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**APPENDIX VII:**

**SUMMARY OF PRINCIPAL LEGAL AND REGULATORY PROVISIONS**

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*This appendix sets out summaries of certain aspects of PRC laws and regulations, which are relevant to our operations and business. Laws and regulations relating to taxation in the PRC are discussed separately in “Appendix VI — Taxation and Foreign Exchange” of this document. This appendix also contains a summary of certain Hong Kong legal and regulatory provisions, including summaries of certain material differences between PRC and Hong Kong company law.*

**PRC JUDICIAL SYSTEM**

Under the PRC Constitutional Law (《中華人民共和國憲法》) and the Law 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, such as the intellectual property division. The higher level people’s courts supervise the basic and intermediate people’s courts. The people’s procuratorates also have the right to exercise legal supervision over the civil proceedings of people’s courts of the same level and lower levels. The Supreme People’s Court is the highest judicial body in the PRC. It supervises the administration of justice by all of the people’s courts.

The people’s courts employ a “second instance as final” appellate 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 orders given at the same level and at the next higher level are final. First judgments or orders 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 which has been given in any people’s court at a lower level, or the presiding judge of a people’s court finds an error in a judgment or order which has been given in the court over which he presides, 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》), which was adopted on April 9, 1991 and was amended on October 28, 2007, 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 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. 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 apply 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 aggrieved 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.

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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. A foreign judgment or ruling may also be recognized and enforced by the people’s court according to the PRC enforcement procedures if the PRC has entered into, or acceded to, an international treaty with the relevant foreign country, which provides for such recognition and enforcement, or if the judgment or ruling satisfies the court’s examination according to the principle of reciprocity, unless the people’s court finds that the recognition or enforcement of such judgment or ruling will result in a violation of the basic legal principles of the PRC, its sovereignty or security, or for reasons of social and public interests.

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

On December 29, 1993, the Standing Committee of the Eighth NPC adopted the Company Law 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 Company Law of the PRC (《中華人民共和國公司法》) (hereinafter referred to as “the Company Law”) has been promulgated and became effective from January 1, 2006.

On July 4, 1994, the Special Regulations of the State Council on the Overseas Offering and Listing of Shares by Joint Stock Limited Companies (《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》) (hereinafter referred to as “the Special Regulations”) 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 Company Law (1993) in respect of the overseas share subscription and listing of joint stock limited companies. The Mandatory Provisions for Articles of Association of Companies to be Listed Overseas (《到境外上市公司章程必備條款》) (hereinafter referred to as “the Mandatory Provisions”) were issued jointly by the Securities Commission of the State Council and the State Economic System 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 “Appendix VIII — Summary of Articles of Association”). References to a “company” are to a joint stock limited company established under the Company Law with overseas listed foreign invested shares.

Copies of the Chinese text of the Company Law, Special Regulations and the Mandatory Provisions together with copies of their unofficial English translations thereof are available for inspection as mentioned in the paragraph headed “Documents Delivered to the Registrar of Companies and Available for Inspection” in “Appendix X — Documents Delivered to the Registrar of Companies and Available for Inspection” to this document.

**General**

A “joint stock limited company” (hereinafter referred to as “company”) is a corporate legal person incorporated under the Company Law, whose registered capital is divided into shares of equal par 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 must conduct its business in accordance with law and professional ethics.

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A company can invest in other enterprises without restriction on the accumulated investment amounts. However, unless otherwise required by laws, a company cannot be the contributor who has the obligations associated with the debt of the invested enterprise.

**Incorporation**

A company may be incorporated by promotion or public subscription.

A company may be incorporated by two to 200 promoters, but at least half of the promoters must have residence in the PRC. According to the Special Regulations, state-owned enterprises or enterprises with the majority of their assets owned by the PRC government can be restructured in accordance with the relevant regulation to become joint stock limited companies which may issue shares to overseas investors. These companies if incorporated by promotion, may have fewer than 5 promoters and can issue new shares once incorporated.

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

The Company Law has provided that the registered capital of a joint stock limited company is a minimum of RMB5 million. For companies incorporated by way of 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 way of 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 Securities Law, 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 thirty (30) days after the issued shares have been fully paid up, and shall give notice to all subscribers or make an public announcement of the date of the inaugural meeting fifteen (15) days before the meeting. The inaugural meeting may be convened only with the presence of shareholders holding shares representing more than 50% of the total issued shares 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 thirty (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, or intellectual property rights or land use rights that can be valued in currency and transferable according to law based on their appraised

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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.

Transfer of registered shares by a shareholder must be made by means of an endorsement or by other means stipulated by laws or by administrative regulations. Bearer shares are transferred by delivery of the share certificates to the transferee.

Shares held by a promoter of a company may not be transferred within one (1) year after the date of the company’s incorporation. Shares issued by a company prior to the public offer of its shares may 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 total 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. There is no restriction under the 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 thirty (30) days before the date of a shareholders’ meeting or within five (5) days before the record date set for the purpose of distribution of dividends.

**Increase In Capital**

Under the 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.

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 state bureau for the administration 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 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 10 days and publish an announcement of the reduction in the newspaper within thirty (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

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- (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.

**Transfer of Shares**

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

A shareholder may transfer his/her shares on the stock exchange established in accordance with laws or by other means as stipulated by the State Council. Registered shares may be transferred after the shareholders endorse their signatures on the back of the share certificates or in any other manner specified by applicable laws and regulations.

Shares held by a promoter of a company may not be transferred within one (1) year after the date of the company's incorporation. Shares issued by a company prior to the public offer of its shares may not be transferred within one year from the date of listing of its shares on a stock exchange. Directors, supervisors and senior management of a company shall not transfer over 25% of the total shares they hold 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.

There is no restriction under the Company Law as to the percentage shareholding of a single shareholder in a company.

**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 Company Law, 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;

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- (iv) if a resolution adopted by a shareholders' general meeting or the board of directors violates any law or administrative regulations or infringes the lawful rights and interests of shareholders, to institute an action in the People's Court demanding that the illegal infringing action be stopped;
- (v) to receive dividends 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, 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 organ of authority of the company, which exercises its powers in accordance with the 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 final 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 and liquidation of the company and other matters;
- (x) to amend the articles of association of the company; and
- (xi) 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 (2) months after the occurrence of any of the following circumstances:

- (i) the number of directors is less than the number provided for in the 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 not made up reach one-third of the company's total paid up share capital;

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- (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 meeting shall be given to all shareholders twenty (20) days before the meeting under the Company Law and forty-five (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 twenty (20) days prior to the meeting. Under the Special Regulations, at an annual general meeting of a company, shareholders holding 5% or more of the voting rights in the company are entitled to propose to the company in writing new resolutions to be considered at that meeting, which if within the powers of a shareholders' general meeting, are required to be added to the agenda of that 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 must be adopted by more than half of the votes cast by shareholders present in person (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 must be adopted by shareholders with two-thirds or more of the voting rights held by shareholders present (including those represented by proxies) at the meeting.

Shareholders may commission 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 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 twenty (20) days before the proposed date, or if that 50% level is not achieved, the company shall within five (5) 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.

**Directors**

A company shall have a board of directors, which shall consist of five (5) to nineteen (19) members and there can be staff representatives of the Company. Under the Company Law, each term of office of a director shall not exceed three (3) 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 (10) 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.

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Under the 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 general manager, and based on the general manager's recommendation, to appoint or dismiss deputy general managers 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 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 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 offence of corruption, bribery, taking of property, misappropriation of property or destruction of the social 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;



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- (iv) persons who were legal representatives of a company or enterprise which had its business license revoked 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; or
- (v) persons who have a relatively large amount of debt due and outstanding.

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 our Articles of Association, a summary of which is set out in “Appendix VIII — Summary of Articles of Association”).

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, may be the chairman, any executive director or the manager.

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 our Articles of Association, a summary of which is set out in “Appendix VIII — Summary of Articles of Association”) 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 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 bills to shareholders’ meetings;
- (vi) to commence any action against any directors or senior management; and
- (vii) other powers specified in the company’s articles of association.

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The circumstances under which a person is disqualified from being a director of a company described above apply mutatis 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 controller 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 controller, secretary of the board of directors and other executives as specified in the articles 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 our Articles of Association, a summary of which is set out in “Appendix VIII — Summary of Articles of Association”.

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

A director, supervisor, manager and other senior officer of a company are required under the 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 duties which results in any loss to the company shall be personally liable to the company.

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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 laws, administrative regulations and the regulations 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 twenty (20) days before the convening of the annual general meeting of shareholders. A company established by the public subscription method must publish its financial statements.

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 fund (except where the fund has reached 50% of the company’s registered capital). After a company has made an allocation to its statutory common reserve fund from its after-tax profit, subject to a resolution of the shareholders’ meeting or the shareholders’ general meeting, the company may make an allocation to a discretionary common reserve fund.

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

After the company has made good its losses and make allocations to its statutory surplus reserve fund 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 common reserve of a company comprises the statutory surplus reserve, the discretionary common reserve and the capital common reserve.

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 par 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 on the company.

**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 review and check other financial reports.

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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 provide that a company is restricted from distributing profits before accumulated losses have been made up and statutory common reserve funds 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. In relation to matters involving the company’s registration, its registration with the companies registration authority must also be changed.

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

- (i) the term of its operations set down in the company’s articles of association has expired or events of dissolution specified in the company’s 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 dismissal 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 fifteen (15) days after the occurrence of the cause of dissolution so as to carry out a liquidation. Members of the liquidation committee shall be composed of the directors or any other people as determined by the shareholders’ meeting.

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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 (10) days after its establishment, and issue a public notice in the newspapers within sixty (60) days. A creditor shall lodge his claim with the liquidation committee within thirty (30) days after receiving notification, or within forty-five (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, a 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 completion of the liquidation, the liquidation committee shall submit a liquidation report to the shareholders’ general meeting or the relevant supervisory department for verification. 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.

**Loss of Share Certificates**

A shareholder may apply, in accordance with the relevant provision 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.

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**Suspension and Termination of Listing**

The Company Law has deleted provisions governing suspension and termination of listing. The new 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 Securities 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 (3) consecutive years; or
- (v) other circumstances as required by the listing rules of the relevant stock exchange(s).

Under the 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 our Shares and disclosure of information by us. In October 1992, the State Council established the Securities Committee and the CSRC. The Securities Committee is responsible for co-coordinating 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 is the regulatory arm of the Securities Committee and is 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 responsible for the regulation and supervision of the national stocks and futures market according to laws, regulations and authorizations.

The Securities Law of the PRC (《中華人民共和國證券法》) 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 Securities Law comprehensively regulates activities in the PRC securities market. Article 238 of the 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.

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Article 239 of the Securities Law provides that specific measures 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 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 our Articles of Association and, in the case of the Hong Kong Listing Rules, also in contracts with each of our Directors and Supervisors, to the effect that whenever any disputes or claims arise between holders of our Shares and us; holders of our Shares and our Directors, Supervisors, manager or other senior officers; or holders of our Shares and holders of Domestic Shares, in respect of any disputes or claims in relation to our affairs or as a result of any rights or obligations arising under our 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, shall comply with the arbitration. Disputes in respect of the definition of shareholders and disputes in relation to our 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 Center (“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 Hong Kong International Arbitration Center, 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 Hong Kong International Arbitration Center.

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 commission 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 commission.

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

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to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (《承認和執行外國仲裁裁決公約》) (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. On June 18, 1999, an arrangement was made between Hong Kong and the Supreme People’s Court of the PRC for the mutual enforcement of arbitral awards. This new 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 on the Recognition and Enforcement of Foreign Arbitral Awards 1958. Under the arrangement, awards made by PRC arbitral authorities recognized under the Arbitration Ordinance of Hong Kong can be enforced in Hong Kong. Hong Kong arbitration awards are also enforceable in China.

**FOREIGN EXCHANGE CONTROL**

The foreign exchange control system is regulated by three sets of provisions. On December 28, 1993, the PBOC, with the authorization of the State Council, issued the Notice to Further Reform of the Foreign Exchange Control System, which became effective on January 1, 1994. Other main regulations and implementation measures include the PRC Foreign Exchange Control Regulations (《中華人民共和國外匯管理條例》) which was promulgated by the state counsel on January 29, 1996 and became effective on April 1, 1996 and amended on January 14, 1997 and August 7, 2008, and the Regulation on the Foreign Exchange Settlement, Sale and Payments, which were promulgated by the PBOC on June 20, 1996 and became effective on July 1, 1996 and which contain detailed provisions regulating the settlement, sale and payment of foreign exchange by domestic enterprises, individuals, economic organizations and social organizations in the PRC.

The PBOC publishes, on each business day, the Renminbi exchange rate against other major foreign currencies. Such rate is set by reference to the previous days’ trading price of Renminbi/ major foreign currencies on the inter-bank foreign exchange market. The foreign exchange income under the current items may be reserved or sold to financial institutions operating the foreign exchange sale or settlement business. Before reserving the foreign exchange income under the capital items or selling it to any financial institution operating the foreign exchange sale or settlement business, the approval of the competent foreign exchange administrative authority shall be obtained, unless it is otherwise provided by the state.

At present, the PRC government is relaxing its control over foreign exchange. Enterprises that require foreign exchange for recurring activities such as trading and payment of staff remuneration may purchase foreign exchange from designated banks, subject to the production of relevant supporting documents.

In addition, where an enterprise requires foreign exchange for the payment of dividends, such as the distribution of profits by a foreign-invested enterprise to its foreign investor, then, subject to the due payment of taxes on such dividends, the amount required may be withdrawn from funds in foreign exchange accounts maintained with designated banks, and where the amount of the funds in foreign exchange is insufficient, the enterprise may purchase additional foreign exchange from designated banks.



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Despite the relaxation of foreign exchange control over current account transactions, the approval or filing of the State Administration of Foreign Exchange is still required before an enterprise may receive a foreign currency loan, provide a foreign exchange guarantee, make an investment outside the PRC or enter into any other capital account transaction that involves the purchase of foreign exchange.

When conducting foreign exchange transactions, the designated banks may, based on the exchange rate published by the PBOC and subject to certain limits, freely determine the applicable exchange rate.

**ESTABLISHMENT OF OVERSEAS OPERATIONS RULES AND REGULATIONS**

According to the Measures on Management of Overseas Investment (《境外投資管理辦法》), promulgated by the MOFCOM on March 16, 2009 and effective on May 1, 2009, the approval from the MOFCOM is required for central-level enterprises to make overseas investment as prescribed. In case any matter in the original application changes after an overseas investment application is approved, the enterprise shall apply to the MOFCOM to obtain further approval.

According to the Foreign Exchange Control Regulations for Overseas Investments (《境外投資外匯管理辦法》), which was formulated by the SAFE and approved by the State Council, upon obtaining approval from the MOFCOM to establish enterprises overseas, the PRC enterprises shall apply for foreign exchange registration for overseas investments.

According to the Verification and Approval of Overseas Investment Projects Tentative Administrative (《境外投資項目核准暫行管理辦法》), promulgated by the NDRC, the direct and indirect overseas investment projects in mineral resources development or 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. Enterprises administered by the central government shall have discretionary power with respect to certain overseas investment projects which investment amount does not exceed a specified level, and the enterprises shall only be required to making filings to the NDRC.

**HONG KONG LAWS AND REGULATIONS****(a) Company Law**

The Hong Kong law applicable to a company having share capital incorporated in Hong Kong is based on the Companies Ordinance and is supplemented by common law. The Company, which is a joint stock limited company established in the PRC seeking a Listing 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 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 Hong Kong company law applicable to a company incorporated in Hong Kong and the PRC Company Law applicable to a joint stock limited company incorporated and existing under the PRC Company Law. This summary is, however, not intended to be an exhaustive comparison:

**(i) Corporate existence**

Under Hong Kong company law, 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. The articles of association of a private company incorporated in Hong Kong are required by the

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Companies Ordinance to contain certain pre-emptive provisions. A public company does not contain such pre-emptive provisions in its articles of association.

Under the PRC Company Law, a joint stock limited company may be incorporated by either the promotion method or the subscription method. A joint stock limited 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. For a Hong Kong company, the authorized share capital may be larger than the 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 company is the amount of the issued share capital. Any increase in registered capital must be approved by the shareholders in general meeting and by the relevant PRC governmental and regulatory authorities.

Under the PRC Law, a company which is authorised 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 prescribed any minimum capital requirements for companies incorporated in Hong Kong.

Under the PRC Company Law, the shares may be subscribed for in the form of money or non-monetary assets (other than assets not entitled to be used as capital contributions under relevant laws and administrative 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 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 law, the domestic shares (“domestic shares”) in the share capital of a joint stock limited 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 (“foreign shares”) issued by a joint stock limited company which are denominated in Renminbi and subscribed for in a currency other than Renminbi may only be subscribed and traded by investors from Hong Kong, Macau and Taiwan or any country and territory outside the PRC.

Under the PRC Company Law, shares in a joint stock limited 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 company held by its directors, supervisors and managers 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

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directors, supervisors and officers. There are no such restrictions on shareholdings and transfers of shares under Hong Kong law.

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

The PRC Company Law does not contain any provision prohibiting or restricting a joint stock limited 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 Hong Kong company law.

**(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 summarised in “Appendix VIII — Summary of Articles of Association” to this document. Under the 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.

**(vi) *Directors***

The PRC Company Law, unlike Hong Kong company law, does not contain any requirements relating to the declaration of interests in material contracts, restrictions on interested directors being counted towards the quorum of and voting at a meeting of the board of directors at which a transaction in which a director is interested is being considered, restrictions on directors’ authority in making major dispositions, restrictions on companies providing certain benefits such as loans to directors and guarantees in respect of directors’ liability and prohibition against compensation for loss of office without shareholders’ approval.

**(vii) *Supervisory committee***

Under the PRC Company Law, the board of directors and managers of a joint stock limited 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 minority shareholders***

Hong Kong law permits minority shareholders to start a derivative action on behalf of a company against directors who have been guilty of a breach of their fiduciary duties to the company, if such directors control a majority of votes at a general meeting thereby effectively preventing a company from suing the directors in breach of their duties in its own name. The PRC Company Law gives shareholders of a joint stock limited 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

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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 remedies to the company against directors, supervisors and officers in breach of their duties to the company. In addition, every director and supervisor of a joint stock limited 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 to comply with the company’s articles of association. This allows minority 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 an appropriate 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 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 passing 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 provide. 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

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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 any 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 company or changes to the company status, which require two-thirds or more of votes cast by shareholders present at a shareholders’ general meeting.

**(xiii) *Financial disclosure***

A joint stock limited 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 the annual general meeting of shareholders. In addition, a company established by the public subscription method 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 laid before the company in its annual general meeting not less than 21 days before such meeting.

A joint stock limited company is required under the PRC law 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 standards, have its accounts prepared and audited in accordance with International Accounting Standards 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 accounting standards.

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 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 law is two years.

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***(xvi) Corporate reorganisation***

Corporate reorganisation 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 law, the merger, demerger, dissolution or change to the status of a joint stock limited 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 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 manager 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 manager should be responsible to the company for such damages.

***(xx) Dividends***

The articles of association of a company empower the company to withhold, and pay to the relevant tax authorities, any tax payable under PRC law 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 managers 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.

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**APPENDIX VII:**

**SUMMARY OF PRINCIPAL LEGAL AND REGULATORY PROVISIONS**

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**(c) 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 involving the affairs of companies incorporated in the PRC and listed on the Hong Kong Stock Exchange so that PRC parties and witnesses may attend. 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 media. For the purpose of the Securities Arbitration Rules, a PRC party means a party domiciled in the People’s Republic of China other than the territories of Hong Kong, Macau and Taiwan.

**PRC LEGAL MATTERS**

Jia Yuan Law Firm, our legal adviser on PRC law, has sent to us a legal opinion dated [ • ] which includes a statement to the effect that the description of PRC laws and regulations as contained in this document is true and accurate. This legal opinion is available for inspection as referred to in the section headed “Documents Delivered to the Registrar of Companies and Available for Inspection” in Appendix X to this document.

Any person wishing to have detailed advice on PRC law and the laws of any jurisdiction is recommended to seek independent legal advice.