

This appendix sets out summaries of certain aspects of the PRC legal and judicial system, its arbitration system and its company and securities regulations relating to our operation and business. It also contains a summary of certain Hong Kong legal and regulatory provisions.

## 1. PRC LAWS AND REGULATIONS

### (a) The PRC legal system

According to the *PRC Constitutional Law* (《中華人民共和國憲法》), the *Law of Organization of the People's Courts of the PRC* (《中華人民共和國人民法院組織法》) and the *Law of Organization of the People's Procuratorates of the PRC* (《中華人民共和國人民檢察院組織法》), the People's Courts consist of the Supreme People's Court, the local people's courts, the military courts and other special people's courts. The local people's courts are comprised of the basic people's courts, the intermediate people's courts and the higher people's courts. The basic people's courts are further divided into civil, criminal and administrative divisions. The intermediate people's courts have divisions similar to those of the basic people's courts, and other special divisions, such as the intellectual property division, where necessary. The people's courts at lower levels are subject to supervision of the people's courts at higher levels. The Supreme People's Court is the highest judicial organ of the PRC and it has the power to supervise the administration of justice by the local people's courts at all levels and all special people's courts. The people's procuratorates also have the power to exercise legal supervision over the litigation activities of people's courts at the same level or below.

The people's courts have adopted a "second instance as final" appellate system. A party may appeal against a judgment or ruling by the people's court of first instance to the people's court at the next higher level in accordance with the procedures provided by laws. The judgment or the ruling of the second instance by the intermediate people's courts, the higher people's courts and the Supreme People's Court is final and legally binding, first judgments or rulings by the Supreme People's Court are final as well. However, in the case that the Supreme People's Court or the people's court at a higher level finds definite error(s) in the legally effective judgment or ruling by the people's court at a lower level, it has the authority to review the case itself or order the lower-level people's court to conduct a retrial.

The *Civil Procedure Law of the PRC* (《中華人民共和國民事訴訟法》) (hereinafter referred to as the "Civil Procedure Law") sets forth provisions for the jurisdiction of the people's courts, the procedures to be followed for conducting a civil action and the procedures for enforcement of a civil judgment or ruling. All parties to a civil action conducted within the PRC must comply with the Civil Procedure Law. A civil case is generally heard by a local court in the defendant's place of domicile. An action involving a contractual dispute shall come under the jurisdiction of the people's court in the defendant's place of domicile or where the contract is performed. The parties to a contract may agree in the written contract to choose the people's court of the place where the defendant is domiciled, where the contract is performed, where the contract is signed, where the plaintiff is domiciled or where the subject matter of the contract is located to be the competent court, provided that the provisions of the Civil Procedure Law regarding the level of jurisdiction and exclusive jurisdiction shall not be violated.

A foreign individual or enterprise generally has the same litigation rights and liabilities as a citizen or legal person of the PRC. Should the courts of a foreign country limit the litigation rights of PRC citizens or enterprises, the PRC courts may apply the same limitations to the citizens and enterprises of that foreign country.

If any party to a civil action refuses to comply with a legally effective judgment or ruling by a people's court in the PRC, the other party may apply to the people's court for the compulsory enforcement of the judgment or ruling. For an effective award made by an arbitration tribunal and a people's court has not issued a ruling prohibiting the enforcement of such an award, if a party fails to comply with the award, the other party may apply to the people's court for the compulsory enforcement of the award. However, specific time limits are imposed on the right to apply for such compulsory enforcement. The time limit for the submission of an application for enforcement shall be two years. The suspension or termination of the time limit for the submission of an application for enforcement shall be governed by the provisions on the suspension or termination of the statute of limitation.

When a party applies to a people's court for enforcing an effective judgment or ruling by a people's court against a party who is not located within the territory of the PRC or whose property is not within the PRC, the party may apply to a foreign court with proper jurisdiction for recognition and enforcement of the judgment or ruling. A foreign judgment or ruling may also be recognized and enforced by the people's court according to the PRC enforcement procedures if the PRC has entered into, or acceded to, an international treaty with the relevant foreign country on the mutual recognition and enforcement of judgments and rulings, or if the judgment or ruling satisfies the court's examination based on the principle of reciprocity, unless the people's court finds that the recognition or enforcement of such judgment or ruling will result in the violation of the basic legal principles of the PRC, its sovereignty or security, or for reasons related to the public interests.

#### **(b) The PRC Company Law, Special Regulations and Mandatory Provisions**

On December 29, 1993, the Company Law of the PRC (《中華人民共和國公司法》) was adopted by the standing committee of the Eighth National People's Congress, (hereinafter referred to as the "NPC") which came into effect on July 1, 1994 and was amended for the first time on December 25, 1999, the second time on August 28, 2004 and the third time on October 27, 2005. The newly amended Company Law of the PRC (hereinafter referred to as the "Company Law") came into effect on January 1, 2006.

The Special Provisions were adopted by the State Council on July 4, 1994 and took effect on August 4, 1994. The Special Provisions applies to the overseas share subscription and listing of joint stock limited companies.

The Mandatory Provisions were promulgated by the former Securities Commission of the State Council and the former State Economic System Restructuring Commission on August 27, 1994, prescribing provisions which must be incorporated into the articles of association of joint stock limited companies to be listed overseas. Therefore, the Mandatory Provisions have been incorporated into the Articles of Association (which are summarized in Appendix VIII).

Set out below is a brief summary of the Company Law and the major provisions of the Special Regulations and the Mandatory Provisions. Copies of the Chinese text of the Company Law, Special Regulations and the Mandatory Provisions together with copies of their unofficial English translations thereof are available for inspection as mentioned in “Appendix X—Documents Delivered to the Registrar of Companies and Available for Inspection”.

**(i) General Provisions**

A “joint stock limited company” (hereinafter referred to as the “company”) is a corporate legal person incorporated under the Company Law, whose registered capital is divided into shares of equal par value. The liability of its shareholders is limited to the extent of the shares they hold, and the liability of the company is limited to the full amount of all the assets it owns.

A company may invest in other enterprises. Unless otherwise provided by laws, a company cannot be the capital contributor who has the joint and several liability associated with the debts of the invested enterprises.

**(ii) Incorporation**

A company may be incorporated by promotion or public subscription. A company may be incorporated by two to 200 promoters, and at least half of the promoters have their domicile in the PRC.

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

The registered capital of a company should be RMB5 million at a minimum. Pursuant to the *Securities Law of the PRC* (《中華人民共和國證券法》) adopted on December 29, 1998 by the standing committee of the NPC and amended for the first time on August 28, 2004, and the second time on October 27, 2005 (hereinafter referred to as the “Securities Law”), the total capital of a company which proposes to apply for its shares to be listed on a stock exchange shall not be less than RMB30 million. The Company Law provides that for companies incorporated by way of promotion, the registered capital shall be the total capital subscribed for by all promoters as registered with the company registration authority; the initial capital contribution by all promoters of a company shall not be less than 20% of the registered capital, and the remaining shall be paid up within two years by the promoters from the date of incorporation of the company. For investment companies, the remaining shall be paid up within five years from the date of incorporation of the company; for companies incorporated by way of public subscription, the registered capital is the amount of total paid-up capital as registered with the company registration authority.

The promoters shall convene an inaugural meeting within 30 days after the issued shares have been completely paid up and capital verification institutions have issued certificates to prove full payment of the subscription money, and shall give notice to all

subscribers or make an public announcement of the date of the inaugural meeting 15 days prior to the meeting. The inaugural meeting may be convened only with the presence of the promoters and subscribers holding shares representing more than 50% of the total issued shares of the company. The inaugural meeting shall exercise certain functions and powers including adopting the draft articles of association and electing the board of directors and the supervisory committee of the company (in case there are directors or supervisors appointed from representatives of staff and workers, such directors and supervisors shall be elected by the staff and workers of the company or the representatives of the staff and workers by democratic means). Any resolution of the meeting shall be approved by subscribers with more than half of the voting rights of those present at the meeting.

Within 30 days after the conclusion of the inaugural meeting, the board of directors shall apply to the registration authority for registration of the incorporation of the company. A company is formally established once the registration has been approved by the relevant company registration authority and a business license has been issued.

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

**(iii) *Share capital***

The promoters may make capital contribution in currency or in non-currency property that may be valued in currency and lawfully transferable such as physical objects, intellectual property and land use rights, non-currency property contributed as capital shall be valued and verified. The amount of capital contribution in currency by all shareholders shall not be less than 30% of the company's registered capital.

A company may issue registered or bearer shares. However, Shares issued by a company to a promoter or a legal person shall be registered shares and shall bear the name of such promoter or legal person. No separate account with a different name may be opened for such shares, nor may such shares be registered in the name of a representative.

The Special Regulations and the Mandatory Provisions provide that shares issued to foreign investors and listed overseas shall be issued in registered form and shall be denominated in RMB and subscribed for in foreign currency. Pursuant to the Special Regulations and the Mandatory Provisions, shares issued to foreign investors and investors from Hong Kong, Macau and Taiwan and listed overseas are defined as overseas-listed-foreign-invested shares, and those issued to investors within the PRC other than the aforementioned areas are defined as domestic shares.

A company may offer its shares to the public overseas with approval by the securities administration department of the State Council. According to the Special Regulations, upon

approval of the CSRC, a company may agree, in the underwriting agreement on issuing overseas-listed-foreign-invested shares, to retain not more than 15% of the aggregate amount of overseas-listed-foreign-invested shares proposed to be issued.

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

The transfer of shares by shareholders shall be conducted in legally established stock exchanges or via other methods as stipulated by the State Council. The transfer of registered shares by a shareholder must be conducted by means of an endorsement or by other means stipulated by Chinese laws or by administrative regulations. Bearer shares are transferred by delivery of the share certificates to the transferee.

No modification registration shall be made to the registrar of shareholders within twenty (20) days prior to the shareholders' assembly being held or within five (5) days prior to the benchmark date set for the purpose of distribution of dividends.

Shares held by a promoter of a company may not be transferred within one year after the date of the company's incorporation. Shares issued by a company prior to the public offering may not be transferred within one year from the date of listing of the shares of the company on a stock exchange. During their term of office, directors, supervisors and senior management of a company shall not transfer over 25% of the total shares held by each of them in the company each year. They shall, within one year, not transfer any share of the company held by each of them after the listing date, and may not transfer the shares in the company they holds within six months after they leave office.

**(iv) *Increase in capital***

An increase in the capital of a company by means of an issue of new shares must be approved by shareholders in general meeting. Except for abovementioned conditions of obtaining approval at the general meeting, the Securities Law requires the following conditions for a company to offer new shares to the public: (i) a complete and well-operated organization; (ii) capability of making profits continuously and a healthy financial status; (iii) no false records in its financial and accounting documents over the last three years, or other significant irregularities; (iv) fulfill any other requirements as prescribed by the securities administration authority of the State Council as approved by the State Council.

The public offer of new requires the approval of the securities administration authority of the State Council. After payment in full for the new shares issued, a company must modify its registration with the relevant administrative bureau for industry and commerce and issue a public notice accordingly.

**(v) *Reduction of share capital***

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

- (a) the company shall prepare a balance sheet and an inventory of assets;
- (b) the reduction of general meeting registered capital must be approved by shareholders in the general meeting;
- (c) the company shall inform its creditors of the reduction in capital within ten days and publish an announcement of the reduction in newspapers within 30 days once the resolution approving the reduction in capital being passed;
- (d) creditors of the company may require the company to clear its debts or provide guarantees covering the debts; and
- (e) the company must apply to the relevant administrative bureau for industry and commerce for registration of the reduction in registered capital.

**(vi) *Repurchase of shares***

A company shall not purchase its own shares other than for the following purposes:

- (a) to reduce the registered capital;
- (b) to merge with another company (companies) holding its shares;
- (c) to grant shares as a reward to the staff of the company;
- (d) to purchase the company's own shares upon request of its shareholders who object to a resolution of the shareholders' general meeting regarding the merger or division of the company.

The shares repurchased by the company as a reward to its staff shall not exceed 5% of the total number of its issued shares. Any fund for the repurchase shall be paid out of after-tax profits of the company, and the shares repurchased shall be transferred to the staff of the company within one year. The Mandatory Provisions stipulate that upon the adoption of a resolution in accordance with procedures provided in the articles of association of the company and obtainment of approvals from relevant supervisory authorities, a company may, for the aforementioned purposes, repurchase its issued shares by following means: a) making a general offer in the same proportion to all shareholders; b) purchase through open transactions on a stock exchange; c) repurchase by an agreement outside a stock exchange.

A company may not accept its own shares as the subject matter of a pledge.

**(vii) Transfer of shares**

A shareholder shall transfer his/her shares in stock changes established pursuant to laws or by other means as stipulated by the State Council. Registered shares may be transferred by endorsement or in any other manner specified in applicable laws and regulations. Bearer shares are transferred by delivery of the share certificates to the transferee.

Shares held by the promoter(s) of a company shall not be transferred within one (1) year from the date of incorporation of the company. Shares issued by a company prior to the public offer of its shares shall not be transferred within one (1) year from the date of its shares being listed on a stock exchange.

**(viii) Shareholders**

The articles of association of a company set forth the shareholders' rights and liabilities and are binding on all the shareholders. Pursuant to the Company Law and the Mandatory Provisions, a shareholder's rights include:

- (a) the right to receive dividends and other profit distributions based on the number of shares held;
- (b) the right to attend in person or appoint a representative to attend the shareholders' general meeting and to vote in respect of the amount of shares held;
- (c) the right to supervise and manage the company's business operation, and to put forward proposals or raise questions;
- (d) the right to transfer his/her shares in accordance with applicable laws and regulations as well as the articles of association;
- (e) the right to obtain surplus assets of the company upon its termination or liquidation based on the number of shares held;
- (f) the right to claim against other shareholders who abuse their rights of shareholders for the damages;
- (g) If the procedure for convening the shareholders' meeting or shareholders' general meeting or the meeting of the board of directors, or the method of voting violates laws, administrative regulations or the articles of association of the company, or if the contents of a resolution violate the articles of association of the company, a shareholder may present a petition to a people's court for cancellation of resolution.
- (h) any other shareholders' rights specified in laws, regulation and the articles of association.

The liabilities of shareholders include: abide by the articles of association of the company; pay the subscription monies in respect of shares subscribed for; be liable for the

company to the extent of the amount of subscription monies agreed to be paid in respect of the shares taken up; no abuse of shareholders' rights to damage the interests of the company or other shareholders of the company; no abuse of the independent status of the company as a legal person and the limited liability of shareholders to damage the interests of the creditors of the company; and any other liability specified in the articles of association of the company.

**(ix) *Shareholders' general meeting***

The shareholders' general meeting shall be the organ of authority of the company and shall exercise the following functions and powers in accordance with the Company Law:

- (a) to decide on the business policies and investment plans of the company;
- (b) to elect and replace directors and supervisors that are not appointed from representatives of staff and workers, and to decide on matters concerning the remuneration of directors and supervisors;
- (c) to consider and approve reports of the board of directors;
- (d) to consider and approve reports of the supervisory board or supervisors;
- (e) to consider and approve the company's proposed annual financial budgets and final accounts;
- (f) to consider and approve the company's profit distribution plans and plans for making up losses;
- (g) to pass resolutions on the increase or reduction of the company's registered capital;
- (h) to pass resolutions on the issuance of corporate bonds;
- (i) to pass resolutions on matters such as the merger, division, dissolution, liquidation or change of the corporate form of the company;
- (j) to amend the articles of association of the company; and
- (k) other functions and powers specified in the articles of association of the company.

The shareholders' annual general meeting shall be held once every year. An extraordinary shareholders' general meeting shall be convened within two months of the occurrence of any of the following circumstances:

- (a) the number of directors is less than the number stipulated in the Company Law or less than two-thirds of the number specified in the articles of association of the company;
- (b) the losses of the company that have not been made up reach one-third of the total paid-up share capital;



- (c) it is requested by a shareholder that independently holds, or by the shareholders that hold in aggregate, 10% or more of the company's shares;
- (d) it is considered necessary by the board of directors;
- (e) it is proposed by the supervisory board; or
- (f) other circumstances specified by the articles of association of the company.

The shareholders' general meeting shall be convened by the board of directors and shall be presided over by the chairman of the board of directors.

The notice to convene the shareholders' general meeting shall be dispatched to all the shareholders 45 days before the general meeting pursuant to the Special Regulations and the Mandatory Provisions, stating the matters to be reviewed at the general meeting as well as the date and place of the meeting, shareholders intending to attend are required to send written confirmations of their attendance to the company 20 days before the general meeting. There is no specific provision in the Company Law regarding the number of shareholders constituting a quorum in a shareholders' meeting, although the Special Regulations and the Mandatory Provisions provide that a company's general meeting may be convened when replies to the notice of that meeting from shareholders holding shares representing 50% of the voting rights in the company have been received 20 days before the proposed date, or if that 50% level is not achieved, the company shall within five days notify shareholders again by public announcement of the matters to be considered at the meeting and the date and place of the meeting, and the annual general meeting may be held thereafter.

The Mandatory Provisions require class meetings to be held in the event of a variation or derogation of the class rights of a class. Holders of domestic invested shares and holders of overseas listed foreign invested shares are deemed to be different classes of shareholders.

According to the Company Law, a shareholder that independently holds, or the shareholders that hold in aggregate, 3% or more of the shares of the company may submit an extraordinary resolution in writing to the board of directors at least 10 days before a shareholders' general meeting is held. According to the Special Regulations, at the annual shareholders' general meeting of the company, shareholders with 5% or more of the voting rights in the company are entitled to propose to the company in writing new resolutions to be reviewed at the general meeting, which if within the functions and powers of the shareholders' general meeting, are required to be added to the agenda of the general meeting.

Shareholders present at the shareholders' general meeting possess one vote for each share they hold. However, the company shall have no vote for any of its own shares the company holds. A shareholder may entrust a proxy to attend a shareholders' general meeting. The proxy shall present a power of attorney issued by the shareholder to the company and shall exercise his voting rights within the authorization scope. Resolutions proposed at the shareholders' general meeting shall be approved by more than half of the voting rights cast by shareholders present (including in person and by proxy) at the general meeting, except that such resolutions as the amendment to the articles of association, increase or reduction of registered capital, merger, division or the change in the form of the

company shall be approved by shareholders with more than two-thirds of the voting rights cast by shareholders present at the general meeting.

**(x) Directors**

A company limited by shares shall have a board of directors of 5 to 19 members. The members of the board of directors may include representatives of the staff and workers of the company. The representatives of the staff and workers among the members of the board of directors shall be democratically elected by the staff and workers of the company through the staff and workers' congress, the staff and workers' general meeting or other means. The term of office of the directors shall be provided for by the articles of association, but each term of office shall not exceed three years. The directors may hold consecutive terms upon re-election.

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

- (a) to convene the shareholders' meeting and to report on its work to the shareholders' meeting;
- (b) to implement the resolutions of the shareholders' meeting;
- (c) to decide on the business plans and investment plans of the company;
- (d) to formulate the company's proposed annual financial budgets and final accounts;
- (e) to formulate the company's profit distribution plans and plans for making up losses;
- (f) to formulate plans for the company's increase or reduction of the registered capital or for the issuance of corporate bonds;
- (g) to formulate plans for the merger, division, dissolution or change of corporate form of the company;
- (h) to decide on the establishment of the company's internal management organization;
- (i) to decide on the employment or dismissal of the manager of the company and his remuneration, and to decide on the employment or dismissal of the deputy manager(s) and person(s) in charge of financial affairs of the company according to the recommendations of the manager and on their remuneration;
- (j) to formulate the basic management system of the company; and
- (k) other functions and powers specified in the articles of association of the company.

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

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

Meetings of the board of directors may be held only if attended by more than half of the directors. Resolutions of the board of directors must be adopted by more than half of all directors. If a director for any reason is unable to attend the meeting, he may appoint another director in writing to attend the meeting on his behalf, and the power of attorney shall specify the scope of authorization.

The directors shall bear liability for the resolutions of the board of directors. If a resolution of the board of directors violates any law or administrative regulation, or the company's articles of association or a resolution of the shareholders' general meeting, thereby causing the company to incur serious losses, the directors that took part in such resolution shall be liable to the company for compensation. However, if a director is proved to have expressed his objection to the resolution at the time of voting and the objection is recorded in the minutes of the meeting, such director may be released from such liability.

The board of directors shall have one chairman of the board and may have a vice-chairman (or vice-chairmen) of the board. The chairman and vice-chairman (or vice-chairmen) of the board shall be elected by more than half of all directors. The chairman of the board shall convene and preside over the meetings of the board of directors and inspect the implementation of the resolutions of the board of directors.

The office of legal representative of a company shall be served by the chairman of the board, the executive director or the manager of the company as stipulated in the articles of association of the company.

**(xi) Supervisors**

A company shall have a supervisory board of no fewer than three members. The supervisory board shall include representatives of the shareholders and an appropriate ratio of the representatives of the company's staff and workers, where the ratio of the staff and workers' representatives shall not be less than one-third. Directors and senior management personnel may not concurrently serve as supervisors. The term of office of a supervisor shall be three years. If re-elected upon expiration of his term of office, a supervisor may serve consecutive terms.

The supervisory board shall exercise the following functions and powers:

- (a) to examine the company's financial affairs;
- (b) to supervise the execution of company duties by the directors and the senior management personnel and to recommend the removal of directors and senior management personnel that violate laws, administrative regulations, the articles of association of the company or the resolutions of the shareholders' meeting;

- (c) when an act of a director or senior management personnel is harmful to the company's interests, to require the director or senior management personnel to rectify such act;
- (d) to propose the convening of extraordinary shareholders' meetings and to convene and preside over the shareholders' meeting when the board of directors fails to perform the duties of convening and presiding over the shareholders' meeting;
- (e) to give proposals to the shareholders' meeting;
- (f) to institute proceedings against the directors and senior management personnel upon shareholders' request if a director or senior management personnel violates the provisions of laws, administrative regulations or the articles of association of the company in the execution of company duties, thereby causing losses to the company;
- (g) other functions and powers specified in the articles of association of the company.

**(xii) *Manager and other senior management personnel***

A company shall have a manager, who shall be engaged or dismissed by the board of directors. The board of directors of a company may decide that a member of the board of directors shall serve concurrently as the manager.

According to the Company Law, the manager shall be accountable to the board of directors and shall exercise the following functions and powers:

- (a) to be in charge of the production, operation and management of the company, and to organize the implementation of the resolutions of the board of directors;
- (b) to organize the implementation of the annual business plans and investment plans of the company;
- (c) to draft the plan for the establishment of the company's internal management organization;
- (d) to draft the basic management system of the company;
- (e) to formulate the specific rules and regulations of the company;
- (f) to request the employment or dismissal of the deputy manager(s) and person(s) in charge of financial affairs of the company;
- (g) to decide on the employment or dismissal of management personnel other than those to be employed or dismissed by the board of directors; and
- (h) other functions and powers delegated by the board of directors.

Where the articles of association of the company have other provisions on the functions and powers of the manager, such provisions shall prevail.

Pursuant to the Company law, besides manager, the other senior management personnel include deputy manager and person in charge of financial affairs of a company, the secretary to the board of directors and other personnel specified in the articles of association.

**(xiii) *Qualifications and obligations of directors, supervisors and senior management personnel***

According to the Company Law, a person may not serve as a company's director, supervisor or senior management personnel if he is:

- (a) a person with no or limited capacity for civil acts;
- (b) a person that was sentenced to criminal punishment for the crime of corruption, bribery, encroachment of property, misappropriation of property or disruption of the order of the socialist market economy, and not more than five years has elapsed since the expiration of the enforcement period; or a person that was deprived of his political rights for committing a crime, and not more than five years has elapsed since the expiration of the enforcement period;
- (c) a director, factory director or manager of a company or enterprise liquidated upon bankruptcy that was personally responsible for the bankruptcy of the company or enterprise, and not more than three years has elapsed since the date of completion of the bankruptcy liquidation;
- (d) the legal representative of a company or enterprise that had its business license revoked and had been closed down by order for violation of law, for which such representative bears individual liability, and not more than three years has elapsed since the date on which the business license of the company or enterprise was revoked; and
- (e) a person with a comparatively large amount of personal debts due and unsettled.

A director, supervisor, manager and other senior officers of a company are required under the Company Law to comply with the relevant laws, regulations and the company's articles of association, carry out their duties honestly and protect the interests of the company. The Company Law, the Special Regulations and the Mandatory Provisions also provide that a director, supervisor, manager and other senior officers of a company owe fiduciary duties and diligence duties to the company, in the exercise of their rights or discharge of their obligations, they shall perform their due acts with care, diligence and skill as a reasonable and prudent person should do under similar circumstances, and shall not place themselves in a position where there is a conflict between their personal interests and their duties. The obligation and credibility of the Company's directors, supervisors, manager and other senior management personnel does not necessarily cease with the termination of their office. Their confidentiality obligation in relation to the company's trade secrets shall remain upon termination of their office.

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

**(xiv) *Financial affairs and accounting***

Companies shall establish their own financial and accounting systems in accordance with laws, administrative regulations, and regulations of the finance department of the State Council. Companies shall prepare financial and accounting reports at the end of each fiscal year. Such reports shall be audited by an accounting firm according to law.

The financial and accounting reports of the company shall be made available at the company for the perusal of shareholders 20 days before the annual shareholders' general meeting is held. Companies that issue shares to the public must announce their financial and accounting reports.

When a company distributes its after-tax profits for a given year, it shall allocate 10% of profits to its statutory common reserve. A company shall no longer be required to make allocations to its statutory common reserve once the aggregate amount of such reserve exceeds 50% of its registered capital. If a company's statutory common reserve is insufficient to make up its losses of the previous years, such losses shall be made up from the profit for the current year prior to making allocations to the statutory common reserve. A company may, if so resolved by the shareholders' general meeting, make allocations to the discretionary common reserve from its after-tax profits after making allocations to the statutory common reserve from the after-tax profits.

A company's after-tax profits remaining after it has made up its losses and made allocations to its common reserve shall be distributed in proportion to the shareholdings of its shareholders, unless the articles of association of the company stipulate that the profits shall not be distributed in proportion to the shareholdings.

A company shall enter under its capital common reserve the premiums earned from the issue of shares above par and such other revenue as the finance department of the State Council requires to be entered under the capital common reserve.

A company may apply its common reserve to making up their losses, increasing their production and business operations, or increasing their capital by means of conversion. However, the capital common reserve may not be used to make up the losses of the company. When funds from the statutory common reserve are converted to capital, the funds remaining in such reserve shall amount to not less than 25% of the increased registered capital.

**(xv) *Appointment and retirement of auditors***

The Special Regulations require a company to employ an independent PRC qualified accounting firm to audit the company's annual report and review and check other financial reports. The auditors are to be appointed for a term commencing from the close of an annual general meeting and ending at the close of the next annual general meeting.

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

**(xvi) *Distribution of profits***

The Special Regulations and the Mandatory Provisions provide that the dividends and other distributions to be paid to holders of overseas listed foreign invested shares shall be declared and calculated in Renminbi and paid in foreign currency, the payment of foreign currency to shareholders shall be made through a receiving agent.

**(xvii) *Amendments to articles of association***

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

**(xviii) *Dissolution and liquidation***

Under the Company Law, a company shall be dissolved as a result of the following:

- (a) when the term of operation as specified in the company's articles of association expires or another reason for dissolution as specified in the company's articles of association arises;
- (b) if the shareholders' meeting or shareholders' general meeting resolves to dissolve the company;
- (c) if dissolution is necessary as a result of the merger or division of the company;
- (d) its business license has been revoked, or it is ordered to close down or is banned according to law; or
- (e) it is ordered to be dissolved by the people's court where there are serious difficulties in the operation and management of the company and the continual existence would cause major losses to the rights and interests of the shareholders, and the matter cannot be resolved through other means, shareholders representing 10% or more of the voting rights of all shareholders of the company present a petition to the people's court for dissolution of the company.

When a company is to be dissolved pursuant to the above Item a), b), d) or e), it shall establish a liquidation committee and commence liquidation within 15 days of the date of occurrence of the grounds for dissolution, such liquidation committee shall be composed of persons decided upon by the shareholders' general meeting. If no liquidation committee is established within the time limit, creditors may request the people's court to designate relevant persons to form a liquidation committee and carry out liquidation.

A liquidation committee shall notify creditors within a period of 10 days commencing from the date of its establishment and, within 60 days, make newspaper announcement of the liquidation. Creditors shall, within a period of 30 days commencing from the date of receipt of the written notification, or within a period of 45 days commencing from the date of the announcement for those who do not receive written notification, declare their claims to the liquidation committee.

A liquidation committee shall exercise the following functions and powers during liquidation:

- (a) to thoroughly examine the property of the company and prepare a balance sheet and a schedule of property, respectively;
- (b) to notify creditors by notice or announcement;
- (c) to dispose of and liquidate relevant unfinished business of the company;
- (d) to pay all outstanding taxes in full as well as taxes arising in the course of liquidation;
- (e) to clear the claims and debts;
- (f) to dispose of the property remained after full payment of the company's debts; and
- (g) to participate in civil litigation activities on behalf of the company.

If the liquidation committee, having thoroughly examined the company's property and prepared a balance sheet and a schedule of property, discovers that the company's property is insufficient to pay its debts in full, it shall apply to the people's court for declaration of insolvency according to law. If the company's property is sufficient to pay its debts, the liquidation committee shall formulate a liquidation plan and submit the same to the shareholders' general meeting or the people's court for confirmation. The property of a company remained after the property is respectively applied to payment of the liquidation expenses, the wages, social insurance premiums and statutory compensation of staff and workers and the outstanding taxes, and to full payment of the debts of the company shall be distributed in proportion to the shareholdings of its shareholders.

Following the completion of liquidation, the liquidation committee shall compile a liquidation report and submit the same to the shareholders' general meeting or the people's



court for confirmation, as well as to the company registry for applying for cancellation of the company's registration, and announce the company's termination.

**(xix) Overseas listing**

A company may issue shares to overseas investors after obtaining approval from the securities regulatory authority of the State Council and its shares may be listed overseas.

**(xx) Loss of H share certificates**

The Special Regulations and the Mandatory Provisions provide that in the case of loss of share certificates by the shareholders of foreign capital shares listed overseas, an application for re-issue may be handled in accordance with the law or rules of the securities exchanges or other relevant regulations of the place where the original copy of the register of shareholders of foreign capital shares listed overseas is kept.

**(xxi) Suspension and termination of listing**

The Securities Law provides that where a listed company is in one of the following circumstances, the stock exchange shall decide to suspend the listing and trading of its shares:

- (a) there is a change in the total share capital, equity distribution, etc., of the company and the listing conditions are no longer fulfilled;
- (b) the company fails to disclose its financial status as required, or there are falsehoods in the financial and accounting reports that may mislead investors;
- (c) the company has committed a major illegal act;
- (d) the company has suffered continuous losses for the most recent three years; or
- (e) other circumstances stipulated in the listing rules of the stock exchange.

Under the Securities Law, the relevant stock exchange shall have the right to terminate the listing of the shares of the company in the following cases: in the event that the conditions for listing are not satisfied within the period stipulated by the relevant stock exchange as described in a) above, or the company has refused to rectify the situation in the case described in b) above, or the company fails to become profitable in the next subsequent year in the case described in d) above, or the company is dissolved or declared bankrupt, the relevant stock exchange shall have the right to terminate the listing of the shares of the company.

**(xxii) Merger and demerger**

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

**(c) Securities law and other relevant regulations**

The PRC has promulgated a number of laws and regulations that relate to the issue and trading of the Shares. In October 1992, the State Council established the Securities Committee and the CSRC. The Securities Committee was the competent authority in charge of macro administration of national securities market, its major responsibilities include co-ordinating the drafting of securities laws and regulations, researching into and formulating securities-related policies, planning the development of securities markets, directing, coordinating, supervising and inspecting all securities-related work in the PRC and administering the CSRC. The CSRC was the regulatory body of the Securities Committee and responsible for the drafting of regulatory provisions of securities markets, supervising securities companies, regulating the offering and trading of securities, regulating public offers of securities by PRC companies in the PRC or overseas.

On April 22, 1993, the State Council promulgated the Interim Provisions on the Administration of Issuing and Trading Securities (《股票發行與交易管理暫行條例》). These provisions set forth the relevant rules to be complied with for conducting issuing, trading and other related activities in the PRC, including the conditions and procedures for issuing and trading stocks, acquisition of listed companies, information disclosure by listed companies, investigation and penalties and dispute settlement. These provisions also provided expressly that a company must obtain the approval of the Securities committee to offer its shares outside the PRC directly and indirectly and carry out offshore trading of its stock, the specific measures would be formulated separately.

On December 25, 1995, the State Council promulgated the Regulations of the State Council Concerning Domestic Listed Foreign Shares of Joint Stock Limited Liability Companies (《國務院關於股份有限公司境內上市外資股的規定》). These regulations mainly deal with the issuance, subscription, trading and declaration of dividends and information disclosure related to joint stock limited liability companies with domestically listed foreign shares.

On July 14, 1999, the CSRC issued the Circular on Problems Relating to Applying for Overseas Listing of Enterprises (《關於企業申請境外上市有關問題的通知》), mainly dealing with the conditions, application documents and approval procedures for companies that applied for overseas listing.

The Securities Law, revised on October 27, 2005 for the second time and coming into effect on January 1, 2006, comprehensively regulates activities in the PRC securities market. This law regulates, among other things, the issue and trading of securities, takeovers by listed companies, securities exchanges, securities companies and the duties and responsibilities of the State Council's securities regulatory authorities. The Securities Law provides that a PRC company must obtain prior approval from the State Council's regulatory authorities to offer securities to overseas investors directly or indirectly and list its shares outside the PRC. The Securities Law also provides that specific measures in respect of shares of companies in the PRC which are to be subscribed and traded in foreign currencies shall be separately formulated by the State Council.

**(d) Arbitration and enforcement of arbitral awards**

The Arbitration Law of the PRC (《中華人民共和國仲裁法》) (hereinafter referred to as the “Arbitration Law”) was passed by the Standing Committee of the NPC on August 31, 1994 and became effective on September 1, 1995. It is applicable to contract disputes and other property disputes between equal natural person, legal person and other organizations where the parties have entered into a written agreement to refer the matter to arbitration before an arbitration committee constituted in accordance with the Arbitration Law. Where the parties have by agreement provided arbitration as the method for dispute resolution, the people’s court will refuse to handle the case unless the arbitration agreement is null and void.

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

A party seeking to enforce an arbitral award of PRC arbitration body against a party who, or whose property, is not within the PRC, may apply to a foreign court with jurisdiction over the case for enforcement. Similarly, an arbitral award made by a foreign arbitration body may be recognized and enforced by the PRC courts in accordance with the principles of reciprocity or any international treaty concluded or acceded to by the PRC.

The PRC acceded to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (《承認和執行外國仲裁裁決公約》) (hereinafter referred to as the “New York Convention”) on December 2, 1986, the New York Convention has took effect in China since April 22, 1987. The New York Convention provides that all arbitral awards made in a state which is a party to the New York Convention shall be recognized and enforced by other parties to the New York Convention, subject to their right to refuse enforcement under certain circumstances, including where the enforcement of the arbitral award is against the public policy of the State to which the application for enforcement is made. It was declared by the Standing Committee of the NPC simultaneously with the accession of the PRC that (i) the PRC will only recognize and enforce foreign arbitral awards on the principle of reciprocity and (ii) the PRC will only apply the New York Convention in disputes considered under PRC laws to arise from contractual and non-contractual mercantile legal relations. The Supreme People’s Court and Hong Kong have reached agreements on the mutual enforcement of awards, in June 1999, the Supreme People’s Court adopted the Arrangement Concerning Mutual Enforcement of Arbitral Awards between the Mainland and the Hong Kong SAR (《最高人民法院關於內地與香港特別行政區相互執行仲裁裁決的安排》), which has taken effect since February 1, 2000. Pursuant to this Arrangement, the People’s courts of the Mainland agree to enforce awards made in Hong Kong SAR pursuant to the Arbitration Rules of Hong Kong SAR, and the courts of Hong Kong SAR agree to enforce awards made by the arbitration institutions of the Mainland pursuant to the Arbitration Law.

**(e) Judicial judgment and its enforcement**

Under the *Arrangement on Mutual Recognition and Enforcement of Judgments in Civil and Commercial Matters by Courts of the Mainland and Hong Kong SAR Pursuant to Agreed Jurisdiction by Parties Concerned* (《關於內地與香港特別行政區法院相互認可和執行當事人協議管轄的民商事案件判決的安排》) issued by the Supreme People's court on July 3, 2008 and taking effect since August 1, 2008, in the case of final judgment, defined with payment amount and enforcement power, made between mainland court and Hong Kong SAR court in civil and commercial case with written jurisdiction agreement, the parties concerned shall apply to mainland people's court or Hong Kong SAR court for recognition and enforcement based on this arrangement. "Choice of court agreement in written" in this arrangement refers to a written agreement defining the exclusive jurisdiction of either the mainland people's court or Hong Kong SAR in order to revolve dispute with particular legal relation occurred or likely to occur by the parties concerned since effective date of this arrangement. According to this arrangement, the parties concerned may apply to the courts in the mainland or Hong Kong to recognize and enforce the final judgment made by the courts in Hong Kong or the Mainland that meet certain conditions under this arrangement.

**2. HONG KONG LAWS AND REGULATIONS****(a) Summary of Material Differences Between Hong Kong and PRC Company Law**

The Hong Kong law applicable to a company incorporated in Hong Kong is based on the Companies Ordinance and supplemented by common law and rules of equity that apply to Hong Kong. The Company, which is a joint stock limited company established in the PRC, is governed by the PRC Company Law and all other rules and regulations promulgated pursuant to the PRC Company Law.

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

**(i) Corporate existence**

Under Hong Kong company law, a company having share capital, is incorporated and will acquire an independent corporate existence after the company registrar of Hong Kong issuing a certificate of incorporation. A company may be incorporated as a public company or a private company. Pursuant to the Companies Ordinance the articles of association of a private company incorporated in Hong Kong shall contain certain pre-emptive provisions. A public company's articles of association does not contain such preemptive provisions.

Under the PRC Company Law, a joint stock limited company may be incorporated by promotion or public subscription. A joint stock limited company must have a minimum registered capital of RMB5 million, or a higher amount as may otherwise be required by laws and regulations. Under the PRC Company Law, the monetary contributions by all the shareholders must not be less than 30% of the registered capital.

Hong Kong law does not prescribe any minimum capital requirement for a Hong Kong company. There is no minimum monetary contribution restriction on a Hong Kong company under Hong Kong law.

**(ii) *Share capital***

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

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

Under the PRC Company Law, the shares may be subscribed for in the form of money or nonmonetary assets that may be valued in currency and lawfully transferable. For non-monetary assets to be used as capital contributions, appraisals and verification must be carried out to ensure no overvaluation or under-valuation of the assets. The monetary contribution shall not be less than 30% of a joint stock limited company's registered capital. There is no such restriction on a Hong Kong company under Hong Kong law.

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

Under PRC law, the domestic shares ("domestic shares") in the share capital of a joint stock limited company which are denominated and subscribed for in Renminbi may only be subscribed or traded by the domestic investors of the PRC. The overseas listed foreign shares ("foreign shares") issued by a joint stock limited company which are denominated in Renminbi and subscribed for in a currency other than Renminbi, may only be subscribed for, and traded by, investors from Hong Kong, Macau and Taiwan or any country and territory outside the PRC, as well as other qualified institutions.

Under the PRC Company Law, shares in a joint stock limited company held by its promoters cannot be transferred within one year after the date of establishment of the company. Shares in issue prior to the company's public offering cannot be transferred within one year from the listing date of the shares on the Hong Kong Stock Exchange. Shares in a joint stock limited company held by its directors, supervisors and managers and transferred each year during their term of office shall not exceed 25% of the total shares they held in the company, and the shares they held in the company cannot be transferred within one year from the listing date of the shares, and also cannot be transferred within half a year after the said personnel has left office. The articles of association may set other restrictive

requirements on the transfer of the company's shares held by its directors, supervisors and officers. There are no such restrictions on shareholdings and transfers of shares under Hong Kong law.

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

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

**(v) *Variation of class rights***

The PRC Company Law makes no specific provision relating to variation of class rights. However, the PRC Company Law states that the State Council can promulgate regulations relating to other kinds of shares. The Mandatory Provisions contain elaborate provisions relating to the circumstances which are deemed to be variations of class rights and the approval procedures required to be followed regarding variations of class rights. These provisions have been incorporated in the Articles of Association, which are summarized in Appendix VIII.

Under the Companies Ordinance, no rights attached to any class of shares can be varied except (i) with the approval of a special resolution of the holders of the relevant class at a separate meeting, (ii) with the consent in writing of the holders of three-fourths in nominal value of the issued shares of the class in question, (iii) by agreement of all the members of a Hong Kong company or (iv) if there are provisions in the articles of association relating to the variation of those rights, then in accordance with those provisions. The Company (as required by the Listing Rules and the Mandatory Provisions) has adopted in the Articles of Association provisions protecting class rights in a similar manner to those found in Hong Kong law. Holders of overseas listed foreign invested shares and domestic shares are defined in the Articles of Association as different classes of shareholders, provided however that the special procedures for approval by separate class shareholders shall not apply to the following circumstances: (i) the Company issues domestic shares and listed foreign invested shares, separately or simultaneously, once every 12-month period, pursuant to a Shareholders' special resolution, not more than 20% of each of the issued domestic shares and issued overseas listed foreign invested shares existing as at the date of the Shareholders' special resolution; (ii) the plan for the issue of domestic shares and listed foreign invested shares upon its establishment is implemented within 15 months following the date of approval by the CSRC; and (iii) upon approval by CSRC, the shareholders of domestic shares of the Company transfer their shares to overseas investors and such shares are listed and traded in foreign markets.

**(vi) *Directors***

The PRC Company Law, unlike Hong Kong company law, does not contain any requirements relating to the declaration made by directors of the interests in material contracts; restrictions on directors' authority in making major dispositions; restrictions on

companies providing certain benefits, prohibitions against compensation for loss of office without shareholders' approval. The PRC Company Law provides restrictions on interested directors voting on the resolution at a meeting of the board of directors when such resolution relates to an enterprise which the director is interested or connected. The Mandatory Provisions, however, contain requirements and restrictions on major dispositions and specify the circumstances under which a director may receive compensation for loss of office, all of which provisions have been incorporated in the Articles of Association, a summary of which is set out in Appendix VIII.

**(vii) *Board of Supervisors***

Under the PRC Company Law, the board of directors and managers of a joint stock limited company is subject to the supervision and inspection of a Board of Supervisors but there is no mandatory requirement for the establishment of a Board of Supervisors for a company incorporated in Hong Kong. The Mandatory Provisions provide that each supervisor owes a duty, in the exercise of his powers, to act in good faith and honestly in what he considers to be in the best interests of the company and to exercise the care, diligence and skill that a reasonably prudent person would exercise under comparable circumstances.

**(viii) *Derivative action by minority shareholders***

Hong Kong law permits minority shareholders to start a derivative action on behalf of a company against directors who have committed a breach of their fiduciary duties to the company, if such directors control a majority of votes at a general meeting, thereby effectively preventing a company from suing the directors in breach of their duties in its own name. The PRC Company Law gives shareholders of a joint stock limited company the right to initiate proceedings in the people's court to restrain the implementation of any resolution passed by the shareholders in a general meeting, or by the board of directors, that violates any law or infringes the lawful rights and interests of the shareholders. The PRC Company Law also provides that the shareholder can initiate proceedings if the director or senior management of the Company violates the law, administrative regulation or articles of association of the Company and thus infringe the shareholder's interest. The Mandatory Provisions further provide remedies to the company against directors, supervisors and senior management in breach of their duties to the company. In addition, every director and supervisor of a joint stock limited company applying for a listing of its foreign shares on the Hong Kong Stock Exchange is required to give an undertaking in favor of the company to comply with the company's articles of association. This allows minority shareholders to act against the directors and supervisors in default.

**(ix) *Protection of minorities***

Under Hong Kong law, a shareholder who complains that the affairs of a company incorporated in Hong Kong are conducted in a manner unfairly prejudicial to his interests may petition to court to either wind up the company or make an appropriate order regulating the affairs of the company. In addition, on the application of a specified number of members, the Financial Secretary of the Hong Kong Government may appoint inspectors who are given extensive statutory powers to investigate the affairs of a company incorporated in Hong Kong. The PRC Company Law provides that where any company encounters any serious difficulty

in its operations or management so as that the interests of the shareholders will face serious loss if the company continues to exist and such difficulty cannot be resolved by any other means, the shareholders holding ten percent or more of the voting rights of all the issues shares of the company may plead the people's court to dissolve the company. The Mandatory Provisions, however, contain provisions to the effect that a controlling shareholder may not exercise its voting rights to relieve a director or supervisor of his duty to act honestly in the best interests of the company or to approve the expropriation by a director or supervisor of the company's assets or the individual rights of other shareholders which is prejudicial to the interests of the shareholders generally or of some part of the shareholders of a company.

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

Under the PRC Company Law, notice of a shareholders' general meeting must be given not less than 20 days before the meeting, or, in the case of a company having bearer shares, a public announcement of a shareholders' general meeting must be made at least 30 days prior to it being held. Under the Special Regulations and the Mandatory Provisions, 45 days' written notice must be given to all shareholders and shareholders who wish to attend the meeting must reply in writing 20 days before the date of the meeting. For a company incorporated in Hong Kong, the minimum notice periods of a general meeting convened for passing an ordinary resolution and a special resolution are 14 days and 21 days, respectively. The notice period for an annual general meeting is 21 days.

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

Under Hong Kong law, the quorum for a general meeting is two members unless the articles of association of the company otherwise provide. For one member companies, one member will be a quorum.

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

**(xii) *Voting***

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



**(xiii) *Financial disclosure***

A company is required under the PRC Company Law to make available at its office for inspection by shareholders its annual balance sheet, profit and loss account, statements of changes in financial position and other relevant annexes 20 days before the annual general meeting of shareholders. In addition, a company established by way of public subscription under the PRC Company Law must publish its financial position. The annual balance sheet has to be verified by registered accountants. The Companies Ordinance requires a company to send to every shareholder a copy of its balance sheet, auditors' report and directors' report, which are to be laid before the company in its annual general meeting, not less than 21 days before such meeting. A company is required under the PRC law to prepare its financial statements in accordance with the PRC accounting standards. The Mandatory Provisions require that the company must, in addition to preparing accounts according to the PRC standards, have its accounts prepared and audited in accordance with International Accounting Standards or Hong Kong accounting standards and its financial statements must also contain a statement of the financial effect of the material differences (if any) from the financial statements prepared in accordance with the PRC accounting standards.

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

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

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

**(xv) *Receiving agent***

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

**(xvi) *Corporate reorganization***

Corporate reorganizations involving a company incorporated in Hong Kong may be effected in a number of ways, such as a transfer of the whole or part of the business or property of the company to another company in the course of being wound up voluntarily

pursuant to section 237 of the Companies Ordinance or a compromise or arrangement between the company and its creditors or between the company and its members pursuant to section 166 of the Companies Ordinance which requires the sanction of the court. Under PRC Company Law, the merger, demerger, dissolution, liquidation or change to the forms of a company has to be approved by shareholders at general meeting.

**(xvii) *Arbitration of disputes***

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

**(xviii) *Mandatory deductions***

Under the PRC Company Law, a company shall draw 10% of the profits as its statutory reserve fund before it declare any dividends after taxation. The company may not required to deposit the statutory reserve fund if the aggregate amount of the statutory reserve fund has accounted for 50% of the company's registered capital. After the company has drawn statutory reserve fund from the after-tax profits, it may, upon a resolution made by the shareholders, draw a discretionary reserve fund from the after-tax profits. There are no such requirements under Hong Kong law.

**(xix) *Remedies of a company***

Under the PRC Company Law, if a director, supervisor or manager in carrying out his duties infringes any law, administrative regulation or the articles of association of a company, which results in damage to the company, that director, supervisor or manager should be responsible to the company for such damages. In addition, remedies of the company similar to those available under the Hong Kong law (including rescission of the relevant contract and recovery of profits made by a director, supervisor or officer) have been in compliance with the Hong Kong Listing Rules.

**(xx) *Dividends***

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

**(xxi) *Fiduciary duties***

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

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

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

**(b) Hong Kong Listing Rules**

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

**(i) Compliance advisor**

A company seeking listing on the Hong Kong Stock Exchange is required to appoint a compliance adviser acceptable to the Stock Exchange for the period from its listing date up to the date of the publication of its first full year's financial results, to provide the company with professional advice on continuous compliance with the Hong Kong Listing Rules and all other applicable laws, regulations, rules, codes and guidelines, and to act at all times, in addition to the company's two authorized representatives, as the principal channel of communication with the Hong Kong Stock Exchange. The appointment of the compliance adviser may not be terminated until a replacement acceptable to the Hong Kong Stock Exchange has been appointed.

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

The compliance adviser must keep the company informed on a timely basis of changes in the Hong Kong Listing Rules and any new or amended law, regulation or code in Hong Kong applicable to the company.

It must act as the company's principal channel of communication with the Hong Kong Stock Exchange if the authorized representatives of the company are expected to be frequently outside Hong Kong.

**(ii) Accountants' report**

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

**(iii) *Process agent***

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

**(iv) *Public shareholdings***

If at any time there are existing issued securities of a PRC issuer other than foreign shares (“foreign shares”) which are listed on the Hong Kong Stock Exchange, the Hong Kong Listing Rules require that the aggregate amount of such foreign shares held by the public must constitute not less than 25% of the issued share capital and that such foreign shares for which listing is sought must not be less than 15% of the total issued share capital if the company has an expected market capitalization at the time of listing of not less than HK\$50,000,000. The Hong Kong Stock Exchange may, at its discretion, accept a lower percentage of between 15% and 25% if the Company has an expected market capitalization at the time of listing of over HK\$10,000,000,000.

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

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

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

Subject to governmental approvals and the provisions of the Articles of Association, the Company may repurchase its own H shares on the Hong Kong Stock Exchange in accordance with the provisions of the Hong Kong Listing Rules. Approval by way of special resolution of the holders of domestic shares and the holders of H shares at separate class meetings conducted in accordance with the Articles of Association is required for share repurchases. In seeking approvals, the Company is required to provide information on any proposed or actual purchases of all or any of its equity securities, whether or not listed or traded on the Hong Kong Stock Exchange. The Directors must also state the consequences of any purchases which will arise under either or both of the Code on Takeovers and Mergers and any similar PRC law of which the directors are aware, if any.

Any general mandate given to the directors to repurchase the foreign shares must not exceed 10% of the total amount of existing issued foreign shares of the Company.

**(vii) *Mandatory provisions***

With a view to increasing the level of protection afforded to investors, the Hong Kong Stock Exchange requires the incorporation, in the articles of association of a PRC company whose primary listing is on the Hong Kong Stock Exchange, of the Mandatory Provisions and

provisions relating to the change, removal and resignation of auditors, class meetings and the conduct of the board of supervisors of the company. Such provisions have been incorporated into the Articles of Association, a summary of which is set out in Appendix VIII.

**(viii) Redeemable shares**

The Company must not issue any redeemable shares unless the Hong Kong Stock Exchange is satisfied that the relative rights of the holders of the foreign shares are adequately protected.

**(ix) Pre-emptive rights**

Except in the circumstances mentioned below, the directors of a company are required to obtain the approval by a special resolution of shareholders in general meeting, and the approvals by special resolutions of the holders of domestic shares and foreign shares (each being otherwise entitled to vote at general meetings) at separate class meetings conducted in accordance with the Company's articles of association, prior to (1) authorizing, allotting, issuing or granting shares or securities convertible into shares, or options, warrants or similar rights to subscribe for any shares or such convertible securities; or (2) any major subsidiary of the Company making any such authorization, allotment, issue or grant so as materially to dilute the percentage equity interest of the company and its shareholders in such subsidiary.

No such approval will be required, but only to the extent that, the existing shareholders of the company have by special resolution in general meeting given a mandate to the directors, either unconditionally or subject to such terms and conditions as may be specified in the resolution, to authorize, allot or issue, either separately or concurrently once every 12 months, not more than 20% of the existing domestic shares and foreign shares as of the date of the passing of the relevant special resolution or of such shares that are part of the company's plan at the time of its establishment to issue domestic shares and foreign shares and which plan is implemented within 15 months from the date of approval by the CSRC; or where upon approval by securities supervision or administration authorities of State Counsel, the shareholders of domestic invested shares of the Company transfer its shares to overseas investors and such shares are listed and traded in foreign markets.

**(x) Supervisors**

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

The Company is required to obtain the approval of its shareholders at a general meeting (at which the relevant Supervisor and his associates shall not vote on the matter) prior to the Company or any of its subsidiaries entering into a service contract of the following nature with a Supervisor or proposed Supervisor of the Company or its subsidiary: (1) the term of the contract may exceed three years; or (2) the contract expressly requires the Company to give more than one year's notice or to pay compensation or make other payments equivalent to the remuneration more than one year.

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

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

The Company is required not to permit or cause any amendment to be made to its Articles of Association which would cause the same to cease to comply with the mandatory provisions of the Hong Kong Listing Rules and the Mandatory Provisions or the PRC Company Law.

**(xii) *Documents for inspection***

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

- a complete duplicate register of shareholders;
- a report showing the state of the issued share capital of the Company;
- the Company's latest audited financial statements and the reports of the Directors, auditors and Supervisors (if any) thereon;
- special resolutions of the Company;
- reports showing the number and nominal value of securities repurchased by the Company since the end of the last certificates year, the aggregate amount paid for such securities and the maximum and minimum prices paid in respect of each class of securities repurchased (with a breakdown between Domestic Shares and H Shares);
- a copy of the latest annual return led with the Beijing Administration for Industry and Commerce; and
- for Shareholders only, copies of minutes of meetings of shareholders.

**(xiii) *Receiving agents***

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

**(xiv) *Statements in H share certificates***

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

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

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

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

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

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

- an undertaking by the Director or officer to the Company to observe and comply with the PRC Company law, the Special Regulations, the Articles of Association, the Codes on Takeovers and Mergers and Share Repurchases and an agreement that the Company shall have the remedies provided in the Articles of Association and that neither the contract nor his office is capable of assignment;

- an undertaking by the Director or officer to the Company acting as agent for each shareholder to observe and comply with his obligations to shareholders as stipulated in the Articles of Association;
- an arbitration clause which provides that whenever any differences or claims arise from that contract, the Articles of Association or any rights or obligations conferred or imposed by the PRC Company Law or other relevant law and administrative regulations concerning the affairs of the Company between the Company and its Directors or officers and between a holder of H Shares and a Director or officer of the Company, such differences or claims will be referred to arbitration at either the CIETAC in accordance with its rules or the HKIAC in accordance with its Securities Arbitration Rules, at the election of the claimant and that once a claimant refers a dispute or claim to arbitration, the other party must submit to the arbitral body elected by the claimant. Such arbitration will be final and conclusive;
- if the party seeking arbitration elects to arbitrate the dispute or claim at HKIAC, then either party may apply to have such arbitration conducted in Shenzhen according to the Securities Arbitration Rules of HKIAC;
- PRC laws shall govern the arbitration of disputes or claims referred to above, unless otherwise provided by law or administrative regulations;
- the award of the arbitral body is final and shall be binding on the parties thereto;
- the agreement to arbitrate is made by the Director or officer with the Company on its own behalf and on behalf of each shareholder; and
- any reference to arbitration shall be deemed to authorize the arbitral tribunal to conduct hearings in open session and to publish its award. The Company is also required to enter into a contract in writing with every supervisor containing statements in substantially the same terms.

**(xvii) *Subsequent listing***

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

**(xviii) *English translation***

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

**(xix) *General***

If any change in the PRC law or market practices materially alters the validity or accuracy of any of the basis upon which the additional requirements have been prepared,



then the Hong Kong Stock Exchange may impose additional requirements or make listing of the equity securities of a PRC issuer, including the Company, subject to special conditions as the Hong Kong Stock Exchange considers appropriate. Whether or not any such changes in the PRC law or market practices occur, the Hong Kong Stock Exchange retains its general power under the Hong Kong Listing Rules to impose additional requirements and make special conditions in respect of the Company's listing.

**(c) Other Legal and Regulatory Provisions**

Upon the Company's listing, the provisions of the Securities and Futures Ordinance, the Codes on Takeovers and Mergers and Share Repurchases and such other relevant ordinances and regulations as may be applicable to companies listed on the Hong Kong Stock Exchange will apply to the Company.

**(d) Securities Arbitration Rules**

The Articles of Association provide that certain claims arising from the Articles of Association or the PRC Company Law shall be arbitrated at either the CIETAC or the HKIAC in accordance with their respective rules. The Securities Arbitration Rules of the HKIAC contain provisions allowing an arbitral tribunal to conduct a hearing in Shenzhen for cases involving the affairs of companies incorporated in the PRC and listed on the Hong Kong Stock Exchange so that PRC parties and witnesses may attend.

Where any party applies for a hearing to take place in Shenzhen, the tribunal shall, where satisfied that such application is based on bona fide grounds, order the hearing to take place in Shenzhen conditional upon all parties including witnesses and the arbitrators being permitted to enter Shenzhen for the purpose of the hearing. Where a party (other than a PRC party) or any of its witnesses or any arbitrator is not permitted to enter Shenzhen, then the tribunal shall order that the hearing be conducted in any practicable manner, including the use of electronic media. For the purpose of the Securities Arbitration Rules, a PRC party means a party domiciled in the PRC other than the territories of Hong Kong, Macau and China Taiwan.

**(e) PRC Legal Matter**

Tian Yuan Law Firm, our legal adviser on PRC law, has sent to us a legal opinion dated December 12, 2011 confirming that it has reviewed the summaries of relevant PRC laws and regulations as contained in this Appendix and that, in its opinion, such summaries are correct summaries relevant to PRC laws and regulations. This letter is available for inspection as referred to in "Appendix X—Documents Delivered to the Registrar of Companies and Available for Inspection". Any person wishing to have detailed advice on PRC law and the laws of any jurisdictions is recommend to seek independent legal advice.