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## APPENDIX V

## SUMMARY OF PRINCIPAL LEGAL AND REGULATORY PROVISIONS

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### ESTABLISHMENT OF A REAL ESTATE DEVELOPMENT ENTERPRISE

According to the “Law of the People’s Republic of China on Administration of Urban Real Estate” (中華人民共和國城市房地產管理法) (the “Urban Real Estate Administration Law”) promulgated by the Standing Committee of the National People’s Congress, effective in January 1995, as amended in August 2007, a real estate developer is defined as an enterprise that engages in the development and sale of real estate for the purpose of making profits. Under the “Regulations on Administration of Development of Urban Real Estate” (城市房地產開發經營管理條例) promulgated by the State Council in July 1998 (the “Development Regulations”), an enterprise that is to engage in development of real estate must satisfy the following requirements:

- its registered capital must be RMB1 million or more; and
- it must have four or more full-time professional real estate/construction technicians and two or more full-time accounting officers, each of whom must hold the relevant qualification certificate.

The local government of a province, autonomous region or municipality directly under the PRC central government may, based on local circumstances, impose more stringent requirements on the registered capital and the professional personnel of a real estate developer.

Pursuant to the “Regulations on Real Estate Development of Guangdong Province” (廣東省房地產開發經營條例), revised by the Standing Committee of Guangdong Provincial People’s Congress and enforced on October 16, 1997, the self-owned current capital of a real estate development enterprise in the Guangdong Province shall not be less than RMB3 million, and real estate development enterprises with different qualification classifications should accord to their respective requirements of full-time professional technicians.

Pursuant to the “Regulations on Urban Real Estate Development of Hunan Province” (湖南省城市房地產開發經營管理辦法), enacted by the People’s Government of Hunan Province on April 12, 2006 and enforced on June 1, 2006, the registered capital of a real estate development enterprise in Hunan Province shall not be less than RMB4 million, and real estate development enterprises with different qualification classification should satisfy their respective requirements of full-time professional technicians.

Under the “Provisions on Administration of Qualifications of Real Estate Developers” (房地產開發企業資質管理規定) promulgated by the MOC in March 2000, to establish a real estate development enterprise, the developer must apply for registration with the administration for industry and commerce. The developer must also report its establishment to the real estate development authority in the location of its registration, within 30 days of the receipt of its business license. Where a foreign invested enterprise is to be established to engage in the development and operation of real estate, it must also comply with the relevant requirements under the PRC laws and administrative regulations regarding foreign invested enterprises and apply for approvals relating to foreign investments in China.

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Under the “Foreign Investment Industrial Guidance Catalogue” (外商投資產業指導目錄) promulgated by the MOFCOM and the NDRC in November 2004,

- the development and construction of ordinary residential units falls within the category of industries in which foreign investment is encouraged,
- the development of a whole land lot, the construction and operation of high end hotels, villas, premium office buildings, international conference centers and large theme parks falls within the category of industries in which foreign investment is subject to restrictions,
- other real estate development falls within the category of industries in which foreign investment is permitted.

On October 31, 2007, the MOFCOM and the NDRC jointly issued the new Foreign Investment Industrial Guidance Catalogue effective on December 1, 2007, under which the development and construction of ordinary residential units is removed from the category of industry that foreign investment is encouraged to the category of industry in which foreign investment is permitted, whereas the secondary market transactions in property sector, and property intermediaries or agents will fall within the category of industry that foreign investment is subject to restrictions.

Subject to approval by the relevant foreign investment regulatory authorities, a foreign investor intending to engage in the development and sale of real estate in China may establish an equity joint venture, a cooperative joint venture or a wholly foreign owned enterprise by the foreign investor in accordance with the PRC laws and administrative regulations regarding foreign-invested enterprises.

Under the “Notice on Adjusting the Portion of Capital Fund for Fixed Assets Investment of Certain Industries” (關於調整部分行業固定資產投資項目資本金比例的通知) issued by the State Council in April 2004, the portion of capital fund of real estate projects (excluding affordable housing projects) has been increased from 20% or above to 35% or above.

In response to the global financial crisis and in an effort to expand domestic demand, the State Council issued a notice for “Adjusting the Portion of Capital for Fixed Assets Investment” 《國務院關於調整固定資產投資項目資本金比例的通知》 in May 2009. Under the notice, the capital ratio for government subsidized housing projects and ordinary commodity housing projects is adjusted from 35% to 20%, and the capital ratio for other properties is adjusted from 35% to 30%.

On July 11, 2006, the Ministry of Construction, the MOFCOM, the NDRC, the PBOC, the SAIC and the SAFE jointly promulgated the “Circular on Standardizing the Admittance and Administration of Foreign Capital in the Property Market” (關於規範房地產市場外資准入和管理的意見). According to this circular, the admittance and administration of foreign capital in the property market must comply with the following requirements:

- (i) Foreign institutions or individuals who buy property not for their own use in China should follow the principle of “commerce existence” and apply for the establishment of foreign-invested enterprises pursuant to the regulations of foreign investment in property. After

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obtaining the approvals from relevant authorities and upon completion of the relevant registrations, foreign institutions and individuals can then carry on their business pursuant to their approved business scope.

- (ii) Where the total investment amount of a foreign-invested property enterprise is US\$10 million or more, its registered capital shall be no less than 50% of the total investment amount; where the total investment amount is less than US\$10 million, its registered capital shall follow the requirements of the existing regulations.
- (iii) For establishment of a FIREE, the commerce authorities and the administration for industry and commerce shall be responsible of the approval and registration of the FIREE and the issuance of a temporary approval certificate for a foreign-invested enterprise (which is only effective for one year) and a temporary business license. Upon full payment of the land grant fee for the land-use rights, the foreign-invested property enterprise should apply for the "Certificate of Land-Use Rights." With such Certificate of Land-Use Rights, it can obtain a formal Approval Certificate for a Foreign-Invested Enterprise from the commerce authorities and a formal business license which the same approved business term as the formal Approval Certificate for Foreign-Invested Enterprise.
- (iv) Transfer of projects or equity interests in FIREEs or acquisitions of domestic property enterprises by foreign investors should strictly follow the relevant laws, regulations and policies and obtain the relevant approvals. The investor should submit: (a) a written undertaking of fulfillment of the "State-owned land-use rights Grant Contract, "Construction Land Planning Permit" and "Construction Work Planning Permit"; (b) "Certificate of Land-Use Rights"; (c) documents evidencing the filing for modification with the construction authorities; and d) documents evidencing the payment of tax from the relevant tax authorities.
- (v) When acquiring domestic property enterprises by way of shares transfer or otherwise or purchasing shares from Chinese parties in Sino-foreign equity joint ventures, foreign investors should make proper arrangements for the employees, handle the debts of the banks and pay the consideration in one single payment with its own capital. Foreign investors with records showing that they have not complied with relevant employment laws, with unsound financial track records, or who have not fully satisfied any previous acquisition consideration shall not be allowed to undertake the aforementioned activities.

On August 14, 2006, the General Office of MOFCOM enacted the "Notice on Relevant Issues Concerning the Carrying out Circular on Standardizing the Admittance and Administration of Foreign Capital in the Property Market" (關於貫徹落實〈關於規範房地產市場外資准入和管理的意見〉有關問題的通知). According to the notice, if the total investment of a FIREE exceeds US\$3 million, the registered capital must not be less than 50% of the total investment; if the total investment is less than or equal to US\$3 million, the registered capital must not be less than 70% of the total investment. When a foreign investor who merges with or acquire a domestic property development enterprise by acquiring equity from other Chinese shareholders of a FIREE or by other means, the original employees of the merged companies must be arranged properly, bank debts must be settled and the entire consideration for the transfer must be paid off within three months after the earlier of the issuance of the business license or the effective date of the equity transfer agreement.

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On May 23, 2007, the MOFCOM and the SAFE jointly issued the "Notice on Further Strengthening and Regulating the Approval and Supervision on Foreign Investment in Real Estate Sector in the PRC" (關於進一步加強、規範外商直接投資房地產業審批和監管的通知) which made the following requirements for approval and supervision of foreign investment in real estate:

- foreign investment in the real estate sector in the PRC relating to high-grade properties should be strictly controlled;
- before obtaining approval for the setup of FIREEs, (i) both the land use right certificates and housing ownership right certificates should be obtained or, (ii) contracts for obtaining land use rights or housing ownership rights should be entered into;
- existing foreign invested enterprises need to obtain approval before they expand their business operations into the real estate sector and existing FIREEs need to obtain new approval in case they expand their real estate business operations;
- acquisitions of domestic real estate enterprises and foreign investment in real estate sector in a way of round trip investment should be strictly regulated. Foreign investors should not avoid approval procedures by changing actual controlling persons;
- parties to real estate enterprises with foreign investment should not in any way guarantee a fixed investment return;
- registration shall be immediately effected according to applicable laws with the MOFCOM regarding to the setup of FIREEs approved by local governmental authorities;
- foreign exchange administration authorities and banks authorized to conduct foreign exchange business should not effectuate foreign exchange settlements regarding capital account items to those which fail to file with the MOFCOM or fail to pass the annual reviews; and
- for those FIREEs, which are wrongfully approved by local authorities for their setups, (i) the MOFCOM should carry out investigation, order punishment and corrections, and (ii) foreign exchange administrative authorities should not carry out for them foreign exchange registrations.

On July 10, 2007, the SAFE issued the "Notice Regarding the Publication of the List of the First Batch of Property Development Projects with Foreign Investment that Have Property Registered with the MOFCOM" (關於下發第一批通過商務部備案的外商投資房地產項目名單的通知). The notice stipulates, among other things:

- that the SAFE will no longer process foreign debt registration or application for purchase of foreign exchange for real estate enterprises with foreign investment that obtained authorization certificate from and registered with the MOFCOM on or after June 1, 2007; and

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- that the SAFE will no longer process foreign exchange registration (or change of such registration) or application for sale and purchase of foreign exchange under capital account for real estate enterprises with foreign investment that obtained approval certificates from local government’s commerce department on or after June 1, 2007 but have not registered with the MOFCOM.

On June 18, 2008, the MOFCOM issued the Notice on Properly Archiving the Filings for Foreign Investment in Real Estate Sector (關於做好外商投資房地產業備案工作的通知). According to the notice, since July 1, 2008, the MOFCOM entrusts its provincial level branches to review the filing materials with respect to FIREEs and check and confirm the legality, authenticity and accuracy of the materials. The MOFCOM will archive the filing after receiving the archival form duly completed and submitted by the provincial level branches. The notice also requires that the establishment (including the increase of registered capital) of a FIREE shall comply with the project company principle of engaging in one approved real estate project only.

### QUALIFICATIONS OF A REAL ESTATE DEVELOPER

Under the “Provisions on Administration of Qualifications of Real Estate Developers” (房地產開發企業資質管理規定) (the “Provisions on Administration of Qualifications”) promulgated by the Ministry of Construction in March 2000, a real estate developer must apply for registration of its qualifications according to such Provisions on Administration of Qualifications. An enterprise may not engage in property development without a qualification classification certificate for real estate development. The Ministry of Construction oversees the qualifications of real estate developers with national operations, and local real estate development authorities at or above the county level oversee the qualifications of local real estate developers.

In accordance with the Provisions on Administration of Qualifications, real estate developers are classified into four classes.

- Class 1 qualifications are subject to preliminary examination by the construction authorities at the provincial level and final approval of the Ministry of Construction. A class 1 real estate developer is not restricted as to the scale of its real estate projects and may undertake a real estate development anywhere in the country.
- Class 2 or lower qualifications are regulated by the construction authorities at the provincial level subject to delegation to lower level government agencies. A real estate developer of class 2 or lower may undertake a project with a gross floor area of less than 250,000 square meters subject to confirmation by the construction authorities at the provincial level.

Under the relevant PRC laws and regulations, the real estate development authorities will examine applications for registration of qualifications submitted by real estate developers by considering the professional personnel in their employment, financial condition and operating results. A real estate developer that passes the qualification examination will be issued a qualification certificate of the relevant class by the qualification examination authority. A developer of any qualification classification may only engage in the development and sale of real estate within its approved scope of business and may not engage in business which is limited to another classification.

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For a newly established real estate developer, the real estate development authority will issue a provisional qualification certificate, if it is an eligible developer, within 30 days of receipt by the authority of the application. The provisional qualification certificate will be effective for one year from its date of issuance and may be extended for not more than two additional years with the approval of the real estate development authority. The real estate developer must apply for qualification classification to the real estate development authority within one month before expiration of the provisional qualification certificate.

Pursuant to the Provisions on Administration of Qualifications, the qualification of a property developer should be subject to annual inspection. The construction authority under the State Council or the entrusted institution is responsible for carrying out the annual inspection of a class 1 real estate developer’s qualification. Procedures for annual inspection of developers of a class 2 or lower qualification shall be formulated by the construction authority under the people’s government of the relevant province, autonomous region or municipality.

Under the “Regulations on Urban Real Estate Development of Hunan Province” (湖南省城市房地產開發經營管理辦法), the qualifications of property development enterprises are classified into class 1, class 2, class 3, class 4 and provisional qualification. The class 1 qualification shall be subject to preliminary assessment by the property development authority under the people’s government of the province and final approval by the Ministry of Construction; Classes 2, 3 and 4 and the provisional qualifications shall be approved by the property development authority under the people’s government of the province. For classes 3 and 4 and the provisional qualification, the property development authority under the people’s government of the province can entrust the property development authority under the people’s government of the cities with district divisions and autonomous prefecture to approve the qualifications and report to the relevant people’s governments of the province. The qualification certificate is valid for three years. The provisional qualification certificate is valid for one year. The property development authority can extend the validity period of provisional qualification certificate for not more than two years after considering the actual business situation of the enterprise.

Under the Regulations on Urban Real Estate Development of Hunan Province, the gross floor area of a project to be developed by a class 1 property developer is not restricted. The gross floor area of project to be developed by a class 2 property developer should be no more than 250,000 sq.m. A class 3 property developer may undertake a project with a gross floor area of no more than 150,000 sq.m. The gross floor area of project to be developed by a property developer of class 4 and with provisional qualification should be no more than 50,000 sq.m.

### DEVELOPMENT OF A REAL ESTATE PROJECT

#### **i. Commencement of development with respect to a property project and the idle land**

Under the new Foreign Investment Industrial Guidance Catalogue promulgated by MOFCOM and the NDRC on October 31, 2007, foreign investments are restricted in the development of a whole land lot and construction, operation, transacting in the secondary real estate market and acting as real estate intermediaries or agents of high-quality hotels, houses, premium office buildings, international conference centers and large theme parks in China; and foreign investments are permitted in other real estate developments. According to the Interim Provisions on Approving Foreign Investment Project promulgated by the NDRC in October 2004, approval of the NDRC is required for foreign investment

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projects with total investment of US\$100 million or more within the category of encouraged or permitted foreign investments and those with total investment of US\$50 million or more within the category of foreign investments subject to restrictions. Other foreign investments in China will require only local approval. Specifically, the local authorities may examine and approve foreign investment projects with total investment less than US\$100 million within the category of encouraged or permitted foreign investments and those with total investment less than US\$50 million within the category of foreign investments subject to restrictions.

Under the Interim Regulations of the People’s Republic of China on Grant and Assignment of the Use Right of State-owned Urban Land (the “Interim Regulations on Grant and Assignment”) (中華人民共和國土地出讓和轉讓暫行條例) (出讓和轉讓暫行條例) promulgated by the State Council in May 1990, China adopted a system to grant and assign the right to use state-owned land. A land user must pay a land premium to the state as consideration for the grant of the right to use a land site within a specified period of time, and the land user may assign, lease out, mortgage or otherwise commercially exploit the land use rights within the term of use. Under the Urban Real Estate Law (城市房地產管理法) and the Interim Regulations on Grant and Assignment (出讓和轉讓暫行條例), the land administration authority at the city or county level may enter into a land use rights grant contract with the land user to provide for the grant of land use rights. The land user must pay the land premium as provided by the land use rights grant contract. After payment in full of the land premium, the land user may register with the land administration authority and obtain a land use rights certificate which evidences the acquisition of land use rights. The Urban Real Estate Law and the Development Regulations provide that land use rights for a site intended for real estate development must be obtained through grant except for land use rights which may be obtained through premium-free allocation by the PRC government pursuant to the PRC laws or the stipulations of the State Council. Government-allocated land is not allowed to be transferred unless the transfer is approved by the relevant PRC government authorities and the land premium as determined by the relevant PRC government authorities has been paid.

When carrying out the feasibility study for a construction project, the construction or the developer entity must make a preliminary application for construction on the relevant site to the relevant land administration authority in accordance with the Measures for Administration of Examination and Approval for Construction Land (建設用地審查報批管理辦法) promulgated by the Ministry of Land and Resources in March 1999 and the Measures for Administration of Preliminary Examination of Construction Project Land (建設項目用地預審管理辦法) promulgated by the Ministry of Land and Resources in July 2001, as amended in October 2004 and November 2008. After receiving the preliminary application, the land administration authority will carry out preliminary examinations of various aspects of the construction project in compliance with the overall zoning plans and land supply policy of the government, and will issue a preliminary approval in respect of the project site if its examination proves satisfactory. The land administration authority at the relevant city or county will sign a land use rights grant contract with the land user and issue an approval for the construction land to the construction entity or the developer.

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Under the Urban Real Estate Administration Law, those who have obtained the land use rights by assignment must develop the land in accordance with the use and period of commencement as prescribed by the contract for the land-use right assignment. According to the “Measures on the Disposal of Idle Land” (閑置土地處置辦法) promulgated by the MLR on April 28, 1999, a parcel of land can be defined as idle land under any of the following circumstances:

- after obtaining the land-use rights, the development and construction of the land has not begun within the time limit for commencement of the development as stipulated without the consent of the people’s government that originally approved the use of the land;
- the Contract for the Use of State-Owned Land or the Approval Letter on Construction Land does not prescribe the date of starting the development and construction, and the development and construction of the land has not begun at the expiry of one year from the day when the Contract for the Use of State-owned Land became effective or when the land authorities issued the “Approval Letter on Construction Land”;
- the development and construction of the land has begun, but the area developed and constructed is less than one third of the total area to be developed and the invested amount is less than 25% of the total amount of investment, and development and construction has been continuously suspended for one year without approval; or
- other circumstances prescribed by laws and administrative regulations.

The municipality or county-level municipality administrative authority shall, with regard to an identified piece of idle land, give notice to the land user and draft a proposal on disposing the idle land, including, but not limited to, extending the time period for development and construction (provided that it shall be no longer than one year), changing the use of the land, arranging for temporary use and ascertaining the new land user by competitive bidding, public auction or listing-for-sale. The administrative department of land under the people’s government of municipality or county level shall, after the people’s government that originally approved the use of the land approves the proposal on disposal, arrange for the implementation of the proposal. With respect to land which is obtained by assignment and is within the scope of city planning, if the construction work has not yet started after one year from the granting of the relevant approvals, since the duration in which construction may be commenced has elapsed, a fine for idle land which is equivalent to less than 20% of the assignment price may be imposed on the land user. If the construction work has not begun after two years have elapsed, the right to use the land can be taken back by the State without any compensation. However, the above sanctions shall not apply when the delay in commencement of construction is caused by force majeure or acts of government or indispensable preliminary work before commencement of construction.

On January 3, 2008, the State Council issued a “Notice on Promoting the Economic Use of Land” (關於促進節約集約用地的通知) with respect to the collection of additional land premium, establishment of a land utilization priority planning scheme and the formulation of a system for assessing the optimal use of land and other measures. The notice calls for the full and effective use of existing construction land and the preservation of farm land. The notice also emphasizes the enforcement of the current rules on assessing idle land fees at a rate equal to 20% of the land premium for any land left idle for over one year but less than two years. The notice also establishes an additional land premium surcharges on idle land and authorizes the Ministry of Land and Resources to formulate regulations to implement such

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surcharges. The notice further urges financial institutions to exercise caution when they process loan applications from property developers that have failed to commence construction, to complete development of at least one-third of the land area or to invest at least 25% of the total investment within one year of the construction date provided in the land grant contract. The notice indicates that the relevant governmental authorities will formulate and issue additional rules and regulations on these matters.

The Ministry of Land and Resources issued a “Notice on Restricting the Administration of Construction Land and Promoting the Use of Approved Land” (關於嚴格建設用地管理促進批而未用土地利用的通知) in August 2009, which reiterates the above rules on idle land.

### ii. Planning of a property project

According to the “City Planning Law of the People’s Republic of China” (中華人民共和國城市規劃法) promulgated by the Standing Committee of the NPC on December 26, 1989 and implemented on April 1, 1990, the “Measures for Administration of Planning of Assignment and Transfer of the Right to Use Urban State-owned Land” (城市國有土地使用權出讓轉讓規劃管理辦法) promulgated by the Ministry of Construction on December 4, 1992 and implemented on January 1, 1993 and the “Notice of the Ministry of construction on Strengthening the Planning Administration of Assignment of the Land Use Right of State-owned Land” (建設部關於加強國有土地使用權出讓規劃管理工作的通知) promulgated and implemented by the Ministry of Construction on December 26, 2002, after signing the assignment contract, a property developer shall apply for a Position Paper of Construction Project’s Site Selection and a Construction Land Planning Permit from the city planning authority. After obtaining a Construction Land Planning Permit, a property developer shall organize the necessary planning and design work in accordance with planning and design requirements and apply for a Construction Work Planning Permit from the city planning authority.

On October 28, 2007, the Standing Committee of the National People’s Congress promulgated the “Urban and Suburban Planning Law of the People’s Republic of China” (中華人民共和國城鄉規劃法), effective as of January 1, 2008, which abolished the City Planning Law. According to the Urban and Suburban Planning Law, construction projects other than those which need to be approved or permitted by relevant government authorities according to relevant laws and regulations and the land use rights is offered by allocation, need not apply for a Position Paper of Construction Project’s Site Selection. With regards to construction projects of which the land use rights is offered by assignment, the construction entity shall, after the entering into the contract for grant of land use rights, apply to the planning administration authorities at the municipal or county level for a Construction Land Planning Permit. Before the construction of buildings, structures, roads, pipelines and other construction projects, the construction entity or person shall apply to the planning administration authorities at the municipal or county level for a Construction Works Planning Permit.

### iii. Demolishment and Resettlement

In accordance with the Regulations for the Administration of Demolishment and Removal of Urban Housing (城市房屋拆遷管理條例) promulgated by the State Council in June 2001, if demolition of existing structures and removal of existing residents on the construction site need to be conducted before commencement of construction of the real estate project contemplated, the developer may apply to the local municipal, district or county level government in the place where the real estate is located for a

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permit for demolition and removal. Upon approval, the local government will issue a demolition and removal permit and post a demolition and removal notice to inform the inhabitants of the area subject to demolition. The designated demolition and removal party must implement the demolition and removal within the area and period specified in the demolition and removal permit. If the demolition and removal party fails to complete the demolition and removal works within the permitted period, it may, within 15 days prior to the expiration of the permit for demolition and removal, apply to the original approval department in charge of demolition and removal for an extension.

During the demolition and removal period announced by the department in charge of demolition and removal, the demolition and removal party and the parties subject to demolition and removal will enter into a written agreement for compensation and resettlement in respect of the demolition and removal. If the demolition and removal party and the parties subject to demolition and removal cannot reach an agreement, any such party may apply to the original approval department in charge of the demolition and removal for a ruling. Such a ruling must be rendered within 30 days of the application. If any such party disagrees with the ruling, it may initiate proceedings in the People’s Court in China within three months from the date of delivery of the ruling. If the demolition and removal party has provided proper monetary compensation or proper replacement housing to the parties subject to demolition and removal, the demolition and removal may not be stopped during the course of the legal proceedings.

Compensation for demolition and removal may be effected by way of monetary compensation or exchange of property rights. If the monetary compensation method is used, the amount of compensation is assessed on the basis of the real estate market price determined by the location, uses and the gross floor area of the housing to be demolished. If property exchange or replacement is used, the demolition and removal party and the parties subject to demolition and removal will, on the basis of the location, uses and the gross floor area of the housing to be demolished and the housing offered for exchange or replacement, calculate the amount of compensation for the housing to be demolished, the price of the housing to be exchanged or replaced for the housing to be demolished, and work out the difference between the two. In addition to paying the demolition and removal compensation, the demolition and removal party will also pay removal allowance to the parties subject to demolition and removal including lessees of the property.

### **iv. Construction of a property project**

When the construction site has been properly prepared and is ready for the commencement of construction works, the property developer shall apply for a Construction Permit from the construction authority under the local people’s government at the county level or above according to the “Measures for the Administration of Construction Permits for Construction Projects” (建築工程施工許可管理辦法) promulgated by the Ministry of Construction on October 15, 1999 and as amended and implemented on July 4, 2001.

According to the “Notice Regarding Strengthening and Regulating the Administration of Newly-commenced Projects” (國務院辦公廳關於加強和規範新開工項目管理的通知) issued by the General Office of the State Council on November 17, 2007, before a project commences construction, it shall have satisfied certain conditions including, among others, complying with national industrial policy,

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development plan, land supply policy and market access standard, complying with and obtaining all approvals and procedures, complying with zoning plans, completing proper land use procedures and obtaining proper environmental valuation approvals and construction permit or report.

### v. Completion of a property project

According to the “Regulation on the Quality Management of Construction Projects” (建設工程質量管理條例) promulgated and implemented by the State Council on January 30, 2000, the “Interim Measures for Reporting Administration of Acceptance Examination Upon Completion of Housing Construction Projects and Municipal Infrastructure” (房屋建築工程和市政基礎設施竣工驗收備案管理暫行辦法) promulgated by the Ministry of Construction in April 2000 and the “Interim Provisions on Acceptance Examination Upon Completion of Housing Construction Projects and Municipal Infrastructure” (房屋建築工程和市政基礎設施竣工驗收暫行規定) promulgated and enforced by the Ministry of Construction on June 30, 2000, upon completion of construction of a project, a property developer shall apply for the acceptance examination to the property development authority under the people’s government at the county level or above and report details of the acceptance examination, upon which a “Record of Acceptance Examination upon Project Completion” will be issued. A real estate development project may not be delivered until and unless it has satisfactorily passed the necessary acceptance examination. Where a property project is developed in phases, an acceptance examination may be carried out for each completed phase.

In August 2008, the State Council issued the “Regulations on Energy Efficiency for Civil Buildings” (民用建築節能條例), which regulates energy consumption and utilization efficiency of civil buildings. According to this regulation, the design and construction of new buildings must meet the statutory criteria on energy efficiency for buildings. A project which fails to meet such criteria may not receive approval for commencement of construction or completion acceptance.

### LAND FOR PROPERTY DEVELOPMENT

In April 1988, the National People’s Congress amended the PRC Constitution (中華人民共和國憲法) to permit the transfer of land use rights for value. And in December 1988, the National People’s Congress amended the Land Administration Law (土地管理法) to permit the transfer of land use rights for value. The acquisition of state-owned land use rights from relevant government authorities is commonly referred to as the primary market, and the acquisition of land use rights from entities which hold land use rights granted by relevant government authorities is commonly referred to as the secondary market.

Under current PRC laws and regulations on land administration, besides land acquisitions from secondary market, land for property development may be obtained by government grant. Under the “Rules on the Grant of State-owned Land Use Rights Through Public Tender, Auction and Listing-for-Sale” (招標拍賣掛牌出讓國有建設用地使用權規定) promulgated by the Ministry of Land and Resources in May 2002 and amended in September 2007, land for industrial use, commercial use, tourism, entertainment, commodity housing development and other operational use must be granted by public tender, auction or listing-for-sale. Under these regulations, the relevant land administration authority at city or county level, or the grantor, is responsible for preparing the public tender, auction or listing documents and must make an announcement 20 days prior to the day of public tender, auction or listing with respect to the particulars of the land parcel and the time and venue of the public tender,

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auction or listing. The grantor must also conduct a qualification verification of the bidding, auction and listing applicants, accept an open public auction to determine the winning tender or hold an auction to ascertain a winning bidder. The grantor and the winning tender or bidder will then enter into a confirmation followed by the execution of a contract for assignment of state-owned land use rights. Only after the grantee has paid the land premium in full under the land grant contract, can the grantee apply for the land registration and obtain the land use right certificate. Furthermore, land use rights certificate may not be issued in proportion to the land premium paid under the land-grant contract. Pursuant to the “Regulations on the Grant of Land Use Rights Through Tender and Auction in Shenzhen Special Economic Zone” (深圳經濟特區土地使用權招標、拍賣規定) promulgated by the People’s Government of Shenzhen on February 5, 1998, save as required by the laws and regulations, the following land use rights shall be granted through tender and auction: (I) residential use: (1) land used for villas, (2) land used for mutli-storey residential buildings, (3) land used for medium to high-rise residential buildings, (4) land for commercial and residential combined uses, and (5) land for office and apartment combined uses; (II) commercial use: (1) food and beverage, (2) land for commercial and office combined uses, (3) land used for the wholesale and retailing of merchandises, (4) land used for the wholesale and retailing of daily utilities, (5) land used for the wholesale and retailing of materials used for production, (6) land used for the operation of enterprises, (7) leisure and recreational uses; (III) use for petrol station; (IV) other land uses which the bid inviter or the auctioneer consider to be appropriate for granting the land by means of bidding or auction. The tender inviter or the auctioneer may, having taken into consideration of the market environment, grant the land use right for above land uses by bidding or auction. The bid winner and the winner of the auction shall undertake the construction in strict compliance with the requirements as stated in the land use rights grant contract for the land granted by bidding or auction and any alteration to the land use plan without prior approval is prohibited. Without the prior approval of the municipal planning authority, the municipal land resources authority is prohibited from altering the planning requirements as stated in the land use rights grant contract.

On March 6, 2001, the People’s Government of Shenzhen promulgated the “Regulations on Land Trade Market Administration of Shenzhen” (深圳市土地交易市場管理規定) which specifies the establishment of the land exchange market (centre) which will become the specialized place for land trading. It also sets out the details for the scope of lands to be granted or transferred through tender, auction or listing-for sale process in the exchange market, the functions and duties of the land exchange centre and the methods for land exchange and also states that co-operative housing project should be conducted in the exchange centre through tender, auction or listing-for-sale, except for returned land from rural land requisition.

On June 11, 2003, the Ministry of Land and Resources promulgated the “Regulation on Grant of State-owned Land Use Rights by Agreements” (協議出讓國有土地使用權規定), which provided that, other than through public tender, auction and listing-for-sale, land use rights may be granted via transfer agreements, and the land premium for the transfer agreements of the state-owned land use right shall not be lower than the benchmark land price.

On July 6, 2001, the People’s Government of Shenzhen promulgated the “Decisions on Reinforcement of Market-oriented Administration of Land to Further Stimulate and Regulate the Property Market” (關於加強土地市場化管理進一步搞活和規範房地產市場的決定), which specifies a series of measures for stimulating and regulating the property market of Shenzhen. These measures cover the specific scope of the grant of land by agreement and reduction of land price; the process of

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paying the market price for properties erected on land obtained by administrative allotment, historic land and land granted by agreement; recovery of idle land and levy of land idle fee; co-operative housing projects being deemed to be transfer of property; waiving of land appreciation fee on properties in the secondary and level-3 market, which was later reinstated in 2005; and raise of the pre-sale conditions for commodity houses, etc.

In September 2003, the Ministry of Land and Resources promulgated the “Notice on Strengthening the Land Supply Management and Promoting the Sustainable Sound Development of Real Estate Market” (關於加強土地供應管理促進房地產市場持續健康發展的通知) which provides that land supply for luxury commodity housing shall be strictly controlled. On May 30, 2006, the Ministry of Land and Resources promulgated an “Urgent Notice on Currently Strengthening Further Strict Land Management” (關於當前進一步從嚴土地管理的緊急通知) which provides that land grant for real estate development must be conducted via invitation for bids, auction and listing, and land supply for low to medium-priced and/or small to medium-sized ordinary commercial residential housing (including affordable housing) and for low-rental residential housing must be given priority, and land supply for low-density and/or large-sized residential housing shall be strictly restricted. In addition, the notice provides that land supply for new villa project shall be suspended.

On April 29, 2004, the General Office of the State Council issued the “Urgent Notice on Further Governing and Rectifying Land Market and Strengthening Administration of Land” (關於深入開展土地市場治理整頓嚴格土地管理的緊急通知), which restated the principle of farmland protection and the strict administration of the approval process for construction land.

On August 31, 2006, the State Council issued the “Notice on Issues Relating to Strengthening of Land Control” (關於加強土地調控有關問題的通知), which provides for the administration of receipt and disbursement of land premiums, tax policies modification relating to construction land, and establishment of a publicity system for price standards with respect to granted state-owned land use rights.

In March 2007, the National People’s Congress adopted the “Property Rights Law of the People’s Republic of China” (中華人民共和國物權法) (“Property Rights Law”), which became effective on October 1, 2007. According to the Property Rights Law, when the term of the right to use construction land for residential (but not other) purposes expires, it will be renewed automatically. Unless it is otherwise prescribed by any law, the owner of construction land use rights has the right to transfer, exchange, use such land use rights as equity contributions or collateral for financing. If the state reclaims the properties owned by entities or individuals, it must compensate the property owner in accordance with laws and regulations and protect the lawful rights and interests of the owners.

On September 30, 2007, the Ministry of Land and Resources issued Notice on Implementation of the State Council’s Certain Opinions on Resolving Difficulties in Housing of Urban Low-Income Family and Further Strengthening the Macro-control of Land Supply (關於認真貫徹《國務院關於解決城市低收入家庭住房困難的若干意見》進一步加強土地供應調控的通知) to further enhance the control of land supply, which stipulates that the supply of the land to be developed for low-rent housing, economic housing and housing at low or medium price and of small or medium size shall be no less than 70% of the total land supply of the current year; the land and resources authorities shall control the area of each parcel of land and increase the number of parcels of land to be supplied, in order to prevent the

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completion of land by property developers. Property developers shall develop their land according to the terms of the relevant land grant contract, and any violation thereof may restrict or prevent such property developers from participating in future land bidding. Generally, the development period of each parcel of land shall not exceed three years.

In order to control the land market and promote reasonable land utility, the Ministry of Land and Resources, Ministry of Finance and PBOC jointly promulgated the “Administration Measures on Land Reserve” (土地儲備管理辦法) on November 19, 2007, which regulates the land development and land reserve by land reserve entities, affiliates of the land and resources authorities at city or county level, before the land and resources authorities grant land use rights according to relevant laws and regulations. The enterprises shall be elected through public tender to conduct the preliminary land development involving road development, supply of water, power and gas, telecommunications, lighting, landscaping and land leveling etc. according to applicable laws and regulations.

### SALE OF COMMODITY PROPERTIES

Under the “Measures for Administration of Sale of Commodity Houses” (商品房銷售管理辦法) promulgated by the Ministry of Construction in April 2001, sale of commodity houses can include both sales before the completion of the properties, or pre-sale, and sales after the completion of the properties.

Any pre-sale of commodity buildings must be conducted in accordance with the “Measures for Administration of Pre-sale of Commodity Buildings” (城市商品房預售管理辦法) promulgated by the Ministry of Construction in November 1995, as amended in August 2001 and July 2004, and the other related regulations. The pre-sale regulations provide that any pre-sale of commodity properties is subject to specified procedures. According to the current PRC laws and regulations, a presale permit must be in place before a commodity building may be put to pre-sale. Specifically, a developer intending to sell a commodity building before its completion must apply to the real estate development authorities for a pre-sale permit. The pre-sale proceeds of commodity buildings must be used to develop the relevant project so pre-sold. A commodity building may be sold before completion only if:

- the purchase price has been paid in full for the grant of the land use rights involved and a land use rights certificate has been properly obtained;
- a construction works planning permit and a construction works commencement permit have been properly obtained;
- the funds invested in the development of the commodity buildings put to pre-sale represent 25% or more of the total investment in the project and the progress of works and the completion and delivery dates have been properly ascertained; and
- a pre-sale permit has been obtained through pre-sale registration.

Pursuant to the “Regulations on Transfer of Property of Shenzhen Special Economic Zone” (深圳經濟特區房地產轉讓條例) promulgated by the Standing Committee of the People’s Congress of Shenzhen on August 21, 1993 and amended on June 30, 1999, the following conditions shall be fulfilled for pre-sale of commodity properties by the property developer: (1) land use rights has been registered

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in accordance with relevant regulations and the property rights certificate has been obtained; (2) a Construction Works Planning Permit and Construction Works Commencement Permit have been obtained; (3) in addition to the full payment of land premium, the funds invested in the development of the construction shall represent 25% or above of the total investment in the budget of works and have been verified by a registered accountant; (4) a pre-sale payment escrow agreement has been signed by the property developer and financial institution; (5) the land use rights has not been mortgaged or has been released from mortgage.

Pursuant to the “Regulations on Property Development of Hunan Province” (湖南省城市房地產開發經營管理辦法), the following conditions shall be fulfilled for pre-sale of commodity properties in Hunan province: (a) the Land Use Rights Certificate, the Construction Works Planning Permit and the Construction Works Commencement Permit have been obtained; (b) the progress of high-rise construction projects has reached or has exceeded one-third of the design’s progress, the progress of other construction projects has reached or has exceeded one-half of the design’s progress; (c) the construction schedule and the date for completion and delivery have been determined.

Commodity buildings may be put to post-completion sale and delivery after they have passed the completion examination and satisfy the various preconditions for such sale. Before the post-completion sale of a commodity building, the developer must, among other things, submit the Real Estate Development Project Manual and other documents relating to the project evidencing the satisfaction of the preconditions for post-completion sale to the real estate development authority for its record.

According to the “Regulations on Administration of Development of Urban Property” (城市房地產開發經營管理條例) and the “Measures for Administration of Pre-sale of Commodity Properties” (城市商品房預售管理辦法), for the pre-sale of a commodity building, the developer shall sign a contract on the pre-sale of the commodity building with the purchaser. The developer shall, within 30 days of signing the contract, apply for registration and record of contract for pre-sale commodity building to the relevant administrative departments governing the property and land administration department of the municipal or county governments. Property administrative departments shall take the initiative to apply network information technology to gradually implement web-based registration of pre-sale contracts.

On May 9, 2005, the General Office of the State Council issued the “Circular on Forwarding the Opinion of the Ministry of Construction and Other Department on Doing a Good Job of Stabilizing House Prices” (關於做好穩定住房價格工作的意見), which provided the following with respect to commodity property pre-sales and sales:

- The purchaser of a pre-sold commodity property is prohibited from transferring such property that is still under construction. Before a pre-sold commodity property is completed and delivered and the purchaser obtains the individual property ownership certificate, the property administrative department shall not give effect to any transfer of the commodity property. If there is discrepancy between the name of the applicant for property ownership and the name of the purchaser in the sales contract, the property ownership registration administration shall not record the application of property ownership; and
- A real name identification system shall be applied to house purchase and an immediate record filing network system for pre-sale contracts of commodity buildings shall be established.

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On July 6, 2006, the Ministry of Construction, NDRC, and SAIC jointly issued a “Notice on Reorganizing and Regulating Order in the Property Transactions” (關於進一步整頓規範房地產交易秩序的通知), the details of which are as follows:

- The developer should start to sell the commodity properties within 10 days after receiving the pre-sale permit. Without the pre-sale permit, the pre-sale of commodity properties (including reservation, subscription and number-selecting) and acceptance of any kind of pre-sale payments are prohibited;
- The property administration authority should establish a network system for immediately tracing pre-sale contracts of the commodity properties and a system for publishing property transaction information. The basic situation of the commodity building, the schedule of the sale and the status of rights should be duly, truly and fully published in the network system and on the locale of sale. The purchaser of a commodity property is prohibited from any transfer of such pre-sold commodity property that is still under construction;
- Without the pre-sale permit, advertisement for pre-sale of commodity buildings may not be published;
- Property developers which have a record of serious regulatory non-compliance or do not satisfy pre-sale requirements of commodity properties are not allowed to engage in sale activities;
- The property administration authority should strictly implement the regulations of the pre-sale contract registration and record filing and apply the real name identification system to property purchases.

### TRANSFER OF REAL ESTATE

According to the “Provisions on Administration of Transfer of Urban Real Estate” (城市房地產轉讓管理規定) promulgated by the Ministry of Construction in August 1995, as amended in August 2001, a real estate owner may sell, bequeath or otherwise legally transfer real estate to another person or legal entity. When transferring a building, the ownership of the building and the land use rights to the site on which the building is situated are transferred together. The parties to a transfer must enter into a real estate transfer contract in writing and register the transfer with the real estate administration authority having jurisdiction over the location of the real estate within 90 days of the execution of the transfer contract.

Where the land use rights were originally obtained by grant, the property may only be transferred on the condition that:

- the land premium has been paid in full for the grant of the land use rights as required by the land grant contract and a land use rights certificate has been properly obtained; and
- in the case of a project in which buildings are being developed, development representing more than 25% of the total investment has been completed; or

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- in case of a whole land lot development project, construction works have been carried out as planned, and water supply, sewerage, electricity supply, heat supply, access roads, telecommunications and other infrastructure or utilities have been made available, and the site has been leveled and made ready for industrial or other construction purposes.
- in case of where the real property has been completed in construction, the property ownership certificate shall have been obtained.

If the land use rights were originally obtained by grant, the term of the land use rights after transfer of the real estate will be the remaining portion of the original term in the land grant contract. In the event that the assignee intends to change the use of the land provided in the land grant contract, consent must first be obtained from the original land use rights grantor and the planning administration authority at the relevant city or county and an agreement to amend the land grant contract or a new land grant contract must be signed in order to, *inter alia*, change the use of the land and adjust the land premium accordingly.

If the land use rights were originally obtained by allocation, such allocation may be changed to land use rights grant if approved by the government vested with the necessary approval power as required by the State Council. After the government authorities vested with the necessary approval power approve such change, the grantee must complete the formalities for the grant of the land use rights and pay the land premium according to the relevant laws and regulations. Land for commercial use, tourism, entertainment and commodity housing development must be assigned by public tender, auction or listing-for-sale under the current PRC laws and regulations.

Pursuant to the “Regulations on Transfer of Property of Shenzhen Special Economic Zone” (深圳經濟特區房地產轉讓條例), the following real estates shall only be transferred upon the approval by the administrative authority and full payment of land premium: (1) land use right of which is obtained by administrative allocation; (2) land premium was reduced when the land use right of which was obtained; (3) otherwise under the provisions of laws and regulations. The following real estates shall not be transferred: (1) land use right of which is reclaimed by the municipal government in accordance with the urban planning; (2) the land use right of which is ordered or decided to be sealed up or otherwise is restricted by the judicial authority and administrative authority; (3) jointly-owned real estate, without the written consent of the other joint owner(s); (4) mortgaged real estate, without the consent of the mortgagee; (5) the title of which is in dispute; (6) under the restriction of to be transferred by the laws, regulations or provisions of the municipal government. Transferor of real estate shall register the transfer of title in accordance with the relevant requirements. The date the transfer of title is registered with the real estate registration authority shall be the date of transfer of the title of real estate.

In addition, commercial banks are also banned from providing loans to the projects that have less than 35% of capital funds (proprietary interests), or fail to obtain land use right certificates, construction land planning permits, construction works planning permits and construction permits. Commercial banks are also prohibited from accepting commercial premises that have been vacant for more than three years as collateral for loans. In principle, real-estate development loans provided by commercial banks should only be used for the projects in the areas the commercial banks are located. Commercial banks may not provide loans to property developers to finance the payment of land premium.

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On July 29, 2008, PBOC and CBRC jointly issued the Notice on Promoting Economic Use of Land through Finance (關於金融促進節約集約用地的通知). Commercial banks shall provide financial support preferentially to the projects with economic use of land, such as the development of low-cost rental units, economically affordable units, price-limit units and units with a GFA of less than 90 square meters. The commercial banks are prohibited from granting loans to the property developers for payment of land premium. The Notice emphasizes tightening the policy requirements and management of loans to certain projects, including:

- the management of loans for construction projects. The commercial banks are prohibited from providing loans to (i) the projects which do not meet the relevant planning and control requirements, (ii) the projects which have illegal land use and (iii) the projects for which the relevant land falls into the catalog of banned land use projects. Where a loan has already been granted to such a project, it shall be gradually recovered provided that necessary protection measures have been taken. A financial institution shall exercise caution in granting a loan to projects falls into the catalog of restricted land use projects.
- the examination of loans for municipal infrastructures and industrial land use projects.
- the management of loans for rural collective construction land use projects. The commercial banks are prohibited from providing loans to the commercial projects for which the relevant land is supposed to be developed for rural collective construction land use.
- the management of credit for property development projects. The commercial banks are prohibited from granting loans to the property developers for payment of land premium. With respect to loans provided for land reservation in the form of mortgage, a legal land use right certificate must be obtained. In addition, the maximum mortgage ratio shall not exceed 70% of the appraised value of the underlying collateral and, in principle, the term of loan shall not exceed two years. When the relevant land and resource authority confirms that an enterprise has developed less than 1/3 of the site area of land or has invested less than 1/4 of the total investment for the project after one year from the date of construction commencement as stipulated in the land grant contract, the commercial bank shall exercise caution in granting loans to the enterprise and strictly control extended loans or rolling credits to it.

### LEASES OF BUILDINGS

Under the “Measures for Administration of Leases of Buildings in Urban Areas” (城市房屋租賃管理辦法) promulgated by the Ministry of Construction in May 1995, parties to a lease of a building must enter into a lease contract in writing. China has adopted a system to register the leases of real properties. When a lease contract is signed, amended or terminated, the parties must register the details with the real estate administration authority at the city or county level in which the building is situated.

Pursuant to the “Regulations on House Leasing of Shenzhen Special Economic Zone” (深圳經濟特區房屋租賃條例) promulgated by the Standing Committee of the People’s Congress of Shenzhen on May 1, 1993 and amended on April 16, 2004, and its implementation rules, the property lease market is centrally administered by the property administration authorities of the People’s Government of Shenzhen. The parties to a lease shall register and submit the lease agreement with the local administrative authority in respect of the entering into or the alteration of the lease agreement within 10

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days from the signing of the lease agreement. Local administrative authority shall register such lease agreement which is in compliance with the requirements of this provision within 5 days from the date of registration application while the lease agreements that are not in compliance with the requirements of this provision will not be registered and a written reply will be given to the applicant. Lessors who have registered the lease contract in respect of the property leased shall pay the management fee for the property lease which represents 2% of the monthly rent to the local administrative authority. Lessors who have filed the registration of the lease of property shall pay the management fee for the property lease which represents 3% of the monthly rent to the local administrative authority. Where the parties to a lease violate the requirements and have not registered or filed in registration in respect of the property leased, a one-off penalty amounting to 20% of the total rent prescribed in the lease contract will be imposed on the lessor or sub-lessor during the term of lease contract while the management fee for the property leased and delinquency charges will be demanded. A penalty amounting to 10% of the prescribed rent will be imposed on the lessee or sub-lessee in default.

### MORTGAGES OF REAL ESTATE

Under the Urban Real Estate Administration Law, the “PRC Security Law” (中華人民共和國擔保法) promulgated by the National People’s Congress in June 1995, and the “Measures for Administration of Mortgages of Urban Real Estate” (城市房地產抵押管理辦法) promulgated by the Ministry of Construction in May 1997, as amended in August 2001, when a mortgage is created on the ownership of a building legally obtained, a mortgage must be simultaneously created on the land use rights of the land on which the building is situated. When a mortgage is created on land obtained by way of grant, a mortgage must be simultaneously created on the ownership of the building which is on the land. The mortgagor and the mortgagee must sign a mortgage contract in writing. China has adopted a system to register mortgages of real estate. Within 30 days after a real estate mortgage contract has been signed, the parties to the mortgage must register the mortgage with the real estate administration authority at the location where the real estate is situated. A real estate mortgage contract will become effective on the date of registration of the mortgage. If a mortgage is created on the real estate in respect of which a property ownership certificate has been obtained legally, the registration authority will, when registering the mortgage, make an entry under “third party rights” on the original property ownership certificate and then issue a certificate of third party rights to the mortgagee. If a mortgage is created on the commodity building put to pre-sale or on works in progress, the registration authority will, when registering the mortgage, record the details on the mortgage contract. If construction of a property is completed during the term of a mortgage, the parties involved will re-register the mortgage of the property after issuance of the certificates evidencing the rights and ownership to the real estate.

The PRC Property Rights Law further widens the scope of assets that can be mortgaged, allowing for any asset associated with property rights to be mortgaged as collateral unless a specific prohibition under another law or administrative regulation applies.

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According to the PBOC Notice on Regulating Home Financing Business (中國人民銀行關於規範住房金融業務的通知) promulgated in June 2001, all banks must comply with the following requirements before granting residential development loans, individual home mortgage loans and individual commercial property mortgage loans:

- Housing development loans from banks may only be granted to real estate developers with development qualification and credit ratings in the higher categories. Such loans may be offered to residential projects with good market potential. While the borrowing enterprise’s internal capital may not be less than 30% of the total investment required for the project, the project itself must have been issued the land use rights certificate, construction land planning permit, construction works planning permit and construction permit.
- In respect of the grant of individual home mortgage loans, the ratio between the loan amount and actual value of the collateral may never exceed 80%. Where an individual applies for a home purchase loan to buy a pre-sale property, the property must have achieved the stage of “topping-out of the main structure completed” for multi-storey buildings and “two-thirds of the total investment completed” for high-rise apartment buildings.
- In respect of the grant of individual commercial use building mortgage loans, the mortgage ratio for commercial use building mortgage loans may not exceed 60% with a maximum loan period of 10 years and the subject commercial use building already completed.

The PBOC issued the “Circular on Further Strengthening the Management of Loans for Property Business” (關於進一步加強房地產信貸業務管理的通知) on June 5, 2003 to specify the requirements for banks to provide loans for the purposes of residential development, individual home mortgage and individual commodity properties as follows:

- (i) The property loan by commercial banks to property enterprises shall be granted only by the item of property development rather than cash flow loan item or other loan item. Any kind of loan cannot be granted for the projects which do not have Land-Use Rights Certificates, Construction Land Planning Permits, Construction Planning Permits and Construction Permits;
- (ii) Property loans may be granted to property enterprises who are qualified for property development, rank high in credibility and have no overdue payment for construction. Such loans shall be given in full support of residential housing projects which conform to the purchasing capacity of families with medium-to-low income, and shall be property restricted where projects involve building properties of large size and/or cover large area, such as luxury commodity houses and villas. For property enterprises with commodity houses of high vacancy rate and debt ratio, strict approval procedures must be applied for their new property development loans and their activities must also be subject to close monitoring;
- (iii) Commercial banks shall not grant loans to property developers to pay off land premium;

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- (iv) Commercial banks may only provide housing loans to individual buyers when the main structural buildings have been topped out. When a borrower applies for individual home loans for his first residential unit, the first installment remains to be 20%. In respect of his loan application for additional purchase of residential unit(s), the percentage of the first installment shall be increased; and
- (v) When a borrower applies for a mortgage loan for an individual commercial use building, the mortgage ratio may not be more than 60%. In addition, the term of loan may not be more than 10 years and the commodity building must be duly completed and accepted after the relevant governmental inspection.

The first installment requirement was subsequently increased to 30% of the property price for residential units with a unit floor area of 90 square meters or more, effective on June 1, 2006. See “— Measures on Stabilizing Housing Price” below.

In a Circular on Facilitating the Continuously Healthy Development of Property Market (關於促進房地產市場持續健康發展的通知) issued by the State Council in August 2003, a series of measures were adopted by the government to control the property market. They included, among others, strengthening the construction and management of low-cost affordable houses, increasing the supply of ordinary commodity houses and controlling the construction of high quality commodity houses. Besides, the government also staged a series of measures on the lending for residential development. They included, among others, strengthen efforts in housing provident fund collection and the granting of loans, improving the guarantee mechanism of individual home loans and strengthening the monitoring over property loans. It is expected that the circular will have a positive effect on the development of the PRC property market in the long run by facilitating a continuously healthy growth of the property market in China.

Pursuant to the “Guidance on Risk Management of Property Loans of Commercial Banks” (商業銀行房地產貸款風險管理指引) issued by the CBRC on September 2, 2004, any property developer applying for property development loans shall have at least 35% of capital required for the development.

According to the “Notice of the People’s Bank of China on the Adjustment of Commercial Bank Housing Credit Policies and the Interest Rate of Excess Reserve Deposit ” (中國人民銀行關於調整商業銀行住房信貸政策和超額存款準備金存款利率的通知), promulgated by the PBOC on March 16, 2005, from March 17, 2005, in the cities and areas where the price of houses grows too quickly, the first installment of individual home loans increases from 20% to 30%. The commercial banks can independently determine the specific cities or areas under such adjustment according to special situations in different cities or areas.

On May 24, 2006, State Council issued the “Opinions of the Ministry of Construction and other Departments on Adjusting the Housing Supply Structure and Stabilizing the Housing Prices” (關於調整住房供應結構穩定住房價格的意見). The regulations on the property credit of this are as follows:

- (i) Strictly impose credit conditions on property development. In order to suppress property development enterprises from storing up land and housing resources by use of bank loans, commercial banks shall not provide loans to those property enterprises that fail to meet loan conditions, for example, having a project capital less than 35%. For property development

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enterprises that have much idle land and vacant commodity properties, the commercial banks shall, in light of the principle of prudential operations, be stricter in controlling the renewal of loans or any form of revolving credit. The commercial banks shall not accept any commodity property that has been idle for more than three years as collateral for loans; and

- (ii) From June 1, 2006, the proportion of initial payment of individual housing mortgage loans shall not be lower than 30%. However, considering the demands for housing by the medium and low-income population, the purchase of self-used housing with gross floor area no more than 90 square meters is still subject to the provision of the initial payment of housing at 20%.

According to the “Circular on Standardizing the Admittance and Administration of Foreign Capital in the Property Market” (關於規範房地產市場外資准入和管理的意見) effective on July 11, 2006, FIREEs which have not paid up their registered capital, or failed to obtain a Land-Use Rights Certificate, or with less than 35% of the capital for the project, will be prohibited from obtaining a loan in or outside China, and the SAFE shall not approve the registration of foreign loans for such enterprises.

On July 10, 2007, the SAFE issued a notice indicating that it would not process for FIREEs any foreign debt registration or conversion of foreign debt that was approved by the local MOFCOM and filed with MOFCOM on or after June 1, 2007.

In September 2007, the PBOC and CBRC promulgated a “Circular on Strengthening the Administration of Commercial Real-estate Credit Loans” (關於加強商業性房地產信貸管理的通知). The circular aims to tighten the control over real-estate loans from commercial banks to prevent excessive credit granting. The measures adopted include:

- for a first-time home owner, increasing the minimum amount of down payment to 30% of the purchase price of the underlying property if the underlying property has a unit floor area of 90 square meters or more and the purchaser is buying the property as its own residence;
- for a second-time home buyer (unless the buyer has paid off its outstanding loans on its first property), increasing (i) the minimum amount of down payment to 40% of the purchase price of the underlying property and (ii) the minimum mortgage loan interest rate to 110% of the relevant PBOC benchmark lending interest rate;
- for a commercial property buyer, (i) requiring banks not to finance any purchase of pre-sold properties, (ii) increasing the minimum amount of down payment to 50% of the purchase price of the underlying property, (iii) increasing the minimum mortgage loan interest rate to 110% of the relevant PBOC benchmark lending interest rate, (iv) limiting the terms of such bank loans to no more than 10 years, although the commercial banks are allowed flexibility based on its risk assessment;
- for a buyer of commercial/residential dual-purpose properties, increasing the minimum amount of down payment to 45% of the purchase price of the underlying property, with the other terms to be decided by reference to commercial properties;

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- prohibiting commercial banks from providing loans to real-estate developers who have been found by relevant government authorities to be hoarding land and properties;
- prohibiting commercial banks from lending to property developers solely for the payment of land premiums; and
- commercial properties purchase by loans shall have been completed and passed completion acceptance inspection.

On December 5, 2007, the PBOC and CBRC jointly issued the “Supplemental Circular on Strengthening the Management of Commercial Real-estate Credit Loans” (關於加強商業性房地產信貸管理的補充通知), which clarifies that the times of property mortgage loans should be calculated on a family basis, including the borrower and his spouse and minor child.

According to the requirement under a notice issued by POBC and CBRC on Promoting Economical and Intensive Utilization of Land Through Financing in July 2008, with respect to loans provided for land reservation in the form of mortgage, a legal land use right certificate must be obtained. In addition, the maximum amount of the mortgage offered by the financial institution should not be more than 70% of the assessed value of the collateral and the loan term should not exceed two years in principle.

On October 22, 2008, PBOC promulgated the Notice on Several Issues Regarding the Expansion of Downward Floating Interest Rate for Commercial Individual Housing Loans which provides that, effective October 27, 2008, the float-down range for interest rate for individual mortgage loans is expanded and the ratio of down payments is be adjusted. As a result, the minimum interest rate for individual mortgage loans is 70% of the benchmark loan interest rate and the minimum down payment ratio for the home buyers on their first house purchases is adjusted to 20%.

In December 2008, the General Office of the State Council issued the Opinion on Promoting the Healthy Development of Real Estate Market (關於促進房地產市場健康發展的若干意見). The opinion provides that in order to expand domestic demand and encourage purchase of ordinary residential housing, residents who purchase ordinary self-occupied housing for the first-time by borrowing a mortgage loan shall enjoy preferential policies in relation to loan interest rates and down payment. For residents who have already borrowed a mortgage loan and purchased self-occupied housing for the first-time, if the GFA per person of that first housing is lower than the local average, such residents may still enjoy the preferential policies in relation to loan interest rates and down payment when they purchase a second self-occupied house. For any other application on mortgage loans for purchasing a second or subsequent housing unit, the interest rate shall be determined by the commercial banks based on the benchmark interest rate and their the banks’ risk assessments.

According to an opinion on Adjusting the Portion of Capital for Fixed Assets Investment issued by the State Council in May 2009, the capital ratio for protected housing projects and ordinary commodity housing projects is adjusted from 35% to 20%, and the capital ratio for other property is adjusted from 35% to 30%. Financial institutions shall decide based on the capital ratio adjustments whether or not to issue loans to real estate companies.

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### Major Taxes Applicable to Property Developers

#### (a) *Income tax*

According to the “Income Tax Law of The People’s Republic of China for Foreign-invested Enterprises and Foreign Enterprises” (中華人民共和國外商投資企業和外國企業所得稅法) which was promulgated by the NPC on April 9, 1991 and implemented on July 1, 1991 and its detailed rules promulgated by State Council on June 30, 1991, the income tax on enterprises with foreign investment shall be computed on the taxable income at the rate of 30%, and local income tax shall be computed on the taxable income at the rate of 3%, whereas foreign invested enterprises established in special economic zones (including the Shenzhen Special Economic Zone) shall be applicable to a preferential income tax rate of 15%.

Pursuant to the “Provisional Regulations of the People’s Republic of China on Enterprise Income Tax” (中華人民共和國企業所得稅暫行條例) issued by the State Council on December 13, 1993 and enforced on January 1, 1994 and the “Detailed Implementation Rules on the Provisional Regulations of The People’s Republic of China on Enterprise Income Tax” (中華人民共和國企業所得稅暫行條例實施細則) issued by the Ministry of Finance on February 4, 1994, the income tax rate applicable to Chinese enterprises other than foreign-invested enterprises and foreign enterprises is 33%.

Under the “Special Economic Zone Regulation of Guangdong Province” (廣東省經濟特區條例) enacted by the Standing Committee of the People’s Congress of Guangdong Province and approved by the Standing Committee of the NPC on August 26, 1980, the “Rules Regarding to Issues on Enterprise Taxation Policies of the Shenzhen Special Economic Zone” (關於深圳特區企業稅收政策若干問題的規定) issued by the People’s Government of Shenzhen on August 1, 1988 and effective September 1, 1988 and a “Notice to Forward the Provisional Regulations of the People’s Republic of China on Enterprise Income Tax and the Detailed Implementation Rules on the Provisional Regulations of The People’s Republic of China on Enterprise Income Tax” (關於轉發《中華人民共和國企業所得稅暫行條例》和《中華人民共和國企業所得稅暫行條例實施細則》的通知) issued by the local tax bureau of Shenzhen on March 14, 1994, enterprises established within the Shenzhen Special Economic Zone shall be applicable to a preferential income tax rate of 15%.

According to the “PRC Enterprise Income Tax Law” (中華人民共和國企業所得稅法) enacted by the NPC on March 16, 2007 and effective since January 1, 2008, a uniform income tax rate of 25% should be applied to foreign invested enterprises and foreign enterprises which have set up institutions or facilities in the PRC as well as domestic enterprises. This new tax law supersedes the Income Tax Law of the PRC for Foreign Invested Enterprises and Foreign Enterprises and the Provisional Regulations of the PRC on Enterprise Income Tax.

Furthermore, unlike the Income Tax Law of the PRC for Foreign-invested Enterprises and Foreign Enterprises, which specifically exempted withholding tax on any dividends payable to non-PRC enterprise investors, the PRC Enterprise Income Tax Law provides that a withholding tax rate of 20% will normally be applicable to dividends payable to non-PRC resident enterprise which are derived from sources within the PRC, unless there exists a tax treaty between the PRC and the relevant jurisdictions in which such non-PRC resident enterprise shareholders reside whereupon the relevant tax may be reduced or exempted. In accordance with the PRC Enterprise Income Tax Law and the “Implementation Rules of the People’s Republic of China on the Enterprise Income Tax Law” (中華人民共和國企業所得

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稅法實施條例) promulgated by the State Council on December 6, 2007 and effective as of January 1, 2008, a reduced withholding tax rate of 10% shall be applicable to any dividends payable to non-PRC enterprise investors from foreign invested enterprises. Pursuant to the “Arrangement between Mainland China and Hong Kong for the Avoidance of Double Taxation and Prevention of Fiscal Evasion with respect to Taxes on Income” (內地和香港特別行政區關於對所得避免雙重徵稅和防止偷漏稅的安排) signed on August 21, 2006, which in Hong Kong, applies to income derived in any year of assessment commencing on or after April 1, 2007; and in the PRC, in any year commencing on or after January 1, 2007, a company incorporated in Hong Kong will be subject to withholding income tax at a rate of 5% on dividends it receives from its PRC subsidiaries if it holds a 25% or more interest in that particular PRC subsidiary at the time of the distribution, or 10% if it holds less than a 25% interest in that subsidiary.

In addition, under the PRC Enterprise Income Tax Law and its Implementation Rules, enterprises established under the laws of jurisdictions outside China with their “de facto management bodies” located within China may be considered PRC resident enterprises and therefore subject to PRC enterprise income tax at the rate of 25% on their worldwide income. The PRC Enterprise Income Tax Law and its implementation rules provide that “de facto management body” of an enterprise is the organization that exercises substantial and overall management and control over the production, employees, books of accounts and properties of the enterprise.

The PRC Enterprise Income Tax Law also provides a five-year transition period starting from its effective date for those enterprises which were established before the promulgation date of the new tax law and which were entitled to a preferential lower income tax rate under the then effective tax laws or regulations. The income tax rate of such enterprises will gradually transit to the uniform tax rate within the transition period in accordance with implementing rules issued by the State Council. On December 26, 2007, the State Council issued the “Circular on Implementing the Transitional Preferential Policies for the Enterprise Income Tax” (關於實施企業所得稅過渡優惠政策的通知), under which, for those enterprises then entitled to a preferential income tax rate of 15% and established before March 16, 2007, the transitional income tax rate should be 18%, 20%, 22%, 24% and 25% respectively in 2008, 2009, 2010, 2011 and 2012.

### **(b) Business Tax**

Pursuant to the “Interim Regulations of the People’s Republic of China on Business Tax” (中華人民共和國營業稅暫行條例) promulgated by the State Council on December 13, 1993 and implemented on January 1, 1994 and the “Detailed Implementation Rules on the Provisional Regulations of The People’s Republic of China on Business Tax” (中華人民共和國營業稅暫行條例實施細則) issued by the MOF on December 25, 1993, the tax rate of the transfer of real properties, their superstructures and attachments is 5%.

### **(c) Land Appreciation Tax**

According to the requirements of the “Provisional Regulations of The People’s Republic of China on Land Appreciation Tax” (中華人民共和國土地增值稅暫行條例) (the “Land Appreciation Tax Provisional Regulations”) which was promulgated by the State Council on December 13, 1993 and effected on January 1, 1994, and the “Detailed Implementation Rules on the Provisional Regulations of the People’s Republic of China on Land Appreciation Tax” (中華人民共和國土地增值稅暫行條例實施

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細則) (the “Land Appreciation Tax Detailed Implementation Rules”) which was promulgated by the MOF and came into effect on January 27, 1995, any appreciation gain from a transfer of property shall be subject to LAT. LAT shall be charged at four levels of progressive rates: 30% for the appreciation amount not exceeding 50% of the sum of deductible items; 40% for the appreciation amount exceeding 50% but not exceeding 100% of the sum of deductible items; 50% for the appreciation amount exceeding 100% but not exceeding 200% of the sum of deductible items; and 60% for the appreciation amount exceeding 200% of the sum of deductible items. The related deductible items aforesaid include the following:

- amount paid for obtaining the land use rights;
- costs and expenses for development of land;
- costs and expenses of new buildings and ancillary facilities, or estimated prices of old buildings and constructions;
- related tax payable for transfer of property;
- other deductible items as specified by the MOF.

According to the requirements of the Land Appreciation Tax Provisional Regulations, the Land Appreciation Tax Detailed Implementation Rules and the “Notice on the Levy and Exemption of Land Appreciation Tax for Development and Transfer Contracts signed before 1 January 1994” (關於對1994年1月1日前簽訂開發及轉讓合同的房地產徵免土地增值稅的通知) issued by the MOF and the State Administration of Taxation on January 27, 1995, LAT shall be exempted under any of the following circumstances:

- taxpayers construct ordinary standard residences for sale (i.e. the residences built in accordance with the local standard for general civilian used residential properties. Deluxe apartments, villas, resorts etc. are not under the category of ordinary standard residences) and the appreciation amount does not exceed 20% of the sum of deductible items;
- property is taken back and repossessed according to laws due to the construction requirements of the State;
- due to redeployment of work or improvement of living standard, individuals transfer self-used residential property, in which they have been living for 5 years or more, subject to tax authorities’ approval;
- transfers of real properties under property transfer contracts signed before January 1, 1994, regardless of when the properties are transferred;
- if the property development contracts were signed before January 1, 1994 or the project proposal has been approved and that capital was injected for development in accordance with the conditions agreed, the LAT shall be exempted if the properties are transferred within 5 years after January 1, 1994 for the first time. The date of signing the contract shall be the date of signing the Sale and Purchase Agreement. Particular properties projects which are

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approved by the government for the development of the whole lot of land and long-term development, of which the properties are transferred for the first time after the 5-year tax-free period, the tax-free period may be appropriately prolonged subject to the approval of the MOF and the State Administration of Taxation.

On December 24, 1999, the MOF and the State Administration of Taxation issued the “Notice in respect of the extension of the period for the Land Appreciation Tax Exemption Policy” (關於土地增值稅優惠政策延期的通知) that extended the period for the Land Appreciation Tax exemption policy as mentioned in paragraph (5) above to the end of 2000.

After the issuance of the Land Appreciation Tax Provisional Regulations and the Land Appreciation Tax Detailed Implementation Rules, due to the longer period for property development and transfer, many districts, while they were implementing the regulations and rules, did not force the property development enterprises to declare and pay the LAT. Therefore, the MOF, State Administration of Taxation, Ministry of Construction and the MLR had separately and jointly issued several notices to restate the following: after the assignments are signed, the taxpayers should declare the tax to the local tax authorities where the property is located, and pay LAT in accordance with the amount as calculated by the tax authority and the time as required. For those who fail to acquire proof of payment or exemption from LAT from the tax authorities, the property administration authority shall not process the relevant title change procedures, and shall not issue the property title certificate.

The State Administration of Taxation also issued the “Notice on Serious Handling of Administration of the Collection of Land Appreciation Tax” (關於認真做好土地增值稅徵收管理工作的通知) on July 10, 2002 to request local tax authorities to modify the management system of LAT collection and operation details, to build up a sound taxpaying declaration system for LAT, to modify the methods of pre-levying for the pre-sale of properties. The Notice also pointed out that either for the properties development contract which were signed before January 1, 1994 or where the project proposal has been approved and capital was injected for development, the privilege policy for LAT exemption for the properties that are transferred for the first time is expired, and such tax shall be levied again. This requirement is restated in the “Notice on Strengthening of Administration of the Collection of Land Appreciation Tax” (關於加強土地增值稅管理工作的通知) and “Notice of State on Further Strengthening of Administration Work in relation to the Collection of Land Appreciation Tax and Land Use Tax in Cities and Towns” (關於進一步加強城鎮土地使用稅和土地增值稅徵收管理工作的通知) issued separately on August 2, 2004 and August 5, 2004 by State Administration of Taxation. These two Notices also required that the system of tax declaration and tax sources registration in relation to the LAT should be further established and perfected.

According to the “Approval on Issues Concerning Starting Levying Land Appreciation Tax” (關於我市開徵土地增值稅有關問題的批覆) issued by the general office of the People’s Government of Shenzhen on October 25, 2005, the “Notice on Starting Levying Land Appreciation Tax” (關於我市開徵土地增值稅的通知) and the “Provisional Regulation on Administration of Land Appreciation Tax of Property Developer in Shenzhen” (深圳房地產開發企業土地增值稅徵收管理暫行辦法) issued by the local taxation bureau of Shenzhen respectively on November 2, 2005 and on November 9, 2005, since November 1, 2005, LAT shall be applicable to any property developer engaging in property development to gain appreciation in Shenzhen.

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To further regulate the levy and management of LAT, the local bureau of Shenzhen issued the “Notice on Relevant Issues Regarding Land Appreciation Tax” (關於土地增值稅有關問題的通知) on December 15, 2005. The Notice mainly specifies the issues such as the occurrence time of the tax obligation for LAT, the sale of remaining units after completion and clearing of the construction of property and the transfer of used properties. Pursuant to the Notice, the property developers’ tax obligation for land appreciation tax is determined upon the time when the property sale contract is entered into. In respect of property sale contract entered after November 1, 2005 (including November 1), the pre-paid land appreciation tax is calculated on the basis of the aggregate amount of the sales price of the sold property at the time when the taxpayer receives the first installment income from selling the property.

On August 1, 2006, the local bureau of Shenzhen issued the “Notice on Relevant Issues Regarding Deductible Items for Land Appreciation Tax” (關於土地增值稅扣除項目有關問題的通知), which mainly specifies the issues such as the deductible items for LAT and the tax payable for the sale of remaining units of properties.

On March 2, 2006, the MOF and State Administration of Taxation issued the “Notice on Several Points on Land Appreciation Tax” (關於土地增值稅若干問題的通知) to clarify the relevant issues regarding LAT as follows.

- (i) *As to the tax collection and exemption in the sale of ordinary standard residential housing as built by taxpayers as well as in the transfer of ordinary residential houses by individual residents.*

The notice sets out the standards for ordinary standard residential houses. Where any developers build ordinary residential houses as well as other commercial houses, the appreciation amount of land shall be verified respectively. Before the day when this notice is publicized, as to any application for tax exemption for ordinary standard residential houses that has been filed to the tax authority at the locality of the property, especially any ordinary standard residential houses which have been given the treatment of exemption from LAT upon examination according to the standards for ordinary standard residential houses as determined by the people’s government of a province, autonomous region or municipality directly under the Central Government, no adjustment shall be retroactively made.

- (ii) *As to the advance collection and settlement of LAT*

- All regions shall decide the advance collection rate in a scientific and reasonable manner, and adjust it at a proper time according to the value addition level of the property as well as the market development level within the region and on the basis of the specific housing categories, namely, ordinary standard residential houses, non-ordinary standard residential houses and commercial houses. After a project is completed, the relevant settlement shall be handled in a timely manner, with any overpayment refunded or any underpayment being made up;

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- As to any tax that fails to be collected in advance within the advance collection term, the overdue fines shall be collected as of the day following the expiration of the prescribed advance collection term according to the relevant provisions of the Tax Collection and Administration Law as well as its detailed rules for implementation;
- As to any property project that has been completed and has gone through the acceptance procedure, where the floor area of the property as transferred makes up 85% or more of the saleable floor area, the tax authority may require the relevant taxpayer to conduct the settlement of LAT on the transferred property according to the matching principles regarding the proportion between the income as generated from the transfer of property and the amount under the item of deduction. The specific method of settlement shall be prescribed by the local tax authority of a province, autonomous region or municipality directly under the Central Government, or a city under separate state planning; and
- As to the tax collection and exemption for investment or association by means of the property. As to any investment or association by using land (property) as payment for the purchase of shares, where an enterprise involved in the investment or association engages in the property development or where any other property development enterprise makes investment or conducts association with the commercial houses it itself builds, it shall not be governed by the regulation of the interim exemption of LAT when the property (land) is transferred to the enterprise by means of investment or association.

On December 28, 2006, the State Administration of Taxation issued the “Notice on the Administration of the Settlement of Land Appreciation Tax of Property Development Enterprises” (關於房地產開發企業土地增值稅清算管理有關問題的通知) which came into effect on February 1, 2007. Pursuant to the Notice, a property developer shall settle and clear the LAT payment of its development projects that meet certain criteria with the tax authorities in accordance with the applicable LAT tax rates. The LAT shall be settled for projects approved by the competent authorities; and for projects developed in different stages, the LAT shall be settled in stages. LAT must be settled if (i) the property development project has been completed and fully sold; (ii) the property developer transfers the whole incomplete development project; or (iii) the land-use rights with respect to the project is transferred. In addition, the relevant tax authorities may require the developer to settle the LAT if either of the following criteria is met: (i) for completed property development projects, the transferred GFA represents more than 85% of total saleable GFA, or the proportion represented is less than 85%, but the remaining saleable GFA has been leased out or used by the developer; (ii) the project has not been sold out for more than three years after obtaining the sale or pre-sale permit; (iii) the developer applies for cancellation of the tax registration without having settled the relevant LAT; or (iv) other conditions stipulated by the tax authorities.

The Notice also indicated that if a property developer satisfies any of the following circumstances, the tax authorities shall levy and collect LAT as per the levying rate no lower than the pre-payment rate with reference to the bearing rate of LAT of local enterprises with a similar development scale and income level: (i) failure to maintain account book required by law or administrative regulation; (ii) destroying the account book without authorization or refusing to provide taxation information; (iii) the

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accounts are in a state of mess or cost materials, income vouchers and cost vouchers are damaged and incomplete, making it difficult to determine transferred income or amount of deductible items; (iv) failure to go through LAT settlement within the prescribed period, and such failure is not cured within the period required by the relevant tax authorities; or (v) the basis for tax calculation as submitted is obviously low without justifiable cause. Local provincial tax authorities can formulate their own implementation rules according to the notice and local situation.

On May 12, 2009, the State Administration of Taxation issued the “Administrative Rules for the Settlement of Land Appreciation Tax” (土地增值稅清算管理規程), which became effective on June 1, 2009. The rules reiterated the circumstances under which the LAT must be settled, the criteria that are to be met for relevant tax authorities to require the settlement of LAT and the circumstances under which the tax authorities shall levy and collect LAT as prescribed by the Notice. The rules further stipulate detailed procedures for the examination and verification of settlement of LAT to be carried out by relevant tax authorities.

### (d) *Deed tax*

Pursuant to the “Interim Regulations of the People’s Republic of China on Deed Tax” (中華人民共和國契稅暫行條例) promulgated by the State Council on July 7, 1997 and implemented on October 1, 1997, the transferee, whether an individual or otherwise, of the title to a land site or building in the PRC shall be the obliged taxpayer for deed tax. The rate of deed tax is 3% to 5%. The governments of provinces, autonomous regions and municipalities directly under the central government may, within the aforesaid range, determine and report their effective tax rates to the MOF and the State Administration of Taxation for the record.

### (e) *Urban land use tax*

Pursuant to the “Provisional Regulations of the People’s Republic of China Governing Land Use Tax in Urban Areas” (中華人民共和國城鎮土地使用稅暫行條例) promulgated by the State Council on September 27, 1988 and implemented on November 1, 1988, the land use tax in respect of urban land is levied according to the area of relevant land. The annual tax on every square meter of urban land shall be between RMB0.2 and RMB10 and be collected according to the tax rate determined by the local tax authority. According to the “Notice on Land Use Tax Exemption of Foreign-Invested Enterprises and Institutions of Foreign Enterprises in China” (關於對外商投資企業和外國企業在華機構的用地不徵收土地使用稅的通知) promulgated by the MOF on November 2, 1988 and the “Approval on Land Use Tax Exemption of Foreign-Invested Enterprises” (關於外商投資企業免徵土地使用稅問題的批覆) issued by State Administration of Taxation on March 27, 1997, land use fees should be collected instead of land use tax in a foreign-invested enterprise. However, the Provisional Regulations of the People’s Republic of China Governing Land Use Tax in Urban Areas were revised by the State Council on December 31, 2006. As of January 1, 2007, land use tax shall be collected from foreign-invested enterprises. The annual tax on every square meter of urban land shall be between RMB0.6 and RMB30.0.

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### (f) *Buildings tax*

Under the “Interim Regulations of the People’s Republic of China on Building Tax” (中華人民共和國房產稅暫行條例) promulgated by the State Council on September 15, 1986 and implemented on October 1, 1986, building tax shall be 1.2% if it is calculated on the basis of the residual value of a building, and 12% if it is calculated on the basis of the rental.

### (g) *Stamp duty*

Under the “Interim Regulations of the People’s Republic of China on Stamp Duty” (中華人民共和國印花稅暫行條例) promulgated by the State Council on August 6, 1988 and implemented on October 1, 1988, for property transfer instruments, including those in respect of property ownership transfer, the stamp duty rate shall be 0.05% of the amount stated therein; for permits and certificates relating to rights, including property title certificates and land-use rights certificates, stamp duty shall be levied on an item basis of RMB5 per item.

### (h) *Municipal maintenance tax*

Under the “Interim Regulations of the People’s Republic of China on Municipal Maintenance Tax” (中華人民共和國城市維護建設稅暫行條例) promulgated by the State Council on February 8, 1985, any taxpayer, whether an individual or otherwise, of product tax, value-added tax or business tax shall be required to pay municipal maintenance tax. The tax rate shall be 7% for a taxpayer whose domicile is in an urban area, 5% for a taxpayer whose domicile is in a county and a town, and 1% for a taxpayer whose domicile is not in any urban area or county or town. Under the “Circular Concerning Temporary Exemption from Municipal Maintenance Tax and Education Surcharge for Foreign-invested Enterprises and Foreign Enterprises” (關於外商投資企業和外國企業暫不徵收城市維護建設稅和教育費附加的通知), and the “Approval on Exemption of Municipal Maintenance Tax and Education Surcharge in Foreign-invested Freightage Enterprises” (關於外商投資貨物運輸企業免徵城市維護建設稅和教育費附加問題的批覆) issued by State Administration of Taxation on February 25, 1994 and on September 14, 2005 respectively, the municipal maintenance tax shall not be applicable to foreign-invested enterprises with foreign investment for the time being, until further explicit stipulations are issued by the State Council.

### (i) *Education surcharge*

Under the “Interim Provisions on Imposition of Education Surcharge” (徵收教育費附加的暫行規定) promulgated by the State Council on April 28, 1986 and as amended on June 7, 1990 and August 20, 2005 respectively, a taxpayer, whether an individual or otherwise, of product tax, value-added tax or business tax shall pay an education surcharge, unless such obliged taxpayer is instead required to pay a rural area education surcharge as provided by the “Notice of the State Council on Raising Funds for Schools in Rural Areas” (國務院關於籌措農村學校辦學經費的通知). Under the “Supplementary Notice Concerning Imposition of Education Surcharge” (關於教育費附加徵收問題和補充通知) issued by the State Council on October 12, 1994, the Circular Concerning Temporary Exemption from Municipal Maintenance Tax and Education Surcharge for Foreign-invested Enterprises and Foreign Enterprises and the Reply on Exemption of Municipal Maintenance Tax and Education Surcharge in Foreign-invested Freightage Enterprises issued by State Administration of Taxation on February 25,

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1994 and on September 14, 2005 respectively, the education surcharge shall not be applicable to enterprises with foreign investment for the time being, until further explicit stipulations are issued by the State Council.

### Hong Kong Taxation

#### (a) *Dividends*

Under the current practice of the Inland Revenue Department, no tax is payable in Hong Kong in respect of dividends we pay. Dividends distributed to our shareholders are free of withholding taxes in Hong Kong.

#### (b) *Capital gains and profit tax*

No tax is imposed in Hong Kong in respect of capital gains from the sale of our Shares. Trading gains from the sale of our Shares by persons carrying on a business in Hong Kong, where such gains are sourced in Hong Kong and arise from such business, will be chargeable to Hong Kong profits tax. Currently, profits tax is imposed on corporations at the rate of 16.5% and on individuals at a maximum rate of 15.0%. Gains from sale of our Shares effected on the Stock Exchange will be considered to be sourced in Hong Kong. Liability for Hong Kong profits tax would thus arise in respect of trading gains from sale of our Shares effected on the Stock Exchange realized by persons carrying on a business of trading or dealing in securities in Hong Kong.

#### (c) *Stamp duty*

Hong Kong stamp duty will be payable by the purchaser on every purchase, and by the seller on every sale, of our Shares. The duty is charged at the ad valorem rate of 0.1% of the consideration for, or (if greater) the value of, our Shares transferred on each sale and purchase. In other words, a total of 0.2% of stamp duty is currently payable on a typical sale and purchase transaction of our Shares. In addition, any instrument of transfer (if required) will be subject to a flat rate of stamp duty of HK\$5. Where a sale or purchase of our Shares is effected by a non-Hong Kong resident and any stamp duty payable on the contract notes is not paid, the relevant instrument of transfer (if any) will be chargeable with such duty, together with the duty otherwise chargeable thereon, and the transferee will be liable to pay such duty.

### Cayman Islands Taxation

Pursuant to section 6 of the Tax Concession Law (1999 Revision) of the Cayman Islands, our company has obtained an undertaking from the Governor in Cabinet:

- that no law which is enacted in the Cayman Islands imposing any tax to be levied on profits or income or gains or appreciation shall apply to our company or its operations; and
- in addition, that no tax to be levied on profits, income, gains or appreciations or which is in the nature of estate duty or inheritance tax shall be payable by our company:
  - (i) on or in respect of the shares, debentures or other obligations of our company; or

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- (ii) by way of withholding in whole or in part of any relevant payment as defined in Section 6(3) of the Tax Concession Law (1999 Revision).

The undertaking is for a period of twenty years from July 31, 2007.

The Cayman Islands currently levy no taxes on individuals or corporations based upon profits, income, gains or appreciations and there is no taxation in the nature of inheritance tax or estate duty. There are no other taxes likely to be material to our company levied by the Government of the Cayman Islands save certain stamp duties which may be applicable, from time to time, on certain instruments executed in or brought within the jurisdiction of the Cayman Islands. The Cayman Islands are not party to any double tax treaties.

No stamp duty is payable in the Cayman Islands on transfers of shares of Cayman Islands companies except those which hold interests in land in the Cayman Islands. We do not hold, and do not intend to hold, any interest in land in the Cayman Islands.

### PROPERTY MANAGEMENT

According to the "Regulation on Property Management" (物業管理條例) enacted by the State Council on June 8, 2003, enforced on September 1, 2003, and as amended on August 26, 2007, the state implements a qualification scheme system in monitoring the property service enterprises.

Under the "Measures for the Administration of Qualifications of Property Service Enterprises" (物業服務企業資質管理辦法) promulgated by the Ministry of Construction in March 2004 and amended in November 2007, a property service enterprise must apply for assessment of its qualification by the relevant qualification approval authority. An enterprise which passes such a qualification assessment will be issued a qualification certificate. No enterprise may engage in property service without undertaking a qualification assessment conducted by the relevant authority and obtaining a qualification certificate.

According to the Measures for the Administration on Qualifications of Property Service Enterprises, the qualifications of a property service enterprise shall be classified as class one, class two and class three. The competent construction department of the State Council shall be responsible for issuance and administration of the qualification certificate of the class one property service enterprises. The competent construction departments of the people's governments of provinces and autonomous regions shall be responsible for issuance and administration of the qualification certificate of the class two property service enterprises, and the competent realty departments of the people's governments of municipalities directly under the Central Government shall be responsible for issuance and administration of the qualification certificate of the classes two and three property service enterprises. The competent realty departments of the people's governments of the cities divided into districts shall be responsible for the issuance and administration of the qualification certificate of the class three property service enterprises.

The property service enterprises with the class one qualification may undertake various real estate management projects. The property service enterprises with the class two qualification may undertake the property management business of residential management projects of less than 300,000 sq.m. and the non-residential management projects of less than 80,000 sq.m. The property service enterprises with the

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class three qualification may undertake the property management business of residence projects of less than 200,000 sq.m. and non-residence projects under 50,000 sq.m. An annual inspection system shall be implemented on the qualifications of property service enterprises.

The annual inspection on the property service enterprises of varied classes of qualifications shall be presided over by the corresponding departments of qualification examination and approval.

Under the “Measures for the Administration of Property Management Industry in the Shenzhen Special Economic Zone” (深圳經濟特區物業管理行業管理辦法) promulgated by the People’s Government of Shenzhen on July 20, 1998 and amended on August 26, 2004, the residential management administration department of the Shenzhen People’s Government is the administrative body for the property industry, which is responsible for the direction, supervision and administration of the property industry pursuant to relevant regulations. The appointment of a property management enterprise for provision of property management services shall be determined by way of tender, except under the following situations: (1) the property is used by the property developer itself; or (2) within a property management district, the total floor area of the multi-storey building is below 50,000 square metres or the total floor area of high-rise building is below 20,000 square metres or the total floor area of multi-storey high-rise complex is below 30,000 square metres. The property developer or the owners management committee should enter into an entrustment management contract with the property management enterprise and report the arrangement to the supervisory body of the district for record.

In accordance with the Regulation on Property Management and the Properties Rights Law, owners may engage or dismiss a property management company with the consent of more than half of the owners who in the aggregate hold more than 50% of the total non-communal area of the building.

Under the “Regulations on Property Management of Shenzhen Special Economic Zone” (深圳經濟特區物業管理條例) promulgated by the Standing Committee of the People’s Congress of Shenzhen on October 17, 2007 and effective on January 1, 2008, owners may engage or dismiss a property management company with the consent of more than half of the owners who in the aggregate hold more than half of the total voting rights. The appointment of a property management enterprise for provision of property management services shall be determined by way of tender, among which, property management enterprise providing services for residential properties shall be appointed by way of public tender. A property management enterprise may be employed by way of negotiations under the following situations: (1) the property is owned by one owner, or owned by less than 10 owners with the their unanimous consents; (2) the owners’ meeting determines to extend the service provision contract with the former property management enterprise after the expiry of the property management service contract; (3) within a property management district, the total floor area of the multi-storey building is below 50,000 square metres or the total floor area of high-rise building is below 20,000 square metres or the total floor area of multi-storey high-rise complex is below 30,000 square metres with the consent of the owners’ meeting; or (4) there are less than 3 bidders. For residential properties, under the circumstances as mentioned in item (3) and (4) above, the development enterprise may engage a property management enterprise through negotiation with the approval from relevant administrative authorities of the district, otherwise, the engagement shall be invalid.

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### INSURANCE

There is no mandatory provision in PRC laws, regulations and government rules which require a property developer to take out insurance policies for its real estate developments. According to the common practice of the property industry in China, construction companies are usually required to submit insurance proposals in the course of tendering and bidding for construction projects. Companies must pay for the insurance premium at their own costs and take out insurance to cover their liabilities, such as third party’s liability risk, employer’s liability risk, risk of non-performance of contract in the course of construction and other kinds of risks associated with the construction and installation works throughout the construction period. The insurance coverage for all these risks will cease immediately after the completion and acceptance upon inspection of construction.

### MEASURES ON STABILIZING HOUSING PRICE

The General Office of the State Council promulgated a “Circular on Stabilizing Housing Price” (關於切實穩定住房價格的通知) in March 2005, introducing measures to be taken to restrain the housing price from increasing too fast and to promote a stable development of the real estate market. In April 2005, the Ministry of Construction, NDRC, the Ministry of Finance, the Ministry of Land and Resources, the PBOC, the State Taxation Bureau and the CBRC jointly issued an “Opinions on Stabilizing Housing Prices” (關於做好穩定住房價格工作的意見) containing the following guidance:

- Where the housing price is growing too fast, while the supply of ordinary commodity houses at medium or low prices and low-cost affordable houses is insufficient, the housing construction should mainly involve projects of ordinary commodity houses at medium or low prices and low-cost affordable houses. The construction of low-density, high-end houses should be strictly controlled. The relevant local government authorities are authorized to impose condition planning and design such as building height, plot ratio and green space and to impose such requirements as sale price, type and gross floor area as preconditions on land assignment. The local governments are also required to strengthen their supervision of real estate developments in their jurisdictions.
- Where the price of land for residential use and the price for residential housing are growing too fast, the proportion of land supply for residential use to the total land supply should be appropriately raised, and the land supply for the construction of ordinary commodity houses at medium or low prices and low-cost affordable houses should be especially increased.
- Land supply for house construction should continue to be suspended, and land supply for high-end housing property construction should be strictly restricted.
- Land idle fee must be imposed on land that has not been developed for one year from the contractual construction commencement date. Land use rights of land that has not been developed for two years must be forfeited without compensation.
- Commencing from June 1, 2005, a business tax upon transfer of a residential house by an individual within two years from his/her purchase will be levied on the gain from such sale. For an individual to transfer an ordinary residential house after two years from his/her

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purchase, the business tax will be exempted. For an individual to transfer a property other than an ordinary residential house after two years from his/her purchase, the business tax will be levied on the difference between the price of such sale and the original purchase price.

- Ordinary residential houses with medium or small gross floor areas and at medium or low prices may be granted preferential treatment such as planning permits, land supply, credit and taxation. Houses enjoying these preferential policies must satisfy the following conditions in principle: the plot ratio is above 1.0, the gross floor area of one single unit is less than 120 square meters, and the actual transfer price is lower than 120% of the average transfer price of comparable houses at comparable locations. The local governments at the provincial level may, based on their actual local circumstances, formulate specific standards for ordinary residential houses that may enjoy the preferential policies.
- Transfer of uncompleted commodity properties by any pre-sale purchaser is forbidden. In addition, purchasers are required to buy properties in their real names. Any commodity property pre-sale contract must also be filed with the relevant government agencies electronically immediately after its execution.

According to the “Notice of the People’s Bank of China on the Adjustment of Commercial Bank Housing Credit Policies and the Interest Rate of Excess Reserve Deposit” (中國人民銀行關於調整商業銀行住房信貸政策和超額存款準備金存款利率的通知), promulgated by the PBOC on March 16, 2005, from March 17, 2005, in the cities and areas where the price of houses grows too quickly, the first instalment of individual home loans increases from 20% to 30%. The commercial banks can independently determine the specific cities or areas under such adjustment according to special situations in different cities or areas.

On May 24, 2006, the Ministry of Construction, the NDRC, the PBOC and other relevant PRC government authorities jointly issued their “Opinions on Adjusting the Housing Supply Structure and Stabilizing the Housing Prices” (關於調整住房供應結構穩定住房價格的意見). Such opinions reiterated the existing measures and ushered additional measures that aim to further curb rapid increases in property prices in large cities and to promote healthy development of the PRC property market. These measures include:

- requiring that at least 70% of the land supply approved by a local government for residential property development for any given year must be used for developing low-to medium-cost and small- to medium-size units and low-cost rental properties;
- requiring that at least 70% of residential projects approved or constructed on or after June 1, 2006 must consist of units with a unit floor area of less than 90 square meters per unit and that projects which have received approvals prior to this date but have not obtained construction permits must adjust their planning in order to be in conformity with this new requirement, with the exception that municipalities under direct administration of the PRC central government, such as Beijing, Chongqing and Shanghai, provincial capitals and certain other cities may deviate from such ratio under special circumstances upon approval from the Ministry of Construction;

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- increasing the minimum amount of down-payment from 20% to 30% of the purchase price of the underlying property if the underlying property has a unit floor area of 90 square meters or more, effective from June 1, 2006;
- prohibiting commercial banks from lending to real estate developers with an internal capital ratio, calculated by dividing the internal funds by the total project capital required for the relevant projects, of less than 35%, restricting the grant or extension of revolving credit facilities to property developers holding a large amount of idle land and vacant commodity properties, and prohibiting commercial banks from accepting commodity properties which have been vacant for more than three years as security for their loans; and
- imposing a business tax levy on the entire sales proceeds from re-sale of properties if the holding period is shorter than five years, effective from June 1, 2006, as opposed to two years when such levy was initially implemented in June 2005, and allowing such business tax to be levied on the difference between the price for such re-sale and the original purchase price in the event that an individual transfers a property other than an ordinary residential property after five years from his/her date of purchase.

On May 30, 2006, the Ministry of Land and Resources issued the “Urgent Notice on Further Tightening of Land Administration” (國土資源部關於當前進一步從嚴土地管理的緊急通知). The notice stressed that land for property development must be granted by public tender, auction or listing-for-sale. It further stipulates that the rules suspending the development project for villas should be strictly enforced, and the land supply and the relevant procedures for development of villas will be ceased from the date of the notice’s issuance. Under the notice, the land authority must rigidly execute the “Model Text of the State-owned Land Use Rights Assignment Contract” and “Model Text of the State-owned Land Use Rights Assignment Supplementary Agreement (for Trial Implementation)” jointly issued by the Ministry of Land and Resources and the SAIC. The documents of land grant must ascertain the requirements of planning, construction and land use such as the restrictions on the dwelling size, plot ratio, and the time limit for the commencement and completion of construction. All these must be set forth in the land grant contract.

In July 2006, the Ministry of Construction, the NDRC, the Ministry of Commerce, the PBOC, the State Administration for Industry and Commerce, and the SAFE jointly issued an “Circular on Standardizing the Admittance and Administration of Foreign Capital in Property Market” (關於規範房地產市場外資准入和管理的意見) (the “171 Opinion”). The 171 Opinion aims to tighten access by foreign capital to the PRC real estate market and to restrict property purchases in China by foreign institutions or individuals. It provides, among others, that a foreign institution or individual must establish a foreign-invested enterprise in order to purchase real estate in China if the property is not intended for self use. The registered capital of such foreign-invested enterprise must amount to at least 50% of its total investments in PRC real properties if the amounts of such investments exceed US\$10 million. Branches and representative offices of foreign institutions in China and foreign individuals who work or study in China for more than one year may purchase property for their own use but not for any other purpose; and foreign institutions which have no branches or representative offices in China or foreign individuals who work or study in China for less than a year are prohibited from purchasing any real property in China. In September 2006, the SAFE and the Ministry of Construction jointly issued a “Notice in Respect of Foreign Exchange Issues in the Real Estate Market” (關於規範房地產市場外匯

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管理有關問題的通知) (the “47 Notice”) to implement the 171 Opinion. The 47 Notice provides specific procedures for purchasing properties by foreign institutions and foreign individuals. The 47 Notice also forbids a FIREE to apply for overseas loans if it has failed to pay its registered capital in full or obtain the land use rights certificates, or its own capital funds do not reach 35% of the total investment for the project.

In July 2006, the Ministry of Construction, the NDRC and the State Administration of Industry and Commerce jointly issued a “Notice on Reorganizing and Regulating Orderly Real Estate Transactions” (關於進一步整頓規範房地產交易秩序的通知), with the following requirements:

- The developer is required to start to sell the commodity properties within 10 days after receiving pre-sale permits. Without pre-sale permits, the pre-sale of commodity properties as well as subscription (including reservation, registration and number selecting) and acceptance of any kind of pre-sale payments are forbidden.
- The real estate administration authority is required to establish an immediate network system for pre-sales and purchase agreements of commodity properties and a system for the publication of real estate transaction information. The transaction information, such as the basic situation of the commodity building, the schedule of the sale and the rights status, should be duly, truly and fully published in the network system and on the locale of sale. The transfer of a commodity building which is pre-sold and still under construction is prohibited.
- Without the pre-sale permit, no advertisement of the pre-sale of commodity properties may be published.
- Real estate development enterprises with a record of serious irregularity or enterprises which do not satisfy the requirements of pre-sale of commodity properties is not allowed to take part in sale activities.
- The real estate administration authority is required to strictly carry out the pre-sale contract registration and require purchasers to use their real names for property purchases.

On July 22, 2006, CBRC issued a “Notice on Further Strengthening the Administration of Real Estate Credit” (關於進一步加強房地產信貸管理的通知), which provides that commercial banks shall (i) be prohibited from providing loans to disqualified real estate developers including those whose capital is less than 35% of the total capital required for the projects (not including affordable housing projects) or who have not obtained the relevant land use right certificates, construction work commencement permits; and (ii) prevents real estate developers from obtaining loans by project split-up or roll-ahead development strategies.

On September 30, 2007, the Ministry of Land and Resources issued the “Notice on Implementation of the State Council’s Certain Opinions on Resolving Difficulties in Housing of Urban Low-Income Family and Further Strengthening the Macro-control of Land Supply” (關於認真貫徹《國務院關於解決城市低收入家庭住房困難的若干意見》進一步加強土地供應調控的通知) to further enhance the control of land supply, which stipulates that the supply of the land to be developed for low-rent housing, economic housing and housing at low or medium price and of small or medium size shall be no less than 70% of the total land supply of the current year.

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On July 29, 2008, the PBOC and the CBRC jointly issued the “Notice on Promoting Economic Use of Land through Finance” (關於金融促進節約集約用地的通知). The Notice emphasizes that the financial institutions should tighten the management of loans for certain projects, including construction projects, municipal infrastructures and industrial land use projects, rural collective construction land use projects, and should tighten the management of credit for commercial real estate. The commercial banks are prohibited from granting loans to the property developers for payment of land premium and to the property projects including but not limited to the followings:

- the construction projects for which the relevant land falls into the catalog of banned land use projects;
- the property development projects for which the relevant land is supposed to be developed for rural collective construction land use; and
- the property development projects for which the relevant land has been idle for two years or more.

In December 2008, the General Office of the State Council issued the rules on the Opinion on Promoting the Healthy Development of Real Estate Market, which provides that in order to expand domestic demand and encourage consumption in ordinary residential housing, a business tax relief policy for real property transfers will be implemented for one year in relation to residential property conveyance. Business tax is exempted for any transfer of ordinary housing purchased and held by individuals for at least two years, as opposed to five years previously; any transfer of ordinary housing purchased by individuals for less than two years is subject to business tax based on the difference between the sale price from such transfer and the original purchase price, as opposed to the full sale price. Any transfer of non-ordinary housing purchased by individuals for at least two years, as opposed to five years previously, is subject to business tax based on the difference between the gain from such transfer and the original purchase price. Any transfer of non-ordinary housing purchased by individuals for less than two years remains subject to business tax based solely on the sale price from such transfer. The above-mentioned policy is tentatively scheduled to be enforced until December 31, 2009.

On October 22, 2008, PBOC promulgated the Notice on Several Issues Regarding the Expansion of Downward Floating Interest Rate for Commercial Individual Housing Loans which provides that, as of October 27, 2008, the float-down range for interest rate for commercial individual housing loans will be expanded and the ratio of down payments will be modified. The minimum interest rate for commercial individual housing loans will be 70% of the benchmark loan interest rate and the minimum down payment ratio will be adjusted to 20%. Related matters are as follows:

- Loan interest rate and down payment ratio granted by the financial institutions to their clients shall be determined based on the following factors: whether or not it is the first time for the borrower to buy the house, whether or not the house is used for self occupancy, whether or not the house type and GFA conform to an ordinary residential house, and other risk factors such as the borrower’s credit record and repayment capacity.

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- Financial institutions may provide preferential treatments on loan interest rate and down payment ratio to residents [for their first purchase of ordinary self-occupied houses and improved ordinary self-occupied houses]. For non-self-occupied houses and non-ordinary residential houses, financial institutions may properly raise the loan conditions.
- As to commercial individual housing loans granted, financial institutions shall determine the interest rate for the outstanding portion thereof, in accordance with Section 1 of this notice, on the basis of reasonable assessment of loan risks and according to the original loan contracts. The down payment ratio under the original loan contracts shall remain effective.
- The policy that the borrower’s monthly expenditure on repayment of housing loans shall not exceed 50% of his/her monthly income remains unchanged.

The People’s Government of Shenzhen issued the “Opinions on Stabilizing the Housing Price and Promoting the Sustainable and Healthy Development of Property Market in Shenzhen” (關於穩定房價促進我市房地產市場持續健康發展的意見) on April 28, 2006, in order to further enhance the guidance and regulation towards the property market, achieve basic balance of demand and supply of the property market, stabilize housing price practically, enhance the stable, healthy and continuing development of the property market in Shenzhen. Major opinions are suggested hereby as follows:

- From now on in 3 to 5 years, increase the scale of residential land supply properly, including the guarantee of various policy residential land scale; accelerating the reconstruction of village in city within the special zone; realizing the planned target of the scale of demolishing and reconstructing the village in city reaching 20% of the total amount of the present conditions within 5 years; treating the land problems involved in the process of urbanization of Baoan and Longgang properly, putting more efforts in handling various problem projects, and activating properties of various capacity.
- Further regulate the product structure of residential units, and put emphasis on increasing the supply of ordinary commodity properties. From now on, to stipulate in the approval documents (such as building land planning permits, land contracts, etc.) that the proportion of residential unit numbers and residential unit structure intended for construction will be conditions for planning gradually upon the supply of land for ordinary commodity properties. This stipulation helps to ensure annual supply of ordinary commodity residential properties to be not less than 90% of the supply of all commodity residential properties.
- Pursuant to the relevant requirement of laws and regulations of the State, to increase the clearing of idle land and to stop various behavior of land hoarding. As for the land with contract of grant signed, if it is not developed and built on schedule, it should be subject to idle land fee based on 10% of the land price of the first year from the date it is recognized as idle; the land use right will be taken back from the second year the land is idle from the effective date of land contract.
- Enhance the management of affordable properties which should not be transferred within 5 years from the signing of contract. To promote the housing guarantee transferred from “selling-based” to “leasing-based,” more emphasis will be put on various public leased units

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(such as affordable rental units and low rental price units), strengthen the guarantee effect of public leased units to the low income population and temporary residents in compliance with the required conditions.

- Increase the threshold of pre-sale commodity properties gradually, and stipulate in the commodity properties bidding and auction contracts that the commodity properties are on sale upon completion of construction on a trial basis. From now on, depending on the actual situation of the market, the sale of commodity properties after completion and examination will be the preconditions for the disposal of land, and will be implemented to all property development projects gradually.
- Strictly enforce the related laws, regulations, conditions and the “Decisions of the People’s Government of Shenzhen Municipality of Shenzhen Municipal People’s Government, PRC on Inspecting and Punishing Illegal Building and Illegal Land Use” (Shen Fa No. (2004) 13), further increase the extend of inspecting and punishing the illegal buildings and lands, complete the inspection and punishment of illegal construction works in 3 to 5 years, purify the environment of property market and regulate the behavior of properties construction.
- Strengthen the “window guidance” towards commercial banks, regulate the individual properties mortgage loan business, and prevent the credit risks of properties. Supervise the commercial banks in providing loans for the general public to purchase ordinary commodity properties, take effective measures to curb the credit demand of properties speculation, and enhance the healthy development of properties financing market.
- Strictly comply with the relevant laws, regulations and conditions, further adjust and regulate the properties advertisements, implement the system of pricing in plain figures, and increase the extend of inspecting and punishing illegal sales behavior.

On September 27, 2007, the PBOC and the CBRC further tightened mortgage lending by PRC commercial banks, by increasing the amount of down payment a property purchase must make before seeking mortgage financing.

### OVERSEAS LISTING

In August 2006, the MOFCOM, the State Assets Supervision and Administration Commission, the State Taxation Bureau, the State Administration of Industry and Commerce, the China Securities Regulatory Commission, and the SAFE jointly adopted the “Regulations on Mergers and Acquisitions of Domestic Enterprises by Foreign Investors” (關於外國投資者並購境內企業的規定), or the New M&A Rule, which became effective on September 8, 2006. This New M&A Rule requires, among other things, that offshore special purpose vehicles, formed for overseas listing purposes through acquisitions of PRC domestic companies controlled by PRC companies or individuals, obtain the approval of the China Securities Regulatory Commission prior to publicly listing their securities on an overseas stock exchange.

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### ENVIRONMENTAL PROTECTION

The laws and regulations governing the environmental protection requirements for real estate development in China include the “PRC Environmental Protection Law” (中華人民共和國環境保護法), the “PRC Prevention and Control of Noise Pollution Law” (中華人民共和國環境噪聲污染防治法), the “PRC Environmental Impact Assessment Law” (中華人民共和國環境影響評價法) and the “Administrative Regulations on Environmental Protection for Development Projects” (建設項目環境保護管理條例). Pursuant to these laws and regulations, depending on the impact of the project on the environment, an environmental impact report, an environmental impact analysis table or an environmental impact registration form must be submitted by a developer before the relevant authorities will grant approval for the commencement of construction of the property development. In addition, upon completion of the property development, the relevant environmental authorities will also inspect the property to ensure compliance with the applicable environmental protection standards and regulations before the property can be delivered to the purchasers.

### FOREIGN EXCHANGE CONTROLS

Under the “PRC Foreign Currency Administration Rules” (中華人民共和國外匯管理條例) promulgated in 1996 and revised in 1997 and in 2008 and various regulations issued by the SAFE and other relevant PRC government authorities, Renminbi is convertible into other currencies for the purpose of current account items, such as trade related receipts and payments and the payment interest and dividend. The receipt of foreign currency payments under current account may be retained pursuant to the relevant regulations. Payments of current-account items may be remitted in foreign currencies without prior approval from the relevant foreign exchange administration authorities by complying with certain procedural requirements. The foreign currency receipts and remittance under current account should have a genuine and legitimate basis and financial institutions processing such transactions shall verify the authenticity of the relevant transaction documents and their consistency with the foreign currency receipts or remittances. However, the reservation or conversion of receipt of foreign currency payments under capital account requires pre-approval from the relevant foreign exchange administration authorities, unless specifically exempted under applicable regulations. If a regulatory pre-approval is not specifically required, payment of capital-account items may be remitted in foreign currency directly to financial institutions, provided that valid documentation is presented. Foreign exchange transactions involving foreign direct investment, foreign debts and outbound investment in securities and derivatives are subject to limitations and require approvals from the relevant foreign exchange administration authorities.

In October 2005, the SAFE issued a “Notice on Issues Relating to the Administration of Foreign Exchange in Fund-raising and Reverse Investment Activities of Domestic Residents Conducted via Offshore Special Purpose Companies” (關於境內居民通過境外特殊目的公司融資及返程投資外匯管理有關問題的通知). According to the notice, a special purpose company refers to an offshore company established or indirectly controlled by PRC residents for the special purpose of carrying out financing of their assets or equity interest in PRC domestic enterprises. Prior to establishing or assuming control of a special purpose company, each PRC resident, whether a natural or legal person, must complete the overseas investment foreign exchange registration procedures with the relevant local SAFE branch. The notice applies retroactively. These PRC residents must also amend the registration with the relevant SAFE branch in the following circumstances: (1) the PRC residents have completed the injection of

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AND REGULATORY PROVISIONS**

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equity investment or assets of a domestic company into the special purpose company; (2) the overseas funding of the special purpose company has been completed; (3) there is a material change in the capital of the special purpose company. Under the rules, failure to comply with the foreign exchange registration procedures may result in restrictions being imposed on the foreign exchange activities of the violator, including restrictions on the payment of dividends and other distributions to its offshore parent company, and may also subject the violators to penalties under the PRC foreign exchange administration regulations.

On August 29, 2008, SAFE issued the “Circular on the Relevant Operating Issues Concerning the Improvement of the Administration of the Payment and Settlement of Foreign Currency Capital of Foreign-Investment Enterprises (關於完善外商投資企業外匯資本金支付結匯管理有關業務操作問題的通知)”. Pursuant to this circular, a foreign invested enterprise’s Renminbi converted from foreign exchange capital contribution can only be used for the activities within the approved business scope of such foreign invested enterprise and cannot be used for domestic equity investment or acquisition unless otherwise allowed by PRC laws or regulations.