below:

Section 5.06

If you want to elect to have only part of the Note purchased by the Company pursuant to Section 5.06 of the Indenture, state the amount you elect to have purchased:

US\$ \_\_\_\_\_

Date: \_\_\_\_\_

Your Signature: \_\_\_\_\_

(Sign exactly as your name appears on the face of  
this Note)

Tax Identification No: \_\_\_\_\_

Signature Guarantee: \_\_\_\_\_

SIGNATURE GUARANTEE

Signatures must be guaranteed by an “eligible guarantor institution” meeting the requirements of the Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program (“STAMP”) or such other “signature guarantee program” as may be determined by the Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.



SCHEDULE OF INCREASES OR DECREASES IN NOTE\*

The initial principal amount of this Security is US\$ \_\_\_\_\_. The following increases or decreases in a part of this Security have been made:

Date	Amount of decrease in principal amount of this Note	Amount of increase in principal amount of this Note	Principal amount of this Security following such decrease (or increase)
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\* Insert in Global Notes.

**FIRST SUPPLEMENTAL INDENTURE**

**Dated as of**

**December 6, 2017**

**Between**

**ALIBABA GROUP HOLDING LIMITED**

**as Company**

**and**

**THE BANK OF NEW YORK MELLON**

**as Trustee**

**2.800% NOTES DUE 2023**

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FIRST SUPPLEMENTAL INDENTURE dated as of December 6, 2017 between Alibaba Group Holding Limited, an exempted company incorporated in the Cayman Islands (the “Company”), and The Bank of New York Mellon, as trustee (the “Trustee”).

**WITNESSETH:**

WHEREAS, the Company and the Trustee executed and delivered an Indenture, dated as of December 6, 2017 (the “Base Indenture”), to provide for the issuance of debentures, notes, bonds or other evidences of indebtedness in an unlimited aggregate principal amount to be issued from time to time in one or more series (such Base Indenture, as supplemented and amended by this First Supplemental Indenture, herein referred to as the “Indenture”);

WHEREAS, the Company has duly authorized the issuance of US\$700,000,000 aggregate principal amount of 2.800% Notes due 2023 (the “Notes”);

WHEREAS, the Company has duly authorized the execution and delivery of this First Supplemental Indenture pursuant to Section 13.01 of the Base Indenture to establish the terms and the form of the Notes in accordance with Sections 2.01, 3.01 and 3.03 of the Base Indenture; and

WHEREAS, all things necessary to make this First Supplemental Indenture a valid and legally binding agreement of the Company, in accordance with its terms, have been done.

NOW, THEREFORE, THIS FIRST SUPPLEMENTAL INDENTURE WITNESSETH:

That, in consideration of the premises and the purchase of the Notes by the Holders thereof for the equal and proportionate benefit of all of the present and future Holders of the Notes, each party agrees and covenants as follows:

**ARTICLE I**

**SCOPE AND DEFINITIONS**

Section 1.01 Scope. The changes, modifications and supplements to the Base Indenture effected by this First Supplemental Indenture shall be applicable only with respect to, and govern the terms of, the Notes and shall not apply to any other series of Securities that may be issued under the Base Indenture unless a supplemental indenture with respect to such other series of Securities specifically incorporates such changes, modifications and supplements.

Section 1.02 Definitions.

(a) Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the Base Indenture.

(b) As used herein, the following additional defined terms shall have the following meanings with respect to the Notes only and be equally applicable to both the singular and the plural forms of any of the terms herein defined:

“Additional Notes” has the meaning provided in Section 2.01(c).

“Base Indenture” has the meaning provided in the recitals hereof.

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“Comparable Treasury Issue” means the United States Treasury security selected by an Independent Investment Banker that would be utilized, at the time of selection and in accordance with customary financial practice, in pricing new issues of corporate debt securities of comparable maturity to the remaining term of the Notes to be redeemed.

“Comparable Treasury Price” means, with respect to any Redemption Date pursuant to Section 2.02, (1) the average of the Reference Treasury Dealer Quotations for such Redemption Date, after excluding the highest and lowest of such Reference Treasury Dealer Quotations, or (2) if the Company obtains fewer than three such Reference Treasury Dealer Quotations, the average of all quotations obtained.

“First Supplemental Indenture” means this instrument.

“Independent Investment Banker” means one of the Reference Treasury Dealers appointed by the Company.

“Initial Notes” has the meaning provided in Section 2.01(c).

“Make-Whole Amount” means an amount determined by the Paying Agent on the fifth Business Day before the Redemption Date pursuant to Section 2.02 that is equal to the sum of (i) the present value of the principal amount of the Notes to be redeemed, assuming a scheduled repayment thereof on the date of Stated Maturity for payment of principal on such Notes, plus (ii) the present value of the remaining scheduled payments of interest to and including such date of Stated Maturity for payment of principal on such Notes (exclusive of interest accrued to the Redemption Date), in each case discounted to such Redemption Date on a semi-annual basis (assuming a 360-day year consisting of twelve 30-day months and, in the case of an incomplete month, the actual number of days elapsed) at the Treasury Yield plus 12.5 basis points.

“Notes” has the meaning provided in the recitals hereof.

“Prospectus Supplement” means the prospectus supplement dated November 29, 2017, relating to the offering of the Notes.

“Reference Treasury Dealer” means each of any three investment banks of recognized standing that is a primary U.S. government securities dealer in the United States, selected by the Company in good faith.

“Reference Treasury Dealer Quotation” means, with respect to each Reference Treasury Dealer and any Redemption Date pursuant to Section 2.02, the average, as determined by the Company, of the bid and asked prices for the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) quoted in writing to the Company by such Reference Treasury Dealer as of 5:00 p.m., New York City time, on the fifth Business Day before such Redemption Date.

“Registrar” means The Bank of New York Mellon or its successor as registrar under the Indenture.

“Treasury Yield” means, with respect to any Redemption Date pursuant to Section 2.02, the rate per annum equal to the semi-annual equivalent yield to maturity (computed as of the fifth Business Day before such Redemption Date) of the Comparable Treasury Issue, calculated using a price for the Comparable Treasury Issue (expressed as a percentage of its principal amount) equal to the Comparable Treasury Price for such Redemption Date.

Section 1.03 Rules of Construction. For all purposes of this First Supplemental Indenture, except as otherwise expressly provided or unless the context otherwise requires:

- (a) The words “herein”, “hereof” and “hereunder” and other words of similar import refer to this First Supplemental Indenture as a whole and not to any particular Article, Section or other subdivision;
- (b) references to “Article” or “Section” or other subdivision herein are references to an Article, Section or other subdivision of this First Supplemental Indenture, unless the context otherwise requires;
- (c) the words “including” and words of similar import when used in this Indenture shall mean “including, without limitation”;
- (d) references to any agreement, instrument, statute or regulation defined or referred to herein or in any instrument establishing the terms of the Notes (or executed in connection therewith) are references to such agreement, instrument, statute or regulation as from time to time amended, modified, supplemented or replaced, including (in the case of agreements or instruments) by waiver or consent and by succession of comparable successor agreements, instruments, statutes or regulations; and
- (e) “or” is not exclusive.

## **ARTICLE II**

### **THE NOTES**

Section 2.01 Terms of the Notes. The Notes are hereby created and designated as a separate series of Securities under the Base Indenture. The following terms relate to the Notes:

- (a) The Notes shall constitute a separate series of Securities under the Base Indenture having the title “2.800% Notes due 2023.”
- (b) The Notes shall be issued at a price of 99.853% of the principal amount thereof, other than any offering discounts pursuant to the initial offering and resale of the Notes.
- (c) The aggregate principal amount of the Notes (the “Initial Notes”) that may be initially authenticated and delivered under the Indenture shall be US\$700,000,000. The Company may from time to time, without the consent of the Holders of the Notes, issue additional Notes (in any such case “Additional Notes”) having the same terms and conditions as the Initial Notes in all respects (or in all respects except for the Issue Date, the issue price or the first Interest Payment Date). Any Additional Notes and the Initial Notes shall constitute a single series under the Indenture; provided that if such Additional Notes are not fungible with the Initial Notes for U.S. federal income tax purposes, such Additional Notes shall not be issued. All references to the “Notes” shall include the Initial Notes and any Additional Notes unless the context otherwise requires. The aggregate principal amount of each of the Additional Notes shall be unlimited.
- (d) The entire outstanding principal of the Notes shall be payable on June 6, 2023.

(e) The rate at which the Notes shall bear interest shall be 2.800% per year. The date from which interest shall accrue on the Notes shall be December 6, 2017, or the most recent Interest Payment Date to which interest has been paid or provided for. The Interest Payment Dates for the Notes shall be June 6 and December 6 of each year, beginning June 6, 2018. Interest shall be payable on each Interest Payment Date to the Holders of record at the close of business on the May 21 and November 21 prior to each Interest Payment Date. The basis upon which interest shall be calculated shall be that of a 360-day year consisting of twelve 30-day months.

(f) The Notes shall be issuable in whole in the form of one or more definitive, fully registered Global Securities without interest coupons, and the Depository for such Global Securities shall be DTC. The Notes shall be substantially in the form attached hereto as Exhibit A, the terms of which are herein incorporated by reference. The Notes shall be denominated in U.S. Dollars and, notwithstanding Section 3.02 of the Base Indenture, shall be issuable in minimum denominations of US\$200,000 or any integral multiples of US\$1,000 in excess thereof.

(g) The Notes may be redeemed at the option of the Company prior to the date of Stated Maturity for payment of principal on the Notes, as provided in Section 2.02.

(h) The Notes will not have the benefit of any sinking fund.

(i) Except as provided herein, the Holders of the Notes shall have no special rights in addition to those provided in the Base Indenture upon the occurrence of any particular events.

(j) The Notes will be senior unsecured obligations of the Company and will rank at least equal in right of payment to all of the Company's other existing and future unsecured and unsubordinated obligations (subject to any priority rights pursuant to applicable law).

Section 2.02 Optional Redemption.

(a) The provisions of Article IV of the Base Indenture, as amended by the provisions of this First Supplemental Indenture, shall apply to the Notes.

(b) The Company may, at any time prior to May 6, 2023, upon giving not less than 30 days' nor more than 60 days' notice to Holders of the Notes (which notice shall be irrevocable), redeem the Notes, in whole or in part, at a redemption amount equal to the greater of (x) 100% of the principal amount of such Notes to be redeemed and (y) the Make-Whole Amount, plus, in each case, accrued and unpaid interest, if any, to, but not including, the Redemption Date (subject to the right of Holders of record on the relevant Record Date to receive interest due on the relevant Interest Payment Date); provided that the aggregate principal amount of the Notes remaining outstanding after redemption in part shall be US\$200,000 or an integral multiple of US\$1,000 in excess thereof.

(c) The Company may, from and after May 6, 2023 upon giving not less than 30 days nor more than 60 days' notice to Holders of the Notes (which notice shall be irrevocable), redeem the Notes at a redemption price equal to 100% of the principal amount of such Notes to be redeemed plus accrued and unpaid interest and Special Interest, if any, to, but not including, the Redemption Date (subject to the right of Holders of record on the relevant Record Date to receive interest due on the relevant Interest Payment Date).

(d) If the Redemption Date pursuant to this Section 2.02 is on or after the relevant Record Date and on or before the related Interest Payment Date, accrued and unpaid interest, if any, to the Redemption Date pursuant to this Section 2.02 shall be paid on such Interest Payment Date to the Person in whose name a Note is registered at the close of business on such Record Date.

(e) The Company or any of its Controlled Entities may, in accordance with all applicable laws and regulations, at any time purchase the Notes in the open market or otherwise at any price, so long as such purchase does not otherwise violate the terms of the Indenture. The Notes that the Company or its Affiliates purchase may, in the discretion of the Company, be held, resold or canceled, but will only be resold in compliance with applicable requirements or exemptions under the relevant securities laws.

Section 2.03 NDRC Post-issue Filing. The Company shall notify the Trustee if the Company does not file or cause to be filed with the National Development and Reform Commission of the PRC (the “NDRC”) the requisite information and documents required to be filed with the NDRC within 10 PRC Business Days after the Closing Date in accordance with the Registration Certificate of Enterprise Foreign Debt Filing ( 企业借用外债备案登记证明 (发改办外资备 [2017]377 号) ) issued by the General Office of the NDRC on October 24, 2017, pursuant to the Circular on Promoting the Reform of the Administrative System on the Issuance by Enterprises of Foreign Debt Filings and Registrations ( 国家发展改革委关于推进企业发行外债备案登记制管理改革的通知 (发改外资 [2015]2044 号) ) issued by the NDRC on September 14, 2015, the Approval of Foreign Debt Quota Administration Reform Trial Enterprise (Second Batch) for 2017 ( 国家发展改革委关于 2017 年度外债规模管理改革试点企业 (第二批) 的批复 (发改外资 [2017]560 号) ) issued by the NDRC on March 22, 2017, and any implementation rules as issued by the NDRC as in effect at such time (the “Post-Issuance Filing”). Such notification to the Trustee will be made within 10 PRC Business Days after such failure to complete the Post-Issuance Filing.

“PRC Business Day” means a day other than a Saturday, Sunday or a day on which banking institutions in the PRC are authorized or obligated by law, regulation or executive order to remain closed.

Section 2.04 Limitation on Liens.

(a) Subject to the exceptions set forth in Section 2.04(b) below, the Company will not create or have outstanding, and the Company will ensure that none of its Principal Controlled Entities will create or have outstanding, any Lien upon the whole or any part of their respective present or future assets securing any Relevant Indebtedness, or create or have outstanding any guarantee or indemnity in respect of any Relevant Indebtedness either of the Company or of any Principal Controlled Entity, without (x) at the same time or prior thereto securing or guaranteeing the Securities of any applicable series, as applicable, equally and ratably therewith or (y) providing such other security or guarantees for the Securities of the applicable series as shall be approved by an act of the Holders of such series of Securities holding at least a majority of the principal amount of such series of Securities then Outstanding.

(b) The restriction set forth in Section 2.04(a) above will not apply to:

- (i) any Lien arising or already arisen automatically by operation of law which is timely discharged or disputed in good faith by appropriate proceedings;
- (ii) any Lien in respect of the obligations of any Person which becomes a Principal Controlled Entity or which merges with or into the Company or a Principal Controlled Entity after the date hereof which is in existence at the date on which it becomes a Principal Controlled Entity or merges with or into the Company or a Principal Controlled Entity;
- (iii) any Lien created or outstanding in favor of the Company or any Lien created by any of its Controlled Entities in favor of any of its other Controlled Entities;
- (iv) any Lien in respect of Relevant Indebtedness of the Company or any Principal Controlled Entity with respect to which the Company or such Principal Controlled Entity has paid money or deposited money or securities with a paying agent, trustee or Depository to pay or discharge in full the obligations of the Company or such Principal Controlled Entity in respect thereof (other than the obligation that such money or securities so paid or deposited, and the proceeds therefrom, be sufficient to pay or discharge such obligations in full);
- (v) any Lien created in connection with Relevant Indebtedness of the Company or any Principal Controlled Entity denominated in Chinese Renminbi and initially offered, marketed or issued primarily to Persons resident in the PRC;
- (vi) any Lien created in connection with a project financed with, or created to secure, Non-recourse Obligations; or
- (vii) any Lien arising out of the refinancing, extension, renewal or refunding of any Relevant Indebtedness secured by any Lien permitted by the foregoing clause (ii), (v), (vi) or (vii) of this Section 2.04(b); provided that such Relevant Indebtedness is not increased beyond the principal amount thereof (together with the costs of such refinancing, extension, renewal or refunding, including any accrued interest and prepayment premiums or consent fees) and is not secured by any additional property or assets.

Section 2.05 Terms Specific to the Notes .

- (a) Clause (x) of Section 13.02(a) of the Base Indenture shall be replaced in its entirety by the following with respect to the Notes only:

“reduce the amount of the premium payable upon the redemption or repurchase of any Security or change the time at which any Security may be redeemed or repurchased as described in Section 2.02 of the First Supplemental Indenture or as described in Section 4.07 and Section 5.06 of the Base Indenture(except through amendments to the definition of “ Triggering Event ” if applicable).”

- (b) Section 11.03(c) of the Base Indenture shall be replaced in its entirety by the following with respect to the Notes only:

“Upon the Company’s exercise under Section 11.03(a) of the Base Indenture of the option applicable to this Section 11.03(c) of the Base Indenture , the Company shall, subject to the satisfaction of the conditions set forth in Section 11.03(d) of the Base Indenture, be released from its obligations under the covenants contained in Section 2.04 of the First Supplemental Indenture, and Section 5.04 and Section 5.08 of the Base Indenture and as provided pursuant to Section 3.01(z) of the Base Indenture, on and after the date the conditions set forth in Section 11.03(d) of the Base Indenture are satisfied (“ Covenant Defeasance ”). For this purpose, “ Covenant Defeasance ” means that, with respect to this Indenture and the Securities of such series then Outstanding, the Company may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document, and such omission to comply shall not constitute a Default or an Event of Default under Section 6.01 of the Base Indenture, but, except as specified above, the remainder of this Indenture and the Securities shall be unaffected thereby. In addition, upon the Company’s exercise under Section 11.03(a) of the Base Indenture of the option applicable to this Section 11.03(c) of the Base Indenture, subject to the satisfaction of the conditions set forth in Section 11.03(d), Sections 6.01(c), and 6.01(d) (only with respect to covenants that are released as a result of such Covenant Defeasance) of the Base Indenture, in each case, shall not constitute Events of Default.”



(c) Section 13.01(h) of the Base Indenture shall be replaced in its entirety by the following with respect to the Notes only:

“to conform the text of this Indenture or any series of the Securities to any provision of the section entitled “Description of the Debt Securities” in the Prospectus or of the section entitled “Description of the Notes” in the Prospectus Supplement to the extent that such provision in such Prospectus or such Prospectus Supplement was intended to be a verbatim recitation of a provision of this Indenture or such series of the Securities as evidenced by an Officer’s Certificate.”

(d) Section 13.02(a)(viii) of the Base Indenture shall be replaced in its entirety by the following with respect to the Notes only:

“modify any of the provisions of this Section 13.02, Section 5.11 and Section 6.06 of the Base Indenture, and Section 2.05(d) of the First Supplemental Indenture, except to increase any such percentage or provide that certain other provisions of this Indenture cannot be modified or waived without the consent of the Holder of each Outstanding Security affected thereby; provided, however, that this clause shall not be deemed to require the consent of any Holder with respect to changes in the references to the “Trustee” and concomitant changes in the Section 13.02 and Section 5.11 of the Base Indenture, or the deletion of this proviso, in accordance with the requirements of Sections 10.06 and 13.01(g) of the Base Indenture.”

(e) Section 13.02(a)(x) of the Base Indenture shall be replaced in its entirety by the following with respect to the Notes only:

“reduce the amount of the premium payable upon the redemption or repurchase of any Security or change the time at which any Security may be redeemed or repurchased as described in Section 2.02 of the First Supplemental Indenture, as described in Section 4.07 or Section 5.06 of the Base Indenture whether through an amendment or waiver of provisions in the covenants, definitions or otherwise (except through amendments to the definition of “Triggering Event” if applicable).”

### ARTICLE III

#### MISCELLANEOUS PROVISIONS

Section 3.01 Confirmation of Indenture. The Base Indenture, as supplemented and amended by this First Supplemental Indenture, is in all respects ratified and confirmed, and the Base Indenture, this First Supplemental Indenture and all indentures supplemental thereto with respect to the Notes shall be read, taken and construed as one and the same instrument.

Section 3.02 Severability. If any provision in this First Supplemental Indenture or in the Notes shall be held to be invalid, illegal or unenforceable under applicable law, then the remaining provisions in this First Supplemental Indenture or in the Notes shall be construed as though such invalid, illegal or unenforceable provision were not contained herein.

Section 3.03 Conflicts with Base Indenture. In the event that any provision of this First Supplemental Indenture limits, qualifies or conflicts with the express provisions of the Base Indenture, such provision of the First Supplemental Indenture shall prevail.

Section 3.04 Benefits of Indenture. Nothing in this First Supplemental Indenture expressed and nothing that may be implied from any of the provisions hereof is intended, or shall be construed, to confer upon, or to give to, any Person other than the parties hereto and their successors and the Holders of the Notes any benefit or any right, remedy or claim under or by reason of this First Supplemental Indenture or the Base Indenture or any covenant, condition, stipulation, promise or agreement hereof or thereof, and all covenants, conditions, stipulations, promises and agreements contained herein or therein shall be for the sole and exclusive benefit of the parties hereto and their successors and of the Holders of the Notes.

Section 3.05 Counterparts. This First Supplemental Indenture may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument.

Section 3.06 Governing Law; Waiver of Trial by Jury. This First Supplemental Indenture and the Notes shall be governed by, and construed in accordance with the laws of the State of New York.

EACH OF THE PARTIES HERETO IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHTS IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS FIRST SUPPLEMENTAL INDENTURE OR THE NOTES.

[Signatures on following page]

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IN WITNESS WHEREOF, the parties have caused this Fifth Supplemental Indenture to be duly executed as of the date first written above.

ALIBABA GROUP HOLDING LIMITED,  
as Issuer

By: /s/ Maggie Wei Wu

Name: Maggie Wei Wu

Title: Chief Financial Officer

THE BANK OF NEW YORK MELLON,  
as Trustee

By: /s/ Thomas Scollon

Name: Thomas Scollon

Title: Vice President

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[FORM OF FACE OF SECURITY]

[if a Global Security]

**UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR THE INDIVIDUAL SECURITIES REPRESENTED HEREBY IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN THE INDENTURE REFERRED TO ON THE REVERSE HEREOF, THIS GLOBAL SECURITY MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITORY TO A NOMINEE OF THE DEPOSITORY OR BY A NOMINEE OF THE DEPOSITORY TO THE DEPOSITORY OR ANOTHER NOMINEE OF THE DEPOSITORY OR BY THE DEPOSITORY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITORY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITORY .**

[if a Definitive Security]

**IN CONNECTION WITH ANY TRANSFER, THE HOLDER WILL DELIVER TO THE REGISTRAR AND TRUSTEE SUCH CERTIFICATES AND OTHER INFORMATION AS THE REGISTRAR AND THE TRUSTEE MAY REASONABLY REQUIRE TO CONFIRM THAT THE TRANSFER COMPLIES WITH THE FOREGOING RESTRICTIONS.**

Alibaba Group Holding Limited.

2.800% Notes due 2023

PRINCIPAL AMOUNT: US\$ \_\_\_\_\_

CUSIP:

ISIN:

No.: \_\_\_\_\_

Alibaba Group Holding Limited, an exempted company incorporated in the Cayman Islands (the “Company,” which term includes any successor thereto under the Indenture referred to on the reverse hereof), for value received, hereby promises to pay to Cede & Co., or registered assigns, the principal sum of \_\_\_\_\_ U.S. DOLLARS (US\$ \_\_\_\_\_) (or such other principal amount as shall be set forth in the Schedule of Increases or Decreases in Note attached hereto) on June 6, 2023, or on such earlier date as the principal hereof may become due in accordance with the provisions of this Note.

Interest Rate: 2.800% per annum.

Interest Payment Dates: June 6 and December 6 of each year, commencing on June 6, 2018.

Record Dates: May 21 and November 21.

Reference is made to the further provisions of this Note set forth on the reverse hereof. Such further provisions shall for all purposes have the same effect as though fully set forth at this place.

This Note shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been manually signed by the Trustee under the Indenture referred to on the reverse hereof.

IN WITNESS WHEREOF, Alibaba Group Holding Limited has caused this Note to be duly executed.

ALIBABA GROUP HOLDING LIMITED,

By: \_\_\_\_\_

Name:

Title:

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TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This is one of the Securities of the series designated therein referred to in the within-mentioned Indenture.

Date of authentication: \_\_\_\_\_

THE BANK OF NEW YORK MELLON,  
as Trustee

By: \_\_\_\_\_

Name:

Title:

[FORM OF REVERSE OF SECURITY]

ALIBABA GROUP HOLDING LIMITED

2.800% Notes due 2023

This Note is one of a duly authorized issue of debt securities of the Company of the series designated as the “2.800% Notes due 2023” (the “Notes”), all issued or to be issued under and pursuant to an Indenture, dated as of December 6, 2017 (the “Base Indenture”), duly executed and delivered by and between the Company and The Bank of New York Mellon, as trustee (the “Trustee,” which term includes any successor trustee), as supplemented by the First Supplemental Indenture, dated as of December 6, 2017 (the “First Supplemental Indenture”), duly executed and delivered by and between the Company and the Trustee. The Base Indenture as supplemented and amended by the First Supplemental Indenture is referred to herein as the “Indenture”. Capitalized terms used herein and not otherwise defined shall have the meanings given them in the Indenture. To the extent any provision of this Note conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling.

1. Interest. The Company promises to pay interest on the principal amount of this Note at a rate of 2.800% per annum. The date from which interest shall accrue on the Notes shall be December 6, 2017, or the most recent Interest Payment Date to which interest has been paid or provided for. The Company will pay interest semi-annually in arrears on June 6 and December 6 of each year, beginning June 6, 2018. In any case in which an Interest Payment Date, Redemption Date, Maturity or other payment date is not a Business Day as defined in the Indenture at a Place of Payment, payment may be made at that place on the next succeeding day that is a Business Day. Any payment made on such Business Day will have the same force and effect as if made on the date on which the payment is due and no interest shall accrue for the intervening period. Interest shall be computed on the basis of a 360-day year of twelve 30-day months and, in the case of an incomplete month, the actual number of days elapsed.

2. Method of Payment. The Company shall pay interest on the Notes (except Defaulted Interest, if any), to the Persons in whose name such Notes are registered at the close of business on the Record Date referred to on the face of this Note immediately preceding the related Interest Payment Date, even if such Notes are canceled, repurchased or redeemed on or after such Record Date and on or before such Interest Payment Date. Payment of interest on the Notes shall be made, in the currency of the United States of America that at the time is legal tender for payment of public and private debts, at the Corporate Trust Office or, at the option of the Company, by check mailed to the address of the Person entitled thereto as such address shall appear in the Register or, in accordance with arrangements satisfactory to the Paying Agent, by wire transfer to an account designated by the Holder.

3. Paying Agent and Registrar. Initially, The Bank of New York Mellon will act as Paying Agent and Registrar. The Company may change or appoint any Paying Agent or Registrar without notice to any Holder. The Company may act in any such capacity.

4. Indenture. The terms of the Notes include those stated in the Indenture and those made part of the Indenture by reference to the Trust Indenture Act of 1939, as amended (“TIA”) as in effect on the date the Indenture is qualified. The Notes are subject to all such terms, and Holders are referred to the Indenture and TIA for a statement of such terms. The Notes are unsecured general obligations of the Company and constitute the series designated on the face of this Note as the “2.800% Notes due 2023,” initially limited to US\$700,000,000 in aggregate principal amount. The Company will furnish to any Holder upon written request and without charge a copy of the Base Indenture and the First Supplemental Indenture. Requests may be made to: Alibaba Group Holding Limited, c/o Alibaba Group Services Limited, 26/F Tower One, Times Square, 1 Matheson Street, Causeway Bay, Hong Kong, Attn: Timothy A. Steinert, Esq.

5. Redemption and Repurchase. The Notes are subject to optional redemption, and are the subject of a Triggering Event Offer, as further described in the Indenture. The Company shall not be required to make mandatory redemption or sinking fund payments with respect to the Notes.

6. Denominations, Transfer, Exchange. The Notes are in registered form without coupons in the denominations of US\$200,000 or any integral multiple of US\$1,000 in excess thereof. The transfer of Notes may be registered and Notes may be exchanged as provided in the Indenture. The Notes may be presented for exchange or for registration of transfer (duly endorsed or with the form of transfer endorsed thereon duly executed if so required by the Company or the Registrar) at the office of the Registrar or at the office of any transfer agent designated by the Company for such purpose. The Company need not exchange or register the transfer of any Note or portion of a Note selected for redemption or tendered for repurchase upon a Triggering Event Offer, except for the unredeemed and unpurchased portion of any Note being redeemed or repurchased in part.

7. Persons Deemed Owners. The registered Holder may be treated as its owner for all purposes.

8. Amendments, Supplements and Waivers. The Indenture and the Notes may be amended or supplemented as provided in the Indenture. Any consent or waiver by the Holders as provided in the Indenture shall be conclusive and binding upon such Holders and upon all future Holders and holders of any security issued upon the registration of transfer hereof or in exchange hereof or in lieu hereof, whether or not notation of such consent or waiver is made upon the Notes.

9. Defaults and Remedies. The Events of Default relating to the Notes are defined in Section 6.01 of the Base Indenture. Upon the occurrence of an Event of Default, the rights and obligations of the Company, the Trustee and the Holders shall be as set forth in the applicable provisions of the Indenture.

10. No Recourse Against Others. No recourse under or upon any obligation, covenant or agreement contained in the Indenture or the Notes, or because of any indebtedness evidenced thereby, shall be had against any incorporator as such, or against any past, present or future stockholder, officer, director or employee, as such, of the Company or of any successor, either directly or through the Company or any successor, under any rule of law, statute or constitutional provision or by the enforcement of any assessment or by any legal or equitable proceeding or otherwise, all such liability being expressly waived and released by the acceptance hereof and as part of the consideration for the issue hereof.

11. Authentication. This Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose until authenticated by the manual signature of the Trustee.

12. Governing Law. The Base Indenture, the First Supplemental Indenture and this Note shall be governed by, and construed in accordance with the laws of the State of New York.

13. CUSIP and ISIN Numbers. Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP and ISIN numbers to be printed on the Notes, and the Trustee may use CUSIP and ISIN numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

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#### ASSIGNMENT

To assign this Security, fill in the form below: I or we assign and transfer this Security to

(Print or type assignee's name, address and zip code)

(Insert assignee's soc. sec. or tax I.D. No.)

and irrevocably appoint agent to transfer this Security on the books of the Company. The agent may substitute another to act for him.

Date:                      Your Signature:

Sign exactly as your name appears on the other side of this Security.

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Signature Guarantee:

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Signature must be guaranteed

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Signature

#### SIGNATURE GUARANTEE

Signatures must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program ("STAMP") or such other "signature guarantee program" as may be determined by the Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

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OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have this Note purchased by the Company pursuant to Section 5.06 of the Base Indenture, check the box below:

Section 5.06

If you want to elect to have only part of the Note purchased by the Company pursuant to Section 5.06 of the Base Indenture, state the amount you elect to have purchased:

US\$ \_\_\_\_\_

Date: \_\_\_\_\_

Your Signature: \_\_\_\_\_  
(Sign exactly as your name appears on the face of this Note)

Tax Identification No: \_\_\_\_\_

Signature Guarantee:  
\_\_\_\_\_

SIGNATURE GUARANTEE

Signatures must be guaranteed by an “eligible guarantor institution” meeting the requirements of the Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program (“STAMP”) or such other “signature guarantee program” as may be determined by the Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

SCHEDULE OF INCREASES OR DECREASES IN NOTE\*

The initial principal amount of this Note is US\$ \_\_\_\_\_. The following increases or decreases in a part of this Note have been made:

Date	Amount of decrease in principal amount of this Note	Amount of increase in principal amount of this Note	Principal amount of this Note following such decrease (or increase)

\* Insert in Global Notes.

**SECOND SUPPLEMENTAL INDENTURE**

**Dated as of**

**December 6, 2017**

**Between**

**ALIBABA GROUP HOLDING LIMITED**

**as Company**

**and**

**THE BANK OF NEW YORK MELLON**

**as Trustee**

**3.400% NOTES DUE 2027**

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SECOND SUPPLEMENTAL INDENTURE dated as of December 6, 2017 between Alibaba Group Holding Limited, an exempted company incorporated in the Cayman Islands (the “Company”), and The Bank of New York Mellon, as trustee (the “Trustee”).

**WITNESSETH:**

WHEREAS, the Company and the Trustee executed and delivered an Indenture, dated as of December 6, 2017 (the “Base Indenture”), to provide for the issuance of debentures, notes, bonds or other evidences of indebtedness in an unlimited aggregate principal amount to be issued from time to time in one or more series (such Base Indenture, as supplemented and amended by this Second Supplemental Indenture, herein referred to as the “Indenture”);

WHEREAS, the Company has duly authorized the issuance of US\$2,550,000,000 aggregate principal amount of 3.400% Notes due 2027 (the “Notes”);

WHEREAS, the Company has duly authorized the execution and delivery of this Second Supplemental Indenture pursuant to Section 13.01 of the Base Indenture to establish the terms and the form of the Notes in accordance with Sections 2.01, 3.01 and 3.03 of the Base Indenture; and

WHEREAS, all things necessary to make this Second Supplemental Indenture a valid and legally binding agreement of the Company, in accordance with its terms, have been done.

NOW, THEREFORE, THIS SECOND SUPPLEMENTAL INDENTURE WITNESSETH:

That, in consideration of the premises and the purchase of the Notes by the Holders thereof for the equal and proportionate benefit of all of the present and future Holders of the Notes, each party agrees and covenants as follows:

**ARTICLE I**

**SCOPE AND DEFINITIONS**

Section 1.01 Scope. The changes, modifications and supplements to the Base Indenture effected by this Second Supplemental Indenture shall be applicable only with respect to, and govern the terms of, the Notes and shall not apply to any other series of Securities that may be issued under the Base Indenture unless a supplemental indenture with respect to such other series of Securities specifically incorporates such changes, modifications and supplements.

Section 1.02 Definitions.

(a) Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the Base Indenture.

(b) As used herein, the following additional defined terms shall have the following meanings with respect to the Notes only and be equally applicable to both the singular and the plural forms of any of the terms herein defined:

“Additional Notes” has the meaning provided in Section 2.01(c).

“Base Indenture” has the meaning provided in the recitals hereof.

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“Comparable Treasury Issue” means the United States Treasury security selected by an Independent Investment Banker that would be utilized, at the time of selection and in accordance with customary financial practice, in pricing new issues of corporate debt securities of comparable maturity to the remaining term of the Notes to be redeemed.

“Comparable Treasury Price” means, with respect to any Redemption Date pursuant to Section 2.02, (1) the average of the Reference Treasury Dealer Quotations for such Redemption Date, after excluding the highest and lowest of such Reference Treasury Dealer Quotations, or (2) if the Company obtains fewer than three such Reference Treasury Dealer Quotations, the average of all quotations obtained.

“Independent Investment Banker” means one of the Reference Treasury Dealers appointed by the Company.

“Initial Notes” has the meaning provided in Section 2.01(c).

“Make-Whole Amount” means an amount determined by the Paying Agent on the fifth Business Day before the Redemption Date pursuant to Section 2.02 that is equal to the sum of (i) the present value of the principal amount of the Notes to be redeemed, assuming a scheduled repayment thereof on the date of Stated Maturity for payment of principal on such Notes, plus (ii) the present value of the remaining scheduled payments of interest to and including such date of Stated Maturity for payment of principal on such Notes (exclusive of interest accrued to the Redemption Date), in each case discounted to such Redemption Date on a semi-annual basis (assuming a 360-day year consisting of twelve 30-day months and, in the case of an incomplete month, the actual number of days elapsed) at the Treasury Yield plus 20 basis points.

“Notes” has the meaning provided in the recitals hereof.

“Prospectus Supplement” means the prospectus supplement dated November 29, 2017, relating to the offering of the Notes.

“Reference Treasury Dealer” means each of any three investment banks of recognized standing that is a primary U.S. government securities dealer in the United States, selected by the Company in good faith.

“Reference Treasury Dealer Quotation” means, with respect to each Reference Treasury Dealer and any Redemption Date pursuant to Section 2.02, the average, as determined by the Company, of the bid and asked prices for the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) quoted in writing to the Company by such Reference Treasury Dealer as of 5:00 p.m., New York City time, on the fifth Business Day before such Redemption Date.

“Registrar” means The Bank of New York Mellon or its successor as registrar under the Indenture.

“Second Supplemental Indenture” means this instrument.

“Treasury Yield” means, with respect to any Redemption Date pursuant to Section 2.02, the rate per annum equal to the semi-annual equivalent yield to maturity (computed as of the fifth Business Day before such Redemption Date) of the Comparable Treasury Issue, calculated using a price for the Comparable Treasury Issue (expressed as a percentage of its principal amount) equal to the Comparable Treasury Price for such Redemption Date.

Section 1.03 Rules of Construction. For all purposes of this Second Supplemental Indenture, except as otherwise expressly provided or unless the context otherwise requires:

- (a) The words “herein”, “hereof” and “hereunder” and other words of similar import refer to this Second Supplemental Indenture as a whole and not to any particular Article, Section or other subdivision;
- (b) references to “Article” or “Section” or other subdivision herein are references to an Article, Section or other subdivision of this Second Supplemental Indenture, unless the context otherwise requires;
- (c) the words “including” and words of similar import when used in this Indenture shall mean “including, without limitation”;
- (d) references to any agreement, instrument, statute or regulation defined or referred to herein or in any instrument establishing the terms of the Notes (or executed in connection therewith) are references to such agreement, instrument, statute or regulation as from time to time amended, modified, supplemented or replaced, including (in the case of agreements or instruments) by waiver or consent and by succession of comparable successor agreements, instruments, statutes or regulations; and
- (e) “or” is not exclusive.

## **ARTICLE II**

### **THE NOTES**

Section 2.01 Terms of the Notes. The Notes are hereby created and designated as a separate series of Securities under the Base Indenture. The following terms relate to the Notes:

- (a) The Notes shall constitute a separate series of Securities under the Base Indenture having the title “3.400% Notes due 2027”.
- (b) The Notes shall be issued at a price of 99.396% of the principal amount thereof, other than any offering discounts pursuant to the initial offering and resale of the Notes.
- (c) The aggregate principal amount of the Notes (the “Initial Notes”) that may be initially authenticated and delivered under the Indenture shall be US\$2,550,000,000. The Company may from time to time, without the consent of the Holders of the Notes, issue additional Notes (in any such case “Additional Notes”) having the same terms and conditions as the Initial Notes in all respects (or in all respects except for the Issue Date, the issue price or the first Interest Payment Date). Any Additional Notes and the Initial Notes shall constitute a single series under the Indenture; provided that if such Additional Notes are not fungible with the Initial Notes for U.S. federal income tax purposes, such Additional Notes shall not be issued. All references to the “Notes” shall include the Initial Notes and any Additional Notes unless the context otherwise requires. The aggregate principal amount of each of the Additional Notes shall be unlimited.
- (d) The entire outstanding principal of the Notes shall be payable on December 6, 2027.

(e) The rate at which the Notes shall bear interest shall be 3.400% per year. The date from which interest shall accrue on the Notes shall be December 6, 2017, or the most recent Interest Payment Date to which interest has been paid or provided for. The Interest Payment Dates for the Notes shall be June 6 and December 6 of each year, beginning June 6, 2018. Interest shall be payable on each Interest Payment Date to the Holders of record at the close of business on the May 21 and November 21 prior to each Interest Payment Date. The basis upon which interest shall be calculated shall be that of a 360-day year consisting of twelve 30-day months.

(f) The Notes shall be issuable in whole in the form of one or more definitive, fully registered Global Securities without interest coupons, and the Depository for such Global Securities shall be DTC. The Notes shall be substantially in the form attached hereto as Exhibit A, the terms of which are herein incorporated by reference. The Notes shall be denominated in U.S. Dollars and, notwithstanding Section 3.02 of the Base Indenture, shall be issuable in minimum denominations of US\$200,000 or any integral multiples of US\$1,000 in excess thereof.

(g) The Notes may be redeemed at the option of the Company prior to the date of Stated Maturity for payment of principal on the Notes, as provided in Section 2.02.

(h) The Notes will not have the benefit of any sinking fund.

(i) Except as provided herein, the Holders of the Notes shall have no special rights in addition to those provided in the Base Indenture upon the occurrence of any particular events.

(j) The Notes will be senior unsecured obligations of the Company and will rank at least equal in right of payment to all of the Company's other existing and future unsecured and unsubordinated obligations (subject to any priority rights pursuant to applicable law).

Section 2.02 Optional Redemption.

(a) The provisions of Article IV of the Base Indenture, as amended by the provisions of this Second Supplemental Indenture, shall apply to the Notes.

(b) The Company may, at any time prior to September 6, 2027, upon giving not less than 30 days' nor more than 60 days' notice to Holders of the Notes (which notice shall be irrevocable), redeem the Notes, in whole or in part, at a redemption amount equal to the greater of (x) 100% of the principal amount of such Notes to be redeemed and (y) the Make-Whole Amount, plus, in each case, accrued and unpaid interest, if any, to, but not including, the Redemption Date (subject to the right of Holders of record on the relevant Record Date to receive interest due on the relevant Interest Payment Date); provided that the aggregate principal amount of the Notes remaining outstanding after redemption in part shall be US\$200,000 or an integral multiple of US\$1,000 in excess thereof.

(c) The Company may, from and after September 6, 2027 upon giving not less than 30 days nor more than 60 days' notice to Holders of the Notes (which notice shall be irrevocable), redeem the Notes at a redemption price equal to 100% of the principal amount of such Notes to be redeemed plus accrued and unpaid interest and Special Interest, if any, to, but not including, the Redemption Date (subject to the right of Holders of record on the relevant Record Date to receive interest due on the relevant Interest Payment Date).

(d) If the Redemption Date pursuant to this Section 2.02 is on or after the relevant Record Date and on or before the related Interest Payment Date, accrued and unpaid interest, if any, to the Redemption Date pursuant to this Section 2.02 shall be paid on such Interest Payment Date to the Person in whose name a Note is registered at the close of business on such Record Date.

(e) The Company or any of its Controlled Entities may, in accordance with all applicable laws and regulations, at any time purchase the Notes in the open market or otherwise at any price, so long as such purchase does not otherwise violate the terms of the Indenture. The Notes that the Company or its Affiliates purchase may, in the discretion of the Company, be held, resold or canceled, but will only be resold in compliance with applicable requirements or exemptions under the relevant securities laws.

Section 2.03 NDRC Post-issue Filing. The Company shall notify the Trustee if the Company does not file or cause to be filed with the National Development and Reform Commission of the PRC (the “NDRC”) the requisite information and documents required to be filed with the NDRC within 10 PRC Business Days after the Closing Date in accordance with the Registration Certificate of Enterprise Foreign Debt Filing ( 企业借用外债备案登记证明 (发改办外资备 [2017]377 号 )) issued by the General Office of the NDRC on October 24, 2017, pursuant to the Circular on Promoting the Reform of the Administrative System on the Issuance by Enterprises of Foreign Debt Filings and Registrations ( 国家发展改革委关于推进企业发行外债备案登记制管理改革的通知 (发改外资 [2015]2044 号 )) issued by the NDRC on September 14, 2015, the Approval of Foreign Debt Quota Administration Reform Trial Enterprise (Second Batch) for 2017 ( 国家发展改革委关于 2017 年度外债规模管理改革试点企业 (第二批) 的批复 (发改外资 [2017]560 号 )) issued by the NDRC on March 22, 2017, and any implementation rules as issued by the NDRC as in effect at such time (the “Post-Issuance Filing”). Such notification to the Trustee will be made within 10 PRC Business Days after such failure to complete the Post-Issuance Filing.

“PRC Business Day” means a day other than a Saturday, Sunday or a day on which banking institutions in the PRC are authorized or obligated by law, regulation or executive order to remain closed.

Section 2.04 Limitation on Liens.

(a) Subject to the exceptions set forth in Section 2.04(b) below, the Company will not create or have outstanding, and the Company will ensure that none of its Principal Controlled Entities will create or have outstanding, any Lien upon the whole or any part of their respective present or future assets securing any Relevant Indebtedness, or create or have outstanding any guarantee or indemnity in respect of any Relevant Indebtedness either of the Company or of any Principal Controlled Entity, without (x) at the same time or prior thereto securing or guaranteeing the Securities of any applicable series, as applicable, equally and ratably therewith or (y) providing such other security or guarantees for the Securities of the applicable series as shall be approved by an act of the Holders of such series of Securities holding at least a majority of the principal amount of such series of Securities then Outstanding.

(b) The restriction set forth in Section 2.04(a) above will not apply to:



- (i) any Lien arising or already arisen automatically by operation of law which is timely discharged or disputed in good faith by appropriate proceedings;
- (ii) any Lien in respect of the obligations of any Person which becomes a Principal Controlled Entity or which merges with or into the Company or a Principal Controlled Entity after the date hereof which is in existence at the date on which it becomes a Principal Controlled Entity or merges with or into the Company or a Principal Controlled Entity;
- (iii) any Lien created or outstanding in favor of the Company or any Lien created by any of its Controlled Entities in favor of any of its other Controlled Entities;
- (iv) any Lien in respect of Relevant Indebtedness of the Company or any Principal Controlled Entity with respect to which the Company or such Principal Controlled Entity has paid money or deposited money or securities with a paying agent, trustee or Depository to pay or discharge in full the obligations of the Company or such Principal Controlled Entity in respect thereof (other than the obligation that such money or securities so paid or deposited, and the proceeds therefrom, be sufficient to pay or discharge such obligations in full);
- (v) any Lien created in connection with Relevant Indebtedness of the Company or any Principal Controlled Entity denominated in Chinese Renminbi and initially offered, marketed or issued primarily to Persons resident in the PRC;
- (vi) any Lien created in connection with a project financed with, or created to secure, Non-recourse Obligations; or
- (vii) any Lien arising out of the refinancing, extension, renewal or refunding of any Relevant Indebtedness secured by any Lien permitted by the foregoing clause (ii), (v), (vi) or (vii) of this Section 2.04(b); provided that such Relevant Indebtedness is not increased beyond the principal amount thereof (together with the costs of such refinancing, extension, renewal or refunding, including any accrued interest and prepayment premiums or consent fees) and is not secured by any additional property or assets.

Section 2.05 Terms Specific to the Notes .

- (a) Clause (x) of Section 13.02(a) of the Base Indenture shall be replaced in its entirety by the following with respect to the Notes only:

“reduce the amount of the premium payable upon the redemption or repurchase of any Security or change the time at which any Security may be redeemed or repurchased as described in Section 2.02 of the Second Supplemental Indenture or as described in Section 4.07 and Section 5.06 of the Base Indenture(except through amendments to the definition of “ Triggering Event ” if applicable).”

- (b) Section 11.03(c) of the Base Indenture shall be replaced in its entirety by the following with respect to the Notes only:

“Upon the Company’s exercise under Section 11.03(a) of the Base Indenture of the option applicable to this Section 11.03(c) of the Base Indenture , the Company shall, subject to the satisfaction of the conditions set forth in Section 11.03(d) of the Base Indenture, be released from its obligations under the covenants contained in Section 2.04 of the Second Supplemental Indenture, and Section 5.04 and Section 5.08 of the Base Indenture and as provided pursuant to Section 3.01(z) of the Base Indenture, on and after the date the conditions set forth in Section 11.03(d) of the Base Indenture are satisfied (“ Covenant Defeasance ”). For this purpose, “ Covenant Defeasance ” means that, with respect to this Indenture and the Securities of such series then Outstanding, the Company may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document, and such omission to comply shall not constitute a Default or an Event of Default under Section 6.01 of the Base Indenture, but, except as specified above, the remainder of this Indenture and the Securities shall be unaffected thereby. In addition, upon the Company’s exercise under Section 11.03(a) of the Base Indenture of the option applicable to this Section 11.03(c) of the Base Indenture, subject to the satisfaction of the conditions set forth in Section 11.03(d), Sections 6.01(c), and 6.01(d) (only with respect to covenants that are released as a result of such Covenant Defeasance) of the Base Indenture, in each case, shall not constitute Events of Default.”

(c) Section 13.01(h) of the Base Indenture shall be replaced in its entirety by the following with respect to the Notes only:

“to conform the text of this Indenture or any series of the Securities to any provision of the section entitled “Description of the Debt Securities” in the Prospectus or of the section entitled “Description of the Notes” in the Prospectus Supplement to the extent that such provision in such Prospectus or such Prospectus Supplement was intended to be a verbatim recitation of a provision of this Indenture or such series of the Securities as evidenced by an Officer’s Certificate.”

(d) Section 13.02(a)(viii) of the Base Indenture shall be replaced in its entirety by the following with respect to the Notes only:

“modify any of the provisions of this Section 13.02, Section 5.11 and Section 6.06 of the Base Indenture, and Section 2.05(d) of the Second Supplemental Indenture, except to increase any such percentage or provide that certain other provisions of this Indenture cannot be modified or waived without the consent of the Holder of each Outstanding Security affected thereby; provided, however, that this clause shall not be deemed to require the consent of any Holder with respect to changes in the references to the “Trustee” and concomitant changes in the Section 13.02 and Section 5.11 of the Base Indenture, or the deletion of this proviso, in accordance with the requirements of Sections 10.06 and 13.01(g) of the Base Indenture.”

(e) Section 13.02(a)(x) of the Base Indenture shall be replaced in its entirety by the following with respect to the Notes only:

“reduce the amount of the premium payable upon the redemption or repurchase of any Security or change the time at which any Security may be redeemed or repurchased as described in Section 2.02 of the Second Supplemental Indenture, as described in Section 4.07 or Section 5.06 of the Base Indenture whether through an amendment or waiver of provisions in the covenants, definitions or otherwise (except through amendments to the definition of “Triggering Event” if applicable).”

### ARTICLE III

#### MISCELLANEOUS PROVISIONS

Section 3.01 Confirmation of Indenture. The Base Indenture, as supplemented and amended by this Second Supplemental Indenture, is in all respects ratified and confirmed, and the Base Indenture, this Second Supplemental Indenture and all indentures supplemental thereto with respect to the Notes shall be read, taken and construed as one and the same instrument.

Section 3.02 Severability. If any provision in this Second Supplemental Indenture or in the Notes shall be held to be invalid, illegal or unenforceable under applicable law, then the remaining provisions in this Second Supplemental Indenture or in the Notes shall be construed as though such invalid, illegal or unenforceable provision were not contained herein.

Section 3.03 Conflicts with Base Indenture. In the event that any provision of this Second Supplemental Indenture limits, qualifies or conflicts with the express provisions of the Base Indenture, such provision of the Second Supplemental Indenture shall prevail.

Section 3.04 Benefits of Indenture. Nothing in this Second Supplemental Indenture expressed and nothing that may be implied from any of the provisions hereof is intended, or shall be construed, to confer upon, or to give to, any Person other than the parties hereto and their successors and the Holders of the Notes any benefit or any right, remedy or claim under or by reason of this Second Supplemental Indenture or the Base Indenture or any covenant, condition, stipulation, promise or agreement hereof or thereof, and all covenants, conditions, stipulations, promises and agreements contained herein or therein shall be for the sole and exclusive benefit of the parties hereto and their successors and of the Holders of the Notes.

Section 3.05 Counterparts. This Second Supplemental Indenture may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument.

Section 3.06 Governing Law; Waiver of Trial by Jury. This Second Supplemental Indenture and the Notes shall be governed by, and construed in accordance with the laws of the State of New York.

EACH OF THE PARTIES HERETO IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHTS IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS SECOND SUPPLEMENTAL INDENTURE OR THE NOTES.

[Signatures on following page]

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IN WITNESS WHEREOF, the parties have caused this Fifth Supplemental Indenture to be duly executed as of the date first written above.

ALIBABA GROUP HOLDING LIMITED,  
as Issuer

By: /s/ Maggie Wei Wu

Name: Maggie Wei Wu  
Title: Chief Financial Officer

THE BANK OF NEW YORK MELLON,  
as Trustee

By: /s/ Thomas Scollon

Name: Thomas Scollon  
Title: Vice President

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[FORM OF FACE OF SECURITY]

[if a Global Security]

**UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR THE INDIVIDUAL SECURITIES REPRESENTED HEREBY IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN THE INDENTURE REFERRED TO ON THE REVERSE HEREOF, THIS GLOBAL SECURITY MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITORY TO A NOMINEE OF THE DEPOSITORY OR BY A NOMINEE OF THE DEPOSITORY TO THE DEPOSITORY OR ANOTHER NOMINEE OF THE DEPOSITORY OR BY THE DEPOSITORY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITORY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITORY .**

[if a Definitive Security]

**IN CONNECTION WITH ANY TRANSFER, THE HOLDER WILL DELIVER TO THE REGISTRAR AND TRUSTEE SUCH CERTIFICATES AND OTHER INFORMATION AS THE REGISTRAR AND THE TRUSTEE MAY REASONABLY REQUIRE TO CONFIRM THAT THE TRANSFER COMPLIES WITH THE FOREGOING RESTRICTIONS.**

Alibaba Group Holding Limited.

3.400% Notes due 2027

PRINCIPAL AMOUNT: US\$ \_\_\_\_\_

CUSIP:

ISIN:

No.: \_\_\_\_\_

Alibaba Group Holding Limited, an exempted company incorporated in the Cayman Islands (the "Company," which term includes any successor thereto under the Indenture referred to on the reverse hereof), for value received, hereby promises to pay to Cede & Co., or registered assigns, the principal sum of \_\_\_\_\_ U.S. DOLLARS (US\$ \_\_\_\_\_) (or such other principal amount as shall be set forth in the Schedule of Increases or Decreases in Note attached hereto) on December 6, 2027, or on such earlier date as the principal hereof may become due in accordance with the provisions of this Note.

Interest Rate: 3.400% per annum.

Interest Payment Dates: June 6 and December 6 of each year, commencing on June 6, 2018.

Record Dates: May 21 and November 21.

Reference is made to the further provisions of this Note set forth on the reverse hereof. Such further provisions shall for all purposes have the same effect as though fully set forth at this place.

This Note shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been manually signed by the Trustee under the Indenture referred to on the reverse hereof.

IN WITNESS WHEREOF, Alibaba Group Holding Limited has caused this Note to be duly executed.

ALIBABA GROUP HOLDING LIMITED,

By: \_\_\_\_\_

Name:

Title:

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This is one of the Securities of the series designated therein referred to in the within-mentioned Indenture.

Date of authentication:

\_\_\_\_\_

THE BANK OF NEW YORK MELLON,  
as Trustee

By:

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

Title:

[FORM OF REVERSE OF SECURITY]

ALIBABA GROUP HOLDING LIMITED

3.400% Notes due 2027

This Note is one of a duly authorized issue of debt securities of the Company of the series designated as the “3.400% Notes due 2027” (the “Notes”), all issued or to be issued under and pursuant to an Indenture, dated as of December 6, 2017 (the “Base Indenture”), duly executed and delivered by and between the Company and The Bank of New York Mellon, as trustee (the “Trustee,” which term includes any successor trustee), as supplemented by the Second Supplemental Indenture, dated as of December 6, 2017 (the “Second Supplemental Indenture”), duly executed and delivered by and between the Company and the Trustee. The Base Indenture as supplemented and amended by the Second Supplemental Indenture is referred to herein as the “Indenture”. Capitalized terms used herein and not otherwise defined shall have the meanings given them in the Indenture. To the extent any provision of this Note conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling.

1. Interest. The Company promises to pay interest on the principal amount of this Note at a rate of 3.400% per annum. The date from which interest shall accrue on the Notes shall be December 6, 2017, or the most recent Interest Payment Date to which interest has been paid or provided for. The Company will pay interest semi-annually in arrears on June 6 and December 6 of each year, beginning June 6, 2018. In any case in which an Interest Payment Date, Redemption Date, Maturity or other payment date is not a Business Day as defined in the Indenture at a Place of Payment, payment may be made at that place on the next succeeding day that is a Business Day. Any payment made on such Business Day will have the same force and effect as if made on the date on which the payment is due and no interest shall accrue for the intervening period. Interest shall be computed on the basis of a 360-day year of twelve 30-day months and, in the case of an incomplete month, the actual number of days elapsed.

2. Method of Payment. The Company shall pay interest on the Notes (except Defaulted Interest, if any), to the Persons in whose name such Notes are registered at the close of business on the Record Date referred to on the face of this Note immediately preceding the related Interest Payment Date, even if such Notes are canceled, repurchased or redeemed on or after such Record Date and on or before such Interest Payment Date. Payment of interest on the Notes shall be made, in the currency of the United States of America that at the time is legal tender for payment of public and private debts, at the Corporate Trust Office or, at the option of the Company, by check mailed to the address of the Person entitled thereto as such address shall appear in the Register or, in accordance with arrangements satisfactory to the Paying Agent, by wire transfer to an account designated by the Holder.

3. Paying Agent and Registrar. Initially, The Bank of New York Mellon will act as Paying Agent and Registrar. The Company may change or appoint any Paying Agent or Registrar without notice to any Holder. The Company may act in any such capacity.

4. Indenture. The terms of the Notes include those stated in the Indenture and those made part of the Indenture by reference to the Trust Indenture Act of 1939, as amended (“TIA”) as in effect on the date the Indenture is qualified. The Notes are subject to all such terms, and Holders are referred to the Indenture and TIA for a statement of such terms. The Notes are unsecured general obligations of the Company and constitute the series designated on the face of this Note as the “3.400% Notes due 2027,” initially limited to US\$2,550,000,000 in aggregate principal amount. The Company will furnish to any Holder upon written request and without charge a copy of the Base Indenture and the Second Supplemental Indenture. Requests may be made to: Alibaba Group Holding Limited, c/o Alibaba Group Services Limited, 26/F Tower One, Times Square, 1 Matheson Street, Causeway Bay, Hong Kong, Attn: Timothy A. Steinert, Esq.



5. Redemption and Repurchase. The Notes are subject to optional redemption, and are the subject of a Triggering Event Offer, as further described in the Indenture. The Company shall not be required to make mandatory redemption or sinking fund payments with respect to the Notes.

6. Denominations, Transfer, Exchange. The Notes are in registered form without coupons in the denominations of US\$200,000 or any integral multiple of US\$1,000 in excess thereof. The transfer of Notes may be registered and Notes may be exchanged as provided in the Indenture. The Notes may be presented for exchange or for registration of transfer (duly endorsed or with the form of transfer endorsed thereon duly executed if so required by the Company or the Registrar) at the office of the Registrar or at the office of any transfer agent designated by the Company for such purpose. The Company need not exchange or register the transfer of any Note or portion of a Note selected for redemption or tendered for repurchase upon a Triggering Event Offer, except for the unredeemed and unpurchased portion of any Note being redeemed or repurchased in part.

7. Persons Deemed Owners. The registered Holder may be treated as its owner for all purposes.

8. Amendments, Supplements and Waivers. The Indenture and the Notes may be amended or supplemented as provided in the Indenture. Any consent or waiver by the Holders as provided in the Indenture shall be conclusive and binding upon such Holders and upon all future Holders and holders of any security issued upon the registration of transfer hereof or in exchange hereof or in lieu hereof, whether or not notation of such consent or waiver is made upon the Notes.

9. Defaults and Remedies. The Events of Default relating to the Notes are defined in Section 6.01 of the Base Indenture. Upon the occurrence of an Event of Default, the rights and obligations of the Company, the Trustee and the Holders shall be as set forth in the applicable provisions of the Indenture.

10. No Recourse Against Others. No recourse under or upon any obligation, covenant or agreement contained in the Indenture or the Notes, or because of any indebtedness evidenced thereby, shall be had against any incorporator as such, or against any past, present or future stockholder, officer, director or employee, as such, of the Company or of any successor, either directly or through the Company or any successor, under any rule of law, statute or constitutional provision or by the enforcement of any assessment or by any legal or equitable proceeding or otherwise, all such liability being expressly waived and released by the acceptance hereof and as part of the consideration for the issue hereof.

11. Authentication. This Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose until authenticated by the manual signature of the Trustee.

12. Governing Law. The Base Indenture, the Second Supplemental Indenture and this Note shall be governed by, and construed in accordance with the laws of the State of New York.

13. CUSIP and ISIN Numbers. Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP and ISIN numbers to be printed on the Notes, and the Trustee may use CUSIP and ISIN numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

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#### ASSIGNMENT

To assign this Security, fill in the form below: I or we assign and transfer this Security to

(Print or type assignee's name, address and zip code)

(Insert assignee's soc. sec. or tax I.D. No.)

and irrevocably appoint agent to transfer this Security on the books of the Company. The agent may substitute another to act for him.

Date:                      Your Signature:

Sign exactly as your name appears on the other side of this Security.

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Signature Guarantee:

---

Signature must be guaranteed

---

Signature

#### SIGNATURE GUARANTEE

Signatures must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program ("STAMP") or such other "signature guarantee program" as may be determined by the Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

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OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have this Note purchased by the Company pursuant to Section 5.06 of the Base Indenture, check the box below:

Section 5.06

If you want to elect to have only part of the Note purchased by the Company pursuant to Section 5.06 of the Base Indenture, state the amount you elect to have purchased:

US\$ \_\_\_\_\_

Date: \_\_\_\_\_

Your Signature: \_\_\_\_\_  
(Sign exactly as your name appears on the face of this Note)

Tax Identification No: \_\_\_\_\_

Signature Guarantee:  
\_\_\_\_\_

SIGNATURE GUARANTEE

Signatures must be guaranteed by an “eligible guarantor institution” meeting the requirements of the Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program (“STAMP”) or such other “signature guarantee program” as may be determined by the Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

SCHEDULE OF INCREASES OR DECREASES IN NOTE\*

The initial principal amount of this Note is US\$ \_\_\_\_\_. The following increases or decreases in a part of this Note have been made:

Date	Amount of decrease in principal amount of this Note	Amount of increase in principal amount of this Note	Principal amount of this Note following such decrease (or increase)

\* Insert in Global Notes.

**THIRD SUPPLEMENTAL INDENTURE**

**Dated as of**

**December 6, 2017**

**Between**

**ALIBABA GROUP HOLDING LIMITED**

**as Company**

**and**

**THE BANK OF NEW YORK MELLON**

**as Trustee**

**4.000% NOTES DUE 2037**

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THIRD SUPPLEMENTAL INDENTURE dated as of December 6, 2017 between Alibaba Group Holding Limited, an exempted company incorporated in the Cayman Islands (the “Company”), and The Bank of New York Mellon, as trustee (the “Trustee”).

**WITNESSETH:**

WHEREAS, the Company and the Trustee executed and delivered an Indenture, dated as of December 6, 2017 (the “Base Indenture”), to provide for the issuance of debentures, notes, bonds or other evidences of indebtedness in an unlimited aggregate principal amount to be issued from time to time in one or more series (such Base Indenture, as supplemented and amended by this Third Supplemental Indenture, herein referred to as the “Indenture”);

WHEREAS, the Company has duly authorized the issuance of US\$1,000,000,000 aggregate principal amount of 4.000% Notes due 2037 (the “Notes”);

WHEREAS, the Company has duly authorized the execution and delivery of this Third Supplemental Indenture pursuant to Section 13.01 of the Base Indenture to establish the terms and the form of the Notes in accordance with Sections 2.01, 3.01 and 3.03 of the Base Indenture; and

WHEREAS, all things necessary to make this Third Supplemental Indenture a valid and legally binding agreement of the Company, in accordance with its terms, have been done.

NOW, THEREFORE, THIS THIRD SUPPLEMENTAL INDENTURE WITNESSETH:

That, in consideration of the premises and the purchase of the Notes by the Holders thereof for the equal and proportionate benefit of all of the present and future Holders of the Notes, each party agrees and covenants as follows:

**ARTICLE I**

**SCOPE AND DEFINITIONS**

Section 1.01 Scope. The changes, modifications and supplements to the Base Indenture effected by this Third Supplemental Indenture shall be applicable only with respect to, and govern the terms of, the Notes and shall not apply to any other series of Securities that may be issued under the Base Indenture unless a supplemental indenture with respect to such other series of Securities specifically incorporates such changes, modifications and supplements.

Section 1.02 Definitions.

(a) Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the Base Indenture.

(b) As used herein, the following additional defined terms shall have the following meanings with respect to the Notes only and be equally applicable to both the singular and the plural forms of any of the terms herein defined:

“Additional Notes” has the meaning provided in Section 2.01(c).

“Base Indenture” has the meaning provided in the recitals hereof.

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“Comparable Treasury Issue” means the United States Treasury security selected by an Independent Investment Banker that would be utilized, at the time of selection and in accordance with customary financial practice, in pricing new issues of corporate debt securities of comparable maturity to the remaining term of the Notes to be redeemed.

“Comparable Treasury Price” means, with respect to any Redemption Date pursuant to Section 2.02, (1) the average of the Reference Treasury Dealer Quotations for such Redemption Date, after excluding the highest and lowest of such Reference Treasury Dealer Quotations, or (2) if the Company obtains fewer than three such Reference Treasury Dealer Quotations, the average of all quotations obtained.

“Independent Investment Banker” means one of the Reference Treasury Dealers appointed by the Company.

“Initial Notes” has the meaning provided in Section 2.01(c).

“Make-Whole Amount” means an amount determined by the Paying Agent on the fifth Business Day before the Redemption Date pursuant to Section 2.02 that is equal to the sum of (i) the present value of the principal amount of the Notes to be redeemed, assuming a scheduled repayment thereof on the date of Stated Maturity for payment of principal on such Notes, plus (ii) the present value of the remaining scheduled payments of interest to and including such date of Stated Maturity for payment of principal on such Notes (exclusive of interest accrued to the Redemption Date), in each case discounted to such Redemption Date on a semi-annual basis (assuming a 360-day year consisting of twelve 30-day months and, in the case of an incomplete month, the actual number of days elapsed) at the Treasury Yield plus 20 basis points.

“Notes” has the meaning provided in the recitals hereof.

“Prospectus Supplement” means the prospectus supplement dated November 29, 2017, relating to the offering of the Notes.

“Reference Treasury Dealer” means each of any three investment banks of recognized standing that is a primary U.S. government securities dealer in the United States, selected by the Company in good faith.

“Reference Treasury Dealer Quotation” means, with respect to each Reference Treasury Dealer and any Redemption Date pursuant to Section 2.02, the average, as determined by the Company, of the bid and asked prices for the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) quoted in writing to the Company by such Reference Treasury Dealer as of 5:00 p.m., New York City time, on the fifth Business Day before such Redemption Date.

“Registrar” means The Bank of New York Mellon or its successor as registrar under the Indenture.

“Third Supplemental Indenture” means this instrument.

“Treasury Yield” means, with respect to any Redemption Date pursuant to Section 2.02, the rate per annum equal to the semi-annual equivalent yield to maturity (computed as of the fifth Business Day before such Redemption Date) of the Comparable Treasury Issue, calculated using a price for the Comparable Treasury Issue (expressed as a percentage of its principal amount) equal to the Comparable Treasury Price for such Redemption Date.

Section 1.03 Rules of Construction. For all purposes of this Third Supplemental Indenture, except as otherwise expressly provided or unless the context otherwise requires:

- (a) The words “herein”, “hereof” and “hereunder” and other words of similar import refer to this Third Supplemental Indenture as a whole and not to any particular Article, Section or other subdivision;
- (b) references to “Article” or “Section” or other subdivision herein are references to an Article, Section or other subdivision of this Third Supplemental Indenture, unless the context otherwise requires;
- (c) the words “including” and words of similar import when used in this Indenture shall mean “including, without limitation”;
- (d) references to any agreement, instrument, statute or regulation defined or referred to herein or in any instrument establishing the terms of the Notes (or executed in connection therewith) are references to such agreement, instrument, statute or regulation as from time to time amended, modified, supplemented or replaced, including (in the case of agreements or instruments) by waiver or consent and by succession of comparable successor agreements, instruments, statutes or regulations; and
- (e) “or” is not exclusive.

## **ARTICLE II**

### **THE NOTES**

Section 2.01 Terms of the Notes. The Notes are hereby created and designated as a separate series of Securities under the Base Indenture. The following terms relate to the Notes:

- (a) The Notes shall constitute a separate series of Securities under the Base Indenture having the title “4.000% Notes due 2037”.
- (b) The Notes shall be issued at a price of 99.863% of the principal amount thereof, other than any offering discounts pursuant to the initial offering and resale of the Notes.
- (c) The aggregate principal amount of the Notes (the “Initial Notes”) that may be initially authenticated and delivered under the Indenture shall be US\$1,000,000,000. The Company may from time to time, without the consent of the Holders of the Notes, issue additional Notes (in any such case “Additional Notes”) having the same terms and conditions as the Initial Notes in all respects (or in all respects except for the Issue Date, the issue price or the first Interest Payment Date). Any Additional Notes and the Initial Notes shall constitute a single series under the Indenture; provided that if such Additional Notes are not fungible with the Initial Notes for U.S. federal income tax purposes, such Additional Notes shall not be issued. All references to the “Notes” shall include the Initial Notes and any Additional Notes unless the context otherwise requires. The aggregate principal amount of each of the Additional Notes shall be unlimited.
- (d) The entire outstanding principal of the Notes shall be payable on December 6, 2037.

(e) The rate at which the Notes shall bear interest shall be 4.000% per year. The date from which interest shall accrue on the Notes shall be December 6, 2017, or the most recent Interest Payment Date to which interest has been paid or provided for. The Interest Payment Dates for the Notes shall be June 6 and December 6 of each year, beginning June 6, 2018. Interest shall be payable on each Interest Payment Date to the Holders of record at the close of business on the May 21 and November 21 prior to each Interest Payment Date. The basis upon which interest shall be calculated shall be that of a 360-day year consisting of twelve 30-day months.

(f) The Notes shall be issuable in whole in the form of one or more definitive, fully registered Global Securities without interest coupons, and the Depository for such Global Securities shall be DTC. The Notes shall be substantially in the form attached hereto as Exhibit A, the terms of which are herein incorporated by reference. The Notes shall be denominated in U.S. Dollars and, notwithstanding Section 3.02 of the Base Indenture, shall be issuable in minimum denominations of US\$200,000 or any integral multiples of US\$1,000 in excess thereof.

(g) The Notes may be redeemed at the option of the Company prior to the date of Stated Maturity for payment of principal on the Notes, as provided in Section 2.02.

(h) The Notes will not have the benefit of any sinking fund.

(i) Except as provided herein, the Holders of the Notes shall have no special rights in addition to those provided in the Base Indenture upon the occurrence of any particular events.

(j) The Notes will be senior unsecured obligations of the Company and will rank at least equal in right of payment to all of the Company's other existing and future unsecured and unsubordinated obligations (subject to any priority rights pursuant to applicable law).

#### Section 2.02 Optional Redemption.

(a) The provisions of Article IV of the Base Indenture, as amended by the provisions of this Third Supplemental Indenture, shall apply to the Notes.

(b) The Company may, at any time prior to June 6, 2037, upon giving not less than 30 days' nor more than 60 days' notice to Holders of the Notes (which notice shall be irrevocable), redeem the Notes, in whole or in part, at a redemption amount equal to the greater of (x) 100% of the principal amount of such Notes to be redeemed and (y) the Make-Whole Amount, plus, in each case, accrued and unpaid interest, if any, to, but not including, the Redemption Date (subject to the right of Holders of record on the relevant Record Date to receive interest due on the relevant Interest Payment Date); provided that the aggregate principal amount of the Notes remaining outstanding after redemption in part shall be US\$200,000 or an integral multiple of US\$1,000 in excess thereof.

(c) The Company may, from and after June 6, 2037 upon giving not less than 30 days nor more than 60 days' notice to Holders of the Notes (which notice shall be irrevocable), redeem the Notes at a redemption price equal to 100% of the principal amount of such Notes to be redeemed plus accrued and unpaid interest and Special Interest, if any, to, but not including, the Redemption Date (subject to the right of Holders of record on the relevant Record Date to receive interest due on the relevant Interest Payment Date).



(d) If the Redemption Date pursuant to this Section 2.02 is on or after the relevant Record Date and on or before the related Interest Payment Date, accrued and unpaid interest, if any, to the Redemption Date pursuant to this Section 2.02 shall be paid on such Interest Payment Date to the Person in whose name a Note is registered at the close of business on such Record Date.

(e) The Company or any of its Controlled Entities may, in accordance with all applicable laws and regulations, at any time purchase the Notes in the open market or otherwise at any price, so long as such purchase does not otherwise violate the terms of the Indenture. The Notes that the Company or its Affiliates purchase may, in the discretion of the Company, be held, resold or canceled, but will only be resold in compliance with applicable requirements or exemptions under the relevant securities laws.

Section 2.03 NDRC Post-issue Filing. The Company shall notify the Trustee if the Company does not file or cause to be filed with the National Development and Reform Commission of the PRC (the “NDRC”) the requisite information and documents required to be filed with the NDRC within 10 PRC Business Days after the Closing Date in accordance with the Registration Certificate of Enterprise Foreign Debt Filing ( 企业借用外债备案登记证明 ( 发改办外资备 [2017]377 号 )) issued by the General Office of the NDRC on October 24, 2017, pursuant to the Circular on Promoting the Reform of the Administrative System on the Issuance by Enterprises of Foreign Debt Filings and Registrations ( 国家发展改革委关于推进企业发行外债备案登记制管理改革的通知 ( 发改外资 [2015]2044 号 )) issued by the NDRC on September 14, 2015, the Approval of Foreign Debt Quota Administration Reform Trial Enterprise (Second Batch) for 2017 ( 国家发展改革委关于 2017 年度外债规模管理改革试点企业 (第二批) 的批复 ( 发改外资 [2017]560 号 )) issued by the NDRC on March 22, 2017, and any implementation rules as issued by the NDRC as in effect at such time (the “Post-Issuance Filing”). Such notification to the Trustee will be made within 10 PRC Business Days after such failure to complete the Post-Issuance Filing.

“PRC Business Day” means a day other than a Saturday, Sunday or a day on which banking institutions in the PRC are authorized or obligated by law, regulation or executive order to remain closed.

Section 2.04 Limitation on Liens.

(a) Subject to the exceptions set forth in Section 2.04(b) below, the Company will not create or have outstanding, and the Company will ensure that none of its Principal Controlled Entities will create or have outstanding, any Lien upon the whole or any part of their respective present or future assets securing any Relevant Indebtedness, or create or have outstanding any guarantee or indemnity in respect of any Relevant Indebtedness either of the Company or of any Principal Controlled Entity, without (x) at the same time or prior thereto securing or guaranteeing the Securities of any applicable series, as applicable, equally and ratably therewith or (y) providing such other security or guarantees for the Securities of the applicable series as shall be approved by an act of the Holders of such series of Securities holding at least a majority of the principal amount of such series of Securities then Outstanding.

(b) The restriction set forth in Section 2.04(a) above will not apply to:

- (i) any Lien arising or already arisen automatically by operation of law which is timely discharged or disputed in good faith by appropriate proceedings;
- (ii) any Lien in respect of the obligations of any Person which becomes a Principal Controlled Entity or which merges with or into the Company or a Principal Controlled Entity after the date hereof which is in existence at the date on which it becomes a Principal Controlled Entity or merges with or into the Company or a Principal Controlled Entity;
- (iii) any Lien created or outstanding in favor of the Company or any Lien created by any of its Controlled Entities in favor of any of its other Controlled Entities;
- (iv) any Lien in respect of Relevant Indebtedness of the Company or any Principal Controlled Entity with respect to which the Company or such Principal Controlled Entity has paid money or deposited money or securities with a paying agent, trustee or Depository to pay or discharge in full the obligations of the Company or such Principal Controlled Entity in respect thereof (other than the obligation that such money or securities so paid or deposited, and the proceeds therefrom, be sufficient to pay or discharge such obligations in full);
- (v) any Lien created in connection with Relevant Indebtedness of the Company or any Principal Controlled Entity denominated in Chinese Renminbi and initially offered, marketed or issued primarily to Persons resident in the PRC;
- (vi) any Lien created in connection with a project financed with, or created to secure, Non-recourse Obligations; or
- (vii) any Lien arising out of the refinancing, extension, renewal or refunding of any Relevant Indebtedness secured by any Lien permitted by the foregoing clause (ii), (v), (vi) or (vii) of this Section 2.04(b); provided that such Relevant Indebtedness is not increased beyond the principal amount thereof (together with the costs of such refinancing, extension, renewal or refunding, including any accrued interest and prepayment premiums or consent fees) and is not secured by any additional property or assets.

Section 2.05 Terms Specific to the Notes .

- (a) Clause (x) of Section 13.02(a) of the Base Indenture shall be replaced in its entirety by the following with respect to the Notes only:

“reduce the amount of the premium payable upon the redemption or repurchase of any Security or change the time at which any Security may be redeemed or repurchased as described in Section 2.02 of the Third Supplemental Indenture or as described in Section 4.07 and Section 5.06 of the Base Indenture(except through amendments to the definition of “ Triggering Event ” if applicable).”

- (b) Section 11.03(c) of the Base Indenture shall be replaced in its entirety by the following with respect to the Notes only:

“Upon the Company’s exercise under Section 11.03(a) of the Base Indenture of the option applicable to this Section 11.03(c) of the Base Indenture , the Company shall, subject to the satisfaction of the conditions set forth in Section 11.03(d) of the Base Indenture, be released from its obligations under the covenants contained in Section 2.04 of the Third Supplemental Indenture, and Section 5.04 and Section 5.08 of the Base Indenture and as provided pursuant to Section 3.01(z) of the Base Indenture, on and after the date the conditions set forth in Section 11.03(d) of the Base Indenture are satisfied (“ Covenant Defeasance ”). For this purpose, “ Covenant Defeasance ” means that, with respect to this Indenture and the Securities of such series then Outstanding, the Company may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document, and such omission to comply shall not constitute a Default or an Event of Default under Section 6.01 of the Base Indenture, but, except as specified above, the remainder of this Indenture and the Securities shall be unaffected thereby. In addition, upon the Company’s exercise under Section 11.03(a) of the Base Indenture of the option applicable to this Section 11.03(c) of the Base Indenture, subject to the satisfaction of the conditions set forth in Section 11.03(d), Sections 6.01(c), and 6.01(d) (only with respect to covenants that are released as a result of such Covenant Defeasance) of the Base Indenture, in each case, shall not constitute Events of Default.”

(c) Section 13.01(h) of the Base Indenture shall be replaced in its entirety by the following with respect to the Notes only:

“to conform the text of this Indenture or any series of the Securities to any provision of the section entitled “Description of the Debt Securities” in the Prospectus or of the section entitled “Description of the Notes” in the Prospectus Supplement to the extent that such provision in such Prospectus or such Prospectus Supplement was intended to be a verbatim recitation of a provision of this Indenture or such series of the Securities as evidenced by an Officer’s Certificate.”

(d) Section 13.02(a)(viii) of the Base Indenture shall be replaced in its entirety by the following with respect to the Notes only:

“modify any of the provisions of this Section 13.02, Section 5.11 and Section 6.06 of the Base Indenture, and Section 2.05(d) of the Third Supplemental Indenture, except to increase any such percentage or provide that certain other provisions of this Indenture cannot be modified or waived without the consent of the Holder of each Outstanding Security affected thereby; provided, however, that this clause shall not be deemed to require the consent of any Holder with respect to changes in the references to the “Trustee” and concomitant changes in the Section 13.02 and Section 5.11 of the Base Indenture, or the deletion of this proviso, in accordance with the requirements of Sections 10.06 and 13.01(g) of the Base Indenture.”

(e) Section 13.02(a)(x) of the Base Indenture shall be replaced in its entirety by the following with respect to the Notes only:

“reduce the amount of the premium payable upon the redemption or repurchase of any Security or change the time at which any Security may be redeemed or repurchased as described in Section 2.02 of the Third Supplemental Indenture, as described in Section 4.07 or Section 5.06 of the Base Indenture whether through an amendment or waiver of provisions in the covenants, definitions or otherwise (except through amendments to the definition of “Triggering Event” if applicable).”

### ARTICLE III

#### MISCELLANEOUS PROVISIONS

Section 3.01 Confirmation of Indenture. The Base Indenture, as supplemented and amended by this Third Supplemental Indenture, is in all respects ratified and confirmed, and the Base Indenture, this Third Supplemental Indenture and all indentures supplemental thereto with respect to the Notes shall be read, taken and construed as one and the same instrument.

Section 3.02 Severability. If any provision in this Third Supplemental Indenture or in the Notes shall be held to be invalid, illegal or unenforceable under applicable law, then the remaining provisions in this Third Supplemental Indenture or in the Notes shall be construed as though such invalid, illegal or unenforceable provision were not contained herein.

Section 3.03 Conflicts with Base Indenture. In the event that any provision of this Third Supplemental Indenture limits, qualifies or conflicts with the express provisions of the Base Indenture, such provision of the Third Supplemental Indenture shall prevail.

Section 3.04 Benefits of Indenture. Nothing in this Third Supplemental Indenture expressed and nothing that may be implied from any of the provisions hereof is intended, or shall be construed, to confer upon, or to give to, any Person other than the parties hereto and their successors and the Holders of the Notes any benefit or any right, remedy or claim under or by reason of this Third Supplemental Indenture or the Base Indenture or any covenant, condition, stipulation, promise or agreement hereof or thereof, and all covenants, conditions, stipulations, promises and agreements contained herein or therein shall be for the sole and exclusive benefit of the parties hereto and their successors and of the Holders of the Notes.

Section 3.05 Counterparts. This Third Supplemental Indenture may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument.

Section 3.06 Governing Law; Waiver of Trial by Jury. This Third Supplemental Indenture and the Notes shall be governed by, and construed in accordance with the laws of the State of New York.

EACH OF THE PARTIES HERETO IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHTS IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS THIRD SUPPLEMENTAL INDENTURE OR THE NOTES.

[Signatures on following page]

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IN WITNESS WHEREOF, the parties have caused this Fifth Supplemental Indenture to be duly executed as of the date first written above.

ALIBABA GROUP HOLDING LIMITED,  
as Issuer

By: /s/ Maggie Wei Wu

Name: Maggie Wei Wu  
Title: Chief Financial Officer

THE BANK OF NEW YORK MELLON,  
as Trustee

By: /s/ Thomas Scollon

Name: Thomas Scollon  
Title: Vice President

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[FORM OF FACE OF SECURITY]

[if a Global Security]

**UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR THE INDIVIDUAL SECURITIES REPRESENTED HEREBY IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN THE INDENTURE REFERRED TO ON THE REVERSE HEREOF, THIS GLOBAL SECURITY MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITORY TO A NOMINEE OF THE DEPOSITORY OR BY A NOMINEE OF THE DEPOSITORY TO THE DEPOSITORY OR ANOTHER NOMINEE OF THE DEPOSITORY OR BY THE DEPOSITORY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITORY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITORY .**

[if a Definitive Security]

**IN CONNECTION WITH ANY TRANSFER, THE HOLDER WILL DELIVER TO THE REGISTRAR AND TRUSTEE SUCH CERTIFICATES AND OTHER INFORMATION AS THE REGISTRAR AND THE TRUSTEE MAY REASONABLY REQUIRE TO CONFIRM THAT THE TRANSFER COMPLIES WITH THE FOREGOING RESTRICTIONS.**

Alibaba Group Holding Limited.

4.000% Notes due 2037

PRINCIPAL AMOUNT: US\$ \_\_\_\_\_  
CUSIP:  
ISIN:  
No.: \_\_\_\_\_

Alibaba Group Holding Limited, an exempted company incorporated in the Cayman Islands (the “Company,” which term includes any successor thereto under the Indenture referred to on the reverse hereof), for value received, hereby promises to pay to Cede & Co., or registered assigns, the principal sum of \_\_\_\_\_ U.S. DOLLARS (US\$ \_\_\_\_\_) (or such other principal amount as shall be set forth in the Schedule of Increases or Decreases in Note attached hereto) on December 6, 2037, or on such earlier date as the principal hereof may become due in accordance with the provisions of this Note.

Interest Rate: 4.000% per annum.

Interest Payment Dates: June 6 and December 6 of each year, commencing on June 6, 2018.

Record Dates: May 21 and November 21.

Reference is made to the further provisions of this Note set forth on the reverse hereof. Such further provisions shall for all purposes have the same effect as though fully set forth at this place.

This Note shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been manually signed by the Trustee under the Indenture referred to on the reverse hereof.

IN WITNESS WHEREOF, Alibaba Group Holding Limited has caused this Note to be duly executed.

ALIBABA GROUP HOLDING LIMITED,

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

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This is one of the Securities of the series designated therein referred to in the within-mentioned Indenture.

Date of authentication: \_\_\_\_\_

THE BANK OF NEW YORK MELLON,  
as Trustee

By: \_\_\_\_\_

Name:

Title:



ALIBABA GROUP HOLDING LIMITED

4.000% Notes due 2037

This Note is one of a duly authorized issue of debt securities of the Company of the series designated as the “4.000% Notes due 2037” (the “Notes”), all issued or to be issued under and pursuant to an Indenture, dated as of December 6, 2017 (the “Base Indenture”), duly executed and delivered by and between the Company and The Bank of New York Mellon, as trustee (the “Trustee,” which term includes any successor trustee), as supplemented by the Third Supplemental Indenture, dated as of December 6, 2017 (the “Third Supplemental Indenture”), duly executed and delivered by and between the Company and the Trustee. The Base Indenture as supplemented and amended by the Third Supplemental Indenture is referred to herein as the “Indenture”. Capitalized terms used herein and not otherwise defined shall have the meanings given them in the Indenture. To the extent any provision of this Note conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling.

1. Interest. The Company promises to pay interest on the principal amount of this Note at a rate of 4.000% per annum. The date from which interest shall accrue on the Notes shall be December 6, 2017, or the most recent Interest Payment Date to which interest has been paid or provided for. The Company will pay interest semi-annually in arrears on June 6 and December 6 of each year, beginning June 6, 2018. In any case in which an Interest Payment Date, Redemption Date, Maturity or other payment date is not a Business Day as defined in the Indenture at a Place of Payment, payment may be made at that place on the next succeeding day that is a Business Day. Any payment made on such Business Day will have the same force and effect as if made on the date on which the payment is due and no interest shall accrue for the intervening period. Interest shall be computed on the basis of a 360-day year of twelve 30-day months and, in the case of an incomplete month, the actual number of days elapsed.

2. Method of Payment. The Company shall pay interest on the Notes (except Defaulted Interest, if any), to the Persons in whose name such Notes are registered at the close of business on the Record Date referred to on the face of this Note immediately preceding the related Interest Payment Date, even if such Notes are canceled, repurchased or redeemed on or after such Record Date and on or before such Interest Payment Date. Payment of interest on the Notes shall be made, in the currency of the United States of America that at the time is legal tender for payment of public and private debts, at the Corporate Trust Office or, at the option of the Company, by check mailed to the address of the Person entitled thereto as such address shall appear in the Register or, in accordance with arrangements satisfactory to the Paying Agent, by wire transfer to an account designated by the Holder.

3. Paying Agent and Registrar. Initially, The Bank of New York Mellon will act as Paying Agent and Registrar. The Company may change or appoint any Paying Agent or Registrar without notice to any Holder. The Company may act in any such capacity.

4. Indenture. The terms of the Notes include those stated in the Indenture and those made part of the Indenture by reference to the Trust Indenture Act of 1939, as amended (“TIA”) as in effect on the date the Indenture is qualified. The Notes are subject to all such terms, and Holders are referred to the Indenture and TIA for a statement of such terms. The Notes are unsecured general obligations of the Company and constitute the series designated on the face of this Note as the “4.000% Notes due 2037,” initially limited to US\$1,000,000,000 in aggregate principal amount. The Company will furnish to any Holder upon written request and without charge a copy of the Base Indenture and the Third Supplemental Indenture. Requests may be made to: Alibaba Group Holding Limited, c/o Alibaba Group Services Limited, 26/F Tower One, Times Square, 1 Matheson Street, Causeway Bay, Hong Kong, Attn: Timothy A. Steinert, Esq.



OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have this Note purchased by the Company pursuant to Section 5.06 of the Base Indenture, check the box below:

Section 5.06

If you want to elect to have only part of the Note purchased by the Company pursuant to Section 5.06 of the Base Indenture, state the amount you elect to have purchased:

US\$ \_\_\_\_\_

Date: \_\_\_\_\_

Your Signature: \_\_\_\_\_  
(Sign exactly as your name appears on the face of this Note)

Tax Identification No: \_\_\_\_\_

Signature Guarantee:  
\_\_\_\_\_

SIGNATURE GUARANTEE

Signatures must be guaranteed by an “eligible guarantor institution” meeting the requirements of the Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program (“STAMP”) or such other “signature guarantee program” as may be determined by the Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

SCHEDULE OF INCREASES OR DECREASES IN NOTE\*

The initial principal amount of this Note is US\$ \_\_\_\_\_. The following increases or decreases in a part of this Note have been made:

Date	Amount of decrease in principal amount of this Note	Amount of increase in principal amount of this Note	Principal amount of this Note following such decrease (or increase)
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\* Insert in Global Notes.

**FOURTH SUPPLEMENTAL INDENTURE**

**Dated as of**

**December 6, 2017**

**Between**

**ALIBABA GROUP HOLDING LIMITED**

**as Company**

**and**

**THE BANK OF NEW YORK MELLON**

**as Trustee**

**4.200% NOTES DUE 2047**

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FOURTH SUPPLEMENTAL INDENTURE dated as of December 6, 2017 between Alibaba Group Holding Limited, an exempted company incorporated in the Cayman Islands (the “Company”), and The Bank of New York Mellon, as trustee (the “Trustee”).

**WITNESSETH:**

WHEREAS, the Company and the Trustee executed and delivered an Indenture, dated as of December 6, 2017 (the “Base Indenture”), to provide for the issuance of debentures, notes, bonds or other evidences of indebtedness in an unlimited aggregate principal amount to be issued from time to time in one or more series (such Base Indenture, as supplemented and amended by this Fourth Supplemental Indenture, herein referred to as the “Indenture”);

WHEREAS, the Company has duly authorized the issuance of US\$1,750,000,000 aggregate principal amount of 4.200% Notes due 2047 (the “Notes”);

WHEREAS, the Company has duly authorized the execution and delivery of this Fourth Supplemental Indenture pursuant to Section 13.01 of the Base Indenture to establish the terms and the form of the Notes in accordance with Sections 2.01, 3.01 and 3.03 of the Base Indenture; and

WHEREAS, all things necessary to make this Fourth Supplemental Indenture a valid and legally binding agreement of the Company, in accordance with its terms, have been done.

NOW, THEREFORE, THIS FOURTH SUPPLEMENTAL INDENTURE WITNESSETH:

That, in consideration of the premises and the purchase of the Notes by the Holders thereof for the equal and proportionate benefit of all of the present and future Holders of the Notes, each party agrees and covenants as follows:

**ARTICLE I**

**SCOPE AND DEFINITIONS**

Section 1.01 Scope. The changes, modifications and supplements to the Base Indenture effected by this Fourth Supplemental Indenture shall be applicable only with respect to, and govern the terms of, the Notes and shall not apply to any other series of Securities that may be issued under the Base Indenture unless a supplemental indenture with respect to such other series of Securities specifically incorporates such changes, modifications and supplements.

Section 1.02 Definitions.

(a) Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the Base Indenture.

(b) As used herein, the following additional defined terms shall have the following meanings with respect to the Notes only and be equally applicable to both the singular and the plural forms of any of the terms herein defined:

“Additional Notes” has the meaning provided in Section 2.01(c).

“Base Indenture” has the meaning provided in the recitals hereof.

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“Comparable Treasury Issue” means the United States Treasury security selected by an Independent Investment Banker that would be utilized, at the time of selection and in accordance with customary financial practice, in pricing new issues of corporate debt securities of comparable maturity to the remaining term of the Notes to be redeemed.

“Comparable Treasury Price” means, with respect to any Redemption Date pursuant to Section 2.02, (1) the average of the Reference Treasury Dealer Quotations for such Redemption Date, after excluding the highest and lowest of such Reference Treasury Dealer Quotations, or (2) if the Company obtains fewer than three such Reference Treasury Dealer Quotations, the average of all quotations obtained.

“Fourth Supplemental Indenture” means this instrument.

“Independent Investment Banker” means one of the Reference Treasury Dealers appointed by the Company.

“Initial Notes” has the meaning provided in Section 2.01(c).

“Make-Whole Amount” means an amount determined by the Paying Agent on the fifth Business Day before the Redemption Date pursuant to Section 2.02 that is equal to the sum of (i) the present value of the principal amount of the Notes to be redeemed, assuming a scheduled repayment thereof on the date of Stated Maturity for payment of principal on such Notes, plus (ii) the present value of the remaining scheduled payments of interest to and including such date of Stated Maturity for payment of principal on such Notes (exclusive of interest accrued to the Redemption Date), in each case discounted to such Redemption Date on a semi-annual basis (assuming a 360-day year consisting of twelve 30-day months and, in the case of an incomplete month, the actual number of days elapsed) at the Treasury Yield plus 25 basis points.

“Notes” has the meaning provided in the recitals hereof.

“Prospectus Supplement” means the prospectus supplement dated November 29, 2017, relating to the offering of the Notes.

“Reference Treasury Dealer” means each of any three investment banks of recognized standing that is a primary U.S. government securities dealer in the United States, selected by the Company in good faith.

“Reference Treasury Dealer Quotation” means, with respect to each Reference Treasury Dealer and any Redemption Date pursuant to Section 2.02, the average, as determined by the Company, of the bid and asked prices for the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) quoted in writing to the Company by such Reference Treasury Dealer as of 5:00 p.m., New York City time, on the fifth Business Day before such Redemption Date.

“Registrar” means The Bank of New York Mellon or its successor as registrar under the Indenture.

“Treasury Yield” means, with respect to any Redemption Date pursuant to Section 2.02, the rate per annum equal to the semi-annual equivalent yield to maturity (computed as of the fifth Business Day before such Redemption Date) of the Comparable Treasury Issue, calculated using a price for the Comparable Treasury Issue (expressed as a percentage of its principal amount) equal to the Comparable Treasury Price for such Redemption Date.

Section 1.03 Rules of Construction. For all purposes of this Fourth Supplemental Indenture, except as otherwise expressly provided or unless the context otherwise requires:

- (a) The words “herein”, “hereof” and “hereunder” and other words of similar import refer to this Fourth Supplemental Indenture as a whole and not to any particular Article, Section or other subdivision;
- (b) references to “Article” or “Section” or other subdivision herein are references to an Article, Section or other subdivision of this Fourth Supplemental Indenture, unless the context otherwise requires;
- (c) the words “including” and words of similar import when used in this Indenture shall mean “including, without limitation”;
- (d) references to any agreement, instrument, statute or regulation defined or referred to herein or in any instrument establishing the terms of the Notes (or executed in connection therewith) are references to such agreement, instrument, statute or regulation as from time to time amended, modified, supplemented or replaced, including (in the case of agreements or instruments) by waiver or consent and by succession of comparable successor agreements, instruments, statutes or regulations; and
- (e) “or” is not exclusive.

## **ARTICLE II**

### **THE NOTES**

Section 2.01 Terms of the Notes. The Notes are hereby created and designated as a separate series of Securities under the Base Indenture. The following terms relate to the Notes:

- (a) The Notes shall constitute a separate series of Securities under the Base Indenture having the title “4.200% Notes due 2047”.
- (b) The Notes shall be issued at a price of 99.831% of the principal amount thereof, other than any offering discounts pursuant to the initial offering and resale of the Notes.
- (c) The aggregate principal amount of the Notes (the “Initial Notes”) that may be initially authenticated and delivered under the Indenture shall be US\$1,750,000,000. The Company may from time to time, without the consent of the Holders of the Notes, issue additional Notes (in any such case “Additional Notes”) having the same terms and conditions as the Initial Notes in all respects (or in all respects except for the Issue Date, the issue price or the first Interest Payment Date). Any Additional Notes and the Initial Notes shall constitute a single series under the Indenture; provided that if such Additional Notes are not fungible with the Initial Notes for U.S. federal income tax purposes, such Additional Notes shall not be issued. All references to the “Notes” shall include the Initial Notes and any Additional Notes unless the context otherwise requires. The aggregate principal amount of each of the Additional Notes shall be unlimited.
- (d) The entire outstanding principal of the Notes shall be payable on December 6, 2047.



(e) The rate at which the Notes shall bear interest shall be 4.200% per year. The date from which interest shall accrue on the Notes shall be December 6, 2017, or the most recent Interest Payment Date to which interest has been paid or provided for. The Interest Payment Dates for the Notes shall be June 6 and December 6 of each year, beginning June 6, 2018. Interest shall be payable on each Interest Payment Date to the Holders of record at the close of business on the May 21 and November 21 prior to each Interest Payment Date. The basis upon which interest shall be calculated shall be that of a 360-day year consisting of twelve 30-day months.

(f) The Notes shall be issuable in whole in the form of one or more definitive, fully registered Global Securities without interest coupons, and the Depository for such Global Securities shall be DTC. The Notes shall be substantially in the form attached hereto as Exhibit A, the terms of which are herein incorporated by reference. The Notes shall be denominated in U.S. Dollars and, notwithstanding Section 3.02 of the Base Indenture, shall be issuable in minimum denominations of US\$200,000 or any integral multiples of US\$1,000 in excess thereof.

(g) The Notes may be redeemed at the option of the Company prior to the date of Stated Maturity for payment of principal on the Notes, as provided in Section 2.02.

(h) The Notes will not have the benefit of any sinking fund.

(i) Except as provided herein, the Holders of the Notes shall have no special rights in addition to those provided in the Base Indenture upon the occurrence of any particular events.

(j) The Notes will be senior unsecured obligations of the Company and will rank at least equal in right of payment to all of the Company's other existing and future unsecured and unsubordinated obligations (subject to any priority rights pursuant to applicable law).

#### Section 2.02 Optional Redemption.

(a) The provisions of Article IV of the Base Indenture, as amended by the provisions of this Fourth Supplemental Indenture, shall apply to the Notes.

(b) The Company may, at any time prior to June 6, 2047, upon giving not less than 30 days' nor more than 60 days' notice to Holders of the Notes (which notice shall be irrevocable), redeem the Notes, in whole or in part, at a redemption amount equal to the greater of (x) 100% of the principal amount of such Notes to be redeemed and (y) the Make-Whole Amount, plus, in each case, accrued and unpaid interest, if any, to, but not including, the Redemption Date (subject to the right of Holders of record on the relevant Record Date to receive interest due on the relevant Interest Payment Date); provided that the aggregate principal amount of the Notes remaining outstanding after redemption in part shall be US\$200,000 or an integral multiple of US\$1,000 in excess thereof.

(c) The Company may, from and after June 6, 2047 upon giving not less than 30 days nor more than 60 days' notice to Holders of the Notes (which notice shall be irrevocable), redeem the Notes at a redemption price equal to 100% of the principal amount of such Notes to be redeemed plus accrued and unpaid interest and Special Interest, if any, to, but not including, the Redemption Date (subject to the right of Holders of record on the relevant Record Date to receive interest due on the relevant Interest Payment Date).

(d) If the Redemption Date pursuant to this Section 2.02 is on or after the relevant Record Date and on or before the related Interest Payment Date, accrued and unpaid interest, if any, to the Redemption Date pursuant to this Section 2.02 shall be paid on such Interest Payment Date to the Person in whose name a Note is registered at the close of business on such Record Date.

(e) The Company or any of its Controlled Entities may, in accordance with all applicable laws and regulations, at any time purchase the Notes in the open market or otherwise at any price, so long as such purchase does not otherwise violate the terms of the Indenture. The Notes that the Company or its Affiliates purchase may, in the discretion of the Company, be held, resold or canceled, but will only be resold in compliance with applicable requirements or exemptions under the relevant securities laws.

Section 2.03 NDRC Post-issue Filing. The Company shall notify the Trustee if the Company does not file or cause to be filed with the National Development and Reform Commission of the PRC (the “NDRC”) the requisite information and documents required to be filed with the NDRC within 10 PRC Business Days after the Closing Date in accordance with the Registration Certificate of Enterprise Foreign Debt Filing ( 企业借用外债备案登记证明 (发改办外资备 [2017]377 号 )) issued by the General Office of the NDRC on October 24, 2017, pursuant to the Circular on Promoting the Reform of the Administrative System on the Issuance by Enterprises of Foreign Debt Filings and Registrations ( 国家发展改革委关于推进企业发行外债备案登记制管理改革的通知 (发改外资 [2015]2044 号 )) issued by the NDRC on September 14, 2015, the Approval of Foreign Debt Quota Administration Reform Trial Enterprise (Second Batch) for 2017 ( 国家发展改革委关于 2017 年度外债规模管理改革试点企业 (第二批) 的批复 (发改外资 [2017]560 号 )) issued by the NDRC on March 22, 2017, and any implementation rules as issued by the NDRC as in effect at such time (the “Post-Issuance Filing”). Such notification to the Trustee will be made within 10 PRC Business Days after such failure to complete the Post-Issuance Filing.

“PRC Business Day” means a day other than a Saturday, Sunday or a day on which banking institutions in the PRC are authorized or obligated by law, regulation or executive order to remain closed.

Section 2.04 Limitation on Liens.

(a) Subject to the exceptions set forth in Section 2.04(b) below, the Company will not create or have outstanding, and the Company will ensure that none of its Principal Controlled Entities will create or have outstanding, any Lien upon the whole or any part of their respective present or future assets securing any Relevant Indebtedness, or create or have outstanding any guarantee or indemnity in respect of any Relevant Indebtedness either of the Company or of any Principal Controlled Entity, without (x) at the same time or prior thereto securing or guaranteeing the Securities of any applicable series, as applicable, equally and ratably therewith or (y) providing such other security or guarantees for the Securities of the applicable series as shall be approved by an act of the Holders of such series of Securities holding at least a majority of the principal amount of such series of Securities then Outstanding.

(b) The restriction set forth in Section 2.04(a) above will not apply to:

- (i) any Lien arising or already arisen automatically by operation of law which is timely discharged or disputed in good faith by appropriate proceedings;
- (ii) any Lien in respect of the obligations of any Person which becomes a Principal Controlled Entity or which merges with or into the Company or a Principal Controlled Entity after the date hereof which is in existence at the date on which it becomes a Principal Controlled Entity or merges with or into the Company or a Principal Controlled Entity;
- (iii) any Lien created or outstanding in favor of the Company or any Lien created by any of its Controlled Entities in favor of any of its other Controlled Entities;
- (iv) any Lien in respect of Relevant Indebtedness of the Company or any Principal Controlled Entity with respect to which the Company or such Principal Controlled Entity has paid money or deposited money or securities with a paying agent, trustee or Depository to pay or discharge in full the obligations of the Company or such Principal Controlled Entity in respect thereof (other than the obligation that such money or securities so paid or deposited, and the proceeds therefrom, be sufficient to pay or discharge such obligations in full);
- (v) any Lien created in connection with Relevant Indebtedness of the Company or any Principal Controlled Entity denominated in Chinese Renminbi and initially offered, marketed or issued primarily to Persons resident in the PRC;
- (vi) any Lien created in connection with a project financed with, or created to secure, Non-recourse Obligations; or
- (vii) any Lien arising out of the refinancing, extension, renewal or refunding of any Relevant Indebtedness secured by any Lien permitted by the foregoing clause (ii), (v), (vi) or (vii) of this Section 2.04(b); provided that such Relevant Indebtedness is not increased beyond the principal amount thereof (together with the costs of such refinancing, extension, renewal or refunding, including any accrued interest and prepayment premiums or consent fees) and is not secured by any additional property or assets.

Section 2.05 Terms Specific to the Notes .

- (a) Clause (x) of Section 13.02(a) of the Base Indenture shall be replaced in its entirety by the following with respect to the Notes only:

“reduce the amount of the premium payable upon the redemption or repurchase of any Security or change the time at which any Security may be redeemed or repurchased as described in Section 2.02 of the Fourth Supplemental Indenture or as described in Section 4.07 and Section 5.06 of the Base Indenture(except through amendments to the definition of “ Triggering Event ” if applicable).”

- (b) Section 11.03(c) of the Base Indenture shall be replaced in its entirety by the following with respect to the Notes only:

“Upon the Company’s exercise under Section 11.03(a) of the Base Indenture of the option applicable to this Section 11.03(c) of the Base Indenture , the Company shall, subject to the satisfaction of the conditions set forth in Section 11.03(d) of the Base Indenture, be released from its obligations under the covenants contained in Section 2.04 of the Fourth Supplemental Indenture, and Section 5.04 and Section 5.08 of the Base Indenture and as provided pursuant to Section 3.01(z) of the Base Indenture, on and after the date the conditions set forth in Section 11.03(d) of the Base Indenture are satisfied (“ Covenant Defeasance ”). For this purpose, “ Covenant Defeasance ” means that, with respect to this Indenture and the Securities of such series then Outstanding, the Company may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document, and such omission to comply shall not constitute a Default or an Event of Default under Section 6.01 of the Base Indenture, but, except as specified above, the remainder of this Indenture and the Securities shall be unaffected thereby. In addition, upon the Company’s exercise under Section 11.03(a) of the Base Indenture of the option applicable to this Section 11.03(c) of the Base Indenture, subject to the satisfaction of the conditions set forth in Section 11.03(d), Sections 6.01(c), and 6.01(d) (only with respect to covenants that are released as a result of such Covenant Defeasance) of the Base Indenture, in each case, shall not constitute Events of Default.”

(c) Section 13.01(h) of the Base Indenture shall be replaced in its entirety by the following with respect to the Notes only:

“to conform the text of this Indenture or any series of the Securities to any provision of the section entitled “Description of the Debt Securities” in the Prospectus or of the section entitled “Description of the Notes” in the Prospectus Supplement to the extent that such provision in such Prospectus or such Prospectus Supplement was intended to be a verbatim recitation of a provision of this Indenture or such series of the Securities as evidenced by an Officer’s Certificate.”

(d) Section 13.02(a)(viii) of the Base Indenture shall be replaced in its entirety by the following with respect to the Notes only:

“modify any of the provisions of this Section 13.02, Section 5.11 and Section 6.06 of the Base Indenture, and Section 2.05(d) of the Fourth Supplemental Indenture, except to increase any such percentage or provide that certain other provisions of this Indenture cannot be modified or waived without the consent of the Holder of each Outstanding Security affected thereby; provided, however, that this clause shall not be deemed to require the consent of any Holder with respect to changes in the references to the “Trustee” and concomitant changes in the Section 13.02 and Section 5.11 of the Base Indenture, or the deletion of this proviso, in accordance with the requirements of Sections 10.06 and 13.01(g) of the Base Indenture.”

(e) Section 13.02(a)(x) of the Base Indenture shall be replaced in its entirety by the following with respect to the Notes only:

“reduce the amount of the premium payable upon the redemption or repurchase of any Security or change the time at which any Security may be redeemed or repurchased as described in Section 2.02 of the Fourth Supplemental Indenture, as described in Section 4.07 or Section 5.06 of the Base Indenture whether through an amendment or waiver of provisions in the covenants, definitions or otherwise (except through amendments to the definition of “Triggering Event” if applicable).”

### ARTICLE III

#### MISCELLANEOUS PROVISIONS

Section 3.01 Confirmation of Indenture. The Base Indenture, as supplemented and amended by this Fourth Supplemental Indenture, is in all respects ratified and confirmed, and the Base Indenture, this Fourth Supplemental Indenture and all indentures supplemental thereto with respect to the Notes shall be read, taken and construed as one and the same instrument.

Section 3.02 Severability. If any provision in this Fourth Supplemental Indenture or in the Notes shall be held to be invalid, illegal or unenforceable under applicable law, then the remaining provisions in this Fourth Supplemental Indenture or in the Notes shall be construed as though such invalid, illegal or unenforceable provision were not contained herein.

Section 3.03 Conflicts with Base Indenture. In the event that any provision of this Fourth Supplemental Indenture limits, qualifies or conflicts with the express provisions of the Base Indenture, such provision of the Fourth Supplemental Indenture shall prevail.

Section 3.04 Benefits of Indenture. Nothing in this Fourth Supplemental Indenture expressed and nothing that may be implied from any of the provisions hereof is intended, or shall be construed, to confer upon, or to give to, any Person other than the parties hereto and their successors and the Holders of the Notes any benefit or any right, remedy or claim under or by reason of this Fourth Supplemental Indenture or the Base Indenture or any covenant, condition, stipulation, promise or agreement hereof or thereof, and all covenants, conditions, stipulations, promises and agreements contained herein or therein shall be for the sole and exclusive benefit of the parties hereto and their successors and of the Holders of the Notes.

Section 3.05 Counterparts. This Fourth Supplemental Indenture may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument.

Section 3.06 Governing Law; Waiver of Trial by Jury. This Fourth Supplemental Indenture and the Notes shall be governed by, and construed in accordance with the laws of the State of New York.

EACH OF THE PARTIES HERETO IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHTS IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS FOURTH SUPPLEMENTAL INDENTURE OR THE NOTES.

[Signatures on following page]

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IN WITNESS WHEREOF, the parties have caused this Fifth Supplemental Indenture to be duly executed as of the date first written above.

ALIBABA GROUP HOLDING LIMITED,  
as Issuer

By: /s/ Maggie Wei Wu

Name: Maggie Wei Wu

Title: Chief Financial Officer

THE BANK OF NEW YORK MELLON,  
as Trustee

By: /s/ Thomas Scollon

Name: Thomas Scollon

Title: Vice President

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[FORM OF FACE OF SECURITY]

[if a Global Security]

**UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR THE INDIVIDUAL SECURITIES REPRESENTED HEREBY IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN THE INDENTURE REFERRED TO ON THE REVERSE HEREOF, THIS GLOBAL SECURITY MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITORY TO A NOMINEE OF THE DEPOSITORY OR BY A NOMINEE OF THE DEPOSITORY TO THE DEPOSITORY OR ANOTHER NOMINEE OF THE DEPOSITORY OR BY THE DEPOSITORY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITORY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITORY .**

[if a Definitive Security]

**IN CONNECTION WITH ANY TRANSFER, THE HOLDER WILL DELIVER TO THE REGISTRAR AND TRUSTEE SUCH CERTIFICATES AND OTHER INFORMATION AS THE REGISTRAR AND THE TRUSTEE MAY REASONABLY REQUIRE TO CONFIRM THAT THE TRANSFER COMPLIES WITH THE FOREGOING RESTRICTIONS.**

Alibaba Group Holding Limited.

4.200% Notes due 2047

PRINCIPAL AMOUNT: US\$ \_\_\_\_\_  
CUSIP:  
ISIN:  
No.: \_\_\_\_\_

Alibaba Group Holding Limited, an exempted company incorporated in the Cayman Islands (the “Company,” which term includes any successor thereto under the Indenture referred to on the reverse hereof), for value received, hereby promises to pay to Cede & Co., or registered assigns, the principal sum of \_\_\_\_\_ U.S. DOLLARS (US\$ \_\_\_\_\_) (or such other principal amount as shall be set forth in the Schedule of Increases or Decreases in Note attached hereto) on December 6, 2047, or on such earlier date as the principal hereof may become due in accordance with the provisions of this Note.

Interest Rate: 4.200% per annum.

Interest Payment Dates: June 6 and December 6 of each year, commencing on June 6, 2018.

Record Dates: May 21 and November 21.

Reference is made to the further provisions of this Note set forth on the reverse hereof. Such further provisions shall for all purposes have the same effect as though fully set forth at this place.

This Note shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been manually signed by the Trustee under the Indenture referred to on the reverse hereof.

IN WITNESS WHEREOF, Alibaba Group Holding Limited has caused this Note to be duly executed.

ALIBABA GROUP HOLDING LIMITED,

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



TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This is one of the Securities of the series designated therein referred to in the within-mentioned Indenture.

Date of authentication: \_\_\_\_\_

THE BANK OF NEW YORK MELLON,  
as Trustee

By: \_\_\_\_\_

Name:

Title:

[FORM OF REVERSE OF SECURITY]

ALIBABA GROUP HOLDING LIMITED

4.200% Notes due 2047

This Note is one of a duly authorized issue of debt securities of the Company of the series designated as the “4.200% Notes due 2047” (the “Notes”), all issued or to be issued under and pursuant to an Indenture, dated as of December 6, 2017 (the “Base Indenture”), duly executed and delivered by and between the Company and The Bank of New York Mellon, as trustee (the “Trustee,” which term includes any successor trustee), as supplemented by the Fourth Supplemental Indenture, dated as of December 6, 2017 (the “Fourth Supplemental Indenture”), duly executed and delivered by and between the Company and the Trustee. The Base Indenture as supplemented and amended by the Fourth Supplemental Indenture is referred to herein as the “Indenture”. Capitalized terms used herein and not otherwise defined shall have the meanings given them in the Indenture. To the extent any provision of this Note conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling.

1. Interest. The Company promises to pay interest on the principal amount of this Note at a rate of 4.200% per annum. The date from which interest shall accrue on the Notes shall be December 6, 2017, or the most recent Interest Payment Date to which interest has been paid or provided for. The Company will pay interest semi-annually in arrears on June 6 and December 6 of each year, beginning June 6, 2018. In any case in which an Interest Payment Date, Redemption Date, Maturity or other payment date is not a Business Day as defined in the Indenture at a Place of Payment, payment may be made at that place on the next succeeding day that is a Business Day. Any payment made on such Business Day will have the same force and effect as if made on the date on which the payment is due and no interest shall accrue for the intervening period. Interest shall be computed on the basis of a 360-day year of twelve 30-day months and, in the case of an incomplete month, the actual number of days elapsed.

2. Method of Payment. The Company shall pay interest on the Notes (except Defaulted Interest, if any), to the Persons in whose name such Notes are registered at the close of business on the Record Date referred to on the face of this Note immediately preceding the related Interest Payment Date, even if such Notes are canceled, repurchased or redeemed on or after such Record Date and on or before such Interest Payment Date. Payment of interest on the Notes shall be made, in the currency of the United States of America that at the time is legal tender for payment of public and private debts, at the Corporate Trust Office or, at the option of the Company, by check mailed to the address of the Person entitled thereto as such address shall appear in the Register or, in accordance with arrangements satisfactory to the Paying Agent, by wire transfer to an account designated by the Holder.

3. Paying Agent and Registrar. Initially, The Bank of New York Mellon will act as Paying Agent and Registrar. The Company may change or appoint any Paying Agent or Registrar without notice to any Holder. The Company may act in any such capacity.

4. Indenture. The terms of the Notes include those stated in the Indenture and those made part of the Indenture by reference to the Trust Indenture Act of 1939, as amended (“TIA”) as in effect on the date the Indenture is qualified. The Notes are subject to all such terms, and Holders are referred to the Indenture and TIA for a statement of such terms. The Notes are unsecured general obligations of the Company and constitute the series designated on the face of this Note as the “4.200% Notes due 2047,” initially limited to US\$1,750,000,000 in aggregate principal amount. The Company will furnish to any Holder upon written request and without charge a copy of the Base Indenture and the Fourth Supplemental Indenture. Requests may be made to: Alibaba Group Holding Limited, c/o Alibaba Group Services Limited, 26/F Tower One, Times Square, 1 Matheson Street, Causeway Bay, Hong Kong, Attn: Timothy A. Steinert, Esq.

5. Redemption and Repurchase. The Notes are subject to optional redemption, and are the subject of a Triggering Event Offer, as further described in the Indenture. The Company shall not be required to make mandatory redemption or sinking fund payments with respect to the Notes.

6. Denominations, Transfer, Exchange. The Notes are in registered form without coupons in the denominations of US\$200,000 or any integral multiple of US\$1,000 in excess thereof. The transfer of Notes may be registered and Notes may be exchanged as provided in the Indenture. The Notes may be presented for exchange or for registration of transfer (duly endorsed or with the form of transfer endorsed thereon duly executed if so required by the Company or the Registrar) at the office of the Registrar or at the office of any transfer agent designated by the Company for such purpose. The Company need not exchange or register the transfer of any Note or portion of a Note selected for redemption or tendered for repurchase upon a Triggering Event Offer, except for the unredeemed and unpurchased portion of any Note being redeemed or repurchased in part.

7. Persons Deemed Owners. The registered Holder may be treated as its owner for all purposes.

8. Amendments, Supplements and Waivers. The Indenture and the Notes may be amended or supplemented as provided in the Indenture. Any consent or waiver by the Holders as provided in the Indenture shall be conclusive and binding upon such Holders and upon all future Holders and holders of any security issued upon the registration of transfer hereof or in exchange herefor or in lieu hereof, whether or not notation of such consent or waiver is made upon the Notes.

9. Defaults and Remedies. The Events of Default relating to the Notes are defined in Section 6.01 of the Base Indenture. Upon the occurrence of an Event of Default, the rights and obligations of the Company, the Trustee and the Holders shall be as set forth in the applicable provisions of the Indenture.

10. No Recourse Against Others. No recourse under or upon any obligation, covenant or agreement contained in the Indenture or the Notes, or because of any indebtedness evidenced thereby, shall be had against any incorporator as such, or against any past, present or future stockholder, officer, director or employee, as such, of the Company or of any successor, either directly or through the Company or any successor, under any rule of law, statute or constitutional provision or by the enforcement of any assessment or by any legal or equitable proceeding or otherwise, all such liability being expressly waived and released by the acceptance hereof and as part of the consideration for the issue hereof.

11. Authentication. This Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose until authenticated by the manual signature of the Trustee.

12. Governing Law. The Base Indenture, the Fourth Supplemental Indenture and this Note shall be governed by, and construed in accordance with the laws of the State of New York.

13. CUSIP and ISIN Numbers. Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP and ISIN numbers to be printed on the Notes, and the Trustee may use CUSIP and ISIN numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

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#### ASSIGNMENT

To assign this Security, fill in the form below: I or we assign and transfer this Security to

(Print or type assignee's name, address and zip code)

(Insert assignee's soc. sec. or tax I.D. No.)

and irrevocably appoint agent to transfer this Security on the books of the Company. The agent may substitute another to act for him.

Date: \_\_\_\_\_ Your Signature: \_\_\_\_\_

Sign exactly as your name appears on the other side of this Security.

\_\_\_\_\_  
Signature Guarantee:

\_\_\_\_\_  
Signature must be guaranteed

\_\_\_\_\_  
Signature

#### SIGNATURE GUARANTEE

Signatures must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program ("STAMP") or such other "signature guarantee program" as may be determined by the Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

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OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have this Note purchased by the Company pursuant to Section 5.06 of the Base Indenture, check the box below:

Section 5.06

If you want to elect to have only part of the Note purchased by the Company pursuant to Section 5.06 of the Base Indenture, state the amount you elect to have purchased:

US\$ \_\_\_\_\_

Date: \_\_\_\_\_

Your Signature: \_\_\_\_\_  
(Sign exactly as your name appears on the face of this Note)

Tax Identification No: \_\_\_\_\_

Signature Guarantee:  
\_\_\_\_\_

SIGNATURE GUARANTEE

Signatures must be guaranteed by an “eligible guarantor institution” meeting the requirements of the Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program (“STAMP”) or such other “signature guarantee program” as may be determined by the Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

SCHEDULE OF INCREASES OR DECREASES IN NOTE\*

The initial principal amount of this Note is US\$ \_\_\_\_\_. The following increases or decreases in a part of this Note have been made:

Date	Amount of decrease in principal amount of this Note	Amount of increase in principal amount of this Note	Principal amount of this Note following such decrease (or increase)

\* Insert in Global Notes.

**FIFTH SUPPLEMENTAL INDENTURE**

**Dated as of**

**December 6, 2017**

**Between**

**ALIBABA GROUP HOLDING LIMITED**

**as Company**

**and**

**THE BANK OF NEW YORK MELLON**

**as Trustee**

**4.400% NOTES DUE 2057**

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FIFTH SUPPLEMENTAL INDENTURE dated as of December 6, 2017 between Alibaba Group Holding Limited, an exempted company incorporated in the Cayman Islands (the “Company”), and The Bank of New York Mellon, as trustee (the “Trustee”).

**WITNESSETH:**

WHEREAS, the Company and the Trustee executed and delivered an Indenture, dated as of December 6, 2017 (the “Base Indenture”), to provide for the issuance of debentures, notes, bonds or other evidences of indebtedness in an unlimited aggregate principal amount to be issued from time to time in one or more series (such as Base Indenture, as supplemented and amended by this Fifth Supplemental Indenture, herein referred to as the “Indenture”);

WHEREAS, the Company has duly authorized the issuance of US\$1,000,000,000 aggregate principal amount of 4.400% Notes due 2057 (the “Notes”);

WHEREAS, the Company has duly authorized the execution and delivery of this Fifth Supplemental Indenture pursuant to Section 13.01 of the Base Indenture to establish the terms and the form of the Notes in accordance with Sections 2.01, 3.01 and 3.03 of the Base Indenture; and

WHEREAS, all things necessary to make this Fifth Supplemental Indenture a valid and legally binding agreement of the Company, in accordance with its terms, have been done.

NOW, THEREFORE, THIS FIFTH SUPPLEMENTAL INDENTURE WITNESSETH:

That, in consideration of the premises and the purchase of the Notes by the Holders thereof for the equal and proportionate benefit of all of the present and future Holders of the Notes, each party agrees and covenants as follows:

**ARTICLE I**

**SCOPE AND DEFINITIONS**

Section 1.01 Scope. The changes, modifications and supplements to the Base Indenture effected by this Fifth Supplemental Indenture shall be applicable only with respect to, and govern the terms of, the Notes and shall not apply to any other series of Securities that may be issued under the Base Indenture unless a supplemental indenture with respect to such other series of Securities specifically incorporates such changes, modifications and supplements.

Section 1.02 Definitions.

(a) Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the Base Indenture.

(b) As used herein, the following additional defined terms shall have the following meanings with respect to the Notes only and be equally applicable to both the singular and the plural forms of any of the terms herein defined:

“Additional Notes” has the meaning provided in Section 2.01(c).

“Base Indenture” has the meaning provided in the recitals hereof.

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“Comparable Treasury Issue” means the United States Treasury security selected by an Independent Investment Banker that would be utilized, at the time of selection and in accordance with customary financial practice, in pricing new issues of corporate debt securities of comparable maturity to the remaining term of the Notes to be redeemed.

“Comparable Treasury Price” means, with respect to any Redemption Date pursuant to Section 2.02, (1) the average of the Reference Treasury Dealer Quotations for such Redemption Date, after excluding the highest and lowest of such Reference Treasury Dealer Quotations, or (2) if the Company obtains fewer than three such Reference Treasury Dealer Quotations, the average of all quotations obtained.

“Fifth Supplemental Indenture” means this instrument.

“Independent Investment Banker” means one of the Reference Treasury Dealers appointed by the Company.

“Initial Notes” has the meaning provided in Section 2.01(c).

“Make-Whole Amount” means an amount determined by the Paying Agent on the fifth Business Day before the Redemption Date pursuant to Section 2.02 that is equal to the sum of (i) the present value of the principal amount of the Notes to be redeemed, assuming a scheduled repayment thereof on the date of Stated Maturity for payment of principal on such Notes, plus (ii) the present value of the remaining scheduled payments of interest to and including such date of Stated Maturity for payment of principal on such Notes (exclusive of interest accrued to the Redemption Date), in each case discounted to such Redemption Date on a semi-annual basis (assuming a 360-day year consisting of twelve 30-day months and, in the case of an incomplete month, the actual number of days elapsed) at the Treasury Yield plus 25 basis points.

“Notes” has the meaning provided in the recitals hereof.

“Prospectus Supplement” means the prospectus supplement dated November 29, 2017, relating to the offering of the Notes.

“Reference Treasury Dealer” means each of any three investment banks of recognized standing that is a primary U.S. government securities dealer in the United States, selected by the Company in good faith.

“Reference Treasury Dealer Quotation” means, with respect to each Reference Treasury Dealer and any Redemption Date pursuant to Section 2.02, the average, as determined by the Company, of the bid and asked prices for the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) quoted in writing to the Company by such Reference Treasury Dealer as of 5:00 p.m., New York City time, on the fifth Business Day before such Redemption Date.

“Registrar” means The Bank of New York Mellon or its successor as registrar under the Indenture.

“Treasury Yield” means, with respect to any Redemption Date pursuant to Section 2.02, the rate per annum equal to the semi-annual equivalent yield to maturity (computed as of the fifth Business Day before such Redemption Date) of the Comparable Treasury Issue, calculated using a price for the Comparable Treasury Issue (expressed as a percentage of its principal amount) equal to the Comparable Treasury Price for such Redemption Date.



Section 1.03 Rules of Construction. For all purposes of this Fifth Supplemental Indenture, except as otherwise expressly provided or unless the context otherwise requires:

- (a) The words “herein”, “hereof” and “hereunder” and other words of similar import refer to this Fifth Supplemental Indenture as a whole and not to any particular Article, Section or other subdivision;
- (b) references to “Article” or “Section” or other subdivision herein are references to an Article, Section or other subdivision of this Fifth Supplemental Indenture, unless the context otherwise requires;
- (c) the words “including” and words of similar import when used in this Indenture shall mean “including, without limitation”;
- (d) references to any agreement, instrument, statute or regulation defined or referred to herein or in any instrument establishing the terms of the Notes (or executed in connection therewith) are references to such agreement, instrument, statute or regulation as from time to time amended, modified, supplemented or replaced, including (in the case of agreements or instruments) by waiver or consent and by succession of comparable successor agreements, instruments, statutes or regulations; and
- (e) “or” is not exclusive.

## **ARTICLE II**

### **THE NOTES**

Section 2.01 Terms of the Notes. The Notes are hereby created and designated as a separate series of Securities under the Base Indenture. The following terms relate to the Notes:

- (a) The Notes shall constitute a separate series of Securities under the Base Indenture having the title “4.400% Notes due 2057”.
- (b) The Notes shall be issued at a price of 99.813% of the principal amount thereof, other than any offering discounts pursuant to the initial offering and resale of the Notes.
- (c) The aggregate principal amount of the Notes (the “Initial Notes”) that may be initially authenticated and delivered under the Indenture shall be US\$1,000,000,000. The Company may from time to time, without the consent of the Holders of the Notes, issue additional Notes (in any such case “Additional Notes”) having the same terms and conditions as the Initial Notes in all respects (or in all respects except for the Issue Date, the issue price or the first Interest Payment Date). Any Additional Notes and the Initial Notes shall constitute a single series under the Indenture; provided that if such Additional Notes are not fungible with the Initial Notes for U.S. federal income tax purposes, such Additional Notes shall not be issued. All references to the “Notes” shall include the Initial Notes and any Additional Notes unless the context otherwise requires. The aggregate principal amount of each of the Additional Notes shall be unlimited.
- (d) The entire outstanding principal of the Notes shall be payable on December 6, 2057.

(e) The rate at which the Notes shall bear interest shall be 4.400% per year. The date from which interest shall accrue on the Notes shall be December 6, 2017, or the most recent Interest Payment Date to which interest has been paid or provided for. The Interest Payment Dates for the Notes shall be June 6 and December 6 of each year, beginning June 6, 2018. Interest shall be payable on each Interest Payment Date to the Holders of record at the close of business on the May 21 and November 21 prior to each Interest Payment Date. The basis upon which interest shall be calculated shall be that of a 360-day year consisting of twelve 30-day months.

(f) The Notes shall be issuable in whole in the form of one or more definitive, fully registered Global Securities without interest coupons, and the Depository for such Global Securities shall be DTC. The Notes shall be substantially in the form attached hereto as Exhibit A, the terms of which are herein incorporated by reference. The Notes shall be denominated in U.S. Dollars and, notwithstanding Section 3.02 of the Base Indenture, shall be issuable in minimum denominations of US\$200,000 or any integral multiples of US\$1,000 in excess thereof.

(g) The Notes may be redeemed at the option of the Company prior to the date of Stated Maturity for payment of principal on the Notes, as provided in Section 2.02.

(h) The Notes will not have the benefit of any sinking fund.

(i) Except as provided herein, the Holders of the Notes shall have no special rights in addition to those provided in the Base Indenture upon the occurrence of any particular events.

(j) The Notes will be senior unsecured obligations of the Company and will rank at least equal in right of payment to all of the Company's other existing and future unsecured and unsubordinated obligations (subject to any priority rights pursuant to applicable law).

#### Section 2.02 Optional Redemption.

(a) The provisions of Article IV of the Base Indenture, as amended by the provisions of this Fifth Supplemental Indenture, shall apply to the Notes.

(b) The Company may, at any time prior to June 6, 2057, upon giving not less than 30 days' nor more than 60 days' notice to Holders of the Notes (which notice shall be irrevocable), redeem the Notes, in whole or in part, at a redemption amount equal to the greater of (x) 100% of the principal amount of such Notes to be redeemed and (y) the Make-Whole Amount, plus, in each case, accrued and unpaid interest, if any, to, but not including, the Redemption Date (subject to the right of Holders of record on the relevant Record Date to receive interest due on the relevant Interest Payment Date); provided that the aggregate principal amount of the Notes remaining outstanding after redemption in part shall be US\$200,000 or an integral multiple of US\$1,000 in excess thereof.

(c) The Company may, from and after June 6, 2057 upon giving not less than 30 days nor more than 60 days' notice to Holders of the Notes (which notice shall be irrevocable), redeem the Notes at a redemption price equal to 100% of the principal amount of such Notes to be redeemed plus accrued and unpaid interest and Special Interest, if any, to, but not including, the Redemption Date (subject to the right of Holders of record on the relevant Record Date to receive interest due on the relevant Interest Payment Date).

(d) If the Redemption Date pursuant to this Section 2.02 is on or after the relevant Record Date and on or before the related Interest Payment Date, accrued and unpaid interest, if any, to the Redemption Date pursuant to this Section 2.02 shall be paid on such Interest Payment Date to the Person in whose name a Note is registered at the close of business on such Record Date.

(e) The Company or any of its Controlled Entities may, in accordance with all applicable laws and regulations, at any time purchase the Notes in the open market or otherwise at any price, so long as such purchase does not otherwise violate the terms of the Indenture. The Notes that the Company or its Affiliates purchase may, in the discretion of the Company, be held, resold or canceled, but will only be resold in compliance with applicable requirements or exemptions under the relevant securities laws.

Section 2.03 NDRC Post-issue Filing. The Company shall notify the Trustee if the Company does not file or cause to be filed with the National Development and Reform Commission of the PRC (the “NDRC”) the requisite information and documents required to be filed with the NDRC within 10 PRC Business Days after the Closing Date in accordance with the Registration Certificate of Enterprise Foreign Debt Filing ( 企业借用外债备案登记证明 (发改办外资备 [2017]377 号 )) issued by the General Office of the NDRC on October 24, 2017, pursuant to the Circular on Promoting the Reform of the Administrative System on the Issuance by Enterprises of Foreign Debt Filings and Registrations ( 国家发展改革委关于推进企业发行外债备案登记制管理改革的通知 (发改外资 [2015]2044 号 )) issued by the NDRC on September 14, 2015, the Approval of Foreign Debt Quota Administration Reform Trial Enterprise (Second Batch) for 2017 ( 国家发展改革委关于 2017 年度外债规模管理改革试点企业 (第二批) 的批复 (发改外资 [2017]560 号 )) issued by the NDRC on March 22, 2017, and any implementation rules as issued by the NDRC as in effect at such time (the “Post-Issuance Filing”). Such notification to the Trustee will be made within 10 PRC Business Days after such failure to complete the Post-Issuance Filing.

“PRC Business Day” means a day other than a Saturday, Sunday or a day on which banking institutions in the PRC are authorized or obligated by law, regulation or executive order to remain closed.

Section 2.04 Limitation on Liens.

(a) Subject to the exceptions set forth in Section 2.04(b) below, the Company will not create or have outstanding, and the Company will ensure that none of its Principal Controlled Entities will create or have outstanding, any Lien upon the whole or any part of their respective present or future assets securing any Relevant Indebtedness, or create or have outstanding any guarantee or indemnity in respect of any Relevant Indebtedness either of the Company or of any Principal Controlled Entity, without (x) at the same time or prior thereto securing or guaranteeing the Securities of any applicable series, as applicable, equally and ratably therewith or (y) providing such other security or guarantees for the Securities of the applicable series as shall be approved by an act of the Holders of such series of Securities holding at least a majority of the principal amount of such series of Securities then Outstanding.

(b) The restriction set forth in Section 2.04(a) above will not apply to:

- (i) any Lien arising or already arisen automatically by operation of law which is timely discharged or disputed in good faith by appropriate proceedings;
- (ii) any Lien in respect of the obligations of any Person which becomes a Principal Controlled Entity or which merges with or into the Company or a Principal Controlled Entity after the date hereof which is in existence at the date on which it becomes a Principal Controlled Entity or merges with or into the Company or a Principal Controlled Entity;
- (iii) any Lien created or outstanding in favor of the Company or any Lien created by any of its Controlled Entities in favor of any of its other Controlled Entities;
- (iv) any Lien in respect of Relevant Indebtedness of the Company or any Principal Controlled Entity with respect to which the Company or such Principal Controlled Entity has paid money or deposited money or securities with a paying agent, trustee or Depository to pay or discharge in full the obligations of the Company or such Principal Controlled Entity in respect thereof (other than the obligation that such money or securities so paid or deposited, and the proceeds therefrom, be sufficient to pay or discharge such obligations in full);
- (v) any Lien created in connection with Relevant Indebtedness of the Company or any Principal Controlled Entity denominated in Chinese Renminbi and initially offered, marketed or issued primarily to Persons resident in the PRC;
- (vi) any Lien created in connection with a project financed with, or created to secure, Non-recourse Obligations; or
- (vii) any Lien arising out of the refinancing, extension, renewal or refunding of any Relevant Indebtedness secured by any Lien permitted by the foregoing clause (ii), (v), (vi) or (vii) of this Section 2.04(b); provided that such Relevant Indebtedness is not increased beyond the principal amount thereof (together with the costs of such refinancing, extension, renewal or refunding, including any accrued interest and prepayment premiums or consent fees) and is not secured by any additional property or assets.

Section 2.05 Terms Specific to the Notes .

- (a) Clause (x) of Section 13.02(a) of the Base Indenture shall be replaced in its entirety by the following with respect to the Notes only:

“reduce the amount of the premium payable upon the redemption or repurchase of any Security or change the time at which any Security may be redeemed or repurchased as described in Section 2.02 of the Fifth Supplemental Indenture or as described in Section 4.07 and Section 5.06 of the Base Indenture(except through amendments to the definition of “ Triggering Event ” if applicable).”

- (b) Section 11.03(c) of the Base Indenture shall be replaced in its entirety by the following with respect to the Notes only:

“Upon the Company’s exercise under Section 11.03(a) of the Base Indenture of the option applicable to this Section 11.03(c) of the Base Indenture , the Company shall, subject to the satisfaction of the conditions set forth in Section 11.03(d) of the Base Indenture, be released from its obligations under the covenants contained in Section 2.04 of the Fifth Supplemental Indenture, and Section 5.04 and Section 5.08 of the Base Indenture and as provided pursuant to Section 3.01(z) of the Base Indenture, on and after the date the conditions set forth in Section 11.03(d) of the Base Indenture are satisfied (“ Covenant Defeasance ”). For this purpose, “ Covenant Defeasance ” means that, with respect to this Indenture and the Securities of such series then Outstanding, the Company may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document, and such omission to comply shall not constitute a Default or an Event of Default under Section 6.01 of the Base Indenture, but, except as specified above, the remainder of this Indenture and the Securities shall be unaffected thereby. In addition, upon the Company’s exercise under Section 11.03(a) of the Base Indenture of the option applicable to this Section 11.03(c) of the Base Indenture, subject to the satisfaction of the conditions set forth in Section 11.03(d), Sections 6.01(c), and 6.01(d) (only with respect to covenants that are released as a result of such Covenant Defeasance) of the Base Indenture, in each case, shall not constitute Events of Default.”

(c) Section 13.01(h) of the Base Indenture shall be replaced in its entirety by the following with respect to the Notes only:

“to conform the text of this Indenture or any series of the Securities to any provision of the section entitled “Description of the Debt Securities” in the Prospectus or of the section entitled “Description of the Notes” in the Prospectus Supplement to the extent that such provision in such Prospectus or such Prospectus Supplement was intended to be a verbatim recitation of a provision of this Indenture or such series of the Securities as evidenced by an Officer’s Certificate.”

(d) Section 13.02(a)(viii) of the Base Indenture shall be replaced in its entirety by the following with respect to the Notes only:

“modify any of the provisions of this Section 13.02, Section 5.11 and Section 6.06 of the Base Indenture, and Section 2.05(d) of the Fifth Supplemental Indenture, except to increase any such percentage or provide that certain other provisions of this Indenture cannot be modified or waived without the consent of the Holder of each Outstanding Security affected thereby; provided, however, that this clause shall not be deemed to require the consent of any Holder with respect to changes in the references to the “Trustee” and concomitant changes in the Section 13.02 and Section 5.11 of the Base Indenture, or the deletion of this proviso, in accordance with the requirements of Sections 10.06 and 13.01(g) of the Base Indenture.”

(e) Section 13.02(a)(x) of the Base Indenture shall be replaced in its entirety by the following with respect to the Notes only:

“reduce the amount of the premium payable upon the redemption or repurchase of any Security or change the time at which any Security may be redeemed or repurchased as described in Section 2.02 of the Fifth Supplemental Indenture, as described in Section 4.07 or Section 5.06 of the Base Indenture whether through an amendment or waiver of provisions in the covenants, definitions or otherwise (except through amendments to the definition of “Triggering Event” if applicable).”

### ARTICLE III

#### MISCELLANEOUS PROVISIONS

Section 3.01 Confirmation of Indenture. The Base Indenture, as supplemented and amended by this Fifth Supplemental Indenture, is in all respects ratified and confirmed, and the Base Indenture, this Fifth Supplemental Indenture and all indentures supplemental thereto with respect to the Notes shall be read, taken and construed as one and the same instrument.

Section 3.02 Severability. If any provision in this Fifth Supplemental Indenture or in the Notes shall be held to be invalid, illegal or unenforceable under applicable law, then the remaining provisions in this Fifth Supplemental Indenture or in the Notes shall be construed as though such invalid, illegal or unenforceable provision were not contained herein.

Section 3.03 Conflicts with Base Indenture. In the event that any provision of this Fifth Supplemental Indenture limits, qualifies or conflicts with the express provisions of the Base Indenture, such provision of the Fifth Supplemental Indenture shall prevail.

Section 3.04 Benefits of Indenture. Nothing in this Fifth Supplemental Indenture expressed and nothing that may be implied from any of the provisions hereof is intended, or shall be construed, to confer upon, or to give to, any Person other than the parties hereto and their successors and the Holders of the Notes any benefit or any right, remedy or claim under or by reason of this Fifth Supplemental Indenture or the Base Indenture or any covenant, condition, stipulation, promise or agreement hereof or thereof, and all covenants, conditions, stipulations, promises and agreements contained herein or therein shall be for the sole and exclusive benefit of the parties hereto and their successors and of the Holders of the Notes.

Section 3.05 Counterparts. This Fifth Supplemental Indenture may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument.

Section 3.06 Governing Law; Waiver of Trial by Jury. This Fifth Supplemental Indenture and the Notes shall be governed by, and construed in accordance with the laws of the State of New York.

EACH OF THE PARTIES HERETO IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHTS IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS FIFTH SUPPLEMENTAL INDENTURE OR THE NOTES.

[Signatures on following page]

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IN WITNESS WHEREOF, the parties have caused this Fifth Supplemental Indenture to be duly executed as of the date first written above.

ALIBABA GROUP HOLDING LIMITED,  
as Issuer

By: /s/ Maggie Wei Wu

Name: Maggie Wei Wu

Title: Chief Financial Officer

THE BANK OF NEW YORK MELLON,  
as Trustee

By: /s/ Thomas Scollon

Name: Thomas Scollon

Title: Vice President

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[FORM OF FACE OF SECURITY]

[if a Global Security]

**UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR THE INDIVIDUAL SECURITIES REPRESENTED HEREBY IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN THE INDENTURE REFERRED TO ON THE REVERSE HEREOF, THIS GLOBAL SECURITY MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITORY TO A NOMINEE OF THE DEPOSITORY OR BY A NOMINEE OF THE DEPOSITORY TO THE DEPOSITORY OR ANOTHER NOMINEE OF THE DEPOSITORY OR BY THE DEPOSITORY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITORY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITORY .**

[if a Definitive Security]

**IN CONNECTION WITH ANY TRANSFER, THE HOLDER WILL DELIVER TO THE REGISTRAR AND TRUSTEE SUCH CERTIFICATES AND OTHER INFORMATION AS THE REGISTRAR AND THE TRUSTEE MAY REASONABLY REQUIRE TO CONFIRM THAT THE TRANSFER COMPLIES WITH THE FOREGOING RESTRICTIONS.**

Alibaba Group Holding Limited.

4.400% Notes due 2057

PRINCIPAL AMOUNT: US\$ \_\_\_\_\_  
CUSIP:  
ISIN:  
No.: \_\_\_\_\_

Alibaba Group Holding Limited, an exempted company incorporated in the Cayman Islands (the “Company,” which term includes any successor thereto under the Indenture referred to on the reverse hereof), for value received, hereby promises to pay to Cede & Co., or registered assigns, the principal sum of \_\_\_\_\_ U.S. DOLLARS (US\$ \_\_\_\_\_) (or such other principal amount as shall be set forth in the Schedule of Increases or Decreases in Note attached hereto) on December 6, 2057, or on such earlier date as the principal hereof may become due in accordance with the provisions of this Note.

Interest Rate: 4.400% per annum.

Interest Payment Dates: June 6 and December 6 of each year, commencing on June 6, 2018.

Record Dates: May 21 and November 21.

Reference is made to the further provisions of this Note set forth on the reverse hereof. Such further provisions shall for all purposes have the same effect as though fully set forth at this place.

This Note shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been manually signed by the Trustee under the Indenture referred to on the reverse hereof.



IN WITNESS WHEREOF, Alibaba Group Holding Limited has caused this Note to be duly executed.

ALIBABA GROUP HOLDING LIMITED,

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

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This is one of the Securities of the series designated therein referred to in the within-mentioned Indenture.

Date of authentication: \_\_\_\_\_

THE BANK OF NEW YORK MELLON,  
as Trustee

By: \_\_\_\_\_

Name:

Title:

[FORM OF REVERSE OF SECURITY]

ALIBABA GROUP HOLDING LIMITED

4.400% Notes due 2057

This Note is one of a duly authorized issue of debt securities of the Company of the series designated as the “4.400% Notes due 2057” (the “Notes”), all issued or to be issued under and pursuant to an Indenture, dated as of December 6, 2017 (the “Base Indenture”), duly executed and delivered by and between the Company and The Bank of New York Mellon, as trustee (the “Trustee,” which term includes any successor trustee), as supplemented by the Fifth Supplemental Indenture, dated as of December 6, 2017 (the “Fifth Supplemental Indenture”), duly executed and delivered by and between the Company and the Trustee. The Base Indenture as supplemented and amended by the Fifth Supplemental Indenture is referred to herein as the “Indenture”. Capitalized terms used herein and not otherwise defined shall have the meanings given them in the Indenture. To the extent any provision of this Note conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling.

1. Interest. The Company promises to pay interest on the principal amount of this Note at a rate of 4.400% per annum. The date from which interest shall accrue on the Notes shall be December 6, 2017, or the most recent Interest Payment Date to which interest has been paid or provided for. The Company will pay interest semi-annually in arrears on June 6 and December 6 of each year, beginning June 6, 2018. In any case in which an Interest Payment Date, Redemption Date, Maturity or other payment date is not a Business Day as defined in the Indenture at a Place of Payment, payment may be made at that place on the next succeeding day that is a Business Day. Any payment made on such Business Day will have the same force and effect as if made on the date on which the payment is due and no interest shall accrue for the intervening period. Interest shall be computed on the basis of a 360-day year of twelve 30-day months and, in the case of an incomplete month, the actual number of days elapsed.

2. Method of Payment. The Company shall pay interest on the Notes (except Defaulted Interest, if any), to the Persons in whose name such Notes are registered at the close of business on the Record Date referred to on the face of this Note immediately preceding the related Interest Payment Date, even if such Notes are canceled, repurchased or redeemed on or after such Record Date and on or before such Interest Payment Date. Payment of interest on the Notes shall be made, in the currency of the United States of America that at the time is legal tender for payment of public and private debts, at the Corporate Trust Office or, at the option of the Company, by check mailed to the address of the Person entitled thereto as such address shall appear in the Register or, in accordance with arrangements satisfactory to the Paying Agent, by wire transfer to an account designated by the Holder.

3. Paying Agent and Registrar. Initially, The Bank of New York Mellon will act as Paying Agent and Registrar. The Company may change or appoint any Paying Agent or Registrar without notice to any Holder. The Company may act in any such capacity.

4. Indenture. The terms of the Notes include those stated in the Indenture and those made part of the Indenture by reference to the Trust Indenture Act of 1939, as amended (“TIA”) as in effect on the date the Indenture is qualified. The Notes are subject to all such terms, and Holders are referred to the Indenture and TIA for a statement of such terms. The Notes are unsecured general obligations of the Company and constitute the series designated on the face of this Note as the “4.400% Notes due 2057,” initially limited to US\$1,000,000,000 in aggregate principal amount. The Company will furnish to any Holder upon written request and without charge a copy of the Base Indenture and the Fifth Supplemental Indenture. Requests may be made to: Alibaba Group Holding Limited, c/o Alibaba Group Services Limited, 26/F Tower One, Times Square, 1 Matheson Street, Causeway Bay, Hong Kong, Attn: Timothy A. Steinert, Esq.

5. Redemption and Repurchase. The Notes are subject to optional redemption, and are the subject of a Triggering Event Offer, as further described in the Indenture. The Company shall not be required to make mandatory redemption or sinking fund payments with respect to the Notes.

6. Denominations, Transfer, Exchange. The Notes are in registered form without coupons in the denominations of US\$200,000 or any integral multiple of US\$1,000 in excess thereof. The transfer of Notes may be registered and Notes may be exchanged as provided in the Indenture. The Notes may be presented for exchange or for registration of transfer (duly endorsed or with the form of transfer endorsed thereon duly executed if so required by the Company or the Registrar) at the office of the Registrar or at the office of any transfer agent designated by the Company for such purpose. The Company need not exchange or register the transfer of any Note or portion of a Note selected for redemption or tendered for repurchase upon a Triggering Event Offer, except for the unredeemed and unpurchased portion of any Note being redeemed or repurchased in part.

7. Persons Deemed Owners. The registered Holder may be treated as its owner for all purposes.

8. Amendments, Supplements and Waivers. The Indenture and the Notes may be amended or supplemented as provided in the Indenture. Any consent or waiver by the Holders as provided in the Indenture shall be conclusive and binding upon such Holders and upon all future Holders and holders of any security issued upon the registration of transfer hereof or in exchange herefor or in lieu hereof, whether or not notation of such consent or waiver is made upon the Notes.

9. Defaults and Remedies. The Events of Default relating to the Notes are defined in Section 6.01 of the Base Indenture. Upon the occurrence of an Event of Default, the rights and obligations of the Company, the Trustee and the Holders shall be as set forth in the applicable provisions of the Indenture.

10. No Recourse Against Others. No recourse under or upon any obligation, covenant or agreement contained in the Indenture or the Notes, or because of any indebtedness evidenced thereby, shall be had against any incorporator as such, or against any past, present or future stockholder, officer, director or employee, as such, of the Company or of any successor, either directly or through the Company or any successor, under any rule of law, statute or constitutional provision or by the enforcement of any assessment or by any legal or equitable proceeding or otherwise, all such liability being expressly waived and released by the acceptance hereof and as part of the consideration for the issue hereof.

11. Authentication. This Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose until authenticated by the manual signature of the Trustee.

12. Governing Law. The Base Indenture, the Fifth Supplemental Indenture and this Note shall be governed by, and construed in accordance with the laws of the State of New York.

13. CUSIP and ISIN Numbers. Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP and ISIN numbers to be printed on the Notes, and the Trustee may use CUSIP and ISIN numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

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#### ASSIGNMENT

To assign this Security, fill in the form below: I or we assign and transfer this Security to

(Print or type assignee's name, address and zip code)

(Insert assignee's soc. sec. or tax I.D. No.)

and irrevocably appoint agent to transfer this Security on the books of the Company. The agent may substitute another to act for him.

Date: \_\_\_\_\_ Your Signature: \_\_\_\_\_

Sign exactly as your name appears on the other side of this Security.

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Signature Guarantee: \_\_\_\_\_

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Signature must be guaranteed

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Signature

#### SIGNATURE GUARANTEE

Signatures must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program ("STAMP") or such other "signature guarantee program" as may be determined by the Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

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OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have this Note purchased by the Company pursuant to Section 5.06 of the Base Indenture, check the box below:

Section 5.06

If you want to elect to have only part of the Note purchased by the Company pursuant to Section 5.06 of the Base Indenture, state the amount you elect to have purchased:

US\$ \_\_\_\_\_

Date: \_\_\_\_\_

Your Signature: \_\_\_\_\_  
(Sign exactly as your name appears on the face of this Note)

Tax Identification No: \_\_\_\_\_

Signature Guarantee: \_\_\_\_\_

SIGNATURE GUARANTEE

Signatures must be guaranteed by an “eligible guarantor institution” meeting the requirements of the Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program (“STAMP”) or such other “signature guarantee program” as may be determined by the Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

SCHEDULE OF INCREASES OR DECREASES IN NOTE\*

The initial principal amount of this Note is US\$ \_\_\_\_\_. The following increases or decreases in a part of this Note have been made:

Date	Amount of decrease in principal amount of this Note	Amount of increase in principal amount of this Note	Principal amount of this Note following such decrease (or increase)

\* Insert in Global Notes.

**Schedules of Material Differences of Contractual Arrangements of Material Variable Interest Entities and their Respective Equity Holders****I. Loan Agreement Schedule**

The material differences in the loan agreements by and among the VIE Shareholders and the WFOEs in connection with our material contractual arrangements for the material variable interest entities and their respective equity holders are set forth below.

1. loan agreement entered into by Jack Ma, Simon Xie (together with Jack Ma, the “VIE Shareholders”) and Taobao (China) Software Co., Ltd. (the “WFOE”) on January 21, 2009, as amended on October 11, 2010 and March 13, 2013, respectively; the agreement will terminate (i) 8 years from the effective date of the loan agreement, as amended, (ii) upon the expiry of the business term of the WFOE, or (iii) the expiry of the business term of Zhejiang Taobao Network Co., Ltd. (the “VIE”), whichever is earlier; the aggregate principal amount under the loan agreement is RMB65 million, which shall only be used as investment by the VIE Shareholders in the VIE; the VIE Shareholders made representations in the agreement that, among other things, they shall not cause the VIE to borrow from a third party or assume any debt, except for indebtedness of no more than RMB50,000, individually or in aggregate in six consecutive months, arising in the ordinary course of business;
  2. loan agreement entered into by Jack Ma, Simon Xie (together with Jack Ma, the “VIE Shareholders”) and Alibaba (China) Technology Co., Ltd. (the “WFOE”) on October 12, 2007; the agreement became effective on September 28, 2007 and will terminate (i) 20 years from the effective date of the loan agreement, (ii) upon the expiry of the business term of the WFOE, or (iii) upon the expiry of the business term of Hangzhou Alibaba Advertising Co., Ltd. (the “VIE”), whichever is earlier; the aggregate principal amount under the loan agreement is RMB10 million, which shall only be used as investment by the VIE Shareholders in the VIE; the VIE Shareholders made representations in the agreement that, among other things, they shall not cause the VIE to borrow from a third party or assume any debt, except for indebtedness of no more than RMB100,000, individually or in aggregate in six consecutive months, arising in the ordinary course of business;
  3. loan agreement entered into by Hangzhou Zhenxi Investment Management Co., Ltd. (the “VIE Shareholder”) and Zhejiang Alibaba Cloud Computing Ltd. (the “WFOE”) on July 19, 2018; the agreement will expire (i) 20 years from the effective date of the loan agreement on July 16, 2018, (ii) upon the expiry of the business term of the WFOE, or (iii) upon the expiry of the business term of Alibaba Cloud Computing Ltd. (the “VIE”), whichever is earlier; the aggregate principal amount under the loan agreement is RMB50,025,013, which shall only be used for operation activities approved by the WFOE; the VIE Shareholder made representations in the agreement that, among other things, it shall not cause the VIE to borrow from a third party or assume any debt, except for indebtedness of no more than RMB100,000, individually or in aggregate in six consecutive months, arising in the ordinary course of business;
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4. (1) loan agreement entered into by Liu Dele and 1Verge Internet Technology (Beijing) Co., Ltd. (the “WFOE”) on November 21, 2012; the term of the loan is 10 years from execution date; the term of the loan is 10 years from execution date, subject to automatic extension of successive 10 years periods; the aggregate principal amount under the loan agreements is RMB16 million, which shall only be used for investment in 1Verge Information Technology (Beijing) Co., Ltd. (the “VIE”); Liu Dele made representations in the agreement that, among other things, he shall not enter into any contracts with a value exceeding RMB100,000 without the prior written consent of the WFOE, except those entered into in the ordinary course of business.  
  
(2) loan agreement entered into by Qin Qiong and 1Verge Internet Technology (Beijing) Co., Ltd. (the “WFOE”) on November 21, 2012; the term of the loans is 10 years from execution date, subject to automatic extension of successive 10 years periods; the aggregate principal amount under the loan agreements is RMB4 million, which shall only be used for investment in 1Verge Information Technology (Beijing) Co., Ltd. (the “VIE”); Qin Qiong made representations in the agreement that, among other things, he shall not enter into any contracts with a value exceeding RMB100,000 without the prior written consent of the WFOE, except those entered into in the ordinary course of business.  
  
(3) loan agreement entered into by Hangzhou Ali Venture Capital Co., Ltd. and the WFOE on April 21, 2016; the agreement became effective on April 21, 2016 and will terminate (i) 30 years from the effective date of the loan agreement, (ii) upon the expiry of the business term of the VIE, whichever is earlier; the aggregate principal amount under the loan agreement is RMB40 million, which shall only be used as investment by Hangzhou Ali Venture Capital Co., Ltd. in the VIE; Hangzhou Ali Venture Capital Co., Ltd. made representations in the agreement that, among other things, it shall not cause the VIE to borrow from a third party or assume any debt, except for indebtedness of no more than RMB100,000, individually or in aggregate in six consecutive months, arising in the ordinary course of business;
  5. loan agreement entered into by Hangzhou Zhenxi Investment Management Co., Ltd. (the “VIE Shareholder”) and Zhejiang Tmall Technology Co., Ltd. (the “WFOE”) on January 10, 2018; the agreement will expire upon (i) 20 years from the effective date of the loan agreement, (ii) upon the expiry of the business term of the WFOE, or (iii) upon the expiry of the business term of Zhejiang Tmall Network Co., Ltd. (the “VIE”), whichever is earlier; the aggregate principal amount under the loan agreement is RMB10 million, which shall only be used for operation activities approved by the WFOE; the VIE Shareholder made representations in the agreement that, among other things, it shall not cause the VIE to borrow from a third party or assume any debt, except for indebtedness of no more than RMB100,000, individually or in aggregate in six consecutive months, arising in the ordinary course of business;
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6. (1) loan agreement entered into by Daniel Zhang, Jessie Zheng, Shao Xiaofeng, Judy Tong, and Angel Zhao (together with Daniel Zhang, Jessie Zheng, Shao Xiaofeng and Judy Tong, the “Limited Partners”) and Taobao (China) Software Co., Ltd. on January 31, 2018; the agreement will expire (i) 20 years from the execution date of the loan agreement, (ii) upon the expiry of the business term of the Taobao (China) Software Co., Ltd., or (iii) upon the expiry of the business term of Hangzhou Zhenqiang Investment Management Partnership (Limited Partnership) (the “LLP”), whichever is earlier; the aggregate principal amount under the loan agreement is RMB3 million, which shall only be used for investment in the LLP; the Limited Partners made representations in the agreement that, among other things, they shall not cause the LLP to borrow from a third party or assume any debt, except for indebtedness of no more than RMB100,000, individually or in aggregate in six consecutive months, arising in the ordinary course of business;

(2) loan agreement entered into by Daniel Zhang, Jessie Zheng, Shao Xiaofeng, Judy Tong, and Angel Zhao (together with Daniel Zhang, Jessie Zheng, Shao Xiaofeng and Judy Tong, the “Limited Partners”) and Taobao (China) Software Co., Ltd. on January 31, 2018; the agreement will expire (i) 20 years from the execution date of the loan agreement, (ii) upon the expiry of the business term of the Taobao (China) Software Co., Ltd., or (iii) upon the expiry of the business term of Hangzhou Zhensheng Investment Management Partnership (Limited Partnership) (the “LLP”), whichever is earlier; the aggregate principal amount under the loan agreement is RMB3 million, which shall only be used for investment in the LLP; the Limited Partners made representations in the agreement that, among other things, they shall not cause the LLP to borrow from a third party or assume any debt, except for indebtedness of no more than RMB100,000, individually or in aggregate in six consecutive months, arising in the ordinary course of business;

(3) loan agreement entered into by Daniel Zhang, Jessie Zheng, Shao Xiaofeng, Judy Tong, and Angel Zhao (together with Daniel Zhang, Jessie Zheng, Shao Xiaofeng and Judy Tong, the “GP Shareholders”) and Taobao (China) Software Co., Ltd. on January 31, 2018; the agreement will expire (i) 20 years from the execution date of the loan agreement, (ii) upon the expiry of the business term of the Taobao (China) Software Co., Ltd., or (iii) upon the expiry of the business term of Hangzhou Zhenyue Enterprise Management Co., Ltd. (the “GP”); the aggregate principal amount under the loan agreement is RMB250,000, which shall only be used for investment in the GP; the GP Shareholders made representations in the agreement that, among other things, they shall not cause the LLP to borrow from a third party or assume any debt, except for indebtedness of no more than RMB100,000, individually or in aggregate in six consecutive months, arising in the ordinary course of business.

## **II. Exclusive Call Option Agreement Schedule**

The material differences in the exclusive call option agreements by and among the VIE Shareholders, the VIEs and the WFOEs in connection with our material contractual arrangements for the material variable interest entities and their respective equity holders are set forth below.

1. exclusive call option agreement entered into by Jack Ma, Simon Xie (together with Jack Ma, the “VIE Shareholders”), Taobao (China) Software Co., Ltd. (the “WFOE”) and Zhejiang Taobao Network Co., Ltd. (the “VIE”) on January 21, 2009; the agreement is effective upon signing and will become null and void when all of equity interests and assets of the VIE have been transferred to the WFOE and/or its designated entity(ies) or individual(s);
  2. exclusive call option agreement entered into by Jack Ma, Simon Xie (together with Jack Ma, the “VIE Shareholders”), Alibaba (China) Technology Co., Ltd. (the “WFOE”) and Hangzhou Alibaba Advertising Co., Ltd. (the “VIE”) on October 12, 2007; the agreement is effective from July 1, 2007 and becomes null and void until all of equity interests and assets of the VIE have been transferred to the WFOE and/or its designated entity(ies) or individual(s);
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3. exclusive call option agreement entered into by Hangzhou Zhenxi Investment Management Co., Ltd. (the “VIE Shareholder”), Zhejiang Alibaba Cloud Computing Ltd. (the “WFOE”) and Alibaba Cloud Computing Ltd. (the “VIE”) on July 19, 2018; the agreement is effective from July 16, 2018 and becomes null and void when all of the equity interests and assets of the VIE have been transferred to the WFOE and/or its designated entity(ies) or individual(s);
  4. exclusive call option agreement entered into by Liu Dele, Qin Qiong, Hangzhou Ali Venture Capital Co., Ltd. (together with Liu Dele and Qin Qiong, the “VIE Shareholders”), 1Verge Internet Technology (Beijing) Co., Ltd. (the “WFOE”), and 1Verge Information Technology (Beijing) Co., Ltd. (the “VIE”) on April 21, 2016; the agreement is effective upon signing and becomes null and void when all of equity interests and assets of the VIE have been transferred to the WFOE and/or its designated entity(ies) or individual(s);
  5. exclusive call option agreement entered into by Hangzhou Zhenxi Investment Management Co., Ltd. (the “VIE Shareholder”), Zhejiang Tmall Technology Co., Ltd. (the “WFOE”) and Zhejiang Tmall Network Co., Ltd. (the “VIE”) on January 10, 2018; the agreement is effective upon signing and becomes null and void when all of the equity interests and assets of the VIE have been transferred to the WFOE and/or its designated entity(ies) or individual(s);
  6. (1) exclusive call option agreement entered into by Daniel Zhang, Jessie Zheng, Shao Xiaofeng, Judy Tong, and Angel Zhao (together with Daniel Zhang, Jessie Zheng, Shao Xiaofeng and Judy Tong, the “Limited Partners”), Hangzhou Zhenyue Enterprise Management Co., Ltd. (the “GP”, together with the “Limited Partners”, the “Partners”), Taobao (China) Software Co., Ltd. and Hangzhou Zhenqiang Investment Management Partnership (Limited Partnership) (the “LLP”) on January 31, 2018; the agreement is effective from September 4, 2017 and becomes null and void until all of equity interests and assets of the LLP have been transferred to Taobao (China) Software Co., Ltd. and/or its designated entity(ies) or individual(s);  
  
(2) exclusive call option agreement entered into by Daniel Zhang, Jessie Zheng, Shao Xiaofeng, Judy Tong, and Angel Zhao (together with Daniel Zhang, Jessie Zheng, Shao Xiaofeng and Judy Tong, the “Limited Partners”), Hangzhou Zhenyue Enterprise Management Co., Ltd. (the “GP”, together with the “Limited Partners”, the “Partners”), Taobao (China) Software Co., Ltd. and Hangzhou Zhensheng Investment Management Partnership (Limited Partnership) (the “LLP”) on January 31, 2018; the agreement is effective from October 27, 2017 and becomes null and void until all of equity interests and assets of the LLP have been transferred to Taobao (China) Software Co., Ltd. and/or its designated entity(ies) or individual(s);  
  
(3) exclusive call option agreement entered into by Daniel Zhang, Jessie Zheng, Shao Xiaofeng, Judy Tong, and Angel Zhao (together with Daniel Zhang, Jessie Zheng, Shao Xiaofeng and Judy Tong, the “GP Shareholders”), Taobao (China) Software Co., Ltd. and Hangzhou Zhenyue Enterprise Management Co., Ltd. (the “GP”) on January 31, 2018; the agreement is effective from August 11, 2017 and becomes null and void until all of equity interests and assets of the GP have been transferred to Taobao (China) Software Co., Ltd. and/or its designated entity(ies) or individual(s).
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### III. Proxy Agreement Schedule

The material differences in the proxy agreements by and among the VIE Shareholders, the VIEs and the WFOEs in connection with our material contractual arrangements for the material variable interest entities and their respective equity holders are set forth below.

1. proxy agreement entered into by Jack Ma, Simon Xie, Taobao (China) Software Co., Ltd. and Zhejiang Taobao Network Co., Ltd. on January 21, 2009; the agreement has a term of 8 years, subject to automatic renewal;
  2. proxy agreement entered into by Jack Ma, Simon Xie, Alibaba (China) Technology Co., Ltd. and Hangzhou Alibaba Advertising Co., Ltd. on October 12, 2007; the agreement became effective on July 1, 2007 and has a term of 20 years, subject to automatic renewal;
  3. proxy agreement entered into by Hangzhou Zhenxi Investment Management Co., Ltd., Zhejiang Alibaba Cloud Computing Ltd. and Alibaba Cloud Computing Ltd. on July 19, 2018; the agreement became effective on July 16, 2018 and has a term of 20 years, subject to automatic renewal;
  4. proxy agreement entered into by Liu Dele, Qin Qiong, Hangzhou Ali Venture Capital Co., Ltd., 1Verge Internet Technology (Beijing) Co., Ltd. (the “WFOE”), and 1Verge Information Technology (Beijing) Co., Ltd. (the “VIE”) on April 21, 2016; the agreement has a term of 30 year, subject to automatic renewal;
  5. proxy agreement entered into by Hangzhou Zhenxi Investment Management Co., Ltd., Zhejiang Tmall Technology Co., Ltd. and Zhejiang Tmall Network Co., Ltd. on January 10, 2018; the agreement has a term of 20 years, subject to automatic renewal;
  6. (1) proxy agreement entered into by Daniel Zhang, Jessie Zheng, Shao Xiaofeng, Judy Tong, and Angel Zhao (together with Daniel Zhang, Jessie Zheng, Shao Xiaofeng and Judy Tong, the “Limited Partners”), Hangzhou Zhenyue Enterprise Management Co., Ltd. (the “GP”, together with the “Limited Partners”, the “Partners”), Taobao (China) Software Co., Ltd. and Hangzhou Zhenqiang Investment Management Partnership (Limited Partnership) (the “LLP”) on January 31, 2018; the agreement has a term of 20 years from September 4, 2017, subject to automatic renewal;  
  
(2) proxy agreement entered into by Daniel Zhang, Jessie Zheng, Shao Xiaofeng, Judy Tong, and Angel Zhao (together with Daniel Zhang, Jessie Zheng, Shao Xiaofeng and Judy Tong, the “Limited Partners”), Hangzhou Zhenyue Enterprise Management Co., Ltd. (the “GP”, together with the “Limited Partners”, the “Partners”), Taobao (China) Software Co., Ltd. and Hangzhou Zhensheng Investment Management Partnership (Limited Partnership) (the “LLP”) on January 31, 2018; the agreement has a term of 20 years from October 27, 2017, subject to automatic renewal;  
  
(3) proxy agreement entered into by Daniel Zhang, Jessie Zheng, Shao Xiaofeng, Judy Tong, and Angel Zhao (together with Daniel Zhang, Jessie Zheng, Shao Xiaofeng and Judy Tong, the “GP Shareholders”), Taobao (China) Software Co., Ltd. and Hangzhou Zhenyue Enterprise Management Co., Ltd. (the “GP”) on January 31, 2018; the agreement has a term of 20 years from August 11, 2017, subject to automatic renewal.
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#### IV. Equity Pledge Agreement Schedule

The material differences in the equity pledge agreements entered into by and among the VIE Shareholders, the VIEs and the WFOEs in connection with our material contractual arrangements for the material variable interest entities and their respective equity holders are set forth below.

1. equity pledge agreement entered into by Jack Ma, Simon Xie (together with Jack Ma, the “VIE Shareholders” and the “pledgors”), Taobao (China) Software Co., Ltd. (the “WFOE” and the “pledgee”) and Zhejiang Taobao Network Co., Ltd. on January 21, 2009, as amended on March 13, 2013, which secures the performance of the obligations of the respective VIE Shareholders under the contractual arrangements;
  2. (1) equity pledge agreement entered into by Jack Ma (the “VIE Shareholder” and the “pledgor”) and Alibaba (China) Technology Co., Ltd. (the “WFOE” and the “pledgee”) on April 5, 2012 and (2) equity pledge agreement entered into by Simon Xie (the “VIE Shareholder” and the “pledgor”) and Alibaba (China) Technology Co., Ltd. (the “WFOE” and the “pledgee”) on May 8, 2012, which secures the performance of the obligations of the respective VIE Shareholders under the Loan Agreement and their respective Pledge Agreement only;
  3. equity pledge agreement entered into by Hangzhou Zhenxi Investment Management Co., Ltd. (the “VIE Shareholder” and the “pledgor”), Zhejiang Alibaba Cloud Computing Ltd. (the “WFOE” and the “pledgee”) and Alibaba Cloud Computing Ltd. (the “VIE”) on July 19, 2018, which secures the performance of the obligations of the VIE Shareholder under the contractual arrangements.
  4. equity pledge agreement entered into by Liu Dele, Qin Qiong, Hangzhou Ali Venture Capital Co., Ltd. (together with Liu Dele and Qin Qiong, the “VIE Shareholders” and the “pledgors”), Youku Internet Technology (Beijing) Co., Ltd. (the “WFOE” and the “pledgee”), and Youku Information Technology (Beijing) Co., Ltd. on April 21, 2016, which secure the performance of the obligations of the VIE Shareholders under the contractual arrangements;
  5. equity pledge agreement entered into by Hangzhou Zhenxi Investment Management Co., Ltd. (the “VIE Shareholder” and the “pledgor”), Zhejiang Tmall Technology Co., Ltd. (the “WFOE” and the “pledgee”) and Zhejiang Tmall Network Co., Ltd. (the “VIE”) on January 10, 2018, which secures the performance of the obligations of the VIE Shareholder under the contractual arrangements;
  6. (1) equity pledge agreement entered into by Daniel Zhang, Jessie Zheng, Shao Xiaofeng, Judy Tong, and Angel Zhao (together with Daniel Zhang, Jessie Zheng, Shao Xiaofeng and Judy Tong, the “Limited Partners”), Hangzhou Zhenyue Enterprise Management Co., Ltd. (the “GP”, together with the “Limited Partners”, the “Partners”), Taobao (China) Software Co., Ltd. and Hangzhou Zhenqiang Investment Management Partnership (Limited Partnership) (the “LLP”) on January 31, 2018, which secures the performance of the obligations of the Partners under the contractual arrangements;  
  
(2) equity pledge agreement entered into by Daniel Zhang, Jessie Zheng, Shao Xiaofeng, Judy Tong, and Angel Zhao (together with Daniel Zhang, Jessie Zheng, Shao Xiaofeng and Judy Tong, the “Limited Partners”), Hangzhou Zhenyue Enterprise Management Co., Ltd. (the “GP”, together with the “Limited Partners”, the “Partners”), Taobao (China) Software Co., Ltd. and Hangzhou Zhensheng Investment Management Partnership (Limited Partnership) (the “LLP”) on January 31, 2018, which secures the performance of the obligations of the Partners under the contractual arrangements;  
  
(3) equity pledge agreements entered into by each of Daniel Zhang, Jessie Zheng, Shao Xiaofeng, Judy Tong, and Angel Zhao (together with Daniel Zhang, Jessie Zheng, Shao Xiaofeng and Judy Tong, the “GP Shareholders”), Taobao (China) Software Co., Ltd. and Hangzhou Zhenyue Enterprise Management Co., Ltd. (the “GP”) on January 31, 2018, which secure the obligations of the GP Shareholders under the contractual arrangements.
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## **V. Exclusive Technical Service Agreement or Exclusive Service Agreement Schedule**

The material differences in the exclusive technical service agreements by and among the VIEs and the WFOEs in connection with our material contractual arrangements for the material variable interest entities and their respective equity holders are set forth below.

1. exclusive technical service agreement entered into by Taobao (China) Software Co., Ltd. (the “WFOE”) and Zhejiang Taobao Network Co., Ltd. (the “VIE”) on January 21, 2009, as amend on April 30, 2014; the agreement became effective upon signing and has a term of 10 years; the total amount of the service fees shall be equivalent to the amount of the VIE’s income generated from the relevant services and resources as well as other functions provided by the WFOE deducted by the VIE’s costs and expenses incurred thereby with a 5% top-up rate; the services fees shall be calculated on a monthly basis and are payable on a quarterly basis in principle;
  2. exclusive technical service agreement entered into by Alibaba (China) Technology Co., Ltd. (the “WFOE”) and Hangzhou Alibaba Advertising Co., Ltd. (the “VIE”) on October 12, 2007; the agreement became effective on July 1, 2007 and has a term of 20 years; the VIE shall pay services fees (1) equivalent to 90% of its pre-tax profit for the current year but excluding service fees received and costs and expenses incurred in connection with the business cooperation agreement that the VIE, the WFOE and Alibaba.com Hong Kong Limited entered into and (2) other service fees for specific technical services the WFOE may provide from time to time upon request; the service fees are subject to one-time payment within three months after the end of each calendar year;
  3. exclusive service agreement entered into by Zhejiang Alibaba Cloud Computing Ltd. (the “WFOE”) and Alibaba Cloud Computing Ltd. (the “VIE”) on July 19, 2018; the agreement became effective on July 16, 2018 and has a term of 20 years subject to automatic renewal; subject to compliance with mandatory provisions of laws and regulations, the scope of services and the amount of service fees may be determined and adjusted by the WFOE and the VIE based on suggestions made by the WFOE, which shall not be refused by the VIE without resonable grounds, from time to time; the service fees are payable on an annual basis in principle;
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4. exclusive technical and consulting services agreement entered into by 1Verge Internet Technology (Beijing) Co., Ltd. (the “WFOE”) and 1Verge Information Technology (Beijing) Co., Ltd. (the “VIE”) on November 21, 2012; the agreement became effective upon signing and has a term of 10 year subject to automatic renewal for another 10 years; the VIE shall pay services fees for services rendered by the WFOE which shall be subject to WFOE’s right to adjust at its sole discretion without the consent of the VIE;
  5. exclusive service agreement entered into by Zhejiang Tmall Technology Co., Ltd. (the “WFOE”) and Zhejiang Tmall Network Co., Ltd. (the “VIE”) on January 10, 2018; the agreement became effective on January 10, 2018 and has a term of 20 years subject to automatic renewal; subject to compliance with mandatory provisions of laws and regulations, the scope of services and the amount of service fees may be determined and adjusted by the WFOE and the VIE based on suggestions made by the WFOE, which shall not be refused by the VIE without reasonable grounds, from time to time; the service fees are payable on an annual basis in principle;
  6. (1) exclusive service agreement entered into by Hangzhou Zhenqiang Investment Management Partnership (Limited Partnership) (the “LLP”) and Taobao (China) Software Co., Ltd. on January 31, 2018; the agreement became effective on September 4, 2017 and has a term of 20 years subject to automatic renewal; subject to compliance with mandatory provisions of laws and regulations, the scope of services and the amount of service fees may be determined and adjusted by the LLP and Taobao (China) Software Co., Ltd. based on suggestions made by Taobao (China) Software Co., Ltd., which shall not be refused by the VIE without reasonable grounds, from time to time; the service fees are payable on an annual basis in principle;  
  
(2) exclusive service agreement entered into by Hangzhou Zhensheng Investment Management Partnership (Limited Partnership) (the “LLP”) and Taobao (China) Software Co., Ltd. on January 31, 2018; the agreement became effective on October 27, 2017 and has a term of 20 years subject to automatic renewal; subject to compliance with mandatory provisions of laws and regulations, the scope of services and the amount of service fees may be determined and adjusted by the LLP and Taobao (China) Software Co., Ltd. based on suggestions made by Taobao (China) Software Co., Ltd., which shall not be refused by the VIE without reasonable grounds, from time to time; the service fees are payable on an annual basis in principle;  
  
(3) exclusive service agreement entered into by Hangzhou Zhenyue Enterprise Management Co., Ltd. (the “GP”) and Taobao (China) Software Co., Ltd. on January 31, 2018; the agreement became effective on August 11, 2017 and has a term of 20 years subject to automatic renewal; subject to compliance with mandatory provisions of laws and regulations, the scope of services and the amount of service fees may be determined and adjusted by the GP and Taobao (China) Software Co., Ltd. based on suggestions made by Taobao (China) Software Co., Ltd., which shall not be refused by the VIE without reasonable grounds, from time to time; the service fees are payable on an annual basis in principle.
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7 April 2017

**ALIBABA GROUP HOLDING LIMITED**

arranged by  
**THE FINANCIAL INSTITUTIONS NAMED HEREIN**  
as Mandated Lead Arrangers

**THE FINANCIAL INSTITUTIONS NAMED HEREIN**  
as Original Lenders

with

**CITICORP INTERNATIONAL LIMITED**  
acting as Agent

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**US\$5,150,000,000**  
**FACILITY AGREEMENT**  
for  
**ALIBABA GROUP HOLDING LIMITED**

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**Freshfields Bruckhaus Deringer**

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**THIS AGREEMENT** is dated 7 April 2017 and made between:

- (1) **ALIBABA GROUP HOLDING LIMITED** (the “**Company**”);
- (2) **AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED ; THE BANK OF TOKYO-MITSUBISHI UFJ, LTD. ; BNP PARIBAS ; CITIGROUP GLOBAL MARKETS ASIA LIMITED ; CREDIT SUISSE AG , SINGAPORE BRANCH ; DBS BANK LTD. ; DEUTSCHE BANK AG , SINGAPORE BRANCH ; GOLDMAN SACHS BANK USA ; THE HONGKONG AND SHANGHAI BANKING CORPORATION LIMITED ; ING BANK N.V., SINGAPORE BRANCH ; JPMORGAN CHASE BANK, N.A., HONG KONG BRANCH ; MIZUHO BANK, LTD. and MORGAN STANLEY SENIOR FUNDING, INC.** (whether acting individually or together, the “**Mandated Lead Arrangers**”);
- (3) **THE FINANCIAL INSTITUTIONS** listed in Schedule 1 ( *The Original Lenders* ) as lenders (the “**Original Lenders**”); and
- (4) **CITICORP INTERNATIONAL LIMITED** as agent of the Finance Parties (other than itself) (the “**Agent**”).

**IT IS AGREED** as follows:

## **1. DEFINITIONS AND INTERPRETATION**

### 1.1 Definitions

In this Agreement:

“**Acceptable Bank**” means:

- (a) a bank or financial institution which has a rating for its long-term unsecured and non credit-enhanced debt obligations of BBB- or higher by Standard & Poor’s Rating Services or Fitch Ratings Ltd or Baa3 or higher by Moody’s Investor Services Limited or a comparable rating from an internationally recognised credit rating agency; or
- (b) any other bank or financial institution approved by the Agent (acting on the instructions of the Majority Lenders).

“**Accordion Lender**” has the meaning given to that term in Clause 2.3 ( *Additional Commitments* ).

“**Accounting Principles**” means, in relation to the Company, US GAAP or IFRS.

“**Additional Commitment**” means:

- (a) in relation to an entity identified as a Lender in an Additional Commitment Notice, the amount set opposite its name under the heading “Additional Commitment” in such Additional Commitment Notice and the amount of any other Additional Commitment transferred to it under this Agreement; or

- (b) in relation to any other Lender, the amount of any Additional Commitment transferred to it under this Agreement to the extent not cancelled, reduced or transferred by it under this Agreement.

“ **Additional Commitment Fee Letter** ” means each fee letter entered into between the Company and, if applicable, the Lenders or other banks which commit Additional Commitments.

“ **Additional Commitment Notice** ” means a notice substantially in the form set out in Schedule 8 ( *Additional Commitment Notice* ) delivered by the Company to the Agent in accordance with Clause 2.3 ( *Additional Commitments* ).

“ **Administrative Party** ” means each of the Agent and the Mandated Lead Arrangers.

“ **Affiliate** ” means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.

“ **APLMA** ” means the Asia Pacific Loan Market Association Limited.

“ **Authorisation** ” means:

- (a) an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation, lodgement or registration; or
- (b) in relation to anything which will be fully or partly prohibited or restricted by law if a Governmental Agency intervenes or acts in any way within a specified period after lodgement, filing, registration or notification, the expiry of that period without intervention or action.

“ **Availability Period** ” means the period from and including the date of this Agreement to and including the date falling 65 months after the date of this Agreement.

“ **Available Commitment** ” means a Lender’s Commitment minus:

- (a) the aggregate amount of its participation in any outstanding Loans; and
- (b) in relation to any proposed Utilisation, the aggregate amount of its participation in any Loans that are due to be made on or before the proposed Utilisation Date,

other than, in relation to any proposed Utilisation, that Lender’s participation in any Loans that are due to be repaid or prepaid on or before the proposed Utilisation Date.

“ **Available Facility** ” means the aggregate for the time being of each Lender’s Available Commitment.

“ **Bail-In Action** ” means the exercise of any Write-down and Conversion Powers.

“ **Bail-In Legislation** ” means:

- (a) in relation to an EEA Member Country which has implemented, or which at any time implements, Article 55 of Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms, the relevant implementing law or regulation as described in the EU Bail-In Legislation Schedule from time to time; and

- (b) in relation to any other state, any analogous law or regulation from time to time which requires contractual recognition of any Write-down and Conversion Powers contained in that law or regulation.

“ **Break Costs** ” means the amount (if any) by which:

- (a) the interest (excluding the Margin) which a Lender should have received pursuant to the terms of this Agreement for the period from the date of receipt of all or any part of the principal amount of a Loan or Unpaid Sum to the last day of the current Interest Period in respect of that Loan or Unpaid Sum, had the principal amount or Unpaid Sum received been paid on the last day of that Interest Period;

exceeds:

- (b) the amount of interest which that Lender would be able to obtain by placing an amount equal to the principal amount or Unpaid Sum received by it on deposit with a leading bank in the Relevant Interbank Market for a period starting on the Business Day following receipt or recovery and ending on the last day of the current Interest Period.

“ **Business Day** ” means a day (other than a Saturday or Sunday) on which banks are open for general business in Hong Kong, Singapore and New York.

“ **Capital Stock** ” of any person means any and all shares, interests, rights to purchase, warrants, options, participations or other equivalents of or interests in (however designated) equity of such person, including any Preferred Shares and limited liability or partnership interests (whether general or limited), but excluding any debt securities convertible or exchangeable into such equity.

“ **Commitment** ” means:

- (a) in relation to an Original Lender, the amount set opposite its name under the heading Commitment in Schedule 1 ( *The Original Lenders* ) and the amount of any other Commitment transferred to it under this Agreement or assumed by it in accordance with Clause 2.2 ( *Increase* ) or Clause 2.3 ( *Additional Commitments* ); and
- (b) in relation to any other Lender, the amount of any Commitment transferred to it under this Agreement or assumed by it in accordance with Clause 2.2 ( *Increase* ) or Clause 2.3 ( *Additional Commitments* ),

to the extent not cancelled, reduced or transferred by it under this Agreement.

“ **Competitors** ” means Amazon (including Jjoy.com), Baidu, eBay (including PayPal), Facebook, Google, Yahoo!, Microsoft, Tencent (including Tenpay), JD.com (formerly, 360Buy), Wal-Mart Stores, Inc., Yihaodian, Xiaomi, 58.com, Yahoo! JAPAN (including SoftBank Group), Qihoo 360, Vipshop, Rakuten, Ping An (including Lufax but excluding Ping An Bank), UnionPay, Uber, NetEase and each of their controlled Affiliates.

“ **Confidentiality Undertaking** ” means a confidentiality undertaking substantially in a recommended form of the APLMA as set out in Schedule 6 ( *Form of Confidentiality Undertaking* ) or in any other form agreed between the Company and the Agent and in any event the benefit of which accrues to the Company as a third party beneficiary.

“ **Consolidated Affiliated Entity** ” of any person means any corporation, association or other entity which is or is required to be consolidated with such person under Accounting Standards Codification subtopic 810-10, Consolidation: Overall (including any changes, amendments or supplements thereto) or, if such person prepares its financial statements in accordance with accounting principles other than U.S. GAAP, the equivalent of Accounting Standards Codification subtopic 810-10, Consolidation: Overall under such accounting principles.

“ **Controlled Entity** ” of any person means a Subsidiary or a Consolidated Affiliated Entity of such person.

“ **Default** ” means an Event of Default or any event or circumstance specified in Clause 20 ( *Events of Default* ) which would (with the expiry of a grace period, the giving of notice or the making of any determination (other than as to materiality) referred to in Clause 20 ( *Events of Default* )) be an Event of Default.

“ **Defaulting Lender** ” means any Lender:

- (a) which has failed to make its participation in a Loan available or has notified the Agent or the Company (which has notified the Agent) that it will not make its participation in a Loan available by the Utilisation Date of that Loan in accordance with Clause 5.4 ( *Lenders' participation* );
- (b) which has otherwise rescinded or repudiated a Finance Document; or
- (c) with respect to which an Insolvency Event has occurred and is continuing,

unless, in the case of paragraph (a) above:

- (i) its failure to pay is caused by:
  - (A) administrative or technical error; or
  - (B) a Disruption Event; and,payment is made within two Business Days of its due date; or
- (ii) the Lender is disputing in good faith whether it is contractually obliged to make the payment in question.

“ **Disruption Event** ” means either or both of:

- (a) a material disruption to those payment or communications systems or to those financial markets which are, in each case, required to operate in order for payments to be made in connection with the Facility (or otherwise in order for the transactions contemplated by the Finance Documents to be carried out) which disruption is not caused by, and is beyond the control of, any of the Parties; and
- (b) the occurrence of any other event which results in a disruption (of a technical or systems-related nature) to the treasury or payments operations of a Party preventing that, or any other Party:
  - (i) from performing its payment obligations under the Finance Documents; or

(ii) from communicating with other Parties in accordance with the terms of the Finance Documents,

and which (in either such case) is not caused by, and is beyond the control of, the Party whose operations are disrupted.

“ **Distributable Reserves** ” means, in relation to a Major Material Subsidiary incorporated in the PRC which is a WFOE, the retained earnings of such WFOE that may in accordance with any applicable PRC law and regulation and PRC GAAP be distributed to its shareholders outside of the PRC after taking into account all Taxes payable under PRC law and all statutory reserve requirements in the PRC.

“ **Dormant Subsidiary** ” means a Group Member which does not trade (for itself or as agent for any person) and does not own, legally or beneficially, any material assets (including, without limitation, indebtedness owed to it).

“ **EBITDA** ” means the consolidated income before income tax and share of net losses or gains of equity investees of the Group before taxation (including the results from any discontinued operations):

- (a) **before deducting** any interest, commission, fees, discounts, prepayment fees, premiums or charges and other finance payments whether paid, payable or capitalised by any Group Member (calculated on a consolidated basis);
- (b) **not including** any accrued interest owing to any Group Member;
- (c) **before taking into account** any Exceptional Items;
- (d) **before taking into account** any unrealised gains or losses on any derivative instrument or similar financial instrument (but excluding any derivative instrument which is accounted for on a hedge accounting basis);
- (e) **before taking into account** any gain or loss arising from an upward or downward revaluation of any other asset at any time after the date to which the Original Financial Statements were made up;
- (f) **before taking into account** the charge to profit represented by expensing of stock based compensation;
- (g) **after adding back** any amount attributable to the amortisation, depreciation or impairment of assets of the Group Members; and
- (h) **after excluding** any Excluded Earnings,

in each case, to the extent added, deducted or taken into account, as the case may be, for the purposes of determining income before income tax and share of net losses or gains of equity investees of the Group before taxation.

“ **EEA Member Country** ” means any member state of the European Union, Iceland, Liechtenstein and Norway.

“ **EU Bail-In Legislation Schedule** ” means the document described as such and published by the Loan Market Association (or any successor person) from time to time.

“ **Event of Default** ” means any event or circumstance specified as such in Clause 20 ( *Events of Default* ).

“ **Exceptional Items** ” means any exceptional, one off, non-recurring or extraordinary items including those arising on:

- (a) the restructuring of the activities of an entity and reversals of any provisions for the cost of restructuring;
- (b) disposals, revaluations or impairment of non-current assets; and
- (c) disposals of assets associated with discontinued operations.

“ **Exchange Act** ” means the U.S. Securities Exchange Act of 1934, as amended.

“ **Excluded Earnings** ” means any earnings (whether positive or negative) of the Finance Companies and the Project Companies.

“ **Extended Loan** ” means a Loan or part of a Loan in respect of which the Company and the relevant Lender(s) have agreed to amend certain terms pursuant to an Extension Agreement.

“ **Extension Agreement** ” has the meaning given to that term in Clause 32.3 ( *Extension of Commitments* ).

“ **Facility** ” means the revolving loan facility made available under this Agreement as described in Clause 2.1 ( *The Facility* ) as such facility may be increased pursuant to Clause 2.3 ( *Additional Commitments* ).

“ **Facility Office** ” means the office or offices notified by a Lender to the Agent in writing on or before the date it becomes a Lender (or, following that date, by not less than five Business Days’ written notice) as the office or offices through which it will perform its obligations under this Agreement.

“ **Fee Letter** ” means any letter or letters referring to this Agreement or the Facility between one or more Administrative Parties and the Company setting out any of the fees referred to in Clause 11 ( *Fees* ), and any Additional Commitment Fee Letter.

“ **Final Repayment Date** ” means the date falling sixty-six (66) months after the date of this Agreement.

“ **Finance Company** ” means:

- (a) 深圳市一达通企业服务有限公司 (Shen Zhen One Touch Business Service Ltd.) **[B69]** and each of its Subsidiaries as at the date of this Agreement; and
- (b) any other Group Member whose primary function is the provision of merchant, consumer or other credit finance and/or related credit services (including provision of guarantees), which has obtained a small loans lending or other lending, credit, guarantee or comparable licence from the relevant regulator.

“ **Finance Document** ” means this Agreement, any Fee Letter, any Utilisation Request, any Additional Commitment Notice and any other document designated as such by the Company and the Agent (or by the Company and the Lenders, provided that the Agent receives notification of such designation).

“ **Finance Party** ” means the Agent, a Mandated Lead Arranger or a Lender.

“ **Governmental Agency** ” means any government or any governmental agency, semi-governmental or judicial entity or authority (including, without limitation, any stock exchange or any self-regulatory organisation established under statute).

“ **Group** ” means the Company and its Subsidiaries from time to time.

“ **Group Member** ” means a member of the Group.

“ **Group Structure Chart** ” means the summary group structure chart in the agreed form.

“ **Holding Company** ” means, in relation to a person, any other person in respect of which it is a Subsidiary.

“ **Hong Kong** ” means the Hong Kong Special Administrative Region of the People’s Republic of China.

“ **IFRS** ” means International Financial Reporting Standards as issued by the International Accounting Standards Board.

“ **Impaired Agent** ” means the Agent at any time when:

- (a) it has failed to make (or has notified a Party that it will not make) a payment required to be made by it under the Finance Documents by the due date for payment;
- (b) the Agent otherwise rescinds or repudiates a Finance Document;
- (c) (if the Agent is also a Lender) it is a Defaulting Lender under paragraph (a) or (b) of the definition of “ **Defaulting Lender** ”; or
- (d) an Insolvency Event has occurred and is continuing with respect to the Agent;

unless, in the case of paragraph (a) above:

- (i) its failure to pay is caused by:
  - (A) administrative or technical error; or
  - (B) a Disruption Event; and
- (ii) payment is made within two Business Days of its due date; or
- (iii) the Agent is disputing in good faith whether it is contractually obliged to make the payment in question.

“ **Increase Confirmation** ” means a confirmation substantially in the form set out in Schedule 5 ( *Form of Increase Confirmation* ).

“ **Increase Lender** ” has the meaning given to that term in Clause 2.2 ( *Increase* ).

“ **Indebtedness** ” means any and all obligations of a person for money borrowed which, in accordance with US GAAP, would be reflected on the balance sheet of such person as a liability on the date as of which Indebtedness is to be determined.

“ **Indenture** ” means the indenture dated as of 28 November 2014 in connection with the US\$8,000,000,000 notes issued by the Company.

“ **Indirect Tax** ” means any goods and services tax, consumption tax, value added tax or any tax of a similar nature.

“ **Industrial Competitor** ” means any person which is, or is an Affiliate of, a Competitor, or any person that is acting on behalf of or fronting for any such person, provided that a person will not be considered to be “fronting for” or “acting on behalf of” any such person if such person has confirmed in writing to the relevant Finance Party with a copy to the Company that it is not fronting for or acting on behalf of a Competitor or an Affiliate of a Competitor.

“ **Insolvency Event** ” in relation to a Finance Party means that the Finance Party:

- (a) is dissolved (other than pursuant to a consolidation, amalgamation or merger);
- (b) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due;
- (c) makes a general assignment, arrangement or composition with or for the benefit of its creditors;
- (d) institutes or has instituted against it, by a regulator, supervisor or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over it in the jurisdiction of its incorporation or organisation or the jurisdiction of its head or home office, a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors’ rights, or a petition is presented for its winding-up or liquidation by it or such regulator, supervisor or similar official;
- (e) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors’ rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition is instituted or presented by a person or entity not described in paragraph (d) above and:
  - (i) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation;  
or
  - (ii) is not dismissed, discharged, stayed or restrained in each case within 30 days of the institution or presentation thereof;
- (f) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);
- (g) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets;
- (h) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 30 days thereafter;



- (i) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in paragraphs (a) to (h) above; or
- (j) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

“ **Intellectual Property** ” means:

- (a) any patents, trade marks, service marks, designs, business names, copyrights, database rights, design rights, domain names, moral rights, inventions, confidential information, knowhow and other intellectual property rights and interests (which may now or in the future subsist), whether registered or unregistered; and
- (b) the benefit of all applications and rights to use such assets of each Group Member (which may now or in the future subsist).

“ **Interest Period** ” means, in relation to a Loan, the period determined in accordance with Clause 9 ( *Interest Periods* ) and, in relation to an Unpaid Sum, each period determined in accordance with Clause 8.3 ( *Default interest* ).

“ **Interpolated Screen Rate** ” means, in relation to LIBOR for any Loan, the rate (rounded to the same number of decimal places as the two relevant Screen Rates) which results from interpolating on a linear basis between:

- (a) the applicable Screen Rate for the longest period (for which that Screen Rate is available) which is less than the Interest Period of that Loan; and
- (b) the applicable Screen Rate for the shortest period (for which that Screen Rate is available) which exceeds the Interest Period of that Loan,

each as of 11.00 a.m. (London time) on the Quotation Day for the currency of that Loan.

“ **Lender** ” means:

- (a) any Original Lender; and
- (b) any bank or financial institution (or, with the prior written consent of the Company, other person) which has become a Party in accordance with Clause 2.2 ( *Increase* ), Clause 2.3 ( *Additional Commitments* ) or Clause 21 ( *Changes to the Lenders* ),

which in each case has not ceased to be a Party in accordance with the terms of this Agreement.

“ **LIBOR** ” means, in relation to any Loan:

- (a) the applicable Screen Rate;
- (b) (if no Screen Rate is available for the Interest Period of that Loan) the Interpolated Screen Rate for that Loan; or

- (c) if:
- (i) no Screen Rate is available for US Dollars; or
  - (ii) no Screen Rate is available for the Interest Period of that Loan and it is not possible to calculate an Interpolated Screen Rate for that Loan,
- the Reference Bank Rate,

as of, in the case of paragraphs (a) and (c) above, 11.00 a.m. (London time) on the Quotation Day for US Dollars and for a period comparable to the Interest Period of that Loan and, in the case of paragraphs (a) to (c) above, if any such rate is below zero, LIBOR will be deemed to be zero.

“**Loan**” means a loan made or to be made under the Facility or the principal amount outstanding for the time being of that loan.

“**London Business Day**” means a day (other than a Saturday or Sunday) on which commercial banks are open for general business including dealings in interbank deposits in London.

“**Majority Lenders**” means a Lender or Lenders whose Commitments aggregate more than 50% of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated more than 50% of the Total Commitments immediately prior to the reduction).

“**Major Material Subsidiary**” means, at any time, a Group Member which has earnings before interest, tax, depreciation and amortisation calculated on the same basis as EBITDA representing five per cent. (5%) or more of EBITDA, calculated on a consolidated basis, but excluding any Project Company, any Finance Company and any Dormant Subsidiary.

“**Management**” means the chief executive officer, the chief financial officer and the group general counsel of the Company.

“**Margin**” means 0.95 per cent. per annum.

“**Material Adverse Effect**” means a material adverse effect on:

- (a) the business, operations, property, condition (financial or otherwise) or results of operations of the Group taken as a whole;
- (b) the ability of the Company to perform its payment obligations under the Finance Documents taking into account any support that it may reasonably expect from any other Group Member; or
- (c) the validity or enforceability of, or the rights or remedies of any Finance Party under, any of the Finance Documents other than to the extent not materially adverse to the interests of the Finance Parties under the Finance Documents.

“**Money Laundering**” means:

- (a) the conversion or transfer of property, knowing it is derived from a criminal offence, for the purpose of concealing or disguising its illegal origin or of assisting any Person who is involved in the commission of the crime to evade the legal consequences of its actions;

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- (b) the concealment or disguise of the true nature, source, location, disposition, movement, right with respect to, or ownership of, property knowing that it is derived from a criminal offence; or
- (c) the acquisition, possession or use of property knowing at the time of its receipt that it is derived from a criminal offence.

“**Month**” means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that:

- (a) (subject to paragraph (c) below) if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one, or if there is not, on the immediately preceding Business Day;
- (b) if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month; and
- (c) if an Interest Period begins on the last Business Day of a calendar month, that Interest Period shall end on the last Business Day in the calendar month in which that Interest Period is to end.

The above rules will apply only to the last Month of any period.

“**New Lender**” has the meaning given to that term in Clause 21 ( *Changes to the Lenders* ).

“**Non-recourse Obligation**” means Indebtedness or other obligations substantially related to:

- (a) the acquisition of assets not previously owned by the Company or any of its Controlled Entities; or

(b) the financing of a project involving the purchase, development, improvement or expansion of properties of the Company or any of its Controlled Entities, as to which the obligee with respect to such Indebtedness or obligation has no recourse to the Company or any Controlled Entities of the Company or to the Company's or any such Controlled Entities' assets other than the assets which were acquired with the proceeds of such transaction or the project financed with the proceeds of such transaction (and the proceeds thereof).

“ **OFAC** ” means the Office of Foreign Assets Control of the U.S. Department of the Treasury.

“ **Officer** ” means the Executive Chairman of the Board, the Executive Vice Chairman, the Chief Executive Officer, the Chief Financial Officer or the Corporate Secretary of the Company or, in the event that the Company is a partnership or a limited liability company that has no such officers, a person duly authorised under applicable law by the general partner, managers, members or a similar body to act on behalf of the Company.

“ **Officer's Certificate** ” means a certificate signed by an Officer of the Company.

“ **Original Financial Statements** ” means the audited consolidated financial statements of the Group for the financial year ended 31 March 2016.

“ **Participant** ” means each person to whom a Lender has transferred all or any of its obligations, economic interest or other interest under the Finance Documents by way of a Participation Agreement.

“ **Participation Agreement** ” means each agreement or letter (including, without limitation, a fee letter) between a Lender and a Participant under which the Lender has transferred all or any of its obligations, economic interest or other interest under the Finance Documents, directly or indirectly, whether by sub-participation, credit derivative (including a credit default swap or credit linked note), total return swap or in any other way but excluding any transfer or novation of any of a Lender’s Commitments and/or rights and/or obligations in accordance with Clause 21.1 ( *Transfers by the Lenders* ).

“ **Party** ” means a party to this Agreement.

“ **PRC** ” means the People’s Republic of China, excluding for these purposes Hong Kong, the Macau Special Administrative Region and Taiwan.

“ **PRC GAAP** ” means generally accepted accounting principles of the PRC.

“ **Preferred Shares** ” applied to the Capital Stock of any corporation, means Capital Stock of any class or classes (however designated) that is preferred as to the payment of dividends upon liquidation, dissolution or winding up.

“ **Principal Controlled Entities** ” means one of the Company’s Controlled Entities:

(a) as to which one or more of the following conditions is/are satisfied:

- (i) its total revenue or (in the case of one of the Company’s Controlled Entities which has one or more Controlled Entities) consolidated total revenue attributable to the Group is at least 5% of the consolidated total revenue of the Group;
- (ii) its net profit or (in the case of one of the Company’s Controlled Entities which has one or more Controlled Entities) consolidated net profit attributable to the Group (in each case before taxation and exceptional items) is at least 5% of the consolidated net profit (before taxation and exceptional items) of the Group; or
- (iii) its net assets or (in the case of one of the Company’s Controlled Entities which has one or more Controlled Entities) consolidated net assets attributable to the Group (in each case after deducting minority interests in Subsidiaries) are at least 10% of its consolidated net assets of the Group (after deducting minority interests in Subsidiaries of the Company),

all as calculated by reference to the then latest audited financial statements (consolidated or, as the case may be, unconsolidated) of the Controlled Entity of the Company and the then latest audited consolidated financial statements of the Company;

provided that, in relation to paragraphs (i), (ii) and (iii) above:

- (A) for the purpose of this definition only, “ **Group** ” means the Company and its Controlled Entities; and
- (B) (1) in the case of a corporation or other business entity becoming a Controlled Entity after the end of the financial period to which the Company’s latest consolidated audited accounts relate, the reference to the then latest consolidated audited accounts of the Company and the Controlled Entities for the purposes of the calculation above shall, until the Company consolidated audited accounts for the financial period in which the relevant corporation or other business entity becomes a Controlled Entity are issued, be deemed to be a reference to the then latest consolidated audited accounts of the Company and the Controlled Entities adjusted to consolidate the latest audited accounts (consolidated in the case of a Controlled Entity which itself has Controlled Entities) of such Controlled Entity in such accounts;
- (2) if at any relevant time in relation to the Company or any Controlled Entity which itself has Controlled Entities, no consolidated accounts are prepared and audited, total revenue, net profit or net assets of the Company and/or any such Controlled Entity shall be determined on the basis of pro forma consolidated accounts prepared for this purpose by or on behalf of the Company;
- (3) if at any relevant time in relation to any Controlled Entity, no accounts are audited, its net assets (consolidated, if appropriate) shall be determined on the basis of pro forma accounts (consolidated, if appropriate) of the relevant Controlled Entity prepared for this purpose by or on behalf of the Company; and
- (4) if the accounts of any Controlled Entity (not being a Controlled Entity referred to in proviso (1) above) are not consolidated with the Company’s accounts, then the determination of whether or not such Controlled Entity is a Principal Controlled Entity shall be based on a pro forma consolidation of its accounts (consolidated, if appropriate) with the Company’s consolidated accounts (determined on the basis of the foregoing); or
- (b) that Principal Controlled Entity merges with or into, or to which is transferred all or substantially all of the assets of a Controlled Entity which immediately prior to the transfer was a Principal Controlled Entity; provided that, with effect from such transfer, the Controlled Entity which so transfers its assets and undertakings shall cease to be a Principal Controlled Entity (but without prejudice to paragraph (a) above) and the Controlled Entity to which the assets are so transferred shall become a Principal Controlled Entity.

“ **Prohibited Transferee** ” means, in respect of any transfer or sub-participation:

- (a) an Industrial Competitor; or
- (b) any person which is not a bank or financial institution and which has not been specifically approved in writing by the Company.

“ **Project Company** ” means:

- (a) Alibaba Group Properties Limited [A08] and each of its Subsidiaries as at the date of this Agreement; and
- (b) any other Group Member which is (i) established or acquired after the date of this Agreement; (ii) capitalised with equity funded by equity or shareholder loans from, or on behalf of, the Company or one of its Subsidiaries; and (iii) established or acquired to develop a specific asset or project.

“ **Quotation Day** ” means:

- (a) in relation to any period for which an interest rate is to be determined two London Business Days before the first day of that period, unless market practice differs in the Relevant Interbank Market in which case the Quotation Day will be determined by the Agent in accordance with market practice in the Relevant Interbank Market (and if quotations would normally be given by leading banks in the Relevant Interbank Market on more than one day, the Quotation Day will be the last of those days); and
- (b) in relation to any Interest Period the duration of which is selected by the Agent pursuant to Clause 8.3 ( *Default interest* ), such date as may be determined by the Agent (acting reasonably).

“ **Reference Bank Rate** ” means the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Agent at its request by the Reference Banks as the rate at which the relevant Reference Bank could borrow funds in the Relevant Interbank Market, in US Dollars and for the relevant period, were it to do so by asking for and then accepting interbank offers for deposits in reasonable market size in US Dollars and for that period.

“ **Reference Banks** ” means, subject to Clause 24.18 ( *Reference Banks* ), the principal London offices of any banks as may be appointed by the Agent with the consent of the Company (such consent not to be unreasonably withheld).

“ **Relevant Indebtedness** ” means any Indebtedness which is in the form of, or represented or evidenced by, bonds, notes, debentures, or other securities which for the time being are, or are intended to be or are commonly, quoted, listed or dealt in or traded on any stock exchange or over-the-counter or other securities market, but shall exclude any bank debt, bank loans or securitisations.

“ **Relevant Interbank Market** ” means the London interbank market.

“ **Relevant Jurisdiction** ” means, in relation to the Company:

- (a) its jurisdiction of incorporation; and
- (b) any jurisdiction where it conducts a material part of its business.

“ **Resolution Authority** ” means any body which has authority to exercise any Write-down and Conversion Powers.

“ **Repeating Representations** ” means each of the representations set out in Clauses 17.1 ( *Status* ) to 17.6 ( *Governing law and enforcement* ), Clause 17.9 ( *No default* ), Clause 17.10 ( *No misleading information* ), paragraphs (a) and (b) of Clause 17.11 ( *Financial statements* ), Clause 17.19 ( *Good title to assets* ), paragraph (b) of Clause 17.20 ( *Bribery, Anti-corruption* ) and paragraph (b) of Clause 17.22 ( *Money Laundering* ).

“ **Representative** ” means any delegate, agent, manager, administrator, nominee, attorney, trustee or custodian.

“ **Rollover Loan** ” means one or more Loans:

- (a) made or to be made on the same day that one or more maturing Loans is or are due to be repaid;
- (b) the aggregate amount of which is equal to or less than the amount of the maturing Loan(s); and
- (c) made or to be made to the Company for the purpose of refinancing the maturing Loan(s).

“ **Sanctions** ” means any sanctions, restrictions or embargoes imposed or enforced by the United Nations, the European Union, the State Secretariat for Economic Affairs of Switzerland, OFAC, the State Department of the United States, HM Treasury of the United Kingdom, the Hong Kong Monetary Authority, the Monetary Authority of Singapore and the Department of Foreign Affairs and Trade of Australia and any other sanctions administered by any governmental entity which is notified to a Group Member by the Agent in accordance with Clause 19.4 ( *Sanctions* ).

“ **Screen Rate** ” means the London interbank offered rate administered by the ICE Benchmark Administration Limited (or any other person which takes over the administration of that rate) for US Dollars and the relevant period, displayed on pages LIBOR01 or LIBOR02 of the Reuters screen (or any replacement Reuters page which displays that rate) or on the appropriate page of such other information service which publishes that rate from time to time in place of Reuters. If such page or service ceases to be available, the Agent may specify another page or service displaying the relevant rate after consultation with the Company.

“ **SEC** ” means the United States Securities and Exchange Commission, as constituted from time to time.

“ **Security** ” means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person.

“ **Securities Act** ” means the Securities Act of 1933, as amended.

“ **Separate Loans** ” has the meaning given to such term in Clause 6.3 ( *Repayment* ).

“ **Subsidiary** ” of any person means:

- (a) any corporation, association or other business entity (other than a partnership, joint venture, limited liability company or similar entity) of which more than 50% of the total ordinary voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof (or persons performing similar functions); or
- (b) any partnership, joint venture limited liability company or similar entity of which more than 50% of the capital accounts, distribution rights, total equity and voting interests or general or limited partnership interests, as applicable,

is, in the case of (a) and (b), voting at the time owned or controlled, directly or indirectly, by (1) such person; (2) such person and one or more Subsidiaries of such Person; or (3) one or more Subsidiaries of such person. For the avoidance of doubt, references to a Subsidiary or Subsidiaries exclude any Finance Company or Project Company whose financial results are not consolidated with those of the Company in accordance with the Accounting Principles.

“ **Tax** ” means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure by the Company to pay or any delay by the Company in paying any of the same).

“ **Tax Deduction** ” has the meaning given to such term in Clause 12.1 ( *Tax definitions* ).

“ **Total Commitments** ” means the aggregate of the Commitments (being US\$5,150,000,000 at the date of this Agreement).

“ **Transfer Certificate** ” means a certificate substantially in the form set out in Schedule 4 ( *Form of Transfer Certificate* ) or any other form agreed between the Agent and the Company.

“ **Transfer Date** ” means, in relation to a transfer, the later of:

- (a) the proposed Transfer Date specified in the relevant Transfer Certificate; and
- (b) the date on which the Agent executes the relevant Transfer Certificate.

“ **Trust Indenture Act** ” means the Trust Indenture Act of 1939 of the United States, as amended.

“ **Unpaid Sum** ” means any sum due and payable but unpaid by the Company under the Finance Documents.

“ **US Dollar** ” or “ **US\$** ” denote the lawful currency of the United States of America.

“ **US GAAP** ” means generally accepted accounting principles in the United States of America.

“ **Utilisation** ” means a utilisation of the Facility.

“ **Utilisation Date** ” means the date of a Utilisation, being the date on which the relevant Loan is to be made.

“ **Utilisation Request** ” means a notice substantially in the form set out in Part A of Schedule 3 ( *Requests* ).

“ **WFOE** ” means a wholly foreign owned enterprise incorporated in the PRC.

“ **Write-down and Conversion Powers** ” means:

- (a) in relation to any Bail-In Legislation described in the EU Bail-In Legislation Schedule from time to time, the powers described as such in relation to that Bail-In Legislation in the EU Bail-In Legislation Schedule; and
- (b) in relation to any other applicable Bail-In Legislation:
  - (i) any powers under that Bail-In Legislation to cancel, transfer or dilute shares issued by a person that is a bank or investment firm or other financial institution or affiliate of a bank, investment firm or other financial institution, to cancel, reduce, modify or change the form of a liability of such a person or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers; and



(ii) any similar or analogous powers under that Bail-In Legislation.

## 1.2 Construction

(a) Unless a contrary indication appears, any reference in this Agreement to:

- (i) any “ **Administrative Party** ”, the “ **Agent** ”, any “ **Mandated Lead Arranger** ”, any “ **Finance Party** ”, any “ **Lender** ” or any “ **Party** ” shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
- (ii) a document in “ **agreed form** ” is a document which is in the form previously agreed in writing by or on behalf of the Company and the Mandated Lead Arrangers prior to the date hereof or, on behalf of the Company and the Agent (acting on the instructions of the Majority Lenders);
- (iii) “ **assets** ” includes present and future properties, revenues and rights of every description;
- (iv) a “ **Finance Document** ” or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended, novated, supplemented, extended or restated;
- (v) “ **including** ” shall be construed as “including without limitation” (and cognate expressions shall be construed similarly);
- (vi) “ **indebtedness** ” includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- (vii) a Lender’s “ **participation** ” in a Loan or Unpaid Sum includes an amount representing the fraction or portion (attributable to such Lender by virtue of the provisions of this Agreement) of the total amount of such Loan or Unpaid Sum and the Lender’s rights under this Agreement in respect thereof;
- (viii) a “ **person** ” includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);
- (ix) a “ **regulation** ” includes any regulation, rule, official directive, request or guideline (whether or not having the force of law, but if not having the force of law, which is generally complied with by those to whom it is addressed) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
- (x) any notation after the name of a Group Member refers to the number for that Group Member as specified in the Group Structure Chart;

- (xi) a provision of law is a reference to that provision as amended or re-enacted; and
- (xii) a time of day is a reference to Hong Kong time.
- (b) Section, Clause and Schedule headings are for ease of reference only.
- (c) Unless a contrary indication appears, a term used in any other Finance Document or in any notice given under or in connection with any Finance Document has the same meaning in that Finance Document or notice as in this Agreement.
- (d) A Default or an Event of Default is “ **continuing** ” if it has not been remedied or waived.
- (e) No person shall incur any personal liability whatsoever in connection with the issuance of a certificate, on behalf of the Company, pursuant to the terms of a Finance Document.

### 1.3 Third party rights

- (a) Unless expressly provided to the contrary in a Finance Document a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the “ **Third Parties Act** ”) to enforce or to enjoy the benefit of any term of this Agreement.
- (b) Notwithstanding any term of any Finance Document, the consent of any third person who is not a Party is not required to rescind or vary this Agreement at any time.

## 2. THE FACILITY

### 2.1 The Facility

Subject to the terms of this Agreement, the Lenders make available to the Company a US Dollar revolving loan facility in an aggregate amount equal to the Total Commitments.

### 2.2 Increase

- (a) The Company may by giving prior notice to the Agent after the effective date of a cancellation of:
  - (i) the Available Commitments of a Defaulting Lender in accordance with paragraph (g) of Clause 7.4 (*Right of prepayment and cancellation in relation to a single Lender*); or
  - (ii) the Commitments of a Defaulting Lender in accordance with paragraph (h) of Clause 7.4 (*Right of prepayment and cancellation in relation to a single Lender*); or
  - (iii) the Commitments of a Lender in accordance with:
    - (A) Clause 7.1 (*Illegality*); or
    - (B) paragraph (a) of Clause 7.4 (*Right of prepayment and cancellation in relation to a single Lender*), request that the Commitments be increased (and the Commitments shall be so increased) in an aggregate amount of up to the amount of the Available Commitments or Commitments so cancelled as follows:

- (A) the increased Commitments will be assumed by one or more Lenders or other banks or financial institutions (or any other person approved in writing by the Company) (each an “Increase Lender”) selected by the Company and each of which confirms in writing whether in the relevant Increase Confirmation or otherwise its willingness to assume and does assume all the obligations of a Lender corresponding to that part of the increased Commitments which it is to assume, as if it had been an Original Lender (for the avoidance of doubt, no Party shall be obliged to assume the obligations of a Lender pursuant to this Clause 2.2 ( *Increase* ) without the prior consent of that Party);
  - (B) the Company and any Increase Lender shall assume obligations towards one another and/or acquire rights against one another as the Company and the Increase Lender would have assumed and/or acquired had the Increase Lender been an Original Lender;
  - (C) each Increase Lender shall become a Party as a “Lender” and any Increase Lender and each of the other Finance Parties shall assume obligations towards one another and acquire rights against one another as that Increase Lender and those Finance Parties would have assumed and/or acquired had the Increase Lender been an Original Lender;
  - (D) the Commitments of the other Lenders shall continue in full force and effect; and
  - (E) any increase in the Commitments shall take effect on the date specified by the Company in the notice referred to above or any later date on which the conditions set out in paragraph (b) below are satisfied.
- (b) An increase in the Commitments will only be effective on:
- (i) the execution by the Agent of an Increase Confirmation from the relevant Increase Lender; and
  - (ii) in relation to an Increase Lender which is not a Lender immediately prior to the relevant increase, the Agent being satisfied that it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations in relation to the assumption of the increased Commitments by that Increase Lender. The Agent shall promptly notify the Company and the Increase Lender upon being so satisfied.
- (c) Each Increase Lender, by executing the Increase Confirmation, confirms (for the avoidance of doubt) that the Agent has authority to execute on its behalf any amendment or waiver that has been approved by or on behalf of the requisite Lender or Lenders in accordance with this Agreement on or prior to the date on which the increase becomes effective.

- (d) Clause 21.4 ( *Limitation of responsibility of Existing Lenders* ) shall apply *mutatis mutandis* in this Clause 2.2 in relation to an Increase Lender as if references in that Clause to:
- (i) an “ **Existing Lender** ” were references to all the Lenders immediately prior to the relevant increase;
  - (ii) the “ **New Lender** ” were references to that “ **Increase Lender** ”; and
  - (iii) a “ **re-transfer** ” were references to respectively a “ **transfer** ”.

### 2.3 Additional Commitments

- (a) The Company may at any time confirm that one or more Lenders or any other bank(s) (each an “ **Accordion Lender** ”) has agreed to commit Additional Commitments by delivering an Additional Commitment Notice to the Agent.
- (b) Each Additional Commitment Notice is irrevocable and will not be regarded as having been duly completed unless it has been countersigned by each Accordion Lender named therein and it specifies:
- (i) the date on which the Additional Commitments are confirmed;
  - (ii) the amount of the Additional Commitments; and
  - (iii) the amount of the Additional Commitments allocated to each Accordion Lender named in the Additional Commitment Notice.
- (c) By countersigning the Additional Commitment Notice:
- (i) each Accordion Lender agrees to commit the Additional Commitments set out against its name; and
  - (ii) each Accordion Lender which is not already a Lender, agrees to become a party to this Agreement as a Lender.
- (d) An increase in the Commitments under this Clause 2.3 shall take effect on the date specified in the Additional Commitment Notice as the date on which the Additional Commitments are confirmed or any later date on which the conditions set out in paragraph (e) below are satisfied.
- (e) An increase in the Commitments under this Clause 2.3 will only be effective on:
- (i) the execution by the Agent of the Additional Commitment Notice; and
  - (ii) in relation to an Accordion Lender which is not a Lender immediately prior to the relevant increase, the Agent being satisfied that it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations in relation to the assumption of the Additional Commitments by that Accordion Lender. The Agent shall promptly execute the Additional Commitment Notice and notify the Company and the Accordion Lender upon being so satisfied.

- (f) No Additional Commitment Notice shall become effective at a time when a Utilisation Request has been delivered and the proposed Utilisation Date under that Utilisation Request has not yet occurred.
- (g) Upon receipt of a duly completed Additional Commitment Notice, the Agent shall inform the Lenders of such receipt.
- (h) The Agent shall notify the Company and the Lenders of the increased amounts of the Commitments under the Facility promptly after an Additional Commitment Notice takes effect in accordance with this Clause 2.3.
- (i) For the avoidance of doubt: (i) the Additional Commitments shall have the same terms (other than as to upfront arrangement fees and conditions precedent) as the Facility; and (ii) the upfront arrangement fees in respect of the Additional Commitments shall be set out in a separate Additional Commitment Fee Letter entered into by the Company and the relevant Accordion Lender(s), provided that no Accordion Lender shall be offered or paid any fees on better terms than those which have been offered to the Mandated Lead Arrangers.

### 2.4 Readjustment of participations in outstanding Loans

- (a) If any Loan is outstanding on the date of accession of any Accordion Lender and the establishment of any Additional Commitment in accordance with Clause 2.3 ( *Additional Commitments* ), the amount of each Lender’s (including the acceding Accordion Lender’s) participation in each such outstanding Loan shall be calculated by the Agent so that the amount of each Lender’s participation in each Loan will be equal to the proportion borne by its Commitment to the Total Commitments as at such date. For the avoidance of doubt, in making such calculation the Agent shall take into account the Additional Commitments.
- (b) The Agent will notify in writing each Lender and the Company of the recalculated amount of each Lender’s participation in each outstanding Loan.
- (c) Following receipt of such notice, the Accordion Lender(s) will make such balancing payments to the Agent (for the account of each other Lender) as may be required so as to ensure that each Lender’s participation in outstanding Loans is as calculated by the Agent in accordance with paragraph (a) above.

Such payment in respect of each outstanding Loan shall be made to the Agent on the last day of the Interest Period for that Loan occurring after the date of such notice or, if earlier, the first Utilisation Date to occur after the date of such notice in respect of a Loan which is not a Rollover Loan.

- (d) For the avoidance of doubt, no Break Costs will be payable as a result of the readjustment of participations in outstanding Loans pursuant to this Clause 2.4.

#### 2.5 Finance Parties' rights and obligations

- (a) The obligations of the Finance Parties under the Finance Documents are several. Failure by a Finance Party to perform its obligations under the Finance Documents does not affect the obligations of any other Party under the Finance Documents. No Finance Party is responsible for the obligations of any other Finance Party under the Finance Documents.

(b) The rights of the Finance Parties under or in connection with the Finance Documents are separate and independent rights and any debt arising under the Finance Documents to a Finance Party from the Company is a separate and independent debt in respect of which a Finance Party shall be entitled to enforce its rights in accordance with paragraph (c) below. The rights of each Finance Party include any debt owing to that Finance Party under the Finance Documents and, for the avoidance of doubt, any part of a Loan or any other amount owed by the Company which relates to a Finance Party's participation in the Facility or its role under a Finance Document (including any such amount payable to the Agent on its behalf) is a debt owing to that Finance Party by the Company.

(c) A Finance Party may, except as specifically provided in the Finance Documents, separately enforce its rights under or in connection with the Finance Documents.

### 3. PURPOSE

#### 3.1 Purpose

The Company shall apply all amounts borrowed by it under the Facility towards general corporate and working capital purposes of the Group (including acquisitions).

#### 3.2 Monitoring

No Finance Party is bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

### 4. CONDITIONS OF UTILISATION

#### 4.1 Initial conditions precedent

The Lenders will only be obliged to comply with Clause 5.4 (*Lenders' participation*) in relation to any Utilisation if on or before the date of the initial Utilisation Request the Agent has received all of the documents and other evidence listed in Schedule 2 (*Conditions Precedent*) in form and substance satisfactory to the Agent (acting reasonably), and the Agent shall notify the Company and the Lenders promptly upon being so satisfied.

#### 4.2 Further conditions precedent

The Lenders will only be obliged to comply with Clause 5.4 (*Lenders' participation*) if on the date of the Utilisation Request and on the proposed Utilisation Date:

- (a) in the case of a Rollover Loan, the Company has not received written notice from the Agent (acting on the instructions of the Majority Lenders) following an Event of Default which is continuing requiring the Company to repay the maturing Loan that is due to be repaid on the proposed Utilisation Date; and
- (b) in the case of any Loan other than a Rollover Loan:
  - (i) no Default is continuing or would result from the proposed Loan; and
  - (ii) the Repeating Representations to be made by the Company are true in all material respects.

4.3 Maximum number of Loans

- (a) The Company may not deliver a Utilisation Request if as a result of the proposed Utilisation more than 13 Loans would be outstanding (or such greater number of Loans as may be agreed by the Agent in its sole discretion).
- (b) The Company may not request that a Loan be divided.
- (c) No Separate Loan or Extended Loan shall be taken into account in this Clause 4.3.

**5. UTILISATION**

5.1 Delivery of a Utilisation Request

The Company may utilise the Facility by delivery to the Agent of a duly completed Utilisation Request not later than 11.00 a.m. three (3) Business Days prior to the proposed Utilisation Date or by such date as the Agent (acting on the instructions of all the Lenders) may agree with the Company.

5.2 Completion of a Utilisation Request

- (a) Each Utilisation Request is irrevocable and will not be regarded as having been duly completed unless:
  - (i) the proposed Utilisation Date is a Business Day within the Availability Period; and
  - (ii) the proposed Interest Period complies with Clause 9 ( *Interest Periods* ).
- (b) Only one Loan may be requested in each Utilisation Request.

5.3 Currency and amount

- (a) The currency specified in a Utilisation Request must be US Dollars.
- (b) The amount of the proposed Loan must be a minimum of US\$100,000,000, or, if less, the Available Facility.

5.4 Lenders' participation

- (a) If the conditions set out in Clause 4 ( *Conditions of Utilisation* ) and Clauses 5.1 ( *Delivery of a Utilisation Request* ) to 5.3 ( *Currency and amount* ) above have been met, and subject to Clause 6 ( *Repayment* ), each Lender shall make its participation in each Loan available by the Utilisation Date through its Facility Office.
- (b) The amount of each Lender's participation in each Loan will be equal to the proportion borne by its Available Commitment to the Available Facility immediately prior to making the Loan.
- (c) The Agent shall notify each Lender of the amount of each Loan and the amount of its participation in that Loan and if different, the amount of that participation to be made available in accordance with Clause 26.1 ( *Payments to the Agent* ), in each case by no later than 11.00 a.m. two (2) Business Days prior to the proposed Utilisation Date.

5.5 Cancellation of Available Facility

The Available Commitments which, at that time, are unutilised shall be immediately cancelled at 5.00 p.m. on the last day of the Availability Period.

**6. REPAYMENT**

6.1 Subject to Clause 6.3 below, the Company shall repay each Loan on the last day of its Interest Period.

6.2 If one or more Loans are to be made available to the Company:

- (a) on the same day that a maturing Loan is due to be repaid by the Company; and
- (b) in whole or in part for the purpose of refinancing the maturing Loan,

the aggregate amount of the new Loans shall, unless the Company notifies the Agent to the contrary in the relevant Utilisation Request, be treated as if applied in or towards repayment of the maturing Loan so that:

- (i) if the amount of the maturing Loan exceeds the aggregate amount of the new Loans:
  - (A) the Company will only be required to make a payment under Clause 26.1 (*Payments to the Agent*) in an amount equal to that excess; and
  - (B) each Lender's participation in the new Loans shall be treated as having been made available and applied by the Company in or towards repayment of that Lender's participation in the maturing Loan and that Lender will not be required to make a payment under Clause 26.1 (*Payments to the Agent*) in respect of its participation in the new Loans; and
- (ii) if the amount of the maturing Loan is equal to or less than the aggregate amount of the new Loans:
  - (A) the Company will not be required to make a payment under Clause 26.1 (*Payments to the Agent*); and
  - (B) each Lender will be required to make a payment under Clause 26.1 (*Payments to the Agent*) in respect of its participation in the new Loans only to the extent that its participation in the new Loans exceeds that Lender's participation in the maturing Loan and the remainder of that Lender's participation in the new Loans shall be treated as having been made available and applied by the Company in or towards repayment of that Lender's participation in the maturing Loan.

6.3 At any time when a Lender becomes a Defaulting Lender, the maturity date of each of the participations of that Defaulting Lender in the Loans then outstanding will be automatically extended to the Final Repayment Date and will be treated as separate Loans (the "**Separate Loans**").



6.4 The Company may prepay a Separate Loan in accordance with paragraph (h) of Clause 7.4 (*Right of prepayment and cancellation in relation to a single Lender*). The Agent will forward a copy of a prepayment notice received in accordance with paragraph (h) of Clause 7.4 (*Right of prepayment and cancellation in relation to a single Lender*) to the Defaulting Lender concerned as soon as practicable on receipt.

6.5 Interest in respect of a Separate Loan will accrue for successive Interest Periods selected by the Company by the time and date specified by the Agent (acting reasonably) and will be payable by the Company to the Agent (for the account of that Defaulting Lender) on the last day of each Interest Period of that Loan.

6.6 The terms of this Agreement relating to Loans generally shall continue to apply to Separate Loans other than to the extent inconsistent with Clauses 6.3 to 6.5 above, in which case those paragraphs shall prevail in respect of any Separate Loan.

## **7. PREPAYMENT AND CANCELLATION**

### **7.1 Illegality**

If, at any time, it is or will become unlawful in any applicable jurisdiction for a Lender to perform any of its obligations as contemplated by this Agreement or to fund or maintain its participation in any Loan:

- (a) that Lender shall promptly notify the Agent upon becoming aware of that event;
- (b) upon the Agent notifying the Company, the Commitment of that Lender will be immediately cancelled; and
- (c) the Company shall repay that Lender's participation in the Loans made to the Company on the last day of the Interest Period for each Loan occurring after the Agent has notified the Company or, if earlier, the date specified by the Lender in the notice delivered to the Agent (being no earlier than the last day of any applicable grace period permitted by law).

### **7.2 Voluntary cancellation**

The Company may, if it gives the Agent not less than five (5) Business Days' (or such shorter period as the Majority Lenders may agree) prior notice, reduce the Available Facility to zero or by such amount (being a minimum amount of US\$5,000,000) as the Company may specify in such notice. Any such reduction under this Clause 7.2 shall reduce the Commitments of the Lenders rateably.

### **7.3 Voluntary Prepayment**

The Company may, if it gives the Agent not less than five (5) Business Days' (or such shorter period as the Majority Lenders may agree) prior notice, prepay the whole or any part of a Loan (but if in part, being an amount that reduces the Loan by a minimum amount of US\$5,000,000) together with any applicable Break Costs.

7.4 Right of prepayment and cancellation in relation to a single Lender

- (a) If:
- (i) any sum payable to any Lender by the Company is required to be increased under paragraph (a) of Clause 12.2 ( *Tax gross-up* ); or
  - (ii) any Lender claims indemnification from the Company under Clause 12.3 ( *Tax indemnity* ) or Clause 13.1 ( *Increased costs* ); or
  - (iii) the rate notified by a Lender in relation to a particular Interest Period under sub-paragraph (a)(ii) of Clause 10.2 ( *Market disruption* ) is higher than the lowest rate notified by a Lender under that sub-paragraph,

the Company may, whilst the circumstance giving rise to the requirement for that increase or indemnification continues, give the Agent notice of cancellation of the Commitment of that Lender and/or its intention to procure the prepayment of that Lender's participation in the Loans or give the Agent notice of its intention to replace that Lender in accordance with paragraph (d) below.

- (b) On receipt of a notice of cancellation referred to in paragraph (a) above, the Commitment of that Lender shall immediately be reduced to zero.
- (c) On the last day of each Interest Period which ends after the Company has given notice of cancellation under paragraph (a) above (or, if earlier, the date specified by the Company in that notice), the Company shall prepay that Lender's participation in the relevant Loan.
- (d) The Company may, in the circumstances set out in paragraph (a) above, on five Business Days' prior notice to the Agent and that Lender, replace that Lender by requiring that Lender to (and, to the extent permitted by law, that Lender shall) transfer pursuant to Clause 21 ( *Changes to the Lenders* ) all (and not part only) of its rights and obligations under this Agreement to a Lender or other bank, financial institution, trust, fund or other entity selected by the Company which confirms its willingness to assume and does assume all the obligations of the transferring Lender in accordance with Clause 21 ( *Changes to the Lenders* ) for a purchase price in cash or other cash payment payable at the time of the transfer equal to the outstanding principal amount of such Lender's participation in the outstanding Loans and all accrued interest (to the extent that the Agent has not given a notification under Clause 21.10 ( *Pro-rata interest settlement* )), Break Costs and other amounts payable in relation thereto under the Finance Documents.
- (e) The replacement of a Lender pursuant to paragraph (d) above shall be subject to the following conditions:
  - (i) the Company shall have no right to replace the Agent;
  - (ii) neither the Agent nor any Lender shall have any obligation to find a replacement Lender;
  - (iii) in no event shall the Lender replaced under paragraph (d) above be required to pay or surrender any of the fees received by such Lender pursuant to the Finance Documents; and
  - (iv) no Lender shall be obliged to execute a Transfer Certificate unless it is satisfied that it has completed all "know your customer" and other similar procedures that it is required (or deems desirable) to conduct in relation to the transfer to such replacement Lender.

- (f) A Lender shall perform the procedures described in paragraph (e)(iv) above as soon as reasonably practicable following delivery of a notice referred to in paragraph (d) above and shall notify the Agent and the Company when it is satisfied that it has completed those checks.
- (g)
  - (i) If any Lender becomes a Defaulting Lender, the Company may, at any time whilst the Lender continues to be a Defaulting Lender, give the Agent two Business Days' notice of cancellation of each Available Commitment of that Lender.
  - (ii) On the notice referred to in paragraph (i) above becoming effective, each Available Commitment of the Defaulting Lender shall immediately be reduced to zero.
  - (iii) The Agent shall as soon as practicable after receipt of a notice referred to in paragraph (i) above, notify all the Lenders.
- (h)
  - (i) The Company may, at any time, give the Agent two Business Days' notice of prepayment of any Separate Loan and cancellation of the Commitment of a Defaulting Lender in respect of that Separate Loan.
  - (ii) On the notice referred to in paragraph (i) above becoming effective, the Commitment of the Defaulting Lender in respect of that Separate Loan shall immediately be reduced to zero and the Company shall prepay that Defaulting Lender's participation in such Separate Loan (together with any applicable Break Costs).
  - (iii) The Agent shall as soon as practicable after receipt of a notice referred to in paragraph (i) above, notify all the Lenders.

#### 7.5 Restrictions

- (a) Any notice of cancellation or prepayment given by any Party under this Clause 7 shall be irrevocable and, unless a contrary indication appears in this Agreement, shall specify the date or dates upon which the relevant cancellation or prepayment is to be made and the amount of that cancellation or prepayment.
- (b) Any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid and, subject to any Break Costs, without premium or penalty.
- (c) Unless a contrary indication appears in this Agreement, any part of the Facility which is repaid or prepaid may be reborrowed in accordance with the terms of this Agreement.
- (d) The Company shall not repay or prepay all or any part of the Loans or reduce all or any part of the Commitments except at the times and in the manner expressly provided for in this Agreement.
- (e) Subject to Clause 2.2 ( *Increase* ), no amount of any Commitment that is reduced in accordance with this Agreement may be subsequently reinstated.
- (f) If the Agent receives a notice under this Clause 7 it shall promptly forward a copy of that notice to either the Company or the affected Lender, as appropriate.

- (g) If all or part of a Loan is repaid or prepaid and is not available for redrawing (other than by operation of Clause 4.2 ( *Further conditions precedent* )), an amount of the Commitments (equal to the amount of the Loan which is repaid or prepaid) will be deemed to be cancelled on the date of repayment or prepayment. Any cancellation under this paragraph (g) (save in connection with any repayment or, as the case may be, prepayment under paragraph (c) of Clause 7.1 ( *Illegality* ) or paragraph (c), (g) or (h) of Clause 7.4 ( *Right of prepayment and cancellation in relation to a single Lender* )) shall reduce the Commitments of the Lenders rateably.

## **8. INTEREST**

### **8.1 Calculation of interest**

The rate of interest on each Loan for each Interest Period is the percentage rate per annum which is the aggregate of the:

- (a) Margin; and
- (b) applicable LIBOR.

### **8.2 Payment of interest**

The Company shall pay accrued interest on each Loan on the last day of each Interest Period relating to that Loan (and, if the Interest Period is longer than six Months, on the dates falling at six monthly intervals after the first day of the Interest Period).

### **8.3 Default interest**

- (a) If the Company fails to pay any amount payable by it under a Finance Document on its due date, interest shall accrue on the Unpaid Sum from the due date to the date of actual payment (both before and after judgment) at a rate which is, subject to paragraph (b) below, two per cent. (2%) higher than the rate which would have been payable if the Unpaid Sum had, during the period of non-payment, constituted a Loan in the currency of the Unpaid Sum for successive Interest Periods, each of a duration selected by the Agent (acting reasonably). Any interest accruing under this Clause 8.3 shall be immediately payable by the Company on demand by the Agent.
- (b) If any Unpaid Sum consists of all or part of a Loan which became due on a day which was not the last day of an Interest Period relating to that Loan:
  - (i) the first Interest Period for that Unpaid Sum shall have a duration equal to the unexpired portion of the current Interest Period relating to that Loan; and
  - (ii) the rate of interest applying to the Unpaid Sum during that first Interest Period shall be two per cent. (2%) higher than the rate which would have applied if the Unpaid Sum had not become due.
- (c) Default interest (if unpaid) arising on an Unpaid Sum will be compounded with the Unpaid Sum at the end of each Interest Period applicable to that Unpaid Sum but will remain immediately due and payable.

8.4 Notification of rates of interest

The Agent shall promptly notify the relevant Lenders and the Company of the determination of a rate of interest under this Agreement.

**9. INTEREST PERIODS**

9.1 Selection of Interest Periods

- (a) The Company shall select an Interest Period for a Loan in the Utilisation Request for that Loan.
- (b) Subject to this Clause 9, the Company may select an Interest Period of 1, 2, 3 or 6 Months or any other period agreed between the Company and the Agent (acting on the instructions of all the Lenders in relation to the relevant Loan).
- (c) An Interest Period for a Loan shall not, subject to Clause 32.3 ( *Extension of Commitments* ), extend beyond the Final Repayment Date.
- (d) Each Loan has one Interest Period only which shall start on the Utilisation Date of that Loan.

9.2 Non-Business Days

If an Interest Period would otherwise end on a day which is not a Business Day, that Interest Period will instead end on the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not).

**10. CHANGES TO THE CALCULATION OF INTEREST**

10.1 Absence of quotations

Subject to Clause 10.2 ( *Market disruption* ), if LIBOR is to be determined by reference to the Reference Banks but a Reference Bank does not supply a quotation by noon (local time) on the Quotation Day, the applicable LIBOR shall be determined on the basis of the quotations of the remaining Reference Banks.

10.2 Market disruption

- (a) Subject to any alternative basis agreed and consented to as contemplated by paragraphs (a) and (b) of Clause 10.3 ( *Alternative basis of interest or funding* ), if a Market Disruption Event occurs in relation to a Loan for any Interest Period, then the rate of interest on each Lender's participation in that Loan for that Interest Period shall be the percentage rate per annum which is the sum of:
  - (i) the Margin; and
  - (ii) the percentage rate per annum notified to the Agent by that Lender, as soon as practicable and in any event not later than five Business Days before interest is due to be paid in respect of that Interest Period, as the cost to that Lender of funding its participation in that Loan from whatever source(s) it may reasonably select.

- (b) In relation to a Market Disruption Event under paragraph (c)(ii) below, if the percentage rate per annum notified by a Lender pursuant to paragraph (a) (ii) above shall be less than LIBOR or if a Lender shall fail to notify the Agent of any such percentage rate per annum, the cost to that Lender of funding its participation in the relevant Loan for the relevant Interest Period shall be deemed, for the purposes of paragraph (a) above, to be LIBOR.
- (c) In this Agreement “ **Market Disruption Event** ” means:
  - (i) at or about noon on the Quotation Day for the relevant Interest Period the Screen Rate is not available and none or only one of the Reference Banks supplies a rate to the Agent to determine LIBOR for US Dollars and Interest Period; or
  - (ii) at 5.00 p.m. on the Business Day immediately following the Quotation Day for the relevant Interest Period, the Agent receives notifications from a Lender or Lenders (whose participations in the relevant Loan exceed 50 per cent. of that Loan) that the cost to it of obtaining matching deposits in the Relevant Interbank Market would be in excess of LIBOR.
- (d) If a Market Disruption Event shall occur, the Agent shall promptly notify the Lenders and the Company thereof.

#### 10.3 Alternative basis of interest or funding

- (a) If a Market Disruption Event occurs and the Agent or the Company so requires, the Agent and the Company shall enter into negotiations (for a period of not more than thirty days) with a view to agreeing a substitute basis for determining the rate of interest.
- (b) Any alternative basis agreed pursuant to paragraph (a) above shall, with the prior consent of all the Lenders and the Company, be binding on all Parties.
- (c) For the avoidance of doubt, in the event that no substitute basis is agreed at the end of the thirty day period, the rate of interest shall continue to be determined in accordance with the terms of this Agreement.

#### 10.4 Break Costs

- (a) The Company shall, within five (5) Business Days of demand by a Finance Party, pay to that Finance Party its Break Costs attributable to all or any part of a Loan or Unpaid Sum being paid by the Company on a day other than the last day of an Interest Period for that Loan or Unpaid Sum.
- (b) Each Lender shall, together with its demand, provide a certificate confirming the amount and the basis of calculation of its Break Costs for any Interest Period in which they accrue.

### 11. FEES

#### 11.1 Commitment fee

- (a) The Company shall pay to the Agent (for the account of each Lender) a fee in US Dollars computed and accruing on a daily basis with effect from (but excluding) the date falling 45 days after the date of this Agreement (the “ **Commitment Fee Commencement Date** ”) at 0.20 per cent. per annum on that Lender’s Available Commitment for the Availability Period at close of business (in New York) on each day of the Availability Period falling after the Commitment Fee Commencement Date (or, if any such day shall not be a Business Day, at such close of business on the immediately preceding Business Day).

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- (b) The accrued commitment fee is payable (but without double counting):
  - (i) on the last day of each successive period of three Months which ends during the Availability Period commencing with the period of three Months starting on the Commitment Fee Commencement Date;
  - (ii) on the last day of the Availability Period; and
  - (iii) if a Lender’s Commitment is reduced to zero before the last day of the Availability Period, on the day on which such reduction to zero becomes effective.
- (c) No commitment fee is payable to the Agent (for the account of a Lender) on any Available Commitment of that Lender for any day on which that Lender is a Defaulting Lender.

#### 11.2 Upfront fee

- (a) The Company shall pay to each Mandated Lead Arranger an upfront fee in the amount and at the times agreed in a Fee Letter.
- (b) The Company shall pay to each Accordion Lender an upfront fee in the amount and at the times agreed in a Fee Letter.

#### 11.3 Agency fee

The Company shall pay to the Agent (for its own account) an agency fee in the amount and at the times agreed in a Fee Letter.

**12. TAX GROSS UP AND INDEMNITIES**

12.1 Tax definitions

(a) In this Clause 12:

“ **FATCA** ” means:

- (i) sections 1471 to 1474 of the Code or any associated regulations or other official guidance;
- (ii) any treaty, law or regulation of any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of paragraph (i) above; or
- (iii) any agreement pursuant to the implementation of any treaty, law or regulation referred to in paragraphs (i) or (ii) above with the US Internal Revenue Service, the US government or any governmental or taxation authority in any other jurisdiction.

“ **FATCA Deduction** ” means a deduction or withholding from a payment under a Finance Document required by FATCA.

“ **Tax Credit** ” means a credit against, relief or remission for, or repayment of any Tax.

“ **Tax Deduction** ” means a deduction or withholding for or on account of Tax from a payment under a Finance Document, other than a FATCA Deduction.

“ **Tax Payment** ” means an increased payment made by the Company to a Finance Party under Clause 12.2 ( *Tax gross-up* ) or a payment under Clause 12.3 ( *Tax indemnity* ).

- (b) Unless a contrary indication appears, in this Clause 12 a reference to “ **determines** ” or “ **determined** ” means a determination made in the absolute discretion of the person making the determination acting in good faith.

#### 12.2 Tax gross-up

- (a) All payments to be made by the Company to any Finance Party under the Finance Documents shall be made free and clear of and without any Tax Deduction unless the Company is required to make a Tax Deduction, in which case the sum payable by the Company (in respect of which such Tax Deduction is required to be made) shall be increased to the extent necessary to ensure that such Finance Party receives a sum net of any deduction or withholding equal to the sum which it would have received had no such Tax Deduction been made or required to be made.
- (b) The Company shall promptly upon becoming aware that it must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Agent accordingly. Similarly, a Lender shall notify the Agent on becoming so aware in respect of a payment payable to that Lender. If the Agent receives such notification from a Lender it shall notify the Company.
- (c) If the Company is required to make a Tax Deduction, the Company shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law.
- (d) Within thirty days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Company shall deliver to the Agent for the Finance Party entitled to the payment evidence reasonably satisfactory to that Finance Party that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.



### 12.3 Tax indemnity

- (a) Without prejudice to Clause 12.2 ( *Tax gross-up* ), if any Finance Party is required to make any payment of or on account of Tax on or in relation to any sum received or receivable under the Finance Documents (including any sum deemed for purposes of Tax to be received or receivable by such Finance Party whether or not actually received or receivable) or if any liability in respect of any such payment is asserted, imposed, levied or assessed against any Finance Party, the Company shall, within five (5) Business Days of demand of the Agent, promptly indemnify the Finance Party which suffers a loss or liability as a result against such payment or liability, together with any interest, penalties, costs and expenses payable or incurred in connection therewith, **provided that** this Clause 12.3 shall not apply:
- (i) to the extent a loss, liability or cost relates to a FATCA Deduction required to be made by a Party;
  - (ii) to any Tax imposed on and calculated by reference to the net income actually received or receivable by such Finance Party (but, for the avoidance of doubt, not including any sum deemed for purposes of Tax to be received or receivable by such Finance Party but not actually receivable) by the jurisdiction in which such Finance Party is incorporated; or
  - (iii) to any Tax imposed on and calculated by reference to the net income of the Facility Office of such Finance Party actually received or receivable by such Finance Party (but, for the avoidance of doubt, not including any sum deemed for purposes of Tax to be received or receivable by such Finance Party but not actually receivable) by the jurisdiction in which its Facility Office is located.
- (b) A Finance Party intending to make a claim under paragraph (a) shall notify the Agent of the event giving rise to the claim, whereupon the Agent shall notify the Company thereof.
- (c) A Finance Party shall, on receiving a payment from the Company under this Clause 12.3, notify the Agent.
- (d) Paragraph (a) shall not apply to the extent any Tax is not notified to the Agent by the relevant Finance Party within three (3) Months of the relevant Finance Party becoming aware of the relevant Tax.

### 12.4 Tax credit

If the Company makes a Tax Payment and the relevant Finance Party determines that:

- (a) a Tax Credit is attributable to an increased payment of which that Tax Payment forms part, to that Tax Payment or to a Tax Deduction in consequence of which that Tax Payment was required; and
- (b) that Finance Party has obtained and utilised that Tax Credit,

the Finance Party shall pay an amount to the Company which that Finance Party determines will leave it (after that payment) in no better and no worse position in respect of its worldwide tax liabilities than it would have been in had the Company not been required to make the Tax Payment.

### 12.5 Stamp taxes

The Company shall:

- (a) pay all stamp duty, registration and other similar Taxes payable in respect of any Finance Document, and

- (b) within five (5) Business Days of demand, indemnify each Finance Party against any cost, loss or liability that Finance Party incurs in relation to any stamp duty, registration or other similar Tax paid or payable in respect of any Finance Document.

#### 12.6 Indirect tax

- (a) All amounts set out or expressed in a Finance Document to be payable by any Party to a Finance Party shall be deemed to be exclusive of any Indirect Tax. If any Indirect Tax is chargeable on any supply made by any Finance Party to any Party in connection with a Finance Document, that Party shall pay to the Finance Party (in addition to and at the same time as paying the consideration) an amount equal to the amount of the Indirect Tax.
- (b) Where a Finance Document requires any Party to reimburse a Finance Party for any costs or expenses, that Party shall also at the same time pay and indemnify the Finance Party against all Indirect Tax incurred by that Finance Party in respect of the costs or expenses to the extent that the Finance Party reasonably determines that it is not entitled to credit or repayment in respect of the Indirect Tax.

#### 12.7 FATCA Deduction

- (a) Each Party may make any FATCA Deduction it is required to make by FATCA, and any payment required in connection with that FATCA Deduction, and no Party shall be required to increase any payment in respect of which it makes such a FATCA Deduction or otherwise compensate the recipient of the payment for that FATCA Deduction.
- (b) Each Party shall promptly, upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of such FATCA Deduction) notify the Party to whom it is making the payment and, in addition, shall notify the Company, the Agent and the other Finance Parties.

### 13. INCREASED COSTS

#### 13.1 Increased costs

- (a) Subject to Clause 13.3 ( *Exceptions* ) the Company shall, within five (5) Business Days of a demand by the Agent, pay for the account of a Finance Party the amount of any Increased Costs incurred by that Finance Party or any of its Affiliates as a result of (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation by any governmental or regulatory authority or (ii) compliance with any law or regulation made after the date of this Agreement. The terms “law” and “regulation” in this paragraph (a) shall include any law or regulation concerning capital adequacy, prudential limits, liquidity, reserve assets or Tax.
- (b) In this Agreement:
  - (i) “ **Basel III** ” means:
    - (A) the agreements on capital requirements, a leverage ratio and liquidity standards contained in “Basel III: A global regulatory framework for more resilient banks and banking systems”, “Basel III: International framework for liquidity risk measurement, standards and monitoring” and “Guidance for national authorities operating the countercyclical capital buffer” published by the Basel Committee on Banking Supervision in December 2010, each as amended supplemented or restated; and

(B) any further guidance or standards published by the Basel Committee on Banking Supervision relating to “Basel III”; and

(ii) “**Increased Costs**” means:

(A) a reduction in the rate of return from the Facility or on a Finance Party’s (or its Affiliate’s) overall capital (including as a result of any reduction in the rate of return on capital brought about by more capital being required to be allocated by such Finance Party);

(B) an additional or increased cost; or

(C) a reduction of any amount due and payable under any Finance Document,

which is incurred or suffered by a Finance Party or any of its Affiliates to the extent that it is attributable to the undertaking, funding or performance by such Finance Party of any of its obligations under any Finance Document or any participation of such Finance Party in any Loan or Unpaid Sum.

### 13.2 Increased cost claims

(a) A Finance Party intending to make a claim pursuant to Clause 13.1 ( *Increased costs* ) shall notify the Agent of the event giving rise to the claim, following which the Agent shall promptly notify the Company.

(b) Each Finance Party shall together with its demand provide a certificate confirming the amount and basis of calculation of its Increased Costs.

### 13.3 Exceptions

(a) Clause 13.1 ( *Increased costs* ) does not apply to the extent any Increased Cost is:

(i) attributable to a Tax Deduction required by law to be made by the Company;

(ii) compensated for by Clause 12.3 ( *Tax indemnity* ) (or would have been compensated for under Clause 12.3 ( *Tax indemnity* ) but was not so compensated solely because the exclusion in paragraph (a) of Clause 12.3 ( *Tax indemnity* ) applied);

(iii) attributable to the breach by the relevant Finance Party or its Affiliates of any law or regulation or the negligence of any of them;

(iv) attributable to the implementation or application of or compliance with the “International Convergence of Capital Measurement and Capital Standards, a Revised Framework” published by the Basel Committee on Banking Supervision in June 2004 in the form existing on the date of this Agreement (“**Basel II**”) or any other law or regulation which implements Basel II (whether such implementation, application or compliance is by a government, regulator, Finance Party or any of its Affiliates);

- (v) attributable to the implementation or application of or compliance with Basel III or any other law or regulation which implements Basel III (whether such implementation, application or compliance is by a government, regulator, Finance Party or any of its Affiliates) but only to the extent the relevant Finance Party is required to implement, apply or comply with Basel III on the date on which it becomes a Party;
  - (vi) attributable to a FATCA Deduction required to be made by a Party; or
  - (vii) not notified to the Agent by the relevant Finance Party within three (3) Months of such Finance Party becoming aware of the Increased Cost in accordance with Clause 13.2(a) ( *Increased cost claims* ).
- (b) In this Clause 13.3 references to a “ **FATCA Deduction** ” or a “ **Tax Deduction** ” have the same meaning given to such terms in Clause 12.1 ( *Tax definitions* ).

#### **14. MITIGATION BY THE LENDERS**

##### 14.1 Mitigation

- (a) Each Finance Party shall, in consultation with the Company, take all reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to, any of Clause 7.1 ( *Illegality* ), Clause 12 ( *Tax Gross Up and Indemnities* ) or Clause 13.1 ( *Increased costs* ), including (but not limited to):
- (i) providing such information as the Company may reasonably request in order to permit the Company to determine its entitlement to claim any exemption or other relief (whether pursuant to a double taxation treaty or otherwise) from any obligation to make a Tax Deduction; and
  - (ii) in relation to any circumstances which arise following the date of this Agreement, transferring its rights and obligations under the Finance Documents to another Affiliate or Facility Office.
- (b) Paragraph (a) above does not in any way limit the obligations of the Company under the Finance Documents.

##### 14.2 Limitation of liability

- (a) The Company shall promptly indemnify each Finance Party for all costs and expenses reasonably incurred by that Finance Party as a result of steps taken by it under Clause 14.1 ( *Mitigation* ).
- (b) A Finance Party is not obliged to take any steps under Clause 14.1 ( *Mitigation* ) if, in the opinion of that Finance Party (acting reasonably), to do so might reasonably be expected to be prejudicial to it.

14.3 Conduct of business by the Finance Parties

No provision of this Agreement will:

- (a) interfere with the right of any Finance Party to arrange its affairs (tax or otherwise) in whatever manner it thinks fit;
- (b) oblige any Finance Party to investigate or claim any credit, relief, remission or repayment available to it or the extent, order and manner of any claim;
- (c) oblige any Finance Party to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax; or
- (d) oblige any Finance Party to do or omit to do anything if it would, or might in its reasonable opinion, constitute a breach of any applicable anti-money laundering, counter-terrorism financing, economic or trade Sanctions law or regulation.

**15. OTHER INDEMNITIES**

15.1 Currency indemnity

(a) If any sum due from the Company under the Finance Documents (a “**Sum**”), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the “**First Currency**”) in which that Sum is payable into another currency (the “**Second Currency**”) for the purpose of:

- (i) making or filing a claim or proof against the Company; or
- (ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

the Company shall as an independent obligation, within five (5) Business Days of demand, indemnify each Finance Party to whom that Sum is due against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

(b) The Company waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency or currency unit other than that in which it is expressed to be payable.

15.2 Other indemnities

The Company shall, within five (5) Business Days of demand, indemnify each Finance Party against any cost, loss or liability incurred by that Finance Party as a result of:

- (a) the occurrence of any Event of Default;
- (b) any written information produced or approved by the Company in connection with the Finance Documents being or being alleged to be misleading and/or deceptive in any respect;
- (c) any enquiry, investigation, subpoena (or similar order) or litigation with respect to the Company or with respect to the transactions contemplated or financed under this Agreement;

- (d) a failure by the Company to pay any amount due under a Finance Document on its due date or in the relevant currency, including without limitation, any cost, loss or liability arising as a result of Clause 25 ( *Sharing among the Finance Parties* );
- (e) funding, or making arrangements to fund, its participation in a Loan requested by the Company in a Utilisation Request but not made by reason of the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by that Finance Party alone); or
- (f) a Loan (or part of a Loan) not being prepaid in accordance with a notice of prepayment given by the Company.

#### 15.3 Indemnity to the Agent

- (a) The Company shall promptly indemnify the Agent against any cost, loss or liability incurred by the Agent (acting reasonably) as a result of:
  - (i) investigating any event which it reasonably believes is a Default; or
  - (ii) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised.
- (b) The indemnity to the Agent shall survive the termination or expiry of this Agreement and the resignation or replacement of the Agent.

### 16. COSTS AND EXPENSES

#### 16.1 Transaction expenses

The Company shall, within five Business Days of demand, pay the Administrative Parties the amount of all reasonable costs and expenses (including legal fees of law firms approved by the Company and subject to any agreed caps) reasonably incurred by any of them in connection with the negotiation, preparation, printing and execution of:

- (a) this Agreement and any other Finance Documents referred to in it; and
- (b) any other Finance Documents executed after the date of this Agreement.

#### 16.2 Amendment costs

If (a) the Company requests an amendment, waiver or consent or (b) an amendment is required pursuant to Clause 26.10 ( *Change of currency* ), the Company shall, within five Business Days of demand, reimburse the Agent for the amount of all reasonable costs and expenses (including legal fees of law firms approved by the Company and subject to any agreed caps) reasonably incurred by the Agent in responding to, evaluating, negotiating or complying with that request or requirement.

#### 16.3 Enforcement costs

The Company shall, within five Business Days of demand, pay to each Finance Party the amount of all costs and expenses (including legal fees) incurred by that Finance Party in connection with the enforcement of, or the preservation of any rights under, any Finance Document.

## 17. REPRESENTATIONS

The Company makes the representations and warranties set out in this Clause 17 to each Finance Party.

### 17.1 Status

- (a) It is an exempted company, duly incorporated, validly existing and in good standing under the laws of the Cayman Islands.
- (b) It and each of its Subsidiaries has the power to own its assets and carry on its business in all material respects as it is being conducted.
- (c) It is acting as principal for its own account and not as agent or trustee in any capacity on behalf of any person in relation to the Finance Documents.

### 17.2 Binding obligations

The obligations expressed to be assumed by it in each Finance Document are, subject to any general principles of law limiting its obligations which are generally applicable, legal, valid, binding and enforceable obligations.

### 17.3 Non-conflict with other obligations

The entry into and performance by it of, and the transactions contemplated by, the Finance Documents do not and will not conflict with:

- (a) any material law or regulation applicable to it;
- (b) its constitutional documents; or
- (c) any agreement or instrument binding upon it or any of its assets in a manner that might reasonably be expected to give rise to a Material Adverse Effect.

### 17.4 Power and authority

It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Finance Documents to which it is a party and the transactions contemplated by those Finance Documents.

### 17.5 Validity and admissibility in evidence

All Authorisations required:

- (a) to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Finance Documents to which it is a party;
- (b) to make the Finance Documents to which it is a party admissible in evidence in its jurisdiction of incorporation; and
- (c) for it to carry on its business, and which are material,

have been obtained or effected and are in full force and effect (or, in each case, will be when required).

17.6 Governing law and enforcement

- (a) The choice of English law as the governing law of the Finance Documents will be recognised and enforced in its Relevant Jurisdiction.
- (b) Any judgment obtained in England in relation to a Finance Document will be recognised and enforced in its jurisdiction of incorporation.

17.7 Deduction of Tax

It is not required under the law applicable where it is incorporated or resident or at the address specified in this Agreement to make any deduction for or on account of Tax from any payment it may make under any Finance Document.

17.8 No filing or stamp taxes

Under the law of its jurisdiction of incorporation it is not necessary that the Finance Documents be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration or similar tax be paid on or in relation to the Finance Documents or the transactions contemplated by the Finance Documents.

17.9 No default

- (a) No Event of Default is continuing or could reasonably be expected to result from the making of any Utilisation.
- (b) No other event or circumstance is outstanding which constitutes a default under any other agreement or instrument which is binding on it or any of its Subsidiaries or to which its (or any of its Subsidiaries') assets are subject which has or could reasonably be expected to have a Material Adverse Effect.

17.10 No misleading information

Save as disclosed in writing to the Agent on or prior to the date on which such information is provided, all written information provided by any Group Member to the Agent after the date of this Agreement was true and accurate in all material respects as at the date it was provided and was not misleading in any material respect as at such date.

17.11 Financial statements

- (a) Its financial statements most recently supplied to the Agent or otherwise made available to the public (which, at the date of this Agreement, are the Original Financial Statements) were prepared in accordance with the Accounting Principles consistently applied save to the extent expressly disclosed in such financial statements.
- (b) Its financial statements most recently supplied to the Agent or otherwise made available to the public (which, at the date of this Agreement, are the Original Financial Statements) give a true and fair view of (if audited) or fairly represent (if unaudited) its consolidated financial condition and operations as at the end of and for the relevant financial year save to the extent expressly disclosed in such financial statements.

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- (c) There has been no material adverse change in its business or financial condition (or the business or consolidated financial condition of the Group) since 31 March 2016.

17.12 Pari passu ranking

Its payment obligations under the Finance Documents rank at least *pari passu* with the claims of all of its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.

17.13 No proceedings pending or threatened

No litigation, arbitration or administrative proceedings of or before any court, arbitral body or agency which might reasonably be expected to be adversely determined and, if adversely determined, might reasonably be expected to have a Material Adverse Effect have (to the best of its knowledge and belief) been started or threatened against it or any of its Subsidiaries.

17.14 Taxation

- (a) It is not (and none of its Subsidiaries is) overdue (taking into account any extension or grace period) in the payment of any material amount in respect of Tax, in each case save to the extent that (i) such payment is being contested in good faith; and (ii) it has maintained adequate reserves for those Taxes.
- (b) No claim or investigations are being, or to the actual knowledge of the Company, are reasonably likely to be, made or conducted against it (or any of its Subsidiaries) with respect to Taxes which would have or are reasonably likely to have a Material Adverse Effect.
- (c) It is resident for tax purposes only in the jurisdiction of its incorporation.

17.15 No insolvency



No event as described in Clause 20.5 ( *Involuntary proceedings* ) or Clause 20.6 ( *Voluntary proceedings* ) is continuing in relation to it or any Major Material Subsidiary.

17.16 Intellectual Property

- (a) It, or another Group Member, is the legal and beneficial owner of or has licensed to it all the material Intellectual Property which is required in order to carry on the business of the Group as it is currently being conducted.
- (b) It does not (nor does any of its Subsidiaries), in carrying on its businesses, infringe any Intellectual Property of any third party in any respect which has or is reasonably likely to have a Material Adverse Effect.
- (c) All formal or procedural actions (including payment of fees) required to maintain any Intellectual Property owned by it or any of its Subsidiaries have been taken, except to the extent failure to take such actions does not or is not reasonably likely to have a Material Adverse Effect.

17.17 Immunity

- (a) The entry into by it of each Finance Document constitutes, and the exercise by it of its rights and performance of its obligations under each Finance Document will constitute, private and commercial acts performed for private and commercial purposes.

- (b) It will not be entitled to claim immunity from suit, execution, attachment or other legal process in any proceedings taken in its Relevant Jurisdiction in relation to any Finance Documents.

#### 17.18 Authorised Signatures

Any person specified as its authorised signatory under Schedule 2 ( *Conditions precedent* ) is authorised to sign Utilisation Requests and other notices on its behalf.

#### 17.19 Good title to assets

It and each of its Subsidiaries has a good, valid and marketable title to, or valid leases or licences of, and all appropriate Authorisations to use, the assets necessary to carry on its business as from time to time conducted the absence of which would have a Material Adverse Effect.

#### 17.20 Bribery, Anti-corruption

- (a) To the actual knowledge of Management, the business of the Group is carried on in all material respects in compliance with all, and no Group Member or any of their directors, officers, agents (solely in their capacity as agents under, and in compliance with, a written contract with that Group Member), affiliates or employees acts in breach of any, applicable laws relating to bribery and anti-corruption, including without limitation the UK Bribery Act 2010 and the United States Foreign Corrupt Practices Act of 1977 or any similar laws, rules or regulations issued, administered or enforced by any government or governmental authority having jurisdiction over it.
- (b) There are in place appropriate policies and procedures designed to promote and achieve compliance with all such applicable laws by each Group Member and by its directors, officers and employees.

#### 17.21 Sanctions

- (a) To the actual knowledge of Management, after due and reasonable enquiry, the business of the Group is as at the date of this Agreement carried on in compliance with all applicable Sanctions.
- (b) None of the Company, any Group Member or any of its or their directors, officers, agents (solely in their capacity as agents under, and in compliance with, a written contract with that Group Member), affiliates or employees is a person currently the subject of any Sanctions, and neither the Company nor any Group Member is located, organised or resident in a country or territory that is the subject of any Sanctions.

#### 17.22 Money Laundering

- (a) To the actual knowledge of Management, after due and reasonable enquiry, no Group Member engages in Money Laundering or acts in breach of any applicable laws or regulations relating to Money Laundering issued, administered or enforced by any governmental agency having jurisdiction over it.

- (b) There are in place appropriate policies and procedures designed to promote and achieve compliance by each Group Member with all applicable laws or regulations relating to Money Laundering.

17.23 Dividends repatriation

There is no contractual restriction for any Major Material Subsidiary incorporated in the PRC which is a WFOE to pay dividends out of its Distributable Reserves, or to make any distribution to any of its shareholders or holders of any equity interest in it (in each case, subject to any generally applicable administrative and legal restrictions).

17.24 Times when representations made

- (a) All the representations and warranties in this Clause 17 are made by the Company on the date of this Agreement.
- (b) The Repeating Representations are deemed to be made by the Company on the date of each Utilisation Request and the first day of each Interest Period.
- (c) Each representation or warranty deemed to be made after the date of this Agreement shall, except where the contrary is indicated, be deemed to be made by reference to the facts and circumstances existing at the date the representation or warranty is deemed to be made.

**18. INFORMATION UNDERTAKINGS**

The undertakings in this Clause 18 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

18.1 Financial statements

In the event that the Company's financial statements cease to be publicly available, the Company shall supply to the Agent:

- (a) as soon as they become available but in any event within 120 days after the end of each of its financial years, its audited consolidated financial statements for that financial year; and
- (b) as soon as they become available but in any event within 60 days after the end of the first half of each of its financial years, its unaudited consolidated financial statements for that financial half year.

18.2 Compliance Certificate

The Company shall supply to the Agent:

- (a) annually, within 120 days after the end of each fiscal year of the Company; and
- (b) upon written request by the Agent, within 14 days of such request,

a brief certificate from the principal execution officer, principal financial officer, principal account officer or treasurer as to his or her knowledge of the Company's compliance with all conditions and covenants under the Finance Documents (which compliance shall be determined without regarding to any period of grace or requirement of notice provided under the Finance Documents), specifying if any Default has occurred and, in the event that any Default has occurred, specifying each such Default and the nature and status thereof of which such person may have knowledge.

### 18.3 SEC filings

The Company shall supply to the Agent (in sufficient copies for all the Finance Parties, if the Agent so requests) such information, documents and other reports, and such summaries thereof, as may be required pursuant to the Trust Indenture Act at the times and in the manner provided in the Trust Indenture Act, provided that, any such information, documents or reports required to be filed with the SEC pursuant to Section 13 or 15(d) of the Exchange Act shall be supplied to the Agent within 30 calendar days after the same is filed with the SEC, provided further that the filing of the reports specified in Section 13 or 15(d) of the Exchange Act by an entity that is the direct or indirect parent of the Company shall satisfy the requirements of this Clause 18.3 so long as such entity is an obligor or guarantor of the obligations under the Finance Documents, provided further that the reports of such entity shall not be required to include condensed consolidating financial information for the Company in a footnote to the financial statements of such entity. Delivery of such reports, information and documents to the Agent is for information purpose only and the Agent's receipt of such shall not constitute actual or constructive notice or knowledge of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants under the Finance Documents (as to which the Agent is entitled to rely exclusively on Officer's Certificates). It is expressly understood that materials transmitted electronically by the Company to the Agent or filed pursuant to the SEC's EDGAR system (or any successor electronic filing system) shall be deemed supplied to the Agent for purposes of this Clause 18.3.

### 18.4 Notification of default

The Company shall deliver to the Agent promptly and in any event within 30 calendar days after the Company becomes aware of the occurrence of any Event of Default or any event which, with the giving of notice of the lapse of time or both, would constitute an Event of Default, an Officer's Certificate setting out the details of such Event of Default or Default and the action which the Company proposes to take with respect thereto.

### 18.5 Rule 144A information

At any time when the Company is not subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act, the Company shall furnish to the Lenders and to prospective lenders, upon the requests of such Lender (through the Agent), any information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act so long as any Securities (as defined in the Indenture) are not freely transferable under the Securities Act. The Company also shall comply with the other provisions of Section 314(a) of the Trust Indenture Act as if expressly set out herein (*mutatis mutandis*) with references to the "indenture trustee" being deemed as references to the Agent; references to the "indenture securities" being deemed as references to the Facility; and references to the "indenture" being deemed as references to the Finance Documents.

### 18.6 "Know your customer" checks

- (a) The Company shall promptly upon the request of the Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself or on behalf of any Lender (including for any Lender on behalf of any prospective new Lender)) in order for the Agent, such Lender or any prospective new Lender to conduct any "know your customer" or other similar procedures under applicable laws and regulations.

- (b) Each Lender shall promptly upon the request of the Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent (for itself) in order for the Agent to conduct any “know your customer” or other similar procedures under applicable laws and regulations.

## 19. GENERAL UNDERTAKINGS

The undertakings in this Clause 19 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

### 19.1 Pari passu ranking

The Company shall ensure that its payment obligations under the Finance Documents rank and continue to rank at least *pari passu* with the claims of all of its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.

### 19.2 Negative pledge

- (a) The Company shall not create or have outstanding, and shall ensure that none of the Principal Controlled Entities will create or have outstanding, any Security upon the whole or any part of their respective present or future assets securing any Relevant Indebtedness, or create or have outstanding any guarantee or indemnity in respect of any Relevant Indebtedness either of the Company or of any of the Company’s Principal Controlled Entities, without:
  - (i) at the same time or prior thereto securing or guarantee of the liabilities of the Company under the Finance Documents equally and ratably therewith; or
  - (ii) providing such other Security or guarantee for the Facility as shall be approved by the Majority Lenders.
- (b) Paragraph (a) above does not apply to:
  - (i) any Security arising or already arisen automatically by operation of law which is timely discharged or disputed in good faith by appropriate proceedings;
  - (ii) any Security in respect of the obligations of any person which becomes a Principal Controlled Entity or which merges with or into the Company or a Principal Controlled Entity after the date of the Indenture which is in existence at the date on which it becomes a Principal Controlled Entity or merges with or into the Company or a Principal Controlled Entity;
  - (iii) any Security created or outstanding in favour of the Company or any Security created by any of the Controlled Entities of the Company in favour of any of the Company’s other Controlled Entities;
  - (iv) any Security in respect of Relevant Indebtedness of the Company or any Principal Controlled Entity with respect to which the Company or such Principal Controlled Entity has paid money or deposited money or securities with a paying agent, trustee or depository to pay or discharge in full the obligations of the Company or such Principal Controlled Entity in respect thereof (other than the obligation that such money or securities so paid or deposited, and the proceeds therefrom, be sufficient to pay or discharge such obligations in full);

- (v) any Security created in connection with a project financed with, or created to secure, Non-recourse Obligations; or
- (vi) any Security arising out of the refinancing, extension, renewal or refunding of any Relevant Indebtedness secured by any Security permitted by paragraphs (ii), (v) or this paragraph (vi); provided that such Relevant Indebtedness is not increased beyond the principal amount thereof (together with the costs of such refinancing, extension, renewal or refunding, including any accrued interest and prepayment premiums or consent fees) and is not secured by any additional property or assets.

### 19.3 Merger, consolidation and sale of assets

The Company shall not consolidate with or merge into any other person in a transaction in which the Company is not the surviving entity, or convey, transfer or lease its properties and assets substantially as an entirety to any person unless:

- (a) any person formed by such consolidation or into or with which the Company is merged or to whom the Company has conveyed, transferred or leased its properties and assets substantially as an entirety is a corporation, partnership, trust or other entity validly existing under the laws of the British Virgin Islands, the Cayman Islands, the PRC or Hong Kong and such person expressly assumes, by an accession deed in form and substance reasonably satisfactory to the Lenders, all of the Company's obligations under the Finance Documents, including the obligations under Clause 12 (*Tax Gross Up and Indemnities*);
- (b) immediately after given effect to such transaction, no Event of Default, and no event which, after notice or lapse of time or both, would become an Event of Default, shall have occurred and be continuing; and
- (c) the Company shall have delivered to the Agent an Officer's Certificate and an opinion of independent legal firm of internationally recognised standing that is reasonably acceptable to the Agent, each stating that such consolidation, merger, conveyance, transfer or lease and the accession deed referred in paragraph (a) above comply with the Finance Documents and that all conditions precedent therein provided for relating to such transaction have been complied with.

### 19.4 Sanctions

- (a) No Group Member shall use any of the funds advanced under this Agreement directly or indirectly for the purpose of, or with the effect of, funding or facilitating any activities or business activities in, with or relating to (a) Crimea, Cuba, Sudan, Iran, Syria or North Korea, unless such countries are no longer the subject of Sanctions; and (b) any other countries that are, or become, the subject of Sanctions (as notified in writing by the Agent (acting on behalf of any Lenders) to such Group Member from time to time) where such utilisation would be prohibited under Sanctions.

- (b) No Group Member shall use any of the funds advanced under this Agreement directly or indirectly for the purpose of, or with the effect of, funding or facilitating, any activities or business activities or dealings of or with any person that is/are the subject of Sanctions and/or subject to economic or trade sanctions, restrictions or embargoes by any other governmental or supranational body notified in writing by the Agent (acting on behalf of any Lenders) to such Group Member from time to time. This includes in particular (but without limitation) business activities involving persons named on any sanctions lists issued by any of the aforementioned bodies.

#### 19.5 Anti-corruption

No Group Member will directly or indirectly use the proceeds of the Facility in a manner, or lend, contribute or otherwise make available such proceeds to any subsidiary, affiliate, joint venture partner or other person or entity for the purpose of financing or facilitating any activity, that would violate applicable anti-corruption laws and regulations including without limitation to the extent applicable the UK Bribery Act 2010 and the United States Foreign Corrupt Practices Act of 1977.

#### 19.6 Anti-money laundering

The Company will procure that the Group will at all times have in place appropriate procedures and policies designed to promote and achieve compliance by Group Members with all applicable laws and regulations relating to Money Laundering.

#### 19.7 Existing Revolving Loan Facility

In relation to the US\$3,000,000,000 revolving loan facility made available to the Company pursuant to a facility agreement dated 20 August 2014 (as amended and restated from time to time) between, among others, the Company (as borrower) and Citicorp International Limited (as agent) (the “**Existing Revolving Loan Facility**”), the Company shall use commercially reasonable endeavours to reduce the Available Facility (as defined in the Existing Revolving Loan Facility) to zero pursuant to a notice of cancellation given in accordance with the terms of the Existing Revolving Loan Facility (the “**Cancellation**”) by no later than the date falling 15 Business Days after the date on which the Company receives notice from the Agent pursuant to Clause 4.1 ( *Initial conditions precedent* ) (the “**Relevant Date**”), provided that, for the avoidance of doubt, if the Cancellation has not been effected by the Relevant Date, the Company shall, unless otherwise agreed by all the Lenders, continue to use commercially reasonable endeavours to effect the Cancellation.

### 20. EVENTS OF DEFAULT

Each of the events or circumstances set out in the following sub-clauses of this Clause 20 (other than Clause 20.8 ( *Acceleration* )) is an Event of Default.

#### 20.1 Non-payment of principal amount

The Company fails to pay the principal amount in respect of the Facility when due and payable (whether at the Final Repayment Date or upon acceleration or otherwise).

20.2 Non-payment of Interest

The Company fails to pay interest in respect of any Loan within 30 days after such interest becomes due and payable.

20.3 Default under Clause 19.3 ( *Merger, consolidation and sale of assets* )

The Company defaults in the performance of or breaches its obligations under Clause 19.3 ( *Merger, consolidation and sale of assets* ).

20.4 Other obligations

The Company defaults in the performance of or breaches any provision of the Finance Documents (other than a default specified in Clauses 20.1, 20.2 or 20.3 above) and such default or breach continues for a period of 30 consecutive days after written notice by the Agent.

20.5 Involuntary proceedings

A court having jurisdiction enters in the premises of:

- (a) a decree or order for relief in respect of the Company or any of its Principal Controlled Entities in an involuntary case or proceeding under any applicable bankruptcy, insolvency or other similar law; or
- (b) a decree or order adjudging the Company or any of its Principal Controlled Entities bankrupt or insolvent, or approving as final and nonappealable a petition seeking reorganisation, arrangement, adjustment, or composition of or in respect of the Company or any of its Principal Controlled Entities under any applicable bankruptcy, insolvency or other similar law, or appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator, or other similar official of the Company or any of its Principal Controlled Entities or of any substantial part of its or their respective property, or ordering the winding up or liquidation of their respective affairs (or any similar relief granted under any foreign laws),

and in any such case the continuance of any such decree or order for relief or any such other decree or order unstayed and in effect for a period of 90 consecutive calendar days.

20.6 Voluntary proceedings

The Company or any of its Principal Controlled Entities:

- (a) commence a voluntary case or proceeding under any applicable federal, state or foreign bankruptcy, insolvency or other similar law or of any other case or proceeding to be adjudicated bankrupt or insolvent; or
- (b) consent to the entry of a decree or order for relief in respect of the Company or any of its Principal Controlled Entities in an involuntary case or proceeding under any applicable bankruptcy, insolvency or other similar law or the commencement of any bankruptcy or insolvency case or proceeding against the Company or any Principal Controlled Entity; or
- (c) file a petition or answer or consent seeking reorganisation or relief with respect to the Company or any of its Principal Controlled Entities under any applicable bankruptcy, insolvency or other similar law, or consent to the filing of such petition or to the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator, or other similar official of the Company or any of its Principal Controlled Entities or of any substantial part of its or their respective property pursuant to any such law; or



- (d) make a general assignment for the benefit of creditors in respect of any indebtedness as a result of an inability to pay such indebtedness as it becomes due, or admit in writing of its inability to pay debts generally as they become due, or take corporate action that resolves to commence any such action.

#### 20.7 Illegality

Any obligation of the Company under the Finance Documents or any Finance Document is or becomes or is claimed by the Company to be unenforceable, invalid or ceases to be in full force and effect otherwise than is permitted by the terms of this Agreement.

#### 20.8 Acceleration

At any time while an Event of Default is continuing the Agent may, and shall if so directed by a Lender or Lenders whose Commitments aggregate more than  $66\frac{2}{3}\%$  of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated more than  $66\frac{2}{3}\%$  of the Total Commitments immediately prior to the reduction), by notice to the Company:

- (a) without prejudice to the participations of any Lenders in any Loans then outstanding:
  - (i) cancel the Commitments (and reduce them to zero), whereupon they shall immediately be cancelled (and reduced to zero); or
  - (ii) cancel any part of any Commitment (and reduce such Commitment accordingly), whereupon the relevant part shall immediately be cancelled (and the relevant Commitment shall be immediately reduced accordingly); and/or
- (b) declare that all or part of the Loans, together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents be immediately due and payable, whereupon they shall become immediately due and payable; and/or
- (c) declare that all or part of the Loans be payable on demand, whereupon they shall immediately become payable on demand by the Agent on the instructions of the Majority Lenders.

### 21. CHANGES TO THE LENDERS

#### 21.1 Transfers by the Lenders

- (a) Subject to this Clause 21, a Lender (the “ **Existing Lender** ”) may:
  - (i) transfer by novation any of its rights and obligations, under the Finance Documents to another bank or financial institution (the “ **New Lender** ”); and
  - (ii) sub-participate any of its rights and/or obligations under this Agreement.

- (b) Subject to Clause 21.9 ( *Security over Lender's rights* ), an Existing Lender shall not be permitted to assign any of its rights under the Finance Documents.

#### 21.2 Conditions of transfer or sub-participation

- (a) Subject to paragraph (b) below, the prior written consent of the Company is required for any transfer or sub-participation by an Existing Lender.
- (b) The prior written consent of the Company is not required for a transfer by an Existing Lender if the relevant transfer is:

- (i) to another Lender or an Affiliate of a Lender; or
- (ii) made at a time when an Event of Default is continuing,

unless such transfer is to a Prohibited Transferee, in which case consent of the Company will be required in accordance with paragraph (a) above.

- (c) Any transfer of a Lender's rights or obligations under the Finance Documents must be in a minimum amount of US\$25,000,000 (and following any such transfer by a Lender, unless that Lender has transferred all of its rights and obligations under the Finance Documents, that Lender must retain rights and obligations in a minimum amount of US\$25,000,000 or, in each case, such lower amount with the consent of the Company).
- (d) A transfer will be effective only if the procedure set out in Clause 21.5 ( *Procedure for transfer* ) is complied with.
- (e) If:
  - (i) a Lender transfers any of its rights and obligations under the Finance Documents or changes its Facility Office; and
  - (ii) as a result of circumstances existing at the date the transfer occurs, the Company would be obliged to make a payment to the New Lender or Lender acting through its new Facility Office under Clause 12 ( *Tax Gross Up and Indemnities* ) or Clause 13 ( *Increased Costs* ),

then the New Lender or Lender acting through its new Facility Office is only entitled to receive payment under those clauses to the same extent as the Existing Lender or Lender acting through its previous Facility Office would have been if the transfer had not occurred.

- (f) Each New Lender, by executing the relevant Transfer Certificate, confirms, for the avoidance of doubt, that the Agent has authority to execute on its behalf any amendment or waiver that has been approved by or on behalf of the requisite Lender or Lenders in accordance with this Agreement on or prior to the date on which the transfer becomes effective in accordance with this Agreement and that it is bound by that decision to the same extent as the Existing Lender would have been had it remained a Lender.
- (g) The right of any Lender to make transfers and enter into sub-participations as provided by this Clause 21 is in any event subject to that Lender procuring that Confidentiality Undertakings are entered into and delivered to the Company as provided by Clause 23 ( *Disclosure of Information* ).

#### 21.3 Transfer fee

Unless the Agent otherwise agrees and excluding any transfer to an Affiliate of a Lender, the New Lender shall, on the date upon which a transfer takes effect, pay to the Agent (for its own account) a fee of US\$2,500.

#### 21.4 Limitation of responsibility of Existing Lenders

- (a) Unless expressly agreed to the contrary, an Existing Lender makes no representation or warranty and assumes no responsibility to a New Lender for:
  - (i) the legality, validity, effectiveness, adequacy or enforceability of the Finance Documents or any other documents;
  - (ii) the financial condition of the Company;
  - (iii) the performance and observance by the Company of its obligations under the Finance Documents or any other documents; or
  - (iv) the accuracy of any statements (whether written or oral) made in or in connection with any Finance Document or any other document,

and any representations or warranties implied by law are excluded.

- (b) Each New Lender confirms to the Existing Lender and the other Finance Parties that it:
  - (i) has made (and shall continue to make) its own independent investigation and assessment of the financial condition and affairs of the Company and its related entities in connection with its participation in this Agreement and has not relied exclusively on any information provided to it by the Existing Lender in connection with any Finance Document; and
  - (ii) will continue to make its own independent appraisal of the creditworthiness of the Company and its related entities whilst any amount is or may be outstanding under the Finance Documents or any Commitment is in force.

- (c) Nothing in any Finance Document obliges an Existing Lender to:
  - (i) accept a re-transfer from a New Lender of any of the rights and obligations transferred under this Clause 21; or
  - (ii) support any losses directly or indirectly incurred by the New Lender by reason of the non-performance by the Company of its obligations under the Finance Documents or otherwise.

21.5 Procedure for transfer

- (a) Subject to the conditions set out in Clause 21.2 ( *Conditions of transfer or sub-participation* ) a transfer is effected in accordance with paragraph (c) below when the Agent executes an otherwise duly completed Transfer Certificate delivered to it by the Existing Lender and the New Lender. The Agent shall, subject to paragraph (b) below, as soon as reasonably practicable after receipt by it of a duly completed Transfer Certificate appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Transfer Certificate.

- (b) The Agent shall not be obliged to execute a Transfer Certificate delivered to it by the Existing Lender and the New Lender unless it is satisfied that it has completed all “know your customer” and other similar procedures that it is required (or deems desirable) to conduct in relation to the transfer to such New Lender.
- (c) Subject to Clause 21.10 ( *Pro-rata interest settlement* ), on the Transfer Date:
- (i) to the extent that in the Transfer Certificate the Existing Lender seeks to transfer by novation its rights and obligations under the Finance Documents, the Company and the Existing Lender shall be released from further obligations towards one another under the Finance Documents and their respective rights against one another under the Finance Documents shall be cancelled (being the “ **Discharged Rights and Obligations** ”);
  - (ii) the Company and the New Lender shall assume obligations towards one another and/or acquire rights against one another which differ from the Discharged Rights and Obligations only insofar as the Company and the New Lender have assumed and/or acquired the same in place of the Company and the Existing Lender;
  - (iii) the Agent, the Mandated Lead Arrangers, the New Lender and other Lenders shall acquire the same rights and assume the same obligations between themselves as they would have acquired and assumed had the New Lender been an Original Lender with the rights and/or obligations acquired or assumed by it as a result of the transfer and to that extent the Agent, the Mandated Lead Arrangers and the Existing Lender shall each be released from further obligations to each other under this Agreement; and
  - (iv) the New Lender shall become a Party as a “Lender”.
- (d) The procedure set out in this Clause 21.5 shall not apply to any right or obligation under any Finance Document (other than this Agreement) if and to the extent its terms, or any laws or regulations applicable thereto, provide for or require a different means of transfer of such right or obligation or prohibit or restrict any transfer of such right or obligation, unless such prohibition or restriction shall not be applicable to the relevant transfer or each condition of any applicable restriction shall have been satisfied.

#### 21.6 Copy of Transfer Certificate or Increase Confirmation to Company

The Agent shall, as soon as reasonably practicable after it has executed a Transfer Certificate or an Increase Confirmation, send to the Company a copy of that Transfer Certificate or Increase Confirmation.

21.7 Existing consents and waivers

A New Lender shall be bound by any consent, waiver, election or decision given or made by the relevant Existing Lender under or pursuant to any Finance Document prior to the coming into effect of the relevant transfer to such New Lender.

21.8 Exclusion of Agent's liability

In relation to any transfer pursuant to this Clause 21, each Party acknowledges and agrees that the Agent shall not be obliged to enquire as to the accuracy of any representation or warranty made by a New Lender in respect of its eligibility as a Lender.

21.9 Security over Lenders' rights

In addition to the other rights provided to Lenders under this Clause 21, each Lender may without consulting with or obtaining consent from the Company at any time charge, assign or otherwise create Security in or over (whether by way of collateral or otherwise) all or any of its rights under any Finance Document to secure obligations of that Lender including, without limitation, any charge, assignment or other Security to secure obligations to a federal reserve or central bank, except that no such charge, assignment or Security shall:

- (a) release a Lender from any of its obligations under the Finance Documents or substitute the beneficiary of the relevant charge, assignment or Security for the Lender as a party to any of the Finance Documents; or
- (b) require any payments to be made by the Company other than or in excess of, or grant to any person any more extensive rights than, those required to be made or granted to the relevant Lender under the Finance Documents.

21.10 Pro-rata interest settlement

If the Agent has notified the Lenders and the Company (which it shall be under no obligation to do) that it is able to distribute interest payments on a "pro rata basis" to Existing Lenders and New Lenders then (in respect of any transfer pursuant to Clause 21.5 (*Procedure for transfer*) the Transfer Date of which is after the date of such notification and is not on the last day of an Interest Period):

- (a) any interest or fees in respect of the relevant participation which are expressed to accrue by reference to the lapse of time shall continue to accrue in favour of the Existing Lender up to but excluding the Transfer Date ("**Accrued Amounts**") and shall become due and payable to the Existing Lender (without further interest accruing on them) on the last day of the current Interest Period (or, if the Interest Period is longer than six Months, on the next of the dates which falls at six Monthly intervals after the first day of that Interest Period); and
- (b) the rights transferred by the Existing Lender will not include the right to the Accrued Amounts, so that, for the avoidance of doubt:
  - (i) when the Accrued Amounts become payable, those Accrued Amounts will be payable to the Existing Lender; and
  - (ii) the amount payable to the New Lender on that date will be the amount which would, but for the application of this Clause 21.10, have been payable to it on that date, but after deduction of the Accrued Amounts.

## 22. ASSIGNMENT OR TRANSFER BY THE COMPANY

The Company may not assign or transfer any of its rights or obligations under any Finance Document, except with the prior written consent of all the Lenders.

## 23. DISCLOSURE OF INFORMATION

### 23.1 Obligation to keep information confidential

- (a) Each Finance Party must keep confidential all information relating to the Company, the Group, the Finance Documents or the Facility of which a Finance Party becomes aware in its capacity as, or for the purpose of becoming, a Finance Party or which is received by a Finance Party in relation to, or for the purpose of becoming a Finance Party under, the Finance Documents or the Facility from either (i) any Group Member or any of its advisers; or (ii) another Finance Party, if the information was obtained by that Finance Party directly or indirectly from any Group Member or any of its advisers (regardless of the form such information takes, and including information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information) and shall not use any such information except in connection with the Finance Documents and the Facility.
- (b) However, a Finance Party is entitled to disclose information referred to in paragraph (a) above:
- (i) if such information is publicly available, other than as a direct or indirect result of a breach by that Finance Party of, or action by its Affiliates that is contrary to the provisions of, this Clause;
  - (ii) if required to do so in connection with any legal, arbitration or regulatory proceedings or procedure;
  - (iii) if required to do so under any applicable law or regulation;
  - (iv) if required or requested to do so by any governmental, banking, taxation or other regulatory authority;
  - (v) to its professional advisers and any other person providing services to it (including, without limitation, any provider of administrative or settlement services, external auditors, insurers and insurance brokers) provided that such person is under a duty of confidentiality, contractual or otherwise, to that Finance Party;
  - (vi) to its officers, employees, directors and agents on a need-to-know basis provided that such person is under a duty of confidentiality, contractual or otherwise, to that Finance Party;
  - (vii) to the head office, branches, representative offices, Subsidiaries, related corporations or Affiliate of any Finance Party (each a “ **Finance Party Related Party** ”) and each Finance Related Party shall be permitted to disclose information as if it were a Finance Party;

- (viii) to whom or for whose benefit that Finance Party charges, assigns or otherwise creates Security (or may do so) pursuant to Clause 21.9 ( *Security over lender's rights* );
  - (ix) to any other Finance Party;
  - (x) to any person permitted in writing by the Company;
  - (xi) to the Company; or
  - (xii) to the International Swaps and Derivatives Association, Inc. ( “ **ISDA** ” ) or any Credit Derivatives Determination Committee or sub-committee of ISDA where such disclosure is required by them in order to determine whether the obligations under the Finance Documents will be, or in order for the obligations under the Finance Documents to become, deliverable under a credit derivative transaction or other credit linked transaction which incorporates the 2009 ISDA Credit Derivatives Determinations Committees and Auction Settlement Supplement or other provisions substantially equivalent thereto.
- (c) A Finance Party may disclose to an Affiliate or any potential transferee or Participant to which a transfer or sub-participation is not expressly prohibited under Clause 21 ( *Changes to the Lenders* ) but for the avoidance of doubt not to an Industrial Competitor:
- (i) a copy of any Finance Document; and
  - (ii) any information which that Finance Party has acquired under or in connection with any Finance Document.

However, before a potential transferee or Participant may receive any confidential information, it must execute in favour of the relevant Finance Party a Confidentiality Undertaking and deliver a copy of the same to the Company. A Participant may itself disclose the documents and information referred to in sub-paragraphs (i) and (ii) to an Affiliate or any person with whom it may enter, or has entered into, any kind of transfer of an economic or other interest in, or related to, this Agreement so long as the relevant Affiliate or transferee executes in favour of the relevant potential transferee or Participant a Confidentiality Undertaking and delivers a copy of the same to the Company.

This Clause supersedes any previous agreement relating to the confidentiality of such information.

## 23.2 Relevant information

Without affecting the responsibility of the Company for information supplied by it or on its behalf in connection with any Finance Document, each of the Lenders accepts and acknowledges that:

- (a) some or all of the information (including, without limitations, financial projections and/or other financial data) that has or may be provided to the Lenders (through the Agent or otherwise) is or may constitute relevant information in relation to the Company (the “ **Price Sensitive Information** ”) and that the use of such information may be regulated or prohibited by applicable laws and regulations relating to, among other things, insider dealing and/or market abuse;

- (b) upon possession of the Price Sensitive Information, a Lender may be prohibited or restricted under the applicable laws and regulations from, among other things, dealing in or counselling or procuring another person to deal in the listed securities of the Company or its derivatives, or the listed securities of a related corporation of the Company or its derivatives, or otherwise from using or disclosing the Price Sensitive Information;
- (c) none of the Agent nor the Mandated Lead Arrangers will be liable for any action taken by it under or in connection with distributing the information provided that where it is required to act on the instructions of any Lender or Lenders, the Agent may ask for a confirmation or certificate (in form and substance satisfactory to the Agent) confirming that the instructing Lender or Lenders is or are not in possession of any Price Sensitive Information and that it is or they are not instructing the Agent, to act as a consequence of being in possession of any Price Sensitive Information; and
- (d) any information received under or in connection with the Finance Documents shall not be used for any unlawful purpose, and each Lender shall make an independent evaluation of, and ensure its compliance with, any legal and regulatory restrictions on the use and/or disclosure of such information.

### 23.3 Individual Data

In respect of any data or information (including, without limitation, data covered by banking secrecy and/or personal data laws) regarding an individual (including, without limitation, any employees of the Company or its Affiliates) (“ **Individual Data** ”) provided to any Finance Party, the Company represents and warrants that it has obtained each relevant individual’s prior consent to the collection, use, disclosure and processing of his/her Individual Data by the Finance Parties, and that such Individual Data is true, accurate and complete in all material respects.

## 24. **ROLE OF THE ADMINISTRATIVE PARTIES**

### 24.1 Appointment of the Agent

- (a) Each of the other Finance Parties appoints the Agent to act as its agent under and in connection with the Finance Documents.
- (b) Each of the other Finance Parties authorises the Agent to exercise the rights, powers, authorities and discretions specifically given to the Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions.

### 24.2 Duties of the Agent

- (a) Subject to paragraph (b) below, the Agent shall promptly forward to a Party the original or a copy of any document which is delivered to the Agent for that Party by any other Party.
- (b) Without prejudice to Clause 21.6 ( *Copy of Transfer Certificate or Increase Confirmation to Company* ), paragraph (a) above shall not apply to any Transfer Certificate or any Increase Confirmation.



- (c) Except where a Finance Document specifically provides otherwise, the Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.
- (d) If the Agent receives notice from a Party referring to this Agreement, describing a Default and stating that the circumstance described is a Default, it shall promptly notify the Finance Parties.
- (e) If the Agent is aware of the non-payment of any principal, interest, commitment fee or other fee payable to a Finance Party (other than to any Administrative Party) under this Agreement it shall promptly notify the other Finance Parties.
- (f) The Agent shall provide to the Company within ten (10) Business Days of the last Business Day of each calendar month, a list (which may be in electronic form) setting out the names of the Lenders as at that Business Day, their respective Commitments, the address and fax number (and the department or office, if any, for whose attention any communication is to be marked) of each Lender for any communications to be made or document to be delivered under or in connection with the Finance Documents, the electronic mail address and/or any other information required to enable the sending and receipt by electronic mail or other electronic means to and by each Lender to whom any communication under or in connection with the Finance Documents may be made by that means and the account details of each Lender for any payment to be distributed by the Agent to that Lender under the Finance Documents.
- (g) The Agent shall not be liable to account for interest on money paid to it by or recovered from the Company. Monies held by the Agent need not be segregated except as required by law.
- (h) The Agent's duties under the Finance Documents are solely mechanical and administrative in nature.

#### 24.3 Role of the Mandated Lead Arrangers

Except as specifically provided in the Finance Documents, the Mandated Lead Arrangers have no obligations of any kind to any other Party under or in connection with any Finance Document.

#### 24.4 No fiduciary duties

- (a) The Administrative Parties shall not otherwise have, nor be deemed to have, assumed any obligations to, or trust or fiduciary relationship with, any other party to this Agreement.
- (b) None of the Agent or the Mandated Lead Arrangers shall be bound to account to any Lender for any sum or the profit element of any sum received by it for its own account.

#### 24.5 Business with the Group

- (a) Any Administrative Party may accept deposits from, lend money to and generally engage in any kind of banking or other business with any Group Member.

- (b) Each of the Lenders hereby irrevocably waives, in favour of the Agent, any conflict of interest which may arise by virtue of the Agent acting in various capacities under the Finance Documents or for other customers of the Agent. Each of the Lenders acknowledges that the Agent and its affiliates (together, the “ **Agent Parties** ”) may have interests in, or may be providing or may in the future provide financial or other services to other parties with interests which a Lender may regard as conflicting with its interests and may possess information (whether or not material to the Lenders) other than as a result of the Agent acting as Agent under the Finance Documents, that the Agent may not be entitled to share with any Lender.
- (c) Consistent with its long-standing policy to hold in confidence the affairs of its customers, the Agent will not disclose confidential information obtained from any Lender (without its consent) to any of the Agent’s other customers nor will it use on the Lender’s behalf any confidential information obtained from any other customer. Without prejudice to the foregoing, each of the Lenders agrees that each of the Agent Parties may deal (whether for its own or its customers’ account) in, or advise on, securities of any party and that such dealing or giving of advice, will not constitute a conflict of interest for the purposes of the Finance Documents.

#### 24.6 Rights and discretions of the Agent

- (a) The Agent may rely on:
    - (i) any representation, notice or document believed by it to be genuine, correct and appropriately authorised; and
    - (ii) any statement made by a director, authorised signatory or employee of any person regarding any matters which may reasonably be assumed to be within his knowledge or within his power to verify.
  - (b) The Agent may assume (unless it has received notice to the contrary in its capacity as agent for the Lenders) that:
    - (i) no Default has occurred (unless it has actual knowledge of a Default arising under Clause 20.1 ( *Non-payment* ));
    - (ii) any right, power, authority or discretion vested in any Party or the Majority Lenders has not been exercised; and
    - (iii) any notice or request made by the Company (other than a Utilisation Request) is made on behalf of and with the consent and knowledge of the Company.
  - (c) The Agent may engage, pay for and rely on the advice or services of any lawyers, accountants, surveyors or other experts.
  - (d) The Agent may act in relation to the Finance Documents through its personnel and agents.
  - (e) The Agent may disclose to any other Party any information it reasonably believes it has received as agent under this Agreement.
  - (f) Without prejudice to the generality of paragraph (e) above, the Agent may disclose the identity of a Defaulting Lender to the other Finance Parties and the Company and shall disclose the same upon the written request of the Company or the Majority Lenders.
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- (g) Notwithstanding any other provision of any Finance Document to the contrary, neither the Agent nor any Mandated Lead Arranger is obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any law or regulation or a breach of a fiduciary duty or duty of confidentiality.

#### 24.7 Majority Lenders' instructions

- (a) Unless a contrary indication appears in a Finance Document, the Agent shall (i) exercise any right, power, authority or discretion vested in it as Agent in accordance with any instructions given to it by the Majority Lenders (or, if so instructed by the Majority Lenders, refrain from exercising any right, power, authority or discretion vested in it as Agent) and (ii) not be liable for any act (or omission) if it acts (or refrains from taking any action) in accordance with an instruction of the Majority Lenders.
- (b) Unless a contrary indication appears in a Finance Document, any instructions given by the Majority Lenders will be binding on all the Finance Parties.
- (c) The Agent may refrain from acting in accordance with the instructions of the Majority Lenders (or, if appropriate, the Lenders) or under paragraph (d) below until it has received such security as it may require for any cost, loss or liability (together with any associated Indirect Tax) which it may incur in complying with the instructions.
- (d) In the absence of instructions from the Majority Lenders, (or, if appropriate, the Lenders) the Agent may act (or refrain from taking action) as it considers to be in the best interest of the Lenders.
- (e) The Agent is not authorised to act on behalf of a Lender (without first obtaining that Lender's consent) in any legal or arbitration proceedings relating to any Finance Document.

#### 24.8 Responsibility for documentation

##### No Administrative Party:

- (a) is responsible for the adequacy, accuracy and/or completeness of any information (whether oral or written) supplied by any Administrative Party, the Company or any other person given in or in connection with any Finance Document; or
- (b) is responsible for the legality, validity, effectiveness, adequacy or enforceability of any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of or in connection with any Finance Document;
- (c) is responsible for any determination as to whether any information provided or to be provided to any Finance Party is non-public information the use of which may be regulated or prohibited by applicable law or regulation relating to insider dealing or otherwise.

#### 24.9 Exclusion of liability

- (a) Without limiting paragraph (b) below, the Agent shall not be liable for any cost, loss or liability incurred by any Party as a consequence of:
- (i) the Agent having taken or having omitted to take any action under or in connection with any Finance Document, unless directly caused by the Agent's gross negligence or wilful misconduct; or
  - (ii) any delay in the crediting to any account of an amount required under the Finance Documents to be paid by the Agent if the Agent shall have taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the Agent for the purpose of such payment.
- (b) No Party (other than the Agent) may take any proceedings against any officer, employee or agent of the Agent in respect of any claim it might have against the Agent or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document and any officer, employee or agent of the Agent may rely on this Clause subject to Clause 1.3 ( *Third party rights* ) and the provisions of the Third Parties Act.
- (c) Nothing in this Agreement shall oblige any Administrative Party to conduct any "know your customer" or other procedures in relation to any person on behalf of any Lender and each Lender confirms to each Administrative Party that it is solely responsible for any such procedures it is required to conduct and that it shall not rely on any statement in relation to such procedures made by any Administrative Party.
- (d) Notwithstanding anything to the contrary in this Agreement or in any other Finance Document, the Agent shall not in any event be liable for any loss or damage, or any failure or delay in the performance of its obligations hereunder if it is prevented from so performing its obligations by any reason which is beyond the control of the Agent, including, but not limited to, any existing or future law or regulation, any existing or future act of governmental authority, Act of God, flood, war whether declared or undeclared, terrorism, riot, rebellion, civil commotion, strike, lockout, other industrial action, general failure of electricity or other supply, aircraft collision, technical failure, accidental or mechanical or electrical breakdown, computer failure or failure of any money transmission system or any event where, in the reasonable opinion of the Agent, performance of any duty or obligation under or pursuant to this Agreement would or may be illegal or would result in the Agent being in breach of any law, rule, regulation, or any decree, order or judgment of any court, or practice, request, direction, notice, announcement or similar action (whether or not having the force of law) of any relevant government, government agency, regulatory authority, stock exchange or self-regulatory organisation to which the Agent is subject.
- (e) Notwithstanding any other term or provision of this Agreement to the contrary, the Agent shall not be liable under any circumstances for special, punitive, indirect or consequential loss or damage of any kind whatsoever, whether or not foreseeable, or for any loss of business, goodwill, opportunity or profit, whether arising directly or indirectly and whether or not foreseeable, even if the Agent is actually aware of or has been advised of the likelihood of such loss or damage and regardless of whether the claim for such loss or damage is made in negligence, for breach of contract, breach of trust, breach of fiduciary obligation or otherwise. The provisions of this Clause shall survive the termination or expiry of this Agreement or the resignation or removal of the Agent.

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#### 24.10 Refrain from Illegality

The Agent may refrain from doing anything which in its opinion will or may be contrary to any relevant law, directive or regulation of any jurisdiction which would or might otherwise render it liable to any person.

#### 24.11 Lenders' indemnity to the Agent

- (a) Each Lender shall, in accordance with paragraph (b) below, indemnify the Agent within three Business Days of demand, against any cost, loss or liability incurred by any of them (otherwise than by reason of the relevant Agent's gross negligence or wilful misconduct) in acting as Agent under the Finance Documents (unless the Agent has been reimbursed by the Company pursuant to a Finance Document).
- (b) The proportion of such cost, loss or liability to be borne by each Lender shall be in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero.
- (c) The Lenders' indemnity to the Agent shall survive the termination or expiry of this Agreement and the resignation or replacement of the Agent.

#### 24.12 Resignation of the Agent

- (a) The Agent may resign and appoint one of its Affiliates as successor by giving notice to the other Finance Parties and the Company.
- (b) Alternatively the Agent may resign by giving thirty (30) days' notice to the other Finance Parties and the Company, in which case the Majority Lenders (with the consent of the Company, such consent not to be unreasonably withheld) may appoint a successor Agent.
- (c) If the Majority Lenders have not appointed a successor Agent in accordance with paragraph (b) above within thirty (30) days after notice of resignation was given, the retiring Agent (with the consent of the Company, such consent not to be unreasonably withheld) may appoint a successor Agent.
- (d) The retiring Agent shall make available to the successor Agent such documents and records and provide such assistance as the successor Agent may reasonably request for the purposes of performing its functions as Agent under the Finance Documents.
- (e) The Agent's resignation notice shall take effect only upon the appointment of a successor, provided that notwithstanding any of the foregoing, the resignation of the Agent otherwise in accordance with the provisions of this Clause 24 shall be effective immediately in the event that the Agent's

continuing appointment would conflict with (and such resignation would be required by) applicable law or the Agent's internal policies (including without limitation with respect to "know-your-client" and/or any conflict of interest) that in each case, cannot be resolved to the reasonable satisfaction of the Agent.

- (f) Upon the appointment of a successor, the retiring Agent shall be discharged from any further obligation in respect of the Finance Documents but shall remain entitled to the benefit of this Clause 24.12. Any successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.
- (g) After consultation with the Company, the Majority Lenders may, by notice to the Agent, require it to resign in accordance with paragraph (b) above. In this event, the Agent shall resign in accordance with paragraph (b) above.
- (h) The Agent shall resign in accordance with paragraph (b) above (and, to the extent applicable, shall use reasonable endeavours to appoint a successor Agent pursuant to paragraph (c) above) if on or after the date which is three months before the earliest FATCA Application Date relating to any payment to the Agent under the Finance Documents, either:
  - (i) the Agent fails to respond to a request under Clause 24.14 ( *FATCA information* ) and the Company or a Lender reasonably believes that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date;
  - (ii) any information supplied by the Agent pursuant to Clause 24.14 ( *FATCA information* ) indicates that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date; or
  - (iii) the Agent notifies the Company and the Lenders that the Agent will not be (or will have ceased to be) a FATCA Exempt Party on or after that FATCA Application Date,

and (in each case) the Company or a Lender reasonably believes that a Party will be required to make a FATCA Deduction that would not be required if the Agent were a FATCA Exempt Party, and the Company or that Lender, by notice to the Agent, requires it to resign.

For the purposes of this paragraph (h):

“ **Code** ” means the US Internal Revenue Code of 1986.

“ **FATCA** ” has the meaning given to that term in Clause 12.1 ( *Tax definitions* ).

“ **FATCA Application Date** ” means:

- (A) in relation to a “withholdable payment” described in section 1473(1)(A)(i) of the Code (which relates to payments of interest and certain other payments from sources within the US), 1 July 2014;
- (B) in relation to a “withholdable payment” described in section 1473(1)(A)(ii) of the Code (which relates to “gross proceeds” from the disposition of property of a type that can produce interest from sources within the US), 1 January 2019; or
- (C) in relation to a “passthru payment” described in section 1471(d)(7) of the Code not falling within paragraphs (A) or (B) above, 1 January 2019, or, in each case, such other date from which such payment may become subject to a deduction or withholding required by FATCA as a result of any change in FATCA after the date of this Agreement.

“ **FATCA Deduction** ” has the meaning given to that term in Clause 12.1 ( *Tax definitions* ).

“ **FATCA Exempt Party** ” means a Party that is entitled to receive payments free from any FATCA Deduction.

#### 24.13 Replacement of the Agent

- (a) After consultation with the Company, the Majority Lenders may, by giving thirty (30) days’ notice to the Agent (or, at any time the Agent is an Impaired Agent, by giving any shorter notice determined by the Majority Lenders) replace the Agent or by appointing a successor Agent (acting through an office in Hong Kong).
- (b) The retiring Agent shall (at its own cost if it is an Impaired Agent and otherwise at the expense of the Lenders) make available to the successor Agent such documents and records and provide such assistance as the successor Agent may reasonably request for the purposes of performing its functions as Agent under the Finance Documents.
- (c) The appointment of the successor Agent shall take effect on the date specified in the notice from the Majority Lenders to the retiring Agent. As from this date, the retiring Agent shall be discharged from any further obligation in respect of the Finance Documents but shall remain entitled to the benefit of this Clause 24.13 (and any agency fees for the account of the retiring Agent shall cease to accrue from (and shall be payable on) that date).
- (d) Any successor Agent and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.

#### 24.14 FATCA Information

- (a) Subject to paragraph ( c ) below, the Agent shall, within ten Business Days of a reasonable request by the Company or a Lender:
  - (i) confirm to that other Party whether it is:
    - (A) a FATCA Exempt Party; or
    - (B) not a FATCA Exempt Party; and
  - (ii) supply to that other Party such forms, documentation and other information relating to its status under FATCA (including its applicable “passthru payment percentage” or other information required under the US Treasury Regulations or other official guidance including intergovernmental agreements) as that other Party reasonably requests for the purposes of that other Party’s compliance with FATCA.
- (b) If the Agent confirms to another Party pursuant to paragraph (a)(i) above that it is a FATCA Exempt Party and it subsequently becomes aware that it is not, or has ceased to be a FATCA Exempt Party, the Agent shall notify that other Party reasonably promptly.

- (c) Paragraph (a) above shall not oblige the Agent to do anything which would or might in its reasonable opinion constitute a breach of:
- (i) any law or regulation;
  - (ii) any fiduciary duty; or
  - (iii) any duty of confidentiality.
- (d) If the Agent fails to confirm its status or to supply forms, documentation or other information requested in accordance with paragraph (a) above (including, for the avoidance of doubt, where paragraph (c) above applies), then:
- (i) if the Agent failed to confirm whether it is (and/or remains) a FATCA Exempt Party then the Agent shall be treated for the purposes of the Finance Documents as if it is not a FATCA Exempt Party; and
  - (ii) if the Agent failed to confirm its applicable “passthru payment percentage” then the Agent shall be treated for the purposes of the Finance Documents (and payments made thereunder) as if its applicable “passthru payment percentage” is 100%,
- until (in each case) such time as the Agent provides the requested confirmation, forms, documentation or other information.

#### 24.15 Confidentiality

- (a) In acting as agent for the Finance Parties, each of the Agent shall be regarded as acting through its agency or, as the case may be, trustee division which shall be treated as a separate legal person from any other of its branches, divisions or departments.
- (b) If information is received by another branch, division or department of the legal person which is the Agent, it may be treated as confidential to that branch, division or department and the Agent shall not be deemed to have notice of it.
- (c) Notwithstanding any other provision of any Finance Document to the contrary, the Agent shall not be obliged to disclose to any Finance Party any information supplied to it by the Company or any Affiliates of the Company on a confidential basis and for the purpose of evaluating whether any waiver or amendment is or may be required or desirable in relation to any Finance Document.

#### 24.16 Relationship with the Lenders

- (a) Subject to Clause 26.2 ( *Distributions by the Agent* ), the Agent may treat each Lender as a Lender, entitled to payments under this Agreement and acting through its Facility Office unless it has received not less than five (5) Business Days prior notice from that Lender to the contrary in accordance with the terms of this Agreement.



- (b) Each Lender shall supply the Agent with any information that the Agent may reasonably specify as being necessary or desirable to enable the Agent to perform its functions as Agent.
- (c) Any Lender may by notice to the Agent appoint a person to receive on its behalf all notices, communications, information and documents to be made or despatched to that Lender under the Finance Documents. Such notice shall contain the address, fax number and (where communication by electronic mail or other electronic means is permitted under Clause 28.5 ( *Electronic communication* )) electronic mail address and/or any other information required to enable the sending and receipt of information by that means (and, in each case, the department or officer, if any, for whose attention communication is to be made) and be treated as a notification of a substitute address, fax number, electronic mail address, department and officer by that Lender for the purposes of Clause 28.2 ( *Addresses* ) and paragraph (a) of Clause 28.5 ( *Electronic communication* ) and the Agent shall be entitled to treat such person as the person entitled to receive all such notices, communications, information and documents as though that person were that Lender.

#### 24.17 Credit appraisal by the Lenders

Without affecting the responsibility of the Company for information supplied by it or on its behalf in connection with any Finance Document, each Lender confirms to each Administrative Party that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Finance Document including but not limited to:

- (a) the financial condition, status and nature of each Group Member;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;
- (c) whether that Finance Party has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; and
- (d) the adequacy, accuracy and/or completeness of any information provided by the Agent, any Party or by any other person under or in connection with any Finance Document, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document.

#### 24.18 Reference Banks

If a Reference Bank (or, if a Reference Bank is not a Lender, the Lender of which it is an Affiliate) ceases to be a Lender, the Agent shall (with the consent of the Company, such consent not to be unreasonably withheld) appoint another Lender or an Affiliate of a Lender or any bank approved by the Majority Lenders to replace that Reference Bank.

#### 24.19 Agent's management time

Any amount payable to the Agent under Clause 15.3 (*Indemnity to the Agent*), Clause 16 (*Costs and Expenses*) and Clause 24.11 (*Lenders' indemnity to the Agent*) shall include the reasonable cost of utilising the Agent's management time or other resources in respect of any duties which are outside the scope of the normal duties of the Agent under the Finance Documents and will be calculated on the basis of such reasonable daily or hourly rates as the Agent may notify to the Parent and the Lenders, and is in addition to any fee paid or payable to the Agent under Clause 11 (*Fees*). For the avoidance of doubt, any action required to be undertaken by the Agent in respect of or in relation to any Default, change in structure of the Facility, including acts contemplated in Clauses 16.2 (*Amendment costs*) and 16.3 (*Enforcement costs*) shall not be regarded as tasks falling within the scope of the normal duties of the Agent under the Finance Documents. In the event of any dispute in respect of such cost of utilising the Agent's management time or other resources, the costs to be paid shall be as reasonably determined by the Agent.

#### 24.20 Deduction from amounts payable by the Agent

If any Party owes an amount to the Agent under the Finance Documents the Agent may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the Agent would otherwise be obliged to make under the Finance Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Finance Documents that Party shall be regarded as having received any amount so deducted.

### 25. SHARING AMONG THE FINANCE PARTIES

#### 25.1 Payments to Finance Parties

If a Finance Party (a "**Recovering Finance Party**") receives or recovers (whether by set off or otherwise) any amount from the Company other than in accordance with Clause 26 (*Payment Mechanics*) (a "**Recovered Amount**") and applies that amount to a payment due under the Finance Documents then:

- (a) the Recovering Finance Party shall, within three Business Days, notify details of the receipt or recovery, to the Agent;
- (b) the Agent shall determine whether the receipt or recovery is in excess of the amount the Recovering Finance Party would have been paid had the receipt or recovery been received or made by the Agent and distributed in accordance with Clause 26 (*Payment mechanics*), without taking account of any Tax which would be imposed on the Agent in relation to the receipt, recovery or distribution; and
- (c) the Recovering Finance Party shall, within three Business Days of demand by the Agent, pay to the Agent an amount (the "**Sharing Payment**") equal to such receipt or recovery less any amount which the Agent determines may be retained by the Recovering Finance Party as its share of any payment to be made, in accordance with Clause 26.6 (*Partial payments*).

#### 25.2 Redistribution of payments

The Agent shall treat the Sharing Payment as if it had been paid by the Company and distribute it between the Finance Parties (other than the Recovering Finance Party) (the "**Sharing Finance Parties**") in accordance with Clause 26.6 (*Partial payments*) towards the obligations of the Company to the Sharing Finance Parties.

25.3 Recovering Finance Party's rights

- (a) On a distribution by the Agent under Clause 25.2 (*Redistribution of payments*) of a payment received by a Recovering Finance Party from the Company, as between the Company and the Recovering Finance Party, an amount of the Recovered Amount equal to the Sharing Payment will be treated as not having been paid by the Company.
- (b) If and to the extent that the Recovering Finance Party is not able to rely on its rights under paragraph (a) above, the Company shall be liable to the Recovering Finance Party for a debt equal to the Sharing Payment which is immediately due and payable.

25.4 Reversal of redistribution

If any part of the Sharing Payment received or recovered by a Recovering Finance Party becomes repayable and is repaid by that Recovering Finance Party, then:

- (a) each Sharing Finance Party shall, upon request of the Agent, pay to the Agent for the account of that Recovering Finance Party an amount equal to the appropriate part of its share of the Sharing Payment (together with an amount as is necessary to reimburse that Recovering Finance Party for its proportion of any interest on the Sharing Payment which that Recovering Finance Party is required to pay) (the “**Redistributed Amount**”); and
- (b) as between the Company and each relevant Sharing Finance Party, an amount equal to the relevant Redistributed Amount will be treated as not having been paid by the Company.

25.5 Exceptions

- (a) This Clause 25 shall not apply to the extent that the Recovering Finance Party would not, after making any payment pursuant to this Clause, have a valid and enforceable claim against the Company.
- (b) A Recovering Finance Party is not obliged to share with any other Finance Party any amount which the Recovering Finance Party has received or recovered as a result of taking legal or arbitration proceedings, if:
  - (i) it notified that other Finance Party of the legal or arbitration proceedings; and
  - (ii) that other Finance Party had an opportunity to participate in those legal or arbitration proceedings but did not do so as soon as reasonably practicable having received notice and did not take separate legal or arbitration proceedings.

**26. PAYMENT MECHANICS**

26.1 Payments to the Agent

- (a) On each date on which the Company or a Lender is required to make a payment under a Finance Document, the Company or Lender shall make the same available to the Agent (unless a contrary indication appears in a Finance Document) for value on the due date at the time and in such funds specified by the Agent as being customary at the time for settlement of transactions in the relevant currency in the place of payment.

(b) Payment shall be made to such account in the principal financial centre of the country of that currency with such bank as the Agent specifies.

#### 26.2 Distributions by the Agent

- (a) Each payment received by the Agent under the Finance Documents for another Party shall, subject to Clause 26.3 ( *Distributions to the Company* ), Clause 26.4 ( *Clawback* ), Clause 26.6 ( *Partial payments* ) and Clause 24.20 ( *Deduction from amounts payable by the Agent* ) be made available by the Agent as soon as practicable after receipt to the Party entitled to receive payment in accordance with this Agreement (in the case of a Lender, for the account of its Facility Office):
- (i) with respect to the Company and the Original Lenders, to such account as specified in Schedule 7 ( *Account details* ) (or such other account as that Party may notify to the Agent by not less than five Business Days' notice with a bank in the principal financial centre of the country of that currency); or
  - (ii) with respect to any other Party, to such account as that Party may notify to the Agent by not less than five Business Days' notice with a bank in the principal financial centre of the country of that currency.
- (b) The Agent shall distribute payments received by it in relation to all or any part of a Loan to the Lender indicated in the records of the Agent as being so entitled on that date **PROVIDED THAT** the Agent is authorised to distribute payments to be made on the date on which any transfer becomes effective pursuant to Clause 21 ( *Changes to the Lenders* ) to the Lender so entitled immediately before such transfer took place regardless of the period to which such sums relate.

#### 26.3 Distributions to the Company

The Agent may (with the consent of the Company or in accordance with Clause 27 ( *Set-Off* )) apply any amount received by it for the Company in or towards payment (in the currency and funds of receipt) of any amount due from the Company under the Finance Documents or in or towards purchase of any amount of any currency to be so applied.

#### 26.4 Clawback

- (a) Where a sum is to be paid to the Agent under the Finance Documents for another Party, the Agent is not obliged to pay that sum to that other Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.
- (b) If the Agent pays an amount to another Party and it proves to be the case that the Agent had not actually received that amount, then the Party to whom that amount (or the proceeds of any related exchange contract) was paid by the Agent shall on demand refund the same to the Agent together with interest on that amount from the date of payment to the date of receipt by the Agent, calculated by the Agent to reflect its cost of funds.

26.5 Impaired Agent

- (a) If, at any time, the Agent becomes an Impaired Agent, the Company or a Lender which is required to make a payment under the Finance Documents to the Agent in accordance with Clause 26.1 ( *Payments to the Agent* ) may instead either:
- (i) pay that amount direct to the required recipient(s); or
  - (ii) if in its absolute discretion it considers that it is not reasonably practicable to pay that amount direct to the required recipient(s), pay that amount or the relevant part of that amount to an interest-bearing account held with an Acceptable Bank and in relation to which no Insolvency Event has occurred and is continuing, in the name of the Company or the Lender making the payment (the “ **Paying Party** ”) and designated as a trust account for the benefit of the Party or Parties beneficially entitled to that payment under the Finance Documents (the “ **Recipient Party** ” or “ **Recipient Parties** ”).

In each case such payments must be made on the due for payment under the Finance Documents.

- (b) All interest accrued on the amount standing to the credit of the trust account shall be for the benefit of the Recipient Party or the Recipient Parties *pro rata* to their respective entitlements.
- (c) A Party which has made a payment in accordance with this Clause 26.5 shall be discharged of the relevant payment obligation under the Finance Documents and shall not take any credit risk with respect to the amounts standing to the credit of the trust account.
- (d) Promptly upon the appointment of a successor Agent in accordance with Clause 24.13 ( *Replacement of the Agent* ), each Paying Party shall (other than to the extent that that Party has given an instruction pursuant to paragraph (e) below) give all requisite instructions to the bank with whom the trust account is held to transfer the amount (together with any accrued interest) to the successor Agent for distribution to the relevant Recipient Party or Recipient Parties in accordance with Clause 26.2 ( *Distributions by the Agent* ).
- (e) A Paying Party shall, promptly upon request by a Recipient Party and to the extent:
  - (i) that it has not given an instruction pursuant to paragraph (d) above; and
  - (ii) that it has been provided with the necessary information by that Recipient Party,

give all requisite instructions to the bank with whom the trust account is held to transfer the relevant amount (together with any accrued interest) to that Recipient Party.

26.6 Partial payments

- (a) If any Finance Party receives or recovers an amount from or in respect of the Company under or in connection with any Finance Document which amount is insufficient to, or is not applied to, discharge all the amounts then due and payable by the Company under the Finance Documents, then the Agent shall apply that payment towards the obligations of the Company under the Finance Documents in the following order:

- (i) **first** , in or towards payment *pro rata* of any unpaid fees, costs and expenses of the Agent under the Finance Documents;
  - (ii) **secondly** , in or towards payment *pro rata* of any accrued interest, fee (other than as provided in (ii) above) or commission due but unpaid under the Finance Documents;
  - (iii) **thirdly** , in or towards payment *pro rata* of any principal due but unpaid under this Agreement; and
  - (iv) **fourthly** , in or towards payment *pro rata* of any other sum due but unpaid under the Finance Documents.
- (b) The Agent shall, if so directed by the Majority Lenders, vary the order set out in paragraphs (a)(ii) to (iv) above.
- (c) Paragraphs (a) and (b) above will override any appropriation made by the Company.
- 26.7 No set-off by the Company

All payments to be made by the Company under the Finance Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

26.8 Business Days

- (a) Any payment which is due to be made on a day (other than a Final Repayment Date) that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not). If a Final Repayment Date is not a Business Day, any payment which is due to be made on that Final Repayment Date shall be made on the preceding Business Day.
- (b) During any extension of the due date for payment of any principal or Unpaid Sum under paragraph (a) above, interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

26.9 Currency of account

- (a) Subject to paragraphs (b) to (e) below, US Dollar is the currency of account and payment for any sum due from the Company under any Finance Document.
- (b) A repayment of a Loan or Unpaid Sum or a part of a Loan or Unpaid Sum shall be made in the currency in which that Loan or Unpaid Sum is denominated on its due date.
- (c) Each payment of interest shall be made in the currency in which the sum in respect of which the interest is payable was denominated when that interest accrued.
- (d) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.

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- (e) Any amount expressed to be payable in a currency other than US Dollar shall be paid in that other currency.

26.10 Change of currency

- (a) Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:
  - (i) any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Agent (acting reasonably and after consultation with the Company); and
  - (ii) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Agent (acting reasonably and after consultation with the Company).
- (b) If a change in any currency of a country occurs, this Agreement will, to the extent the Agent (acting reasonably and after consultation with the Company) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the Relevant Interbank Market and otherwise to reflect the change in currency.

**27. SET-OFF**

While an Event of Default is continuing, a Finance Party may set off any matured obligation due from the Company under the Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to the Company, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off. That Finance Party shall promptly notify the Company of any such set-off or conversion.

**28. NOTICES**

**28.1 Communications in writing**

Any communication to be made under or in connection with the Finance Documents shall be made in writing and, unless otherwise stated, may be made by fax or letter.

**28.2 Addresses**

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with the Finance Documents is:

- (a) in the case of the Company that identified with its name below;
- (b) in the case of each Lender that notified in writing to the Agent on or prior to the date on which it becomes a Party; and

(c) in the case of the Agent that identified with its name below,

or any substitute address, fax number or department or officer as the Party may notify to the Agent (or the Agent may notify to the other Parties, if a change is made by the Agent) by not less than five Business Days' notice.

#### 28.3 Delivery

(a) Any communication or document made or delivered by one person to another under or in connection with the Finance Documents will be effective:

- (i) if by way of fax, only when received in legible form; or
- (ii) if by way of letter, only when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address;

and, if a particular department or officer is specified as part of its address details provided under Clause 28.2 ( *Addresses* ), if addressed to that department or officer.

(b) Any communication or document to be made or delivered to the Agent will be effective only when actually received by the Agent and then only if it is expressly marked for the attention of the department or officer identified with the Agent's signature below (or any substitute department or officer as the Agent shall specify for this purpose).

(c) All notices from or to the Company shall be sent through the Agent.

(d) Any communication or document which becomes effective, in accordance with paragraphs (a) to (c) above, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

#### 28.4 Communication when Agent is Impaired Agent

If the Agent is an Impaired Agent the Parties may, instead of communicating with each other through the Agent, communicate with each other directly and (while the Agent is an Impaired Agent) all the provisions of the Finance Documents which require communications to be made or notices to be given to or by the Agent shall be varied so that communications may be made and notices given to or by the relevant Parties directly. This provision shall not operate after a replacement Agent has been appointed.

#### 28.5 Electronic communication

(a) Any communication to be made between any two Parties under or in connection with the Finance Documents may be made by electronic mail or other electronic means to the extent that those two Parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication and if those two Parties:

- (i) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and
- (ii) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice.



- (b) Any electronic communication made between those two Parties will be effective only when actually received in readable form and in the case of any electronic communication made by a Party to the Agent only if it is addressed in such a manner as the Agent shall specify for this purpose.
- (c) Any electronic communication which becomes effective, in accordance with paragraph (b) above, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

#### 28.6 English language

- (a) Any notice given under or in connection with any Finance Document must be in English.
- (b) All other documents provided under or in connection with any Finance Document must be:
  - (i) in English; or
  - (ii) if not in English, and if so required by the Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

### 29. CALCULATIONS AND CERTIFICATES

#### 29.1 Accounts

In any litigation or arbitration proceedings arising out of or in connection with a Finance Document, the entries made in the accounts maintained by a Finance Party are *prima facie* evidence of the matters to which they relate.

#### 29.2 Certificates and determinations

Any certification or determination by a Finance Party of a rate or amount under any Finance Document shall set out the basis of calculation in reasonable detail and is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

#### 29.3 Day count convention

Any interest, commission or fee accruing under a Finance Document will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 360 days or, in any case where the practice in the Relevant Interbank Market differs, in accordance with that market practice.

### 30. PARTIAL INVALIDITY

If, at any time, any provision of the Finance Documents is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

### 31. REMEDIES AND WAIVERS

No failure to exercise, nor any delay in exercising, on the part of any Finance Party, any right or remedy under the Finance Documents shall operate as a waiver of any such right or remedy or constitute an election to affirm any of the Finance Documents. No election to affirm any of the Finance Documents on the part of any Finance Party shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

### 32. AMENDMENTS AND WAIVERS

#### 32.1 Required consents

- (a) Subject to Clause 2.3 ( *Additional Commitments* ), Clause 32.2 ( *Exceptions* ) and Clause 32.3 ( *Extension of Commitments* ), any term of the Finance Documents may be amended or waived only with the consent of the Majority Lenders and the Company and any such amendment or waiver will be binding on all Parties.
- (b) The Agent may effect, on behalf of any Finance Party, any amendment or waiver permitted by this Clause 32.

#### 32.2 Exceptions

- (a) Subject to Clause 32.3 ( *Extension of Commitments* ), an amendment or waiver that has the effect of changing or which relates to:
  - (i) the definition of “ **Majority Lenders** ” in Clause 1.1 ( *Definitions* );
  - (ii) an extension to the date of payment of any amount under the Finance Documents;
  - (iii) a reduction in the Margin or a reduction in the amount of any payment of principal, interest, fees or commission payable;
  - (iv) an increase in the amount of any Commitment or an extension of the period of availability for utilisation of any Commitment or any requirement that a cancellation of Commitments reduces the Commitments of the Lenders rateably;
  - (v) any provision which expressly requires the consent of all the Lenders;
  - (vi) Clause 2.3 ( *Additional Commitments* );
  - (vii) Clause 2.5 ( *Finance Parties’ rights and obligations* ); or
  - (viii) Clause 21 ( *Changes to the Lenders* ) or this Clause 32.2,shall not be made without the prior consent of all the Lenders.
- (b) An amendment or waiver which relates to the rights or obligations of any Administrative Party may not be effected without the consent of such Administrative Party.

32.3 Extension of Commitments

- (a) Subject to Clause 32.4 ( *Requirement to offer extension of Commitments to all Lenders* ) the Company and any Lender may agree that:
  - (i) the Availability Period and Final Repayment Date applicable to such participation be extended; and
  - (ii) if any extension as referred to in paragraph (a) applies, the Margin applicable to the relevant participation should be adjusted.
- (b) Following any agreement as referred to in paragraph (a) above, the Company and the relevant Lender(s) may notify the Agent, giving details of the applicable agreement (the “ **Extension Agreement** ”).
- (c) Promptly following notification in accordance with paragraph (b) above, the Agent shall, at the cost of the Company, agree with the Company on behalf of the Finance Parties such amendments to the Finance Documents as may be necessary or appropriate to give effect to the Extension Agreement (which may for the avoidance of doubt include designating the affected participations as loans under a new facility).
- (d) The Agent shall promptly provide to each of the Finance Parties copies of any amendment agreement entered into pursuant to paragraph (c) above.

32.4 Requirement to offer extension of Commitments to all Lenders

- (a) The Agent will only be authorised to enter into an amendment agreement under paragraph (c) of Clause 32.3 ( *Extension of Commitments* ) if prior to entering into such amendment agreement it is satisfied (acting reasonably) that:
  - (i) each Lender shall have been offered the opportunity to participate in such extension in an amount up to that Lender’s Pro Rata Share; and
  - (ii) each Lender shall have been given a period of at least 10 Business Days following receipt of the proposed terms of the extension referred to in paragraph (a) of Clause 32.3 ( *Extension of Commitments* ), to determine (A) whether or not to participate; and (B) if it wishes to participate, the amount of its Commitment (up to its Pro Rata Share) that it is willing to extend on the proposed terms.
- (b) For the purposes of paragraph (a) above, “ **Pro Rata Share** ” means in relation to a Lender whose Commitments are being extended, the percentage of the aggregate amount of the relevant Extended Loans that that Lender’s Commitment bears to the Total Commitments.
- (c) For the avoidance of doubt, prior to the date on which the Company and the relevant Lender(s) execute an Extension Agreement, the Company shall have no obligation to proceed with any proposed extension.

32.5 Disenfranchisement of Defaulting Lenders

- (a) For so long as a Defaulting Lender has any Available Commitment, in ascertaining:
  - (i) the Majority Lenders; or

(ii) whether:

- (A) any given percentage (including, for the avoidance of doubt, unanimity) of the Total Commitments; or
- (B) the agreement of any specified group of Lenders,

has been obtained to approve any request for a consent, waiver, amendment or other vote under the Finance Documents,

that Defaulting Lender's Commitments will be reduced by the amount of its Available Commitments and, to the extent that that reduction results in that Defaulting Lender's Total Commitments being zero, that Defaulting Lender shall be deemed not to be a Lender for the purposes of paragraphs (i) and (ii) above.

(b) For the purposes of this Clause 32.5, the Agent may assume that the following Lenders are Defaulting Lenders:

- (i) any Lender which has notified the Agent that it has become a Defaulting Lender;
- (ii) any Lender in relation to which it is aware that any of the events or circumstances referred to in paragraphs (a), (b) or (c) of the definition of “**Defaulting Lender**” has occurred,

unless it has received notice to the contrary from the Lender concerned (together with any supporting evidence reasonably requested by the Agent) or the Agent is otherwise aware that the Lender has ceased to be a Defaulting Lender.

### 32.6 Excluded Commitments

If:

(a) any Defaulting Lender fails to respond to a request for a consent, waiver, amendment of or in relation to any term of any Finance Document or any other vote of Lenders under the terms of this Agreement within fifteen Business Days of that request being notified to the Lenders (or, if later, within 15 Business Days of the date on which the Lenders have received such information as the Agent determines is reasonably required to allow the Lenders to respond to the relevant request in an informed manner); or

(b) any Lender which is not a Defaulting Lender fails to respond to such a request for such a vote within fifteen Business Days of that request being made,

(unless, in either case, the Company and the Agent agree to a longer time period in relation to any request):

- (i) its Commitment(s) shall not be included for the purpose of calculating the Total Commitments when ascertaining whether any relevant percentage (including, for the avoidance of doubt, unanimity) of Total Commitments has been obtained to approve that request; and

- (ii) its status as a Lender shall be disregarded for the purpose of ascertaining whether the agreement of any specified group of Lenders has been obtained to approve that request.

32.7 Replacement of Lender

- (a) If:
  - (i) any Lender becomes a Non-Consenting Lender (as defined in paragraph (d) below); or
  - (ii) the Company becomes obliged to repay any amount in accordance with Clause 7.1 ( *Illegality* ) or to pay additional amounts pursuant to Clause 13 ( *Increased Costs* ), Clause 12.2 ( *Tax gross-up* ) or Clause 12.3 ( *Tax indemnity* ) to any Lender; or
  - (iii) any Lender becomes a Defaulting Lender or ceases to have a rating for its long-term unsecured and non credit-enhanced debt obligations of A- or higher by Standard & Poor's Rating Services or Fitch Ratings Ltd or A3 or higher by Moody's Investor Services Limited or a comparable rating from an internationally recognised credit rating agency,

then the Company may, on fifteen (15) Business Days' prior written notice to the Agent and such Lender, replace such Lender by requiring such Lender to (and, to the extent permitted by law, such Lender shall) transfer pursuant to Clause 21 ( *Changes to the Lenders* ) all (and not part only) of its rights and obligations under this Agreement to a Lender or other bank, financial institution or other entity (a "**Replacement Lender**") selected by the Company, which confirms its willingness to assume and does assume all the obligations of the transferring Lender in accordance with Clause 21 ( *Changes to the Lenders* ) for a purchase price in cash payable at the time of transfer in an amount equal to the outstanding principal amount of such Lender's participation in the outstanding Utilisations and all accrued interest (to the extent that the Agent has not given a notification under Clause 21.10 ( *Pro-rata interest settlement* )), Break Costs and other amounts payable in relation thereto under the Finance Documents.

- (b) The replacement of a Lender pursuant to this Clause 32.7 shall be subject to the following conditions:
  - (i) the Company shall have no right to replace the Agent;
  - (ii) neither the Agent nor the Lender shall have any obligation to the Company to find a Replacement Lender;
  - (iii) in the event of a replacement of a Non-Consenting Lender such replacement must take place no later than 30 Business Days after the date on which that Lender is deemed a Non-Consenting Lender;
  - (iv) in no event shall the Lender replaced under Clause 32.4 ( *Requirement to offer extension of Commitments to all Lenders* ) be required to pay or surrender to such Replacement Lender any of the fees received by such Lender pursuant to the Finance Documents; and

- (v) the Lender shall only be obliged to transfer its rights and obligations pursuant to paragraph (a) above once it is satisfied that it has complied with all necessary “know your customer” or other similar checks under all applicable laws and regulations in relation to that transfer.
- (c) A Lender shall perform the checks described in paragraph (b)(v) above as soon as reasonably practicable following delivery of a notice referred to in paragraph (a) above and shall notify the Agent and the Company when it is satisfied that it has complied with those checks.
- (d) In the event that:
  - (i) the Company or the Agent (at the request of the Company) has requested the Lenders to give a consent in relation to, or to agree to a waiver or amendment of, any provisions of the Finance Documents;
  - (ii) the consent, waiver or amendment in question requires the approval of all the Lenders; and
  - (iii) Lenders whose Commitments aggregate more than eighty per cent. (80%) of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated more than eighty per cent. (80%) of the Total Commitments prior to that reduction) have consented or agreed to such waiver or amendment,

then any Lender who does not and continues not to consent or agree to such waiver or amendment shall be deemed a “ **Non-Consenting Lender** ”.

### 33. COUNTERPARTS

Each Finance Document may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of the Finance Document.

### 34. CONTRACTUAL RECOGNITION OF BAIL-IN

Notwithstanding any other term of any Finance Document or any other agreement, arrangement or understanding between the Parties, each Party acknowledges and accepts that any liability of any Party to any other Party under or in connection with the Finance Documents may be subject to Bail-In Action by the relevant Resolution Authority and acknowledges and accepts to be bound by the effect of:

- (a) any Bail-In Action in relation to any such liability, including:
  - (i) a reduction, in full or in part, in the principal amount, or outstanding amount due (including any accrued but unpaid interest) in respect of any such liability;
  - (ii) a conversion of all, or part of, any such liability into shares or other instruments of ownership that may be issued to, or conferred on, it; and
  - (iii) a cancellation of any such liability; and
- (b) a variation of any term of any Finance Document to the extent necessary to give effect to any Bail-In Action in relation to any such liability.

**35. GOVERNING LAW**

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.

**36. ENFORCEMENT**

**36.1 Jurisdiction of English courts**

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including any dispute relating to any non-contractual obligation arising from or in connection with this Agreement and any dispute regarding the existence, validity or termination of this Agreement) (a “ **Dispute** ”).
- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- (c) This Clause 36.1 is for the benefit of the Finance Parties only. As a result, no Finance Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Finance Parties may take concurrent proceedings in any number of jurisdictions.

**36.2 Service of process**

Without prejudice to any other mode of service allowed under any relevant law:

- (a) the Company irrevocably appoints Law Debenture Corporate Services Limited as its agent for service of process in relation to any proceedings before the English courts in connection with any Finance Document; and
- (b) agrees that failure by a process agent to notify the Company of the process will not invalidate the proceedings concerned.

The Company expressly agrees and consent to the provision of this Clause 36.2.

**36.3 Waiver of immunities**

The Company irrevocably waives, to the extent permitted by applicable law, with respect to itself and its revenues and assets (irrespective of their use or intended use), all immunity on the grounds of sovereignty or other similar grounds from:

- (a) suit;
- (b) jurisdiction of any court;
- (c) relief by way of injunction or order for specific performance or recovery of property;
- (d) attachment of its assets (whether before or after judgment); and
- (e) execution or enforcement of any judgment to which it or its revenues or assets might otherwise be entitled in any proceedings in the courts of any jurisdiction (and irrevocably agrees, to the extent permitted by applicable law, that it will not claim any immunity in any such proceedings).

This Agreement has been entered into on the date stated at the beginning of this Agreement.

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**SCHEDULE 1**

**THE ORIGINAL LENDERS**

<b>Name of Original Lender</b>	<b>Commitment (US\$)</b>
GOLDMAN SACHS BANK USA	800,000,000
THE HONGKONG AND SHANGHAI BANKING CORPORATION LIMITED	800,000,000
MIZUHO BANK, LTD., HONG KONG BRANCH	600,000,000
THE BANK OF TOKYO-MITSUBISHI UFJ, LTD., HONG KONG BRANCH	500,000,000
JPMORGAN CHASE BANK, N.A., HONG KONG BRANCH	400,000,000
BNP PARIBAS, ACTING THROUGH ITS HONG KONG BRANCH	300,000,000
CITIBANK N.A., HONG KONG BRANCH	300,000,000
CREDIT SUISSE AG, SINGAPORE BRANCH	300,000,000
MORGAN STANLEY SENIOR FUNDING, INC.	300,000,000
AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED	250,000,000
DBS BANK LTD., HONG KONG BRANCH	200,000,000
DEUTSCHE BANK AG, SINGAPORE BRANCH	200,000,000
ING BANK N.V., SINGAPORE BRANCH	200,000,000
<b>Total:</b>	<b>US\$ 5,150,000,000</b>

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## SCHEDULE 2

### CONDITIONS PRECEDENT

#### 1. Company

- (a) A copy of the constitutional documents of the Company (comprising, its currently effective memorandum and articles of association, certificate of incorporation (and certificate(s) of incorporation on change of name, if any), register of directors and register of mortgages and charges).
- (b) A copy of a resolution of the board of directors of the Company:
  - (i) approving the terms of, and the transactions contemplated by, the Finance Documents to which it is a party and resolving that it execute the Finance Documents to which it is a party;
  - (ii) authorising a specified person or persons to execute the Finance Documents to which it is a party on its behalf;
  - (iii) if applicable, authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices (including, if relevant, any Utilisation Request) to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party.
- (c) A specimen of the signature of each person authorised by the resolution referred to in paragraph (b) above.
- (d) A certificate from the Company (signed by a director) confirming that borrowing the Total Commitments would not cause any borrowing or similar limit binding on it to be exceeded.
- (e) A certificate of an authorised signatory of the Company certifying that each copy document specified in this Schedule 2 is correct, complete and in full force and effect as at a date no earlier than the date of this Agreement.
- (f) A copy of a certificate of good standing of the Company.
- (g) A copy of a certificate of incumbency (or registered office provider's certificate) from the registered office provider of the Company.

#### 2. Finance Documents

Copies of the following (duly executed and delivered by all parties thereto):

- (a) this Agreement; and
- (b) each Fee Letter (excluding any Additional Commitment Fee Letter).

#### 3. Legal opinions

- (a) A legal opinion as to English law from Freshfields Bruckhaus Deringer in relation to the documents referred to in paragraph 2 above, addressed to the Mandated Lead Arrangers, the Agent and the Original Lenders and in form and substance satisfactory to the Mandated Lead Arrangers, the Agent and the Original Lenders (acting reasonably).

- (b) A legal opinion as to Cayman Islands law from Maples and Calder (Hong Kong) LLP, addressed to the Mandated Lead Arrangers, the Agent and the Original Lenders and in form and substance satisfactory to the Mandated Lead Arrangers, the Agent and the Original Lenders (acting reasonably).
4. Other documents and evidence
- (a) Evidence that the process agent referred to in Clause 36.2 ( *Service of process* ) has accepted its appointment.
  - (b) A copy of the Group Structure Chart.
  - (c) Evidence that any fees, costs and expenses then due from the Company pursuant to Clause 11 ( *Fees* ) and Clause 16 ( *Costs and Expenses* ) have been paid or will be paid by the first Utilisation Date.

SCHEDULE 3

UTILISATION REQUEST

From: Alibaba Group Holding Limited

To: [Agent]

Dated:

Dear Sirs

**Alibaba Group Holding Limited — US\$5,150,000,000 Facility Agreement  
dated [ ] (the “Facility Agreement”)**

1. We refer to the Facility Agreement. This is a Utilisation Request. Terms defined in the Facility Agreement shall have the same meaning in this Utilisation Request.

2. We wish to borrow a Loan on the following terms:

Proposed Utilisation Date: [ ] (or, if that is not a Business Day, the next Business Day)

Currency of Loan: US Dollars

Amount: [ ] or, if less, the Available Facility

Interest Period: [ ]

3. We confirm that each applicable condition specified in Clause 4.2 ( *Further conditions precedent* ) is satisfied on the date of this Utilisation Request.

4. [This Loan is to be made in [whole]/[part] for the purpose of refinancing [identify maturing Loan]/[The proceeds of this Loan should be credited to [account].]

5. This Utilisation Request is irrevocable.

Yours faithfully

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authorised signatory for  
**Alibaba Group Holding Limited**

SCHEDULE 4

FORM OF TRANSFER CERTIFICATE

To: [ ] as Agent

From: [The Existing Lender] (the “Existing Lender”) and [The New Lender] (the “New Lender”)

Dated:

**Alibaba Group Holding Limited — US\$5,150,000,000 Facility Agreement**  
**dated [ ] (the “Facility Agreement”)**

1. We refer to Clause 21.5 (*Procedure for transfer*) of the Facility Agreement. This is a Transfer Certificate. Terms used in the Facility Agreement shall have the same meaning in this Transfer Certificate.
2. The Existing Lender and the New Lender agree to the Existing Lender transferring to the New Lender by novation, and in accordance with Clause 21.5 (*Procedure for transfer*), all of the Existing Lender’s rights and obligations under the Facility Agreement and the other Finance Documents which relate to that portion of the Existing Lender’s Commitment(s) and participations in Loans under the Facility Agreement as specified in the Schedule.
3. The proposed Transfer Date is [ ].
4. The Facility Office and address, fax number and attention particulars for notices of the New Lender for the purposes of Clause 28.2 (*Addresses*) are set out in the Schedule.
5. The New Lender expressly acknowledges:
  - (a) the limitations on the Existing Lender’s obligations set out in paragraphs (a) and (c) of Clause 21.4 (*Limitation of responsibility of Existing Lenders*); and
  - (b) that it is the responsibility of the New Lender to ascertain whether any document is required or any formality or other condition requires to be satisfied to effect or perfect the transfer contemplated by this Transfer Certificate or otherwise to enable the New Lender to enjoy the full benefit of each Finance Document.
6. The New Lender confirms that it is a “New Lender” within the meaning of Clause 21.1 (*Transfers by the Lenders*).
7. The New Lender confirms that it is not an Industrial Competitor.
8. This Transfer Certificate may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Transfer Certificate.
9. This Transfer Certificate [and all non-contractual obligations arising from or in connection with this Transfer Certificate] [is/are] governed by English law.
10. This Transfer Certificate has been entered into on the date stated at the beginning of this Transfer Certificate.

THE SCHEDULE

Commitment/rights and obligations to be transferred, and other particulars

Commitment/participation(s) transferred

Drawn Loan(s) participation(s) amount(s): [ ]

Available Commitment amount: [ ]

Administration particulars:

New Lender's receiving account: [ ]

Address: [ ]

Telephone: [ ]

Facsimile: [ ]

Attn/Ref: [ ]

[ *the Existing Lender* ]

[ *the New Lender* ]

By:

By:

This Transfer Certificate is executed by the Agent and the Transfer Date is confirmed as [ ].

[*the Agent*]

By:

***Note: It is the New Lender's responsibility to ascertain whether any other document is required, or any formality or other condition is required to be satisfied, to effect or perfect the transfer contemplated in this Transfer Certificate or to give the New Lender full enjoyment of all the Finance Documents.***

SCHEDULE 5

FORM OF INCREASE CONFIRMATION

To: Citicorp International Limited as Agent  
Alibaba Group Holding Limited as the Company

From: [the *Increase Lender*] (the “**Increase Lender**”)

Dated:

**Alibaba Group Holding Limited - US\$5,150,000,000 Facility Agreement  
dated [ ] (the “Facility Agreement”)**

1. We refer to the Facility Agreement. This agreement (the “**Agreement**”) shall take effect as an Increase Confirmation for the purpose of the Facility Agreement. Terms defined in the Facility Agreement have the same meaning in this Agreement unless given a different meaning in this Agreement.
2. We refer to Clause 2.2 ( *Increase* ) of the Facility Agreement.
3. The Increase Lender agrees to assume and will assume all of the obligations corresponding to the Commitment specified in the Schedule (the “**Relevant Commitment**”) as if it was an Original Lender under the Facility Agreement.
4. The proposed date on which the increase in relation to the Increase Lender and the Relevant Commitment is to take effect (the “**Increase Date**”) is [ ].
5. On the Increase Date, the Increase Lender becomes party to the relevant Finance Documents as a Lender.
6. The Facility Office and address, fax number and attention details for notices to the Increase Lender for the purposes of Clause 28.2 ( *Addresses* ) of the Facility Agreement are set out in the Schedule.
7. The Increase Lender expressly acknowledges the limitations on the Lenders’ obligations referred to in paragraph (d) of Clause 2.2 ( *Increase* ) of the Facility Agreement.
8. This Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.
9. This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.
10. This Agreement has been entered into on the date stated at the beginning of this Agreement.

**THE SCHEDULE**

**Relevant Commitment/rights and obligations to be assumed by the Increase Lender**

[ *insert relevant details* ]

[ *Facility office address, fax number and attention details for notices  
and account details for payments* ]

[ *Increase Lender* ]

By:

This Agreement is accepted as an Increase Confirmation for the purposes of the Facility Agreement by the Agent and the Increase Date is confirmed as [    ].

Agent

By:

SCHEDULE 6

FORM OF CONFIDENTIALITY UNDERTAKING

*[Letterhead of Existing Lender]*

To:

*[insert name of potential transferee / Participant]*

**The Facility Agreement**

***Borrower: Alibaba Group Holding Limited***

***Date of Facility Agreement:***

***Amount: US\$5,150,000,000***

***Facility Agent: Citicorp International Limited***

Dear Sirs

We understand that you are considering acquiring an interest in the Facility Agreement and (if applicable) the other Finance Documents which, subject to the Facility Agreement, may be by way of novation, the entering into, whether directly or indirectly, of a sub-participation or any other transaction under which payments are to be made or may be made by reference to one or more Finance Documents and/or the Borrower or by way of investing in or otherwise financing, directly or indirectly, any such novation, sub-participation or other transaction (the “**Acquisition**”).

In consideration of us agreeing to make available to you certain information, by your signature of a copy of this letter you agree as follows:

**1. Confidentiality Undertaking**

You undertake:

- (a) to keep the Confidential Information confidential and not to disclose it to anyone except as provided for by paragraph 2 below and to ensure that the Confidential Information is protected with security measures and a degree of care that would apply to your own confidential information; and
- (b) until the Acquisition is completed, to use the Confidential Information only for the Permitted Purpose.

**2. Permitted Disclosure**

You may disclose Confidential Information:

- (a) to any member of the Purchaser Group, its professional advisers, officers, directors, employees, auditors and other persons providing services to it (provided that such person is under a duty of confidentiality in relation to the Confidential Information, professional, contractual or otherwise, to you) to the extent necessary for the Permitted Purpose, if such person to whom the Confidential Information is to be given pursuant to this paragraph is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information, except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;



- (b) (i) where requested or required by any court of competent jurisdiction or any competent banking, taxation, judicial, governmental, supervisory, regulatory or equivalent body, (ii) where required by the rules of any stock exchange on which the shares or other securities of any member of the Purchaser Group are listed or (iii) where required by the laws or regulations of any country with jurisdiction over the affairs of any member of the Purchaser Group;
- (c) to any person:
  - (i) to (or through) whom you transfer (or may potentially transfer) all or any of the rights, benefits and obligations which you may acquire under the Facility Agreement; or
  - (ii) with (or through) whom you enter into (or may potentially enter into) any sub-participation in relation to, or any other transaction under which payments are to be made by reference to, the Facility, the Facility Agreement and/or one or more of the other Finance Documents or the Borrower,provided that such person has delivered to you (with a copy to the Company) a letter in equivalent form to this letter; and
- (d) notwithstanding paragraphs (a) to (c) above, to such persons to whom, and on the same terms as, a Finance Party is permitted to disclose Confidential Information under the Facility Agreement, as if such permissions were set out in full in this letter and as if references in those permissions to a Finance Party were references to you.

### 3. **Notification of Required or Unauthorised Disclosure**

To the extent practicable and permitted by law and regulation, you agree to inform us:

- (a) of the full circumstances of any disclosure under paragraph 2(b) above except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and
- (b) upon becoming aware that Confidential Information has been disclosed in breach of this letter.

### 4. **Return/Destruction of Confidential Information**

If you do not enter into the Acquisition and we so request in writing, you shall:

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- (a) return or destroy all Confidential Information supplied to you by us;
- (b) destroy or permanently erase all copies of Confidential Information made by you; and
- (c) use reasonable endeavours to ensure that anyone who has received any Confidential Information destroys or permanently erases such Confidential Information and all copies made by them,

in each case save to the extent that you or the recipients are required to retain any such Confidential Information by any applicable law, rule or regulation or by any competent banking, taxation, judicial, governmental, supervisory, regulatory or equivalent body or where required by the rules of any stock exchange on which the shares or other securities of any member of the Purchaser Group are listed or in accordance with internal policy, or where the Confidential Information has been disclosed under paragraph 2(b) above.

However, you and any such recipients shall not be under any obligation to return, destroy or permanently erase any Confidential Information:

- (i) contained in any work produced by any member of the Purchaser Group, its professional advisers or other persons providing services to it, to the extent that any of them are required by any applicable law, rule or regulation or by any competent banking, taxation, judicial, governmental, supervisory, regulatory or equivalent body or stock exchange or by internal policy to retain such work; or
- (ii) contained in any computer record or file which has been created by or pursuant to any automatic electronic archiving system or IT back-up procedure.

### 5. **Continuing Obligations**

The obligations in this letter are continuing and, in particular, shall survive the termination of any discussions or negotiations between you and us. Notwithstanding the previous sentence, the obligations in this letter shall cease on the earliest of:

- (a) if you become a party to the Facility Agreement as a lender of record, the date on which you become such a party to the Facility Agreement;
- (b) if you enter into the Acquisition but it does not result in you becoming a party to the Facility Agreement as a lender of record, the date falling twelve (12) months after the date on which all of your rights and obligations contained in the documentation entered into to implement that Acquisition have terminated;
- (c) in any other case, the date falling twelve (12) months after the date of your final receipt (in whatever manner) of any Confidential Information.

**6. No Representation; Consequences of Breach, etc**

You acknowledge and agree that:

- (a) neither we nor any member of the Borrower Group nor any of our or their respective officers, employees, affiliates or advisers (each a “**Relevant Person**”) (i) make any representation or warranty, express or implied, as to, or assume any responsibility for, the accuracy, reliability or completeness of any of the Confidential Information or any other information supplied by us or any member of the Borrower Group or the assumptions on which it is based or (ii) shall be under any obligation to update or correct any inaccuracy in the Confidential Information or any other information supplied by us or any member of the Borrower Group or be otherwise liable to you or any other person in respect of the Confidential Information or any such information; and
- (b) we or members of the Borrower Group may be irreparably harmed by the breach of the terms of this letter and damages may not be an adequate remedy; each Relevant Person may be granted an injunction or specific performance for any threatened or actual breach by you of the provisions of this letter.

If you become a party to the Finance Documents, the terms of paragraph (a) above are without prejudice to your right to enforce and enjoy any term of any Finance Document on and from the date on which you become a party to the Finance Documents.

7. **No Waiver; Amendments, etc**

This letter sets out the full extent of your obligations of confidentiality owed to us in relation to the information the subject of this letter and supersedes any previous agreement, whether express or implied, regarding the information the subject of this letter. No failure or delay in exercising any right, power or privilege under this letter will operate as a waiver thereof nor will any single or partial exercise of any right, power or privilege preclude any further exercise thereof or the exercise of any other right, power or privilege under this letter. The terms of this letter and your obligations under this letter may be amended or modified only by written agreement between you and us.

8. **Inside Information**

You acknowledge that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation including securities laws relating to insider dealing or market misconduct and you undertake not to use any Confidential Information for any unlawful purpose.

9. **Nature of Undertakings**

The undertakings given by you in this letter are given to us and (without implying any fiduciary obligations on our part) are also given for the benefit of each member of the Borrower Group.

10. **Third party rights**

Subject to this paragraph 10 and to paragraphs 6 and 9, a person who is not a party to this letter has no right under the Contracts (Rights of Third Parties) Act 1999 (the “**Third Parties Act**”) to enforce or to enjoy the benefit of any term of this letter.

The Relevant Persons and each member of the Borrower Group may enjoy the benefit of the terms of paragraphs 6 and 9 subject to and in accordance with this paragraph 10 and the provisions of the Third Parties Act.

Notwithstanding any provisions of this letter, the parties to this letter do not require the consent of any Relevant Person or any member of the Borrower Group to rescind or vary this letter at any time.

11. **Governing Law and Jurisdiction**

This letter (including the agreement constituted by your acknowledgement of its terms) and all non-contractual obligations arising from or in connection with this letter shall be governed by and construed in accordance with the laws of England and the courts of England have non-exclusive jurisdiction to settle any dispute arising out of or in connection with this letter (including a dispute relating to any non-contractual obligation arising out of or in connection with this letter).

12. **Definitions**

In this letter (including the acknowledgement set out below):

“**Borrower Group**” means the Borrower and each of its Holding Companies and Subsidiaries and each Subsidiary of each of its Holding Companies.

“**Confidential Information**” means the Finance Documents, any information relating to the Borrower, Borrower Group, the Finance Documents or the Facility (including without limitation the information package and any other information provided in relation to the Facility) provided to you by us or any of our affiliates or advisers, in whatever form, and:

- (a) includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information, but
- (b) excludes information that:
  - (i) is or becomes public knowledge other than as a direct or indirect result of any breach by you of this letter, or
  - (ii) is known by you before the date the information is provided to you by us or any of our affiliates or advisers, or
  - (iii) is lawfully disclosed to you, other than from a source which is connected with the Borrower Group, after the date it is provided to you by us or any of our affiliates or advisers,

and which, in the case of sub-paragraphs (b)(ii) and (b)(iii), as far as you are aware, has not been disclosed in violation of, and is not otherwise subject to, any obligation of confidentiality.

“**Facility Agreement**” means the Facility Agreement described in the heading of this letter.

“ **Finance Documents** ” means the documents defined in the Facility Agreement as Finance Documents.

“ **Finance Party** ” means the parties defined in the Facility Agreement as Finance Parties.

“ **Holding Company** ” means, in relation to any company or corporation, any other company or corporation in respect of which it is a Subsidiary.

“ **Permitted Purpose** ” means considering and evaluating whether to enter into the Acquisition.

“ **Purchaser Group** ” means you, your head office and any other branch, each of your Holding Companies and Subsidiaries and each Subsidiary of each of your Holding Companies.

“ **Subsidiary** ” means, in relation to any company or corporation, a company or corporation:

- (a) which is controlled, directly or indirectly, by the first mentioned company or corporation;
- (b) more than half the issued share capital of which is beneficially owned, directly or indirectly, by the first mentioned company or corporation; or
- (c) which is a Subsidiary of another Subsidiary of the first mentioned company or corporation,

and, for this purpose, a company or corporation shall be treated as being controlled by another if that other company or corporation is able to direct its affairs and/or to control the composition of its board of directors or equivalent body.

Please acknowledge your agreement to the above by signing and returning the enclosed copy.

Yours faithfully

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for and on behalf of  
[ *Existing Lender* ]

To: [ *Existing Lender* ]

The Borrower and each other member of the Borrower Group

We acknowledge and agree to the above:

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for and on behalf of  
[ *potential transferee / Participant* ]

SCHEDULE 7

ACCOUNT DETAILS

**AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED**

CURRENCY:  
USD CORRESPONDENT BANK:  
SWIFT ADDRESS:  
BENEFICIARY BANK:  
SWIFT ADDRESS:  
BENEFICIARY NAME:  
BENEFICIARY ACCOUNT NUMBER:  
ATTENTION:  
REFERENCE:

**THE BANK OF TOKYO-MITSUBISHI UFJ, LTD., HONG KONG BRANCH**

*Via RTGS / CHATS*  
RECEIVING BANK:  
BANK CODE:  
BRANCH CODE:  
SWIFT CODE:  
REFERENCE:

*Remittance through New York*  
CORRESPONDENT BANK:  
CORRESPONDENT BANK SWIFT:  
FOR ACCOUNT OF:  
BENEFICIARY BANK SWIFT:  
BENEFICIARY BANK A/C NO.:  
REFERENCE:

**BNP PARIBAS, ACTING THROUGH ITS HONG KONG BRANCH**

CURRENCY:  
USD CORRESPONDENT BANK:  
SWIFT ADDRESS:  
ACCOUNT NAME:  
ACCOUNT NUMBER:  
ATTENTION:  
REFERENCE:

PAYMENT

**CITIBANK N.A., HONG KONG BRANCH**

CORRESPONDENT BANK NAME:  
CORRESPONDENT BANK SWIFT ADDRESS:  
BENEFICIARY BANK ACCOUNT NUMBER:  
BENEFICIARY BANK ACCOUNT NAME:  
BENEFICIARY BANK SWIFT ADDRESS:  
FINAL BENEFICIARY ACCOUNT NUMBER:  
FINAL BENEFICIARY ACCOUNT NAME:  
ATTENTION:

**CREDIT SUISSE AG, SINGAPORE BRANCH**

CURRENCY:  
BENEFICIARY BANK:  
SWIFT NO.:  
BENEFICIARY DETAILS:  
A/C NO.:  
REFERENCE:

**DBS BANK LTD., HONG KONG BRANCH**

CURRENCY:  
USD CORRESPONDENT BANK:  
SWIFT ADDRESS:  
CHIPS UID:  
BENEFICIARY BANK:  
BENEFICIARY ACCOUNT NUMBER:  
ATTENTION:  
REFERENCE:

**DEUTSCHE BANK AG, SINGAPORE BRANCH**

CORRESPONDENT BANK NAME:  
CORRESPONDENT BANK SWIFT ADDRESS:  
BENEFICIARY BANK ACCOUNT NUMBER:  
BENEFICIARY BANK ACCOUNT NAME:  
BENEFICIARY BANK SWIFT ADDRESS:  
FINAL BENEFICIARY ACCOUNT NUMBER:  
FINAL BENEFICIARY ACCOUNT NAME:  
ATTENTION:

**GOLDMAN SACHS BANK USA**

CURRENCY:  
ROUTING CODE:  
ABA:  
NAME:  
LOCATION:  
ROUTING CODE:  
NAME:  
ACCOUNT:  
REF:

**THE HONGKONG AND SHANGHAI BANKING CORPORATION LIMITED**

CORRESPONDENT BANK:  
CORRESPONDENT BANK SWIFT:  
BENEFICIARY'S NAME:  
ACCOUNT NUMBER:  
BENEFICIARY SWIFT:  
HSBC BANK US, NY'S FEDWIRE NO.:  
CHIPS ABA NO.:  
CHIPS UID:  
REFERENCE (IF ANY):



**ING BANK N.V., SINGAPORE BRANCH**

CURRENCY:  
USD CORRESPONDENT BANK:  
SWIFT ADDRESS:  
BENEFICIARY NAME:  
SWIFT ADDRESS:  
BENEFICIARY ACCOUNT  
NUMBER:  
ATTENTION:  
REFERENCE:

**JPMORGAN CHASE BANK, N.A., HONG KONG BRANCH**

CORRESPONDENT BANK:  
SWIFT CODE:  
A/C NAME:  
SWIFT CODE:  
A/C NO.:  
REFERENCE:

**MIZUHO BANK, LTD., HONG KONG BRANCH**

PAY TO:  
FOR ACCOUNT OF:  
ACCOUNT NO.:  
REFERENCE:

**MORGAN STANLEY SENIOR FUNDING, INC.**

CURRENCY:  
BENEFICIARY NAME:  
BENEFICIARY ACCOUNT NUMBER:  
BANK NAME:  
BANK SWIFT:  
ABA:  
REFERENCE:

SCHEDULE 8

FORM OF ADDITIONAL COMMITMENT NOTICE

Additional Commitment Notice number: [1/2/3 ...]

To: The Agent

From: The Company and the Accordion Lenders named herein

Dated: [ • ]

Dear Sirs,

**Alibaba Group Holding Limited - US\$5,150,000,000 Facility Agreement dated [ ] (the "Facility Agreement")**

1. We refer to the Facility Agreement. This notice shall take effect as an Additional Commitment Notice for the purpose of the Facility Agreement. Unless otherwise defined herein, terms used in the Facility Agreement shall have the same meaning in this notice.
2. We refer to Clause 2.3 ( *Additional Commitments* ) of the Facility Agreement.
3. We have agreed with the following Accordion Lenders that they commit Additional Commitments as follows:

Name of Accordion Lender	Existing Lenders (yes/no)	Additional Commitment (US\$)

TOTAL:

4. The date on which the Additional Commitments referred to above are confirmed is [ DATE ].
5. By countersigning this notice:
  - (a) each Accordion Lender agrees to commit the Additional Commitments set out against its name in paragraph 3 above and assume all of the obligations corresponding to such Additional Commitments as a Lender under the Facility Agreement;
  - (b) each Accordion Lender which is not an existing Lender under the Facility Agreement expressly confirms and acknowledges the following:
    - (i) it is not an Industrial Competitor;

- (ii) on and with effect from the date referred to in paragraph 4 above, it shall become party to the Facility Agreement and the other relevant Finance Documents as a Lender;
- (iii) its Facility Office and address, fax number and attention details for notices for the purposes of Clause 28.2 ( *Addresses* ) of the Facility Agreement are set out in the Schedule to this notice; and
- (iv) it is its own responsibility to ascertain whether any document is required or any formality or other condition is required to be satisfied to enable it to enjoy the full benefit of each Finance Document.

6. This notice may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this notice.

7. This notice and all non-contractual obligations arising from or in connection with this notice are governed by English law.

8. This notice has been entered into on the date stated at the beginning of this notice.

Yours faithfully

---

authorised signatory for  
**Alibaba Group Holding Limited**

Countersigned by

**[NAME OF EACH ACCORDION LENDER]**

**THE SCHEDULE**

*[ insert relevant details for each Accordion Lender  
which is not an existing Lender under the Facility Agreement ]*

*[ Facility office address, fax number and attention details for notices  
and account details for payments ]*

This notice is accepted as an Additional Commitment Notice for the purposes of the Facility Agreement by the Agent.

Agent

By:

101

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**SIGNATORIES**

**The Company**

**ALIBABA GROUP HOLDING LIMITED**

By: Timothy Alexander Steinert

*/s/ Timothy Alexander Steinert*

---

Address: c/o Alibaba Group Services Limited  
26/F, Tower One, Times Square  
1 Matheson Street  
Causeway Bay  
Hong Kong

Fax:

Telephone:

Email:

*[Signature Page to the Facility Agreement (Company)]*

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**The Mandated Lead Arrangers**

**AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED**

By: /s/ Sherzad Desai  
\_\_\_\_\_  
Sherzad Desai  
Head of TMET Asia

/s/ TAI, Alan Pak Ling  
\_\_\_\_\_  
TAI, Alan Pak Ling  
Director, Loans Structuring & Execution Asia

Address: 22/F, Three Exchange Square, 8 Connaught Place, Central, Hong Kong  
Fax:  
Telephone:  
Email:

*[Signature Page to the Facility Agreement (Mandated Lead Arrangers)]*

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THE BANK OF TOKYO-MITSUBISHI UFJ, LTD.

By:



Address: 5th Floor, AIA Central, 1 Connaught Road Central, Hong Kong

Fax:

Telephone:

Email:

Attention: Alice Chan / Alice Kam / Daisy Chan / Ida Lai

Credit related matters:

Address: 8th Floor, AIA Central, 1 Connaught Road Central, Hong Kong

Fax:

Telephone:

Email:

Attention: Dara Fong / Tony Leung / Ellen Peng (Credit Department No. 3) Jarvis Tam / Samuel Young / Johnson Tsang (China Business Department 1, China Business Group)

*[Signature Page to the Facility Agreement (Mandated Lead Arrangers)]*

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**BNP PARIBAS**

By: /s/ Anthony Siu  
Anthony Siu  
Senior Banker  
Managing Director

/s/ Mary Hse  
Mary Hse  
Senior Banker  
Managing Director

Address: 63/F, Two International Finance Centre, 8 Finance Street, Central, Hong Kong  
Fax:  
Telephone:  
Email:

For operational matters:

Contact Person: Hugo Chan / Clement Wong  
Department: ITO Client Management - Loan Services  
Address: 16/F., PCCW Tower, Taikoo Place, 979 King's Road, Quarry Bay, Hong Kong  
Telephone number:  
Facsimile number:  
E-mail address:

*[Signature Page to the Facility Agreement (Mandated Lead Arrangers)]*

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**CITIGROUP GLOBAL MARKETS ASIA LIMITED**

By: /s/ Asghar Ali  
Asghar Ali  
Managing Director

Address: 50/F, Champion Tower, Three Garden Road, Central, Hong Kong  
Fax:  
Telephone:  
Email:

*[Signature Page to the Facility Agreement (Mandated Lead Arrangers)]*

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**CREDIT SUISSE AG, SINGAPORE BRANCH**

By: /s/ Tan Sixue  
Tan Sixue  
Vice President  
General Counsel Division

/s/ Joycelyn Goh  
Joycelyn Goh  
Assistant Vice President  
Credit Suisse AG

Address: 1 Changi Business Park Central 1, #01-101 ONE@Changi City Singapore 486036

Fax:

Telephone:

Email:

Attention: Loans Operations / Karnal Chauhan / Winnie Cheung / Catherine Yen / Winnie Li

*[Signature Page to the Facility Agreement (Mandated Lead Arrangers)]*

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**DBS BANK LTD.**

By: /s/ Ng Yun Qiao, Stockor  
Ng Yun Qiao, Stockor  
Specimen Signature No. 9098

Address: 18<sup>th</sup> Floor, The Center, 99 Queen's Road Central, Central, Hong Kong

Fax:

Telephone:

Email:

Attention: Simon Leung / Ivan Chan

*[Signature Page to the Facility Agreement (Mandated Lead Arrangers)]*

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**DEUTSCHE BANK AG, SINGAPORE BRANCH**

By: /s/ Ananda Chakravorty  
Ananda Chakravorty  
Managing Director

/s/ Steffen Limbach  
Steffen Limbach

Address: One Raffles Quay # 14-00 South Tower Singapore 048583

Fax:

Telephone:

Email:

*[Signature Page to the Facility Agreement (Mandated Lead Arrangers)]*

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**GOLDMAN SACHS BANK USA**

By: /s/ Rebecca Kratz  
Rebecca Kratz  
Authorized Signatory

Address: 200 West Street, New York, NY 10282-2198

Fax:

Telephone:

Email:

*[Signature Page to the Facility Agreement (Mandated Lead Arrangers)]*

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**THE HONGKONG AND SHANGHAI BANKING CORPORATION LIMITED**

By: /s/ Matthew Hung  
Matthew Hung  
Managing Director, Global Banking, China

Address: Level 16, 1 Queen's Road Central, Hong Kong  
Fax:  
Telephone:  
Email:  
Attention: Ms. Anqi Dong / Mr. Derek Leung

*[Signature Page to the Facility Agreement (Mandated Lead Arrangers)]*

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**ING BANK N.V., SINGAPORE BRANCH**

By: /s/ Lisa Kwok  
Lisa Kwok  
Director  
Credit Risk Management, Asia  
ING Bank N.V.

/s/ Richard Cox  
Richard Cox  
Managing Director  
Head of credit and Trading Risk, Asia  
ING Bank N.V.

Address: 9 Raffles Place, #19-02, Republic Plaza, Singapore 048619  
Fax:  
Telephone:  
Email:

*[Signature Page to the Facility Agreement (Mandated Lead Arrangers)]*

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**JPMORGAN CHASE BANK, N.A., HONG KONG BRANCH**

By:

A handwritten signature in black ink, appearing to be 'Christine Ding', written over a light grey grid background.

Address: 28/F Chater House, 8 Connaught Road Central, Hong Kong

Fax:

Telephone:

Email:

Attention: Christine Ding / Neha Rastogi / Puneet Kapur

*[Signature Page to the Facility Agreement (Mandated Lead Arrangers)]*

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**MIZUHO BANK, LTD.**

By: /s/ Monita Chang  
Monita Chang

Address: 17th Floor, Two Pacific Place, 88 Queensway, Hong Kong

Fax:

Telephone:

Email:

Attention: Ms. Monita Chang / Ms. Joey Mak

*[Signature Page to the Facility Agreement (Mandated Lead Arrangers)]*

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**MORGAN STANLEY SENIOR FUNDING, INC.**

By:

A handwritten signature in blue ink, appearing to read "Michael Trip", is written over a light blue circular stamp.

Address: 1585 Broadway New York, NY 10036

Fax:

Telephone:

Email:

Attention: Tripp William / Sydney West

*[Signature Page to the Facility Agreement (Mandated Lead Arrangers)]*

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**The Original Lenders**

**AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED**

By: /s/ Sherzad Desai  
Sherzad Desai  
Head of TMET Asia

/s/ TAI, Alan Pak Ling  
TAI, Alan Pak Ling  
Director, Loans Structuring & Execution Asia

*[Signature Page to the Facility Agreement (Original Lenders)]*

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THE BANK OF TOKYO-MITSUBISHI UFJ, LTD., HONG KONG BRANCH

By:

A handwritten signature in black ink, appearing to be a stylized 'W' or 'M' followed by a horizontal line.

*[Signature Page to the Facility Agreement (Original Lenders)]*

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**BNP PARIBAS, ACTING THROUGH ITS HONG KONG BRANCH**

By: /s/ Anthony Siu  
Anthony Siu  
Senior Banker  
Managing Director

/s/ Mary Hse  
Mary Hse  
Senior Banker  
Managing Director

*[Signature Page to the Facility Agreement (Original Lenders)]*

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**CITIBANK N.A., HONG KONG BRANCH**

By: /s/ Asghar Ali  
Asghar Ali

*[Signature Page to the Facility Agreement (Original Lenders)]*

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**CREDIT SUISSE AG, SINGAPORE BRANCH**

By: /s/ Tan Sixue  
Tan Sixue  
Vice President  
General Counsel Division

/s/ Joycelyn Goh  
Joycelyn Goh  
Assistant Vice President  
Credit Suisse AG

*[Signature Page to the Facility Agreement (Original Lenders)]*

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**DBS BANK LTD., HONG KONG BRANCH**

By: /s/ Sherman Hung  
Sherman Hung, Managing Director

*[Signature Page to the Facility Agreement (Original Lenders)]*

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**DEUTSCHE BANK AG, SINGAPORE BRANCH**

By: /s/ Ananda Chakravorty  
Ananda Chakravorty  
Managing Director  
Deutsche Bank AG  
Singapore Branch  
One Raffles Quay  
#16-00 South Tower  
Singapore 048583

/s/ Steffen Limbach  
Steffen Limbach

*[Signature Page to the Facility Agreement (Original Lenders)]*

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**GOLDMAN SACHS BANK USA**

By: /s/ Rebecca Kratz  
Rebecca Kratz  
Authorized Signatory

*[Signature Page to the Facility Agreement (Original Lenders)]*

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**THE HONGKONG AND SHANGHAI BANKING CORPORATION LIMITED**

By: /s/ Matthew Hung  
Matthew Hung  
Managing Director, Global Banking, China

*[Signature Page to the Facility Agreement (Original Lenders)]*

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**ING BANK N.V., SINGAPORE BRANCH**

By: /s/ Lisa Kwok  
Lisa Kwok  
Director  
Credit Risk Management, Asia  
ING Bank N.V.

/s/ Richard Cox  
Richard Cox  
Managing Director  
Head of Credit and Trading Risk, Asia  
ING Bank N.V.

*[Signature Page to the Facility Agreement (Original Lenders)]*

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**JPMORGAN CHASE BANK, N.A., HONG KONG BRANCH**

By: /s/ Neha Rastogi  
Neha Rastogi  
Executive Director

*[Signature Page to the Facility Agreement (Original Lenders)]*

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**MIZUHO BANK, LTD., HONG KONG BRANCH**

By: /s/ Davis Chai  
Davis Chai

*[Signature Page to the Facility Agreement (Original Lenders)]*

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**MORGAN STANLEY SENIOR FUNDING, INC.**

By:

A handwritten signature in blue ink, appearing to read "Michael" followed by a stylized flourish.

*[Signature Page to the Facility Agreement (Original Lenders)]*

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**The Agent**

**CITICORP INTERNATIONAL LIMITED**

By: /s/ Terence Yeung  
Terence Yeung  
Vice president

Address: 10th Floor, Citi Tower, One Bay East, 83 Hoi Bun Road, Kwun Tong, Kowloon, Hong Kong  
Fax:  
Telephone:  
Email:  
Attention: Client Administration Team / Transaction Management Team / Regional Loans Agency

*With copy to:*  
Address: Citicorp International Limited  
39/F Champion Tower, 3 Garden Road, Central, Hong Kong  
Fax:  
Email:  
Attention: Agency and Trust

*[Signature Page to the Facility Agreement (Agent)]*

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**HANGZHOU ZHENXI INVESTMENT MANAGEMENT CO., LTD.**

**AND**

**ZHEJIANG TMALL TECHNOLOGY CO., LTD.**

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**LOAN AGREEMENT**

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**January 10, 2018**

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## LOAN AGREEMENT

**THIS LOAN AGREEMENT** (this “**Agreement**”) is made on January 10, 2018 (“**Execution Date**”)

### BY AND BETWEEN :

1. Hangzhou Zhenxi Investment Management Co., Ltd. (“**Borrower**”); and  
Registered Address: Room 505, 5/F, Building No. 3, 969 West Wen Yi Road, Yu Hang District, Hangzhou  
Legal Representative: Zheng Junfang
2. Zhejiang Tmall Technology Co., Ltd. (“**Lender**”)  
Registered Address: Room 507, 5/F, Building No. 3, 969 West Wen Yi Road, Yu Hang District, Hangzhou  
Legal Representative: Zhang Yong

In this Agreement, the aforementioned parties are referred to individually as a “**Party**” and collectively as the “**Parties**”.

### WHEREAS:

1. The Borrower intends to obtain the Loan (as defined below) from the Lender in accordance with the terms and conditions hereof for the purpose of its operation; and
2. The Lender intends to provide the Borrower with the Loan in accordance with the terms and conditions hereof.

With a view to clarifying the rights and obligations of the Borrower and the Lender under the Loan arrangement, the Parties hereby agree as follows:

### ARTICLE I DEFINITIONS

1.1 For the purposes of this Agreement:

“**Domestic Company**” means Zhejiang Tmall Network Co., Ltd., a limited liability company located in Hangzhou, the PRC.

“**Loan**” means the loan provided by the Lender to the Borrower on a lump-sum basis or in installments under Section 2.1 in the aggregate principal amount of Renminbi Ten Million ( RMB10,000,000).

“**Loan Period**” has the meaning ascribed to it in Section 4.1 hereof.

“**Outstanding Amount**” means the outstanding amount of the Borrower under the Loan.

“**Repayment Notice**” has the meaning ascribed to it in Section 4.2 hereof.

“ **PRC** ” means the People’s Republic of China, excluding, for the purposes hereof, the Hong Kong Special Administrative Region, the Macao Special Administrative Region and Taiwan.

“ **Confidential Information** ” has the meaning ascribed to it in Section 6.1 hereof.

“ **Restricted Transaction** ” has the meaning ascribed to it in Section 7.1 hereof.

“ **Restricted Document** ” has the meaning ascribed to it in Section 7.1 hereof.

“ **Party’s Rights** ” has the meaning ascribed to it in Section 10.5 hereof.

1.2 In this Agreement, relevant terms shall be construed as follows:

The term “ **article** ” or “ **section** ” shall be construed to mean an article or section of this Agreement, unless otherwise required by the context;

The term “ **taxes and charges** ” shall be construed to include any tax, charge, tariffs or other impositions of a similar nature (including, without limitation, any fine or interest in connection with the failure or delay in payment of such taxes and charges); and

The terms “ **Borrower** ” and “ **Lender** ” shall be construed to include their respective successors and assignees.

1.3 Unless otherwise indicated, a reference to this Agreement or any other agreement or document shall be construed to be a reference to this Agreement or such other agreement or document (as the case may be) as has been (or as may from time to time be) modified, amended, substituted or supplemented.

## **ARTICLE II                      EXTENSION OF LOAN**

2.1 Subject to the terms and conditions hereof, the Lender agrees to provide the Borrower with the Loans in the aggregate principal amount of Renminbi Ten Million (RMB10,000,000):

The Borrower may use the Loan hereunder only for the operation activities approved by the Lender.

Without prior written consent of the Lender, the Borrower shall not use all or any part of the Loan for any other purposes.

2.2 The Parties agree that the Loan may be provided by the Lender and/or a third party designated by the Lender on a lump-sum basis or in installments. The Parties acknowledge that the Lender and/or a third party designated by the Lender shall fully provide the Borrower with the Loan in the amount set forth in Section 2.1 within 120 days after the Execution Date.



2.3 The Parties acknowledge that the Borrower shall perform its repayment obligations to the Lender and its other obligations hereunder in accordance with the terms hereof.

2.4 The Borrower has entered into equity pledge agreement with the Lender in accordance with the request of the Lender on the Execution Date, whereby the Borrower has pledged all of its equity interest in the Company to the Lender as security for the performance by the Borrower of its obligations hereunder (including, without limitation, repayment of the Outstanding Amount in accordance with the terms hereof).

### ARTICLE III INTEREST

3.1 The Lender acknowledges that the interest on the Loan shall be settled each calendar year, and calculated on the basis of actual number of days elapsed and a year of 365 days, with an interest rate of Shanghai Interbank Offered Rate of the corresponding period.

### ARTICLE IV REPAYMENT OF LOAN

4.1 This Agreement shall be formed as from the date when it is duly executed by the Parties. Once formed, the effectiveness of this Agreement shall be retrospective to January 10, 2018 (“ **Effective Date** ”). The Loan Period hereunder shall commence from the Effective Date and expire upon the earliest to the occurrence of (i) the expiry of a period of twenty (20) years after the Execution Date; (ii) the expiry of the business term of the Lender; or (iii) the expiry of the business term of the Domestic Company (“ **Loan Period** ”). Upon expiry of the Loan Period, except where relevant parties have agreed to extend the term of the Loan through consultations, the Borrower shall repay all Outstanding Amount on the expiry date of the Loan Period on a lump-sum basis. In such event, to the extent not contrary to applicable laws and regulations, the Lender may complete the payment of the transfer price of the Option Equity Interest (as defined in the Exclusive Call Option Agreement) acquired under the Exclusive Call Option Agreement by offsetting the creditor’s right of the Lender to the Outstanding Amount against the Borrower in accordance with the Exclusive Call Option Agreement otherwise entered into with the Borrower and other relevant parties.

4.2 During the Loan Period, the Lender may at any time accelerate the Loan in its absolute and sole discretion and may, upon ten (10)-day repayment notice (“ **Repayment Notice** ”) to any of the Borrower, demand the Borrower to repay in part or in full the Outstanding Amount in the manner prescribed hereby.

If, in accordance with the foregoing paragraph, the Lender demands any Borrower to effect repayment, then to the extent not contrary to applicable laws and regulations, the Lender may complete the payment of the transfer price of the equity interest designated to be transferred under the Exclusive Call Option Agreement by offsetting the creditor’s right of the Lender to the Outstanding Amount demanded to be repaid against such Borrower in accordance with the Exclusive Call Option Agreement otherwise entered into with the Borrower and other relevant parties on the Execution Date. The ratio of such equity interest demanded to be purchased to the equity interest held by such Borrower in the Domestic Company on the date when the subscription of the registered capital of the Domestic Company is completed shall be the same as the ratio of the Outstanding Amount demanded to be repaid in the Repayment Notice to the total amount of the Loan obtained by such Borrower in accordance with this Agreement.

Notwithstanding the foregoing provisions of this article, the Loan will be immediately accelerated in any of the following circumstances:

- (a) the Domestic Company is dissolved and enters into liquidation or bankruptcy proceedings;
- (b) the Borrower ceases to be a shareholder of the Domestic Company;
- (c) all or part of equity interest held by the Borrower in the Domestic Company are transferred to any individual or entity other than the Lender or any individual or entity designated by the Lender as a result of applicable laws and regulations or any judgment or award rendered by a court or arbitral body (due to including, without limitation, repayment of debts) (“ **Passive Equity Transfer** ”);
- (d) the Lender may determine any possible Passive Equity Transfer in its absolute and sole discretion.

4.3 The Parties unanimously agree and acknowledge that the Borrower shall repay the relevant Outstanding Amount in cash (or in other forms prescribed by the resolution duly adopted by the board of directors of the Lender).

4.4 Concurrently with the repayment by the Borrower of the Outstanding Amount under this Article IV, if the Lender elects to purchase the equity interest in the Domestic Company in accordance with Section 4.1 or 4.2, the Parties shall complete the transfer of the relevant equity interest in the Domestic Company at the same time so as to ensure that simultaneously with the repayment of the Outstanding Amount, the Lender or a third party designated by it shall have, in accordance with the foregoing provisions, lawfully and fully acquired the relevant equity interest in the Domestic Company free from any pledge or any other form of encumbrance. When any equity interest in the Domestic Company is transferred in accordance with the foregoing provisions, the Borrower shall fully provide its reasonable cooperation and waive any right of first refusal owned by them.

4.5 The Borrower shall be released from the repayment obligations hereunder upon transfer of all of its equity interest in the Domestic Company to the Lender or a third party designated by the Lender and full repayment of the Outstanding Amount, in each case in accordance with the provisions of this Article IV.

**ARTICLE V            TAXES AND CHARGES**

5.1 All taxes and charges pertaining to the Loan shall be borne by the Parties respectively in accordance with law.

**ARTICLE VI            CONFIDENTIALITY**

6.1 Irrespective of whether this Agreement has been terminated, each of the Parties shall maintain in strict confidence the business secrets, proprietary information, customer information and all other information of a confidential nature of the other Parties coming into its knowledge during the entry into and performance of this Agreement (“ **Confidential Information** ”). Except where prior written consent has been obtained from the Party disclosing the Confidential Information or where disclosure to a third party is mandated by relevant laws or regulations or by the rules of the place of listing of an affiliate of a Party, the Party receiving the Confidential Information shall not disclose any Confidential Information to any third party; the Party receiving the Confidential Information shall not use, either directly or indirectly, any Confidential Information other than for the purpose of performing this Agreement.

6.2 The Parties acknowledge that the following information shall not constitute the Confidential Information:

- (a) any information which, as shown by written evidence, has previously been known to the receiving Party by way of legal means;
- (b) any information which enters the public domain other than as a result of a fault of the receiving Party; or
- (c) any information lawfully acquired by the receiving Party from another source subsequent to the receipt of relevant information.

6.3 A receiving Party may disclose the Confidential Information to its relevant employees, agents or its appointed professionals, provided that such receiving Party shall ensure that such persons shall comply with relevant terms and conditions of this Agreement and that it shall assume any liability arising out of any breach by such persons of relevant terms and conditions of this Agreement.

6.4 Notwithstanding any other provisions of this Agreement, the validity of this article shall not be affected by any suspension or termination of this Agreement.

**ARTICLE VII            UNDERTAKINGS AND WARRANTIES**

7.1 The Borrower hereby irrevocably undertakes and warrants that, without prior written consent of the Lender, the Borrower will not effect or authorize others (including, without limitation, the directors of the Domestic Company nominated by them) to effect any resolution, instruction, approval or order in any manner, approving, authorizing or causing the Domestic Company to carry out any transaction which will have, or is likely to have, a material effect on the assets, rights, obligations or business of the Domestic Company (including its branches and/or subsidiaries) (“ **Restricted Transaction** ”), including, without limitation:

- (a) any borrowing from a third party or any incurring of any debt, other than debts in an amount of no more than RMB100,000 arising in the ordinary course of business, either in a single instance, or cumulatively over a period of six (6) consecutive months;
- (b) provision of security to a third party in connection with its own debts or provision of any security for a third party;
- (c) transfer of any business, material asset or actual or potential business opportunity to a third party;
- (d) transfer or licensing to a third party of any domain name, trademark or other intellectual properties rightfully possessed by the Domestic Company or other disposal of material assets of the Domestic Company;
- (e) transfer to a third party of all or part of its equity interest in the Domestic Company; or
- (f) any other material transaction;

nor shall the Domestic Company be approved, authorized or caused to enter into any agreement, contract, memorandum or other forms of transaction documents (“ **Restricted Document** ”) in connection with the Restricted Transactions or suffer, through any form of act or omission, the carrying out of any Restricted Transaction or the entry into of any Restricted Document.

- 7.2 The Borrower will cause the directors and officers of the Domestic Company to strictly comply with the provisions of this Agreement during its performance of its duties as director or officer of the Domestic Company and not to do or omit to do, in any manner whatsoever, anything contrary to any of the foregoing undertakings.
- 7.3 Once the Borrower knows or should have known any possible transfer of the equity interest held by such Borrower in the Domestic Company to any third parties other than the Lender or any individual or entity designated by the Lender as a result of applicable laws or any judgment or award rendered by a court or arbitral body or for any other reasons, such Borrower shall notify the Lender immediately and without delay.

#### **ARTICLE VIII      NOTICES**

- 8.1 Any notice, request, demand and other correspondences required by or made pursuant to this Agreement shall be made in writing and delivered to the relevant Parties.

8.2 Such notice or other correspondences shall be deemed delivered when it is transmitted if transmitted by fax or email; or upon delivery if delivered in person; or two (2) days after posting if delivered by mail.

**ARTICLE IX      LIABILITY FOR DEFAULT**

9.1 The Borrower irrevocably undertake to indemnify the Lender against any actions, fees, claims, costs, damages, demands, expenses, liabilities, losses or proceedings as may be suffered or incurred by the Lender as a result of the Borrower' breach of any of its obligations hereunder. The Borrower further acknowledges and agrees that its breach of Article VII hereof shall constitute its material breach of this Agreement.

9.2 Notwithstanding any other provisions of this Agreement, the validity of this article shall not be affected by any suspension or termination of this Agreement.

**ARTICLE X      MISCELLANEOUS**

10.1 This Agreement is made in Chinese in five (5) originals, of which one (1) copy shall be used for governmental approval/registration purposes and the remaining copies shall be kept by the Lender.

10.2 The entry into, effectiveness and interpretation of, and resolution of disputes under, this Agreement shall be governed by the PRC laws.

10.3 Dispute Resolution

(a) All disputes arising out of or in connection with this Agreement shall be first settled by the relevant Parties through amiable consultations; if such Parties fail to resolve the dispute through consultations, the dispute shall be submitted to China International Economic and Trade Arbitration Commission (" **CIETAC** ") for arbitration according to CIETAC arbitration rules in effect at the time of applying for arbitration. The seat of arbitration shall be in Hangzhou. The arbitration award shall be final and binding on the relevant Parties. Except as otherwise required by the arbitration award, the arbitration fees shall be borne by the losing party. The losing party shall also indemnify for the attorneys' fee and other expenses incurred by the winning party.

(b) Pending the resolution of such dispute, the Parties shall continue to perform the remaining provisions of this Agreement other than the disputed matters.

10.4 No right, power or remedy empowered to any Party by any provision of this Agreement shall preclude any other right, power or remedy enjoyed by such Party in accordance with law or any other provisions hereof and no exercise by a Party of any of its rights, powers and remedies shall preclude its exercise of its other rights, powers and remedies.

- 10.5 No failure or delay by a Party in exercising any right, power or remedy under this Agreement or laws (“ **Party’s Rights** ”) shall result in a waiver of such rights; and no single or partial waiver by a Party of the Party’s Rights shall preclude such Party from exercising such rights in any other way or exercising the remaining part of the Party’s Rights.
- 10.6 The section headings herein are inserted for convenience of reference only and shall in no event be used in or affect the interpretation of the provisions hereof.
- 10.7 Each provision contained herein shall be severable and independent of any other provisions hereof, and if at any time any one or more provisions hereof become invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not be affected thereby.
- 10.8 This Agreement and schedules hereto shall replace all prior oral or written agreements, understandings and communications entered into by the Parties in respect of the content hereof. Any amendments or supplements to this Agreement shall be made in writing. Except for the transfer of rights hereunder by the Lender according to Section 10.9 hereof, such amendments or supplements shall become effective only if they are duly signed by the Parties hereto.
- 10.9 Without prior written consent of the Lender, the Borrower shall not assign any of its rights and/or obligations hereunder to any third party. The Lender shall have the right, upon notice to the other Parties, to transfer any right hereunder to a third party designated by it.
- 10.10 This Agreement shall be binding upon the legal assignees or successors of the Parties. The Borrower warrants to the Lender that it has made all appropriate arrangements and executed all necessary documents to ensure that, in the event of its bankruptcy, dissolution or occurrence of other circumstances that might affect exercise of its shareholder rights, its legal assignee, successor, heir, liquidator, bankruptcy administrator, creditor and other persons that might consequently acquire the equity interest in or relevant rights of the Domestic Company cannot affect or impede the performance of this Agreement. For this purpose, the Borrower shall promptly sign all other documents and take all other actions (including, without limitation, notarization of this Agreement) as required by the Lender.

**[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK. EXECUTION PAGE FOLLOWS]**

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(EXECUTION PAGE ATTACHED SEPARATELY)

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Borrower:

[Seal of Hangzhou Zhenxi Investment Management Co., Ltd.]

(Seal)

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Lender:

[Seal of Zhejiang Tmall Technology Co., Ltd.]

(Seal)

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**HANGZHOU ZHENXI INVESTMENT MANAGEMENT CO., LTD.**

**ZHEJIANG TMALL TECHNOLOGY CO., LTD.**

**AND**

**ZHEJIANG TMALL NETWORK CO., LTD.**

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**EXCLUSIVE CALL OPTION AGREEMENT**

**FOR**

**ZHEJIANG TMALL NETWORK CO., LTD.**

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**January 10, 2018**

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## EXCLUSIVE CALL OPTION AGREEMENT

**THIS EXCLUSIVE CALL OPTION AGREEMENT** (this “ **Agreement** ”) is made on January 10, 2018 (“ **Execution Date** ”)

### BY AND AMONG:

1. Hangzhou Zhenxi Investment Management Co., Ltd. (“ **Existing Shareholder** ”)  
Registered Address: Room 505, 5/F, Building No. 3, 969 West Wen Yi Road, Yu Hang District, Hangzhou  
Legal Representative: Zheng Junfang
2. Zhejiang Tmall Network Co., Ltd. (“ **Company** ”); and  
Registered Address: Room 506, 5/F, Building No. 3, 969 West Wen Yi Road, Yu Hang District, Hangzhou  
Legal Representative: Zhang Yong
3. Zhejiang Tmall Technology Co., Ltd. (“ **WFOE** ”)  
Registered Address: Room 507, 5/F, Building No. 3, 969 West Wen Yi Road, Yu Hang District, Hangzhou  
Legal Representative: Zhang Yong

In this Agreement, the aforementioned parties are referred to individually as a “ **Party** ” and collectively as the “ **Parties** ”.

### WHEREAS:

1. The Existing Shareholder is the registered shareholder of the Company and lawfully own the total equity interest in the Company, whose contribution to the Company’s Registered Capital is Renminbi Ten Million (RMB10,000,000) and shareholding percentage is 100% as of the Execution Date. Basic information of the Company is set forth in Schedule 1 hereto.
2. Subject to compliance with the PRC Laws, the Existing Shareholder wishes to transfer to WFOE and/or its designated entity and/or individual the entirety of the equity interest in the Company, and WFOE wishes to accept, or designate any other entity and/or individual to accept, such transfer.
3. Subject to compliance with the PRC Laws, the Company wishes to transfer to WFOE and/or its designated entity and/or person, the assets of the Company, and WFOE wishes to accept, or designate any other entity and/or individual to accept, such transfer.

4. Subject to compliance with the PRC Laws, the Company and the Existing Shareholder wish to decrease the capital of the Company in exchange for an increase of capital of the Company by WFOE or other entity and/or individual designated by it, and WFOE wishes to subscribe for, or designate any other entity and/or individual to subscribe for, such capital increase.
5. In order for such transfer of equity interest or assets to occur, the Existing Shareholder and the Company agree to grant, on an exclusive basis, to WFOE an irrevocable option of being assigned such equity interest and an irrevocable option of purchasing such assets whereby, subject to compliance with the PRC Laws, the Existing Shareholder or the Company shall, upon WFOE's request, transfer, in accordance with this Agreement, the Option Equity Interest or the Company Assets (as defined below) to WFOE and/or any other entity and/or individual designated by it; in order for such capital decrease of the Company and increase of capital of the Company by WFOE to occur, the Existing Shareholder and the Company agree to grant to WFOE an irrevocable option of capital increase whereby, subject to compliance with the PRC Laws, the Company shall decrease its capital upon WFOE's request, and WFOE and/or any other entity and/or individual designated by it shall subscribe for the Capital Increase Equity Interest (as defined below) in the Company.
6. The Company agrees to the grant by the Existing Shareholder to WFOE of an Equity Transfer Option (as defined below) in accordance with this Agreement.
7. The Existing Shareholder agrees to the grant by the Company to WFOE of an Asset Purchase Option (as defined below) in accordance with this Agreement.
8. The Company and the Existing Shareholder mutually agree to grant to WFOE a Capital Increase Option (as defined below) in accordance with this Agreement.

**NOW, THEREFORE**, upon consensus through consultation, the Parties agree as follows:

#### **ARTICLE I DEFINITIONS**

1.1 Unless otherwise required by the context, the following terms shall have the following meanings in this Agreement:

- |                                   |   |
|-----------------------------------|---|
| <b>“ PRC Laws ”</b>               | means the then effective laws, administrative regulations, administrative rules, local regulations, judicial interpretations and other binding regulatory documents of the PRC.                 |
| <b>“ Equity Transfer Option ”</b> | means the option granted to WFOE by the Existing Shareholder to acquire, upon WFOE's request, the equity interest in the Company in accordance with the terms and conditions of this Agreement. |

- “ Asset Purchase Option ”** means the option granted to WFOE by the Company to acquire, upon WFOE’s request, any Company Assets in accordance with the terms and conditions of this Agreement.
- “ Capital Increase Option ”** means the option granted to WFOE by the Company and the Existing Shareholder for the Company to decrease its capital upon WFOE’s request (by an amount equal to part or all of the Option Equity Interest (as defined below)) and for WFOE and/or its designated entity and/or individual to subscribe for the newly increased Registered Capital of the Company in accordance with the terms and conditions of this Agreement.
- “ Option Equity Interest ”** means the entirety of Existing Shareholder’s equity interest in the Company’s Registered Capital (as defined below), i.e. the equity interest representing 100% of the Company’s Registered Capital.
- “ Company’s Registered Capital ”** means, as of the Execution Date, the registered capital of the Company in the amount of Renminbi Ten Million (RMB10,000,000), including any augmentation thereof arising out of any form of capital increase during the validity term hereof.
- “ Transferrable Equity Interest ”** means the equity interest in the Company which WFOE shall be entitled to request, upon exercise of its Equity Transfer Option, any of the Existing Shareholder to transfer to it and/or its designated entity and/or individual in accordance with Article III hereof, being either the whole or a part of the Option Equity Interest, as may be determined by WFOE in its sole discretion in light of the PRC Laws then in effect and its own business considerations.

“ <b>Transferrable Assets</b> ”	means the assets of the Company which WFOE shall be entitled to request, upon exercise of its Asset Purchase Option, the Company to transfer to it and/or its designated entity and/or individual in accordance with Article III hereof, being either the whole or a part of the Company Assets, as may be determined by WFOE in its sole discretion in light of the PRC Laws then in effect and its own business considerations.
“ <b>Capital Increase Equity Interest</b> ”	means the newly increased registered capital of the Company which WFOE and/or its designated entity and/or individual shall be entitled to subscribe for, upon exercise of the Capital Increase Option by WFOE, after the capital decrease of the Company in accordance with Article III hereof, in an amount as may be determined by WFOE in its sole discretion in light of the PRC Laws then in effect and its own business considerations.
“ <b>Exercise of Option</b> ”	means the exercise by WFOE of the Equity Transfer Option, the Asset Purchase Option or the Capital Increase Option.
“ <b>Transfer Price</b> ”	means the aggregate considerations payable by WFOE and/or its designated entity and/or individual to the Existing Shareholder or the Company upon each Exercise of Option for the acquisition of the Transferrable Equity Interest or Transferrable Assets.
“ <b>Capital Decrease Price</b> ”	means the aggregate considerations payable by the Company to the Existing Shareholder upon each Exercise of Option by WFOE for the decrease of the Company’s Registered Capital.
“ <b>Capital Increase Price</b> ”	means the aggregate considerations payable by WFOE and/or its designated entity and/or individual to the Company upon each Exercise of Option for the subscription of the Capital Increase Equity Interest.
“ <b>Business Permits</b> ”	means any approval, permit, filing, registration or the like required of the Company for its lawful and valid operation of all of its business, including, without limitation, the Enterprise Legal Person Business License and other applicable permits and licenses as may then be required by the PRC Laws.

“ <b>Company Assets</b> ”	means all tangible and intangible assets owned or disposable by the Company during the validity term hereof, including, without limitation, any immovable property, personal property, and intellectual property such as trademarks, copyrights, patents, know-hows, domain names and software use rights.
“ <b>Material Agreements</b> ”	means any agreement to which the Company is a party having material effect on the business or assets of the Company, including, without limitation, the Exclusive Service Agreement, dated even date herewith, entered into by and between the Company and WFOE, and other agreements pertinent to the business of the Company.
“ <b>Exercise Notice</b> ”	has the meaning ascribed to it in Section 3.9 hereof.
“ <b>Loan Agreement</b> ”	means the Loan Agreement entered into by and among the Existing Shareholder and WFOE, dated January 10, 2018.
“ <b>Confidential Information</b> ”	has the meaning ascribed to it in Section 8.1 hereof.
“ <b>Defaulting Party</b> ”	has the meaning ascribed to it in Section 11.1 hereof.
“ <b>Default</b> ”	has the meaning ascribed to it in Section 11.1 hereof.
“ <b>Non-defaulting Parties</b> ”	has the meaning ascribed to it in Section 11.1 hereof.
“ <b>Party’s Rights</b> ”	has the meaning ascribed to it in Section 12.5 hereof.

1.2 In this Agreement, any reference to any PRC Law shall be deemed to include:

- (a) a reference to such PRC Law as modified, amended, supplemented or reenacted, effective either before or after the date hereof; and
- (b) a reference to any other decision, circular or rule made thereunder or effective as a result thereof.

1.3 Unless otherwise required by the context, a reference to an article, section, clause or paragraph herein shall be a reference to an article, section, clause or paragraph of this Agreement.

## **ARTICLE II GRANT OF EQUITY TRANSFER OPTION, ASSET PURCHASE OPTION AND CAPITAL INCREASE OPTION**

2.1 The Existing Shareholder hereby agrees to grant, irrevocably, unconditionally and exclusively, WFOE an Equity Transfer Option whereby WFOE shall be entitled to request at any time (including, without limitation, when WFOE believes, in its own discretion, that there is a risk of the Existing Shareholder transferring all or part of their Option Equity Interest to any third party other than WFOE and/or its designated entity and/or individual as required by the PRC Laws), to the extent permissible by the PRC Laws, the Existing Shareholder to transfer the Option Equity Interest to WFOE and/or its designated entity and/or individual in accordance with the terms and conditions hereof. WFOE hereby agrees to accept such Equity Transfer Option.

2.2 The Company hereby agrees to the grant by the Existing Shareholder to WFOE of such Equity Transfer Option pursuant to Section 2.1 above and other provisions hereof.

2.3 The Company hereby agrees to grant, irrevocably, unconditionally and exclusively, WFOE an Asset Purchase Option whereby WFOE shall be entitled to request at any time (including, without limitation, when WFOE believes, in its own discretion, that there is a risk of the Existing Shareholder transferring all or part of their Option Equity Interest to any third party other than WFOE and/or its designated entity and/or individual as required by the PRC Laws), to the extent permissible by the PRC Laws, the Company to transfer all or part of the Company Assets to WFOE and/or its designated entity and/or individual in accordance with the terms and conditions hereof. WFOE hereby agrees to accept such Asset Purchase Option.

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2.4 The Existing Shareholder hereby agrees to the grant by the Company to WFOE of such Asset Purchase Option pursuant to Section 2.3 above and other provisions hereof.

2.5 The Existing Shareholder and the Company hereby agree to grant, irrevocably, unconditionally and exclusively, to WFOE a Capital Increase Option whereby WFOE shall be entitled to request at any time (including, without limitation, when WFOE believes, in its own discretion, that there is a risk of the Existing Shareholder transferring all or part of their Option Equity Interest to any third party other than WFOE and/or its designated entity and/or individual as required by the PRC Laws) the Company to decrease its capital, and WFOE and/or its designated entity and/or individual shall be entitled to request, to the extent permissible by the PRC Laws, the Capital Increase Equity Interest to be subscribed for by themselves in accordance with the terms and conditions hereof. WFOE hereby agrees to accept such Capital Increase Option.

## **ARTICLE III METHOD OF EXERCISE OF OPTIONS**

3.1 Subject to the terms and conditions hereof, to the extent permissible by the PRC Laws, WFOE shall determine the timing, method and times of its Exercise of Options in its absolute and sole discretion.

3.2 Subject to the terms and conditions hereof, to the extent not contrary to the PRC Laws then in effect, WFOE shall have the right to request at any time the Existing Shareholder to transfer all or part of equity interest in the Company to it and/or other entity and/or individual designated by it.

3.3 Subject to the terms and conditions hereof, to the extent not contrary to the PRC Laws then in effect WFOE shall have the right to request at any time the Company to transfer all or part of the Company Assets to it and/or other entity and/or individual designated by it.

3.4 Subject to the terms and conditions hereof, to the extent not contrary to the PRC Laws then in effect WFOE shall have the right to request at any time the Company to decrease its capital and subscribe for the Capital Increase Equity Interest by itself and/or through any other entity and/or individual designated by it.

3.5 In the case of the Equity Transfer Option, in connection with each Exercise of Option, WFOE shall be entitled to determine in its sole discretion the amount of the equity interest to be transferred by the Existing Shareholder to WFOE and/or other entity and/or individual designated by it as a result of such Exercise of Option; and the Existing Shareholder shall transfer to WFOE and/or other entity and/or individual designated by it the Transferrable Equity Interest in such amount as requested by WFOE. WFOE and/or other entity and/or individual designated by it shall pay the Transfer Price to the transferring Existing Shareholder for the Transferrable Equity Interest acquired as a result of each Exercise of Option.

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- 3.6 In the case of the Asset Purchase Option, in connection with each Exercise of Option, WFOE shall be entitled to determine in its sole discretion the specific Company Assets to be transferred by the Company to WFOE and/or other entity and/or individual designated by it as a result of such Exercise of Option; and the Company shall transfer to WFOE and/or other entity and/or individual designated by it such Transferrable Assets as requested by WFOE. WFOE and/or other entity and/or individual designated by it shall pay the Transfer Price to the Company for the Transferrable Assets acquired as a result of each Exercise of Option.
- 3.7 In the case of the Capital Increase Option, in connection with each Exercise of Option, the Company shall, upon WFOE's request, determine the amount of capital to be decreased as a result of such Exercise of Option, and WFOE shall be entitled to designate in its sole discretion the Existing Shareholder to reduce their capital contributions to the Company, and the Company and the Existing Shareholder shall decrease the capital of the Company by such amount as requested by WFOE; WFOE shall be entitled to determine the amount of Capital Increase Equity Interest to be subscribed for by WFOE and/or other entity and/or individual designated by it as a result of such Exercise of Option, and the Company shall, upon WFOE's request, accept the subscription of the Capital Increase Equity Interest by WFOE and/or other entity and/or individual designated by it. The Company shall pay the Capital Decrease Price to the Existing Shareholder in connection with the decrease of Registered Capital of the Company as a result of each Exercise of Option by WFOE, and WFOE and/or other entity and/or individual designated by it shall pay the Capital Increase Price to the Company in connection with the Capital Increase Equity Interest subscribed for as a result of each Exercise of Option.
- 3.8 In connection with each Exercise of Option, WFOE may either acquire the Transferrable Equity Interest or the Transferrable Assets or subscribe for the Capital Increase Equity Interest itself or designate a third party to acquire all or part of the Transferrable Equity Interest or Transferrable Assets or subscribe for all or part of the Capital Increase Equity Interest.
- 3.9 Whenever WFOE elects to exercise its options hereunder, it shall give the Existing Shareholder and/or the Company an Equity Transfer Option exercise notice, an Asset Purchase Option exercise notice or a Capital Increase Option exercise notice (an “ **Exercise Notice** ”, the forms of which are set out in Schedules 2, 3 and 4 hereto respectively). Upon receipt of an Exercise Notice, the Existing Shareholder or the Company shall, acting in accordance with Section 3.5 or Section 3.6 hereof, immediately transfer the Transferrable Equity Interest or the Transferrable Assets to WFOE and/or other entity and/or individual designated by it pursuant to the Exercise Notice on a lump-sum basis, or decrease the capital of the Company in such manner as set forth in Section 3.7 hereof and WFOE and/or other entity and/or individual designated by it shall subscribe for the Capital Increase Equity Interest.



**ARTICLE IV    TRANSFER PRICE, CAPITAL DECREASE PRICE AND CAPITAL INCREASE PRICE**

- 4.1    In the case of the Equity Transfer Option, upon each Exercise of Option by WFOE, the aggregate Transfer Prices payable by WFOE and/or its designated entity and/or individual to the Existing Shareholder shall be the amount of the paid-in contributions to the Company's Registered Capital as represented by the relevant Transferrable Equity Interest; if the lowest price permissible by the PRC Laws then in effect is higher than such amount of paid-in contributions, the Transfer Price shall be the lowest price permissible by the PRC Laws. Upon receipt of the Transfer Prices, the Existing Shareholder shall immediately apply the Transfer Prices towards repayment of the loans granted by WFOE under the Loan Agreement.
- 4.2    In the case of the Asset Purchase Option, upon each Exercise of Option by WFOE, WFOE and/or its designated entity and/or individual shall pay the net book value of the relevant assets to the Company; if the lowest price permissible by the PRC Laws then in effect is higher than such net book value, the Transfer Price shall be the lowest price permissible by the PRC Laws.
- 4.3    In the case of the Capital Increase Option, in connection with each Exercise of Option by WFOE, the Company shall pay the Capital Decrease Price to the Existing Shareholder reducing their capital contributions to the Company, which Capital Decrease Price shall be the paid-in amount of Company's Registered Capital so decreased; if the lowest price permissible by the PRC Laws then in effect is higher than the Capital Decrease Price, the Capital Decrease Price shall be the lowest price permissible by the PRC Laws; the aggregate subscription prices payable by WFOE and/or its designated entity and/or individual to the Company in connection with the subscription of the Capital Increase Equity Interest shall be the Capital Decrease Price paid to the Existing Shareholder for the capital decrease of the Company. Upon receipt of the Capital Decrease Price, the Existing Shareholder shall immediately apply the Capital Decrease Price towards repayment of the loans granted by WFOE under the Loan Agreement.

4.4 Each Party shall pay, or lawfully withhold and pay, its own taxes and charges under applicable laws arising from the exercise of the Equity Transfer Option, the Asset Purchase Option or Capital Increase Option hereunder.

#### **ARTICLE V REPRESENTATIONS AND WARRANTIES**

5.1 The Existing Shareholder hereby represents and warrants that:

- (a) the Existing Shareholder is a limited liability company duly registered and lawfully existing under the PRC Laws with independent legal personality, has full and independent legal status and capacity to execute, deliver and perform this Agreement and may sue or be sued as an independent party.
- (b) the Company is a limited liability company duly registered and lawfully existing under the PRC Laws with independent legal personality, has full and independent legal status and capacity to execute, deliver and perform this Agreement and may sue or be sued as an independent party.
- (c) the Existing Shareholder has full power and authority to execute, deliver and perform this Agreement and all other documents to be executed by it in connection with the transactions contemplated hereunder as well as full power and authority to consummate the transactions contemplated hereunder.
- (d) this Agreement will constitute their legal and binding obligations enforceable against it in accordance with its terms.
- (e) the Existing Shareholder is the legal owner of record of the Option Equity Interest as of the date of effectiveness of this Agreement; other than the Equity Transfer Option and the Capital Increase Option created hereunder, the pledge created under the Equity Pledge Agreement dated January 10, 2018 by and among the Company, WFOE and the Existing Shareholder and the proxy rights created under the Shareholders' Voting Rights Proxy Agreement dated January 10, 2018 by and among the Company, WFOE and the Existing Shareholder, the Option Equity Interest are free from any lien, pledge, claims and other security interests or third party rights. Upon Exercise of Option pursuant to this Agreement, WFOE and/or other entity and/or individual designated by it may obtain good title to the Transferrable Equity Interest free from any lien, pledge, claims and other security interests or third party rights.

- (f) other than the Asset Purchase Option created hereunder, the Company Assets are free from any lien, pledge, claims and other security interests or third party rights. Upon Exercise of Option pursuant to this Agreement, WFOE and/or other entity and/or individual designated by it may obtain good title to the Company Assets free from any lien, pledge, claims and other security interests or third party rights.

5.2 The Company hereby represents and warrants that:

- (a) it is a limited liability company duly registered and lawfully existing under the PRC Laws with independent legal personality, has full and independent legal status and capacity to execute, deliver and perform this Agreement and may sue or be sued as an independent party.
- (b) it has full internal corporate power and authority to execute, deliver and perform this Agreement and all other documents to be executed by it in connection with the transactions contemplated hereunder as well as full power and authority to consummate the transactions contemplated hereunder.
- (c) this Agreement will be lawfully and duly executed and delivered by it and constitute its legal and binding obligations.
- (d) other than the Asset Purchase Option created hereunder, the Company Assets are free from any lien, pledge, claims and other security interests or third party rights. Upon Exercise of Option pursuant to this Agreement, WFOE and/or other entity and/or individual designated by it may obtain good title to the Company Assets free from any lien, pledge, claims and other security interests or third party rights.

5.3 WFOE hereby represents and warrants that:

- (a) it is a limited liability company duly registered and lawfully existing under the PRC Laws with independent legal personality, has full and independent legal status and capacity to execute, deliver and perform this Agreement and may sue or be sued as an independent party.
- (b) it has full internal corporate power and authority to execute, deliver and perform this Agreement and all other documents to be executed by it in connection with the transactions contemplated hereunder as well as full power and authority to consummate the transactions contemplated hereunder.

- (c) this Agreement will be lawfully and duly executed and delivered by it and constitute its legal and binding obligations.

#### **ARTICLE VI UNDERTAKINGS BY EXISTING SHAREHOLDER**

The Existing Shareholder hereby irrevocably undertakes that:

6.1 during the validity term of this Agreement, without prior written consent of WFOE:

- (a) it shall not transfer or otherwise dispose of, or create any security interest or other third party rights on, any Option Equity Interest;
- (b) it shall not increase or decrease Company's Registered Capital or cause the Company to be merged with any other entity;
- (c) it shall not (and shall cause the management of the Company not to) dispose of any material Company Assets, other than in the ordinary course of business;
- (d) it shall not (and shall cause the management of the Company not to) terminate any Material Agreement entered into by the Company or enter into any other agreements in conflict with the existing Material Agreements;
- (e) it shall not appoint or remove any director, supervisor or other management members appointable and removable by the Existing Shareholder;
- (f) it shall not cause the Company to declare distributions or actually effect distribution of any distributable profits, bonuses or dividends;
- (g) it shall not take any act or action, including any omission, affecting the valid existence of the Company; it shall not take any action likely to result in the termination, liquidation or dissolution of the Company;
- (h) it shall not amend the articles of association of the Company; and
- (i) it shall not take any act or action, including any omission, in order for the Company to lend or borrow money, provide guarantee or any other form of security, or assume any material obligations outside of its ordinary course of business.

- 6.2 during the validity term of this Agreement, it shall use its best efforts to develop the business of the Company and ensure the lawful and compliant operation of the Company and shall not commit any act or omission likely to impair the assets or goodwill of the Company or affect the validity of the Business Permits of the Company.
- 6.3 during the validity term of this Agreement, it shall promptly inform WFOE of any circumstances likely to have a material adverse effect on the existence, business operation, financial condition, assets or goodwill of the Company and shall promptly take all measures acceptable to WFOE to remove such adverse circumstances or take effective remedial measures.
- 6.4 immediately upon the giving by WFOE of an Exercise Notice:
- (a) it shall adopt a shareholder's resolution and shall take all other necessary actions so as to approve the transfer by the Existing Shareholder or by the Company of all relevant Transferrable Equity Interest or Transferrable Assets to WFOE and/or other entity and/or individual designated by it at the relevant Transfer Price or approve the capital decrease of the Company and accept the subscription of the Capital Increase Equity Interest in the Company by WFOE and/or other entity and/or individual designated by it (as the case may be);
  - (b) in the case of the Equity Transfer Option, it shall execute an equity transfer agreement with WFOE and/or other entity and/or individual designated by it whereby all of the relevant Transferrable Equity Interest shall be transferred to WFOE and/or other entity and/or individual designated by it at the relevant Transfer Price, and shall, in accordance with the request of WFOE and the requirements of laws and regulations, provide WFOE with necessary support (including provision and execution of all relevant legal documents, completion of all governmental approval and registration formalities and assumption of all relevant obligations) such that WFOE and/or other entity and/or individual designated by it shall acquire all of the Transferrable Equity Interest free from any legal defects and any security interest, third party restrictions or any other restrictions on equity interest;
  - (c) in the case of the Capital Increase Option, the Existing Shareholder shall immediately execute a capital decrease agreement with the Company in the form and substance satisfactory to WFOE, and Existing Shareholder shall assist and cooperate with the Company to complete capital decrease formalities, including, without limitation, notification to creditors, announcement of capital decrease, execution of all relevant legal documents, completion of all governmental approval and registration formalities and assumption of all relevant obligations, such that the capital decrease of the Company shall be successfully completed and the Capital Increase Equity Interest shall be successfully subscribed for by WFOE and/or other entity and/or individual designated by it.

- 6.5 if the Transfer Prices received by any of the Existing Shareholder in respect of its Transferrable Equity Interest, the Capital Decrease Price received by it in respect of capital decrease of the Company and/or any distribution of remaining properties received by it in the case of termination or liquidation of the Company are in excess of its capital contribution to the Company, or if any of the Existing Shareholder receives from the Company any form of profit distribution, dividend or bonus, then Existing Shareholder agrees and acknowledges that, to the extent not contrary to the PRC Laws, it shall not be entitled to such excess profit and any such profit distribution, dividend or bonus (net of applicable taxes), all of which shall be receivable by WFOE instead. The Existing Shareholder shall instruct the relevant transferee or the Company to pay such excess profit or such distribution into the bank account then designated by WFOE.
- 6.6 the Existing Shareholder shall irrevocably consent to the execution and performance of this Agreement by the other Existing Shareholder and the Company, and shall fully cooperate with the other Existing Shareholder and the Company in connection with the execution and performance of this Agreement, including, without limitation, executing all such documents and taking all such actions as necessary or required by WFOE, and shall not commit any act or omission to prevent WFOE from claiming and giving effect to its rights hereunder.
- 6.7 once it knows or should have known any possible transfer of the Option Equity Interest held by them to any third parties other than WFOE or any individual or entity designated by WFOE as a result of applicable laws or any judgment or award rendered by a court or arbitral body or for any other reasons, it shall notify WFOE immediately and without delay.

## ARTICLE VII UNDERTAKINGS BY COMPANY

7.1 The Company hereby irrevocably undertakes that:

- (a) the Company will exert every effort to assist with the obtaining of any third party consent, permission, waiver or authorization or any governmental approval, permission or exemption or the completion of any registration or filing procedures (if required by law) with any governmental authority requisite for the execution and performance of this Agreement and the grant of the Equity Transfer Option, Asset Purchase Option or Capital Increase Option hereunder.

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- (b) without prior written consent of WFOE, the Company will not assist or permit the Existing Shareholder to transfer or otherwise dispose of, or create any security interest or other third party rights on, any Option Equity Interest.
- (c) without prior written consent of WFOE, the Company will not transfer or otherwise dispose of any material Company Assets, other than in the ordinary course of business, or create any security interest or other third party rights on any Company Assets.
- (d) the Company will not do or permit to be done any act or action likely to have an adverse effect on the interest of WFOE hereunder, including, without limitation, any act or action restricted by Section 6.1.
- (e) once it knows or should have known any possible transfer of the Option Equity Interest held by any Existing Shareholder to any third parties other than WFOE or any individual or entity designated by WFOE as a result of applicable laws or any judgment or award rendered by a court or arbitral body or for any other reasons, it shall notify WFOE immediately and without delay.

7.2 immediately upon the giving by WFOE of an Exercise Notice:

- (a) the Company shall cause the Existing Shareholder to adopt a shareholder's resolution and take all other necessary actions so as to approve the transfer by the Company of all relevant Transferrable Assets to WFOE and/or other entity and/or individual designated by it at the relevant Transfer Price, or approve the capital decrease of the Company and accept the subscription of the Capital Increase Equity Interest in the Company by WFOE and/or other entity and/or individual designated by it (as the case may be);
- (b) in the case of the Asset Purchase Option, the Company shall execute an asset transfer agreement with WFOE and/or other entity and/or individual designated by it whereby all of the relevant Transferrable Assets shall be transferred to WFOE and/or other entity and/or individual designated by it at the relevant Transfer Price, and shall, in accordance with the request of WFOE and the requirements of laws and regulations, cause the Existing Shareholder to provide WFOE with necessary support (including provision and execution of all relevant legal documents, completion of all governmental approval and registration formalities and assumption of all relevant obligations) such that WFOE and/or other entity and/or individual designated by it shall acquire all of the Transferrable Assets free from any legal defects and any security interest, third party restrictions or any other restrictions on the Company Assets.

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- (c) in the case of the Capital Increase Option, the Company shall immediately execute a capital decrease agreement and an amended and restated articles of association (amendment to the articles of association) with the Existing Shareholder reducing their capital contributions to the Company in the form and substance satisfactory to WFOE, and the Company shall complete, and the Existing Shareholder shall cause the Company to complete, capital decrease formalities, including, without limitation, notification to creditors, announcement of capital decrease, execution of all relevant legal documents, completion of all governmental approval and registration formalities and assumption of all relevant obligations, such that the capital decrease of the Company shall be successfully completed and the Capital Increase Equity Interest shall be successfully subscribed for by WFOE and/or other entity and/or individual designated by it.

#### ARTICLE VIII CONFIDENTIALITY OBLIGATIONS

- 8.1 Irrespective of whether this Agreement has been terminated, each of the Parties shall maintain in strict confidence the business secrets, proprietary information, customer information and all other information of a confidential nature of the other Parties coming into its knowledge during the entry into and performance of this Agreement (“**Confidential Information**”). Except where prior written consent has been obtained from the Party disclosing the Confidential Information or where disclosure to a third party is mandated by relevant laws or regulations or by the rules of the place of listing of an affiliate of a Party, the Party receiving the Confidential Information shall not disclose any Confidential Information to any third party; the Party receiving the Confidential Information shall not use, either directly or indirectly, any Confidential Information other than for the purpose of performing this Agreement.
- 8.2 The Parties acknowledge that the following information shall not constitute the Confidential Information:
- (a) any information which, as shown by written evidence, has previously been known to the receiving Party by way of legal means;

- (b) any information which enters the public domain other than as a result of a fault of the receiving Party; or
- (c) any information lawfully acquired by the receiving Party from any other source subsequent to the receipt of relevant information.

8.3 A receiving Party may disclose the Confidential Information to its relevant employees, agents or its appointed professionals provided that such receiving Party shall ensure that such persons shall comply with relevant terms and conditions of this Agreement and that it shall assume any liability arising out of any breach by such persons of relevant terms and conditions of this Agreement.

8.4 Notwithstanding any other provisions of this Agreement, the validity of this article shall not be affected by any suspension or termination of this Agreement.

#### ARTICLE IX TERM OF AGREEMENT

This Agreement shall be formed as from the date it is duly executed by the Parties hereto and once formed, the effectiveness of this Agreement shall be retrospective to January 10, 2018; unless otherwise required by WFOE, the term of this Agreement shall end as of the time the entirety of the Option Equity Interest and the Company Assets hereunder shall have been lawfully transferred to WFOE and/or other entity and/or individual designated by it in accordance with the provisions hereof.

#### ARTICLE X NOTICES

10.1 Any notice, request, demand and other correspondences required by or made pursuant to this Agreement shall be made in writing and delivered to the relevant Parties.

10.2 Such notice or other correspondences shall be deemed delivered when it is transmitted if transmitted by fax or email; or upon delivery if delivered in person; or two (2) days after posting if delivered by mail.

#### ARTICLE XI LIABILITY FOR DEFAULT

11.1 The Parties agree and acknowledge that if any Party (“**Defaulting Party**”) substantially breaches any provision hereunder, or substantially fails to perform or substantially delays in performing any obligations hereunder, such breach, failure or delay shall constitute a default hereunder (“**Default**”) and that in such event, any of the non-defaulting Parties (“**Non-defaulting Parties**”) shall have the right to demand the Defaulting Party to cure such Default or take remedial measures within a reasonable time. If the Defaulting Party fails to cure such Default or take remedial measures within such reasonable time or within ten (10) days after the non-defaulting Party notifies the Defaulting Party in writing and requests it to cure such Default:



- (a) to the extent that either the Existing Shareholder or the Company is the Defaulting Party, WFOE shall be entitled to terminate this Agreement and demand the Defaulting Party to indemnify for damage;
- (b) to the extent that WFOE is the Defaulting Party, the Non-defaulting Party shall be entitled to demand the Defaulting Party to indemnify for damage, provided that unless otherwise mandatorily stipulated by law, the Non-defaulting Party shall in no event be entitled to terminate or revoke this Agreement.

For the purpose of this Section 11.1, the Existing Shareholder further acknowledges and agrees that its breach of Article VI hereof shall constitute their material breach of this Agreement; the Company further acknowledges and agrees that its breach of Article VII hereof shall constitute its material breach of this Agreement.

11.2 Notwithstanding any other provisions hereof, the validity of this article shall not be affected by any termination of this Agreement.

## **ARTICLE XII MISCELLANEOUS**

12.1 This Agreement is made in Chinese in five (5) originals, of which one (1) copy shall be held by the Company, one (1) copy shall be used for governmental approval/registration purposes and the remaining copies shall be kept by WFOE.

12.2 The entry into, effectiveness and interpretation of, and resolution of disputes under, this Agreement shall be governed by the PRC Laws.

12.3 Dispute Resolution

- (a) All disputes arising out of or in connection with this Agreement shall be first settled by the relevant Parties through amiable consultations; if such Parties fail to resolve the dispute through consultations, the dispute shall be submitted to China International Economic and Trade Arbitration Commission (“**CIETAC**”) for arbitration according to CIETAC arbitration rules in effect at the time of applying for arbitration. The seat of arbitration shall be in Hangzhou. The arbitration award shall be final and binding on the relevant Parties. Except as otherwise required by the arbitration award, the arbitration fees shall be borne by the losing party. The losing party shall also indemnify for the attorneys’ fee and other expenses incurred by the winning party.

- (b) Pending the resolution of such dispute, the Parties shall continue to perform the remaining provisions of this Agreement other than the disputed matters.
- 12.4 No right, power or remedy empowered to any Party by any provision of this Agreement shall preclude any other right, power or remedy enjoyed by such Party in accordance with law or any other provisions hereof and no exercise by a Party of any of its rights, powers and remedies shall preclude its exercise of its other rights, powers and remedies.
- 12.5 No failure or delay by a Party in exercising any right, power or remedy under this Agreement or laws (“ **Party’s Rights** ”) shall result in a waiver of such rights; and no single or partial waiver by a Party of the Party’s Rights shall preclude such Party from exercising such rights in any other way or exercising the remaining part of the Party’s Rights.
- 12.6 The section headings herein are inserted for convenience of reference only and shall in no event be used in or affect the interpretation of the provisions hereof.
- 12.7 Each provision contained herein shall be severable and independent of any other provisions hereof, and if at any time any one or more provisions hereof become invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not be affected thereby.
- 12.8 Once executed, this Agreement shall replace any other legal documents previously entered into by the Parties in respect of the same subject matter hereof. Any amendments or supplements to this Agreement shall be made in writing. Except for the transfer of rights hereunder by WFOE according to Section 12.9 hereof, such amendments or supplements shall become effective only if they are duly signed by the Parties hereto.
- 12.9 Without prior written consent of WFOE, the other Parties shall not assign any of their rights and/or obligations hereunder to any third party. The other Parties agree that WFOE shall have the right to unilaterally transfer any right and/or obligation hereunder to any third party without written consent of the other Parties, provided that a written notification to this effect shall be sent to the other Parties.

- 12.10 This Agreement shall be binding upon the legal assignees or successors of the Parties. The Existing Shareholder warrants to WFOE that it has made all appropriate arrangements and executed all necessary documents to ensure that, in the event of its bankruptcy, dissolution or occurrence of other circumstances that might affect exercise of its shareholder rights, its legal assignee, successor, heir, liquidator, bankruptcy administrator, creditor, and other persons that might consequently acquire the equity interest in or relevant rights of the Company cannot affect or impede the performance of this Agreement. For this purpose, the Existing Shareholder and the Company shall promptly sign all other documents and take all other actions (including, without limitation, notarization of this Agreement) as required by WFOE.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK. EXECUTION PAGE FOLLOWS]

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(EXECUTION PAGE ATTACHED SEPARATELY)

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[Signature Page to Exclusive Call Option Agreement for Zhejiang Tmall Network Co., Ltd. ]

WFOE:

[Seal of Zhejiang Tmall Technology Co., Ltd.]

(Seal)

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[Signature Page to Exclusive Call Option Agreement for Zhejiang Tmall Network Co., Ltd. ]

Existing Shareholder:

[Seal of Hangzhou Zhenxi Investment Management Co., Ltd.]

(Seal)

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Company:

[Seal of Zhejiang Tmall Network Co., Ltd.]

(Seal)

SCHEDULE 1:

**BASIC INFORMATION OF THE COMPANY**

Company Name: Zhejiang Tmall Network Co., Ltd.  
Registered Address: Room 506, 5/F, Building No. 3, 969 West Wen Yi Road, Yu Hang District, Hangzhou  
Registered Capital: Renminbi Ten Million (RMB10,000,000)  
Legal Representative: Zhang Yong  
Shareholding Structure:

Shareholder	Shareholding Percentage	Amount of Subscribed Capital Contribution (RMB)
Hangzhou Zhenxi Investment Management Co., Ltd.	100%	10,000,000
<b>Total</b>		<b>10,000,000</b>

Schedule 1 to Exclusive Call Option Agreement for Zhejiang Tmall Network Co., Ltd.

SCHEDULE 2:

**FORM OF EXERCISE NOTICE**

To: Hangzhou Zhenxi Investment Management Co., Ltd.

WHEREAS, pursuant to that certain Exclusive Call Option Agreement (“ **Option Agreement** ”) dated \_\_\_\_\_ by and among us, you, and Zhejiang Tmall Network Co., Ltd. (“ **Company** ”), to the extent permissible by PRC laws and regulations, you shall, at our request, transfer your equity interest in the Company to us or any third party designated by us.

NOW, THEREFORE, we hereby notify you of the following:

We hereby request to exercise our Equity Transfer Option under the Option Agreement whereby we or [ • ] [ *name of entity or individual* ] designated by us shall acquire from you your [ • ]% equity interest in the Company (“ **Subject Equity Interest** ”). You are kindly required to transfer all of the Subject Equity Interest to us or [ *name of entity or individual* ] designated by us in accordance with the provisions of the Option Agreement immediately upon receipt of the present notice.

Sincerely yours,

Zhejiang Tmall Technology Co., Ltd.

(Seal)

Authorized Representative:

Date:

Schedule 2 to Exclusive Call Option Agreement for Zhejiang Tmall Network Co., Ltd.

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SCHEDULE 3:

**FORM OF EXERCISE NOTICE**

To: Zhejiang Tmall Network Co., Ltd.

WHEREAS, pursuant to that certain Exclusive Call Option Agreement (“**Option Agreement**”) dated \_\_\_\_\_ by and among us and Hangzhou Zhenxi Investment Management Co., Ltd., to the extent permissible by PRC laws and regulations, you shall, at our request, transfer your assets to us or any third party designated by us.

NOW, THEREFORE, we hereby notify you of the following:

We hereby request to exercise our Asset Purchase Option under the Option Agreement whereby we or [ • ] [ *name of entity or individual* ] designated by us shall acquire from you all of the assets as separately set out in the list attached hereto (“**Subject Assets**”). You are kindly required to transfer all of the Subject Assets to us or [ *name of entity or individual* ] designated by us in accordance with the provisions of the Option Agreement immediately upon receipt of the present notice.

Sincerely yours,

Zhejiang Tmall Technology Co., Ltd.

(Seal)

Authorized Representative:

Date:

Schedule 3 to Exclusive Call Option Agreement for Zhejiang Tmall Network Co., Ltd.

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SCHEDULE 4:

**FORM OF EXERCISE NOTICE**

To: Zhejiang Tmall Network Co., Ltd.

Hangzhou Zhenxi Investment Management Co., Ltd .

WHEREAS, pursuant to that certain Exclusive Call Option Agreement (“ **Option Agreement** ”) dated \_\_\_\_\_ by and among us, Zhejiang Tmall Network Co., Ltd. (“ **Company** ”), and Hangzhou Zhenxi Investment Management Co., Ltd., to the extent permissible by PRC laws and regulations, you shall, at our request, decrease the capital of the Company (“ **Capital Decrease** ”) and we or any third party designated by us shall subscribe for the newly increased registered capital of the Company.

NOW, THEREFORE, we hereby notify you of the following:

We hereby request to exercise our Capital Increase Option under the Option Agreement to request the Company to effectuate the Capital Decrease, thereby decreasing Company’s Registered Capital by RMB[ • ]. Upon completion of such Capital Decrease, the Company’s Registered Capital shall be changed to [ • ], and [the Existing Shareholder] shall cease to hold any equity interest in the Company/[the Existing Shareholder] shall hold [ • ]% equity interest in the Company.

Meanwhile, we or [ • ] [ *name of entity or individual* ] designated by us shall subscribe for the newly increased registered capital of the Company in the amount of [ • ], and upon completion of such capital increase, the Company’s Registered Capital shall be changed to [ • ].

You are kindly required to complete the Capital Decrease in accordance with the provisions of the Option Agreement immediately upon receipt of the present notice, and we or [ *name of entity or individual* ] designated by us will subscribe for the newly increased registered capital of the Company.

Sincerely yours,

Zhejiang Tmall Technology Co., Ltd.

(Seal)

Authorized Representative:

Date:

Schedule 4 to Exclusive Call Option Agreement for Zhejiang Tmall Network Co., Ltd.

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**HANGZHOU ZHENXI INVESTMENT MANAGEMENT CO., LTD.**

**ZHEJIANG TMALL TECHNOLOGY CO., LTD.**

**AND**

**ZHEJIANG TMALL NETWORK CO., LTD.**

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**SHAREHOLDER'S VOTING RIGHTS PROXY AGREEMENT**

**FOR**

**ZHEJIANG TMALL NETWORK CO., LTD.**

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**January 10, 2018**

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**SHAREHOLDER'S VOTING RIGHTS PROXY AGREEMENT**

**THIS SHAREHOLDER'S VOTING RIGHTS PROXY AGREEMENT** (this "**Agreement**") is made on January 10, 2018 ("**Execution Date**")

**BY AND AMONG:**

- (1) Hangzhou Zhenxi Investment Management Co., Ltd. ("**Existing Shareholder**"); Registered Address: Room 505, 5/F, Building No. 3, 969 West Wen Yi Road, Yu Hang District, Hangzhou Legal Representative: Zheng Junfang
- (2) Zhejiang Tmall Network Co., Ltd. ("**Company**"); and Registered Address: Room 506, 5/F, Building No. 3, 969 West Wen Yi Road, Yu Hang District, Hangzhou Legal Representative: Zhang Yong
- (3) Zhejiang Tmall Technology Co., Ltd. ("**WFOE**")  
  
Registered Address: Room 507, 5/F, Building No. 3, 969 West Wen Yi Road, Yu Hang District, Hangzhou  
  
Legal Representative: Zhang Yong

In this Agreement, the aforementioned parties are referred to individually as a "**Party**" and collectively as the "**Parties**".

**WHEREAS:**

1. The Existing Shareholder is the sole shareholder of the Company as of the Execution Date, holding 100% of the equity interest in the Company.
2. The Existing Shareholder intends to entrust the individual designated by WFOE with the exercise of its voting rights and decision-making rights in the Company, and WFOE intends to designate the individual to accept such entrustment.

**NOW, THEREFORE**, upon consensus through consultation, the Parties agree as follows:

**ARTICLE I                      VOTING RIGHTS ENTRUSTMENT**

- 1.1 The Existing Shareholder hereby irrevocably undertakes to execute a proxy letter in the form and substance of Schedule 1 hereto upon execution of this Agreement whereby it shall authorize the individual then designated by WFOE ("**Proxy**") to exercise, on its behalf, the following rights available to it in its capacity as shareholder of the Company under the then effective articles of association of the Company (collectively, "**Proxy Rights**");

- (a) to exercise voting rights and decision-making rights on behalf of the Existing Shareholder on all matters required to be resolved by the shareholder, including, without limitation, the appointment and designation of the directors and other officers to be appointed and removed by the Shareholder;
- (b) to exercise other shareholder's voting rights under the articles of association of the Company (inclusive of any other shareholder's voting rights arising after an amendment to such articles of association); and
- (c) when the Existing Shareholder transfers the equity interest held by it in the Company, agrees to an asset transfer by the Company, reduces capital contribution made by it to the Company and accepts the capital increase to the Company by WFOE according to the Exclusive Call Option Agreement executed by it on the same day as the Execution Date, to execute, on behalf of the Existing Shareholder, relevant equity transfer agreement, asset transfer agreement (if applicable), capital reduction agreement, capital increase agreement, resolutions of shareholder and other relevant documents and complete the governmental approval, registration and filing procedures as required for such transfer, capital reduction and capital increase.

The foregoing authorization and entrustment is conditional upon the Proxy being a PRC citizen and WFOE consenting to such authorization and entrustment. The Existing Shareholder shall not revoke the authorization and entrustment accorded to the Proxy other than in the case where WFOE gives the Existing Shareholder a written notice requesting the replacement of the Proxy, in which event the Existing Shareholder shall immediately appoint such other PRC citizen as designated by WFOE to exercise the foregoing Proxy Rights and such new authorization and entrustment shall supersede, immediately upon its grant, the original authorization and entrustment.

- 1.2 The Proxy shall, acting with care and diligence, lawfully fulfill the entrusted duties within the scope of authorization hereunder; the Existing Shareholder acknowledges, and assumes liability for, any legal consequences arising out of the exercise by the Proxy of the foregoing Proxy Rights.
- 1.3 The Existing Shareholder hereby acknowledges that the Proxy will not be required to solicit the opinions of the Existing Shareholder when exercising the foregoing Proxy Rights, provided that the Proxy shall promptly inform the Existing Shareholder (on an ex-post basis) of all resolutions adopted by the shareholder.

**ARTICLE II      RIGHT TO INFORMATION**

2. For the purposes of the exercise of the Proxy Rights hereunder, the Proxy shall have the right to be informed of the operations, business, customers, finances, employees and other matters of the Company and to access relevant documents of the Company; the Company and the Existing Shareholder shall provide full cooperation with respect thereto.

**ARTICLE III      EXERCISE OF PROXY RIGHTS**

- 3.1 The Existing Shareholder shall provide full assistance with respect to the exercise by the Proxy of the Proxy Rights, including, where necessary (e.g., in order to meet the document submission requirements in connection with governmental authority approval, registration and filing), executing the shareholder's resolutions adopted by the Proxy or other relevant legal documents.
- 3.2 If at any time during the term hereof, the grant or exercise of the Proxy Rights hereunder cannot be realized for any reason (other than a breach by the Existing Shareholder or the Company), the Parties shall immediately seek an alternative scheme closest possible to the unrealizable provisions and shall, to the extent necessary, enter into a supplementary agreement to amend or modify the terms hereof so that the purpose of this Agreement may continue to be achieved.

**ARTICLE IV      RELEASE OF LIABILITY AND INDEMNIFICATION**

- 4.1 The Parties acknowledge that in no event shall WFOE be required to bear any liability or provide any economic or other compensation to the other Parties or to any third party in connection with the exercise of the Proxy Rights hereunder by the individual(s) designated by WFOE.
- 4.2 The Existing Shareholder and the Company agree to indemnify and hold harmless WFOE against any and all losses suffered or likely to be suffered by WFOE as a result of the exercise by its designated Proxy of the Proxy Rights, including, without limitation, any losses arising out of any suit, recourse, arbitration, demand for compensation or claims brought by any third party against it or any administrative investigation or sanction by any governmental authorities, but exclusive of any losses arising out of any willful misconduct or gross negligence of the Proxy.

**ARTICLE V                    REPRESENTATIONS, WARRANTIES AND UNDERTAKINGS**

5.1        The Existing Shareholder hereby represents and warrants that:

- (a)        The Existing Shareholder is a limited liability company duly registered and lawfully existing under the PRC laws with independent legal status; and has full and independent legal status and capacity to execute, deliver and perform this Agreement and may sue or be sued as an independent party.
- (b)        The Company is a limited liability company duly registered and lawfully existing under the PRC laws with independent legal personality; and has full and independent legal status and capacity to execute, deliver and perform this Agreement and may sue or be sued as an independent party.
- (c)        it has full power and authority to execute, deliver and perform this Agreement and all other documents to be executed by it in connection with the transactions contemplated hereunder as well as full power and authority to consummate the transactions contemplated hereunder. This Agreement will be lawfully and duly executed and delivered by the Existing Shareholder and will constitute its legal and binding obligations enforceable against them in accordance with its terms.
- (d)        The Existing Shareholder is the legal owner of record of the Company as of the time of effectiveness of this Agreement; other than the rights created under this Agreement and the Equity Pledge Agreement and the Exclusive Call Option Agreement by and among the Existing Shareholder, the Company and WFOE, the Proxy Rights are free from any third party rights. In accordance with this Agreement, the Proxy may fully and completely exercise the Proxy Rights under the then effective articles of association of the Company.
- (e)        Without the consent of WFOE, the Existing Shareholder shall not take any measures to propose, take initiative or request to amend, modify, terminate or otherwise alter the articles of association of the Company.

5.2        The Existing Shareholder hereby undertakes to WFOE on an irrevocable basis that, once it knows or should have known any possible transfer of the equity interest held by it in the Company to any third parties other than WFOE or any individual or entity designated by WFOE as a result of applicable laws or any judgment or award rendered by a court or arbitral body or for any other reasons, it shall notify WFOE immediately and without delay.

5.3 WFOE and the Company hereby severally but not jointly represent and warrant that:

- (a) They are each a limited liability company duly registered and lawfully existing under the PRC laws with independent legal personality, have full and independent legal status and capacity to execute, deliver and perform this Agreement and may sue or be sued as an independent party;
- (b) They each have full internal corporate power and authority to execute and deliver this Agreement and all other documents to be executed by them in connection with the transactions contemplated hereunder as well as full power and authority to consummate the transactions contemplated hereunder.

5.4 The Company further represents and warrants that:

- (a) The Existing Shareholder is the legal owners of record of the Company as of the time of effectiveness of this Agreement; other than the rights created under this Agreement and the Equity Pledge Agreement and the Exclusive Call Option Agreement by and among the Existing Shareholder, the Company and WFOE, the Proxy Rights are free from any third party rights. In accordance with this Agreement, the Proxy may fully and completely exercise the Proxy Rights under the then effective articles of association of the Company.

5.5 The Company hereby irrevocably undertakes to WFOE that, once it knows or should have known any possible transfer of the equity interest held by any Existing Shareholder in the Company to any third parties other than WFOE or any individual or entity designated by WFOE as a result of applicable laws or any judgment or award rendered by a court or arbitral body or any other reasons, it shall notify WFOE immediately and without any delay.

#### **ARTICLE VI      TERM OF AGREEMENT**

6.1 Subject to Sections 6.2 and 6.3 hereof, this Agreement shall be formed as from the date when it is duly executed by the Parties. Once formed, the effectiveness of this Agreement shall be retrospective to January 10, 2018 and remain in full force and effect for twenty (20) years. Upon expiry of the term, unless WFOE has by a thirty (30) days' notice notified the other Parties not to renew, this Agreement shall be automatically renewed for one (1) year and will continue to be so renewed, except that this Agreement is early terminated by the Parties upon written agreement or according to provisions of Section 9.1 hereof.

- 6.2 If either of the Company or WFOE fails to complete relevant approval and registration procedures to extend its business term upon expiry thereof, this Agreement shall terminate on the expiry date of the business term of the Company or WFOE.
- 6.3 If the Existing Shareholder assigns, with prior consent of WFOE, all of its equity interest in the Company, or does no longer hold any equity interest in the Company by means of capital reduction, as of the date when it has consummated its assistance obligations hereunder, duly executed all necessary documents and completed all relevant corporate internal procedures as well as approval, registration and filing procedures, the Existing Shareholder shall cease to be a Party hereto (except that it shall be subject to Article IV, Section 5.1, this Article VI, Article VII, Article VIII, Article IX and Article X hereof) and this Agreement shall terminate.

#### ARTICLE VII NOTICES

- 7.1 Any notice, request, demand and other correspondences required by or made pursuant to this Agreement shall be made in writing and delivered to the relevant Parties.
- 7.2 Such notice or other correspondences shall be deemed delivered when it is transmitted if transmitted by fax or email; or upon delivery if delivered in person; or two (2) days after posting if delivered by mail.

#### ARTICLE VIII CONFIDENTIALITY OBLIGATIONS

- 8.1 Irrespective of whether this Agreement has been terminated, each of the Parties shall maintain in strict confidence the business secrets, proprietary information, customer information and all other information of a confidential nature of the other Parties coming into its knowledge during the entry into and performance of this Agreement (“**Confidential Information**”). Except where prior written consent has been obtained from the Party disclosing the Confidential Information or where disclosure to a third party is mandated by relevant laws or regulations or by the rules of the place of listing of an affiliate of a Party, the Party receiving the Confidential Information shall not disclose any Confidential Information to any third party; the Party receiving the Confidential Information shall not use, either directly or indirectly, any Confidential Information other than for the purpose of performing this Agreement.



8.2 The Parties acknowledge that the following information shall not constitute the Confidential Information:

- (a) any information which, as shown by written evidence, has previously been known to the receiving Party by way of legal means;
- (b) any information which enters the public domain other than as a result of a fault of the receiving Party; or
- (c) any information lawfully acquired by the receiving Party from another source subsequent to the receipt of relevant information.

8.3 A receiving Party may disclose the Confidential Information to its relevant employees, agents or its appointed professionals, provided that such receiving Party shall ensure that such persons shall comply with relevant terms and conditions of this Agreement and that it shall assume any liability arising out of any breach by such persons of relevant terms and conditions of this Agreement.

8.4 Notwithstanding any other provisions of this Agreement, the validity of this article shall not be affected by any termination of this Agreement.

#### **ARTICLE IX      LIABILITY FOR DEFAULT**

9.1 The Parties agree and acknowledge that if any Party (“**Defaulting Party**”) substantially breaches any provision hereunder, or substantially fails to perform or substantially delays in performing any obligations hereunder, such breach, failure or delay shall constitute a default hereunder (“**Default**”) and that in such event, any of the non-defaulting Parties (“**Non-Defaulting Party**”) shall have the right to demand the Defaulting Party to cure such Default or take remedial measures within a reasonable time. If the Defaulting Party fails to cure such Default or take remedial measures within such reasonable time or within ten (10) days after the Non-Defaulting Party notifies the Defaulting Party in writing and requests it to cure such Default, then:

- (a) If either of the Existing Shareholder or the Company is the Defaulting Party, WFOE shall be entitled to terminate this Agreement and demand the Defaulting Party to indemnify for damage;
- (b) If WFOE is the Defaulting Party, the Non-Defaulting Party shall be entitled to demand the Defaulting Party to indemnify for damage, provided that unless otherwise mandatorily stipulated by law, the Non-Defaulting Party shall in no event be entitled to terminate or revoke this Agreement.

For the purpose of this Section 9.1, the Company and the Existing Shareholder further acknowledge and agree that their breach of Article V hereof shall constitute their material breach of this Agreement.

9.2 Notwithstanding any other provisions of this Agreement, the validity of this article shall not be affected by any suspension or termination of this Agreement.

#### **ARTICLE X MISCELLANEOUS**

10.1 This Agreement is made in Chinese in five (5) originals, of which one (1) copy shall be held by the Company, one (1) copy shall be used for governmental approval/registration purposes and the remaining copies shall be kept by WFOE.

10.2 The entry into, effectiveness and interpretation of, and resolution of disputes under, this Agreement shall be governed by the PRC laws.

10.3 Dispute Resolution

(a) All disputes arising out of or in connection with this Agreement shall be first settled by the relevant Parties through amiable consultations; if such Parties fail to resolve the dispute through consultations, the dispute shall be submitted to China International Economic and Trade Arbitration Commission (“**CIETAC**”) for arbitration according to CIETAC arbitration rules in effect at the time of applying for arbitration. The seat of arbitration shall be in Hangzhou. The arbitration award shall be final and binding on the relevant Parties. Except as otherwise required by the arbitration award, the arbitration fees shall be borne by the losing party. The losing party shall also indemnify for the attorneys’ fee and other expenses incurred by the winning party.

(b) Pending the resolution of such dispute, the Parties shall continue to perform the remaining provisions of this Agreement other than the disputed matters.

10.4 No right, power or remedy empowered to any Party by any provision of this Agreement shall preclude any other right, power or remedy enjoyed by such Party in accordance with law or any other provisions hereof and no exercise by a Party of any of its rights, powers and remedies shall preclude its exercise of its other rights, powers and remedies.

- 10.5 No failure or delay by a Party in exercising any right, power or remedy under this Agreement or laws (“ **Party’s Rights** ”) shall result in a waiver of such rights; and no single or partial waiver by a Party of the Party’s Rights shall preclude such Party from exercising such rights in any other way or exercising the remaining part of the Party’s Rights.
- 10.6 The section headings herein are inserted for convenience of reference only and shall in no event be used in or affect the interpretation of the provisions hereof.
- 10.7 Each provision contained herein shall be severable and independent of any other provisions hereof, and if at any time any one or more provisions hereof become invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not be affected thereby.
- 10.8 Once executed, this Agreement shall replace any other legal documents previously entered into by the Parties in respect of the same subject matter hereof. Any amendments or supplements to this Agreement shall be made in writing. Except for the transfer of rights hereunder by WFOE according to Section 10.9 hereof, such amendments or supplements shall become effective only if they are duly signed by the Parties hereto.
- 10.9 Without prior written consent of WFOE, the other Parties shall not assign any of their rights and/or obligations hereunder to any third party. The other Parties agree that WFOE shall have the right to unilaterally transfer any right and/or obligation hereunder to any third party without written consent of the other Parties, provided that a written notification to this effect shall be sent to the other Parties.
- 10.10 This Agreement shall be binding upon the legal assignees or successors of the Parties. The Existing Shareholder warrants to WFOE that it has made all appropriate arrangements and executed all necessary documents to ensure that, in the event of its bankruptcy, dissolution or occurrence of other circumstances that might affect exercise of its shareholder rights, its legal assignee, successor, heir, liquidator, bankruptcy administrator, creditor and other persons that might consequently acquire the equity interest in or relevant rights of the Company cannot affect or impede the performance of this Agreement. For this purpose, the Existing Shareholder and the Company shall promptly sign all other documents and take all other actions (including, without limitation, notarization of this Agreement) as required by WFOE.

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(EXECUTION PAGE ATTACHED SEPARATELY)

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[Signature Page to Shareholder's Voting Rights Proxy Agreement for Zhejiang Tmall Network Co., Ltd.]

WFOE

[Seal of Zhejiang Tmall Technology Co., Ltd.]

(Seal)

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[Signature Page to Shareholder's Voting Rights Proxy Agreement for Zhejiang Tmall Network Co., Ltd.]

Existing Shareholder

[Seal of Hangzhou Zhenxi Investment Management Co., Ltd.]

(Seal)

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Company

[Seal of Zhejiang Tmall Network Co., Ltd.]

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## SCHEDULE 1

### PROXY LETTER

THIS PROXY LETTER (this "**Letter**"), executed by Hangzhou Zhenxi Investment Management Co., Ltd. as of January 10, 2018, is being issued in favor of [ ] (ID Card No.: \_\_\_\_\_) ("**Proxy**").

We hereby grant to the Proxy a general proxy, authorizing the Proxy to exercise, as our proxy and on our behalf, the following rights enjoyed by us in our capacity as the shareholder of Zhejiang Tmall Network Co., Ltd. ("**Company**"):

- (i) to exercise, as our proxy, voting rights on all matters required to be deliberated and resolved by the shareholder, including, without limitation, the appointment and designation of the directors and other officers to be appointed or removed by the shareholder;
- (ii) to exercise, as our proxy, other shareholder's voting rights under the articles of association of the Company (inclusive of any other shareholder's voting rights arising after an amendment to such articles of association); and
- (iii) when the Proxy, in the capacity of our proxy, transfers the equity interest held by us in the Company, agrees to an asset transfer by the Company, reduces capital contribution made to the Company and accepts the capital increase to the Company by ZHEJIANG TMALL TECHNOLOGY CO., LTD. ("**WFOE**") according to the Exclusive Call Option Agreement executed on the same day as the Execution Date, to execute relevant equity transfer agreement, asset transfer agreement (if applicable), capital reduction agreement, capital increase agreement, resolutions of shareholder and other relevant documents, and complete the governmental approval, registration and filing procedures as required for such transfer, capital reduction and capital increase,

We hereby irrevocably confirm that unless WFOE has issued an instruction requesting the replacement of the Proxy, this Letter shall remain valid until the expiry or early termination of the Shareholder's Voting Rights Proxy Agreement, dated January 10, 2018, by WFOE, the Company and the Existing Shareholder of the Company.

This Letter is hereby issued.

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Schedule 1 to Shareholder's Voting Rights Proxy Agreement for Zhejiang Tmall Network Co., Ltd.

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[Signature Page to Shareholder's Voting Rights Proxy Agreement for Zhejiang Tmall Network Co., Ltd. Proxy Letters]

[Seal of Hangzhou Zhenxi Investment Management Co., Ltd.] \_\_\_\_\_  
(Seal)

Date: \_\_\_\_\_

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**HANGZHOU ZHENXI INVESTMENT MANAGEMENT CO., LTD.**

**ZHEJIANG TMALL TECHNOLOGY CO., LTD.**

**AND**

**ZHEJIANG TMALL NETWORK CO., LTD.**

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**EQUITY PLEDGE AGREEMENT**

**FOR**

**ZHEJIANG TMALL NETWORK CO., LTD.**

**January 10, 2018**

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## EQUITY PLEDGE AGREEMENT

**THIS EQUITY PLEDGE AGREEMENT** (this “**Agreement**”) is made on January 10, 2018 (“**Execution Date**”)

### BY AND AMONG:

1. Hangzhou Zhenxi Investment Management Co., Ltd. (“**Pledgor**”);  
Registered Address: Room 505, 5/F, Building No. 3, 969 West Wen Yi Road, Yu Hang District, Hangzhou  
Legal Representative: Zheng Junfang
2. Zhejiang Tmall Network Co., Ltd. (“**Company**”); and  
Registered Address: Room 506, 5/F, Building No. 3, 969 West Wen Yi Road, Yu Hang District, Hangzhou  
Legal Representative: Zhang Yong
3. Zhejiang Tmall Technology Co., Ltd. (“**Pledgee**”)  
Registered Address: Room 507, 5/F, Building No. 3, 969 West Wen Yi Road, Yu Hang District, Hangzhou  
Legal Representative: Zhang Yong

In this Agreement, the aforementioned parties are referred to individually as a “**Party**” and collectively as the “**Parties**”.

### WHEREAS:

1. The Pledgor is the registered shareholder of the Company and lawfully holds all equity interest in the Company (“**Company Equity**”). As of the Execution Date, the amount of its contribution to the registered capital of the Company is Renminbi Ten Million, and its shareholding percentage is 100%. Basic information of the Company is set forth in Schedule 1 hereto.
2. The Parties hereto entered into a Shareholder’s Voting Rights Proxy Agreement (“**Proxy Agreement**”) on January 10, 2018, pursuant to which the Pledgor has irrevocably granted a general power of attorney to such persons as may then be appointed by the Pledgee to exercise its entire shareholder voting rights in the Company on behalf of the Pledgor.
3. The Pledgee and the Pledgor entered into a Loan Agreement (“**Loan Agreement**”) on January 10, 2018, pursuant to which the Pledgee shall provide the Pledgor with a loan in an aggregate principal amount of Renminbi Ten Million (RMB10,000,000) (“**Loan**”) to be used by the Pledgor for its operation.
4. The Company and the Pledgee entered into an Exclusive Service Agreement (“**Service Agreement**”) on January 10, 2018, pursuant to which the Company has, on an exclusive basis, engaged the Pledgee to provide it with relevant services and agrees to pay relevant service fees to the Pledgee for such services.

5. The Parties hereto and other relevant parties entered into an Exclusive Call Option Agreement (“ **Call Option Agreement** ”) on January 10, 2018, pursuant to which the Pledgor and the Company shall, to the extent permitted by the PRC Laws, transfer, at the request of the Pledgee, all or part of its equity interest in the Company or all or part of the assets of the Company respectively to the Pledgee and/or any entity and/or individual designated by it, or the Company shall decrease its capital and the Pledgee and/or any entity and/or individual designated by it shall subscribe for the newly increased registered capital of the Company.
6. As security for the performance by the Pledgor of its Contractual Obligations (as defined below) and its repayment of the Secured Indebtedness (as defined below), the Pledgor is willing to pledge all of its Company Equity to the Pledgee and create first priority pledge in favor of the Pledgee; and the Company has agreed to such equity pledge arrangement.

**NOW, THEREFORE**, upon consensus through consultation, the Parties agree as follows:

## **ARTICLE I            DEFINITIONS**

- 1.1 Unless otherwise required by the context, the following terms shall have the following meanings in this Agreement:

- “ **Contractual Obligations** ” means all of the Pledgor’s contractual obligations under the Proxy Agreement, the Loan Agreement and the Call Option Agreement (including, without limitation, the obligations to repay the Loan under the Loan Agreement); all of the Company’s contractual obligations under the Proxy Agreement, the Service Agreement and the Call Option Agreement; and all of the contractual obligations of the Pledgor and the Company under this Agreement.
- “ **Secured Indebtedness** ” means all direct, indirect or consequential losses and loss of projectable benefits suffered by the Pledgee as a result of any Event of Default (as defined below) of the Pledgor and/or the Company, and the basis for determining the amounts of such losses shall include, without limitation, reasonable commercial plans and profit forecasts of the Pledgee and all costs incurred by the Pledgee in connection with its enforcement of the Contractual Obligations of the Pledgor and/or the Company.
- “ **Transaction Agreements** ” means the Proxy Agreement, the Service Agreement, the Loan Agreement and the Call Option Agreement.
- “ **Event of Default** ” means a breach by the Pledgor of any of its Contractual Obligations under the Proxy Agreement, the Loan Agreement, the Call Option Agreement and/or this Agreement, and a breach by the Company of any of its Contractual Obligations under the Proxy Agreement, the Service Agreement, the Call Option Agreement and/or this Agreement.

“ **Pledged Equity** ” means all of the Company Equity lawfully owned by the Pledgor as of the effectiveness of this Agreement and to be pledged hereunder to the Pledgee as security for the performance by the Pledgor and the Company of their respective Contractual Obligations and increased capital contribution amounts and dividends under Sections 2.6 and 2.7 hereof.

“ **PRC Laws** ” means the then effective laws, administrative regulations, administrative rules, local regulations, judicial interpretations and other binding regulatory documents of the People’s Republic of China.

1.2 In this Agreement, any reference to any PRC Law shall be deemed to include (i) a reference to such PRC Law as modified, amended, supplemented or reenacted, effective either before or after the date hereof; and (ii) a reference to any other decision, circular or rule made thereunder or effective as a result thereof.

1.3 Unless otherwise required by the context, a reference to an article, section, clause or paragraph herein shall be a reference to an article, section, clause or paragraph of this Agreement.

## **ARTICLE II EQUITY PLEDGE**

2.1 The Pledgor hereby agrees to pledge, in accordance with the terms hereof, its lawfully owned and rightfully disposable Pledged Equity to the Pledgee as security for the performance by the Pledgor of its Contractual Obligations and its repayment of the Secured Indebtedness. The Company hereby agrees for the Pledgor to so pledge the Pledged Equity to the Pledgee in accordance with the terms hereof.

2.2 The Pledgor covenants that it will assume the responsibility of recording the equity pledge arrangement (“ **Equity Pledge** ”) hereunder in the shareholder’s register of the Company on the Execution Date. The Pledgor further covenants that it will use its best efforts and take all necessary measures to register the Equity Pledge as soon as possible with the competent administrative authority for industry and commerce of the Company after the Execution Date.

2.3 During the validity term hereof, the Pledgee shall not be liable in whatsoever manner for any diminution in value of the Pledged Equity and the Pledgor shall have no right to seek any form of recourse or bring any claims against the Pledgee in connection therewith, except where such diminution arises out of any willful conduct of the Pledgee or its gross negligence having immediate causal link with such result.

- 2.4 Subject to Section 2.3 above, if the Pledged Equity is likely to suffer such a manifest value diminution as to impair the rights of the Pledgee, the Pledgee may at any time auction or sell the Pledged Equity on behalf of the Pledgor and may, as agreed with the Pledgor, apply the proceeds from such auction or sale towards early repayment of the Secured Indebtedness, or deposit (entirely at the cost of the Pledgee) such proceeds with a notary organ of the place of the Pledgee. In addition, upon request by the Pledgee, the Pledgor shall provide other property as security for the Secured Indebtedness.
- 2.5 Upon occurrence of any Event of Default, the Pledgee shall be entitled to dispose of the Pledged Equity in such manner as prescribed by Article IV hereof.
- 2.6 The Pledgor may not increase the capital of the Company except with prior consent of the Pledgee. Any increase in the capital contribution made by the Pledgor to the registered capital of the Company as a result of any capital increase shall equally become part of the Pledged Equity, and the Pledgor shall register the pledge of the Company Equity corresponding to such capital contribution with the competent administrative authority for industry and commerce of the Company.
- 2.7 The Pledgor may not receive any dividend or profit in respect of the Pledged Equity except with prior consent of the Pledgee. Any dividend or profit received by the Pledgor in respect of the Pledged Equity shall be deposited into an account designated by the Pledgee, monitored by the Pledgee and first applied towards repayment of the Secured Indebtedness.
- 2.8 Upon occurrence of an Event of Default, the Pledgee shall be entitled to dispose of any Pledged Equity of the Pledgor in accordance with the terms hereof.

### **ARTICLE III RELEASE OF PLEDGE**

- 3.1 Upon full and complete performance by the Pledgor and the Company of all of their Contractual Obligations and full repayment of the Secured Indebtedness, the Pledgee shall, at the request of the Pledgor, release the Equity Pledge hereunder and cooperate with the Pledgor in relation to both the deregistration of the Equity Pledge in the shareholder's register of the Company and the deregistration of the Equity Pledge with the relevant administrative authority for industry and commerce; reasonable costs arising out of such release of the Equity Pledge shall be borne by the Pledgee.

### **ARTICLE IV DISPOSAL OF PLEDGED EQUITY**

- 4.1 The Parties hereby agree that upon occurrence of any Event of Default, the Pledgee shall be entitled to exercise, upon written notice to the Pledgor, all of the remedies, rights and powers available to it under the PRC Laws, the Transaction Agreements and this Agreement, including, without limitation, the right to auction or sell the Pledged Equity for prior satisfaction of claims. The Pledgee shall not be held liable for any losses resulting from its reasonable exercise of such rights and powers.

The Pledgor further acknowledges and agrees that its breach of Article IX hereof shall constitute its material breach of this Agreement; the Company further acknowledges and agrees that its breach of Article X hereof shall constitute its material breach of this Agreement.

- 4.2 The Pledgee shall be entitled to appoint, in writing, its counsels or other agents to exercise any and all of its foregoing rights and powers, and neither the Pledgor nor the Company shall object thereto.
- 4.3 The Pledgee shall have the right to fully deduct all reasonable costs incurred by it in connection with its exercise of any or all of its foregoing rights and powers from the proceeds obtained as a result of such exercise of rights and powers.
- 4.4 The proceeds obtained as a result of the exercise by the Pledgee of its rights and powers shall be applied in the following order of precedence:
- (i) towards payment of all costs arising out of the disposal of the Pledged Equity and the exercise by the Pledgee of its rights and powers (including fees paid to its counsels and agents);
  - (ii) towards payment of the taxes payable in connection with the disposal of the Pledged Equity; and
  - (iii) towards repayment of the Secured Indebtedness to the Pledgee.

Any balance after the deduction of the foregoing payments shall either be returned by the Pledgee to the Pledgor or any other person who may be entitled to such balance under relevant laws and regulations or be deposited by the Pledgee with a notary organ of the place of the Pledgee (any costs arising out of such deposit shall be borne by the Pledgee).

- 4.5 The Pledgee shall have the right to exercise, at its option, concurrently or successively, any of its breach of contract remedies; the Pledgee shall not be required to first exercise other breach of contract remedies prior to the exercise of its right to auction or sell the Pledged Equity hereunder.

#### **ARTICLE V            COSTS AND EXPENSES**

- 5.1 All actual costs and expenses arising in connection with the creation of the Equity Pledge hereunder, including, without limitation, the stamp duty, any other taxes and all legal costs, shall be borne by the Parties severally.

**ARTICLE VI CONTINUING GUARANTEE AND NON-WAIVER**

- 6.1 The Equity Pledge created hereunder shall constitute a continuing guarantee and shall remain valid until full performance of the Contractual Obligations or full repayment of the Secured Indebtedness, whichever occurs later. Neither any waiver or grace granted by the Pledgee with respect to any breach by the Pledgor nor any delay of the Pledgee in its exercise of any of its rights under the Transaction Agreements and this Agreement shall affect the right of the Pledgee under this Agreement, relevant PRC Laws and the Transaction Agreements to require at any time thereafter the Pledgor to strictly perform the Transaction Agreements and this Agreement or any right that may be available to the Pledgee as a result of any subsequent breach by the Pledgor of the Transaction Agreements and/or this Agreement.

**ARTICLE VII REPRESENTATIONS AND WARRANTIES BY THE PLEDGOR**

The Pledgor represents and warrants to the Pledgee that:

- 7.1 It is a limited liability company duly registered and lawfully existing under the PRC Laws with independent legal personality; and has full and independent legal status and capacity to execute, deliver and perform this Agreement and may sue or be sued as an independent party.
- 7.2 All reports, documents and information provided by it to the Pledgee prior to the effectiveness of this Agreement with respect to all matters pertaining to the Pledgor or required by this Agreement are true, correct, complete and not misleading in all material respects as of the effectiveness of this Agreement.
- 7.3 All reports, documents and information provided by it to the Pledgee subsequent to the effectiveness of this Agreement with respect to all matters pertaining to the Pledgor or required by this Agreement are true and valid in all material respects as of the time of provision of the same.
- 7.4 As of the effectiveness of this Agreement, the Pledgor is the sole lawful owner of the Pledged Equity free from any ongoing or potential dispute or any third party claim as to the ownership thereof; and the Pledgor has the right to dispose of the Pledged Equity or any part thereof.
- 7.5 Other than the security interest created on the Pledged Equity hereunder and the rights created under the Transaction Agreements, the Pledged Equity is free from any other security interests, third party rights or interests or any other restrictions.
- 7.6 The Pledged Equity may be lawfully pledged and assigned, and the Pledgor has full rights and powers to pledge the Pledged Equity to the Pledgee in accordance with the terms hereof.
- 7.7 Once duly executed by the Pledgor, this Agreement will constitute lawful, valid and binding obligations of the Pledgor.
- 7.8 Other than the registration of the Equity Pledge with the relevant administrative authority for industry and commerce, any consents, permissions, waivers or authorizations by any third party or any approval, license or exemption from or any registration or filing formalities with any governmental body (if required by law), requisite in each case for the execution and performance of this Agreement and the creation of the Equity Pledge hereunder, have been obtained or completed and will remain fully valid during the validity term hereof.

- 7.9 The execution and performance by the Pledgor of this Agreement do not violate or conflict with any law applicable to the Pledgor, any agreement to which the Pledgor is a party or by which he is bound, any court judgment, any arbitral award, or any decision of any administrative authority.
- 7.10 The pledge hereunder constitutes a first priority security interest on the Pledged Equity.
- 7.11 All taxes and costs payable in connection with the acquisition of the Pledged Equity have been paid in full by the Pledgor.
- 7.12 There are no pending, or to the knowledge of the Pledgor, threatened, suits, legal proceedings or claims before any court or arbitral tribunal or by any governmental body or administrative authority against the Pledgor or its property or the Pledged Equity having a material or adverse effect on the financial condition of the Pledgor or its ability to perform its obligations and the guarantee liability hereunder.
- 7.13 The Pledgor hereby warrants to the Pledgee that the foregoing representations and warranties will remain true and correct and be fully complied with under all circumstances at any time prior to the full performance of the Contractual Obligations or full repayment of the Secured Indebtedness.

**ARTICLE VIII REPRESENTATIONS AND WARRANTIES BY THE COMPANY**

The Company represents and warrants to the Pledgee that:

- 8.1 It is a limited liability company duly registered and lawfully existing under the PRC Laws with independent legal personality; and has full and independent legal status and capacity to execute, deliver and perform this Agreement and may sue or be sued as an independent party.
- 8.2 All reports, documents and information provided by it to the Pledgee prior to the effectiveness of this Agreement with respect to all matters pertaining to the Pledged Equity or required by this Agreement are true, correct, complete and not misleading in all material respects as of the effectiveness of this Agreement.
- 8.3 All reports, documents and information provided by it to the Pledgee subsequent to the effectiveness of this Agreement with respect to all matters pertaining to the Pledged Equity or required by this Agreement are true and valid in all material respects as of the time of provision of the same.

- 8.4 Once duly executed by it, this Agreement will constitute lawful, valid and binding obligations of the Company.
- 8.5 It has full internal corporate power and authority to execute and deliver this Agreement and all other documents to be executed by it in connection with the transactions contemplated hereunder as well as full power and authority to consummate the transactions contemplated hereunder.
- 8.6 There are no pending, or to the knowledge of the Company, threatened, suits, legal proceedings or claims before any court or arbitral tribunal or by any governmental body or administrative authority against the Pledged Equity, the Company or its assets having a material or adverse effect on the financial condition of the Company or the ability of the Pledgor to perform its obligations and the guarantee liability hereunder.
- 8.7 The Company hereby agrees to be severally and jointly liable to the Pledgee for the representations and warranties made by the Pledgor under Sections 7.4, 7.5, 7.6, 7.8 and 7.10 hereof.
- 8.8 The Company hereby warrants to the Pledgee that the foregoing representations and warranties will remain true and correct and be fully complied with under all circumstances at any time prior to the full performance of the Contractual Obligations or full repayment of the Secured Indebtedness.

#### **ARTICLE IX UNDERTAKINGS BY THE PLEDGOR**

The Pledgor hereby agrees and irrevocably undertakes to the Pledgee that:

- 9.1 Without prior written consent of the Pledgee, the Pledgor will not create or permit to be created any new pledge or any other security interest on the Pledged Equity, and any pledge or any other security interest created on all or part of the Pledged Equity without prior written consent of the Pledgee shall be null and void.
- 9.2 Without prior written notice to and prior written consent of the Pledgee, (i) the Pledgor will not assign or otherwise dispose of the Pledged Equity or request the Company to decrease its capital, and any of such actions taken by the Pledgor without prior consent of the Pledgee shall be null and void; (ii) the Pledgor will not assist or permit other existing shareholders (as applicable) to take any of the foregoing actions without prior written consent of the Pledgee. The proceeds received by the Pledgor from the assignment or other disposal of the Pledged Equity shall be first applied towards early full repayment of the Secured Indebtedness to the Pledgee or deposited with a third party to be agreed with the Pledgee.
- 9.3 Should there arise any suit, arbitration or other claims which are likely to have an adverse effect on the interests of the Pledgor or the Pledgee under the Transaction Agreements and this Agreement or on the Pledged Equity, the Pledgor warrants that it will notify the Pledgee in writing of the same as soon as possible and without delay and will, in accordance with the reasonable request of the Pledgee, take all necessary actions to ensure the Pledgee's pledge rights and interests in and to the Pledged Equity.

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- 9.4 The Pledgor warrants that it shall complete the business term extension registration formalities of the Company within three (3) months prior to the expiry of the business term of the Company such that the validity of this Agreement shall be maintained.
- 9.5 The Pledgor shall not do or permit to be done any act or action likely to have an adverse effect on the interests of the Pledgee under the Transaction Agreements and this Agreement or on the Pledged Equity.
- 9.6 The Pledgor will use its best efforts and take all necessary measures to register the Equity Pledge hereunder as soon as possible with the relevant administrative authority for industry and commerce after the execution of this Agreement, and the Pledgor warrants, in accordance with the reasonable request of the Pledgee, to take all necessary actions and execute all necessary documents (including, without limitation, any supplement hereto) to ensure the Pledgee's pledge rights and interests in and to the Pledged Equity as well as the exercise and realization by the Pledgee of such rights and interests.
- 9.7 Should the exercise of the pledge rights hereunder result in an assignment of any Pledged Equity, the Pledgor warrants that it will take all actions to realize such assignment.
- 9.8 The Pledgor ensures that the shareholder's resolutions adopted, convening procedures of, the methods of voting at and the contents of the shareholders' meeting (as applicable) and board meetings of the Company held in connection with the execution of this Agreement and the creation and exercise of the pledge rights hereunder shall not violate laws, administrative regulations or the articles of association of the Company.
- 9.9 Once the Pledgor knows or should have known any possible transfer of the Pledged Equity held by him to any third parties other than the Pledgee or any individual or entity designated by the Pledgee as a result of applicable PRC Laws or any judgment or award rendered by a court or arbitral body or for any other reasons, it shall notify the Pledgee immediately and without delay.

#### **ARTICLE X UNDERTAKINGS BY THE COMPANY**

The Company hereby agrees and irrevocably undertakes to the Pledgee that:

- 10.1 The Company will use every effort to assist with the obtainment of any consents, permissions, waivers or authorizations by any third party or any approval, license or exemption from any governmental body or the completion of any registration or filing formalities with any governmental body (if required by law), requisite in each case for the execution and performance of this Agreement and the creation of the Equity Pledge hereunder, and the maintenance of the same in full force and effect during the validity term hereof.

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- 10.2 Without prior written consent of the Pledgee, the Company will not assist or permit the Pledgor to create any new pledge or any other security interest on the Pledged Equity.
- 10.3 Without prior written consent of the Pledgee, the Company will not assist or permit the Pledgor to assign or otherwise dispose of the Pledged Equity.
- 10.4 Should there arise any suit, arbitration or other claims which are likely to have an adverse effect on the Company, the Pledged Equity or the interests of the Pledgee under the Transaction Agreements and this Agreement, the Company warrants that it will notify the Pledgee in writing of the same as soon as possible and without delay and will, in accordance with the reasonable request of the Pledgee, take all necessary actions to ensure the Pledgee's pledge rights and interests in and to the Pledged Equity.
- 10.5 The Company warrants that it shall complete its business term extension registration formalities within three (3) months prior to the expiry of its business term such that the validity of this Agreement shall be maintained.
- 10.6 The Company shall not do or permit to be done any act, action or omission likely to have an adverse effect on the interests of the Pledgee under the Transaction Agreements and this Agreement or on the Pledged Equity.
- 10.7 The Company will, during the first month of each calendar quarter, submit to the Pledgee the financial statements of the Company for the preceding calendar quarter, including, without limitation, the balance sheet, the income statement and the cash flow statement.
- 10.8 The Company warrants, in accordance with the reasonable request of the Pledgee, to take all necessary actions and execute all necessary documents (including, without limitation, any supplement hereto) to ensure the Pledgee's pledge rights and interests in and to the Pledged Equity as well as the exercise and realization by the Pledgee of such rights and interests.
- 10.9 Should the exercise of the pledge rights hereunder result in an assignment of any Pledged Equity, the Company warrants that it will take all actions to realize such assignment.
- 10.10 The Company covenants that it will assist the Pledgor to register the Equity Pledge hereunder with the competent administrative authority for industry and commerce of the Company as soon as possible after the execution of this Agreement and provide all necessary cooperation to complete such registration in a timely manner.
- 10.11 Once the Company knows or should have known any possible transfer of the Pledged Equity held by the Pledgor to any third parties other than the Pledgee or any individual or entity designated by the Pledgee as a result of applicable PRC Laws or any judgment or award rendered by a court or arbitral body or for any other reasons, it shall notify the Pledgee immediately and without delay.

**ARTICLE XI      FUNDAMENTAL CHANGES OF CIRCUMSTANCES**

- 11.1 As a supplementary agreement and without contravening other provisions of the Transaction Agreements and this Agreement, if, at any time, in the opinion of the Pledgee, as a result of any promulgation of or amendment to any PRC Laws, regulations or rules, or any change in the interpretation or application of such laws, regulations or rules, or any change in relevant registration procedures, the maintenance of the validity of this Agreement and/or the disposal of the Pledged Equity in the manner prescribed hereby becomes illegal or contravenes such laws, regulations or rules, the Pledgor and the Company shall, based on the Pledgee's written instructions and in accordance with its reasonable request, immediately take any actions and/or execute any agreements or other documents so as to:
- (a) maintain the validity of this Agreement;
  - (b) facilitate the disposal of the Pledged Equity in the manner prescribed hereby; and/or
  - (c) maintain or realize the security created or purported to be created hereunder.

**ARTICLE XII      EFFECTIVENESS AND TERM OF AGREEMENT**

- 12.1 This Agreement shall become effective upon due execution by the Parties.
- 12.2 The term of this Agreement shall end when the Contractual Obligations have been fully performed or the Secured Indebtedness have been fully repaid, whichever is later.

**ARTICLE XIII      NOTICES**

- 13.1 Any notice, request, demand and other correspondences required by or made pursuant to this Agreement shall be made in writing and delivered to the relevant Parties.
- 13.2 Such notice or other correspondences shall be deemed delivered when it is transmitted if transmitted by fax or email; or upon delivery if delivered in person; or two (2) days after posting if delivered by mail.

**ARTICLE XIV      MISCELLANEOUS**

- 14.1 The Pledgor and the Company agree that the Pledgee may, immediately upon notice to the Pledgor and the Company, assign its rights and/or obligations hereunder to any third party; provided that without prior written consent of the Pledgee, neither the Pledgor nor the Company may assign their respective rights, obligations or liabilities hereunder to any third party.

- 14.2 The sum of the Secured Indebtedness determined by the Pledgee in its discretion in connection with its exercise of its pledge rights to the Pledged Equity in accordance with the terms hereof shall constitute the conclusive evidence for the Secured Indebtedness hereunder.
- 14.3 This Agreement is made in Chinese in five (5) originals, of which one (1) copy shall be held by the Company, one (1) copy shall be used for governmental approval/registration purposes and the remaining copies shall be kept by the Pledgee.
- 14.4 The entry into, effectiveness and interpretation of, and resolution of disputes under, this Agreement shall be governed by the PRC Laws.
- 14.5 **Dispute Resolution**
- (a) All disputes arising out of or in connection with this Agreement shall be first settled by the relevant Parties through amiable consultations; if such Parties fail to resolve the dispute through consultations, the dispute shall be submitted to China International Economic and Trade Arbitration Commission (“**CIETAC**”) for arbitration according to CIETAC arbitration rules in effect at the time of applying for arbitration. The seat of arbitration shall be in Hangzhou. The arbitration award shall be final and binding on the relevant Parties. Except as otherwise required by the arbitration award, the arbitration fees shall be borne by the losing party. The losing party shall also indemnify for the attorneys’ fee and other expenses incurred by the winning party.
- (b) Pending the resolution of such dispute, the Parties shall continue to perform the remaining provisions of this Agreement other than the disputed matters.
- 14.6 No right, power or remedy empowered to any Party by any provision of this Agreement shall preclude any other right, power or remedy enjoyed by such Party in accordance with law or any other provisions hereof and no exercise by a Party of any of its rights, powers and remedies shall preclude its exercise of its other rights, powers and remedies.
- 14.7 No failure or delay by a Party in exercising any right, power or remedy under this Agreement or laws (“**Party’s Rights**”) shall result in a waiver of such rights; and no single or partial waiver by a Party of the Party’s Rights shall preclude such Party from exercising such rights in any other way or exercising the remaining part of the Party’s Rights.
- 14.8 The section headings herein are inserted for convenience of reference only and shall in no event be used in or affect the interpretation of the provisions hereof.

- 14.9 Each provision contained herein shall be severable and independent of any other provisions hereof, and if at any time any one or more provisions hereof become invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not be affected thereby.
- 14.10 Once executed, this Agreement shall replace any other legal documents previously entered into by the Parties in respect of the same subject matter hereof. Any amendments or supplements to this Agreement shall be made in writing. Except for the transfer of rights hereunder by the Pledgee according to Section 14.1 hereof, such amendments or supplements shall become effective only if they are duly signed by the Parties hereto.
- 14.11 This Agreement shall be binding upon the legal assignees or successors of the Parties. The successors or permitted assignees (if any) of the Pledgor and the Company shall continue to perform the respective obligations of the Pledgor and the Company hereunder. The Pledgor warrants to the Pledgee that he has made all appropriate arrangements and executed all necessary documents to ensure that, in the event of its bankruptcy, dissolution or occurrence of other circumstances that might affect exercise of its shareholder rights, his legal assignee, successor, heir, creditor, liquidator, bankruptcy administrator and other persons that might consequently acquire the Company Equity or relevant rights cannot affect or impede the performance of this Agreement. For this purpose, the Pledgor and the Company shall promptly sign all other documents and take all other actions (including, without limitation, notarization of this Agreement) as required by the Pledgee.
- 14.12 Concurrently with the execution of this Agreement, the Pledgor shall execute a power of attorney (“**Power of Attorney**”) in the form of Schedule 2 hereto, entrusting any nominee of the Pledgee to execute, on its behalf in accordance with this Agreement, any and all legal documents as may be required in order for the Pledgee to exercise its rights hereunder. Such Power of Attorney shall be submitted to the Pledgee for custody and may be presented by the Pledgee to relevant governmental authorities whenever necessary.

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(EXECUTION PAGE ATTACHED SEPARATELY)

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[Signature Page to Equity Pledge Agreement for Zhejiang Tmall Network Co., Ltd.]

Company:

[Seal of Zhejiang Tmall Network Co., Ltd.]

Zhejiang Tmall Network Co., Ltd.

(Seal)

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[Signature Page to Equity Pledge Agreement for Zhejiang Tmall Network Co., Ltd.]

Pledgee:

[Seal of Zhejiang Tmall Technology Co., Ltd.]

Zhejiang Tmall Technology Co., Ltd.

(Seal)

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[Signature Page to Equity Pledge Agreement for Zhejiang Tmall Network Co., Ltd.]

Pledgor:

[Seal of Hangzhou Zhenxi Investment Management Co., Ltd.]

Hangzhou Zhenxi Investment Management Co., Ltd.

(Seal)

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SCHEDULE 1

**BASIC INFORMATION OF THE COMPANY**

Company Name: Zhejiang Tmall Network Co., Ltd.  
Registered Address: Room 506, 5/F, Building No. 3, 969 West Wen Yi Road, Yu Hang District, Hangzhou  
Registered Capital: Ten Million (RMB10,000,000)  
Legal Representative: Zhang Yong  
Shareholding Structure:

<b>Shareholder</b>	<b>Shareholding Percentage</b>	<b>Amount of Subscribed Capital Contribution (RMB)</b>
Hangzhou Zhenxi Investment Management Co., Ltd.	100%	10,000,000

Schedule 1 to Equity Pledge Agreement for Zhejiang Tmall Network Co., Ltd.

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**FORM OF POWER OF ATTORNEY**

We, Hangzhou Zhenxi Investment Management Co., Ltd., hereby irrevocably appoint \_\_\_\_\_ (ID Card No.: \_\_\_\_\_) to act as our attorney in fact to execute all legal documents necessary or desirable for the exercise by Zhejiang Tmall Technology Co., Ltd. of its rights under the Equity Pledge Agreement for Zhejiang Tmall Network Co., Ltd. by and among Zhejiang Tmall Technology Co., Ltd., us and Zhejiang Tmall Network Co., Ltd.

Company Name: Hangzhou Zhenxi Investment Management Co., Ltd. (Seal)

Date:

Schedule 2 to Equity Pledge Agreement for Zhejiang Tmall Network Co., Ltd.

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**ZHEJIANG TMALL NETWORK CO., LTD.**

**AND**

**ZHEJIANG TMALL TECHNOLOGY CO., LTD.**

\_\_\_\_\_  
**EXCLUSIVE SERVICES AGREEMENT**  
\_\_\_\_\_

**January 10, 2018**

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## EXCLUSIVE SERVICES AGREEMENT

**THIS EXCLUSIVE SERVICES AGREEMENT** (this “**Agreement**”) is made on January 10, 2018:

### BY AND BETWEEN:

1. Zhejiang Tmall Network Co., Ltd. (“**Party A**”)  
Registered Address: Room 506, 5/F, Building No. 3, 969 West Wen Yi Road, Yu Hang District, Hangzhou  
Legal Representative: Zhang Yong
2. Zhejiang Tmall Technology Co., Ltd. (“**Party B**”)  
Registered Address: Room 507, 5/F, Building No. 3, 969 West Wen Yi Road, Yu Hang District, Hangzhou  
Legal Representative: Zhang Yong

In this Agreement, the aforementioned Parties are referred to individually as a “**Party**” and collectively as the “**Parties**”.

### WITNESSETH

**WHEREAS**, Party A is a limited liability company registered and lawfully existing in Hangzhou, the PRC, and its scope of business includes “value-added telecommunication, Internet drug trading services, Internet drug information services, commercial Internet culture, holding shows (programs) and performance; providing service platform for Internet publication dealings. services: mall network platform technology development; computer network technology development, technology consulting, technology services, product transfer, hosting conference and exhibition, translation, design, production, agency and publication of domestic advertisement (other than items requiring pre-approval); wholesale and retail of computer software, hardware and ancillary equipment, computer-related products, servers and corollary equipment, communication equipment, network equipment, electronic products, electric appliance, office equipment, office supplies and furniture; provision of advertisement and ticket agency services related technology services, and ticket agency (other than airline ticket agency)( business activities subject to approval according to laws may not be carried out until get approved by relevant authority)”;

**WHEREAS**, Party B is a wholly foreign-owned enterprise registered and lawfully existing in Hangzhou, the PRC, and its scope of business includes “research and development of network mall technology, computer software and hardware, network technology product, multimedia product; services: design, debugging and maintenance of system integration; provision of computer technology consulting and service as well as e-commerce platform support; economic information consulting (including commodity intermediary) (exclusive of business activities prohibited and restricted by the state and any business activity subject to the license system may not be carried out until relevant license is obtained)”;

**WHEREAS** , Party A needs Party B to provide it with services relating to Party A Business (as defined below) and Party B agrees to provide such services to Party A.

**NOW, THEREFORE** , upon friendly discussions, the Parties agree as follows:

## **ARTICLE I      DEFINITIONS**

1.1 Unless otherwise indicated herein or otherwise interpreted in the context, the following terms shall have the following meanings in this Agreement:

“ **Party A Business** ” means all of the business activities operated and developed by Party A now and at any time during the validity term hereof.

“ **Services** ” means the services to be provided by Party B on an exclusive basis to Party A in relation to Party A Business, including, without limitation:

- (1) licensing to Party A of relevant software duly possessed by Party B and required for Party A Business;
- (2) providing economic information, computer technology, commerce and management consulting services and advices to Party A;
- (3) providing business plan, design and marketing proposal to Party A;
- (4) routine management, maintenance and updating of hardware equipment and database/software resources and customer resources;
- (5) providing to Party A the information technology/overall management and operation solution as required for Party A Business;
- (6) development, maintenance and updating of relevant application software as required for Party A Business;
- (7) providing business training, support and assistance to relevant personnel of Party A; and

(8) other relevant services provided from time to time at Party A's request.

- “ **Annual Business Plan** ” means the Party A Business development plan and budget report for the next calendar year to be prepared by Party A in accordance with this Agreement by November 30 of each year with the assistance of Party B.
- “ **Service Fees** ” means all the fees payable by Party A to Party B under Article III hereof in respect of the services provided by Party B.
- “ **Business-Related Intellectual Property** ” means any and all intellectual properties developed by Party A on the basis of the Services provided by Party B hereunder in relation to Party A Business.
- “ **Confidential Information** ” has the meaning ascribed to it in Section 6.1 hereof.
- “ **Defaulting Party** ” has the meaning ascribed to it in Section 12.1 hereof.
- “ **Default** ” has the meaning ascribed to it in Section 12.1 hereof.
- “ **Party's Rights** ” has the meaning ascribed to it in Section 14.5 hereof.

1.2 In this Agreement, any reference to any laws and regulations (“ **Laws** ”) shall be deemed to include:

- (1) a reference to such Laws as modified, amended, supplemented or reenacted, effective either before or after the date hereof; and
- (2) a reference to any other decision, circular or rule made thereunder or effective as a result thereof.

1.3 Unless otherwise required by the context, a reference to an article, section, clause or paragraph herein shall be a reference to an article, section, clause or paragraph of this Agreement.

**ARTICLE II            SERVICES**

- 2.1     During the validity term hereof, Party A exclusively entrusts Party B to provide the Services, and Party B shall, in accordance with the requirements of Party A Business, diligently provide the Services to Party A. The Parties understand that, the services actually provided by Party B shall be limited to the approved business scope of Party B; if the Services required by Party A from Party B exceed the approved business scope of Party B, Party B shall apply for an extension of business scope to the maximum extent permitted by Laws and may provide relevant Services after its application for extension of business scope being approved.
- 2.2     For the purpose of the provision of the Services hereunder, Party B shall communicate and exchange with Party A information pertaining to Party A Business.
- 2.3     Notwithstanding any other provisions hereof, Party B shall have the right to designate any third party to provide any or all of the Services hereunder or fulfill, in lieu of Party B, Party B's obligations hereunder. Party A hereby agrees that Party B has the right to assign to any third party its rights and interests hereunder.

**ARTICLE III           SERVICE FEES**

- 3.1     In connection with the Services provided by Party B hereunder, Party A shall pay the Services Fees to Party B in the following ways:
  - 3.1.1    The Parties agree upon negotiation that, as for the Services provided by Party B to Party A in each calendar year during the validity term hereof, Party A shall pay relevant Service Fees to Party B on an annual basis; and
  - 3.1.2    The Parties agree upon negotiation that, as for any specific services provided by Party B from time to time at Party A's request, Party A shall otherwise pay Service Fees to Party B.
- 3.2     Party B shall promptly issue the payment notice and the VAT special invoice to Party A and settle accounts on an annual basis. Party A shall pay the above Service Fees (inclusive of taxes) to Party B within one month after receiving the invoice.
- 3.3     The Parties agree that, subject to compliance with mandatory provisions of Laws and regulations, the scope of Services specified in and the amount of Service Fees payable under Sections 3.1 and 3.2 hereof may be determined and adjusted by the Parties based on suggestions made by Party B from time to time. Party A shall not refuse Party B's suggestions without reasonable grounds.

3.4 The Parties shall respectively assume their own tax payment and withholding obligations (if any) according to applicable Laws.

**ARTICLE IV OBLIGATIONS OF PARTY A**

4.1 Party B's Services hereunder shall be exclusive; during the validity term hereof, without prior written consent of Party B, Party A shall not enter into any agreement with any third party or accept from such third party services identical or similar to the Services of Party B in any other ways.

4.2 Party A shall, by November 30 of each year, provide to Party B its fixed Annual Business Plan for the next year such that Party B may prepare the relevant Services plan and procure required personnel and services resources. If Party A needs Party B to procure additional personnel on an ad hoc basis, it shall consult with Party B fifteen (15) days in advance so as to reach mutual agreement.

4.3 In order to facilitate Party B's provision of the Services, Party A shall at Party B's request provide in a timely manner such information as required by Party B.

4.4 Party A shall in accordance with Article III hereof pay the full amount of the Service Fees in a timely manner.

4.5 Party A shall maintain its own good reputation, actively expand its business and seek maximization of its profits.

4.6 During the validity term hereof, Party A agrees to cooperate with Party B and its (direct or indirect) parent company to carry out auditing of related party transactions and all kinds of auditing, provide information and materials relating to operation, business, customer, finance and employee of Party A to Party B, its parent company or its entrusted auditor, and agrees to the disclosure of such information and materials by Party B's parent company for the purpose of satisfying the regulatory requirements of the place where its securities are listed.

**ARTICLE V INTELLECTUAL PROPERTY**

5.1 All of the work products which are either originally owned by Party B or acquired by it during the term hereof, including the intellectual property to and in the work results created during its provision of the Services, shall belong to Party B.

5.2 Considering that the conduct of Party A Business is dependent upon the Services provided by Party B hereunder, Party A agrees to the following arrangement with respect to the Business-Related Intellectual Property developed on the basis of such Services:

- (i) If the Business-Related Intellectual Property is developed and derived by Party A under Party B's entrustment or is derived by Party A through joint development with Party B, then such Business-Related Intellectual Property and relevant intellectual property application right shall be owned by Party B;
- (ii) If the Business-Related Intellectual Property is derived by Party A through independent development, then it shall be owned by Party A, provided that: (A) Party A shall timely inform Party B of the details of such Business-Related Intellectual Property and shall provide relevant documents reasonably required by Party B; (B) if Party A intends to license or transfer such Business-Related Intellectual Property, Party A shall, to the extent not contrary to mandatory requirements of PRC Laws, transfer the same to Party B or grant an exclusive license to Party B on a preemptive basis, and Party B may use such Business-Related Intellectual Property within the specific scope of transfer or license (however, Party B may determine in its discretion whether to accept such transfer or license); if and only if Party B has waived its right to preemptive purchase or its right to exclusive license with respect to such Business-Related Intellectual Property, Party A may then transfer the title of, or license, such Business-Related Intellectual Property, to a third party on terms and conditions no more favorable than those proposed to Party B (including, without limitation, transfer price or royalty) but shall ensure that such third party shall fully comply with and perform the obligations to be performed by Party A hereunder; (C) except in the case of a circumstance described in (B), during the term hereof, Party B shall have the right to demand to purchase such Business-Related Intellectual Property, and in the event that such a request is so made, Party A shall, to the extent not contrary to mandatory requirements of PRC Laws, agree to such purchase request of Party B at the lowest purchase price then permissible by PRC Laws.

5.3 In the event that Party B is granted, in accordance with Section 5.2(ii) hereof, an exclusive license to use the Business-Related Intellectual Property, such license shall comply with the following requirements:



- (i) The term of the license shall be no less than five (5) years (from the date of effectiveness of relevant license agreement);
- (ii) The scope of the rights granted under the license shall be as broad as possible;
- (iii) During the term of and within the scope of the license, no one (including Party A) other than Party B shall use or license another party to use such Business-Related Intellectual Property in any way;
- (iv) To the extent not contrary to Section 5.3(iii) hereof, Party A shall have the right to relicense, in its discretion, such Business-Related Intellectual Property to any other party;
- (v) Upon expiry of the term of the license, Party B shall have the right to demand to renew the license agreement and Party A shall grant its consent, and upon such renewal the terms of such license agreement shall remain unchanged other than amendments thereto which have been confirmed by Party B.

5.4 Notwithstanding the above Section 5.2(ii), if, according to applicable Laws, any Business-Related Intellectual Property described therein cannot be established without any ownership registration, then application for such ownership registration shall be dealt with as follows:

- (i) If Party A intends to file an application for ownership registration with respect to any Business-Related Intellectual Property described herein, it shall first obtain written consent from Party B;
- (ii) If and only if Party B has waived its right to purchase the application for ownership registration for such Business-Related Intellectual Property, Party A may then file such application for ownership registration on its own or assign such right to a third party. If such ownership registration application right is so transferred to a third party, Party A shall ensure that such third party shall fully comply with and perform the obligations to be performed by Party A hereunder; in addition, the terms on which Party A transfers such ownership registration application right to a third party (including, without limitation, transfer price) shall not be more favorable than those proposed by Party A to Party B under Section 5.4(iii) hereof;

- (iii) During the term hereof, Party B may at any time request Party A to file an application for ownership registration with respect to such Business-Related Intellectual Property and may decide in its discretion whether to purchase the right to file an application for ownership registration. If so requested by Party B, Party A shall, to the extent not contrary to the mandatory requirements of PRC Laws, transfer such right to file applications for ownership registration to Party B at the lowest transfer price then permissible by PRC Laws; once Party B has been granted with the application right for ownership registration of Business-Related Intellectual Property, files the application for ownership registration and completes such registration, Party B shall become the lawful owner of such ownership registration.

- 5.5 Each Party undertakes to the other Party that it will indemnify the other Party against any and all economic losses suffered by the other Party as a result of its infringement of third party intellectual properties (including copyrights, trademark rights, patent rights and know-hows).

## ARTICLE VI CONFIDENTIALITY OBLIGATIONS

- 6.1 Irrespective of whether this Agreement has been terminated, each of the Parties shall maintain in strict confidence the business secrets, proprietary information, customer information and all other information of a confidential nature of the other Party coming into its knowledge during the entry into and performance of this Agreement (“**Confidential Information**”). Except where prior written consent has been obtained from the Party disclosing the Confidential Information or where disclosure to a third party is mandated by relevant laws or regulations or by the rules of the place of listing of an affiliate of a Party, the Party receiving the Confidential Information shall not disclose any Confidential Information to any third party; the Party receiving the Confidential Information shall not use, either directly or indirectly, any Confidential Information other than for the purpose of performing this Agreement.
- 6.2 The following information shall not constitute the Confidential Information:
- (a) any information which, as shown by written evidence, has previously been known to the receiving Party by way of legal means;
  - (b) any information which enters the public domain other than as a result of a fault of the receiving Party; or
  - (c) any information lawfully acquired by the receiving Party from another source subsequent to the receipt of relevant information.
- 6.3 A receiving Party may disclose the Confidential Information to its relevant employees, agents or its appointed professionals, provided that such receiving Party shall ensure that such persons shall comply with relevant terms and conditions of this Agreement and that it shall assume any liability arising out of any breach by such persons of relevant terms and conditions of this Agreement.

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- 6.4 Notwithstanding any other provisions of this Agreement, the validity of this article shall not be affected by any termination of this Agreement.

## ARTICLE VII REPRESENTATIONS AND WARRANTIES BY PARTY A

Party A hereby represents and warrants to Party B that:

- 7.1 It is a limited liability company duly registered and lawfully existing under PRC Laws with independent legal personality, has full and independent legal status and capacity to execute, deliver and perform this Agreement and may sue or be sued as an independent party.
- 7.2 It has full internal corporate power and authority to execute and deliver this Agreement and all other documents to be executed by it in connection with the transactions contemplated hereunder as well as full power and authority to consummate the transactions contemplated hereunder. This Agreement will be lawfully and duly executed and delivered by it, and will constitute its legal and binding obligations enforceable against it in accordance with its terms.
- 7.3 It shall timely inform Party B of any circumstance which has or is likely to have a material adverse effect on Party A Business or operation thereof and shall use its best efforts to prevent the occurrence of such circumstance and/or the expansion of losses.
- 7.4 Without written consent of Party B, Party A will not dispose of its material assets or change its current shareholding structure in whatsoever manner.
- 7.5 When this Agreement takes effect, it has complete licenses and certificates necessary for conduct of its business, full rights and qualifications to carry out Party A Business currently conducted by it within the PRC.
- 7.6 Once requested by Party B in writing, Party A will use all receivables then in its possession and/or other assets lawfully owned by it and at its disposal to provide security for performance of its payment obligation of the Services Fees agreed in Article III hereof in a manner then permissible by Laws.
- 7.7 It will indemnify and hold harmless Party B against all losses suffered or likely to be suffered by Party B as a result of provision of the Services, including, without limitation, any losses arising out of any suit, recourse, arbitration, claim brought by any third party against it or any administrative investigation or sanction by any governmental authorities, but exclusive of any losses arising out of any willful misconduct or gross negligence of Party B.

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- 7.8 Without written consent of Party B, Party A shall not enter into any other agreement or arrangement conflicting with this Agreement or likely to impair the rights and interests of Party B hereunder.

**ARTICLE VIII REPRESENTATIONS AND WARRANTIES BY PARTY B**

Party B hereby represents and warrants to Party A that:

- 8.1 It is a limited liability company duly registered and lawfully existing under PRC Laws with independent legal personality, has full and independent legal status and capacity to execute, deliver and perform this Agreement and may sue or be sued as an independent party.
- 8.2 It has full internal corporate power and authority to execute and deliver this Agreement and all other documents to be executed by it in connection with the transactions contemplated hereunder as well as full power and authority to consummate the transactions contemplated hereunder. This Agreement will be lawfully and duly executed and delivered by it, and will constitute its legal and binding obligations enforceable against it in accordance with its terms.

**ARTICLE IX TERM OF AGREEMENT**

- 9.1 This Agreement shall be formed as from the date when it is duly executed by the Parties. Once formed, the effectiveness of this Agreement shall be retrospective to January 10, 2018. The validity term of this Agreement shall be twenty (20) years, except as specifically specified hereunder or early terminated by Party B upon a written notice. Upon expiry of the term, unless Party B has by a thirty (30) days' notice notified the Party A not to renew, this Agreement shall be automatically renewed for one (1) year and will continue to be so renewed.
- 9.2 If either of Party A or Party B fails to complete relevant approval and registration procedures to extend its business term upon expiry thereof, this Agreement shall terminate on the expiry date of the business of Party A or Party B. The Parties shall complete the approval and registration procedures for extension of business term within three (3) months prior to expiry of their respective business terms so that this Agreement shall continue in effect.
- 9.3 Upon termination hereof, Party A shall continue to comply with its obligations under Article VI hereof.

**ARTICLE X      INDEMNIFICATION**

Party A will indemnify and hold harmless Party B against all losses suffered or likely to be suffered by Party B as a result of provision of Services, including, without limitation, any losses arising out of any suit, recourse, arbitration, claim brought by any third party against it or any administrative investigation or sanction by any governmental authorities, but exclusive of any losses arising out of any willful misconduct or gross negligence of Party B.

**ARTICLE XI      NOTICES**

- 11.1 Any notice, request, demand and other correspondences required by or made pursuant to this Agreement shall be made in writing and delivered to the relevant Parties.
- 11.2 Such notice or other correspondences shall be deemed delivered when it is transmitted if transmitted by fax or email; or upon delivery if delivered in person; or two (2) days after posting if delivered by mail.

**ARTICLE XII      LIABILITY FOR DEFAULT**

- 12.1 The Parties agree and acknowledge that if any Party (“ **Defaulting Party** ”) substantially breaches any provision hereunder, or substantially fails to perform or substantially delays in performing any obligations hereunder, such breach, failure or delay shall constitute a default hereunder (“ **Default** ”) and that in such event, the non-defaulting Party shall have the right to demand the Defaulting Party to cure such Default or take remedial measures within a reasonable time. If the Defaulting Party fails to cure such Default or take remedial measures within such reasonable time or within ten (10) days after the non-defaulting Party notifies the Defaulting Party in writing and requests it to cure such Default, and if the Defaulting Party is Party A, the non-defaulting Party may elect, in its discretion, to (1) terminate this Agreement and demand the Defaulting Party to fully indemnify for damage; or (2) demand enforced performance by the Defaulting Party of its obligations hereunder and full indemnification from the Defaulting Party for damage; if the Defaulting Party is Party B, the non-defaulting Party shall have the right to demand continued performance by the Defaulting Party of its obligations hereunder and full indemnification from the Defaulting Party for damage.
- 12.2 Notwithstanding Section 12.1 above, the Parties agree and acknowledge that unless otherwise stipulated by Laws or this Agreement, Party A shall in no event be permitted to demand to terminate this Agreement on the ground of any reason.

12.3 Notwithstanding any other provisions of this Agreement, the validity of this Article XII shall not be affected by any termination of this Agreement.

### **ARTICLE XIII FORCE MAJEURE**

If there occurs an earthquake, typhoon, flood, fire, war, computer virus, tool software design loophole, hacking attack on the Internet, change of policy or law or any other force majeure event which is unforeseeable and whose consequences are insurmountable or unavoidable and a Party is directly affected thereby in its performance of this Agreement or is prevented thereby from performing this Agreement on agreed terms, such prevented Party shall immediately notify the other Party by fax of the same and shall within thirty (30) days provide an evidencing document to be issued by the notary organ of the place of the force majeure event setting forth the details of such force majeure and the reasons for such failure to perform, or for the need for postponed performance of, this Agreement. The Parties shall in light of the extent of the effect of such force majeure event on the performance of this Agreement, agree on whether to waive performance of part of this Agreement or to permit postponed performance thereof. No Party shall be held liable to indemnify the other Party against its economic losses resulting from a force majeure event.

### **ARTICLE XIV MISCELLANEOUS**

14.1 This Agreement is made in Chinese in five (5) originals, of which one (1) copy shall be held by the Company, one (1) copy shall be used for governmental approval/registration purposes and the remaining copies shall be kept by Party B.

14.2 The entry into, effectiveness, performance, modification and interpretation of, and resolution of dispute under, this Agreement shall be governed by the Laws of the People's Republic of China.

14.3 Dispute Resolution

14.3.1 All disputes arising out of or in connection with this Agreement shall be first settled by the Parties through amiable consultations; if they fail to resolve the dispute through consultations, the dispute shall be submitted to China International Economic and Trade Arbitration Commission ("CIETAC") for arbitration according to CIETAC arbitration rules in effect at the time of applying for arbitration. The seat of arbitration shall be in Hangzhou. The arbitration award shall be final and binding on the Parties. Except as otherwise required by the arbitration award, the arbitration fees shall be borne by the losing party. The losing party shall also indemnify for the attorneys' fee and other expenses incurred by the winning party.

- 14.3.2 Pending the resolution of such dispute, the Parties shall continue to perform the remaining provisions of this Agreement other than the disputed matters.
- 14.4 No right, power or remedy empowered to any Party by any provision of this Agreement shall preclude any other right, power or remedy enjoyed by such Party in accordance with Laws or any other provisions hereof and no exercise by a Party of any of its rights, powers and remedies shall preclude its exercise of its other rights, powers and remedies.
- 14.5 No failure or delay by a Party in exercising any right, power or remedy under this Agreement or Laws (“ **Party’s Rights** ”) shall result in a waiver of such rights; and no single or partial waiver by a Party of the Party’s Rights shall preclude such Party from exercising such rights in any other way or exercising the remaining part of the Party’s Rights.
- 14.6 The section headings herein are inserted for convenience of reference only and shall in no event be used in or affect the interpretation of the provisions hereof.
- 14.7 Each provision contained herein shall be severable and independent of any other provisions hereof, and if at any time any one or more provisions hereof become invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not be affected thereby.
- 14.8 Once executed, this Agreement shall replace any other legal documents previously entered into by the Parties in respect of the same subject matter hereof. Any amendments or supplements to this Agreement shall be made in writing. Except for the transfer of rights hereunder by Party B according to Section 14.9 hereof, such amendments or supplements shall become effective only if they are duly signed by the Parties hereto.
- 14.9 Without prior written consent of Party B, Party A shall not assign any of its rights and/or obligations hereunder to any third party. Party A agrees that Party B shall have the right to unilaterally transfer any right and/or obligation hereunder to any third party without prior written consent of Party A, provided that a written notification to this effect shall be sent to Party A.
- 14.10 This Agreement shall be binding upon the legal assignees, successors, creditors and other persons that might consequently acquire the equity interests in or relevant rights of the Parties.

14.11 The Parties undertake to each file and pay, in accordance with Laws, the taxes involved in the transaction hereunder.

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**(EXECUTION PAGE ATTACHED SEPARATELY)**

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[Signature Page to Zhejiang Tmall Network Co., Ltd. Exclusive Services Agreement]

Party A

[Seal of Zhejiang Tmall Network Co., Ltd.]

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Zhejiang Tmall Network Co., Ltd.

(Seal)

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[Signature Page to Zhejiang Tmall Network Co., Ltd. Exclusive Services Agreement]

Party B

[Seal of Zhejiang Tmall Technology Co., Ltd.]

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(Seal)

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## SUBSCRIPTION AGREEMENT

THIS SUBSCRIPTION AGREEMENT (this “Agreement”) is entered into by and between Cainiao Smart Logistics Network Limited, an exempted limited liability company organized under the laws of the Cayman Islands (the “Company”), and the undersigned (“Investor”) as of the date set forth on the signature page of the Company. Capitalized terms used but not defined herein shall have the meaning set forth in that certain Second Amended and Restated Shareholders Agreement, dated as of March 22, 2016 (as amended from time to time, the “Shareholders Agreement”), by and among the Company, Investor and the other parties thereto.

WHEREAS, Investor desires to subscribe for newly issued Ordinary Shares by way of making a cash contribution to the Company in an aggregate amount equal to the U.S. dollar equivalent of RMB5,322,360,000 and the Company desires to issue to Investor an aggregate of 1,064,472,000 Ordinary Shares (the “Transaction”);

WHEREAS, in connection with the Transaction, the Company intends to undertake an issuance of a total of 1,200,000,000 Ordinary Shares (the “New Issuance”) at a price per share equal to the U.S. dollar equivalent of RMB 5 (the “Offer Price”); and

WHEREAS, pursuant to the Investor’s exercise of its Right of Participation under Section 5 of the Shareholders Agreement in connection with the New Issuance, the Company will issue and allot to Investor, and Investor will subscribe for and purchase, that number of Ordinary Shares set forth on Schedule 1 hereto (the “Subscription Shares”), subject to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the representations contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

### **Section 1. Purchase of the New Securities**

1.1 Purchase of the New Securities. Subject to the terms and conditions set forth herein, the Company hereby agrees to issue and allot to Investor, and Investor hereby subscribes for and agrees to purchase from the Company, on the Closing Date, the Subscription Shares at a per share price equal to the Offer Price.

1.2 Purchase Price. In consideration for the issuance by the Company of the Subscription Shares to Investor, Investor shall pay to the Company, at the Closing, the U.S. dollar equivalent of the RMB amount set forth on Schedule 1 hereto (the “Purchase Price”), calculated based on a per share price equal to the Offer Price. The Purchase Price shall be determined based on the average middle exchange rate ( 汇率中间价 ) of U.S. dollar to Renminbi posted by the People’s Bank of China over the five (5) Business Days immediately prior to the third (3rd) Business Day prior to the Closing Date.

1.3 Closing. Subject to the terms and conditions set forth herein, the issuance and subscription of the Subscription Shares (the “Closing”) shall take place via the remote exchange of electronic documents and signatures on a date (the “Closing Date”) that is no later than the sixth (6th) Business Day after the satisfaction or waiver of all of the conditions to the Closing set forth in Sections 4 and 5 (except for those conditions which by their nature are to be satisfied at the Closing, but subject to the satisfaction or waiver thereof) or at such other time as the Company and Investor may mutually agree in writing.

1.4 Investor Closing Deliverables. Subject to the terms and conditions of this Agreement, at the Closing, Investor shall pay to the Company an amount in U.S. dollars equal to the Purchase Price, by wire transfer of immediately available funds in U.S. dollars to the bank account of the Company set forth in Schedule 2.

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1.5 Company Closing Deliverables. Subject to the terms and conditions of this Agreement, at the Closing, the Company shall deliver to Investor:

(a) a scanned copy of the full register of members of the Company relating to the Ordinary Shares, dated as of the Closing Date and duly certified by a director of the Company, which reflects (x) the Subscription Shares owned by Investor and (y) the Ordinary Shares owned by each existing holder of Ordinary Shares (with an original copy of such register of members of the Company relating to the Ordinary Shares, duly certified by the Cayman registered agent of the Company, to be delivered to Investor within seven (7) Business Days following the Closing);

(b) a scanned copy of the full register of directors of the Company, dated as of the Closing Date and duly certified by a director of the Company, which reflects the appointment of the Alibaba Directors and such persons designated by the other Major Shareholders to serve as Directors, in each case in accordance with the terms of the Amended Articles (as defined below) (with an original copy of such register of directors of the Company, duly certified by the Cayman Registered agent of the Company, to be delivered to Investor within seven (7) Business Days following the Closing);

(c) the Third Amended and Restated Shareholders Agreement in the form attached hereto as Exhibit A, duly executed by the Company, BVI Sub, HK Sub and Cainiao Tech, which shall be effective as of the Closing; and

(d) a scanned copy of the original share certificate in the name of Investor, dated as of the Closing Date and duly executed by a director of the Company, evidencing Investor's ownership of the Subscription Shares (with the original copy of such share certificate to be delivered to Investor within seven (7) Business Days following the Closing).

## **Section 2. Company's Representations and Warranties**

The Company hereby represents and warrants to Investor, as of the date hereof and as of the Closing Date (except for such representations and warranties that speak as of a specified date, in which case, such representations and warranties shall be made as of such specified date), as follows:

2.1 Organization, Standing and Qualification. The Company is duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation, and has all requisite corporate power and authority to own its properties and assets and to carry on its business as now conducted, and to perform each of its obligations hereunder. The Company is duly qualified to transact business and is in good standing in every jurisdiction in which the character of the business conducted by it makes such qualification necessary, except where the failure to be so qualified would not have a material adverse effect on the business, operations or financial condition of the Company.

2.2 Due Authorization and Enforceability. The Company has all requisite power and authority to execute, deliver and carry out and perform its obligations under this Agreement. All action on the part of the Company (and, as applicable, its officers, directors and/or shareholders) necessary to authorize the execution and delivery of this Agreement, the performance of all obligations of the Company hereunder and the issuance, sale, transfer and delivery of the Subscription Shares by the Company has been taken or will be taken prior to the Closing. This Agreement has been duly executed and delivered by the Company. Assuming due execution and delivery of this Agreement by Investor, this Agreement constitutes valid and legally binding obligations of the Company, enforceable against the Company in accordance with its terms, except (i) as limited by applicable bankruptcy, insolvency, reorganization, moratorium, and other laws of general application affecting enforcement of creditors' rights generally, and (ii) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies and to general equity principles.

2.3 No Conflicts. Neither the execution, delivery or performance of or compliance with this Agreement nor the consummation of the transactions contemplated hereby by the Company, will (a) result in any violation or breach of the Company's constitutional documents, (b) result in any violation, breach or default under any material contract to which the Company is a party or by which any of its properties or assets are bound, (c) violate any applicable statute, rule, regulation, order or restriction of any jurisdiction or any instrumentality or agency thereof ("Applicable Law"), or (d) require any consents, waivers, permits, approvals, orders, licenses, authorizations, registrations, qualifications, designations, declarations or filings by or with any Governmental Authority or any third party (collectively, "Approvals"). including without limitation waivers of preemptive rights, rights of first refusal or other similar rights in respect of the Subscription Shares (other than Approvals which will have been obtained or granted prior to the Closing), except in the cases of subsections (b), (c) and (d) as would not, individually or in the aggregate, reasonably be expected to result in a material adverse effect on the business, operations or financial condition of the Company or adversely impact in any material respect the ability of the Company to consummate the transactions contemplated hereby.

2.4 Valid Issuance of Shares. The Subscription Shares, when issued, sold and delivered in accordance with the terms of this Agreement for the consideration expressed herein, will be duly and validly issued, fully paid and non-assessable, free and clear of all liens and encumbrances (except for any liens and encumbrances created by Investor) and will be free of restrictions on transfer (except for any restrictions on transfer set forth in the Shareholders Agreement or the Company's constitutional documents or any restrictions on transfer under applicable securities laws and regulations).

2.5 Exempt Offering. Subject to the accuracy of the representations and warranties of Investor set forth in Section 3 below, the offer, sale and issuance of the Subscription Shares in conformity with the terms of this Agreement are exempt from the qualification, registration and prospectus delivery requirements of the United States Securities Act of 1933, as amended (the "*Act*"), and each other analogous provision of applicable securities law.

2.6 No Other Representations and Warranties. Except for the representations and warranties contained in this Agreement, the Company makes no other representation or warranty with respect to the Company, any of its subsidiaries or its business, and the Company disclaims any other representations or warranties, whether made by the Company, any affiliate of the Company or any of their respective officers, directors, employees, agents or representatives.

### **Section 3. Investor's Representations and Warranties**

Investor hereby represents and warrants to the Company, as of the date hereof and as of the Closing Date (except for such representations and warranties that speak as of a specified date, in which case, such representations and warranties shall be made as of such specified date), as follows:

3.1 Organization, Standing and Qualification. Investor is duly organized, validly existing and in good standing (or equivalent status in the relevant jurisdiction) under, and by virtue of, the laws of the place of its incorporation or establishment, and has all requisite corporate power and authority to own its properties and assets and to carry on its business as now conducted and as proposed to be conducted, and to perform each of its obligations under this Agreement.

3.2 Due Authorization and Enforceability. Investor has all requisite corporate power and authority to execute, deliver and carry out and perform its obligations under this Agreement. All action on the part of Investor (and, as applicable, its officers, directors and/or shareholders) necessary to authorize the execution and delivery of this Agreement and the performance of all obligations of Investor hereunder, has been taken or will be taken prior to the Closing. This Agreement has been duly executed and delivered by Investor. Assuming due execution and delivery of this Agreement by the Company, this Agreement constitutes valid and legally binding obligations of Investor, enforceable against Investor in accordance with its terms, except (i) as limited by applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting creditors' rights generally, and (ii) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies and to general equitable principles.

3.3 No Conflicts. Neither the execution, delivery or performance of or compliance with this Agreement nor the consummation of the transactions contemplated hereby by Investor, will (a) result in any violation or breach by Investor of any of its constitutional documents (b) result in any violation, breach of default under any material contract to which Investor is party or by which any of its properties or assets are bound, (c) violation any Applicable Law or (d) require any Approvals, except in the cases of subsections (b), (c) and (d), as would not, individually or in the aggregate, reasonably be expected to adversely impact in any material respect the ability of Investor to consummate the transactions contemplated hereby.

3.4 Accredited Investor. Investor is either (i) not a "U.S. Person" as defined in Rule 902 of Regulation S of the Act, or (ii) an "accredited investor" within the meaning of Rule 501(a) under Regulation D of the Act.

3.5 Purchase for Own Account. The Subscription Shares will be acquired for Investor's own account (or, if applicable, for the account of Investor's beneficial owners, who are in each case an "accredited investor" within the meaning of Rule 501(a) under Regulation D of the Act), not as a nominee or agent, and not with a view to or in connection with the sale or distribution of any part thereof, and Investor has no present intention of selling, granting any participation in, or otherwise distributing the same. The entire legal and beneficial interest of the Subscription Shares is being purchased, and will be held, for Investor's account only (or, if applicable, for the account of Investor's beneficial owners, who are in each case an "accredited investor" within the meaning of Rule 501 (a) under Regulation D of the Act), and neither in whole or in part for any other Person. By executing this Agreement, Investor further represents that it does not have any contract with any person to, directly or indirectly, sell, transfer or grant participations, with respect to any of the Subscription Shares, and has not solicited any person for such purpose. Investor further represents that none of its beneficial owners have been organized for the purpose of acquiring the Subscription Shares and none of Investor's beneficial owners have discretionary investment authority with respect to the Subscription Shares.

3.6 Exempt from Registration; Restricted Securities. Investor understands that the Subscription Shares have not been registered under the Act or registered or listed publicly pursuant to any other applicable securities laws and regulations, on the ground that the sale provided for in this Agreement is exempt from registration under the Act or the registration or listing requirements of any other applicable securities laws and regulations, and that the reliance of the Company on such exemption is predicated in part on Investor's representations set forth in this Agreement. Investor understands that the Subscription Shares are restricted securities within the meaning of Rule 144 under the Act and, subject to the Company's obligations related to registration rights to be granted pursuant to the Shareholders Agreement, the Company has no obligation to register or qualify the Subscription Shares for resale; that the Subscription Shares are not registered or listed publicly and must be held indefinitely unless they are subsequently registered or listed publicly or an exemption from such registration or listing is available. Investor further acknowledges that if such exemption from registration or qualification is available, it may be conditioned on various requirements including without limitation the time and manner of sale, the holding period for the Subscription Shares and on requirements relating to the Company which are outside of Investor's control, and which the Company is under no obligation and may not be able to satisfy.

3.7 Disclosure of Information. Investor and its advisors have been afforded the opportunity to ask questions of and receive answers from representatives of the Company regarding the terms and conditions of the offering of the Subscription Shares and relating to the business, management, finances and operations of the members of the Group Companies.

3.8 Knowledge and Experience of Investor; Non-Reliance. Investor is experienced in evaluating and investing in private placement transactions of securities of companies in a similar stage of development and acknowledges that it can bear the economic risk of its investment and has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of an investment of a nature similar to that contemplated hereby. Investor is relying solely on its own counsel and other advisors for legal, financial and other advice with respect to the transactions contemplated by this Agreement. Investor further acknowledges and agrees that the Company has not made and is not making any representations or warranties whatsoever regarding the subject matter of this Agreement, express or implied, except as provided in Section 2.

3.9 Financing. Investor has cash (or commitment that payment shall be made on be-half of Investor) available (or binding commitments to ensure cash available prior to the Closing) which is sufficient to purchase the Subscription Shares and to pay all related fees and expenses for which Investor will be responsible, and affirms that it is not a condition to the Closing or any of its other obligations under this Agreement that Investor obtains financing for or related to any of the transactions contemplated hereby. The funds used by Investor to purchase the Subscription Share will be obtained without violation of any Applicable Law.

3.10 Legends. Investor understands that any sale or transfer of the Subscription Shares is subject to the restrictions on such sale or transfer contained in the Shareholders Agreement and that the certificates evidencing the Subscription Shares issued pursuant to this Agreement may bear the following legend:

“THE SALE, PLEDGE, HYPOTHECATION OR TRANSFER OF THE SECURITIES REPRESENTED BY THIS CERTIFICATE IS SUBJECT TO CERTAIN RESTRICTIONS ON TRANSFER SET FORTH IN A SHAREHOLDERS AGREEMENT, AS AMENDED, A COPY OF WHICH MAY BE OBTAINED UPON WRITTEN REQUEST TO THE SECRETARY OF THE COMPANY.”

#### **Section 4. Investor’s Conditions to Closing**

The obligation of Investor to consummate the Closing is subject to the fulfillment at or before the Closing, unless otherwise waived in writing by Investor, of the following conditions:

4.1 Representations and Warranties. (i) The representations and warranties of the Company in Section 2 shall be true and correct in all material respects as of the date of this Agreement and as of the Closing Date as though made on and as of such date (except to the extent expressly made as of a specified date, which shall be so true and correct as of such specified date); provided that each representation and warranty made by the Company in Sections 2.1 and 2.2 shall be true and correct in all respects as of the date of this Agreement and as of the Closing Date.

4.2 Performance of Obligations. The Company shall have performed and complied in all material respects with all agreements and covenants contained in this Agreement that are required to be performed or complied with by it at or before the Closing.

4.3 Compliance Certificate. At the Closing, the Company shall have executed and delivered to Investor a certificate, dated as of the Closing Date, executed by a duly authorized director or officer of the Company, certifying that each of the conditions specified in Sections 4.1 and 4.2 have been fulfilled.

4.4 No Illegality. There shall not be in effect any Applicable Law enjoining, restraining or otherwise prohibiting or making illegal the consummation by the Company of any of the transactions contemplated by this Agreement.

4.5 Investor Shareholding. Immediately after giving effect to the New Issuance, the total number of Ordinary Shares held by Investor shall represent more than 50% of the total number of issued and outstanding Ordinary Shares.

4.6 Amended Articles. At the Closing, the Fifth Amended and Restated Memorandum and Articles of Association of the Company in the form attached hereto as Exhibit B (the “Amended Articles”) shall have been duly adopted by the Company by all necessary corporate action of the Board and the Shareholders and shall be effective as of the Closing.

## **Section 5. Company’s Conditions to Closing**

The obligation of the Company to consummate the Closing is subject to the fulfillment at or before the Closing, unless otherwise waived in writing by the Company, of the following conditions:

5.1 Representations and Warranties. The representations and warranties of Investor contained in Section 3 hereof shall be true and correct in all material respects as of the date of this Agreement and as of the Closing Date (except to the extent expressly made as of a specified date, which shall be so true and correct as of such specified date); provided that each representation and warranty made by Investor in Sections 3.1 and 3.2 shall be true and correct in all respects as of the date of this Agreement and as of the Closing Date.

5.2 Performance of Obligations. Investor shall have performed and complied in all material respects with all agreements and covenants contained in this Agreement that are required to be performed or complied with by it at or before the Closing.

5.3 Compliance Certificate. At the Closing, Investor shall deliver to the Company a certificate, dated as of the Closing Date, executed by a duly authorized director or officer of Investor, certifying that the conditions specified in Sections 5.1 and 5.2 have been fulfilled.

5.4 No Illegality. There shall not be in effect any Applicable Law enjoining, restraining or otherwise prohibiting or making illegal the consummation by Investor of any of the transactions contemplated by this Agreement.

5.5 Investor Shareholding. Immediately after giving effect to the New Issuance, the total number of Ordinary Shares held by Investor shall represent more than 50% of the total number of issued and outstanding Ordinary Shares.

**Section 6. Right of Participation**

6.1 Right of Participation. By agreeing to purchase the Subscription Shares hereby, Investor acknowledges that it is exercising its Right of Participation set forth in Section 5 in the Shareholders Agreement with respect to the issuance of the Offered Shares,

**Section 7. Termination**

7.1 Termination. This Agreement may be terminated at any time prior to the Closing Date (a) by mutual written agreement of the Company and Investor or (b) by either the Company or Investor by serving a written notice to the other party hereto, if the Closing shall not have occurred prior to 5:00 PM Hong Kong time, on October 31, 2017, unless such date is extended by mutual written agreement of the Company and Investor (the “End Date”), provided that a party hereto shall not be entitled to terminate this Agreement pursuant to this subsection (b) if such party is then in material default or breach of this Agreement, which default or breach has caused the failure of the Closing to occur on or prior to the End Date.

7.2 Effect of Termination. Upon any termination of this Agreement under this Section 7, this Agreement shall forthwith become wholly void and of no effect with respect to the parties hereto and the parties hereto shall be released from all future obligations hereunder, except as otherwise expressly provided herein; provided that (i) nothing herein shall relieve any such party from liability for any breach of this Agreement occurring prior to such termination and (ii) the provisions of this Section 7 and Section 8 shall remain in final force and effect and survive any termination of this Agreement pursuant to this Section 7.

**Section 8. Miscellaneous**

8.1 Governing Law. This Agreement shall be governed by and construed exclusively in accordance the laws of Hong Kong.

8.2 Successors and Assigns; No Third Party Beneficiaries. Except as otherwise expressly provided herein, the provisions hereof shall inure to the benefit of, and be binding upon, the successors, assigns, heirs, executors and administrators of the parties hereto whose rights or obligations hereunder are affected by such amendments. This Agreement and the rights and obligations hereunder may not be assigned by any party without the prior written consent of the other party. A person who is not a party to this Agreement shall not have any right under the Contracts (Rights of Third Parties) Ordinance.

8.3 Entire Agreement. This Agreement and the schedules and exhibits hereto, which are hereby expressly incorporated herein by this reference, constitute the entire understanding and agreement between the parties with regard to the subject matter hereof.

8.4 Counterparts. For the convenience of the parties, any number of counterparts of this Agreement may be executed by the parties hereto and each such executed counterpart shall be deemed to be an original instrument.

8.5 Notices. All notices and other communications provided for herein and all legal process in regard hereto shall be given, made or served in accordance with Section 12.1 of the Shareholders Agreement.



8.6 Amendments and Waivers. Any term of this Agreement may be amended only with the written consent of the Company and Investor. Any term of this Agreement may be waived only with the written consent of the party against whom such waiver is effective.

8.7 Delays or Omissions. No delay or omission to exercise any right, power or remedy accruing to any party hereto, upon any breach or default of the other party hereto under this Agreement, shall impair any such right, power or remedy of such party, nor shall it be construed to be a waiver of any such breach or default, or of an acquiescence therein, or of any similar breach or default thereafter occurring; nor shall it be construed to be any waiver of any other breach or default theretofore or thereafter occurring. Any waiver, permit, consent or approval of any kind or character on the part of any party hereto of any breach or default under this Agreement or any waiver on the part of any party hereto of any provisions or conditions of this Agreement, must be in writing and shall be effective only to the extent specifically set forth in such writing. All remedies, either under this Agreement or by law or otherwise afforded to any party hereto, shall be cumulative and not alternative.

8.8 Interpretation: Titles and Subtitles. This Agreement shall be construed according to its fair language. The rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement. The titles of the sections and subsections of this Agreement are for convenience of reference only and are not to be considered in construing this Agreement. Unless otherwise expressly provided herein, all references to Sections, Schedules and Exhibits herein are to Sections, Schedules and Exhibits of this Agreement.

8.9 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument. Facsimile and e-mailed copies of signatures in portable document format (PDF) shall be deemed to be originals for purposes of the effectiveness of this Agreement.

8.10 Severability. If any provision of this Agreement is found to be invalid or unenforceable, then such provision shall be construed, to the extent feasible, so as to render the provision enforceable and to provide for the consummation of the transactions contemplated hereby on substantially the same terms as originally set forth herein, and if no feasible interpretation would save such provision, it shall be severed from the remainder of this Agreement, which shall remain in full force and effect unless the severed provision is essential to the rights or benefits intended by the parties. In such event, the parties shall use their best efforts to negotiate, in good faith, a substitute, valid and enforceable provision or agreement which most nearly reflects the parties' intent in entering into this Agreement.

8.11 Dispute Resolution. The parties agree to resolve any disputes arising out of or relating to this Agreement in accordance with Section 12.5 of the Shareholders Agreement.

8.12 Expenses. Each party hereto will bear its own legal, accounting and out-of-pocket costs and expenses incurred by such party in connection with the negotiation, execution and delivery of this Agreement and the consummation of the transactions contemplated hereby.

8.13 Confidentiality and Non-Disclosure. The terms and conditions of this Agreement and all exhibits and schedules attached hereto constitutes Confidential Information and shall be subject to Section 9 of the Shareholders Agreement.

*[Signature page follows]*

IN WITNESS WHEREOF, the Company and Investor have executed this Agreement as of the date set forth on the signature page of the Company.

ALICN INVESTMENT HOLDING LIMITED

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Name of Investor

By: /s/ Timothy Alexander Steinert

Name: Timothy Alexander Steinert

Title: Authorized Signatory

*[Signature Page to Subscription Agreement]*

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IN WITNESS WHEREOF, the Company and Investor have executed this Agreement as of the date set forth below.

CAINIAO SMART LOGISTICS NETWORK LIMITED

By: /s/ Liu Zheng  
Name: Liu Zheng  
Title: Chief Financial Officer

Date: 2017/9/25

*[Signature Page to Subscription Agreement]*

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EXECUTION VERSION

DATED 20 NOVEMBER 2017

**CONCORD GREATER CHINA LIMITED**

**and**

**TAOBAO CHINA HOLDING LIMITED**

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**SHARE PURCHASE AGREEMENT**

relating to the sale and purchase of  
shares in A-RT Retail Holdings Limited

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#### **ENCLOSURES**

Enclosure A	(Seller Share Exchange and Transfer Agreement)
Enclosure B	(Kofu Share Exchange and Transfer Agreement)
Enclosure C	(New Shareholders Agreement)
Enclosure D	(Business Cooperation Agreement)
Enclosure E	(Legal opinion)

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THIS AGREEMENT is made the 20th day of November, 2017

**PARTIES:**

1. **CONCORD GREATER CHINA LIMITED**, a company incorporated in the British Virgin Islands under registration number 306919, whose registered office is at Palm Grove House, PO Box 438, Road Town, Tortola, British Virgin Islands (the “**Seller**”); and
2. **TAOBAO CHINA HOLDING LIMITED**, a company incorporated in Hong Kong under registration number 842504, whose registered office is at 26/F, Tower One, Times Square, 1 Matheson Street, Causeway Bay, Hong Kong (the “**Purchaser**”).

**BACKGROUND:**

- (A) As at the date hereof, the Company is held by the Seller, Kofu, Auchan and Monicole as to approximately 25.42%, 23.58%, 36.70% and 14.30% respectively.
  - (B) As at the date hereof, Listco is held by the Company, the Seller, Kofu and Auchan as to approximately 51.00%, 8.46%, 7.84% and 9.71% respectively.
  - (C) Pursuant to the Share Exchange and Transfer Agreements:
    - (i) the Seller and Kofu have conditionally agreed to sell, and Auchan has conditionally agreed to purchase, an aggregate of 35,631,491 Shares (representing approximately 19.04% of the issued share capital of the Company), in consideration of the transfer of an aggregate of 926,418,766 ordinary shares in Listco (representing approximately 9.71% of the issued share capital of Listco) by Auchan to the Seller and Kofu; and
    - (ii) the Seller and Kofu have conditionally agreed to sell, and Monicole has conditionally agreed to purchase, an aggregate of 1,684,156 Shares (representing approximately 0.90% of the issued share capital of the Company) at an aggregate consideration of HK\$284,622,364.
  - (D) Immediately following the completion of the Share Exchange and Transfer Agreements, the Company will be held by the Seller, Kofu, Auchan and Monicole as to approximately 15.08%, 13.98%, 55.74% and 15.20% respectively.
  - (E) Immediately following the completion of the Share Exchange and Transfer Agreements, Listco will be held by the Company, the Seller and Kofu as to approximately 51.00%, 13.50% and 12.52% respectively, and Auchan will have no direct shareholding in Listco.
  - (F) The Seller has agreed to sell and the Purchaser has agreed to purchase the Sale Shares on the terms and subject to the conditions of this Agreement.
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THE PARTIES AGREE as follows:

**1. Interpretation**

1.1 In this Agreement, the Schedules and the Attachments to it:

- “ **2010 Shareholders Agreement** ” means the Share Restructuring Agreement and Shareholders Agreement in relation to Sun Holdings Greater China Limited dated 12 December 2010 between Auchan (formerly Auchanhyper SAS), Monicole (formerly Monicole BV), the Seller and Kofu;
- “ **2013 Shareholders Agreement** ” means the Shareholders Agreement in relation to A-RT Retail Holdings Limited and Sun Art Retail Group Limited dated 14 August 2013 between Auchan (formerly Auchanhyper SAS), Monicole (formerly Monicole BV), the Seller and Kofu;
- “ **AC Group Company** ” means any Group Company that is not an RTM Group Company;
- “ **Agreed Exchange Rate** ” means the USD/HKD spot fixing rate, as observed on Bloomberg page “USDHKD” currency with code “BFIX” at 11 a.m. (Hong Kong time) on the Business Day that is two Business Days prior to the Completion Date;
- “ **Agreed Tax Period** ” has the meaning ascribed thereto in Schedule 6 (PRC Tax reporting);
- “ **Auchan** ” Auchan Retail International S.A., a company incorporated in France with limited liability;
- “ **Audited Accounts** ” means the audited consolidated financial statements of the Group (including the notes thereto) in respect of the three financial years ended 31 December 2014, 2015 and 2016;
- “ **Bulletin No. 7** ” means Bulletin No. 7 issued by the PRC State Administration of Taxation on February 3, 2015, titled “Bulletin on Certain Questions relating to the Enterprise Income Tax of Indirect Transfers of Assets by Non-Resident Enterprises (关于非居民企业间接转让财产企业所得税若干问题的公告)”, and any amendment, implementing rules, or official interpretation thereof or any replacement, successor or alternative legislation having the same subject matter thereof;
- “ **Business Cooperation Agreement** ” means the business cooperation agreement entered or to be entered into between 杭州阿里巴巴 泽泰信息技术有限公司 (Hangzhou Alibaba Zetai Information Technology Company Limited), Listco, 欧尚(中国)投资有限公司 (Auchan (China) Investment Co., Ltd.) and 康成投资(中国)有限公司 (Concord Investment (China) Co., Ltd.), the agreed form of which is set out in Enclosure D;



<b>“ Business Day ”</b>	means a day (other than a Saturday or a Sunday) on which banks are open for general business in Hong Kong, the British Virgin Islands, France, the PRC and Taiwan;
<b>“ Business Information ”</b>	means all information (in whatever form held) including (without limitation) all: <ul style="list-style-type: none"> <li>(i) formulas, designs, specifications, drawings, know-how, manuals and instructions;</li> <li>(ii) customer lists, sales, marketing and promotional information;</li> <li>(iii) business plans and forecasts;</li> <li>(iv) technical or other expertise; and</li> <li>(v) all accounting and tax records, correspondence, orders and inquiries;</li> </ul>
<b>“ Circular 698 ”</b>	means the Circular regarding strengthening the Administration of Enterprise Income Tax on Equity Transfers by Non-Resident Enterprises issued by the State Administration of Taxation of the PRC on 10 December 2009 (Guoshuihan [2009] No. 698), and any amendment, implementing rules, or official interpretation thereof or any replacement, successor or alternative legislation having the same subject matter thereof;
<b>“ Company ”</b>	means A-RT Retail Holdings Limited, a company incorporated in Hong Kong with limited liability;
<b>“ Completion ”</b>	means completion of the sale and purchase of the Sale Shares under this Agreement;
<b>“ Completion Date ”</b>	means the 15th Business Day following the day on which the last in time of the conditions listed in <u>Schedule 1</u> (Conditions to Completion) (other than the conditions listed in <u>paragraphs 7 and 8 of Schedule 1</u> (Conditions to Completion)) shall have been satisfied or waived in accordance with this Agreement or such other date as the parties may agree;

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<b>“ Disclosure Letter ”</b>	means the letter of the same date as this Agreement written by the Seller to the Purchaser for the purposes of <u>sub-clause 8.1</u> (Purchaser’s remedies) and delivered to the Purchaser’s Solicitors on behalf of the Purchaser before the execution of this Agreement;
<b>“ Due Diligence Materials ”</b>	means all of the documents provided by the Seller to the Purchaser in connection with the transactions contemplated under this Agreement, and delivered by or on behalf of the Seller to the Purchaser’s Solicitors on behalf of the Purchaser in a USB drive before the execution of this Agreement;
<b>“ Encumbrance ”</b>	means any mortgage, charge, pledge, lien (otherwise than arising by statute or operation of law), hypothecation or other encumbrance, priority or security interest, deferred purchase, title retention, leasing, sale-and-repurchase or sale-and-leaseback arrangement whatsoever over or in any property, assets or rights of whatsoever nature and includes any agreement for any of the same;
<b>“ Final Tax Amount ”</b>	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
<b>“ Final Tax Event ”</b>	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
<b>“ Fundamental Seller Warranties ”</b>	means the Seller Warranties set out in <u>paragraphs 1</u> (Ownership and status of the Sale Shares) and <u>2</u> (Capacity) of <u>Part 1</u> of <u>Schedule 3</u> and <u>paragraphs 1</u> (Incorporation, capacity and authorisation), <u>3</u> (Corporate particulars), <u>4</u> (No outstanding securities) and <u>5</u> (Interests in Listco) of <u>Part 2</u> of <u>Schedule 3</u> ;
<b>“ Group ”</b>	means the Company and its subsidiaries from time to time, and “ <b>Group Company</b> ” means any of them;
<b>“ HKFRSs ”</b>	means Hong Kong Financial Reporting Standards
<b>“ Hong Kong ”</b>	means the Hong Kong Special Administrative Region of the PRC;
<b>“ Hong Kong Dollars ”</b> or “ <b>HKD</b> ” or “ <b>HKS</b> ”	means the lawful currency of Hong Kong;
<b>“ Intellectual Property ”</b>	means patents, trade marks, rights in designs, copyrights, database rights (whether or not any of these is registered and including applications for registration of any such thing), domain names and all rights or forms of protection of a similar nature or having equivalent or similar effect to any of these which may subsist anywhere in the world;



“ <b>Joint Instruction</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
“ <b>Kofu</b> ”	means Kofu International Limited, a company incorporated in the British Virgin Islands with limited liability;
“ <b>Kofu Share Exchange and Transfer Agreement</b> ”	means the share exchange and transfer agreement entered or to be entered into on the date hereof between Auchan, Monicole and Kofu in respect of certain Shares and shares in Listco, the agreed form of which is set out in <u>Enclosure B</u> ;
“ <b>Kofu SPA</b> ”	means the share purchase agreement entered or to be entered into on the date hereof between Kofu and the Purchaser in respect of shares in the Company;
“ <b>Kofu Listco SPA</b> ”	means the share purchase agreement entered or to be entered into on the date hereof between Kofu and the Purchaser in respect of shares in Listco;
“ <b>Listco</b> ”	means Sun Art Retail Group Limited, a company incorporated in Hong Kong with limited liability, the shares of which are listed on the Stock Exchange (Stock Code: 6808);
“ <b>Listco SPA</b> ”	means the share purchase agreement entered or to be entered into on the date hereof between the Seller and the Purchaser in respect of shares in Listco;
“ <b>Listing Rules</b> ”	means the Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited;
“ <b>Long Stop Date</b> ”	means the day falling three months after the date of this Agreement;
“ <b>Material Adverse Effect</b> ”	means a material adverse effect on or a material adverse change in: <ul style="list-style-type: none"> <li>(i) the condition (financial or otherwise), assets, operations, prospects or business of the Company or any RTM Group Company, or the consolidated condition (financial or otherwise), assets, operations, prospects or business of the Group taken as a whole;</li> </ul>

- (ii) the ability of the Seller to perform and comply with its obligations under the Share Purchase Documents to which it is a party; or
- (iii) the validity or enforceability of, or the rights or remedies of the Purchaser under any of the Share Purchase Documents,

and excluding the effect of (a) any change in financial markets; (b) any change in major supply and customer markets generally unless such change adversely affects the Group in a materially disproportionate manner; and (c) any event or condition arising solely out of an act or omission committed by any Group Company upon the written consent or written direction of the Purchaser or by the Purchaser itself;

<b>“ Mega ”</b>	means Mega International Commercial Bank Co., Ltd., a banking institution incorporated under the laws of the Republic of China;
<b>“ Monicole ”</b>	means Monicole Exploitatie Maatschappij BV, a company incorporated in the Netherlands with limited liability;
<b>“ New Shareholders Agreement ”</b>	means the shareholders agreement entered or to be entered into between the Purchaser, Auchan, Monicole, the Seller, Kofu and the Company, the agreed form of which is set out in <u>Enclosure C</u> ;
<b>“ Postponed Long Stop Date ”</b>	means the Long Stop Date as postponed in accordance with <u>sub-clause 3.5</u> (Conditions);
<b>“ PRC ”</b>	means the People’s Republic of China excluding, for the purpose of this Agreement, Hong Kong, the Macao Special Administrative Region and Taiwan;
<b>“ Proceedings ”</b>	means any proceeding, suit or action arising out of or in connection with this Agreement or the negotiation, existence, validity or enforceability of this Agreement, whether contractual or non-contractual;

“ <b>Process Agent</b> ”	means The Law Debenture Corporation (H.K.) Limited of Suite 413, Hutchinson House, 10 Harcourt Road, Central, Hong Kong;
“ <b>Purchase Price</b> ”	has the meaning ascribed thereto in <u>sub-clause 5.1</u> (Consideration);
“ <b>Purchaser Indemnity Release Instruction</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
“ <b>Purchaser Release Instructions</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting) and “ <b>Purchaser Release Instruction</b> ” shall be construed accordingly;
“ <b>Purchaser Tax Release Instruction</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
“ <b>Purchaser Warranties</b> ”	means the warranties set out in <u>Clause 7.1</u> (Purchaser Warranties) given by the Purchaser and any other warranties made by or on behalf of the Purchaser in this Agreement and “ <b>Purchaser Warranty</b> ” shall be construed accordingly;
“ <b>Purchaser’s Group</b> ”	means the Purchaser, its subsidiaries and subsidiary undertakings, any holding company of the Purchaser and all other subsidiaries and subsidiary undertakings of any such holding company from time to time;
“ <b>Purchaser’s Solicitors</b> ”	means Slaughter and May of 47/F, Jardine House, One Connaught Place, Central, Hong Kong;
“ <b>Regulatory Authority</b> ”	means any federal, state, national, provincial, local or other governmental or regulatory authority, agency or body, court, arbitrator or self-regulatory organisation of applicable jurisdictions;
“ <b>Relevant PRC Tax Authority</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
“ <b>Reporting Agent</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
“ <b>Reporting Transactions</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
“ <b>Retained Group</b> ”	means the Seller, its subsidiaries and subsidiary undertakings from time to time, any holding company of the Seller and all other subsidiaries or subsidiary undertakings of any such holding company (except members of the Group);

“ **RMB** ” means the lawful currency of the PRC;

“ **RTM Group Company** ” means any Group Company of which a majority of the board of directors are appointed by or on behalf of the Seller and/or Kofu and, for the avoidance of doubt, includes (prior to Completion) Concord Champion International Ltd., RT-Mart Holdings Limited and Concord Investment (China) Limited;

“ **Sale Shares** ” means the 19,321,330 Shares legally and beneficially owned by the Seller;

“ **Seller No-Tax Release Instruction** ” has the meaning ascribed thereto in Schedule 6 (PRC Tax reporting);

“ **Seller Release Instructions** ” has the meaning ascribed thereto in Schedule 6 (PRC Tax reporting) and “ **Seller Release Instruction** ” shall be construed accordingly;

“ **Seller Share Exchange and Transfer Agreement** ” means the share exchange and transfer agreement entered or to be entered into on the date hereof between Auchan, Monicole and the Seller in respect of certain Shares and shares in Listco, the agreed form of which is set out in Enclosure A;

“ **Seller Tax Release Instruction** ” has the meaning ascribed thereto in Schedule 6 (PRC Tax reporting);

“ **Seller Warranties** ” means the warranties set out in Schedule 3 (Seller Warranties) given by the Seller and any other warranties made by or on behalf of the Seller in this Agreement and “ **Seller Warranty** ” shall be construed accordingly;

“ **Seller’s Designated Account** ” means the following bank account:

<b>Correspondent Bank :</b>	The Bank of New York Mellon
	Swift Code:
<b>Beneficiary Bank :</b>	DBS Bank (Hong Kong) Limited, Hong Kong
	Swift Code:
<b>Account Name :</b>	Concord Greater China Limited
<b>Account Number :</b>	

“ <b>Seller’s Solicitors</b> ”	means Clifford Chance LLP;
“ <b>Selling Taxes</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
“ <b>Service Document</b> ”	means a claim form, application notice, order or judgment;
“ <b>SFC</b> ”	means the Securities and Futures Commission of Hong Kong;
“ <b>SFO</b> ”	means the Securities and Futures Ordinance (Cap. 571 of the Laws of Hong Kong);
“ <b>Share Exchange and Transfer Agreements</b> ”	means the Seller Share Exchange and Transfer Agreement and the Kofu Share Exchange and Transfer Agreement;
“ <b>Share Purchase Documents</b> ”	means this Agreement, the Disclosure Letter, the Share Exchange and Transfer Agreements, the Listco SPA, the Kofu SPA, the Kofu Listco SPA, the New Shareholders Agreement, the Business Cooperation Agreement and any other documents entered into pursuant to any of them;
“ <b>Shareholder(s)</b> ”	means holder(s) of the Shares;
“ <b>Shareholders Agreements</b> ”	means the 2010 Shareholders Agreement and the 2013 Shareholders Agreement;
“ <b>Shares</b> ”	means ordinary shares in the capital of the Company;
“ <b>Stock Exchange</b> ”	means the Main Board of The Stock Exchange of Hong Kong Limited;
“ <b>Tax</b> ”	means (a) in the PRC: (i) any national, provincial, municipal, or local taxes, charges, fees, levies, or other assessments in the nature of tax, including, without limitation, all net income (including enterprise income tax and individual income withholding tax), turnover (including value-added tax, business tax, and consumption tax), resource (including urban and township land use tax), special purpose (including land value-added tax, urban maintenance and construction tax, and additional education fees), property (including urban real estate tax and land use fees), documentation (including stamp duty and deed tax), filing, recording, social insurance (including pension, medical, unemployment, housing, and other social insurance withholding), tariffs (including import duty and import value-added tax), and estimated and provisional taxes, charges, fees, levies, or other assessments of any kind whatsoever in the nature of tax, (ii) all interest, penalties (administrative, civil or criminal), or additional amounts imposed by any Regulatory Authority in connection with any item described in clause (i) above, and (iii) any form of transferor liability imposed by any Regulatory Authority in connection with any item described in clauses (i) and (ii) above, and (b) in any jurisdiction other than the PRC: all similar liabilities as described in clause (a) above;

“ <b>Tax Escrow Agreement</b> ”	means the escrow agreement to be entered into between the Seller, Kofu, the Purchaser and Mega on the Completion Date on the terms set out in <u>Schedule 6</u> (PRC Tax reporting);
“ <b>Tax Escrow Amount</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
“ <b>Tax Payment Receipt</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
“ <b>US Dollars</b> ” or “ <b>USD</b> ” or “ <b>US\$</b> ”	the lawful currency of the United States of America;
“ <b>Warranties</b> ”	means the Purchaser Warranties and the Seller Warranties; and
“ <b>Working Hours</b> ”	means 9.00 a.m. to 6.00 p.m. on a Business Day.

1.2 In this Agreement, unless otherwise specified:

- (A) references to clauses, sub-clauses, paragraphs, sub-paragraphs, Schedules and Attachments are to clauses, sub-clauses, paragraphs and sub-paragraphs of and Schedules and Attachments to, this Agreement;
- (B) references to any document in the “ **agreed form** ” means that document in a form agreed by the parties;
- (C) use of any gender includes the other genders;



- (D) a reference to any statute or statutory provision shall be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or re-enacted and shall include any subordinate legislation made from time to time under that statute or statutory provision;
- (E) references to a “ **company** ” shall be construed so as to include any corporation or other body corporate, wherever and however incorporated or established;
- (F) references to a “ **person** ” shall be construed so as to include any individual, firm, company, corporation, body corporate, government, state or agency of a state, local or municipal authority or government body or any joint venture, association or partnership (whether or not having separate legal personality);
- (G) the expressions “ **accounting reference date** ”, “ **accounting reference period** ”, “ **body corporate** ”, “ **holding company** ”, “ **subsidiary** ” and “ **subsidiary undertaking** ” shall have the meaning given in the Companies Ordinance (Cap. 622 of the Laws of Hong Kong);
- (H) references to “ **indemnify** ” and “ **indemnifying** ” any person against any circumstance include indemnifying and keeping him harmless on an after-Tax basis from all actions, claims and proceedings from time to time made against that person and all loss or damage and all payments, costs or expenses made or incurred by that person as a consequence of or which would not have arisen but for that circumstance;
- (I) any reference to a “ **day** ” (including the phrase “ **Business Day** ”) shall mean a period of 24 hours running from midnight to midnight;
- (J) references to times are to Hong Kong time;
- (K) any indemnity or obligation to pay (the “ **Payment Obligation** ”) being given or assumed on an “ **after-Tax basis** ” or expressed to be “ **calculated on an after-Tax basis** ” means that the amount payable pursuant to such Payment Obligation (the “ **Payment** ”) shall be calculated in such a manner as will ensure that, after taking into account:
- (i) any Tax required to be deducted or withheld from the Payment;
  - (ii) the amount and timing of any additional Tax which becomes payable as a result of the Payment’s being subject to Tax; and
  - (iii) the amount and timing of any Tax benefit which is obtained by the recipient of the Payment, to the extent that such Tax benefit is attributable to the matter giving rise to the Payment Obligation, the recipient of the Payment is in the same position as that in which it would have been if the matter giving rise to the Payment Obligation had not occurred (or, in the case of a Payment Obligation arising by reference to a matter affecting a person other than the recipient of the Payment, the recipient of the Payment and that other person are, taken together, in the same position as that in which they would have been had the matter giving rise to the Payment Obligation not occurred), provided that the amount of the Payment shall not exceed that which it would have been if it had been regarded for all Tax purposes as received solely by the recipient and not any other person;

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- (L) references to writing shall include any modes of reproducing words in a legible and non-transitory form and whether sent or supplied by electronic mail;
- (M) references to the knowledge of the Seller shall be treated as including any knowledge which each director appointed by the Seller and/or Kofu to the board of any Group Company would have if such director made all usual and reasonable enquiries;
- (N) references to any Hong Kong legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official, or any legal concept or thing shall in respect of any jurisdiction other than Hong Kong be deemed to include what most nearly approximates in that jurisdiction to the Hong Kong legal term;
- (O)
- (i) the rule known as the *ejusdem generis* rule shall not apply and accordingly general words introduced by the word “other” shall not be given a restrictive meaning by reason of the fact that they are preceded by words indicating a particular class of acts, matters or things; and
  - (ii) general words shall not be given a restrictive meaning by reason of the fact that they are followed by particular examples intended to be embraced by the general words;
- (P) all headings and titles are inserted for convenience only and are to be ignored in the interpretation of this Agreement; and
- (Q) the Schedules and Attachments form part of this Agreement and shall have the same force and effect as if expressly set out in the body of this Agreement, and any reference to this Agreement shall include the Schedules and Attachments.

## 2. Sale and purchase

- 2.1 The Seller shall sell, or procure the sale of, and the Purchaser shall purchase, the Sale Shares with all rights attached or accruing to them at Completion.
- 2.2 The Seller has the right to transfer legal and beneficial title to the Sale Shares.
- 2.3 The Sale Shares shall as at Completion be free from all charges and encumbrances and from all other rights exercisable by or claims by third parties.

2.4 The Purchaser shall be entitled to exercise all rights attached or accruing to the Sale Shares including, without limitation, the right to receive all dividends, distributions or any return of capital declared, paid or made by the Company on or after the Completion Date.

2.5 The Seller waives all rights of pre-emption over any of the Shares conferred upon it by the articles of association of the Company or in any other way and undertakes to take all steps necessary to ensure that any rights of pre-emption over any of the Shares are waived prior to Completion.

### 3. Conditions

3.1 The sale and purchase of the Sale Shares pursuant to this Agreement is in all respects conditional upon those matters listed in Schedule 1 (Conditions to Completion).

- 3.2 (A) The Seller will use all reasonable endeavours to fulfil or procure the fulfilment of the conditions listed in paragraphs 1 and 3 of Schedule 1 (Conditions to Completion) as soon as possible and in any event before the Long Stop Date and will notify the Purchaser in writing, as soon as reasonably practicable, of the satisfaction of each such condition.
- (B) The Purchaser will use all reasonable endeavours to fulfil or procure the fulfilment of the condition listed in paragraph 8 of Schedule 1 (Conditions to Completion) as soon as possible and in any event by 5.00 p.m. on the Completion Date and will notify the Seller in writing, as soon as reasonably practicable, of the satisfaction of each such condition.
- (C) Each of the Seller and the Purchaser will use all reasonable endeavours to fulfil or procure the fulfilment of the conditions listed in paragraphs 4 to 7 (inclusive) of Schedule 1 (Conditions to Completion) as soon as possible and in any event (in respect of paragraphs 4 to 6 (inclusive) of Schedule 1 (Conditions to Completion)) before the Long Stop Date and (in respect of paragraph 7 of Schedule 1 (Conditions to Completion)) by 5.00 p.m. on the Completion Date and will notify the other in writing, as soon as reasonably practicable after it becomes aware of the satisfaction of each such condition.

3.3 The Purchaser may waive in writing in whole or in part all or any of the conditions listed in paragraphs 1, 2, 7 and 8 of Schedule 1 (Conditions to Completion). The condition set out in paragraphs 3 to 6 (inclusive) of Schedule 1 (Conditions to Completion) may not be waived, in whole or in part, by any party.

3.4 Each of the Seller and the Purchaser undertakes to disclose in writing to the other anything which will or may prevent any of the conditions set out in Schedule 1 (Conditions to Completion) from being satisfied on or prior to the Long Stop Date (or subsequently) immediately after it comes to their attention. Without prejudice to the generality of the foregoing, this includes disclosure of any indication that any Regulatory Authority may intend to withhold its approval of, or raise an objection to, or withdraw any licence or authorisation following, or impose a condition on or following, the sale and purchase of the Sale Shares pursuant to this Agreement.

- 3.5 If any of the conditions set out in Schedule 1 (Conditions to Completion) (other than the conditions set out in paragraphs 7 and 8 of Schedule 1 (Conditions to Completion)) is not fulfilled or waived by the Purchaser or the Seller, as the case may be, by midnight on the Long Stop Date then:
- (A) if it was the obligation of the Seller to satisfy the relevant condition (or conditions) then the Purchaser may, in its absolute discretion, postpone the Long Stop Date by up to 10 Business Days; or
  - (B) if it was the obligation of the Purchaser to satisfy the relevant condition (or conditions) then the Seller may, in its absolute discretion, postpone the Long Stop Date by up to 10 Business Days; or
  - (C) if responsibility for satisfaction of the relevant condition or conditions falls either:
    - (i) upon each of the Seller and the Purchaser; or
    - (ii) upon neither the Seller nor the Purchaser,then the parties may postpone the Long Stop Date by agreement between them,

(the Long Stop Date, as so postponed, being the “ **Postponed Long Stop Date** ”).

3.6 If, in the circumstances set out in sub-clause 3.5, either:

    - (A) the Long Stop Date is not postponed; or
    - (B) any of the conditions remains to be fulfilled or waived, by midnight on the Postponed Long Stop Date,

subject to sub-clause 3.9, this Agreement shall be capable of termination by either the Purchaser or the Seller forthwith on written notice to the other provided that the party proposing to terminate has complied with its obligations under this clause 3 (Conditions).

3.7 If any of the conditions set out in paragraphs 7 and 8 of Schedule 1 (Conditions to Completion) is not fulfilled or waived by the Purchaser or the Seller, as the case may be, by 5.00 p.m. on the Completion Date then:

    - (A) if it was the obligation of the Seller to satisfy the relevant condition (or conditions) then the Purchaser may defer Completion by up to 10 Business Days (so that the provisions of clause 6 (Completion) shall apply to Completion as so deferred); or
    - (B) if it was the obligation of the Purchaser to satisfy the relevant condition (or conditions) then the Seller may defer Completion by up to 10 Business Days (so that the provisions of clause 6 (Completion) shall apply to Completion as so deferred); or
    - (C) if responsibility for satisfaction of the relevant condition or conditions falls either:
      - (i) upon each of the Seller and the Purchaser; or
      - (ii) upon neither the Seller nor the Purchaser,then the parties may defer Completion by agreement between them.

3.8 If, in the circumstances set out in sub-clause 3.7, either:

- (A) Completion is not deferred; or
- (B) any of the conditions remains to be fulfilled or waived, by 5.00 p.m. of the date of the Completion as so deferred,

subject to sub-clause 3.9, this Agreement shall be capable of termination by either the Purchaser or the Seller forthwith on written notice to the other provided that the party proposing to terminate has complied with its obligations under this clause 3 (Conditions).

3.9 If this Agreement terminates in accordance with sub-clause 3.6 or 3.8 and without limiting the Purchaser's or the Seller's (as the case may be) right to any right, power or remedy provided by law or under this Agreement:

- (A) and if the Seller has not, as at the relevant time, fulfilled its obligation to satisfy any condition set out in Schedule 1 (Conditions to Completion), the Seller will indemnify the Purchaser on demand on an after-Tax basis for all reasonable costs and expenses incurred by the Purchaser in accordance with sub-clause 17.2 (Costs and expenses); and
- (B) all obligations of the parties under this Agreement shall end except for those expressly stated to continue without limit in time but (for the avoidance of doubt) all rights and liabilities of the parties which have accrued before termination shall continue to exist.

#### **4. Conduct of business before Completion**

4.1 The Seller shall procure that, between the date of this Agreement and Completion, each RTM Group Company shall, and shall use all reasonable endeavours to procure that, between the date of this Agreement and Completion, each AC Group Company shall, carry on its business in the ordinary and usual course in the same manner as carried on during the six months preceding the date of this Agreement.

4.2 Without prejudice to the generality of sub-clause 4.1, the Seller shall procure that no RTM Group Company will, and shall use all reasonable endeavours to procure that no AC Group Company will, between the date of this Agreement and Completion, undertake any of the acts or matters listed in Schedule 4 (Conduct of Business before Completion) without the consent in writing of the Purchaser (not to be unreasonably withheld or delayed), save to the extent contemplated under the Share Purchase Documents.

4.3 Subject to applicable law, as from the date of this Agreement, the Seller shall procure (in respect of the RTM Group Companies), and shall use all reasonable endeavours to procure (in respect of the AC Group Companies) the provision of reasonable access in favour of the Purchaser and any persons authorised by it to the premises and all the books and records and title deeds of such Group Companies and the directors appointed by the Seller and/or Kofu and employees of the RTM Group Companies and each RTM Group Company will be instructed to give promptly all information and explanations to the Purchaser or any such persons as they may request, provided that the Purchaser and such persons authorised by it shall be bound by clause 16 (Confidentiality) in relation to any information received or obtained pursuant to this sub-clause 4.3.

**5. Consideration**

- 5.1 The total consideration for the sale of the Sale Shares shall be the payment by the Purchaser of an amount in US Dollars being the equivalent of HK\$3,265,304,770 as converted at the Agreed Exchange Rate (the “**Purchase Price**”) payable in accordance with clause 6 (Completion).
- 5.2 Any payment made by the Seller to the Purchaser under this Agreement shall (so far as possible) be treated as a reduction of the consideration for the Sale Shares to the extent of the payment.

**6. Completion**

- 6.1 Completion shall take place on the Completion Date at the offices of the Purchaser’s Solicitors at 47/F, Jardine House, One Connaught Place, Central, Hong Kong.
- 6.2 At Completion the Seller shall do those things listed in paragraphs 1, 2, 4 and 5 of Part A (Parties’ obligations) of Schedule 2 (Completion arrangements) and the Purchaser shall do those things listed in paragraph 3 of Part A (Parties’ obligations) of Schedule 2 (Completion arrangements). Completion shall take place in accordance with Part B (General) of Schedule 2 (Completion arrangements).
- 6.3 The Purchaser shall not be obliged to complete the sale and purchase of the Sale Shares unless the Seller complies with the requirements of sub-clause 6.2 and paragraphs 1, 2, 4 and 5 of Part A (Parties’ obligations) of Schedule 2 (Completion arrangements). The Seller shall not be obliged to complete the sale and purchase of the Sale Shares unless the Purchaser complies with the requirements of paragraph 3 of Part A (Parties’ obligations) of Schedule 2 (Completion arrangements).
- 6.4 Neither party shall be obliged to complete the sale and purchase of any of the Sale Shares unless:
- (A) the sale and purchase of all the Sale Shares is completed simultaneously; and
  - (B) this Agreement, the Kofu SPA, the Listco SPA (save for the Second Completion (as defined under the Listco SPA)) and the Kofu Listco SPA (save for the Second Completion (as defined under the Kofu Listco SPA)) are completed substantially contemporaneously.
- 6.5 If the obligations of the Seller under sub-clause 6.2 and paragraphs 1, 2, 4 and 5 of Part A (Parties’ obligations) of Schedule 2 (Completion arrangements) are not complied with on the Completion Date, the Purchaser may, and if the obligations of the Purchaser under sub-clause 6.2 and paragraph 3 of Part A (Parties’ obligations) of Schedule 2 (Completion arrangements) are not complied with on the Completion Date, the Seller may:
- (A) defer Completion (so that the provisions of this clause 6 shall apply to Completion as so deferred);

- (B) proceed to Completion as far as practicable (without limiting its rights under this Agreement); or
- (C) terminate this Agreement by notice in writing to the Seller or the Purchaser, as the case may be.
- 6.6 If this Agreement is terminated by the Purchaser in accordance with sub-clause 6.5 and without limiting either party's right to any right, power or remedy provided by law or under this Agreement:
- (A) the Seller will indemnify the Purchaser on demand on an after-Tax basis for all reasonable costs and expenses incurred by the Purchaser in accordance with sub-clause 17.2 (Costs and expenses); and
- (B) all obligations of the parties under this Agreement shall end except for those expressly stated to continue without limit in time but (for the avoidance of doubt) all rights and liabilities of the parties which have accrued before termination shall continue to exist.
- 6.7 The Seller undertakes to indemnify the Purchaser against any loss, expense or damage which it may suffer as a result of any document delivered to it pursuant to this clause being unauthorised, invalid or for any other reason ineffective for its purpose.
- 6.8 The Seller covenants with the Purchaser to pay to the Purchaser an amount calculated on an after-Tax basis equal to the value of any and all claims which may be made against any member of the Group by any of HUANG Ming-Tuan and CHENG Chuan-Tai, because of their resignation from office or of their employment being terminated and an amount equal to all costs, charges and expenses incurred by any member of the Group which are incidental to any such claim.
- 6.9 Payment by or on behalf of the Purchaser for the amount stated in sub-clause 5.1 (Consideration) in accordance with paragraph 3 of Part A (Parties' obligations) of Schedule 2 (Completion arrangements) shall constitute payment of the consideration for the Sale Shares and shall fully discharge the obligations of the Purchaser under sub-clause 2.1 (Sale and purchase).

## 7. Warranties

### Purchaser Warranties

- 7.1 The Purchaser warrants to the Seller, at the date of this Agreement, the Completion Date as if repeated immediately before the Completion Date by reference to the facts and circumstances subsisting at the Completion Date, on the basis that any reference in the Purchaser Warranties, whether express or implied, to the date of this Agreement is substituted by a reference to the Completion Date, that:
- (A) the Purchaser is validly incorporated, in existence and duly registered and has the requisite capacity, power and authority to enter into and perform this Agreement and to execute, deliver and perform any obligations it may have under each document to be delivered by the Purchaser at Completion;

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- (B) the obligations of the Purchaser under this Agreement constitute, and the obligations of the Purchaser at Completion will when delivered constitute, binding obligations of the Purchaser in accordance with their respective terms;
- (C) the execution and delivery of, and the performance by the Purchaser of its obligations under, this Agreement will not:
- (i) result in a breach of any provision of the memorandum or articles of association of the Purchaser; or
- (ii) result in a breach of, or constitute a default under, any instrument by which the Purchaser is bound; or
- (iii) result in a material breach of any statute, law, rule, regulation, order, judgment or decree of any court or governmental agency by which the Purchaser is bound; or
- (iv) require the consent or approval of the shareholders of the Purchaser or of any other person; and
- (D) the Purchaser will have at Completion immediately available on an unconditional basis (subject only to Completion) the necessary cash resources outside of mainland PRC to meet its obligations under this Agreement.
- 7.2 The Purchaser acknowledges and agrees that the Seller is a person connected with Listco (such expression shall be construed in accordance with section 287 of the SFO) and the Seller may possess inside information (as defined under the SFO) relating to the Group.

### Seller Warranties

- 7.3 The Seller warrants to the Purchaser that each of the Seller Warranties is accurate and not misleading at the date of this Agreement and will be accurate and not misleading at the Completion Date as if repeated immediately before Completion by reference to the facts and circumstances subsisting at that date on the basis that any reference in the Seller Warranties, whether express or implied, to the date of this Agreement is substituted by a reference to the Completion Date.
- 7.4 The Seller shall procure that no act shall be performed or omission allowed in the period between the date of this Agreement and Completion, either by itself or any member of the Retained Group or any RTM Group Company, which would result in any of the Seller Warranties being breached or

misleading at the time of Completion. The Seller shall further use all reasonable endeavours to procure that no act shall be performed or omission allowed in the period between the date of this Agreement and Completion by any AC Group Company which would result in any of the Seller Warranties given by it being breached or misleading at the time of Completion.

- 7.5 The Seller undertakes to disclose in writing to the Purchaser anything which is or may constitute a breach of or be inconsistent with any of the Seller Warranties promptly after it comes to its notice before or at the time of Completion.



- 7.6 The Seller undertakes (in the absence of fraud) that if any claim is made against it in connection with the sale of the Sale Shares to the Purchaser, no member of the Retained Group or the Group will make any claim against any member of the Group or any director, employee, agent or adviser of any member of the Group on whom it may have relied before agreeing to any term of this Agreement or authorising any statement in the Disclosure Letter.
- 7.7 Each of the Warranties shall be construed as being separate and independent and (except where expressly provided to the contrary) shall not be limited or restricted by reference to or inference from the terms of any other Warranty.
- 7.8 Without restricting the rights of the Purchaser or its ability to claim damages on any basis, in the event that any of the Seller Warranties is breached or is untrue or misleading, the Seller covenants with the Purchaser that the Seller will pay to the Purchaser or to such person as the Purchaser may direct an amount calculated on an after-Tax basis equal to the aggregate of:
- (A) the amount equal to any and all losses and damages suffered or incurred by the Purchaser in connection with the value of any asset or the amount of any liability of any member of the Group being or becoming respectively less than or greater than it would have been if the Seller Warranties had not been breached or not been untrue or misleading; and
  - (B) the amount equal to any and all losses and damages suffered or incurred by the Purchaser in connection with the profits or losses of any member of the Group being respectively less than or greater than would have been the case if the Seller Warranties had not been breached or not been untrue or misleading; and
  - (C) an amount equal to any costs and expenses incurred directly or indirectly as a result of or in connection with a claim pursuant to sub-paragraphs (A) or (B).
- 7.9 If in respect of or in connection with any breach of any of the Seller Warranties or any facts or matters warranted not being true and being misleading any amount payable by the Seller (whether under this clause 7 or otherwise) is subject to Tax in the hands of the recipient or the person beneficially entitled to such payment (the “**Recipient**”), the Seller shall pay such additional amounts so as to ensure that the net amount received by the Recipient is equal to the full amount payable by the Seller under this Agreement.
- 7.10 The Seller undertakes to indemnify the Purchaser on an after-Tax basis against all costs (including legal costs on an indemnity basis as defined in Rule 28(4A) of The Rules of the High Court (Cap. 4A of the Laws of Hong Kong) and expenses or other liabilities which the Purchaser may reasonably incur either before or after the commencement of any action in connection with:
- (A) the settlement of any claim that any of the Seller Warranties are untrue or misleading or have been breached or that any sum is payable under sub-clause 7.8;
  - (B) any legal proceedings in which the Purchaser claims that any of the Seller Warranties are untrue or misleading or have been breached or that any sum is payable under sub-clause 7.8 and in which judgment is given for the Purchaser; or

(C) the enforcement of any such settlement or judgment.

7.11 If the Seller or the Purchaser (as the case may be) defaults in the payment when due of any sum payable under this Agreement (whether determined by agreement or pursuant to an order of a court or otherwise), the liability of the Seller or the Purchaser (as the case may be) shall be increased to include interest on the balance of such sum outstanding from time to time from the date when such payment is due until the date of actual payment (after as well as before judgment) at a rate per annum of two per cent. above the 12-month Hong Kong Interbank Offered Rate as at the date when such payment is due. Such interest shall accrue from day to day, shall be compounded monthly and shall be payable on demand by the Purchaser or the Seller (as the case may be).

7.12 The Seller undertakes to comply with the obligations set out in Schedule 6 (PRC Tax reporting).

#### **8. Purchaser's remedies**

8.1 The Purchaser shall not be entitled to claim that any fact, matter or circumstance causes any of the Seller Warranties to be breached or renders any of the Seller Warranties misleading if it has been fairly disclosed in the Share Purchase Documents, the Disclosure Letter or the Audited Accounts in the absence of any fraud or dishonesty on the part of the Seller or its agents or advisers and only those matters so disclosed in the Share Purchase Documents, the Disclosure Letter or the Audited Accounts shall qualify the Seller Warranties.

8.2 No liability shall attach to the Seller in respect of claims under the Seller Warranties if and to the extent that the limitations referred to in sub-clause 8.1 apply, in the absence of any fraud or dishonesty on the part of the Seller or its agents or advisers.

8.3 The Seller's liability for any claims under this Agreement shall be limited or excluded, as the case may be, as set out in Schedule 5 (Limitations on Seller's Liability).

8.4 (A) If, between the execution of this Agreement and Completion, the Purchaser becomes aware (whether it does so by reason of any disclosure made under clause 7.3 (Seller Warranties) or not) that any of the Seller Warranties is or was inaccurate or misleading or that there has been any breach or breaches of any of the Seller Warranties or any other term of this Agreement, in each case having a Material Adverse Effect, the Purchaser may terminate this Agreement by notice in writing to the Seller.

(B) If this Agreement is terminated in accordance with sub-clause 8.4(A) (and without limiting the Purchaser's right to claim damages):

(i) the Seller will indemnify the Purchaser on demand on an after-Tax basis for all reasonable costs and expenses incurred by the Purchaser in accordance with sub-clause 17.2 (Costs and expenses); and

- (ii) all obligations of the Purchaser under this Agreement shall end (except for the provisions of clauses 15 (Announcements) and 16 (Confidentiality)),

but (for the avoidance of doubt) all rights and liabilities of the parties which have accrued before termination for breach of this Agreement shall continue to exist.

- (C) (For the avoidance of doubt but without limiting clause 10 (Remedies and waivers)), the Purchaser's right to terminate this Agreement in accordance with sub-clause 8.4(A) is not exclusive of any rights, powers and remedies provided by law.

8.5 If, following Completion, the Purchaser becomes aware that there has been any breach of the Seller Warranties or any other term of this Agreement, the Purchaser shall not be entitled to terminate this Agreement but shall be entitled to claim damages or exercise any other right, power or remedy under this Agreement or as otherwise provided by law.

## **9. Effect of Completion**

Any provision of this Agreement and any other documents referred to in it which is capable of being performed after but which has not been performed at or before Completion and all Warranties, indemnities, covenants and other undertakings and obligations contained in or entered into pursuant to this Agreement shall remain in full force and effect notwithstanding Completion.

## **10. Remedies and waivers**

10.1 No delay or omission by any party to this Agreement in exercising any right, power or remedy provided by law or under this Agreement or any other documents referred to in it shall:

- (A) affect that right, power or remedy; or
- (B) operate as a waiver of it.

10.2 The single or partial exercise of any right, power or remedy provided by law or under this Agreement shall not preclude any other or further exercise of it or the exercise of any other right, power or remedy.

10.3 The rights, powers and remedies provided in this Agreement are cumulative and not exclusive of any rights, powers and remedies provided by law.

## **11. Assignment**

No party shall without the prior written consent of the other party:

- (A) assign, or purport to assign, all or any part of the benefit of, or its rights or benefits under, this Agreement or any other Share Purchase Document (together with any causes of action arising in connection with any of them);

- (B) make a declaration of trust in respect of or enter into any arrangement whereby it agrees to hold in trust for any other person all or any part of the benefit of, or its rights or benefits under, this Agreement or any other Share Purchase Document; or
- (C) sub-contract or enter into any arrangement whereby another person is to perform any or all of its obligations under this Agreement or any other Share Purchase Document.

**12. Further assurance**

The Seller shall at its own cost, from time to time on request of the Purchaser, now or at any time in the future, do or procure the doing of all acts and/or execute or procure the execution of all documents in a form satisfactory to the Purchaser which the Purchaser may consider necessary for giving full effect to the Share Purchase Documents and securing to the Purchaser the full benefit of the rights, powers and remedies conferred upon the Purchaser in the Share Purchase Documents.

**13. Entire agreement**

- 13.1 The Share Purchase Documents constitute the whole and only agreement between the parties relating to the sale and purchase of the Sale Shares.
- 13.2 Except in the case of fraud, each party acknowledges that it is entering into the Share Purchase Documents in reliance upon only the Share Purchase Documents and that it is not relying upon any other pre-contractual statement.
- 13.3 For the purposes of this clause, “pre-contractual statement” means any draft, agreement, undertaking, representation, warranty, promise, assurance or arrangement of any nature whatsoever, whether or not in writing, relating to the subject matter of the Share Purchase Documents made or given by any person at any time prior to this Agreement becoming legally binding.
- 13.4 This Agreement may only be varied in writing signed by each of the parties.

**14. Notices**

- 14.1 A notice under this Agreement shall only be effective if it is in writing. E-mail is permitted.
- 14.2 Notices under this Agreement shall be sent to a party at its address or number and for the attention of the individual or department set out below:

<u>Party</u>	<u>Address</u>	<u>Facsimile no.</u>	<u>E-mail address</u>
Seller	c/o Concord Greater China Limited c/o Kofu International Limited 2nd Floor, Jonsim Place 228 Queen’s Road East, Wanchai Hong Kong  Attention: Regine Luk		

with a copy (which shall not constitute notice) to:

Clifford Chance LLP  
33rd Floor, China World Tower One  
1 Jianguomenwai Street  
Beijing 100004  
People's Republic of China

Attention: Terence Foo

Purchaser c/o Alibaba Group Services Limited  
26th Floor, Tower One, Times Square  
1 Matheson Street, Causeway Bay  
Hong Kong

Attention: General Counsel

with a copy (which shall not constitute notice nor impose any duty to notify Alibaba of such notice or any change in the details below) to:

Slaughter and May  
47/F, Jardine House  
One Connaught Place, Central  
Hong Kong

Attention: Benita Yu

Provided that a party may change its notice details on giving notice to the other party of the change in accordance with this clause 14. That notice shall only be effective on the day falling five clear Business Days after the notification has been received or such later date as may be specified in the notice.

- 14.3 Any notice given under this Agreement shall, in the absence of earlier receipt, be deemed to have been duly given as follows:
- (A) if delivered personally, on delivery;
  - (B) if sent by airmail, six clear Business Days after the date of posting;
  - (C) if sent by facsimile, at the expiration of 48 hours after the time it was sent; and
  - (D) if sent by e-mail, upon confirmation (electronic or otherwise) of delivery receipt of such e-mail.

14.4 Any notice given under this Agreement outside Working Hours in the place to which it is addressed shall be deemed not to have been given until the start of the next period of Working Hours in such place.

14.5 The provisions of this clause 14 shall not apply in relation to the service of Service Documents.

## **15. Announcements**

15.1 Neither party shall, and each party shall procure that each of its Relevant Persons shall not, make any announcement concerning the transaction contemplated under this Agreement or any Share Purchase Document or any ancillary matter without the prior written approval of the other party. This sub-clause does not apply in the circumstances described in sub-clause 15.2. For the purpose of this clause 15, a “ **Relevant Person** ”, in relation to the Seller, means (a) Ruentex Industries Limited, (b) Ruentex Development Co., Ltd. and (c) any member of the Retained Group and, in relation to the Purchaser, means any member of the Purchaser’s Group.

15.2 Either party, after consultation with the other party, may, and shall not be required to procure that any Relevant Person shall not, make an announcement concerning the transaction contemplated under this Agreement or any Share Purchase Agreement or any ancillary matter if required by:

- (A) law;
- (B) existing contractual obligations; or
- (C) any securities exchange or Regulatory Authority to which that party or Relevant Person (as the case may be) is subject, wherever situated, whether or not the requirement has the force of law,

in which case the first-mentioned party shall take all such steps as may be reasonable and practicable in the circumstances to agree the contents of the announcement with the other party before making the announcement.

15.3 The restrictions contained in this clause 15 shall continue to apply after Completion or the termination of this Agreement without limit in time.

## **16. Confidentiality**

16.1 Subject to clause 15 (Announcements) and sub-clause 16.2 :

- (A) each party shall treat as confidential and not disclose or use any information received or obtained as a result of entering into or performing the Share Purchase Documents which relates to:
  - (i) the provisions of the Share Purchase Documents; or
  - (ii) the negotiations relating to the Share Purchase Documents;

- (B) the Purchaser shall treat, and shall procure that each member of the Purchaser's Group shall treat, as confidential and not disclose or use any information concerning any member of the Retained Group and (prior to Completion) the Group obtained or received as a result of the negotiation and entering into of the Share Purchase Documents; and
- (C) the Seller shall treat, and shall procure that each member of the Retained Group shall treat, as confidential and not disclose or use any information concerning any member of the Purchaser's Group obtained or received as a result of the negotiation and entering into of the Share Purchase Documents.

16.2 Notwithstanding the provisions of sub-clause 16.1, a party may disclose or use any such confidential information if and to the extent:

- (A) required by applicable law of any relevant jurisdiction or for the purposes of any Proceedings;
- (B) required by any securities exchange or Regulatory Authority to which that party is subject, wherever situated, whether or not the requirement for information has the force of law;
- (C) required to vest the full benefit of any Share Purchase Document in that party;
- (D) the disclosure is made to the professional advisers, auditors and bankers of that party on a need to know basis and provided they have a duty to keep such information confidential;
- (E) the information has come into the public domain through no fault of that party; or
- (F) the other party has given prior written consent to the disclosure.

Provided that any such information disclosed pursuant to sub-clause 16.2(A) or (B) shall be disclosed only after notice has been given to the other party of such requirement with a view to providing the other party with the opportunity to contest such disclosure or use or otherwise agreeing the content and timing of such disclosure.

16.3 The restrictions contained in this clause 16 shall continue to apply after Completion or the termination of this Agreement without limit in time.

## 17. Costs and expenses

17.1 Except as otherwise stated in sub-clauses 17.2 and 17.3 and any other provision of this Agreement or the other Share Purchase Documents, each party shall pay its own costs and expenses in relation to the negotiations leading up to the sale and purchase of the Sale Shares and the preparation, execution and carrying into effect of this Agreement, the other Share Purchase Documents and all other documents referred to in this Agreement and the Seller confirms that no expense of whatever nature relating to the sale and purchase of the Sale Shares has been or is to be borne by any member of the Group.

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17.2 The Seller shall indemnify the Purchaser on demand on an after-Tax basis (and the amount payable under the indemnity may, without limiting the Purchaser's rights, be claimed as a debt or liquidated demand) in respect of all reasonable costs and expenses incurred by the Purchaser (including, but not limited to, the fees of all external legal advisers and their disbursements and out of pocket expenses):

- (A) in connection with investigating the affairs of the Group;
- (B) in connection with the negotiation, preparation, execution and carrying into effect of the Share Purchase Documents and all other documents forming part of the sale and purchase of the Sale Shares; and
- (C) in enforcing, perfecting, protecting or preserving or seeking to enforce, perfect, protect or preserve any of the Purchaser's rights, or in suing for or recovering any sum due from the Seller under this Agreement

if the Purchaser exercises its right to terminate or rescind this Agreement or not to proceed to Completion pursuant to sub-clauses 3.6 or 3.8 (Conditions), sub-clause 6.5 (Completion), or exercises its right to terminate this Agreement under sub-clause 8.4 (Purchaser's remedies) or any other provision of this Agreement or any document referred to in it.

17.3 Any stamp duty payable on the sale and purchase of the Sale Shares shall be borne equally by the Seller and the Purchaser.

## 18. Counterparts

18.1 This Agreement may be executed in any number of counterparts, and by the parties on separate counterparts, but shall not be effective until each party has executed at least one counterpart.

18.2 Each counterpart shall constitute an original of this Agreement, but all the counterparts shall together constitute but one and the same instrument.

## 19. Invalidity

If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that shall not affect or impair:

- (A) the legality, validity or enforceability in that jurisdiction of any other provision of this Agreement; or
- (B) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this Agreement.



**20. Contracts (Rights of Third Parties) Ordinance**

The parties do not intend that any term of this Agreement should be enforceable, by virtue of the Contracts (Rights of Third Parties) Ordinance (Cap. 623 of the Laws of Hong Kong), by any person who is not a party to this agreement.

**21. Choice of governing law**

This Agreement is to be governed by and construed in accordance with Hong Kong law. Any matter, claim or dispute arising out of or in connection with this Agreement, whether contractual or non-contractual, is to be governed by and determined in accordance with Hong Kong law.

**22. Jurisdiction**

22.1 The courts of Hong Kong are to have jurisdiction to settle any dispute, whether contractual or non-contractual, arising out of or in connection with this Agreement. Any Proceedings may be brought in the Hong Kong courts.

22.2 Each party waives (and agrees not to raise) any objection, on the ground of *forum non conveniens* or on any other ground, to the taking of Proceedings by the other party in any court in accordance with this clause. Each party also agrees that a judgment against it in Proceedings brought in any jurisdiction in accordance with this clause shall be conclusive and binding upon it and may be enforced in any other jurisdiction.

22.3 Each party irrevocably submits and agrees to submit to the jurisdiction of the Hong Kong courts and of any other court in which Proceedings may be brought.

**23. Agent for service**

23.1 The Seller irrevocably appoints the Process Agent (Attn: The Service Process Team) to be its agent for the receipt of Service Documents. It agrees that any Service Document may be effectively served on it in connection with Proceedings in Hong Kong by service on its agent effected in any manner permitted by Hong Kong law.

23.2 If the agent of the Seller at any time ceases for any reason to act as such, the Seller shall appoint a replacement agent having an address for service in Hong Kong and shall notify the Purchaser of the name and address of the replacement agent. Failing such appointment and notification, the Purchaser shall be entitled by notice to the Seller to appoint a replacement agent to act on behalf of the Seller. The provisions of this clause applying to service on an agent apply equally to service on a replacement agent.

23.3 A copy of any Service Document served on an agent of a party shall be sent by post to that party. Failure or delay in so doing shall not prejudice the effectiveness of service of the Service Document.

**24. Language**

24.1 Each notice, demand, request, statement, instrument, certificate, or other communication under or in connection with this Agreement shall be:

(A) in English; or

(B) if not in English, accompanied by an English translation which is certified by an officer of the party giving the communication to be true and accurate.

24.2 The receiving party or its agent (as appropriate) shall be entitled to assume the accuracy of and rely upon any English translation of any document provided pursuant to sub-clause 24.1(B).

**IN WITNESS WHEREOF** this Agreement has been entered into on the date first before written.

**CONCORD GREATER CHINA LIMITED**

By: /s/ Huang Ming-Tuan

Name: Huang Ming-Tuan

Title: Authorised Signatory

[ *Signatory Page to CGC A-RT SPA* ]

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**TAOBAO CHINA HOLDING LIMITED**

By: /s/ Timothy Alexander STEINERT  
Name: Timothy Alexander STEINERT  
Title: Director

[ *Signatory page to CGC A-RT SPA* ]

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EXECUTION VERSION

DATED 20 NOVEMBER 2017

**CONCORD GREATER CHINA LIMITED**

and

**TAOBAO CHINA HOLDING LIMITED**

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**SHARE PURCHASE AGREEMENT**  
relating to the sale and purchase of  
shares in Sun Art Retail Group Limited

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## ENCLOSURES

Enclosure A	(Seller Share Exchange and Transfer Agreement)
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Enclosure C	(New Shareholders Agreement)
Enclosure D	(Business Cooperation Agreement)
Enclosure E	(Legal opinion)
Enclosure F	(Confidentiality and Non-compete Agreement)

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THIS AGREEMENT is made the 20th day of November, 2017

### PARTIES:

1. **CONCORD GREATER CHINA LIMITED**, a company incorporated in the British Virgin Islands under registration number 420198, whose registered office is at Palm Grove House, PO Box 438, Road Town, Tortola, British Virgin Islands (the “**Seller**”); and
2. **TAOBAO CHINA HOLDING LIMITED**, a company incorporated in Hong Kong under registration number 842504, whose registered office is at 26/F, Tower One, Times Square, 1 Matheson Street, Causeway Bay, Hong Kong (the “**Purchaser**”).

### BACKGROUND:

- (A) As at the date hereof, the Company is held by A-RT, the Seller, Kofu and Auchan as to approximately 51.00%, 8.46%, 7.84% and 9.71% respectively.
- (B) As at the date hereof, A-RT is held by the Seller, Kofu, Auchan and Monicole as to approximately 25.42%, 23.58%, 36.70% and 14.30% respectively.
- (C) Pursuant to the Share Exchange and Transfer Agreements:
  - (i) the Seller and Kofu have conditionally agreed to sell, and Auchan has conditionally agreed to purchase, an aggregate of 35,631,491 ordinary shares in A-RT (representing approximately 19.04% of the issued share capital of A-RT), in consideration of the transfer of an aggregate of 926,418,766 Shares (representing approximately 9.71% of the issued share capital of the Company) by Auchan to the Seller and Kofu; and
  - (ii) the Seller and Kofu have conditionally agreed to sell, and Monicole has conditionally agreed to purchase, an aggregate of 1,684,156 ordinary shares in A-RT (representing approximately 0.90% of the issued share capital of A-RT) at an aggregate consideration of HK\$284,622,364.
- (D) Immediately following the completion of the Share Exchange and Transfer Agreements, the Company will be held by A-RT, the Seller and Kofu as to approximately 51.00%, 13.50% and 12.52% respectively, and Auchan will have no direct shareholding in the Company.
- (E) Immediately following the completion of the Share Exchange and Transfer Agreements, A-RT will be held by the Seller, Kofu, Auchan and Monicole as to approximately 15.08%, 13.98%, 55.74% and 15.20% respectively.

(F) The Seller has agreed to sell and the Purchaser has agreed to purchase the Sale Shares on the terms and subject to the conditions of this Agreement.

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THE PARTIES AGREE as follows:

**1. Interpretation**

1.1 In this Agreement, the Schedules and the Attachments to it:

- “ **2010 Shareholders Agreement** ” means the Share Restructuring Agreement and Shareholders Agreement in relation to Sun Holdings Greater China Limited dated 12 December 2010 between Auchan (formerly Auchanhyper SAS), Monicole (formerly Monicole BV), the Seller and Kofu;
- “ **2013 Shareholders Agreement** ” means the Shareholders Agreement in relation to ART Retail Holdings Limited and Sun Art Retail Group Limited dated 14 August 2013 between Auchan (formerly Auchanhyper SAS), Monicole (formerly Monicole BV), the Seller and Kofu;
- “ **AC Group Company** ” means any Group Company that is not an RTM Group Company;
- “ **Accounts** ” means the Audited Accounts and Unaudited Accounts;
- “ **Aggregate Purchase Price** ” means an amount equal to the sum of the First Completion Purchase Price and the Second Completion Purchase Price;
- “ **Agreed Exchange Rate** ” means, in relation to the First Completion Purchase Price and the Second Completion Purchase Price, the USD/HKD spot fixing rate, as observed on Bloomberg page “USDHKD” currency with code “BFIX” at 11 a.m. (Hong Kong time) on the Business Day that is two Business Days prior to the First Completion Date or the Second Completion Date, as applicable;
- “ **Agreed Tax Period** ” has the meaning ascribed thereto in Schedule 6 (PRC Tax reporting);
- “ **A-RT** ” means A-RT Retail Holdings Limited, a company incorporated in Hong Kong with limited liability;
- “ **A-RT SPA** ” means the share purchase agreement entered or to be entered into on the date hereof between the Seller and the Purchaser in respect of shares in the Company;
- “ **Auchan** ” Auchan Retail International S.A., a company incorporated in France with limited liability;
- “ **Audited Accounts** ” means the audited consolidated financial statements of the Group (including the notes thereto) in respect of the three financial years ended 31 December 2014, 2015 and 2016 as set out in the Company’s annual reports for those financial years published on the website of the Stock Exchange;



<b>“ Bulletin No. 7 ”</b>	means Bulletin No. 7 issued by the PRC State Administration of Taxation on February 3, 2015, titled “Bulletin on Certain Questions relating to the Enterprise Income Tax of Indirect Transfers of Assets by Non-Resident Enterprises ( 关于非居民企业间接转让财产企业所得税若干问题的公告 )”, and any amendment, implementing rules, or official interpretation thereof or any replacement, successor or alternative legislation having the same subject matter thereof;
<b>“ Business Cooperation Agreement ”</b>	means the business cooperation agreement entered or to be entered into between 杭州阿里巴巴泽泰信息技术有限公司 (Hangzhou Alibaba Zetai Information Technology Company Limited), Sunny, 欧尚(中国)投资有限公司 (Auchan (China) Investment Co., Ltd.) and 康成投资(中国)有限公司 (Concord Investment (China) Co., Ltd.), the agreed form of which is set out in <u>Enclosure D</u> ;
<b>“ Business Day ”</b>	means a day (other than a Saturday or a Sunday) on which banks are open for general business in Hong Kong, the British Virgin Islands, France, the PRC and Taiwan;
<b>“ Business Information ”</b>	means all information (in whatever form held) including (without limitation) all: <ul style="list-style-type: none"> <li>(i) formulas, designs, specifications, drawings, know-how, manuals and instructions;</li> <li>(ii) customer lists, sales, marketing and promotional information;</li> <li>(iii) business plans and forecasts;</li> <li>(iv) technical or other expertise; and</li> <li>(v) all accounting and tax records, correspondence, orders and inquiries;</li> </ul>
<b>“ Circular 698 ”</b>	means the Circular regarding strengthening the Administration of Enterprise Income Tax on Equity Transfers by Non-Resident Enterprises issued by the State Administration of Taxation of the PRC on 10 December 2009 (Guoshuihan [2009] No. 698), and any amendment, implementing rules, or official interpretation thereof or any replacement, successor or alternative legislation having the same subject matter thereof;

“ <b>Company</b> ”	means Sun Art Retail Group Limited, a company incorporated in Hong Kong with limited liability, the shares of which are listed on the Stock Exchange (Stock Code: 6808);
“ <b>Completion Dates</b> ”	means the First Completion Date and the Second Completion Date and “ <b>Completion Date</b> ” means any of them;
“ <b>Completions</b> ”	means the First Completion and the Second Completion and “ <b>Completion</b> ” means any of them;
“ <b>Confidentiality and Non-compete Agreements</b> ”	means the confidentiality and non-compete agreements between a Group Company, on the one hand, and each of the Key Employees, on the other hand, in each case substantially in the form set out in <u>Enclosure F</u> ;
“ <b>Disclosure Letter</b> ”	means the letter of the same date as this Agreement written by the Seller to the Purchaser for the purposes of <u>sub-clause 9.1</u> (Purchaser’s remedies) and delivered to the Purchaser’s Solicitors on behalf of the Purchaser before the execution of this Agreement;
“ <b>Due Diligence Materials</b> ”	means all of the documents provided by the Seller to the Purchaser in connection with the transactions contemplated under this Agreement, and delivered by or on behalf of the Seller to the Purchaser’s Solicitors on behalf of the Purchaser in a USB drive before the execution of this Agreement;
“ <b>Encumbrance</b> ”	means any mortgage, charge, pledge, lien (otherwise than arising by statute or operation of law), hypothecation or other encumbrance, priority or security interest, deferred purchase, title retention, leasing, sale-and-repurchase or sale-and-leaseback arrangement whatsoever over or in any property, assets or rights of whatsoever nature and includes any agreement for any of the same;
“ <b>Final Tax Amount</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);

“ <b>Final Tax Event</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
“ <b>First Completion</b> ”	means completion of the sale and purchase of the First Completion Sale Shares under this Agreement;
“ <b>First Completion Date</b> ”	means the 15 <sup>th</sup> Business Day following the day on which the last in time of the conditions listed in <u>Schedule 1</u> (Conditions to First Completion) (other than the conditions listed in <u>paragraphs 7 and 8 of Schedule 1</u> (Conditions to First Completion)) shall have been satisfied or waived in accordance with this Agreement or such other date as the parties may agree;
“ <b>First Completion Purchase Price</b> ”	has the meaning ascribed thereto in <u>sub-clause 5.1</u> (Consideration);
“ <b>First Completion Sale Shares</b> ”	means the 1,038,458,091 Shares legally and beneficially owned by the Seller;
“ <b>Fundamental Seller Warranties</b> ”	means the Seller Warranties set out in <u>paragraphs 1</u> (Ownership and status of the Sale Shares) and <u>2</u> (Capacity) of <u>Part 1 of Schedule 3</u> and <u>paragraphs 1</u> (Incorporation, capacity and authorisation), <u>3</u> (Group structure) and <u>4</u> (No outstanding securities) of <u>Part 2 of Schedule 3</u> ;
“ <b>Group</b> ”	means the Company and its subsidiaries from time to time, and “ <b>Group Company</b> ” means any of them;
“ <b>HKFRSs</b> ”	means Hong Kong Financial Reporting Standards;
“ <b>Hong Kong</b> ”	means the Hong Kong Special Administrative Region of the PRC;
“ <b>Hong Kong Dollars</b> ” or “ <b>HKD</b> ” or “ <b>HK\$</b> ”	means the lawful currency of Hong Kong;
“ <b>Intellectual Property</b> ”	means patents, trade marks, rights in designs, copyrights, database rights (whether or not any of these is registered and including applications for registration of any such thing), domain names and all rights or forms of protection of a similar nature or having equivalent or similar effect to any of these which may subsist anywhere in the world;
“ <b>Joint Instruction</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);

“ <b>Key Employees</b> ”	means each of the individuals listed in <u>Schedule 7 (Key Employees)</u> ;
“ <b>Kofu</b> ”	means Kofu International Limited, a company incorporated in the British Virgin Islands with limited liability;
“ <b>Kofu A-RT SPA</b> ”	means the share purchase agreement entered or to be entered into on the date hereof between Kofu and the Purchaser in respect of shares in A-RT;
“ <b>Kofu Share Exchange and Transfer Agreement</b> ”	means the share exchange and transfer agreement entered or to be entered into on the date hereof between Auchan, Monicole and Kofu in respect of certain Shares and shares in A-RT, the agreed form of which is set out in <u>Enclosure B</u> ;
“ <b>Kofu SPA</b> ”	means the share purchase agreement entered or to be entered into on the date hereof between Kofu and the Purchaser in respect of shares in the Company;
“ <b>Listing Rules</b> ”	means the Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited;
“ <b>Long Stop Date</b> ”	means the day falling three months after the date of this Agreement;
“ <b>Mandatory General Offer</b> ”	means a possible mandatory general offer to be made on behalf of the Purchaser to acquire all the issued Shares not already owned or agreed to be acquired by the Purchaser and parties acting in concert with it in accordance with the Code on Takeovers and Mergers issued by the SFC;
“ <b>Material Adverse Effect</b> ”	means a material adverse effect on or a material adverse change in: <ul style="list-style-type: none"> <li>(i) the condition (financial or otherwise), assets, operations, prospects or business of the Company or any RTM Group Company, or the consolidated condition (financial or otherwise), assets, operations, prospects or business of the Group taken as a whole;</li> <li>(ii) the ability of the Seller to perform and comply with its obligations under the Share Purchase Documents to which it is a party; or</li> </ul>

(iii) the validity or enforceability of, or the rights or remedies of the Purchaser under any of the Share Purchase Documents;

and excluding the effect of (a) any change in financial markets; (b) any change in major supply and customer markets generally unless such change adversely affects the Group in a materially disproportionate manner; and (c) any event or condition arising solely out of an act or omission committed by any Group Company upon the written consent or written direction of the Purchaser or by the Purchaser itself;

“ <b>Mega</b> ”	means Mega International Commercial Bank Co., Ltd., a banking institution incorporated under the laws of the Republic of China;
“ <b>Monicole</b> ”	means Monicole Exploitatie Maatschappij BV, a company incorporated in the Netherlands with limited liability;
“ <b>New Shareholders Agreement</b> ”	means the shareholders agreement entered or to be entered into between the Purchaser, Auchan, Monicole, the Seller, Kofu and A-RT, the agreed form of which is set out in <u>Enclosure C</u> ;
“ <b>Postponed Long Stop Date</b> ”	means the Long Stop Date as postponed in accordance with <u>sub-clause 3.5</u> (Conditions);
“ <b>PRC</b> ”	means the People’s Republic of China excluding, for the purpose of this Agreement, Hong Kong, the Macao Special Administrative Region and Taiwan;
“ <b>Proceedings</b> ”	means any proceeding, suit or action arising out of or in connection with this Agreement or the negotiation, existence, validity or enforceability of this Agreement, whether contractual or non-contractual;
“ <b>Process Agent</b> ”	means The Law Debenture Corporation (H.K.) Limited of Suite 413, Hutchinson House, 10 Harcourt Road, Central, Hong Kong;
“ <b>Purchaser Indemnity Release Instruction</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);

“ <b>Purchaser Release Instructions</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting) and “ <b>Purchaser Release Instruction</b> ” shall be construed accordingly;
“ <b>Purchaser Tax Release Instruction</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
“ <b>Purchaser Warranties</b> ”	means the warranties set out in <u>Clause 8.1</u> (Purchaser Warranties) given by the Purchaser and any other warranties made by or on behalf of the Purchaser in this Agreement and “ <b>Purchaser Warranty</b> ” shall be construed accordingly;
“ <b>Purchaser’s Designee(s)</b> ”	means any fund(s) whose general partner is a wholly-owned subsidiary of Alibaba Group Holding Limited;
“ <b>Purchaser’s Group</b> ”	means the Purchaser, its subsidiaries and subsidiary undertakings, any holding company of the Purchaser and all other subsidiaries and subsidiary undertakings of any such holding company from time to time;
“ <b>Purchaser’s Solicitors</b> ”	means Slaughter and May of 47/F, Jardine House, One Connaught Place, Central, Hong Kong;
“ <b>Regulatory Authority</b> ”	means any federal, state, national, provincial, local or other governmental or regulatory authority, agency or body, court, arbitrator or self-regulatory organisation of applicable jurisdictions;
“ <b>Relevant PRC Tax Authority</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
“ <b>Reporting Agent</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
“ <b>Reporting Transactions</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
“ <b>Retained Group</b> ”	means the Seller, its subsidiaries and subsidiary undertakings from time to time, any holding company of the Seller and all other subsidiaries or subsidiary undertakings of any such holding company (except members of the Group);
“ <b>RMB</b> ”	means the lawful currency of the PRC;
“ <b>RTM Group Company</b> ”	means any Group Company of which a majority of the board of directors are appointed by or on behalf of the Seller and/or Kofu and, for the avoidance of doubt, includes (prior to First Completion) Concord Champion International Ltd., RT-Mart Holdings Limited and Concord Investment (China) Limited;

“ Sale Shares ”	means the First Completion Sale Shares and the Second Completion Sale Shares;
“ Second Completion ”	means completion of the sale and purchase of the Second Completion Sale Shares under this Agreement;
“ Second Completion Date ”	means the date specified by the Purchaser in the Second Completion Notice or, if none is so specified, the 15th Business Day following (i) the Long Stop Date or (ii) the Postponed Long Stop Date, as the case may be;
“ Second Completion Notice ”	has the meaning ascribed thereto in <u>sub-clause 7.1</u> (Second Completion);
“ Second Completion Purchase Price ”	has the meaning ascribed thereto in <u>sub-clause 5.2</u> (Consideration);
“ Second Completion Sale Shares ”	means the 249,240,945 Shares legally and beneficially owned by the Seller;
“ Seller No-Tax Release Instruction ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
“ Seller Release Instructions ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting) and “ <b>Seller Release Instruction</b> ” shall be construed accordingly;
“ Seller Share Exchange and Transfer Agreement ”	means the share exchange and transfer agreement entered or to be entered into on the date hereof between Auchan, Monicole and the Seller in respect of certain Shares and shares in A-RT, the agreed form of which is set out in <u>Enclosure A</u> ;
“ Seller Tax Release Instruction ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
“ Seller Warranties ”	means the warranties set out in <u>Schedule 3</u> (Seller Warranties) given by the Seller and any other warranties made by or on behalf of the Seller in this Agreement and “ <b>Seller Warranty</b> ” shall be construed accordingly;

“ Seller’s Designated Account ”	means the following bank account:
	<b>Correspondent Bank :</b>
	<b>Beneficiary Bank :</b>
	<b>Account Name :</b>
	<b>Account Number :</b>
“ Seller’s Solicitors ”	means Clifford Chance LLP;
“ Selling Taxes ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
“ Service Document ”	means a claim form, application notice, order or judgment;
“ SFC ”	means the Securities and Futures Commission of Hong Kong;
“ SFO ”	means the Securities and Futures Ordinance (Cap. 571 of the Laws of Hong Kong);
“ Share Exchange and Transfer Agreements ”	means the Seller Share Exchange and Transfer Agreement and the Kofu Share Exchange and Transfer Agreement;
“ Share Purchase Documents ”	means this Agreement, the Disclosure Letter, the Share Exchange and Transfer Agreements, the A-RT SPA, the Kofu SPA, the Kofu A-RT SPA, the New Shareholders Agreement, the Business Cooperation Agreement and any other documents entered into pursuant to any of them;
“ Shareholder(s) ”	means holder(s) of the Shares;
“ Shareholders Agreements ”	means the 2010 Shareholders Agreement and the 2013 Shareholders Agreement;
“ Shares ”	means ordinary shares in the capital of the Company;

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“ Stock Exchange ”	means the Main Board of The Stock Exchange of Hong Kong Limited;
“ Tax ”	means (a) in the PRC: (i) any national, provincial, municipal, or local taxes, charges, fees, levies, or other assessments in the nature of tax, including, without limitation, all net income (including enterprise income tax and individual income withholding tax), turnover (including value-added tax, business tax, and consumption tax), resource (including urban and township land use tax), special purpose (including land value-added tax, urban maintenance and construction tax, and additional education fees), property (including urban real estate tax and land use fees), documentation (including stamp duty and deed tax), filing, recording, social insurance (including pension, medical, unemployment, housing, and other social insurance withholding), tariffs (including import duty and import value-added tax), and estimated and provisional taxes, charges, fees, levies, or other assessments of any kind whatsoever in the nature of tax, (ii) all interest, penalties (administrative, civil or criminal), or additional amounts imposed by any Regulatory Authority in connection with any item described in clause (i) above, and (iii) any form of transferor liability imposed by any Regulatory Authority in connection with any item described in clauses (i) and (ii) above, and (b) in any jurisdiction other than the PRC: all similar liabilities as described in clause (a) above;
“ Tax Escrow Agreement ”	means the escrow agreement to be entered into between the Seller, Kofu, the Purchaser and Mega on the First Completion Date on the terms set out in <u>Schedule 6</u> (PRC Tax reporting);
“ Tax Escrow Amount ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
“ Tax Payment Receipt ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
“ US Dollars ” or “ USD ” or “ US\$ ”	the lawful currency of the United States of America;
“ Warranties ”	means the Purchaser Warranties and the Seller Warranties; and





1.2 In this Agreement, unless otherwise specified:

- (A) references to clauses, sub-clauses, paragraphs, sub-paragraphs, Schedules and Attachments are to clauses, sub-clauses, paragraphs and sub-paragraphs of and Schedules and Attachments to, this Agreement;
- (B) references to any document in the “ **agreed form** ” means that document in a form agreed by the parties;
- (C) use of any gender includes the other genders;
- (D) a reference to any statute or statutory provision shall be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or re-enacted and shall include any subordinate legislation made from time to time under that statute or statutory provision;
- (E) references to a “ **company** ” shall be construed so as to include any corporation or other body corporate, wherever and however incorporated or established;
- (F) references to a “ **person** ” shall be construed so as to include any individual, firm, company, corporation, body corporate, government, state or agency of a state, local or municipal authority or government body or any joint venture, association or partnership (whether or not having separate legal personality);
- (G) the expressions “ **accounting reference date** ”, “ **accounting reference period** ”, “ **body corporate** ”, “ **holding company** ”, “ **subsidiary** ” and “ **subsidiary undertaking** ” shall have the meaning given in the Companies Ordinance (Cap. 622 of the Laws of Hong Kong);
- (H) references to “ **indemnify** ” and “ **indemnifying** ” any person against any circumstance include indemnifying and keeping him harmless on an after-Tax basis from all actions, claims and proceedings from time to time made against that person and all loss or damage and all payments, costs or expenses made or incurred by that person as a consequence of or which would not have arisen but for that circumstance;
- (I) any reference to a “ **day** ” (including the phrase “ **Business Day** ”) shall mean a period of 24 hours running from midnight to midnight;
- (J) references to times are to Hong Kong time;
- (K) any indemnity or obligation to pay (the “ **Payment Obligation** ”) being given or assumed on an “ **after-Tax basis** ” or expressed to be “ **calculated on an after- Tax basis** ” means that the amount payable pursuant to such Payment Obligation (the “ **Payment** ”) shall be calculated in such a manner as will ensure that, after taking into account:
  - (i) any Tax required to be deducted or withheld from the Payment;

- (ii) the amount and timing of any additional Tax which becomes payable as a result of the Payment's being subject to Tax; and
- (iii) the amount and timing of any Tax benefit which is obtained by the recipient of the Payment, to the extent that such Tax benefit is attributable to the matter giving rise to the Payment Obligation,

the recipient of the Payment is in the same position as that in which it would have been if the matter giving rise to the Payment Obligation had not occurred (or, in the case of a Payment Obligation arising by reference to a matter affecting a person other than the recipient of the Payment, the recipient of the Payment and that other person are, taken together, in the same position as that in which they would have been had the matter giving rise to the Payment Obligation not occurred), provided that the amount of the Payment shall not exceed that which it would have been if it had been regarded for all Tax purposes as received solely by the recipient and not any other person;

- (L) references to writing shall include any modes of reproducing words in a legible and non-transitory form and whether sent or supplied by electronic mail;
- (M) references to the knowledge of the Seller shall be treated as including any knowledge which each director appointed by the Seller and/or Kofu to the board of any Group Company would have if such director made all usual and reasonable enquiries;
- (N) references to any Hong Kong legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official, or any legal concept or thing shall in respect of any jurisdiction other than Hong Kong be deemed to include what most nearly approximates in that jurisdiction to the Hong Kong legal term;
- (O)
  - (i) the rule known as the *ejusdem generis* rule shall not apply and accordingly general words introduced by the word "other" shall not be given a restrictive meaning by reason of the fact that they are preceded by words indicating a particular class of acts, matters or things; and
  - (ii) general words shall not be given a restrictive meaning by reason of the fact that they are followed by particular examples intended to be embraced by the general words;
- (P) all headings and titles are inserted for convenience only and are to be ignored in the interpretation of this Agreement; and
- (Q) the Schedules and Attachments form part of this Agreement and shall have the same force and effect as if expressly set out in the body of this Agreement, and any reference to this Agreement shall include the Schedules and Attachments.

**2. Sale and purchase**

- 2.1 The Seller shall sell, or procure the sale of, and the Purchaser shall purchase, the First Completion Sale Shares with all rights attached or accruing to them at First Completion.
- 2.2 The Seller shall sell, or procure the sale of, and the Purchaser shall purchase, the Second Completion Sale Shares with all rights attached or accruing to them at Second Completion.
- 2.3 The Seller has the right to transfer legal and beneficial title to the Sale Shares.
- 2.4 The First Completion Sale Shares shall as at First Completion, and the Second Completion Sale Shares shall as at Second Completion, be free from all charges and encumbrances and from all other rights exercisable by or claims by third parties.
- 2.5 The Purchaser shall be entitled to exercise all rights attached or accruing to the First Completion Sale Shares and the Second Completion Sale Shares including, without limitation, the right to receive all dividends, distributions or any return of capital declared, paid or made by the Company on or after the First Completion Date and Second Completion Date, respectively.
- 2.6 The Seller waives all rights of pre-emption over any of the Shares conferred upon it by the articles of association of the Company or in any other way and undertakes to take all steps necessary to ensure that any rights of pre-emption over any of the Shares are waived prior to each Completion.

**3. Conditions**

- 3.1 The sale and purchase of the Sale Shares pursuant to this Agreement is in all respects conditional upon those matters listed in Schedule 1 (Conditions to First Completion).
- 3.2 (A) The Seller will use all reasonable endeavours to fulfil or procure the fulfilment of the conditions listed in paragraphs 1, 3 and 9 of Schedule 1 (Conditions to First Completion) as soon as possible and in any event before the Long Stop Date and will notify the Purchaser in writing, as soon as reasonably practicable, of the satisfaction of each such condition.
- (B) The Purchaser will use all reasonable endeavours to fulfil or procure the fulfilment of the condition listed in paragraph 8 of Schedule 1 (Conditions to First Completion) as soon as possible and in any event by 5.00 p.m. on the First Completion Date and will notify the Seller in writing, as soon as reasonably practicable, of the satisfaction of each such condition.
- (C) Each of the Seller and the Purchaser will use all reasonable endeavours to fulfil or procure the fulfilment of the conditions listed in paragraphs 4 to 7 (inclusive) of Schedule 1 (Conditions to First Completion) as soon as possible and in any event (in respect of paragraphs 4 to 6 (inclusive) of Schedule 1 (Conditions to First Completion)) before the Long Stop Date and (in respect of paragraph 7 of Schedule 1 (Conditions to First Completion)) by 5.00 p.m. on the First Completion Date and will notify the other in writing, as soon as reasonably practicable after it becomes aware of the satisfaction of each such condition.

- 3.3 The Purchaser may waive in writing in whole or in part all or any of the conditions listed in paragraphs 1, 2, 7, 8 and 9 of Schedule 1 (Conditions to First Completion). The condition set out in paragraphs 3 to 6 (inclusive) of Schedule 1 (Conditions to First Completion) may not be waived, in whole or in part, by any party.
- 3.4 Each of the Seller and the Purchaser undertakes to disclose in writing to the other anything which will or may prevent any of the conditions set out in Schedule 1 (Conditions to First Completion) from being satisfied on or prior to the Long Stop Date (or subsequently) immediately after it comes to their attention. Without prejudice to the generality of the foregoing, this includes disclosure of any indication that any Regulatory Authority may intend to withhold its approval of, or raise an objection to, or withdraw any licence or authorisation following, or impose a condition on or following, the sale and purchase of the Sale Shares pursuant to this Agreement.
- 3.5 If any of the conditions set out in Schedule 1 (Conditions to First Completion) (other than the conditions set out in paragraphs 7 and 8 of Schedule 1 (Conditions to First Completion)) is not fulfilled or waived by the Purchaser or the Seller, as the case may be, by midnight on the Long Stop Date then:
- (A) if it was the obligation of the Seller to satisfy the relevant condition (or conditions) then the Purchaser may, in its absolute discretion, postpone the Long Stop Date by up to 10 Business Days; or
  - (B) if it was the obligation of the Purchaser to satisfy the relevant condition (or conditions) then the Seller may, in its absolute discretion, postpone the Long Stop Date by up to 10 Business Days; or
  - (C) if responsibility for satisfaction of the relevant condition or conditions falls either:
    - (i) upon each of the Seller and the Purchaser; or
    - (ii) upon neither the Seller nor the Purchaser,then the parties may postpone the Long Stop Date by agreement between them,
- (the Long Stop Date, as so postponed, being the “**Postponed Long Stop Date**”).
- 3.6 If, in the circumstances set out in sub-clause 3.5, either:
- (A) the Long Stop Date is not postponed; or
  - (B) any of the conditions remains to be fulfilled or waived, by midnight on the Postponed Long Stop Date,
- subject to sub-clause 3.9, this Agreement shall be capable of termination by either the Purchaser or the Seller forthwith on written notice to the other provided that the party proposing to terminate has complied with its obligations under this clause 3 (Conditions).

3.7 If any of the conditions set out in paragraphs 7 and 8 of Schedule 1 (Conditions to First Completion) is not fulfilled or waived by the Purchaser or the Seller, as the case may be, by 5.00 p.m. on the First Completion Date then:

- (A) if it was the obligation of the Seller to satisfy the relevant condition (or conditions) then the Purchaser may defer First Completion by up to 10 Business Days (so that the provisions of clause 6 (First Completion) shall apply to First Completion as so deferred); or
- (B) if it was the obligation of the Purchaser to satisfy the relevant condition (or conditions) then the Seller may defer First Completion by up to 10 Business Days (so that the provisions of clause 6 (First Completion) shall apply to First Completion as so deferred); or
- (C) if responsibility for satisfaction of the relevant condition or conditions falls either:
  - (i) upon each of the Seller and the Purchaser; or
  - (ii) upon neither the Seller nor the Purchaser,

then the parties may defer First Completion by agreement between them.

3.8 If, in the circumstances set out in sub-clause 3.7, either:

- (A) First Completion is not deferred; or
- (B) any of the conditions remains to be fulfilled or waived, by 5.00 p.m. of the date of the First Completion as so deferred,

subject to sub-clause 3.9, this Agreement shall be capable of termination by either the Purchaser or the Seller forthwith on written notice to the other provided that the party proposing to terminate has complied with its obligations under this clause 3 (Conditions).

3.9 If this Agreement terminates in accordance with sub-clause 3.6 or 3.8 and without limiting the Purchaser's or the Seller's (as the case may be) right to any right, power or remedy provided by law or under this Agreement:

- (A) and if the Seller has not as at the relevant time fulfilled its obligation to satisfy any condition set out in Schedule 1 (Conditions to First Completion), the Seller will indemnify the Purchaser on demand on an after-Tax basis for all reasonable costs and expenses incurred by the Purchaser in accordance with sub-clause 18.2 (Costs and expenses); and
- (B) all obligations of the parties under this Agreement shall end except for those expressly stated to continue without limit in time but (for the avoidance of doubt) all rights and liabilities of the parties which have accrued before termination shall continue to exist.

**4. Conduct of business before First Completion**

- 4.1 The Seller shall procure that, between the date of this Agreement and First Completion, each RTM Group Company shall, and shall use all reasonable endeavours to procure that, between the date of this Agreement and First Completion, each AC Group Company shall, carry on its business in the ordinary and usual course in the same manner as carried on during the six months preceding the date of this Agreement.
- 4.2 Without prejudice to the generality of sub-clause 4.1, the Seller shall procure that no RTM Group Company will, and shall use all reasonable endeavours to procure that no AC Group Company will, between the date of this Agreement and First Completion, undertake any of the acts or matters listed in Schedule 4 (Conduct of Business before First Completion) without the consent in writing of the Purchaser (not to be unreasonably withheld or delayed) save to the extent contemplated under the Share Purchase Documents.
- 4.3 Subject to applicable law, as from the date of this Agreement, the Seller shall procure (in respect of the RTM Group Companies), and shall use all reasonable endeavours to procure (in respect of the AC Group Companies) the provision of reasonable access in favour of the Purchaser and any persons authorised by it to the premises and all the books and records and title deeds of such Group Companies and the directors appointed by the Seller and/or Kofu and employees of the RTM Group Companies and each RTM Group Company will be instructed to give promptly all information and explanations to the Purchaser or any such persons as they may request, provided that the Purchaser and such persons authorised by it shall be bound by clause 17 (Confidentiality) in relation to any information received or obtained pursuant to this sub-clause 4.3.

**5. Consideration**

- 5.1 The total consideration for the sale of the First Completion Sale Shares shall be the payment by the Purchaser of an amount in US Dollars being the equivalent of HK\$6,749,977,591.50 as converted at the Agreed Exchange Rate (the “**First Completion Purchase Price**”) payable in accordance with clause 6 (First Completion).
- 5.2 The total consideration for the sale of the Second Completion Sale Shares shall be the payment by the Purchaser of an amount in US Dollars being the equivalent of HK\$1,620,066,142.50 as converted at the Agreed Exchange Rate (the “**Second Completion Purchase Price**”) payable in accordance with clause 7 (Second Completion).
- 5.3 Any payment made by the Seller to the Purchaser under this Agreement shall (so far as possible) be treated as a reduction of the consideration for the Sale Shares to the extent of the payment.

**6. First Completion**

- 6.1 First Completion shall take place on the First Completion Date at the offices of the Purchaser’s Solicitors at 47/F, Jardine House, One Connaught Place, Central, Hong Kong.

- 6.2 At First Completion the Seller shall do those things listed in paragraphs 1, 2, 4 and 5 of Part A (Parties' obligations) of Schedule 2A (First Completion arrangements) and the Purchaser shall do those things listed in paragraph 3 of Part A (Parties' obligations) of Schedule 2A (First Completion arrangements). First Completion shall take place in accordance with Part B (General) of Schedule 2A (First Completion arrangements).
- 6.3 The Purchaser shall not be obliged to complete the sale and purchase of the First Completion Sale Shares unless the Seller complies with the requirements of sub-clause 6.2 and paragraphs 1, 2, 4 and 5 of Part A (Parties' obligations) of Schedule 2A (First Completion arrangements). The Seller shall not be obliged to complete the sale and purchase of the First Completion Sale Shares unless the Purchaser complies with the requirements of paragraph 3 of Part A (Parties' obligations) of Schedule 2A (First Completion arrangements).
- 6.4 Neither party shall be obliged to complete the sale and purchase of any of the First Completion Sale Shares unless:
- (A) the sale and purchase of all the First Completion Sale Shares is completed simultaneously; and
  - (B) this Agreement (save for the Second Completion), the A-RT SPA, the Kofu SPA (save for the Second Completion (as defined under the Kofu SPA)) and the Kofu A-RT SPA are completed substantially contemporaneously.
- 6.5 If the obligations of the Seller under sub-clause 6.2 and paragraphs 1, 2, 4 and 5 of Part A (Parties' obligations) of Schedule 2A (First Completion arrangements) are not complied with on the First Completion Date, the Purchaser may, and if the obligations of the Purchaser under sub-clause 6.2 and paragraph 3 of Part A (Parties' obligations) of Schedule 2A (First Completion arrangements) are not complied with on the First Completion Date, the Seller may:
- (A) defer First Completion (so that the provisions of this clause 6 shall apply to First Completion as so deferred);
  - (B) proceed to First Completion as far as practicable (without limiting its rights under this Agreement); or
  - (C) terminate this Agreement by notice in writing to the Seller or the Purchaser, as the case may be.
- 6.6 If this Agreement is terminated by the Purchaser in accordance with sub-clause 6.5 and without limiting either party's right to any right, power or remedy provided by law or under this Agreement:
- (A) the Seller will indemnify the Purchaser on demand on an after-Tax basis for all reasonable costs and expenses incurred by the Purchaser in accordance with sub-clause 18.2 (Costs and expenses); and
  - (B) all obligations of the parties under this Agreement shall end except for those expressly stated to continue without limit in time but (for the avoidance of doubt) all rights and liabilities of the parties which have accrued before termination shall continue to exist.



- 6.7 The Seller undertakes to indemnify the Purchaser against any loss, expense or damage which it may suffer as a result of any document delivered to it pursuant to this clause being unauthorised, invalid or for any other reason ineffective for its purpose.
- 6.8 The Seller shall procure that:
- (A) HUANG Ming-Tuan and CHENG Chuan-Tai tender their written resignation from their respective offices as directors of the Company with effect from First Completion (or, in the event that, prior to First Completion, the Purchaser announces any firm intention to make a Mandatory General Offer, the day immediately after close of the Mandatory General Offer); and
  - (B) the board of directors of the Company approve the appointment of such persons nominated by the Purchaser as directors of the Company with effect from First Completion (or, in the event that, prior to First Completion, the Purchaser announces any firm intention to make a Mandatory General Offer, the day immediately after the despatch of the offer document or composite document).
- 6.9 The Seller covenants with the Purchaser to pay to the Purchaser an amount calculated on an after-Tax basis equal to the value of any and all claims which may be made against any member of the Group by any of HUANG Ming-Tuan and CHENG Chuan-Tai, because of their resignation from office or of their employment being terminated and an amount equal to all costs, charges and expenses incurred by any member of the Group which are incidental to any such claim.
- 6.10 Payment by or on behalf of the Purchaser for the amount stated in sub-clause 5.1 (Consideration) in accordance with paragraph 3 of Part A (Parties' obligations) of Schedule 2A (First Completion arrangements) shall constitute payment of the consideration for the First Completion Sale Shares and shall fully discharge the obligations of the Purchaser under sub-clause 2.1 (Sale and purchase).
- 7. Second Completion**
- 7.1 The Purchaser may, at any time after the execution of this Agreement, specify the Second Completion Date by notice to the Seller (the “**Second Completion Notice**”), provided that the Second Completion Date so specified shall be: (a) on or after the First Completion Date; (b) no later than the 15th Business Day following (i) the Long Stop Date or (ii) Postponed Long Stop Date, as the case may be; and (c) on or after the 5th Business Day following the date of the Second Completion Notice.
- 7.2 Subject to the First Completion having taken place, the Second Completion shall take place on the Second Completion Date at the offices of the Purchaser's Solicitors at 47/F, Jardine House, One Connaught Place, Central, Hong Kong.
- 7.3 At Second Completion the Seller shall do those things listed in Part A (Seller's obligations) of Schedule 2B (Second Completion arrangements) and the Purchaser shall do those things listed in Part B (Purchaser's obligations) of Schedule 2B (Second Completion arrangements). Second Completion shall take place in accordance with Part C (General) of Schedule 2B (Second Completion arrangements).

- 7.4 The Purchaser shall not be obliged to complete the sale and purchase of the Second Completion Sale Shares unless the Seller complies with the requirements of sub-clause 7.3 and Part A (Seller's obligations) of Schedule 2B (Second Completion arrangements). The Seller shall not be obliged to complete the sale and purchase of the Second Completion Sale Shares unless the Purchaser complies with the requirements of sub-clause 7.3 and Part B (Purchaser's obligations) of Schedule 2B (Second Completion arrangements).
- 7.5 Neither party shall be obliged to complete the sale and purchase of any of the Second Completion Sale Shares unless:
- (A) the sale and purchase of all the Second Completion Sale Shares is completed simultaneously; and
  - (B) the Second Completion under this Agreement and the Second Completion (as defined under the Kofu SPA) occur substantially contemporaneously.
- 7.6 If the obligations of the Seller under sub-clause 7.3 and Part A (Seller's obligations) of Schedule 2B (Second Completion arrangements) are not complied with on the Second Completion Date the Purchaser may, and if the obligations of the Purchaser under sub-clause 7.3 and Part B (Purchaser's obligations) of Schedule 2B (Second Completion arrangements) are not complied with on the Second Completion Date the Seller may:
- (A) defer Second Completion (so that the provisions of this clause 7 shall apply to Second Completion as so deferred);
  - (B) proceed to Second Completion as far as practicable (without limiting its rights under this Agreement); or
  - (C) elect not to proceed to Second Completion.
- 7.7 If the Purchaser elects not to proceed to Second Completion in accordance with sub-clause 7.6 and without limiting either party's right to any right, power or remedy provided by law or under this Agreement:
- (A) the Seller will indemnify the Purchaser on demand on an after-Tax basis for all reasonable costs and expenses incurred by the Purchaser (including, but not limited to, the fees of all external legal advisers and their disbursements and out of pocket expenses) in connection with the Second Completion or the preparation thereof; and
  - (B) all warranties, undertakings and obligations of the parties relating to the Second Completion shall end.
- 7.8 The Seller undertakes to indemnify the Purchaser against any loss, expense or damage which it may suffer as a result of any document delivered to it pursuant to this clause being unauthorised, invalid or for any other reason ineffective for its purpose.

- 7.9 Payment by or on behalf of the Purchaser for the amount stated in sub-clause 5.2 (Consideration) in accordance with Part B (Purchaser's obligations) of Schedule 2B (Second Completion arrangements) shall constitute payment of the consideration for the Second Completion Sale Shares and shall fully discharge the obligations of the Purchaser under sub-clause 2.2 (Sale and purchase).

## **8. Warranties**

### Purchaser Warranties

- 8.1 The Purchaser warrants to the Seller, at the date of this Agreement, the First Completion Date and the Second Completion Date as if repeated immediately before the First Completion and Second Completion Date by reference to the facts and circumstances subsisting at the First Completion Date or the Second Completion Date, as the case may be, on the basis that any reference in the Purchaser Warranties, whether express or implied, to the date of this Agreement is substituted by a reference to the First Completion Date or the Second Completion Date, as the case may be, that:
- (A) the Purchaser is validly incorporated, in existence and duly registered and has the requisite capacity, power and authority to enter into and perform this Agreement and to execute, deliver and perform any obligations it may have under each document to be delivered by the Purchaser at each Completion;
  - (B) the obligations of the Purchaser under this Agreement constitute, and the obligations of the Purchaser at each Completion will when delivered constitute, binding obligations of the Purchaser in accordance with their respective terms;
  - (C) the execution and delivery of, and the performance by the Purchaser of its obligations under, this Agreement will not:
    - (i) result in a breach of any provision of the memorandum or articles of association of the Purchaser; or
    - (ii) result in a breach of, or constitute a default under, any instrument by which the Purchaser is bound; or
    - (iii) result in a material breach of any statute, law, rule, regulation, order, judgment or decree of any court or governmental agency by which the Purchaser is bound; or
    - (iv) require the consent or approval of the shareholders of the Purchaser or of any other person; and
  - (D) the Purchaser, together with the Purchaser's Designee(s) (if applicable), will have at each Completion immediately available on an

unconditional basis (subject only to the relevant Completion) the necessary cash resources outside of mainland PRC to meet its obligations under this Agreement.

- 8.2 The Purchaser acknowledges and agrees that the Seller is a person connected with the Company (such expression shall be construed in accordance with section 287 of the SFO) and the Seller may possess inside information (as defined under the SFO) relating to the Group.

## Seller Warranties

- 8.3 The Seller warrants to the Purchaser that each of the Seller Warranties is accurate and not misleading at the date of this Agreement and will be accurate and not misleading at:
- (A) the First Completion Date as if repeated immediately before the First Completion by reference to the facts and circumstances subsisting at the First Completion Date on the basis that any reference in the Seller Warranties, whether express or implied, to the date of this Agreement is substituted by a reference to the First Completion Date; and
  - (B) the Second Completion Date as if repeated immediately before the Second Completion by reference to the facts and circumstances subsisting:
    - (i) in respect of the Seller Warranties set out in Part 1 of Schedule 3, at the Second Completion Date on the basis that any reference in the Seller Warranties, whether express or implied, to the date of this Agreement is substituted by a reference to the Second Completion Date; and
    - (ii) in respect of the Seller Warranties set out in Part 2 of Schedule 3, at the First Completion Date on the basis that any reference in the Seller Warranties, whether express or implied, to the date of this Agreement is substituted by a reference to the First Completion Date.
- 8.4 The Seller shall procure that no act shall be performed or omission allowed in the period between the date of this Agreement and Second Completion, either by itself or any member of the Retained Group or any RTM Group Company, which would result in any of the Seller Warranties being breached or misleading at the time of each Completion. The Seller shall further use all reasonable endeavours to procure that no act shall be performed or omission allowed in the period between the date of this Agreement and Second Completion by any AC Group Company which would result in any of the Seller Warranties given by it being breached or misleading at the time of each Completion.
- 8.5 The Seller undertakes to disclose in writing to the Purchaser anything which is or may constitute a breach of or be inconsistent with any of the Seller Warranties promptly after it comes to its notice before or at the time of each Completion.
- 8.6 The Seller undertakes (in the absence of fraud) that if any claim is made against it in connection with the sale of the Sale Shares to the Purchaser, no member of the Retained Group or the Group will make any claim against any member of the Group or any director, employee, agent or adviser of any member of the Group on whom it may have relied before agreeing to any term of this Agreement or authorising any statement in the Disclosure Letter.
- 8.7 Each of the Warranties shall be construed as being separate and independent and (except where expressly provided to the contrary) shall not be limited or restricted by reference to or inference from the terms of any other Warranty.

- 8.8 Without restricting the rights of the Purchaser or its ability to claim damages on any basis, in the event that any of the Seller Warranties is breached or is untrue or misleading, the Seller covenants with the Purchaser that the Seller will pay to the Purchaser or to such person as the Purchaser may direct an amount calculated on an after-Tax basis equal to the aggregate of:
- (A) the amount equal to any and all losses and damages suffered or incurred by the Purchaser in connection with value of any asset or the amount of any liability of any member of the Group being or becoming respectively less than or greater than it would have been if the Seller Warranties had not been breached or not been untrue or misleading; and
  - (B) the amount equal to any and all losses and damages suffered or incurred by the Purchaser in connection with the profits or losses of any member of the Group being respectively less than or greater than would have been the case if the Seller Warranties had not been breached or not been untrue or misleading; and
  - (C) an amount equal to any reasonable costs and expenses incurred directly or indirectly as a result of or in connection with a claim pursuant to sub-paragraphs (A) or (B).
- 8.9 If in respect of or in connection with any breach of any of the Seller Warranties or any facts or matters warranted not being true and being misleading any amount payable by the Seller (whether under this clause 8 or otherwise) is subject to Tax in the hands of the recipient or the person beneficially entitled to such payment (the “**Recipient**”), the Seller shall pay such additional amounts so as to ensure that the net amount received by the Recipient is equal to the full amount payable by the Seller under this Agreement.
- 8.10 The Seller undertakes to indemnify the Purchaser on an after-Tax basis against all costs (including legal costs on an indemnity basis as defined in Rule 28(4A) of The Rules of the High Court (Cap. 4A of the Laws of Hong Kong) and expenses or other liabilities which the Purchaser may reasonably incur either before or after the commencement of any action in connection with:
- (A) the settlement of any claim that any of the Seller Warranties are untrue or misleading or have been breached or that any sum is payable under sub-clause 8.8;
  - (B) any legal proceedings in which the Purchaser claims that any of the Seller Warranties are untrue or misleading or have been breached or that any sum is payable under sub-clause 8.8 and in which judgment is given for the Purchaser; or
  - (C) the enforcement of any such settlement or judgment.
- 8.11 If the Seller or the Purchaser (as the case may be) defaults in the payment when due of any sum payable under this Agreement (whether determined by agreement or pursuant to an order of a court or otherwise), the liability of the Seller or the Purchaser (as the case may be) shall be increased to include interest on the balance of such sum outstanding from time to time from the date when such payment is due until the date of actual payment (after as well as before judgment) at a rate per annum of two per cent. above the 12- month Hong Kong Interbank Offered Rate as at the date when such payment is due. Such interest shall accrue from day to day, shall be compounded monthly and shall be payable on demand by the Purchaser or the Seller (as the case may be).

8.12 The Seller undertakes to comply with the obligations set out in Schedule 6 (PRC Tax reporting).

**9. Purchaser's remedies**

9.1 The Purchaser shall not be entitled to claim that any fact, matter or circumstance causes any of the Seller Warranties to be breached or renders any of the Seller Warranties misleading if it has been fairly disclosed in the Share Purchase Documents, the Disclosure Letter or the Accounts in the absence of any fraud or dishonesty on the part of the Seller or its agents or advisers and only those matters so disclosed in the Share Purchase Documents, the Disclosure Letter or the Accounts shall qualify the Seller Warranties.

9.2 No liability shall attach to the Seller in respect of claims under the Seller Warranties if and to the extent that the limitations referred to in sub-clause 9.1 apply, in the absence of any fraud or dishonesty on the part of the Seller or its agents or advisers.

9.3 The Seller's liability for any claims under this Agreement shall be limited or excluded, as the case may be, as set out in Schedule 5 (Limitations on Seller's Liability).

9.4 (A) If, between the execution of this Agreement and First Completion, the Purchaser becomes aware (whether it does so by reason of any disclosure made under clause 8.3 (Seller Warranties) or not) that any of the Seller Warranties is or was inaccurate or misleading or that there has been any breach or breaches of any of the Seller Warranties or any other term of this Agreement, in each case having a Material Adverse Effect, the Purchaser may terminate this Agreement by notice in writing to the Seller.

(B) If this Agreement is terminated in accordance with sub-clause 9.4(A) (and without limiting the Purchaser's right to claim damages):

(i) the Seller will indemnify the Purchaser on demand on an after-Tax basis for all reasonable costs and expenses incurred by the Purchaser in accordance with sub-clause 18.2 (Costs and expenses); and

(ii) all obligations of the Purchaser under this Agreement shall end (except for the provisions of clauses 16 (Announcements) and 17 (Confidentiality)),

but (for the avoidance of doubt) all rights and liabilities of the parties which have accrued before termination for breach of this Agreement shall continue to exist.

(C) (For the avoidance of doubt but without limiting clause 11 (Remedies and waivers)), the Purchaser's right to terminate this Agreement in accordance with sub-clause 9.4(A) is not exclusive of any rights, powers and remedies provided by law.

- 9.5 (A) If, between First Completion and Second Completion, the Purchaser becomes aware (whether it does so by reason of any disclosure made under clause 8.3 (Seller Warranties) or not) that any of the Seller Warranties is or was inaccurate or misleading or that there has been any breach or breaches of any of the Seller Warranties or any other term of this Agreement, in each case having a Material Adverse Effect, the Purchaser may elect not to proceed to Second Completion by notice in writing to the Seller.
- (B) If the Purchaser elects not to proceed to Second Completion in accordance with sub-clause 9.5(A) (and without limiting the Purchaser's right to claim damages):
- (i) the Seller will indemnify the Purchaser on demand on an after-Tax basis for all reasonable costs and expenses incurred by the Purchaser (including, but not limited to, the fees of all external legal advisers and their disbursements and out of pocket expenses) in connection with the Second Completion or the preparation thereof; and
  - (ii) all obligations of the parties under clause 7 (Second Completion) shall end.

9.6 If, following Second Completion, the Purchaser becomes aware that there has been any breach of the Seller Warranties or any other term of this Agreement, the Purchaser shall not be entitled to terminate this Agreement but shall be entitled to claim damages or exercise any other right, power or remedy under this Agreement or as otherwise provided by law.

## 10. Effect of Completion

Any provision of this Agreement and any other documents referred to in it which is capable of being performed after but which has not been performed at or before either Completion and all Warranties, indemnities, covenants and other undertakings and obligations contained in or entered into pursuant to this Agreement shall remain in full force and effect notwithstanding either Completion.

## 11. Remedies and waivers

11.1 No delay or omission by any party to this Agreement in exercising any right, power or remedy provided by law or under this Agreement or any other documents referred to in it shall:

- (A) affect that right, power or remedy; or
- (B) operate as a waiver of it.

11.2 The single or partial exercise of any right, power or remedy provided by law or under this Agreement shall not preclude any other or further exercise of it or the exercise of any other right, power or remedy.

11.3 The rights, powers and remedies provided in this Agreement are cumulative and not exclusive of any rights, powers and remedies provided by law.

**12. Assignment**

No party shall without the prior written consent of the other party:

- (A) assign, or purport to assign, all or any part of the benefit of, or its rights or benefits under, this Agreement or any other Share Purchase Document (together with any causes of action arising in connection with any of them);
- (B) make a declaration of trust in respect of or enter into any arrangement whereby it agrees to hold in trust for any other person all or any part of the benefit of, or its rights or benefits under, this Agreement or any other Share Purchase Document; or
- (C) sub-contract or enter into any arrangement whereby another person is to perform any or all of its obligations under this Agreement or any other Share Purchase Document.

**13. Further assurance**

The Seller shall at its own cost, from time to time on request of the Purchaser, now or at any time in the future, do or procure the doing of all acts and/or execute or procure the execution of all documents in a form satisfactory to the Purchaser which the Purchaser may consider necessary for giving full effect to the Share Purchase Documents and securing to the Purchaser the full benefit of the rights, powers and remedies conferred upon the Purchaser in the Share Purchase Documents.

**14. Entire agreement**

- 14.1 The Share Purchase Documents constitute the whole and only agreement between the parties relating to the sale and purchase of the Sale Shares.
- 14.2 Except in the case of fraud, each party acknowledges that it is entering into the Share Purchase Documents in reliance upon only the Share Purchase Documents and that it is not relying upon any other pre-contractual statement.
- 14.3 For the purposes of this clause, “pre-contractual statement” means any draft, agreement, undertaking, representation, warranty, promise, assurance or arrangement of any nature whatsoever, whether or not in writing, relating to the subject matter of the Share Purchase Documents made or given by any person at any time prior to this Agreement becoming legally binding.
- 14.4 This Agreement may only be varied in writing signed by each of the parties.

**15. Notices**

- 15.1 A notice under this Agreement shall only be effective if it is in writing. E-mail is permitted.



15.2 Notices under this Agreement shall be sent to a party at its address or number and for the attention of the individual or department set out below:

<u>Party</u>	<u>Address</u>	<u>Facsimile no.</u>	<u>E-mail address</u>
Seller	c/o Concord Greater China Limited c/o Kofu International Limited 2nd Floor, Jonsim Place 228 Queen's Road East, Wanchai Hong Kong  Attention: Regine Luk  with a copy (which shall not constitute notice) to:  Clifford Chance LLP 33rd Floor, China World Tower One 1 Jianguomenwai Street Beijing 100004 People's Republic of China  Attention: Terence Foo		
Purchaser	c/o Alibaba Group Services Limited 26th Floor, Tower One, Times Square 1 Matheson Street, Causeway Bay Hong Kong  Attention: General Counsel  with a copy (which shall not constitute notice nor impose any duty to notify Alibaba of such notice or any change in the details below) to:  Slaughter and May 47/F, Jardine House One Connaught Place, Central Hong Kong  Attention: Benita Yu		

Provided that a party may change its notice details on giving notice to the other party of the change in accordance with this clause 15. That notice shall only be effective on the day falling five clear Business Days after the notification has been received or such later date as may be specified in the notice.

- 15.3 Any notice given under this Agreement shall, in the absence of earlier receipt, be deemed to have been duly given as follows:
- (A) if delivered personally, on delivery;
  - (B) if sent by airmail, six clear Business Days after the date of posting;
  - (C) if sent by facsimile, at the expiration of 48 hours after the time it was sent; and
  - (D) if sent by e-mail, upon confirmation (electronic or otherwise) of delivery receipt of such e-mail.
- 15.4 Any notice given under this Agreement outside Working Hours in the place to which it is addressed shall be deemed not to have been given until the start of the next period of Working Hours in such place.
- 15.5 The provisions of this clause 15 shall not apply in relation to the service of Service Documents.

## **16. Announcements**

- 16.1 Neither party shall, and each party shall procure that each of its Relevant Persons shall not, make any announcement concerning the transaction contemplated under this Agreement or any Share Purchase Document or any ancillary matter without the prior written approval of the other party. This sub-clause does not apply in the circumstances described in sub-clause 16.2. For the purpose of this clause 16, a “ **Relevant Person** ”, in relation to the Seller, means (a) Ruentex Industries Limited, (b) Ruentex Development Co., Ltd. and (c) any member of the Retained Group and, in relation to the Purchaser, means any member of the Purchaser’s Group.
- 16.2 Either party, after consultation with the other party, may, and shall not be required to procure that any Relevant Person shall not, make an announcement concerning the transaction contemplated under this Agreement or any Share Purchase Agreement or any ancillary matter if required by:
- (A) law;
  - (B) existing contractual obligations; or
  - (C) any securities exchange or Regulatory Authority to which that party or Relevant Person (as the case may be) is subject, wherever situated, whether or not the requirement has the force of law,
- in which case the first-mentioned party shall take all such steps as may be reasonable and practicable in the circumstances to agree the contents of the announcement with the other party before making the announcement.
- 16.3 The restrictions contained in this clause 16 shall continue to apply after each Completion or the termination of this Agreement without limit in time.

**17. Confidentiality**

17.1 Subject to clause 16 (Announcements) and sub-clause 17.2:

- (A) each party shall treat as confidential and not disclose or use any information received or obtained as a result of entering into or performing the Share Purchase Documents which relates to:
  - (i) the provisions of the Share Purchase Documents; or
  - (ii) the negotiations relating to the Share Purchase Documents;
- (B) the Purchaser shall treat, and shall procure that each member of the Purchaser's Group shall treat, as confidential and not disclose or use any information concerning any member of the Retained Group and (prior to First Completion) the Group obtained or received as a result of the negotiation and entering into of the Share Purchase Documents; and
- (C) the Seller shall treat, and shall procure that each member of the Retained Group shall treat, as confidential and not disclose or use any information concerning any member of the Purchaser's Group obtained or received as a result of the negotiation and entering into of the Share Purchase Documents.

17.2 Notwithstanding the provisions of sub-clause 17.1, a party may disclose or use any such confidential information if and to the extent:

- (A) required by applicable law of any relevant jurisdiction or for the purposes of any Proceedings;
- (B) required by any securities exchange or Regulatory Authority to which that party is subject, wherever situated, whether or not the requirement for information has the force of law;
- (C) required to vest the full benefit of any Share Purchase Document in that party;
- (D) the disclosure is made to the professional advisers, auditors and bankers of that party on a need to know basis and provided they have a duty to keep such information confidential;
- (E) the information has come into the public domain through no fault of that party; or
- (F) the other party has given prior written consent to the disclosure.

Provided that any such information disclosed pursuant to sub-clause 17.2(A) or (B) shall be disclosed only after notice has been given to the other party of such requirement with a view to providing the other party with the opportunity to contest such disclosure or use or otherwise agreeing the content and timing of such disclosure.

17.3 The restrictions contained in this clause 17 shall continue to apply after either Completion or the termination of this Agreement without limit in time.

## 18. Costs and expenses

- 18.1 Except as otherwise stated in sub-clauses 18.2 and 18.3 and any other provision of this Agreement or the other Share Purchase Documents, each party shall pay its own costs and expenses in relation to the negotiations leading up to the sale and purchase of the Sale Shares and the preparation, execution and carrying into effect of this Agreement, the other Share Purchase Documents and all other documents referred to in this Agreement and the Seller confirms that no expense of whatever nature relating to the sale and purchase of the Sale Shares has been or is to be borne by any member of the Group.
- 18.2 The Seller shall indemnify the Purchaser on demand on an after-Tax basis (and the amount payable under the indemnity may, without limiting the Purchaser's rights, be claimed as a debt or liquidated demand) in respect of all reasonable costs and expenses incurred by the Purchaser (including, but not limited to, the fees of all external legal advisers and their disbursements and out of pocket expenses):
- (A) in connection with investigating the affairs of the Group;
  - (B) in connection with the negotiation, preparation, execution and carrying into effect of the Share Purchase Documents and all other documents forming part of the sale and purchase of the Sale Shares; and
  - (C) in enforcing, perfecting, protecting or preserving or seeking to enforce, perfect, protect or preserve any of the Purchaser's rights, or in suing for or recovering any sum due from the Seller under this Agreement
- if the Purchaser exercises its right to terminate or rescind this Agreement or not to proceed to First Completion pursuant to sub-clauses 3.6 or 3.8 (Conditions), sub-clause 6.5 (First Completion), or exercises its right to terminate this Agreement under sub-clause 9.4 (Purchaser's remedies) or any other provision of this Agreement or any document referred to in it.
- 18.3 Any stamp duty payable on the sale and purchase of the Sale Shares shall be borne equally by the Seller and the Purchaser.

## 19. Counterparts

- 19.1 This Agreement may be executed in any number of counterparts, and by the parties on separate counterparts, but shall not be effective until each party has executed at least one counterpart.
- 19.2 Each counterpart shall constitute an original of this Agreement, but all the counterparts shall together constitute but one and the same instrument.

## 20. Invalidity

If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that shall not affect or impair:

- (A) the legality, validity or enforceability in that jurisdiction of any other provision of this Agreement; or
- (B) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this Agreement.

## 21. Contracts (Rights of Third Parties) Ordinance

The parties do not intend that any term of this Agreement should be enforceable, by virtue of the Contracts (Rights of Third Parties) Ordinance (Cap. 623 of the Laws of Hong Kong), by any person who is not a party to this agreement, save that, in the event that any Sale Shares have been acquired by any Purchaser's Designee(s), such right, power, remedy or benefit as would be exercisable by, or would accrue to, the Purchaser pursuant to any term of this Agreement had it acquired such Sale Shares shall also be exercisable by, or shall also accrue to, such Purchaser's Designee(s).

## 22. Choice of governing law

This Agreement is to be governed by and construed in accordance with Hong Kong law. Any matter, claim or dispute arising out of or in connection with this Agreement, whether contractual or non-contractual, is to be governed by and determined in accordance with Hong Kong law.

## 23. Jurisdiction

- 23.1 The courts of Hong Kong are to have jurisdiction to settle any dispute, whether contractual or non-contractual, arising out of or in connection with this Agreement. Any Proceedings may be brought in the Hong Kong courts.
- 23.2 Each party waives (and agrees not to raise) any objection, on the ground of *forum non conveniens* or on any other ground, to the taking of Proceedings by the other party in any court in accordance with this clause. Each party also agrees that a judgment against it in Proceedings brought in any jurisdiction in accordance with this clause shall be conclusive and binding upon it and may be enforced in any other jurisdiction.
- 23.3 Each party irrevocably submits and agrees to submit to the jurisdiction of the Hong Kong courts and of any other court in which Proceedings may be brought.

## 24. Agent for service

- 24.1 The Seller irrevocably appoints the Process Agent (Attn: The Service Process Team) to be its agent for the receipt of Service Documents. It agrees that any Service Document may be effectively served on it in connection with Proceedings in Hong Kong by service on its agent effected in any manner permitted by Hong Kong law.
- 24.2 If the agent of the Seller at any time ceases for any reason to act as such, the Seller shall appoint a replacement agent having an address for service in Hong Kong and shall notify the Purchaser of the name and address of the replacement agent. Failing such appointment and notification, the Purchaser shall be entitled by notice to the Seller to appoint a replacement agent to act on behalf of the Seller. The provisions of this clause applying to service on an agent apply equally to service on a replacement agent.

24.3 A copy of any Service Document served on an agent of a party shall be sent by post to that party. Failure or delay in so doing shall not prejudice the effectiveness of service of the Service Document.

**25. Language**

25.1 Each notice, demand, request, statement, instrument, certificate, or other communication under or in connection with this Agreement shall be:

(A) in English; or

(B) if not in English, accompanied by an English translation which is certified by an officer of the party giving the communication to be true and accurate.

25.2 The receiving party or its agent (as appropriate) shall be entitled to assume the accuracy of and rely upon any English translation of any document provided pursuant to sub-clause 25.1(B).

**IN WITNESS WHEREOF** this Agreement has been entered into on the date first before written.

**CONCORD GREATER CHINA LIMITED**

By: /s/ Huang Ming-Tuan  
Name: Huang Ming-Tuan  
Title: Authorized Signatory

[ *Signatory Page to CGC Sunny SPA* ]

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**TAOBAO CHINA HOLDING LIMITED**

By: /s/ Timothy Alexander STEINERT  
Name: Timothy Alexander STEINERT  
Title: Director

[ *Signatory page to CGC Lislco SPA* ]

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EXECUTION VERSION

DATED 20 NOVEMBER 2017

**KOFU INTERNATIONAL LIMITED**

and

**TAOBAO CHINA HOLDING LIMITED**

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**SHARE PURCHASE AGREEMENT**  
relating to the sale and purchase of  
shares in A-RT Retail Holdings Limited

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## ENCLOSURES

Enclosure A	(Seller Share Exchange and Transfer Agreement)
Enclosure B	(CGC Share Exchange and Transfer Agreement)
Enclosure C	(New Shareholders Agreement)
Enclosure D	(Business Cooperation Agreement)
Enclosure E	(Deed of Release)
Enclosure F	(Legal opinion)

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THIS AGREEMENT is made the 20th day of November, 2017

### PARTIES:

1. **KOFU INTERNATIONAL LIMITED**, a company incorporated in the British Virgin Islands under registration number 306919, whose registered office is at Palm Grove House, PO Box 438, Road Town, Tortola, British Virgin Islands (the “**Seller**”); and
2. **TAOBAO CHINA HOLDING LIMITED**, a company incorporated in Hong Kong under registration number 842504, whose registered office is at 26/F, Tower One, Times Square, 1 Matheson Street, Causeway Bay, Hong Kong (the “**Purchaser**”).

### BACKGROUND:

- (A) As at the date hereof, the Company is held by CGC, the Seller, Auchan and Monicole as to approximately 25.42%, 23.58%, 36.70% and 14.30% respectively.
- (B) As at the date hereof, Listco is held by the Company, CGC, the Seller and Auchan as to approximately 51.00%, 8.46%, 7.84% and 9.71% respectively.
- (C) Pursuant to the Share Exchange and Transfer Agreements:
- (i) CGC and the Seller have conditionally agreed to sell, and Auchan has conditionally agreed to purchase, an aggregate of 35,631,491 Shares (representing approximately 19.04% of the issued share capital of the Company), in consideration of the transfer of an aggregate of 926,418,766 ordinary shares in Listco (representing approximately 9.71 % of the issued share capital of Listco) by Auchan to CGC and the Seller; and
  - (ii) CGC and the Seller have conditionally agreed to sell, and Monicole has conditionally agreed to purchase, an aggregate of 1,684,156 Shares (representing approximately 0.90% of the issued share capital of the Company) at an aggregate consideration of HK\$284,622,364.
- (D) Immediately following the completion of the Share Exchange and Transfer Agreements, the Company will be held by CGC, the Seller, Auchan and Monicole as to approximately 15.08%, 13.98%, 55.74% and 15.20% respectively.
- (E) Immediately following the completion of the Share Exchange and Transfer Agreements, Listco will be held by the Company, CGC and the Seller as to approximately 51.00%, 13.50% and 12.52% respectively, and Auchan will have no direct shareholding in Listco.
- (F) The Seller has agreed to sell and the Purchaser has agreed to purchase the Sale Shares on the terms and subject to the conditions of this Agreement.
-

THE PARTIES AGREE as follows:

1. **Interpretation**

1.1 In this Agreement, the Schedules and the Attachments to it:

- “ **2010 Shareholders Agreement** ” means the Share Restructuring Agreement and Shareholders Agreement in relation to Sun Holdings Greater China Limited dated 12 December 2010 between Auchan (formerly Auchanhyper SAS), Monicole (formerly Monicole BV), CGC and the Seller;
- “ **2013 Shareholders Agreement** ” means the Shareholders Agreement in relation to A-RT Retail Holdings Limited and Sun Art Retail Group Limited dated 14 August 2013 between Auchan (formerly Auchanhyper SAS), Monicole (formerly Monicole BV), CGC and the Seller;
- “ **AC Group Company** ” means any Group Company that is not an RTM Group Company;
- “ **Agreed Exchange Rate** ” means the USD/HKD spot fixing rate, as observed on Bloomberg page “USDHKD” currency with code “BFIX” at 11 a.m. (Hong Kong time) on the Business Day that is two Business Days prior to the Completion Date;
- “ **Agreed Tax Period** ” has the meaning ascribed thereto in Schedule 6 (PRC Tax reporting);
- “ **Auchan** ” Auchan Retail International S.A., a company incorporated in France with limited liability;
- “ **Audited Accounts** ” means the audited consolidated financial statements of the Group (including the notes thereto) in respect of the three financial years ended 31 December 2014, 2015 and 2016;
- “ **Bulletin No. 7** ” means Bulletin No. 7 issued by the PRC State Administration of Taxation on February 3, 2015, titled “Bulletin on Certain Questions relating to the Enterprise Income Tax of Indirect Transfers of Assets by Non-Resident Enterprises (关于非居民企业间接转让财产企业所得税若干问题的公告)”, and any amendment, implementing rules, or official interpretation thereof or any replacement, successor or alternative legislation having the same subject matter thereof;
- “ **Business Cooperation Agreement** ” means the business cooperation agreement entered or to be entered into between 杭州阿里巴巴泽泰信息技术有限公司 (Hangzhou Alibaba Zetai Information Technology Company Limited), Listco, 欧尚(中国)投资有限公司 (Auchan (China) Investment Co., Ltd.) and 康成投资(中国)有限公司 (Concord Investment (China) Co., Ltd.), the agreed form of which is set out in Enclosure D;

“ <b>Business Day</b> ”	means a day (other than a Saturday or a Sunday) on which banks are open for general business in Hong Kong, the British Virgin Islands, France, the PRC and Taiwan;
“ <b>Business Information</b> ”	means all information (in whatever form held) including (without limitation) all: <ul style="list-style-type: none"> <li>(i) formulas, designs, specifications, drawings, know-how, manuals and instructions;</li> <li>(ii) customer lists, sales, marketing and promotional information;</li> <li>(iii) business plans and forecasts;</li> <li>(iv) technical or other expertise; and</li> <li>(v) all accounting and tax records, correspondence, orders and inquiries;</li> </ul>
“ <b>CGC</b> ”	means Concord Greater China Limited, a company incorporated in the British Virgin Islands with limited liability;
“ <b>CGC Share Exchange and Transfer Agreement</b> ”	means the share exchange and transfer agreement entered or to be entered into on the date hereof between Auchan, Monicole and CGC in respect of certain Shares and shares in Listco, the agreed form of which is set out in <u>Enclosure B</u> ;
“ <b>CGC SPA</b> ”	means the share purchase agreement entered or to be entered into on the date hereof between CGC and the Purchaser in respect of shares in the Company;
“ <b>CGC Listco SPA</b> ”	means the share purchase agreement entered or to be entered into on the date hereof between CGC and the Purchaser in respect of shares in Listco;
“ <b>Circular 698</b> ”	means the Circular regarding strengthening the Administration of Enterprise Income Tax on Equity Transfers by Non-Resident Enterprises issued by the State Administration of Taxation of the PRC on 10 December 2009 (Guoshuihan [2009] No. 698), and any amendment, implementing rules, or official interpretation thereof or any replacement, successor or alternative legislation having the same subject matter thereof;

“ <b>Company</b> ”	means A-RT Retail Holdings Limited, a company incorporated in Hong Kong with limited liability;
“ <b>Completion</b> ”	means completion of the sale and purchase of the Sale Shares under this Agreement;
“ <b>Completion Date</b> ”	means the 15th Business Day following the day on which the last in time of the conditions listed in <u>Schedule 1</u> (Conditions to Completion) (other than the conditions listed in <u>paragraphs 7 and 8</u> of <u>Schedule 1</u> (Conditions to Completion)) shall have been satisfied or waived in accordance with this Agreement or such other date as the parties may agree;
“ <b>Deed of Release</b> ”	means the deed of release to be executed by Mega in favour of the Seller, the agreed form of which is set out in <u>Enclosure E</u> ;
“ <b>Disclosure Letter</b> ”	means the letter of the same date as this Agreement written by the Seller to the Purchaser for the purposes of <u>sub-clause 8.1</u> (Purchaser’s remedies) and delivered to the Purchaser’s Solicitors on behalf of the Purchaser before the execution of this Agreement;
“ <b>Due Diligence Materials</b> ”	means all of the documents provided by the Seller to the Purchaser in connection with the transactions contemplated under this Agreement, and delivered by or on behalf of the Seller to the Purchaser’s Solicitors on behalf of the Purchaser in a USB drive before the execution of this Agreement;
“ <b>Encumbrance</b> ”	means any mortgage, charge, pledge, lien (otherwise than arising by statute or operation of law), hypothecation or other encumbrance, priority or security interest, deferred purchase, title retention, leasing, sale-and-repurchase or sale-and-leaseback arrangement whatsoever over or in any property, assets or rights of whatsoever nature and includes any agreement for any of the same;
“ <b>Final Tax Amount</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);

“ <b>Final Tax Event</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
“ <b>Fundamental Seller Warranties</b> ”	means the Seller Warranties set out in <u>paragraphs 1</u> (Ownership and status of the Sale Shares) and <u>2</u> (Capacity) of <u>Part 1</u> of <u>Schedule 3</u> and <u>paragraphs 1</u> (Incorporation, capacity and authorisation), <u>3</u> (Corporate particulars), <u>4</u> (No outstanding securities) and 5 (Interests in Listco) of <u>Part 2</u> of <u>Schedule 3</u> ;
“ <b>Group</b> ”	means the Company and its subsidiaries from time to time, and “ <b>Group Company</b> ” means any of them;
“ <b>HKFRSs</b> ”	means Hong Kong Financial Reporting Standards
“ <b>Hong Kong</b> ”	means the Hong Kong Special Administrative Region of the PRC;
“ <b>Hong Kong Dollars</b> ” or “ <b>HKD</b> ” or “ <b>HK\$</b> ”	means the lawful currency of Hong Kong;
“ <b>Intellectual Property</b> ”	means patents, trade marks, rights in designs, copyrights, database rights (whether or not any of these is registered and including applications for registration of any such thing), domain names and all rights or forms of protection of a similar nature or having equivalent or similar effect to any of these which may subsist anywhere in the world;
“ <b>Joint Instruction</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
“ <b>Listco</b> ”	means Sun Art Retail Group Limited, a company incorporated in Hong Kong with limited liability, the shares of which are listed on the Stock Exchange (Stock Code: 6808);
“ <b>Listco SPA</b> ”	means the share purchase agreement entered or to be entered into on the date hereof between the Seller and the Purchaser in respect of shares in Listco;
“ <b>Listing Rules</b> ”	means the Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited;
“ <b>Long Stop Date</b> ”	means the day falling three months after the date of this Agreement;

<b>“ Material Adverse Effect ”</b>	<p>means a material adverse effect on or a material adverse change in:</p> <ul style="list-style-type: none"> <li>(i) the condition (financial or otherwise), assets, operations, prospects or business of the Company or any RTM Group Company, or the consolidated condition (financial or otherwise), assets, operations, prospects or business of the Group taken as a whole;</li> <li>(ii) the ability of the Seller to perform and comply with its obligations under the Share Purchase Documents to which it is a party; or</li> <li>(iii) the validity or enforceability of, or the rights or remedies of the Purchaser under any of the Share Purchase Documents,</li> </ul> <p>and excluding the effect of (a) any change in financial markets; (b) any change in major supply and customer markets generally unless such change adversely affects the Group in a materially disproportionate manner; and (c) any event or condition arising solely out of an act or omission committed by any Group Company upon the written consent or written direction of the Purchaser or by the Purchaser itself;</p>
<b>“ Mega ”</b>	means Mega International Commercial Bank Co., Ltd., a banking institution incorporated under the laws of the Republic of China;
<b>“ Monicole ”</b>	means Monicole Exploitatie Maatschappij BV, a company incorporated in the Netherlands with limited liability;
<b>“ New Shareholders Agreement ”</b>	means the shareholders agreement entered or to be entered into between the Purchaser, Auchan, Monicole, CGC, the Seller and the Company, the agreed form of which is set out in <u>Enclosure C</u> ;
<b>“ Postponed Long Stop Date ”</b>	means the Long Stop Date as postponed in accordance with <u>sub-clause 3.5</u> (Conditions);
<b>“ PRC ”</b>	means the People’s Republic of China excluding, for the purpose of this Agreement, Hong Kong, the Macao Special Administrative Region and Taiwan;
<b>“ Proceedings ”</b>	means any proceeding, suit or action arising out of or in connection with this Agreement or the negotiation, existence, validity or enforceability of this Agreement, whether contractual or non-contractual;

“ <b>Process Agent</b> ”	means The Law Debenture Corporation (H.K.) Limited of Suite 413, Hutchinson House, 10 Harcourt Road, Central, Hong Kong;
“ <b>Purchase Price</b> ”	has the meaning ascribed thereto in <u>sub-clause 5.1</u> (Consideration);
“ <b>Purchaser Indemnity Release Instruction</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
“ <b>Purchaser Release Instructions</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting) and “ <b>Purchaser Release Instruction</b> ” shall be construed accordingly;
“ <b>Purchaser Tax Release Instruction</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
“ <b>Purchaser Warranties</b> ”	means the warranties set out in <u>Clause 7.1</u> (Purchaser Warranties) given by the Purchaser and any other warranties made by or on behalf of the Purchaser in this Agreement and “ <b>Purchaser Warranty</b> ” shall be construed accordingly;
“ <b>Purchaser’s Group</b> ”	means the Purchaser, its subsidiaries and subsidiary undertakings, any holding company of the Purchaser and all other subsidiaries and subsidiary undertakings of any such holding company from time to time;
“ <b>Purchaser’s Solicitors</b> ”	means Slaughter and May of 47/F, Jardine House, One Connaught Place, Central, Hong Kong;
“ <b>Regulatory Authority</b> ”	means any federal, state, national, provincial, local or other governmental or regulatory authority, agency or body, court, arbitrator or self-regulatory organisation of applicable jurisdictions;
“ <b>Relevant PRC Tax Authority</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
“ <b>Reporting Agent</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
“ <b>Reporting Transactions</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);



“ <b>Retained Group</b> ”	means the Seller, its subsidiaries and subsidiary undertakings from time to time, any holding company of the Seller and all other subsidiaries or subsidiary undertakings of any such holding company (except members of the Group);
“ <b>RMB</b> ”	means the lawful currency of the PRC;
“ <b>RTM Group Company</b> ”	means any Group Company of which a majority of the board of directors are appointed by or on behalf of the Seller and/or CGC and, for the avoidance of doubt, includes (prior to Completion) Concord Champion International Ltd., RT-Mart Holdings Limited and Concord Investment (China) Limited;
“ <b>Sale Shares</b> ”	means the 17,917,224 Shares to be held and beneficially owned by the Seller immediately prior to Completion;
“ <b>Security</b> ”	means the share charge over 44,117,787 Shares granted by the Seller in favour of Mega on 9 January 2015;
“ <b>Seller No-Tax Release Instruction</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
“ <b>Seller Release Instructions</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting) and “ <b>Seller Release Instruction</b> ” shall be construed accordingly;
“ <b>Seller Share Exchange and Transfer Agreement</b> ”	means the share exchange and transfer agreement entered or to be entered into on the date hereof between Auchan, Monicole and the Seller in respect of certain Shares and shares in Listco, the agreed form of which is set out in <u>Enclosure A</u> ;
“ <b>Seller Tax Release Instruction</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
“ <b>Seller Warranties</b> ”	means the warranties set out in <u>Schedule 3</u> (Seller Warranties) given by the Seller and any other warranties made by or on behalf of the Seller in this Agreement and “ <b>Seller Warranty</b> ” shall be construed accordingly;

	means the following bank account:
“ <b>Seller’s Designated Account</b> ”	<p><b>Correspondent Bank</b> : Mega International Commercial Bank, Hong Kong Branch</p> <p>Swift Code:</p> <p><b>Beneficiary Bank</b> : Mega International Commercial Bank, Central Branch</p> <p>Swift Code:</p> <p><b>Account Name</b> : Kofu International Limited</p> <p><b>Account Number</b> :</p>
“ <b>Seller’s Solicitors</b> ”	means Clifford Chance LLP;
“ <b>Selling Taxes</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
“ <b>Service Document</b> ”	means a claim form, application notice, order or judgment;
“ <b>SFC</b> ”	means the Securities and Futures Commission of Hong Kong;
“ <b>SFO</b> ”	means the Securities and Futures Ordinance (Cap. 571 of the Laws of Hong Kong);
“ <b>Share Exchange and Transfer Agreements</b> ”	means the Seller Share Exchange and Transfer Agreement and the CGC Share Exchange and Transfer Agreement;
“ <b>Share Purchase Documents</b> ”	means this Agreement, the Disclosure Letter, the Share Exchange and Transfer Agreements, the Listco SPA, the CGC SPA, the CGC Listco SPA, the New Shareholders Agreement, the Business Cooperation Agreement and any other documents entered into pursuant to any of them;
“ <b>Shareholder(s)</b> ”	means holder(s) of the Shares;
“ <b>Shareholders Agreements</b> ”	means the 2010 Shareholders Agreement and the 2013 Shareholders Agreement;
“ <b>Shares</b> ”	means ordinary shares in the capital of the Company;

“ <b>Stock Exchange</b> ”	means the Main Board of The Stock Exchange of Hong Kong Limited;
“ <b>Tax</b> ”	means (a) in the PRC: (i) any national, provincial, municipal, or local taxes, charges, fees, levies, or other assessments in the nature of tax, including, without limitation, all net income (including enterprise income tax and individual income withholding tax), turnover (including value-added tax, business tax, and consumption tax), resource (including urban and township land use tax), special purpose (including land value-added tax, urban maintenance and construction tax, and additional education fees), property (including urban real estate tax and land use fees), documentation (including stamp duty and deed tax), filing, recording, social insurance (including pension, medical, unemployment, housing, and other social insurance withholding), tariffs (including import duty and import value-added tax), and estimated and provisional taxes, charges, fees, levies, or other assessments of any kind whatsoever in the nature of tax, (ii) all interest, penalties (administrative, civil or criminal), or additional amounts imposed by any Regulatory Authority in connection with any item described in clause (i) above, and (iii) any form of transferor liability imposed by any Regulatory Authority in connection with any item described in clauses (i) and (ii) above, and (b) in any jurisdiction other than the PRC: all similar liabilities as described in clause (a) above;
“ <b>Tax Escrow Agreement</b> ”	means the escrow agreement to be entered into between the Seller, CGC, the Purchaser and Mega on the Completion Date on the terms set out in <u>Schedule 6</u> (PRC Tax reporting);
“ <b>Tax Escrow Amount</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
“ <b>Tax Payment Receipt</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
“ <b>US Dollars</b> ” or “ <b>USD</b> ” or “ <b>US\$</b> ”	the lawful currency of the United States of America;
“ <b>Warranties</b> ”	means the Purchaser Warranties and the Seller Warranties; and
“ <b>Working Hours</b> ”	means 9.00 a.m. to 6.00 p.m. on a Business Day.

1.2 In this Agreement, unless otherwise specified:

- (A) references to clauses, sub-clauses, paragraphs, sub-paragraphs, Schedules and Attachments are to clauses, sub-clauses, paragraphs and sub-paragraphs of and Schedules and Attachments to, this Agreement;
- (B) references to any document in the “ **agreed form** ” means that document in a form agreed by the parties;
- (C) use of any gender includes the other genders;
- (D) a reference to any statute or statutory provision shall be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or re-enacted and shall include any subordinate legislation made from time to time under that statute or statutory provision;
- (E) references to a “ **company** ” shall be construed so as to include any corporation or other body corporate, wherever and however incorporated or established;
- (F) references to a “ **person** ” shall be construed so as to include any individual, firm, company, corporation, body corporate, government, state or agency of a state, local or municipal authority or government body or any joint venture, association or partnership (whether or not having separate legal personality);
- (G) the expressions “ **accounting reference date** ”, “ **accounting reference period** ”, “ **body corporate** ”, “ **holding company** ”, “ **subsidiary** ” and “ **subsidiary undertaking** ” shall have the meaning given in the Companies Ordinance (Cap. 622 of the Laws of Hong Kong);
- (H) references to “ **indemnify** ” and “ **indemnifying** ” any person against any circumstance include indemnifying and keeping him harmless on an after-Tax basis from all actions, claims and proceedings from time to time made against that person and all loss or damage and all payments, costs or expenses made or incurred by that person as a consequence of or which would not have arisen but for that circumstance;
- (I) any reference to a “ **day** ” (including the phrase “ **Business Day** ”) shall mean a period of 24 hours running from midnight to midnight;
- (J) references to times are to Hong Kong time;
- (K) any indemnity or obligation to pay (the “ **Payment Obligation** ”) being given or assumed on an “ **after-Tax basis** ” or expressed to be “ **calculated on an after-Tax basis** ” means that the amount payable pursuant to such Payment Obligation (the “ **Payment** ”) shall be calculated in such a manner as will ensure that, after taking into account:



- (i) any Tax required to be deducted or withheld from the Payment;
- (ii) the amount and timing of any additional Tax which becomes payable as a result of the Payment's being subject to Tax; and
- (iii) the amount and timing of any Tax benefit which is obtained by the recipient of the Payment, to the extent that such Tax benefit is attributable to the matter giving rise to the Payment Obligation,

the recipient of the Payment is in the same position as that in which it would have been if the matter giving rise to the Payment Obligation had not occurred (or, in the case of a Payment Obligation arising by reference to a matter affecting a person other than the recipient of the Payment, the recipient of the Payment and that other person are, taken together, in the same position as that in which they would have been had the matter giving rise to the Payment Obligation not occurred), provided that the amount of the Payment shall not exceed that which it would have been if it had been regarded for all Tax purposes as received solely by the recipient and not any other person;

- (L) references to writing shall include any modes of reproducing words in a legible and non-transitory form and whether sent or supplied by electronic mail;
- (M) references to the knowledge of the Seller shall be treated as including any knowledge which each director appointed by the Seller and/or CGC to the board of any Group Company would have if such director made all usual and reasonable enquiries;
- (N) references to any Hong Kong legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official, or any legal concept or thing shall in respect of any jurisdiction other than Hong Kong be deemed to include what most nearly approximates in that jurisdiction to the Hong Kong legal term;
- (O)
  - (i) the rule known as the *ejusdem generis* rule shall not apply and accordingly general words introduced by the word "other" shall not be given a restrictive meaning by reason of the fact that they are preceded by words indicating a particular class of acts, matters or things; and
  - (ii) general words shall not be given a restrictive meaning by reason of the fact that they are followed by particular examples intended to be embraced by the general words;
- (P) all headings and titles are inserted for convenience only and are to be ignored in the interpretation of this Agreement; and
- (Q) the Schedules and Attachments form part of this Agreement and shall have the same force and effect as if expressly set out in the body of this Agreement, and any reference to this Agreement shall include the Schedules and Attachments.

**2. Sale and purchase**

- 2.1 The Seller shall sell, or procure the sale of, and the Purchaser shall purchase, the Sale Shares with all rights attached or accruing to them at Completion.
- 2.2 Save for the Security, the release of which the Seller shall procure pursuant to its obligations under sub-clause 6.2 (Completion) and paragraph 4 of Part A of Schedule 2 (Completion arrangements), the Seller has the right to transfer legal and beneficial title to the Sale Shares.
- 2.3 The Sale Shares shall as at Completion be free from all charges and encumbrances and from all other rights exercisable by or claims by third parties.
- 2.4 The Purchaser shall be entitled to exercise all rights attached or accruing to the Sale Shares including, without limitation, the right to receive all dividends, distributions or any return of capital declared, paid or made by the Company on or after the Completion Date.
- 2.5 The Seller waives all rights of pre-emption over any of the Shares conferred upon it by the articles of association of the Company or in any other way and undertakes to take all steps necessary to ensure that any rights of pre-emption over any of the Shares are waived prior to Completion.

**3. Conditions**

- 3.1 The sale and purchase of the Sale Shares pursuant to this Agreement is in all respects conditional upon those matters listed in Schedule 1 (Conditions to Completion).
- 3.2 (A) The Seller will use all reasonable endeavours to fulfil or procure the fulfilment of the conditions listed in paragraphs 1 and 3 of Schedule 1 (Conditions to Completion) as soon as possible and in any event before the Long Stop Date and will notify the Purchaser in writing, as soon as reasonably practicable, of the satisfaction of each such condition.
- (B) The Purchaser will use all reasonable endeavours to fulfil or procure the fulfilment of the condition listed in paragraph 8 of Schedule 1 (Conditions to Completion) as soon as possible and in any event by 5.00 p.m. on the Completion Date and will notify the Seller in writing, as soon as reasonably practicable, of the satisfaction of each such condition.
- (C) Each of the Seller and the Purchaser will use all reasonable endeavours to fulfil or procure the fulfilment of the conditions listed in paragraphs 4 to 7 (inclusive) of Schedule 1 (Conditions to Completion) as soon as possible and in any event (in respect of paragraphs 4 to 6 (inclusive) of Schedule 1 (Conditions to Completion)) before the Long Stop Date and (in respect of paragraph 7 of Schedule 1 (Conditions to Completion)) by 5.00 p.m. on the Completion Date and will notify the other in writing, as soon as reasonably practicable after it becomes aware of the satisfaction of each such condition.
- 3.3 The Purchaser may waive in writing in whole or in part all or any of the conditions listed in paragraphs 1, 2, 7 and 8 of Schedule 1 (Conditions to Completion). The condition set out in paragraphs 3 to 6 (inclusive) of Schedule 1 (Conditions to Completion) may not be waived, in whole or in part, by any party.

- 3.4 Each of the Seller and the Purchaser undertakes to disclose in writing to the other anything which will or may prevent any of the conditions set out in Schedule 1 (Conditions to Completion) from being satisfied on or prior to the Long Stop Date (or subsequently) immediately after it comes to their attention. Without prejudice to the generality of the foregoing, this includes disclosure of any indication that any Regulatory Authority may intend to withhold its approval of, or raise an objection to, or withdraw any licence or authorisation following, or impose a condition on or following, the sale and purchase of the Sale Shares pursuant to this Agreement.
- 3.5 If any of the conditions set out in Schedule 1 (Conditions to Completion) (other than the conditions set out in paragraphs 7 and 8 of Schedule 1 (Conditions to Completion)) is not fulfilled or waived by the Purchaser or the Seller, as the case may be, by midnight on the Long Stop Date then:
- (A) if it was the obligation of the Seller to satisfy the relevant condition (or conditions) then the Purchaser may, in its absolute discretion, postpone the Long Stop Date by up to 10 Business Days; or
  - (B) if it was the obligation of the Purchaser to satisfy the relevant condition (or conditions) then the Seller may, in its absolute discretion, postpone the Long Stop Date by up to 10 Business Days; or
  - (C) if responsibility for satisfaction of the relevant condition or conditions falls either:
    - (i) upon each of the Seller and the Purchaser; or
    - (ii) upon neither the Seller nor the Purchaser,then the parties may postpone the Long Stop Date by agreement between them,  
(the Long Stop Date, as so postponed, being the “**Postponed Long Stop Date**”).
- 3.6 If, in the circumstances set out in sub-clause 3.5, either:
- (A) the Long Stop Date is not postponed; or
  - (B) any of the conditions remains to be fulfilled or waived, by midnight on the Postponed Long Stop Date,
- subject to sub-clause 3.9, this Agreement shall be capable of termination by either the Purchaser or the Seller forthwith on written notice to the other provided that the party proposing to terminate has complied with its obligations under this clause 3 (Conditions).
- 3.7 If any of the conditions set out in paragraphs 7 and 8 of Schedule 1 (Conditions to Completion) is not fulfilled or waived by the Purchaser or the Seller, as the case may be, by 5.00 p.m. on the Completion Date then:

- (A) if it was the obligation of the Seller to satisfy the relevant condition (or conditions) then the Purchaser may defer Completion by up to 10 Business Days (so that the provisions of clause 6 (Completion) shall apply to Completion as so deferred); or
- (B) if it was the obligation of the Purchaser to satisfy the relevant condition (or conditions) then the Seller may defer Completion by up to 10 Business Days (so that the provisions of clause 6 (Completion) shall apply to Completion as so deferred); or
- (C) if responsibility for satisfaction of the relevant condition or conditions falls either:
  - (i) upon each of the Seller and the Purchaser; or
  - (ii) upon neither the Seller nor the Purchaser,then the parties may defer Completion by agreement between them.

3.8 If, in the circumstances set out in sub-clause 3.7, either:

- (A) Completion is not deferred; or
- (B) any of the conditions remains to be fulfilled or waived, by 5.00 p.m. of the date of the Completion as so deferred,

subject to sub-clause 3.9, this Agreement shall be capable of termination by either the Purchaser or the Seller forthwith on written notice to the other provided that the party proposing to terminate has complied with its obligations under this clause 3 (Conditions).

3.9 If this Agreement terminates in accordance with sub-clause 3.6 or 3.8 and without limiting the Purchaser's or the Seller's (as the case may be) right to any right, power or remedy provided by law or under this Agreement:

- (A) and if the Seller has not, as at the relevant time, fulfilled its obligation to satisfy any condition set out in Schedule 1 (Conditions to Completion), the Seller will indemnify the Purchaser on demand on an after-Tax basis for all reasonable costs and expenses incurred by the Purchaser in accordance with sub-clause 17.2 (Costs and expenses); and
- (B) all obligations of the parties under this Agreement shall end except for those expressly stated to continue without limit in time but (for the avoidance of doubt) all rights and liabilities of the parties which have accrued before termination shall continue to exist.

#### **4. Conduct of business before Completion**

4.1 The Seller shall procure that, between the date of this Agreement and Completion, each RTM Group Company shall, and shall use all reasonable endeavours to procure that, between the date of this Agreement and Completion, each AC Group Company shall, carry on its business in the ordinary and usual course in the same manner as carried on during the six months preceding the date of this Agreement.



- 4.2 Without prejudice to the generality of sub-clause 4.1, the Seller shall procure that no RTM Group Company will, and shall use all reasonable endeavours to procure that no AC Group Company will, between the date of this Agreement and Completion, undertake any of the acts or matters listed in Schedule 4 (Conduct of Business before Completion) without the consent in writing of the Purchaser (not to be unreasonably withheld or delayed), save to the extent contemplated under the Share Purchase Documents.
- 4.3 Subject to applicable law, as from the date of this Agreement, the Seller shall procure (in respect of the RTM Group Companies), and shall use all reasonable endeavours to procure (in respect of the AC Group Companies) the provision of reasonable access in favour of the Purchaser and any persons authorised by it to the premises and all the books and records and title deeds of such Group Companies and the directors appointed by the Seller and/or CGC and employees of the RTM Group Companies and each RTM Group Company will be instructed to give promptly all information and explanations to the Purchaser or any such persons as they may request, provided that the Purchaser and such persons authorised by it shall be bound by clause 16 (Confidentiality) in relation to any information received or obtained pursuant to this sub-clause 4.3.
- 5. Consideration**
- 5.1 The total consideration for the sale of the Sale Shares shall be the payment by the Purchaser of an amount in US Dollars being the equivalent of HK\$3,028,010,856 as converted at the Agreed Exchange Rate (the “ **Purchase Price** ”) payable in accordance with clause 6 (Completion).
- 5.2 Any payment made by the Seller to the Purchaser under this Agreement shall (so far as possible) be treated as a reduction of the consideration for the Sale Shares to the extent of the payment.
- 6. Completion**
- 6.1 Completion shall take place on the Completion Date at the offices of the Purchaser’s Solicitors at 47/F, Jardine House, One Connaught Place, Central, Hong Kong.
- 6.2 At Completion the Seller shall do those things listed in paragraphs 1, 2, 4 and 5 of Part A (Parties’ obligations) of Schedule 2 (Completion arrangements) and the Purchaser shall do those things listed in paragraph 3 of Part A (Parties’ obligations) of Schedule 2 (Completion arrangements). Completion shall take place in accordance with Part B (General) of Schedule 2 (Completion arrangements).
- 6.3 The Purchaser shall not be obliged to complete the sale and purchase of the Sale Shares unless the Seller complies with the requirements of sub-clause 6.2 and paragraphs 1, 2, 4 and 5 of Part A (Parties’ obligations) of Schedule 2 (Completion arrangements). The Seller shall not be obliged to complete the sale and purchase of the Sale Shares unless the Purchaser complies with the requirements of paragraph 3 of Part A (Parties’ obligations) of Schedule 2 (Completion arrangements).
- 6.4 Neither party shall be obliged to complete the sale and purchase of any of the Sale Shares unless:

- (A) the sale and purchase of all the Sale Shares is completed simultaneously; and
- (B) this Agreement, the CGC SPA, the Listco SPA (save for the Second Completion (as defined under the Listco SPA)) and the CGC Listco SPA (save for the Second Completion (as defined under the CGC Listco SPA)) are completed substantially contemporaneously.
- 6.5 If the obligations of the Seller under sub-clause 6.2 and paragraphs 1, 2, 4 and 5 of Part A (Parties' obligations) of Schedule 2 (Completion arrangements) are not complied with on the Completion Date, the Purchaser may, and if the obligations of the Purchaser under sub-clause 6.2 and paragraph 3 of Part A (Parties' obligations) of Schedule 2 (Completion arrangements) are not complied with on the Completion Date, the Seller may:
- (A) defer Completion (so that the provisions of this clause 6 shall apply to Completion as so deferred);
- (B) proceed to Completion as far as practicable (without limiting its rights under this Agreement); or
- (C) terminate this Agreement by notice in writing to the Seller or the Purchaser, as the case may be.
- 6.6 If this Agreement is terminated by the Purchaser in accordance with sub-clause 6.5 and without limiting either party's right to any right, power or remedy provided by law or under this Agreement:
- (A) the Seller will indemnify the Purchaser on demand on an after-Tax basis for all reasonable costs and expenses incurred by the Purchaser in accordance with sub-clause 17.2 (Costs and expenses); and
- (B) all obligations of the parties under this Agreement shall end except for those expressly stated to continue without limit in time but (for the avoidance of doubt) all rights and liabilities of the parties which have accrued before termination shall continue to exist.
- 6.7 The Seller undertakes to indemnify the Purchaser against any loss, expense or damage which it may suffer as a result of any document delivered to it pursuant to this clause being unauthorised, invalid or for any other reason ineffective for its purpose.
- 6.8 The Seller covenants with the Purchaser to pay to the Purchaser an amount calculated on an after-Tax basis equal to the value of any and all claims which may be made against any member of the Group by any of HUANG Ming-Tuan and CHENG Chuan-Tai, because of their resignation from office or of their employment being terminated and an amount equal to all costs, charges and expenses incurred by any member of the Group which are incidental to any such claim.
- 6.9 Payment by or on behalf of the Purchaser for the amount stated in sub-clause 5.1 (Consideration) in accordance with paragraph 3 of Part A (Parties' obligations) of Schedule 2 (Completion arrangements) shall constitute payment of the consideration for the Sale Shares and shall fully discharge the obligations of the Purchaser under sub-clause 2.1 (Sale and purchase).

7. **Warranties**

Purchaser Warranties

- 7.1 The Purchaser warrants to the Seller, at the date of this Agreement, the Completion Date as if repeated immediately before the Completion Date by reference to the facts and circumstances subsisting at the Completion Date, on the basis that any reference in the Purchaser Warranties, whether express or implied, to the date of this Agreement is substituted by a reference to the Completion Date, that:
- (A) the Purchaser is validly incorporated, in existence and duly registered and has the requisite capacity, power and authority to enter into and perform this Agreement and to execute, deliver and perform any obligations it may have under each document to be delivered by the Purchaser at Completion;
  - (B) the obligations of the Purchaser under this Agreement constitute, and the obligations of the Purchaser at Completion will when delivered constitute, binding obligations of the Purchaser in accordance with their respective terms;
  - (C) the execution and delivery of, and the performance by the Purchaser of its obligations under, this Agreement will not:
    - (i) result in a breach of any provision of the memorandum or articles of association of the Purchaser; or
    - (ii) result in a breach of, or constitute a default under, any instrument by which the Purchaser is bound; or
    - (iii) result in a material breach of any statute, law, rule, regulation, order, judgment or decree of any court or governmental agency by which the Purchaser is bound; or
    - (iv) require the consent or approval of the shareholders of the Purchaser or of any other person; and
  - (D) the Purchaser will have at Completion immediately available on an unconditional basis (subject only to Completion) the necessary cash resources outside of mainland PRC to meet its obligations under this Agreement.
- 7.2 The Purchaser acknowledges and agrees that the Seller is a person connected with Listco (such expression shall be construed in accordance with section 287 of the SFO) and the Seller may possess inside information (as defined under the SFO) relating to the Group.

## Seller Warranties

- 7.3 The Seller warrants to the Purchaser that each of the Seller Warranties is accurate and not misleading at the date of this Agreement and will be accurate and not misleading at the Completion Date as if repeated immediately before Completion by reference to the facts and circumstances subsisting at that date on the basis that any reference in the Seller Warranties, whether express or implied, to the date of this Agreement is substituted by a reference to the Completion Date.
- 7.4 The Seller shall procure that no act shall be performed or omission allowed in the period between the date of this Agreement and Completion, either by itself or any member of the Retained Group or any RTM Group Company, which would result in any of the Seller Warranties being breached or misleading at the time of Completion. The Seller shall further use all reasonable endeavours to procure that no act shall be performed or omission allowed in the period between the date of this Agreement and Completion by any AC Group Company which would result in any of the Seller Warranties given by it being breached or misleading at the time of Completion.
- 7.5 The Seller undertakes to disclose in writing to the Purchaser anything which is or may constitute a breach of or be inconsistent with any of the Seller Warranties promptly after it comes to its notice before or at the time of Completion.
- 7.6 The Seller undertakes (in the absence of fraud) that if any claim is made against it in connection with the sale of the Sale Shares to the Purchaser, no member of the Retained Group or the Group will make any claim against any member of the Group or any director, employee, agent or adviser of any member of the Group on whom it may have relied before agreeing to any term of this Agreement or authorising any statement in the Disclosure Letter.
- 7.7 Each of the Warranties shall be construed as being separate and independent and (except where expressly provided to the contrary) shall not be limited or restricted by reference to or inference from the terms of any other Warranty.
- 7.8 Without restricting the rights of the Purchaser or its ability to claim damages on any basis, in the event that any of the Seller Warranties is breached or is untrue or misleading, the Seller covenants with the Purchaser that the Seller will pay to the Purchaser or to such person as the Purchaser may direct an amount calculated on an after-Tax basis equal to the aggregate of:
- (A) the amount equal to any and all losses and damages suffered or incurred by the Purchaser in connection with the value of any asset or the amount of any liability of any member of the Group being or becoming respectively less than or greater than it would have been if the Seller Warranties had not been breached or not been untrue or misleading; and
  - (B) the amount equal to any and all losses and damages suffered or incurred by the Purchaser in connection with the profits or losses of any member of the Group being respectively less than or greater than would have been the case if the Seller Warranties had not been breached or not been untrue or misleading; and
  - (C) an amount equal to any costs and expenses incurred directly or indirectly as a result of or in connection with a claim pursuant to sub-paragraphs (A) or (B).

- 7.9 If in respect of or in connection with any breach of any of the Seller Warranties or any facts or matters warranted not being true and being misleading any amount payable by the Seller (whether under this clause 7 or otherwise) is subject to Tax in the hands of the recipient or the person beneficially entitled to such payment (the “**Recipient**”), the Seller shall pay such additional amounts so as to ensure that the net amount received by the Recipient is equal to the full amount payable by the Seller under this Agreement.
- 7.10 The Seller undertakes to indemnify the Purchaser on an after-Tax basis against all costs (including legal costs on an indemnity basis as defined in Rule 28(4A) of The Rules of the High Court (Cap. 4A of the Laws of Hong Kong) and expenses or other liabilities which the Purchaser may reasonably incur either before or after the commencement of any action in connection with:
- (A) the settlement of any claim that any of the Seller Warranties are untrue or misleading or have been breached or that any sum is payable under sub-clause 7.8;
  - (B) any legal proceedings in which the Purchaser claims that any of the Seller Warranties are untrue or misleading or have been breached or that any sum is payable under sub-clause 7.8 and in which judgment is given for the Purchaser; or
  - (C) the enforcement of any such settlement or judgment.
- 7.11 If the Seller or the Purchaser (as the case may be) defaults in the payment when due of any sum payable under this Agreement (whether determined by agreement or pursuant to an order of a court or otherwise), the liability of the Seller or the Purchaser (as the case may be) shall be increased to include interest on the balance of such sum outstanding from time to time from the date when such payment is due until the date of actual payment (after as well as before judgment) at a rate per annum of two per cent. above the 12- month Hong Kong Interbank Offered Rate as at the date when such payment is due. Such interest shall accrue from day to day, shall be compounded monthly and shall be payable on demand by the Purchaser or the Seller (as the case may be).
- 7.12 The Seller undertakes to comply with the obligations set out in Schedule 6 (PRC Tax reporting).

## **8. Purchaser’s remedies**

- 8.1 The Purchaser shall not be entitled to claim that any fact, matter or circumstance causes any of the Seller Warranties to be breached or renders any of the Seller Warranties misleading if it has been fairly disclosed in the Share Purchase Documents, the Disclosure Letter or the Audited Accounts in the absence of any fraud or dishonesty on the part of the Seller or its agents or advisers and only those matters so disclosed in the Share Purchase Documents, the Disclosure Letter or the Audited Accounts shall qualify the Seller Warranties.
- 8.2 No liability shall attach to the Seller in respect of claims under the Seller Warranties if and to the extent that the limitations referred to in sub-clause 8.1 apply, in the absence of any fraud or dishonesty on the part of the Seller or its agents or advisers.

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- 8.3 The Seller’s liability for any claims under this Agreement shall be limited or excluded, as the case may be, as set out in Schedule 5 (Limitations on Seller’s Liability).
- 8.4 (A) If, between the execution of this Agreement and Completion, the Purchaser becomes aware (whether it does so by reason of any disclosure made under clause 7.3 (Seller Warranties) or not) that any of the Seller Warranties is or was inaccurate or misleading or that there has been any breach or breaches of any of the Seller Warranties or any other term of this Agreement, in each case having a Material Adverse Effect, the Purchaser may terminate this Agreement by notice in writing to the Seller.
- (B) If this Agreement is terminated in accordance with sub-clause 8.4(A) (and without limiting the Purchaser’s right to claim damages):
- (i) the Seller will indemnify the Purchaser on demand on an after-Tax basis for all reasonable costs and expenses incurred by the Purchaser in accordance with sub-clause 17.2 (Costs and expenses); and
  - (ii) all obligations of the Purchaser under this Agreement shall end (except for the provisions of clauses 15 (Announcements) and 16 (Confidentiality)),
- but (for the avoidance of doubt) all rights and liabilities of the parties which have accrued before termination for breach of this Agreement shall continue to exist.
- (C) (For the avoidance of doubt but without limiting clause 10 (Remedies and waivers)), the Purchaser’s right to terminate this Agreement in accordance with sub-clause 8.4(A) is not exclusive of any rights, powers and remedies provided by law.
- 8.5 If, following Completion, the Purchaser becomes aware that there has been any breach of the Seller Warranties or any other term of this Agreement, the Purchaser shall not be entitled to terminate this Agreement but shall be entitled to claim damages or exercise any other right, power or remedy under this Agreement or as otherwise provided by law.

## **9. Effect of Completion**

Any provision of this Agreement and any other documents referred to in it which is capable of being performed after but which has not been performed at or before Completion and all Warranties, indemnities, covenants and other undertakings and obligations contained in or entered into pursuant to this

Agreement shall remain in full force and effect notwithstanding Completion.

**10. Remedies and waivers**

10.1 No delay or omission by any party to this Agreement in exercising any right, power or remedy provided by law or under this Agreement or any other documents referred to in it shall:

(A) affect that right, power or remedy; or

(B) operate as a waiver of it.

10.2 The single or partial exercise of any right, power or remedy provided by law or under this Agreement shall not preclude any other or further exercise of it or the exercise of any other right, power or remedy.

10.3 The rights, powers and remedies provided in this Agreement are cumulative and not exclusive of any rights, powers and remedies provided by law.

**11. Assignment**

No party shall without the prior written consent of the other party:

(A) assign, or purport to assign, all or any part of the benefit of, or its rights or benefits under, this Agreement or any other Share Purchase Document (together with any causes of action arising in connection with any of them);

(B) make a declaration of trust in respect of or enter into any arrangement whereby it agrees to hold in trust for any other person all or any part of the benefit of, or its rights or benefits under, this Agreement or any other Share Purchase Document; or

(C) sub-contract or enter into any arrangement whereby another person is to perform any or all of its obligations under this Agreement or any other Share Purchase Document.

**12. Further assurance**

The Seller shall at its own cost, from time to time on request of the Purchaser, now or at any time in the future, do or procure the doing of all acts and/or execute or procure the execution of all documents in a form satisfactory to the Purchaser which the Purchaser may consider necessary for giving full effect to the Share Purchase Documents and securing to the Purchaser the full benefit of the rights, powers and remedies conferred upon the Purchaser in the Share Purchase Documents.

**13. Entire agreement**

13.1 The Share Purchase Documents constitute the whole and only agreement between the parties relating to the sale and purchase of the Sale Shares.

13.2 Except in the case of fraud, each party acknowledges that it is entering into the Share Purchase Documents in reliance upon only the Share Purchase Documents and that it is not relying upon any other pre-contractual statement.

13.3 For the purposes of this clause, “pre-contractual statement” means any draft, agreement, undertaking, representation, warranty, promise, assurance or arrangement of any nature whatsoever, whether or not in writing, relating to the subject matter of the Share Purchase Documents made or given by any person at any time prior to this Agreement becoming legally binding.

13.4 This Agreement may only be varied in writing signed by each of the parties.

**14. Notices**

14.1 A notice under this Agreement shall only be effective if it is in writing. E-mail is permitted.

14.2 Notices under this Agreement shall be sent to a party at its address or number and for the attention of the individual or department set out below:

<u>Party</u>	<u>Address</u>	<u>Facsimile no.</u>	<u>E-mail address</u>
Seller	c/o Concord Greater China Limited c/o Kofu International Limited 2nd Floor, Jonsim Place 228 Queen's Road East, Wanchai Hong Kong  Attention: Regine Luk  with a copy (which shall not constitute notice) to:  Clifford Chance LLP 33rd Floor, China World Tower One 1 Jianguomenwai Street Beijing 100004 People's Republic of China  Attention: Terence Foo		
Purchaser	c/o Alibaba Group Services Limited 26th Floor, Tower One, Times Square 1 Matheson Street, Causeway Bay Hong Kong  Attention: General Counsel  with a copy (which shall not constitute notice nor impose any duty to notify Alibaba of such notice or any change in the details below) to:  Slaughter and May 47/F, Jardine House One Connaught Place, Central Hong Kong  Attention: Benita Yu		



Provided that a party may change its notice details on giving notice to the other party of the change in accordance with this clause 14. That notice shall only be effective on the day falling five clear Business Days after the notification has been received or such later date as may be specified in the notice.

- 14.3 Any notice given under this Agreement shall, in the absence of earlier receipt, be deemed to have been duly given as follows:
- (A) if delivered personally, on delivery;
  - (B) if sent by airmail, six clear Business Days after the date of posting;
  - (C) if sent by facsimile, at the expiration of 48 hours after the time it was sent; and
  - (D) if sent by e-mail, upon confirmation (electronic or otherwise) of delivery receipt of such e-mail.
- 14.4 Any notice given under this Agreement outside Working Hours in the place to which it is addressed shall be deemed not to have been given until the start of the next period of Working Hours in such place.
- 14.5 The provisions of this clause 14 shall not apply in relation to the service of Service Documents.

## **15. Announcements**

- 15.1 Neither party shall, and each party shall procure that each of its Relevant Persons shall not, make any announcement concerning the transaction contemplated under this Agreement or any Share Purchase Document or any ancillary matter without the prior written approval of the other party. This sub-clause does not apply in the circumstances described in sub-clause 15.2. For the purpose of this clause 15, a “ **Relevant Person** ”, in relation to the Seller, means any member of the Retained Group and, in relation to the Purchaser, means any member of the Purchaser’s Group.
- 15.2 Either party, after consultation with the other party, may, and shall not be required to procure that any Relevant Person shall not, make an announcement concerning the transaction contemplated under this Agreement or any Share Purchase Agreement or any ancillary matter if required by:
- (A) law;
  - (B) existing contractual obligations; or
  - (C) any securities exchange or Regulatory Authority to which that party or Relevant Person (as the case may be) is subject, wherever situated, whether or not the requirement has the force of law,

in which case the first-mentioned party shall take all such steps as may be reasonable and practicable in the circumstances to agree the contents of the announcement with the other party before making the announcement.

15.3 The restrictions contained in this clause 15 shall continue to apply after Completion or the termination of this Agreement without limit in time.

**16. Confidentiality**

16.1 Subject to clause 15 (Announcements) and sub-clause 16.2:

- (A) each party shall treat as confidential and not disclose or use any information received or obtained as a result of entering into or performing the Share Purchase Documents which relates to:
  - (i) the provisions of the Share Purchase Documents; or
  - (ii) the negotiations relating to the Share Purchase Documents;
- (B) the Purchaser shall treat, and shall procure that each member of the Purchaser's Group shall treat, as confidential and not disclose or use any information concerning any member of the Retained Group and (prior to Completion) the Group obtained or received as a result of the negotiation and entering into of the Share Purchase Documents; and
- (C) the Seller shall treat, and shall procure that each member of the Retained Group shall treat, as confidential and not disclose or use any information concerning any member of the Purchaser's Group obtained or received as a result of the negotiation and entering into of the Share Purchase Documents.

16.2 Notwithstanding the provisions of sub-clause 16.1, a party may disclose or use any such confidential information if and to the extent:

- (A) required by applicable law of any relevant jurisdiction or for the purposes of any Proceedings;
- (B) required by any securities exchange or Regulatory Authority to which that party is subject, wherever situated, whether or not the requirement for information has the force of law;
- (C) required to vest the full benefit of any Share Purchase Document in that party;
- (D) the disclosure is made to the professional advisers, auditors and bankers of that party on a need to know basis and provided they have a duty to keep such information confidential;
- (E) the information has come into the public domain through no fault of that party; or
- (F) the other party has given prior written consent to the disclosure.

Provided that any such information disclosed pursuant to sub-clause 16.2(A) or (B), shall be disclosed only after notice has been given to the other party of such requirement with a view to providing the other party with the opportunity to contest such disclosure or use or otherwise agreeing the content and timing of such disclosure.

16.3 The restrictions contained in this clause 16 shall continue to apply after Completion or the termination of this Agreement without limit in time.

**17. Costs and expenses**

17.1 Except as otherwise stated in sub-clauses 17.2 and 17.3 and any other provision of this Agreement or the other Share Purchase Documents, each party shall pay its own costs and expenses in relation to the negotiations leading up to the sale and purchase of the Sale Shares and the preparation, execution and carrying into effect of this Agreement, the other Share Purchase Documents and all other documents referred to in this Agreement and the Seller confirms that no expense of whatever nature relating to the sale and purchase of the Sale Shares has been or is to be borne by any member of the Group.

17.2 The Seller shall indemnify the Purchaser on demand on an after-Tax basis (and the amount payable under the indemnity may, without limiting the Purchaser's rights, be claimed as a debt or liquidated demand) in respect of all reasonable costs and expenses incurred by the Purchaser (including, but not limited to, the fees of all external legal advisers and their disbursements and out of pocket expenses):

- (A) in connection with investigating the affairs of the Group;
- (B) in connection with the negotiation, preparation, execution and carrying into effect of the Share Purchase Documents and all other documents forming part of the sale and purchase of the Sale Shares; and
- (C) in enforcing, perfecting, protecting or preserving or seeking to enforce, perfect, protect or preserve any of the Purchaser's rights, or in suing for or recovering any sum due from the Seller under this Agreement

if the Purchaser exercises its right to terminate or rescind this Agreement or not to proceed to Completion pursuant to sub-clauses 3.6 or 3.8 (Conditions), sub-clause 6.5 (Completion), or exercises its right to terminate this Agreement under sub-clause 8.4 (Purchaser's remedies) or any other provision of this Agreement or any document referred to in it.

17.3 Any stamp duty payable on the sale and purchase of the Sale Shares shall be borne equally by the Seller and the Purchaser.

**18. Counterparts**

18.1 This Agreement may be executed in any number of counterparts, and by the parties on separate counterparts, but shall not be effective until each party has executed at least one counterpart.

18.2 Each counterpart shall constitute an original of this Agreement, but all the counterparts shall together constitute but one and the same instrument.

**19. Invalidity**

If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that shall not affect or impair:

- (A) the legality, validity or enforceability in that jurisdiction of any other provision of this Agreement; or
- (B) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this Agreement.

**20. Contracts (Rights of Third Parties) Ordinance**

The parties do not intend that any term of this Agreement should be enforceable, by virtue of the Contracts (Rights of Third Parties) Ordinance (Cap. 623 of the Laws of Hong Kong), by any person who is not a party to this agreement.

**21. Choice of governing law**

This Agreement is to be governed by and construed in accordance with Hong Kong law. Any matter, claim or dispute arising out of or in connection with this Agreement, whether contractual or non-contractual, is to be governed by and determined in accordance with Hong Kong law.

**22. Jurisdiction**

- 22.1 The courts of Hong Kong are to have jurisdiction to settle any dispute, whether contractual or non-contractual, arising out of or in connection with this Agreement. Any Proceedings may be brought in the Hong Kong courts.
- 22.2 Each party waives (and agrees not to raise) any objection, on the ground of *forum non conveniens* or on any other ground, to the taking of Proceedings by the other party in any court in accordance with this clause. Each party also agrees that a judgment against it in Proceedings brought in any jurisdiction in accordance with this clause shall be conclusive and binding upon it and may be enforced in any other jurisdiction.
- 22.3 Each party irrevocably submits and agrees to submit to the jurisdiction of the Hong Kong courts and of any other court in which Proceedings may be brought.

**23. Agent for service**

- 23.1 The Seller irrevocably appoints the Process Agent (Attn: The Service Process Team) to be its agent for the receipt of Service Documents. It agrees that any Service Document may be effectively served on it in connection with Proceedings in Hong Kong by service on its agent effected in any manner permitted by Hong Kong law.
- 23.2 If the agent of the Seller at any time ceases for any reason to act as such, the Seller shall appoint a replacement agent having an address for service in Hong Kong and shall notify the Purchaser of the name and address of the replacement agent. Failing such appointment and notification, the Purchaser shall be entitled by notice to the Seller to appoint a replacement agent to act on behalf of the Seller. The provisions of this clause applying to service on an agent apply equally to service on a replacement agent.

23.3 A copy of any Service Document served on an agent of a party shall be sent by post to that party. Failure or delay in so doing shall not prejudice the effectiveness of service of the Service Document.

**24. Language**

24.1 Each notice, demand, request, statement, instrument, certificate, or other communication under or in connection with this Agreement shall be:

(A) in English; or

(B) if not in English, accompanied by an English translation which is certified by an officer of the party giving the communication to be true and accurate.

24.2 The receiving party or its agent (as appropriate) shall be entitled to assume the accuracy of and rely upon any English translation of any document provided pursuant to sub-clause 24.1(B).

**IN WITNESS WHEREOF** this Agreement has been entered into on the date first before written.

**KOFU INTERNATIONAL LIMITED**

By: /s/ Yin Chung-Yao

Name: Yin Chung-Yao

Title: Authorised Signatory

[ *Signatory Page to Kofu A-RT SPA* ]

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**TAOBAO CHINA HOLDING LIMITED**

By: /s/ Timothy Alexander STEINERT

Name: Timothy Alexander STEINERT

Title: Director

[ *Signatory Page to Kofu A-RT SPA* ]

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EXECUTION VERSION

DATED 20 NOVEMBER 2017

**KOFU INTERNATIONAL LIMITED**

and

**TAOBAO CHINA HOLDING LIMITED**

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**SHARE PURCHASE AGREEMENT**

relating to the sale and purchase of  
shares in Sun Art Retail Group Limited

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## ENCLOSURES

Enclosure A	(Seller Share Exchange and Transfer Agreement)
Enclosure B	(CGC Share Exchange and Transfer Agreement)
Enclosure C	(New Shareholders Agreement)
Enclosure D	(Business Cooperation Agreement)
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Enclosure G	(Confidentiality and Non-compete Agreement)

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THIS AGREEMENT is made the 20th day of November, 2017

### PARTIES:

1. **KOFU INTERNATIONAL LIMITED**, a company incorporated in the British Virgin Islands under registration number 306919, whose registered office is at Palm Grove House, PO Box 438, Road Town, Tortola, British Virgin Islands (the “**Seller**”); and
2. **TAOBAO CHINA HOLDING LIMITED**, a company incorporated in Hong Kong under registration number 842504, whose registered office is at 26/F, Tower One, Times Square, 1 Matheson Street, Causeway Bay, Hong Kong (the “**Purchaser**”).

### BACKGROUND:

- (A) As at the date hereof, the Company is held by A-RT, CGC, the Seller and Auchan as to approximately 51.00, 8.46%, 7.84% and 9.71% respectively.
- (B) As at the date hereof, A-RT is held by CGC, the Seller, Auchan and Monicole as to approximately 25.42%, 23.58%, 36.70% and 14.30% respectively.
- (C) Pursuant to the Share Exchange and Transfer Agreements:
  - (i) CGC and the Seller have conditionally agreed to sell, and Auchan has conditionally agreed to purchase, an aggregate of 35,631,491 ordinary shares in A-RT (representing approximately 19.04% of the issued share capital of A-RT), in consideration of the transfer of an aggregate of 926,418,766 Shares (representing approximately 9.71% of the issued share capital of the Company) by Auchan to CGC and the Seller; and
  - (ii) CGC and the Seller have conditionally agreed to sell, and Monicole has conditionally agreed to purchase, an aggregate of 1,684,156 ordinary shares in A-RT (representing approximately 0.90% of the issued share capital of A-RT) at an aggregate consideration of HK\$284,622,364.
- (D) Immediately following the completion of the Share Exchange and Transfer Agreements, the Company will be held by A-RT, CGC and the Seller as to approximately 51.00%, 13.50% and 12.52% respectively, and Auchan will have no direct shareholding in the Company.
- (E) Immediately following the completion of the Share Exchange and Transfer Agreements, A-RT will be held by CGC, the Seller, Auchan and Monicole as to approximately 15.08%, 13.98%, 55.74% and 15.20% respectively.
- (F) The Seller has agreed to sell and the Purchaser has agreed to purchase the Sale Shares on the terms and subject to the conditions of this Agreement.

THE PARTIES AGREE as follows:

**1. Interpretation**

1.1 In this Agreement, the Schedules and the Attachments to it:

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“ <b>2010 Shareholders Agreement</b> ”	means the Share Restructuring Agreement and Shareholders Agreement in relation to Sun Holdings Greater China Limited dated 12 December 2010 between Auchan (formerly Auchanhyper SAS), Monicole (formerly Monicole BV), CGC and the Seller;
“ <b>2013 Shareholders Agreement</b> ”	means the Shareholders Agreement in relation to A-RT Retail Holdings Limited and Sun Art Retail Group Limited dated 14 August 2013 between Auchan (formerly Auchanhyper SAS), Monicole (formerly Monicole BV), CGC and the Seller;
“ <b>AC Group Company</b> ”	means any Group Company that is not an RTM Group Company;
“ <b>Accounts</b> ”	means the Audited Accounts and Unaudited Accounts;
“ <b>Aggregate Purchase Price</b> ”	means an amount equal to the sum of the First Completion Purchase Price and the Second Completion Purchase Price;
“ <b>Agreed Exchange Rate</b> ”	means, in relation to the First Completion Purchase Price and the Second Completion Purchase Price, the USD/HKD spot fixing rate, as observed on Bloomberg page “USDHKD” currency with code “BFIX” at 11 a.m. (Hong Kong time) on the Business Day that is two Business Days prior to the First Completion Date or the Second Completion Date, as applicable;
“ <b>Agreed Tax Period</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
“ <b>A-RT</b> ”	means A-RT Retail Holdings Limited, a company incorporated in Hong Kong with limited liability;
“ <b>A-RT SPA</b> ”	means the share purchase agreement entered or to be entered into on the date hereof between the Seller and the Purchaser in respect of shares in the Company;
“ <b>Auchan</b> ”	Auchan Retail International S.A., a company incorporated in France with limited liability;
“ <b>Audited Accounts</b> ”	means the audited consolidated financial statements of the Group (including the notes thereto) in respect of the three financial years ended 31 December 2014, 2015 and 2016 as set out in the Company’s annual reports for those financial years published on the website of the Stock Exchange;

<b>“ Bulletin No. 7 ”</b>	means Bulletin No. 7 issued by the PRC State Administration of Taxation on February 3, 2015, titled “Bulletin on Certain Questions relating to the Enterprise Income Tax of Indirect Transfers of Assets by Non-Resident Enterprises ( 关于非居民企业间接转让财产企业所得税若干问题的公告 )”, and any amendment, implementing rules, or official interpretation thereof or any replacement, successor or alternative legislation having the same subject matter thereof;
<b>“ Business Cooperation Agreement ”</b>	means the business cooperation agreement entered or to be entered into between 杭州阿里巴巴泽泰信息技术有限公司 (Hangzhou Alibaba Zetai Information Technology Company Limited), Sunny, 欧尚 (中国) 投资有限公司 (Auchan (China) Investment Co., Ltd.) and 康成投资 (中国) 有限公司 (Concord Investment (China) Co., Ltd.), the agreed form of which is set out in <u>Enclosure D</u> ;
<b>“ Business Day ”</b>	means a day (other than a Saturday or a Sunday) on which banks are open for general business in Hong Kong, the British Virgin Islands, France, the PRC and Taiwan;
<b>“ Business Information ”</b>	means all information (in whatever form held) including (without limitation) all: <ul style="list-style-type: none"> <li>(i) formulas, designs, specifications, drawings, know-how, manuals and instructions;</li> <li>(ii) customer lists, sales, marketing and promotional information;</li> <li>(iii) business plans and forecasts;</li> <li>(iv) technical or other expertise; and</li> <li>(v) all accounting and tax records, correspondence, orders and inquiries;</li> </ul>
<b>“ CGC ”</b>	means Concord Greater China Limited, a company incorporated in the British Virgin Islands with limited liability;

“ <b>CGC A-RT SPA</b> ”	means the share purchase agreement entered or to be entered into on the date hereof between CGC and the Purchaser in respect of shares in A-RT;
“ <b>CGC Share Exchange and Transfer Agreement</b> ”	means the share exchange and transfer agreement entered or to be entered into on the date hereof between Auchan, Monicole and CGC in respect of certain Shares and shares in A-RT, the agreed form of which is set out in <u>Enclosure B</u> ;
“ <b>CGC SPA</b> ”	means the share purchase agreement entered or to be entered into on the date hereof between CGC and the Purchaser in respect of shares in the Company;
“ <b>Circular 698</b> ”	means the Circular regarding strengthening the Administration of Enterprise Income Tax on Equity Transfers by Non-Resident Enterprises issued by the State Administration of Taxation of the PRC on 10 December 2009 (Guoshuihan [2009] No. 698), and any amendment, implementing rules, or official interpretation thereof or any replacement, successor or alternative legislation having the same subject matter thereof;
“ <b>Company</b> ”	means Sun Art Retail Group Limited, a company incorporated in Hong Kong with limited liability, the shares of which are listed on the Stock Exchange (Stock Code: 6808);
“ <b>Completion Dates</b> ”	means the First Completion Date and the Second Completion Date and “ <b>Completion Date</b> ” means any of them;
“ <b>Completions</b> ”	means the First Completion and the Second Completion and “ <b>Completion</b> ” means any of them;
“ <b>Confidentiality and Non-compete Agreements</b> ”	means the confidentiality and non-compete agreements between a Group Company, on the one hand, and each of the Key Employees, on the other hand, in each case substantially in the form set out in <u>Enclosure G</u> ;
“ <b>Deed of Release</b> ”	means the deed of release to be executed by Mega in favour of the Seller, the agreed form of which is set out in <u>Enclosure E</u> ;
“ <b>Disclosure Letter</b> ”	means the letter of the same date as this Agreement written by the Seller to the Purchaser for the purposes of <u>sub-clause 9.1</u> (Purchaser’s remedies) and delivered to the Purchaser’s Solicitors on behalf of the Purchaser before the execution of this Agreement;

<b>“ Due Diligence Materials ”</b>	means all of the documents provided by the Seller to the Purchaser in connection with the transactions contemplated under this Agreement, and delivered by or on behalf of the Seller to the Purchaser’s Solicitors on behalf of the Purchaser in a USB drive before the execution of this Agreement;
<b>“ Encumbrance ”</b>	means any mortgage, charge, pledge, lien (otherwise than arising by statute or operation of law), hypothecation or other encumbrance, priority or security interest, deferred purchase, title retention, leasing, sale-and-repurchase or sale-and-leaseback arrangement whatsoever over or in any property, assets or rights of whatsoever nature and includes any agreement for any of the same;
<b>“ Final Tax Amount ”</b>	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
<b>“ Final Tax Event ”</b>	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
<b>“ First Completion ”</b>	means completion of the sale and purchase of the First Completion Sale Shares under this Agreement;
<b>“ First Completion Date ”</b>	means the 15 <sup>th</sup> Business Day following the day on which the last in time of the conditions listed in <u>Schedule 1</u> (Conditions to First Completion) (other than the conditions listed in <u>paragraphs 7 and 8</u> of <u>Schedule 1</u> (Conditions to First Completion)) shall have been satisfied or waived in accordance with this Agreement or such other date as the parties may agree;
<b>“ First Completion Purchase Price ”</b>	has the meaning ascribed thereto in <u>sub-clause 5.1</u> (Consideration);
<b>“ First Completion Sale Shares ”</b>	means the 962,991,992 Shares to be held and beneficially owned by the Seller immediately prior to First Completion;
<b>“ Fundamental Seller Warranties ”</b>	means the Seller Warranties set out in <u>paragraphs 1</u> (Ownership and status of the Sale Shares) and <u>2</u> (Capacity) of <u>Part 1</u> of <u>Schedule 3</u> and <u>paragraphs 1</u> (Incorporation, capacity and authorisation), <u>3</u> (Group structure) and <u>4</u> (No outstanding securities) of <u>Part 2</u> of <u>Schedule 3</u> ;

“ <b>Group</b> ”	means the Company and its subsidiaries from time to time, and “ <b>Group Company</b> ” means any of them;
“ <b>HKFRSs</b> ”	means Hong Kong Financial Reporting Standards;
“ <b>Hong Kong</b> ”	means the Hong Kong Special Administrative Region of the PRC;
“ <b>Hong Kong Dollars</b> ” or “ <b>HKD</b> ” or “ <b>HK\$</b> ”	means the lawful currency of Hong Kong;
“ <b>Intellectual Property</b> ”	means patents, trade marks, rights in designs, copyrights, database rights (whether or not any of these is registered and including applications for registration of any such thing), domain names and all rights or forms of protection of a similar nature or having equivalent or similar effect to any of these which may subsist anywhere in the world;
“ <b>Joint Instruction</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
“ <b>Key Employees</b> ”	means each of the individuals listed in <u>Schedule 7 (Key Employees)</u> ;
“ <b>Listing Rules</b> ”	means the Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited;
“ <b>Long Stop Date</b> ”	means the day falling three months after the date of this Agreement;
“ <b>Mandatory General Offer</b> ”	means a possible mandatory general offer to be made on behalf of the Purchaser to acquire all the issued Shares not already owned or agreed to be acquired by the Purchaser and parties acting in concert with it in accordance with the Code on Takeovers and Mergers issued by the SFC;
“ <b>Material Adverse Effect</b> ”	means a material adverse effect on or a material adverse change in: <ul style="list-style-type: none"> <li>(i) the condition (financial or otherwise), assets, operations, prospects or business of the Company or any RTM Group Company, or the consolidated condition (financial or otherwise), assets, operations, prospects or business of the Group taken as a whole;</li> </ul>

- (ii) the ability of the Seller to perform and comply with its obligations under the Share Purchase Documents to which it is a party; or
- (iii) the validity or enforceability of, or the rights or remedies of the Purchaser under any of the Share Purchase Documents;

and excluding the effect of (a) any change in financial markets; (b) any change in major supply and customer markets generally unless such change adversely affects the Group in a materially disproportionate manner; and (c) any event or condition arising solely out of an act or omission committed by any Group Company upon the written consent or written direction of the Purchaser or by the Purchaser itself;

“ <b>Mega</b> ”	means Mega International Commercial Bank Co., Ltd., a banking institution incorporated under the laws of the Republic of China;
“ <b>Monicole</b> ”	means Monicole Exploitatie Maatschappij BV, a company incorporated in the Netherlands with limited liability;
“ <b>New Shareholders Agreement</b> ”	means the shareholders agreement entered or to be entered into between the Purchaser, Auchan, Monicole, CGC, the Seller and A-RT, the agreed form of which is set out in <u>Enclosure C</u> ;
“ <b>Postponed Long Stop Date</b> ”	means the Long Stop Date as postponed in accordance with <u>sub-clause 3.5</u> (Conditions);
“ <b>PRC</b> ”	means the People’s Republic of China excluding, for the purpose of this Agreement, Hong Kong, the Macao Special Administrative Region and Taiwan;
“ <b>Proceedings</b> ”	means any proceeding, suit or action arising out of or in connection with this Agreement or the negotiation, existence, validity or enforceability of this Agreement, whether contractual or non-contractual;



“ <b>Process Agent</b> ”	means The Law Debenture Corporation (H.K.) Limited of Suite 413, Hutchinson House, 10 Harcourt Road, Central, Hong Kong;
“ <b>Purchaser Indemnity Release Instruction</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
“ <b>Purchaser Release Instructions</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting) and “ <b>Purchaser Release Instruction</b> ” shall be construed accordingly;
“ <b>Purchaser Tax Release Instruction</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
“ <b>Purchaser Warranties</b> ”	means the warranties set out in <u>Clause 8.1</u> (Purchaser Warranties) given by the Purchaser and any other warranties made by or on behalf of the Purchaser in this Agreement and “ <b>Purchaser Warranty</b> ” shall be construed accordingly;
“ <b>Purchaser’s Designee(s)</b> ”	means any fund(s) whose general partner is a wholly-owned subsidiary of Alibaba Group Holding Limited;
“ <b>Purchaser’s Group</b> ”	means the Purchaser, its subsidiaries and subsidiary undertakings, any holding company of the Purchaser and all other subsidiaries and subsidiary undertakings of any such holding company from time to time;
“ <b>Purchaser’s Solicitors</b> ”	means Slaughter and May of 47/F, Jardine House, One Connaught Place, Central, Hong Kong;
“ <b>Regulatory Authority</b> ”	means any federal, state, national, provincial, local or other governmental or regulatory authority, agency or body, court, arbitrator or self-regulatory organisation of applicable jurisdictions;
“ <b>Relevant PRC Tax Authority</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
“ <b>Reporting Agent</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
“ <b>Reporting Transactions</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
“ <b>Retained Group</b> ”	means the Seller, its subsidiaries and subsidiary undertakings from time to time, any holding company of the Seller and all other subsidiaries or subsidiary undertakings of any such holding company (except members of the Group);

“ <b>RMB</b> ”	means the lawful currency of the PRC;
“ <b>RTM Group Company</b> ”	means any Group Company of which a majority of the board of directors are appointed by or on behalf of the Seller and/or CGC and, for the avoidance of doubt, includes (prior to First Completion) Concord Champion International Ltd., RT-Mart Holdings Limited and Concord Investment (China) Limited;
“ <b>Sale Shares</b> ”	means the First Completion Sale Shares and the Second Completion Sale Shares;
“ <b>Second Completion</b> ”	means completion of the sale and purchase of the Second Completion Sale Shares under this Agreement;
“ <b>Second Completion Date</b> ”	means the date specified by the Purchaser in the Second Completion Notice or, if none is so specified, the 15th Business Day following (i) the Long Stop Date or (ii) the Postponed Long Stop Date, as the case may be;
“ <b>Second Completion Notice</b> ”	has the meaning ascribed thereto in <u>sub-clause 7.1</u> (Second Completion);
“ <b>Second Completion Purchase Price</b> ”	has the meaning ascribed thereto in <u>sub-clause 5.2</u> (Consideration);
“ <b>Second Completion Sale Shares</b> ”	means the 231,128,286 Shares to be held and beneficially owned by the Seller immediately prior to Second Completion;
“ <b>Security</b> ”	means the share charge over 748,376,538 Shares granted by the Seller in favour of Mega on 18 May 2015;
“ <b>Seller No-Tax Release Instruction</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
“ <b>Seller Release Instructions</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting) and “ <b>Seller Release Instruction</b> ” shall be construed accordingly;
“ <b>Seller Share Exchange and Transfer Agreement</b> ”	means the share exchange and transfer agreement entered or to be entered into on the date hereof between Auchan, Monicole and the Seller in respect of certain Shares and shares in A-RT, the agreed form of which is set out in <u>Enclosure A</u> ;

“ Seller Tax Release Instruction ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
“ Seller Warranties ”	means the warranties set out in <u>Schedule 3</u> (Seller Warranties) given by the Seller and any other warranties made by or on behalf of the Seller in this Agreement and “ Seller Warranty ” shall be construed accordingly;
“ Seller’s Designated Account ”	means the following bank account:  <b>Correspondent Bank :</b>  <b>Beneficiary Bank :</b>  <b>Account Name :</b>  <b>Account Number :</b>
“ Seller’s Solicitors ”	means Clifford Chance LLP;
“ Selling Taxes ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
“ Service Document ”	means a claim form, application notice, order or judgment;
“ SFC ”	means the Securities and Futures Commission of Hong Kong;
“ SFO ”	means the Securities and Futures Ordinance (Cap. 571 of the Laws of Hong Kong);
“ Share Exchange and Transfer Agreements ”	means the Seller Share Exchange and Transfer Agreement and the CGC Share Exchange and Transfer Agreement;

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“Share Purchase Documents ”	means this Agreement, the Disclosure Letter, the Share Exchange and Transfer Agreements, the A-RT SPA, the CGC SPA, the CGC A-RT SPA, the New Shareholders Agreement, the Business Cooperation Agreement and any other documents entered into pursuant to any of them;
“ Shareholder(s) ”	means holder(s) of the Shares;
“ Shareholders Agreements ”	means the 2010 Shareholders Agreement and the 2013 Shareholders Agreement;
“ Shares ”	means ordinary shares in the capital of the Company;
“ Stock Exchange ”	means the Main Board of The Stock Exchange of Hong Kong Limited;
“ Tax ”	means (a) in the PRC: (i) any national, provincial, municipal, or local taxes, charges, fees, levies, or other assessments in the nature of tax, including, without limitation, all net income (including enterprise income tax and individual income withholding tax), turnover (including value-added tax, business tax, and consumption tax), resource (including urban and township land use tax), special purpose (including land value-added tax, urban maintenance and construction tax, and additional education fees), property (including urban real estate tax and land use fees), documentation (including stamp duty and deed tax), filing, recording, social insurance (including pension, medical, unemployment, housing, and other social insurance withholding), tariffs (including import duty and import value-added tax), and estimated and provisional taxes, charges, fees, levies, or other assessments of any kind whatsoever in the nature of tax, (ii) all interest, penalties (administrative, civil or criminal), or additional amounts imposed by any Regulatory Authority in connection with any item described in clause (i) above, and (iii) any form of transferor liability imposed by any Regulatory Authority in connection with any item described in clauses (i) and (ii) above, and (b) in any jurisdiction other than the PRC: all similar liabilities as described in clause (a) above;
“ Tax Escrow Agreement ”	means the escrow agreement to be entered into between the Seller, CGC, the Purchaser and Mega on the First Completion Date on the terms set out in <u>Schedule 6</u> (PRC Tax reporting);

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“ <b>Tax Escrow Amount</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
“ <b>Tax Payment Receipt</b> ”	has the meaning ascribed thereto in <u>Schedule 6</u> (PRC Tax reporting);
“ <b>US Dollars</b> ” or “ <b>USD</b> ” or “ <b>US\$</b> ”	the lawful currency of the United States of America;
“ <b>Warranties</b> ”	means the Purchaser Warranties and the Seller Warranties; and
“ <b>Working Hours</b> ”	means 9.00 a.m. to 6.00 p.m. on a Business Day.

1.2 In this Agreement, unless otherwise specified:

- (A) references to clauses, sub-clauses, paragraphs, sub-paragraphs, Schedules and Attachments are to clauses, sub-clauses, paragraphs and sub-paragraphs of and Schedules and Attachments to, this Agreement;
- (B) references to any document in the “ **agreed form** ” means that document in a form agreed by the parties;
- (C) use of any gender includes the other genders;
- (D) a reference to any statute or statutory provision shall be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or re-enacted and shall include any subordinate legislation made from time to time under that statute or statutory provision;
- (E) references to a “ **company** ” shall be construed so as to include any corporation or other body corporate, wherever and however incorporated or established;
- (F) references to a “ **person** ” shall be construed so as to include any individual, firm, company, corporation, body corporate, government, state or agency of a state, local or municipal authority or government body or any joint venture, association or partnership (whether or not having separate legal personality);
- (G) the expressions “ **accounting reference date** ”, “ **accounting reference period** ”, “ **body corporate** ”, “ **holding company** ”, “ **subsidiary** ” and “ **subsidiary undertaking** ” shall have the meaning given in the Companies Ordinance (Cap. 622 of the Laws of Hong Kong);
- (H) references to “ **indemnify** ” and “ **indemnifying** ” any person against any circumstance include indemnifying and keeping him harmless on an after-Tax basis from all actions, claims and proceedings from time to time made against that person and all loss or damage and all payments, costs or expenses made or incurred by that person as a consequence of or which would not have arisen but for that circumstance;

- (I) any reference to a “ **day** ” (including the phrase “ **Business Day** ”) shall mean a period of 24 hours running from midnight to midnight;
- (J) references to times are to Hong Kong time;
- (K) any indemnity or obligation to pay (the “ **Payment Obligation** ”) being given or assumed on an “ **after-Tax basis** ” or expressed to be “ **calculated on an after-Tax basis** ” means that the amount payable pursuant to such Payment Obligation (the “ **Payment** ”) shall be calculated in such a manner as will ensure that, after taking into account:
- (i) any Tax required to be deducted or withheld from the Payment;
  - (ii) the amount and timing of any additional Tax which becomes payable as a result of the Payment’s being subject to Tax; and
  - (iii) the amount and timing of any Tax benefit which is obtained by the recipient of the Payment, to the extent that such Tax benefit is attributable to the matter giving rise to the Payment Obligation,
- the recipient of the Payment is in the same position as that in which it would have been if the matter giving rise to the Payment Obligation had not occurred (or, in the case of a Payment Obligation arising by reference to a matter affecting a person other than the recipient of the Payment, the recipient of the Payment and that other person are, taken together, in the same position as that in which they would have been had the matter giving rise to the Payment Obligation not occurred), provided that the amount of the Payment shall not exceed that which it would have been if it had been regarded for all Tax purposes as received solely by the recipient and not any other person;
- (L) references to writing shall include any modes of reproducing words in a legible and non-transitory form and whether sent or supplied by electronic mail;
- (M) references to the knowledge of the Seller shall be treated as including any knowledge which each director appointed by the Seller and/or CGC to the board of any Group Company would have if such director made all usual and reasonable enquiries;
- (N) references to any Hong Kong legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official, or any legal concept or thing shall in respect of any jurisdiction other than Hong Kong be deemed to include what most nearly approximates in that jurisdiction to the Hong Kong legal term;
- (O) (i) the rule known as the *ejusdem generis* rule shall not apply and accordingly general words introduced by the word “other” shall not be given a restrictive meaning by reason of the fact that they are preceded by words indicating a particular class of acts, matters or things; and

(ii) general words shall not be given a restrictive meaning by reason of the fact that they are followed by particular examples intended to be embraced by the general words;

(P) all headings and titles are inserted for convenience only and are to be ignored in the interpretation of this Agreement; and

(Q) the Schedules and Attachments form part of this Agreement and shall have the same force and effect as if expressly set out in the body of this Agreement, and any reference to this Agreement shall include the Schedules and Attachments.

## **2. Sale and purchase**

2.1 The Seller shall sell, or procure the sale of, and the Purchaser shall purchase, the First Completion Sale Shares with all rights attached or accruing to them at First Completion.

2.2 The Seller shall sell, or procure the sale of, and the Purchaser shall purchase, the Second Completion Sale Shares with all rights attached or accruing to them at Second Completion.

2.3 Save for the Security, the release of which the Seller shall procure pursuant to its obligations under sub-clause 6.2 (First Completion) and paragraph 4 of Part A of Schedule 2A (First Completion arrangements), the Seller has the right to transfer legal and beneficial title to the Sale Shares.

2.4 The First Completion Sale Shares shall as at First Completion, and the Second Completion Sale Shares shall as at Second Completion, be free from all charges and encumbrances and from all other rights exercisable by or claims by third parties.

2.5 The Purchaser shall be entitled to exercise all rights attached or accruing to the First Completion Sale Shares and the Second Completion Sale Shares including, without limitation, the right to receive all dividends, distributions or any return of capital declared, paid or made by the Company on or after the First Completion Date and Second Completion Date, respectively.

2.6 The Seller waives all rights of pre-emption over any of the Shares conferred upon it by the articles of association of the Company or in any other way and undertakes to take all steps necessary to ensure that any rights of pre-emption over any of the Shares are waived prior to each Completion.

## **3. Conditions**

3.1 The sale and purchase of the Sale Shares pursuant to this Agreement is in all respects conditional upon those matters listed in Schedule 1 (Conditions to First Completion).

3.2 (A) The Seller will use all reasonable endeavours to fulfil or procure the fulfilment of the conditions listed in paragraphs 1, 3 and 9 of Schedule 1 (Conditions to First Completion) as soon as possible and in any event before the Long Stop Date and will notify the Purchaser in writing, as soon as reasonably practicable, of the satisfaction of each such condition.

- (B) The Purchaser will use all reasonable endeavours to fulfil or procure the fulfilment of the condition listed in paragraph 8 of Schedule 1 (Conditions to First Completion) as soon as possible and in any event by 5.00 p.m. on the First Completion Date and will notify the Seller in writing, as soon as reasonably practicable, of the satisfaction of each such condition.
- (C) Each of the Seller and the Purchaser will use all reasonable endeavours to fulfil or procure the fulfilment of the conditions listed in paragraphs 4 to 7 (inclusive) of Schedule 1 (Conditions to First Completion) as soon as possible and in any event (in respect of paragraphs 4 to 6 (inclusive) of Schedule 1 (Conditions to First Completion)) before the Long Stop Date and (in respect of paragraph 7 of Schedule 1 (Conditions to First Completion)) by 5.00 p.m. on the First Completion Date and will notify the other in writing, as soon as reasonably practicable after it becomes aware of the satisfaction of each such condition.
- 3.3 The Purchaser may waive in writing in whole or in part all or any of the conditions listed in paragraphs 1, 2, 7, 8 and 9 of Schedule 1 (Conditions to First Completion). The condition set out in paragraphs 3 to 6 (inclusive) of Schedule 1 (Conditions to First Completion) may not be waived, in whole or in part, by any party.
- 3.4 Each of the Seller and the Purchaser undertakes to disclose in writing to the other anything which will or may prevent any of the conditions set out in Schedule 1 (Conditions to First Completion) from being satisfied on or prior to the Long Stop Date (or subsequently) immediately after it comes to their attention. Without prejudice to the generality of the foregoing, this includes disclosure of any indication that any Regulatory Authority may intend to withhold its approval of, or raise an objection to, or withdraw any licence or authorisation following, or impose a condition on or following, the sale and purchase of the Sale Shares pursuant to this Agreement.
- 3.5 If any of the conditions set out in Schedule 1 (Conditions to First Completion) (other than the conditions set out in paragraphs 7 and 8 of Schedule 1 (Conditions to First Completion)) is not fulfilled or waived by the Purchaser or the Seller, as the case may be, by midnight on the Long Stop Date then:
- (A) if it was the obligation of the Seller to satisfy the relevant condition (or conditions) then the Purchaser may, in its absolute discretion, postpone the Long Stop Date by up to 10 Business Days; or
- (B) if it was the obligation of the Purchaser to satisfy the relevant condition (or conditions) then the Seller may, in its absolute discretion, postpone the Long Stop Date by up to 10 Business Days; or
- (C) if responsibility for satisfaction of the relevant condition or conditions falls either:
- (i) upon each of the Seller and the Purchaser; or



(ii) upon neither the Seller nor the Purchaser,

then the parties may postpone the Long Stop Date by agreement between them,

(the Long Stop Date, as so postponed, being the “ **Postponed Long Stop Date** ”).

3.6 If, in the circumstances set out in sub-clause 3.5, either:

(A) the Long Stop Date is not postponed; or

(B) any of the conditions remains to be fulfilled or waived, by midnight on the Postponed Long Stop Date,

subject to sub-clause 3.9, this Agreement shall be capable of termination by either the Purchaser or the Seller forthwith on written notice to the other provided that the party proposing to terminate has complied with its obligations under this clause 3 (Conditions).

3.7 If any of the conditions set out in paragraphs 7 and 8 of Schedule 1 (Conditions to First Completion) is not fulfilled or waived by the Purchaser or the Seller, as the case may be, by 5.00 p.m. on the First Completion Date then:

(A) if it was the obligation of the Seller to satisfy the relevant condition (or conditions) then the Purchaser may defer First Completion by up to 10 Business Days (so that the provisions of clause 6 (First Completion) shall apply to First Completion as so deferred); or

(B) if it was the obligation of the Purchaser to satisfy the relevant condition (or conditions) then the Seller may defer First Completion by up to 10 Business Days (so that the provisions of clause 6 (First Completion) shall apply to First Completion as so deferred); or

(C) if responsibility for satisfaction of the relevant condition or conditions falls either:

(i) upon each of the Seller and the Purchaser; or

(ii) upon neither the Seller nor the Purchaser,

then the parties may defer First Completion by agreement between them.

3.8 If, in the circumstances set out in sub-clause 3.7, either:

(A) First Completion is not deferred; or

(B) any of the conditions remains to be fulfilled or waived, by 5.00 p.m. of the date of the First Completion as so deferred,

subject to sub-clause 3.9, this Agreement shall be capable of termination by either the Purchaser or the Seller forthwith on written notice to the other provided that the party proposing to terminate has complied with its obligations under this clause 3 (Conditions).

3.9 If this Agreement terminates in accordance with sub-clause 3.6 or 3.8 and without limiting the Purchaser's or the Seller's (as the case may be) right to any right, power or remedy provided by law or under this Agreement:

- (A) and if the Seller has not as at the relevant time fulfilled its obligation to satisfy any condition set out in Schedule 1 (Conditions to First Completion), the Seller will indemnify the Purchaser on demand on an after-Tax basis for all reasonable costs and expenses incurred by the Purchaser in accordance with sub-clause 18.2 (Costs and expenses); and
- (B) all obligations of the parties under this Agreement shall end except for those expressly stated to continue without limit in time but (for the avoidance of doubt) all rights and liabilities of the parties which have accrued before termination shall continue to exist.

#### **4. Conduct of business before First Completion**

4.1 The Seller shall procure that, between the date of this Agreement and First Completion, each RTM Group Company shall, and shall use all reasonable endeavours to procure that, between the date of this Agreement and First Completion, each AC Group Company shall, carry on its business in the ordinary and usual course in the same manner as carried on during the six months preceding the date of this Agreement.

4.2 Without prejudice to the generality of sub-clause 4.1, the Seller shall procure that no RTM Group Company will, and shall use all reasonable endeavours to procure that no AC Group Company will, between the date of this Agreement and First Completion, undertake any of the acts or matters listed in Schedule 4 (Conduct of Business before First Completion) without the consent in writing of the Purchaser (not to be unreasonably withheld or delayed) save to the extent contemplated under the Share Purchase Documents.

4.3 Subject to applicable law, as from the date of this Agreement, the Seller shall procure (in respect of the RTM Group Companies), and shall use all reasonable endeavours to procure (in respect of the AC Group Companies) the provision of reasonable access in favour of the Purchaser and any persons authorised by it to the premises and all the books and records and title deeds of such Group Companies and the directors appointed by the Seller and/or CGC and employees of the RTM Group Companies and each RTM Group Company will be instructed to give promptly all information and explanations to the Purchaser or any such persons as they may request, provided that the Purchaser and such persons authorised by it shall be bound by clause 17 (Confidentiality) in relation to any information received or obtained pursuant to this sub-clause 4.3.

#### **5. Consideration**

5.1 The total consideration for the sale of the First Completion Sale Shares shall be the payment by the Purchaser of an amount in US Dollars being the equivalent of HK\$6,259,447,948 as converted at the Agreed Exchange Rate (the “**First Completion Purchase Price**”) payable in accordance with clause 6 (First Completion).

- 5.2 The total consideration for the sale of the Second Completion Sale Shares shall be the payment by the Purchaser of an amount in US Dollars being the equivalent of HK\$1,502,333,859 as converted at the Agreed Exchange Rate (the “ **Second Completion Purchase Price** ”) payable in accordance with clause 7 (Second Completion).
- 5.3 Any payment made by the Seller to the Purchaser under this Agreement shall (so far as possible) be treated as a reduction of the consideration for the Sale Shares to the extent of the payment.
- 6. First Completion**
- 6.1 First Completion shall take place on the First Completion Date at the offices of the Purchaser’s Solicitors at 47/F, Jardine House, One Connaught Place, Central, Hong Kong.
- 6.2 At First Completion the Seller shall do those things listed in paragraphs 1, 2, 4 and 5 of Part A (Parties’ obligations) of Schedule 2A (First Completion arrangements) and the Purchaser shall do those things listed in paragraph 3 of Part A (Parties’ obligations) of Schedule 2A (First Completion arrangements). First Completion shall take place in accordance with Part B (General) of Schedule 2A (First Completion arrangements).
- 6.3 The Purchaser shall not be obliged to complete the sale and purchase of the First Completion Sale Shares unless the Seller complies with the requirements of sub-clause 6.2 and paragraphs 1, 2, 4 and 5 of Part A (Parties’ obligations) of Schedule 2A (First Completion arrangements). The Seller shall not be obliged to complete the sale and purchase of the First Completion Sale Shares unless the Purchaser complies with the requirements of paragraph 3 of Part A (Parties’ obligations) of Schedule 2A (First Completion arrangements).
- 6.4 Neither party shall be obliged to complete the sale and purchase of any of the First Completion Sale Shares unless:
- (A) the sale and purchase of all the First Completion Sale Shares is completed simultaneously; and
  - (B) this Agreement (save for the Second Completion), the A-RT SPA, the CGC SPA (save for the Second Completion (as defined under the CGC SPA)) and the CGC A-RT SPA are completed substantially contemporaneously.
- 6.5 If the obligations of the Seller under sub-clause 6.2 and paragraphs 1, 2, 4 and 5 of Part A (Parties’ obligations) of Schedule 2A (First Completion arrangements) are not complied with on the First Completion Date, the Purchaser may, and if the obligations of the Purchaser under sub-clause 6.2 and paragraph 3 of Part A (Parties’ obligations) of Schedule 2A (First Completion arrangements) are not complied with on the First Completion Date, the Seller may:
- (A) defer First Completion (so that the provisions of this clause 6 shall apply to First Completion as so deferred);

- (B) proceed to First Completion as far as practicable (without limiting its rights under this Agreement); or
  - (C) terminate this Agreement by notice in writing to the Seller or the Purchaser, as the case may be.
- 6.6 If this Agreement is terminated by the Purchaser in accordance with sub-clause 6.5 and without limiting either party's right to any right, power or remedy provided by law or under this Agreement:
- (A) the Seller will indemnify the Purchaser on demand on an after-Tax basis for all reasonable costs and expenses incurred by the Purchaser in accordance with sub-clause 18.2 (Costs and expenses); and
  - (B) all obligations of the parties under this Agreement shall end except for those expressly stated to continue without limit in time but (for the avoidance of doubt) all rights and liabilities of the parties which have accrued before termination shall continue to exist.
- 6.7 The Seller undertakes to indemnify the Purchaser against any loss, expense or damage which it may suffer as a result of any document delivered to it pursuant to this clause being unauthorised, invalid or for any other reason ineffective for its purpose.
- 6.8 The Seller shall procure that:
- (A) HUANG Ming-Tuan and CHENG Chuan-Tai tender their written resignation from their respective offices as directors of the Company with effect from First Completion (or, in the event that, prior to First Completion, the Purchaser announces any firm intention to make a Mandatory General Offer, the day immediately after close of the Mandatory General Offer); and
  - (B) the board of directors of the Company approve the appointment of such persons nominated by the Purchaser as directors of the Company with effect from First Completion (or, in the event that, prior to First Completion, the Purchaser announces any firm intention to make a Mandatory General Offer, the day immediately after the despatch of the offer document or composite document).
- 6.9 The Seller covenants with the Purchaser to pay to the Purchaser an amount calculated on an after-Tax basis equal to the value of any and all claims which may be made against any member of the Group by any of HUANG Ming-Tuan and CHENG Chuan-Tai, because of their resignation from office or of their employment being terminated and an amount equal to all costs, charges and expenses incurred by any member of the Group which are incidental to any such claim.
- 6.10 Payment by or on behalf of the Purchaser for the amount stated in sub-clause 5.1 (Consideration) in accordance with paragraph 3 of Part A (Parties' obligations) of Schedule 2A (First Completion arrangements) shall constitute payment of the consideration for the First Completion Sale Shares and shall fully discharge the obligations of the Purchaser under sub-clause 2.1 (Sale and purchase).

## 7. Second Completion

- 7.1 The Purchaser may, at any time after the execution of this Agreement, specify the Second Completion Date by notice to the Seller (the “**Second Completion Notice**”), provided that the Second Completion Date so specified shall be: (a) on or after the First Completion Date; (b) no later than the 15th Business Day following (i) the Long Stop Date or (ii) Postponed Long Stop Date, as the case may be; and (c) on or after the 5th Business Day following the date of the Second Completion Notice.
- 7.2 Subject to the First Completion having taken place, the Second Completion shall take place on the Second Completion Date at the offices of the Purchaser’s Solicitors at 47/F, Jardine House, One Connaught Place, Central, Hong Kong.
- 7.3 At Second Completion the Seller shall do those things listed in Part A (Seller’s obligations) of Schedule 2B (Second Completion arrangements) and the Purchaser shall do those things listed in Part B (Purchaser’s obligations) of Schedule 2B (Second Completion arrangements). Second Completion shall take place in accordance with Part C (General) of Schedule 2B (Second Completion arrangements).
- 7.4 The Purchaser shall not be obliged to complete the sale and purchase of the Second Completion Sale Shares unless the Seller complies with the requirements of sub-clause 7.3 and Part A (Seller’s obligations) of Schedule 2B (Second Completion arrangements). The Seller shall not be obliged to complete the sale and purchase of the Second Completion Sale Shares unless the Purchaser complies with the requirements of sub-clause 7.3 and Part B (Purchaser’s obligations) of Schedule 2B (Second Completion arrangements).
- 7.5 Neither party shall be obliged to complete the sale and purchase of any of the Second Completion Sale Shares unless:
- (A) the sale and purchase of all the Second Completion Sale Shares is completed simultaneously; and
  - (B) the Second Completion under this Agreement and the Second Completion (as defined under the CGC SPA) occur substantially contemporaneously.
- 7.6 If the obligations of the Seller under sub-clause 7.3 and Part A (Seller’s obligations) of Schedule 2B (Second Completion arrangements) are not complied with on the Second Completion Date the Purchaser may, and if the obligations of the Purchaser under sub-clause 7.3 and Part B (Purchaser’s obligations) of Schedule 2B (Second Completion arrangements) are not complied with on the Second Completion Date the Seller may:
- (A) defer Second Completion (so that the provisions of this clause 7 shall apply to Second Completion as so deferred);
  - (B) proceed to Second Completion as far as practicable (without limiting its rights under this Agreement); or
  - (C) elect not to proceed to Second Completion.

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- 7.7 If the Purchaser elects not to proceed to Second Completion in accordance with sub-clause 7.6 and without limiting either party’s right to any right, power or remedy provided by law or under this Agreement:
- (A) the Seller will indemnify the Purchaser on demand on an after-Tax basis for all reasonable costs and expenses incurred by the Purchaser (including, but not limited to, the fees of all external legal advisers and their disbursements and out of pocket expenses) in connection with the Second Completion or the preparation thereof; and
  - (B) all warranties, undertakings and obligations of the parties relating to the Second Completion shall end.
- 7.8 The Seller undertakes to indemnify the Purchaser against any loss, expense or damage which it may suffer as a result of any document delivered to it pursuant to this clause being unauthorised, invalid or for any other reason ineffective for its purpose.
- 7.9 Payment by or on behalf of the Purchaser for the amount stated in sub-clause 5.2 (Consideration) in accordance with Part B (Purchaser’s obligations) of Schedule 2B (Second Completion arrangements) shall constitute payment of the consideration for the Second Completion Sale Shares and shall fully discharge the obligations of the Purchaser under sub-clause 2.2 (Sale and purchase).

## 8. Warranties

### Purchaser Warranties

- 8.1 The Purchaser warrants to the Seller, at the date of this Agreement, the First Completion Date and the Second Completion Date as if repeated immediately before the First Completion and Second Completion Date by reference to the facts and circumstances subsisting at the First Completion Date or the Second Completion Date, as the case may be, on the basis that any reference in the Purchaser Warranties, whether express or implied, to the date of this Agreement is substituted by a reference to the First Completion Date or the Second Completion Date, as the case may be, that:
- (A) the Purchaser is validly incorporated, in existence and duly registered and has the requisite capacity, power and authority to enter into and perform this Agreement and to execute, deliver and perform any obligations it may have under each document to be delivered by the Purchaser at each Completion;
  - (B) the obligations of the Purchaser under this Agreement constitute, and the obligations of the Purchaser at each Completion will when delivered

constitute, binding obligations of the Purchaser in accordance with their respective terms;

(C) the execution and delivery of, and the performance by the Purchaser of its obligations under, this Agreement will not:

(i) result in a breach of any provision of the memorandum or articles of association of the Purchaser; or

- (ii) result in a breach of, or constitute a default under, any instrument by which the Purchaser is bound; or
  - (iii) result in a material breach of any statute, law, rule, regulation, order, judgment or decree of any court or governmental agency by which the Purchaser is bound; or
  - (iv) require the consent or approval of the shareholders of the Purchaser or of any other person; and
- (D) the Purchaser, together with the Purchaser's Designee(s) (if applicable), will have at each Completion immediately available on an unconditional basis (subject only to the relevant Completion) the necessary cash resources outside of mainland PRC to meet its obligations under this Agreement.

8.2 The Purchaser acknowledges and agrees that the Seller is a person connected with the Company (such expression shall be construed in accordance with section 287 of the SFO) and the Seller may possess inside information (as defined under the SFO) relating to the Group.

#### Seller Warranties

- 8.3 The Seller warrants to the Purchaser that each of the Seller Warranties is accurate and not misleading at the date of this Agreement and will be accurate and not misleading at:
- (A) the First Completion Date as if repeated immediately before the First Completion by reference to the facts and circumstances subsisting at the First Completion Date on the basis that any reference in the Seller Warranties, whether express or implied, to the date of this Agreement is substituted by a reference to the First Completion Date; and
  - (B) the Second Completion Date as if repeated immediately before the Second Completion by reference to the facts and circumstances subsisting:
    - (i) in respect of the Seller Warranties set out in Part 1 of Schedule 3, at the Second Completion Date on the basis that any reference in the Seller Warranties, whether express or implied, to the date of this Agreement is substituted by a reference to the Second Completion Date; and
    - (ii) in respect of the Seller Warranties set out in Part 2 of Schedule 3, at the First Completion Date on the basis that any reference in the Seller Warranties, whether express or implied, to the date of this Agreement is substituted by a reference to the First Completion Date.
- 8.4 The Seller shall procure that no act shall be performed or omission allowed in the period between the date of this Agreement and Second Completion, either by itself or any member of the Retained Group or any RTM Group Company, which would result in any of the Seller Warranties being breached or misleading at the time of each Completion. The Seller shall further use all reasonable endeavours to procure that no act shall be performed or omission allowed in the period between the date of this Agreement and Second Completion by any AC Group Company which would result in any of the Seller Warranties given by it being breached or misleading at the time of each Completion.

- 8.5 The Seller undertakes to disclose in writing to the Purchaser anything which is or may constitute a breach of or be inconsistent with any of the Seller Warranties promptly after it comes to its notice before or at the time of each Completion.
- 8.6 The Seller undertakes (in the absence of fraud) that if any claim is made against it in connection with the sale of the Sale Shares to the Purchaser, no member of the Retained Group or the Group will make any claim against any member of the Group or any director, employee, agent or adviser of any member of the Group on whom it may have relied before agreeing to any term of this Agreement or authorising any statement in the Disclosure Letter.
- 8.7 Each of the Warranties shall be construed as being separate and independent and (except where expressly provided to the contrary) shall not be limited or restricted by reference to or inference from the terms of any other Warranty.
- 8.8 Without restricting the rights of the Purchaser or its ability to claim damages on any basis, in the event that any of the Seller Warranties is breached or is untrue or misleading, the Seller covenants with the Purchaser that the Seller will pay to the Purchaser or to such person as the Purchaser may direct an amount calculated on an after-Tax basis equal to the aggregate of:
- (A) the amount equal to any and all losses and damages suffered or incurred by the Purchaser in connection with value of any asset or the amount of any liability of any member of the Group being or becoming respectively less than or greater than it would have been if the Seller Warranties had not been breached or not been untrue or misleading; and
  - (B) the amount equal to any and all losses and damages suffered or incurred by the Purchaser in connection with the profits or losses of any member of the Group being respectively less than or greater than would have been the case if the Seller Warranties had not been breached or not been untrue or misleading; and
  - (C) an amount equal to any reasonable costs and expenses incurred directly or indirectly as a result of or in connection with a claim pursuant to sub-paragraphs (A) or (B).
- 8.9 If in respect of or in connection with any breach of any of the Seller Warranties or any facts or matters warranted not being true and being misleading any amount payable by the Seller (whether under this clause 8 or otherwise) is subject to Tax in the hands of the recipient or the person beneficially entitled to such payment (the “**Recipient**”), the Seller shall pay such additional amounts so as to ensure that the net amount received by the Recipient is equal to the full amount payable by the Seller under this Agreement.
- 8.10 The Seller undertakes to indemnify the Purchaser on an after-Tax basis against all costs (including legal costs on an indemnity basis as defined in Rule 28(4A) of The Rules of the High Court (Cap. 4A of the Laws of Hong Kong) and expenses or other liabilities which the Purchaser may reasonably incur either before or after the commencement of any action in connection with:



- (A) the settlement of any claim that any of the Seller Warranties are untrue or misleading or have been breached or that any sum is payable under sub-clause 8.8;
  - (B) any legal proceedings in which the Purchaser claims that any of the Seller Warranties are untrue or misleading or have been breached or that any sum is payable under sub-clause 8.8 and in which judgment is given for the Purchaser; or
  - (C) the enforcement of any such settlement or judgment.
- 8.11 If the Seller or the Purchaser (as the case may be) defaults in the payment when due of any sum payable under this Agreement (whether determined by agreement or pursuant to an order of a court or otherwise), the liability of the Seller or the Purchaser (as the case may be) shall be increased to include interest on the balance of such sum outstanding from time to time from the date when such payment is due until the date of actual payment (after as well as before judgment) at a rate per annum of two per cent. above the 12-month Hong Kong Interbank Offered Rate as at the date when such payment is due. Such interest shall accrue from day to day, shall be compounded monthly and shall be payable on demand by the Purchaser or the Seller (as the case may be).
- 8.12 The Seller undertakes to comply with the obligations set out in Schedule 6 (PRC Tax reporting).

**9. Purchaser's remedies**

- 9.1 The Purchaser shall not be entitled to claim that any fact, matter or circumstance causes any of the Seller Warranties to be breached or renders any of the Seller Warranties misleading if it has been fairly disclosed in the Share Purchase Documents, the Disclosure Letter or the Accounts in the absence of any fraud or dishonesty on the part of the Seller or its agents or advisers and only those matters so disclosed in the Share Purchase Documents, the Disclosure Letter or the Accounts shall qualify the Seller Warranties.
- 9.2 No liability shall attach to the Seller in respect of claims under the Seller Warranties if and to the extent that the limitations referred to in sub-clause 9.1 apply, in the absence of any fraud or dishonesty on the part of the Seller or its agents or advisers.
- 9.3 The Seller's liability for any claims under this Agreement shall be limited or excluded, as the case may be, as set out in Schedule 5 (Limitations on Seller's Liability).
- 9.4 (A) If, between the execution of this Agreement and First Completion, the Purchaser becomes aware (whether it does so by reason of any disclosure made under clause 8.3 (Seller Warranties) or not) that any of the Seller Warranties is or was inaccurate or misleading or that there has been any breach or breaches of any of the Seller Warranties or any other term of this Agreement, in each case having a Material Adverse Effect, the Purchaser may terminate this Agreement by notice in writing to the Seller.

- (B) If this Agreement is terminated in accordance with sub-clause 9.4(A) (and without limiting the Purchaser's right to claim damages):
- (i) the Seller will indemnify the Purchaser on demand on an after-Tax basis for all reasonable costs and expenses incurred by the Purchaser in accordance with sub-clause 18.2 (Costs and expenses); and
  - (ii) all obligations of the Purchaser under this Agreement shall end (except for the provisions of clauses 16 (Announcements) and 17 (Confidentiality)),
- but (for the avoidance of doubt) all rights and liabilities of the parties which have accrued before termination for breach of this Agreement shall continue to exist.
- (C) (For the avoidance of doubt but without limiting clause 11 (Remedies and waivers)), the Purchaser's right to terminate this Agreement in accordance with sub-clause 9.4(A) is not exclusive of any rights, powers and remedies provided by law.
- 9.5 (A) If, between First Completion and Second Completion, the Purchaser becomes aware (whether it does so by reason of any disclosure made under clause 8.3 (Seller Warranties) or not) that any of the Seller Warranties is or was inaccurate or misleading or that there has been any breach or breaches of any of the Seller Warranties or any other term of this Agreement, in each case having a Material Adverse Effect, the Purchaser may elect not to proceed to Second Completion by notice in writing to the Seller.
- (B) If the Purchaser elects not to proceed to Second Completion in accordance with sub-clause 9.5(A) (and without limiting the Purchaser's right to claim damages):
- (i) the Seller will indemnify the Purchaser on demand on an after-Tax basis for all reasonable costs and expenses incurred by the Purchaser (including, but not limited to, the fees of all external legal advisers and their disbursements and out of pocket expenses) in connection with the Second Completion or the preparation thereof; and
  - (ii) all obligations of the parties under clause 7 (Second Completion) shall end.
- 9.6 If, following Second Completion, the Purchaser becomes aware that there has been any breach of the Seller Warranties or any other term of this Agreement, the Purchaser shall not be entitled to terminate this Agreement but shall be entitled to claim damages or exercise any other right, power or remedy under this Agreement or as otherwise provided by law.

**10. Effect of Completion**

Any provision of this Agreement and any other documents referred to in it which is capable of being performed after but which has not been performed at or before either Completion and all Warranties, indemnities, covenants and other undertakings and obligations contained in or entered into pursuant to this Agreement shall remain in full force and effect notwithstanding either Completion.

**11. Remedies and waivers**

11.1 No delay or omission by any party to this Agreement in exercising any right, power or remedy provided by law or under this Agreement or any other documents referred to in it shall:

- (A) affect that right, power or remedy; or
- (B) operate as a waiver of it.

11.2 The single or partial exercise of any right, power or remedy provided by law or under this Agreement shall not preclude any other or further exercise of it or the exercise of any other right, power or remedy.

11.3 The rights, powers and remedies provided in this Agreement are cumulative and not exclusive of any rights, powers and remedies provided by law.

**12. Assignment**

No party shall without the prior written consent of the other party:

- (A) assign, or purport to assign, all or any part of the benefit of, or its rights or benefits under, this Agreement or any other Share Purchase Document (together with any causes of action arising in connection with any of them);
- (B) make a declaration of trust in respect of or enter into any arrangement whereby it agrees to hold in trust for any other person all or any part of the benefit of, or its rights or benefits under, this Agreement or any other Share Purchase Document; or
- (C) sub-contract or enter into any arrangement whereby another person is to perform any or all of its obligations under this Agreement or any other Share Purchase Document.

**13. Further assurance**

The Seller shall at its own cost, from time to time on request of the Purchaser, now or at any time in the future, do or procure the doing of all acts and/or execute or procure the execution of all documents in a form satisfactory to the Purchaser which the Purchaser may consider necessary for giving full effect to the Share Purchase Documents and securing to the Purchaser the full benefit of the rights, powers and remedies conferred upon the Purchaser in the Share Purchase Documents.

**14. Entire agreement**

- 14.1 The Share Purchase Documents constitute the whole and only agreement between the parties relating to the sale and purchase of the Sale Shares.
- 14.2 Except in the case of fraud, each party acknowledges that it is entering into the Share Purchase Documents in reliance upon only the Share Purchase Documents and that it is not relying upon any other pre-contractual statement.
- 14.3 For the purposes of this clause, “pre-contractual statement” means any draft, agreement, undertaking, representation, warranty, promise, assurance or arrangement of any nature whatsoever, whether or not in writing, relating to the subject matter of the Share Purchase Documents made or given by any person at any time prior to this Agreement becoming legally binding.
- 14.4 This Agreement may only be varied in writing signed by each of the parties.

**15. Notices**

- 15.1 A notice under this Agreement shall only be effective if it is in writing. E-mail is permitted.
- 15.2 Notices under this Agreement shall be sent to a party at its address or number and for the attention of the individual or department set out below:

<u>Party</u>	<u>Address</u>	<u>Facsimile no.</u>	<u>E-mail address</u>
Seller	<p>c/o Concord Greater China Limited c/o Kofu International Limited 2nd Floor, Jonsim Place 228 Queen’s Road East, Wanchai Hong Kong</p> <p>Attention: Regine Luk</p> <p>with a copy (which shall not constitute notice) to:</p> <p>Clifford Chance LLP 33rd Floor, China World Tower One 1 Jianguomenwai Street Beijing 100004 People’s Republic of China</p> <p>Attention: Terence Foo</p>		
Purchaser	<p>c/o Alibaba Group Services Limited 26th Floor, Tower One, Times Square 1 Matheson Street, Causeway Bay Hong Kong</p> <p>Attention: General Counsel</p> <p>with a copy (which shall not constitute notice nor impose any duty to notify Alibaba of such notice or any change in the details below) to:</p> <p>Slaughter and May 47/F, Jardine House One Connaught Place, Central Hong Kong</p> <p>Attention: Benita Yu</p>		

Provided that a party may change its notice details on giving notice to the other party of the change in accordance with this clause 15. That notice shall only be effective on the day falling five clear Business Days after the notification has been received or such later date as may be specified in the notice.

- 15.3 Any notice given under this Agreement shall, in the absence of earlier receipt, be deemed to have been duly given as follows:
- (A) if delivered personally, on delivery;
  - (B) if sent by airmail, six clear Business Days after the date of posting;
  - (C) if sent by facsimile, at the expiration of 48 hours after the time it was sent; and
  - (D) if sent by e-mail, upon confirmation (electronic or otherwise) of delivery receipt of such e-mail.
- 15.4 Any notice given under this Agreement outside Working Hours in the place to which it is addressed shall be deemed not to have been given until the start of the next period of Working Hours in such place.
- 15.5 The provisions of this clause 15 shall not apply in relation to the service of Service Documents.
- 16. Announcements**
- 16.1 Neither party shall, and each party shall procure that each of its Relevant Persons shall not, make any announcement concerning the transaction contemplated under this Agreement or any Share Purchase Document or any ancillary matter without the prior written approval of the other party. This sub-clause does not apply in the circumstances described in sub-clause 16.2. For the purpose of this clause 16, a “ **Relevant Person** ”, in relation to the Seller, means any member of the Retained Group and, in relation to the Purchaser, means any member of the Purchaser’s Group.

16.2 Either party, after consultation with the other party, may, and shall not be required to procure that any Relevant Person shall not, make an announcement concerning the transaction contemplated under this Agreement or any Share Purchase Agreement or any ancillary matter if required by:

- (A) law;
- (B) existing contractual obligations; or
- (C) any securities exchange or Regulatory Authority to which that party or Relevant Person (as the case may be) is subject, wherever situated, whether or not the requirement has the force of law,

in which case the first-mentioned party shall take all such steps as may be reasonable and practicable in the circumstances to agree the contents of the announcement with the other party before making the announcement.

16.3 The restrictions contained in this clause 16 shall continue to apply after each Completion or the termination of this Agreement without limit in time.

## 17. Confidentiality

17.1 Subject to clause 16 (Announcements) and sub-clause 17.2:

- (A) each party shall treat as confidential and not disclose or use any information received or obtained as a result of entering into or performing the Share Purchase Documents which relates to:
  - (i) the provisions of the Share Purchase Documents; or
  - (ii) the negotiations relating to the Share Purchase Documents;
- (B) the Purchaser shall treat, and shall procure that each member of the Purchaser's Group shall treat, as confidential and not disclose or use any information concerning any member of the Retained Group and (prior to First Completion) the Group obtained or received as a result of the negotiation and entering into of the Share Purchase Documents; and
- (C) the Seller shall treat, and shall procure that each member of the Retained Group shall treat, as confidential and not disclose or use any information concerning any member of the Purchaser's Group obtained or received as a result of the negotiation and entering into of the Share Purchase Documents.

17.2 Notwithstanding the provisions of sub-clause 17.1, a party may disclose or use any such confidential information if and to the extent:

- (A) required by applicable law of any relevant jurisdiction or for the purposes of any Proceedings;

- (B) required by any securities exchange or Regulatory Authority to which that party is subject, wherever situated, whether or not the requirement for information has the force of law;
- (C) required to vest the full benefit of any Share Purchase Document in that party;
- (D) the disclosure is made to the professional advisers, auditors and bankers of that party on a need to know basis and provided they have a duty to keep such information confidential;
- (E) the information has come into the public domain through no fault of that party; or
- (F) the other party has given prior written consent to the disclosure.

Provided that any such information disclosed pursuant to sub-clause 17.2(A) or (B), shall be disclosed only after notice has been given to the other party of such requirement with a view to providing the other party with the opportunity to contest such disclosure or use or otherwise agreeing the content and timing of such disclosure.

17.3 The restrictions contained in this clause 17 shall continue to apply after either Completion or the termination of this Agreement without limit in time.

## **18. Costs and expenses**

18.1 Except as otherwise stated in sub-clauses 18.2 and 18.3 and any other provision of this Agreement or the other Share Purchase Documents, each party shall pay its own costs and expenses in relation to the negotiations leading up to the sale and purchase of the Sale Shares and the preparation, execution and carrying into effect of this Agreement, the other Share Purchase Documents and all other documents referred to in this Agreement and the Seller confirms that no expense of whatever nature relating to the sale and purchase of the Sale Shares has been or is to be borne by any member of the Group.

18.2 The Seller shall indemnify the Purchaser on demand on an after-Tax basis (and the amount payable under the indemnity may, without limiting the Purchaser's rights, be claimed as a debt or liquidated demand) in respect of all reasonable costs and expenses incurred by the Purchaser (including, but not limited to, the fees of all external legal advisers and their disbursements and out of pocket expenses):

- (A) in connection with investigating the affairs of the Group;
- (B) in connection with the negotiation, preparation, execution and carrying into effect of the Share Purchase Documents and all other documents forming part of the sale and purchase of the Sale Shares; and
- (C) in enforcing, perfecting, protecting or preserving or seeking to enforce, perfect, protect or preserve any of the Purchaser's rights, or in suing for or recovering any sum due from the Seller under this Agreement if the Purchaser exercises its right to terminate or rescind this Agreement or not to proceed to First Completion pursuant to sub-clauses 3.6 or 3.8 (Conditions), sub-clause 6.5 (First Completion), or exercises its right to terminate this Agreement under sub-clause 9.4 (Purchaser's remedies) or any other provision of this Agreement or any document referred to in it.

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18.3 Any stamp duty payable on the sale and purchase of the Sale Shares shall be borne equally by the Seller and the Purchaser.

## **19. Counterparts**

19.1 This Agreement may be executed in any number of counterparts, and by the parties on separate counterparts, but shall not be effective until each party has executed at least one counterpart.

19.2 Each counterpart shall constitute an original of this Agreement, but all the counterparts shall together constitute but one and the same instrument.

## **20. Invalidity**

If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that shall not affect or impair:

- (A) the legality, validity or enforceability in that jurisdiction of any other provision of this Agreement; or
- (B) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this Agreement.

## **21. Contracts (Rights of Third Parties) Ordinance**

The parties do not intend that any term of this Agreement should be enforceable, by virtue of the Contracts (Rights of Third Parties) Ordinance (Cap. 623 of the Laws of Hong Kong), by any person who is not a party to this agreement, save that, in the event that any Sale Shares have been acquired by any Purchaser's Designee(s), such right, power, remedy or benefit as would be exercisable by, or would accrue to, the Purchaser pursuant to any term of this Agreement had it acquired such Sale Shares shall also be exercisable by, or shall also accrue to, such Purchaser's Designee(s).

## **22. Choice of governing law**

This Agreement is to be governed by and construed in accordance with Hong Kong law. Any matter, claim or dispute arising out of or in connection with this Agreement, whether contractual or non-contractual, is to be governed by and determined in accordance with Hong Kong law.



**23. Jurisdiction**

- 23.1 The courts of Hong Kong are to have jurisdiction to settle any dispute, whether contractual or non-contractual, arising out of or in connection with this Agreement. Any Proceedings may be brought in the Hong Kong courts.
- 23.2 Each party waives (and agrees not to raise) any objection, on the ground of *forum non conveniens* or on any other ground, to the taking of Proceedings by the other party in any court in accordance with this clause. Each party also agrees that a judgment against it in Proceedings brought in any jurisdiction in accordance with this clause shall be conclusive and binding upon it and may be enforced in any other jurisdiction.
- 23.3 Each party irrevocably submits and agrees to submit to the jurisdiction of the Hong Kong courts and of any other court in which Proceedings may be brought.

**24. Agent for service**

- 24.1 The Seller irrevocably appoints the Process Agent (Attn: The Service Process Team) to be its agent for the receipt of Service Documents. It agrees that any Service Document may be effectively served on it in connection with Proceedings in Hong Kong by service on its agent effected in any manner permitted by Hong Kong law.
- 24.2 If the agent of the Seller at any time ceases for any reason to act as such, the Seller shall appoint a replacement agent having an address for service in Hong Kong and shall notify the Purchaser of the name and address of the replacement agent. Failing such appointment and notification, the Purchaser shall be entitled by notice to the Seller to appoint a replacement agent to act on behalf of the Seller. The provisions of this clause applying to service on an agent apply equally to service on a replacement agent.
- 24.3 A copy of any Service Document served on an agent of a party shall be sent by post to that party. Failure or delay in so doing shall not prejudice the effectiveness of service of the Service Document.

**25. Language**

- 25.1 Each notice, demand, request, statement, instrument, certificate, or other communication under or in connection with this Agreement shall be:
  - (A) in English; or
  - (B) if not in English, accompanied by an English translation which is certified by an officer of the party giving the communication to be true and accurate.
- 25.2 The receiving party or its agent (as appropriate) shall be entitled to assume the accuracy of and rely upon any English translation of any document provided pursuant to sub-clause 25.1(B).

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**IN WITNESS WHEREOF** this Agreement has been entered into on the date first before written.

**KOFU INTERNATIONAL LIMITED**

By: /s/ Yin Chung-Yao  
Name: Yin Chung-Yao  
Title: Authorised Signatory

[ Signatory Page to Kofu Sunny SPA ]

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**TAOBAO CHINA HOLDING LIMITED**

By: /s/ Timothy Alexander STEINERT  
Name: Timothy Alexander STEINERT  
Title: Director

[ *Signatory page to Kofu Listco SPA* ]

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SHARE PURCHASE AGREEMENT

by and among

ALI PANINI INVESTMENT LIMITED,

each of the individuals and their respective holding companies listed on Schedule I attached hereto,

each of the Selling Shareholders (as defined herein) listed on Schedule II attached hereto,

ALI PANINI INVESTMENT HOLDING LIMITED,

and

RAJAX HOLDING

Dated as of April 2, 2018

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THIS SHARE PURCHASE AGREEMENT (this “Agreement”) is made and entered into on April 2, 2018 by and among:

1. Ali Panini Investment Limited, a company organized under the Laws of the Cayman Islands (“Purchaser”),
2. each of the individuals and their respective holding companies listed on Schedule I attached hereto (each such individual, a “Principal” and collectively, the “Principals”, and each such holding company, a “Principal Holdco” and collectively, the “Principal Holdcos”),
3. each of the Persons (as defined herein) listed on Column 1 of Schedule II attached hereto (including each of the Former Company Share Award Holders (as defined herein) listed in Appendix A thereto, as may be updated and delivered by the Company to Purchaser prior to the Closing) (each such Person, a “Selling Shareholder” and collectively, the “Selling Shareholders”),
4. Ali Panini Investment Holding Limited, a business company incorporated under the Laws of Hong Kong (the “Rollover Shareholder”), and
5. Rajax Holding, a company organized under the Laws of the Cayman Islands (the “Company”).

Each of the parties to this Agreement as of the date hereof, and each Exercising Company Share Award Holder (as defined herein) and Rollover Option Holder (as defined herein) who becomes a party to this Agreement prior to the Closing in accordance with the terms hereof, is referred to herein individually as a “Party” and collectively as the “Parties”.

#### RECITALS

WHEREAS, the Selling Shareholders and the Rollover Shareholder collectively own all of the issued and outstanding Ordinary Shares (as defined herein) and Preferred Shares (as defined herein) of the Company (collectively, the “Shares”);

WHEREAS, each Selling Shareholder desires to sell to Purchaser, and Purchaser desires to purchase from each Selling Shareholder, for cash such type and number of Shares as set forth opposite such Selling Shareholder’s name under Columns 2 and 3 of Schedule II attached hereto upon the terms and subject to the conditions set forth in this Agreement;

WHEREAS, the Rollover Shareholder and Purchaser desire that the Rollover Shareholder will roll over and exchange all of its Shares for newly issued shares of Purchaser; and

WHEREAS, this Agreement and the transactions contemplated hereby have been duly (i) approved by the Board (as defined herein) and (ii) approved in writing by each of the “Drag Holders” under the ROFR Agreement (as defined herein), and are being implemented as an “Approved Sale” under the ROFR Agreement and the Memorandum and Articles (as defined herein).

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements herein contained, and intending to be legally bound hereby, each of the Parties hereby agrees as follows:

## ARTICLE I

### DEFINED TERMS AND INTERPRETATION

SECTION 1.01 Defined Terms. For purposes of this Agreement:

“Accounting Standards” means, with respect to any of the Group Companies which is established in the PRC, PRC GAAP, applied on a consistent basis; and with respect to other Group Companies not established in the PRC or the consolidated financial statements of the Group Companies, the generally accepted accounting principles in the United States, applied on a consistent basis.

“Action” means any charge, claim, action, complaint, petition, investigation, appeal, suit, litigation, grievance, inquiry or other proceeding, whether administrative, civil, regulatory or criminal, whether at law or in equity, or otherwise under any applicable Law, and whether or not before any mediator, arbitrator or Governmental Authority.

“Affiliate” means, with respect to a Person, any other Person that, directly or indirectly, Controls, is Controlled by or is under common Control with such Person. Solely for the purpose of this Agreement and notwithstanding the foregoing, (i) “Affiliate” of Purchaser means Alibaba Group Holding Limited and its Controlled Affiliates, and (ii) the Person that owns the tradename of “蚂蚁金服” or domain name www.antfin.com and the Internet Content Provider License for the operation of such domain name (currently known as “浙江蚂蚁小微金融服务集团股份有限公司”) or, the ultimate holding entity that Controls such Person and the Controlled Affiliates of such ultimate holding entity shall be deemed to be Affiliates of Purchaser.

“Aggregate Selling Shareholders Percentage” means a percentage equal to (i) the number of Aggregate Sale Shares divided by (ii) the sum of the number of Aggregate Sale Shares plus the aggregate number of Rollover Shares.

“Agreement” has the meaning set forth in the Preamble, which shall, for the avoidance of doubt, include all exhibits and schedules hereto.

“Alibaba Business Cooperation Agreement” means the Business Cooperation Agreement, dated as of February 8, 2016, by and among the Rajax WFOE, the Rajax Domestic Company, certain Affiliates of the Rollover Shareholder and certain other parties thereto, as amended and supplemented from time to time.

“Alibaba Director” has the meaning set forth in the Shareholders Agreement.

“Associate” means, with respect to any Person, (i) a corporation or organization (other than the Group Companies) of which such Person is a senior management personnel or partner or is, directly or indirectly, the record or beneficial owner of five (5) percent or more of any class of Equity Securities of such corporation or organization, (ii) any trust or other estate in which such Person has a substantial beneficial interest or as to which such Person serves as trustee or in a similar capacity, or (iii) any relative or spouse of such Person, or any relative of such spouse.



“Baidu Agreements” means the following contracts collectively: (i) Business Cooperation Agreement I ( 业务合作协议 (一) ) dated August 24, 2017 by and among Baidu Wangxun Technology Co., Ltd. ( 北京百度网讯科技有限公司 , “Baidu Wangxun”), Baidu (Hong Kong) Limited, Xiaodu Shenghuo, Rajax Holding, Rajax WFOE and Rajax Domestic Company; (ii) Business Cooperation Agreement II ( 业务合作协议 (二) ) dated August 24, 2017 by and among Baidu Wangxun, Xiaodu Shenghuo, Rajax WFOE and Rajax Domestic Company; (iii) Trademark Transfer Agreement ( 商标转让协议 ) dated August 24, 2017 by and among Baidu Wangxun, Xiaodu WFOE and Xinchu; and (iv) License Agreement ( 许可协议 ) dated August 24, 2017 by and among Baidu Wangxun, Baidu Online Network Technology (Beijing) Co., Ltd. ( 百度在线网络技术(北京)有限公司 ) and Xiaodu WFOE.

“Benchmark Date” means February 28, 2018.

“Benchmark Date Net Debt” means, as of 11:59 p.m. (Hong Kong time) on the Benchmark Date, an amount in USD equal to: (i) the sum of the amounts attributable to each of the line items under the heading “Indebtedness” in Exhibit C as of such time, *minus* (ii) the sum of the amounts attributable to each of the line items under the heading “Cash and Cash Equivalents” in Exhibit C as of such time, calculated in accordance with the Calculation Principles.

“Benefit Plan” means any employment Contract, deferred compensation Contract, bonus plan, incentive plan, profit sharing plan, retirement Contract or other employment compensation Contract or any other plan which provides or provided benefits for any past or present employee, officer, consultant, and/or director of a Person or with respect to which contributions are or have been made on account of any past or present employee, officer, consultant, and/or director of such a Person.

“Big Four Accounting Firm” means one of the four largest international accounting firms and their respective Affiliates, which are commonly referred to by the respective brand names of Deloitte, PricewaterhouseCoopers, Ernst & Young and KPMG.

“Board” or “Board of Directors” means the board of directors of the Company.

“Business Day” means any day that is not a Saturday, Sunday, legal holiday or other day on which commercial banks are required or authorized by Law to be closed in the PRC or Hong Kong.

“Calculation Principles” means the calculation principles and procedures with respect to Benchmark Date Net Debt set forth on Exhibit C hereto, the component items of which shall be determined on a basis consistent with the Accounting Principles.

“Captive Structure” means the structure under which the WFOEs Controls the Domestic Companies through the Control Documents and Supplemental Control Documents.

“Cash and Cash Equivalents” means all cash and cash equivalents held by the Group Companies at such time, determined in accordance with the Accounting Standards.

“CFC” means a controlled foreign corporation as defined in Section 957(a) of the Code.

“Charter Documents” means, with respect to a particular legal entity, the articles of incorporation, certificate of incorporation, formation or registration (including, if applicable, certificates of change of name), memorandum of association, articles of association, bylaws, articles of organization, limited liability company agreement, trust deed, trust instrument, operating agreement, joint venture agreement, business license, or similar or other constitutive, governing, or charter documents, or equivalent documents, of such entity.

“Circular 13” means the *Circular of the State Administration of Foreign Exchange on Further Simplifying and Improving the Foreign Exchange Administration Policies for Direct Investment* (Huifa (2015) No. 13) issued by SAFE with effect from June 1, 2015, as amended.

“Circular 37” means the *Circular of the State Administration of Foreign Exchange on Relevant Issues concerning Foreign Exchange Administration of Offshore Investment and Financing and Round Trip Investment through Offshore Special Purpose Companies by PRC Residents* (Huifa (2014) No. 37) issued by SAFE on July 14, 2014, as amended.

“Circular 7” means the *Notice of the State Administration of Foreign Exchange on Issues concerning the Foreign Exchange Administration of Domestic Individuals’ Participation in Equity Incentive Plans of Overseas Listed Companies* (Huifa (2012) No. 7) issued by SAFE on February 15, 2012, as amended.

“Code” means the U.S. Internal Revenue Code of 1986, as amended.

“CITICPE” means collectively, CE Takeout Limited and CE Takeout II Limited.

“Company Option” means each option award issued by the Company pursuant to the ESOP that entitles the holder thereof to purchase one (1) Ordinary Share upon the vesting of such award.

“Company Owned IP” means all Intellectual Property owned by, purported to be owned by, or exclusively licensed to, the Group Companies.

“Company Parties” means, collectively, the Group Companies, the Principals and the Principal Holdcos.

“Company Registered IP” means all Intellectual Property for which registrations are owned by or held in the name of, or for which applications have been made in the name of, any Group Company.

“Company Share Award” means each Company Option and each RSU.

“Competing Proposal” means any proposal or offer relating to any of the following (other than the Transactions or such other transaction involving only the Rollover Shareholder, Purchaser and/or their Affiliates): (a) any merger, reorganization, consolidation, share exchange, business combination scheme of arrangement, amalgamation, recapitalization, liquidation, dissolution, joint venture or other similar transaction involving the Company or any of the other Group Companies, (b) any direct or indirect sale, assignment, exchange, transfer, pledge, encumbrance or disposal of in any way, or grant of any interest or right with respect to the disposition of (any of the foregoing, a “Transfer”), lease or license of any assets of the Company or any of the other Group Companies, (c) any direct or indirect Transfer of any equity securities of the Company or any of the other Group Companies to any Person, (d) any Company Change of Control (as defined in the Memorandum and Articles) and (e) any other transaction which would hinder or impede the execution, implementation or consummation of the Transactions or such other transaction involving only Rollover Shareholder Purchaser, and/or their Affiliates.

“Consent” means any consent, approval, authorization, release, waiver, permit, grant, franchise, concession, agreement, license, exemption or order of, registration, certificate, declaration or filing with, or report or notice to, any Person, including any Governmental Authority.

“Contract” means, a contract, agreement, understanding, indenture, note, bond, loan, instrument, lease, mortgage, franchise, license, commitment, purchase order, and other legally binding arrangement, whether written or oral.

“Control” of a given Person means the power or authority, whether exercised or not, to direct the business, management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by Contract or otherwise; provided, that such power or authority shall conclusively be presumed to exist upon possession of beneficial ownership or power to direct the vote of more than fifty percent (50%) of the votes entitled to be cast at a meeting of the members or shareholders of such Person or power to control the composition of a majority of the board of directors of such Person. The terms “Controlled” and “Controlling” have meanings correlative to the foregoing.

“Control Documents” means the contracts set out in Section 1.01(a) to the Company Disclosure Schedule.

“Data Protection Laws” means Laws in respect of online data protection, including without limitation, Provisions on Protecting the Personal Information of Telecommunications and Internet Users ( 电信和互联网用户个人信息保护规定 ), Decision of the Standing Committee of National People’s Congress on Strengthening Information Protection on Networks ( 全国人大常委会关于加强网络信息保护的決定 ) and Interpretation by the Supreme People’s Court and the Supreme People’s Procuratorate on Several Issues concerning the Application of Law in respect of the Handling of Criminal Cases of Infringing on Citizens’ Personal Information ( 最高人民法院、最高人民检察院关于办理侵犯公民个人信息刑事案件适用法律若干问题的解释 ).

“Domestic Companies” means, collectively, the Rajax Domestic Company, Xiaodu Shenghuo, Xunda and Xinchu.

“Employee-Related Companies” means Shanghai Taizhou Network & Technology Co., Ltd. (上海泰舟网络科技有限公司) (“Taizhou”) and Shanghai Yuchuan Network & Technology Co., Ltd. (上海育川网络科技有限公司) (“Yuchuan”).

“Equity Securities” means, with respect to any Person that is a legal entity, any and all shares of capital stock, membership interests, units, profits interests, phantom interests, ownership interests, equity interests, registered capital, and other equity securities of such Person, and any right, warrant, option, call, commitment, conversion privilege, preemptive right or other right to acquire any of the foregoing, or security convertible into, exchangeable or exercisable for any of the foregoing, or any Contract providing for the acquisition of any of the foregoing.

“ESOP” means the Rajax Holding Share Incentive Plan, adopted by the Board and the shareholders of the Company on May 7, 2014, as amended from time to time in accordance with the terms thereof and the Shareholders Agreement effective at that time.

“Exercise Price” means, with respect to any Company Option, the exercise price per Share underlying such Company Option.

“Exercising Company Share Award Holders” means the holders of Company Options as of the date of this Agreement who exercise such Company Options and are issued Shares in respect thereof at any time prior to the Closing, a true and accurate list of whom shall be delivered by the Company to Purchaser prior to the Closing.

“FCPA” means Foreign Corrupt Practices Act of 1977, as amended.

“Food Safety Laws” means Laws in respect of catering services provided through online orders, including without limitation, Food Safety Law of the PRC (中华人民共和国食品安全法), Measures for the Investigation and Handling of Illegalities of Online Food Safety (网络食品安全违法行为查处办法), Measures for the Supervision and Administration of Food Safety of Online Catering Services (网络餐饮服务食品安全监督管理办法), Shanghai Supervision Regulation on Online Catering Service (上海市网络餐饮服务监督管理办法) and Beijing Interim Supervision Measures of Online Food Business (北京市网络食品经营监督管理办法 (暂行)).

“Former Company Share Award Holders” means the Selling Shareholders listed in Appendix A of Schedule II attached hereto and, if any, the Exercising Company Share Award Holders who shall each be treated as a Selling Shareholder listed in an updated Appendix A of Schedule II to be delivered by the Company to Purchaser prior to the Closing. For the avoidance of doubt, “Former Company Share Award Holders” shall not include any financial or strategic investors of the Company.

“Fundamental Warranties” means each of the representations and warranties set forth in Section 3.01, Section 3.02, Section 3.03, and Section 3.04.

“Governmental Authority” means (i) any government of any nation, federation, province or state or any other political subdivision thereof, (ii) any entity, authority or body exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, including any government authority, agency, department, board, commission or instrumentality of the PRC or any other country, or any political subdivision thereof, (iii) any court, tribunal or arbitrator, (iv) any self-regulatory organization, (v) any public international organization, such as the United Nations or the World Bank and (vi) any securities exchange.

“Governmental Order” means any applicable order, ruling, decision, verdict, decree, writ, subpoena, mandate, precept, command, directive, consent, approval, award, judgment, injunction or other similar determination or finding by, before or under the supervision of any Governmental Authority.

“Group Company” means each of the Company and the entities set forth in Schedule IV hereto and each Subsidiary of any of the foregoing, and “Group” refers to all of Group Companies collectively.

“Indebtedness” of any Person means, without duplication, each of the following of such Person: (i) all indebtedness for borrowed money; (ii) any other indebtedness that is evidenced by a note, bond, debenture or similar instrument; (iii) all reimbursement and other obligations with respect to banker’s acceptances, letters of credit, surety bonds and similar obligations; (iv) all payment obligations under any interest rate, foreign exchange or other swaps, options, derivatives and other hedging agreements or arrangements that will be payable upon termination thereof (assuming they were terminated on the date of determination); (v) amounts owing as deferred purchase price for property or services, including all seller notes and “earn out” payments, whether or not matured; (vi) indebtedness secured by a Lien on assets or properties, (vii) obligations or commitments to repay deposits or other amounts advanced by and owing to third parties, (viii) all obligations under capitalized leases, (ix) all obligations to purchase, redeem, retire, defease or otherwise acquire for value any capital stock or any warrants, rights or options to acquire such capital stock, valued, in the case of redeemable preferred stock, at the greater of its voluntary or involuntary liquidation preference plus accrued and unpaid dividends, (x) all obligations pursuant to securitization or factoring program or arrangement, (xi) all obligations or undertakings to maintain or cause to be maintained the financial position or covenants of others or to purchase the obligations or property of others, (xii) all direct or indirect guarantees or sureties for indebtedness, obligations, claim or liability of the type referred to in clauses (i) through (xi) above, (xiii) all reserves for litigation, (xiv) all deferred revenues, (xv) any other debt like items, including unsettled payables (other than trade account payables) to any Selling Shareholder or any Subsidiary of such Selling Shareholder and shortfall in contributions to any Benefit Plan (xvi) with respect to any indebtedness, obligation, claim or liability of the type referred to in clauses (i) through (xiv) above, all accrued and unpaid interest, premiums, penalties, breakage costs, unwind costs, fees, termination costs, redemption costs, expenses and other charges with respect thereto, (xvii) Taxes with respect to any taxable period (or any portion thereof) ending on or before the Closing Date that were not previously paid by any Group Company, and (xviii) any net payable owing to Baidu, Inc. and its Subsidiaries.

“Indemnifiable Loss” means, with respect to any Person, any action, claim, cost, damage, deficiency, diminution in value, disbursement, expense, liability, loss, obligation, penalty or settlement of any kind or nature imposed on or otherwise incurred or suffered by such Person, including without limitation, interest, penalties, reasonable legal, accounting and other professional fees and expenses incurred in the investigation, collection, prosecution and defense of claims and amounts paid in settlement and Taxes payable by such Person by reason of the indemnification.

“Injunction” means, as of any date, any final, non-appealable judgment, restraining order or permanent injunction, which is in effect as of such date that prohibits the consummation of the Transactions and has been issued by any Governmental Authority in any jurisdiction that is material to the business of Purchaser, the Company and/or their respective Affiliates.

“Intellectual Property” means any and all (i) patents, patent rights and applications therefor and reissues, reexaminations, continuations, continuations-in-part, divisions, and patent term extensions thereof, (ii) inventions (whether patentable or not), discoveries, improvements, concepts, innovations and industrial models, (iii) registered and unregistered copyrights, copyright registrations and applications, mask works and registrations and applications therefor, author’s rights and works of authorship (including artwork, Software, computer programs, source code, object code and executable code, firmware, development tools, files, records and data, and related documentation), (iv) URLs, web sites, web pages and any part thereof, (v) technical information, know-how, trade secrets, drawings, designs, design protocols, specifications, proprietary data, customer lists, databases, proprietary processes, technology, formulae, and algorithms and other intellectual property, (vi) trade names, trade dress, trademarks, domain names, service marks, logos, business names, and registrations and applications therefor, and (vii) the goodwill symbolized or represented by the foregoing.

“JD Agreements” means, collectively, (i) the O2O Platform Cooperation Agreement (O2O 平台合作协议), dated as of April 8, 2015, between Jiangsu Jingdong Information Technology Co., Ltd. (江苏京东信息技术有限公司) and the Rajax WFOE; (ii) the Supplemental Agreement (补充协议书), dated as of October 9, 2015, between Jiangsu Jingdong Information Technology Co., Ltd. and the Rajax WFOE; and (iii) Promotion Cooperation Agreement (推广合作协议), dated April 8, 2015, between Jiangsu Jingdong Information Technology Co., Ltd. and the Rajax WFOE.

“Key Employee” means all employees of the Group Companies with positions of president, chief executive officer, chief financial officer, chief operating officer, chief technical officer, chief sales and marketing officer, general manager, any other managers reporting directly to any Group Company’s Board of Directors, president or chief executive officer, and any other employee with the title of “vice president” or higher.

“Knowledge” means, with respect to the Company Parties, the actual knowledge of any of the Principals, and that knowledge which should have been acquired by each such individual after making such due inquiry and exercising such due diligence as a prudent business person would have made or exercised in the management of his or her business affairs, including but not limited to due inquiry of all officers, directors, employees, consultants and professional advisers (including attorneys, accountants and auditors) of the Group and of its Affiliates who could reasonably be expected to have knowledge of the matters in question.

“Law” or “Laws” means any and all publicly announced provisions of any applicable constitution, treaty, statute, law, regulation, ordinance, code, rule, or rule of common law, any governmental approval, concession, grant, franchise, license, agreement, directive, requirement, or other governmental restriction or any similar form of decision of, or determination by, or any interpretation or administration of any of the foregoing by, any Governmental Authority, in each case as amended, and any and all applicable Governmental Orders.

“Liabilities” means, with respect to any Person, all liabilities, obligations and commitments of such Person of any nature, whether accrued, absolute, contingent or otherwise, and whether due or to become due.

“Lien” means any claim, charge, easement, encumbrance, lease, covenant, security interest, lien, option, pledge, rights of others, or restriction (whether on voting, sale, transfer, disposition or otherwise), whether imposed by Contract, understanding, law, equity or otherwise.

“Majority Ordinary Holders” has the meaning given to such term in the Memorandum and Articles.

“Majority Preferred Holders” has the meaning given to such term in the Memorandum and Articles.

“Material Adverse Effect” means any (i) event, occurrence, fact, condition, change or development that has had, has, or would have, individually or together with other events, occurrences, facts, conditions, changes or developments, a material adverse effect on the business, properties, assets, employees, operations, results of operations, condition (financial or otherwise), prospects, assets or liabilities of the Group taken as a whole, provided that any reduction in the Group Companies’ cash flow or working capital amount occurring from conducting their businesses in the ordinary course of business consistent with past practice shall not by itself constitute a “Material Adverse Effect” (but the event, occurrence, fact, condition, change or development underlying such reduction may be considered in determining whether a Material Adverse Effect has occurred), (ii) material impairment of the ability of any Party (other than Purchaser and/or the Rollover Shareholder) to perform the material obligations of such party under any Transaction Documents, any Control Documents or any Supplemental Control Documents, or (iii) material impairment of the validity or enforceability of this Agreement or any other Transaction Document, any Control Documents, or any Supplemental Control Documents against any Party hereto or thereto (other than Purchaser and/or the Rollover Shareholder).

“Memorandum and Articles” means, collectively, the Twelfth Amended and Restated Memorandum of Association and the Twelfth Amended and Restated Articles of Association of the Company, adopted on August 22, 2017 and effective on August 24, 2017.

“MOFCOM” means the Ministry of Commerce of the PRC or, with respect to any matter to be submitted for examination and approval by the Ministry of Commerce, any Governmental Authority which is similarly competent to examine and approve such matter under the laws of the PRC.

“Order No. 10” means the Rules for Mergers with and Acquisitions of Domestic Enterprises by Foreign Investors ( 关于外国投资者并购境内企业的规定 ) jointly issued by the MOFCOM, the State-owned Assets Supervision and Administration Commission, the State Administration of Taxation, the SAIC, the China Securities Regulatory Commission and the SAFE initially on August 8, 2006, as amended.

“Ordinary Shares” means ordinary shares, par value US\$0.0000125 per share, of the Company.

“Paying Agent” means JPMorgan Chase Bank, N.A., or another internationally recognized bank or trust company selected by Purchaser.

“Permitted Liens” means (i) Liens for Taxes not yet delinquent or the validity of which are being contested in good faith and for which there are adequate reserves on the applicable financial statements, (ii) Liens incurred in the ordinary course of business, which (x) do not individually or in the aggregate materially detract from the value, use, or transferability of the assets that are subject to such Liens, and (y) were not incurred in connection with the borrowing of money, and (iii) Liens contemplated under the Captive Structure.

“Person” means any individual, corporation, partnership, limited partnership, proprietorship, association, limited liability company, firm, trust, estate or other enterprise or entity.

“PFIC” means a passive foreign investment company as defined in Section 1297(a) of the Code.

“PRC” means the People’s Republic of China, but solely for the purposes of this Agreement and the other Transaction Documents, excluding the Hong Kong Special Administrative Region, the Macau Special Administrative Region and the islands of Taiwan.

“PRC Anti-Unfair Competition Law” means the Anti-Unfair Competition Law of the PRC ( 中华人民共和国反不正当竞争法 ) promulgated by the Standing Committee of the National People’s Congress of the PRC and effective on September 2, 1993, as amended from time to time.

“PRC GAAP” means PRC generally accepted accounting principles.

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“PRC Group Companies” means, collectively, each of the Group Companies incorporated under the Laws of the PRC, including but not limited to the Rajax PRC Companies and the Xiaodu PRC Companies.

“Preferred Shares” means, collectively, the series A preferred shares, par value US\$0.0000125 per share, of the Company (the “Series A Preferred Shares”), the series B preferred shares, par value US\$0.0000125 per share, of the Company (the “Series B Preferred Shares”), the series C preferred shares, par value US\$0.0000125 per share, of the Company (the “Series C Preferred Shares”), the series D preferred shares, par value US\$0.0000125 per share, of the Company (the “Series D Preferred Shares”), the series E preferred shares, par value US\$0.0000125 per share, of the Company (the “Series E Preferred Shares”), the series F preferred shares, par value US\$0.0000125 per share, of the Company (the “Series F Preferred Shares”), the series F-1 preferred shares, par value US\$0.0000125 per share, of the Company (the “Series F-1 Preferred Shares”), the series G preferred shares, par value US\$0.0000125 per share, of the Company (the “Series G Preferred Shares”), and the series G-1 preferred shares, par value US\$0.0000125 per share, of the Company (the “Series G-1 Preferred Shares”).

“Prohibited Person” means any Person that is (i) a national or resident of any U.S. embargoed or restricted country, (ii) included on, or Affiliated with any Person on, the United States Commerce Department’s Denied Parties List, Entities and Unverified Lists; the U.S. Department of Treasury’s Specially Designated Nationals, Specially Designated Narcotics Traffickers or Specially Designated Terrorists, or the Annex to Executive Order No. 13224; the Department of State’s Debarred List; UN Sanctions, or (iii) a Person with whom business transactions, including exports and re-exports, are restricted by a U.S. Governmental Authority, including, in each clause above, any updates or revisions to the foregoing and any newly published rules.

“Public Official” means any executive, official, or employee of a Governmental Authority, political party or member of a political party, political candidate; executive, employee or officer of a public international organization; or director, officer or employee or agent of a wholly or partially state-owned, or partially state-owned, state-Controlled, or state-operated enterprise, including a PRC state-owned, state-Controlled, or state-operated enterprise.

“Purchaser Parties” means collectively, Purchaser and the Rollover Shareholder.

“Qualified Tax Advisor” means such Big Four Accounting Firms approved by Purchaser in writing, or such other professional tax advisor as may be agreed in writing between Shareholders Representative and Purchaser, for the purposes of carrying out the actions set forth in Section 7.08.

“Rajax PRC Companies” means the Rajax WFOE, the Rajax Domestic Company, the Rajax WFOE Subsidiary, Hongyi, Pengxun, Zhiguan and Fengniao.

“Related Party” means any Affiliate, senior management, director, supervisory board member, or holder of any Equity Security of any Group Company, and any Affiliate or Associate of any of the foregoing.

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“Restrictive Provisions” means any provisions in the Contracts to which a Group Company is a party that restricts the ability of any Group Company or any other Person to conduct or engage in any business or activity with Alibaba or any of its Affiliates.

“ROFR Agreement” means the Tenth Amended and Restated Right of First Refusal & Co-Sale Agreement entered into by and among the parties named therein on August 24, 2017.

“Rollover Employee Options” means certain Company Options issued and outstanding as of, or issued after, the date of this Agreement which remain unexercised as of the Closing and which are listed in the Rollover Employee Option Confirmation Letter.

“Rollover Employee Shares” means the Ordinary Shares listed as “Rollover Employee Shares” in Column 2 of Appendix A to Schedule II which were issued upon the exercise of Company Options on or after February 28, 2018 and prior to the Closing.

“RSU” means the restricted share units, pursuant to which certain number of Ordinary Shares have been reserved for issuance to the Principals and/or Principal Holdcos.

“SAFE” means the State Administration of Foreign Exchange of the PRC.

“SAFE Rules and Regulations” means collectively, Circular 7, Circular 13, Circular 37 and any other applicable SAFE rules and regulations.

“SAIC” means the State Administration for Industry and Commerce of the PRC or, with respect to the issuance of any business license or filing or registration to be effected by or with the State Administration of Industry and Commerce, any Governmental Authority which is similarly competent to issue such business license or accept such filing or registration under the Laws of the PRC.

“Seller Pro Rata Share” shall mean, with respect to a Selling Shareholder, a fraction, the numerator of which is the total number of Sale Shares of such Selling Shareholder and the denominator of which is the total number of Aggregate Sale Shares.

“Sequoia” shall mean, collectively, Sequoia Capital CV IV Holdco, Ltd. and Sequoia Capital China GF Holdco III-A, Ltd.

“Share Restriction Agreements” means, collectively, the Share Restriction Agreements, each dated August 24, 2015, executed by the Company, the Principals and the Principal Holdcos and certain other parties thereto.

“Shareholder Pro Rata Share” shall mean, (a) with respect to a Selling Shareholder, a fraction, the numerator of which is the total number of Sale Shares of such Selling Shareholder and the denominator of which is the sum of (i) the total number of Aggregate Sale Shares and (ii) the total number of Rollover Shares, and (b) with respect to the Rollover Shareholder, a fraction, the numerator of which is the total number of Rollover Shares and the denominator of which is the sum of (i) the total number of Aggregate Sale Shares and (ii) the total number of Rollover Shares.

“Shareholders Agreement” means the Tenth Amended and Restated Shareholders Agreement entered into by and among the parties named therein on August 24, 2017.

“Social Insurance” means any form of social insurance required under applicable Laws, including without limitation, the PRC national and local contributions for pensions, medical insurance, unemployment insurance, work-related injury insurance, pregnancy benefits, and housing accumulation funds.

“Software” means any and all (i) computer programs, including any and all software implementations of algorithms, models and methodologies, including all source code and executable code, whether embodied in software, firmware or otherwise, documentation, development tools, designs, files, verilog files, RTL files, HDL, VHDL, net lists, records, data and mask works; and (ii) databases and compilations, including any and all data and collections of data, whether machine readable or otherwise, and all rights therein.

“Specified Laws” means the PRC Anti-Unfair Competition Law, Data Protection Laws, Food Safety Laws, Telecommunication Regulation of the PRC ( 中华人民共和国电信条例 ), Content of Categories of Telecommunication Business (2015) ( 电信业务分类目录 (2015 年版) ) and Notice of Ministry of Industry and Information Technology on Removing the Restrictions on Foreign Equity Ratios in Online Data Processing (Operating E-commerce) Business ( 工业和信息化部关于放开在线数据处理与交易处理业务 (经营类电子商务) 外资股比限制的通告 ).

“Stores” means the stores owned by the Rajax WFOE Subsidiary from time to time.

“Subsidiary” means, with respect to any given Person, any other Person that is Controlled directly or indirectly by such given Person.

“Supplemental Control Documents” means the following documents collectively: (i) the Proxy Agreement ( 授权委托书协议 ) entered into by and between the Rajax WFOE and each of the Principals respectively; (ii) the Intellectual Property Exclusive Option Agreement ( 知识产权独家认购协议 ) entered into by and between the Rajax WFOE and the Rajax Domestic Company; (iii) the Domain Transfer Agreements ( 域名转让协议 ) entered into by and between the Rajax WFOE and the Rajax Domestic Company; (iv) the Domain Transfer Agreement ( 域名转让协议 ) entered into by and between the Rajax Domestic Company and Xuhao Zhang; (v) the Patent Application Right Transfer Agreement ( 专利申请权转让协议 ) entered into by and between the Rajax WFOE and the Rajax Domestic Company, all of which were dated August 27, 2012; and (vi) the spousal consent letters executed by each of \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_ (as the spouse of each equity holder of the Rajax Domestic Company) on 5 March 2016.

“Taxes” means (i) in the PRC: (a) any national, provincial, municipal, or local taxes, charges, fees, levies, or other assessments, including, without limitation, all net income (including enterprise income tax and individual income withholding tax), turnover (including value-added tax, business tax, and consumption tax), resource (including urban and township land use tax), special purpose (including land value-added tax, urban maintenance and construction tax, and additional education fees), property (including urban real estate tax and land use fees), documentation (including stamp duty and deed tax), filing, recording, social insurance (including pension, medical, unemployment, housing, and other social insurance withholding), tariffs (including import duty and import value-added tax), and estimated and provisional taxes, charges, fees, levies, or other assessments of any kind whatsoever, (b) all interest, penalties (administrative, civil or criminal), or additional amounts imposed by any Governmental Authority in connection with any item described in clause (a) above, and (c) any form of transferee liability imposed by any Governmental Authority in connection with any item described in clauses (a) and (b) above, and (ii) in any jurisdiction other than the PRC: all similar Liabilities as described in clause (i)(a) and (i)(b) above.

“Tax Return” means any return, report or statement showing Taxes, used to pay Taxes, or required to be filed with respect to any Tax (including any elections, declarations, schedules or attachments thereto, and any amendment thereof), including any information return, claim for refund, amended return or declaration of estimated or provisional Tax.

“Transaction Documents” means collectively, this Agreement, the Escrow Agreement, and each of the other agreements and documents otherwise required in connection with implementing the transactions contemplated by any of the foregoing.

“U.S. Real Property Holding Corporation” has the meaning as defined in Section 897(c)(2) of the Code.

“Warrantors” means, collectively, the Principals and the Principal Holdcos.

“WFOEs” means, collectively, the Rajax WFOE and the Xiaodu WFOE.

“Xiaodu Group” means, collectively, the Xiaodu Cayman Company, the Xiaodu HK Company, the Xiaodu PRC Companies and each Subsidiary of any of the foregoing.

“Xiaodu PRC Companies” means, collectively, the Xiaodu WFOE, Xiaodu Shenghuo, Xunda, Xinchu and Zhenxuan.

SECTION 1.02 Other Defined Terms. The following terms shall have the meanings defined for such terms in the Sections set forth below:

<u>Defined Term</u>	<u>Location of Definition</u>
Accounting Firm	Section 2.05(b)
Accounting Firm Determination	Section 2.05(b)
Aggregate Purchase Price	Section 2.01(a)
Aggregate Sale Shares	Section 2.01(a)
Arbitration Notice	Section 10.03(a)
Asserted Action	Section 9.04(a)
Asserted Liability	Section 9.04(a)
Audit and Indemnity Escrow Account	Section 2.04(b)
Audit and Indemnity Escrow Amount	Section 2.04(b)

Audit and Indemnity Escrow Fees	Section 2.04(b)
Audit Difference	Section 2.05(a)
Audited 2017 Financial Statements	Section 7.14
Closing	Section 2.02
Closing Audit	Section 2.05(b)
Closing Date	Section 2.02
Company	Preamble
Company Disclosure Schedule	Article III
Company IP	Section 3.17(a)
Compliance Laws	Section 3.14(a)
Deferred Payment Agreement	Section 2.06(b)
Dispute	Section 10.03(a)
Escrow Agent	Section 2.04(a)
Escrow Agreement	Section 2.04(a)
Fengniao	Schedule IV
Financial Statements	Section 3.09
Grace Period	Section 9.05(a)
HKIAC	Section 10.03(b)
HKIAC Rules	Section 10.03(b)
Hong Kong	Section 10.02
Hongyi	Schedule IV
Indemnifying Parties	Section 9.03(a)
Indemnifying Party	Section 9.03(a)
Integration Committee	Section 7.20
Key Employees	Section 3.18(d)
Lease	Section 3.15(b)
Material Contracts	Section 3.13(a)
Maximum Net Debt Amount	Section 2.05(a)
New Business License	Section 7.09
New Control Documents	Section 8.02(j)
Onshore Equity Transfer	Section 7.09
Parties	Preamble
Party	Preamble
Payment Fund	Section 2.03(c)(i)
Pengxun	Schedule IV
Per Share Purchase Price	Section 2.01(a)
Principal	Preamble
Principal Holdco	Preamble
Principal Holdcos	Preamble
Principals	Preamble
Pro Rata Audit Difference	Section 2.05(e)
Pro Rata Indemnity Amount	Section 9.04(b)
Purchase Price	Section 2.01(a)
Purchaser	Preamble
Purchaser Indemnified Parties	Section 9.03(a)
Purchaser Share	Section 2.01(b)

Rajax Domestic Company	Schedule IV
Rajax HK Subsidiary	Schedule IV
Rajax WFOE	Schedule IV
Rajax WFOE Subsidiary	Schedule IV
Relevant Obligations	<u>Section 2.06(c)</u>
Relevant PRC Tax Authority	Section 7.08(b)
Representatives	Section 3.14(a)
Required Governmental Consents	Section 3.06(b)
Rollover Employee Option Confirmation Letter	Section 2.06(b)
Rollover Option Holder	Section 2.06(b)
Rollover Option Holders	Section 2.06(b)
Rollover Purchase Price	Section 2.06(b)
Rollover Share	Section 2.01(b)
Rollover Shareholder	Preamble
Rollover Shares	Section 2.01(b)
Sale Shares	Section 2.01(a)
Selling Shareholder	Preamble
Selling Shareholders	Preamble
Selling Tax	Section 7.08(a)
Share Purchases	Section 2.01(a)
Share Rollover	Section 2.01(b)
Shareholders Disclosure Schedule	Article V
Shareholders Representative	<u>Section 7.18</u>
Shares	Recitals
Statement Date	Section 3.09
Survival Period	Section 9.05(b)
Takeover Statute	Section 3.29
Tax Escrow Account	Section 2.04(a)
Tax Escrow Amount	Section 2.04(a)
Tax Escrow Fees	Section 2.04(a)
Termination Date	Section 9.01(b)(i)
Transactions	Section 2.01(b)
Undisputed Indemnity Amount	Section 9.04(c)
Xiaodu Cayman Company	Schedule IV
Xiaodu HK Company	Schedule IV
Xiaodu Shenghuo	Schedule IV
Xiaodu WFOE	Schedule IV
Xinchi	Schedule IV
Xunda	Schedule IV
Zhenxuan	Schedule IV
Zhiguan	Schedule IV

SECTION 1.03 In interpretations. For all purposes of this Agreement, except as otherwise expressly herein provided, (i) the terms defined in Article I shall have the meanings assigned to them in this Article I and include the plural as well as the singular, (ii) all accounting terms not otherwise defined herein have the meanings assigned under the Accounting Standards, (iii) all references in this Agreement to designated “Sections” and other subdivisions are to the designated Sections and other subdivisions of the body of this Agreement, (iv) pronouns of either gender or neuter shall include, as appropriate, the other pronoun forms, (v) the words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular Section or other subdivision, (vi) all references in this Agreement to designated Schedules and Exhibits are to the Schedules and Exhibits attached to this Agreement, (vii) references to this Agreement, any other Transaction Documents and any other document shall be construed as references to such document as the same may be amended, supplemented or novated from time to time, (viii) the term “or” is not exclusive, (ix) the term “including” will be deemed to be followed by “, but not limited to,” (x) the terms “shall,” “will,” and “agrees” are mandatory, and the term “may” is permissive, (xi) the phrase “directly or indirectly” means directly, or indirectly through one or more intermediate Persons or through contractual or other arrangements, and “direct or indirect” has the correlative meaning, (xii) the term “voting power” refers to the number of votes attributable to the shares (on an as-converted basis) in accordance with the terms of the Memorandum and Articles, (xiii) the headings used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement, (xiv) references to Laws include any such Law modifying, re-enacting, extending or made pursuant to the same or which is modified, re-enacted, or extended by the same or pursuant to which the same is made, and (xv) all references to U.S. dollars or to “US\$” are to currency of the United States of America, all references to RMB are to currency of the PRC and all references to “HK\$” are to currency of Hong Kong (and each shall be deemed to include reference to the equivalent amount in other currencies).

## ARTICLE II

### PURCHASE AND SALE

#### SECTION 2.01 Purchase and Sale of Shares.

(a) Share Purchases. Upon the terms and subject to the conditions contained herein, at the Closing, each Selling Shareholder shall, severally but not jointly, sell and transfer to Purchaser, and Purchaser shall purchase and acquire from each Selling Shareholder (the “Share Purchases”), the entire legal and beneficial ownership (together with all rights now or hereafter attaching to them, including all rights to any dividend or other distribution declared, made or paid after the date of this Agreement) of all of such Selling Shareholder’s Shares, which type and number of Shares is set forth opposite such Selling Shareholder’s name under Columns 2 and 3 of Schedule II hereto (including Appendix A thereto) (the “Sale Shares” of such Selling Shareholder, and the aggregate of all Sale Shares of the Selling Shareholders to be purchased by Purchaser hereunder, the “Aggregate Sale Shares”), free and clear of all Liens, in exchange for an aggregate purchase price in cash in U.S. Dollars in the amount set forth opposite such Selling Shareholder’s name under Column 4 of Schedule II hereto (including Appendix A thereto) (the “Purchase Price” payable to such Selling Shareholder, and the aggregate of all Purchase Prices to be paid by Purchaser to the Selling Shareholders pursuant to this Section 2.01, the “Aggregate Purchase Price”). The Aggregate Purchase Price (and the Purchase Price payable to each Selling Shareholder by Purchaser) reflects a per share purchase price of US\$0.6517400968, inclusive of all applicable Selling Tax (the “Per Share Purchase Price”).

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(b) Restructuring. Upon the terms and subject to the conditions contained herein, at the Closing, each of the Shares held by the Rollover Shareholder immediately prior to the Closing (each, a “Rollover Share”, and collectively, the “Rollover Shares”) shall be rolled over and exchanged for 5,200,953,827 validly issued, fully paid and non-assessable ordinary shares, par value US\$0.0001 per share, of Purchaser (the “Purchaser Shares”), with no cash consideration to be paid by Purchaser to the Rollover Shareholder (the “Share Rollover”, and together with the Share Purchases, the “Transactions”).

SECTION 2.02 Closing; Closing Date. Upon the terms and subject to the conditions contained herein, the closing of the Transactions (the “Closing”) shall take place at 9:00 p.m. (Hong Kong time) on a date no later than ten (10) Business Days after the satisfaction or waiver of the conditions set forth in Article VIII (other than those conditions that by their nature are to be satisfied at the Closing, but subject to the satisfaction or waiver of those conditions), which date shall be no later than twenty (20) Business Days after the date of this Agreement, or any other date or time agreed in writing by Purchaser and the Shareholders Representative (the “Closing Date”) at the offices of Simpson Thacher & Bartlett, 35/F ICBC Tower, 3 Garden Road, Central, Hong Kong, or at another place agreed in writing by Purchaser and the Shareholders Representative.

#### SECTION 2.03 Closing Deliverables.

(a) Closing Deliverables by the Selling Shareholders and the Rollover Shareholder. At the Closing:

(i) each Selling Shareholder shall, severally but not jointly, deliver or cause to be delivered to Purchaser a deed of transfer, in the form of Exhibit A-1 hereto and duly executed by such Selling Shareholder or a Director of the Company on behalf of such Selling Shareholder, dated as of the Closing Date, with respect to the sale and transfer of all of such Selling Shareholder’s Sale Shares to Purchaser;

(ii) (A) each Selling Shareholder shall, severally but not jointly, deliver to Purchaser, the original share certificate(s) representing all of such Selling Shareholder’s Sale Shares or, if such original share certificate(s) could not be located and delivered to Purchaser at the Closing, then such relevant Selling Shareholder shall deliver to Purchaser an affidavit and indemnity for the lost share certificate(s) in form and substance acceptable to Purchaser and the registered office provider of the Company in respect of such Selling Shareholders’ Sale Shares, or (B) the Shareholders Representative shall deliver to Purchaser a written confirmation from the Company’s registered office that such share certificate(s) will be cancelled at the Closing;

(iii) the Rollover Shareholder shall deliver or cause to be delivered to Purchaser a deed of transfer, in the form of Exhibit A-2 hereto and duly executed by the Rollover Shareholder, dated as of the Closing Date, with respect to the rollover and exchange of all of the Rollover Shareholder’s Rollover Shares for the Purchaser Shares;

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(iv) the Rollover Shareholder shall deliver to Purchaser, the original share certificate(s) representing all of the Rollover Shareholder's Rollover Shares or, if such original share certificate(s) could not be located and delivered to Purchaser at the Closing, an affidavit and indemnity for the lost share certificate(s) in form and substance acceptable to Purchaser and the registered office provider of the Company in respect of the Rollover Shareholder's Rollover Shares; and

(v) each of the Principals and Principal Holdcos, CITICPE, and Sequoia shall deliver to Purchaser the resignation letter of its respective appointee serving as a Director prior to the Closing, effective as of the Closing, and the Principals and Principal Holdcos shall deliver to Purchaser the resignation letter of the Mr. Wei CHENG (from his directorship) prior to the Closing, effective as of the Closing.

(b) Closing Deliverables by the Company. At the Closing, the Company shall, and the Principals and the Principal Holdcos shall cause the Company to, deliver or cause to be delivered to Purchaser:

(i) the register of members, dated as of the Closing and certified by the registered office provider of the Company, updated to reflect the Transactions and Purchaser's ownership of the Aggregate Sale Shares and Rollover Shares, free and clear of all Liens;

(ii) one or more share certificates in the name of Purchaser (and/or its designee), dated as at the Closing Date and duly executed on behalf of the Company, collectively evidencing the ownership by Purchaser (and/or its designee) of the Aggregate Sale Shares and Rollover Shares;

(iii) the shareholders' registry of the Rajax Domestic Company, Xiaodu Shenghuo, Xunda and Xinch, each of which certified to be a true and correct copy by the Company, where the Purchaser's designated individual is, as of the Closing Date, recorded as the holder of 100% of the equity interest of such Group Companies;

(iv) the original (or if the original is not available, copy) of each of the current version of the constitutional documents (including the articles of association, shareholders agreement, limited partnership agreement and all amendments thereto) of each Group Company;

(v) the official chop, financial chop and contract chop of each Group Company and all other chops capable of representing any Group Company (if any), the books and accounts of each Group Company;

(vi) the originals and all duplicates of the current business license of each PRC Group Company;

(vii) the originals of the IC card foreign exchange registration certificate (IC 卡外汇登记证), the permits for opening bank accounts ( 银行开户许可证 ), the bank account signature cards ( 银行印鉴卡 ), and the USB Keys (U 盾 ) to operate all existing bank accounts of each PRC Group Company (if applicable); and

(viii) the originals of all the forms and documents required by the relevant banks to effect the change of authorized signatures to all bank accounts of each Group Company, duly affixed with the company chop of such Group Company.

(c) Closing Deliverables by Purchaser. At the Closing, subject to the terms and conditions hereunder, Purchaser shall, subject to the receipt by Purchaser or its representative of each of the documents required to be delivered by each of the Selling Shareholders, the Rollover Option Holders and the Rollover Shareholder, as applicable, pursuant to Section 2.03(a) and the Company pursuant to Section 2.03(b):

(i) pay or cause to be paid to the Paying Agent cash in an amount equal to (A) the sum of (x) the Aggregate Purchase Price payable to all Selling Shareholders (other than the Former Company Share Award Holders), (y) the relevant portion of the Aggregate Purchase Price payable in cash to all Former Company Share Award Holders, and (z) the relevant portion of the aggregate Rollover Purchase Prices payable in cash to all Rollover Option Holders, in each case of (y) and (z), in accordance with Section 2.06 and the Deferred Payment Agreements except as otherwise provided in, and subject to the terms of, the Deferred Payment Agreements, *minus* (B) the sum of (x) the Tax Escrow Amount, (y) the Audit and Indemnity Escrow Amount and (z) the aggregate amounts payable in cash to all Former Company Share Award Holders and Rollover Option Holders after the Closing pursuant to the Deferred Payment Agreements (such cash being hereinafter referred to as the "Payment Fund"); provided that Purchaser shall remain liable for payment of Purchase Price to each Selling Shareholder, and Rollover Purchase Price to each Rollover Option Holder, following the Closing subject to and in accordance with the terms and conditions of this Agreement and, in the case of the Former Company Share Award Holders and Rollover Option Holders, the relevant Deferred Payment Agreements;

(ii) pay or cause to be paid to the Escrow Agent, in accordance with the Escrow Agreement, an amount equal to the sum of the Tax Escrow Amount and the Audit and Indemnity Escrow Amount, by wire transfer of immediately available funds to the Tax Escrow Account and the Audit and Indemnity Escrow Account, respectively; and

(iii) issue a share certificate in the name of the Rollover Shareholder, dated as of the Closing Date and duly executed by Purchaser, evidencing the ownership by the Rollover Shareholder of the Purchaser Shares.

SECTION 2.04 Escrow Arrangements.

(a) The Parties agree that an aggregate amount equal to ten percent (10%) of the Aggregate Purchase Price, as apportioned among the Selling Shareholders as set out in Column 5 of Schedule II (including Appendix A thereto) (the “Tax Escrow Amount”), shall be deducted from the Aggregate Purchase Price payable at Closing and deposited in an escrow account (the “Tax Escrow Account”) at the Closing pursuant to an escrow agreement (the “Escrow Agreement”) to be entered into among JPMorgan Chase Bank, N.A. (the “Escrow Agent”), Purchaser and the Shareholders Representative. Purchaser and the Shareholders Representative shall enter into the Escrow Agreement with the Escrow Agent as promptly as practicable following the date hereof. Any administrative fees and expenses of the Escrow Agent (“Tax Escrow Fees”) will be paid using funds distributed from the Tax Escrow Account (for the avoidance of doubt, each Selling Shareholders’ obligation to the Tax Escrow Fees shall be several but not joint). The Tax Escrow Fees will be allocated among each of the Selling Shareholders in accordance with its Seller Pro Rata Share thereof. After a Selling Shareholder (or Purchaser, on behalf of such Selling Shareholder) has filed the Tax Returns in accordance with Section 7.08, the relevant Tax Escrow Amount allocated to such Selling Shareholder (net of such Selling Shareholder’s allocated portion of the Tax Escrow Fees) shall be (and Purchaser shall deliver written instructions to instruct the Escrow Agent to cause the relevant Tax Escrow Amount to be): (i) released and paid to the Relevant PRC Tax Authority to settle any Selling Tax of such Selling Shareholder directly from the Tax Escrow Account pursuant to written instruction by Purchaser to the Escrow Agent, subject to the prior written consent of such Selling Shareholder or the Shareholders Representative, within five (5) Business Days after Purchaser has received an explanation letter prepared by the Qualified Tax Advisor together the account details of the tax collection account of such Relevant PRC Tax Authority, with any balance remaining out of such relevant portion of the Tax Escrow Amount to be concurrently released and distributed to such Selling Shareholder within ten (10) Business Days thereafter, (ii) released and distributed to such Selling Shareholder within ten (10) Business Days after Purchaser has received the tax payment receipt (“税收缴款书” in Chinese) or such other adequate evidence to its reasonable satisfaction that such Selling Shareholder has fully paid the relevant Selling Tax, or (iii) released and distributed to such Selling Shareholder within ten (10) Business Days after Purchaser has received adequate evidence to its reasonable satisfaction that no such Taxes are required to be paid by such Selling Shareholder in connection with the Transactions.

(b) The Parties further agree that an aggregate amount equal to nine percent (9%) of the Aggregate Purchase Price, as apportioned among each Selling Shareholder as set out in Column 6 of Schedule II (including Appendix A thereto) (the “Audit and Indemnity Escrow Amount”), shall be deducted from the Aggregate Purchase Price payable at Closing and deposited in an escrow account (the “Audit and Indemnity Escrow Account”) at the Closing pursuant to the Escrow Agreement. Any administrative fees and expenses of the Escrow Agent (“Audit and Indemnity Escrow Fees”) will be paid using funds distributed from the Audit and Indemnity Escrow Account (for the avoidance of doubt, each Selling Shareholders’ obligation to the Audit and Indemnity Escrow Fees shall be several but not joint). The Audit and Indemnity Escrow Fees will be allocated among each of the Selling Shareholders in accordance with its Seller Pro Rata Share thereof. The Escrow Agent shall make disbursements from the Audit and Indemnity Escrow Account pursuant to written instruction by Purchaser to the Escrow Agent in accordance with Section 2.05 and Section 9.04.

SECTION 2.05 Post-Closing Audit Adjustment.

(a) The Per Share Purchase Price is based on the enterprise valuation of the Group Companies as of 11:59 p.m. (Hong Kong time) on the Benchmark Date being equal to US\$9,500,000,000. The Aggregate Purchase Price is subject to the Benchmark Date Net Debt being not greater than US\$446,245,236 (the “Maximum Net Debt Amount”). In the event that the Benchmark Date Net Debt is greater than the sum of (i) the Maximum Net Debt Amount and (ii) US\$10,000,000 (such excess amount, the “Audit Difference”), the Aggregate Purchase Price shall be reduced by the entire amount of the Audit Difference (such reduction to be effected in respect of the Purchase Price payable to each Selling Shareholder through a reduction in the Audit and Indemnity Escrow Amount allocated to each Selling Shareholder) in accordance with the terms of this Section 2.05.

(b) After the Closing Date, Purchaser shall engage PricewaterhouseCoopers and/or its PRC domestic affiliates (the “Accounting Firm”) to audit the consolidated balance sheet, statement of income and statement of cash flows of the Group as of and for the period beginning on January 1, 2018 and ending as of the Closing Date in conformity with the Accounting Standards (the “Closing Audit”). Purchaser shall direct the Accounting Firm to deliver to Purchaser and the Shareholders Representative, as soon as practicable following the Closing Date but in any event within sixty (60) days after the Closing Date, a statement based on the results of the Closing Audit (the “Accounting Firm Determination”) setting forth the Accounting Firm’s calculation of (i) the Benchmark Date Net Debt calculated in accordance with the Calculation Principles and (ii) the Audit Difference, if any. For the avoidance of doubt, in the event that the Benchmark Date Net Debt set forth in the Accounting Firm Determination is equal to or less than the sum of (i) the Maximum Net Debt Amount and (ii) US\$10,000,000, there shall be no Audit Difference.

(c) The Company shall, and Purchaser, the Company, the Principals and the Principal Holdcos shall cause each Group Company to, provide the Accounting Firm with reasonable access to all relevant books and records and other documents, personnel and representatives of the Group Companies and other items reasonably requested by the Accounting Firm in connection with the Closing Audit or for purposes of delivering the Accounting Firm Determination, and such Parties shall otherwise reasonably cooperate with the Accounting Firm in connection therewith. Notwithstanding anything to the contrary contained in this Agreement, the fees and expenses of the Accounting Firm shall be borne by each of the Selling Shareholders and the Rollover Shareholder, severally but not jointly, based on their respective Shareholder Pro Rata Shares.

(d) The Parties agree that (i) the Accounting Firm Determination shall be deemed to be final, conclusive, binding and non-appealable, absent fraud or manifest error, (ii) the procedures set forth in this Section 2.05 shall be the sole and exclusive remedy with respect to the determination as to whether there is an Audit Difference and (iii) the Accounting Firm Determination shall be enforceable as an arbitral award, and judgment may be entered thereupon in any court having jurisdiction over the Party against which such determination is to be enforced.

(e) In the event that an Audit Difference is determined pursuant to this Section 2.05, Purchaser shall deliver written instructions to the Escrow Agent instructing the Escrow Agent to deliver to Purchaser an aggregate amount equal to (i) the Audit Difference multiplied by (ii) the Aggregate Selling Shareholders Percentage (the “Audit Difference Payment”). The Audit and Indemnity Escrow Amount allocated to each Selling Shareholder shall be reduced by an amount equal to its Seller Pro Rata Share of the Audit Difference Payment (the “Pro Rata Audit Difference”). After any disbursements required to be made to Purchaser pursuant to this Section 2.05(e) have been made, any remaining Audit and Indemnity Escrow Amount allocated to each Selling Shareholder shall remain in the Audit and Indemnity Escrow Amount for purposes of satisfying such Selling Shareholder’s indemnification obligations pursuant to Section 9.03 and Section 9.04.

(f) On the date immediately following the second (2<sup>nd</sup>) year anniversary of the Closing, but subject to any disbursements required to be made to Purchaser pursuant to (i) Section 2.05(e) and (ii) Section 9.03 and Section 9.04 with respect to any Undisputed Indemnity Amount of any pending claims thereunder, Purchaser shall deliver written instructions to the Escrow Agent instructing the Escrow Agent to deliver to each Selling Shareholder any then remaining Audit and Indemnity Escrow Amount allocated to such Selling Shareholder, less the amount of any then pending but unresolved claims which are supported by reasonable evidence of such claimed amount under Section 9.03 which shall be held in the Audit and Indemnity Escrow Account until resolved in accordance with Section 9.04 and distributed accordingly.

SECTION 2.06 Company Share Awards: ESOP.

(a) As soon as practicable following the date hereof, the Board or the compensation committee of the Board, as applicable, shall (i) terminate the ESOP and any relevant award agreements applicable to the ESOP, as of the Closing, (ii) cancel each Company Share Award that is outstanding and unexercised (including the Rollover Employee Options, subject to Section 2.06(b)), whether or not vested or exercisable, as of the Closing, and (iii) otherwise effectuate the provisions of this Section 2.06. From and after the Closing, neither Purchaser nor the Company shall be required to issue any Ordinary Shares, other share capital of the Company or any other consideration (other than as required pursuant to the Deferred Payment Agreements referenced in this Section 2.06) to any Person pursuant to or in settlement of any Company Share Award.

(b) Prior to the Closing, Purchaser and the Company shall agree with each other and enter into a written confirmation letter (the “Rollover Employee Option Confirmation Letter”), setting forth (i) a list of each holder of Rollover Employee Options (each such holder, a “Rollover Option Holder” and collectively, the “Rollover Option Holders”), (ii) the number of Rollover Employee Options held by such Rollover Option Holder, (iii) the number of Ordinary Shares underlying such Rollover Employee Options, (iv) the aggregate purchase price in U.S. Dollars payable to such Rollover Option Holder (which reflects a purchase price per Ordinary Share underlying such Rollover Employee Options equal to the Per Share Purchase Price) (the “Rollover Purchase Price”), (v) the relevant Tax Escrow Amount allocated to such Rollover Option Holder, and (vi) the relevant Audit and Indemnity Escrow Amount allocated to such Rollover Option Holder, in each case of clauses (v) and (vi) determined in accordance with the Relevant Obligations, subject to Section 2.06(c). In exchange for the cancellation of each Rollover Option Holder’s Rollover Employee Options, such Rollover Option Holder shall have the right to (i) receive a cash payment of all or a portion of the Rollover Purchase Price payable to such Rollover Option Holder at the Closing (subject to further reduction and deferral of a portion of such cash payment in accordance with the applicable Deferred Payment Agreement) and/or, (ii) in lieu of receiving a cash payment of a portion of such Rollover Purchase Price, roll over and exchange all or a portion of their Rollover Employee Options into Equity Securities of an Affiliate of Purchaser, in each case subject to the terms and conditions of this Agreement and a Deferred Payment Agreement to be executed and delivered by such Rollover Option Holder and Purchaser in accordance with the terms hereof.

(c) Notwithstanding anything to the contrary contained herein and without prejudice to the express obligations of the Rollover Option Holders hereunder, and subject to the applicable Deferred Payment Agreement of each Rollover Option Holder, the obligations of and provisions binding on each Selling Shareholder pursuant to Section 2.04, Section 2.05, Section 7.08, Section 7.15, Section 7.17, Section 7.18, Section 9.03, Section 9.04, Section 9.05 and Section 9.06 (collectively, the “Relevant Obligations”) shall apply, *mutatis mutandis*, to each Rollover Option Holder as if references therein (i) to the Selling Shareholders, individually or collectively, were to Rollover Option Holders, individually or collectively, as applicable, (ii) to the Sale Shares of a Selling Shareholder and the Aggregate Sale Shares of all Selling Shareholders were to the Ordinary Shares underlying the Rollover Employee Options held by a Rollover Option Holder and the aggregate Ordinary Shares underlying the Rollover Employee Options held by all Rollover Option Holders, respectively, for purposes of determining the Aggregate Selling Shareholders Percentage, Seller Pro Rata Share and Shareholder Pro Rata Share in the Relevant Obligations, (iii) to the Purchase Price payable to a Selling Shareholder and the Aggregate Purchase Price payable to all Selling Shareholders were to the Rollover Purchase Price payable to each Rollover Option Holder and the aggregate Rollover Purchase Prices payable to all Rollover Option Holders, respectively, solely for purposes of Section 2.04, Section 2.05 and Section 9.06, and (iv) to any information under Schedule II were to the relevant information under the Rollover Employee Option Confirmation Letter, and references to each other defined term as used therein shall be construed accordingly. For the avoidance of doubt, with respect to the Sections providing for the Relevant Obligations and any defined term used therein, (i) each Rollover Option Holder shall be deemed a “Selling Shareholders” for the purposes thereof, (ii) the Ordinary Shares underlying the Rollover Employee Options shall be deemed “Sale Shares”, and shall be counted towards the “Aggregate Sale Shares”, for the purposes of determining the Aggregate Selling Shareholders Percentage, Seller Pro Rata Share and Shareholder Pro Rata Share in the Relevant Obligations; and (iii) the Rollover Purchase Price payable to each Rollover Option Holder shall be deemed “Purchase Price” and shall be counted towards the “Aggregate Purchase Price”, solely for purposes of Section 2.04, Section 2.05 and Section 9.06. Each Rollover Option Holder agrees to be bound by each of the Relevant Obligations.

(d) As soon as practicable following the date hereof and prior to the Closing, each of the Former Company Share Award Holders and Rollover Option Holders, on the one hand, and Purchaser, on the other hand, shall enter into one or more agreements in a form agreed between Purchaser and the Company (each, a “Deferred Payment Agreement”), pursuant to which such Former Company Share Award Holder or Rollover Option Holder, as applicable, will agree to (i) defer its receipt in cash of a portion of the Purchase Price or Rollover Purchase Price, as applicable, payable to such Person for specified periods of time and be subject to certain restrictions and conditions to the receipt of such deferred portion of the Purchase Price or Rollover Purchase Price, as applicable, and/or (ii) in lieu of receiving a cash payment of a portion of such Purchase Price or Rollover Purchase Price, as applicable, roll over and exchange all or a portion of its Rollover Employee Shares or Rollover Employee Options, as applicable, into Equity Securities of an Affiliate of Purchaser and be subject to certain restrictions and conditions applicable thereto. As soon as practicable after Purchaser and the Company have agreed on the form of the Deferred Payment Agreements and prior to the Closing, the Company shall (A) prepare and distribute to each Former Company Share Award Holder and Rollover Option Holder the applicable Deferred Payment Agreement, (B) cause each Former Company Share Award Holder and holder of Rollover Employee Options to execute the applicable Deferred Payment Agreement prior to the Closing, and (C) deliver all such executed Deferred Payment Agreements to Purchaser. Prior to the Closing, Purchaser shall execute each of the Deferred Payment Agreements which has been duly executed by the Former Company Share Award Holders and holders of Rollover Employee Options, as applicable, and delivered by the Company to Purchaser. As soon as practicable following the date hereof and in any event prior to the Closing, the Company shall cause each Exercising Company Share Award Holder and Rollover Option Holder to deliver to Purchaser and the Shareholders Representative a counterpart, duly executed by such Person, to this Agreement.

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### ARTICLE III

#### REPRESENTATIONS AND WARRANTIES OF THE COMPANY

Subject to such exceptions as may be specifically set forth in the Company Disclosure Schedule delivered by the Company Parties to Purchaser as of the date hereof and attached to this Agreement as Schedule VII (the “Company Disclosure Schedule”), each of the Warrantors jointly and severally represents and warrants to Purchaser that the following representations and warranties are true and correct as of the date hereof and as of the Closing Date:

**SECTION 3.01 Organization, Good Standing and Qualification.** Each Group Company is duly organized, validly existing and in good standing (or equivalent status in the relevant jurisdiction) under, and by virtue of, the Laws of the place of its incorporation or establishment and has all requisite power and authority to own its properties and assets and to carry on its business as now conducted and as proposed to be conducted, and to perform each of its obligations under each of the Transaction Documents, the Control Documents and the Supplemental Control Documents to which it is a party. Except as set forth in Section 3.01 of the Company Disclosure Schedule, each Group Company is qualified to do business in the manner presently conducted and is in good standing (or equivalent status in the relevant jurisdiction) in each jurisdiction where failure to be so qualified would be a Material Adverse Effect. Except as disclosed in Section 3.01 of the Company Disclosure Schedule, each Group Company that is a PRC entity has a valid business license issued by the SAIC or its local branch or other relevant Governmental Authorities, and has, since its establishment, carried on its business in compliance with the business scope set forth in its business license.

**SECTION 3.02 Capitalization and Voting Rights.**

(a) Company. Immediately prior to the Closing, the authorized share capital of the Company shall be US\$500,000 divided into (a) a total of 26,962,943,820 authorized Ordinary Shares, 2,079,515,800 (subject to any change due to any exercise of Company Options prior to the Closing) of which are issued and outstanding and 13,037,056,180 of which have been reserved for issuance upon conversion of the Preferred Shares, (b) a total of 13,037,056,180 authorized Preferred Shares, 449,999,920 of which are designated as Series A Preferred Shares, all of which are issued and outstanding; 350,000,000 of which are designated as Series B Preferred Shares, all of which are issued and outstanding; 555,555,520 of which are designated as Series C Preferred Shares, all of which are issued and outstanding; 592,074,960 of which are designated as Series D Preferred Shares, all of which are issued and outstanding; 1,833,333,278 of which are designated as Series E Preferred Shares, all of which are issued and outstanding; 1,528,943,088 of which are designated as Series F Preferred Shares, all of which are issued and outstanding; 2,974,476,361 of which are designated as Series F-1 Preferred Shares, all of which are issued and outstanding; 1,865,592,383 of which are designated as Series G Preferred Shares, 782,937,131 of which are issued and outstanding, and 2,887,080,670 of which are designated as Series G-1 Preferred Shares, 2,314,175,599 of which are issued and outstanding immediately prior to the Closing. Section 3.02(a) of the Company Disclosure Schedule sets forth the capitalization table of each Group Company (other than the Company) as of immediately prior to the Closing, reflecting all then outstanding and authorized Equity Securities of such Group Company, the record and beneficial holders thereof, the issuance date, and the terms of any vesting applicable thereto. Schedule III of this



- (b) Xiaodu Cayman Company. The authorized share capital of the Xiaodu Cayman Company is, as of the date of this Agreement, US\$50,000, divided into 5,000,000,000 shares of US\$ 0.00001 each, 1 of which is issued and outstanding and held by the Company.
- (c) Rajax HK Subsidiary. The authorized share capital of the Rajax HK Subsidiary is, as of the date of this Agreement, HK\$1,000, divided into 10,000,000 shares, all of which is issued and outstanding and held by the Company.
- (d) Xiaodu HK Company. The authorized share capital of the Xiaodu HK Company is, as of the date of this Agreement, HK\$1, divided into 1 share, all of which is issued and outstanding and held by the Xiaodu Cayman Company.
- (e) WFOE. The registered capital of each WFOE is set forth opposite its name on Section 3.02(e) of the Company Disclosure Schedule, together with an accurate list of the record and beneficial owners of such registered capital.
- (f) Rajax WFOE Subsidiary. The registered capital of the Rajax WFOE Subsidiary is set forth opposite its name on Section 3.02(f) of the Company Disclosure Schedule, together with an accurate list of the record and beneficial owners of such registered capital.
- (g) Domestic Company. The registered capital of each Domestic Company is set forth opposite its name on Section 3.02(g) of the Company Disclosure Schedule, together with an accurate list of the record and SAIC registered owners of such registered capital.
- (h) No Other Securities. Except as set forth in Section 3.02(h) of the Company Disclosure Schedule and for (i) the conversion privileges of the Preferred Shares provided in the Charter Documents of the Company as currently in effect, (ii) certain rights expressly provided in the Charter Documents of the Company as currently in effect, and (iii) certain rights expressly provided in this Agreement, the Memorandum and Articles, the Shareholders Agreement, the ROFR Agreement, the Share Restriction Agreements, the Control Documents and the Supplemental Control Documents, as of the date of this Agreement and at the Closing, (x) there are no other authorized or outstanding Equity Securities of any Group Company; (y) no Equity Securities of any Group Company are subject to any preemptive rights, rights of first refusal (except to the extent provided by applicable PRC Laws) or other rights to purchase such Equity Securities or any other rights with respect to such Equity Securities, and (z) no Group Company is a party or subject to any Contract that affects or relates to the voting or giving of written consents with respect to, or the right to cause the redemption, or repurchase of, any Equity Security of such Group Company. Except as set forth in the Shareholders Agreement, the Company has not granted any registration rights or information rights to any other Person (except to the extent provided by applicable PRC Laws), nor is the Company obliged to list any of the Equity Securities of any Group Companies on any securities exchange. Except as contemplated under the Transaction Documents, the Control Documents and the Supplemental Control Documents, there are no voting or similar agreements which relate to the share capital or registered capital of any Group Company. Other than the ESOP, no Group Company is bound by any equity incentive plan. There are no commitments or agreements of any character to which any Group Company is bound obligating any Group Company to accelerate or otherwise alter the vesting of any Company Share Award as a result of the Transactions, and each Company Share Award may, by its terms, be treated at the Closing as set forth in Section 2.06.



(i) Issuance and Status. All presently outstanding Equity Securities of each Group Company were duly and validly issued (or subscribed for) in compliance with all applicable Laws, preemptive rights of any Person, and applicable Contracts. Except for those disclosed in Section 3.02(i) of the Company Disclosure Schedule, all share capital or registered capital, as the case may be, of each Group Company have been duly and validly issued, are fully paid (or subscribed for) and non-assessable, and are and as of the Closing shall be free of any and all Liens (except for any restrictions on transfer under the Control Documents, the Shareholders Agreement, the ROFR Agreement, the Memorandum and Articles and applicable Laws). Except as contemplated under the Transaction Documents, the Control Documents, the Supplemental Control Documents and set forth in Section 3.02(i) of the Company Disclosure Schedule, there are no (i) resolutions pending to increase the share capital or registered capital of any Group Company or cause the liquidation, winding up, or dissolution of any Group Company, nor has any distress, execution or other process been levied against any Group Company, (ii) dividends which have accrued or been declared but are unpaid by any Group Company, (iii) obligations, contingent or otherwise, of any Group Company to repurchase, redeem, or otherwise acquire any Equity Securities, or (iv) outstanding or authorized equity appreciation, phantom equity, equity plans or similar rights with respect to any Group Company.

(j) Title. Except disclosed Section 3.02(j) of the Company Disclosure Schedule, the Shares held by the Principal Holdcos are free and clear of all Liens of any kind other than those arising under applicable Law or as set forth in the Transaction Documents, Control Documents, the Supplemental Control Documents or the Memorandum and Articles.

(k) Company Share Awards. Section 3.02(k) of the Company Disclosure Schedule sets forth the following information with respect to each Company Share Award outstanding as of the date hereof: (i) the name of the Company Share Award recipient; (ii) the particular ESOP or RSU tranche pursuant to which such Company Share Award was granted and the type of such Company Share Award; (iii) the number and type of Ordinary Shares subject to such Company Share Award; (iv) the exercise or purchase price of such Company Share Award; (v) the date on which such Company Share Award was granted; (vi) the vesting schedule or other vesting conditions, if any, of each such Company Share Award; and (vii) the date on which such Company Share Award expires. The Company has made available to the Purchaser Parties accurate and complete copies of (x) the ESOP and the agreements documenting the RSU tranches pursuant to which the Company has granted the Company Share Awards that are currently outstanding, (y) the form of all award agreements evidencing such Company Share Awards and (z) any award agreements evidencing any Company Share Award with terms that are materially different from those set forth in the form of award agreement.

SECTION 3.03 Corporate Structure; Subsidiaries. Section 3.03 of the Company Disclosure Schedule sets forth a complete structure chart showing the Group Companies, and indicating the ownership and Control relationships among all Group Companies, the nature of the legal entity which each Group Company constitutes, the jurisdiction in which each Group Company was organized, and each jurisdiction in which each Group Company is required to be qualified or licensed to do business as a foreign Person. No Group Company owns or Controls, or has ever owned or Controlled, directly or indirectly, any Equity Security, interest or share in any other Person or is or was a participant in any joint venture, partnership or similar arrangement. No Group Company is obligated to make any investment in or capital contribution in or on behalf of any other Person. The Company was formed solely to acquire and hold the equity interests in the Rajax HK Subsidiary and Xiaodu Cayman Company. The Rajax HK Subsidiary was formed solely to acquire and hold the equity interests in the Rajax WFOE. The Xiaodu Cayman Company was formed solely to acquire and hold the equity interests in the Xiaodu HK Company. The Xiaodu HK Company was formed solely to acquire and hold the equity interests in the Xiaodu WFOE. Except for those disclosed in Section 3.03 of the Company Disclosure Schedule, neither the Company nor the Rajax HK Subsidiary, the Xiaodu Cayman Company, the Xiaodu HK Company has engaged in any other business and has not incurred any Liability since its formation. Each of the PRC Group Companies is engaged in the Business (as defined in the Shareholders Agreement) and has no other business. Except for those disclosed in Section 3.03 of the Company Disclosure Schedule, no Principal and no Person owned or Controlled by any Principal (other than a Group Company), is engaged in the Business or has any assets in relation to the Business or any Contract with any Group Company. All the historical changes to the share capital of each of the Group Companies and historical transfers of equity interest in each of the Group Companies were made in compliance with the applicable Laws and applicable Contracts, and there are no outstanding Liabilities in connection with such historical changes or historical transfers. Except for the Principal Holdcos, the Group Companies or otherwise as disclosed in Section 3.03 of the Company Disclosure Schedule, none of the Principals owns, directly or indirectly, legally or beneficially, any equity or other ownership interest in any Person (excluding companies whose shares are publicly traded on a recognized securities exchange).

SECTION 3.04 Authorization. Except as otherwise disclosed in Section 3.04 of the Company Disclosure Schedule, each Warrantor has all requisite power and authority to execute and deliver the Transaction Documents to which it is a party and to carry out and perform its obligations thereunder. All action on the part of each party to the Transaction Documents (other than the Purchaser Parties) (and, as applicable, its officers, directors and shareholders) necessary for the authorization, execution and delivery of the Transaction Documents and the performance of all obligations of each such party (including approval of the Transaction Documents and the Transactions, as applicable, by the Board, Rollover Shareholder, the Majority Ordinary Holders and the Majority Preferred Holders, in each case, in accordance with the Memorandum and Articles, the Shareholders Agreement and the ROFR Agreement) has been taken or will be taken prior to the Closing. Each of the Transaction Documents has been, or will be on or prior to the Closing, duly executed and delivered by each party thereto (other than the Purchaser Parties) and constitutes valid and legally binding obligations of such party, enforceable against such party in accordance with its terms, except (i) as limited by applicable bankruptcy, insolvency, reorganization, moratorium, and other Laws of general application affecting enforcement of creditors' rights generally, and (ii) as limited by Laws relating to the availability of specific performance, injunctive relief, or other equitable remedies; and for (iii) where applicable, the recognition and enforcement of arbitral award being subject to relevant Laws.

SECTION 3.05 SAFE Rules and Regulations; Consents; No Conflicts. Except for those disclosed in Section 3.05 of the Company Disclosure Schedule, all SAFE Rules and Regulations have been fully complied with and all requisite approvals or registration certificates required under the SAFE Rules and Regulations in relation thereto have been duly and lawfully obtained and are in full force and effect, and to the Knowledge of the Company Parties, there exist no grounds on which any such approval or registration certificate may be cancelled or revoked or the PRC Group Companies or their respective legal representative may be subject to liability or penalties for misrepresentations or failures to disclose information to the issuing SAFE. None of the Company Parties has received any oral or written inquiries, notifications, orders or any other forms of official correspondence from SAFE with respect to any actual or alleged non-compliance with the SAFE Rules and Regulations. Except as set forth in Section 3.05 of the Company Disclosure Schedule, all Consents from or with any Governmental Authority or any other Person required in connection with the valid execution, delivery and performance of the Transaction Documents, and the consummation of the transactions contemplated by the Transaction Documents, in any case on the part of any party thereto (other than the Purchaser Parties), have been duly obtained or completed (as applicable) and are in full force and effect. Except as set forth in Section 3.05 of the Company Disclosure Schedule, the execution, delivery and performance of each Transaction Document by each party thereto (other than the Purchaser Parties), and the consummation by such party of the transactions contemplated thereby, do not and will not, (i) result in any violation of, be in conflict with, or constitute a default under, require any Consent under, or give any Person rights of termination, amendment, acceleration or cancellation under, with or without the passage of time or the giving of notice, any Governmental Order, any provision of the Charter Documents of any Group Company, the Shareholders Agreement, the ROFR Agreement, any applicable Laws (including without limitation, Order No. 10 and the SAFE Rules and Regulations), or any Material Contract, (ii) result in any termination, modification, cancellation, or suspension of any material right of, or any augmentation or acceleration of any material obligation of, any Group Company (including without limitation, any indebtedness of such Group Company), or (iii) result in the creation of any Lien upon any of the material properties or assets of any Group Company other than Permitted Liens.

SECTION 3.06 Compliance with Laws; Consents.

(a) Except as disclosed in the Section 3.06(a) of the Company Disclosure Schedule, each Group Company is in compliance in all material respects with all applicable Laws, including without limitation, the Specified Laws. The business of each Group Company as now conducted and as presently planned to be conducted are in compliance in all material respects with all applicable Laws, including without limitation, the Specified Laws. No event has occurred and no circumstance exists that (with or without notice or lapse of time) (a) may constitute or result in a material violation by any Group Company of, or a failure on the part of such entity to comply with, any applicable Laws, including without limitation, any Specified Laws, in any material respect, or (b) may give rise to any material obligation on the part of any Group Company to undertake, or to bear all or any portion of the cost of, any remedial action of any nature. None of the Group Companies has received any notice from any Governmental Authority regarding any of the foregoing. To the Knowledge of the Company Parties, no Group Company is under investigation with respect to a material violation of any Law.

(b) Except as set forth in Section 3.06(b) of the Company Disclosure Schedule, all Consents from or with the relevant Governmental Authority required in respect of the due and proper establishment and operations of each Group Company as now conducted (collectively, the “Required Governmental Consents”), have been duly obtained or completed in accordance with all applicable Laws. Section 3.06(b) of the Company Disclosure Schedule sets forth a complete list of such Required Governmental Consents (or, with respect to the Stores, such material Required Governmental Consents) which each of the Group Companies has obtained, together with, except in the case of the Stores, the name of the entity issuing each such Required Governmental Consent. Without limiting the generality of the foregoing, each Store that has commenced operations at any time prior to the applicable Closing has duly obtained both the business license ( 营业执照 ) and the food operation license ( 食品经营许可证 ) from the relevant Governmental Authorities and has completed its respective environmental assessment (if applicable).

(c) Except as set forth in the Company Disclosure Schedule, no Required Governmental Consent contains any materially burdensome restrictions or conditions, and each Required Governmental Consent is in full force and effect and will remain in full force and effect upon the consummation of the transactions contemplated hereby. None of the Group Companies is in material default under any Required Governmental Consent. To the Knowledge of the Company Parties, there is no reason to believe that any Required Governmental Consent which is subject to periodic renewal will not be granted or renewed. No Group Company has received any letter or other written communication from any Governmental Authority threatening or providing notice of revocation of any Required Governmental Consent issued to any Group Company or the need for compliance or remedial actions in respect of the activities carried out directly or indirectly by any Group Company.

SECTION 3.07 Tax Matters. Except as disclosed in the applicable subsection of Section 3.07 of the Company Disclosure Schedule:

(a) All Tax Returns required to be filed on or prior to the date hereof with respect to each Group Company has been duly and timely filed (taking into account any extension of time to file granted or obtained) by such Group Company in accordance with the applicable Laws and all such Tax Returns are true, correct and complete in all material respects and were prepared in compliance with all applicable Laws. Each Group Company has paid in full all Taxes (whether or not shown on any Tax Return) required to be paid by it, except such Taxes, if any, as are being contested in good faith and as to which adequate reserve (determined in accordance with the Accounting Standards) have been provided in the Financial Statements. No deficiencies for any Taxes with respect to any Tax Returns have been asserted in writing by, and no notice of any pending action with respect to such Tax Returns has been received from, any Tax authority, and no dispute relating to any Tax Returns with any such Tax authority is outstanding or contemplated. Each Group Company has paid all Taxes owed by it which are due and payable (whether or not shown on any Tax Return) and withheld and timely remitted to the appropriate Governmental Authority all Taxes which it is obligated to withhold and remit from amounts owing to any employee, creditor, customer or any other Person.

(b) The provisions for Taxes in the Financial Statements fully reflect all unpaid Taxes of each Group Company (as determined in accordance with the Accounting Standards and the applicable Tax Laws), whether or not assessed or disputed as of the date of the applicable Financial Statements. The unpaid Taxes of any Group Company (i) did not, as of the date of the applicable Financial Statements, exceed the reserve for Tax liability (which shall not include any reserve established for deferred Taxes to reflect timing differences between book and Tax income) set forth on the face of the applicable Financial Statements (rather than in any notes thereto) and (ii) do not exceed that reserve as adjusted for the passage of time through the date of the Closing in accordance with the past custom and practice of each Group Company in filing its Tax Returns.

(c) No tax audits or administrative or judicial Tax proceedings by any Governmental Authority with respect to any Group Company is currently in progress, nor has any Group Company received any written notice issued by any Governmental Authority threatening the commencement of such foregoing proceedings. No assessment of Tax has been proposed in writing against any Group Company or any of their assets or properties. No Group Company has received from any Governmental Authority (including jurisdictions where such Group Company has not filed Tax Returns) any (i) notice indicating an intent to open audit or other review, (ii) request for information related to Tax matters, or (iii) notice of deficiency or proposed adjustment for any amount of Tax proposed, asserted, or assessed by any Governmental Authority against such Group Company. No Group Company is subject to any waivers or extensions of applicable statutes of limitations with respect to Taxes for any year. Except for extensions applied for and granted in the ordinary practice of the applicable jurisdiction, no Group Company currently is the beneficiary of any extension of time within which to file any Tax Return.

(d) No Group Company is being the subject of any examination or investigation by any Tax authority relating to the conduct of its business or the payment or withholding of Taxes that has not been resolved or has received any written notices of any threatened examination or investigation by any Tax authority relating to the conduct of its business or the payment or withholding of Taxes. No Group Company is responsible for the Taxes of any other Person by reason of contract, successor liability, operation of Law or otherwise.

(e) Since the Statement Date, no Group Company has incurred any material Taxes other than in the ordinary course of business consistent with past custom and practice. No Group Company has received any written claim from any Governmental Authority in a jurisdiction where such Group Company does not file Tax Returns that such Group Company is or may be subject to taxation by that jurisdiction. No Group Company is treated as a resident for Tax purposes of, or is otherwise subject to income Tax in, or has branch, permanent establishment, agency of other taxable presence in, any jurisdiction other than the jurisdiction in which it has been established. The Group Companies have fulfilled all the material terms, requirements and criteria for the continuance of all applicable Tax incentives, Tax holidays and Tax rulings, including concessional Tax rate, Tax relief, Tax exemption, Tax refund, Tax credit, and other Tax reduction agreement or order available under any applicable Law. Each such Tax incentives, Tax holidays, Tax rulings and other Tax reduction agreement or order is expected to remain in full effect throughout the current effective period thereof after the Closing and is not subject to reduction, revocation, cancellation or any other changes (including retroactive changes) in the future, and no Group Company has received any notice to the contrary or is aware of any event that may result in repeal, cancellation, revocation, or return of such entitlements. All exemptions, reductions and rebates of material Taxes granted to any Group Company by a Governmental Authority are in full force and effect and have not been terminated. No Group Company will be required to include material amounts in income, or exclude material items of deduction, or qualification for Tax exemption, Tax holiday, Tax credit, Tax incentive or Tax refund, in any taxable period beginning after the date of the Closing as a result of (i) a change in method of accounting occurring on or prior to the date of the Closing, (ii) agreement with any Governmental Authority executed on or prior to the date of the Closing, (iii) installment sale or open transaction disposition made on or prior to the date of the Closing, or (iv) prepaid amount received on or prior to the date of the Closing. The transactions contemplated under this Agreement and the other Transaction Documents to which any Group Company is a party are not in violation of any applicable Law regarding Tax, and will not result in any Tax exemption, Tax holiday, Tax credit, Tax incentive, Tax refund being revoked, cancelled or terminated or trigger any Tax liability for any Group Company. There are no Liens for Taxes (other than Permitted Liens) on any assets of any Group Company.

(f) The Group Companies are in compliance with all applicable transfer pricing Laws, including the execution and maintenance of contemporaneous documentation substantiating the transfer pricing practices and methodology of the Group Companies. All of the transactions between any Group Company and any other Related Party have been effected on an arm's length basis. There are no circumstances which have caused or could cause any Governmental Authority to make any transfer pricing adjustment to the profits of any Group Company, or require any such adjustment to be made to the terms on which any such transaction is treated as taking place, and no such adjustment has been made or threatened.

(g) No Group Company is a party to, involved with, bound by or otherwise subject to any Tax sharing, indemnity or allocation agreement or other similar arrangement with any Person (other than a commercial agreement entered into in the ordinary course of business and the principal purpose of which is not the sharing or allocation of Taxes) with respect to Taxes nor does any Group Company owe any amount under any such agreement. No Group Company is a member of an affiliated or combined taxation group with any Person other than the other Group Companies. No Group Company has any Liability for the Taxes of any Person (other than any other Group Company) as a result of such Group Company being part of or owned by, or ceasing to be part of or owned by, an affiliated, combined, consolidated, unitary or other similar group prior to the Closing, as a transferee or successor, by contract or otherwise.

(h) No Group Company has entered into: (i) any transaction the sole or main purpose of which was the avoidance or deferral or reduction of Tax by any Group Company or any associated Person; or (ii) any transaction the objective of which was the exclusion or reduction of the amount of any income, profits, gains, sales, supplies or imports made or enjoyed by any Group Company or any associated Person for any Tax purpose, or the creation or increase of the amount of any deduction, loss, allowance or credit claimed or intended to be claimed by any Group Company or any associated Person for any Tax purpose, that may be challenged, disallowed or investigated by any Governmental Authority.

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(i) Each Group Company has complied with all statutory provisions rules, regulations, orders and directions in respect of any value added or similar Tax on consumption, has promptly submitted accurate returns, maintains full and accurate records, and has never been subject to any interest, forfeiture, surcharge or penalty and is not a member of a group or consolidation with any other company for the purposes of value added Tax.

(j) No Group Company has entered into any concession, agreements (including agreements for the deferred payment of any Tax liability) or other formal or informal arrangement with any Governmental Authority relating to the Group Companies.

(k) The Company will not be required to pay any Taxes under PRC Law with respect to the transactions contemplated by this Agreement and the other Transaction Documents.

(l) The Company is treated as a corporation for U.S. federal income tax purposes. No Group Company has filed any U.S. Tax election, including any entity classification election pursuant to any applicable U.S. Treasury Regulations. No Group Company is a PFIC, CFC or a U.S. Real Property Holding Corporation. No Group Company anticipates that it will become a PFIC, CFC or a U. S. Real Property Holding Corporation in the foreseeable future. No Group Company owns a less than twenty-five percent (25%) equity interest (by value) in any other entity.

SECTION 3.08 Charter Documents; Books and Records. The Charter Documents of each Group Company are in the form made available to the Purchaser Parties. Each Group Company has been in compliance in all material respects with its Charter Documents, and none of the Group Companies has violated or breached any of their respective Charter Documents in any material respect. Each Group Company maintains its books of accounts and records in the usual, regular and ordinary manner, on a basis consistent with prior practice, and which permits its Financial Statements to be prepared in accordance with the Accounting Standards. The register of members and directors (if applicable) of each Group Company is correct, there has been no notice of any proceedings to rectify any such register, and to the Knowledge of the Company Parties there are no circumstances which might lead to any application for its rectification. All documents requiring to be filed by each Group Company with the applicable Governmental Authority in respect of the relevant jurisdiction in which the relevant Group Companies is being incorporated have been properly made up and filed.

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SECTION 3.09 Financial Statements. Section 3.09 of the Company Disclosure Schedule sets forth (a)(i) the audited consolidated balance sheet, statement of income and statement of cash flows for the Group (excluding the Xiaodu Group Companies) as of and for the fiscal year ended December 31, 2016 (the “Statement Date”) and (ii) the audited consolidated balance sheet, statement of income and statement of cash flows for the Xiaodu Group as of and for the fiscal year ended on the Statement Date, (b) the unaudited consolidated balance sheet, statement of income and statement of cash flows for the Group as of and for the twelve (12) months ended December 31, 2017 (the “Unaudited 2017 Financial Statements”), and (c) the unaudited consolidated balance sheet, statement of income and statement of cash flows for the Group as of and for the one month ended January 31, 2018 ((a), (b) and (c) collectively, the “Financial Statements”). When delivered pursuant to Section 7.14, the Audited 2017 Financial Statements shall be deemed to be included in the definition of “Financial Statements”. Except as otherwise disclosed in Section 3.09 of the Company Disclosure Schedule, the Financial Statements (i) have been prepared in accordance with the books and records of the Group, (ii) fairly present in all material respects the consolidated financial position, results of operations and cash flows of the Group as of the dates and for the periods presented therein, and (iii) were prepared in accordance with the Accounting Standards applied on a consistent basis throughout the periods presented. All of the accounts receivable owing to any of the Group Companies, including without limitation all accounts receivable set forth on the Financial Statements, constitute valid and enforceable claims and are current and collectible in the ordinary course of business in all material respects, net of any reserves shown on the Financial Statements (which reserves are adequate). There are no material contingent or asserted claims, refusals to pay, or other rights of set-off with respect to any accounts receivable of any Group Company.

SECTION 3.10 Changes. Since the Statement Date, each Group Company (i) has operated its business in the ordinary course consistent with its past practice, (ii) used its reasonable best efforts to preserve its business, (iii) collected receivables and paid payables and similar obligations in the ordinary course of business consistent with past practice, and (iv) not engaged in any new line of business or entered into any agreement, transaction or activity or made any commitment except those in the ordinary course of business consistent with past practice. Since the Statement Date, no Material Adverse Effect has occurred. Except for those disclosed in Section 3.10 of the Company Disclosure Schedule or as expressly provided in the Transaction Documents, since the Statement Date, there has not been:

- (a) any purchase, acquisition, sale, lease, disposal of or other transfer of any assets that are individually or in the aggregate material to its business, whether tangible or intangible, other than the purchase or sale of inventory in the ordinary course of business consistent with its past practice;
- (b) any acquisition (by merger, consolidation or other combination, or acquisition of stock or assets, or otherwise) of any business or other Person or division thereof, or any sale or disposition of any business or division thereof;
- (c) any sale, assignment, exclusive license, or transfer of any Intellectual Property of any Group Company (other than a transfer to the Company or a wholly-owned Group Company);
- (d) any waiver, termination, cancellation, settlement or compromise of a valuable right, debt or claim;

(e) any incurrence, creation, assumption, repayment, satisfaction, or discharge of (A) any material Lien (other than Permitted Liens) or (B) any Indebtedness (other than Indebtedness incurred, created, assumed, repaid, satisfied or discharged in the ordinary course of business provided that such Indebtedness in the ordinary course of business of all of the Group Companies does not exceed US\$5,000,000 in the aggregate) or guarantee, or the making of any loan or advance (other than reasonable and normal advances to employees for bona fide expenses that are incurred in the ordinary course of business consistent with its past practice), or the making of any investment or capital contribution;

(f) any amendment to or termination of any Material Contract, any entering of any new Contract that would have been a Material Contract if in effect on the date hereof, or any amendment to or waiver under any Charter Document;

(g) any change in any compensation arrangement or Contract with any employee of any Group Company, or adoption of any new Benefit Plan, or made any material change in any existing Benefit Plan;

(h) any declaration, setting aside or payment or other distribution in respect of any Equity Securities of any Group Company, or any issuance, transfer, redemption, purchase or acquisition of any Equity Securities by any Group Company;

(i) any damage, destruction or loss, whether or not covered by insurance, materially and adversely affecting the assets, properties, financial condition, operation or business of any Group Company;

(j) any material change in accounting principles, methods or practices or any revaluation of any of its assets;

(k) except in the ordinary course of business consistent with its past practice, settlement of any claim or assessment in respect of any material Taxes, entry or change of any material Tax election, change of any method of accounting resulting in a material amount of additional Tax or filing of any material amended Tax Return;

(l) any commencement or settlement of any material Action;

(m) any authorization, sale, issuance, transfer, pledge or other disposition of any Equity Securities of any Group Company;

(n) any resignation or termination of any Key Employee of any Group Company or any material group of employees of any Group Company;

(o) any transaction with any Related Party; or

(p) any agreement or commitment to do any of the things described in this [Section 3.10](#).



SECTION 3.11 Actions. Except for those disclosed in Section 3.11 of the Company Disclosure Schedule, there is no Action pending or, to the Knowledge of the Company Parties, adversely affecting any Group Company or any of the Principals or any of the Principal Holdcos with respect to its businesses and there is no judgment or award unsatisfied against any Group Company, nor is there any Governmental Order in effect and binding on any Group Company or their respective assets or properties. There is no Action pending by any Group Company against any third party nor does any Group Company intend to commence any such Action. No Governmental Authority has at any time challenged or questioned in writing the legal right of any Group Company to conduct its business as presently being conducted.

SECTION 3.12 Liabilities. Except as disclosed in Section 3.12 of the Company Disclosure Schedule, no Group Company has any Liabilities of the type required to be disclosed on a balance sheet except for (i) Liabilities set forth in the balance sheet that have not been satisfied since the Statement Date, and (ii) current Liabilities incurred since the Statement Date in the ordinary course of the Group's business consistent with its past practices and which do not exceed US\$500,000 in the aggregate. Except as disclosed in Section 3.12 of the Company Disclosure Schedule and for Indebtedness incurred in the ordinary course of business, none of the Group Companies has any Indebtedness that it has directly or indirectly created, incurred, assumed, or guaranteed, or with respect to which the Group Company has otherwise become directly or indirectly liable. None of the Group Companies is a guarantor or indemnitor of any Liabilities of any other Person (other than a Group Company).

SECTION 3.13 Commitments.

(a) Except for the Transaction Documents, the Control Documents and the Supplemental Control Documents, Section 3.13(a) of the Company Disclosure Schedule contains a complete and accurate list of all Material Contracts. "Material Contracts" means, collectively, any Contract to which a Group Company or any of its properties or assets is bound or subject to that (a) involves obligations (contingent or otherwise) or payments in excess of RMB2,000,000 or has an unexpired term in excess of one year, (b) involves Intellectual Property that is material to a Group Company (other than generally-available "off-the-shelf" shrink-wrap Software licenses obtained by the Group on non-exclusive and non-negotiated terms), including without limitation, the licenses, (c) restricts the ability of a Group Company to compete or to conduct or engage in any business or activity or in any territory (including any Contracts containing Restrictive Provisions), (d) relates to the sale, issuance, grant, exercise, award, purchase, repurchase or redemption of any Equity Securities, (e) involves any provisions providing for exclusivity, non-compete, "change in control", "most favored nations", rights of first refusal or first negotiation or similar rights against any Group Company, or grants a power of attorney, agency or similar authority by any Group Company, (f) is with a Related Party, (g) involves Indebtedness, an extension of credit, a guaranty, deed of trust, or the grant of a Lien (other than trade Indebtedness and credits in the ordinary course of business), (h) involves the lease, license or use of assets with an obligation of payment by any Group Company more than RMB150,000 per year, or the disposition or acquisition of a material amount of assets or of a business, (i) involves the waiver, compromise, or settlement of any material dispute, claim, litigation or arbitration, (j) involves the ownership or lease of, title to, use of, or any leasehold or other interest in, any real or personal property (except for personal property leases in the ordinary course of business and involving payments of less than RMB500,000 and real property leases in the ordinary course of business and involving rental payments of less than RMB150,000 per year), including without limitation, the Leases, (k) involves (i) the establishment, contribution to, or operation of a partnership, joint venture, alliance or similar entity, (ii) a sharing of profits or losses (including joint development and joint marketing Contracts), or (iii) any investment in, loan to or acquisition or sale of the securities, equity interests or assets of any Person which is material to the business of a Group Company, (l) is between any of the Domestic Company and another Group Company, (m) is with a Governmental Authority, state-owned enterprise, or sole-source supplier of any material product or service (other than utilities), (n) is a Benefit Plan, or a collective bargaining agreement or is with any labor union or other representatives of the employees, (o) is a brokerage or finder's agreement, or material sales agency, marketing or distributorship Contract, (p) is with the application platforms (including without limitation, the AppStore of Apple Inc. and the Android Market of Google Inc.), (q) relates to business cooperation with any shareholder of the Company or any Affiliate of such shareholder (including but not limited to the Baidu Agreements and the Alibaba Business Cooperation Agreement), or (r) is otherwise material to a Group Company or is one on which a Group Company is substantially dependent.

(b) A true, fully-executed copy of each Material Contract including all amendments and supplements thereto has been delivered or otherwise made available to the Purchaser Parties. Except for those disclosed in Section 3.13(b) of the Company Disclosure Schedule, each Material Contract is a valid and binding agreement of the Group Company that is a party thereto, the performance of which does not and will not violate, in any material respects, any applicable Law or Governmental Order, and is in full force and effect and enforceable against the parties thereto, except (x) as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other Laws of general application affecting enforcement of creditors' rights generally, and (y) as may be limited by Laws relating to the availability of specific performance, injunctive relief or other remedies in the nature of equitable remedies, and for (z) where applicable, the recognition and enforcement of arbitral award being subject to relevant Laws. Each Group Company has duly performed all of its obligations in all material respects under each Material Contract to the extent that such obligations to perform have accrued, and no material breach or default, alleged material breach or alleged default, or event which would (with the passage of time, notice or both) constitute a material breach or default thereunder by such Group Company or, to the Knowledge of the Company Parties, any other party or obligor with respect thereto, has occurred, or as a result of the execution, delivery, and performance of the Transaction Documents will occur. No Group Company has given notice (whether or not written) that it intends to terminate a Material Contract or that any other party thereto has breached, violated or defaulted under any Material Contract. No Group Company has received any notice (whether written or not) that it has breached, violated or defaulted under any Material Contract or that any other party thereto intends to terminate such Material Contract.

(c) Each of the JD Agreements has been duly terminated in accordance with its terms (including any provisions therein that purport to survive the termination thereof), and there are no continuing obligations or liabilities under any JD Agreement on the part of any Group Company or other party thereto. No Group Company is a party to any Contract with Jiangsu Jingdong Information Technology Co., Ltd. or any of its Affiliates.

(d) There is no material breach of any covenant or agreement contained in the Alibaba Business Cooperation Agreement by any Warrantor.

(e) No Group Company or any of its properties or assets is bound or subject to any Contract containing Restrictive Provisions.

SECTION 3.14 Anti-Bribery, Anti-Corruption, Anti-Money Laundering and Sanctions; Absence of Government Interests.

(a) Each Group Company and their respective directors, officers, employees and other persons acting on their behalf (collectively, “Representatives”) are and have been in compliance with all applicable Laws relating to anti-bribery, anti-corruption, anti-money laundering, record keeping and internal controls (collectively, the “Compliance Laws”), including the FCPA. Furthermore, except for those disclosed in Section 3.14 of the Company Disclosure Schedule, no Public Official (x) holds an ownership or other economic interest, direct or indirect, in any of the Group Companies or in the contractual relationship formed by this Agreement, or (y) serves as an officer, director or employee of any Group Company. Without limiting the foregoing, neither any Group Company nor any Representative has, directly or indirectly, offered, promised, given, authorized or paid any money or anything of value to any Public Official or to any person under circumstances where any Group Company or Representative knew or ought to have known that all or a portion of such money or thing of value would be offered, given, paid or promised, directly or indirectly, to a Person:

(i) for the purpose of influencing any act or decision of a Public Official in their official capacity; inducing a Public Official to act or omit to act in violation of lawful duties; securing any improper advantage; inducing a Public Official to influence or affect any act or decision of any Governmental Authority; or assisting any Group Company or any Representative in obtaining or retaining business for or with, or directing business to, any Person; or

(ii) in a manner that would constitute a breach of any Compliance Laws.

(b) Each Group Company has maintained complete and accurate books and records, and no assets of any Group Company have been used for the establishment of any unlawful or unrecorded fund of monies or other assets, or for the making of any unlawful or undisclosed payment.

(c) No Group Company or any of its Representatives has ever been found by a Governmental Authority to have violated any criminal or securities Law or is subject to any indictment or any government investigation for bribery. Except for those disclosed in Section 3.14 of the Company Disclosure Schedule, none of the beneficial owners of any Equity Securities or other interest in any Group Company or the current or former Representatives of any Group Company are or were Public Officials.

(d) No Group Company or any of its Representatives is a Prohibited Person, and no Prohibited Person will be given an offer to become an employee, officer, consultant or director of any Group Company. No Group Company has conducted or agreed to conduct any business, or entered into or agreed to enter into any transaction with a Prohibited Person.

SECTION 3.15 Title Properties .

(a) Title: Personal Property . Each Group Company has good and valid title to all of its respective assets, whether tangible or intangible (including those reflected in the balance sheet, together with all assets acquired thereby since the Statement Date, but excluding those that have been disposed of since the Statement Date), in each case free and clear of all Liens, other than Permitted Liens. The foregoing assets collectively represent in all material respects all assets (including all rights and properties) necessary for the conduct of the business of each Group Company as presently conducted. Except for leased or licensed assets, no Person other than a Group Company owns any interest in any such assets. Except for those disclosed in Section 3.15(a) of the Company Disclosure Schedule, all leases of real or personal property to which a Group Company is a party are fully effective and afford the Group Company valid leasehold possession of the real or personal property that is the subject of the lease.

(b) Real Property . No Group Company owns or has legal or equitable title or other right or interest in any real property other than as held pursuant to Leases. Section 3.15(b) of the Company Disclosure Schedule sets forth each leasehold interest involving payment of rental of no less than RMB150,000 per year pursuant to which any Group Company holds any real property (a “Lease”), indicating the parties to such Lease, the address of the property demised under the Lease, the rent payable under the Lease and the term of the Lease. The particulars of the Leases as set forth in Section 3.15(b) of the Company Disclosure Schedule are true and complete. To the Knowledge of the Company Parties, the lessor under each Lease is qualified and has obtained all Consents necessary to enter into such Lease. Except for those disclosed in Section 3.15(i) and Section 3.15(b) of the Company Disclosure Schedule, each Lease is in compliance in all material respects with applicable Laws, including with respect to the ownership and operation of property and conduct of business as now conducted by the applicable Group Company which is a party to such Lease.

SECTION 3.16 Related Party Transactions . Except for those disclosed in Section 3.16 of the Company Disclosure Schedule, (i) no Principal or his Affiliates, nor, to the Knowledge of the Company Parties, any other Related Party has any Contract, understanding, or proposed transaction with, or is indebted to, any Group Company or has any direct or indirect interest in any Group Company other than as set forth in Section 3.02 of the Company Disclosure Schedule, nor is any Group Company indebted (or committed to make loans or extend or guarantee credit) to any Related Party (other than for accrued salaries, for the current pay period, reimbursable expenses or other standard employee benefits); (ii) no Principal or his Affiliates, nor, to the Knowledge of the Company Parties, any other Related Party has any direct or indirect interest in any Person with which a Group Company is affiliated or with which a Group Company has a material business relationship (including any Person which purchases from or sells, licenses or furnishes to a Group Company any goods, intellectual or other property rights or services), or in any Contract to which a Group Company is a party or by which it may be bound or affected, and no Related Party directly or indirectly competes with, or has any interest in any Person that directly or indirectly competes with, any Group Company (other than ownership of less than one percent (1%) of the stock of publicly traded companies). Except for those disclosed in Section 3.16 of the Company Disclosure Schedule, no Group Company has made any loans or extended any credit to any Principal, Principal Holdco or any other officer of any Group Company, which remain outstanding as of the date hereof.

SECTION 3.17 Intellectual Property Rights.

(a) Company IP. Except as disclosed in Section 3.17(a) of the Company Disclosure Schedule, each Group Company owns or otherwise has sufficient rights (including but not limited to the rights of development, maintenance, licensing and sale) to all Intellectual Property necessary and sufficient to conduct its business as currently conducted by such Group Company (“Company IP”) without any conflict with or infringement of the rights of any other Person. Section 3.17(a) of the Company Disclosure Schedule sets forth a complete and accurate list of all Company Registered IP for each Group Company, including for each the relevant name or description, registration/certification or application number, and filing, registration or issue date.

(b) IP Ownership. Except for those disclosed in Section 3.17(b) of the Company Disclosure Schedule, all Company Registered IP is owned by and registered or applied for in the name of a Group Company, is valid and subsisting and has not been abandoned, and all necessary registration, maintenance and renewal fees with respect thereto and currently due have been satisfied. No Group Company or any of its employees, officers or directors has taken any actions or failed to take any actions that would cause any Company Owned IP to be invalid, unenforceable or not subsisting. No Group Company has entered into any agreement with a Governmental Authority or a university, college, other educational institution, start-up incubator or entities with similar nature, or research center which would grant such entities a legal basis to claim the interests or ownership in and to any Company Owned IP. No material Company Owned IP is the subject of any Lien, license or other Contract granting rights therein to any other Person. No Group Company is or has been a member or promoter of, or contributor to, any industry standards bodies, patent pooling organizations or similar organizations that could require or obligate a Group Company to grant or offer to any Person any license or right to any material Company Owned IP. Except for those disclosed in Section 3.17(b) of the Company Disclosure Schedule, no Company Owned IP is subject to any proceeding or outstanding Governmental Order or settlement agreement or stipulation that (a) restricts in any manner the use, transfer or licensing thereof, or the making, using, sale, or offering for sale of any Group Company’s products or services, by any Group Company, or (b) may affect the validity, use or enforceability of such Company Owned IP. Each Principal has assigned and transferred to a Group Company any and all of his Intellectual Property related to the Business. No Group Company has (a) transferred or assigned any material Company IP; (b) authorized the joint ownership of, any material Company IP; or (c) permitted the rights of any Group Company in any material Company IP to lapse or enter the public domain.

(c) Infringement, Misappropriation and Claims. To the Knowledge of the Company Parties, except as disclosed in Section 3.17(c) of the Company Disclosure Schedule, no Group Company has violated, infringed or misappropriated in any material respect any Intellectual Property of any other Person, nor has any Group Company received any written notice alleging any of the foregoing. To the Knowledge of the Company Parties, except as disclosed in Section 3.17(c) of the Company Disclosure Schedule, no Person has violated, infringed or misappropriated any material Company IP of any Group Company, and no Group Company has given any written notice to any other Person alleging any of the foregoing. Except as disclosed in Section 3.17(c) of the Company Disclosure Schedule, no Person has challenged the ownership or use of any material Company IP by a Group Company. Except as disclosed in Section 3.17(c) of the Company Disclosure Schedule, no Group Company has agreed to indemnify any Person for any infringement, violation or misappropriation of any Intellectual Property by such Person.

(d) Assignments and Prior IP. All material inventions and material know-how conceived by the Principals related to the business of such Group Company are currently owned exclusively by a Group Company. All employees, contractors, agents and consultants of a Group Company who are or were specifically employed or engaged in the creation of any Intellectual Property for such Group Company as well as all directors of each Group Company (but not including the Alibaba Director) have executed an assignment of inventions agreement that vests in a Group Company exclusive ownership of all right, title and interest in and to such Intellectual Property, to the extent not already provided by Law. All employee inventors of Company Owned IP have received reasonable reward and remuneration from a Group Company for his/her service inventions or service technology achievements in accordance with the applicable PRC Laws. To the Knowledge of the Company Parties and except for those disclosed in Section 3.17(d), of the Company Disclosure Schedule, it will not be necessary to utilize any Intellectual Property of any such Persons made prior to their employment by a Group Company, except for those that are exclusively owned by a Group Company, and none of such Intellectual Property has been utilized by any Group Company. To the Knowledge of the Company Parties, none of the employees, consultants or independent contractors, currently or previously employed or otherwise engaged by any Group Company, (a) is in violation of any current or prior confidentiality, non-competition or non-solicitation obligations to such Group Company or to any other Persons (including but not limited to former employers, if any), or (b) is obligated under any Contract, or subject to any Governmental Order, that would interfere with the use of his or her best efforts to promote the interests of the Group Companies or that would conflict with the business of such Group Company as presently conducted.

(e) Protection of IP. Each Group Company has taken reasonable and appropriate steps to protect, maintain and safeguard material Company IP and made all applicable filings, registrations and payments of fees in connection with the foregoing. To the extent that any Company IP has been developed or created independently or jointly by an independent contractor or other third party entrusted by any Group Company, such Group Company has a written agreement with such independent contractor or third party and has thereby obtained ownership of, and is the exclusive owner of all such independent contractor's or third party's Intellectual Property in such work, material or invention by operation of law or valid assignment.

SECTION 3.18 Labor and Employment Matters.

(a) Except for those disclosed in Section 3.18(a) of the Company Disclosure Schedule, each Group Company has complied in all material respects with all applicable Laws related to labor or employment, including provisions thereof relating to wages, hours, working conditions, benefits, retirement, social welfare, equal opportunity and collective bargaining. There is not pending or to the Knowledge of the Company Parties threatened, and there has not been since the incorporation of each Group Company, any Action relating to the violation or alleged violation of any applicable Laws by such Group Company related to labor or employment, including any charge or complaint filed by an employee with any Governmental Authority or any Group Company.

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(b) Except for those disclosed in Section 3.18(b) of the Company Disclosure Schedule, no Liability has been or is expected to be incurred by any Group Companies under or pursuant to any applicable Laws relating to any Benefit Plan or individual employment compensation agreement, and, to the Knowledge of the Company Parties, no event, transaction or condition has occurred or exists that would result in any such Liability to any Group Companies. Each of the Benefit Plans listed in Section 3.18(b) of the Company Disclosure Schedule is and has at all times been in compliance in material respects with all applicable Laws (including without limitation, SAFE Rules and Regulations, if applicable), and all contributions to, and payments for each such Benefit Plan have been timely made. There are no pending or, to the Knowledge of the Company Parties, threatened Actions involving any Benefit Plan listed in Section 3.18(b) of the Company Disclosure Schedule (except for claims for benefits payable in the normal operation of any Benefit Plan). Each Group Company maintains, and has fully funded, each Benefit Plan and any other labor-related plans if it is required by Law or by Contract to maintain and fully fund such Benefit Plan or other labor-related plan. Except for those disclosed in Section 3.18(b) of the Company Disclosure Schedule, each Group Company is in compliance in all material respects with all Laws and Contracts relating to its provision of any form of Social Insurance, and has paid, or made provision for the payment of, all Social Insurance contributions required under applicable Laws and Contracts.

(c) There has not been, and there is not now pending or, to the Knowledge of the Company Parties, threatened, any strike, union organization activity, lockout, slowdown, picketing, or work stoppage or any unfair labor practice charge against any Group Company. No Group Companies is bound by or subject to (and none of their assets or properties is bound by or subject to) any written or oral Contract, commitment or arrangement with any labor union or any collective bargaining agreements.

(d) Schedule VI hereto sets forth the names and titles of all of the key employees (the "Key Employees") of the Company as of the date hereof. Each Key Employee is currently devoting all of his or her business time to the conduct of the business of the applicable Group Company. No Principal is subject to any covenant restricting him/her from working for any Group Company, and to the Knowledge of the Company Parties, no Key Employee (other than the Principals) is subject to any covenant restricting him/her from working for any Group Company. No Principal is prohibited by any Contract or any Governmental Order from being employed by, or contracting with, such Group Company, and to the Knowledge of the Company Parties, no Key Employee (other than the Principals), is prohibited by any Contract or any Governmental Order from being employed by, or contracting with, such Group Company. No Group Company has received any notice alleging that any such violation has occurred. No Key Employee is currently working or, to the Knowledge of the Company Parties, plans to work for any other Person that competes with any Group Company, whether or not such individual is or will be compensated by such Person. No Key Employee or any group of employees of any Group Company has given any notice of an intent to terminate their employment with any Group Company, nor does any Group Company have a present intention to terminate the employment of any Key Employee or any group of employees.

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SECTION 3.19 Internal Controls. Each Group Company maintains a system of internal accounting controls sufficient to provide reasonable assurance that (i) transactions by it are executed in accordance with management's general or specific authorization, (ii) transactions by it are recorded as necessary to permit preparation of financial statements in conformity with the Accounting Standards and to maintain asset accountability, (iii) access to assets of it is permitted only in accordance with management's general or specific authorization, (iv) the recorded inventory of assets is compared with the existing tangible assets at reasonable intervals and appropriate action is taken with respect to any material differences, (v) segregating duties for cash deposits, cash reconciliation, cash payment, proper approval is established, and (vi) no personal assets or bank accounts of the employees, directors, officers are mingled with the corporate assets or corporate bank account, and no Group Company uses any personal bank accounts of any employees, directors, officers thereof during the operation of the business.

SECTION 3.20 Insolvency. As of the date of this Agreement, (i) the aggregate assets, at a fair valuation, of each Group Company will exceed the aggregate debt of each such entity, as the debt becomes absolute and matures; and (ii) each Group Company will not have incurred or intended to incur debt beyond its ability to pay such debt as such debt becomes absolute and matures. There has not been commenced against any Group Company an involuntary case under any applicable national, provincial, city, local or foreign bankruptcy, insolvency, receivership or similar laws now or hereafter in effect, or any case, proceeding or other action for the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of such person or for any substantial part of its property or for the winding up or liquidation of its affairs.

SECTION 3.21 Disclosure. Each Warrantor has provided the Purchaser Parties with all the information regarding the Group as agreed in this Agreement or otherwise requested by the Purchaser Parties in writing for deciding whether to consummate the Transactions. No representation or warranty by the Warrantors in this Agreement and no information or materials provided by the Company Parties to the Purchaser Parties in connection with the negotiation or execution of this Agreement or any agreement contemplated hereby contains any untrue statement of a material fact, or omits to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances in which they are made, not misleading. Except as set forth in this Agreement or the Company Disclosure Schedule, there is no fact that the Company Parties have not disclosed to the Purchaser Parties in response to the Purchaser Parties' enquiry and of which any of its officers, directors or executive employees has Knowledge and that has had or would reasonably be expected to have a Material Adverse Effect.

SECTION 3.22 Insurance. Except as for those disclosed in Section 3.22 of the Company Disclosure Schedule, none of any Group Company purchases or maintains any insurance or bond with respect to its operation of the Business..

SECTION 3.23 Employee-Related Companies. The Employee-Related Companies have not engaged in any operation or business. Yuchuan has (a) completed the transfer of all legally available funds in its accounts to a Group Company, (b) fully repaid all debts owed by it or any of its shareholders to a Group Company, and (c) has been duly de-registered in accordance with applicable Law. The Company is in effective Control over Taizhou. Except for the trademark set forth in Section 3.23 of the Company Disclosure Schedule, Taizhou does not hold any material assets owned or used by the Group Companies.

SECTION 3.24 Business Contracts of the Domestic Company. From and after September 1, 2016, the Rajax Domestic Company and Xiaodu Shenghuo have been the sole provider of value-added telecommunication services under any Contract to which the WFOEs and/or the Domestic Companies is a party and pursuant to which the WFOEs and/or the Domestic Companies have agreed to provide value-added telecommunication services.

SECTION 3.25 Certain Operating Metrics. The results of operation of the Group Companies as measured by certain operating metrics set forth in the letter regarding such operating metrics, which was delivered by the Warrantors to Purchaser prior to the date of this Agreement, are true and accurate in all respects as of the relevant dates.

SECTION 3.26 Registered Address of the Domestic Company and the WFOE. Each of the Domestic Companies and the WFOEs has (i) updated its registered address to be consistent with its actual premises at which it conducts its operation and (ii) updated all of its permits and licenses to the extent necessary and required by the competent Governmental Authorities.

SECTION 3.27 Third Parties Providing Catering Services. Except as for those set forth in Section 3.27 of the Company Disclosure Schedule, no Person is providing catering services for the Rajax WFOE Subsidiary as agents and/or partners ( 联营门店合作方 ).

SECTION 3.28 Series G-1 Post-Closing Covenants. Except as set forth in Section 3.28 of the Company Disclosure Schedule, each Company Party is in compliance with its obligations under Section 7.1(ix), Section 7.1(x), Section 7.1(xi), Section 7.1(xii) and Section 7.1(xiii) of the Alibaba Series G-1 SPA (as defined in the Shareholders Agreement).

SECTION 3.29 Anti-Takeover Provisions. The Company is not party to a shareholder rights agreement, “poison pill” or similar agreement or plan. The Board of Directors has taken all necessary action so that any takeover, anti-takeover, moratorium, “fair price”, “control share” or other similar Laws enacted under any Laws applicable to the Company (each, a “Takeover Statute”) does not, and will not, apply to this Agreement or the Transactions other than the CICL.

SECTION 3.30 Brokers. No broker, finder or investment banker is entitled to any brokerage, finder’s or other fee or commission in connection with the Transactions based upon arrangements made by or on behalf of the Company.

#### ARTICLE IV

##### REPRESENTATIONS AND WARRANTIES OF PURCHASER

Purchaser hereby represents and warrants to the Company and the Selling Shareholders that:

SECTION 4.01 Corporate Organization. Purchaser is duly organized, validly existing and in good standing under the laws of the Cayman Islands and has the requisite corporate or similar power and authority to own, lease and operate its properties and assets to carry on its business as it is now being conducted.



SECTION 4.02 Purchaser Ownership. All of the issued and outstanding share capital of Purchaser is, and at the Closing will be, solely owned by Rollover Shareholder. Purchaser was formed solely for the purpose of engaging in the Transactions, and it has not conducted any business prior to the date hereof and has no, and prior to the Closing will have no, assets, liabilities or obligations of any nature other than in connection with those incident to its formation and capitalization pursuant to this Agreement and the Transactions.

SECTION 4.03 Authority Relative to This Agreement. Each of the Purchaser Parties has all requisite power and authority to execute and deliver the Transaction Documents to which it is a party, to carry out and perform its obligations thereunder and to consummate the Transactions. All action on the part of each of the Purchaser Parties necessary for the authorization, execution and delivery of the Transaction Documents to which it is a party, and the performance of all obligations of the Purchaser Parties thereunder, has been taken or will be taken prior to the Closing. Each Transaction Document to which a Purchaser Party is a party has been, or will be on or prior to the Closing, duly executed and delivered by such Purchaser Party, enforceable against such Purchaser Party in accordance with its terms, except (i) as limited by applicable bankruptcy, insolvency, reorganization, moratorium, and other Laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by Laws relating to the availability of specific performance, injunctive relief, or other equitable remedies, and (iii) where applicable, the recognition and enforcement of arbitral awards being subject to relevant Laws

SECTION 4.04 Consents. All Consents from or with any Governmental Authority or any other Person required in connection with the valid execution, delivery and performance of the Transaction Documents, and the consummation of the transactions contemplated by the Transaction Documents, in any case on the part of the Purchaser Parties, have been duly obtained or completed (as applicable) and are in full force and effect. The execution, delivery and performance of each Transaction Document by each Purchaser Party, and the consummation by the such Purchaser Party of the transactions contemplated thereby, do not and will not, (i) result in any violation of, be in conflict with, or constitute a default under, require any Consent under, or give any Person rights of termination, amendment, acceleration or cancellation under, with or without the passage of time or the giving of notice, any Governmental Order, any provision of the Charter Documents of such Purchaser Party, any applicable Laws, or any material contract to which such Purchaser Party is a party, (ii) result in any termination, modification, cancellation, or suspension of any material right of, or any augmentation or acceleration of any material obligation of, such Purchaser Party (including without limitation, any indebtedness of such Purchaser Party), or (iii) result in the creation of any Lien upon any of the material properties or assets of such Purchaser Party other than Permitted Liens.

SECTION 4.05 Sufficient Funds. At the Closing, Purchaser will have available sufficient funds to pay the Aggregate Purchase Price in accordance with and subject to the terms and conditions of this Agreement.

## ARTICLE V

### REPRESENTATIONS AND WARRANTIES OF EACH SHAREHOLDER

Subject to such exceptions as may be specifically set forth in the disclosure schedule delivered by the Selling Shareholders and the Rollover Shareholder to Purchaser, as of the date hereof and attached to this Agreement as Schedule VIII (the “Selling Shareholders Disclosure Schedule”), each Selling Shareholder and the Rollover Shareholder hereby, severally but not jointly, represents and warrants to Purchaser (but only with respect to itself and its Shares) that:

SECTION 5.01 Corporate Organization. Such Selling Shareholder or the Rollover Shareholder, as applicable, is duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation and has the requisite corporate or similar power and authority to own, lease and operate its properties and assets to carry on its business as it is now being conducted.

SECTION 5.02 Title. Such Selling Shareholder is the beneficial and record owner of the Sale Shares of such Selling Shareholder free and clear of all Liens (other than any Liens created under the Memorandum and Articles, the Shareholders Agreement and the ROFR Agreement), and the Rollover Shareholder is the beneficial and record owner of the Rollover Shares and clear of all Liens (other than any Liens created under the Memorandum and Articles, the Shareholders Agreement and the ROFR Agreement). The Sale Shares of such Selling Shareholder and the Rollover Shares of the Rollover Shareholder, as applicable, are duly authorized, validly issued, fully paid and non-assessable. Upon the update of the register of members of the Company at the Closing, Purchaser will have valid title to the Sale Shares of such Selling Shareholder and the Rollover Shares of the Rollover Shareholder, as applicable, free and clear of all Liens.

SECTION 5.03 Authority Relative to This Agreement. Such Selling Shareholder or the Rollover Shareholder, as applicable, has all requisite power and authority to execute and deliver the Transaction Documents to which it is a party, to carry out and perform its obligations thereunder and to consummate the Transactions. All action on the part of such Selling Shareholder or the Rollover Shareholder, as applicable, necessary for the authorization, execution and delivery of the Transaction Documents to which it is a party, and the performance of all obligations of such Selling Shareholder or the Rollover Shareholder, as applicable, thereunder, has been taken or will be taken prior to the Closing. Each Transaction Document to which such Selling Shareholder or the Rollover Shareholder, as applicable, is a party has been, or will be on or prior to the Closing, duly executed and delivered by such Selling Shareholder or the Rollover Shareholder, as applicable, enforceable against such Selling Shareholder or the Rollover Shareholder, as applicable, in accordance with its terms, except (i) as limited by applicable bankruptcy, insolvency, reorganization, moratorium, and other Laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by Laws relating to the availability of specific performance, injunctive relief, or other equitable remedies and (iii) for, where applicable, the recognition and enforcement of arbitral awards being subject to relevant Laws.

SECTION 5.04 Consents. Except as set forth in Section 5.04 of the Selling Shareholders Disclosure Schedule, all Consents from or with any Governmental Authority or any other Person required in connection with the valid execution, delivery and performance of the Transaction Documents, and the consummation of the transactions contemplated by the Transaction Documents, in any case on the part such Selling Shareholder or the Rollover Shareholder, as applicable, have been duly obtained or completed (as applicable) and are in full force and effect. Except as set forth in Section 5.04 of the Selling Shareholders Disclosure Schedule, the execution, delivery and performance of each Transaction Document by such Selling Shareholder or the Rollover Shareholder, as applicable, and the consummation by such party of the transactions contemplated thereby, do not and will not, (i) result in any violation of, be in conflict with, or constitute a default under, require any Consent under, or give any Person rights of termination, amendment, acceleration or cancellation under, with or without the passage of time or the giving of notice, any Governmental Order, any provision of the Charter Documents of such Selling Shareholder or the Rollover Shareholder, as applicable, any applicable Laws, or any material contract to which such Selling Shareholder or the Rollover Shareholder, as applicable, is a party, (ii) result in any termination, modification, cancellation, or suspension of any material right of, or any augmentation or acceleration of any material obligation of, such Selling Shareholder or the Rollover Shareholder, as applicable, (including without limitation, any indebtedness of such Selling Shareholder or the Rollover Shareholder, as applicable), or (iii) result in the creation of any Lien upon any of the material properties or assets of such Selling Shareholder or the Rollover Shareholder, as applicable, other than Permitted Liens.

## ARTICLE VI

### CONDUCT OF BUSINESS PENDING THE CLOSING

#### SECTION 6.01 Conduct of Business by the Company Pending the Closing.

(a) Each of the Company, the Principals and the Principal Holdcos agrees that, between the date of this Agreement and the Closing, except as required by applicable Law or as set forth in Section 6.01 of the Company Disclosure Schedule, unless Purchaser shall otherwise provide its prior written consent:

(i) the businesses of the Group Companies shall be conducted only in, and no Group Company shall take any action except in, a lawfully permitted manner in the ordinary course of business consistent with past practice (subject to each of the Company, the Principal and the Principal Holdcos acting in a prudent and professional manner taking into account the Group Companies' cash flow and liquidity);

(ii) the Company shall use its reasonable best efforts to preserve substantially intact the business organization of the Group Companies, maintain in effect all Required Governmental Consents, keep available the services of the current officers, Key Employees, and key consultants and contractors of the Group Companies and preserve the current material relationships and goodwill of the Group Companies with Governmental Authorities, key customers and suppliers, and any other persons with which any Group Company has material business relations; and

(iii) (A) the business of the Company shall be restricted to the holding of shares or equity interest in the Rajax HK Subsidiary and the Xiaodu Cayman Company, (B) the business of the Rajax HK Subsidiary shall be restricted to the holding of shares or equity interest in the Rajax WFOE, (C) the business of the Xiaodu Cayman Company shall be restricted to the holding of shares or equity interest in the Xiaodu HK Company, and (D) the business of the Xiaodu HK Company shall be restricted to the holding of shares or equity interest in the Xiaodu WFOE.

(b) In furtherance and without limitation of Section 6.01(a), except as set forth in Section 6.01(b) of the Company Disclosure Schedule, or as required by applicable Law, the Company will not (and the Principals and the Principal Holdcos will ensure that no Group Company will) and will not permit any other Group Company to between the date of this Agreement and the Closing, directly or indirectly, do, or propose to do, any of the following without the prior written consent of Purchaser:

(i) amend or otherwise change the Charter Documents of the Company or make any material amendments to the Charter Documents of any other Group Company;

(ii) issue, sell, transfer, lease, sublease, license, pledge, dispose of, grant or encumber, or authorize the issuance, sale, transfer, lease, sublease, license, pledge, disposition, grant or encumbrance of, (A) any shares of any class of any Group Company, or any options, warrants, convertible securities or other rights of any kind (including any Company Share Award) to acquire any shares, or any other ownership interest (including, without limitation, any phantom interest), of any Group Company (other than in connection with the exercise or settlement of any Company Share Awards outstanding on the date hereof in accordance with the applicable ESOP or RSU tranche and applicable award agreement), or (B) any material property or assets (whether real, personal or mixed, and including leasehold interests, intangible property and Intellectual Property) of the Group Companies (other than sale of such property or assets, in each case, in the ordinary course of business and consistent with past practice);

(iii) declare, set aside, make or pay any dividend or other distribution, payable in cash, shares, property or otherwise, with respect to any of its shares, other than dividends or other distributions from any Group Company to the Company or another Group Company which is wholly-owned by the Company;

(iv) reclassify, combine, split, subdivide or redeem, or purchase or otherwise acquire, directly or indirectly, any of its shares, or any options, warrants, convertible securities or other rights exchangeable into or convertible or exercisable for any of its share capital, in each case other than in connection with the settlement of any Company Share Awards in accordance with the applicable ESOP or RSU tranche and this Agreement;

(v) (A) effect or commence any liquidation, dissolution, scheme of arrangement, merger, consolidation, amalgamation, recapitalization, restructuring, reorganization or similar transaction involving any Group Company (other than the Transactions or any merger or consolidation among wholly-owned Subsidiaries of the Company), or (B) create any new Subsidiaries;

(vi) (A) acquire (including, without limitation, by merger, consolidation, scheme of arrangement, amalgamation or acquisition of stock or assets or any other business combination) or make any capital contribution or investment in any corporation, partnership, other business organization or any division thereof (other than a wholly-owned Subsidiary of the Company), or (B) acquire any assets (other than (x) in the ordinary course of business consistent with past practice or (y) assets of a wholly-owned Subsidiary of the Company);

(vii) (A) incur, assume, alter, amend or modify any Indebtedness, guarantee any Indebtedness, or issue any debt securities, in each case, in excess of US\$200,000 individually or US\$1,000,000 in the aggregate, or (B) make (x) any loans or advances to any director or executive officer of the Company or (y) any loans or advances in excess of US\$50,000 individually or US\$1,000,000 in the aggregate to any other person, in each case, other than (i) Indebtedness receivable or payable solely between or among the Group Companies and (ii) Indebtedness incurred in the ordinary course of business of the relevant Group Company, provided that such Indebtedness incurred in the ordinary course of business of all of the Group Companies does not exceed US\$5,000,000 in the aggregate;

(viii) create or grant any Lien on any material assets (including material Intellectual Property) of any Group Company other than in the ordinary course of business consistent with past practice;

(ix) (A) authorize, or make any commitment with respect to, any single capital expenditure committed by any Group Company after the date of this Agreement which is in excess of US\$500,000, unless included in the Company's current budget and operating plan approved by the Board of Director, or (B) authorize or make any commitment with respect to capital expenditures committed by any Group Company after the date of this Agreement which are, in the aggregate (including capital expenditures included in the Company's budget and operating plan), in excess of US\$500,000 for the Group Companies taken as a whole, in each case other than ordinary course expenditures necessary to maintain existing assets in good repair; or

(x) guarantee the performance or other obligations of any person (other than guarantees in connection with any Indebtedness as permitted by the foregoing clause (vii));

(xi) except as otherwise required by Law or pursuant to any Benefit Plan in existence as of the date hereof, (A) enter into any new employment or compensatory agreements in connection with employment or service (including the renewal of any such agreements), or terminate or amend any such agreements, with any director or officer of any Group Company or any other employee or individual service provider of any Group Company who has an annual base salary in excess of US\$100,000, (B) grant or provide any severance or termination payments or benefits to any director, officer, employee or individual service provider of any Group Company other than pursuant to any agreement executed prior to the date hereof which is listed in Section 3.18(b) of the Company Disclosure Schedule, (C) increase the compensation, bonus or pension, welfare, severance or other benefits of, pay any bonus to, or grant, issue or make any new equity awards to any director, officer, employee or individual service provider of any Group Company, except annual base salary increases to non-officer employees of any Group Company made in the ordinary course consistent with past practice, (D) establish, adopt, amend or terminate any Benefit Plan or any plan, agreement, program, policy, trust, fund or other arrangement that would be a Benefit Plan if it were in existence as of the date of this Agreement or amend the terms of any outstanding Company Share Awards, save as contemplated under this Agreement or the Deferred Payment Agreements, (E) take any action to accelerate or otherwise alter the vesting or payment, or fund or in any other way secure the payment, of compensation or benefits under the Benefit Plans, to the extent not already required in any such plan, including voluntarily accelerating the vesting of any Company Share Award in connection with the Transactions, save as contemplated under this Agreement or the Deferred Payment Agreements, or (F) change any actuarial or other assumptions used to calculate funding obligations with respect to any Benefit Plan or to change the manner in which contributions to such plans are made or the basis on which such contributions are determined, except as may be required by applicable Law;

(xii) make any material changes with respect to any method of financial accounting, or financial accounting policies or procedures, except as required by changes in applicable Law;

(xiii) enter into, or materially amend or modify, or consent to the termination of any Material Contract (or any Contract that would be a Material Contract if such Contract had been entered into prior to the date hereof), or amend, waive, modify or consent to the termination of any Group Company's material rights thereunder, in each case, other than such actions taken in the ordinary course of business of the relevant Group Company with respect to the categories of Material Contract set forth in items (h) and (j) of the definition of "Material Contracts";

(xiv) enter into any Contract between any of the Group Companies, on the one hand, and any of their respective directors or officers, on the other hand (except as permitted under Section 6.01(b)(xi) or otherwise as contemplated under this Agreement or the Deferred Payment Agreements);

(xv) terminate or cancel, let lapse, or amend or modify in any material respect, other than renewals in the ordinary course of business, any material insurance policies maintained by it which is not promptly replaced by a comparable amount of insurance coverage with reputable independent insurance companies or underwriters;

(xvi) commence any material Action (other than in respect of collection of amounts owed in the ordinary course of business) or settle any Action other than any settlement involving only the payment of monetary damages not in excess of US\$500,000 not relating to this Agreement or the Transactions;

(xvii) engage in the conduct of any new line of business material to the Group Companies, taken as a whole;

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(xviii) permit any item of material Intellectual Property to lapse or to be abandoned, dedicated, or disclaimed, other than (i) with respect to such Intellectual Property that is no longer used or useful in any of the Group Companies' businesses and (ii) as required pursuant to Contracts in effect prior to the date hereof which have been provided or otherwise made available to the Purchaser Parties, fail to perform or make any applicable filings, recordings or other similar actions or filings with respect to material Intellectual Property, or fail to pay all required fees and taxes required or advisable to maintain and protect its interest in material Intellectual Property;

(xix) make or change any material Tax election, amend any material Tax Return, enter into any material closing agreement with respect to Taxes, surrender any right to claim a material refund of Taxes, settle or finally resolve any material controversy with respect to Taxes, consent to any extension or waiver of the statute of limitations applicable to any Tax claim or assessment relating to the Group Companies, or change any method of Tax accounting;

(xx) make any material changes with respect to key operational strategies of any Group Company, including any material changes to such Group Company's strategy on provision of subsidies and policies regarding such Group Company's merchants;

(xxi) dismiss or give notice of dismissal to, more than fifty (50) employees of the Group in the aggregate; or

(xxii) authorize or agree to take any of the foregoing actions, or enter into any letter of intent (binding or nonbinding) or similar written agreement or arrangement with respect to any of the foregoing.

## ARTICLE VII

### ADDITIONAL AGREEMENTS

SECTION 7.01 Access to Information. Prior to the Closing, the Company, the Principals and the Principal Holdcos shall allow Purchaser to conduct a full independent investigation, review and analysis of the business, operations, assets, liabilities, results of operations, financial condition and prospects of the Group, and the Company, the Principals and the Principal Holdcos shall cause Purchaser and its Representatives to be promptly provided all due diligence materials and information requested by Purchaser or its Representatives (including financial and operating data and making available any auditor reports and work papers) and sufficient access to the personnel, properties, facilities, books and records of the Group Companies for such purpose.

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SECTION 7.02 No Solicitation of Transactions. The Company, the Principals and the Principal Holdcos shall ensure that no Group Company and none of the directors or officers of any Group Company shall, and each Representative of the Company (including, without limitation, any investment banker, attorney or accountant retained by it or any Group Company), shall be directed not to, and each Selling Shareholder shall not, in each case, directly or indirectly, (i) solicit, initiate or encourage (including by way of furnishing information in a manner designed to encourage), or take any other action to facilitate, any inquiries or discussions (including with any of the Company's shareholders) or the making of any Competing Proposal (including, without limitation, any proposal or offer to its shareholders) that constitutes, or would reasonably be expected to lead to, any Competing Proposal, or (ii) enter into, maintain or continue discussions or negotiations with, or provide any nonpublic information relating to any Group Company or the Transactions to, any person or entity in connection with, or in order to obtain, an Competing Proposal, or (iii) agree to, approve, adopt, endorse or recommend (or publicly propose to agree to approve, adopt, endorse or recommend) any Competing Proposal, or enter into any letter of intent, confidentiality agreement, term sheet, Contract, commitment, obligation, arrangement or understanding contemplating or otherwise relating to, or consummate, any Competing Proposal, or (iv) authorize or permit any of the officers, directors or Representatives of any Group Company to take any action set forth in clauses (i) through (iii) above. The Company shall notify Purchaser in writing as promptly as practicable (and in any event within twenty-four (24) hours after the Company has knowledge thereof), of any proposal or offer, or any request for information or other inquiry or request, that could reasonably be expected to lead to an Competing Proposal, specifying (x) the material terms and conditions thereof (including material amendments or proposed material amendments) and providing, if applicable, copies of any written requests, proposals or offers, including proposed agreements, (y) the identity of the party making such proposal or offer or inquiry or contact, and (z) whether the Company has determined to provide confidential information to such person in violation of this Section 7.02.

SECTION 7.03 Notification of Certain Matters. Each of the Company, the Principals, the Principal Holdcos and the Selling Shareholders shall promptly notify Purchaser, and Purchaser shall promptly notify the Shareholders Representative, in writing of:

- (a) any written notice or other written communication from any person alleging that the consent of such person is or may be required in connection with the Transactions;
- (b) any written notice or other written communication from any Governmental Authority in connection with the Transactions;
- (c) any Actions commenced or, to the knowledge of the Company, the Principals, the Principal Holdcos or such Selling Shareholder, on the one hand, or the knowledge of Purchaser, on the other hand, threatened against any Group Company or Purchaser or any of its Subsidiaries, as the case may be, that, if pending on the date of this Agreement, would have been required to have been disclosed by such Party pursuant to any of such Party's representations and warranties contained herein, or that relate to such Party's ability to consummate the Transactions; and

(d) if a breach of any representation or warranty or failure to perform any covenant or agreement on the part of such Party set forth in this Agreement shall have occurred that would cause the conditions set forth in Section 8.01, Section 8.02, or Section 8.03 not to be satisfied; together, in each case, with a copy of any such notice, communication or Action; provided, that the delivery of any notice pursuant to this Section 7.03 shall not (A) cure any breach of, or non-compliance with, any other provision of this Agreement, (B) be deemed to amend or supplement the Company Disclosure Schedule, or (C) limit or otherwise affect the remedies available hereunder to the Party receiving such notice; provided that, in the event that Purchaser elects to consummate the Closing regardless of such notice, none of the Purchaser Indemnified Parties shall have the right to make any claim for indemnification under Section 9.03 to the extent that the Indemnifiable Losses sought in such claim, directly or indirectly, result from, are as a result of or relate to such events, facts or changes which occurred after the date of this Agreement and constituted a Material Adverse Effect, as disclosed in any notice pursuant to this Section 7.03.

SECTION 7.04 Participation in Litigation. Prior to the Closing, (a) each of Purchaser, on the one hand, and the Company, the Principals and the Principal Holdcos, on the other hand, shall give prompt notice to the other of any Actions by shareholders of the Company commenced or, to the knowledge of Purchaser, on the one hand, or the Company, the Principals and the Principal Holdcos, on the other hand, as the case may be, threatened, against any Group Company and/or its directors which relate to this Agreement or the Transactions, and (b) the Company, the Principals and the Principal Holdcos shall give Purchaser the opportunity to, at Purchaser's cost, participate in the defense or settlement of any such shareholder Action against such Group Company and/or its directors relating to this Agreement or the Transactions, and no such Action shall be settled or compromised, and none of the Company, the Principal or the Principal Holdcos shall take any action to adversely affect or prejudice any such Action, without Purchaser's prior written consent.

SECTION 7.05 Resignations. On the Closing Date, each of the Principals and Principal Holdcos, CITICPE, and Sequoia shall deliver to Purchaser the resignation letter of its respective appointee serving as a Director prior to the Closing, effective as of the Closing, and the Principals and Principal Holdcos shall deliver to Purchaser the resignation letter of the Mr. Wei CHENG (from his directorship) prior to the Closing, effective as of the Closing.

SECTION 7.06 Confidentiality; Public Announcements. Each of the Parties (other than Purchaser) agrees that it will not, and will ensure that the Company and its Representatives will not, directly or indirectly, without Purchaser's prior written consent, make any disclosure of or announce the existence and terms of this Agreement, Purchaser's identity or any information pertaining to or provided by Purchaser or its Representatives in connection therewith or otherwise relating to the transactions contemplated hereunder, to any other Person. Except as may be required by applicable Law, the press release announcing the execution of this Agreement shall be issued only in such form as agreed upon by Purchaser. Thereafter, each Party hereto (other than Purchaser) shall consult with Purchaser before issuing any press release, having any communication with the press (whether or not for attribution), making any other public statement or scheduling any press conference with respect to this Agreement or the Transactions and shall not, without the prior written consent of Purchaser, issue any such press release, have any such communication, make any such other public statement or schedule any such press conference prior to such consultation.

SECTION 7.07 SAFE Registration. After the Closing, if requested or required by SAFE or the applicable bank, each of the Principals and Principal Holdcos shall take all reasonable actions at the request of the Purchaser to facilitate the WFOEs in making outbound payments to offshore Affiliates thereof, including by submitting application to the SAFE for amending or cancelling the existing SAFE registration of such Principal or Principal Holdco in light of the change of his or its (indirect) equity interest in the Company; provided that such obligations of the Principals and Principal Holdcos shall cease upon the cancellation pursuant to the applicable SAFE Rules and Regulations by the Principals of their existing SAFE registration which was made in accordance with Circular 37 prior to the Closing in respect of their outbound investment in their respective Principal Holdcos. For the purpose of the this Section 7.07, SAFE shall include all of its local branches, where applicable.



SECTION 7.08 Tax Filings and Payments .

(a) The Parties hereby acknowledge, covenant and agree that (i) none of Purchaser, the Company or any of their respective Affiliates (including any Group Company) shall have any obligation to pay any Tax of any nature that is required by applicable Law to be paid by any Selling Shareholder or its Affiliates or their respective direct and indirect partners, members and shareholders arising out of the transactions contemplated by this Agreement and the other Transaction Documents (the “Selling Tax” of such Selling Shareholder); and (ii) each Selling Shareholder agrees to bear and pay, severally but not jointly, any and all Selling Taxes with respect to such Selling Shareholder’s Sale Shares.

(b) The Selling Shareholders shall, acting through the Shareholders Representative, as soon as possible after the date hereof, jointly engage and authorize the Qualified Tax Advisor to, as soon as possible after the date hereof, and in any event, within thirty (30) days after the date hereof, duly and properly make with the applicable PRC Tax Government Authority (being the PRC Tax Government Authority to which such filings are to be made pursuant to applicable Law) (the “Relevant PRC Tax Authority”) the relevant Tax filings and disclosures that are required by applicable Law (including Circular 7) in connection with the Transactions, and each Selling Shareholder shall (i) permit Purchaser to, (A) in its sole discretion, make a joint filing with such Selling Shareholder in respect of the Transactions, or (B) with the consent of the Shareholders Representative, make such filing on behalf of such Selling Shareholder if Purchaser so elects and (ii) provide, or cause the Qualified Tax Advisor to provide, Purchaser with adequate evidence (as specified below in this Section 7.08) that such Tax filings have been made in accordance with applicable Law as soon as reasonably practicable. Each Selling Shareholder agrees to cooperate with the Qualified Tax Advisor and provide all necessary documents for such Tax filings. The Company shall bear the fees payable to the Qualified Tax Advisor in connection with the preparation of the joint tax filing and disclosure of the transaction under this Section 7.08(b), and each Selling Shareholder shall, severally but not jointly, bear any and all other fees payable to the Qualified Tax Advisor in connection with such Selling Shareholder’s Sale Shares (including but not limited to, for the avoidance of doubt, any fees payable in connection with any Tax filings to settle the tax liability, tax treaty relief application and other tax services made with respect to such Selling Shareholder’s Sale Shares). Each Selling Shareholder agrees to use its reasonable best efforts to, after such Tax filing, promptly submit, or cause the Qualified Tax Advisor to submit, all documents supplementally requested by the Relevant PRC Tax Authority in connection with such Tax filing with a copy delivered to Purchaser simultaneously therewith, and provide, or cause the Qualified Tax Advisor to provide, updates to Purchaser upon Purchaser’s reasonable request as to the determination (and delivers to Purchaser assessment notices issued by the Relevant PRC Tax Authority in connection with such determination) and payment status of any Taxes assessed by the Relevant PRC Tax Authority in respect of such Selling Shareholder in connection with the Transactions. For purposes of this Section 7.08, the following shall be adequate evidence that a Tax filing has been made in respect of Selling Shareholder:

(i) (x) an acknowledgement or receipt in respect of the filing by or on behalf of such Selling Shareholder issued by the Relevant PRC Tax Authority or (y) the original signature of an official of the Relevant PRC Tax Authority on the duplicate of the filing documents submitted by or on behalf of such Selling Shareholder; or

(ii) an explanation letter or email prepared by the Qualified Tax Advisor, attaching a copy of the filing made and confirming that they have submitted the filing on behalf of such Selling Shareholder with the Relevant PRC Tax Authority in accordance with this Section 7.08, and confirming that the Relevant PRC Tax Authority does not issue, and has not issued, any acknowledgement or receipt in respect of the filing.

(c) Such Selling Shareholder shall, or shall cause the Qualified Tax Advisor to, on a monthly basis follow up with the Relevant PRC Tax Authority on any assessment of the Tax filings of such Selling Shareholder, promptly respond to any requests by the Relevant PRC Tax Authorities for additional information or materials, and give updates to Purchaser upon Purchaser's reasonable request (and in any event not less frequently than monthly in the absence of such requests) as to any development in the assessment of any Taxes by the Relevant PRC Tax Authority and the payment of any such Taxes so assessed. Without prejudice to the foregoing, if such Selling Shareholder or any of its Affiliates receives any notice or demand from any PRC Tax Authority in respect of the Transactions, such Selling Shareholder shall as soon as reasonably practicable provide, or cause the Qualified Tax Advisor to provide, a true and complete copy of such notice or demand to Purchaser.

(d) Each Selling Shareholder shall, severally but not jointly, indemnify and hold harmless, on an after-tax basis, the Purchaser Indemnified Parties forthwith on demand from and against all Selling Taxes and Indemnifiable Losses (which, for the avoidance of doubt, shall include any loss of cost basis) incurred or suffered by such Purchaser Indemnified Party arising or resulting from or in connection with any breach such Selling Shareholder of any of their obligations under this Section 7.08.

SECTION 7.09 Domestic Company Equity Transfers. The Principals shall, as soon as legally and practically possible, and in any event within three (3) months after the Closing, duly transfer, or cause to be transferred, all of the Equity Securities in each Domestic Company to persons that are PRC Persons designated by Purchaser, such that such persons in the aggregate will hold 100% of the Equity Securities in such Domestic Company (the "Onshore Equity Transfer"), and where applicable, obtain, or cause to be obtained, a new business license issued by SAIC reflecting such share transfer (the "New Business License").

SECTION 7.10 Registration of Share Pledge. The Principals shall, as soon as legally and practically possible, and in any event within three (3) months after the Closing, cause each Domestic Company to complete the termination of the existing share pledge registration with relevant authorities under the Control Documents.

SECTION 7.11 Replacement of Management. The Principals shall, (a) as soon as legally and practically possible, and in any event within three (3) months after the Closing, (i) cause each PRC Group Company to complete with the relevant SAIC, the change of the legal representative, directors, management and officers of such PRC Group Company and (ii) deliver to Purchaser the receipts issued by such SAIC in connection with such change; and (b) at the request of Purchaser and where applicable, and in any event within twelve (12) months after the Closing, cause any person designated by a PRC Group Company as the representative (including as chief representative, director, supervisor or legal representative) of such PRC Group Company, a branch of such PRC Group Company or an investee company (including the branch (if applicable) of such investee company) in which such PRC Group Company holds any equity interests, to sign any document that is required by the competent local authority for the change of such representative to the person as designated by Purchaser.

SECTION 7.12 Permits and Licenses Amendment. The Principals shall use their commercially reasonable efforts to (i) cause the Rajax Domestic Company and Xiaodu Shenghuo to, as soon as practicable but in no event later than six (6) months after the Closing, complete the amendment of its Telecommunication and Information Services Operation License ( 电信与信息服务业务经营许可证 ) to reflect the transfer of equity interests in the Rajax Domestic Company and Xiaodu Shenghuo to Persons designated by Purchaser, and (ii) cause Xiaodu Shenghuo to, as soon as practicable, but in no event later than six (6) months after the Closing, complete the amendment of its Internet Drug Information Service Qualification Certificate ( 互联网药品信息服务资格证书 ) to reflect the transfer of equity interests in Xiaodu Shenghuo to such Persons designated by Purchaser.

SECTION 7.13 Further Assurances; Filings. Upon the terms and subject to the conditions herein, (i) each of the Parties hereto agrees to use its reasonable best efforts to take or cause to be taken all action, to do or cause to be done, to execute such further instruments, and to assist and cooperate with the other Parties hereto in doing, all things necessary, proper or advisable under applicable Laws or otherwise to consummate and make effective, in the most expeditious manner practicable, the transactions contemplated by the Transaction Documents, and (ii) the Principals hereto agree to cause the legal representatives, directors, supervisors and officers of each PRC Group Company to take or cause to be taken all action, to do or cause to be done, to execute such further instruments, and to assist and cooperate with the other Parties hereto in doing, all things necessary, proper or advisable under applicable Laws or otherwise to consummate and make effective, in the most expeditious manner practicable, the transactions contemplated by the Transaction Documents; provided, in each case, that except as expressly provided herein, no Person shall be obligated to grant any waiver of any condition or other waiver hereunder.

SECTION 7.14 Audited 2017 Financial Statements. The Company shall, and the Principals and the Principal Holdcos shall cause the Company to, prepare, or cause to be prepared and deliver to Purchaser as soon as practicable after the date hereof, the audited consolidated balance sheet, statement of income and statement of cash flows for the Group as of and for the fiscal year ended December 31, 2017 (the “Audited 2017 Financial Statements”), together with the auditors report thereon.

SECTION 7.15 Release of Claims. With automatic effect upon the Closing, each Selling Shareholder, on behalf of itself and on behalf of its shareholders or members, as applicable, assigns and beneficiaries and, to the extent acting in a representative capacity, its creditors, directors, officers, managers, employees, investors, Affiliates, representatives, successors and assigns of any of them, agrees to release each of the Group Companies and their respective directors, shareholders, officers and employees, including the Principals and/or the Principal Holdcos, from any and all actions, causes of action, suits, debts, accounts, bonds, bills, covenants, contracts, controversies, obligations, claims, counterclaims, demands, damages, costs, expenses, compensation or liabilities of every kind and any nature whatsoever, in each case whether absolute or contingent, liquidated or unliquidated, known or unknown, direct or derivative (“Claims”), such Selling Shareholder may bring, which Claims arise from, relate to, or are in connection with, such Selling Shareholder’s ownership of Shares, the Transactions, any and all documents, contracts, agreements, instrument and deeds entered into in connection with the Transactions, and all procedures conducted and all documentation executed or adopted (including notices and authorization documentation) for purposes of facilitating or consummating the Transactions, other than any Claims for breach of this Agreement.

SECTION 7.16 Compliance with Anti-Corruption Laws. Up to the Closing, no Principal, Principal Holdco or Group Company shall, or shall permit any of their Subsidiaries or Affiliates or any of their respective directors, officers, managers, employees, independent contractors, representatives or agents to offer, promise, authorize or make any payment to, or otherwise contribute any item of value to, directly or indirectly, to any third party, including any Public Official, which in each case, would constitute a violation of any Compliance Laws. Up to the Closing, the Principals, the Principal Holdcos and the Group shall, and shall cause each of their Subsidiaries and Affiliates to cease all of their respective activities, as well as remediate any actions taken by any Principal, Principal Holdco, Group Company, their Subsidiaries or Affiliates, or any of their respective directors, officers, managers, employees, independent contractors, representatives or agents that would constitute a violation of any Compliance Laws. Up to the Closing, the Principals, Principal Holdcos and the Group Companies shall, and shall cause each of their Subsidiaries and Affiliates to maintain complete and accurate books and records and systems of internal controls (including, but not limited to, accounting systems, purchasing systems and billing systems) consistent with the requirements of the Compliance Laws.

SECTION 7.17 Approved Sale. In connection with the Transactions which constitute an “Approved Sale” for purposes of the Memorandum and Articles and the ROFR Agreement, each of the Selling Shareholders shall comply with its obligations under Articles 123, 124 and 125 of the Memorandum and Articles and Sections 5.1, 5.2 and 5.3 of the ROFR Agreement. The Company, the Principals and the Principal Holdcos shall facilitate each of the Directors designated by the Board in exercising, and direct each such Director to exercise, in full the irrevocable power of attorney and proxy granted pursuant to Article 124 of the Memorandum and Articles and Section 5.3 of the ROFR Agreement to take all necessary actions and execute and deliver all documents reasonably necessary to effectuate the terms of this Agreement and the Transactions.

SECTION 7.18 Shareholders Representative. Each of the Selling Shareholders (including the Former Company Share Award Holders), by virtue of its, his or her execution and delivery of this Agreement (directly, by proxy or pursuant to a power of attorney), hereby irrevocably constitutes and appoints Xuhao Zhang, a Principal and the Chief Executive Officer of the Company as of the date of this Agreement (the "Shareholders Representative"), to be such Selling Shareholder's true and lawful representative, agent and attorney-in-fact to act on such Selling Shareholder's behalf with respect to any actions permitted to be taken by such Selling Shareholder, or any of them, after the date of this Agreement in connection with this Agreement and the other Transaction Documents and the transactions contemplated hereby and thereby, in accordance with the terms and conditions of the Transaction Documents. In such representative capacity, the Shareholders Representative shall take or refrain from taking, and the Selling Shareholders each agree that the Shareholders Representatives may take or refrain from taking, any and all actions which the Shareholders Representative reasonably believes, acting in good faith, to be necessary or appropriate under this Agreement and the other Transaction Documents (except as provided above) for and on behalf of the Selling Shareholders, as fully and effectively as if the Selling Shareholders were acting on their own behalf. Each reference in this Agreement or any other Transaction Document to an action to be taken by the Selling Shareholders shall, with respect to the Selling Shareholders, be taken by the Shareholders Representative on their behalf pursuant to this Section 7.18. Each Selling Shareholder hereby ratifies and confirms, and agrees to ratify and confirm in the future upon the request of the Shareholders Representative, any action taken by the Shareholders Representative in the exercise of the agency and power of attorney granted to the Shareholders Representative pursuant to this Section 7.18, which agency and power of attorney, being coupled with an interest, is irrevocable and a durable agency and power of attorney and shall survive the death, incapacity or incompetence of such Selling Shareholder. Each Purchaser and the Escrow Agent shall be entitled to conclusively rely upon the directions, instructions and notice of the Shareholders Representative, when it is acting in their capacity as such under this Section 7.18, without being required to undertake any independent investigation or verification, and any notice provided in accordance with this Agreement to or from the Shareholders Representative in its capacity as such shall be conclusively deemed to have been provided to or from each of the Selling Shareholders, as applicable. The Shareholders Representative shall not have any liability to any of the Selling Shareholders arising out of or relating to any action taken or omission made in good faith by the Shareholders Representative (in its capacity as such) pursuant to this Agreement, and each Selling Shareholder shall, severally but not jointly, indemnify, defend and hold harmless the Shareholders Representative with respect to all actions so taken or omissions made on behalf of such Selling Shareholder up to the net proceeds received by such Selling Shareholder in connection with the Transactions.

SECTION 7.19 Release of Share Charge. The Rollover Shareholder shall, and Purchaser shall cause the Rollover Shareholder to, execute and deliver to the Principals a deed of release and all other documents necessary for discharging and releasing the security interests created on certain Ordinary Shares owned by the Principal Holdcos under that certain equity mortgage over shares dated January 30, 2018 by and between the Principals, the Principal Holdcos and the Rollover Shareholder, prior to the sale and transfer of such Ordinary Shares by the Principals to Purchaser at the Closing.

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SECTION 7.20 Integration Committee. Promptly after signing, the Company, Principals, Principal Holdcos and Purchaser shall establish a transition planning team (the "Integration Committee"), comprised of individuals appointed by Purchaser and the Chief Executive Officer of the Company. Subject to applicable Law, the Integration Committee shall be responsible for facilitating a transition and integration planning process to ensure the successful transition of management of the operations of the Group Companies to Purchaser after the Closing, which may include the inclusion of various employees of Purchaser and its Affiliates into certain operational and management roles within the Group at the direction of the Integration Committee. Subject to applicable Law, the Integration Committee shall be responsible for developing, and monitoring the development of, an action plan for the integration of the Group into the business of Purchaser and its Affiliates, and between the date hereof and the Closing, shall be responsible for overseeing and directing the ongoing operations and management of the Company.

SECTION 7.21 Termination of Certain Agreements. Each of the Parties hereto hereby acknowledges and agrees that the Shareholders Agreement and the ROFR Agreement automatically terminate upon the Closing.

## ARTICLE VIII

### CONDITIONS TO THE CLOSING

SECTION 8.01 Conditions to the Obligations of Each Party. The obligations of Purchaser, each Selling Shareholder, each Rollover Option Holder, the Rollover Shareholder and the Company to consummate the Transactions are subject to the satisfaction or waiver (where permissible) of the following conditions:

(a) No Injunction. No Governmental Authority of competent jurisdiction shall have issued any injunction, restraining order or judgment which is then in effect that prohibits the consummation of the Transactions.

(b) Escrow Agreement. The Escrow Agreement shall have been duly entered by the parties thereto.

SECTION 8.02 Conditions to the Obligations of Purchaser. The obligations of Purchaser to consummate the Transactions are subject to the satisfaction or waiver (where permissible) of the following additional conditions:

(a) Representations and Warranties of the Warrantors. (i) The Fundamental Warranties shall have been true and complete in all respects when made and shall be true and complete in all respects on and as of the Closing with the same effect as though such representations and warranties had been made on and as of the Closing Date, except in each case for those representations and warranties that address matters only as of a particular date, which representations will have been true and complete in all respects as of such particular date, and (ii) each of the representations and warranties of the Warrantors contained in Article III (other than the Fundamental Warranties) shall have been true and complete in all material respects when made and shall be true and complete in all material respects on and as of the Closing with the same effect as though such representations and warranties had been made on and as of the Closing Date, except in each case for those representations and warranties that address matters only as of a particular date, which representations will have been true and complete in all material respects as of such particular date.

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(b) Agreements and Covenants of the Company Parties. Each Company Party shall have performed and complied with, in all material respects, all covenants, obligations and conditions contained in the Transaction Documents that are required to be performed or complied with by such Company Party on or before the Closing.

(c) Closing Certificate. The Warrantors shall have executed and delivered to Purchaser a certificate dated as of the Closing Date (i) stating that each of the relevant conditions specified in Section 8.01 and Section 8.02 (but not including Section 8.02(d) and Section 8.02(e)) have been fulfilled as of the Closing, and (ii) attaching thereto (A) the Charter Documents of the Group Companies (other than the Stores) as then in effect and (B) copies of all resolutions approved by the shareholders and boards of directors of each Group Company that is a party to a Transaction Document related to the transactions contemplated hereby, and (C) the good standing certificate with respect to the Company and the certificate of continuing registration with respect to each of the Rajax HK Subsidiary and Xiaodu HK Company dated no more than ten (10) Business Days prior to such Closing, and with respect to the Group Companies which are incorporated under the Laws of the PRC, the business licenses of such entity (other than the Stores).

(d) Representations and Warranties of the Selling Shareholders. Each of the representations and warranties of the Selling Shareholders contained in Article V shall have been true and complete when made and shall be true and complete on and as of the Closing with the same effect as though such representations and warranties had been made on and as of the Closing Date, except in each case for those representations and warranties that address matters only as of a particular date, which representations will have been true and complete as of such particular date.

(e) Agreements and Covenants of the Selling Shareholders and Rollover Option Holders. Each Exercising Company Share Award Holder and Rollover Option Holder shall have become a party to this Agreement by delivering to Purchaser and the Shareholders Representative a counterpart, duly executed by such Person, to this Agreement. Each Selling Shareholder (other than the Company Parties) and each Rollover Option Holder shall have performed and complied with all covenants, obligations and conditions contained in the Transaction Documents that are required to be performed or complied with by them, on or before the Closing.

(f) Cayman Islands Legal Opinion. Purchaser shall have received from the Cayman Islands counsel to the Company, a legal opinion in the form attached as Exhibit B hereto, dated as of the Closing, regarding the validity of the Transactions under Cayman Islands law.

(g) PRC Legal Opinion. Purchaser shall have received from the PRC counsel to the Company, a legal opinion in a form to be agreed between the Company and Purchaser prior to the Closing, dated as of the Closing (which shall cover substantially, among other matters, the matters set forth in the legal opinions delivered in connection with the issuance of the Series G-1 Preferred Shares to the Rollover Shareholder, but revised to cover the Xiaodu PRC Companies).

(h) Audited 2017 Financial Statements. Purchaser shall have received the Audited 2017 Financial Statements, together with the auditors report thereon, and none of the net assets, revenue or net profit/loss line items set forth in such Audited 2017 Financial Statements shall be less than 90% of the corresponding line items set forth in Unaudited 2017 Financial Statements, which amounts shall be calculated without taking into account any difference arising from (i) Tax assets or liabilities; (ii) interest accrued on related party transactions between Group Companies; (iii) stock-based compensation of any Group Company; (iv) potential inventory loss; (v) impairment, amortization and depreciation of long-term assets (including intangible assets and goodwill); (vi) accounting adjustment to the promissory note and accrued interest thereon owed to Koubei; (vii) accounting adjustment relating to the Preferred Shares; and (viii) changes arising solely as a result of calculating and recognizing revenue in accordance with PRC GAAP instead of the Accounting Standards utilized in the Unaudited 2017 Financial Statements.

(i) Application Forms for Domestic Company Equity Transfer. All application forms and relevant materials necessary for the Onshore Equity Transfer shall have been duly signed by all necessary parties and delivered to Purchaser in form and substance agreed by Purchaser.

(j) Control Documents. The Control Documents of each Domestic Company shall have been amended and restated (in form and substance reasonably satisfactory to Purchaser) to reflect the Onshore Equity Transfer (such amended and restated Control Documents, collectively, the “New Control Documents”);

(k) Application Forms for Registration of Share Pledges. All application forms and relevant materials necessary for the termination of the existing share pledge registration with relevant authorities under the Control Documents shall have been duly signed by all necessary parties and delivered to Purchaser in form and substance agreed by Purchaser;

(l) Application Forms for Replacement of Legal Representatives. All application forms and relevant materials necessary for the replacement of the legal representative, directors, management and officers of each PRC Group Company as requested by Purchaser shall have been duly signed by all necessary parties and delivered to Purchaser in form and substance agreed by Purchaser; and

(m) Material Adverse Effect. Since the date of this Agreement, there shall not have occurred and be continuing a Material Adverse Effect.

SECTION 8.03 Conditions to the Obligations of the Selling Shareholders. The obligations of the Selling Shareholders to consummate the Transactions are subject to the satisfaction or waiver (where permissible) of the following additional conditions:

(a) Representations and Warranties of Purchaser. The representations and warranties of Purchaser contained in Article IV shall have been true and complete when made and shall be true and complete on and as of the Closing with the same effect as though such representations and warranties had been made on and as of the date of the Closing, except in either case for those representations and warranties that address matters only as of a particular date, which representations will have been true and complete as of such particular date.



(b) Agreements and Covenants of Purchaser. Purchaser shall have performed and complied with all covenants, obligations and conditions contained in this Agreement that are required to be performed or complied with by Purchaser on or before the Closing.

## ARTICLE IX

### TERMINATION AND INDEMNIFICATION

SECTION 9.01 Termination. This Agreement may be terminated and the Transactions may be abandoned at any time prior to the Closing, as follows:

(a) by mutual written consent of Purchaser and the Shareholders Representative;

(b) by any of Purchaser or Shareholders Representative if:

(i) the Closing shall not have occurred on or before the date that is ninety (90) days after the date of this Agreement (such date as may be extended in accordance with this Section 9.01(b)(i), the “Termination Date”), provided that the right to terminate this Agreement pursuant to this Section 9.01(b)(i) shall not be available to Purchaser or the Shareholders Representative, as applicable, if the circumstances described in this Section 9.01(b)(i) are primarily caused by a failure by Purchaser or any Selling Shareholder (including the Shareholders Representative) or Rollover Option Holder, as applicable, to comply with its obligations under this Agreement; or

(ii) an Injunction shall have been issued;

(c) by Purchaser:

(i) if there shall have been a breach of any representation, warranty, covenant or agreement on the part of any Company Party set forth in this Agreement (including a failure by any such Company Party to complete the Closing subject to and in accordance with Article II), or if any representation or warranty of the Company shall have become untrue, in either case such that the condition set forth in Section 8.02(a) or the condition set forth in Section 8.02(b) would not be satisfied; and

(ii) solely with respect to the Share Purchase related to a specific Selling Shareholder’s Sale Shares, if there shall have been a breach of any representation, warranty, covenant or agreement by such Selling Shareholder set forth in this Agreement (including a failure by any such Selling Shareholder to complete the Closing subject to and in accordance with Article II), or if any representation or warranty of such Selling Shareholder shall have become untrue, in either case such that the condition set forth in Section 8.02(d) or the condition set forth in Section 8.02(e) would not be satisfied; provided, however, that, in each case, Purchaser shall not have the right to terminate this Agreement pursuant to this Section 9.01(c)(i) if Purchaser is then in material breach of any of its representations, warranties, covenants or other agreements hereunder; or

(d) by the Shareholders Representative if there shall have been a breach of any representation, warranty, covenant or agreement on the part of Purchaser set forth in this Agreement, or if any representation or warranty of Purchaser shall have become untrue, in either case such that the condition set forth Section 8.03(a) or the condition set forth in Section 8.03(b) would not be satisfied; provided, however, that Shareholders Representative shall not have the right to terminate this Agreement pursuant to this Section 9.01(d) if any Selling Shareholder (including the Shareholders Representative) or Rollover Option Holder is then in material breach of any of its representations, warranties, covenants or other agreements hereunder.

SECTION 9.02 Effect of Termination. In the event of the termination of this Agreement pursuant to Section 9.01, this Agreement shall forthwith become void, and there shall be no liability under this Agreement on the part of any party hereto (or any Representatives of any party hereto) other than for breaches of this Agreement prior to the date of such termination; provided, however, that the terms of Section 7.06, this Article IX and Article X shall survive any termination of this Agreement.

SECTION 9.03 Indemnity.

(a) Subject to the limitations on indemnities set forth in Section 9.05, from and after the Closing, each of the Selling Shareholders (such Selling Shareholders, for purposes of this Section 9.03(a), and each Selling Shareholder for purposes of Section 9.03(b), each an “Indemnifying Party” and collectively, the “Indemnifying Parties”) shall, severally but not jointly, on a pro rata basis in accordance with Section 9.04(b), indemnify and hold harmless Purchaser, its Affiliates, the directors, employees, agents and representatives of Purchaser or any of its Affiliates, and the successors and assigns of Purchaser and its Affiliates (collectively, the “Purchaser Indemnified Parties”) from and against an amount equal to (x) the Aggregate Selling Shareholders Percentage multiplied by (y) any and all Indemnifiable Losses, including any reduction in value of the Company’s or the Group Companies’ assets, any increase in their liabilities, any dilution of Purchaser’s interests in the Group Companies or any diminution in the value of Purchaser’s interests in the Group Companies, directly or indirectly, resulting from or relating to (i) any breach of any representation or warranty made by the Warrantors in Article III, or (ii) any breach of the agreements and covenants of the Company, the Principals, and the Principal Holdcos in Section 6.01.

(b) Subject to the limitations on indemnities set forth in Section 9.05, from and after the Closing, each Selling Shareholder shall, severally but not jointly, indemnify and hold harmless the Purchaser Indemnified Parties from and against any and all Indemnifiable Losses, directly or indirectly, resulting from or relating to any breach of any representation or warranty made by such Selling Shareholder as to itself in Article V.

SECTION 9.04 Indemnification Procedures.

(a) If any Purchaser Indemnified Party believes that it has a claim that may give rise to an indemnity obligation hereunder (the “Asserted Liability”), such Purchaser Indemnified Party shall give prompt written notice to (i) in the case of a claim made pursuant to Section 9.03(a), the Shareholders Representative, and (ii) in the case of a claim made pursuant to Section 9.03(b), the relevant Selling Shareholder, of the assertion of any claim or the commencement of any suit, action or proceeding by a third party in respect of which indemnity may be sought by such Purchaser Indemnified Party under Section 9.03 (an “Asserted Action”), which notice shall set forth the basis on which such claim is being made, the material facts related thereto, and the amount of the claim asserted; provided that the failure to promptly provide such notice shall not affect the Purchaser Indemnified Parties’ rights under Section 9.03 unless such notice is not provided to Shareholders Representative or the relevant Selling Shareholder, as applicable, within the applicable Survival Period or except to the extent such failure is actually materially prejudicial to the rights and obligations of the relevant Indemnifying Parties in connection with such claim. In the event that such notice of a claim is so given within the applicable Survival Period, the right to pursue such claim will survive such Survival Period until such claim is finally resolved and any obligations with respect to such claim has been fully satisfied. The relevant Indemnifying Party shall be entitled to, at its cost and by counsel of its own choosing (which shall be reasonably acceptable to the relevant Purchaser Indemnified Party), assume and control the defense of an Asserted Action brought by a third party against such Purchaser Indemnified Party if it provides written notice of such election to such Purchaser Indemnified Party within ten (10) Business Days of notice of such Asserted Action which includes an acknowledgement of such Indemnifying Party’s indemnification obligations in respect of such Asserted Action. If the relevant Indemnifying Party validly elects to assume and control the defense of such Asserted Action in accordance with this Section 9.04(a), (i) the Purchaser Indemnified Party shall cooperate fully (at the cost of the Indemnifying Party) with the Indemnifying Party and its counsel in the investigation, defense and settlement thereof, and (ii) no such Asserted Action shall be settled or compromised, and no Purchaser Indemnified Party shall take any action to adversely affect or prejudice any such Asserted Action without the Indemnifying Party’s prior written consent (not to be unreasonably withheld or delayed). If the relevant Indemnifying Party does not validly elect to assume and control the defense of such Asserted Action in accordance with this Section 9.04(a), the relevant Purchaser Indemnified Party shall have the right to assume and control the defense of such Asserted Action and all reasonable costs and expenses in connection therewith shall constitute Indemnifiable Losses.

(b) Each Indemnifying Party’s indemnification obligations pursuant to Section 9.03(a) shall be satisfied from the funds remaining in the Audit and Indemnity Escrow Account at any given time, and such funds shall be the sole source of recovery with respect to any Indemnifiable Losses pursuant to Section 9.03(a). Each Indemnifying Party’s indemnification obligations pursuant to Section 9.03(b) shall be satisfied, first, from the funds remaining in the Audit and Indemnity Escrow Account at any given time which are allocated to the applicable Selling Shareholder and, thereafter, by such applicable Selling Shareholder. Each Selling Shareholder shall bear, severally but not jointly, (i) its Seller Pro Rata Share of any indemnification obligation of the Indemnifying Parties pursuant to Section 9.03(a), subject to the limitation set forth in the first sentence of this Section 9.04(b) (the “Pro Rata Indemnity Amount”) and (ii) the full amount of any indemnification obligation of such Selling Shareholder in its capacity as an Indemnifying Party pursuant to Section 9.03(b).

(c) In the event that any indemnification obligation has become payable by any Indemnifying Party pursuant to Section 9.03 (and, if such indemnification obligation has been disputed by the applicable Indemnifying Party, such indemnification obligation is ultimately agreed by such Indemnifying Party or has been determined by an arbitral award in accordance with Section 10.03) (the “Undisputed Indemnity Amount”), Purchaser and Shareholders Representative shall deliver joint written instructions to the Escrow Agent instructing the Escrow Agent to deliver to Purchaser from the Audit and Indemnity Escrow Amount allocated to such Indemnifying Party (i) in the case of a claim made pursuant to Section 9.03(a), such Selling Shareholder’s Pro Rata Indemnity Amount with respect to the Undisputed Indemnity Amount and (ii) in the case of a claim made pursuant to Section 9.03(b), the full amount of such Undisputed Indemnity Amount of such Selling Shareholder in its capacity as an Indemnifying Party thereunder.

(d) If any Indemnifying Party is required to deduct or withhold any amounts from any indemnification obligation payable to the Purchaser Indemnified Parties under Section 9.03, the amount of such Indemnifying Party’s indemnification obligation shall be increased such that the net payment received by the Purchaser Indemnified Parties, after any such deduction or withholding, equals the amount of the Indemnifying Party’s indemnification obligation under Section 9.03.

#### SECTION 9.05 Limitations on Indemnity.

(a) The Indemnifying Parties and Purchaser acknowledge that the indemnities under Section 9.03 shall be subject to the following provisions: (i) the Purchaser Indemnified Parties shall not bring any indemnity claim under Section 9.03(a)(i), against the Indemnifying Parties for breach of representations or warranties set forth under Article III, to the extent that relevant exceptions have been fairly disclosed in the Company Disclosure Schedule; (ii) the total liability of each Indemnifying Party in respect of all relevant indemnification claims under Section 9.03(a) brought by the Purchaser Indemnified Parties is limited to the Audit and Indemnity Escrow Amount allocated to the applicable Selling Shareholder, except for fraud or willful misconduct of the Warrantors, the Company and/or such Selling Shareholder; (iii) without prejudice to Section 9.05(a)(ii), the total liability of each Selling Shareholder in respect of any and all indemnification claims or other claims under this Article IX or otherwise in law or in equity brought by the Purchaser Indemnified Parties shall not exceed the net proceeds received by, including the amounts held in the Audit and Indemnity Escrow Account and Tax Escrow Account on behalf of, such Selling Shareholder in connection with the Transactions, except for fraud or willful misconduct of such Selling Shareholder; (iv) the Indemnifying Parties are not liable to indemnify any Purchaser Indemnified Party in respect of any claims under this Agreement to the extent that such claims would not have arisen but for a change in any law, regulation or government decrees promulgated after the Closing; (v) the Indemnifying Parties shall not be liable for any claim made pursuant to Section 9.03 if (A) the alleged breach which is the subject of the claim is remediable and has been remedied by the relevant Indemnifying Party without cost or liability to the Group, to the reasonable satisfaction of Purchaser, within thirty (30) Business Days after the date on which the notice of such claim is received by Shareholders Representative or the relevant Selling Shareholder, as applicable (the “Grace Period”), and (B) no Indemnifiable Loss is incurred by any Purchaser Indemnified Party seeking indemnification after the completion of such remedial actions conducted within the Grace Period, and (vi) no claims arising out of this Agreement may be made against any of the Principals and no Liabilities in connection with such claims shall be borne by any of the Principals (other than indirectly through their ownership of the Principal Holdcos). In addition, the Indemnifying Parties and Purchaser acknowledge that the Indemnifying Parties shall not be obligated to indemnify any Indemnified Party under Section 9.03(a) unless the aggregate Indemnifiable Losses incurred by the Indemnified Parties in connection with any claims brought under Section 9.03(a), cumulatively and in the aggregate, exceed US\$2,000,000, in which case, the Indemnifying Parties shall be liable for all such Indemnifiable Losses from the first dollar.

(b) The representations and warranties of the Warrantors in Article III shall survive the Closing until the second (2nd) anniversary of the Closing, provided that (i) the Fundamental Warranties shall survive the Closing indefinitely and (ii) the survival period for any indemnification obligation relating to any claim of liability for Taxes attributable to any breach of any representation or warranty made in Section 3.07 shall survive the Closing until the earlier of the tenth (10th) anniversary of the Closing and the expiration of the applicable statute of limitations under applicable Laws. The representations and warranties of each Selling Shareholder in Article V shall survive the Closing indefinitely. The applicable survival periods set forth in this Section 9.05(b) shall be referred to as the “Survival Period”. The right of the Purchaser Indemnified Parties to make a claim under Section 9.03 shall be subject to the Purchaser Indemnified Parties making a claim pursuant to Section 9.03 prior to the expiration of the applicable Survival Period.

(c) In no event shall any Party be liable under this Agreement for any punitive, exemplary, or special damages of any kind or nature. Where one and the same set of facts qualifies under more than one provision entitling a party to a claim or remedy under this Agreement, there shall be only one claim or remedy. In calculating amounts payable to a Purchaser Indemnified Party, the amount of Indemnifiable Losses shall be determined without duplication of any other Indemnifiable Losses for which an indemnification claim has been made or could be made with respect to any other representation, warranty, obligation or agreement and shall be computed net of (i) any amounts actually recovered by the Purchaser Indemnified Party under any insurance policy with respect to such Indemnifiable Losses and (ii) any amounts actually recovered by the Purchaser Indemnified Party from any other third party with respect to such Indemnifiable Losses, in each case, net of any costs and expenses of any Purchaser Indemnified Party in connection with such recovered amounts.

(d) The amount of any indemnity payments made pursuant to this Agreement shall be reduced (but not below zero) by the amount of any actual net reduction in cash payments for Taxes actually realized by any Purchaser Indemnified Party, in the year of the claim, as a result of the Indemnifiable Losses giving rise to such indemnity claim.

(e) Notwithstanding anything to the contrary contained in this Agreement, in no event shall any Purchaser Indemnified Party be entitled to indemnification to the extent any Indemnifiable Losses were attributable to such Purchaser Indemnified Party’s own fraud or willful misconduct.

(f) Notwithstanding anything to the contrary contained herein and without prejudice to Section 10.05 with respect to non-monetary damages and related equitable remedies, except in the case of fraud or willful misconduct, Section 9.03 shall be the exclusive remedy after the Closing for monetary damages against any Selling Shareholder by any Purchaser Indemnified Party in connection with any Transaction Document.

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SECTION 9.06 Tax Treatment of Indemnification Payments. All indemnification payments made under Section 9.03 shall be treated as adjustments to the Aggregate Purchase Price and the Purchase Price for the applicable Selling Shareholder for Tax purposes, unless otherwise required by applicable Law.

## ARTICLE X

### GENERAL PROVISIONS

SECTION 10.01 Successors and Assigns. Except as otherwise provided herein, the terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties hereto whose rights or obligations hereunder are affected by such terms and conditions. This Agreement and the rights and obligations therein may not be assigned by any Warrantor without the prior written consent of Purchaser, and this Agreement and the rights and obligations therein may not be assigned by Purchaser except to an Affiliate thereof. Nothing in this Agreement, express or implied, is intended to confer upon any Party other than the Parties hereto or their respective successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement.

SECTION 10.02 Governing Law. This Agreement shall be governed by and construed under the Laws of the Hong Kong Special Administrative Region of the PRC (“Hong Kong”), without regard to principles of conflict of Laws thereunder.

SECTION 10.03 Dispute Resolution.

(a) Any dispute, controversy or claim arising out of or relating to this Agreement, or the interpretation, breach, termination, validity or invalidity thereof (each, a “Dispute”), shall be referred to arbitration upon the demand of either party to the Dispute with notice (the “Arbitration Notice”) to the other.

(b) The Dispute shall be settled by arbitration in Hong Kong by the Hong Kong International Arbitration Centre (the “HKIAC”) in accordance with the Hong Kong International Arbitration Centre Administered Arbitration Rules (the “HKIAC Rules”) in force when the Arbitration Notice is submitted in accordance with the HKIAC Rules. There shall be three (3) arbitrators. The HKIAC shall select the arbitrators, who shall be qualified to practice law in Hong Kong.

(c) The arbitral proceedings shall be conducted in English. To the extent that the HKIAC Rules are in conflict with the provisions of this Section, including the provisions concerning the appointment of the arbitrators, the provisions of this Section shall prevail.

(d) Each party to the arbitration shall cooperate with each other party to the arbitration in making full disclosure of and providing complete access to all information and documents requested by such other party in connection with such arbitral proceedings, subject only to any confidentiality obligations binding on such party.

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(e) The award of the arbitral tribunal shall be final and binding upon the parties thereto, and the prevailing party may apply to a court of competent jurisdiction for enforcement of such award.

(f) The arbitral tribunal shall decide any Dispute submitted by the parties to the arbitration strictly in accordance with the substantive Laws of Hong Kong (without regard to principles of conflict of Laws thereunder) and shall not apply any other substantive Law.

(g) Any party to the Dispute shall be entitled to seek preliminary injunctive relief, if possible, from any court of competent jurisdiction pending the constitution of the arbitral tribunal.

(h) During the course of the arbitral tribunal's adjudication of the Dispute, this Agreement shall continue to be performed except with respect to the part in dispute and under adjudication.

SECTION 10.04 Notices. Any notice required or permitted pursuant to this Agreement shall be given in writing and shall be given either personally or by sending it by next-day or second-day courier service, fax, electronic mail or similar means to the address of the relevant Party as shown on Schedule V (or at such other address as such Party may designate by fifteen (15) days' advance written notice to the other Parties to this Agreement given in accordance with this Section). Where a notice is sent by next-day or second-day courier service, service of the notice shall be deemed to be effected by properly addressing, pre-paying and sending by next-day or second-day service through an internationally-recognized courier a letter containing the notice, with a written confirmation of delivery, and to have been effected at the earlier of (i) delivery (or when delivery is refused) and (ii) expiration of two (2) Business Days after the letter containing the same is sent as aforesaid. Where a notice is sent by fax or electronic mail, service of the notice shall be deemed to be effected by properly addressing, and sending such notice through a transmitting organization, with a written confirmation of delivery, and to have been effected on the day the same is sent as aforesaid, if such day is a Business Day and if sent during normal business hours of the recipient, otherwise the next Business Day. Notwithstanding the foregoing, to the extent a "with a copy to" address is designated, notice must also be given to such address in the manner above for such notice, request, consent or other communication hereunder to be effective.

SECTION 10.05 Rights Cumulative; Specific Performance. Subject to express limitations of liability of a Party under this Agreement, each and all of the various rights, powers and remedies of a party hereto will be considered to be cumulative with and in addition to any other rights, powers and remedies which such Party may have at Law or in equity in the event of the breach of any of the terms of this Agreement. The exercise or partial exercise of any right, power or remedy will neither constitute the exclusive election thereof nor the waiver of any other right, power or remedy available to such Party. Without limiting the foregoing, the Parties hereto acknowledge and agree irreparable harm may occur for which money damages would not be an adequate remedy in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the Parties shall be entitled to injunction to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement (including the other parties' obligation to consummate the Transactions, subject in each case to the terms and conditions of this Agreement), in addition to any other remedy at law or equity. Each Party hereby waives (i) any defenses in any action for specific performance, including the defense that a remedy at law would be adequate, and (ii) any requirement under any Law to post a bond or other security as a prerequisite to obtaining equitable relief.

SECTION 10.06 Fees and Expenses. Each Party shall bear its own legal, accounting and other out-of-pocket costs and expenses incurred by such Party in connection with the negotiation, execution, delivery and performance of this Agreement and other Transaction Documents and the transactions contemplated hereby and thereby.

SECTION 10.07 Restriction on the Use of Name. Without the prior written consent of Alibaba, none of the Group Companies and the Parties hereto (other than Alibaba) shall, and each foregoing Person shall cause its Affiliates not to, (i) use in advertising, publicity, announcements, or otherwise, the name of Alibaba or any Affiliate of Alibaba, either alone or in combination of, including “阿里巴巴” (Chinese equivalent for “Alibaba”), “淘宝” (Chinese equivalent for “Taobao”), “阿里” (Chinese equivalent for “Ali”), “全球速卖通” (Chinese brand for “AliExpress”), “淘” (Chinese equivalent for “Tao”), “天猫” (Chinese equivalent for “Tmall”), “聚划算” (Chinese equivalent for “Juhuasuan”), “飞猪” (Chinese equivalent for “Fliggy”), “阿里妈妈” (Chinese equivalent for “Alimama”), “阿里云” (Chinese equivalent for “Alibaba Cloud”), “口碑” (Chinese equivalent for “Koubei”), “虾米” (Chinese equivalent for “Xiami”), “蚂蚁金服” (Chinese brand for “Ant Financial”), “蚂蚁” (Chinese equivalent for “Ant”), “蚂蚁财富” (Chinese equivalent for “Ant Fortune”), “支付宝” (Chinese brand for “Alipay”), “1688”, “一达通” (Chinese brand for “OneTouch”), “友盟” (Chinese equivalent for “Umeng”), “阿里音乐” (Chinese equivalent for “Alibaba Music”), “阿里星球” (Chinese equivalent for “Alibaba Planet”), “优视” (Chinese equivalent for “UC/UCWeb”), “高德地图” (Chinese brand for “AMAP”), “钉钉” (Chinese brand for “DingTalk”), “余额宝” (Chinese equivalent for “Yu’e Bao”), “招财宝” (Chinese equivalent for “Zhaocaibao”), “芝麻信用” (Chinese equivalent for “Zhima Credit”), “网商银行” (Chinese brand for “MYbank”), “阿里通信” (Chinese equivalent for “AliTelecom”), “优酷” (Chinese equivalent for “YOUKU”), “Alibaba”, “Taobao”, “Ali”, “AliExpress”, “Tao”, “Tmall”, “Juhuasuan”, “Fliggy”, “Alimama”, “Alibaba Cloud”, “YunOS”, “Koubei”, “Xiami”, “Ant Financial”, “Ant”, “Ant Fortune”, “Alipay”, “OneTouch”, “Umeng”, “Alibaba Music”, “Alibaba Planet”, “UCWeb”, “UC”, “AMAP”, “DingTalk”, “Yu’e Bao”, “Zhaocaibao”, “Zhima Credit”, “MYbank”, “AliTelecom”, “YOUKU”, the associated devices and logos of the above brands (including but not limited to the smiling face device of Alibaba Group, the cow device of Alibaba.com, the ant device of Taobao, the Tao doll device of Taobao, the cat device of Tmall, the Ju doll device of Juhuasuan, the bracket device of Alibaba Cloud, the cloud device of YunOS, the pig device of Fliggy, the wing device of Dingtalk, the ant device of Ant Financial, the lion device and the Zhixiaobao device of Alipay, the ingot device of Zhaocaibao, the sesame device of Zhima Credit together with the Gaoxiaode device and the paper aeroplane device of AutoNavi), or any company name, trade name, trademark, service mark, domain name, device, design, symbol or any abbreviation, contraction or simulation thereof owned or used by Alibaba or any of its Affiliates, or (ii) represent, directly or indirectly, that any product or services provided by any Group Company has been approved or endorsed by Alibaba or any of its Affiliates.

SECTION 10.08 Finder's Fee. Purchaser agrees to indemnify and to hold harmless the Company from any liability for any commission or compensation in the nature of a finders' fee (and the costs and expenses of defending against such liability or asserted liability) for which Purchaser or any of its officers, partners, employees or representatives is responsible in connection with the transaction contemplated herein. The Company agrees to indemnify and hold harmless Purchaser from any liability for any commission or compensation in the nature of a finders' fee (and the costs and expenses of defending against such liability or asserted liability) for which the Company or any of its officers, employees or representatives is responsible in connection with the transaction contemplated herein.

SECTION 10.09 Severability. In case any provision of the Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. If, however, any provision of this Agreement shall be invalid, illegal, or unenforceable under any such applicable Law in any jurisdiction, it shall, as to such jurisdiction, be deemed modified to conform to the minimum requirements of such Law, or, if for any reason it is not deemed so modified, it shall be invalid, illegal, or unenforceable only to the extent of such invalidity, illegality, or limitation on enforceability without affecting the remaining provisions of this Agreement, or the validity, legality, or enforceability of such provision in any other jurisdiction. Without limitation of the foregoing, notwithstanding any claim or determination regarding the validity, legality, enforceability or binding nature of this Agreement with respect to any individual Party, this Agreement shall be valid, binding and enforceable with respect to each other Party, and nothing herein and no such claim or determination shall in any way limit Purchaser's right to treat the agreements herein with each Party as a separate, severable agreements, enforce this Agreement with respect to an individual Party and separately consummate the transactions hereunder with respect to an individual Party.

SECTION 10.10 Amendments and Waivers. Any term of this Agreement may be amended, only with the written consent of each of (i) the Company, (ii) the holders of a majority of the voting power of the Ordinary Shares held by the Principals (through their Principal Holdcos) who are then employees of the Company, (iii) the Shareholders Representative, and (iv) Purchaser; provided however that no amendment or waiver shall be effective or enforceable in respect of any Selling Shareholder if such amendment or waiver affects such Selling Shareholder in a materially adverse and materially disproportionate manner from the other Selling Shareholders. Any amendment effected in accordance with this paragraph shall be binding upon each of the Parties hereto. Notwithstanding the foregoing, the observance of any term of this Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively) only with the written consent of the Party against whom such waiver is sought. For the avoidance of doubt, Purchaser may, in its sole discretion, waive any of the conditions set forth in Section 8.01(b) or Section 8.02 with respect to any one or more Selling Shareholders and to consummate individual Share Purchases with respect to any one or more Selling Shareholders; provided that Purchaser shall deliver a written notice of any such individual Share Purchase to the Shareholders Representative on the date of such individual consummation of such individual Share Purchase.



SECTION 10.11 No Waiver. Failure to insist upon strict compliance with any of the terms, covenants, or conditions hereof will not be deemed a waiver of such term, covenant, or condition, nor will any waiver or relinquishment of, or failure to insist upon strict compliance with, any right, power or remedy power hereunder at any one or more times be deemed a waiver or relinquishment of such right, power or remedy at any other time or times.

SECTION 10.12 Delays or Omissions. No delay or omission to exercise any right, power or remedy accruing to any Party under this Agreement, upon any breach or default of any other Party under this Agreement, shall impair any such right, power or remedy of such non-breaching or non-defaulting Party nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of or in any similar breach or default thereafter occurring; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. Any waiver, permit, consent or approval of any kind or character on the part of any Party of any breach or default under this Agreement, or any waiver on the part of any Party of any provisions or conditions of this Agreement, must be in writing and shall be effective only to the extent specifically set forth in such writing.

SECTION 10.13 No Presumption. The Parties acknowledge that any applicable Law that would require interpretation of any claimed ambiguities in this Agreement against the Party that drafted it has no application and is expressly waived. If any claim is made by a Party relating to any conflict, omission or ambiguity in the provisions of this Agreement, no presumption or burden of proof or persuasion will be implied because this Agreement was prepared by or at the request of any Party or its counsel.

SECTION 10.14 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Facsimile, PDF and e-mailed copies of signatures shall be deemed to be originals for purposes of the effectiveness of this Agreement.

SECTION 10.15 Entire Agreement. This Agreement (including the Exhibits and Schedules hereto) and the other Transaction Documents together with all schedules and exhibits hereto and thereto, constitute the full and entire understanding and agreement among the Parties with regard to the subjects hereof and thereof, and supersede all other agreements between or among any of the Parties with respect to the subject matters hereof and thereof.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above by their respective officers or authorized representatives thereunto duly authorized.

PURCHASER:

ALI PANINI INVESTMENT LIMITED

By  / s / Timothy Alexander Steinert  
Name: Timothy Alexander Steinert  
Title: Authorized Signatory

[Panini IV — Signature Page to Share Purchase Agreement]

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PRINCIPALS:

/s/ Xuhao Zhang

**Xuhao Zhang** (张旭豪)

---

/s/ Yuan Wang

**Yuan Wang** (汪渊)

---

/s/ Jia Kang

**Jia Kang** (康嘉)

---

/s/ Gaochao Deng

**Gaochao Deng** (邓高潮)

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[Panini — Signature Page to Share Purchase Agreement]

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PRINCIPAL HOLDCOS :

**Mark X Taurus Investment Holdings Inc.**

By: /s/ Xuhao Zhang  
Name: Xuhao Zhang ( 张旭豪 )  
Title: Director

**Three Body Technology Inc.**

By: /s/ Yuan Wang  
Name: Yuan Wang ( 汪渊 )  
Title: Director

**King Jack Investment Inc.**

By: /s/ Jia Kang  
Name: Jia Kang ( 康嘉 )  
Title: Director

**Three Stone Investment Inc.**

By: /s/ Gaochao Deng  
Name: Gaochao Deng ( 邓高潮 )  
Title: Director

[Panini — Signature Page to Share Purchase Agreement]

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SELLING SHAREHOLDERS:

**Legend Giant Group Limited**

By: /s/ Chen Hao  
Name: Chen Hao  
Title: Authorized Signatory

[Panini — Signature Page to Share Purchase Agreement]

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SELLING SHAREHOLDERS:

**MATRIX PARTNERS CHINA II HONG  
KONG LIMITED**

By: /s/ Yibo SHAO  
Name: Yibo SHAO  
Title: Authorized Signatory

[Panini — Signature Page to Share Purchase Agreement]

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SELLING SHAREHOLDERS:

**Sequoia Capital CV IV Holdco, Ltd.**

By: /s/ Ip Siu Wai Eva  
Name: Ip Siu Wai Eva  
Title: Authorized Signatory

**Sequoia Capital China GF Holdco III-A, Ltd.**

By: /s/ Ip Siu Wai Eva  
Name: Ip Siu Wai Eva  
Title: Authorized Signatory

[Panini — Signature Page to Share Purchase Agreement - Rajax Holding]

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SELLING SHAREHOLDERS:

**Sevva Investment Limited**

By: /s/ Cheung Wing Hong Shannon  
Name: Cheung Wing Hong Shannon  
Title: Director

[Panini — Signature Page to Share Purchase Agreement]

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SELLING SHAREHOLDERS:

**Tactic Smart Limited**

By: /s/ Wen Quan  
Name: Wen Quan  
Title: Authorized Signatory

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SELLING SHAREHOLDERS:

**CE Takeout Limited**

By: /s/ Wu Jingyang  
Name: Wu Jingyang  
Title: Authorized Signatory

**CE Takeout II Limited**

By: /s/ Wu Jingyang  
Name: Wu Jingyang  
Title: Authorized Signatory

[Panini — Signature Page to Share Purchase Agreement]

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SELLING SHAREHOLDERS:

**CMC Element Investment Limited**

By: /s/ CHEN Xian  
Name: CHEN Xian  
Title: Authorized Signatory

[Panini — Signature Page to Share Purchase Agreement]

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SELLING SHAREHOLDERS:

**GOPHER HARVEST FUND LP**


By: /s/ Yin Zhe  
Name: Yin Zhe  
Title: Authorized Signatory

[Panini — Signature Page to Share Purchase Agreement]

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SELLING SHAREHOLDERS:

Shanghai Jize Investment Center (Limited  
Partnership) (上海基泽投资中心(有限合伙))

By:   
Name: Yin Zhe  
Title: Authorized Signatory



[Panini — Signature Page to Share Purchase Agreement]

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SELLING SHAREHOLDERS:

Shanghai Gefei Cuicheng Investment Center  
(LP) (上海歌斐翠诚投资中心(有限合伙))



By: \_\_\_\_\_

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Name: Zeng Chun

Title: Authorized Signatory

[Panini — Signature Page to Share Purchase Agreement]

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SELLING SHAREHOLDERS:

Hefei Zhong'an Gefei Strategic Emerging  
Industries Fund Investment Partnership (LP)  
(合肥中安歌斐战略新兴产业基金投资合伙企业  
(有限合伙))



By:               
Name: Zeng Chun  
Title: Authorized Signatory

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SELLING SHAREHOLDERS:

**GSR Ventures III, L.P.**



By: /s/ Richard Lim  
Name: Richard Lim  
Title: Authorized Signatory

**Banean Holdings Ltd**

By: /s/ Waiping Leong  
Name: Waiping Leong  
Title: Authorized Signatory

**GSR Ventures Seal**. Notwithstanding any of the provisions in this Agreement, this Agreement shall not be effective until the signature page(s) of GSR Ventures III, L.P. are accompanied by a seal or chop of such fund or its general partner.

[Panini — Signature Page to Share Purchase Agreement]

SELLING SHAREHOLDERS:

**Shanghai Huasheng Leading Venture Capital  
(Limited Partnership) (上海华晟领势创业投资  
合伙企业(有限合伙))**



By:   
Name: Wang Xinwei  
Title: Authorized Signatory

[Panini — Signature Page to Share Purchase Agreement]

SELLING SHAREHOLDERS:

**Shanghai Huasheng Lingfei Equity Investment  
(Limited Partnership) (上海华晟领飞股权投资  
合伙企业(有限合伙))**

By:   
Name: Wang Xinwei  
Title: Authorized Signatory

[Panini — Signature Page to Share Purchase Agreement]

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SELLING SHAREHOLDERS:

**JD.com E-Commerce (Investment) Hong Kong Corporation  
Limited**

By: /s/ WANG Nani  
Name: WANG Nani  
Title: Authorized Signatory

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[Panini — Signature Page to Share Purchase Agreement]

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SELLING SHAREHOLDERS:

**Unicorn (HK) Capital Investment Co., Limited**

*For and on behalf of*  
UNICORN (HK) CAPITAL INVESTMENT CO., LIMITED

By: 

Name: **Dan CHEN**.....*Authorized Signature(s)*

Title: Authorized Signatory

[Panini — Signature Page to Share Purchase Agreement]

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SELLING SHAREHOLDERS:

**Baidu (Hong Kong) Limited**

By: /s/ Xuhao Zhang  
Name: Xuhao Zhang (张旭豪)  
Title: Authorized Signatory under Power of Attorney and Proxy

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[Panini — Signature Page to Share Purchase Agreement]

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SELLING SHAREHOLDERS:

**CICC ALPHA Active Investment Limited**

By: /s/ Xuhao Zhang  
Name: Xuhao Zhang (张旭豪)  
Title: Authorized Signatory under Power of Attorney and Proxy

[Panini — Signature Page to Share Purchase Agreement]

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SELLING SHAREHOLDERS:

**DianPing Holdings Ltd.**

By: /s/ Xuhao Zhang

Name: Xuhao Zhang (张旭豪)

Title: Authorized Signatory under Power of Attorney and Proxy

[Panini — Signature Page to Share Purchase Agreement]

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SELLING SHAREHOLDERS:

**High Mark Enterprise Development Limited**

By: /s/ Xuhao Zhang

Name: Xuhao Zhang (张旭豪)

Title: Authorized Signatory under Power of Attorney and Proxy

[Panini — Signature Page to Share Purchase Agreement]

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SELLING SHAREHOLDERS:

**Hina Group Fund II, L.P.**

By: /s/ Xuhao Zhang  
Name: Xuhao Zhang (张旭豪)  
Title: Authorized Signatory under Power of Attorney and Proxy

**Hina Group Fund III, L.P.**

By: /s/ Xuhao Zhang  
Name: Xuhao Zhang (张旭豪)  
Title: Authorized Signatory under Power of Attorney and Proxy

**Hina Hanking I Investment L.P.**

By: /s/ Xuhao Zhang  
Name: Xuhao Zhang (张旭豪)  
Title: Authorized Signatory under Power of Attorney and Proxy

[Panini — Signature Page to Share Purchase Agreement]

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SELLING SHAREHOLDERS:

**Horizon Thrive International Limited**

By: /s/ Xuhao Zhang  
Name: Xuhao Zhang (张旭豪)  
Title: Authorized Signatory under Power of Attorney and Proxy

[Panini — Signature Page to Share Purchase Agreement]

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SELLING SHAREHOLDERS:

**HUA XIN 1 PTE. LTD.**

By: /s/ Xuhao Zhang

Name: Xuhao Zhang (张旭豪)

Title: Authorized Signatory under Power of Attorney and Proxy

[Panini — Signature Page to Share Purchase Agreement]

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SELLING SHAREHOLDERS:

**HUA XIN 2 PTE. LTD.**

By: /s/ Xuhao Zhang  
Name: Xuhao Zhang (张旭豪)  
Title: Authorized Signatory under Power of Attorney and Proxy

[Panini — Signature Page to Share Purchase Agreement]

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SELLING SHAREHOLDERS:

**HUA XIN 3 PTE. LTD.**

By: /s/ Xuhao Zhang  
Name: Xuhao Zhang (张旭豪)  
Title: Authorized Signatory under Power of Attorney and Proxy

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SELLING SHAREHOLDERS:

**Slender West Lake Investment Limited**

By: /s/ Xuhao Zhang  
Name: Xuhao Zhang (张旭豪)  
Title: Authorized Signatory under Power of Attorney and Proxy

[Panini — Signature Page to Share Purchase Agreement]

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SELLING SHAREHOLDERS:

**Rosebook Holding Limited**

By: /s/ Xuhao Zhang  
Name: Xuhao Zhang (张旭豪)  
Title: Authorized Signatory

**Three Body Technology Inc.**

By: /s/ Yuan Wang  
Name: Yuan Wang (汪渊)  
Title: Authorized Signatory

**King Jack Investment Inc.**

By: /s/ Jia Kang  
Name: Jia Kang (康嘉)  
Title: Authorized Signatory

**The Kunpen Limited**

By: /s/ Gaochao Deng  
Name: Gaochao Deng (邓高潮)  
Title: Authorized Signatory

[Panini — Signature Page to Share Purchase Agreement]

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SELLING SHAREHOLDERS:

**Worldwide Access Investment Limited**

By: /s/ Ge Xu  
Name: Ge Xu  
Title: Authorized Signatory

**Dragon Universe Investment Inc.**

By: /s/ Yulong Luo  
Name: Yulong Luo  
Title: Authorized Signatory

**Qinyang Technology Limited**

By: /s/ Xuefeng Zhang  
Name: Xuefeng Zhang  
Title: Authorized Signatory

[Panini — Signature Page to Share Purchase Agreement]

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SELLING SHAREHOLDERS:

/s/ Zhou Zhengchuan

**ZHOU Zhengchuan**

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/s/ CHEN Yulong

**CHEN Yulong**

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/s/ XU Ge

**XU Ge**

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/s/ CHEN Qi

**CHEN Qi**

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/s/ CHEN Yuming

**CHEN Yuming**

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/s/ DAI Zhenkai

**DAI Zhenkai**

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**FAN Xiaofeng**

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/s/ G AO Guobin

**GAO Guobin**

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/s/ GAO Wei

**GAO Wei**

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/s/ G UO Haochuan

**GUO Haochuan**

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SELLING SHAREHOLDERS:

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**ZHOU Zhengchuan**

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**CHEN Yulong**

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**XU Ge**

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**CHEN Qi**

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**CHEN Yuming**

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**DAI Zhenkai**

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/s/ F AN Xiaofeng  
**FAN Xiaofeng**

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**GAO Guobin**

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**GAO Wei**

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**GUO Haochuan**

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SELLING SHAREHOLDERS:

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/s/ HAN Donghua  
**HAN Donghua**

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**HU Jian**

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**HUANG Nian**

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**HUANG Ping**

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**JIANG Xinwei**

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**JIN Qianchen**

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**JIN Xin**

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**LAN Jiangan**

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**LI Baoxin**

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**LI Haiyan**



SELLING SHAREHOLDERS:

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**HAN Donghua**

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**HU Jian**

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/s/ HUANG Nian

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**HUANG Nian**

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**HUANG Ping**

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**JIANG Xinwei**

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**JIN Qianchen**

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**JIN Xin**

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**LAN Jiangang**

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**LI Baoxin**

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**LI Haiyan**

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SELLING SHAREHOLDERS:

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**HAN Donghua**

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/s/ HU Jian

**HU Jian**

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**HUANG Nian**

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/s/ HUANG Ping

**HUANG Ping**

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/s/ JIANG Xinwei

**JIANG Xinwei**

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/s/ JIN Qianchen

**JIN Qianchen**

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/s/ JIN Xin

**JIN Xin**

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/s/ LAN Jiangang

**LAN Jiangang**

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/s/ LI Baoxin

**LI Baoxin**

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/s/ LI Haiyan

**LI Haiyan**

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SELLING SHAREHOLDERS:

\_\_\_\_\_  
/s/ LI Lei

**LI Lei**

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/s/ LI Lixun

**LI Lixun**

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/s/ LI Ming

**LI Ming**

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/s/ LI Yan

**LI Yan**

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/s/ MAO Ruizhe

**MAO Ruizhe**

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/s/ MAO Pengcheng

**MAO Pengcheng**

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/s/ Min Jie

**Min Jie**

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/s/ PAN Yuan

**PAN Yuan**

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/s/ PU Zhihua

**PU Zhihua**

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/s/ SHI Jianing

**SHI Jianing**





SELLING SHAREHOLDERS:

/s/ TANG Lei

**TANG Lei**

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**TU Yanping**

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/s/ WAN Jiabao

**WAN Jiabao**

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**WANG Qiuxiao**

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/s/ WANG Taizhou

**WANG Taizhou**

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/s/ WANG Yong

**WANG Yong**

---

/s/ WEI Hai

**WEI Hai**

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**XIA Liebo**

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/s/ XIN Jingbo

**XIN Jingbo**

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/s/ XING Juan

**XING Juan**

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SELLING SHAREHOLDERS:

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**TANG Lei**

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/s/ Tu Yanping  
**TU Yanping**

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**WAN Jiabao**

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**WANG Qiuxiao**

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**WANG Taizhou**

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**WEI Hai**

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**XIA Liebo**

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**XIN Jingbo**

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**XING Juan**

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SELLING SHAREHOLDERS:

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**TANG Lei**

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**TU Yanping**

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**WAN Jiabao**

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/s/ WANG Qiuxiao  
**WANG Qiuxiao**

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**WANG Taizhou**

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**WANG Yong**

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**WEI Hai**

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**XIN Jingbo**

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**XING Juan**

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SELLING SHAREHOLDERS:

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**WANG Qiuxiao**

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**WANG Taizhou**

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**WANG Yong**

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**WEI Hai**

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/s/ XIA Liebo  
**XIA Liebo**

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**XIN Jingbo**

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**XING Juan**

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SELLING SHAREHOLDERS:

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/s/ XU Mengyun  
**XU Mengyun**

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/s/ YANG Gengsheng  
**YANG Gengsheng**

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/s/ YAO Zhen  
**YAO Zhen**

\_\_\_\_\_  
/s/ YU Lixin  
**YU Lixin**

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/s/ ZANG Yunfei  
**ZANG Yunfei**

\_\_\_\_\_  
/s/ ZHANG Hao  
**ZHANG Hao**

\_\_\_\_\_  
/s/ ZHANG Yi  
**ZHANG Yi**

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ROLLOVER SHAREHOLDER:

**Ali Panini Investment Holding Limited**

By: /s/ Timothy Alexander Steinert

Name: Timothy Alexander Steinert

Title: Authorized Signatory

[Panini IV — Signature Page to Share Purchase Agreement]

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COMPANY:

**Rajax Holding**

By: /s/ Xuhao Zhang

Name: Xuhao Zhang (张旭豪)

Title: Director

[Panini — Signature Page to Share Purchase Agreement]

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**SHARE PURCHASE AGREEMENT**

dated

28 May 2018

between

**ALIBABA HEALTH INFORMATION TECHNOLOGY LIMITED**

and

**ALI JK NUTRITIONAL PRODUCTS HOLDING LIMITED**

relating to the sale and purchase

of

**the entire share capital**

of

**ALI JK MEDICAL PRODUCTS LIMITED**

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SCHEDULE 1	DETAILS OF THE GROUP
SCHEDULE 2	LIMITATIONS ON CLAIMS
SCHEDULE 3	THE WARRANTIES
SCHEDULE 4	BUSINESS RESTRUCTURING PLAN
SCHEDULE 5	PURCHASER'S SHARE CAPITAL
EXHIBIT A	FORM OF APPLICATION FOR SHARES
EXHIBIT B	FORM OF TRIPARTITE AGREEMENT
EXHIBIT C	FORM OF DEED OF NON-COMPETITION

**THIS SHARE PURCHASE AGREEMENT** (this “ **Agreement** ”) is made on 28 May 2018

**BETWEEN**

- (1) **ALIBABA HEALTH INFORMATION TECHNOLOGY LIMITED** , a company incorporated in Bermuda with limited liability whose registered office is at Canon’s Court, 22 Victoria Street, Hamilton HM 12, Bermuda and principal place of business in Hong Kong is at 26/F, Tower One, Times Square, 1 Matheson Street, Causeway Bay, Hong Kong (the “ **Purchaser** ”); and
- (2) **ALI JK NUTRITIONAL PRODUCTS HOLDING LIMITED** , a company incorporated under the laws of the British Virgin Islands whose registered office is at the offices of Trident Trust Company (B.V.I.) Limited, Trident Chambers, P.O. Box 146, Road Town, Tortola, British Virgin Islands (the “ **Vendor** ”).

The Purchaser and the Vendor are hereinafter referred to individually as a “ **Party** ” and collectively as the “ **Parties** .”

**WHEREAS**

- (A) Ali JK Medical Products Limited (the “ **Company** ”) is a company incorporated under the laws of the British Virgin Islands whose registered office is at the offices of Vistra Corporate Services Centre, Wickhams Cay II, Road Town, Tortola, VG1110, British Virgin Islands. Further details of the Company are set out in Part A of Schedule 1 attached hereto.
- (B) The Vendor proposes to sell to the Purchaser, and the Purchaser proposes to purchase from the Vendor, the entire issued share capital of the Company upon the terms and conditions set out in this Agreement.

**IT IS AGREED** as follows:

**1 INTERPRETATION**

**1.1** In this Agreement, the following expressions shall have the following meanings:

“ **Affiliate** ” means, (a) with respect to any Person that is an individual, his or her Immediate Family Members, and (b) with respect to any Person that is not an individual, any other Person that directly or indirectly through one or more intermediaries, Controls, or is Controlled by, or is under common Control with, such Person; provided, however, that for purposes of this Agreement, the Vendor and its Affiliates (other than the Purchaser and its Controlled subsidiaries), on the one hand, and the Purchaser and its Controlled subsidiaries, on the other hand, shall not be deemed to be Affiliates of each other;

“ **Adult Products** ” means appliances and non-ingestible products that primarily enhance human sexual pleasure, and being appliances and non-ingestible products which are primarily sold under the primary category “Adult Products / Sexual Health Products” (“ 成人用品 / 情趣用品 ”) under the Tmall business category “Healthcare Products and Medicine” (“ 保健品及医药 ”) on Tmall.com, but excluding (A) any general perfume products sold on Tmall.com; (B) any general underwear, apparel and accessory products sold on Tmall.com; and (C) any general furniture products sold on Tmall.com;

“ **Agreement** ” has the meaning ascribed to it in the Preamble;

“ **Alibaba Group** ” means Alibaba Group Holding Limited, a company incorporated in the Cayman Islands.

“ **Alibaba Health Technology (China)** ” means Alibaba Health Technology (China) Co., Ltd. ( 阿里健康科技 ( 中国 ) 有限公司 ), a company incorporated under the laws of the PRC;

“ **Authorised Persons** ” has the meaning ascribed to it in clause 15.1;

“ **Business Day** ” means any day (other than a Saturday or Sunday or public holiday) on which banks in Hong Kong, the PRC, Bermuda and the British Virgin Islands are open for the transaction of normal business;

“ **Business Restructuring** ” means the transactions as set out in the Business Restructuring Plan taken as a whole;

“ **Business Restructuring Plan** ” means the detailed plan for the Business Restructuring agreed among the Parties as set out in Schedule 4;

“ **Companies Ordinance** ” means the Companies Ordinance, Chapter 622 of the Laws of Hong Kong;

“ **Company** ” has the meaning ascribed to it in the Recitals;

“ **Company Material Adverse Effect** ” means any event or circumstance which would have a material and adverse effect on the financial position, business or properties, results of operations or prospects of the Group taken as a whole;

“ **Company Shares** ” means ordinary shares of par value US\$1.00 per share of the Company;

“ **Completion** ” means completion of the sale and purchase of the Sale Shares under this Agreement;

“ **Completion Date** ” means the date that is the Business Day immediately after the date on which the last of the Conditions Precedent is satisfied or waived;

“ **Conditions Precedent** ” means the conditions specified in clause 3.1;

“ **Confidential Information** ” has the meaning ascribed to it in clause 15.1;

“ **Consideration Shares** ” has the meaning ascribed to it in clause 2.2;

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“ **Control** ” of a given Person means the power or authority, whether exercised or not, to direct the business, management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise, which power or authority shall conclusively be presumed to exist upon possession of beneficial ownership or power to direct the vote of more than fifty percent (50%) of the votes entitled to be cast at a meeting of the members or shareholders of such Person or power to control the composition of a majority of the board of directors (or similar governing body) of such Person; the term “ **Controlled** ” has the meaning correlative to the foregoing;

“ **Deed of Non-Competition** ” means the deed of non-competition to be entered into between Alibaba Group and the Purchaser, in substantially the form set out in Exhibit C;

“ **Encumbrance** ” means any claim, charge, mortgage, security, lien, option, equity, power of sale, hypothecation or third party rights, retention of title, right of pre-emption, right of first refusal or security interest of any kind;

“ **Environmental Laws** ” means any and all supra-national, national, state, local and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licences, agreements or other governmental restrictions relating to the protection of the environment (including, without limitation, human, animal and plant life, ambient air, surface water, ground water, or land), the protection of property and proprietary rights or for the compensation of harm to the environment whether by clean-up, remediation, containment or other treatment or the payment of monies to any competent Authority, and occupational or public health and safety;

“ **Exhibits** ” means all exhibits to this Agreement and “ **Exhibit** ” shall be construed accordingly;

“ **Existing Target Merchant** ” means a Target Merchant which is party to an Existing Target Merchant Contract as agreed between the parties as of the date hereof. A complete list of the Existing Target Merchants has been delivered to the Purchaser as of the date hereof;

“ **Existing Target Merchant Contract** ” of a Target Merchant means the existing services agreement between the Tmall Entities and such

Target Merchant that permits the sale of Target Products by such Target Merchant on Tmall.com;

“ **Financial Statements** ” means the unaudited financial statements of the Company (as if the Business Restructuring had been implemented with effect from April 1, 2015 except for the implementation of Framework Technical Services Agreement) as of and for each of the three years ended March 31, 2016, 2017 and 2018, respectively;

“ **Framework Technical Services Agreement** ” means the Framework Technical Services Agreement entered into between WFOE and the Tmall Entities on the same date hereof;

“ **Governmental Entity** ” means any foreign, domestic, multinational, federal, territorial, state or local governmental authority, quasi-governmental authority, government owned or government controlled (in whole or in part) enterprise, public international organization, regulatory body, court, tribunal, commission, board, bureau, agency, instrumentality, or any regulatory, administrative or other department, or agency, or any political or other subdivision of any of the foregoing, or any political party or official thereof, or any candidate for political office;

“ **Government Official** ” means any officer, employee or any other person acting in an official capacity for any foreign, domestic, multinational, federal, territorial, state or local governmental authority, quasi-governmental authority, government-owned or government-controlled (in whole or in part) enterprise, public international organization, regulatory body, court, tribunal, commission, board, bureau, agency, instrumentality, or any regulatory, administrative or other department, or agency, or any political or other subdivision of any of the foregoing, to any political party or official thereof, or to any candidate for political office;

“ **Group** ” or “ **Group Companies** ” means the Company, the HK Subsidiary and the WFOE, and “ **Group Company** ” shall be construed accordingly;

“ **Healthcare Products** ” means non-ingestible products which are used in the lives of people and that have specific functions such as regulating the functions of the human body and promoting health, and being non-ingestible products which are primarily sold on the secondary category “Healthcare Products” ( “ **保健用品** ”) under the primary category “OTC Drug / Medical Devices / Family Planning Products” (“**OTC 药品 / 医疗器械 / 计生用品**”) under the Tmall business category “Healthcare Products and Medicine” (“ **保健品及医药**”) on Tmall.com;

“ **HKS** ” or “ **HK dollars** ” means Hong Kong dollars, the lawful currency of Hong Kong;

“ **HKFRS** ” means Hong Kong Financial Reporting Standards (which term includes all Hong Kong Financial Reporting Standards, Hong Kong Accounting Standards, and Interpretations issued by the Hong Kong Institute of Certified Public Accountants);

“**HK Subsidiary**” means Ali JK Medical Products (HK) Limited, a company duly established and existing under the laws of Hong Kong and wholly owned by the Company;

“ **Hong Kong** ” means the Hong Kong Special Administrative Region of the PRC;

“ **Immediate Family Members** ” means, with respect to any natural Person, (a) such Person’s spouse, parents, parents-in-law, grandparents, children, grandchildren, siblings and siblings-in-law (in each case whether adoptive or biological), (b) spouses of such Person’s children, grandchildren and siblings (in each case whether adoptive or biological) and (c) estates, trusts, partnerships and other Persons which directly or indirectly through one or more intermediaries are Controlled by the foregoing;

“ **Listing Rules** ” means the Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited;

“ **Medical Devices** ” means instruments, equipment, appliances, materials or other items that are used, alone or in combination, on the human body which are registered ( 注册 ) or filed ( 备案 ), from time to time, with the local departments of the China Food and Drug Administration as a “medical device” (“ 医疗器械 ”) in accordance with the Regulations for the Supervision and Administration of Medical Devices (“《 医疗器械 监督管理条例 》”) (as such laws and regulations may be amended from time to time), and being instruments, equipment, appliances, materials or other items which are primarily sold under the primary categories “OTC Drug / Medical Devices / Family Planning Products” (“ OTC 药品 / 医疗器械 / 计生用品 ”) and “Contact Lenses / Contact Lens Solution” (“ 隐形眼镜 / 护理液 ”) under the Tmall business category “Healthcare Products and Medicine” (“ 保健品及医药 ”) on Tmall.com;

“ **Medical and Healthcare Services** ” means services that have the aim of maintaining and promoting human health, primarily including medical services and services related to health management and promotion, and being services which are primarily sold on the primary category “Medical and Health Services” (“ 医疗及健康服务 ”) under the Tmall business category “Service Categories” (“ 服务大类 ”) on Tmall.com, but excluding such services that do not require industry certification on Tmall.com;

“ **Merchant Assignment** ” has the meaning ascribed to it in clause 1 of Schedule 4;

“ **New Target Merchant** ” means a Target Merchant who is not an Existing Target Merchant;

“ **Non-assigned Target Merchant** ” has the meaning ascribed to it in clause 7.5;

“ **Party** ” or “ **Parties** ” has the meaning ascribed to it in the Preamble;

“ **Person** ” means any individual, corporation, partnership, limited liability company, firm, joint venture, association, joint-stock company, trust, unincorporated organization, government authority or other entity;

“ **PRC** ” means the People’s Republic of China;

“ **PRC GAAP** ” means the generally accepted accounting principles of the PRC;

“ **Purchaser** ” has the meaning ascribed to it in the Preamble;

“ **Purchaser Group** ” means the Purchaser and its subsidiaries;

“ **Purchaser Material Adverse Effect** ” means any event or circumstance which would have a material and adverse effect on the financial position, business or properties, results of operations or prospects of the Purchaser taken as a whole;

“ **Purchaser Share Award Scheme** ” means the share award scheme adopted by the shareholders of the Purchaser at the special general meeting of the Purchaser held on November 24, 2014;

“ **Purchaser Shares** ” means ordinary shares of HK\$0.01 each in the capital of the Purchaser;

“ **Purchaser Warranties** ” means the representations and warranties set out in Part B of Schedule 3;

“ **Sale Shares** ” means 200,000 Company Shares, representing the entire issued share capital of the Company;

“ **Schedules** ” means all schedules to this Agreement and “ **Schedule** ” shall be construed accordingly;

“ **Services Amendment Agreement** ” means the amendment agreement to be entered into between Tmall Entities and Alibaba Health Technology (China) to supplement and amend the terms of the agreement dated February 14, 2018 entered into between Tmall Entities and Alibaba Health Technology (China) in relation to the provision of certain outsourced and value-added services by Alibaba Health Technology (China) to Tmall Entities;

“ **SFO** ” means the Securities and Futures Ordinance (Chapter 571 of Laws of Hong Kong);

“ **Stock Exchange** ” means The Stock Exchange of Hong Kong Limited;

“ **Target Business** ” means the business to be directly or indirectly injected into the Purchaser pursuant to the terms of this Agreement;

“ **Target Merchant** ” means a merchant who has obtained, or proposes to obtain, permission from Tmall.com to sell Target Products on Tmall.com, regardless of whether any actual sales of Target Products have been made by such merchant on Tmall.com;

“ **Target Products** ” means the following products and/or services sold on Tmall.com:-

- (i) the Medical Devices and Healthcare Products;
- (ii) the Adult Products; and
- (iii) the Medical and Healthcare Services;

“ **Tmall Entities** ” means Tmall Network, Tmall Technology and/or their applicable Affiliates (as the case may be);

“ **Tmall Global** ” means the third party online transaction platform for brands and retailers operated under the domain name tmall.hk (or such other URLs as may be used by Tmall Global, including but not limited to URLs used for internet on personal computers or mobile devices, as amended from time to time based on the business needs of Tmall Global);

“ **Tmall Network** ” means Zhejiang Tmall Network Co., Ltd. ( 浙江天貓網絡有限公司 ), a company incorporated under the laws of the PRC;

“ **Tmall Supermarket** ” means the third party online transaction platform for brands and retailers operated under the domain name chaoshi.tmall.com (or such other URLs as may be used by Tmall Supermarket, including but not limited to URLs used for internet on personal computers or mobile devices, as amended from time to time based on the business needs of Tmall Supermarket);

“ **Tmall Technology** ” means Zhejiang Tmall Technology Co., Ltd. ( 浙江天貓技術有限公司 ), a company incorporated under the laws of the PRC;

“ **Tmall.com** ” means the third party online platform for brands and retailers operated by the Tmall Entities under the domain name tmall.com and 95095.com (or such other URLs as may be used by the Tmall Entities, including but not limited to URLs used for internet on personal computers or mobile devices, as amended from time to time based on the business needs of Tmall.com), provided, however, that for the purpose of the this Agreement, Tmall.com does not include Tmall Global and Tmall Supermarket;

“ **Transfer** ” has the meaning ascribed to it in clause 7.4;

“ **Transition Period** ” has the meaning ascribed to it in clause 7.5;

“ **Tripartite Agreement** ” means the Tripartite Agreement to be entered into among each of (i) the Target Merchants, (ii) the WFOE and (iii) the Tmall Entities, in substantially the forms set out in Exhibit B;

“ **Vendor** ” has the meaning ascribed to it in the Preamble;

“ **Vendor Warranties** ” means the representations and warranties set out in Part A of Schedule 3;

“ **Warranties** ” means the Vendor Warranties and the Purchaser Warranties; and

“ **WFOE** ” means 杭州衡憑健康科技有限公司 , a company duly established and existing under the laws of PRC and wholly-owned by the HK Subsidiary.

**1.2** In this Agreement, unless the context otherwise requires:



- (a) references to persons shall include individuals, bodies corporate (wherever incorporated), unincorporated associations and partnerships;
- (b) the headings are inserted for convenience only and shall not affect the construction of this Agreement;
- (c) references to one gender include all genders;
- (d) references to a “subsidiary” or “holding company” shall be to the same as defined in sections 13 and 15 of the Companies Ordinance;
- (e) any reference to an enactment or statutory provision is a reference to it as it may have been, or may from time to time be, amended, modified, consolidated or re-enacted; and
- (f) any reference to a document in the agreed form is to the form of the relevant document agreed between the parties and for the purpose of identification initialled by each of them or on their behalf (in each case with such amendments as may be agreed by or on behalf of each of the Vendor and the Purchaser).

1.3 The Schedules and Exhibits to this Agreement shall form part of this Agreement.

## 2 SALE OF THE SALE SHARES AND THE CONSIDERATION

- 2.1 At Completion, the Vendor as legal and beneficial owner of the Sale Shares shall sell to the Purchaser, and the Purchaser shall purchase from the Vendor, the Sale Shares free from all Encumbrances, together with all rights attaching to them.
- 2.2 The consideration for the purchase of the Sale Shares shall be HK\$10,600,000,000 in the aggregate, which shall be satisfied by the issue of 1,827,586,207 Purchaser Shares (the “**Consideration Shares**”) by the Purchaser to the Vendor at Completion, reflecting a per share price of HK\$5.80 per Purchaser Share, subject to the adjustments set forth in clause 2.3.
- 2.3 In the event of a share split, share combination, share dividend or similar events with respect to the capital of the Purchaser prior to Completion, the number of Consideration Shares (and the corresponding price per Purchaser Share) shall be adjusted proportionally.

## 3 CONDITIONS PRECEDENT

- 3.1 Completion of the sale and purchase of the Sale Shares shall be conditional upon the fulfilment of the following conditions (the “**Conditions Precedent**”):

- (a) the passing by the shareholders of the Purchaser (other than those who are required by the Listing Rules to abstain from voting) at a duly convened shareholders' meeting of the Purchaser of resolutions(s) approving this Agreement and the transactions contemplated hereunder, including but not limited to, the issue of the Consideration Shares pursuant to this Agreement and the non-exempt continuing connected transactions by the members of the Purchaser Group as contemplated under the Framework Technical Services Agreement and the Services Amendment Agreement;
- (b) the granting of the approval of the Stock Exchange for the listing of, and permission to deal in, the Consideration Shares;
- (c) the completion of the Business Restructuring;
- (d) the Vendor and/or its related companies having obtained all necessary consents and approvals from the relevant governmental or regulatory authorities or other third parties required for the transactions contemplated by the Business Restructuring and the execution and performance of this Agreement by the Vendor and the transactions contemplated thereunder;
- (e) the Purchaser having obtained all necessary consents and approvals from the relevant governmental or regulatory authorities or other third parties required for the execution and performance of this Agreement by the Purchaser and the transactions contemplated thereunder; and
- (f) no governmental authority in any relevant jurisdiction having enacted any laws, rules or regulations which might render Completion or the Business Restructuring or any part thereof unlawful.

- 3.2** The Vendor undertakes to use all reasonable endeavours to ensure that the Conditions Precedent set out in clauses 3.1(c) and 3.1(d) are fulfilled as soon as possible. The Vendor undertakes to take such steps, and to provide such information and assistance, in each case as may be reasonably requested by the Purchaser in connection with (i) the preparation by the Purchaser of a circular to its shareholders for the purposes of obtaining the requisite approval under clause 3.1(a), and (ii) any submission required to be made to the Stock Exchange for the purpose of obtaining the requisite approval under clause 3.1(b).
- 3.3** The Purchaser undertakes to use all reasonable endeavours to ensure that the Conditions Precedent set out in clauses 3.1(a), 3.1(b) and 3.1(e) are fulfilled as soon as possible.
- 3.4** The Purchaser shall be entitled in its absolute discretion, by written notice to the Vendor, to waive the Conditions Precedent set out in clauses 3.1(c) and 3.1(d) either in whole or in part.
- 3.5** The Vendor shall be entitled in its absolute discretion, by written notice to the Purchaser, to waive the Conditions Precedent set out in clause 3.1(e) either in whole or in part.

- 3.6 If any of the Conditions Precedent has not been fulfilled (or waived) on or before September 30, 2018 or such other date as the parties to this Agreement may agree in writing, this Agreement (other than clauses 13, 15, 20 and 21) shall automatically terminate with immediate effect and no party shall have any claim of any nature whatsoever against the other parties under this Agreement (save in respect of its accrued rights arising from any prior breach of this Agreement).
- 3.7 Notwithstanding anything herein to the contrary, but without prejudice to the Vendor's obligations under clause 1 of the Business Restructuring Plan (which shall continue to apply following the Completion to the extent not satisfied prior to the Completion), any failure to effect a Merchant Assignment in respect of one or more Existing Target Merchants shall not be treated as having caused any condition set out in clause 3.1(c) or clause 3.1(d) of the Agreement to not be satisfied, provided that Merchant Assignments have been successfully effected in respect of (i) at least 2,844 Existing Target Merchants or (ii) such number of Existing Target Merchants that collectively sold on Tmall.com at least RMB 17.48 billion in gross merchandise value of Target Products during the financial year ended March 31, 2018.

#### 4 PRE-COMPLETION VENDOR'S UNDERTAKINGS

- 4.1 Prior to and pending Completion, the Vendor shall ensure that:
- (a) except as pursuant to the Business Restructuring, each of the Group Companies shall carry on its business only in the ordinary and usual course and shall not (or agree to) make any payment, incur any liability, enter into any contract or incur any other obligation, in each case, in any material respect and other than in the ordinary and usual course of trading;
  - (b) except as pursuant to the Business Restructuring, each of the Group Companies shall take all reasonable steps to preserve and protect its assets;
  - (c) except as pursuant to the Business Restructuring, each of the Group Companies and the Tmall Entities shall continue to perform its obligations under each Existing Target Merchant Contract to which it is a party in the ordinary and usual course of business in accordance with their terms; and
  - (d) the Purchaser's representatives shall be allowed, upon reasonable notice and during normal business hours, access to the books and records and other information of each of the Group Companies.
- 4.2 Without prejudice to clause 7.6, prior to and pending Completion, the Vendor shall use all reasonable endeavours to procure that the Group Companies and the Tmall Entities continue to seek new business opportunities with New Target Merchants, and where such new business opportunities do arise, to use all reasonable endeavours to procure that any such New Target Merchant enter into a Tripartite Agreement.

- 4.3 The Vendor undertakes to the Purchaser to use all commercially reasonable endeavours prior to the Completion Date to (i) ensure that the businesses and operations of the Group Companies (including the businesses and operations that will form part of the Group Companies prior to the Completion) are conducted in compliance with applicable laws and regulations in all material respects, and (ii) remedy any material non-compliance with applicable laws and regulations in businesses and operations of the Group Companies (including the businesses and operations that will form part of the Group Companies prior to the Completion).

## 5 PRE-COMPLETION PURCHASER'S UNDERTAKINGS

5.1 Pending Completion, the Purchaser undertakes to the Vendor that:

- (a) it will not, except pursuant to the terms of the Purchaser Share Award Scheme, (i) allot or issue or offer to allot or issue or grant any option, right or warrant to subscribe (either conditionally or unconditionally, or directly or indirectly, or otherwise) any Purchaser Shares or any interests in Purchaser Shares or any securities convertible into or exercisable or exchangeable for or substantially similar to any Purchaser Shares or interest in Purchaser Shares or (ii) agree (conditionally or unconditionally) to enter into or effect any such transaction with the same economic effect as any of the transactions described in (i) above or (iii) announce any intention to enter into or effect any such transaction described in (i) or (ii) above, in each case, without first having obtained the written consent of the Vendor; and
- (b) it will take all reasonable steps to preserve and protect its assets.

5.2 The Purchaser shall, as soon as reasonably practicable:

- (a) make all appropriate disclosures pursuant to, and will comply in all respects with applicable law, regulation or direction (including without limitation the Listing Rules) in connection with the transactions contemplated under this Agreement;
- (b) subject to obtaining all necessary approvals from the Stock Exchange, dispatch to its shareholders a shareholders' circular containing details on the transactions contemplated under this Agreement as required by applicable law, regulation or direction (including without limitation the Listing Rules) and convene a shareholders' meeting to consider and approve the transactions contemplated under this Agreement and the Framework Technical Services Agreement and the issue of the Consideration Shares;
- (c) make all notifications, registrations and filings as may from time to time be required in relation the transactions contemplated under this Agreement and the issue of the Consideration Shares; and

- (d) apply to the Stock Exchange for the listing of, and permission to deal in, the Consideration Shares.

## 6 COMPLETION

- 6.1** Completion shall take place at the offices of Reed Smith Richards Butler, at 20th Floor, Alexandra House, 18 Chater Road, Central, Hong Kong or such other place as agreed by the Vendor and the Purchaser on the Completion Date.
- 6.2** On Completion, the Vendor shall deliver (or cause to be delivered) to the Purchaser:
- (a) instruments of transfer (in the form prescribed by the Company) with respect to Sale Shares, duly executed by the Vendor;
  - (b) a copy of the register of members of the Company, dated as of the Completion Date and certified by a director or the registered office provider of the Company, evidencing the Purchaser's ownership of all of the Sale Shares;
  - (c) a share certificate in the name of the Purchaser, dated as of the Completion Date and duly executed on behalf of the Company, evidencing the ownership by the Purchaser of all of the Sale Shares;
  - (d) a copy of the register of directors of the Company, dated as of the Completion Date and certified by a director or the registered office provider of the Company, evidencing that the board of directors of the Company consists solely of nominees of the Purchaser, provided, however, that the Purchaser shall have notified the Vendor of the names of such nominees no later than ten Business Days prior to the Completion and each such nominee (to the extent not already a director of the Company) shall have duly executed and delivered to the Company a written consent to act as a director of the Company (in a form acceptable to the Company's registered office provider) no later than ten Business Days prior to the Completion;
  - (e) the Deed of Non-Competition duly executed by Alibaba Group; and
  - (f) an application for the number of Consideration Shares in the agreed form set out in Exhibit A.
- 6.3** On Completion, the Purchaser shall:
- (a) deliver to the Vendor instruments of transfer (in the form prescribed by the Company) with respect to Sale Shares, duly executed by the Purchaser;

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- (b) in satisfaction of its obligations under clause 2.2, allot and issue, credited as fully paid, the Consideration Shares to the Vendor (and/or its nominee), and procure that the Vendor (and/or its nominee) is registered on the branch register of members of the Company in Hong Kong as the registered holders of the Consideration Shares and deliver to the Vendor definitive share certificates for the Consideration Shares in such denomination as the Vendor may request issued in the name of the Vendor (and/or its nominee) and in accordance with instructions given in the application to be delivered by the Vendor;
  - (c) deliver to the Vendor a copy of the board minutes of the Purchaser authorising the execution and performance by the Purchaser of its obligations under this Agreement and the resolutions of the shareholders of the Purchaser approving this Agreement and the transactions contemplated hereunder and the issue of the Consideration Shares, in each case certified by a duly appointed officer as true and correct; and
  - (d) deliver to the Vendor the Deed of Non-Competition duly executed by the Purchaser.
- 6.4** If the Vendor, on the one hand, or the Purchaser, on the other hand, fails or is unable to perform any material obligations required to be performed by it at Completion, the other Party shall not be obliged to complete the sale and purchase of the Sale Shares and may, in its absolute discretion, by written notice to the Vendor or the Purchaser, as applicable:
- (a) rescind this Agreement without liability on the part of non-breaching Party;
  - (b) elect to complete this Agreement on that date, to the extent that the breaching Party is ready, able and willing to do so, and specify a later date on which the breaching Party shall be obliged to complete its outstanding obligations; or
  - (c) elect to defer the completion of this Agreement by not more than 90 days to such other date as it may specify in such notice, in which event the provisions of this clause 6.4 shall apply, *mutatis mutandis*, if any Party fails or is unable to perform any such obligations on such other date.

## 7 FURTHER UNDERTAKINGS

- 7.1** The Purchaser undertakes in favour of the Vendor to use all commercially reasonable endeavours to (i) ensure that the businesses and operations of the Purchaser Group are conducted in compliance with applicable laws and regulations in all material respects, and (ii) remedy any material non-compliance with applicable laws and regulations in the businesses and operations of the Purchaser Group.

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- 7.2 The Purchaser undertakes in favour of the Vendor that the Purchaser and its officers, directors, employees, and agents will not offer, pay, promise to pay, or authorize the payment of, or give, promise to give, or authorize the giving of anything of value to any Government Official, or to any other person under circumstances where the Purchaser or its officers, directors, employees, or agents knew or had reason to know that all or a portion of such money or thing of value would be offered, promised, or given, directly or indirectly, to any Government Official, for the purpose of (i) influencing any act or decision of such Government Official in his or her official capacity; (ii) inducing such Government Official to do, or omit to do, any act in relation to his or her lawful duty; (iii) securing any improper advantage; or (iv) inducing such Government Official to influence or affect any act or decision of any Governmental Entity, in each case in order to assist the Purchaser or any of its officers, directors, employees, or agents in obtaining or retaining business for or with, or directing business to, any person.
- 7.3 Without the prior written consent of or otherwise agreed in writing to by the Vendor, and whether or not the Vendor is then a shareholder of the Purchaser or the Company and whether or not the Completion is consummated, the Purchaser shall not and shall cause its Affiliates and the Group Companies not to:
- (a) use in advertising, publicity, announcements, or otherwise, the name of the Vendor or any Affiliate of the Vendor, either alone or in combination of, including “阿里巴巴” (Chinese equivalent for “Alibaba”), “淘宝” (Chinese equivalent for “Taobao”), “阿里” (Chinese equivalent for “Ali”), “全球速卖通” (Chinese brand for “AliExpress”), “淘” (Chinese equivalent for “Tao”), “天猫” (Chinese equivalent for “Tmall”), “聚划算” (Chinese equivalent for “Juhuasuan”), “飞猪” (Chinese equivalent for “Fliggy”), “阿里妈妈” (Chinese equivalent for “Alimama”), “阿里云” (Chinese equivalent for “Alibaba Cloud”), “口碑” (Chinese equivalent for “Koubei”), “虾米” (Chinese equivalent for “Xiami”), “蚂蚁金服” (Chinese brand for “Ant Financial”), “蚂蚁” (Chinese equivalent for “Ant”), “蚂蚁财富” (Chinese equivalent for “Ant Fortune”), “支付宝” (Chinese brand for “Alipay”), “1688”, “一达通” (Chinese brand for “OneTouch”), “友盟” (Chinese equivalent for “Umeng”), “盒马” (Chinese equivalent for “HeMa”), “闲鱼” (Chinese equivalent for “XianYu”), “优视” (Chinese equivalent for “UC/UCWeb”), “高德地图” (Chinese brand for “AMAP”), “钉钉” (Chinese brand for “DingTalk”), “余额宝” (Chinese equivalent for “Yu’e Bao”), “招财宝” (Chinese equivalent for “Zhaocaibao”), “芝麻信用” (Chinese equivalent for “Zhima Credit”), “网商银行” (Chinese brand for “MYbank”), “阿里通信” (Chinese equivalent for “AliTelecom”), “优酷” (Chinese equivalent for “YOUKU”), “花呗” (Chinese equivalent for “HUABEI”), “借呗” (Chinese equivalent for “JIEBEI”), “Alibaba”, “Taobao”, “Ali”, “AliExpress”, “Tao”, “Tmall”, “Juhuasuan”, “Fliggy”, “Alimama”, “Alibaba Cloud”, “AliOS”, “Koubei”, “Xiami”, “Ant Financial”, “Ant”, “Ant Fortune”, “Alipay”, “OneTouch”, “Umeng”, “UCWeb”, “UC”, “AMAP”, “DingTalk”, “Yu’e Bao”, “Zhaocaibao”, “Zhima Credit”, “MYbank”, “AliTelecom”, “YOUKU”, “HUABEI”, “JIEBEI”, the associated devices and logos of the above brands (including but not limited to the smiling face device of Alibaba Group, the cow device of Alibaba.com, the Tao doll device of Taobao, the cat device of Tmall, the Ju doll device of Juhuasuan, the bracket device of Alibaba Cloud, the hippo device of HeMa, the fish device of XianYu, the pig device of Fliggy, the wing device of Dingtalk, the ant device of Ant Financial, the Zhi device of Alipay, the ingot device of Zhaocaibao, the sesame device of Zhima Credit together with the Gaoxiaode device and the paper aeroplane device of AutoNavi), or any company name, trade name, trademark, service mark, domain name, device, design, symbol or any abbreviation, contraction or simulation thereof owned or used by the Purchaser or any of its Affiliates; or

- (b) represent, directly or indirectly, that any product or services provided by any Group Company or the Purchaser has been approved or endorsed by the Vendor or any of its Affiliates.

- 7.4** For the period of 18 months after the Completion Date, the Vendor shall not dispose of, nor enter into any agreement to dispose of or otherwise create any options, rights, interests or Encumbrances in respect of (the foregoing, each a “**Transfer**”), any of the Consideration Shares without the prior written consent of the Purchaser (such consent not to be unreasonably withheld), provided, however, that the Purchaser’s consent shall not be required if the transferee of such Transfer shall have delivered to the Purchaser a written undertaking to (i) bear a pro rata portion (based on the number of Consideration Shares so transferred) of the Vendor’s liability under this Agreement in respect of any breach by the Vendor of the Vendor Warranties, and (ii) be subject to the provisions of this clause 7.4 in respect of any subsequent Transfers by such transferee.
- 7.5** Without prejudice to clause 7.6, if the Merchant Assignment of any Existing Target Merchant has not been completed as of the Completion Date (such Target Merchant, the “**Non-assigned Target Merchant**”), the Vendor shall continue to use reasonable endeavours to complete such Merchant Assignment as soon as reasonably practicable. With respect to each of the Non-assigned Target Merchants, the Vendor shall, promptly after the Transition Period, pay or cause to be paid to the Purchaser an amount that equals fifty percent (50%) of the software service fees that the Tmall Entities actually receive (after all discounts, rebates and other incentives) from such Non-assigned Target Merchant in respect of the sale of Target Products by such Non-assigned Target Merchant on Tmall.com during the period (the “**Transition Period**”) commencing on the Completion Date and ending on the earliest of (i) completion of the Merchant Assignment of such Non-assigned Target Merchant, (ii) the termination or expiration of the Existing Target Merchant Contract, and (iii) December 31, 2018.



**7.6** From and after Completion, the Vendor shall procure that the Tmall Entities use reasonable endeavours to prevent Target Merchants from selling any Target Product on Tmall.com unless such Target Merchant has entered into a Tripartite Agreement, and then only in accordance with the terms therein. Notwithstanding the foregoing, this clause 7.6 shall not apply to any sale of Target Products by any Target Merchant pursuant to any then-effective Existing Target Merchant Contract until the earlier of (i) the expiration of such Existing Target Merchant Contract in accordance with its terms and (ii) December 31, 2018. From and after the date hereof, the Vendor shall procure that the Tmall Entities do not, without the prior written consent of the Purchaser, renew or otherwise extend the term of any Existing Target Merchant Contract or enter into any similar new services agreements with any Target Merchant permitting the sale of any Target Products on Tmall.com.

## **8 WARRANTIES**

**8.1** The Vendor represents, warrants and undertakes to the Purchaser that the Vendor Warranties are true and accurate as of the date hereof and as of the Completion Date (following completion of the Business Restructuring and with reference to the facts and circumstances then existing), in each case subject to any matter which is fairly disclosed in writing delivered to the Purchaser prior to the date hereof and any matter expressly provided for under the terms of this Agreement. The Vendor acknowledges that the Purchaser has entered into this Agreement in reliance upon the Vendor Warranties.

**8.2** The Purchaser represents, warrants and undertakes to the Vendor that the Purchaser Warranties are true and accurate as of the date hereof and as of the Completion Date (with reference to the facts and circumstances then existing), in each case subject to any matter which is fairly disclosed in writing delivered to the Vendor no later than the date hereof and any matter expressly provided for under the terms of this Agreement. The Purchaser acknowledges that the Vendor has entered into this Agreement in reliance upon the Purchaser Warranties.

**8.3** Each of the Warranties shall be construed as a separate Warranty and (save as expressly provided to the contrary) shall not be limited or restricted by reference to or inference from the terms of any other Warranty or any other term of this Agreement.

**8.4** The Vendor undertakes to notify the Purchaser in writing promptly if prior to Completion it becomes aware of any circumstance arising after the date of this Agreement which would cause any Vendor Warranty (if the Vendor Warranties were repeated with reference to the facts and circumstances then existing) to become untrue or inaccurate or misleading in any material respect.

8.5 The Purchaser undertakes to notify the Vendor in writing promptly if prior to Completion it becomes aware of any circumstance arising after the date of this Agreement which would cause any Purchaser Warranty (if the Purchaser Warranties were repeated with reference to the facts and circumstances then existing) to become untrue or inaccurate or misleading in any material respect.

## 9 LIMITATIONS ON CLAIMS

The Warranties are subject to the matters set out in Schedule 2 (Limitations on Claims).

## 10 ENTIRE AGREEMENT

This Agreement constitutes the entire agreement and understanding among the Parties in connection with the sale and purchase of the Sale Shares. This Agreement supersedes all prior agreements or understandings in connection with the subject matter hereof which shall cease to have any further force or effect. No party has entered into this Agreement in reliance upon any representation, warranty or undertaking which is not set out or referred to in this Agreement.

## 11 VARIATION

11.1 No variation of this Agreement (or of any of the legally binding agreements referred to in this Agreement) shall be valid unless it is in writing and signed by or on behalf of each of the Parties. The expression “ **variation** ” shall include any variation, supplement, deletion or replacement however effected.

11.2 Unless expressly agreed, no variation shall constitute a general waiver of any provisions of this Agreement, nor shall it affect any rights, obligations or liabilities under or pursuant to this Agreement which have already accrued up to the date of variation, and the rights and obligations of the Parties under or pursuant to this Agreement shall remain in full force and effect, except and only to the extent that they are so varied.

## 12 ASSIGNMENT

No Party shall be entitled to assign the benefit of any provision of this Agreement without the prior written approval of the other Party.

## 13 ANNOUNCEMENTS

13.1 Except as required by law or by any stock exchange or governmental or other regulatory or supervisory body or authority of competent jurisdiction to whose rules the Party making the announcement or disclosure is subject, whether or not having the force of law, no announcement or circular or disclosure in connection with the existence or subject matter of this Agreement shall be made or issued by or on behalf of the Vendor or any member of the Group or any of them without the prior written approval of the Purchaser (such approval not to be unreasonably withheld or delayed), or by or on behalf of the Purchaser without the prior written approval of the Vendor (such approval not to be unreasonably withheld or delayed).

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13.2 Where any announcement or disclosure is made in reliance on the exception in clause 13.1, the Party making the announcement or disclosure will so far as practicable consult with the other Parties in advance as to the form, content and timing of the announcement or disclosure.

## 14 FEES AND EXPENSES

Each of the Parties shall bear its own fees and expenses incurred in connection with the negotiation, preparation and completion of this Agreement. Each of the Parties shall bear and pay any tax of any nature as required by any applicable Law (including, without limitation, Bulletin 7 required to be paid by the Parties in connection with the transactions contemplated by this Agreement).

## 15 CONFIDENTIALITY

15.1 Each Party undertakes that it shall (and shall procure that its Affiliates shall, and where relevant, undertakes to procure that its officers, employees, agents, investment managers and professional and other advisers and those of any Affiliate (together its “ **Authorised Persons** ”) shall) use its best endeavours to keep confidential at all times and not permit or cause the disclosure of any information (other than to its Authorised Persons) which it may have or acquire before or after the date of this Agreement relating to the provisions of, and negotiations leading to, this Agreement and the performance of the obligations thereunder (such information being “ **Confidential Information** ”). In performing its obligations under this clause 15.1, each Party shall apply confidentiality standards and procedures at least as stringent as those it applies generally in relation to its own confidential information.

15.2 Each Party shall use its reasonable endeavours to alert the other Party as soon as is reasonably practical after it becomes aware of any request from a third party for disclosure of any Confidential Information.

15.3 The obligation of confidentiality under clause 15.1 does not apply to:

- (a) information which at the date of disclosure is within the public domain (otherwise than as a result of a breach of this clause 15);
- (b) the disclosure of information to the extent required to be disclosed by law, regulation or any court, tribunal or regulatory authority; or

(c) any announcement made in accordance with the terms of clause 13.

**16 SEVERABILITY**

If any provision of this Agreement is held to be invalid or unenforceable, then such provision shall (so far as it is invalid or unenforceable) be given no effect and shall be deemed not to be included in this Agreement but without invalidating any of the remaining provisions of this Agreement. The Parties shall then use all reasonable endeavours to replace the invalid or unenforceable provisions by a valid and enforceable substitute provision the effect of which is as close as possible to the intended effect of the invalid or unenforceable provision.

**17 COUNTERPARTS**

This Agreement may be executed in any number of counterparts and by the Parties on separate counterparts, each of which is an original but all of which together constitute one and the same instrument.

**18 WAIVER**

**18.1** No failure or delay by any Party in exercising any right or remedy provided by law under or pursuant to this Agreement shall impair such right or remedy or operate or be construed as a waiver or variation of it or preclude its exercise at any subsequent time and no single or partial exercise of any such right or remedy shall preclude any other or further exercise of it or the exercise of any other right or remedy.

**18.2** The rights and remedies of the Parties under or pursuant to this Agreement are cumulative, may be exercised as often as such Party considers appropriate and are in addition to its rights and remedies under general law.

**19 FURTHER ASSURANCE**

Each of the Parties agrees to perform (or procure the performance of) all further acts and things, and execute and deliver (or procure the execution and delivery of) such further documents, as may be required by law or as the other Parties may reasonably require, whether on or after Completion, to implement and/or give effect to this Agreement and the transaction contemplated by it and for the purpose of vesting in the relevant Parties the full benefit of the assets, rights and benefits to be transferred to such Parties under this Agreement.

**20 NOTICES**

**20.1** All notices, requests and other communications to any Party hereunder shall be in writing (including facsimile transmission and electronic mail (“**e-mail**”)) transmission, so long as a receipt of such e-mail is requested and received) and shall be given,

if to Purchaser, to:

ALIBABA HEALTH INFORMATION TECHNOLOGY LIMITED  
26/F Tower One, Times Square, 1 Matheson Street  
Causeway Bay, Hong Kong  
Attention: General Counsel  
Facsimile No.:  
E-mail:

With a copy to (which shall not constitute notice):

Freshfields Bruckhaus Deringer  
55<sup>th</sup> Floor, One Island East, Taikoo Place, Quarry Bay, Hong Kong  
Attention: Edward Freeman  
E-mail:

if to the Vendor, to:

ALI JK NUTRITIONAL PRODUCTS HOLDING LIMITED  
c/o Alibaba Group Services Limited  
26th Floor, Tower One, Times Square, 1 Matheson Street  
Causeway Bay, Hong Kong S.A.R.  
Attention: General Counsel  
E-mail:

With a copy to (which shall not constitute notice):

Reed Smith Richards Butler  
20th Floor, Alexandra House,  
18 Chater Road,  
Central Hong Kong  
Attention: Denise Jong/ Anthony Woo  
E-mail:

or such other address or facsimile number as such Party may hereafter specify for the purpose by notice to the other parties hereto. All such notices, requests and other communications shall be deemed received on the date of receipt by the recipient thereof if received prior to 5 p.m. local time in the place of receipt and such day is a Business Day in the place of receipt, except with respect to any e-mail that is acknowledged as received on such day. Otherwise, any such notice, request or communication shall be deemed not to have been received until the next succeeding Business Day in the place of receipt.

**20.2** A Party may notify any other Party to this Agreement of a change to its name, relevant addressee, address, fax number or email address for the purposes of this clause 20, provided that, such notice shall only be effective on:

- (a) the date specified in the notice as the date on which the change is to take place, or
- (b) if no date is specified or the date specified is less than five Business Days after the date on which notice is given, the date following five Business Days after notice of any change has been given.

**21 GOVERNING LAW AND JURISDICTION**

**21.1** This Agreement and the relationship among the Parties shall be governed by, and interpreted in accordance with, the laws of Hong Kong.

**21.2** Any dispute arising out of or in connection with this Agreement shall be settled by arbitration in Hong Kong under the Hong Kong International Arbitration Centre Administered Arbitration Rules in force when the notice of arbitration is submitted in accordance with these Rules. The dispute shall be resolved by one arbitrator appointed by the Parties. If the Parties cannot agree on one arbitrator, the dispute shall be resolved by three arbitrators, one appointed by the Purchaser, one appointed by the Vendor and the third appointed by the first two arbitrators. The arbitration proceedings shall be conducted in English. Any award is final and may be enforced in any court of competent jurisdiction. The award shall apportion the costs of arbitration. The Parties shall duly and punctually perform their obligations hereunder pending issuance of the arbitral award. Nothing contained herein shall preclude any Party from seeking provisional, interim or conservatory measures (including injunctive relief) from any court of competent jurisdiction. The Parties agree that any decision of the arbitral tribunal shall be final and binding on the Parties and shall be non-appealable to a court of law.

**21.3** The terms of this Agreement are intended solely for the benefit of each Party to this Agreement and their respective successors or permitted assigns. Except as otherwise expressly stated in this Agreement, no one other than a party to this Agreement may enforce any of its terms under the Contracts (Rights of Third Parties) Ordinance, Cap. 623 of the Laws of Hong Kong. Where any clause of this Agreement entitles any third party to enforce any term of this Agreement under the Contracts (Rights of Third Parties) Ordinance, the parties to this Agreement reserve the right to vary that term or any other term of this Agreement without the consent of that third party.

**AS WITNESS** this Agreement has been signed on behalf of the Parties the day and year first before written.

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*Signature Page follows*

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**IN WITNESS WHEREOF**, the Parties through their authorized representatives have executed this Deed of Non-competition as of the date first above written.

**SEALED** with the **COMMON SEAL**  
and **SIGNED** for and on behalf of  
**Alibaba Group Holding Limited**  
in the presence of:

)  
)  
)  
)  
)

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

Witness: \_\_\_\_\_  
Name: \_\_\_\_\_

Signature page to deed of non-competition of Alibaba Group Holding Limited

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**SEALED** with the **COMMON SEAL**  
and **SIGNED** for and on behalf of  
**Alibaba Health Information**  
**Technology Limited**  
in the presence of:

)  
)  
)  
)  
)  
)  
)

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

Witness: \_\_\_\_\_  
Name: \_\_\_\_\_

Signature page to deed of non-competition of Alibaba Health Information Technology Limited

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IN WITNESS WHEREOF, the Parties through their authorized representatives have executed this Share Purchase Agreement as of the date first above written.

Signed  
for and on behalf of  
**ALIBABA HEALTH INFORMATION  
TECHNOLOGY LIMITED**

)  
)  
) By: /s/ Nicole Lew  
) Name: Nicole Lew  
) Title: Company Secretary and General Counsel

Signature page to share purchase agreement of Alibaba Health Information Technology Limited

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Signed  
for and on behalf of  
**ALI JK NUTRITIONAL PRODUCTS  
HOLDING LIMITED**

)  
)  
) By: /s/ Timothy Alexander Steinert  
) Name: Timothy Alexander Steinert  
) Title: Authorized Signatory

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Signature page to share purchase agreement of Ali JK Nutritional Products Holding Limited

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## SHARE PURCHASE AGREEMENT

This SHARE PURCHASE AGREEMENT is made and entered into as of July 16, 2018 (the “**Effective Date**”) by and among:

- (1) **Alibaba Investment Limited**, a company incorporated under the laws of the British Virgin Islands (the “**Purchaser 1**”);
- (2) **New Retail Strategic Opportunities Fund, L.P.**, a limited partnership established under the laws of the Cayman Islands (the “**Purchaser 2**”); and
- (3) **Giovanna Investment Cayman Limited**, a company incorporated under the laws of the Cayman Islands (“**Seller**”) and **Giovanna Investment Hong Kong Limited**, a company incorporated under the laws of Hong Kong (“**Sale Company**”).

Purchaser 1 and Purchaser 2 are hereinafter collectively referred to as the “**Purchasers**”, and each referred to as a “**Purchaser**”. The Purchasers, Seller, and Sale Company are hereinafter collectively referred to as the “**Parties**” and each a “**Party**”.

### WHEREAS :

- A. Sale Company holds certain Ordinary Shares in Focus Media Information Technology Co., Ltd., a public company established under the laws of the PRC whose shares are listed on the Shenzhen Stock Exchange with stock code 002027 (the “**Portfolio Company**”);
- B. The Purchasers have agreed to purchase from Seller, and Seller has agreed to sell to the Purchasers, pursuant to the terms and conditions hereof, the Sale Shares (as defined below);
- C. The Parties are entering into this Agreement to set forth the terms and conditions agreed between them in respect of the aforesaid transaction.

**NOW, THEREFORE**, in consideration of the mutual covenants, terms and conditions and understandings set forth in this Agreement, and for other good and valuable consideration, the sufficiency of which is acknowledged by the Parties, the Parties with the intent to be legally bound hereby covenant and agree as follows:

### 1. DEFINITIONS

- 1.1 **Definitions**. In addition to the terms defined in the recitals of and the text of this Agreement, the following terms used in this Agreement shall have the meanings ascribed to them in Schedule A attached hereto.

### 2. PURCHASE AND SALE OF THE SALE SHARES

**Purchase and Sale**. Subject to the terms and conditions set forth herein, Seller agrees to sell to each Purchaser, and each Purchaser agrees to purchase from Seller, such Purchaser’s Pro-rata Share of the Sale Shares for such Purchaser’s Pro-rata Share of the Purchase Price, in each case as set forth in Schedule B.

### 3. CLOSING

3.1 **Closing Date** . The Closing shall, subject to the satisfaction or waiver of the Conditions and subject to Section 4.5, take place at the office of Fangda Partners at 26/F, One Exchange Square, 8 Connaught Place, Central, Hong Kong, on August 15, 2018, or such other date as the Parties may mutually agree in writing (the “ **Closing Date** ”).

#### 3.2 **Closing Date Payments; Purchasers and Seller’s Closing Date Deliverables.**

3.2.1 On the Closing Date, each Purchaser shall pay, or procure the payment of, its Pro-rata Share of the Purchase Price (and, if applicable, less its Pro-rata Share of stamp duty determined in accordance with Section 7.7.4), to the Seller by wire transfer of immediately available USD funds to an account designated by Seller, which shall be notified to the Purchasers in writing by no later than 5 Business Days prior to the Closing Date (“ **Seller’s Account** ”). Notwithstanding the foregoing, the Parties agree that upon the Purchasers providing evidence that they have given irrevocable bank payment instructions to the Seller’s Account for the payment of the Purchase Price (the “ **Wiring Instructions** ”), the Seller shall be obliged to perform its respective obligations at Closing (for the avoidance of doubt, actual receipt of the Purchase Price shall be necessary for the effectiveness of the Closing).

3.2.2 On the Closing Date, and subject to its receipt of copies of the Wiring Instructions in respect of its Purchase Price, (i) Seller shall deliver, or cause to be delivered, or make available, to the Purchasers each of the items listed in Part I of Schedule G, and (ii) each Purchaser shall deliver, or cause to be delivered, or make available, to Seller each of the items listed in Part II of Schedule G.

3.2.3 Seller shall, as soon as reasonably practicable and in any event by no later than three (3) Business Days after the receipt of the Purchase Price in full, issue an official receipt to the Purchasers.

### 4. CONDITIONS

4.1 The obligation of the Purchasers to consummate the Closing is subject to the fulfilment of the following conditions (the “ **Purchaser Conditions** ”), any of which may be waived by Purchaser 1:

4.1.1 Sale Company having issued and allotted new shares to Seller such that the total issued share capital of Sale Company shall at Closing be 1,000 or such other number as may be mutually agreed by the Parties (for the avoidance of doubt, all such issued and outstanding shares of Sale Company immediately prior to the Closing Date shall be deemed the Sale Shares under this Agreement);

- 4.1.2 Subject to Section 4.5, Seller having delivered to the Purchasers (i) the audited accounts of Sale Company for the financial year ended 31 December 2017 and for the six months ended 30 June 2018, each of which shall be covered by an unqualified opinion of one of the Big 4 Accountants that the financial statements of Sale Company give a true and fair view of the financial position, financial performance and cash flows of Sale Company as at and for the periods ending on the aforementioned dates (the “ **Audited Accounts** ”); and (ii) management accounts for the period from 1 July 2018 to the Closing Date (the “ **Management Accounts** ” and together with the Audited Accounts, the “ **Accounts** ”);
- 4.1.3 Seller and Sale Company having performed and complied with all obligations under this Agreement that are required to be performed or complied with by it on or before the Closing in all material respects;
- 4.1.4 all outstanding amounts under the Sale Company Note having been, at Seller’s sole discretion, repaid, capitalised and/or waived and all liability thereunder having been fully released by Seller; and
- 4.1.5 the Seller’s Warranties remaining true and correct as of the Closing Date as though made on such date in all material respects.
- 4.2 The obligation of Seller to consummate the Closing is subject to the fulfilment of the following conditions (the “ **Seller Conditions** ”, and together with Purchaser Conditions, the “ **Conditions** ”), any of which may be waived by Seller:
- 4.2.1 the Purchasers having performed and complied with all obligations under this Agreement that are required to be performed or complied with by each of them on or before Closing in all material respects; and
- 4.2.2 the Purchasers’ Warranties remaining true and correct as of the Closing Date as though made on such date in all material respects.
- 4.3 Purchaser 1 may, at any time, waive in whole or in part any of the Purchaser Conditions by written notice to the Seller and Seller may, at any time, waive in whole or in part any of its Seller Conditions by written notice to Purchaser 1.
- 4.4 Subject to Section 4.5, if, in respect of the Closing, Seller, on one hand, or the Purchasers on the other hand fail(s) to comply on the Closing Date with any obligation in Section 3.2 and/or Schedule G, the non-defaulting Party shall be entitled (in addition to and without prejudice to all other rights and remedies available, including the right to claim damages) by written notice to such defaulting Party to effect Closing so far as reasonably practicable having regard to the defaults which have occurred, or to fix a new date for Closing which is no later than reasonably necessary for such defaulting Party to remedy such default and in any event no later than thirty (30) calendar days following the original Closing Date, in which case the provision of Section 3.2 and/or Schedule G shall apply to the Closing as so deferred provided that such deferral may only occur once.

4.5 Notwithstanding anything to the contrary in this Agreement, if, on the Closing Date, Seller is unable to or fails to deliver the Accounts, Seller shall be entitled to, by written notice to Purchasers, to fix a new date for Closing, at its discretion, which is no later than reasonably necessary for Seller to deliver all of the Accounts and in any event no later than thirty (30) calendar days following the original Closing Date, *provided* that such deferral may only occur once.

## 5. TERM AND TERMINATION

5.1 **Term** . The Parties hereby agree that this Agreement shall be effective as of the Effective Date and shall remain valid and binding on the Parties unless terminated by mutual consent in writing by Seller and Purchaser 1.

## 6. WARRANTIES

6.1 **Seller's Warranties** . Seller hereby warrants to each Purchaser that the statements set forth in Schedule H (the "**Seller's Warranties** ") are true and correct as of the Effective Date and immediately prior to Closing.

6.2 **Purchaser's Warranties** . Each Purchaser hereby severally, and not jointly and not jointly and severally, warrants to Seller that the statements set forth in Schedule I (the "**Purchasers' Warranties** ") are true and correct as of the Effective Date and immediately prior to Closing.

## 7. CERTAIN COVENANTS

### 7.1 Pre-Closing obligations

Seller undertakes to procure that between the Effective Date and Closing, Sale Company shall not, without the prior written consent of the Purchasers, enter into any transaction (including but not limited to the disposal of any assets) or pass any shareholders or board resolutions or take any action other than as contemplated under this Agreement (including but not limited to the pre-Closing actions referred to in Section 4.1, Section 7.2 and Section 7.6 and any other actions reasonably necessary in order to satisfy the Purchaser Conditions as contemplated herein) or otherwise as reasonably required to maintain its corporate existence (including but not limited to the filing of Tax returns in accordance with Law).

### 7.2 Repayment of Sale Company Note and Distribution .

7.2.1 Seller and Sale Company acknowledge that the Sale Company Note is repayable, assignable and transferrable at any time prior to Closing.

7.2.2 Prior to Closing, without prejudice to other actions which Sale Company may undertake in relation to Sale Company Note and the balance in its bank accounts:

- (a) Seller may demand Sale Company to repay, and Sale Company shall upon such demand repay all or any part of the outstanding amount under the Sale Company Note (the "**Note Repayment Amount** "). Such repayment shall be made by way of transfer of cash by Sale Company from the applicable bank account(s) of Sale Company equivalent to the Note Repayment Amount to one or more bank account(s) (the "**Designated Bank Account** ") as Seller shall notify Sale Company prior to the payment due date; and/or

- (b) Seller may capitalise or otherwise contribute into the share capital of Sale Company, all or any part of the outstanding amount under the Sale Company Note (the “ **Note Recapitalisation Amount** ”) in accordance with the applicable Laws; and/or
- (c) Seller may waive any outstanding amount under the Sale Company Note (the “ **Waived Amount** ”); and/or
- (d) to the extent permitted under the applicable Law, Sale Company may from time to time declare dividend in cash to Seller, up to the aggregate amount outstanding in the bank accounts of Sale Company.

7.2.3 Each of Seller and Sale Company shall, subject to receipt of the Note Repayment Amount in the Designated Bank Account and/or capitalisation of the Note Recapitalisation Amount and/or waiver of the Waived Amount (as the case may be), prior to or at Closing, waive all its rights against each other and shall release each other from all liabilities under the Sale Company Note and the Sale Company Note shall therefore be satisfied, cancelled and/or terminated.

7.2.4 With respect to only the Waived Amount, Seller agrees to hold and retain an amount equal to the Estimated Hong Kong Tax Amount in one or more bank account(s) of Seller, and, upon the Sale Company or any Purchaser presenting a tax assessment notice issued by the Hong Kong Inland Revenue Department to Sale Company in respect of the tax year in which Closing occurs, (a) to the extent such notice evidences an amount of Tax assessed upon the Waived Amount (the “ **Waived Amount Tax** ”) it shall release to the Purchasers (or the Sale Company if the Purchasers so direct) an amount equal to the lower of the Waived Amount Tax and the Estimated Hong Kong Tax Amount, and (b) it shall release to the Seller the balance after deduction (if any) of the amount to be released in (a) above, of the Estimated Hong Kong Tax Amount (if any). The Purchasers undertake to the Seller that it shall, and shall procure Sale Company to, comply with all applicable Laws in making all Tax filings with and disclosure to the Hong Kong Inland Revenue Department in connection to the Waived Amount in accordance with the requirements imposed by the Hong Kong Inland Revenue Department and applicable Law in Hong Kong.

7.3 **Reserved.**

7.4 **PRC Transfer Taxes and Pre-Closing Taxes .**

- 7.4.1 Seller acknowledge that it is required to pay certain taxes pursuant to the Tax notice issued by the PRC State Administration of Taxation titled the “State Administration of Taxation’s Bulletin on Several Issues of Enterprise Income Tax on Income Arising from Indirect Transfers of Property by Non-resident Enterprises (State Administration of Taxation Bulletin [2015] No. 7)”, as may be amended or supplemented from time to time (“ **Announcement 7** ”) arising from a sale of the Sale Shares as required pursuant to Announcement 7 or such other Taxes shown as due and owing on any return in respect of Announcement 7 (the “ **PRC Withholding Taxes** ”), to the relevant governmental authorities. Seller further acknowledges that the Purchasers shall have no obligation to pay any Tax of any nature that is required by applicable Laws to be paid by Seller or any of its Affiliates or any of its direct and indirect partners, members and shareholders arising out of the transactions contemplated by this Agreement (other than, for the avoidance of doubt, any stamp duty payable in accordance with Section 7.7).
- 7.4.2 Seller shall, as soon as reasonably practicable and in any event within thirty (30) days after the Effective Date, engage at its own cost and expense, any one of the Big 4 Accountants as its filing agent (the “ **Filing Agent** ”), to duly and properly make with the competent PRC Tax Authority the relevant Tax filings and disclosures that are required under applicable Laws (including Announcement 7) in connection with the sale and purchase of the Sale Shares contemplated by this Agreement, and shall, name the Purchasers as joint applicants in respect of such filing (for the avoidance of doubt, none of the filing documents shall require the approval or execution by the Purchasers and provided that naming the Purchasers as joint applicants will not result in the filing documents (or any subsequent submissions) having to require the approval or execution by the Purchasers). As soon as reasonably practicable after such filing, the Seller shall deliver to Purchaser 1 a copy of the acknowledgement of receipt in respect of such filing issued by the relevant PRC Tax Authority. Neither any Purchaser nor its Affiliates shall make any filings or disclosures with the competent PRC Tax Authority or otherwise communicate with any competent PRC Tax Authority in respect of the matters contemplated by this Agreement or any other matters relating to Seller’s Tax liabilities, without the prior written consent of Seller, unless (a) requested by a PRC Tax Authority, or (b) Seller has breached any of its obligations under this Section 7.4 (provided Purchasers have provided Seller prior written notice of any such breach).
- 7.4.3 The Seller shall cause the Filing Agent to, on a monthly basis, give the Purchasers an update as to any development or progress in the assessment of any Taxes arising from Announcement 7 by the relevant PRC Tax Authority. Without prejudice to the foregoing, if the Seller or any of its Affiliates receives any notice or demand from any PRC Tax Authority in respect of the filing in relation to any matter set out in this Section 7.4, the Seller shall, as promptly as practicable provide a true and complete copy of such notice or demand to the Purchasers.
- 7.4.4 Seller shall provide to the Purchasers with a copy of the official tax payment notice issued by the PRC Tax Authority, or other reasonable evidence of the PRC Tax Authority’s acceptance or confirmation of the Tax amount payable by Seller under Announcement 7 (the “ **Tax Assessment Notice** ”) as soon as reasonably practicable upon its receipt of such Tax Payment Notice. Seller shall, as soon as reasonably practicable after the assessment and final determination of Tax by the competent PRC Tax Authority pursuant to such Tax Assessment Notice, settle in full the payment of the Tax so assessed and finally determined as due and payable by Seller under Announcement 7 in connection with the sale and purchase of the Sale Shares contemplated by this Agreement (“ **Announcement 7 Tax Amount** ”) within the specified time period, and provide to the Purchasers evidence and supporting documents of the settlement and payment of such Announcement 7 Tax Amount (the “ **Tax Payment Certificate** ”).

7.5 **Indemnity .**

- 7.5.1 Following the Closing, Seller shall indemnify and hold harmless the Purchasers, the Sale Companies, their respective Affiliates and any of their agents, directors, officers, and employees (the “ **Purchaser Indemnitees** ”) against any (a) Losses or Taxes imposed on any Purchaser or Sale Company arising with respect to the transactions contemplated under this Agreement as a result of Seller’s failure to pay Taxes finally determined in respect of Announcement 7 (including without limitation Losses or Taxes in connection with the Sale Shares being assessed as having a tax basis in the hands of the Purchasers which is lower than the Purchase Price solely as a result of Seller’s failure to pay Taxes in respect of Announcement 7 in accordance with this Agreement), (b) Losses or Taxes of Sale Company for all taxable periods (or portions thereof) ending on or before the Closing Date, and (c) Losses or Taxes (including any Taxes as result of Announcement 7) arising from any transaction of Sale Company effected on or prior to Closing.
- 7.5.2 Notwithstanding anything to the contrary in this Agreement, and other than in respect of fraud by Seller, Seller’s total liability to the Purchaser Indemnitees for all claims or Losses for all matters arising under or in connection with this Agreement shall not exceed in the aggregate, an amount equal to the Purchase Price actually received by Seller in respect of the Sale Shares.

7.6 **Deposit Amounts.**

- 7.6.1 The Parties hereby acknowledge that as at the Effective Date, Sale Company maintains one or more RMB-denominated cash deposit bank accounts in the PRC with a financial institution in the PRC (each, a “ **RMB Bank Account** ”), and/or one or more USD-denominated cash deposit accounts in Hong Kong with a financial institution in Hong Kong (each a “ **HK Bank Account** ”, and together with the RMB Bank Accounts, the “ **Bank Accounts** ”), the details of which are set forth in Schedule F. The total cash balance in each Bank Account as of the Effective Date (except as otherwise noted therein) is set forth in Schedule F.



- 7.6.2 The Parties hereby acknowledge and agree that (i) to the extent not remitted out of the following accounts prior to the Closing Date, the total cash in the RMB Bank Accounts of Sale Company as of the Closing Date, including any interest earned prior to, on and after the Closing Date (such amount, the “**RMB Deposit Amount**”), the total cash in the HK Bank Account of Sale Company as of the Closing Date, including any related interest earned prior to, on and after the Closing Date (such amount, the “**HK Deposit Amount**”, together with the RMB Deposit Amount, the “**Deposit Amounts**”) are expressly excluded from, and shall not be deemed to be part of, the purchase and sale of the Sale Shares contemplated under this Agreement, (ii) the Deposit Amounts of Sale Company are beneficially owned by Seller, and (iii) Sale Company agrees to, and the Purchasers agree to cause Sale Company to, hold such Deposit Amounts in trust for the benefit of Seller and (iv) without the prior written consent of Seller, the Purchaser will not claim, use, transfer, dispose of or otherwise exploit the Deposit Amounts or set off or cause to be set off any other amount or obligation that may be owed to any Purchaser or otherwise against Sale Company’s RMB Deposit Amount, HK Deposit Amount or the Remitted Funds.
- 7.6.3 The Sale Company shall, at the expense and commercially reasonable direction of Seller, seek any applicable PRC tax and regulatory approvals required to effect the conversion and remittance of the Remitted Funds (as defined below) to the applicable Seller and, as promptly as legally permissible and practicable (unless otherwise instructed in writing by the relevant Seller), from time to time in one or more transactions, (i) convert the RMB Deposit Amount into USD (at such time and at such applicable exchange rates as instructed by Seller), and (ii) thereafter cause such funds and all funds in Sale Company’s HK Bank Account (collectively, the “**Remitted Funds**”) to be paid to Seller, in each case until all of the Deposit Amounts has been remitted to Seller.
- 7.6.4 In furtherance of, but without limiting the generality of, the foregoing, the nominees of Seller shall remain as authorized signatories of its Bank Accounts, it being intended and agreed by the Parties that Seller shall retain control in respect of the operation of, deposit of funds to, payment of items from, withdrawal of funds from (including, without limitation, the timing of, and any applicable exchange rates to be applied, in connection with any such withdrawals), disposition of funds on deposit in or other transactions and matters related to or associated with, its Bank Accounts and the Deposit Amounts, provided that such nominees shall, and Seller shall procure its nominees to, comply with all applicable Laws at all times. At the Closing, Sale Company may, subject to applicable bank requirements, (i) cause the authorized signatory(ies) of its HK Bank Account sign one or more payment instructions (to be acknowledged by the Purchaser) in a form to be approved by Purchaser 1 prior to Closing (which approval shall not be unreasonably withheld or delayed) (“**Remitted Funds Payment Instructions**”), pursuant to which Sale Company shall instruct the financial institution at which Sale Company has its HK Bank Account to remit by wire transfer any Remitted Funds from time to time standing to the credit of its HK Bank Account to Seller and (ii) enter into with Seller and financial institution a deed of assignment and/or any other agreement at the reasonable written request of Seller (in each case to be also entered into and acknowledged by the Purchaser) in a form to be approved by the Purchasers (which approval shall not be unreasonably withheld or delayed) prior to Closing, pursuant to which Sale Company shall assign the balance from time to time standing to the credit of its RMB Bank Accounts, HK Bank Account to Seller as security for the payment of the applicable Remitted Funds to Seller until all of Sale Company’s Deposit Amounts has been remitted to Seller (“**Deed of Assignment**”). The Purchasers shall, upon the reasonable written request of Seller, do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, in order to carry out the intent and accomplish the purposes of this [Section 7.6](#). Seller agrees that it will exercise its power as the authorized signatory of Sale Company’s RMB Bank Accounts, HK Bank Account, and exert its control over Sale Company’s RMB Deposit Amount and HK Deposit Amount, in all events in accordance with applicable Law and this [Section 7.6](#).

- 7.6.5 The Purchasers agree that, until all of Sale Company's Deposit Amounts have been remitted to Seller in accordance with this Section 7.6, they shall not, and shall cause Sale Company (on or after the Closing) not to, (i) directly or indirectly, take possession of, take control of, use, dispose of, deal with or otherwise exploit any RMB Deposit Amount, HK Deposit Amount or Remitted Funds, or set off or cause to be set off any other amount or obligation that may be owed to any Purchaser or otherwise against Sale Company's RMB Deposit Amount, HK Deposit Amount or Remitted Funds; (ii) withdraw, revoke, invalidate, deny or otherwise refuse to acknowledge the Remitted Funds Payment Instructions or the Deed of Assignment or act pursuant to such Remitted Funds Payment Instructions or Deed of Assignment; or (iii) agree to any waiver or amendment of the terms of which any Bank Account of Sale Company is maintained.
- 7.6.6 As soon as reasonably practicable following completion of the remittance of Sale Company's Deposit Amounts to Seller, Seller shall, and shall cause its nominees to, do such things as are necessary to close the Bank Accounts of Sale Company.
- 7.6.7 Seller shall pay (or reimburse Purchasers, if applicable) all fees, charges, costs, and expenses incurred in connection with its Bank Accounts, whether chargeable by the applicable bank or any other third party, including but not limited to the transactions contemplated under this Section 7.6. Seller shall indemnify and hold harmless the Purchasers and Sale Company from and against all Losses as a result of any transactions performed (or requested by Seller to be performed) by the Purchasers in accordance with the terms of this Section 7.6.

7.7 **Stamp Duty.**

- 7.7.1 The Purchasers (in their Pro Rata Share), on the one hand, and Seller, on the other hand, shall be equally responsible for the stamp duty payable to the Hong Kong Inland Revenue Department, if any, in connection with the purchase and sale of the Sale Shares.

- 7.7.2 On or before the close of the Business Day immediately following Closing, the Purchasers shall submit the original instruments of transfer and bought and sold notes in respect of the Sale Shares to the Hong Kong Inland Revenue Department for adjudication of stamp duty and the Purchasers, on one hand, and Seller, on the other hand, shall to the extent reasonable cooperate with the other with respect to the preparation and filing of the relevant documents for stamping original instruments of transfer and bought and sold notes in respect of the Sale Shares as may be required.
- 7.7.3 Following such time the Hong Kong Inland Revenue Department has assessed the stamp duty payable to the Hong Kong Inland Revenue Department, if any, in connection with the purchase and sale of the Sale Shares, the Purchasers (in their Pro Rata Share), on the one hand, and Seller, on the other hand, shall pay their respective portion of the stamp duty as soon as reasonably practicable upon such assessment by issuing a cheque in favour of “The Government of the Hong Kong Special Administrative Region”, and in any event within the time period required by the Hong Kong Inland Revenue Department.
- 7.7.4 Prior to Closing, the Purchasers and Seller may mutually agree on a preliminary estimate of the minimum amount of Seller’s portion of the stamp duty payable, and mutually agree to deduct such amount from the Purchase Price otherwise payable to Seller, provided that the Purchasers use such deducted amount for payment, on Seller’s behalf, of the corresponding amount of Seller’s portion of the stamp duty payable.

7.8 **Holding of Estimated Announcement 7 Tax Amount .**

- 7.8.1 Seller agrees to, on and from Closing, hold and retain, from the Remitted Funds actually remitted to and received by the Seller in accordance with Section 7.6.3 and/or from the Purchase Price received by the Seller, an amount equal to the Estimated Announcement 7 Tax Amount until such time as provided in this Section 7.8, in one or more USD-denominated bank account(s) of Seller.
- 7.8.2 For purposes of this Agreement, “ **Estimated Announcement 7 Tax Amount** ” means an amount equal to USD 15,753,025.62.
- 7.8.3 (a) Upon delivery of the Tax Assessment Notice to the Purchasers pursuant to Section 7.4.4, Seller shall be entitled to release up to the full amount of the Estimated Announcement 7 Tax Amount from its banks account(s) provided that such amount is used solely for the payment of the Announcement 7 Tax Amount pursuant to Section 7.4.4 and (b) upon delivery of the Tax Payment Certificate to the Purchaser, the balance, if any, may be released by Seller.

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- 7.8.4 Seller shall provide monthly bank account statements in respect of the Estimated Announcement 7 Tax Amount being held in such accounts pursuant to this Section 7.8.

**8. CONFIDENTIAL INFORMATION**

- 8.1 Unless otherwise permitted under this Section 8, no Party shall, without the other Parties’ prior written consent (not to be unreasonably withheld, conditioned or delayed), disclose:
- 8.1.1 the existence or terms of this Agreement;
- 8.1.2 the business, financial or other affairs (including future plans and targets) of any Seller or Sale Company; or
- 8.1.3 any discussions or negotiations with regard to this Agreement,
- (the “ **Confidential Information** ”).
- 8.2 No Party shall use the other Parties’ Confidential Information except to the extent necessary or required to perform this Agreement.
- 8.3 Disclosure of Confidential Information may be made to a Party’s officers, employees, contractors, professional advisers, consultants and other agents if such disclosure is reasonably necessary to advise on this Agreement and the transaction as a whole, on the condition that the disclosing Party is responsible for procuring that the relevant third party complies with its obligations under this Section 8.
- 8.4 Disclosure of Confidential Information may be made by any Purchaser or any Seller to its respective Affiliates and in the case of Seller, Seller’s Affiliates, for the purpose of this Section 8 include, the investors of the funds advised or managed by Seller’s Affiliates, limited partners or any of its or its Affiliates’ or limited partners’ respective officers, employees, contractors, professional advisers, consultants and other agents in connection with the transactions contemplated by this Agreement, on the condition that the disclosing Party is responsible for procuring that the relevant third party complies with its obligations under this Section 8.
- 8.5 The obligations of confidentiality under this Section 8 do not apply to information which is:
- 8.5.1 publicly available, other than as a result of a breach of this Agreement;
- 8.5.2 lawfully available to a Party from a third party who was not subject to any confidentiality restriction prior to the disclosure of such Confidential Information; or
- 8.5.3 required to be disclosed by Law, regulation or by Order or ruling of a court or administrative body of a competent jurisdiction or by the rules of a recognized stock exchange or any regulatory body to which any Party submits (but in which case to the absolute minimum necessary) provided

that the disclosing Party shall use its best endeavors, to the extent permitted to do so by Law, the court or the authority requiring disclosure, to first consult fully with the other Parties to which the Confidential Information relates to establish whether and, if so, how far it is possible to prevent or restrict such enforced disclosure and, at the other Parties' expense, take all steps as it may require to achieve prevention or restriction.

8.6 The confidentiality obligations contained in this Section 8 shall survive Closing and shall remain in effect and be binding on each Party for a period of two (2) years after the earlier of Closing and termination of this Agreement.

8.7 **Press Release** . No Party shall make or issue any formal or informal public announcement or press release which makes reference to the consummation of the transactions contemplated under, or the terms and conditions of, this Agreement or any of the matters referred to herein or therein, including the discussion between the Parties, without the prior written consent of the other Parties.

## 9. MISCELLANEOUS

9.1 **Notices** . All notices, waivers and other communications given or made pursuant hereto (“ **Notices** ”) shall be in writing and shall be deemed effectively given: (i) upon actual delivery at the address of the Party to be notified, *provided* that it is delivered in person or by reputable international courier, (ii) when sent by electronic mail, without any delivery failure or similar error message, between 9:00 a.m. and 5:30 p.m. on a Business Day (and if not sent during such period, then delivery shall be deemed to have occurred as of 9:00 a.m. on the next Business Day); or (iii) when sent by facsimile transmission to the Party to be notified between 9:00 a.m. and 5:30 p.m. on a Business Day (and if not sent during such period, then delivery shall be deemed to have occurred as of 9:00 a.m. on the next Business Day), *provided* that the sender has received a receipt indicating proper transmission. The occurrence of any event set forth in sub-clause (i), (ii) or (iii) above shall constitute “delivery” of notice under this Agreement. All notices and other communications shall be sent to the Parties pursuant to the contact information provided in Schedule C (or to such amended contact information of a Party that is duly notified in writing by such Party giving five (5) Business Days’ notice to the other Party).

9.2 **Further Assurances** . Each of the Parties to this Agreement shall from time to time execute and deliver all such further documents and do all acts and things as the other Parties may reasonably require to effectively carry out the full intent and meaning of this Agreement and to complete the transactions contemplated hereunder.

9.3 **Amendments** . No modification or amendment to this Agreement shall be valid or binding unless made in writing and duly executed by the Seller and the Purchaser 1.

9.4 **Assignment** .

This Agreement and the rights and obligations hereunder shall bind and inure to the benefit of the respective successors by operation of Law or permitted assigns of the Parties. A Party shall not assign or transfer any of its rights and obligations hereunder to any other Person without the prior written consent of the other Parties.

- 9.5 **Waiver of Rights** . A delay in exercising, or failure to exercise, any right or remedy under this Agreement does not constitute a waiver of such or other rights or remedies nor will operate so as to bar the exercise or enforcement thereof nor will be treated as an affirmation of this Agreement. No single or partial exercise of any right or remedy under this Agreement will prevent further or other exercise of such or other rights or remedies. Any provision of this Agreement may be waived if, and only if, such waiver is in writing and signed by the Party against whom the waiver is to be effective.
- 9.6 **Specific Performance** . This Agreement shall be specifically enforceable at the instance of any Party. The Parties agree that a non-defaulting Party may suffer immediate, material, immeasurable, continuing and irreparable damage and harm in the event of any material breach of this Agreement and the remedies at Law in respect of such breach may be inadequate and that such non-defaulting Party shall be entitled to seek specific performance against the defaulting Party for performance of its obligations under this Agreement in addition to any and all other legal or equitable remedies available to it.
- 9.7 **Governing Law and Dispute Resolution** .
- 9.7.1 This Agreement shall be governed and construed in accordance with the laws of Hong Kong without giving effect to its conflict of law principles.
- 9.7.2 Any dispute, controversy or claim arising out of or in connection with this Agreement, including any question regarding its existence, validity, interpretation, breach or termination shall be referred to and finally resolved by arbitration at the Hong Kong International Arbitration Centre (“**HKIAC**”) in accordance with the HKIAC Administered Arbitration Rules (“**Rules**”), which Rules are deemed to be incorporated by reference into this section.
- 9.8 **Entire Agreement** . This Agreement constitutes the entire agreement between the Parties hereto relating to the subject matter hereof. It supersedes any and all other agreements and term sheets, either oral, implied or in writing, between the Parties with respect to the subject matter herein.
- 9.9 **Costs and Expenses** . Except as otherwise provided herein, each Party shall bear its own expenses, including legal costs, incurred in preparing this Agreement and in relation to the transactions contemplated in this Agreement.
- 9.10 **Partial Invalidity** . If any provision of this Agreement or the application thereof to any Person or circumstance shall be invalid or unenforceable to any extent for any reason including by reason of any Law, the remainder of this Agreement and the application of such provision to persons or circumstances other than those which are held to be invalid or unenforceable shall not be affected thereby, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by Law. Any invalid or unenforceable provision of this Agreement shall be replaced with a provision which is valid and enforceable and most nearly reflects the original intent of the unenforceable provision.

- 9.11 **Counterparts** . This Agreement may be executed in any number of counterparts, including by electronic delivery and portable document format (.pdf), and all such counterparts taken together shall be deemed to constitute one and the same instrument.
- 9.12 **No Third Party Beneficiaries** . This Agreement shall be binding upon and inure solely to the benefit of, and be enforceable by, only the Parties and their respective successors by operation of Law and permitted assigns. A Person who is not a party to this Agreement shall have no right under the Contracts (Rights of Third Parties) Ordinance (Chapter 623 of the Laws of Hong Kong) to enforce any of its terms.
- 9.13 **Time of the Essence** . Time is of the essence in the performance of the Parties' respective obligations hereunder and all dates and times specified in this Agreement shall be strictly enforced. If any time period specified herein is extended, such extended time shall also be of the essence.
- 9.14 **Several Obligations** . The Parties acknowledge and agree that, for the avoidance of doubt:
- 9.14.1 unless otherwise stated in this Agreement, the obligations of each Purchaser in this Agreement are several from the obligations of the other Purchaser, and the failure of a Purchaser to satisfy of its respective obligations shall not affect the obligations of the other Parties to this Agreement; and
- 9.14.2 notwithstanding anything to the contrary in this Agreement , Purchaser 1 hereby unconditionally and irrevocably guarantees to Seller the punctual performance by Purchaser 2 of all of its obligations under this Agreement and undertakes to Seller that (i) whenever Purchaser 2 does not pay or cause to be paid any amount when due under this Agreement, Purchaser 1 shall immediately on first demand pay such amount as if it was the principal obligor, and (ii) whenever Purchaser 2 fails to perform or cause to be performed its other obligations under this Agreement, Purchaser 1 shall immediately on demand perform (or procure performance of) and satisfy (or procure the satisfaction of) that obligation, so that the same benefits are conferred on Seller as it would have received if such obligation had been performed and satisfied by Purchaser 2. The guarantee under this Section 9.14.2 is a continuing guarantee and will extend to the ultimate balance of sums payable by Purchaser 2 under this Agreement, regardless of any intermediate payment or discharge. Purchaser 1 waives any right which it may have to first require Seller to proceed against Purchaser 2 before claiming from Purchaser 1 under this Section 9.14.2.
- 9.15 **Waiver of Conflicts; Privilege** .
- 9.15.1 Each of the Parties acknowledges and agrees that Goodwin Procter LLP and its affiliated firms (“ **Goodwin** ”) has acted as counsel to Seller and, as of immediately prior to Closing, Sale Company in connection with the negotiation of this Agreement and consummation of the transactions contemplated hereby.

- 9.15.2 Each of the Purchasers hereby consents and agrees to, and agrees to cause Sale Company to consent and agree to, Goodwin representing Seller after the Closing, including with respect to disputes in which the interests of Seller may be directly adverse to either Purchaser (including Sale Company), even though Goodwin may have represented Sale Company in a matter substantially related to any such dispute, or may be handling ongoing matters for Sale Company. Each of the Purchasers further consents and agrees to, and agrees to cause Sale Company to consent and agree to, the communication by Goodwin to Seller in connection with any such representation of any fact known to Goodwin arising by reason of Goodwin's prior representation of Sale Company.
- 9.15.3 In connection with the foregoing, each of the Purchasers hereby irrevocably waives and agrees not to assert, and agrees to cause Sale Company to irrevocably waive and not to assert, any conflict of interest arising from or in connection with (i) Goodwin's prior representation of Sale Company, and (ii) Goodwin's representation of Seller, in each case both prior to and after the Closing.
- 9.15.4 Each of the Purchasers further agrees, on behalf of itself and, after the Closing, on behalf of Sale Company, that all communications in any form or format whatsoever between or among any of Goodwin, Sale Company, and/or Seller, or any of their respective directors, officers employees or other representatives that relate in any way to the negotiation, documentation and consummation of the transactions contemplated by this Agreement or any dispute arising under this Agreement (collectively, the "**Deal Communications**") shall be deemed to be retained and owned and controlled collectively by Seller and shall not pass to or be claimed by either Purchaser or Sale Company. All Deal Communications that are attorney-client privileged shall remain privileged after the Closing and the privilege and the expectation of client confidence relating thereto shall belong solely to Seller, shall be controlled by the Seller and shall not pass to or be claimed by either Purchaser or Sale Company.

*[Remainder of page intentionally left blank]*

**IN WITNESS WHEREOF**, the Parties have each caused this Agreement to be duly executed and delivered on the Effective Date.

**PURCHASER 1**

**Alibaba Investment Limited**

By: /s/ Timothy Alexander Steinert

Name: Timothy Alexander Steinert

Title: Director

[Signature Page to Share Purchase Agreement]

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IN WITNESS WHEREOF, the Parties have each caused this Agreement to be duly executed and delivered on the Effective Date.

**PURCHASER 2**

**New Retail Strategic Opportunities Fund, L.P.**

By:  \_\_\_\_\_  
New Retail Strategic Opportunities Fund GP, L.P., its General Partner

[Signature Page to Share Purchase Agreement]

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**SELLER**

**Giovanna Investment Cayman Limited**

**By:** /s/ Norma R. Kuntz

Name: Norma R. Kuntz

Title: Director

**SALE COMPANY**

**Giovanna Investment Hong Kong Limited**

**By:** /s/ Norma R. Kuntz

Name: Norma R. Kuntz

Title: Director

[Signature Page to Share Purchase Agreement]

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**SCHEDULE A**

**SCHEDULE OF DEFINITIONS**

“ **2016 Audited Accounts** ” means the audited accounts of the Sale Company for the financial year ended 31 December 2016.

“ **Affiliate** ” shall mean, with respect to any Person, any company, corporation, association or other Person, which, directly or indirectly, Controls, is Controlled by, or is under common Control with, such Person. The Parties agree that without limitation to the foregoing, the Purchaser’s Affiliates shall include any funds managed or advised by a Purchaser or any of its Affiliates;

“ **Agreement** ” shall mean this Share Purchase Agreement, as amended from time to time, together with the recitals and any Schedules attached hereto.

“ **Anti-Corruption Laws** ” means laws or regulations relating to anti-bribery or anti-corruption that apply to the business and dealings of Seller and/or Sale Company (as applicable) including, without limitation, the U.S. Foreign Corrupt Practices Act of 1977, as amended, and the UK Bribery Act of 2010;

“ **Big 4 Accountants** ” means any one of Deloitte Touche Tohmatsu, Ernst & Young, KPMG and PricewaterhouseCoopers or their respective PRC domestic Affiliates;

“ **Business Day** ” shall mean a day (other than a Saturday, a Sunday or a public holiday) on which commercial banks are open for business in the Cayman Islands, the PRC, Hong Kong and the State of New York.

“ **Closing** ” shall mean, the completion of the sale and purchase of the Sale Shares in respect of Sale Company by the performance by the Parties of their respective obligations in accordance with Section 3.

“ **Consent** ” means any consent, approval, authorization, release, waiver, permit, grant, concession, agreement, license, exemption or order of, registration, certificate, declaration or filing with, or report or notice to, any Person, including any Governmental Authority.

“ **Control** ” (including with correlative meaning, the terms “ **Controls** ”, “ **Controlled by** ” and “ **under common Control with** ”) shall mean with respect to a Person (i) the ownership or control of more than 50% (fifty percent) of the voting rights or of the issued share capital (or comparable equity interests) of such Person, (ii) the right to appoint and/or remove all or the majority of the members of the board or other governing body of such Person, or (iii) the power to direct or cause the direction of the management, and exercise significant influence on the management or policies of such Person, in each case whether such ownership, control, right or power is obtained or exercised directly or indirectly, acting alone or together with another Person, and whether obtained by ownership of share capital, the possession of voting rights, through contract, pursuant to applicable Law or otherwise.

“ **DBS Financing Documents** ” shall mean, with respect to a Sale Company, the financing-related agreements to which Sale Company was a party, relating to the provision of debt financing by DBS Bank Ltd. and its Affiliates (“ **DBS** ”) to an Affiliate of the Portfolio Company and the granting of security by Sale Company to DBS in respect of such debt financing, including, without limitation, a Debenture dated April 30, 2015 executed by Sale Company in favour of DBS, and other ancillary documents.

“ **Encumbrance** ” means any mortgage, claim, charge (fixed or floating), pledge, lien, hypothecation, guarantee, right of set-off, trust, assignment, right of first refusal, right of pre-emption, option, restriction or other encumbrance or any legal or equitable third party right or interest including any security interest of any kind or any type of preferential arrangement (or any like agreement or arrangement creating any of the same or having similar effect);

“ **Estimated Hong Kong Tax Amount** ” means an amount equal to 16.5% of the Waived Amount;

“ **Governmental Authority** ” means any nation or government or any federation, province or state or any other political subdivision thereof; any entity, authority or body exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, including any government authority, agency, department, board, commission or instrumentality of the PRC, Hong Kong or any other country, or any political subdivision thereof, any court, tribunal or arbitrator, and any self-regulatory organization;

“ **Knowledge** ” shall mean the knowledge of a Person, after making reasonable and due inquiry.

“ **Law** ” shall mean all statutes, enactments, acts of legislature or parliament, laws, ordinances, rules, bye-laws, regulations, notifications, guidelines, policies, directions, directives, interpretation of, or agreements with, any Governmental Authority and Orders and, if applicable, international treaties and regulations, in each case as amended from time to time.

“ **Losses** ” shall mean all claims, losses, liabilities, damages, costs and expenses, including, without limitation, reasonable attorneys’ fees; *provided*, that (i) Losses shall not include special damages or punitive damages, and (ii) for purposes of computing Losses, there shall be deducted an amount equal to the amount of any reimbursements and any Tax benefits, received or receivable in connection with such Losses or the circumstances giving rise thereto.

“ **Order** ” shall mean any order, injunction, judgment, decree, ruling, writ, assessment or award of a court, arbitration body or panel or other any Governmental Authority.

“ **Ordinary Shares** ” shall mean ordinary shares of the Portfolio Company.

“ **Person** ” shall mean any natural person, limited or unlimited liability company, corporation, partnership (whether limited or unlimited), proprietorship, trust, union, association, Governmental Authority or any agency or political subdivision thereof or any other entity that may be treated as a person under Law.

“ **Portfolio Company Restructuring Documents** ” shall mean, with respect to a Sale Company, the restructuring-related agreements to which Sale Company was a party, relating to the privatization of the Portfolio Company from a U.S. stock exchange to its listing on Shenzhen Stock Exchange, including, without limitation, certain Share Transfer Agreements by and among Sale Company, certain Affiliates of the Portfolio Company in the PRC and the other parties thereto, a Joint Venture Operation Agreement dated April 2, 2015 by and among such Sale Company, Focus Media (China) Holding Limited and other parties thereto, a Joint Venture Operation Agreement dated April 29, 2015 by and among such Sale Company, Focus Media (China) Holding Limited and other parties thereto, and other ancillary documents.

“ **Portfolio Company Securities** ” shall mean the Ordinary Shares held by the Sale Company in the Portfolio Company which are more particularly detailed in Schedule D hereto.

“ **PRC** ” means the People’s Republic of China, but solely for the purposes of this Agreement excludes Hong Kong, Taiwan, and Macau.

“ **Pro-rata Share** ” means, with respect to each Purchaser, such proportion specified opposite its name in Schedule B.

“ **Prohibited Person** ” means any Person that is a target of or subject to any economic sanction administered by the United States government (including, without limitation, the Office of Foreign Assets Control of the U.S. Treasury Department (“ **OFAC** ”), U.S. Department of State, and U.S. Department of Commerce), the United Nations, the European Union, the United Kingdom, or any other relevant Governmental Authority. Without limiting the generality of the foregoing, Prohibited Persons includes (i) any Person named, or Affiliated with any Person named, on the United States Commerce Department’s Denied Parties List, Entities and Unverified Lists; the OFAC Specially Designated Nationals or Blocked Persons (“ **SDN** ”), Foreign Sanctions Evaders (“ **FSE** ”) and Sectoral Sanctions Identifications (“ **SSI** ”) lists; the Annex to Executive Order No. 13224; the Department of State’s Debarred List; (ii) a member of any PRC military organization; or (iii) any Person with whom business transactions, including exports and re-exports, are restricted by a U.S. Governmental Authority, including, in each clause above, any updates or revisions to the foregoing and any newly published rules.

“ **Public Official** ” means any (i) officers, employees, or other persons working in an official capacity on behalf of any Governmental Authority, including state-owned or state-controlled enterprises; (ii) political party representatives, political party officials, or candidates for political office; and (iii) officers, employees, or other persons working in an official capacity on behalf of any public international organization, such as the United Nations or the World Bank.

“ **Purchase Price** ” shall mean the aggregate consideration for the Sale Shares as set forth opposite Seller’s name under the heading “ **Purchase Price** ” in Schedule E of this Agreement.

“ **RMB** ” shall mean Renminbi, the official currency of the PRC.

“ **Sale Company Note** ” shall mean the non-negotiable promissory note dated August 28, 2015 of a principal amount of USD 1,286,963,666.71 issued by Sale Company as the maker to Seller as the payee.

“ **Sale Shares** ” means the shares in the share capital of Sale Company of Seller to be sold to the Purchasers pursuant to the terms of this Agreement and which are more particularly detailed in Schedule B hereto.

“ **Securities Trading Accounts** ” means all securities trading accounts in the name of Sale Company, which shall hold the Portfolio Company Securities at Closing, the details of which are set forth in Schedule D.

“ **Tax** ” or “ **Taxation** ” shall mean any national, state, local or municipal, or other tax (including any income tax and any fine, penalty, interest, cess and surcharges or addition to tax with respect thereto), in each case, imposed by a Governmental Authority.

“ **Tax Authority** ” means any taxing, fiscal or other authority in the PRC, Hong Kong, or any other jurisdiction competent to impose, collect or enforce any liability to Tax, including the Hong Kong Inland Revenue Department, and the State Administration of Taxation of the PRC and its local tax bureaus.

“ **Tax Returns** ” shall mean any return (including any information return), report, statement, declaration, estimate, schedule, notice, notification, transfer pricing certificate and documents relating thereto, form, election, certificate or other document or information filed with or submitted to, or required to be filed with or submitted to, any Governmental Authority in connection with the determination, assessment, collection or payment of any Tax or in connection with the administration, implementation or enforcement of or compliance of applicable Tax Law, including any amendment thereof or attachment thereto.

“ **USD** ” shall mean United States Dollars, the lawful currency of the United States of America.

## SHARE PURCHASE AGREEMENT

This SHARE PURCHASE AGREEMENT is made and entered into as of July 16, 2018 (the “**Effective Date**”) by and among:

- (1) **Alibaba Investment Limited**, a company incorporated under the laws of the British Virgin Islands (the “**Purchaser 1**”);
- (2) **New Retail Strategic Opportunities Fund, L.P.**, a limited partnership established under the laws of the Cayman Islands (the “**Purchaser 2**”); and
- (3) **Gio2 Cayman Holdings Ltd**, a company incorporated under the laws of the Cayman Islands (“**Seller**”) and **Gio2 Hong Kong Holdings Limited**, a company incorporated under the laws of Hong Kong (“**Sale Company**”).

Purchaser 1 and Purchaser 2 are hereinafter collectively referred to as the “**Purchasers**”, and each referred to as a “**Purchaser**”. The Purchasers, Seller, and Sale Company are hereinafter collectively referred to as the “**Parties**” and each a “**Party**”.

### WHEREAS :

- A. Sale Company holds certain Ordinary Shares in Focus Media Information Technology Co., Ltd., a public company established under the laws of the PRC whose shares are listed on the Shenzhen Stock Exchange with stock code 002027 (the “**Portfolio Company**”);
- B. The Purchasers have agreed to purchase from Seller, and Seller has agreed to sell to the Purchasers, pursuant to the terms and conditions hereof, the Sale Shares (as defined below);
- C. The Parties are entering into this Agreement to set forth the terms and conditions agreed between them in respect of the aforesaid transaction.

**NOW, THEREFORE**, in consideration of the mutual covenants, terms and conditions and understandings set forth in this Agreement, and for other good and valuable consideration, the sufficiency of which is acknowledged by the Parties, the Parties with the intent to be legally bound hereby covenant and agree as follows:

### 1. DEFINITIONS

- 1.1 **Definitions**. In addition to the terms defined in the recitals of and the text of this Agreement, the following terms used in this Agreement shall have the meanings ascribed to them in Schedule A attached hereto.

### 2. PURCHASE AND SALE OF THE SALE SHARES

**Purchase and Sale**. Subject to the terms and conditions set forth herein, Seller agrees to sell to each Purchaser, and each Purchaser agrees to purchase from Seller, such Purchaser’s Pro-rata Share of the Sale Shares for such Purchaser’s Pro-rata Share of the Purchase Price, in each case as set forth on Schedule B.

### 3. CLOSING

3.1 **Closing Date** . The Closing shall, subject to the satisfaction or waiver of the Conditions, take place at the office of Fangda Partners at 26/F, One Exchange Square, 8 Connaught Place, Central, Hong Kong, on August 15, 2018, or such other date as the Parties may mutually agree in writing (the “**Closing Date**”).

#### 3.2 **Closing Date Payments; Purchasers and Sellers’ Closing Date Deliverables.**

3.2.1 On the Closing Date, each Purchaser shall pay, or procure the payment of, its Pro-rata Share of the Purchase Price (and, if applicable, less its Pro-rata Share of stamp duty determined in accordance with Section 7.7.4), to the Seller by wire transfer of immediately available USD funds to an account designated by Seller, which shall be notified to the Purchasers in writing by no later than 5 Business Days prior to the Closing Date (“**Seller’s Account**”). Notwithstanding the foregoing, the Parties agree that upon the Purchasers providing evidence that they have given irrevocable bank payment instructions to the Seller’s Account for the payment of the Purchase Price (the “**Wiring Instructions**”), the Seller shall be obliged to perform its respective obligations at Closing (for the avoidance of doubt, actual receipt of the Purchase Price shall be necessary for the effectiveness of the Closing).

3.2.2 On the Closing Date, and subject to its receipt of copies of the Wiring Instructions in respect of its Purchase Price, (i) Seller shall deliver, or cause to be delivered, or make available, to each Purchaser each of the items listed in Part I of Schedule G, and (ii) each Purchaser shall deliver, or cause to be delivered, or make available, to Seller each of the items listed in Part II of Schedule G.

3.2.3 Seller shall, as soon as reasonably practicable and in any event by no later than three (3) Business Days after the receipt of the Purchase Price in full, issue an official receipt to the Purchasers.

### 4. CONDITIONS

4.1 The obligation of the Purchasers to consummate the Closing is subject to the fulfilment of the following conditions (the “**Purchaser Conditions**”), any of which may be waived by Purchaser 1:

4.1.1 Sale Company having issued and allotted new shares to Seller such that the total issued share capital of Sale Company shall at Closing be 1,000 (for the avoidance of doubt, all such issued and outstanding shares of Sale Company immediately prior to the Closing Date shall be deemed the Sale Shares under this Agreement);

4.1.2 Subject to Section 4.5, Seller having delivered to the Purchasers (i) the audited accounts of the Sale Company for the financial years ended 31 December 2016 and 31 December 2017 and for the six months ended 30 June 2018, each of which shall be covered by an unqualified opinion of one of the Big 4 Accountants that the financial statements of Sale Company give a true and fair view of the financial position, financial performance and cash flows of Sale Company as at and for the periods ending on the aforementioned dates (the “**Audited Accounts**”); and (ii) management accounts for the period from 1 July 2018 to the Closing Date (the “**Management Accounts**” and together with the Audited Accounts, the “**Accounts**”);

- 4.1.3 Seller and Sale Company having performed and complied with all obligations under this Agreement that are required to be performed or complied with by it on or before the Closing in all material respects; and
- 4.1.4 the Seller's Warranties remaining true and correct as of the Closing Date as though made on such date in all material respects.
- 4.2 The obligation of Seller to consummate the Closing is subject to the fulfillment of the following conditions (the "**Seller Conditions**", and together with Purchaser Conditions, the "**Conditions**"), any of which may be waived by Seller:
- 4.2.1 the Purchasers having performed and complied with all obligations under this Agreement that are required to be performed or complied with by each of them on or before the Closing Date in all material respects; and
- 4.2.2 the Purchasers' Warranties remaining true and correct as of the Closing Date as though made on such date in all material respects.
- 4.3 Purchaser 1 may, at any time, waive in whole or in part any of the Purchaser Conditions by written notice to the Seller and Seller may, at any time, waive in whole or in part any of its Seller Conditions by written notice to Purchaser 1.
- 4.4 Subject to Section 4.5, if, in respect of the Closing, Seller, on one hand, or the Purchasers, on the other hand, fail(s) to comply on the Closing Date with any obligation in Section 3.2 and/or Schedule G, the non-defaulting Party shall be entitled (in addition to and without prejudice to all other rights and remedies available, including the right to claim damages) by written notice to such defaulting Party to effect Closing so far as reasonably practicable having regard to the defaults which have occurred, or to fix a new date for Closing which is no later than reasonably necessary for such defaulting Party to remedy such default and in any event no later than thirty (30) calendar days following the original Closing Date, in which case the provision of Section 3.2 and/or Schedule G shall apply to the Closing as so deferred *provided* that such deferral may only occur once.
- 4.5 Notwithstanding anything to the contrary in this Agreement, if, on the Closing Date, Seller is unable to or fails to deliver the Accounts, Seller shall be entitled to, by written notice to Purchasers, to fix a new date for Closing, at its discretion, which is no later than reasonably necessary for Seller to deliver all of the Accounts and in any event no later than thirty (30) calendar days following the original Closing Date, *provided* that such deferral may only occur once.



5. **TERM AND TERMINATION**

5.1 **Term** . The Parties hereby agree that this Agreement shall be effective as of the Effective Date and shall remain valid and binding on the Parties unless terminated by mutual consent in writing by Seller and Purchaser 1.

6. **WARRANTIES**

6.1 **Seller's Warranties** . Seller hereby warrants to each Purchaser that the statements set forth in Schedule H (the "**Seller's Warranties** ") are true and correct as of the Effective Date and immediately prior to Closing.

6.2 **Purchaser's Warranties** . Each Purchaser hereby severally, and not jointly and not jointly and severally, warrants to Seller that the statements set forth in Schedule I (the "**Purchasers' Warranties** ") are true and correct as of the Effective Date and immediately prior to Closing.

7. **CERTAIN COVENANTS**

7.1 **Pre-Closing obligations**

Seller undertakes to procure that between the Effective Date and Closing, Sale Company shall not, without the prior written consent of the Purchasers, enter into any transaction (including but not limited to the disposal of any assets) or pass any shareholders or board resolutions or take any action other than as contemplated under this Agreement (including but not limited to the pre-Closing actions referred to in Section 4.1, Section 7.6 and any other actions reasonably necessary in order to satisfy the Purchaser Conditions as contemplated herein) or otherwise as reasonably required to maintain its corporate existence (including but not limited to the filing of Tax returns in accordance with Law).

7.2 **Reserved.**

7.3 **Reserved .**

7.4 **PRC Transfer Taxes and Pre-Closing Taxes .**

7.4.1 Seller acknowledge that it is required to pay certain taxes pursuant to the Tax notice issued by the PRC State Administration of Taxation titled the "State Administration of Taxation's Bulletin on Several Issues of Enterprise Income Tax on Income Arising from Indirect Transfers of Property by Non-resident Enterprises (State Administration of Taxation Bulletin [2015] No. 7)", as may be amended or supplemented from time to time ("**Announcement 7** ") arising from a sale of the Sale Shares as required pursuant to Announcement 7 or such other Taxes shown as due and owing on any return in respect of Announcement 7 (the "**PRC Withholding Taxes** "), to the relevant governmental authorities. Seller further acknowledges that the Purchasers shall have no obligation to pay any Tax of any nature that is required by applicable Laws to be paid by Seller or any of its Affiliates or any of its direct and indirect partners, members and shareholders arising out of the transactions contemplated by this Agreement (other than, for the avoidance of doubt, any stamp duty payable in accordance with Section 7.7).

- 7.4.2 Seller shall, as soon as reasonably practicable and in any event within thirty (30) days after the Effective Date, engage at its own cost and expense, any one of the Big 4 Accountants as its filing agent (the “**Filing Agent**”), to duly and properly make with the competent PRC Tax Authority the relevant Tax filings and disclosures that are required under applicable Laws (including Announcement 7) in connection with the sale and purchase of the Sale Shares contemplated by this Agreement, and shall, name the Purchasers as joint applicants in respect of such filing (for the avoidance of doubt, none of the filing documents shall require the approval or execution by the Purchasers and provided that naming the Purchasers as joint applicants will not result in the filing documents (or any subsequent submissions) having to require the approval or execution by the Purchasers). As soon as reasonably practicable after such filing, the Seller shall deliver to Purchaser 1 a copy of the acknowledgement of receipt in respect of such filing issued by the relevant PRC Tax Authority. Neither any Purchaser nor its Affiliates shall make any filings or disclosures with the competent PRC Tax Authority or otherwise communicate with any competent PRC Tax Authority in respect of the matters contemplated by this Agreement or any other matters relating to Seller’s Tax liabilities, without the prior written consent of Seller, unless (a) requested by a PRC Tax Authority, or (b) Seller has breached any of its obligations under this Section 7.4 (provided Purchasers have provided Seller prior written notice of any such breach).
- 7.4.3 The Seller shall cause the Filing Agent to, on a monthly basis, give the Purchasers an update as to any development or progress in the assessment of any Taxes arising from Announcement 7 by the relevant PRC Tax Authority. Without prejudice to the foregoing, if the Seller or any of its Affiliates receives any notice or demand from any PRC Tax Authority in respect of the filing in relation to any matter set out in this Section 7.4, the Seller shall, as promptly as practicable provide a true and complete copy of such notice or demand to the Purchasers.
- 7.4.4 Seller shall provide to the Purchasers with a copy of the official tax payment notice issued by the PRC Tax Authority, or other reasonable evidence of the PRC Tax Authority’s acceptance or confirmation of the Tax amount payable by Seller under Announcement 7 (the “**Tax Assessment Notice**”) as soon as reasonably practicable upon its receipt of such Tax Payment Notice. Seller shall, as soon as reasonably practicable after the assessment and final determination of Tax by the competent PRC Tax Authority pursuant to such Tax Assessment Notice, settle in full the payment of the Tax so assessed and finally determined as due and payable by Seller under Announcement 7 in connection with the sale and purchase of the Sale Shares contemplated by this Agreement (“**Announcement 7 Tax Amount**”) within the specified time period, and provide to the Purchasers evidence and supporting documents of the settlement and payment of such Announcement 7 Tax Amount (the “**Tax Payment Certificate**”).

7.5 **Indemnity .**

- 7.5.1 Following the Closing, Seller shall indemnify and hold harmless the Purchasers, the Sale Companies, their respective Affiliates and any of their agents, directors, officers, and employees (the “**Purchaser Indemnitees**”) against any (a) Losses or Taxes imposed on any Purchaser or Sale Company arising with respect to the transactions contemplated under this Agreement as a result of Seller’s failure to pay Taxes finally determined in respect of Announcement 7 (including without limitation Losses or Taxes in connection with the Sale Shares being assessed as having a tax basis in the hands of the Purchasers which is lower than the Purchase Price solely as a result of Seller’s failure to pay Taxes in respect of Announcement 7 in accordance with this Agreement), (b) Losses or Taxes of Sale Company for all taxable periods (or portions thereof) ending on or before the Closing Date, (c) Losses or Taxes (including any Taxes as result of Announcement 7) arising from any transaction of Sale Company effected on or prior to the Closing Date, and (d) Losses arising from failure of the Sale Company to comply with sections 430 and 431 of the Companies Ordinance (Chapter 622 of the Laws of Hong Kong).
- 7.5.2 Notwithstanding anything to the contrary in this Agreement, and other than in respect of fraud by Seller, Seller’s total liability to the Purchaser Indemnitees for all claims or Losses for all matters arising under or in connection with this Agreement shall not exceed in the aggregate, an amount equal to the Purchase Price actually received by Seller in respect of the Sale Shares.

7.6 **Deposit Amounts .**

- 7.6.1 The Parties hereby acknowledge that as at the Effective Date, Sale Company maintains one or more RMB-denominated cash deposit bank accounts in the PRC with a financial institution in the PRC (each, a “**RMB Bank Account**”), one or more USD-denominated cash deposit accounts in Hong Kong with a financial institution in Hong Kong (each a “**HK Bank Account**”) and/or one or more USD-denominated cash deposit accounts in Hong Kong with a financial institution in the United States (each a “**US Bank Account**”, and together with the RMB Bank Accounts and the HK Bank Accounts, the “**Bank Accounts**”), the details of which are set forth in Schedule F. The total cash balance in each Bank Account as of the Effective Date (except as otherwise noted therein) is set forth in Schedule F.
- 7.6.2 The Parties hereby acknowledge and agree that (i) to the extent not remitted out of the following accounts prior to the Closing Date, the total cash in the RMB Bank Accounts of the Sale Company as of the Closing Date, including any interest earned prior to, on and after the Closing Date (such amount, the “**RMB Deposit Amount**”), the total cash in the HK Bank Account of the Sale Company as of the Closing Date, including any related interest earned prior to, on and after the Closing Date (such amount, the “**HK Deposit Amount**”) and the total cash in the US Bank Account of the Sale Company as of the Closing Date, including any related interest earned prior to, on and after the Closing Date (such amount, the “**US Deposit Amount**”) and together with the RMB Deposit Amount, the “**Deposit Amounts**”) are expressly excluded from, and shall not be deemed to be part of, the purchase and sale of the Sale Shares contemplated under this Agreement, (ii) the Deposit Amounts of the Sale Company are beneficially owned by Seller, and (iii) the Sale Company agrees to, and the Purchaser agrees to cause the Sale Company to, hold such Deposit Amounts in trust for the benefit of Seller and (iv) without the prior written consent of Seller, the Purchaser will not claim, use, transfer, dispose of or otherwise exploit the Deposit Amounts or set off or cause to be set off any other amount or obligation that may be owed to any Purchaser or otherwise against the Sale Company’s RMB Deposit Amount, HK Deposit Amount, the US Deposit Amount or the Remitted Funds.

- 7.6.3 The Sale Company shall, at the expense and commercially reasonable direction of Seller, seek any applicable PRC tax and regulatory approvals required to effect the conversion and remittance of the Remitted Funds (as defined below) to the applicable Seller and, as promptly as legally permissible and practicable (unless otherwise instructed in writing by the relevant Seller), from time to time in one or more transactions, (i) convert the RMB Deposit Amount into USD (at such time and at such applicable exchange rates as instructed by Seller), and remit such funds to the US Bank Account of the Sale Company, and (ii) thereafter cause such funds and all funds in Sale Company's HK Bank Account and the existing funds in Sale Company's US Bank Account (collectively, the "**Remitted Funds**") to be paid to Seller, in each case until all of the Deposit Amounts has been remitted to Seller. Prior to Closing, the Sale Company shall have declared a dividend in the amount of the Deposit Amounts for distribution to Seller after the Closing subject to actual receipt of the Remitted Funds in accordance with this Section 7.6 (the "**Dividend Payment**") by passing a resolution in a form to be approved by the Purchaser (which approval shall not be unreasonably withheld or delayed) prior to Closing.
- 7.6.4 In furtherance of, but without limiting the generality of, the foregoing, the nominees of Seller shall remain as authorized signatories of its Bank Accounts, it being intended and agreed by the Parties that Seller shall retain control in respect of the operation of, deposit of funds to, payment of items from, withdrawal of funds from (including, without limitation, the timing of, and any applicable exchange rates to be applied, in connection with any such withdrawals), disposition of funds on deposit in or other transactions and matters related to or associated with, its Bank Accounts and the Deposit Amounts, provided that such nominees shall, and Seller shall procure its nominees to, comply with all applicable Laws at all times. At the Closing, the Sale Company shall, subject to applicable bank requirements and in furtherance of ensuring payment of the Dividend Payable, (i) cause the authorized signatory(ies) of its HK Bank Account and US Bank Account sign one or more payment instructions (to be acknowledged by the Purchaser) in a form to be approved by the Purchaser prior to Closing (which approval shall not be unreasonably withheld or delayed) ("**Remitted Funds Payment Instructions**"), pursuant to which the Sale Company shall instruct the financial institution at which the Sale Company has its HK Bank Account and US Bank Account to remit by wire transfer any Remitted Funds from time to time standing to the credit of its HK Bank Account and US Bank Account to Seller and (ii) enter into with Seller and financial institution a deed of assignment and/or any other agreement at the reasonable written request of Seller (in each case to be also entered into and acknowledged by the Purchaser) in a form to be approved by the Purchasers (which approval shall not be unreasonably withheld or delayed) prior to Closing, pursuant to which the Sale Company shall assign the balance from time to time standing to the credit of its RMB Bank Accounts, HK Bank Account and US Bank Account to Seller as security for the payment of the applicable Remitted Funds to Seller until all of the Sale Company's Deposit Amounts has been remitted to Seller ("**Deed of Assignment**"). The Purchasers shall, upon the reasonable written request of Seller, do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, in order to carry out the intent and accomplish the purposes of this Section 7.6. Seller agrees that it will exercise its power as the authorized signatory of the Sale Company's RMB Bank Accounts, HK Bank Account and US Bank Account, and exert its control over the Sale Company's RMB Deposit Amount, HK Deposit Amount and US Deposit Amount, in all events in accordance with applicable Law and this Section 7.6.

- 7.6.5 The Purchasers agree that, until all of the Sale Company's Deposit Amounts have been remitted to Seller in accordance with this Section 7.6, they shall not, and shall cause the Sale Company (on or after the Closing) not to, (i) directly or indirectly, take possession of, take control of, use, dispose of, deal with or otherwise exploit any RMB Deposit Amount, HK Deposit Amount, US Deposit Amount or Remitted Funds, or set off or cause to be set off any other amount or obligation that may be owed to any Purchaser or otherwise against the Sale Company's RMB Deposit Amount, HK Deposit Amount, US Deposit Amount or Remitted Funds; (ii) withdraw, revoke, invalidate, deny or otherwise refuse to acknowledge the Dividend Payable, the Remitted Funds Payment Instructions or the Deed of Assignment or act pursuant to such Remitted Funds Payment Instructions or Deed of Assignment; or (iii) agree to any waiver or amendment of the terms of which any Bank Account of the Sale Company is maintained.
- 7.6.6 As soon as reasonably practicable following completion of the remittance of the Sale Company's Deposit Amounts to Seller, Seller shall, and shall cause its nominees to, do such things as are necessary to close the Bank Accounts of Sale Company.
- 7.6.7 Seller shall pay (or reimburse Purchasers, if applicable) all fees, charges, costs, and expenses incurred in connection with its Bank Accounts, whether chargeable by the applicable bank or any other third party, including but not limited to the transactions contemplated under this Section 7.6. Seller shall indemnify and hold harmless the Purchasers and the Sale Company from and against all Losses as a result of any transactions performed (or requested by Seller to be performed) by the Purchaser in accordance with the terms of this Section 7.6.

7.7 **Stamp Duty .**

- 7.7.1 The Purchasers (in their Pro Rata Share), on the one hand, and Seller, on the other hand, shall be equally responsible for the stamp duty payable to the Hong Kong Inland Revenue Department, if any, in connection with the purchase and sale of the Sale Shares.
- 7.7.2 On or before the close of the Business Day immediately following Closing, the Purchasers shall submit the original instruments of transfer and bought and sold notes in respect of the Sale Shares to the Hong Kong Inland Revenue Department for adjudication of stamp duty and Purchasers on the one hand, and Seller on the other hand, shall to the extent reasonable cooperate with the other with respect to the preparation and filing of the relevant documents for stamping original instruments of transfer and bought and sold notes in respect of such Sale Shares as may be required.
- 7.7.3 Following such time the Hong Kong Inland Revenue Department has assessed the stamp duty payable to the Hong Kong Inland Revenue Department, if any, in connection with the purchase and sale of the Sale Shares, the Purchasers (in their Pro Rata Share), on the one hand, and Seller, on the other hand, shall pay their respective portion of the stamp duty as soon as reasonably practicable upon such assessment by issuing a cheque in favour of “The Government of the Hong Kong Special Administrative Region”, and in any event within the time period required by the Hong Kong Inland Revenue Department.
- 7.7.4 Prior to Closing, the Purchasers and Seller may mutually agree on a preliminary estimate of the minimum amount of Seller’s portion of the stamp duty payable, and mutually agree to deduct such amount from the Purchase Price otherwise payable to Seller, provided that the Purchasers use such deducted amount for payment, on Seller’s behalf, of the corresponding amount of Seller’s portion of the stamp duty payable.

7.8 **Holding of Estimated Announcement 7 Tax Amount .**

- 7.8.1 Seller agrees to, on and from Closing, hold and retain, from the Remitted Funds actually remitted to and received by the Seller in accordance with Section 7.6.3 and/or from the Purchase Price received by the Seller, an amount equal to the Estimated Announcement 7 Tax Amount until such time as provided in this Section 7.8, in one or more USD-denominated bank account(s) of Seller.
- 7.8.2 For purposes of this Agreement, “ **Estimated Announcement 7 Tax Amount** ” means an amount equal to USD 25,820,597.86.

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- 7.8.3 (a) Upon delivery of the Tax Assessment Notice to the Purchasers pursuant to Section 7.4.4, Seller shall be entitled to release up to the full amount of the Estimated Announcement 7 Tax Amount from its banks account(s) provided that such amount is used solely for the payment of the Announcement 7 Tax Amount pursuant to Section 7.4.4 and (b) upon delivery of the Tax Payment Certificate to the Purchaser, the balance, if any, may be released by Seller.
- 7.8.4 Seller shall provide monthly bank account statements in respect of the Estimated Announcement 7 Tax Amount being held in such accounts pursuant to this Section 7.8.

**8. CONFIDENTIAL INFORMATION**

- 8.1 Unless otherwise permitted under this Section 8, no Party shall, without the other Parties’ prior written consent (not to be unreasonably withheld, conditioned or delayed), disclose:
- 8.1.1 the existence or terms of this Agreement;
- 8.1.2 the business, financial or other affairs (including future plans and targets) of any Seller or Sale Company; or
- 8.1.3 any discussions or negotiations with regard to this Agreement, (the “ **Confidential Information** ”).
- 8.2 No Party shall use the other Parties’ Confidential Information except to the extent necessary or required to perform this Agreement.
- 8.3 Disclosure of Confidential Information may be made to a Party’s officers, employees, contractors, professional advisers, consultants and other agents if such disclosure is reasonably necessary to advise on this Agreement and the transaction as a whole, on the condition that the disclosing Party is responsible for procuring that the relevant third party complies with its obligations under this Section 8.
- 8.4 Disclosure of Confidential Information may be made by any Purchaser or any Seller to its respective Affiliates and in the case of Seller, Seller’s Affiliates, for the purpose of this Section 8 include, the investors of the funds advised or managed by Seller’s Affiliates, limited partners or any of its or its Affiliates’ or limited partners’ respective officers, employees, contractors, professional advisers, consultants and other agents in connection with the transactions contemplated by this Agreement, on the condition that the disclosing Party is responsible for procuring that the relevant third party complies with its obligations under this Section 8.
- 8.5 The obligations of confidentiality under this Section 8 do not apply to information which is:
- 8.5.1 publicly available, other than as a result of a breach of this Agreement;



- 8.5.2 lawfully available to a Party from a third party who was not subject to any confidentiality restriction prior to the disclosure of such Confidential Information; or
- 8.5.3 required to be disclosed by Law, regulation or by Order or ruling of a court or administrative body of a competent jurisdiction or by the rules of a recognized stock exchange or any regulatory body to which any Party submits (but in which case to the absolute minimum necessary) provided that the disclosing Party shall use its best endeavors, to the extent permitted to do so by Law, the court or the authority requiring disclosure, to first consult fully with the other Parties to which the Confidential Information relates to establish whether and, if so, how far it is possible to prevent or restrict such enforced disclosure and, at the other Parties' expense, take all steps as it may require to achieve prevention or restriction.
- 8.6 The confidentiality obligations contained in this Section 8 shall survive Closing and shall remain in effect and be binding on each Party for a period of two (2) years after the earlier of Closing and termination of this Agreement.
- 8.7 **Press Release** . No Party shall make or issue any formal or informal public announcement or press release which makes reference to the consummation of the transactions contemplated under, or the terms and conditions of, this Agreement or any of the matters referred to herein or therein, including the discussion between the Parties, without the prior written consent of the other Parties.
- 9. MISCELLANEOUS**
- 9.1 **Notices** . All notices, waivers and other communications given or made pursuant hereto (“**Notices**”) shall be in writing and shall be deemed effectively given: (i) upon actual delivery at the address of the Party to be notified, *provided* that it is delivered in person or by reputable international courier, (ii) when sent by electronic mail, without any delivery failure or similar error message, between 9:00 a.m. and 5:30 p.m. on a Business Day (and if not sent during such period, then delivery shall be deemed to have occurred as of 9:00 a.m. on the next Business Day); or (iii) when sent by facsimile transmission to the Party to be notified between 9:00 a.m. and 5:30 p.m. on a Business Day (and if not sent during such period, then delivery shall be deemed to have occurred as of 9:00 a.m. on the next Business Day), *provided* that the sender has received a receipt indicating proper transmission. The occurrence of any event set forth in sub-clause (i), (ii) or (iii) above shall constitute “delivery” of notice under this Agreement. All notices and other communications shall be sent to the Parties pursuant to the contact information provided in Schedule C (or to such amended contact information of a Party that is duly notified in writing by such Party giving five (5) Business Days' notice to the other Party).



9.2 **Further Assurances** .

Each of the Parties to this Agreement shall from time to time execute and deliver all such further documents and do all acts and things as the other Parties may reasonably require to effectively carry out the full intent and meaning of this Agreement and to complete the transactions contemplated hereunder.

9.3 **Amendments** . No modification or amendment to this Agreement shall be valid or binding unless made in writing and duly executed by Seller and Purchaser 1.

9.4 **Assignment** .

This Agreement and the rights and obligations hereunder shall bind and inure to the benefit of the respective successors by operation of Law or permitted assigns of the Parties. A Party shall not assign or transfer any of its rights and obligations hereunder to any other Person without the prior written consent of the other Parties.

9.5 **Waiver of Rights** . A delay in exercising, or failure to exercise, any right or remedy under this Agreement does not constitute a waiver of such or other rights or remedies nor will operate so as to bar the exercise or enforcement thereof nor will be treated as an affirmation of this Agreement. No single or partial exercise of any right or remedy under this Agreement will prevent further or other exercise of such or other rights or remedies. Any provision of this Agreement may be waived if, and only if, such waiver is in writing and signed by the Party against whom the waiver is to be effective.

9.6 **Specific Performance** . This Agreement shall be specifically enforceable at the instance of any Party. The Parties agree that a non-defaulting Party may suffer immediate, material, immeasurable, continuing and irreparable damage and harm in the event of any material breach of this Agreement and the remedies at Law in respect of such breach may be inadequate and that such non-defaulting Party shall be entitled to seek specific performance against the defaulting Party for performance of its obligations under this Agreement in addition to any and all other legal or equitable remedies available to it.

9.7 **Governing Law and Dispute Resolution** .

9.7.1 This Agreement shall be governed and construed in accordance with the laws of Hong Kong without giving effect to its conflict of law principles.

9.7.2 Any dispute, controversy or claim arising out of or in connection with this Agreement, including any question regarding its existence, validity, interpretation, breach or termination shall be referred to and finally resolved by arbitration at the Hong Kong International Arbitration Centre (“**HKIAC**”) in accordance with the HKIAC Administered Arbitration Rules (“**Rules**”), which Rules are deemed to be incorporated by reference into this section.

9.8 **Entire Agreement** . This Agreement constitutes the entire agreement between the Parties hereto relating to the subject matter hereof. It supersedes any and all other agreements and term sheets, either oral, implied or in writing, between the Parties with respect to the subject matter herein.

- 9.9 **Costs and Expenses** . Except as otherwise provided herein, each Party shall bear its own expenses, including legal costs, incurred in preparing this Agreement and in relation to the transactions contemplated in this Agreement.
- 9.10 **Partial Invalidity** . If any provision of this Agreement or the application thereof to any Person or circumstance shall be invalid or unenforceable to any extent for any reason including by reason of any Law, the remainder of this Agreement and the application of such provision to persons or circumstances other than those which are held to be invalid or unenforceable shall not be affected thereby, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by Law. Any invalid or unenforceable provision of this Agreement shall be replaced with a provision which is valid and enforceable and most nearly reflects the original intent of the unenforceable provision.
- 9.11 **Counterparts** . This Agreement may be executed in any number of counterparts, including by electronic delivery and portable document format (.pdf), and all such counterparts taken together shall be deemed to constitute one and the same instrument.
- 9.12 **No Third Party Beneficiaries** . This Agreement shall be binding upon and inure solely to the benefit of, and be enforceable by, only the Parties and their respective successors by operation of Law and permitted assigns. A Person who is not a party to this Agreement shall have no right under the Contracts (Rights of Third Parties) Ordinance (Chapter 623 of the Laws of Hong Kong) to enforce any of its terms.
- 9.13 **Time of the Essence** . Time is of the essence in the performance of the Parties' respective obligations hereunder and all dates and times specified in this Agreement shall be strictly enforced. If any time period specified herein is extended, such extended time shall also be of the essence.
- 9.14 **Several Obligations** . The Parties acknowledge and agree that, for the avoidance of doubt:
- 9.14.1 unless otherwise stated in this Agreement, the obligations of each Purchaser in this Agreement are several from the obligations of the other Purchaser, and the failure of a Purchaser to satisfy of its respective obligations shall not affect the obligations of the other Parties to this Agreement; and
- 9.14.2 notwithstanding anything to the contrary in this Agreement, Purchaser 1 hereby unconditionally and irrevocably guarantees to Seller the punctual performance by Purchaser 2 of all of its obligations under this Agreement and undertakes to Seller that (i) whenever Purchaser 2 does not pay or cause to be paid any amount when due under this Agreement, Purchaser 1 shall immediately on first demand pay such amount as if it was the principal obligor, and (ii) whenever Purchaser 2 fails to perform or cause to be performed its other obligations under this Agreement, Purchaser 1 shall immediately on demand perform (or procure performance of) and satisfy (or procure the satisfaction of) that obligation, so that the same benefits are conferred on Seller as it would have received if such obligation had been performed and satisfied by Purchaser 2. The guarantee under this Section 9.14.2 is a continuing guarantee and will extend to the ultimate balance of sums payable by Purchaser 2 under this Agreement, regardless of any intermediate payment or discharge. Purchaser 1 waives any right which it may have to first require Seller to proceed against the Purchaser 2 before claiming from Purchaser 1 under this Section 9.14.2.

9.15 **Waiver of Conflicts; Privilege .**

- 9.15.1 Each of the Parties acknowledges and agrees that Goodwin Procter LLP and its affiliated firms (“ **Goodwin** ”) has acted as counsel to Seller and, as of immediately prior to Closing, the Sale Company in connection with the negotiation of this Agreement and consummation of the transactions contemplated hereby.
- 9.15.2 Each of the Purchasers hereby consents and agrees to, and agrees to cause Sale Company to consent and agree to, Goodwin representing Seller after the Closing, including with respect to disputes in which the interests of Seller may be directly adverse to either Purchaser (including Sale Company), even though Goodwin may have represented Sale Company in a matter substantially related to any such dispute, or may be handling ongoing matters for Sale Company. Each of the Purchasers further consents and agrees to, and agrees to cause Sale Company to consent and agree to, the communication by Goodwin to Seller in connection with any such representation of any fact known to Goodwin arising by reason of Goodwin’s prior representation of Sale Company.
- 9.15.3 In connection with the foregoing, each of the Purchasers hereby irrevocably waives and agrees not to assert, and agrees to cause Sale Company to irrevocably waive and not to assert, any conflict of interest arising from or in connection with (i) Goodwin’s prior representation of Sale Company, and (ii) Goodwin’s representation of Seller, in each case both prior to and after the Closing.
- 9.15.4 Each of the Purchasers further agrees, on behalf of itself and, after the Closing, on behalf of Sale Company, that all communications in any form or format whatsoever between or among any of Goodwin, Sale Company, and/or Seller, or any of their respective directors, officers employees or other representatives that relate in any way to the negotiation, documentation and consummation of the transactions contemplated by this Agreement or any dispute arising under this Agreement (collectively, the “ **Deal Communications** ”) shall be deemed to be retained and owned and controlled collectively by Seller and shall not pass to or be claimed by either Purchaser or Sale Company. All Deal Communications that are attorney-client privileged shall remain privileged after the Closing and the privilege and the expectation of client confidence relating thereto shall belong solely to Seller, shall be controlled by the Seller and shall not pass to or be claimed by either Purchaser or Sale Company.

*[Remainder of page intentionally left blank]*

**IN WITNESS WHEREOF** , the Parties have each caused this Agreement to be duly executed and delivered on the Effective Date.

**PURCHASER 1**

**Alibaba Investment Limited**

By: /s/ Timothy Alexander Steinert

Name: Timothy Alexander Steinert

Title: Director

[Signature Page to Share Purchase Agreement]

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IN WITNESS WHEREOF, the Parties have each caused this Agreement to be duly executed and delivered on the Effective Date.

**PURCHASER 2**

**New Retail Strategic Opportunities Fund, L.P.**

By:  \_\_\_\_\_  
New Retail Strategic Opportunities Fund GP, L.P., its General Partner

[Signature Page to Share Purchase Agreement]

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**SELLER**

**Gio2 Cayman Holdings Ltd**

By: /s/ Brian Lee

Name: Brian Lee

Title: Director

**SALE COMPANY**

**Gio2 Hong Kong Holdings Limited**

By: /s/ Brian Lee

Name: Brian Lee

Title: Director

[Signature Page to Share Purchase Agreement]

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**SCHEDULE A**

**SCHEDULE OF DEFINITIONS**

“ **Affiliate** ” shall mean, with respect to any Person, any company, corporation, association or other Person, which, directly or indirectly, Controls, is Controlled by, or is under common Control with, such Person. The Parties agree that without limitation to the foregoing, the Purchaser’s Affiliates shall include any funds managed or advised by a Purchaser or any of its Affiliates;

“ **Agreement** ” shall mean this Share Purchase Agreement, as amended from time to time, together with the recitals and any Schedules attached hereto.

“ **Anti-Corruption Laws** ” means laws or regulations relating to anti-bribery or anti-corruption that apply to the business and dealings of Seller and/or Sale Company (as applicable) including, without limitation, the U.S. Foreign Corrupt Practices Act of 1977, as amended, and the UK Bribery Act of 2010;

“ **Big 4 Accountants** ” means any one of Deloitte Touche Tohmatsu, Ernst & Young, KPMG and PricewaterhouseCoopers or their respective PRC domestic Affiliates;

“ **Business Day** ” shall mean a day (other than a Saturday, a Sunday or a public holiday) on which commercial banks are open for business in the Cayman Islands, the PRC, Hong Kong and the State of New York.

“ **Closing** ” shall mean the completion of the sale and purchase of the Sale Shares in respect of Sale Company by the performance by the Parties of their respective obligations in accordance with Section 3 .

“ **Consent** ” means any consent, approval, authorization, release, waiver, permit, grant, concession, agreement, license, exemption or order of, registration, certificate, declaration or filing with, or report or notice to, any Person, including any Governmental Authority.

“ **Control** ” (including with correlative meaning, the terms “ **Controls** ”, “ **Controlled by** ” and “ **under common Control with** ”) shall mean with respect to a Person (i) the ownership or control of more than 50% (fifty percent) of the voting rights or of the issued share capital (or comparable equity interests) of such Person, (ii) the right to appoint and/or remove all or the majority of the members of the board or other governing body of such Person, or (iii) the power to direct or cause the direction of the management, and exercise significant influence on the management or policies of such Person, in each case whether such ownership, control, right or power is obtained or exercised directly or indirectly, acting alone or together with another Person, and whether obtained by ownership of share capital, the possession of voting rights, through contract, pursuant to applicable Law or otherwise.

“ **DBS Financing Documents** ” shall mean, with respect to a Sale Company, the financing-related agreements to which such applicable Sale Company was a party, relating to the provision of debt financing by DBS Bank Ltd. and its Affiliates (“ **DBS** ”) to an Affiliate of the Portfolio Company and the granting of security by Sale Company to DBS in respect of such debt financing, including, without limitation, a Debenture dated April 30, 2015 executed by Sale Company in favour of DBS, and other ancillary documents.

“ **Encumbrance** ” means any mortgage, claim, charge (fixed or floating), pledge, lien, hypothecation, guarantee, right of set-off, trust, assignment, right of first refusal, right of pre-emption, option, restriction or other encumbrance or any legal or equitable third party right or interest including any security interest of any kind or any type of preferential arrangement (or any like agreement or arrangement creating any of the same or having similar effect);

“ **Governmental Authority** ” means any nation or government or any federation, province or state or any other political subdivision thereof; any entity, authority or body exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, including any government authority, agency, department, board, commission or instrumentality of the PRC, Hong Kong or any other country, or any political subdivision thereof, any court, tribunal or arbitrator, and any self-regulatory organization;

“ **Knowledge** ” shall mean the knowledge of a Person, after making reasonable and due inquiry.

“ **Law** ” shall mean all statutes, enactments, acts of legislature or parliament, laws, ordinances, rules, bye-laws, regulations, notifications, guidelines, policies, directions, directives, interpretation of, or agreements with, any Governmental Authority and Orders and, if applicable, international treaties and regulations, in each case as amended from time to time.

“ **Losses** ” shall mean all claims, losses, liabilities, damages, costs and expenses, including, without limitation, reasonable attorneys’ fees; *provided*, that (i) Losses shall not include special damages or punitive damages, and (ii) for purposes of computing Losses, there shall be deducted an amount equal to the amount of any reimbursements and any Tax benefits, received or receivable in connection with such Losses or the circumstances giving rise thereto.

“ **Order** ” shall mean any order, injunction, judgment, decree, ruling, writ, assessment or award of a court, arbitration body or panel or other any Governmental Authority.

“ **Ordinary Shares** ” shall mean ordinary shares of the Portfolio Company.

“ **Person** ” shall mean any natural person, limited or unlimited liability company, corporation, partnership (whether limited or unlimited), proprietorship, trust, union, association, Governmental Authority or any agency or political subdivision thereof or any other entity that may be treated as a person under Law.

“ **Portfolio Company Restructuring Documents** ” shall mean, with respect to a Sale Company, the restructuring-related agreements to which such applicable Sale Company was a party, relating to the privatization of the Portfolio Company from a U.S. stock exchange to its listing on Shenzhen Stock Exchange, including, without limitation, certain Share Transfer Agreements by and among Sale Company, certain Affiliates of the Portfolio Company in the PRC and the other parties thereto, a Joint Venture Operation Agreement dated April 2, 2015 by and among Sale Company, Focus Media (China) Holding Limited and other parties thereto, a Joint Venture Operation Agreement dated April 29, 2015 by and among Sale Company, Focus Media (China) Holding Limited and other parties thereto, and other ancillary documents.

“ **Portfolio Company Securities** ” shall mean the Ordinary Shares held by the Sale Company in the Portfolio Company which are more particularly detailed in Schedule D hereto.

“ **PRC** ” means the People’s Republic of China, but solely for the purposes of this Agreement excludes Hong Kong, Taiwan, and Macau.

“ **Pro-rata Share** ” means, with respect to each Purchaser, such proportion specified opposite its name in Schedule B.

“ **Prohibited Person** ” means any Person that is a target of or subject to any economic sanction administered by the United States government (including, without limitation, the Office of Foreign Assets Control of the U.S. Treasury Department (“ **OFAC** ”), U.S. Department of State, and U.S. Department of Commerce), the United Nations, the European Union, the United Kingdom, or any other relevant Governmental Authority. Without limiting the generality of the foregoing, Prohibited Persons includes (i) any Person named, or Affiliated with any Person named, on the United States Commerce Department’s Denied Parties List, Entities and Unverified Lists; the OFAC Specially Designated Nationals or Blocked Persons (“ **SDN** ”), Foreign Sanctions Evaders (“ **FSE** ”) and Sectoral Sanctions Identifications (“ **SSI** ”) lists; the Annex to Executive Order No. 13224; the Department of State’s Debarred List; (ii) a member of any PRC military organization; or (iii) any Person with whom business transactions, including exports and re-exports, are restricted by a U.S. Governmental Authority, including, in each clause above, any updates or revisions to the foregoing and any newly published rules.

“ **Public Official** ” means any (i) officers, employees, or other persons working in an official capacity on behalf of any Governmental Authority, including state-owned or state-controlled enterprises; (ii) political party representatives, political party officials, or candidates for political office; and (iii) officers, employees, or other persons working in an official capacity on behalf of any public international organization, such as the United Nations or the World Bank.

“ **Purchase Price** ” shall mean the aggregate consideration for the Sale Shares as set forth opposite Seller’s name under the heading “ **Purchase Price** ” in Schedule E of this Agreement.

“ **RMB** ” shall mean Renminbi, the official currency of the PRC.

“ **Sale Shares** ” means the shares in the share capital of Sale Company of Seller to be sold to the Purchasers pursuant to the terms of this Agreement and which are more particularly detailed in Schedule B hereto.

“ **Securities Trading Accounts** ” means all securities trading accounts in the name of Sale Company, which shall hold the Portfolio Company Securities at Closing, the details of which are set forth in Schedule D.

“ **Tax** ” or “ **Taxation** ” shall mean any national, state, local or municipal, or other tax (including any income tax and any fine, penalty, interest, cess and surcharges or addition to tax with respect thereto), in each case, imposed by a Governmental Authority.

“ **Tax Authority** ” means any taxing, fiscal or other authority in the PRC, Hong Kong, or any other jurisdiction competent to impose, collect or enforce any liability to Tax, including the Hong Kong Inland Revenue Department, and the State Administration of Taxation of the PRC and its local tax bureaus.

“ **Tax Returns** ” shall mean any return (including any information return), report, statement, declaration, estimate, schedule, notice, notification, transfer pricing certificate and documents relating thereto, form, election, certificate or other document or information filed with or submitted to, or required to be filed with or submitted to, any Governmental Authority in connection with the determination, assessment, collection or payment of any Tax or in connection with the administration, implementation or enforcement of or compliance of applicable Tax Law, including any amendment thereof or attachment thereto.

“ **USD** ” shall mean United States Dollars, the lawful currency of the United States of America.



**SHARE TRANSFER AGREEMENT**

**between**

**Power Star Holdings (Hong Kong) Limited**

**and**

**Glossy City (HK) Limited**

**and**

**Alibaba (China) Technology Co., Ltd.**

**Date: July 17, 2018**

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## SHARE TRANSFER AGREEMENT

This Share Transfer Agreement (this “**Agreement**”) is entered into on July 17, 2018 in Shanghai by and among:

(A) **Power Star Holdings (Hong Kong) Limited**, a company organized and existing under the Laws of Hong Kong, with its domicile at 28/F CITIC Tower, 1 Tim Mei Avenue, Central, Hong Kong (“**Power Star**”);

(B) **Glossy City (HK) Limited**, a company organized and existing under the Laws of Hong Kong, with its domicile at Level 54, Hopewell Centre 183 Queen’s Road East (“**Glossy City**”, and together with Power Star, the “**Transferors**”);

(C) **Alibaba (China) Technology Co., Ltd.**, a company organized and existing under the Laws of the PRC, with its domicile at 699 Wangshang Road, Binjiang District, Hangzhou (the “**Transferee**” and together with the Transferors, the “**Parties**”, and each individually a “**Party**”).

### RECITALS

WHEREAS, Focus Media Information Technology Co., Ltd. (the “**Target Company**”) is a company limited by shares organized and existing under the Laws of the PRC, and its Renminbi-denominated ordinary shares have been listed on the Shenzhen Stock Exchange (the “**Exchange**”) (with its stock abbreviation being “Focus Media” and its stock code being “002027”). As of the date hereof, the total share capital of the Target Company consists of 14,677,880,280 shares, of which 406,609,165 shares are held by Power Star, representing 2.77% of the total share capital of the Target Company and 367,792,435 shares are held by Glossy City, representing 2.51% of the total share capital of the Target Company.

WHEREAS, the Transferors intend to transfer to the Transferee, and the Transferee intends to acquire, 774,401,600 shares of the Target Company, representing 5.28% of the total share capital of the Target Company as of the date hereof.

NOW, THEREFORE, in consideration of the foregoing statement of facts and the mutual agreements and covenants hereinafter set forth, the Parties agree as follows:

### ARTICLE I DEFINITIONS

#### SECTION 1.01 Defined Terms

In this Agreement, unless otherwise defined in the context, the following terms shall have the meanings set forth below:

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“ **Laws** ” means the laws, regulations, rules and regulatory documents of the PRC or any country other than the PRC, or provincial, local or similar laws, regulations, rules and have meanings.

“ **Working Day** ” means any day other than Saturday, Sunday and public holidays in Hong Kong or the PRC as provided for by Laws.

“ **Affiliate** ” means, with respect to any Person, any other Person that directly or indirectly controls, is controlled by or under common control with such Person, or with respect to a natural person, also includes any of his/her immediate family members. For such purpose, “ **Control** ” means the possession of the power to directly or indirectly determine the management and policies of another Person through holding of voting securities, or by contract or otherwise.

“ **Transfer Registration Date** ” means the date on which the Target Shares are registered with CSDCC in the name of the Transferee in its A-share securities account.

“ **RMB** ” means the legal currency of the PRC.

“ **Taxes** ” means any and all taxes, fees, levies, impositions, customs duties and other charges of any type (together with any and all interest, fines, additional taxes and additional sums collected therefor) levied by any Governmental Authorities (including without limitation tax authorities).

“ **Action** ” means any claim, lawsuit, complaint, appeal, arbitration, settlement, adjudication, inquiry, investigation or other procedures instituted by or against any Person.

“ **Hong Kong** ” means the Hong Kong Special Administrative Region of the PRC.

“ **Governmental Authority** ” means governmental, regulatory or administrative department, organ or committee or any court, tribunal or judicial or arbitral body.

“ **Governmental Order** ” means any order, writ, judgment, injunction, ruling, adjudication, regulation or decision made by any Governmental Authority or jointly with any other Governmental Authority.

“ **Governmental Approval** ” means any consent, approval, authorization, waiver, permit, franchise, license, certificate, exemption, registration, filing, report or notice granted or made by any Governmental Authority.

“ **PRC** ” means the Peoples’ Republic of China, excluding only for the purpose of this Agreement Hong Kong Special Administrative Region, Macao Special Administrative Region and Taiwan.

“ **CSDCC** ” means China Securities Depository and Clearing Company Limited Shenzhen Branch.

“ **Person** ” means any individual, partnership, joint-stock company, limited liability company, association, trust, unincorporated organization or other entity.

**SECTION 1.02**      **Definitions**

Each of the following terms is defined in the Section set forth opposite such term:

<b>Definition</b>	<b>Location</b>
“ <b>Confidential Information</b> ”	Section 6.03(a)
“ <b>this Transfer</b> ”	Section 2.01
“ <b>this Agreement</b> ”	Preamble
“ <b>Target Shares</b> ”	Section 2.01, with respect to Power Star, means 406,609,165 shares of the Target Company held by it, representing 2.77% of the total share capital of the Target Company; with respect to Glossy City, means 367,792,435 shares of the Target Company held by it, representing 2.51% of the total share capital of the Target Company.
“ <b>Representative</b> ”	Section 6.03(b)
“ <b>Glossy City</b> ”	Preamble
“ <b>Share Transfer Price</b> ”	Section 2.02(a)
“ <b>Exchange</b> ”	Recitals
“ <b>Transfer Price Per Share</b> ”	Section 2.02(a)
“ <b>Target Company</b> ”	Recitals
“ <b>Power Star</b> ”	Preamble
“ <b>Non-breaching Party</b> ”	Section 7.01
“ <b>Transferee</b> ”	Preamble
“ <b>Parties</b> ”	Preamble
“ <b>Breaching Party</b> ”	Section 7.01
“ <b>Party</b> ”	Preamble
“ <b>Dispute</b> ”	Section 9.11(b)
“ <b>Payment Date</b> ”	Section 3.01
“ <b>CIETAC</b> ”	Section 9.11(b)
“ <b>Transferors</b> ”	Preamble

**SECTION 1.03**      **Other Interpretative Provisions**

In this Agreement, unless otherwise provided or required in the context:

- (a) “Hereof”, “herein”, “hereunder” and similar terms shall mean the entirety of this Agreement rather than any specific provision of this Agreement; any reference to any schedule, annex, section and sub-section shall mean the schedule, annex, section and sub-section of this Agreement, unless otherwise indicated.
- (b) The term “include” does not have a restrictive meaning, and shall mean “include without limitation”.
- (c) The table of contents and headings in this Agreement are inserted for reference only, and shall not in any way affect the interpretation of this Agreement.
- (d) Any agreement, instrument or other document referred to in this Agreement shall mean the agreement, instrument or other document which may be amended, supplemented or modified from time to time as agreed upon by the Parties.
- (e) This Agreement shall be construed to have been jointly drafted by the Parties, and shall not give rise to any assumption or burden of proof that is in favor of or adverse to any other Party on the ground that any provision in this Agreement is drafted by a Party.

**ARTICLE II SHARE TRANSFER**

**SECTION 2.01**      **Share Transfer**

Pursuant to the terms and conditions of this Agreement, the Transferors will transfer to the Transferee through transfer by agreement 774,401,600 Shares of the Target Company, representing 5.28% of the total share capital of the Target Company as of the date hereof (the “**Target Shares**”), of which 406,609,165 shares will be transferred by Power Star to the Transferee through transfer by agreement, representing 2.77% of the total share capital of the Target Company, and 367,792,435 shares will be transferred by Glossy City to the Transferee through transfer by agreement, representing 2.51% of the total share capital of the Target Company. The Transferee will acquire the Target Shares (“**this Transfer**”).

From the date hereof to the Transfer Registration Date of the Target Shares, if the Target Company makes profit distribution in the form of bonus shares or capitalize the capital reserves, the Transferors shall also transfer to the Transferee any bonus shares issued in connection with the Target Shares as part of the Target Shares, and the Transferee shall not be required to adjust any consideration with respect to the acquisition of such bonus shares (for the avoidance of doubt, the Share Transfer Price under Section 2.02 shall have included the price for Target Shares and any bonus shares issued in connection therewith).

**SECTION 2.02      Transfer Price Per Share and Share Transfer Price**

(a) The transfer price per share of the Target Shares (the “**Transfer Price Per Share**”) shall be RMB9.9167, which shall not be less than ninety percent (90%) of the closing price of the stocks of the Target Company as of the one (1) trading day immediately preceding the date hereof. The total transfer price payable by the Transferee for the Target Shares (the “**Share Transfer Price**”) shall be calculated on the basis of the Transfer Price Per Share multiplied by the number of the Target Shares. The number of the Target Shares to be transferred by Power Star and Glossy City, percentage of shares to be transferred and the Share Transfer Price therefor are set forth in the table below:

<b>No.</b>	<b>Name of Transferor</b>	<b>Number of Target Shares</b>	<b>Percentage of Shares to be Transferred</b>	<b>Share Transfer Price (RMB)</b>
1.	<b>Power Star</b>	406,609,165	2.77%	4,032,221,107
2.	<b>Glossy City</b>	367,792,435	2.51%	3,647,287,240
	<b>Total</b>	<b>774,401,600</b>	<b>5.28%</b>	<b>7,679,508,347</b>

(b) For the avoidance of doubt, each of the Transfer Price Per Share and the Share Transfer Price set forth above shall be tax-inclusive, which includes the withholding income tax, value-added tax and relevant surcharge and stamp duty required to be paid by the Transferors under the applicable tax laws of the PRC and any applicable taxes required to be paid in the jurisdiction where the Transferors are located.

(c) From the date hereof to the Transfer Registration Date of the Target Shares, if the Target Company makes profit distribution in the form of cash, and the Transferors actually receives such distribution, the Share Transfer Price hereunder shall be adjusted according to the following formula: adjusted Share Transfer Price = Share Transfer Price — (the number of the Target Shares × the amount of pre-tax dividend per share). The amount of pre-tax dividend per share shall be calculated by taking into account the distribution of stock dividends by the Target Company, if any, and shall be adjusted to be equal to the amount of pre-tax dividend per share calculated based on the total share capital of the Target Company as of the date hereof by adopting the approach of restoring rights.



**ARTICLE III PAYMENT OF SHARE TRANSFER PRICE**

**SECTION 3.01 Payment of Share Transfer Price**

To the extent that all conditions set forth in Section 3.02 hereof are satisfied or waived (except those which shall be satisfied on the Payment Date pursuant to their terms), the Parties shall complete the transfer of the Target Shares with CSDCC within one (1) Working Day after delivery of the written notice by the Transferors under Section 3.02 hereof, and the Transferee shall pay the Share Transfer Price to the Transferors' respective bank accounts set forth below on the same day, and provide the Transferors with the proof of bank remittance of the Share Transfer Price to the Transferors' respective accounts as below prior to the final completion of the transfer of the Target Shares by the Parties:

<b>Transferor</b>	<b>Account Name</b>	<b>Account Number</b>
<b>Power Star</b>	Power Star Holdings (Hong Kong) Limited	
<b>Glossy City</b>	Glossy City (HK) Limited	

The day when the Share Transfer Price is fully remitted to such bank accounts shall be referred to as the “ **Payment Date** ” hereunder. The Parties agree that, upon the receiving bank confirming that the Share Transfer Price has been remitted to the bank accounts designated by the Transferors, the Transferee shall be deemed to have fully performed its payment obligation with respect to its acquisition of the Target Shares under this Agreement.

**SECTION 3.02 Conditions to Completion of This Transfer**

Each Party's obligation to complete this Transfer under this Agreement shall be subject to the satisfaction or written waiver by such Party of each of the following conditions prior to or on the Payment Date:

- (a) **Representations, Warranties and Covenants.** The representations and warranties of the other Party in this Agreement shall be true and accurate as of the date hereof, and shall be true and accurate as of the Payment Date and have the same force and effect as if they were made on the Payment Date; the covenants and agreements contained in this Agreement which shall be performed by the other Party on or prior to the Payment Date shall have been performed;
- (b) **No Certain Governmental Orders.** No Governmental Authority has enacted, issued, promulgated, implemented or adopted any Law or Governmental Order that will render illegal or restrain or prohibit the transactions contemplated hereunder;
- (c) **No Legal Proceedings or Actions.** No Action has occurred or may occur against any Party, which might restrain the transactions contemplated hereunder, materially alter the terms of the transactions contemplated hereunder or is likely to render it impossible or unlawful to consummate such transactions;
- (d) **Approval and Consent.** The Exchange shall have issued its confirmation of consent to this Transfer in accordance with this Agreement and the supplementary agreements, if any, entered into by the Parties in respect of this Transfer;

(e) Filing with the Ministry of Commerce. The Target Company shall have completed its filing of investor information with respect of this Transfer on the Unified Platform of the Administrative System of the Ministry of Commerce; and

(f) Share Transfer Notice. The Parties shall have submitted to CSDCC all application materials necessary for the registration of transfer of the Target Shares and received CSDCC's written notice stating that such application materials satisfy the requirements of CSDCC and the share transfer can proceed.

The Transferors shall, within three (3) Working Days after all conditions set forth above are satisfied (except those which shall be satisfied on the Payment Date pursuant to their terms), deliver a written notice to the Transferee, notifying the Transferee that such conditions have been satisfied.

**SECTION 3.03 Shareholders' Rights**

(a) The Transferors undertake that from the date hereof to the Transfer Registration Date, subject to the applicable Laws and regulations, the Transferors shall seek the opinions from and reach a consensus with the Transferee in connection with the matters to be considered at the shareholders' general meeting of the Target Company.

(b) From the Transfer Registration Date, the Transferee shall be entitled to all rights, interests and profits in respect of the Target Shares available to a shareholder of the Target Company.

**ARTICLE IV REPRESENTATIONS AND WARRANTIES OF THE TRANSFERORS**

Each of the Transferors hereby represents and warrants to the Transferee as follows:

**SECTION 4.01 Organization and Authority**

It is a corporation duly organized, validly existing and in good standing under the Laws of the jurisdiction of its incorporation and has all requisite power, authority and authorization and full legal capacity to enter into this Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereunder. The execution and delivery by it of this Agreement, the performance of its obligations hereunder and the consummation of the transactions contemplated hereunder have been duly authorized by all requisite corporate action on the part of it. This Agreement has been duly executed and delivered by it, and (assuming due authorization, execution and delivery by the Transferee) this Agreement constitutes its legal, valid and binding obligations, enforceable against it in accordance with its terms.

**SECTION 4.02 No Conflict**

The execution, delivery and performance by it of this Agreement will not (a) violate, conflict with or result in the breach of any provision of its articles of association or other constitutional documents, or (b) violate or conflict with any applicable Law or Governmental Order, or (c) conflict with or violate any contract or instrument to which it is a party or by which any of its assets is bound or affected, including, without limitation, any sale restriction covenant made by it to regulatory authorities and/or public investors.

**SECTION 4.03      Consents and Approvals**

Except for the Governmental Approvals listed in Section 3.02 hereof, no Governmental Approval or consent, permit or authorization of other third party Persons (including creditors) is required on the part of it in connection with the execution, delivery and performance of this Agreement and the completion of this Transfer, and it has obtained all necessary internal approvals.

**SECTION 4.04      Target Shares**

It is the legal and beneficial owner of the Target Shares. The Target Shares are tradable shares without restrictions on the sale thereof and are non-assessable, free and clear of any encumbrance or any third party right (including right of first refusal); to the knowledge of the Transferors, there are no outstanding litigation, arbitration, other disputes, judicial freezing or other restrictions on rights thereof.

**ARTICLE V REPRESENTATIONS AND WARRANTIES OF THE TRANSFEREE**

The Transferee hereby represents and warrants to the Transferors as follows:

**SECTION 5.01      Organization and Authority**

It is a limited liability company duly organized, validly existing and in good standing under the Laws of the PRC and has all requisite power, authority and authorization and full legal capacity to enter into this Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereunder. The execution and delivery by it of this Agreement, the performance of its obligations hereunder and the consummation of the transactions contemplated hereunder have been duly authorized by all requisite internal approvals on the part of it. This Agreement has been duly executed and delivered by it, and (assuming due authorization, execution and delivery by the Transferors) this Agreement constitutes its legal, valid and binding obligations, enforceable against it in accordance with its terms.

**SECTION 5.02      No Conflict**

The execution, delivery and performance by it of this Agreement will not (a) violate, conflict with or result in the breach of any provision of its articles of association or other constitutional documents, (b) violate or conflict with any applicable Law or Governmental Order, or (c) conflict with or violate any contract or instrument to which it is a party or by which any of its assets is bound or affected.

**SECTION 5.03      Consents and Approvals**

Except for the Governmental Approvals listed in Section 3.02 hereof, no Governmental Approval or consent, permit or authorization of other third party Persons (including creditors) is required on the part of it in connection with the execution, delivery and performance of this Agreement and the completion of this Transfer, and it has obtained all necessary internal approvals.

**SECTION 5.04**      **Financial Capacity and Performance Capacity**

As of the Payment Date, the Transferee has sufficient and legal source of funds to enable it to accept the transfer of the Target Shares in accordance with the terms and conditions of this Agreement and fully pay the Share Transfer Price in a timely manner in accordance with this Agreement.

**ARTICLE VI COVENANTS**

**SECTION 6.01**      **Notice of Developments**

Each Party shall promptly notify the other Party in writing of (a) any and all events, circumstances and facts which could result in any breach of any of its representations, warranties or covenants hereunder or which could have the effect of making any of its representations or warranties hereunder untrue or inaccurate in any respect, and (b) any fact, change, condition and circumstance which is known to it and which will or could reasonably be expected to render it impossible to satisfy any condition set forth in Section 3.02 hereof.

**SECTION 6.02**      **Confidentiality**

(a) Unless otherwise agreed in writing by the Parties, each Party shall not and shall cause its respective Affiliates and Representatives not to directly or indirectly disclose or permit the disclosure of (i) the existence or contents of this Agreement, this Transfer and the transactions contemplated hereunder, (ii) any terms, conditions or other respects of this Agreement, this Transfer and the transactions contemplated hereunder, or (iii) the negotiations of this Agreement, this Transfer and the transactions contemplated hereunder (the “**Confidential Information**”), except for the information that is or becomes generally available to the public or enters the public domain other than as a result of the information disclosure made by a Party in violation of this Agreement.

(b) Notwithstanding the foregoing, each Party may (i) only for the purpose of its own use, disclose the Confidential Information to its employees, officers, directors, partners, agents, accountants, legal counsels, representatives or advisors (the “**Representatives**”) on an as-needed basis, provided that such Party shall ensure that such Representatives are aware of and undertake the same confidentiality obligation; (ii) pursuant to the provisions of applicable Laws or applicable stock exchange rules, disclose to any relevant Governmental Authority or stock exchange the Confidential Information required to be disclosed by applicable Laws; and (iii) to the extent reasonable and necessary for any Party to comply with applicable Tax Law, as required by applicable Laws or Governmental Authority, such Party may disclose the information relating to the transactions contemplated hereunder, provided that in the case of (iii), the disclosing Party shall (to the extent permitted by applicable Laws), within a reasonable time limit prior to the disclosure, discuss with the other Parties and use its commercially reasonable efforts to obtain confidential treatment of the disclosed information.

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**SECTION 6.03**      **Further Action**

Each of the Parties shall use all reasonable efforts to take, or cause to be taken, all necessary and appropriate actions, do or cause to be done all things necessary, proper or advisable under applicable Laws, and to execute and deliver such documents and other papers, as may be required to perform the provisions of this Agreement and consummate the transactions contemplated hereunder.

**ARTICLE VII INDEMNIFICATION**

**SECTION 7.01**      **Liability for Indemnification**

(a) If a Party (the “**Breaching Party**”) commits a breach of any of its representations, statements, warranties, covenants, agreements or obligations hereunder, the Breaching Party shall indemnify the other Party (the “**Non-breaching Party**”) from and against all losses, damages, costs and expenses, interest and penalties (including reasonable attorneys’ fee and consulting fees) suffered or incurred by the Non-breaching Party due to such breach and the liability of the Parties for indemnification hereunder shall be limited to the Share Transfer Price.

**SECTION 7.02**      **Other Remedies**

The Parties agree that the indemnification as provided for in Section 7.01 shall not be the sole remedy available to the Non-breaching Party in the case of any breach by the Breaching Party of its representations and warranties hereunder or any failure by the Breaching Party to perform and comply with any of its covenants and agreements hereunder. If the Breaching Party fails to duly perform or violates any provisions of this Agreement, the Non-breaching Party may seek any other rights or any other remedies available under this Agreement and the Laws of the PRC applicable to this Agreement.

**ARTICLE VIII EFFECTIVENESS AND TERMINATION**

**SECTION 8.01**      **Effectiveness**

This Agreement shall be formed and become effective upon due execution by the authorized representatives of the Parties.

**SECTION 8.02**      **Termination**

This Agreement may be terminated at any time prior to the Payment Date as follows:

(a) by the Non-breaching Party if, between the date hereof and the Payment Date: (i) an event or circumstance occurs that has or could reasonably be expected to have resulted in a material adverse effect or renders it impossible to fulfill any condition set forth in Section 3.02, (ii) any representations and warranties of any Party contained herein shall not have been true or correct in any material respect or such Party materially violates any covenants or

agreements contained herein, or (iii) the Transferors or the Transferee makes a general assignment for the benefit of creditors, or any legal proceeding shall be instituted by or against the Transferors or the Transferee seeking to declare entry into bankruptcy proceedings by the Transferors or the Transferee, or the Transferors or the Transferee as bankrupt or insolvent, or seeking liquidation, winding up, reorganization or restructuring of their or its debts under any Law relating to bankruptcy, insolvency or reorganization, and any of the foregoing shall not have been cured or removed within fifteen (15) Working Days after a written notice is given by the Non-breaching Party;

(b) by any Party if this Transfer shall not have been completed within six (6) months from the date hereof (or any period extended by the Parties through mutual agreement); provided that the right to terminate this Agreement under this Section 8.02(b) shall not be available to any Party whose failure to materially perform any of its obligations hereunder shall have been the cause of, or shall have resulted in, the failure of this Transfer to be completed on or prior to such date;

(c) by any Party in the event that any competent Governmental Authority or stock exchange shall have issued an order, decree or ruling or taken any other action restraining, enjoining or otherwise prohibiting the transactions contemplated hereunder and such order, decree, ruling or other action shall have become final and non-appealable;

(d) by the Transferors if the conditions for payment of the Share Transfer Price shall have been satisfied but the Transferee shall not have paid the Share Transfer Price within thirty (30) days from the date on which such conditions are satisfied; or

(e) by the mutual written consents of the Parties.

**SECTION 8.03      Survival**

In the event of termination of this Agreement as provided for in Section 8.02, this Agreement shall forthwith become void and there shall be no liability on the part of any Party (unless otherwise provided for herein), provided that (a) Section 6.02, Article VII, Section 8.02, this Section 8.03 and Article IX hereof shall survive the termination of this Agreement, and (b) nothing herein shall relieve any Party from liability for any breach of this Agreement prior to the termination of this Agreement.

**ARTICLE IX MISCELLANEOUS**

**SECTION 9.01      Expenses**

All fees, costs and expenses, including, without limitation, fees of legal counsels and financial advisors, incurred in connection with the preparation, execution and performance of this Agreement and this Transfer shall be paid by the Party incurring such fees, costs and expenses.

**SECTION 9.02      Taxes**

(a) Each Party shall bear and pay all the Taxes imposed on it pursuant to all applicable Laws arising out of or in connection with the execution and performance of this Agreement and implementation of the transactions contemplated hereunder.

(b) Within twenty (20) Working Days after the Payment Date, the Transferors shall, or shall engage one of the Big Four international certified public accounting firms as their Tax advisor to, file Tax returns under applicable Laws to competent Tax authorities of the PRC in connection with income tax, value-added tax and relevant surcharges and stamp duty, if necessary, payable by the Transferors under this Transfer and shall truthfully disclose information to competent Tax authorities of the PRC. After the payment of such income tax, value-added tax and relevant surcharges and stamp duty, if necessary, payable by the Transferors under this Transfer, the Transferors shall provide the Transferee with Tax collection decisions issued by competent Tax authorities, tax computation forms, tax returns and the Transferors' Tax payment receipts and any other tax clearance certificates.

**SECTION 9.03      Assignment**

This Agreement shall be binding upon and inure to the benefit of successors and assigns of the Parties. Neither Party may assign this Agreement without the prior written consent of the other Party.

**SECTION 9.04      Entire Agreement**

This Agreement and other documents delivered hereunder constitute the entire agreement and understanding of the Parties with respect to the subject matter hereof and supersede all prior agreements and covenants, both written and oral, among the Parties with respect to such subject matter.

**SECTION 9.05      Severability**

If any term or other provision of this Agreement is invalid, illegal or unenforceable by any Law or public policy, all other terms and provisions of this Agreement shall nevertheless remain in full force and effect for so long as the economic or legal substance of the transactions contemplated hereunder is not affected in any manner materially adverse to any Party. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner in order that the transactions contemplated hereunder are consummated as originally contemplated to the greatest extent possible.

**SECTION 9.06      Waiver**

Any Party may (a) extend the time for the performance of any of the obligations or other acts of the other Party, (b) waive the liability of the other Party for any inaccuracies in the representations and warranties contained herein or in any document delivered by the other Party pursuant hereto, or (c) waive the compliance with any of the agreements or the performance of such Party's obligations contained herein as condition precedent. Any such extension or waiver shall be valid only if set forth in an instrument in writing signed by the Parties to be bound thereby. Any waiver of any term or condition hereof shall not be construed as a waiver of any subsequent breach or a subsequent waiver of the same term or condition, or a waiver of any other term or condition of this Agreement. The failure of any Party hereto to assert any of its rights hereunder shall not constitute a waiver of any of such rights. All rights and remedies existing under this Agreement are cumulative to, and not exclusive of, any rights or remedies otherwise available.

**SECTION 9.07**      **Amendment**

This Agreement may not be amended or modified except (a) by an instrument in writing signed or sealed by the Parties or their authorized representatives, or (b) by a waiver in accordance with Section 9.06.

**SECTION 9.08**      **No Third Party Beneficiaries**

This Agreement shall be binding upon and inure solely to the benefit of the Parties and their respective successors and permitted assigns.

**SECTION 9.09**      **Notices**

All notices required or permitted under this Agreement shall be made in writing and deemed to have been effectively delivered:

- (a) upon delivery to the Party to which a notice is given hereunder if personally delivered;
- (b) upon receipt of facsimile confirmation if sent by facsimile with confirmation of transmission during normal business hours of the recipient or on the second (2<sup>nd</sup>) Working Day if not sent during normal business hours of the recipient;
- (c) three (3) days after the delivery to a courier service if delivered by courier; or
- (d) upon transmission of an email to the server of the Party to which a notice is given hereunder if sent by email.

All communications shall be sent to the following addresses (or other address as a Party may have specified in a ten (10)-day written notice given to the other Parties).

If to the Transferors:

**Power Star**

Attention: ZHANG Liyang  
Address: 40/F, HKRI Centre One, 288 Shimen First Road, Jing'an District, Shanghai  
Telephone:  
Email:

**Glossy City**

Attention: YANG Shuo  
Address: Room 3809, 38/F, Bund Finance Centre S1, 600 Zhongshan East Second Road, Huangpu District, Shanghai  
Telephone:  
Email:



If to the Transferee:  
Attention: General Counsel of Legal Department  
Address: 5/F, Building 3, 969 Wenyi West Road, Yuhang District, Hangzhou, Zhejiang Province  
Telephone:  
Email:

All notices or communications sent by the Transferors to the Transferee shall be deemed to have been approved by the Transferee in writing if not replied by the Transferee within two (2) Working Days from the delivery thereof. If any Party is required to change the email box designated by it, it shall give a notice of change to the email boxes designated by the other Parties two (2) Working Days in advance.

**SECTION 9.010      Counterparts**

This Agreement may be executed and delivered in seven counterparts. Each of the Transferors and the Transferee shall keep one (1) copy, while the remaining copies shall be retained by the Transferors for completion of governmental formalities. Each counterpart shall be an original and have the same effect.

**SECTION 9.011      Governing Law and Dispute Resolution**

(a) This Agreement shall be governed by, and construed in accordance with, the Laws of the PRC.

(b) Any dispute arising out of the execution of, or in connection with, this Agreement (“ **Dispute** ”) shall be resolved through friendly consultation among the Parties. The claiming Party shall promptly notify the other Party in a dated notice that a Dispute has arisen and describe the nature of the Dispute. If the Dispute cannot be resolved through consultation within thirty (30) days after the date of such notice of Dispute, any Party may submit the Dispute to the China International Economic and Trade Arbitration Commission (“ **CIETAC** ”) for arbitration in Beijing in accordance with its arbitration rules then in effect. The arbitration tribunal shall consist of three (3) arbitrators. Each of the claimant and the respondent shall appoint one (1) arbitrator. The third arbitrator shall act as the presiding arbitrator and shall be appointed by the chairman of CIETAC. The arbitral award shall be final and binding upon the Parties.

**SECTION 9.012      Language**

This Agreement is written in Chinese .

[Signature Pages to Follow]

(Signature Page to the Share Transfer Agreement Regarding the Transfer of 5.28% Shares of Focus Media Information Technology Co., Ltd.)

**Power Star Holdings (Hong Kong) Limited**

**/s/ LI Junhao**

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Signature by Authorized Representative:

Name: LI Junhao

Signature Page to Share Transfer Agreement

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**Glossy City (HK) Limited**

**/s/ PAN Donghui**

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Signature by Authorized Representative:  
Name: PAN Donghui

Signature Page to Share Transfer Agreement

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**Alibaba (China) Technology Co., Ltd.**

(Company Seal)

**/s/ DAI Shan**

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Signature by Legal Representative:  
Name: DAI Shan

Signature Page to Share Transfer Agreement

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**List of Significant Subsidiaries and Consolidated Entities of  
Alibaba Group Holding Limited as of March 31, 2018**

Taobao Holding Limited (Cayman Islands)  
Taobao China Holding Limited (Hong Kong)  
Zhejiang Tmall Technology Co., Ltd. (PRC)  
Zhejiang Tmall Network Co., Ltd. (PRC)  
Taobao (China) Software Co., Ltd. (PRC)  
Zhejiang Taobao Network Co., Ltd. (PRC)  
Ali Panini Investment Holding Limited (Hong Kong)  
Alibaba Group Services Limited (Hong Kong)  
Alibaba (China) Co., Ltd. (PRC)  
Alibaba Group Treasury Limited (BVI)  
Lazada Group S.A. (Luxembourg)  
Alibaba Group Properties Limited (Cayman Islands)  
Alibaba Investment Limited (BVI)  
Ali UC Investment Holding Limited (Cayman Islands)  
Ali WB Investment Holding Limited (Cayman Islands)  
AutoNavi Holdings Limited (Cayman Islands)  
Ali YK Investment Holding Limited (Cayman Islands)  
Ali CV Investment Holding Limited (Cayman Islands)  
Perfect Advance Holding Limited (BVI)  
Ali Fortune Investment Holding Limited (BVI)  
Intime Retail (Group) Company Limited (Cayman Islands)  
Hangzhou Ali Venture Capital Co., Ltd. (PRC)  
Ali CN Investment Holding Limited (BVI)  
Alibaba.com Limited (Cayman Islands)  
Alibaba.com Investment Holding Limited (BVI)  
Alibaba.com China Limited (Hong Kong)  
Alibaba (China) Technology Co., Ltd. (PRC)  
Hangzhou Alibaba Advertising Co., Ltd. (PRC)  
Shen Zhen OneTouch Business Service Ltd. (PRC)  
Hangzhou Meitou Information Technology Co., Ltd. (PRC)  
Alibaba (Chengdu) Software Technology Co., Ltd. (PRC)  
Alibaba.com International (Cayman) Holding Limited (Cayman Islands)  
Alibaba.com International Holding Limited (BVI)  
Alibaba Singapore Holding Private Limited (Singapore)  
Alibaba.com Singapore E-Commerce Private Limited (Singapore)  
Alimama Limited (Cayman Islands)  
Alimama Investment Holding Limited (BVI)  
Alimama China Holding Limited (Hong Kong)  
Hangzhou Alimama Technology Co., Ltd. (PRC)  
Hangzhou Ali Technology Co., Ltd. (PRC)  
Hangzhou Alimama Software Services Co., Ltd. (PRC)  
Alisoft Holding Limited (Cayman Islands)  
Alisoft Investment Holding Limited (BVI)  
Alisoft China Holding Limited (Hong Kong)  
Zhejiang Alibaba Cloud Computing Ltd. (PRC)  
Alibaba Cloud Computing Ltd. (PRC)

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**Certification by the Principal Executive Officer  
Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002**

I, Daniel Yong Zhang, Chief Executive Officer of Alibaba Group Holding Limited (the “Company”), certify that:

1. I have reviewed this annual report on Form 20-F of the Company;
  2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
  3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the Company as of, and for, the periods presented in this report;
  4. The Company’s other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rule 13a-15(f) and 15d-15(f)) for the Company and have:
    - a. designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Company, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
    - b. designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
    - c. evaluated the effectiveness of the Company’s disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
    - d. disclosed in this report any change in the Company’s internal control over financial reporting that occurred during the period covered by the annual report that has materially affected, or is reasonably likely to materially affect, the Company’s internal control over financial reporting; and
-

5. The Company's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the Company's auditors and the audit committee of the Company's board of directors (or persons performing the equivalent functions):
- a. all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Company's ability to record, process, summarize and report financial information; and
  - b. any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal control over financial reporting.

Dated: July 27, 2018

By: /s/ Daniel Yong Zhang  
Name: Daniel Yong Zhang  
Title: Chief Executive Officer

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**Certification by the Principal Financial Officer  
Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002**

I, Maggie Wei Wu, Chief Financial Officer of Alibaba Group Holding Limited (the “Company”), certify that:

1. I have reviewed this annual report on Form 20-F of the Company;
  2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
  3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the Company as of, and for, the periods presented in this report;
  4. The Company’s other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rule 13a-15(f) and 15d-15(f)) for the Company and have:
    - a. designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Company, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
    - b. designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
    - c. evaluated the effectiveness of the Company’s disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
    - d. disclosed in this report any change in the Company’s internal control over financial reporting that occurred during the period covered by the annual report that has materially affected, or is reasonably likely to materially affect, the Company’s internal control over financial reporting; and
-



5. The Company's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the Company's auditors and the audit committee of the Company's board of directors (or persons performing the equivalent functions):
- a. all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Company's ability to record, process, summarize and report financial information; and
  - b. any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal control over financial reporting.

Dated: July 27, 2018

By: /s/ Maggie Wei Wu  
Name: Maggie Wei Wu  
Title: Chief Financial Officer

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**Certification by the Principal Executive Officer  
Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002**

I, Daniel Yong Zhang, Chief Executive Officer of Alibaba Group Holding Limited (the “Company”), hereby certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to the best of my knowledge:

- a. the Company’s annual report on Form 20-F for the fiscal year ended March 31, 2018 (the “Report”) fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- b. the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company for the periods presented therein.

Dated: July 27, 2018

By: /s/ Daniel Yong Zhang  
Name: Daniel Yong Zhang  
Title: Chief Executive Officer

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**Certification by the Principal Financial Officer  
Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002**

I, Maggie Wei Wu, Chief Financial Officer of Alibaba Group Holding Limited (the “Company”), hereby certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to the best of my knowledge:

- a. the Company’s annual report on Form 20-F for the fiscal year ended March 31, 2018 (the “Report”) fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- b. the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company for the periods presented therein.

Dated: July 27, 2018

By: /s/ Maggie Wei Wu  
Name: Maggie Wei Wu  
Title: Chief Financial Officer

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CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the incorporation by reference in the Registration Statements on Form S-8 (No. 333-199133, No. 333-214595 and No. 333-219292) and Form F-3 (No. 333-221742) of Alibaba Group Holding Limited of our report dated July 27, 2018 relating to the financial statements and the effectiveness of internal control over financial reporting, which appears in this Form 20-F.

/s/ PricewaterhouseCoopers  
PricewaterhouseCoopers  
Hong Kong, July 27, 2018

# 方達律師事務所

FANGDA PARTNERS

上海 Shanghai·北京 Beijing·深圳 Shenzhen·香港 Hong Kong 广州 Guangzhou

<http://www.fangdalaw.com>

中国北京市朝阳区光华路1号  
北京嘉里中心北楼27层  
邮政编码: 100020

电子邮件E-mail:  
电话Tel.:  
传真Fax:

[email@fangdalaw.com](mailto:email@fangdalaw.com)  
86-10-5769-5600  
86-10-5769-5788

27/F, North Tower, Beijing Kerry Centre  
1 Guanghua Road, Chaoyang District  
Beijing 100020, PRC

July 27, 2018

Alibaba Group Holding Limited  
c/o Alibaba Group Services Limited  
26/F Tower One, Times Square  
1 Matheson Street, Causeway Bay  
Hong Kong

Dear Sirs,

We consent to the references to our firm under “Item 3. Key Information—D. Risk Factors—Risks Related to our Corporate Structure—If the PRC government deems that the contractual arrangements in relation to our variable interest entities do not comply with PRC governmental restrictions on foreign investment, or if these regulations or the interpretation of existing regulations changes in the future, we could be subject to penalties or be forced to relinquish our interests in those operations, which would materially and adversely affect our business, financial results and the trading price of our ADSs”, “Item 4. Information on the Company—C. Organizational Structure—Contracts that Enable Us to Receive Substantially All of the Economic Benefits from the Variable Interest Entities”, “Item 6. Directors, Senior Management and Employees—B. Compensation—Employment Agreements” and “Item 10. Additional Information—E. Taxation” in Alibaba Group Holding Limited’s Annual Report on Form 20-F for the year ended March 31, 2018 (the “Annual Report”), which is filed with the Securities and Exchange Commission (the “SEC”) on July 27, 2018. We also consent to the filing with the SEC of this consent letter as an exhibit to the Annual Report.

In giving such consent, we do not thereby admit that we come within the category of persons whose consent is required under Section 7 of the Securities Act of 1933, or under the Securities Exchange Act of 1934, in each case, as amended, or the regulations promulgated thereunder.

Yours faithfully,

/s/ Fangda Partners

Fangda Partners

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Our ref RDS/604743-000001/13203110v1

Alibaba Group Holding Limited  
c/o Alibaba Group Services Limited  
26/F Tower One, Times Square  
1 Matheson Street, Causeway Bay  
Hong Kong

27 July 2018

Dear Sirs,

**Alibaba Group Holding Limited**

We have acted as legal advisors as to the laws of the Cayman Islands to Alibaba Group Holding Limited, an exempted limited liability company incorporated in the Cayman Islands (the “**Company**”), in connection with the filing by the Company with the United States Securities and Exchange Commission of an annual report on Form 20-F for the fiscal year ended March 31, 2018.

We hereby consent to the reference of our name under the heading “Item 10. Additional Information E. Taxation — Cayman Islands Taxation” in the Form 20-F.

Yours faithfully

/s/ Maples and Calder (Hong Kong) LLP

Maples and Calder (Hong Kong) LLP

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