

*This Appendix sets out summaries of certain aspects of PRC laws and regulations which are relevant to the Group's operations and business. Laws and regulations relating to taxation in the PRC are discussed separately in "Appendix IV – Taxation and Foreign Exchange" to this prospectus. This Appendix also contains a summary of certain Hong Kong legal and regulatory provisions, including summaries of certain of the material differences between PRC and Hong Kong company law, certain requirements of the Hong Kong Listing Rules and additional provisions required by the Hong Kong Stock Exchange for inclusion in the articles of association of the PRC issuers.*

## PRC JUDICIAL SYSTEM

Under the *PRC Constitutional Law* (《中華人民共和國憲法》) and the *Law of the PRC of Organization of the People's Courts* (《中華人民共和國人民法院組織法》), the judicial system in PRC is made up of the Supreme People's Court, the local people's courts, military courts and other special people's courts. The local people's courts are comprised of the basic people's courts, the intermediate people's courts and the higher people's courts. The basic people's courts are organized into civil, criminal, and administrative divisions. The intermediate people's courts are organized into divisions similar to those of the basic people's courts, and are further organized into other special divisions to hear cases such as Intellectual Property cases. The people's courts at lower levels are subject to supervision of the people's courts at higher levels. The Supreme People's Court is the highest judicial organ of the PRC and it has the power to supervise the administration of justice by the local people's courts at all levels and all special people's courts. The people's procuratorates also have the right to exercise legal supervision over the civil proceedings of people's courts.

The people's courts employ a "second instance as final" system. A party may appeal against a judgment or order of the people's court of first instance to the people's court at the next higher level. Second judgments or awards given at the next higher level are final. First judgments or awards of the Supreme People's Court are also final. If, however, the Supreme People's Court or a people's court at a higher level finds an error in a judgment or order in force which has been given in any people's court at a lower level, or the president of the people's court finds an error in a judgment or order in force, the case may then be retried according to the judicial supervision procedures.

The *Civil Procedure Law of the PRC* (《中華人民共和國民事訴訟法》) (the "PRC Civil Procedure Law"), which was adopted on April 9, 1991 and amended on October 28, 2007 and August 31, 2012, sets forth the criteria for instituting a civil action, the jurisdiction of the people's courts, the procedures to be followed for conducting a civil action and the procedures for enforcement of a civil judgment or order. All parties to a civil action conducted within the PRC must comply with the PRC Civil Procedure Law. Generally, a civil case is initially heard by a local court of the municipality or province in which the defendant resides. The parties to a contract may, by an express agreement, select a jurisdiction where civil actions may be brought, provided that the jurisdiction is either the plaintiff's or the defendant's place of residence, the place of execution or implementation of the contract or the object of the action or other jurisdictions which have substantial connections with the dispute. However, such selection cannot violate the stipulations of grade jurisdiction and exclusive jurisdiction in any case.

A foreign individual or enterprise generally has the same litigation rights and obligations as a citizen or legal person of the PRC. If a foreign country's judicial system limits the litigation rights of PRC citizens and enterprises, the PRC courts may impose the same limitations to the citizens and enterprises of that foreign country within the PRC. If any party to a civil action refuses to comply with a judgment or order made by a people's court or an award granted by an arbitration panel in the PRC, the other party may apply to the people's court to request for enforcement of the judgment, order or award. There are time limits imposed on the right to apply for such enforcement and the time limit is two year. If a person fails to satisfy a judgment made by the court within the stipulated time, the court will, upon application by either party, mandatorily enforce the judgment.

A party seeking to enforce a judgment or order of a people's court against a party who is not located within the PRC and does not own any property in the PRC, may apply to a foreign court with proper jurisdiction for recognition and enforcement of the judgment or order.

In the case of an application or request for recognition and enforcement of a legally effective judgment or order of a foreign court, the people's court shall, after having examined it in accordance with the international treaties entered into or acceded to by the PRC or with the principle of reciprocity and having arrived at the conclusion that it does not contravene the primary principles of the laws of the PRC nor violates its sovereignty, security or social and public interests, recognize the validity of the judgment or order, and, if required, issue a writ of enforcement and enforce it in accordance with the relevant regulations. If the application or request contravenes the primary principles of the laws of the PRC or violates its sovereignty, security or social and public interests, the people's court shall not recognize and enforce it.

### **THE PRC COMPANY LAW, SPECIAL REGULATIONS AND MANDATORY PROVISIONS**

On December 29, 1993, the Standing Committee of the Eighth NPC adopted the PRC Company Law (《中華人民共和國公司法》) which came into effect on July 1, 1994 and was amended for the first time on December 25, 1999, the second time on August 28, 2004 and the third time on October 27, 2005. The newly amended PRC Company Law has been promulgated and became effective from January 1, 2006.

On July 4, 1994, the Special Regulations (《國務院關於股份有限公司境外募集股份及上市的特別規定》) were passed at the Twenty-Second Standing Committee Meeting of the State Council, and they were promulgated and implemented on August 4, 1994. The Special Regulations are formulated according to the provisions of Sections 85 and 155 of the PRC Company Law (1993) in respect of the overseas share subscription and listing of joint stock limited companies. The Mandatory Provisions (《到境外上市公司章程必備條款》) were issued jointly by the former Securities Commission of the State Council and the former State Economic Restructuring Commission on August 27, 1994, prescribing provisions which must be incorporated into the articles of association of joint stock limited companies to be listed overseas. Accordingly, the Mandatory Provisions have been incorporated in the Articles of Association (which are summarized in the appendix headed "Appendix VI — Summary of the Articles of Association" to this prospectus).

Copies of the Chinese text of the PRC Company Law, Special Regulations and the Mandatory Provisions are available for inspection as mentioned in the appendix headed "Appendix VIII — Documents Delivered to the Registrar of Companies and Available for Inspection" to this prospectus.

### **General**

A "joint stock limited liability company" (hereinafter referred to as "company") is a corporate legal person incorporated under the PRC Company Law, whose registered capital is divided into shares of equal nominal value. The liability of its shareholders is limited to the extent of the shares held by them, and the liability of the company is limited to the full amount of all the assets owned by it.

A state-owned enterprise that is restructured into a company must comply with the conditions and requirements specified by law and administrative regulation, for the modification of its operation mechanisms, the systematic handling and evaluation of the company's assets and liabilities and the establishment of internal management organs.

A company may invest in other limited liability companies and joint stock limited companies. The liabilities of the company to such invested companies are limited to the amount subscribed. Unless otherwise provided by laws, a company cannot be the capital contributor who has the joint and several liabilities associated with the debts of the invested enterprises.

A company must conduct its business in accordance with law and professional ethics.

**Incorporation**

A company may be incorporated by promotion or subscription.

A company may be incorporated by two to 200 promoters, but at least half of the promoters must reside in the PRC.

Companies incorporated by promotion are companies with the registered capital entirely subscribed for by the promoters. Where companies are incorporated by subscription, the promoters are required to subscribe for not less than 35% of the total number of shares of a company unless otherwise stipulated by laws and regulations, and the remaining shares can be offered to the public or specific persons, unless otherwise required by law.

The PRC Company Law has provided that the minimum registered capital of a joint stock limited liability company is RMB5 million. For companies incorporated by promotion, the registered capital has to be the total capital subscribed for by all promoters as registered with the relevant administration bureau for industry and commerce; for companies established by public subscription, the registered capital is the amount of total paid-up capital as registered with the relevant administration bureau for industry and commerce.

Pursuant to the PRC Securities Law (《中華人民共和國證券法》), the total capital of a company which proposes to apply for its shares to be listed on a stock exchange must not be less than RMB30 million.

The promoters shall convene an inaugural meeting within 30 days after the issued shares have been fully paid up, and shall 15 days before the meeting give notice to all subscribers or make a public announcement of the date of the inaugural meeting.

The inaugural meeting may be convened only with the presence of shareholders holding shares representing more than 50% of the total issued shares of the company. At the inaugural meeting, matters including the adoption of draft articles of association proposed by the promoter(s) and the election of the board of directors and the supervisory committee of the company will be dealt with. All resolutions of the meeting require the approval of subscribers with more than half of the voting rights present at the meeting.

Within 30 days after the conclusion of the inaugural meeting, the board of directors shall apply to the registration authority for registration of the establishment of the company.

A company is formally established and has the status of a legal person after the approval for registration has been given by the relevant administration bureau for industry and commerce and a business license has been issued.

A company's promoters shall individually and collectively be liable for: (i) the payment of all expenses and liabilities incurred in the incorporation process if the company cannot be incorporated (ii) the repayment of subscription monies to the subscribers together with interest at bank rates for a deposit of the same term if the company cannot be incorporated; and (iii) damages suffered by the company as a result of the default of the promoters in the course of incorporation of the company.

**Share Capital**

The promoters of a company can make capital contributions in cash or in kind, that can be valued in currency and transferable according to law such as intellectual property rights or land use rights based on their appraised value provided that the amount of capital contribution in cash by all shareholders must not be less than 30% of a company's registered capital.

If capital contribution is made other than in cash, valuation and verification of the property contributed must be carried out and converted into shares.

A company may issue registered or bearer share. However, shares issued to promoter(s) or legal person(s) shall be in the form of registered share and shall be registered under the name(s) of such promoter(s) or legal person(s) and shall not be registered under a different name or the name of a representative.

The Special Regulations and the Mandatory Provisions provide that shares issued to foreign investors and listed overseas shall be issued in registered form and shall be denominated in Renminbi and subscribed for in foreign currency.

Under the Special Regulations and the Mandatory Provisions, shares issued to foreign investors and investors from the territories of Hong Kong, the Macau Special Administrative Region of the PRC and Taiwan, subscribed in foreign currencies and listed overseas are known as overseas listed foreign invested shares, and those shares issued to investors within the PRC other than the territories specified above and subscribed in Renminbi are known as Domestic Shares.

A company may offer its shares to the public overseas with approval by the securities administration department of the State Council. Specific provisions shall be specifically formulated by the State Council. Under the Special Regulations, upon approval of CSRC, a company may agree, in the underwriting agreement in respect of an issue of overseas listed foreign invested shares, to retain not more than 15% of the aggregate number of overseas listed foreign invested shares proposed to be issued after accounting for the number of underwritten shares.

The share offering price may be equal to or greater than nominal value, but shall not be less than nominal value.

The transfer of shares by shareholders should be conducted via the legally established stock exchange or in accordance with other methods as stipulated by the State Council. Transfer of registered shares by a shareholder must be made by means of an endorsement or by other means stipulated by law or administrative regulation. Bearer shares are transferred by delivery of the share certificates to the transferee.

Shares held by a promoter of a company shall not be transferred within one year after the date of the company's incorporation. Shares issued by a company prior to the public offer of its shares shall not be transferred within one year from the date of listing of the shares of the company on a stock exchange. Directors, supervisors and senior management of a company shall not transfer over 25% of the shares held by each of them in the company each year during their term of office and shall not transfer any share of the company held by each of them within one year after the listing date. Directors, supervisors and senior management shall not transfer any share of the company they hold within six months after their resignation. There is no restriction under the PRC Company Law as to the percentage of shareholding a single shareholder may hold in a company.

Transfers of shares may not be entered in the register of shareholders within 20 days before the date of a shareholders' meeting or within five days before the record date set for the purpose of distribution of dividends.

### **Increase in Capital**

Under the PRC Company Law, an increase in the capital of a company by means of an issue of new shares must be approved by shareholders in general meeting.

Save for the above-mentioned shareholder approval requirement, for a public offering of new shares, the PRC Securities Law provides that the company shall: (i) have a sound organizational

structure with satisfactory operating record; (ii) have the capability of continuing profitability and a healthy financial position; (iii) have no false statements and other material breaches in the financial and accounting documents of the last three years; (iv) fulfill other conditions required by the securities administration department of the State Council as approved by the State Council.

Public offer requires the approval of the securities administration department of the State Council.

After payment in full for the new shares issued, a company must change its registration with the relevant administration bureau for industry and commerce and issue a public notice accordingly.

### **Reduction of Share Capital**

Subject to the minimum registered capital requirements, a company may reduce its registered capital in accordance with the following procedures prescribed by the PRC Company Law:

- (i) the company shall prepare a balance sheet and an inventory of the assets;
- (ii) the reduction of registered capital must be approved by shareholders in general meeting;
- (iii) the company shall inform its creditors of the reduction in capital within ten days and publish an announcement of the reduction in the newspaper within 30 days after the resolution approving the reduction has been passed;
- (iv) the creditors of the company may within the statutory prescribed time limit require the company to pay its debts or provide guarantees covering the debts; and
- (v) the company must apply to the relevant administration bureau for industry and commerce for registration of the reduction in registered capital.

### **Repurchase of Shares**

A company may not purchase its own shares other than for the purpose of:

- (i) reducing its capital by canceling its shares or merging with another company holding its shares;
- (ii) granting shares as a reward to the staff of the company; or
- (iii) purchasing the company's own shares upon request of its shareholders who vote against the resolution regarding the merger or division of the company in a general meeting.

The shares of the company to be repurchased by itself as a reward to its staff shall not exceed 5% of the total number of its issued shares. Any funds for such purpose shall be paid out of after-tax profits of the company, and the shares so purchased shall be transferred to the company's staff within a year. The Mandatory Provisions provide that upon obtaining approvals in accordance with the articles of association of the company and from the relevant supervisory authorities, a company may repurchase its issued shares for the foregoing purposes by way of a general offer to its shareholders or purchase on a stock exchange or an off-market contract.

### **Transfer of Shares**

Shares may be transferred in accordance with the relevant laws and regulations.

**Shareholders**

Shareholders have such rights and obligations as set forth in the articles of association of the company. The articles of association of a company are binding on each shareholder.

Under the PRC Company Law and the Mandatory Provisions, the rights of a shareholder include:

- (i) to attend in person or appoint a proxy to attend shareholders' general meetings, and to vote in respect of the number of shares held;
- (ii) to transfer his shares in accordance with applicable laws and regulations and the articles of association of the company;
- (iii) to inspect the company's articles of association, shareholders' registers, records of debentures, minutes of shareholders' general meetings, board resolutions, supervisors resolutions, financial and accounting reports and put forward proposals or raise questions about the business operations of the company;
- (iv) if any directors or senior officers damages the shareholder's interests by violating law or administrative regulations or article of association, the shareholders may lodge an action in the people's court;
- (v) to receive dividends and other distributions in respect of the number of shares held;
- (vi) to obtain surplus assets of the company upon its termination in proportion to his or her shareholding; to claim against other shareholders who abuse their shareholders' rights for the damages; and
- (vii) any other shareholders' rights specified in the company's articles of association.

The obligations of a shareholder include the obligation to abide by the company's articles of association, to pay the subscription monies in respect of the shares subscribed for, to be liable for the company's debts and liabilities to the extent of the amount of subscription monies agreed to be paid in respect of the shares taken up by him/her, not to abuse shareholders' right to damage the interests of the company or other shareholders of the company; not to abuse the independent status of the company as a legal person and the limited liability to damage the interests of the creditors of the company and any other shareholders' obligation specified in the company's articles of association.

**Shareholders' General Meetings**

The shareholders' general meeting is the governing body of the company, which exercises its powers in accordance with the PRC Company Law.

The shareholders' general meeting exercises the following principal powers:

- (i) to decide on the company's operational policies and investment plans;
- (ii) to elect or remove the directors and supervisors who are not representatives of the employees and decide on matters relating to the remuneration of directors and supervisors;
- (iii) to consider and approve reports of the board of directors;
- (iv) to consider and approve reports of the supervisory committee or the supervisors;
- (v) to consider and approve the company's proposed annual financial budget and financial accounts;

- (vi) to consider and approve the company's proposals for profit distribution and for recovery of losses;
- (vii) to decide on any increase or reduction in the company's registered capital;
- (viii) to decide on the issue of bonds by the company;
- (ix) to decide on issues such as merger, division, dissolution or liquidation of the company or the conversion of the company and other matters;
- (x) to decide on the appointment, resignation or dismissal of the accounting firm;
- (xi) to amend the articles of association of the company; and
- (xii) other powers specified in the articles of association of the company.

Shareholders' general meeting is required to be held once every year. An extraordinary shareholders' general meeting is required to be held within two months after the occurrence of any of the following circumstances:

- (i) the number of directors is less than the number provided for in the PRC Company Law or less than two-thirds of the number specified in the company's articles of association;
- (ii) the losses of the company which are unrecoverable reach one-third of the company's total paid up share capital;
- (iii) a request by a shareholder that holds, or by shareholders that hold in aggregate, 10% or more of the company's shares;
- (iv) when deemed necessary by the board of directors;
- (v) when the supervisory committee proposes convening it; or
- (vi) other matters required by the company's articles of association.

Shareholders' general meetings shall be convened by the board of directors, and presided over by the chairman of the board of directors.

Notice of the shareholders' general meeting shall be given to all shareholders 20 days before the meeting under the PRC Company Law and 45 days under the Special Regulations and the Mandatory Provisions, stating the matters to be considered at the meeting. Under the Special Regulations and the Mandatory Provisions, shareholders wishing to attend are required to give to the company written confirmation of their attendance 20 days prior to the meeting.

Shareholders present at a shareholders' general meeting have one vote for each share they hold, but the company shall have no vote for any of its own shares the company holds.

Resolutions proposed at the shareholders' general meeting shall be adopted by more than half of the voting rights cast by shareholders present (including those represented by proxies) at the meeting, with the exception of matters relating to merger, division, dissolution, increase or reduction in registered capital, change in the form of the company or amendments to the articles of association which shall be adopted by shareholders with two-thirds or more of the voting rights cast by shareholders present (including those represented by proxies) at the meeting.

Shareholders may entrust a proxy to attend shareholders' general meetings on his or her behalf by a power of attorney which sets out the scope of exercising the voting rights.

There is no specific provision in the PRC Company Law regarding the number of shareholders constituting a quorum in a shareholders' meeting. However, the Special Regulations and the Mandatory Provisions provide that a company's annual general meeting may be convened when replies to the notice of that meeting from shareholders holding shares representing 50% or more of the voting rights in the company have been received 20 days before the proposed date, or if that 50% level is not achieved, the company shall within five days of the last day for receipt of the replies notify shareholders by public announcement of the matters to be considered at the meeting and the date and place of the meeting and the annual general meeting may be held thereafter. The Mandatory Provisions require class meetings to be held in the event of a variation or derogation of the class rights of a class. Holders of domestic invested shares and holders of overseas listed foreign invested shares are deemed to be different classes of shareholders for this purpose.

### **Directors**

A company shall have a board of directors, which shall consist of 5 to 19 members and there can be staff representatives of our Company. Under the PRC Company Law, each term of office of a director shall not exceed three years. A director may serve consecutive terms if re-elected.

Meetings of the board of directors shall be convened at least twice a year. Notice of meeting shall be given to all directors and supervisors at least ten days before the meeting. The board of directors may provide for a different method of giving notice and notice period for convening an extraordinary meeting of the board of directors.

Under the PRC Company Law, the board of directors exercises the following powers:

- (i) to convene the shareholders' general meeting and report on its work to the shareholders;
- (ii) to implement the resolution of the shareholders' general meeting;
- (iii) to decide on the company's business plans and investment plans;
- (iv) to formulate the company's proposed annual financial budget and final accounts;
- (v) to formulate the company's proposals for profit distribution and for recovery of losses;
- (vi) to formulate proposals for the increase or reduction of the company's registered capital and the issue of corporate bonds;
- (vii) to prepare plans for the merger, division or dissolution of the company;
- (viii) to decide on the company's internal management structure;
- (ix) to appoint or dismiss the company's president, and based on the president's recommendation, to appoint or dismiss vice presidents and financial officers of the company and to decide on their remuneration;
- (x) to formulate the company's basic management system; and
- (xi) any other power given under the articles of association of the company.

In addition, the Mandatory Provisions provide that the board of directors is also responsible for formulating the proposals for amendment of the articles of association of a company.

Meetings of the board of directors shall be held only if more than half of the directors are present. Resolutions of the board of directors require the approval of more than half of all directors.



If a director is unable to attend a board meeting, he may appoint another director by a written power of attorney specifying the scope of the authorization to attend the meeting on his behalf.

If a resolution of the board of directors violates the laws, administrative regulations or the company's articles of association as a result of which the company sustains serious losses, the directors participating in the resolution are liable to compensate the company. However, if it can be proven that a director expressly objected to the resolution when the resolution was voted on, and that such objections were recorded in the minutes of the meeting, such director may be relieved of that liability.

Under the PRC Company Law, the following persons may not serve as a director of a company:

- (i) persons without civil capacity or with restricted civil capacity;
- (ii) persons who have committed the offense of corruption, bribery, taking of property, misappropriation of property or destruction of the socialism market economic order, and have been sentenced to criminal punishment, where less than five years have elapsed since the date of completion of the sentence; or persons who have been deprived of their political rights due to criminal offense, where less than five years have elapsed since the date of the completion of implementation of this deprivation;
- (iii) persons who are former directors, factory managers or managers of a company or enterprise which has become bankrupt and been liquidated due to mismanagement and who are personally liable for the bankruptcy of such company or enterprise, where less than three years have elapsed since the date of the completion of the bankruptcy and liquidation of the company or enterprise;
- (iv) persons who were legal representatives of a company or enterprise which had its business license revoked or business operation shut down due to violation of the law and who are personally liable, where less than three years have elapsed since the date of the revocation of the business license;
- (v) persons who have a relatively large amount of debt due and outstanding; or
- (vi) Other circumstances under which a person is disqualified from acting as a director of a company are set out in the Mandatory Provisions (which have been incorporated in the Articles of Association, a summary of which is set out in the appendix headed "Appendix VI – Summary of the Articles of Association" to this prospectus).

The board of directors shall appoint a chairman, who is elected with approval of more than half of all the directors. The chairman of the board of directors exercises, among others, the following powers:

- (i) to preside over shareholders' general meetings and convene and preside over meetings of the board of directors; and
- (ii) to check on the implementation of the resolutions of the board of directors.

The legal representative of a company in accordance with the company's articles of association, is the chairman of the board of directors.

The Special Regulations provide that a company's directors, supervisors, managers and other officers bear fiduciary duties and the duty to act diligently. They are required to faithfully perform their duties, protect the interests of the company and not to use their positions for their own benefit. The

Mandatory Provisions (which have been incorporated into the Articles of Association, a summary of which is set out in the appendix headed “Appendix VI — Summary of the Articles of Association” to this prospectus) contain further elaborations of such duties.

**Supervisors**

A company shall have a supervisory committee composed of not less than three members. Each term of office of a supervisor is three years and he may serve consecutive terms if re-elected.

The supervisory committee is made up of shareholders representatives and an appropriate proportion of the company’s staff representatives; and the percentage of the number of the company’s staff representatives shall not be less than one-third. Directors and senior management shall not act as supervisors.

Requirements in relation to the power of the supervisory committee under the PRC Company Law are as follows:

- (i) to examine the company’s financial affairs;
- (ii) to supervise the directors and senior management in their performance of their duties and to propose the removal of any director or senior management who violates the laws, regulations, articles of association or shareholders’ resolution;
- (iii) to require any director or senior management whose act is detrimental to the company’s interests to rectify such act;
- (iv) to propose the convening of extraordinary shareholders’ general meetings and, in the event that the board of directors fails to perform the duties of convening and presiding shareholders’ meetings to convene and preside over shareholders’ meetings;
- (v) to propose any proposals to shareholders’ general meetings;
- (vi) to commence any action against any directors or senior management; and
- (vii) other powers specified in the company’s articles of association.

The circumstances under which a person is disqualified from being a director of a company described above apply mutates mutandis to supervisors of a company.

The Special Regulations provide that a company’s directors and supervisors shall have fiduciary duties. They are required to faithfully perform their duties, protect the interest of the company and not to use their positions for their own benefit.

**Managers and Senior Officers**

A company shall have a manager who shall be appointed or removed by the board of directors. The manager is accountable to the board of directors and may exercise the following powers:

- (i) in charge of the production, operation and management of the company and arrange for the implementation of resolutions of the board of directors;
- (ii) arrange for the implementation of the company’s annual business and investment plans;
- (iii) formulate plans for the establishment of the company’s internal management structure;
- (iv) formulate the basic administration system of the company;

- (v) formulate the company's internal rules;
- (vi) recommend the appointment and dismissal of deputy managers and any financial officer and appoint or dismiss other administration officers (other than those required to be appointed or dismissed by the board of directors);
- (vii) attend board meetings as a non-voting attendant; and
- (viii) other powers conferred by the board of directors or the company's articles of association.

The Special Regulations and the Mandatory Provisions provide that the other senior management of a company includes the financial officer, secretary of the board of directors and other executives as specified in the article of association of the company.

The circumstances under which a person is disqualified from being a director of a company described above apply mutatis mutandis to managers and officers of the company.

The articles of association of a company shall have binding effect on the shareholders, directors, supervisors, managers and other senior management of the company. Such persons shall be entitled to exercise their rights, apply for arbitration and issue legal proceedings according to the articles of association of the company. The provisions of the Mandatory Provisions regarding the senior management of a company have been incorporated in the Articles of Association, a summary of which is set out in the appendix headed "Appendix VI — Summary of the Articles of Association" to this prospectus.

### **Duties of Directors, Supervisors, Managers and Senior Officers**

A director, supervisor, manager and other senior officer of a company are required under the PRC Company Law to comply with the relevant laws, regulations and the company's articles of association, carry out their duties honestly and protect the interests of the company. A director, supervisor, manager and other senior officer of a company is also under a duty of confidentiality to the company and is prohibited from divulging secret information of the company save as permitted by the relevant laws and regulations or by the shareholders.

A director, supervisor, manager and other senior officer who contravenes any law, regulation or the company's articles of association in the performance of his/her duties which results in any loss to the company shall be personally liable to the company.

The Special Regulations and the Mandatory Provisions provide that a director, supervisor, manager and other senior officer of a company owe fiduciary duties to the company and are required to perform their duties faithfully and to protect the interests of the company and not to make use of their positions in the company for their own benefit.

### **Finance and Accounting**

A company shall establish its financial and accounting systems according to PRC laws, administrative regulations and the provisions of the responsible financial department of the State Council and at the end of each financial year, prepare a financial report which shall be audited and verified as provided by law.

A company shall deposit its financial statements at the company for inspection by the shareholders at least 20 days before the convening of the annual general meeting of shareholders. A company incorporated by public subscription must publish its financial statements.

The common reserve of a company comprises the statutory surplus reserve, the discretionary common reserve and the capital common reserve.

When distributing each year's after-tax profits, the company shall set aside 10% of its after-tax profits for the company's statutory surplus reserve (except where the reserve has reached 50% of the company's registered capital). After a company has made an allocation to its statutory common reserve from its after-tax profits, subject to a resolution of the shareholders' general meeting, the company may make an allocation to a discretionary common reserve.

When the company's statutory surplus reserve is not sufficient to make up for the company's losses of the previous years, current year profits shall be used to make up for the losses before allocations are set aside for the statutory surplus reserve.

After the company has made up for its losses and make allocations to its statutory surplus reserve the remaining profits could be available for distribution to shareholder in proportion to the number of shares held by the shareholders except as otherwise provided in the articles of association of such company limited by shares.

The capital common reserve of a company is made up of the premium over the nominal value of the shares of the company on issue and other amounts required by the relevant governmental authority to be treated as the capital common reserve.

The common reserve of a company shall be applied for the following purposes:

- (i) to make up the company's losses other than the capital common reserve;
- (ii) to expand the business operations of the company; and
- (iii) to increase the registered capital of the company by the issue of new shares to shareholders in proportion to their existing shareholdings in the company or by increasing the nominal value of the shares currently held by the shareholders provided that if the statutory surplus reserve is converted into registered capital, the balance of the statutory surplus reserve after such conversion shall not be less than 25% of the registered capital of the company before such conversion.

### **Appointment and Retirement of Auditors**

The Special Regulations require a company to employ an independent PRC qualified accounting firm to audit the company's annual report and to review and check other financial reports.

The auditors are to be appointed for a term commencing from the close of an annual general meeting and ending at the close of the next following annual general meeting.

If a company removes or ceases to continue to appoint the auditors, it is required by the Special Regulations to give prior notice to the auditors and the auditors are entitled to make representations before the shareholders in general meeting. The appointment, removal or non re-appointment of auditors shall be decided by the shareholders at shareholders' general meetings and shall be filed with the CSRC for record.

### **Distribution of Profits**

The PRC Company Law provides that a company is restricted from distributing profits before accumulated losses have been made up and statutory common reserve have been drawn. The Special Regulations provide that the dividends and other distributions to be paid to holders of

overseas listed foreign invested shares shall be declared and calculated in Renminbi and paid in foreign currency. Under the Mandatory Provisions, the payment of foreign currency to shareholders shall be made through a receiving agent.

### **Amendments to Articles of Association**

Any amendments to the company's articles of association must be made in accordance with the procedures set forth in the company's articles of association. Any amendment of provisions incorporated in the articles of association in connection with the Mandatory Provisions will only be effective after approval by the companies approval department authorized by the State Council and the CSRC according to the Mandatory Provisions. In relation to matters involving the company's registration, the company shall apply for change of registration with the authority.

### **Dissolution and Liquidation**

A company may apply for the declaration of insolvency by reason of its inability to pay debts as they fall due. After the people's court has made a declaration of the company's insolvency, the shareholders, the relevant authorities and the relevant professionals shall form a liquidation committee to conduct the liquidation of the company.

Under the PRC Company Law, a company shall be dissolved in any of the following events:

- (i) the term of its operations set down in its articles of association has expired or events of dissolution specified in its articles of association have occurred;
- (ii) the shareholders in general meeting have resolved to dissolve the company;
- (iii) the company is dissolved by reason of its merger or demerger;
- (iv) the company is subject to the revocation of business license, a closure order or elimination in accordance with laws; or
- (v) in the event that the company encounters substantial difficulties in its operation and management and its continuance shall cause a significant loss, in the interest of shareholders, and where this cannot be resolved through other means, shareholders who hold more than 10% of the total shareholders' voting rights of the company may present a petition to the people's court for the dissolution of the company.

Where the company is dissolved in the circumstances described in (i), (ii), (iv) and (v) above, a liquidation committee must be formed within 15 days after the occurrence of the cause of dissolution so as to carry out liquidation. Members of the liquidation committee shall be composed of the directors or any other people as determined by the shareholders' meeting.

If a liquidation committee is not established within the stipulated period, the company's creditors can apply to the people's court for its establishment.

The liquidation committee shall notify the company's creditors within ten days after its establishment, and issue a public notice in the newspapers within 60 days. A creditor shall lodge his claim with the liquidation committee within 30 days after receiving notification, or within 45 days of the public notice if he did not receive any notification. The liquidation committee shall exercise the following powers during the liquidation period:

- (i) to handle the company's assets and to prepare a balance sheet and an inventory of the assets;
- (ii) to notify creditors or issue public notices;

- (iii) to deal with and settle any outstanding business of the company;
- (iv) to pay any tax overdue;
- (v) to settle the company's financial claims and liabilities;
- (vi) to handle the surplus assets of the company after its debts have been paid off; and
- (vii) to represent the company in civil lawsuits.

If the company's assets are sufficient to meet its liabilities, they shall be applied towards the payment of the liquidation expenses, wages owed to the employees and labor insurance expenses, tax overdue and debts of the company. Any surplus assets shall be distributed to the shareholders of the company in proportion to the number of shares held by them.

During the liquidation period, the company shall not engage in operating activities unrelated to the liquidation.

If the liquidation committee becomes aware that the company does not have sufficient assets to meet its liabilities, it must immediately apply to the people's court for a declaration for bankruptcy. Following such declaration, the liquidation committee shall hand over all affairs of the liquidation to the people's court.

Upon the completion of the liquidation, the liquidation committee shall submit a liquidation report to the shareholders' general meeting or the people's court for confirmation. Thereafter, the report shall be submitted to the companies registration authority in order to cancel the company's registration, and a public notice of its termination shall be issued.

Members of the liquidation committee are required to discharge their duties honestly and in compliance with relevant laws. A member of liquidation committee is liable to indemnify the company and its creditors in respect of any loss arising from his willful or material default.

### **Overseas Listing**

The shares of a company shall only be listed overseas after obtaining approval from the securities regulatory authority of the State Council and the listing must be arranged in accordance with procedures specified by the State Council.

According to the Special Regulations, a company's plan to issue overseas listed foreign invested shares and domestic invested shares which has been approved by the securities regulatory authority of the State Council may be implemented by the board of directors of a company by way of separate issues, within 15 months after approval is obtained from the CSRC.

### **Loss of Share Certificates**

A shareholder may apply, in accordance with the relevant provisions set out in the PRC Civil Procedure Law, to a people's court in the event that share certificates in registered form are either stolen or lost, for a declaration that such certificates will no longer be valid. After such a declaration has been obtained, the shareholder may apply to the company for the issue of replacement certificates.

The Mandatory Provisions provide for a separate procedure regarding loss of H share certificates (which has been incorporated in the Articles of Association, a summary of which is set out in "Appendix VI – Summary of the Articles of Association.")

**Suspension and Termination of Listing**

The PRC Company Law has deleted provisions governing suspension and termination of listing. The PRC Securities Law has been amended as follows:

The trading of shares of a company on a stock exchange may be suspended if so decided by the stock exchange under one of the following circumstances:

- (i) the registered capital or shareholding distribution no longer comply with the necessary requirements for a listed company;
- (ii) the company failed to make public its financial position in accordance with the requirements or there is false information in the company's financial report with the possibility of misleading investors;
- (iii) the company has committed a major breach of the law;
- (iv) the company has incurred losses for three consecutive years; or
- (v) other circumstances as required by the listing rules of the relevant stock exchange(s).

Under the PRC Securities Law, in the event that the conditions for listing are not satisfied within the period stipulated by the relevant stock exchange in the case described in (i) above, or the company has refused to rectify the situation in the case described in (ii) above, or the company fails to become profitable in the next subsequent year in the case described in (iv) above, the relevant stock exchange shall have the right to terminate the listing of the shares of the company.

**Merger and Demerger**

Companies may merge through merger by absorption or through the establishment of a newly merged entity. If it merges by absorption, the company which is absorbed shall be dissolved. If it merges by forming a new corporation, both companies will be dissolved.

**SECURITIES LAW AND REGULATIONS**

The PRC has promulgated a number of regulations that relate to the issue and trading of the Shares and disclosure of information. In October 1992, the State Council established the Securities Committee and the CSRC. The Securities Committee was responsible for co-ordinating the drafting of securities regulations, formulating securities-related policies, planning the development of securities markets, directing, coordinating and supervising all securities-related institutions in the PRC and administering the CSRC. The CSRC was the regulatory body of the Securities Committee and responsible for the drafting of regulatory provisions of securities markets, supervising securities companies, regulating public offers of securities by PRC companies in the PRC or overseas, regulating the trading of securities, compiling securities-related statistics and undertaking research and analysis. In 1998, the State Council dissolved the Securities Committee and assigned its function to the CSRC. The CSRC is also responsible for the regulation and supervision of the national stocks and futures market according to PRC laws, regulations and authorizations.

The PRC Securities Law took effect on July 1, 1999 and was revised for the first time on August 28, 2004 and the second time on October 27, 2005. This is the first national securities law in the PRC, and it is divided into 12 chapters and 240 articles regulating, among other things, the issue and trading of securities, takeovers by listed companies, securities exchanges, securities companies and the duties and responsibilities of the State Council's securities regulatory authorities. The PRC Securities Law comprehensively regulates activities in the PRC securities market. Article 238 of the PRC Securities Law provides that a PRC company must obtain prior approval from the State

Council's regulatory authorities to list its shares outside the PRC. Article 239 of the PRC Securities Law provides that specific provisions in respect of shares of companies in the PRC which are to be subscribed and traded in foreign currencies shall be separately formulated by the State Council. Currently, the issue and trading of foreign issued shares (including H Shares) are still mainly governed by the rules and regulations promulgated by the State Council and the CSRC.

#### ARBITRATION AND ENFORCEMENT OF ARBITRAL AWARDS

The *Arbitration Law of the PRC* (《中華人民共和國仲裁法》) (the "Arbitration Law") was passed by the Standing Committee of the NPC on August 31, 1994 and became effective on September 1, 1995. It is applicable to contract disputes and other property disputes between natural person, legal person and other organizations where the parties have entered into a written agreement to refer the matter to arbitration before an arbitration committee constituted in accordance with the Arbitration Law. Under the Arbitration Law, an arbitration committee may, before the promulgation by the PRC Arbitration Association of arbitration regulations, formulate interim arbitration rules in accordance with the Arbitration Law and the PRC Civil Procedure Law. Where the parties have by agreement provided arbitration as the method for dispute resolution, the people's court will refuse to handle the case.

The Hong Kong Listing Rules and the Mandatory Provisions require an arbitration clause to be included in the articles of association of a PRC company listed in Hong Kong and, in the case of the Hong Kong Listing Rules, also in contracts with each of the Directors and Supervisors, to the effect that whenever any disputes or claims concerning corporate affairs arise between holders of the H Shares and the company; holders of the H Shares and the directors, supervisors, manager or other senior officers; or holders of the H Shares and holders of the domestic shares, arising out of any rights or obligations conferred or imposed by the articles of association, the PRC Company Law or other relevant laws and administrative regulations, such disputes or claims shall be referred to arbitration.

Where a dispute or claim of rights referred to in the preceding paragraph is referred to arbitration, the entire claim or dispute must be referred to arbitration, and all persons who have a cause of action based on the same facts giving rise to the dispute or claim or whose participation is necessary for the resolution of such dispute or claim, if they are shareholders, directors, supervisors, managers or other senior management of the company, shall be subject to the arbitration. Disputes in respect of who is the shareholder and disputes in relation to the register of shareholders need not be resolved by arbitration.

A claimant may elect for arbitration to be carried out at either the China International Economic and Trade Arbitration Commission ("CIETAC") in accordance with its rules or the Hong Kong International Arbitration Centre ("HKIAC") in accordance with its securities arbitration rules. Once a claimant refers a dispute or claim to arbitration, the other party must submit to the arbitral body elected by the claimant. If the claimant elects for arbitration to be carried out at the HKIAC, any party to the dispute or claim may apply for a hearing to take place in Shenzhen in accordance with the securities arbitration rules of the HKIAC.

Under the Arbitration Law and the PRC Civil Procedure Law, an arbitral award is final and binding on the parties. If a party fails to comply with an award, the other party to the award may apply to the people's court for enforcement. A people's court may refuse to enforce an arbitral award made by an arbitration tribunal if there is any procedural or membership irregularity specified by law or the award exceeds the scope of the arbitration agreement or is outside the jurisdiction of the arbitration tribunal.

A party seeking to enforce an arbitral award of PRC arbitration panel against a party who, or whose property, is not within the PRC, may apply to a foreign court with jurisdiction over the case for enforcement. Similarly, an arbitral award made by a foreign arbitration body may be recognized and enforced by the PRC courts in accordance with the principles of reciprocity or any international treaty concluded or acceded to by the PRC. The PRC acceded to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (《承認及執行外國仲裁裁決公約》, 簡稱《紐約公約》) (the "New York



Convention”) adopted on June 10, 1958 pursuant to a resolution of the Standing Committee of the NPC passed on December 2, 1986. The New York Convention provides that all arbitral awards made in a state which is a party to the New York Convention shall be recognized and enforced by other parties to the New York Convention, subject to their right to refuse enforcement under certain circumstances, including where the enforcement of the arbitral award is against the public policy of the State to which the application for enforcement is made. It was declared by the Standing Committee of the NPC simultaneously with the accession of the PRC that (i) the PRC will only recognize and enforce foreign arbitral awards on the principle of reciprocity and (ii) the PRC will only apply the New York Convention in disputes considered under PRC laws to arise from contractual and non-contractual mercantile legal relations.

In June 1999, the Arrangement Concerning Mutual Enforcement of Arbitral Awards Between the Mainland and Hong Kong Special Administrative Region (《關於內地與香港特別行政區相互執行仲裁裁決的安排》) was made between Hong Kong and the Supreme People’s Court of the PRC for the mutual enforcement of arbitral awards. This arrangement was approved by the Supreme People’s Court of the PRC and the Hong Kong Legislative Council, and became effective on February 1, 2000. The arrangement is made in accordance with the spirit of the New York Convention. Under the arrangement, awards made by PRC arbitration bodies pursuant to the Arbitration Law can be enforced in Hong Kong, and Hong Kong arbitral awards pursuant to the Arbitration Ordinance of Hong Kong are also enforceable in the PRC.

## **ESTABLISHMENT OF OVERSEAS OPERATIONS RULES AND REGULATIONS**

According to the Provisions for Overseas Investment Management (《境外投資管理辦法》) as promulgated by MOFCOM and the Provisions on the Foreign Exchange Administration of Overseas Investment of Domestic Institutions (《境內機構境外直接投資外匯管理規定》) issued by the SAFE, upon obtaining approval from the MOFCOM to establish enterprises overseas, PRC enterprises shall apply for foreign exchange registration for overseas investments.

According to the Tentative Administrative Provisions on the Approval of Overseas Investment Projects (《境外投資項目核准暫行管理辦法》), promulgated by the NDRC, investment projects involving the use of a large amount of foreign exchange would require the verification and approval by the NDRC or the State Council. If there is any change with respect to the investor or equity holding of a project that has been verified and approved, an application for amendment shall be made to the NDRC.

## **HONG KONG LAWS AND REGULATIONS**

### **Company Law**

The Hong Kong law applicable to a company with share capital incorporated in Hong Kong is based on the Companies Ordinance and is supplemented by common law. Our Company, which is a joint stock limited liability company established in the PRC, is governed by the PRC Company Law and all other rules and regulations promulgated pursuant to the PRC Company Law applicable to a joint stock limited liability company established in the PRC issuing overseas listed foreign shares to be listed on the Hong Kong Stock Exchange.

Set out below is a summary of the material differences between the Companies Ordinance applicable to a company incorporated in Hong Kong and the PRC Company Law applicable to a joint stock limited liability company incorporated and existing under the PRC Company Law. This summary is, however, not intended to be an exhaustive comparison:

#### **(i) Corporate subsisting**

Under Companies Ordinance, a company having share capital is incorporated by the Registrar of Companies in Hong Kong issuing a certificate of incorporation and upon its incorporation, a company will acquire an independent corporate existence. A company may be incorporated as a public company or a private company.

Under the PRC Company Law, a joint stock limited liability company may be incorporated by either the promotion method or the subscription method. A joint stock limited liability company must have a minimum registered capital of RMB5 million, or higher as may otherwise be required by the laws and regulations. Hong Kong law does not prescribe any minimum capital requirements for a Hong Kong company. Under the PRC Company Law, the monetary contributions by all the shareholders must not be less than 30% of the registered capital. There is no such restriction on a Hong Kong company under Hong Kong law.

**(ii) Share capital**

Under Hong Kong law, the authorized share capital of a Hong Kong company is the amount of share capital which the company is authorized to issue and a company is not bound to issue the entire amount of its authorized share capital. The authorized share capital of a Hong Kong company may exceed its issued share capital. Hence, the directors of a Hong Kong company may, with the prior approval of the shareholders, if required, cause the company to issue new shares. The PRC Company Law does not recognize the concept of authorized share capital. The registered capital of a joint stock limited liability company is the amount of the issued share capital. Any increase in registered capital must be approved by the shareholders at a general meeting and by the relevant governmental and regulatory authorities in the PRC (if required).

Under the PRC Laws, a company which is authorized by the relevant securities administration authority to list its shares on a stock exchange must have a registered capital of not less than RMB30 million. Hong Kong law does not prescribe any minimum capital requirements for companies incorporated in Hong Kong.

Under the PRC Company Law, the capital contributions may be in the form of money or non-monetary assets (other than assets not entitled to be used as capital contributions under relevant laws and regulations). For non-monetary assets to be used as capital contributions, appraisals and verification must be carried out to ensure no overvaluation or under-valuation of the assets. The monetary contribution shall not be less than 30% of a joint stock limited liability company's registered capital. There is no such restriction on a Hong Kong company under Hong Kong law.

**(iii) Restrictions on shareholding and transfer of shares**

Under PRC laws, the domestic shares in the share capital of a joint stock limited liability company which are denominated and subscribed for in Renminbi may only be subscribed or traded by the State, PRC legal and natural persons. The overseas listed foreign shares issued by a joint stock limited liability company which are denominated in Renminbi and subscribed for in a currency other than Renminbi, except as otherwise permitted under the Trial Measures for the Administration of Overseas Securities Investment by Qualified Domestic Institutional Investors (《合格境內機構投資者境外證券投資管理試行辦法》), may only be subscribed and traded by investors from Hong Kong Special Administrative Region, the Macau Special Administrative Region, Taiwan or any country and territory outside the PRC.

Under the PRC Company Law, shares in a joint stock limited liability company held by its promoters cannot be transferred within one year after the date of establishment of the company. Shares in issue prior to the company's public offering cannot be transferred within one year from the listing date of the shares on the Hong Kong Stock Exchange. Shares in a joint stock limited liability company held by its directors, supervisors and management personnel and transferred each year during their term of office shall not exceed 25% of the total shares they held in the company, and the shares they held in the company cannot be transferred within one year from the listing date of the shares, and also cannot be transferred within half a year after the said personnel has left office. The articles of association may set other restrictive requirements on the transfer of the company's shares held by its directors, supervisors and officers. There are no such restrictions on shareholdings and

transfers of shares under Hong Kong law apart from the six-month lock up on our Company's issue of shares and the 12-month lock up on the Controlling Shareholder's disposal of shares, as illustrated by the undertakings given by our Company to the Hong Kong Stock Exchange as described in the section headed "Underwriting" in this prospectus.

**(iv) Financial assistance for acquisition of shares**

The PRC Company Law does not contain any provision prohibiting or restricting a joint stock limited liability company or its subsidiaries from providing financial assistance for the purpose of an acquisition of its own or its holding company's shares. The Mandatory Provisions contain certain restrictions on a company and its subsidiaries providing such financial assistance similar to those under Companies Ordinance.

**(v) Variation of class rights**

The PRC Company Law makes no specific provision relating to variation of class rights. However, the PRC Company Law states that the State Council can promulgate regulations relating to other kinds of shares. The Mandatory Provisions contain elaborate provisions relating to the circumstances which are deemed to be variation of class rights and the approval procedures required to be followed in respect thereof. These provisions have been incorporated in the Articles of Association, which are summarized in the appendix headed "Appendix VI – Summary of the Articles of Association" to this prospectus. Under Companies Ordinance, no rights attached to any class of shares can be varied except (i) with the approval of a special resolution of the holders of the relevant class at a separate meeting, (ii) with the consent in writing of the holders of three-fourths in nominal value of the issued shares of the class in question, (iii) by agreement of all the members of the company or (iv) if there are provisions in the articles of association relating to the variation of those rights, then in accordance with those provisions.

Our Company (as required by the Hong Kong Listing Rules and the Mandatory Provisions) has adopted in the Articles of Association provisions protecting class rights in a similar manner to those found in Hong Kong law. Holders of overseas listed shares and domestic listed shares are defined in the Articles of Association as different classes of shareholders, provided however that the special procedures for approval by separate class shareholders shall not apply to the following circumstances: (i) where our Company issues, upon the approval by special resolution of the Shareholders in general meeting, either separately or concurrently once every 12 months, not more than 20% of each of our existing issued Domestic Shares or overseas-listed foreign-invested Shares; (ii) where our Company completes, with 15 months from the date on which approval is given by the securities regulatory authorities of the State Council, our plan (made at the time of our establishment) to issue Domestic Shares and overseas-listed foreign-invested Shares; and (iii) upon the approval by the securities regulatory authorities of the State Council, the unlisted Shares held by our Shareholders become listed and traded on an overseas stock exchange.

**(vi) Directors**

The PRC Company Law, unlike Companies Ordinance, does not contain any requirements relating to the declaration of interests in material contracts by a director, restrictions on directors' authority in making major dispositions, restrictions on companies providing certain benefits such as guarantees in respect of directors' liability and prohibition against compensation for loss of office without shareholders' approval. The Mandatory Provisions, however, contain requirements and restrictions in relation to the foregoing matters similar to those applicable under Hong Kong law.

**(vii) Supervisory committee**

Under the PRC Company Law, the board of directors and managers of a joint stock limited liability company is subject to the supervision and inspection of a supervisory committee. But there is

no mandatory requirement for the establishment of a supervisory committee for a company incorporated in Hong Kong. The Mandatory Provisions provide that each supervisor owes a duty, in the exercise of his powers, to act in good faith and honestly in what he considers to be in the best interests of the company and to exercise the care, diligence and skill that a reasonably prudent person would exercise under comparable circumstances.

**(viii) Derivative action by shareholders**

Hong Kong law permits shareholders, with the permission of a court, to start a derivative action on behalf of and under the name of a company against directors in breach of their duties. The PRC Company Law gives shareholders of a joint stock limited liability company the right that in the event that the directors and senior managers violate their fiduciary obligations to a company, shareholders individually or jointly holding over 1% of the shares in the company for more than 180 days consecutively may request in writing the supervisory committee to initiate proceedings in the people's court. In the event that the supervisory committee violates their fiduciary obligations to a company, the above said shareholders may request in writing the board of directors to initiate proceedings in the people's court. Upon receipt of such request in writing from the shareholders, if the supervisory committee or the board of directors refuse to initiate such proceedings, or has not initiated proceedings within 30 days upon receipt of the request, or if under urgent situations, failure of initiating immediate proceeding may cause irremediable damages to the company, the above said shareholders shall for the benefit of the company's interests, have the right to initiate proceedings directly to the court in its own name.

The Mandatory Provisions further provide that directors, supervisors and officers in breach of their duties to the company shall compensate the company. In addition, every director and supervisor of a joint stock limited liability company applying for a listing of its foreign shares on the Hong Kong Stock Exchange is required to give an undertaking in favor of the company as agent for each shareholder to comply with the articles of association. This allows shareholders to act against directors and supervisors in default.

**(ix) Protection of minorities**

Under Hong Kong law, a shareholder who complains that the affairs of a company incorporated in Hong Kong are conducted in a manner unfairly prejudicial to his interests may petition to court to either wind up the company or make a court order regulating the affairs of the company. In addition, on the application of a specified number of members, the Financial Secretary may appoint inspectors who are given extensive statutory powers to investigate the affairs of a company incorporated in Hong Kong. The PRC Company Law does not contain similar safeguards. The Mandatory Provisions, however, contain provisions to the effect that a controlling shareholder may not exercise its voting rights in a manner prejudicial to the interests of the shareholders generally or of some part of the shareholders of a company to relieve a director or supervisor of his duty to act honestly in the best interests of the company or to approve the expropriation by a director or supervisor of the company's assets or the individual rights of other shareholders.

**(x) Notice of shareholders' meetings**

Under the PRC Company Law, notice of a shareholders' general meeting must be given 20 days before the meeting, while notice of an extraordinary meeting must be given 15 days before the meeting or, in the case of a company having bearer shares, a public announcement of a shareholders' general meeting must be made 30 days prior to it being held. Under the Special Regulations and the Mandatory Provisions, 45 days' written notice must be given to all shareholders and shareholders who wish to attend the meeting must reply in writing 20 days before the date of the meeting. For a company incorporated in Hong Kong, the minimum notice periods of a general meeting convened for considering an ordinary resolution and a special resolution are 14 days and 21 days, respectively; and the notice period for an annual general meeting is 21 days.

**(xi) Quorum for shareholders' meetings**

Under Hong Kong law, the quorum for a general meeting is two members unless the articles of association of the company otherwise provided. For one member companies, one member will be a quorum. The PRC Company Law does not specify any quorum requirement for shareholders' general meeting but the Special Regulations and the Mandatory Provisions provide that a company's general meeting can be convened when replies to the notice of that meeting have been received from shareholders whose shares represent 50% of the voting rights in the company at least 20 days before the proposed date of the meeting. If that 50% level is not achieved, the company shall within five days notify shareholders by public announcement and the shareholders' general meeting may be held thereafter.

**(xii) Voting**

Under Hong Kong law, an ordinary resolution is passed by a simple majority of votes cast by members present in person or by proxy at a general meeting and a special resolution is passed by a majority of not less than three-fourths of votes cast by members present in person or by proxy at a general meeting. Under the PRC Company Law, the passing of resolution requires more than one half of the votes cast by shareholders present in person or by proxy at a shareholders' general meeting except in cases of proposed amendment to the articles of association, increase or reduction of share capital, and merger, demerger or dissolution of a joint stock limited liability company or changes to the form of the company, which require two-thirds or more of votes cast by shareholders present at a shareholders' general meeting.

**(xiii) Financial disclosure**

A joint stock limited liability company is required under the PRC Company Law to make available at its office for inspection by shareholders its annual balance sheet, profit and loss account, changes in financial position and other relevant annexures 20 days before an annual general meeting. In addition, a public company under the PRC Company Law must publish its financial situation. The annual balance sheet has to be verified by registered accountants. The Companies Ordinance requires a company to send to every shareholder a copy of its balance sheet, auditors' report and directors' report which are to be tabled before the company in its annual general meeting not less than 21 days before such meeting.

A joint stock limited liability company is required under the PRC laws to prepare its financial statements in accordance with the PRC accounting standards. The Mandatory Provisions require that the company must, in addition to preparing accounts according to the PRC GAAP, have its accounts prepared and audited in accordance with IFRS or Hong Kong accounting standards and its financial statements must also contain a statement of the financial effect of the material differences (if any) from the financial statements prepared in accordance with the PRC GAAP.

The Special Regulations require that there should not be any inconsistency between the information disclosed within and outside the PRC and that, to the extent that there are differences in the information disclosed in accordance with the relevant PRC and overseas laws, regulations and requirements of the relevant stock exchanges, such differences should also be disclosed simultaneously.

**(xiv) Information on directors and shareholders**

The PRC Company Law gives shareholders the right to inspect and copy the articles of association, minutes of the shareholders' general meetings and financial and accounting reports. Under the Articles of Association, shareholders have the right to inspect and copy (at reasonable charges) certain information on shareholders and on directors similar to that available to shareholders of Hong Kong companies under Hong Kong law.

**(xv) Receiving agent**

Under both the PRC and Hong Kong law, dividends once declared become debts payable to shareholders. The limitation period for debt recovery action under Hong Kong law is six years while that under the PRC laws is two years. The Mandatory Provisions require the appointment by the company of a trust company registered under the Hong Kong Trustee Ordinance (Chapter 29 of the Laws of Hong Kong) as a receiving agent to receive on behalf of holders of foreign shares dividends declared and all other monies owed by a joint stock limited liability company in respect of such foreign shares.

**(xvi) Corporate reorganization**

Corporate reorganization involving a company incorporated in Hong Kong may be effected in a number of ways, such as a transfer of the whole or part of the business or property of the company in the course of being wound up voluntarily to another company pursuant to section 237 of the Companies Ordinance or a compromise or arrangement between the company and its creditors or between the company and its members pursuant to section 166 of the Companies Ordinance which requires the sanction of the court. Under PRC laws, the merger, demerger, dissolution or change to the form of a joint stock limited liability company has to be approved by shareholders in general meeting.

**(xvii) Arbitration of disputes**

In Hong Kong, disputes between shareholders and a company incorporated in Hong Kong or its directors may be resolved through the courts. The Mandatory Provisions provide that such disputes should be submitted to arbitration at either the HKIAC or the CIETAC, at the claimant's choice.

**(xviii) Mandatory transfers**

Under the PRC Company Law, a joint stock limited liability company is required to make transfers equivalent to certain prescribed percentages of its after tax profit to the statutory common reserve fund. There are no such requirements under Hong Kong law.

**(xix) Remedies of a company**

Under the PRC Company Law, if a director, supervisor or management personnel in carrying out his duties infringes any law, administrative regulation or the articles of association of a company, which results in damage to the company, that director, supervisor or management personnel should be responsible to the company for such damages. In addition, in compliance with the Mandatory Provisions, the Articles of Association set out remedies to our Company similar to those available under Hong Kong law (including recovery of profits made by a director, supervisor or officer).

**(xx) Dividends**

Pursuant to the relevant PRC laws and regulations, the company shall withhold, and pay to the relevant tax authorities, any tax payable under PRC laws on any dividends or other distributions payable to a shareholder.

Under Hong Kong law, the limitation period for an action to recover a debt (including the recovery of dividends) is six years, whereas under PRC laws, the relevant limitation period is two years. A company shall not exercise its powers to forfeit any unclaimed dividend in respect of its listed foreign shares until after the expiry of the applicable limitation period.

**(xxi) Fiduciary duties**

In Hong Kong, there is the common law concept of the fiduciary duty of directors. Under the PRC Company Law and the Special Regulations, directors, supervisors, officers, and management personnel owe a fiduciary duty towards a company and are not permitted to engage in any activities which compete with or damage the interests of the company.

**(xxii) Closure of register of shareholders**

The Companies Ordinance requires that the register of shareholders of a company must not generally be closed for the registration of transfers of shares for more than 30 days (extendable to 60 days in certain circumstances) in a year, whereas the articles of association of a company provide, as required by the PRC Company Law and the Mandatory Provisions, that share transfers may not be registered within 30 days before the date of a shareholders' meeting or within five days before the record date set for the purpose of distribution of dividends.

**Hong Kong Listing Rules**

The Hong Kong Listing Rules provide additional requirements which apply to an issuer which is incorporated in the PRC as a joint stock limited liability company and seeks a primary listing or whose primary listing is on the Hong Kong Stock Exchange. Set out below is a summary of such principal additional requirements which apply to our Company:

**(i) Compliance Advisor**

A company seeking listing on the Hong Kong Stock Exchange is required to appoint a compliance advisor acceptable to the Hong Kong Stock Exchange for the period from its listing date up to the date of sending of annual report to the shareholders for the first full year's financial results, to provide the company with professional advice on continuous compliance with the Hong Kong Listing Rules and all other applicable laws, regulations, rules, codes and guidelines.

If the Hong Kong Stock Exchange is not satisfied that the compliance advisor is fulfilling its responsibilities adequately, it may require the company to terminate the compliance advisor's appointment and appoint a replacement.

The compliance advisor must keep the company informed on a timely basis of changes in the Hong Kong Listing Rules and any new or amended law, regulation or code in Hong Kong applicable to the company. It must act as the company's principal channel of communication with the Hong Kong Stock Exchange if the authorized representatives of the company are expected to be frequently outside Hong Kong.

**(ii) Accountants' report**

An accountants' report for a PRC issuer will not normally be regarded as acceptable by the Hong Kong Stock Exchange unless the relevant accounts have been audited to a standard comparable to that required in Hong Kong. Such report will normally be required to conform to either Hong Kong or international standards on accounting or PRC accounting standards.

**(iii) Process agent**

Our Company is required to appoint and maintain a person authorized to accept service of process and notices on its behalf in Hong Kong throughout the period during which its securities are listed on the Hong Kong Stock Exchange and must notify the Hong Kong Stock Exchange of his appointment, the termination of his appointment and his contact particulars.

**(iv) Public shareholdings**

If at any time there are existing issued securities of a PRC issuer other than foreign shares which are listed on the Hong Kong Stock Exchange, the Hong Kong Listing Rules require that the aggregate amount of H shares and other securities held by the public must constitute not less than 25% of the PRC issuer's issued share capital and that the class of securities for which listing is sought must not be less than 15% of the issuer's total issued share capital, having an expected market capitalization at the time of listing of not less than HK\$50 million.

The Hong Kong Stock Exchange may, at its discretion, accept a lower percentage of between 15% and 25% in the case of issuers with an expected market capitalization at the time of listing of over HK\$10,000 million.

**(v) Independent non-executive directors and supervisors**

The independent non-executive directors of a PRC issuer are required to demonstrate an acceptable standard of competence and adequate commercial or professional expertise to ensure that the interests of the general body of shareholders will be adequately represented. The supervisors of a PRC issuer must have the character, expertise and integrity and be able to demonstrate a standard of competence commensurate with their position as supervisors.

**(vi) Restrictions on purchase and subscription of its own securities**

Subject to governmental approvals and the provisions of the Articles of Association, our Company may repurchase our own H Shares on the Hong Kong Stock Exchange in accordance with the provisions of the Hong Kong Listing Rules. Approval by way of special resolution of the holders of Domestic Shares and the holders of H Shares at separate class meetings conducted in accordance with the Articles of Association is required for share repurchases. In seeking approvals, our Company is required to provide information on any proposed or actual purchases of all or any of our equity securities, whether or not listed or traded on the Hong Kong Stock Exchange. The Directors must also state the consequences of any purchases which will arise under either or both of the Codes on Takeovers and Mergers and Share Purchases and any similar PRC laws of which they are aware, if any. Any general mandate given to the Directors to repurchase H Shares must not exceed 10% of the total amount of existing issued H Shares.

**(vii) Mandatory Provisions**

With a view to increasing the level of protection afforded to investors, the Hong Kong Stock Exchange requires the incorporation, in the articles of association of a PRC company whose primary listing is on the Hong Kong Stock Exchange, of the Mandatory Provisions and provisions relating to the change, removal and resignation of auditors, class meetings and the conduct of the supervisory committee of the company. Such provisions have been incorporated into the Articles of Association, a summary of which is set out in the appendix headed "Appendix VI – Summary of the Articles of Association" to this prospectus.

**(viii) Redeemable Shares**

Our Company must not issue any redeemable Shares unless the Hong Kong Stock Exchange is satisfied that the relative rights of the holders of the H Shares are adequately protected.

**(ix) Right of First Refusal**

Except in the circumstances mentioned below, the Directors are required to obtain the approval by a special resolution of Shareholders in general meeting, and the approvals by special resolutions of



the holders of Domestic Shares and H Shares (each being otherwise entitled to vote at general meetings) at separate class meetings conducted in accordance with the Articles of Association, prior to authorizing, allotting, issuing or granting shares or securities convertible into shares, or options, warrants or similar rights to subscribe for any shares or such convertible securities.

No such approval will be required under the Hong Kong Listing Rules, but only to the extent that, the existing Shareholders of our Company have by special resolution in general meeting given a mandate to the Directors, either unconditionally or subject to such terms and conditions as may be specified in the resolution, to authorize, allot or issue, either separately or concurrently once every 12 months, not more than 20% of the existing Domestic Shares and H Shares as at the date of the passing of the relevant special resolution or of such Shares that are part of our plan at the time of our establishment to issue Domestic Shares and H Shares and which plan is implemented within 15 months from the date of approval by the CSRC.

**(x) Supervisors**

Our Company is required to adopt rules governing dealings by the Supervisors in securities of our Company in terms no less exacting than those of the model code (set out in Appendix 10 to the Hong Kong Listing Rules) issued by the Hong Kong Stock Exchange.

Our Company is required to obtain the approval of the Shareholders in a general meeting (at which the relevant Supervisor and his associates shall not vote on the matter) prior to our Company or any of our subsidiaries entering into a service contract of the following nature with a Supervisor or proposed Supervisor of our Company or our subsidiaries: (i) the contract is for a duration that may exceed three years; or (ii) the contract expressly requires our Company to give more than one year's notice or to pay compensation or make other payments equivalent to more than one year's emoluments.

The remuneration and appraisal committee of our Company or an independent board committee must form a view in respect of service contracts that require Shareholders' approval and advise Shareholders (other than shareholders with a material interest in the service contracts and their associates) as to whether the terms are fair and reasonable, advise whether such contracts are in the interests of our Company and the Shareholders as a whole and advise Shareholders on how to vote.

**(xi) Amendment to the Articles of Association**

Our Company is required not to permit or cause any amendment to be made to the Articles of Association which would cause the same to cease to comply with the mandatory provisions of the Hong Kong Listing Rules relating to such Articles of Association.

**(xii) Documents for inspection**

Our Company is required to make available at a place in Hong Kong for inspection by the public and shareholders free of charge, and for copying by Shareholders at reasonable charges of the following:

- a complete duplicate register of Shareholders;
- a report showing the state of the issued share capital of our Company;
- our Company's latest audited financial statements and the reports of the Directors, auditors and Supervisors (if any) thereon;
- special resolutions of our Company;

- reports showing the number and nominal value of securities repurchased by our Company since the end of the last financial year, the aggregate amount paid for such securities and the maximum and minimum prices paid in respect of each class of securities repurchased (with a breakdown between Domestic Shares and H Shares);
- a copy of the latest annual return filed with SAIC or other competent PRC authority; and
- for Shareholders only, copies of minutes of meetings of Shareholders.

**(xiii) Receiving agents**

Our Company is required to appoint one or more receiving agents in Hong Kong and pay to such agent(s) dividends declared and other monies owing in respect of the H Shares to be held, pending payment, in trust for the holders of such H Shares.

**(xiv) Statements in listing documents and share certificates**

Our Company is required to ensure that all of our listing documents and share certificates include the statements stipulated below and to instruct and cause each of our share registrars not to register the subscription, purchase or transfer of any of our Shares in the name of any particular holder unless and until such holder delivers to such share registrar a signed form in respect of such Shares bearing statements to the following effect that the acquirer of the Shares:

- agrees with our Company and each Shareholder of our Company, and our Company agrees with each Shareholder of our Company, to observe and comply with the PRC Company Law, the Special Regulations, the Articles of Association and other relevant laws and administrative regulations;
- agrees with our Company, each Shareholder, Director, Supervisor, manager and officer of our Company, and our Company acting for itself and for each Director, Supervisor, manager and officer of our Company agrees with each Shareholder, to refer all differences and claims arising from the Articles of Association or any rights or obligations conferred or imposed by the PRC Company Law or other relevant laws and administrative regulations concerning the affairs of our Company to arbitration in accordance with the Articles of Association, and any reference to arbitration shall be deemed to authorize the arbitration tribunal to conduct hearings in open session and to publish its award. Such arbitration shall be final and conclusive;
- agrees with our Company and each Shareholder of our Company that the H Shares are freely transferable by the holder thereof; and
- authorizes our Company to enter into a contract on his behalf with each Director and officer of our Company whereby each such Director and officer undertakes to observe and comply with his obligation to Shareholders as stipulated in the Articles of Association.

**(xv) Compliance with the PRC Company Law, the Special Regulations and the Articles of Association**

Our Company is required to observe and comply with the PRC Company Law, the Special Regulations and the Articles of Association.

**(xvi) Contract between our Company and its Directors, officers and Supervisors**

Our Company is required to enter into a contract in writing with every Director and officer containing at least the following provisions:

- that the Director or officer is required to observe and comply with the PRC Company law, the Special Regulations, the Articles of Association, the Codes on Takeovers and Mergers and Share Repurchases and an agreement with our Company that remedies shall be provided in accordance with the Articles of Association and that neither their contract nor their office are capable of assignment;
- an undertaking by the Director or officer, acting as agent for each Shareholder, to our Company to observe and comply with his obligations to Shareholders as stipulated in the Articles of Association;
- an arbitration clause which provides that whenever any differences or claims arise from that contract, the Articles of Association or any rights or obligations conferred or imposed by the PRC Company Law or other relevant law and administrative regulations concerning the affairs of our Company between our Company and the Directors or officers and between a holder of H Shares and a Director or officer of our Company, such differences or claims will be referred to arbitration at either the CIETAC in accordance with its rules or the HKIAC in accordance with its securities arbitration rules, at the election of the claimant and that once a claimant refers a dispute or claim to arbitration, the other party must submit to the arbitration body elected by the claimant. Such arbitration will be final and conclusive;
- if the party seeking arbitration elects to arbitrate the dispute or claim at HKIAC, then either party may apply to have such arbitration conducted in Shenzhen according to the securities arbitration rules of HKIAC;
- PRC laws shall govern the arbitration of disputes or claims referred to above, unless otherwise provided by law or administrative regulations;
- the award of the arbitration body is final and shall be binding on the parties thereto;
- the agreement to arbitrate is made by the Director or officer with our Company on our own behalf and on behalf of each Shareholder; and
- any reference to arbitration shall be deemed to authorize the arbitral tribunal to conduct hearings in open session and to publish its award.

Our Company is also required to enter into a contract in writing with every Supervisor containing statements in substantially the same terms.

**(xvii) Subsequent listing**

Our Company must not apply for the listing of any of the H Shares on a PRC stock exchange unless the Hong Kong Stock Exchange is satisfied that the relative rights of the holders of foreign Shares are adequately protected.

**(xviii) English translation**

All notices or other documents required under Chapter 13 of the Hong Kong Listing Rules to be sent by our Company to the Hong Kong Stock Exchange are required to be in the English language, or accompanied by a certified English translation.

**(xix) General**

If any change in the PRC laws or market practices materially alters the validity or accuracy of any of the statements in Rule 19A.01 of the Hong Kong Listing Rules, then the Hong Kong Stock Exchange may impose additional requirements or make listing of the equity securities of a PRC issuer, including our Company, subject to special conditions as the Hong Kong Stock Exchange considers appropriate. Whether or not any such changes in the PRC laws or market practices occur, the Hong Kong Stock Exchange retains its general power under the Hong Kong Listing Rules to impose additional requirement and make special conditions in respect of the Listing.

**Other Legal and Regulatory Provisions**

Upon Listing, the provisions of the SFO, the Codes on Takeovers and Mergers and Share Repurchases and such other relevant ordinances and regulations as may be applicable to companies listed on the Hong Kong Stock Exchange will apply to our Company.

**Securities Arbitration Rules**

The Articles of Association provide that certain claims arising from the Articles of Association or the PRC Company Law shall be arbitrated at either the CIETAC or the HKIAC in accordance with their respective rules. The securities arbitration rules of the HKIAC contain provisions allowing an arbitral tribunal to conduct a hearing in Shenzhen for cases in the following circumstances. Where any party applies for a hearing to take place in Shenzhen, the tribunal shall, where satisfied that such application is based on bona fide grounds, order the hearing to take place in Shenzhen conditional upon all parties including witnesses and the arbitrators being permitted to enter Shenzhen for the purpose of the hearing. Where a party (other than a PRC party) or any of its witnesses or any arbitrator is not permitted to enter Shenzhen, then the tribunal shall order that the hearing be conducted in any practicable manner, including the use of electronic communications. For the purpose of the securities arbitration rules, a PRC party means a party domiciled in the PRC.