

## REGULATORY OVERVIEW

### HONG KONG LAWS AND REGULATIONS

There are no specific statutory requirements for our Group to obtain any licences for carrying on its businesses in Hong Kong other than the general legal requirement for the applying and obtaining valid business registration certificate under the Business Registration Ordinance, Chapter 310 of the Laws of Hong Kong and with the exception to the specific statutory requirement that valid licence shall be obtained to cover the import of certain strategic commodities from the Director-General of Trade and Industry by our Group, there are no specific statutory provisions to regulate the business activities carried out by our Group in Hong Kong other than the general statutory provisions applicable to the businesses involving the sales of goods and supply of services.

#### **Business registration**

The Business Registration Ordinance requires every person carrying on any business shall make application to the Commissioner of Inland Revenue in the prescribed manner for the registration of that business. The Commissioner of Inland Revenue must register each business for which a business registration application is made and as soon as practicable after the prescribed business registration fee and levy are paid and issue a business registration certificate or branch registration certificate for the relevant business or the relevant branch as the case may be.

#### **Supply of goods**

The Sales of Goods Ordinance, Chapter 26 of the Laws of Hong Kong which aims to codify the laws relating to the sale of goods provides that:

- (a) under section 15, where there is a contract for the sale of goods by description, there is an implied condition that the goods shall correspond with the description;
- (b) under section 16, where a seller sells goods in the course of a business, there is an implied condition that the goods supplied under the contract are of merchantable quality, except that there is no such condition (i) as regards to defects specifically drawn to the buyer's attention before the contract is made; or (ii) if the buyer examines the goods before the contract is made, as regards defects which that examination ought to reveal; or (iii) if the contract is a contract by sample, as regards defects which would have been apparent on a reasonable examination of the sample; and
- (c) under section 17, where there is a contract for sale by sample, there are implied conditions that (i) the bulk shall correspond with the sample in quality, (ii) the buyer shall have a reasonable opportunity of comparing the bulk with the sample, and (iii) the goods shall be free from any defects, rendering them unmerchantable, which would not be apparent on reasonable examination of the sample.

Where any right, duty or liability would arise under a contract of sale of goods by implication of law, it may (subject to the Control of Exemption Clauses Ordinance, Chapter 71 of the Laws of Hong Kong) be negative or varied by express agreement, or by course of dealings between the parties, or by usage if the usage is such as to bind both parties to the contract.

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### Supply of services

The Supply of Services (Implied Terms) Ordinance, Chapter 457 of the Laws of Hong Kong which aims consolidate and amend the laws with respect to the terms to be implied in contract for the supply of services (including a contract for the supply of a service whether or not goods are also transferred or to be transferred, or bailed or to be bailed by way of hire) provides that:

- (a) where the supplier is acting in the course of a business, there is an implied term that the supplier will carry out the service with reasonable care and skill; and
- (b) where the supplier is acting in the course of a business, the time for service to be carried out is not fixed, is not left to be fixed in a manner agreed by the contract or is not determined by the course of dealing between the parties, there is an implied term that the supplier will carry out the service within a reasonable time.

Where a supplier is dealing with a party to a contract for supply of service who deals as a consumer, the supplier cannot, by reference to any contract term, exclude or restrict any liability of him arising under the contract by virtue of the Supply of Services (Implied Terms) Ordinance. Otherwise, where any right, duty or liability would arise under a contract for the supply of a service by virtue of the Supply of Services (Implied Terms) Ordinance, it may (subject to the Control of Exemption Clauses Ordinance) be negative or varied by express agreement, or by the course of dealing between the parties, or by such usage as binds both parties to the contract.

### Control of exemption clauses

The Control of Exemption Clauses Ordinance, Chapter 71 of the Laws of Hong Kong, which aims to limit the extent to which civil liability for breach of contract, or for negligence or other breach of duty, can be avoided by means of contract terms and otherwise provides that:

- (a) under section 7, a person cannot by reference to any contract term or to a notice given to persons generally or to particular persons exclude or restrict his liability for death or personal injury resulting from negligence and in the case of other loss or damage, a person cannot exclude or restrict his liability for negligence except in so far as the term or notice satisfies the requirements of reasonableness;
- (b) under section 8, as between contracting parties where one of them deals as consumer or on the other's written standard terms of business, as against that party, the other cannot by reference to any contract term (i) when himself in breach of contract, exclude or restrict any liability of his in respect of the breach, or (ii) claim to be entitled to render a contractual performance substantially different from that which was reasonably expected of him, or (iii) claim to be entitled in respect of the whole or any part of his contractual obligation, to render no performance at all, except in so far as the contract term satisfies the requirement of reasonableness;
- (c) under section 9, a person dealing as a consumer cannot by reference to any contract term be made to indemnify another person in respect of liability that may be incurred by the other for negligence or breach of contract, except in so far as the contract term satisfies the requirement of reasonableness; and

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- (d) under section 11, as against a person dealing as consumer, the liability for breach of the obligations arising under section 15, 16 and 17 of the Sales of Goods Ordinance cannot be excluded or restricted by reference to any contract term, and as against person dealing otherwise than as consumer, the liability arising under section 15, 16 and 17 of the Sales of Goods Ordinance can be excluded or restricted by reference to a contract term, but only in so far as the terms satisfying the requirement of reasonableness.

Sections 7, 8 and 9 of the Control of Exemption Clauses Ordinance do not apply to any contract so far as it relates to the creation or transfer of a right or interest in any patent, trade mark, copyright, registered design, technical or commercial information or other intellectual property, or relates to the termination of any such right or interest.

In relation to a contract term, the requirement of reasonableness for the purpose of the Control of Exemption Clauses Ordinance is satisfied only if the court or arbitrator determines that the term was a fair and reasonable one to be included having regarded to the circumstances which were, or ought reasonably to have been, known to or in the contemplation of the parties when the contract was made.

### **Strategic commodities**

The Import and Export Ordinance, Chapter 60 of the Laws of Hong Kong, requires the import and export of the articles contained in the schedules to the Import and Export (Strategic Commodities) Regulations (the "Regulations") must be covered by valid licences issued by the Director-General of Trade and Industry. Encryption products with a symmetric key length above 56-bits which our Group imported during the Track Record Period are articles contained in the schedules of the Regulations to which the import and export are subject to the licensing control.

Licence applications should be made for the import and export of the strategic commodities and be submitted to the Strategic Trade Controls Branch of the Trade and Industry Department. On issuing of a licence, apart from the standard licence conditions, the Director-General of Trade and Industry may, depending on circumstances of individual cases, impose special and additional conditions on approved licences. For encryption products, one very common special licence condition is that no future re-export, resale, transfer, or disposal of the goods is allowed without prior notice to and approval from the Director-General of Trade and Industry.

### **PRC LAWS AND REGULATIONS**

There are no specific statutory requirements for our Group's PRC subsidiaries to obtain any licences for carrying on its business of computer software development (計算機軟件開發), computer software and hardware trading (計算機軟硬件銷售) and technical services for computer software and hardware (計算機技術支持服務) in the PRC and there are no specific laws to regulate these business activities carried out by Group's PRC subsidiaries in the PRC.

### **Foreign-Invested company law**

According to the PRC Law on Wholly Foreign-owned enterprises (中華人民共和國外資企業法), which was promulgated on 12 April 1986 by the National People's Congress and amended on 31 October 2000 by the Standing Committee of the National People's Congress, the investments, profits,

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and other lawful rights and interests of a foreign investor are protected in the PRC. A foreign investor may remit abroad profits and other legal earnings from a wholly foreign-owned enterprise, as well as any remaining funds when the enterprise is liquidated.

According to the Implementation Rules on the PRC Law on Wholly Foreign-owned Enterprises (中華人民共和國外資企業法實施細則) ("Implementation Rules"), which was promulgated on 12 December 1990 by the Ministry of Foreign Trade and Economic Cooperation and amended on 12 April 2001 by the State Council of the PRC, the articles of association of a wholly foreign-owned enterprises shall become effective upon the approval by the examining and approving authority and the same procedures shall apply whenever any amendments thereto are made. Any division, merger, or any significant change in the registered capital of a wholly foreign-owned enterprise shall be subject to approval by the examining and approving authority. The enterprise shall engage a PRC qualified auditor for a capital verification report. Upon approval by the examining and approving authority, registration shall be made with the Administrative Bureau for Industry and Commerce.

### **Environmental Protection Law**

The Environmental Protection Law of the PRC (中華人民共和國環境保護法), which came into force on 26 December 1989, lays down the basic legal framework for environmental protection in PRC. The purpose of the Environmental Protection Law is to protect and enhance the living environment, prevent and cure pollution and other public hazards, and safeguard human health. The State Environment Protection Administration is responsible for the overall supervision and administration of environmental protection in the PRC and for formulating national standards for the discharge of waste materials. Local environmental protection bureaus at the county level and above are responsible for the supervision and administration of environmental protection within their jurisdiction.

Our Company's PRC subsidiary is not manufacturing enterprise that produce pollutants during operation. According to our Company's confirmation, the PRC subsidiary has never been subject to any administrative penalties for violations of relevant environmental protection laws and regulations.

### **The Labor Law of the PRC (中華人民共和國勞動法) and Labor Contract Law of the PRC (中華人民共和國勞動合同法)**

The Labor Law of the PRC, promulgated by the Standing Committee of the National People's Congress on 5 June 1994 and effective as of 1 January 1995, and the Labor Contract Law of the PRC, promulgated by the Standing Committee of the National People's Congress on 29 June 2007 and effective as of 1 January 2008, provide that employers must enter into employment contracts with their employees based on the principles of equality, consent and agreement through consultation. Employers must establish and effectively implement a system to ensure occupational safety and health, employee education on occupational safety and health, preventing work-related accidents and reducing occupational hazards. Employers must also pay for their employees' social insurance premium.

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### **Social Insurance Law of the PRC (中華人民共和國社會保險法)**

Social insurance law of the PRC, promulgated by the Standing Committee of the National People's Congress on 28 October 2010 and effective as of 1 July 2011, was formulated in accordance with the Constitution for purposes of regulating social insurance relationships, protecting the legitimate rights and interests of citizens participating in social insurance and eligible for social insurance benefits, enabling citizens to share the achievements of development, and promoting social harmony and stability.

According to the provisions of social insurance law of the PRC, an employer shall pay the basic pension insurance premium, basic medical insurance premium, employment injury insurance premium, unemployment insurance premium, maternity insurance premium for its employees. An employer failing to make full payment of social insurance premium in due time shall be ordered by the social insurance premium collection agency to pay or make up the balance within a prescribed time limit, and as of date of overdue, be subject to an overdue fine of 0.05%; an employer failing to make the payment within the prescribed time limit shall be subject to a fine of one to three times of the amount of overdue premium imposed by the relevant administrative department.

### **Regulations on Management of Housing Provident Fund (住房公積金管理條例)**

Regulations on Management of Housing Provident Fund was promulgated by the State Council of PRC on 3 April 1999, and revised on 24 March 2002. These regulations are formulated for the purpose of strengthening the management of housing provident fund, safeguarding the lawful rights and interests of owners of housing provident fund, promoting the construction of houses in cities and towns, and improving housing standards of residents in cities and towns.

Pursuant to these regulations, an employer shall pay and deposit housing provident fund on schedule and in full, and may not be overdue in the payment and deposit or underpay the housing provident fund. Where, in violation of the provisions of these Regulations, an employer is overdue in the payment and deposit of, or underpays, the housing provident fund, the housing provident fund management center shall order it to make the payment and deposit within a prescribed time limit; where the payment and deposit have not been made after the expiration of the time limit, an application may be made to a people's court for compulsory enforcement.

According to our Company's confirmation, its PRC subsidiary has duly paid social insurance premium and housing provident fund for all of their employees and since their establishment, has never been subject to any administrative penalties for violations of relevant social insurance and housing provident fund laws and regulations.

### **Income tax**

Prior to 1 January 2008, income tax payable by foreign-invested enterprises ("FIEs") in the PRC was governed by the Income Tax Law of the PRC for Enterprises with Foreign Investment and Foreign Enterprises (中華人民共和國外商投資企業和外國企業所得稅法) (the "FIE Tax Law") promulgated on 9 April 1991, which became effective on 1 July 1991, and the related implementation rules. Under the FIE Tax Law, an FIE was subject to a national income tax at the rate of 30% and a local tax at the rate of 3% unless a lower rate was provided by laws or administrative regulations. The income tax on FIEs established in Special Economic Zones, foreign enterprises which had establishments or places in Special Economic Zones and were engaged in production or business operations, and FIEs of a

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production nature in Economic and Technological Development Zones, was levied at the reduced rate of 15%. The income tax on FIEs of a production nature established in coastal economic open zones or in the old urban districts of cities where the Special Economic Zones or the Economic and Technological development Zones are located, was levied at the reduced rate of 24%. FIEs of a production nature scheduled to operate for a period of not less than ten years were exempted from income tax for two years commencing from the first profit-making year (after offsetting all tax losses carried forward from previous years) and allowed a fifty percent reduction in the following three consecutive years.

Under the EIT Law and relevant rules, the income tax for both PRC domestic enterprises and FIEs is levied at the same rate of 25% effective from 1 January 2008. Qualified FIEs may have a 5-year phase-out period with a different income tax rate of 18%, 20%, 22%, 24% and 25% levied each year from 2008 to 2012.

### Value-added tax

Pursuant to the Provisional Regulations on Value-added Tax of the PRC (中華人民共和國增值稅暫行條例) which became effective on 1 January 2009 and relevant implementation rules, all units or individuals in the PRC engaged in the sale or importation of goods of goods and the provision of processing, repairs and replacement services, and the importation of goods are required to pay value-added tax ("VAT"). Small-scale taxpayers (for example, those whose annual taxable sales amount is below RMB0.8 million) engaged in selling goods or taxable services shall use a simplified method for calculating the tax payable and the tax payable shall be calculated based on the sales amount and a tax rate of 3%. The taxpayers other than the small-scale taxpayers ("ordinary taxpayers") shall apply to the competent tax authorities for qualification verification. For ordinary taxpayers, VAT payable is calculated on the basis of "output VAT" minus "input VAT" and except otherwise provided, the VAT rate is 17%.

According to the Pilot Implementation Rules of Levying VAT in Lieu of Business Tax on the Transportation Industry and Some Modern Service Industries (交通運輸業和部分現代服務業營業稅改征增值稅試點實施辦法) which became effective on 1 January 2012 and relevant rules, taxpayers engaged in providing modern services (except for leasing tangible properties) are subject to a VAT rate of 6%.

### Foreign Currency Administration Rules of the PRC (中華人民共和國外匯管理條例)

The principal regulation governing foreign currency exchange in the PRC is the Foreign Currency Administration Rules of the PRC, which was issued by the State Council. The Rules took effect on 29 January 1996 and was subsequently amended on 14 January 1997 and 1 August 2008. Under these rules, foreign-invested enterprises in the PRC may purchase foreign exchange for trade and services-related foreign exchange transactions without the approval of SAFE by providing commercial documents evidencing such transactions. Subject to a cap approved by SAFE, they may also retain foreign exchange to satisfy foreign exchange liabilities or to pay dividends. In addition, foreign exchange transactions involving direct investment, loans, and investment in securities outside the PRC are subject to limitations and require approvals from SAFE.

On 4 July 2014, SAFE promulgated the Circular on Relevant Issues Concerning Foreign Exchange Administration for PRC Residents Engaging in Overseas Investment and Financing and Round trip Investments via Special Purpose Vehicles (《國家外匯管理局關於境內居民通過特殊目的公司境外投融

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資及返程投資外匯管理有關問題的通知》(“Circular 37”), effective from 4 July 2014, which requires PRC residents (including PRC institutions and PRC individual residents) to register with SAFE for foreign exchange registration of overseas investments before contributing the domestic and overseas lawful assets or interests to a special purpose vehicle, and to update such registration in the event of any change of basic information of the registered special purpose vehicle or major change in capital, including increases and decreases of capital, share transfers, share swaps, mergers or divisions.

Each of Mr. Lee, Mr. Yong, Mr. Chan and Mr. Tam is Hong Kong resident whose customary residence is not in the PRC; they are not domestic resident person under Circular 37 and are not required to apply to SAFE for the foreign exchange registration in accordance with Circular 37.

### **Rules on Merger and Acquisition of Domestic Enterprises by Foreign Investors (關於外國投資者併購境內企業的規定)**

On 8 August 2006, MOFCOM, along with State-owned Assets Supervision and Administration Commission of the State Council, State Administration of Taxation, State Administration of Industry and Commerce, China Securities Regulatory Commission (“CSRC”) and SAFE issued the “Rules on Merger and Acquisition of Domestic Enterprises by Foreign Investors” (the “New M&A Rules”), and the same became effective on 8 September 2006.

The New M&A Rules mainly regulate the practice whereby a foreign investor acquires the equity interests of a shareholder of a domestic enterprise not invested by foreign investors (“Domestic Company”) or subscribes for the capital increase of a Domestic Company, so as to convert and re-establish the Domestic Company as a foreign-invested enterprise (“Equity Merger and Acquisition”); and the practice whereby a foreign investor sets up a foreign invested enterprise and acquires by agreement and operates the assets of domestic enterprises through the enterprise established, or the practice whereby a foreign investor acquires the assets of domestic enterprises by agreement and sets up a foreign invested enterprise with such assets acquired to operate the assets (“Assets Merger and Acquisition”).

According to Article 11 of the New M&A Rules, if a domestic natural person, in the name of a company he/she legally established or controlled outside the PRC, merges with a Domestic Company affiliated thereto, such merger and acquisition shall be subject to the approval of the MOFCOM. Article 15 provides that the parties to a merger and acquisition shall explain whether there is any affiliated relationship among themselves. Article 39 defines a SPV as an overseas company directly or indirectly controlled by a Domestic Company or domestic natural person for the purpose of the overseas [REDACTED] of the interests actually held by such Domestic Company or natural person in a Domestic Company. Article 40 requires that overseas [REDACTED] of a SPV shall be subject to the approval of the securities regulatory authority under the State Council.

Our Company’s PRC subsidiary has been foreign-invested enterprise since its establishment, it is not the Domestic Company within the meaning of the New M&A Rules and the New M&A Rules do not apply to the overseas [REDACTED] of our Company.