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## APPENDIX V SUMMARY OF PRINCIPAL PRC AND HONG KONG LEGAL AND REGULATORY PROVISIONS

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This Appendix contains a summary of laws and regulations on companies and securities in the PRC, certain major differences between the PRC Company Law and Companies (Winding Up and Miscellaneous Provisions) Ordinance and the Companies Ordinance as well as the additional regulatory provisions of the Stock Exchange on joint stock limited companies of the PRC. The principal objective of this summary is to provide potential investors with an overview of the principal laws and regulations applicable to us. This summary is with no intention to include all the information which may be important to the potential investors. For discussion of laws and regulations specifically governing the business of our Company, see "Regulatory overview" in this document.

### THE PRC LEGAL SYSTEM

#### China's Legal System

China's legal system is based on the Constitution of the People's Republic of China (hereinafter referred to as the "Constitution"), comprising written laws, administrative regulations, local regulations, autonomous regulations, separate regulations, rules of departments under the State Council, regulations of local governments as well as international treaties with the Chinese government as a signatory. A court precedent does not constitute a binding precedent, but may be used as a judicial reference and guidance.

In accordance with the *Constitution of the People's Republic of China* and the *Legislative Law of the People's Republic of China*, the National People's Congress (NPC) and the Standing Committee of the NPC (hereinafter referred to as the "Standing Committee") are authorised to enact and amend basic laws governing the State organs, civil affairs, criminal offences and other matters. The Standing Committee enacts and amends laws (other than the ones to be enacted by the NPC), and when the NPC is not in session, partially supplements and amends laws enacted by the NPC, but not in contradiction to the basic principles of such laws. The Standing Committee is authorised to interpret, enact and amend laws other than the ones to be enacted by the NPC.

The State Council is the highest administrative organ in China and has the power to formulate administrative regulations in accordance with the Constitution and laws.

The people's congresses and their respective standing committees of the provinces, autonomous regions and municipalities may, in light of the specific conditions and actual needs of their respective administrative areas, formulate local regulations, provided that such regulations do not contradict with the Constitution, the laws and the administrative regulations. The people's congresses and their respective standing committees of the comparatively larger cities may, in light of the specific local conditions and actual needs, formulate local regulations, and they shall submit the regulations to the standing committees of the people's congresses of the provinces or autonomous regions for approval before implementation. The standing committees of the people's congresses of the provinces or autonomous regions shall examine the legality of such local regulations which are submitted for approval, and shall

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approve them within four months if they do not contradict the Constitution, the laws, the administrative regulations, and the local regulations of their respective provinces or autonomous regions. When the standing committee of the people's congress of a province or autonomous region examines the local regulations of a comparatively larger city submitted for approval, it shall make a decision to deal with the matter if it finds that the said regulations contradict the rules of the people's government of the province or autonomous region. A "comparatively larger city" herein refers to a city where the provincial or autonomous regional people's governments are located, a city where special economic zones are located, or a city approved as such by the State Council.

The ministries and commissions of the State Council, the People's Bank of China, the National Audit Office as well as the organs endowed with administrative functions directly under the State Council may, in accordance with the laws as well as the administrative regulations, decisions and orders of the State Council and within the limits of their power, formulate departmental rules. Matters governed by the rules of departments shall be those for the enforcement of the laws or the administrative regulations, decisions and orders of the State Council. The people's governments of the provinces, autonomous regions and municipalities and the comparatively larger cities may, in accordance with relevant laws and administrative regulations and the local regulations of their respective provinces, autonomous regions or municipalities, formulate rules.

In accordance with the Constitution, the power to interpret the law is vested in the Standing Committee. In accordance with the resolution of the Standing Committee of the NPC on strengthening legal interpretation work adopted on 10 June 1981, the Supreme People's Court has the power to interpret issues involving the specific application of laws and decrees in trials. The State Council and its ministries and commissions also have the power to interpret the administrative regulations and departmental rules that are promulgated by them. At the regional level, the power to interpret local laws, regulations and administrative rules is vested in the local legislative and administrative bodies that have promulgated such laws, regulations and rules.

### **China's Judicial System**

In accordance with the Chinese Constitution and the *Organic Law of the People's Courts of the People's Republic of China*, China's judicial system consists of the Supreme People's Court, local people's courts at all levels, and specialised people's courts. Local people's courts at all levels are divided into grassroots-level people's courts, intermediate-level people's courts, and higher-level people's courts. Grassroots-level people's courts are further divided into civil, criminal and administrative trial courts. The classification of intermediate-level people's courts is similar to that of grassroots-level people's courts, and is further divided into other special departments, such as intellectual property trial courts.

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People’s courts at lower levels are subject to the supervision of people’s courts at higher levels. The people’s procuratorates also have the power to exercise legal supervision over civil proceedings in the people’s courts at the same level and below. The Supreme People’s Court is the highest judicial body in China, supervising all actions of the people’s courts. A system of the court of second instance being the court of last instance is adopted at the people’s courts. The parties concerned may appeal the judgement or ruling of the people’s court of the first instance to the people’s court at the next higher level. The second-instance judgement or ruling made by the people’s court at the next higher level is the final judgement or ruling and is legally binding. The first-instance judgement or ruling of the Supreme People’s Court is also the final judgement or ruling. If the Supreme People’s Court or the people’s court at a higher level finds that any judgement or ruling made by the people’s court at a lower level is wrong, or the president of the people’s court finds that the judgement or ruling is wrong, the case may be retried according to the trial supervision procedures.

The *Civil Procedure Law of the People’s Republic of China* (hereinafter referred to as the “Civil Procedure Law”), which was promulgated on 9 April 1991 and came into effect on 1 January 2022 after the last amendment was made on 24 December 2021, has stipulated the conditions for filing a civil lawsuit, the jurisdiction of a people’s court, the procedures to be followed in civil proceedings, and the enforcement procedures for civil judgements or rulings. All parties involved in civil proceedings in China must abide by the Civil Procedure Law. Usually, a civil proceeding is heard by the people’s court where the defendant’s residence is located. Parties to a contract or other disputes over property rights may choose the jurisdiction in which the civil lawsuit is filed through written agreements, provided that the selected jurisdiction must be the place of residence of the plaintiff or the defendant, the place where the contract is signed, the place where the contract is performed, the place of the litigation, or the place where the subject matter of the litigation is actually connected with the dispute, and that the provisions of the Civil Procedure Law on subject matter jurisdiction and exclusive jurisdiction must not be violated.

Foreigners or foreign enterprises generally have the same litigation rights and obligations as Chinese citizens or legal persons. If the judicial system of a foreign country imposes restrictions on the litigation rights of any Chinese citizen and enterprise, the Chinese courts may impose reciprocal restrictions on the citizens and enterprises of that foreign country in China. If any party to a civil lawsuit refuses to abide by a judgement or ruling made by the people’s court, or a decision made by an arbitral tribunal in China, the aggrieved party may apply to the people’s court for the enforcement of the relevant judgement, ruling or decision. The right to apply for enforcement has a time limit of two years. If a person fails to execute a court decision within the specified time limit, the court may enforce the judgement at the request of the counterparty concerned.

If a party applies to the people’s court for the enforcement of an effective judgement or ruling of the people’s court against a party that is not in China or whose property is not in China, the party may apply to the court of a foreign country with appropriate jurisdiction for recognition and enforcement of the judgement or ruling. If China concludes or accedes to any

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international treaty with that foreign country on mutual recognition and implementation, or if the judgement or ruling of the people’s court is in accordance with the results of the court’s review that is conducted based on the principle of reciprocity, the foreign judgement or ruling may also be recognised and enforced by the people’s court in accordance with the Chinese implementation procedures, unless the people’s court deems that the recognition or enforcement of that judgement or ruling would result in a violation of China’s basic legal principles, sovereignty or security, or an inconsistency with social and public interests.

### **Company Law, Trial Administrative Measures of Overseas Securities Offering and Listing by Domestic Companies, Guidelines for Articles of Association of Listed Companies**

The *Company Law of the People’s Republic of China* (hereinafter referred to as the “Company Law”) was adopted by the Fifth Session of the Standing Committee of the Eighth National People’s Congress on 29 December 1993 and entered into force on 1 July 1994. The Company Law was last amended on 26 October 2018 and became effective on the same day.

*The Trial Measures for the Administration on Overseas Securities Offering and Listing by Domestic Companies (the Announcement of China Securities Regulatory Commission [2023] No. 43)* (《境內企業境外發行證券和上市管理試行辦法》(中國證券監督管理委員會公告[2023]43號)) promulgated by the CSRC on 17 February 2023 incorporated, directly and indirectly, all overseas offering and listing activities by domestic companies into the regulatory scope, and formulated a negative list to clarify forbidden circumstances when domestic companies launching an offering and listing overseas. The Measures shifted the method to governing the overseas offering and listing by domestic companies from permission management to filing management, and further stipulated the scope, contents, and procedures of the filing. *The Trial Measures for the Administration on Overseas Securities Offering and Listing by Domestic Companies* entered into force on 31 March 2023 and the *Special Regulations* and the *Mandatory Clauses* expired on the same date.

The China Securities Regulatory Commission issued the Guidelines for the Application of Regulatory Rules – Overseas Issuance and Listing Category No. 1 on 17 February 2023, which stipulates that domestic enterprises that make direct overseas offering and listing shall comply with the provisions of Article 6 of the Provisional Measures for Administration, formulate their articles of association and standardize their corporate governance by reference to the Guidelines for Articles of Association of Listed Companies and other relevant provisions of the CSRC on corporate governance.

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### **General Provisions**

A "joint stock limited company" (hereinafter referred to as "company") is a corporate legal person incorporated under the Company Law, and its registered capital is divided into shares of equal face value. The liability of a shareholder is limited to the extent of the value of shares the shareholder holds, and the liability of a company is limited to the extent of the total amount of assets the company owns.

A company must abide by laws and professional ethics in conducting business activities. A company may invest in other limited companies and joint stock limited liability companies. The liability of a company to an enterprise so invested in is limited to the extent of the amount of investment made. Unless otherwise provided for in any law, a company shall not become a capital contributor which shall be jointly and severally liable for the indebtedness of such enterprise.

### **Incorporation**

A company may be established by way of sponsorship or public offering. The incorporation of a company may be initiated by two to 200 sponsors, but at least half of the sponsors are required to have a residence in China. A company established by way of sponsorship refers to a company whose registered capital is all subscribed for by the sponsors. If a company is established by way of public offering, unless otherwise specified, the number of shares subscribed for by the sponsors must not be less than 35% of the total number of shares of the company, and the remaining shares may be offered to members of the public or to certain persons.

The Company Law stipulates that, for a company established by way of sponsorship, the registered capital of which shall be the total amount of share capital subscribed for by all its sponsors as registered with the registration authority. No shares shall be offered to any other person until the sponsors have fully paid up the shares subscribed for. Where laws, administrative regulations and the decisions of the State Council stipulate the actual paid registered capital and another amount on the minimum registered capital of joint stock limited company, such stipulations shall prevail.

Sponsors shall convene the inaugural general meeting within 30 days after the subscription monies for the share issue are fully paid, and must make a notice to all the subscribers or a public announcement of the date of the meeting 15 days in advance. The meeting may only be held when attended by shareholders holding more than 50% of the total issued shares of the company. Matters to be dealt with at the meeting include the adoption of the draft articles of association proposed by the sponsors and the election of members of the company's board of directors and supervisory board. Any resolution of the general meeting must be approved by more than half of the voting rights held by subscribers present at the meeting.

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The board of directors must apply to the registration authority for registration of the company within 30 days after the conclusion of the inaugural general meeting. Upon the approval of the administration for industry and commerce and the issuance of a business licence, the company is formally established and a legal personality is obtained.

Sponsors of a joint stock limited company shall be liable for the following: (1) jointly and severally liable for payment of all expenses and debts incurred by the establishment of the company in case of the failure of establishment; (2) jointly and severally liable for the repayment of the subscription monies to the subscribers together with interests calculated based on the banking deposit rates for the same period in case of the failure of establishment; (3) compensation to the company in case of any damage to the company arising from the default of the sponsors during the establishment; and (4) repayment liability for any unpaid capital after the establishment.

According to the *Provisional Regulations on the Administration of Stock Issuance and Trading* promulgated by the State Council on 22 April 1993 (only applicable to stock issuance and trading and the related activities carried out within the territory of the People's Republic of China), if a company is established by way of public offering, sponsors of the company shall be jointly and severally liable for the accuracy of the contents of the document and shall ensure that the document does not contain any misleading statements or omit any material information.

### **Share Capital**

If a joint stock limited company is established by way of sponsorship, the sponsors shall fully subscribe for the shares in writing and pay the corresponding share capital in accordance with the articles of association. If the capital is contributed by any means other than cash, the sponsors shall undergo relevant formalities for the transfer of property rights according to law. Chinese companies have not imposed any restrictions on the percentage of shareholding in the company for individual shareholders. If a sponsor makes a capital contribution in any form other than cash, such contribution must be valued and verified and converted into shares.

A company may issue registered shares or unregistered shares. However, shares issued to sponsors or legal persons must be shares that are registered to the names of the sponsors or legal persons concerned. Such shares shall not be registered in other names or names of their representatives.

No registration of changes in the register of shareholders shall be made within 20 days of the convening of a general meeting of shareholders or within five days prior to the date set for the allocation of share dividends.

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### **Increase of Share Capital**

In accordance with the Company Law, if a company intends to increase capital by issuing new shares, it must be approved at the general meeting of shareholders. In addition to the aforementioned conditions that are stipulated in the Company Law and are subject to the approval of the general meeting of shareholders, the securities law has provided for the following conditions for a company to issue new shares publicly: (1) having a sound and well-functioning organisational structure; (2) having sustainable operation ability; (3) non-qualified audit reports issued by the auditor for the company's financial accounting documents for the last three years; (4) the issuer and its controlling shareholders, de facto controller do not have criminal record during the past three years for corruption, bribery, encroachment of assets, misappropriation of assets or disruption of socialist market economy order; (5) any other conditions stipulated by the securities regulatory and administrative authority of the State Council with the approval of the State Council. The issuance of new shares by a listed company is subject to the conditions stipulated by the securities regulatory and administrative authority of the State Council with the approval of the State Council. After the issued new shares have been fully paid up, a company must register the change with the relevant administration for industry and commerce and make a corresponding announcement.

### **Reduction of Share Capital**

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

- The company must prepare a balance sheet and an inventory list of assets;
- any reduction of registered capital must be approved by shareholders at the general meeting;
- once the resolution approving the reduction of capital has been passed, the company must notify its creditors of the reduction of capital within ten days of the date of the resolution, and publish an announcement on the matter in a newspaper within 30 days of the date of such resolution;
- creditors of the company may require the company to repay its debts or provide a guarantee for such debts within the statutory time limit; and
- the company must apply to the relevant administration for industry and commerce for registration of the reduction of registered capital.

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### Repurchase of Shares

A company may not repurchase its own shares except in any of the following circumstances:

- reducing its registered capital;
- awarding the shares to its employees as incentives;
- for the purpose of maintaining corporate value and shareholders' equity;
- merging with another company that holds shares in the company;
- use of shares for conversion of convertible corporate bonds issued by listed companies;
- any shareholder requesting the company to repurchase his/her shares due to his/her objection to any resolution in respect of the merge or division of the company adopted at the general meeting of shareholders; or
- any other circumstances permitted by the laws and administrative regulations.

The amount of shares of a company repurchased for awarding to employees shall not exceed 10% of the total number of shares in issue. Funds used for repurchase such shares shall be paid out of the after-tax profits of the company, and the shares so repurchased shall be transferred to the employees of the company within three year.

### Transfer of Shares

Shares may be transferred in accordance with relevant laws and regulations. The transfer of shares by shareholders shall be conducted at a stock exchange established according to law or in other ways as stipulated by the State Council. Registered shares may be transferred by endorsement or by other means as required by applicable laws and regulations.

Sponsors of a company shall not transfer their shares within one year from the date of incorporation of the company. Shares issued by a company prior to the public offering shall not be transferred within one year from the date of listing of the company's shares on the stock exchange. Directors, supervisors and senior executives of a company shall not annually transfer more than 25% of the total shares of the company they hold during their tenure, and shall not transfer any of their respective shares of the company within one year from the date of listing.



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### Shareholders

In accordance with the Company Law, the rights of shareholders include:

- the right to transfer their shares in accordance with applicable laws and administrative regulations and the articles of association;
- the right to attend or appoint a proxy to attend general meetings of shareholders and to vote thereat in respect of the number of shares held;
- the right to inspect the articles of association, register of shareholders, short-term bond records, minutes of general meetings of shareholders, resolutions of the board of directors, resolutions of the supervisory board as well as financial and accounting reports of the company, and to make recommendations or queries about the business operations of the company;
- in the event that a resolution approved by the general meeting of shareholders or the board of directors violates any laws or regulations, or infringes on the legitimate rights and interests of shareholders, the right to file a lawsuit with the people's court to stop the illegal infringement activities;
- in the event of the termination of the company, the right to obtain the surplus assets of the company in accordance with the number of shares held; the right to require other shareholders who abuse their shareholders' rights to make damages;
- the right to receive dividends in proportion to the number of shares held; and
- any other shareholders' rights as stipulated in the articles of association.

The obligations of shareholders include:

- to comply with the articles of association;
- to pay subscription monies for the shares subscribed for;
- to be liable for the company's debts and liabilities to the extent of the subscription monies that they agree to pay for the shares subscribed for;
- not to abuse the shareholders' rights to impair the interests of the company or other shareholders of the company; not to abuse the company's independent status as a legal person and limited liability company to impair the interests of creditors of the company; and
- any other obligations as stipulated in the articles of association.

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### *General Meetings of Shareholders*

The general meeting of shareholders is the organ of authority that a company exercises its functions and powers in accordance with the Company Law. The general meeting of shareholders exercises the following powers:

- to decide on the company's operational policies and investment plans;
- to elect and replace directors and supervisors who are not employee representatives;
- to decide on matters relating to the remuneration of directors and supervisors;
- to examine and approve reports of the supervisory board and supervisors;
- to examine and approve the company's profit distribution plans and loss recovery plans;
- to decide on the increase or reduction of the company's registered capital;
- to decide on the issuance of debentures by the company;
- to decide on the merger, division, dissolution, liquidation and other matters of the company;
- to amend the articles of association; and
- any other functions and powers as stipulated in the articles of association.

The general meeting must be held once a year. An extraordinary general meeting shall be held within two months of the occurrence of any one of the following events:

- where the number of directors is less than the number stipulated in the Company Law or two-thirds of the number specified by the articles of association;
- where the unrecovered losses of the company amount to one-third of the total amount of its paid-in share capital;
- where shareholder(s), individually or in aggregate, holding 10% or more of the company's shares so request(s);
- wherever the board of directors deems necessary;
- wherever the supervisory board so requests;
- any other matters as stipulated in the articles of association.

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The general meeting of shareholders shall be convened by the board of directors and presided over by the chairman. In accordance with the Company Law, when convening a general meeting of shareholders, a notice of the time, place and agenda of the meeting shall be made to shareholders 20 days before the meeting; in the case of convening an extraordinary general meeting, a notice shall be made to shareholders 15 days before the meeting. In case of issuing bearer shares, the time, place and agenda of the meeting shall be announced 30 days before the meeting.

Shareholder(s), individually or in aggregate, holding more than 3% of a company's shares, may make a provisional proposal and submit it to the board of directors in writing 10 days before the general meeting; the board of directors shall notify the other shareholders within two days after receiving the proposal, and submit the provisional proposal to shareholders for consideration at the general meeting. The content of the provisional proposal shall fall within the scope of the general meeting of shareholders, and shall contain explicit subjects for discussion and specific matters for resolution.

Motions proposed at the general meeting of shareholders shall be passed by more than half of the voting rights held by shareholders (including their proxies) present at the meeting, but motions with respect to the merger, division, reduction of registered capital, issuance of debentures or short-term bonds, change of corporate form or amendment of the articles of association by the company shall be passed by more than two-thirds of the voting rights held by shareholders (including their proxies) attending the general meeting. Shareholders may appoint proxies to attend the general meeting. The proxies shall submit to the company a power of attorney issued by the shareholders and exercise the right to vote within the scope of the authorisation.

### **Directors**

A company shall have a board of directors comprising 5 to 19 members. The term of office of directors shall be stipulated in the articles of association, but each term shall not exceed three years. Directors shall be eligible for re-election.

The board of directors shall convene a meeting at least twice a year. The notice of the meeting shall be sent to all directors and supervisors at least ten days before the meeting.

The board of directors exercises the following functions and powers in accordance with the Company Law:

- to convene general meetings of shareholders and report on its work to shareholders in the meetings;
- to implement resolutions passed by shareholders in general meetings;
- to determine the company's business plans and investment proposals;

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- to formulate the company's preliminary and final annual budgets;
- to formulate the company's profit distribution plans and loss recovery proposals;
- to formulate proposals for the increase or reduction of the company's registered capital and for the issuance of the company's debentures or other securities and listing; to formulate plans for the merger, division or dissolution of the company;
- to determine the company's internal management structure;
- to appoint or remove the company's general manager and, based on the recommendations of the general manager, to appoint or remove the company's vice president and financial director and to decide on their remuneration;
- to formulate the company's basic management system; and
- any other functions and powers as stipulated in the articles of association.

Meetings of the board of directors may only be held when more than half of the directors are present. Resolutions of the board of directors must be approved by more than half of the directors. If any director is unable to attend a board meeting, he/she may appoint another director to attend the meeting on his/her behalf by a power of attorney which specifies the scope of authorisation.

If a resolution of the board of directors violates any laws or administrative regulations, or the articles of association, 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/her 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.

In accordance with the Company Law, the following persons may not be allowed to serve as directors of a company:

- a person who has no or limited capacity for civil conduct;
- a person who was sentenced to criminal punishment for embezzlement, bribery, seizure of property or misappropriation of property or for sabotage of the socialist market economic order, where less than five years have elapsed after the expiration of the period of execution; or a person who was deprived of his political rights for the commission of a crime, where less than five years have elapsed after the expiration of the period of execution;

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- a person who, being a director or the head or manager of a company or enterprise that went into bankruptcy and liquidation, was personally liable for the bankruptcy of the said company or enterprise, where less than three years have elapsed from the day when the winding-up and liquidation of the company or enterprise is completed;
- a person who, being the legal representative of a company or an enterprise whose business licence was revoked or was ordered to be closed down due to violation of law, was personally liable for the above, where less than three years have elapsed from the day when the business licence of the company or enterprise is revoked; or
- a person who fails to liquidate a relatively large amount of personal debts when they are due.

The board of directors shall appoint one chairman whose appointment shall be approved by more than half of the directors. The chairman shall exercise the following duties and powers (including but not limited to):

- to preside over general meetings of shareholders;
- to inspect the implementation of resolutions of the board of directors.

In accordance with the articles of association, the legal representative of a company may be the chairman, executive director or manager. In accordance with the Guidelines for Articles of Association of Listed Companies, the directors, supervisors, managers and other senior staff of a company are subject to the duty of fiduciary care and diligence. These individuals must faithfully perform their duties, protect the interests of the company, and never use their position to seek personal gain.

### Supervisors

A joint stock limited company shall have a supervisory board, which shall be composed of not less than three members. The supervisory board shall include representatives of shareholders, and representatives of the staff and workers of the company in an appropriate proportion. The proportion shall be specified in the articles of association, but in no case shall be less than one-third of the supervisors appointed. The representatives of the staff and workers on the supervisory board shall be democratically elected through the conference of the representatives of the staff and workers, or the general meeting of the staff and workers, or through other forms.

Directors and senior executives of a company shall not concurrently serve as supervisors.

The supervisory board shall exercise the following functions and powers:

- to examine the financial affairs of the company;

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- to supervise the performance of duties by directors and senior executives and to recommend the removal of directors and senior executives that are found to have violated the laws, administrative regulations, articles of association or any of the resolutions of the general meeting; to demand directors or senior executives to rectify any of their acts that is found to have impaired the interests of the company;
- to propose the convening of extraordinary general meetings of shareholders and, to convene and preside over the general meeting when the board of directors fails to perform such duties;
- to make motions to the general meeting of shareholders;
- to file lawsuits against directors or senior executives; and
- any other functions and powers as stipulated in the articles of association.

The aforementioned circumstances in which a person is not eligible to serve as directors shall also be applicable to supervisors after necessary modifications have been made.

### **Managers and Senior Executives**

A company shall have a manager who shall be appointed or removed by the board of directors. The manager shall be accountable to the board of directors and shall exercise the following functions and powers:

- to preside over the production, operation and management work of the company, and organise the implementation of resolutions of the board of directors;
- to organise and implement the company's annual business and investment plans;
- to develop proposals for establishing the internal management structure of the company;
- to formulate the company's basic management system;
- to formulate the company's internal rules;
- to appoint and remove the deputy manager and any financial controller, and to appoint or remove other executives (other than those that shall be appointed or removed by the board of directors);
- to attend meetings of the board of directors as non-voting attendees; and
- any other powers conferred by the board of directors or the articles of association.

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In accordance with the Company Law, other senior executives of a company shall include financial controller, secretary to the board of directors and other executive staff as stipulated in the articles of association. The aforementioned circumstances in which a person is not eligible to serve as directors shall also be applicable to managers and senior staff after necessary modifications have been made. The articles of association of a company are binding on the shareholders, directors, supervisors, managers and other senior executives of the company. These individuals have the right to exercise their rights, apply for arbitration and institute proceedings in accordance with the articles of association.

### **Duties and Responsibilities of Directors, Supervisors, Managers and Senior Executives**

In accordance with the Company Law, directors, supervisors, managers and other senior executives of a company shall abide by relevant laws, regulations and the company's articles of association, faithfully perform their duties and safeguard the interests of the company. Directors, supervisors, managers and senior executives of a company shall also assume the duty of confidentiality to the company and shall not disclose any secret information of the company, unless it is permitted by relevant laws and regulations or shareholders.

Any director, supervisor, manager and other senior staff members shall be personally liable to the company for any losses incurred due to the violation of any laws, regulations or articles of association of the company in the course of performing their duties.

Directors and senior executives may not:

- misappropriate company funds;
- divert company funds into an account held in their own names or in the name of any other individual;
- loan company funds to other people or give company assets as security for the debt of any other individual without the approval of the general meeting of shareholders or the board of directors in violation of the articles of association;
- execute any contract or engage in any transaction with the company in violation of the articles of association or without the approval of the general meeting of shareholders;
- use the conveniences of his/her position to seek business opportunities that shall belong to the company for himself/herself or for other people and engage in the same business as the company in which he serves either for his own account or for any other person's account without the approval of the general meeting of shareholders;
- accept and possess the commissions paid by others for transactions conducted with the company;

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- disclose the company's confidential information without authorisation; or
- engage in other activities in violation of his/her fiduciary duties. Any income of directors and senior executives that has been earned from the violation of provisions of the preceding paragraph shall be owned by the company.

### Financial and Accounting Affairs

A company shall establish a financial and accounting system in accordance with the laws, administrative regulations and provisions of the department in charge of financial affairs under the State Council. The company shall prepare financial reports at the end of each fiscal year and the reports shall be audited by accountants according to law.

A company shall provide financial statements at least 20 days prior to the annual general meeting for inspection by shareholders. Companies established by way of public offerings must publish their financial statements.

When a company distributes its annual after-tax profits, it shall allocate 10% of its after-tax profits into the company's statutory common reserve fund (unless in the case when the amount of the common reserve fund reaches 50% of the company's registered capital). After making its allocation to the statutory common reserve fund from the company's after-tax profits, the company may, with the approval of the general meeting of shareholders by resolution, make allocations to the discretionary common reserve fund from its after-tax profits again. Where the statutory surplus common reserve fund is insufficient to make up the company's losses in the previous fiscal year, the company shall apply its annual profits to making up its losses prior to allocating such profits to the statutory surplus common reserve fund in accordance with the provisions of the preceding paragraph.

Unless otherwise stipulated in the articles of association, after making up its losses and making allocations to the statutory surplus common reserve fund, a joint stock limited company shall distribute the remaining profits to its shareholders according to the proportion of the shares held by each shareholder.

The capital common reserve fund of a joint stock limited company shall consist of the premium of shares (that is, the nominal value of the company's share issuance) and other income that should be included in the capital common reserve fund as according to the provisions of the department in charge of financial affairs under the State Council.

The common reserve fund of a company should be used to make up the company's losses in previous years so as to enhance the company's productivity, expand its business and increase its registered capital, but the capital common reserve fund shall not be used to make up the company's losses. When the statutory common reserve fund is converted into its capital, the remaining amount of the statutory common reserve fund shall not be less than 25% of the registered capital of the company before the conversion.



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### **Appointment and Removal of Accounting Firms**

The Company shall engage an accounting firm that conforms to the provisions of the Securities Law to provide such services as the audit of financial statements, the verification of net assets and other relevant consultancy services. The term of engagement is one year and may be extended.

In appointing or removing an accounting firm that acts as its auditing company, the company must, in accordance with the provisions of the articles of association, obtain the approval of the general meeting of shareholders or the board of directors by resolution.

When the general meeting of shareholders or the board of directors of a company takes a vote on the removal of an accounting firm that acts as the company's auditing firm, the accounting firm shall be allowed to state its opinions.

The company shall provide accurate and complete accounting books and records, financial and accounting reports, and other accounting documents to the accounting firm engaged by the company, and may not withhold or conceal any such accounting records from the accounting firm or make any of their misrepresentation to the accounting firm.

### **Profit Distribution**

In accordance with the Chinese Company Law, the company shall not contribute profits before making up for losses and making contribution to the statutory capital reserve.

### **Amendments to the Articles of Association**

Any amendments to the articles of association of a company must be conducted in accordance with the procedures set out in the articles of association. Where any amendment to the Articles of Association that has been adopted under a resolution of the general meeting is subject to approval by the competent authorities, such amendment shall be reported submitted to the competent authorities for approval, changes of registration shall be filed with the company registration authority.

### **Dissolution and Liquidation**

Shareholders holding 10% or more of all shareholder voting rights may petition the people's court to dissolve the company if serious difficulties arise in the operation and management of a company and its continued existence would cause a material loss to the interests of the shareholders, and the difficulties cannot be resolved through other means.

In accordance with the Company Law, a company may be dissolved under any of the following circumstances:

- (1) the term of operation as stipulated by the articles of association of the company expires or other reasons for dissolution as stipulated by the articles of association occur;

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- (2) the general meeting of shareholders resolves to dissolve the company;
- (3) dissolution is necessary as a result of the merger or division of the company;
- (4) the business licence is revoked or the company is ordered to be closed down or revoked according to law;
- (5) shareholders holding more than 10% of all shareholder voting rights may petition the people's court to dissolve the company if serious difficulties arise in the operation and management of a company and its continued existence would cause a material loss to the interests of the shareholders, and the difficulties cannot be resolved through other means, and such petition is approved by the people's court.

Where a company is dissolved under the circumstances of items (1), (2), (4) and (5) as referred to above, a liquidation team shall be formed within 15 days from the date of dissolution. The members of the liquidation team shall be composed of directors or members determined by the general meeting of shareholders.

If a liquidation team has not been established within the specified time limit, creditors of the company may apply to the people's court for such establishment. The liquidation team shall inform creditors of the company of its establishment within ten days from the date of its establishment, and make an announcement in newspaper within 60 days from the aforesaid date. The creditors shall file a claim with the liquidation team in respect of the company's unpaid debts due within 30 days from the date of receipt of the notice or within 45 days from the date of the announcement for those who have not received the notice.

During liquidation, the liquidation team shall exercise the following functions and powers:

- to check up on the company's assets, and separately formulate a balance sheet and an inventory of assets;
- to notify creditors by notice or announcement;
- to dispose of and liquidate the company's unfinished business;
- to pay off outstanding taxes and the taxes that arise in the course of liquidation;
- to clear up claims and debts;
- to dispose of, after paying off the debts of the company, its remaining property; and
- to participate in civil proceedings on behalf of the company.

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The remaining assets of a company, after paying off the liquidation expenses, the wages, labour insurance premiums, and statutory compensation for the staff and workers, the outstanding taxes and the company's debts, shall be distributed in proportion to the shares held.

A company may not engage in business activities not relating to liquidation. Where the liquidation team finds that assets of the company are insufficient to pay off the company's debts, it must immediately apply to the people's court for declaration of bankruptcy according to law. After the people's court has ruled to declare the company bankrupt, the liquidation team shall turn all liquidation-related matters over to the court.

After the completion of liquidation, the liquidation team shall formulate a liquidation report and submit the report to the general meeting of shareholders or to the relevant regulatory department for confirmation. Thereafter, it shall submit the liquidation report to the company registration authority to deregister the company and make an announcement of the matter.

Members of the liquidation team shall be devoted to their duties and comply with relevant laws.

Any member of the liquidation team who has caused any losses to the company or its creditors, by reason of any intentional or gross negligence, shall be liable for compensation.

### **Overseas Listing**

Shares of a company may only be listed overseas after filing with the CSRC, and the listing must be arranged in accordance with the procedures stipulated by the State Council.

### **Loss of H-Share Share Certificates**

If a registered H-share share certificate is stolen or lost, holder of the share may apply to the people's court to declare the share invalid in accordance with relevant provisions of the civil procedure law. After the declaration is made, the shareholder may apply to the company for reissue of the share.

### **Merger and Division**

A company may undergo a merger by way of absorption, or formation of a new entity. If a merger by absorption is adopted, the company to be absorbed must be dissolved; if the merger takes the form of creating a new company, parties to the merger shall be dissolved.

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### Securities Laws and Regulations and Regulatory Systems

China has promulgated a number of regulations concerning the issuance and trading of shares and the disclosure of information. In October 1992, the State Council established the Securities Commission and the CSRC. The Securities Commission was responsible for coordinating the drafting of securities regulations, formulating securities-related policies, planning securities market developments, guiding, coordinating and supervising all securities-related institutions in China, and managing the CSRC. The CSRC was the regulatory arm of the Securities Commission, responsible for drafting regulatory requirements for the securities market, supervising securities companies, regulating the public offering of securities by Chinese companies at home and abroad, overseeing the trading of securities, compiling securities-related statistical data, and conducting relevant research and analysis. In April 1998, the State Council combined two departments, thereby reforming the CSRC.

On 25 December 1995, the State Council promulgated and implemented the *Regulations of the State Council on Domestically-Listed Foreign Capital Shares of Joint Stock Limited Companies*. The regulations were mainly related to issues on issuance, subscription, trading, declaration of dividends and other distributions for domestically-listed foreign capital shares, issues concerning the disclosure of information on domestically-listed foreign capital shares by joint stock limited companies and so forth.

The *Securities Law* came into effect on 1 July 1999 and was amended on 28 August 2004, 27 October 2005, 29 June 2013, 31 August 2014 and 28 December 2019, respectively. The *Securities Law* was the first national securities law in China, which is divided into 14 chapters and 226 articles, governing matters including the issuance and trading of securities, the acquisition of listed companies as well as the obligations and responsibilities of stock exchanges, securities firms and the securities regulatory authority under the State Council. The *Securities Law* comprehensively regulates activities of the Chinese securities market. Article 224 of the *Securities Law* stipulates that any direct or indirect issuance of securities overseas or any listing of securities overseas for trading by domestic enterprises shall comply with the relevant provisions of the State Council. At present, the issuance and trading of shares issued overseas (including H shares) are mainly regulated by the rules and regulations promulgated by the State Council and the CSRC.

### Arbitration and Enforcement of Arbitral Awards

On 31 August 1994, the Standing Committee passed the *Arbitration Law of the People's Republic of China* ("Arbitration Law"), which came into force on 1 September 1995 and was amended on 27 August 2009 and 1 September 2017. In accordance with the *Arbitration Law*, arbitration commissions may formulate provisional arbitration rules according to the *Arbitration Law* and the *Civil Procedure Law of the People's Republic of China* prior to the promulgation of arbitration regulations by China Arbitration Association. If the parties concerned use arbitration as a means of resolving a dispute through an agreement, the people's court will decline to accept the case unless the arbitration agreement is deemed null and void.

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In accordance with the *Arbitration Law* and the *Civil Procedure Law*, an arbitral award is final and binding on both parties to the arbitration. If a party to the arbitration fails to perform the arbitral award, the other party may apply to the people’s court for enforcement. If any procedure stipulated by law is improper, or the arbitral tribunal is not properly constituted, or the arbitral award exceeds the scope of the arbitration agreement or the jurisdiction of the arbitration commission, the people’s court may decline to enforce the arbitral award made by the arbitration commission.

A party seeking to enforce an arbitral award made by a Chinese arbitral tribunal against a party who is not in China or whose property is not in China may apply to a foreign court that has jurisdiction over the case. Similarly, arbitral awards made by foreign arbitration institutions may also be recognised and enforced by Chinese courts in accordance with the principle of reciprocity or international treaties signed or recognised by China. China ratified the *Convention on the Recognition and Enforcement of Foreign Arbitral Awards* (the “*New York Convention*”) which was adopted on 10 June 1958, in accordance with the resolution passed by the Standing Committee on 2 December 1986. The *New York Convention* stipulates that all arbitral awards made by members of the *New York Convention* must be recognised and enforced by all other members of the *New York Convention*, but in some cases, member states have the right to refuse enforcement, including enforcement of an arbitral award that is deemed to conflict with the public policy of the country in which the application for enforcement of the arbitration is filed. The Standing Committee also made a declaration when China ratified the *New York Convention*: (i) China applies the convention only on the basis of reciprocity to the recognition and enforcement of arbitral awards made in the territory of another contracting state, and (ii) China only applies the convention on the disputes arising from contractual and non-contractual commercial legal relationship identified by the law of China.

Hong Kong and the Supreme People’s Court of China have reached an arrangement on the mutual enforcement of arbitral awards. On 9 November 2020, the Supreme People’s Court of China passed the *Supplementary Arrangements of Supreme People’s Court on Reciprocal Enforcement of Arbitration Awards between the Mainland and the Hong Kong Special Administrative Region*, and the arrangement entered into force on 27 November 2020. Under the arrangement, awards made pursuant to the *Arbitration Law* by the arbitral authorities in China may be enforced in Hong Kong. Hong Kong arbitral awards may also be enforced in China.

### **Shanghai-Hong Kong Stock Connect**

On 10 April 2014, CSRC and Hong Kong Securities and Futures Commission (“*HKSFC*”) issued the Joint Announcement of China Securities Regulatory Commission and Hong Kong Securities and Futures Commission – Principles that Should be Followed when the Pilot Programme that Links the Stock Markets in Shanghai and Hong Kong is Expected to be Implemented and approved in principle the launch of the pilot programme that links the stock markets in Shanghai and Hong Kong (“*Shanghai-Hong Kong Stock Connect*”) by the Shanghai Stock Exchange (“*SSE*”), the Stock Exchange, China Securities Depository and Clearing Co.,

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Ltd. ("CSDC") and HKSCC. Shanghai-Hong Kong Stock Connect comprises the two portions of Northbound Trading Link and Southbound Trading Link. Southbound Trading Link refers to the entrustment of China securities houses by China investors to trade stocks listed on the Stock Exchange within a stipulated range via filing by the securities trading service company established by the SSE with the Stock Exchange. During the initial period of the pilot programme, the stocks of Southbound Trading Link consist of constituent stocks of the Stock Exchange Hang Seng Composite Large Cap Index and the Hang Seng Composite MidCap Index as well as stocks of A+H stock companies concurrently listed on the Stock Exchange and the SSE. The total limit of Southbound Trading Link is RMB250 billion and the daily limit is RMB10.5 billion. During the initial period of the pilot programme, it is required by HKSFC that China investors participating in Southbound Trading Link are only limited to institutional investors and individual investors with a securities account and capital account balance of not less than RMB500,000. On 10 November 2014, CSRC and HKSFC issued a Joint Announcement, approving the official launch of Shanghai-Hong Kong Stock Connect by SSE, the Stock Exchange, CSDCC and HKSCC. Pursuant to the Joint Announcement, trading of stocks under Shanghai-Hong Kong Stock Connect will commence on 17 November 2014. On 30 September 2016, CSRC issued the Filing Provision on the Placement of Shares by Hong Kong Listed Companies with Domestic Original Shareholders under Southbound Trading Link which came into effect on the same day. The act of the placement of shares by Hong Kong listed companies with domestic original shareholders under Southbound Trading Link shall be filed with CSRC. Hong Kong listed companies shall file the application materials and approved documents with CSRC after obtaining approval from the Stock Exchange for their share placement applications. CSRC will carry out supervision based on the approved opinion and conclusion of the Hong Kong side.

### **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 (Winding Up and Miscellaneous Provisions) Ordinance and the Companies Ordinance and is supplemented by common law and the rules of equity that are applicable to Hong Kong. As a joint stock limited company established in the PRC that is seeking a listing of shares on the Stock Exchange, we are governed by the Company Law and all other rules and regulations promulgated pursuant to the Company Law.

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

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### **Corporate Existence**

Under Hong Kong company law, a company with share capital, is incorporated by the Registrar of Companies in Hong Kong which issues a certificate of incorporation to the company upon its incorporation and the company will acquire an independent corporate existence. 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 do not contain such pre-emptive provisions.

Under the Company Law, a joint stock limited company may be incorporated by promotion or public subscription.

Hong Kong law does not prescribe any minimum capital requirement for a Hong Kong company.

### **Share Capital**

The Hong Kong company law does not provide for authorised share capital. The share capital of a Hong Kong company would be its issued share capital. The full proceeds of a share issue will be credited to share capital and becomes a company's share capital. The directors of a Hong Kong company may, with the prior approval of the shareholders if required, issue new shares of the company. The Company Law does not provide for authorised share capital, either. Our registered capital is the amount of our issued share capital. Any increase in our registered capital must be approved by our shareholders' general meeting and file with the relevant PRC governmental and regulatory authorities.

Under the Company Law, the shares may be subscribed for in the form of money or non-monetary assets (other than assets not entitled to be used as capital contributions under relevant laws and administrative regulations). For non-monetary assets to be used as capital contributions, appraisals and verification must be carried out to ensure no overvaluation or undervaluation of the assets. There is no such restriction on a Hong Kong company under Hong Kong Law.

### **Restrictions on Shareholding and Transfer of Shares**

Generally, overseas listed shares, which are denominated in RMB and subscribed for in a currency other than RMB, may only be subscribed for, and traded by, investors from Hong Kong, Macau and Taiwan or any country and territory outside the PRC, or qualified domestic institutional investors as allowed under Tentative Regulatory Measures for Qualified Domestic Institutional Investors Investing in Overseas Securities (《合格境內機構投資者境外證券投資管理試行辦法》). If the H shares are eligible securities under the Southbound Trading Link, they are also subscribed for and traded by PRC investors in accordance with the rules and limits of Shanghai-Hong Kong Stock Connect or Shenzhen-Hong Kong Stock Connect.

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Under the Company Law, a promoter of a joint stock limited company is not allowed to transfer the shares it holds for a period of one year after the date of establishment of the company. Shares in issue prior to our public offering cannot be transferred within one year from the listing date of the shares on a stock exchange. Shares in a joint stock limited liability 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 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 apart from the six-month lockup on the company's issue of shares and the 12-month lockup on controlling shareholders' disposal of shares, as illustrated by the undertakings given by our Company and our controlling shareholder to the Stock Exchange.

### **Financial Assistance for Acquisition of Shares**

The Company Law does not prohibit or restrict 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. However, the Guidelines for Articles of Association of Listed Companies contain certain restrictions on a company and its subsidiaries on providing such financial assistance similar to those under the Hong Kong company law.

### **Variation of Class Rights**

The Company Law has no special provision relating to variation of class rights. However, the Company Law states that the State Council can promulgate regulations relating to other kinds of shares.

Under the Companies Ordinance, no rights attached to any class of shares can be varied except:

- (i) If there are provisions in the articles of association relating to the variation of those rights, then in accordance with those provisions;
- (ii) If there are not relevant provisions in the articles of associations, then (1) with the consent in writing of at least three fourths of the total voting rights of holders of the shares in the class in question, or (2) with the approval of a special resolution of the holders of the relevant class at a separate meeting.

### **Directors, Senior Management and Supervisors**

The Company Law, unlike Hong Kong company law, does not contain any requirements relating to the declaration of directors' interests in material contracts, restrictions on directors' authority in making major dispositions, restrictions on companies providing certain benefits to directors and guarantees in respects of directors' liability and prohibitions against compensation for loss of office without shareholders' approval.



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### **Board of Supervisors**

Under the Company Law, a joint stock limited company's directors and managers are subject to the supervision of a supervisors committee. There is no mandatory requirement for the establishment of a board of supervisors for a company incorporated in Hong Kong. The Guidelines for Articles of Association of Listed Companies stipulate that supervisors shall comply with laws, administrative regulations and the Articles of Association, and shall bear the obligations of loyalty and diligence to the Company. They shall not take any bribe or other illegal gains by taking advantage of their authority, nor shall they misappropriate company property.

### **Derivative Action by Minority Shareholders**

Hong Kong law permits minority shareholders to initiate a derivative action on behalf of all shareholders against directors who have committed a breach of their fiduciary duties to the company if the 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 Company Law provides shareholders of a joint stock limited company with the right so that in the event where the directors and senior management violate their fiduciary obligations to a company, the shareholders individually or jointly holding over 1% of the shares in the company for more than 180 consecutive days may request in writing the board of supervisors to initiate proceedings in the people's court. In the event that the board of supervisors violates their fiduciary obligations to a company, the above said shareholders may send written request to the board of directors to initiate proceedings in the people's court. Upon receipt of such written request from the shareholders, if the board of supervisors or the board of directors refuses to initiate such proceedings, or has not initiated proceedings within 30 days upon receipt of the request, or if under urgent situations, failure of initiating immediate proceeding may cause irreparable damages to the company, the above said shareholders shall, for the benefit of the company's interests, have the right to initiate proceedings directly to the court in their own name.

The Guidelines for Articles of Association of Listed Companies provide further remedies against the directors, supervisors and senior management who breach their duties to the company. In addition, as a condition to the listing of shares on the Stock Exchange, each director and supervisor of a joint stock limited company is required to give an undertaking in favour of the company acting as agent for the shareholders. This allows minority shareholders to take action against directors and supervisors in default.

### **Protection of Minorities**

Under Hong Kong law, the company may be wound up by the court if the court considers that it is just and equitable to do so, in addition, 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 the court to make an appropriate order regulating the affairs of the company. Furthermore, under certain circumstances, the Financial Secretary of Hong Kong may appoint inspectors who are given extensive statutory powers to investigate the affairs of a company incorporated in Hong Kong. The PRC law does not contain similar safeguards.

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Chinese Company Law stipulates that the controlling shareholders and actual controllers of a company shall not use their affiliated relationships to harm the interests of the company. Those who violate regulations and cause losses to the company shall be liable for compensation.

### **Notice of Shareholders' Meetings**

Under the Company Law, notice of a shareholder's annual general meeting must be given not less than 20 days before the meeting. According to the Official Reply of the State Council on Adjusting the Provisions Governing Matters Including the Application of the Notice Period for the Convening of Shareholders' General Meetings by Companies Listed Overseas (《國務院關於調整適用在境外上市公司召開股東大會通知期限等事項規定的批覆》) promulgated by the State Council on 17 October 2019, the notice period for a shareholders' meeting, the shareholder proposal right, and the procedures for convening a shareholders' meeting, for those joint stock companies established within the territory of China but listed outside the territory of China, should be governed by the PRC Company Law. For a company incorporated in Hong Kong, the notice period for an annual general meeting is at least 21 days and in any other case, at least 14 days for a limited company and at least 7 days for an unlimited company.

### **Quorum for Shareholders' Meetings**

Under Hong Kong law, the quorum for a general meeting must be at least two members unless the articles of association of the company otherwise provide. For companies with only one member, the quorum must be one member. The Company Law does not specify any quorum requirement for a shareholders' general meeting,

### **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 Company Law, the passing of any resolution requires affirmative votes of shareholders representing more than half of the voting rights represented by the shareholders who attend the general meeting except in cases of proposed amendments to a company's articles of association, increase or decrease of registered capital, merger, division or dissolution, or change of corporation form, which require affirmative votes of shareholders representing more than two-thirds of the voting rights represented by the shareholders who attend the general meeting.

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### **Financial Assistance**

Under the Company Law, a joint stock limited company is required to make available at the company for inspection by shareholders its financial report 20 days before its shareholders' annual general meeting. In addition, a joint stock limited company of which the shares are publicly offered must publish its financial report. The Companies Ordinance requires a company incorporated in Hong Kong to send to every shareholder a copy of its balance sheet, auditors' report and directors' report, which are to be presented before the company in its annual general meeting, not less than 21 days before such meeting. A joint stock limited liability company is required under the PRC law to prepare its financial statements in accordance with the PRC GAAP.

### **Information on Directors and Shareholders**

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

### **Receiving Agent**

Under the Company Law and Hong Kong law, dividends once declared are debts payable to shareholders. The limitation period for debt recovery action under Hong Kong law is six years, while under the PRC law this limitation period is two years now and would be extended to three years according to PRC Civil Code (《中華人民共和國民法典》), promulgated on 28 May 2020 and to become effective on 1 January 2021.

### **Corporate Reorganisation**

Corporate reorganisation involving a company incorporated in Hong Kong may be effected in a number of ways, such as a transfer of the whole or part of the business or property of the company in the course of voluntary winding up to another company pursuant to Section 237 of the Companies (Winding Up and Miscellaneous Provisions) Ordinance or a compromise or arrangement between the company and its creditors or between the company and its members pursuant to Section 673 and Section 674 of the Companies Ordinance, which requires the sanction of the court. Under PRC law, merger, division, dissolution or change to the status of a joint stock limited liability company has to be approved by shareholders in general meeting.

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### **Dispute Arbitration**

In Hong Kong, disputes between shareholders on the one hand, and a company incorporated in Hong Kong or its directors on the other, may be resolved through legal proceedings in the courts. The Guidelines for Articles of Association of Listed Companies stipulate that any shareholder may bring a lawsuit against another shareholder, a director, a supervisor, a manager or any other senior executive, any shareholder may bring a lawsuit against The Company, and The Company may bring a lawsuit against any shareholder, director, supervisor, manager or any other executive.

### **Mandatory Deductions**

Under the Company Law, a joint stock limited liability company is required to make transfers equivalent to certain prescribed percentages of its after tax profit to the statutory common reserve fund. There are no corresponding provisions under Hong Kong law.

### **Remedies of the Company**

Under the 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, the Listing Rules require listed companies' articles of association to provide for remedies of the company similar to those available under Hong Kong law (including rescission of the relevant contract and recovery of profits from a director, supervisor or senior management).

### **Dividends**

The company has the power in certain circumstances to withhold, and pay to the relevant tax authorities, any tax payable under PRC law on any dividends or other distributions payable to a shareholder. Under Hong Kong law, the limitation period for an action to recover a debt (including the recovery of dividends) is six years, whereas under PRC laws, the relevant limitation period is two years now or three years beginning from 1 January 2021. The company must not exercise its powers to forfeit any unclaimed dividend in respect of shares until after the expiry of the applicable limitation period.

### **Fiduciary Duties**

In Hong Kong, there is the common law concept of the fiduciary duty of directors. In accordance with the Chinese Company Law, directors, supervisors and senior executives shall bear fiduciary duties towards the company.

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**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, as required by the Company Law, share transfers shall not be registered within 30 days before the date of a shareholders' meeting or within five days before the base date set for the purpose of distribution of dividends.

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