

March 5, 2024

Dear valued shareholders:

Name of listed company: Toyo Construction Co., Ltd.
Representative: Haruhisa Obayashi, President and Representative Director
(Code: 1890 Tokyo Stock Exchange Prime Market)
Contact for inquiries: Hisashi Tokimizu,
General Manager of Administration Dept., Administration Div.
TEL: 03-6361-5450

**(Progress of Disclosed Matters) Notification Concerning Receipt of Investigation Report
Regarding Investigation (Including Additional Investigation) Based on Agreement with
Shareholders**

As the Company informed you in its September 20, 2023 press release titled “Notification Concerning Commencement of Investigation Based on Agreement with Shareholders and (Scheduled) Withdrawal of Petition for Permission to Call an Extraordinary General Shareholders Meeting by Shareholders” (the “September 20, 2023 Press Release”), the Company, based on an agreement with two Company shareholders, Godo Kaisha Yamauchi-No.10 Family Office (“YFO”) and WK 1 Limited (“WK 1”) (the “Investigation Agreement”), entrusted to Shin Ushijima and Yoichi Okuda, attorneys-at-law (the “Investigators”), an investigation into whether there were any defects in the Company’s governance relating to (i) the process of the Company’s expression of an opinion in support of the tender offer for the Company’s shares that was commenced on March 23, 2022 by INFRONEER Holdings Inc., (ii) the process related to the formulation, submission and withdrawal of the proposal for takeover defense measures and proposal for the election of directors at the Company’s 100th Annual General Meeting of Shareholders, and (iii) the Company’s consideration and decision-making process concerning the counterproposals, including the proposal for privatization, by YFO and Kabushiki Kaisha KITE (together with YFO, “YFO etc.”) (the “Investigation”) (for specific details of the purpose of the Investigation, please refer to the September 20, 2023 Press Release). In addition, as the Company informed you in its December 28, 2023 press release titled “(Progress of Disclosed Matters) Notification Concerning Conduct of Additional Investigation”, the Company also entrusted to the Investigators an additional investigation.

The Company hereby informs you that the Investigators have completed the additional investigation and the Company recently received the investigation report dated February 16, 2024 (the “Report”) from the Investigators.

The matters investigated in the Investigation and a summary of the conclusions of the Report on the matters investigated in the Investigation are as follows.

Investigation Matters (1)	
Investigation Matters	<p>The Company’s Board of Directors resolved on March 22, 2022 to express an opinion in support of the tender offer for the Company’s ordinary shares by INFRONEER Holdings Inc. (“INFRONEER”) (the “INFRONEER Tender Offer”) and to recommend that shareholders tender their shares therein, and it maintained its support until the INFRONEER Tender Offer ended unsuccessfully. In connection with the foregoing, after reviewing the procedures and the decision-making process conducted by the Company (including the process of consideration by the Special Committee established at the Company and the process of negotiations between the Company and INFRONEER), it will be considered in the investigation:</p> <p>(a) Whether or not inappropriate pressure or influence was exercised by a third party in the Company’s decision-making (whether or not the Company carried out a truly independent procedure and decision-making process or whether the investigation subjects prioritized their own interests or the interests of third parties at the expense of the interests of the ordinary shareholders and the Company);</p> <p>(b) Whether there were any agreements or commitments that were not disclosed in the Company’s opinion report or other disclosure materials or other matters that the Company’s shareholders should have been made aware of; and</p> <p>(c) Whether there were any other defects in the governance of the Company (including breaches by the investigation subjects of their duty of due care and duty of loyalty).</p>
Conclusions	<p>(a) It is acknowledged that certain approaches to the Company from third parties were made; however, such facts cannot be evaluated as having been an exercise of inappropriate pressure or influence.</p> <p>(b) It is acknowledged only that between the Company and INFRONEER, the dispatch from the Company of one person to be a director of INFRONEER was presented by the INFRONEER negotiator as a proposal under consideration at INFRONEER. Other than this, it is not acknowledged that any agreement or commitment was reached in relation to this matter. In addition, although the Company sent INFRONEER a draft basic agreement, which included provisions stipulating that INFRONEER and MAEDA CORPORATION would not be involved in the Company’s personnel management after the completion of the INFRONEER Tender Offer, there is no evidence that the content of such draft agreement was</p>

ultimately agreed upon between the Company and INFRONEER or between the secretariat personnel in charge of such matters at the two companies, and no agreement or commitment was reached with respect to the content of such agreement. Furthermore, no matters have been identified that the Company should have disclosed but did not disclose in the Company's opinion report or other disclosure materials.

- (c) Although, as follows, the Investigators expressed different opinions respectively regarding how the business plan for the INFRONEER Tender Offer formulated, their opinions agree to the extent that it cannot be said that (i) the decision of the Company's Board of Directors (or the investigation subjects) that the INFRONEER Tender Offer would contribute to enhancing the Company's corporate value, as well as (ii) the details and process of making the decision regarding the withdrawal of the recommendation to tender shares therein while maintaining support of the INFRONEER Tender Offer constitute a breach of their duty of due care and duty of loyalty, nor that (iii) there was also a breach of the duty of due care and duty of loyalty from the perspective of whether the investigation subjects exhausted their efforts to realize an appropriate purchase price reflecting the Company's corporate value.

[Investigator Shin Ushijima's view]

Regarding the response to the INFRONEER Tender Offer, although it cannot be acknowledged that the Company's directors breached their duty of due care and duty of loyalty, there are aspects that cannot necessarily be said to be appropriate as to how the business plan was formulated. Comparing the process of formulating the business plan prepared by the Company in the course of considering the proposal for the INFRONEER Tender Offer with the process of that in the course of considering the proposal for privatization by YFO made during the period of the INFRONEER Tender Offer, it is difficult to say that the Company's directors responded in a way that is consistent with the ideal approach of considering the common interests of its shareholders. In addition, the Investigators did not receive a sufficient and reasonable explanation for the difference between the two during the Investigation. Each of the INFRONEER Tender Offer and the proposal for privatization by YFO is a full takeover for cash consideration (by which the acquiring party commits to ultimately acquiring a 100% equity stake), and the appropriateness of the pricing terms is of particular importance to the shareholders. This is because a full takeover for cash consideration is the last chance for shareholders to earn a gain (including a control premium) on their

investment in the target shares. However, it is considered possible that the Company did not respond in a way that is consistent with the ideal approach of considering the common interests of its shareholders. Indeed, in relation to INFRONEER, the Company prepared a business plan that would make it easier to obtain support for the INFRONEER Tender Offer from the Special Committee established on February 24, 2022. On the other hand, in relation to YFO, the Company repeatedly considered a business plan in order to make it easier to obtain opposition for the proposal for privatization. The results of the share valuation can vary greatly depending on the content of the business plan. However, regarding such business plan that should have been formulated on essentially objective and reasonable grounds, it is acknowledged that the Company has taken ad hoc approach to prepare a business plan that would be convenient for the directors to use, depending on the circumstances of the takeover proposal and the type of acquiring party. Such an approach is contrary to (i) the roles and responsibilities required under the Companies Act for directors to secure and improve the corporate value and the common interests of its shareholders, and (ii) the purpose of the Guidelines for Corporate Takeovers. It is therefore difficult to say that such an approach was appropriate.

[Investigator Yoichi Okuda's view]

It is acknowledged that the Company's Board of Directors and the Special Committee (which was established on February 24, 2022, and consulted by the Company's Board of Directors) negotiated to realize an appropriate purchase price reflecting the Company's corporate value in light of the share valuation and the fairness opinion based on the business plan verified by the Special Committee. Therefore, it cannot be acknowledged that the investigation subjects breached their duty of due care and duty of loyalty. It may be pointed out that, if the five-year mid-term business plan for fiscal years 2023 to 2027 announced on March 23, 2023 (the "FY2023 Mid-term Business Plan") could set considerably stretching target at its formulation stage, the business plan formulated upon the INFRONEER Tender Offer (the "FY2022 Business Plan (INFRONEER Tender Offer)") should also have set stretching target. However, mid-term business plans are formulated based on specialized and managerial decision-makings taking into consideration the business environment and future forecasts at the time of their formulation, and the directors are given discretions thereon to a reasonable extent. Given in this context, the mid-term business plan dated on March 25, 2020 (the "FY2020 Mid-term Business Plan"), which

	<p>formed the basis of the FY2022 Business Plan (INFRONEER Tender Offer), was formulated independently of the INFRONEER Tender Offer, and the process of the formulation of the FY2022 Business Plan (INFRONEER Tender Offer) based thereon cannot be deemed inappropriate even in light of common practices of business plan formulation. In addition, there also appears to have been certain environmental changes in the Company's business between the time of formulating the FY2020 Mid-term Business Plan or the FY2022 Business Plan (INFRONEER Tender Offer) based thereon and the time of formulating the FY2023 Mid-term Business Plan. Accordingly, it cannot be said that it was reasonable to evaluate the process of the formulation of the FY2022 Business Plan (INFRONEER Tender Offer) as inappropriate based on the <i>ex post facto</i> situation in which the Company formulated the FY2023 Mid-term Business Plan that sets targets or planned values at higher levels than the FY2020 Mid-term Business Plan or the FY2022 Business Plan (INFRONEER Tender Offer) based thereon, in light of the matters including changes in the business environment and YFO's takeover proposal at 1,000 yen per share which were not considered in the FY2022 Business Plan (INFRONEER Tender Offer). It can be said that evaluations based on such <i>ex post facto</i> situation may also hinder corporate activity that is desirable from the perspective of the corporate value and the common interests of its shareholders, which is to formulate a mid-term business plan at a higher level than in the past. While it cannot be said that there is absolutely no room for further verification regarding the process of formulating the business plan, it cannot be said that the response at the time was inappropriate. In light of the timing of the publication and objectives of the Guidelines for Corporate Takeovers published on August 31, 2023, it cannot be said that it is reasonable to evaluate this case, which occurred prior to the publication of the said Guidelines, in light of the said Guidelines, or to evaluate it as inappropriate because it was not a response in line with the best practices described in the said Guidelines. Even taking into consideration the process of the formulation of the business plan, it cannot be said that the response at the time was inappropriate in light of the purpose of the said Guidelines that require the directors and board of directors of the target company (including the special committee if it is established) to "make reasonable efforts to ensure that the acquisition will be based on terms that will secure the interest which shareholders should enjoy, in addition to determining whether the acquisition is appropriate from the perspective of enhancing the company's corporate value."</p>
--	--

	<p>Furthermore, given that Section 3.1.2 of the said Guidelines stipulate that “[if] the company’s stock price is significantly below the proposed price, that may provide an opportunity for the board of directors (especially outside directors) and the management team to recognize the issue of why such a discrepancy occurs, and to consider and analyze the situation,” it cannot be said that the Company’s formulation of the mid-term business plan, which was more desirable from the perspective of enhancing the Company’s corporate value and securing the interests of its ordinary shareholders, taking YFO’s acquisition proposal under which the tender offer price exceeded the market price of the Company’s stock at the time as an opportunity, was contrary to the purpose of the said Guidelines.</p>
Investigation Matters (2)	
Investigation Matters	<p>After investigating (I) the procedures and background to the Company’s Board of Directors introducing “the Basic Policy on Company Control and the Response Policy regarding Large-Scale Purchase Activities of Company Shares Given the Specific Concern of a Large-Scale Purchase by Godo Kaisha Vpg etc., and WK 1 Limited etc., Targeting Company Shares” (the “Takeover Defense Measures”) in response to the counterproposals to the INFRONEER Tender Offer, including the proposal for privatization by YFO etc., deciding to submit a proposal for the Takeover Defense Measures to the 100th ordinary general meeting of shareholders (the “Ordinary General Meeting of Shareholders”) held on June 24, 2022 (Proposal No. 5 of the Ordinary General Meeting of Shareholders), and, thereafter, withdrawing such proposal on June 23, 2022 which is the day preceding the date of the Ordinary General Meeting of Shareholders (including the process and reasons for the introduction and withdrawal of the Takeover Defense Measures), and (II) the procedures and background to the Company’s Board of Directors and the Director Nominating/Compensation Committee nominating candidates for the Company’s Directors (Proposal No. 3 of the Ordinary General Meeting of Shareholders) (including the process and reasons for the nomination), it will be considered in the investigation:</p> <p>(a) Whether or not inappropriate pressure or influence was exercised by third parties in the Company’s decision-making (whether or not the Company carried out a truly independent procedure and decision-making process or whether the investigation subjects prioritized their own interests or the interests of third parties at the expense of the interests of the ordinary shareholders and the Company);</p> <p>(b) Whether there were any agreements or commitments that were not</p>

	<p>disclosed in the Company's disclosure materials or other matters that the Company's shareholders should have been made aware of; and</p> <p>(c) Whether there were any other defects in the governance of the Company (including breaches by the investigation subjects of their duty of due care and duty of loyalty).</p>
Conclusions	<p>(a) Regarding the Company's introduction of the Takeover Defense Measures, it is acknowledged that certain approaches were made to the Company for the purpose of introducing the Takeover Defense Measures, such as the Company being contacted by INFRONEER with the aim of introducing the Takeover Defense Measures and the referral by INFRONEER to the law firm that advised the Company concerning the introduction of the Takeover Defense Measures; however, such facts cannot be evaluated as having been an exercise of inappropriate pressure or influence. In addition, regarding the withdrawal of the proposal for the Takeover Defense Measures, there is no evidence that third parties including INFRONEER made any approaches to the Company regarding this matter. Furthermore, there is no evidence that third parties including INFRONEER made any approaches to the Company regarding the procedures and background relating to the Company's Board of Directors and the Director Nominating/Compensation Committee decisions on the proposal for the election of directors submitted to the Ordinary General Meeting of Shareholders.</p> <p>(b) It is not acknowledged that there were any matters that the Company should have disclosed but did not disclose to its shareholders.</p> <p>(c) No suspicious matters were identified in the details and decision making processes of the decision whereby the Company's Board of Directors resolved to introduce the Takeover Defense Measures and submit a proposal for the Takeover Defense Measures as Proposal No. 5 of the Ordinary General Meeting of Shareholders nor in the subsequent withdrawal of such proposal; therefore, it is not acknowledged that the investigation subjects breached their duty of due care and duty of loyalty.</p>
Investigation Matters (3)	
Investigation Matters	<p>After investigating the process of the Company's considerations on the counterproposals, including the proposal for privatization by YFO etc., the negotiation process with YFO etc., the reports to the Company's Board of Directors on such negotiation process, and the status of considerations of the Company's Board of Directors all occurring after the Ordinary General Meeting of Shareholders (including (i) the background to the discussions that</p>

lasted for 270 days or more, which is an exceptionally long period in practice, (ii) the background to the fact that, on the one hand, the Company's representative director (at the time), on November 25, 2022, without making an organizational decision, delivered by hand a letter titled "Response to Your Company's Proposal (Draft)," in which a statement, "as we have informed you, we are unable to support your proposal to acquire all of our shares" was included; and, on the other hand, the secretariat office including the Company's Directors made a statement that it was impossible to make public the reasons for the factual situation, and, therefore, another reason must be given, and (iii) actions taken by the investigation subjects towards the series of the Company's responses), it will be considered in the investigation:

- (a) Whether there were any instances of unfair or inappropriate treatment in considering counterproposals, including the proposal for privatization by YFO etc., in response to the INFRONEER Tender Offer (compared to the Company's consideration of the INFRONEER Tender Offer, whether there were any unfair or inappropriate aspects of the Company's consideration of counterproposals, including the proposal for privatization by YFO etc., or whether the investigation subjects prioritized their own interests or the interests of third parties at the expense of the interests of the ordinary shareholders and the Company);
- (b) In the process of consideration and decision-making on the counterproposals, including the proposal for privatization by YFO etc., whether there was any inappropriate response, explanation or pressure by the Company in order to cause YFO etc., to abandon their counterproposals or to induce the Company's Board of Directors to disagree with the counterproposals (including whether there was an unfair or inappropriate response or non-response or violation from the perspective of a duty of due care and duty of loyalty or the Corporate Governance Code that needs to be observed or considered by the investigation subjects);
- (c) Whether or not the Company's Board of Directors held discussions, made decisions, and/or made disclosures based on an erroneous recognition of facts in the course of deliberating on the counterproposals, including the proposal for privatization by YFO etc.; whether or not the Company's Board of Directors failed to collect information and investigate the facts; and whether the investigation subjects failed to supervise or audit these responses (including whether there was an unfair or inappropriate response or non-response or violation from the perspective of a duty of due care and duty of loyalty or the Corporate Governance Code that needs to be

	<p>observed or considered by the investigation subjects); and</p> <p>(d) Whether there were any other defects in the governance of the Company (including breaches by the investigation subjects of their duty of due care and duty of loyalty).</p>
<p>Conclusions</p>	<ul style="list-style-type: none"> • It cannot be said that the decision of the Board of Directors not to withdraw its opinion on the INFRONEER Tender Offer and accept the proposal for privatization by YFO etc., during the period of the INFRONEER Tender Offer, was an unreasonable response that may constitute a breach of its duty of due care and duty of loyalty. In addition, it cannot be said that there were any defects in the governance, or any unfair or inappropriate response by the Board of Directors or the investigation subjects with respect to the decision-making process of the Board of Directors or the process of obtaining advice from the advisors or opinions from members of the special committee in relation to the INFRONEER Tender Offer. • It cannot be said that the resolution by the Company’s Board of Directors dated May 24, 2023 to oppose finally the proposal for privatization by YFO etc., was an unreasonable response that may constitute a breach of their duty of due care and duty of loyalty. In addition, with respect to the decision making process of the Board of Directors, the process of obtaining advice from the advisors, and the decision making process of the Special Committee established on February 14, 2023, while there is some question as to the impartiality of the stakeholder opinion gathering and surveys conducted by the Company when assessing the impact of the proposal for privatization on the management foundation, as a whole, it cannot be said that there were any defects in the governance, or any unfair or inappropriate response by the Board of Directors or the investigation subjects. • In light of the differences in the nature of INFRONEER and YFO, their respective relationships with the Company, and the differences in the content of the proposals and the progress of the negotiations, it cannot be said that the fact that the Company responded differently, to a certain extent, to the INFRONEER Tender Offer and the proposal for privatization by YFO etc., was an unreasonable response that may constitute a breach of the duty of due care or duty of loyalty, or that there was a defect in governance or an unfair or inappropriate response. • The statements or actions by the investigation subjects in the negotiations with YFO cannot be deemed to be intended to harm the Company’s

corporate value or the common interests of its shareholders or to cause YFO to abandon its proposal for privatization, or to unduly distort the final decision-making by the Board of Directors. Further, assuming that such statements or actions were made in the negotiations with YFO, they cannot be evaluated as statements or actions that would not be tolerated under socially accepted conventions, even if they were made during the negotiation phase. Therefore, it cannot be said that there was an unreasonable response that may constitute a breach of the duty of due care and duty of loyalty, or that there was a defect in governance or an unfair and inappropriate response.

- The Investigators agree that it is impossible to declare that there was a breach of the duty of due care and duty of loyalty due to the fact that one year or more had elapsed from the time that the Company received the proposal for privatization by YFO etc., and YFO etc., gave advance notice of the tender offer until the time that the Board of Directors expressed its opinion in opposition to such tender offer; however, each Investigator expressed different views as to whether or not the fact that one year or more had elapsed was unfair or inappropriate, as follows:

[Investigator Shin Ushijima's view]

Such manner of conduct by the Company's Board of Directors was inappropriate at least from the viewpoint of securing and improving the Company's corporate value and the common interests of its shareholders and of the essence of the Guidelines for Corporate Takeovers that has been published at this time, that is to say, the code of conduct regarding the consideration of corporate takeovers for directors and Boards of Directors which should have been applied at the time of considering the proposal by YFO etc.

[Investigator Yoichi Okuda's view]

In light of the unique circumstances of this case, from the viewpoint of improving the Company's corporate value and the common interests of its shareholders, the Company's Board of Directors can be evaluated as having taken time to consider carefully and sincerely and it cannot be said that such response by the Company's Board of Directors was an unreasonable response that may constitute a breach of their duty of due care and duty of loyalty, or that there was a defect in governance or an unfair or inappropriate response. Further, it cannot be deemed an inappropriate response in light of the provisions of the code of conduct for directors and Boards of Directors regarding takeover proposals which are described in the Guidelines for Corporate Takeovers published on

August 31, 2023.

In the Investigation Agreement, the Company agreed with YFO and WK 1 that, as to the disclosure of the Report, the Company's Board of Directors should make a reasonable determination, upon consultation with the Investigators, from the perspective of protecting the common interests of the Company's shareholders. In the Report, as stated above, whether there were any defects in the Company's governance is evaluated based on detailed fact-finding through a thorough investigation by the Investigators. However, it is considered that detailed disclosure of the facts found by the Investigators and the reasons for the evaluation by the Investigators may constitute a breach of the contractual confidentiality obligations owed by the Company to the parties concerned and could act detrimentally against the Company in seeking important transactions in the future. Therefore, the Company's Board of Directors has decided not to disclose the portions of the Report that contain the facts found and to focus the disclosure on a summary of the evaluation by the Investigators, considering that, as stated above, it was assessed that there were no breaches of the duty of due care and duty of loyalty by the officers and employees who were the subjects of the Investigation and that there was no unfair or inappropriate response by the Company (except that Shin Ushijima, an attorney-at-law, deemed that (i) regarding (c) of Investigation Matters (1), certain aspects of the process of the Company's formulation of the business plan at the time of the INFRONEER Tender Offer cannot be said to have been appropriate, and (ii) the prolonged consideration and negotiation process as stated in Investigation Matters (3) above was inappropriate in terms of the manner of conduct of the Board of Directors). Please refer to Attachment 1 for a summary of the Report.

The details of the above-mentioned disclosure policy and summary of the Report were discussed with the Investigators in accordance with the Investigation Agreement, but have been determined under the responsibility of the Company's Board of Directors. In preparing the summary of the Report, the Company was careful to ensure that readers would be able to comprehend the overview of the reasons and rationale for the evaluation by the Investigators as much as possible.

In addition, since factual circumstances are omitted from Attachment 1, please also refer to Attachment 2, in which we have summarized a timeline with respect to major facts surrounding the matter. Attachments 1 and 2 will be omitted from disclosure in English. As the Company informed you in its December 14, 2023 press release titled "Notice Regarding Expression of Opinion (Opposition) Regarding the Application for a Tender Offer for Company Shares by Godo Kaisha Yamauchi-No. 10 Family Office and Kabushiki Kaisha KITE," the Company's Board of Directors, by making a unanimous resolution of directors, expressed an opinion of opposition to a proposal from YFO etc., regarding a tender offer for the Company's ordinary shares. In that regard, please note that the consideration process taken by the Company's Board of Directors, which consists of the directors and auditors appointed at the Company's 101st Annual General Meeting of Shareholders held on June 27, 2023, and the Company's special committee established

on September 27, 2023, which resulted in the said expression of opinion, was not a subject of the Investigation.

The process leading up to the expression of the opinion to oppose the proposal by YFO etc., regarding a tender offer for the Company's ordinary shares, by the Company's Board of Directors, which consists of the directors and auditors appointed at the Company's 101st Annual General Meeting of Shareholders held on June 27, 2023, and the Company's special committee, which was established on September 27, 2023, was taken by referring to the "Guidelines for Corporate Takeovers" published by the Ministry of Economy, Trade and Industry on August 31, 2023; and therefore, the Company believes it was fair.

End