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## REGULATIONS RELATING TO THE INDUSTRY

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### OVERVIEW

All of the Group’s business operations, including coal trading and shipping transportation, are subject to national industrial policies, relevant laws and regulations and extensive governmental supervision.

The Group is principally subject to governmental supervision and regulations by the following agencies of the PRC governmental authorities:

*1. State Council*

國務院 (State Council) is responsible for checking and approving material investment projects in the coal category recognised by “《政府核准的投資項目錄》 (Catalogue of Government Approved Investment Projects)” promulgated in 2004. The State Council also oversees the healthy and steady development of the coal industry and provides relevant guiding opinions and suggestions.

*2. NDRC*

The NDRC formulates industry policies and investment directions for the coal industry, as well as approves and grants permission to prospective coal projects. It also administers matters related to the exportation and export quota of coal jointly with the Ministry of Commerce. In addition, the NDRC is in charge of assessing and executing the price-link mechanism for prices between coal and power.

*3. Ministry of Land and Resources*

國土資源部 (Ministry of Land and Resources) is responsible for granting land use rights and mining rights and approving the transfer and leasing of mining rights. It is also in charge of approving the prices of mining rights and the results of reserve valuations.

*4. Ministry of Environmental Protection of the PRC*

國家環保部 (Ministry of Environmental Protection of the PRC) is responsible for formulating national environment protection directions, policies and regulations. It is in charge of carrying out environmental impact assessments of material economic and technical policies, development plans and material economic development projects. It is also in charge of checking and assessing the impact on the environment caused by the operation of enterprises in heavy polluting industries.

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### 5. *State Administration of Coal Mine Safety*

國家煤礦安全監察局 (State Administration of Coal Mine Safety) is an administrative agency performing the duty of national coal mine safety supervision under the State Administration of Work Safety. It is responsible for monitoring and inspecting the safety supervision of local coal mines, and safeguarding the thorough implementation of relevant laws and regulations on coal mine operation safety in China.

### 6. *Ministry of Railways*

鐵道部 (Ministry of Railways) is in charge of monitoring railway operations in China and formulating strategic development plans for railway transportation. The Ministry of Railways and the NDRC jointly approve all applications for railway construction plans, including railways used or designated for coal transportation.

### 7. *China National Coal Industry Association*

中國煤炭工業協會 (China National Coal Industry Association) is mainly responsible for formulating relevant industry standards for the coal industry. It also plays the roles of liaising with the government and providing guidance to the coal industry.

### 8. *Ministry of Communications*

The competent authority overseeing the inland river transport industry is 交通運輸部 (Ministry of Communications). Its administration of the inland river transport industry includes four main areas, namely water transport, water transport projects, shipping management, as well as port and channel management.

### 9. *Ministry of Commerce of the PRC*

商務部 (The Ministry of Commerce), formerly known as 對外貿易經濟合作部 (Ministry of Foreign Trade and Economic Co-operation), is an executive agency of the State Council of China. It is responsible for formulating development strategies, guidelines and policies of domestic and foreign trade and international economic cooperation, drafting laws and regulations governing domestic and foreign trade, consumer protection, market competition and foreign investments, and negotiating bilateral and multilateral trade agreements.

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### MAJOR LAWS AND REGULATIONS

#### *1. The Coal Law of the PRC*

中華人民共和國煤炭法 (The Coal Law of the PRC) was passed by the Standing Committee of the National People's Congress with effect from 1 December 1996. It is aimed at promoting a rational utilisation and protection of coal resources, standardising coal production and operating activities, and facilitating and protecting the development of the coal industry.

Pursuant to the Coal Law, (i) coal resources belong to the state; (ii) the Coal Administration Department of the State Council is responsible for the supervision of China's coal industry in accordance with laws, and the Coal Administration Departments of the People's Government below the provincial level are in charge of supervising the coal industry within their administrative districts; (iii) for those coal mining enterprises which have obtained coal production permits legitimately, they must not transfer or lease their coal production permit to others; (iv) duplicate coal production permits must not be issued in the same mining area; and (v) qualified large coal enterprises are entitled to conduct coal exporting activities subject to the granting of permission by the competent economic and international trade authorities under the State Council in accordance with laws.

#### *2. The Measures for the Regulations of Coal Operations*

The NDRC promulgated 煤炭經營監管辦法 (The Measures for the Regulations of Coal Operations) on 27 December 2004. The Measures aim to strengthen the supervision of coal operations by standardising and maintaining coal operation procedures.

According to the Measures, (i) China implements an examination and qualification system for coal operators (with respect to activities such as wholesaling and retailing of raw coal and its processed products and processing and distribution of coal for civilian use); (ii) the establishment of a coal operation enterprise is subject to examination in respect of coal operation qualifications; (iii) coal mining enterprises with coal production permits (some of which are listed on the Stock Exchange) do not have to undergo coal operation qualification examinations in order to sell products they have produced or processed; (iv) China prohibits coal mining enterprises without a coal production permit from engaging in the production and processing of coal products; (v) the production and processing of coal products by coal operation enterprises that do not possess a Coal Operation Certificate is prohibited; and (vi) the sale of coal products to coal operation enterprises without a Coal Operation Certificate is prohibited.

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### 3. *The Management Measures for Inspection of Imported and Exported Coal*

國家質量監督檢驗檢疫總局 (The General Administration of Quality Supervision, Inspection & Quarantine) promulgated 進出口煤炭檢驗管理辦法 (The Management Measures of Inspection of Imported and Exported Coal) on 30 May 2006 which took effect on 1 August 2006. The Measures aim to standardise the inspection and supervision of imported and exported coal. Pursuant to the Measures, (i) imported coal is inspected by the inspection and quarantine authorities of the unloading ports, and the inspection and quarantine authorities of the exporting ports are in charge of inspection of coal exported through those ports; (ii) the inspection and quarantine authorities are responsible for daily supervision of exporting coal production enterprises in their districts, and the inspection and quarantine authorities of the ports are in charge of supervision of the import and export of coal through them.

### 4. *Environmental Protection Law of the People's Republic of China*

On 26 December 1989, 中華人民共和國環境保護法 (The Environmental Protection Law of the People's Republic of China) was passed at the Eleventh Meeting of the Seventh Anniversary Standing Committee of the National People's Congress. The Law is aimed at protecting and improving the living environment and the biological environment, preventing pollution and other public hazards, protecting people's health, and facilitating the development of modern construction under socialism.

Pursuant to the Law, (i) the competent administrative authority for environmental protection under the State Council implements uniform supervision for environmental protection in China, and the competent administrative authorities for environmental protection under the local People's Governments below the provincial level implement uniform supervision of environmental protection within their districts; (ii) companies causing environmental pollution and other public hazards must include environmental protection measures in their plans and set up a system of environmental protection responsibility; (iii) when compiling environmental impact reports for construction projects, assessment must be made to the pollution caused by the construction project and their environmental impact, preventive measures must be made, they must be pre-examined by the competent authorities of the projects and reported to the competent environmental protection administrative authorities for approval in accordance with the procedures set out in the regulations; (iv) pollution prevention facilities for construction projects must be designed, constructed and launched into production and used at the same time as the main projects; (v) pollution prevention facilities must pass inspection by the original competent environmental protection administrative authorities which approved the environmental impact reports before the construction projects can be launched into production and use; (vi) enterprises and institutions discharging pollutants must declare and register according to the regulations of the competent administrative authority for environmental protection of the State Council; (vii) enterprises and institutions discharging pollutants at levels above the pollutant discharge standards contained in state or local stipulations must pay excessive discharge fees according to the regulations of the state, and are responsible for the treatment of discharged material; and (viii) the state sets enterprises and institutions deadlines for the treatment of serious pollution problems caused by them.

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### 5. *Regulations on the Management of Water Transport of the People's Republic of China*

The State Council promulgated 中華人民共和國水路運輸管理條例 (Regulations on the Management of Waterway Transport of the People's Republic of China) which were implemented on 12 May 1987 and revised on 27 December 2008. The Regulations are aimed at strengthening the management of water transport, maintaining the order of transport, and improving the benefit of transport. Pursuant to the Regulations, (i) foreign investment enterprises, sino-foreign equity joint venture enterprises and sino-foreign contractual joint venture enterprises operating water transport offshore, in lakes and other navigation waterways in China are required to obtain permission from the Ministry of Communications of the People's Republic of China; (ii) the establishment of water transport enterprises, water transport service enterprises and enterprises other than water transport enterprises that engage in operational transport must be examined and approved by the competent transport authority; (iii) the competent transport authority is responsible for the issue of transport permits to water transport enterprises, units and individuals engaging in operational transport, and transport service permits to water transport service enterprises, the establishment of each of which have already been approved; (iv) those units and individuals which have obtained a transport permit and/or transport service permit submit their permit(s) to the local industry and commerce administration authorities when applying for business registration, and they can only commence operation after they have been approved and granted a business licence; (v) water transport service enterprises must not monopolise sources of goods, force provision of agency services, or charge service fees above the stipulated fees standard; and (vi) ocean and river ports for civilian use should provide port facilities and business services to transport vessels according to state port management rules, plans and arrangements.

### 6. *The Ports Law of the People's Republic of China*

中華人民共和國港口法 (The Ports Law of the People's Republic of China) was passed by the Standing Committee of the National People's Congress for implementation from 1 January 2004. It aims at standardising the planning, construction, protection, operation and management and other relevant activities of ports. Pursuant to the Law, (i) the competent transport authority of the State Council supervises ports in China and the management of ports within the administrative districts of the local People's Republic of China is confirmed by the State Council's regulations regarding port management systems; (ii) the state encourages domestic and foreign economic organisations and individuals to invest in the construction and operation of ports in accordance with laws; (iii) persons engaging in port operations should apply in writing to the port administration authorities to obtain a port operating permit and handle industry and commerce registration in accordance with laws; and (iv) persons operating cargo handling businesses in ports should obtain permits in accordance with laws.

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### 7. *Regulations on Inland River Transport Safety Management of the People's Republic of China*

The State Council promulgated 中華人民共和國內河交通安全管理條例 (Regulations on Inland River Transport Safety Management of the People's Republic of China) for implementation from 1 August 2002. The Regulations are aimed at standardising navigation, anchoring and operations in inland river navigation waters as well as inland river transport safety. Pursuant to the Regulations, (i) the competent transport authority of the State Council supervises the management of inland river transport safety, and the state marine administration authorities under the guidance of the competent transport authority of the State Council are in charge of the supervision of inland river transport safety in China. Various local People's Governments below the provincial level are responsible for the management of inland river transport safety within their administrative districts; (ii) navigating vessels or floating facilities engaging in the relevant activities must obtain inspection and registration certificates for their vessels or floating facilities, have competent sailors and vessels must have the necessary navigation information; (iii) when vessels enter or exit inland river ports, they should handle the formalities for vessel entry and exit visas with the marine administration authorities; (iv) the setting up or cancellation of ferry crossings must be subject to approval by the provincial People's Governments where the ferry crossings are located, and before the provincial People's Governments grants approval, they should seek local marine administration authorities' opinions; and (v) ferry crossing personnel must be trained, and have passed examinations and obtained requisite certificates issued by the departments designated by the provincial People's Governments, and vessels for ferry crossings must hold a vessel inspection certificate and a vessel registration certificate.

### 8. *Regulations on Vessel Registration of the People's Republic of China*

The State Council promulgated 中華人民共和國船舶登記條例 (Regulations on Vessel Registration of the People's Republic of China) for implementation from 1 January 1995. The Regulations are aimed at strengthening the supervision of vessels by the state and safeguarding the legitimate interests of the relevant parties of registered vessels. Pursuant to the Regulations, (i) only vessels which have been registered in accordance with laws and are recognised as the People's Republic of China nationals can fly and navigate under the national flag of the People's Republic of China; (ii), vessels cannot possess dual nationalities in China; (iii) the obtaining, transfer and discharge of ownership of vessels and mortgage right over vessels; and the setting up, transfer and discharge of leasing rights over empty vessels must be registered with the vessel registration authority. No defence against third parties will be available if a vessel has not been registered; (iv) sailors in vessels with Chinese nationality must be Chinese citizens, if sailors of foreign nationalities are needed, this must be reported to the competent transport authority of the State Council for approval; and (v) the state port supervisory body is in charge of vessel registration.



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### 9. *Measures for the Administration of Quotas for Coal Export*

The NDRC has, jointly with the Ministry of Commerce and the General Administration of Customs, formulated and promulgated the 煤炭出口配額管理辦法 (“**Measures for the Administration of Quotas for Coal Export**”) for implementation from 1 July 2004. The measures are formulated in accordance with the relevant provisions in the “Foreign Trade Law of the People’s Republic of China” and the “Regulation of the People’s Republic of China on the Administration of Import and Export of Goods” in order to regulate coal export, guarantee the administration of quotas for coal export to comply with the principles of efficiency, impartiality, publicity and transparency, and to maintain the normal order of coal export.

Pursuant to the measures, (i) the total volume of quotas for coal export in each year and the application procedures shall be announced by the NDRC on the website of China Economic Information (<http://www.cei.gov.cn>) and that of the NDRC (<http://www.sdpc.gov.cn>) by 31 October of the last year; (ii) coal export shall apply state-run trade administration: an export enterprise that has obtained the state-run trade right for coal export may apply for quotas for coal export; (iii) an export enterprise shall file a quota application to the NDRC in due written form, and shall submit the relevant documents as required; (iv) the NDRC shall, jointly with the Ministry of Commerce, distribute to the enterprises 80% of the total volume of quotas for coal export for the next year by 15 December of each year, and the remaining part shall be distributed before 30 June of the every year; (v) the quotas for coal export shall be distributed by referring to the coal export performance of the enterprises during the last year; and (vi) the validity period of a quota for coal export shall expire on 31 December of the current year.

### 10. *The Foreign Trade Law of the People’s Republic of China*

中華人民共和國對外貿易法 (The Foreign Trade Law of the People’s Republic of China) (the “**Foreign Trade Law**”) was adopted at the seventh meeting of the Standing Committee of the Eighth National People’s Congress on 12 May 1994 and amended at the eighth meeting of the Standing Committee of the Tenth National People’s Congress on 6 April 2004. The amended Foreign Trade Law is promulgated with effect on 1 July 2004.

The Foreign Trade Law is enacted for the purpose of broadening the openness to the outside world, developing foreign trade, maintaining the order of foreign trade, protecting the lawful rights and interests of the foreign trade business operators, and promoting the healthy development of the socialist market economy. It applies to foreign trade and the protection of foreign-trade-related intellectual property.

The revised Foreign Trade Law includes 11 chapters and 70 clauses, three chapters and 26 clauses more than the original. According to the Foreign Trade Law, (i) the state allows the free import and export of goods and technology, unless it is otherwise provided for in any law or administrative regulation; (ii) the state may, for the purpose of defending state security, take any necessary measures for managing the import and export of any matter of fission or fusion or any matter that derives such matter and the import and export of any weapon, ammunition, or any other military supply; (iii) the state adopts the system of quota, license, etc, to the goods subject to import or export restrictions, while adopts the system of

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license to the technologies restricted or prohibited from import or export; for the goods and technologies subject to the administration of quota or license, they cannot be imported or exported unless it has been approved by the foreign trade department of the State Council independently or in collaboration with other departments of the State Council.

### *11. The Regulation of the PRC on the Administration of the Import and Export of Goods*

中華人民共和國貨物進出口管理條例 (The Regulation of the PRC on the Administration of the Import and Export of Goods) has been passed at the forty-sixth executive meeting of the State Council on 31 October 2001 and was promulgated for implementation as of 1 January 2002. It aims at standardising the administration of the import and export of goods, maintaining the order of import and export of goods and promoting the healthy development of foreign trade. Pursuant to the regulation, the state allows the free importation and exportation of goods and maintains the fairness and orderliness of the import and export of goods according to law. Unless it is clearly provided in laws or administrative regulations to forbid or restrict the import or export of goods, no entity or individual may establish or maintain prohibitive or restrictive measures over the import or export of goods.

### *12. Measures for the Administration of License for the Export of Goods*

The amended 貨物出口許可證管理辦法 (Measures for the Administration of License for the Export of Goods), which were adopted at the 6th executive meeting of the Ministry of Commerce on 7 May 2008, has taken effect since 1 July 2008. It aims at rationally allocating the resources, regulating the order of export business, creating a fair and transparent trade environment, performing international conventions and treaties promised by China, and maintaining the economic interests of the state and national security. According to the measures, (i) the state applies a uniform system of license for the export of goods; the state shall apply export license administration to the export goods under restriction; (ii) the Ministry of Commerce shall be the department of centralised administration of export license of the whole country, and shall be responsible for formulating the rules and regulations on the administration of export license, supervising and inspecting the implementation of the measures for the administration of export license and punishing the rule-breaking acts; (iii) the export license as mentioned in the present Measures shall include export quota license and export license; for all the goods subject to the administration of export quota license and export license, a foreign trade operator shall apply for export license as required to the designated license issuing agency before export; the customs house shall accept the declaration and release on the basis of the export license.



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### COAL TRADING

#### *Import*

As confirmed by the PRC Legal Advisers, there is no quota imposed on coal imported from other countries to China.

The coal imported by the Group is inspected by the inspection and quarantine authorities of the unloading ports, and the inspection and quarantine authorities of the exporting ports are in charge of the inspection of coal exported through them. The Group did not encounter any failure during inspections carried out by the inspection and quarantine authorities in relation to its coal imported to China during the Track Record Period.

#### *[Export]*

In China, coal exports remain subject to state control and require governmental approval. Under PRC regulations, only state-owned enterprises are authorised to apply for annual export quotas and the relevant coal export permits. Currently, there are a limited number of authorised coal exporters in China. The Group has entered into an agency agreement with an authorised coal exporter in China, pursuant to which the Group has appointed such authorised coal exporter as its coal export and sales agent responsible for the export of its coal products. Pursuant to regulations promulgated in January 2004, China's coal exports have been subject to a government approval system since 1 July 2004, under which the NDRC and the Ministry of Commerce of the PRC are responsible for determining PRC total coal export quota and for allocating the quota among the authorised coal exporters. The total quota will take into consideration PRC economic needs, the rational use of coal resources, the PRC government's economic policy and the dynamics of the domestic and international coal markets. Each year, after the NDRC publishes the total coal export quota for the following year, authorised coal exporters are required to submit written applications for the following year's quota to the NDRC. The NDRC and the Ministry of Commerce of the PRC then allocate the annual quota for the following year among the authorised coal exporters. Each year's quota expires on 31 December. Upon receiving quota approval, authorised coal exporters may apply for coal export permits to the relevant authority designated by the Ministry of Commerce of the PRC. Authorised coal exporters are also required to report their monthly quota usage to the NDRC.]

#### *Domestic trading of coal*

Pursuant to 煤炭經營監管辦法 (The Measures for the Regulation of Coal Operations), coal operators engaging in the trade of coal that is not self-produced are required to obtain a Coal Operation Certificate. Accordingly, the Group is required to obtain Coal Operation Certificates for coal trading in China. In order to obtain a Coal Operation Certificate, an enterprise must have:

- appropriate registered capital for the scale of its operation;
- fixed place of operation;

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- appropriate facilities and coal storage for the scale of its operation;
- coal quantity measure and quality examination facilities that adhere to standards;
- reasonable compliance with national requirements in relation to the overall business arrangement and environmental protection of coal operation enterprises;
- other conditions as stipulated under relevant laws and administrative regulations.

煤炭經營監管辦法 (The Measures for the Regulation of Coal Operations) promulgated by NDRC on 27 December 2004 do not explicitly restrict or prohibit granting of Coal Operation Certificates to foreign invested enterprises. However, after verbal consultations with:

- (i) 河北省秦皇島經濟技術開發區工商局 (the Administration for Industry and Commerce of Qinhuangdao Economic and Technological Development Zone, Hebei Province);
- (ii) 河北省陽原縣人民政府 (the People's Government Yangyuan County, Hebei Province), 陽原縣工商局 (the Administration of Industry and Commerce of Yangyuan County), 陽原縣煤炭管理辦公室 (the Yangyuan Coal Management Office), 陽原縣安監局 (the Bureau of Yangyuan County Administration of Work Safety);
- (iii) 珠海高欄港經濟區經濟發展局 (the Economic Development Bureau, Management Committee of Zhuhai Harbour Industrial Zone, Guangdong Province); and
- (iv) 山西省大同縣政府 (the Standing Bureau of the People's Government of Datong County, Shanxi Province), 大同縣工商局 (the Administration for Industry and Commerce of Datong County) and 大同縣經貿局 (the Economic and Trade Bureau of Datong County).

being the relevant local governmental authorities responsible for examination and approval of Coal Operation Certificates in each of the jurisdictions in which the Group has operations, the Directors understand that the PRC governmental authorities as a matter of practice currently do not grant Coal Operation Certificates to foreign equity controlled companies.

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### PRICING

To the best knowledge of the Directors, coal trading in China mainly consists of the following two pricing mechanisms and sales contracts:

#### 1. Inside plan term contracts (計劃內合同)

Inside plan term contracts include key contracts (重點合同) and non-key contracts (非重點合同) which are under the direction and supervision of various levels of government. Parties to inside plan term contracts are state-owned coal production enterprises and state-owned electricity enterprises. The pricing terms of the contracts are determined at the national meeting for coal production, transportation and demand contracts held by relevant government authorities. Both parties must perform the annual contract in strict compliance with the agreed quantity, quality and prices of the contract.

##### *Key contracts*

Key contracts are contracts securing the rail transportation plan entered into between state-owned key electricity enterprises and state-owned large coal production enterprises as recognised by the regulatory authority, and must comply with the following elements:

- i. Parties to the contracts are limited to state-owned key electricity enterprises and coal production enterprises as recognised by regulatory authority;
- ii. Contract amount is the annual quantity of electricity coal supply agreed by the state-owned key electricity enterprises and coal production enterprises;
- iii. Such contract amount is secured by the relevant rail transportation plan provided by the railway department.

##### *Non-key contracts*

Non-key contracts are contracts entered into between state-owned coal production enterprises and electricity enterprises but do not satisfy the above conditions and are therefore not considered as key contracts, for example, contracts for the supply of coal in quantities not included in key contracts to key thermal power plants and to metallurgy enterprises for use in self-owned power plants.

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### 2. Outside plan term contracts (計劃外合同)

Other than inside plan term contracts, coal trading in China is also carried out by outside plan term contracts. Outside plan term contracts refer to transactions in which coal enterprises (including production enterprises or non-production enterprises) supply coal to customers at market prices.

As the quantity of coal supplied under inside plan term contracts may not satisfy the demand from state-owned electricity enterprises, these enterprises may purchase coal from state-owned and/or non state-owned coal suppliers under outside plan term contracts from time to time.

Although the PRC government indirectly influences coal prices, especially coal prices under inside plan term contracts, through its broad regulation of electricity prices and control over the allocation of national railway capacity, domestic coal prices have mainly been market-driven since 2002, when the PRC government eliminated the price control measures for coal used in electric power generation. On 3 August 2004, the NDRC issued 《關於對部分地區電煤價格實行臨時性干預措施的通知》 (Notice on Temporary Intervening Measures on the Pricing Mechanism for Thermal Coal in Certain Regions) (the “**Intervening Measures**”). Article 1 of the Intervening Measures stipulates: “Where a substantial increase in the price of coal in coal production regions adversely affects the normal supply of coal used for electricity production, temporary price intervention measures may be implemented in the main coal production provinces of Henan, Anhui, Shandong, Shanxi and Shaanxi.” According to the Intervening Measures, temporary price intervention measures were only carried out in the coal production provinces of Henan, Anhui, Shandong, Shanxi and Shaanxi. Since at all material times the members of China Qinfu Group which entered into sales contracts with the Group’s customers were registered in Hebei and Guangdong, none of them came within the scope of the Intervening Measures and therefore their pricing policies were not affected by the Intervening Measures. According to 《關於做好2006年全國重點煤炭產運需銜接工作的通知》 (Notice Regarding the Coordination of Production, Transportation of and Demand for Coal in 2006) (the “Notice”) issued by the NDRC on 27 December 2005, the Intervening Measures have been eliminated, and pricing is now determined primarily by supply and demand. However, temporary guidelines can be issued as emergency pricing mechanisms to be adopted by the government in situations where prices have risen manifestly or are likely to do so.

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On 19 June 2008, NDRC issued 《關於對全國發電用煤實施臨時價格干預措施的公告》 (Temporary Guideline for Intervening Measures on the Nationwide Price of Thermal Coal) (the "**Temporary Guideline**") pursuant to which:

- Under key contracts (重點合同) and non-key contracts (非重點合同), the ex-mine price (出礦價) of thermal coal used by nationwide coal production enterprises should be capped at the actual settlement price as of 19 June 2008. If no transactions took place on that day, the cap should be the actual settlement price nearest to that day. During the temporary price-intervention period, the ex-mine price of thermal coal used by coal production enterprises should not exceed the cap.
- State-owned coal production enterprises and state-owned electricity enterprises who had entered into inside plan term contracts should perform the coal contract by strictly complying with the agreed quantity, quality and prices. State-owned coal production enterprises were prohibited from transferring the coal under the inside plan term contracts to the open market for sale. Coal transportation and other logistics enterprises should follow the required charging standards and should not raise the price or implement additional costs without permission.
- All coal production enterprises should strictly execute the aforesaid temporary price-intervention measures. All price regulatory authorities should reinforce inspection, and focus on (i) the investigation and punishment of violations of such caps set by the government and raising prices without permission; (ii) fraudulent acts to raise prices by lowering the coal quality or counterfeiting; and (iii) acts including non-performance of coal supply contracts, and the transfer of coal under inside plan term contracts to the open market for sale. Enterprises violating the temporary intervention measures on thermal coal prices should be severely punished in accordance with the Price Law and the Provisions on Administrative Penalty against Price-related Unlawful Practices.

The Temporary Guideline remained in effect until 31 December 2008.

In order to combat the increasing incidence of coal sellers repudiating non-key contracts following the implementation of the Temporary Guideline, on 24 July 2008 the NDRC issued 國家發展改革委要求進一步加強和完善電煤價格臨時干預措施 (Further Temporary Guideline for Intervening Measures on the Nationwide Price of Thermal Coal) (the "**Further Guideline**"), pursuant to which:

- Price caps were implemented for thermal coal traded at coal distribution centres and the major coal loading ports (港口動力煤平倉價格) of Qinhuangdao, Tianjin and Tangshan. The maximum price that could be charged was capped to relevant prices traded as at 19 June 2008. Accordingly, thermal coal with a calorific value of 5,500 kcal/kg that was traded at the aforementioned three ports was capped at RMB860/tonne, RMB840/tonne and RMB850/tonne, respectively.

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- There was increased monitoring of the performance by state-owned coal production enterprises of inside plan contracts, with particular emphasis on ensuring strict compliance with contractual obligations regarding the quantity, quality and price of coal traded. State-owned coal production enterprises were prohibited from transferring coal designated for sale under inside plan contracts to sales on the open market by changing the consignee for key contracts at ports.
- The NDRC could impose penalties on state-owned coal production enterprises that did not strictly comply with contractual obligations regarding the quantity, quality and price of coal. Penalties included a reduction of allocated coal transportation quotas for the forthcoming year and the confiscation of revenue raised from any activity in breach of the price cap measures.

Based on the restrictions set out in the Temporary Guideline and the Further Guideline (the "Guidelines"), the Directors consider that the Guidelines were directed at regulating the price of thermal coal that was bought and sold pursuant to inside plan term contracts under the direction and supervision of various levels of government. Both key contracts and non-key contracts were regulated; with thermal coal prices effectively pinned to those traded as of or prior to 19 June 2008.

Taking into account that (i) the Guidelines did not place any restriction on the price of coal traded on the open market; and (ii) all sales contracts between the Group and its customers were outside plan term contracts which were conducted on the open market, the Directors and the PRC Legal Advisers are of the view that the Guidelines were not directed at the operations of the Group and hence would not have had any material negative impact on the Group's business operation and financial performance.

On 3 December 2008 the NDRC issued the 關於做好2009年跨省區煤炭產運需銜接工作的通知 (Notice regarding the Trans-Provincial Production, Transport and Supply of Coal for 2009). Pursuant to the notice, coal prices shall continue to be determined by market forces through consultation between buyers and sellers on the basis of supply and demand, the scarcity of resources and the degree of environmental damage. The state shall only intervene and take necessary measures in accordance with the law in circumstances where there are severe and abnormal fluctuations in price.



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### TRANSPORTATION

#### *Railway*

Railway is the primary method of transportation for coal production in provinces and regions located far away from major consumers in coastal regions. 鐵道部 (Ministry of Railway) engages in the allocation of coal transport capacity on China's national railway system. The NDRC, or the relevant authority designated by it, determines and promulgates the annual railway transportation allocation.

Railway operators impose freight rates on coal operators while utilise the railway for the transportation of their coal pursuant to uniform freight rate guidelines approved by the NDRC. Railway operators may not charge more than the maximum freight rate approved by the NDRC. Any adjustment to such maximum freight rate requires approval from the NDRC and also the Ministry of Railway.

#### *Shipping and port operations*

Port operators must obtain approval from the relevant government authorities in charge of transportation, safety, customs and maritime matters before commencing operations. The relevant government authorities in charge of port operations will issue a port operating licence to the port operator generally within thirty days of submission of application. Approvals from the NDRC and the Ministry of Commerce must be obtained for port operators wishing to construct new ports and ports with an annual shipping capacity exceeding 2.0 million tonnes to service mineral resources, oil and gas.

Similar to freight rates, users of port facilities are charged with port fees for the import and export of goods. The port fees are either set by the state or subject to price guidelines promulgated by the Ministry of Commerce and reviewed and approved by the NDRC and the local pricing authority.

Shipping-related businesses, such as vessel or cargo agencies, cargo handling businesses, customs declarations businesses and logistics businesses, must also obtain requisite qualification certificates or licences.

The Group is required to obtain a Waterway Transportation Licence for inland shipping transportation in China. In order to obtain a Waterway Transportation Licence, an enterprise must have:

- appropriate transportation vessel(s) for the scope of its business;
- a relatively stable customer base or source of products;
- appropriate service facilities at the relevant vessel port for management of passenger transportation, where applicable;
- operation management organisation and principal;

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## REGULATIONS RELATING TO THE INDUSTRY

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- liquid capital appropriate for operating the transportation business.

Article 7 of 中華人民共和國水路運輸管理條例 (The Regulations on the Management of Waterway Transport of the People's Republic of China) promulgated by the State Council on 12 May 1987 and revised on 27 December 2008 states that foreign invested enterprises must not undertake waterway transport activities along the coast or on rivers, lakes or any other waterway within the territory of China without the permission of 交通部 (the Ministry of Transport). However, in accordance with the Catalogue for 外商投資產業指導目錄 (2007修訂) (the Guidance of Foreign Investment (Amended 2007)), foreign equity controlled enterprises are prohibited from engaging in waterway transport in China. As a result, foreign equity controlled and wholly foreign owned enterprises in the PRC are unable to attain a Waterway Transportation Licence.

### ENVIRONMENTAL PROTECTION

New construction, expansion or reconstruction projects and other installations that directly or indirectly discharge pollutants into the environment are subject to relevant state regulations governing environmental protection for such projects. Entities undertaking such projects must submit a pollutant discharge declaration statement to the competent authorities for examination detailing the amount, type, location and method of treatment. The authorities will allow the construction project operator to release a certain amount of pollutants into the environment and will issue a pollutant discharge licence for that amount of discharge subject to the payment of discharge fees. The release of pollutants is subject to monitoring by the competent environmental protection authorities. If an entity discharges more than the amount permitted by the pollutant discharge licence, the local environmental protection bureau can fine the entity up to several times the discharge fees payable by the offending entity for its allowable discharge, require the offending entity to close its operations, or take other measures to remedy the problem.

In the environmental impact statement of a construction project, the project operator must make an assessment regarding the pollution and environmental hazards the project is likely to produce, evaluate the project's impact on the ecosystem, and outline measures for the prevention and control of environmental damage. The operator must submit the statement according to the specified procedure to the competent environmental protection authority for examination and approval. The building of sewage outlets within any water projects, such as canals, irrigation channels and reservoirs, shall be subject to the consent of the competent authority in charge of water projects.

The facilities for the prevention and control of pollution must be designed, constructed and put into use or operation simultaneously with the main part of a construction project. Such facilities must be inspected by the competent environmental protection authority. If they do not conform to the specified requirements, the operator shall not be permitted to put the new facility into operation or use.

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In addition, entities are required to obtain a discharge permit from the local or regional bureau of oceanic administration prior to discharging waste into the sea, including sediments obtained from dredging. Moreover, entities have to comply with certain water spraying requirements transferred from rail cars into storage facilities in order to minimise the spread of coal dust at port facilities. Furthermore, railway operators must take measures to limit railway pollution, including coal dust and noise.

Violators of the PRC environmental protection law and various environmental regulations may be subject to warnings, payment of damages and fines. Any entity undertaking construction work or manufacturing activities before the pollution and waste control and processing facilities are inspected and approved by the environmental protection department may be ordered to suspend production or operations and may be fined. Violators of relevant environment protection laws and regulations may also be exposed to criminal liability if violations resulted in severe loss of property, personal injuries or death.

In addition to the PRC environmental laws and regulations, China is a signatory to the 1992 United Nations Framework Convention on Climate Change and the 1998 Kyoto Protocol, which propose emission targets to reduce greenhouse gas emissions. The Kyoto Protocol came into force on 16 February 2005. At present, the Kyoto Protocol has not set any specific emission targets for certain countries, including China.

### TAXATION AND FEES

The table below sets forth the existing material taxes and fees that are imposed upon the Group in China:

Item	Base	Rate	Relevant business segment
Corporate income tax	Taxable income	25%	All
VAT	Revenue from sales of coal	13%	Coal trading
Business tax	Revenue from service	3% or 5%	Shipping transportation and Qinfu Logistics
City construction tax	Amount of VAT and business tax	1% or 5% or 7%	All
Education surcharge	Amount of VAT and business tax	3% or 4%	All

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### THE PROVISIONS ON GUIDING FOREIGN INVESTMENT AND THE CATALOGUE FOR THE GUIDANCE OF FOREIGN INVESTMENT INDUSTRIES

#### *1. The Provisions on Guiding Foreign Investment*

On 20 June 1995, the State Planning Commission, the State Economic and Trade Commission and the Ministry of Foreign Trade and Economic Cooperation jointly promulgated the 指導外商投資方向暫行規定 (Interim Provisions on Guiding Foreign Investment) (the “**Interim Foreign Investment Provisions**”), classifying all foreign investment projects into one of four categories: encouraged projects, permitted projects, restricted projects and prohibited projects.

On 11 February 2002, the State Council promulgated the 指導外商投資方向規定 (Provisions on Guiding Foreign Investment) (the “**Foreign Investment Provisions**”), re-stating the four classifications of foreign investment projects. The purpose of the Foreign Investment Provisions is to direct foreign investment into certain priority industry sectors while restricting or prohibiting investment in other sectors. The Foreign Investment Provisions entered into force on 1 April 2002 and the Provisional Foreign Investment Provisions were simultaneously repealed.

#### *2. The Catalogue for the Guidance of Foreign Investment*

The 外商投資產業指導目錄 (Catalogue for the Guidance of Foreign Investment) (the “**Foreign Investment Catalogue**”) lists out specific industries and economic activities in which foreign investment in China is encouraged, restricted or prohibited.

The State Planning Commission, the State Economic and Trade Commission and the Ministry of Foreign Trade and Economic Cooperation jointly promulgated the Foreign Investment Catalogue in 1995. Since then, the Foreign Investment Catalogue has been revised several times, with the most significant revisions taking place in 2002, 2004 and 2007. The version of the Foreign Investment Catalogue currently in effect was jointly promulgated by the NDRC and the Ministry of Commerce on 31 October 2007 and came into effect on 1 December 2007. On the same day, the Foreign Investment Catalogue (as amended in 2004) was repealed.

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### INTRODUCTION OF LAW ON EMPLOYMENT CONTRACTS AND LAW ON EMPLOYMENT PROMOTION AND THE POSSIBLE EFFECT ON THE LISTED GROUP

#### 1. *The Employment Contract Law*

The Employment Contract Law 《勞動合同法》 is primarily aimed at the regulation of employee/employer rights and obligations, including matters with respect to the establishment, performance and termination of labour contracts. Under the new law, (i) employers must pay employees double income in circumstances where an employer fails to enter into an employment contract within one year with an employee who works for the employer for a period exceeding one month. Where such period exceeds one year, the parties are deemed to have entered into a labour contract with an “unfixed term”; (ii) employees who fulfil certain criteria, including having worked for the same employer for ten years or more, may demand that the employer execute a labour contract with an unfixed term; (iii) employees must adhere to regulations concerning commercial confidentiality and non-competition; (iv) the range of situations in which employers must lawfully compensate employees has increased; (v) an upper limit has been set on the amount of compensation an employer may seek for an employee’s breach of contract. The upper limit may not exceed the cost of training supplied to the employee; (vi) employees in respect of whom employers have not in accordance with law made social insurance contributions may terminate their employment contracts; (vii) employers who receive a “gift” from employees as guarantee whatsoever may be fined a maximum of RMB 2000; and (viii) employers who intentionally deprive employees of any part of their salary must, in addition to their full salary, pay employees compensation in the order of 50% to 100% of the amount of salary so deprived.

#### 2. *Law on Employment Promotion*

The Law of the People’s Republic of China on Employment Promotion (“Law on Employment Promotion”) 《中華人民共和國就業促進法》 was passed at the 29th Session of the Standing Committee of the 10th anniversary National People’s Congress on 30 August 2007 and came into effect on 1 January 2008.

The Law on Employment Promotion contains provisions on employment issues including policy support, fair employment, employment services and management, and vocational education and training. More particularly, the Law on Employment Promotion (1) states explicitly that discriminatory employment practices should not be adopted and, in circumstances where such practices are adopted, employees have the right to launch a suit with the People’s Court; (2) provides that public employment service agencies established by the People’s Government at county or above should provide employees free services such as consultation on employment policies and laws and regulations, vocational training and placement, and price guidance for market wages; (3) perfects an employment and unemployment registration system, stipulating that employers must complete employment registration with public employment service agencies for employee after they are recruited; while employees who are individual operators or engaged in unfixed jobs may conduct employment registration with community public employment service agencies, and shall be entitled to applicable support policies upon registration.

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If there is no issue involving employment discriminations with respect to China Qinfu Group, these provisions will not have any substantial impact on the Group's operations.

### REGULATION ON FOREIGN EXCHANGE

The principal regulation governing foreign currency exchange in the PRC is the Foreign Currency Administration Rules 《外匯管理條例》 which were issued by the State Council in January 1996, became effective in April 1996 and were amended in January 1997. Under these rules, RMB is freely convertible for payments of current account items, including trade and service related foreign exchange transactions and dividend payments, but not for capital account expenses, including direct investment, loan or investment in securities outside the PRC. RMB may only be converted for capital account expenses once the prior approval of SAFE has been obtained. Under the Foreign Currency Administration Rules, foreign-invested enterprises in the PRC may purchase foreign exchange without the approval of SAFE for trade and service-related foreign exchange transactions by providing commercial documents evidencing such transactions. They may also retain foreign exchange (subject to a cap approved by SAFE) to satisfy foreign exchange liabilities or to pay dividends. However, the relevant PRC government authorities, which have significant administrative discretion in implementing the laws, may restrict or eliminate the ability of foreign invested enterprises to purchase and retain foreign currencies in the future. In addition, foreign exchange transactions involving direct investment, loans and investment in securities outside the PRC are subject to limitations and require approvals from SAFE.

Pursuant to the SAFE Circular No. 75, issued on 21 October 2005, (i) PRC residents, shall register with the local branch of SAFE before establishing or controlling an overseas special purpose vehicle (the "overseas SPV") for the purpose of overseas equity financing (including convertible debt financing); (ii) when a PRC resident contributes the assets of or its equity interests in a domestic enterprise into an overseas SPV, or engages in overseas financing after contributing assets or equity interests into an overseas SPV, such PRC resident shall register his or her interest in the overseas SPV and the change thereof with the local branch of SAFE; and (iii) when the overseas SPV undergoes a material event outside of the PRC, such as a change in share capital or merger and acquisition, the PRC resident shall, within 30 days from the occurrence of such event, register such change with the local branch of SAFE. In May 2007, SAFE issued guidance to its local branches with respect to the procedures for SAFE registration which strengthen the supervision on registrations pursuant to SAFE Circular No. 75 and impose obligations on onshore subsidiaries of the overseas SPVs to coordinate and supervise the relevant PRC residents to complete registration.

Under the SAFE Circular No. 75, failure to comply with the registration procedures set forth above may result in restrictions on a PRC subsidiary's foreign exchange activities and its ability to distribute dividends to overseas SPV, as well as incur penalties in accordance with the law.



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[In accordance with the relevant PRC laws and regulations, the beneficial owners of the Shares who are PRC residents will be considered to be conducting overseas investment which requires registration with the local branch of SAFE. The Directors consider, [with the advice from the PRC Legal Advisers], that the registration is a procedural matter and there will not any legal impediment to completion of such registration. As confirmed by the PRC Legal Advisers, upon the completion of the registration, the Group will be in compliance with the regulations on foreign currency exchange.]

### REGULATIONS RELATING TO EMPLOYEE SHARE OPTIONS

Pursuant to the Implementation Rules of the Administration Measure for Individual Foreign Exchange (the “**Individual Foreign Exchange Rule**”) 《個人外匯管理辦法實施細則》 issued on 5 January 2007 by SAFE and relevant guidance issued in March 2007, PRC citizens who are granted shares or share options by an overseas listed company according to its employee share option plan or share incentive plan are required, through the PRC subsidiary of such overseas listed company or any other qualified PRC agent, to register with SAFE and complete certain other procedures related to the share option or other share incentive plan. Foreign exchange income received from the sale of shares or dividends distributed by the overseas listed company may be remitted into a foreign currency account of such PRC citizen or be exchange into RMB. In addition, the overseas listed company or its PRC subsidiary or other qualified PRC agent is required to appoint an asset manager or administrator, and open a dedicated foreign currency account(s) at a custodian bank to handle transactions relating to the share option scheme or other share incentive plan. The Group and its PRC citizen employees who will be granted share options (including the share options under the Share Option Scheme and the [●]), or PRC option holders, will be subject to these rules upon the [●].

The Group and the PRC citizen employees who hold options under the [●] will register their options under the Individual Foreign Exchange Rule upon the [●]. In addition, the Individual Foreign Exchange Rule does not have any impact to the Share Option Scheme since no share options under the Share Option Scheme have been granted. When such share options are granted to the Group’s PRC citizen employees, such employees and the Group will have to comply with the Individual Foreign Exchange Rule.

### REGULATION ON DIVIDEND DISTRIBUTION

The principal laws and regulations governing distribution of dividends paid by PRC wholly foreign-owned enterprises include (i) PRC Company Law; (ii) Wholly Foreign-Owned Enterprise Law; and (iii) Wholly Foreign-Owned Enterprise Law Implementing Rules. Under the above laws and regulations, domestic companies and wholly foreign-owned enterprises in the PRC may pay dividends only from accumulated after-tax profits, if any, determined in accordance with the PRC accounting standards and regulations. In addition, such enterprises are required to set aside at least 10% of their after-tax profits each year, if any, to fund certain reserve funds. Until such time as the accumulated reserve funds reach and remain above 50% of the enterprise’s registered capital amount, these reserves are not distributable as cash dividends. Under the relevant PRC law, no net assets other than the accumulated after-tax profits can be distributed in the form of dividends.

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[As confirmed by the PRC Legal Advisers, the Group has complied with the regulations on dividend distribution.]

### ACQUISITION OF DOMESTIC ENTERPRISES BY FOREIGN INVESTORS

In August 2006, six PRC regulatory agencies promulgated the Rules on Acquisition of Domestic Enterprises by Foreign Investors 《關於外國投資者併購境內企業的規定》 (the “**M&A Rules**”) regulating mergers and acquisitions of domestic enterprises by foreign investors. The M&A Rules, which became effective in September 2006, purport to require that an offshore special purpose vehicle (“**SPV**”) formed for listing purposes and controlled directly or indirectly by PRC companies or individuals shall obtain the approval of the CSRC prior to the listing and trading of such SPV’s securities on an overseas stock exchange, especially in the event that the SPV acquires shares of or equity interests in the PRC companies in exchange for the shares of offshore companies. In September 2006, the CSRC published procedures specifying documents and materials required to be submitted for CSRC approval under the M&A Rules. The application of the M&A Rules are subject to interpretation.

Under the M&A Rules, “takeover of a domestic enterprise by a foreign investor” refers to a situation where a foreign investor purchases by agreement the equity interests of a domestic non-foreign-invested enterprise (a “**domestic company**”) or subscribes to the increased capital of a domestic company, and thus changes the domestic company into a foreign-invested enterprise or, the foreign investor establishes a foreign-funded enterprise, and through which the foreign investor purchases by agreement the assets of a domestic enterprise and operates its assets, or, where a foreign investor purchases by agreement the assets of a domestic enterprise, and then invest such assets to establish a foreign-funded enterprise and operate the assets. The PRC Legal Advisers are of the opinion that the restructuring of Group and the Reorganisation did not involve the acquisition of equity interest in or assets of any company established in China and as such, none of the Reorganisation steps constitute merger and acquisition activities under the M&A Rules.

Therefore, the PRC Legal Advisers are of the opinion that the Group does not require the CSRC approval for the [●]. However, they cannot rule out the possibility that the CSRC may require, either by interpretation or clarification of the M&A Rules or by any new rules, regulations or directives or in any other ways promulgated after the date of its legal opinion, that overseas listings of all SPVs must obtain approval from the CSRC. If the Group is required to obtain CSRC approval, the Group will make an announcement to the public immediately.

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### REGULATORY COMPLIANCE

In order to ensure compliance with applicable laws and regulations as described herein and to avoid any subsequent non-compliance issues, the Group will implement the following measures upon the [●] as an internal guideline to improve compliance issues and our corporate governance in general. These measures include the following:

- The Board has designated Mr. MAK King Pui, Ricky to be the compliance officer of the Group. In performing his duties as the compliance officer, Mr. MAK will be assisted by the Group's legal advisers in relation to the compliance issues in Hong Kong and the PRC. The compliance officer will report to the Board when he is aware of or suspects that there is any deviation from the requirements, practice or procedures as set out in the compliance manual or that there is any potential breach of the relevant laws and regulations committed by any member of the Group.
- The compliance officer, with the assistance from the Group's legal advisers, will constantly check the publications from the PRC and Hong Kong authorities to ensure the Group has obtained all the licenses and legal documents for its business development and operation.
- The Group's management and employees will report to the compliance officer when they encounter any new legal and regulatory issues. The compliance officer will then consult the Group's legal advisers and report to the Board on the advice provided by the legal advisers. The Board will then make a decision on the necessary actions to be taken by the Group.
- The compliance officer will conduct quarterly review of the compliance issues based on an internal compliance checklists. The compliance officer will also liaise with the Group's PRC legal advisers from time to time in respect of any updates on PRC legal requirements.
- The above compliance measures will be reviewed quarterly and may be amended, revised or modified to ensure compliance with the prevailing laws, regulations, codes and practices.