

## COMPANY INFORMATION SHEET

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Company Name (stock code): CapitaMalls Asia Limited (6813)

Stock Short Name: CAPMALLSASIA-S

This information sheet is provided for the purpose of giving information to the public about CapitaMalls Asia Limited (the “**Company**”) as at the date specified. The information does not purport to be a complete summary of information about the Company and/or its securities.

### Responsibility Statement

The directors of the Company (the “**Directors**”) as at the date hereof hereby collectively and individually accept full responsibility for the accuracy of the information contained in this information sheet and confirm, having made all reasonable inquiries, that to the best of their knowledge and belief the information contained in this information sheet is accurate and complete in all material respects and not misleading or deceptive and that there are no other matters the omission of which would make any information inaccurate or misleading herein.

The directors also collectively and individually undertake to publish on a yearly basis, when the Company publishes its annual report, this information sheet reflecting, if applicable, the changes to the information since the last publication.

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Date of this information sheet: 17 March 2014

## A. WAIVERS AND EXEMPTIONS

### LATEST VERSION AS AT 15 MARCH 2013

The following waivers and exemptions have been applied for and granted by the Hong Kong Stock Exchange (the “**HKEx**”) and/or the Securities and Futures Commission (the “**SFC**”). Unless the context requires otherwise, capitalised terms shall have the meaning given to them in the Company’s listing document (“**Listing Document**”) issued on 30 September 2011 and references to sections of the Listing Document shall be construed accordingly.

### WAIVERS

The following waivers and exemptions have been applied for and granted by the Hong Kong Stock Exchange and/or the SFC. Part A of this section covers the Listing Document contents waivers and waivers in respect of the listing of shares of the Company in the HKEx (the “**Listing**”), whilst Part B of this section covers continuing obligations waivers. For the avoidance of doubt, the relevant Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited (“**HKEx Listing Rules**”) and information referred to in Part A of this section refers to those effective as of the date of the Listing Document only.

### PART A: LISTING DOCUMENT CONTENTS WAIVERS AND WAIVERS IN RESPECT OF THE LISTING (AS AT 18 OCTOBER 2011)

The Company has applied for and been granted by the HKEx and/or the SFC a number of waivers, modifications and exemptions with respect to the contents of the Listing Documents and the Listing as disclosed below.

<b><u>Relevant Rule to be waived/modified</u></b>	<b><u>Subject matter of the Rule</u></b>	<b><u>Page Number</u></b>
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<b><u>Relevant Rule to be waived/modified</u></b>	<b><u>Subject matter of the Rule</u></b>	<b><u>Page Number</u></b>
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## **PROPERTY VALUATION**

### ***Requirements under the HKEx Listing Rules***

Rule 5.01 of the HKEx Listing Rules requires valuations of and information on all an issuer’s interests in land or buildings to be included in a listing document, whereas Rule 5.06 contains the content requirements in the prospectus of operating leases if certain reports are satisfied.

### ***Background and basis of the waiver***

The Company has interests in and manages a pan-Asian portfolio of 95 shopping malls across 50 cities in the five countries of Singapore, China, Malaysia, Japan and India, with a total property value of approximately S\$25.6 billion and a total GFA of approximately 75.6 million square feet as at June 30, 2011. Of the interests in the 95 shopping malls, 13 are controlled or jointly-controlled by the Company, and the remainder are held through funds, or REITs, which are associated entities of the Company. Although the Company has a large number of properties, none of them constitute a significant portion of the total value of its properties under its portfolio as at June 30, 2011 (“**Total Portfolio Value**”). The following is a summary of the value of the Company’s individual properties as a percentage to the Company’s total value of its portfolio as at June 30, 2011, on an effective stake basis (except for properties held through subsidiaries where a 100% effective stake is used for the following table only):

No. of property interests valued at below 1% of the Company’s Total Portfolio Value .....	66
No. of property interests valued at 1-5% of the Company’s Total Portfolio Value .....	27
No. of property interests valued at more than 5% of the Company’s Total Portfolio Value .....	2
<b>TOTAL</b>	<b>95</b>

There are only two properties which comprise more than 5% of the Company’s Total Portfolio Value. The remaining property interests comprise between 0.1% to 5.0% each of the Total Portfolio Value. The inclusion of a full property valuation report for any one property would result in unnecessary focus on such property, and would have made the Listing Document inordinately thick, which may be a deterrent to investors from reading the Listing Document and is impractical and unduly burdensome for the Company from a cost and logistics perspective.

However, the Company is aware of the importance for investors to have information on the property interests in its portfolio. Therefore, the Company had proposed to the HKEx that summary valuation information in tabular form, which complies with the proposed form of summary disclosure for property activities included in Appendix II of the Joint Consultation Paper on Proposed Changes to Property Valuation Requirements

issued by the HKEx and the SFC on December 3, 2010 (the “**Joint Consultation Paper Proposed Summary**”), of each its property interests be included in the Listing Document, except for ION Orchard and Luwan Site, Shanghai, in respect of which a valuation certificate of each of the two property interests containing the content requirements prescribed by Rule 5.06 of the HKEx Listing Rules and paragraph 34(2) of the Third Schedule of the Companies Ordinance (“**Compliant Valuation Certificates**”) will be included. The summary valuation table will contain the same content as the Joint Consultation Paper Proposed Summary. In addition, the Company will make available valuation certificates for public inspection with the content in compliance with Rule 5.06 for the properties under its portfolio.

In respect of five properties out of the above 95 properties, namely, CapitaMall Meilicheng, Chengdu, CapitaMall Taiyanggong, Beijing, Bedok Site, Jurong Gateway Site and East Coast Mall (collectively the “**New Properties**”), although the Company had contracted to acquire the property interests in these properties, the conditions to completions have not been fulfilled, in particular, the risk and rewards of the project have not been transferred to the Company. Accordingly, the Company’s auditors have advised that the Company’s interests in these properties should be reflected in the books at costs, being the deposits the Company has paid to date in entering into the respective sale and purchase agreements, instead of the market valuations of such properties. The full consideration for the said properties have yet to be fully paid by the Company and the risks relating to the New Properties remain with the respective vendors pending the fulfilment of conditions precedent to the completion of the Company’s acquisition of the New Properties. The Company’s interests in the New Properties would be subject to review for impairment loss at each balance sheet date. However, from a business perspective, the Company has considered the New Properties under its portfolio as the Company has acquired the right to their respective legal title, which would be crystallised over time once the conditions to completions are fulfilled. While the New Properties are included in the summary valuation report in the Listing Document, there will not be any valuation data with respect to these properties as they are pending completion and will be clearly identified as such.

#### ***Waiver granted and conditions***

On the bases stated above, the Company has applied for, and the HKEx has granted a waiver from strict compliance with Rules 5.01, 5.06 and paragraph 3(a) of Practice Note 16 to the HKEx Listing Rules to include property valuation reports for the Company’s property interests (except for ION Orchard and Luwan Site, Shanghai) in the Listing Document, subject to the following conditions:

- (a) the Company include a summary valuation report for all its property interests, regardless of the individual value of each of the properties (except for ION Orchard and Luwan Site, Shanghai, for which Compliant Valuation Certificates would be included), adopting an approach in line with that undertaken for disclosures made when the Company was undertaking its initial public offering in connection with its listing on the Singapore Exchange Securities Trading Limited (the “**SGX-ST**”); and
- (b) it would make available for public inspection the valuation certificates for each of its property interests (except for the New Properties for which no valuation reports would be prepared).

### **PRC LEGAL OPINION FOR PROPERTIES HELD BY CAPITARETAIL CHINA TRUST**

#### ***Requirements under the HKEx Listing Rules***

Paragraphs 5.1 and 5.2 of Practice Note 12 to the HKEx Listing Rules require that PRC legal opinions covering certain prescribed content be provided to the property valuer preparing valuation reports for properties located in the PRC.

### ***Background and basis of the waiver***

Out of the 95 properties under the Company's portfolio, nine properties in the PRC are held by the Company through its interests in CapitaRetail China Trust, an associate of the Company and a REIT separately listed on the SGX-ST which is regulated by the SGX-ST and the Monetary Authority of Singapore ("**CRCT**"). The 9 properties are namely CapitaMall Xizhimen, Beijing, CapitaMall Wangjing, Beijing, CapitaMall Shuangjing, Beijing, CapitaMall Anzhen, Beijing, CapitaMall Qibao, Shanghai, CapitaMall Erqi, Zhengzhou, CapitaMall Saihan, Huhhot, CapitaMall Wuhu and CapitaMall Minzhongleyuan, Wuhan ("**CRCT Properties**").

The Company is of the view that PRC legal opinions in respect of legal titles to the CRCT Properties is not necessary as:

- (a) the CRCT properties are held through CRCT, a REIT separately listed on the SGX-ST and which is subject to stringent due diligence and public disclosure requirements to protect the interests of its public unitholders in Singapore. There are sufficient measures in place to protect the interests of the unitholders. Under the Code of Collective Investment Schemes issued by the Monetary Authority of Singapore, a trustee of a property fund in Singapore (including a REIT, whether or not it is listed on the SGX-ST), is required to exercise due care and diligence in discharging its functions and duties, including but not limited to, safeguarding the rights and interests of participants as well as exercising reasonable care in ensuring that the property fund has proper, legal and good marketable title to the real estate assets owned by the property fund.

In practice, trustees of property funds in Singapore obtain due diligence reports and/or legal opinions when the property fund acquires a real estate asset. The trustee of CRCT is an independent third party trustee which is subject to obligations to exercise all due diligence and vigilance in carrying out its functions and duties and in safeguarding the rights and interest of unitholders of CRCT, and reliance may be placed on the existing regulatory regime in Singapore which CRCT is subject to, to ensure CRCT holds the requisite ownership rights over the CRCT Properties.

Additionally, as a REIT listed on the SGX-ST, CRCT is required by the listing manual of the Singapore Exchange Securities Trading Limited ("**SGX Listing Manual**") to announce and publicly disclose to its unitholders any information known to it concerning it or any of its subsidiaries or associated companies which (i) is necessary to avoid the establishment of a false market in its securities or (ii) would be likely to materially affect the price and value of its securities;

- (b) CRCT is only an associate of the Company with approximately 26.97% interests indirectly held by the Company as of June 30, 2011, and as a separately listed REIT on the SGX-ST, it would be unduly burdensome and costly for the Company to arrange for PRC legal opinions to be issued in respect of the CRCT Properties for the purpose of the Listing. The Company's interests in CRCT primarily lies in the yield it receives from its 26.97% interest (as of June 30, 2011) of the listed units in CRCT; and
- (c) the valuation details of the CRCT Properties as set out in the summary valuation report included in Appendix III of the Listing Document and the valuation certificates which fully comply with the content requirements of Rule 5.06 of the HKEx Listing Rules to be made available for public inspection would provide sufficient information for potential investors to take in consideration when reading the Listing Document.

### ***Waiver granted***

Accordingly, the Company has applied for, and the HKEx has granted, a waiver from strict compliance with paragraphs 5.1 and 5.2 of Practice Note 12 to the HKEx Listing Rules to require PRC legal opinions to be issued in relation to titles of the CRCT Properties.

## **COMPANY SECRETARY**

### ***Requirements under the HKEx Listing Rules***

Rule 8.17 of the HKEx Listing Rules provides that, amongst other things, the secretary of an issuer must be a person who is ordinarily resident in Hong Kong and who has the requisite knowledge and experience to discharge the functions of secretary of the issuer. Rule 8.17 also states that, among others, an Ordinary Member of The Hong Kong Institute of Chartered Secretaries, a solicitor or barrister as defined in the Legal Practitioners Ordinance or a professional accountant, will be qualified to act as the company secretary of an issuer.

### ***Corresponding provisions under Singapore laws and regulations***

As a company incorporated in Singapore, the Company is regulated by the Singapore Companies Act. In particular, Section 171 of the Singapore Companies Act stipulates that the company secretary(ies) shall be a natural person who has his principal or only place of residence in Singapore, and must fulfill certain qualifications. Similar to Rule 8.17 of the HKEx Listing Rules, Section 171 of the Singapore Companies Act states that, among others, a person qualified under the Legal Profession Act (Cap. 161) of Singapore, a public accountant, a member of the Singapore Association of the Institute of Chartered Secretaries and Administrators, or a member of such other professional association as may be prescribed, will be qualified to act as a company secretary. Section 171 also states that the directors of the Company have the duty to ensure that its company secretary meets the qualifications stipulated. Rule 8.17 of the HKEx Listing Rules therefore conflicts with the requirements under Section 171 of the Singapore Companies Act.

### ***Background and basis of the waiver***

The then sole company secretary of the Company was Ms Kannan Malini, who joined the Company in April 2007. As the Company is incorporated in Singapore and is primary listed on the SGX-ST, Ms Kannan resides in Singapore. She graduated with a law degree with honours from the National University of Singapore in 1993 and has more than 16 years of experience in the practice of law, with extensive experience on corporate secretarial and compliance matters relating to the SGX Listing Manual. Ms Kannan meets the requirements required under Section 171 of the Singapore Companies Act. However, as she is not a resident of Hong Kong and had no experience in the Hong Kong regulatory environment, she does not meet the requirements required under Rule 8.17.

The Company appointed Ms Mok Ming Wai as an assistant to Ms Kannan to assist her in the compliance matters for the Company's listing on the HKEx as well as other Hong Kong regulatory requirements. Ms Mok is ordinarily resident in Hong Kong and fulfils the qualification requirements under Rule 8.17. She is also familiar with the Hong Kong regulatory environment. While Ms Kannan has not previously had personal experience of the Hong Kong regulatory system, she will have the resources and expertise of Ms Mok as an assistant to the company secretary.

### ***Waiver granted and conditions***

The Company has applied for, and the HKEx has granted a waiver from strict compliance with Rule 8.17 of the HKEx Listing Rules for a period of three years from the date on which dealings in the Shares first commence on the HKEx (the "**Listing Date**"), during which Ms Kannan shall be assisted by an assistant who fulfills the qualification requirements under Rule 8.17. Upon the expiry of the three-year period after the

Listing Date (or at an earlier stage as appropriate), the necessity for a separate Hong Kong specific support will be reviewed by the HKEx.

## **DEALING IN SHARES PRIOR TO LISTING**

### ***Requirements under the HKEx Listing Rules***

According to Rule 9.09(b) of the HKEx Listing Rules, there must be no dealing in the securities of a new listing applicant for which listing is sought by any connected person of the issuer from the date which is four clear Business Days before the listing hearing date until listing is granted.

### ***Background and basis of the waiver***

In the context of a secondary listing of a widely held, publicly traded Company, the Company has no control over the investment decision of its shareholders. The Company does not contemplate that it is within its control to satisfy the strict requirement under Rule 9.09(b) of the HKEx Listing Rules.

### ***Waiver granted and conditions***

The Company has accordingly applied for, and the HKEx has granted, a waiver from strict compliance with Rule 9.09(b) of the HKEx Listing Rules such that the restrictions on dealing in Shares under Rule 9.09(b) of the HKEx Listing Rules do not apply to existing and future substantial shareholders of the Company (“**Shareholders**”) over whom the Company has no control in relation to their investment decisions.

In support of this waiver application, the Company has either confirmed or undertaken as follows:

- (a) the Company has no control over the investment decisions of its Shareholders, nor is it in a position to be fully aware of the dealing of the shares of the Company (“**Shares**”) of the Shareholders (save as disclosed in (c) below);
- (b) the Company confirms that the waiver is only applicable to the existing and future substantial Shareholders and their respective associates whose investment decisions it does not have control over and they have not, or will not be involved in the Group’s management and operations and floatation exercise prior to the Listing;
- (c) the Company confirms that the Directors and senior management of the Company, and substantial Shareholders and their associates or other existing connected persons, will not deal in its Shares from the four clear Business Days before the expected hearing date until listing is granted;
- (d) the Company undertakes that it shall notify the HKEx of any dealing or suspected dealing in Shares by any connected persons; and
- (e) the Company undertakes that it shall release price sensitive information to the public as required by relevant laws, rules and regulations applicable to the Company so that anyone who may deal in the Shares as a result of this waiver will not be in possession of non-public price sensitive information.

For similar reasons as applicable relative to the requirement in Rule 9.09(b) above, the Company does not contemplate that it will satisfy the strict requirement under Rule 9.09(a) of the HKEx Listing Rules in all cases. The Company has accordingly applied for, and the HKEx has granted, on the basis that paragraphs (a) to (e) above shall also apply to the Company, a waiver from strict compliance with Rule 9.09(a) of the HKEx Listing Rules such that the restrictions on dealing in Shares under Rule 9.09(a) only apply to certain substantial Shareholders over whom the Company has no control in relation to their investment decisions.

## **RESTRICTION ON DISPOSAL OF SHARES**

### ***Requirements under the HKEx Listing Rules***

Rule 10.07(1) of the HKEx Listing Rules provides that a person or group of persons shown by the listing document issued at the time of the issuer's application for listing to be the controlling shareholder of the issuer shall not and shall procure that the relevant registered holder shall not:

- (a) in the period commencing on the date by reference to which disclosure of his shareholding in the issuer is made in the listing document and ending on the date which is six months from the date on which dealings in the shares commence on the HKEx, dispose of, or enter into any agreement to dispose of or otherwise create any options, rights, interests or encumbrances in respect of, any of the shares in the issuer in respect of which he is shown to be the beneficial owner; and
- (b) in the period of six months commencing on the date on which the period referred to in (a) above expires, dispose of, or enter into any agreement to dispose of or otherwise create any options, rights, interests or encumbrances in respect of, any of the shares in the issuer referred to in (a) above if, immediately following such disposal or upon the exercise or enforcement of such options, rights, interests or encumbrances, he would cease to be a controlling shareholder of the issuer.

Rule 10.07(2) further stipulates that a person shall be treated as the beneficial owner of securities if he has the ultimate beneficial ownership or control of the securities, whether through a chain of companies or otherwise. The SGX Listing Manual has no provisions equivalent to Rule 10.07.

### ***Waiver granted and basis of the waiver***

Further, the Company has applied for, and the HKEx has granted, a waiver from compliance with the restrictions on disposal under Rule 10.07(1) of the HKEx Listing Rules. The reasons for application for such waiver by the Company are as follows:

- (a) the rationale for Rule 10.07(1) is to ensure that controlling shareholders are committed to an issuer during its initial stage of listing as investors are entitled to expect a degree of commitment by a controlling shareholder. The Company has been listed on the SGX-ST since 2009 and the sole controlling shareholder, CapitaLand Limited ("**CapitaLand**"), has maintained its shareholding at more than 30.0% in the Company since then; and
- (b) Rule 10.07(4) of the HKEx Listing Rules provides that the restrictions in Rule 10.07(1) of the HKEx Listing Rules do not apply to transfer of shares by controlling shareholders in listed issuers successfully transferred from the Growth Enterprise Market to the Main Board of the HKEx. The Directors are of the view that the relaxation provided under Rule 10.07(4) of the HKEx Listing Rules should also be extended to companies already listed on an overseas stock exchange and seeking to list on the HKEx by way of an introduction; as no new funds will be raised in either situation.

CapitaLand may dispose any or all of its Shares any time after the Listing. However, the Company understands that CapitaLand does not have any current intention to dispose of its Shares.

## **REPORTING ACCOUNTANTS**

### ***Requirements under the HKEx Listing Rules***

Rule 4.03 of the HKEx Listing Rules requires the accountants' reports to be prepared by certified public accountants who are qualified under the Professional Accountants Ordinance for appointment as auditors of a company and who are independent both of the Company and of any other company concerned to the same extent as that required of an auditor under the Companies Ordinance and in accordance with the



requirements on independence issued by the Hong Kong Institute of Certified Public Accountants. Rule 19.47 of the HKEx Listing Rules further stipulates the qualifications of the auditor of an overseas issuer, who among others, must be qualified under the Professional Accountants Ordinance or a firm of accountants acceptable to the HKEx.

***Background and basis of the waiver***

In accordance with the requirements of the Singapore Companies Act, the Company has appointed KPMG Singapore as its statutory auditors since its incorporation. KPMG Singapore, who prepared the Historical Financial Information in accordance with the SFRS, has been appointed by the Company as the sole reporting accountant in order to avoid the unnecessary costs and delay in engaging other certified public accountants who are qualified under the Professional Accountants Ordinance as auditors to conduct an extensive review of the Company's Accountant's Report. Furthermore:

- (a) KPMG Singapore has been appointed by the Company as its statutory auditors since the incorporation of the Company in accordance with the requirements of the Singapore Companies Act. The Singapore Companies Act sets out the responsibilities of KPMG Singapore to audit the Company's consolidated annual accounts in accordance with the Singapore Standards on Auditing, which is similar to the International Standards on Auditing;
- (b) the appointment of KPMG Hong Kong or another audit firm in Hong Kong qualified under the Professional Accountants Ordinance as the reporting accountant would involve KPMG Hong Kong or the other audit firm having to undertake a detailed review of the Company's consolidated annual accounts which have already been audited by KPMG Singapore. This will not only result in additional and unnecessary work to be conducted by KPMG Hong Kong but would also cause the Company to incur unnecessary costs and delay the Listing;
- (c) KPMG Singapore is an internationally recognised accounting firm and supervised and regulated by ACRA. It has extensive experience in securities offerings on the SGX-ST. It is independent of both the Company and any other company concerned. The Company has requested KPMG Hong Kong to assist KPMG Singapore in performing its duties as reporting accountants and to advise the Company and KPMG Singapore about the reporting requirements under the HKEx Listing Rules. KPMG Hong Kong has been advising and will continue to advise KPMG Singapore regarding the accounting-related requirements;
- (d) KPMG Singapore is a member firm of KPMG International Cooperative. All member firms of the KPMG network adopt a consistent global audit approach which is designed to support consistency of service quality and adherence to the framework of audit methodology set out in the KPMG Audit Manual ("KAM"). Reviews are performed on member firms on an annual basis to ensure that adherence to the framework of audit methodology set out in the KAM is upheld by all member firms. KPMG Singapore also adopts and observes the independence requirements set out under the Code of Ethics for Professional Accountants issued by the International Federation of Accountants ("IFAC");
- (e) the reporting accountant for the Company, a partner in KPMG Singapore, has 25 years of audit experience and is a registered public accountant with ACRA and is also a practicing member of the Institute of Certified Public Accountants of Singapore ("ICPAS"). ICPAS is a member of the IFAC. The public accountancy profession in Singapore is independently regulated by ACRA. ACRA is also a founding member of the International Forum of Independent Audit Regulators ("IFIAR") and has representation on IFIAR's Advisory Council;

- (f) ACRA, which is a statutory board of the Government of Singapore, is the national regulator of business entities and public accountants in Singapore. ACRA is responsible for the following functions:
- (i) to administer the Accounting and Corporate Regulatory Authority Act (Cap 2A), the Accountants Act (Cap 2), the Business Registration Act (Cap 32), the Singapore Companies Act (Cap 50), the Limited Liability Partnerships Act (Cap 163A) and the Limited Partnership Act 2008 (Act 37 of 2008);
  - (ii) to report and make recommendation to, and advise the Government of Singapore on matter relating to the registration and regulation of business entities and public accountants;
  - (iii) to establish and administer a repository of documents and information relating to business entities and public accountants and to provide access to the public to such documents and information;
  - (iv) to represent the Government of Singapore internationally in matters relating to the registration and regulation of business entities and public accountants; and
  - (v) to promote public awareness about new business structures, compliance requirements, corporate governance practice and any matter under its purview; and
- (g) KPMG Singapore will be included as an expert who has given opinions in the Listing Document in connection with the Listing. KPMG Singapore will therefore be liable as an expert named in the listing document for the purposes of the Companies Ordinance as if they are experts who have consented for their expert reports to be included in the Listing Document including reporting accountants who are qualified under the Professional Accountants Ordinance. Therefore, investors in Hong Kong will not be prejudiced in terms of recourse for any breach of duties by the reporting accountants under the laws of Hong Kong in any material respect.

#### ***Waiver granted***

The Company has applied for, and the HKEx has granted, a waiver from strict compliance with the requirements under Rule 4.03 such that the Accountants' Report in the Listing Document shall be prepared and signed by KPMG Singapore.

#### **PROFIT FORECAST MEMORANDUM**

##### ***Requirements under the HKEx Listing Rules***

Rule 9.11(10)(b) of the HKEx Listing Rules provide that, where the listing document does not contain a profit forecast, two copies of a draft of the board's profit forecast memorandum covering the period up to the forthcoming financial year end date after the date of listing and cash flow forecast memorandum covering at least 12 months from the expected date of publication of the listing document with principal assumptions, accounting policies and calculations for the forecasts are required to be submitted to the HKEx.

##### ***Waiver granted and basis of the waiver***

The Company has applied for, and the HKEx has granted, a waiver from strict compliance with the requirements of Rule 9.11(10)(b) of the HKEx on the basis that:

- (i) the Listing Document does not include a profit forecast;

- (ii) as a matter of practice, the Company includes a general description of outlook and prospects in its quarterly unaudited financial statements announcement;
- (iii) the Company is already listed on the SGX-ST where there is extensive coverage on its financial position and prospects through analysts' research in the market; and
- (iv) it is a requirement under the SGX Listing Manual that an announcement be made by the Company where there is any material change in expectations to its financial position and prospects.

## **DISCLOSURE REQUIREMENTS UNDER PART XV OF THE SFO**

### ***Disclosure requirement***

Part XV of the SFO imposes duties of disclosure of interest in Shares. The Company's Directors and its substantial shareholders who hold 5 per cent. or more of the Shares are also obliged to disclose their interest in Shares under the Singapore Companies Act and Securities and Futures Act and with respect to substantial shareholders for increments thereafter which increases by a whole number. Please see "B – Foreign Laws and Regulations" below. The Company has applied for, and the SFC has granted, a partial waiver from all of the provisions of Part XV of the SFO (other than Divisions 5, 11 and 12 of Part XV of the SFO) in respect of the Company's Listing. Division 5 of Part XV of the SFO relates to a listed corporation's powers to investigate into ownership of its share capital. Division 11 of Part XV of the SFO relates to the power of the Financial Secretary of Hong Kong to investigate into ownership of the share capital of listed corporations. Division 12 of Part XV of the SFO allows for applications for a court order to impose restrictions on shares which are the subject of investigations by a listed corporation or the Financial Secretary pursuant to the exercise of powers under Divisions 5 and 11 of Part XV of the SFO.

### ***Exemption granted and conditions***

The SFC has granted such partial exemption of Part XV of the SFO subject to the following conditions:

- (a) the Company shall file with the HKEx, all disclosure of interests made in Singapore as soon as practicable, on the basis that the HKEx will publish these disclosures in the same way as those it receives from other listed corporations pursuant to Part XV of the SFO;
- (b) the Company shall report to the SFC within 10 business days after the end of each calendar month what percentage of that month's average daily worldwide share turnover took place on the HKEx. The first report should cover the period from the date of listing to the end of the month of listing and this obligation to report shall continue until such time as the SFC advises otherwise in writing and in any case for no less than the 12 months following the Listing; and
- (c) the Company shall advise the SFC if there is any material change in any of the information which the Company has given to the SFC, including any significant change to the disclosure requirements in Singapore, and any exemption or waiver from the disclosure of interest requirements in Singapore.

In addition, the Company has applied for, and the HKEx has granted, a waiver from strict compliance with the requirements of paragraphs 41(4) and 45 of Appendix 1A, paragraphs 34 and 38 of Appendix 1B, paragraphs 49 of Appendix 1C, paragraphs 30 and 34 of Appendix 1F and paragraphs 12 and 13 of Appendix 16 to the HKEx Listing Rules. For details, please refer to paragraph "Practice Note 5 of the HKEx Listing Rules".

## **NOT A PUBLIC COMPANY IN HONG KONG**

### ***Requirement under the Hong Kong Takeovers Code***

Section 4.1 of the Hong Kong Takeovers Code applies to takeovers, mergers and repurchases affecting public companies in Hong Kong and companies with a primary listing in Hong Kong.

### ***Corresponding provisions under Singapore laws and regulations***

The Company is already subject to the provisions of the Singapore Take-over Code concerning takeovers. Please refer to “B – Foreign Laws and Regulations – Takeover Obligations” below.

In addition, the Company is subject to the provisions of the Singapore Companies Act concerning share repurchases. Please refer “B – Foreign Laws and Regulations – Takeover Obligations” below.

### ***Ruling granted and conditions***

The Company has applied for, and the SFC has granted a ruling that the Company should not be regarded as a “public company in Hong Kong” for the purposes of Section 4.1 of the Hong Kong Takeovers Code, subject to the condition that full disclosure of the regulatory position and in particular the fact that the Hong Kong Takeovers Code does not apply, should be made in the primary and secondary markets. As a result, the Hong Kong Takeovers Code will not apply to the Company. This ruling may be reconsidered by the SFC in the event of a material change in information provided to the SFC.

## **PART B: CONTINUING OBLIGATIONS WAIVERS**

The Company has applied for and been granted by the HKEx and/or the SFC a number of waivers, modifications and exemptions with respect to continuing obligations applicable following the Listing as disclosed below.

<b><u>Relevant Rule to be waived/modified</u></b>	<b><u>Subject matter of the Rule</u></b>	<b><u>Page Number</u></b>
Rules 3.28 and 8.17 of the HKEx Listing Rules	Rule relating to qualification requirements of the company secretary	14
Rule 4.03 of the HKEx Listing Rules	Rule relating to qualification of reporting accountants of the issuer	15
Rules 7.10 to 7.12 of the HKEx Listing Rules	Certain matters relating to placing	15
Rules 7.19 to 7.22 of the HKEx Listing Rules	Certain matters relating to rights issue	17
Rules 7.24 to 7.27 of the HKEx Listing Rules	Certain matters relating to open offer	18
Rules 7.29, 7.31 and 7.33 of the HKEx Listing Rules	Certain matters relating to capitalisation issue, consideration issue and Exchange etc.	19
Rules 10.05 and 13.23(2) of the HKEx Listing Rules	Rules relating to the compliance of the Hong Kong Takeovers Code and the Code on Share Repurchases	20
Rules 10.06(2)(a) and 10.06(2)(e) of the HKEx Listing Rules	Rules relating to restrictions on issuers purchasing their own shares on the HKEx	22
Rules 10.06(4)(a), 13.25A(2)(a)(vii) and 13.31(1) of the HKEx Listing Rules	Reporting requirements in relation to share repurchases by the issuer	24
Rule 10.06(5) of the HKEx Listing Rules	Rule relating to the cancellation of repurchased shares by the issuer	25
Rules 13.11 to 13.22 of the HKEx Listing Rules	Matters relating to the disclosure of certain matters relevant to the issuer's business	26
Rule 13.36(2)(b) of the HKEx Listing Rules	Rule relating to general mandate for new share issuances	27
Rules 13.46(2), 13.48, 13.55(1) and 13.71, of the HKEx Listing Rules	Rules relating to delivery of copies of annual reports, interim reports, circulars and notices to all holder of listed securities	28
Rule 13.48 of the HKEx Listing Rules	Rule relating to the issue of interim report and accounts (or a compliant summary report) to shareholders	30
Chapter 14, 14A and Rule 13.23(1), of the HKEx Listing Rules	Rules relating to Notifiable Transactions and Connected Transactions	31
Chapter 15, Chapter 27 and Practice Note 4 of the HKEx Listing Rules	Rules relating to the issue of options, warrants and similar rights	41

<b><u>Relevant Rule to be waived/modified</u></b>	<b><u>Subject matter of the Rule</u></b>	<b><u>Page Number</u></b>
Chapter 28 of the HKEx Listing Rules	Rules relating to convertible debt securities	43
Paragraphs 41(4) and 45 of Appendix 1A, paragraphs 34 and 38 of Appendix 1B, paragraph 49 of Appendix 1C, paragraphs 30 and 34 of Appendix 1F and paragraphs 12 and 13 of Appendix 16 and Practice Note 5 of the HKEx Listing Rules	Rules relating to Disclosure of Interests Information	44
Practice Note 15 of the HKEx Listing Rules	Rules relating to spin-off listings	44

## **COMPANY SECRETARY**

### ***Requirements under the HKEx Listing Rules***

Rule 8.17 of the HKEx Listing Rules provides that the issuer must appoint a company secretary who satisfies Rule 3.28. Rule 3.28 states that the issuer must appoint as its company secretary an individual who, by virtue of his academic or professional qualifications or relevant experience, is, in the opinion of the HKEx, capable of discharging the functions of company secretary. The HKEx considers a Member of The Hong Kong Institute of Chartered Secretaries, a solicitor or barrister as defined in the Legal Practitioners Ordinance, and a certified public accountant as defined in the Professional Accountants Ordinance to be acceptable.

### ***Corresponding provisions under Singapore laws and regulations***

The corresponding provisions under Singapore laws and regulations in respect of a company secretary are set out in the corresponding section under “Company Secretary” in Part A above.

### ***Background and basis of the waiver***

As of the date of this document, Mr Choo Wei-Pin and Ms Tan Lee Nah are joint company secretaries of the Company.

Mr Choo Wei-Pin joined the Company in August 2012 as Head of Legal and Secretariat/Senior Vice President where he headed the Legal and Secretariat department of the Company. He graduated with a law degree with honours from the University of Leicester, England and has over 13 years of experience in the practice of law, holding various legal positions where he has undertaken various work involving listed companies, corporate secretarial functions as well as compliance relating to the SGX-ST.

Ms Tan Lee Nah joined the Company in October 2010 as the Secretariat Manager of the Company on a full-time basis. Ms Tan is an associate of the Singapore Association of The Institute of Chartered Secretaries and Administrators. She also holds a Graduate Certificate in Intellectual Property Law jointly conferred by the Faculty of Law of the National University of Singapore and the IP Academy of Singapore. Ms Tan was involved in the secondary listing of the Company on the HKEx, and since the successful listing, has also been involved in compliance and corporate secretarial matters under the HKEx Listing Rules.

Although each of Mr Choo and Ms Tan meets the requirements under Section 171 of the Singapore Companies Act to act as company secretary of the Company, they do not meet the qualifications accepted by the HKEx under Rule 3.28 of the HKEx Listing Rules. The Company has appointed Ms Mok Ming Wai as an assistant to Mr Choo and Ms Tan to assist them in compliance matters for the Company's listing on the

HKEx as well as other Hong Kong regulatory requirements. Ms Mok fulfils the qualification requirements under Rule 3.28 and is also familiar with the Hong Kong regulatory environment.

#### ***Waiver granted and conditions***

The Company has applied for, and the HKEx has granted a waiver from strict compliance with Rules 3.28 and 8.17 of the HKEx Listing Rules for a period of three years from the respective date of appointment of Mr Choo (being 1 November 2012 to 1 November 2015) and Ms Tan (being 1 June 2012 to 1 June 2015) (each period being the “**Waiver Period**”), subject to the following conditions:

- (a) Ms Mok will assist Mr Choo and Ms Tan during the relevant Waiver Period. The waiver will be revoked immediately if Ms Mok ceases to be the assistant to the company secretary of the Company; and
- (b) the Company must notify the HKEx at the end of the relevant Waiver Period for the HKEx to re-visit the situation. The HKEx will re-visit the situation in the expectation that the Company should then be able to satisfy the HKEx that Mr Choo and Ms Tan, having had the benefit of qualified assistance for three years, would have acquired the relevant experience to satisfy Rule 3.28 such that a further waiver would not be necessary.

## **REPORTING ACCOUNTANTS**

#### ***Waiver granted***

For the same reasons as detailed in the section “Reporting Accountants” in Part A, the Company has applied for, and the HKEx has granted, a waiver from strict compliance with Rule 4.03 of the HKEx Listing Rules, and KPMG Singapore shall continue to act as the Company’s auditors after Listing.

## **METHODS OF LISTING EQUITY SECURITIES ON THE HKEX**

Chapter 7 of the HKEx Listing Rules sets out the methods by which equity securities may be brought to listing, and the requirements applicable to each method.

#### ***Placing – Requirements under the HKEx Listing Rules***

Rule 7.09 of the HKEx Listing Rules defines a placing as the obtaining of subscriptions for or the sale of securities by an issuer or intermediary primarily from or to persons selected or approved by the issuer or intermediary. Rules 7.10 to 7.12 of the HKEx Listing Rules provide that a placing must comply with Appendix 6 of the HKEx Listing Rules. A placing of securities of a class already listed does not have to be supported by a listing document, however if a prospectus or other listing document is otherwise required or issued, it must comply with the relevant requirements of Chapter 11 of the HKEx Listing Rules.

#### ***Placing – Corresponding provisions under Singapore laws and regulations***

An issuer may issue shares, company warrants or other convertible securities for cash other than by way of a rights issue.

Pursuant to the Singapore Companies Act, an issuance of new shares may only be made with the prior approval in a general meeting of shareholders. This may be obtained as a mandate for a particular issuance of shares or as a general mandate for an issuance of shares under Rule 806 of the SGX Listing Manual.

Under the Singapore Securities and Futures Act (the “SFA”), an offer of securities is prohibited unless:

- (a) the offer is accompanied by a prospectus that is prepared in accordance with the SFA and lodged with, and registered by, the Monetary Authority of Singapore (the “MAS”); or
- (b) the offer comes within one of the exemptions from the prospectus requirements as set out in Part XIII, Division I, Subdivision (4) of the SFA such as:
  - (i) an offer of securities where no consideration is or will be given for the issue or transfer of such securities, in accordance with Section 272 of the SFA;
  - (ii) personal offers of securities by a person if the total amount raised by the person from such offers within any period of 12 months does not exceed S\$5 million (or its equivalent in a foreign currency), in accordance with Section 272A of the SFA;
  - (iii) offers of securities by a person if the offers are made to no more than 50 persons within any period of 12 months, in accordance with Section 272B of the SFA;
  - (iv) an offer of securities under certain specified circumstances (including but not limited to an offer to enter into an underwriting agreement, certain offers of securities made to existing members or debenture holders, offers made in connection with a compromise or scheme of arrangement in a winding up or a takeover scheme, an offer to qualifying persons such as employees of the issuer or its related corporations under specified conditions), in accordance with Section 273 of the SFA;
  - (v) subject to Section 276 of the SFA (1) an offer made to institutional investors (as defined in the SFA), in accordance with Section 274 of the SFA, or (2) an offer to accredited investors and relevant persons (each as defined in the SFA), in accordance with Section 275 of the SFA; and
  - (vi) an offer of securities issued by an entity whose shares are listed for quotation on a securities exchange, whether by means of a rights issue or otherwise if the offer is accompanied by an offer information statement which complies with such form and content requirements as may be prescribed by the MAS and which has been lodged with the MAS, in accordance with Section 277 of the SFA.

Further details of the above exemptions are set out in the relevant provisions of the SFA.

Under Rule 810(2) of the SGX Listing Manual, where no placement agent is appointed or where a placement agent is appointed by is subject to any restrictions and directions imposed by the issuer regarding the identities of and/or allocation to placees, the issuer must include in its announcement (a) the identities of the places and the number of shares placed to each of them, (b) details of how the places were identified and the rationale for placing to them and (c) the restrictions and/or directions imposed on the placement agent by the issuer regarding the identities of and/or allocation to the places, where applicable.

### ***Placing – basis of the waiver***

Although there are differences in the way that the issue of new shares is regulated by Singapore law and the SGX Listing Manual (on the one hand) and the HKEx Listing Rules (on the other), both regulatory frameworks include protections to shareholders (described above) which are broadly comparable. Given that the Company will comply with the HKEx Listing Rules in respect of any prospectus issued in Hong Kong (subject to any waivers which may be sought and granted at the relevant time) and the scope of the Company’s continuing obligations under the relevant rules and regulations of Singapore, the application of Rules 7.10 to 7.12 of the HKEx Listing Rules which govern is not necessary for adequate protection of



shareholders, and compliance with the HKEx Listing Rules would put the Company at a disadvantage compared to other companies with listings on the SGX-ST.

### ***Rights issues – Requirements under the HKEx Listing Rules***

Rule 7.18 of the HKEx Listing Rules defines a rights issue as an offer by way of rights to existing holders of securities which enables those holders to subscribe securities in proportion to their existing holdings.

Pursuant to Rule 7.22, a rights issue must be supported by a listing document which must comply with the relevant requirements of Chapter 11 of the HKEx Listing Rules. Pursuant to Rules 7.19(1) to 7.19(4), a rights issue must be underwritten and if (1) the underwriter is entitled to terminate that underwriting upon occurrence of any event of force majeure after dealings in the rights in nil-paid form have commenced and/or (2) a rights issue is not fully underwritten and/or (3) a rights issues is not fully underwritten by a person or persons whose ordinary course of business includes underwriting, then relevant disclosure must be made, the issuer must comply with the relevant statutory requirements regarding minimum subscription levels. Pursuant to Rule 7.19(5) if a rights issue is not fully underwritten, the issuer must comply with any applicable statutory requirements regarding minimum subscription levels. Pursuant to Rules 7.19(6), if a rights issue will increase the issued share capital of the issuer by more than 50%, then such rights issue must be made conditional on approval by shareholders in general meeting and the issuer will need to issue a circular to make the relevant disclosure. Pursuant to Rule 7.19(7), within the period of 12 months from the date of listing of the shares of an issuer, the issuer cannot effect any rights issue without shareholders approval in general meeting. Pursuant to Rules 7.19(8) and 7.19(9), if shareholders approval in general meeting is required under Rules 7.19(6) or 7.19(7), the controlling shareholders of the issuer (or where there is no controlling shareholder, then the directors and chief executive of the issuer) are required to abstain from voting in favour of the relevant resolution at the general meeting and observe the relevant meeting requirements. Pursuant to Rules 7.20 and 7.21, a rights issue offering is required to be conveyed by renounceable provisional letters of allotment or other negotiable instrument and the offer period should be not less than 10 days and certain prescribed arrangements in relation to disposal of unsubscribed securities are required to be made.

### ***Rights issues – Corresponding provisions under Singapore laws and regulations***

The Company is already subject to the various requirements under the Singapore Companies Act and the SGX Listing Manual. For instance, pursuant to Section 161 of the Singapore Companies Act read with Rule 806 of the SGX Listing Manual, the Company is not required to obtain the approval of shareholders in general meeting for the issuance of, inter alia, Shares or convertible securities if it has obtained a general mandate from its shareholders to do so. Under Rule 806 of the SGX Listing Manual, such general mandate must limit the aggregate number of Shares and convertible securities to no more than 50% of the total number of issued Shares (excluding treasury Shares), of which the number of Shares and convertible securities issued other than on a pro rata basis to existing shareholders must not be more than 20% of the total number of issued Shares (excluding treasury Shares). The total number of issued Shares (excluding treasury Shares) for the purposes of the general mandate is based on the Company's total number of issued shares (excluding treasury Shares) at the time of passing of the general mandate after adjusting for:

- (a) new Shares arising from the conversion/exercise of convertible securities;
- (b) new Shares arising from the exercise of share options or awards that are outstanding or subsisting at the time of the passing of the resolution approving the general mandate; and
- (c) any subsequent bonus issue, consolidation or subdivision of Shares.

Such general mandate, which may be obtained annually at the Company's annual general meetings, will remain in force until the conclusion of the next annual general meeting of the issuer following the passing of

the resolution, the expiration of the period within which the next annual general meeting is required by law to be held, or if it is revoked or varied by an ordinary resolution of shareholders in general meeting, whichever is earlier.

Further, pursuant to Rule 918 of the SGX Listing Manual, in the event any arrangement constitutes an interested person transaction and the value exceeds 5% of the Group's latest audited net tangible assets, the transaction will have to be approved by shareholders in general meeting and the controlling shareholder being the interested person and its associates must not vote in the resolution. The Company is therefore of the view that shareholders of the Company will not be prejudiced if controlling shareholders and their associates shall be entitled to vote in favour of the relevant resolutions at general meeting.

There is no requirement for rights issues to be underwritten under the SGX Listing Manual. Pursuant to Rule 817 of the SGX Listing Manual, an issuer may make a rights issue with or without underwriting. Generally, it is for the Company to decide whether a rights issue is to be underwritten. Unlike the HKEx Listing Rules, Rule 818 of the SGX Listing Manual requires that the underwriting agreement for an underwritten rights issue cannot be terminated by invoking any force majeure clause after the commencement of ex-rights trading of the shares. In addition, under the SGX Listing Manual, there are no equivalent requirements to Rules 7.19(3), (4) and (5)(a) and Rule 7.21 of the HKEx Listing Rules.

#### ***Rights issues – Background and basis of the waiver***

As the Company is of the view that (a) the Listing on the HKEx is not an initial but a further listing since the shares of the Company are already listed on the SGX-ST; (b) apart from the limit on the aggregate number of shares to be issued under a general mandate, the Company is currently not subject to any restriction which prevents it from issuing new shares; (c) the Listing on the HKEx will be by way of introduction and will not involve any fund raising and hence, there is no concern of new investors being subject to the risk of dilution within a relatively short time after listing; and (d) it would be unduly onerous to restrict the Company's ability to raise funds through the issuance of new shares on terms set out in the HKEx Listing Rules, the restriction to conduct fund raising exercise under Rule 7.19(7) of the HKEx Listing Rules will unnecessarily restrict the Company's ability to tap into the capital markets in Singapore and Hong Kong.

As the majority of the Shares are listed on the SGX-ST in Singapore and the Company is already subject to a wide range of continuing obligations in relation to rights issues which are broadly commensurate with the shareholder protections under Chapter 7 of the HKEx Listing Rules, it will be unduly onerous to the Company if it has to comply with the requirements in relation to rights issues under Chapter 7 of the Listing Rules. Such a situation will unnecessarily increase the Company's costs of raising capital and erode the Company's competitiveness vis-à-vis other companies listed on the SGX-ST.

#### ***Open offers – Requirements under the HKEx Listing Rules***

Rule 7.23 of the HKEx Listing Rules defines an open offer to be an offer to existing holders of securities to subscribe securities, whether or not in proportion to their existing holdings, which are not allotted to them on renounceable documents.

Pursuant to Rule 7.27, an open offer must be supported by a listing document which must comply with the relevant requirements of Chapter 11 of the HKEx Listing Rules. Pursuant to Rules 7.24(1) to 7.24(3), an open offer must be underwritten and if (1) an open offer is not fully underwritten and/or (2) an open offer is not fully underwritten by a person or persons whose ordinary course of business includes underwriting, then relevant disclosure must be made. Pursuant to Rule 7.24(4), if an open offer is not fully underwritten, the issuer must comply with any applicable statutory requirements regarding minimum subscription levels. Pursuant to Rules 7.24(5), if an open offer will increase the issued share capital of the issuer by more than 50%, then such open offer must be made conditional on approval by shareholders in general meeting and the issuer need to issue a circular to make relevant disclosure. Pursuant to Rule 7.24(6), within the period of 12

months from the date of listing of the shares of an issuer, the issuer cannot effect any open offer without shareholders approval in general meeting. Pursuant to Rules 7.24(7) and 7.24(8), if shareholders approval in general meeting is required under Rules 7.24(5) or 7.24(6), the controlling shareholders of the issuer (or where there is no controlling shareholder, then the directors and chief executive of the issuer) are required to abstain from voting in favour of the relevant resolution at the general meeting and observe the relevant meeting requirements. Pursuant to Rules 7.25 and 7.26, the offer period of an open offer offering is required to be not less than 10 days and certain prescribed arrangements in relation to disposal of unsubscribed securities are required to be made.

### ***Open offers – Corresponding provisions under Singapore laws and regulations***

In Singapore, an offering of a specific entitlement in a new issue of securities to existing shareholders of a company on a non-renounceable basis is known as a preferential offering. Under Rule 807 of the SGX Listing Manual, a preferential offering must be made on a pro rata basis with no restriction on the number of shares held before entitlements accrue and may be undertaken either (i) in reliance on the general mandate to issue shares obtained under Rule 806 of the SGX Listing Manual or (ii) subject to specific shareholders' approval. A preferential offering under the Singapore regime is therefore similar to an open offer made on a pro rata basis under the Hong Kong regime. There is however no equivalent of an open offer made on a non-pro rata basis in Singapore as the SGX Listing Manual only permits preferential offerings on a pro-rata basis. In Singapore, a preferential offering is exempted from the requirement for a prospectus under the SFA, and the SGX Listing Manual does not require a listing document to be issued in connection with a preferential offering. There is also no requirement under the SGX Listing Manual that a preferential offering must be underwritten. An issuer making a preferential offering is required to observe any time-table published by the SGX-ST.

### ***Open offers – Background and basis of the waiver***

As the Company is of the view that (a) the Listing on the HKEx is not an initial but a further listing as the shares of the Company are already listed on the SGX-ST, (b) apart from the limit on the aggregate number of shares to be issued under a General Mandate, the Company is currently not subject to any restriction which prevents it from issuing new shares, (c) the Listing on the HKEx will be by way of introduction and will not involve any fund raising and hence, there is no concern of new investors being subject to the risk of dilution within a relatively short time after listing and (d) it would be unduly onerous to restrict the Company's ability to raise funds through the issuance of new shares on terms set out in the HKEx Listing Rules, the restriction to conduct fund raising exercise under Rule 7.24(6) of the HKEx Listing Rules will unnecessarily restrict the Company's ability to tap into the capital markets in Singapore and Hong Kong.

The SGX-ST is the primary listing market of the Shares and under the Singapore regime, a preferential offering is one of the options available to the Company to raise capital without issuing a prospectus. To oblige the Company to comply fully with Rules 7.24 to 7.27 of the HKEx Listing Rules will necessarily mean that the Company will be deprived of the opportunity to raise fund by way of a preferential offering. Such a situation will unnecessarily restrict the Company's options to raise funds, increase its costs of raising capital and erode the Company's competitiveness vis-à-vis other companies listed on the SGX-ST.

### ***Capitalisation Issue, Consideration Issue and Exchange, etc. – Requirements under the HKEx Listing Rules***

A capitalisation issue is an allotment of further securities to existing shareholders, credited as fully paid up out of the issuer's reserves or profits, in proportion to their existing holdings, or otherwise not involving any monetary payments. A consideration issue is an issue of securities as consideration in a transaction or in connection with a takeover or merger or division of an issuer. An exchange or substitution of securities for or a conversion of securities into other classes of securities may also bring equity securities to listing.

Pursuant to Rules 7.29 and 7.33 of the HKEx Listing Rules, a capitalisation issue or an exchange or substitution of securities, respectively, must be supported by a listing document in the form of a circular to shareholders which must comply with the relevant requirements of Chapter 11 of the HKEx Listing Rules. Rule 7.31 of the HKEx Listing Rules provides that a consideration issue must be set out in an announcement published in accordance with Rule 2.07C of the HKEx Listing Rules.

***Capitalisation Issue, Consideration Issue and Exchange, etc. – Corresponding provisions under Singapore laws and regulations***

Under the SFA, an offer of securities (a capitalisation issue or an exchange or substitution of securities) is prohibited unless it is (a) accompanied by prospectus that is prepared in accordance with the SFA and lodged with, and registered by, the MAS or (b) the offer comes within one of the exemptions from the prospectus requirements set out in the SFA. Please refer to the sub-section titled “Placing – Corresponding provisions under Singapore laws and regulations” in this section for further details.

Additionally, pursuant to the Singapore Companies Act, an issuance of new shares may only be made with the prior approval in a general meeting of shareholders. This may be obtained as a mandate for a particular issuance of shares or as a general mandate for an issuance of shares under Rule 806 of the SGX Listing Manual.

***Waiver granted and conditions***

Although there are differences in the way that the issue of new shares is regulated by Singapore law and the SGX Listing Manual (on the one hand) and the HKEx Listing Rules (on the other), both regulatory frameworks include protections to shareholders (described above) which are broadly comparable. Given that the Company will comply with the HKEx Listing Rules in respect of any prospectus issued in Hong Kong (subject to any waivers which may be sought and granted at the relevant time) and the scope of the Company’s continuing obligations under the relevant rules and regulations of Singapore, the application of the Rules in Chapter 7 of the HKEx Listing Rules which govern placing (Rules 7.10 to 7.12), rights issue (Rules 7.19 to 7.22), open offer (Rules 7.24 to 7.27), capitalisation issue (Rule 7.29), consideration issue (Rule 7.31) and exchange (Rule 7.33) is not necessary for adequate protection of shareholders, and compliance with the HKEx Listing Rules would put the Company at a disadvantage compared to other companies with listings on the SGX-ST.

As such, the Company has applied for, and the HKEx has granted, a waiver from strict compliance with Rules 7.10 to 7.12, Rules 7.19 to 7.22, Rules 7.24 to 7.27, Rule 7.29, Rule 7.31 and Rule 7.33 of the HKEx Listing Rules on the condition that the Company is primary listed on the SGX-ST and secondary listed on the HKEx and subject to the qualification that, in cases where a prospectus is issued in Hong Kong, the Company will comply with all the related documentary and procedural requirements in Chapter 7, and the Company will also comply with the listing application, listing document, prospectus and publication requirements set out in Rules 9.19 to 9.23 and Chapters 11, 11A and 12 of the HKEx Listing Rules, subject to any waivers which may be sought and granted at the relevant time.

**COMPLIANCE WITH THE HONG KONG TAKEOVERS CODE AND THE CODE ON SHARE REPURCHASES**

***Requirements under the HKEx Listing Rules***

Rules 10.05 and 13.23(2) of the HKEx Listing Rules require an issuer to comply with the Code on Share Repurchases and subject thereto, the issuer may purchase its shares on the HKEx or on another recognized stock exchange in accordance with Rule 10.06. Rule 13.23(2) of the HKEx Listing Rules also states that an issuer shall comply with the Hong Kong Takeovers Code.

### ***Corresponding provisions under Singapore laws and regulations***

As a public company incorporated in Singapore and listed on the SGX-ST, the Company is already required to comply with the Singapore Take-over Code which extensively regulates take-overs and mergers. The rules under the Singapore Take-over Code offer the same if not stricter level of protection offered under the Hong Kong Takeovers Code. In addition, as the Singapore Take-over Code is regulated by the Securities Industry Council of Singapore whereas the Hong Kong Takeovers Code is regulated by the SFC, there would be substantial confusion to the Company and its shareholders in the event that different rulings are made by the two regulatory authorities in respect of consents or rulings required or other matters which require their determination under corresponding provisions between the two codes. Article 9(B) of the Company's Articles of Association gives the Company the power to purchase its own shares and it has to comply with the relevant laws and regulations in Singapore and Hong Kong (where applicable).

### ***Background and basis of the waiver***

The Company is also already subject to various laws and regulations relating to share repurchases. The Company is therefore of the view that compliance with the Code on Share Repurchases will not be necessary for the following reasons:

- (a) share repurchases by the Company are extensively regulated under Sections 76A to 76K of the Singapore Companies Act and Rules 881 to 886 of the SGX Listing Manual. Further, Rule 5 of the Code on Share Repurchases states that the Hong Kong Code on Takeovers and Mergers is applicable to share repurchases;
- (b) the provisions of the Singapore Companies Act and the SGX Listing Manual offer sufficient shareholder protection and will help avoid confusion among shareholders for the following reasons:
  - (i) the Code on Share Repurchases is based on the Hong Kong Companies Ordinance, which is not applicable to the Company, being a Singapore-incorporated company and which is governed by the Singapore Companies Act;
  - (ii) the SGX Listing Manual is stricter and currently only allows on-market share repurchases or off-market acquisitions in accordance with the equal access scheme under Section 76C of the Singapore Companies Act (similar to share repurchase by general offer under the Code on Share Repurchases). Other methods of share repurchases contemplated in the Code on Share Repurchases, like selective off-market acquisitions, are not available under the SGX Listing Manual;
  - (iii) the Singapore Companies Act is stricter in that it prohibits selective off-market acquisitions by the Company, which the Code on Share Repurchases allows subject to compliance with its Rule 2; and
  - (iv) the SGX Listing Manual and the Singapore Companies Act also prescribe notification and disclosure obligations to shareholders and/or the relevant authorities in connection with share repurchases, as set out in Sections 76B(9), 76C(2) and 78E(2) of the Singapore Companies Act and Rules 883, 885 and 886 of the SGX Listing Manual.

### ***Ruling by the SFC and waiver granted by the HKEx***

Accordingly, the Company has made an application to the SFC and the SFC has ruled that the Company would not be regarded as a public company in Hong Kong within the meaning of Section 4.1 of the Introduction to The Codes on Takeovers and Mergers and Share Repurchases. Accordingly the Hong Kong Takeovers Code and the Code on Share Repurchases will not be applicable to the Company. On the basis of

the SFC's ruling, the HKEx granted a waiver from strict compliance with Rules 10.05 and 13.23(2) of the HKEx Listing Rules.

## **DEALING RESTRICTIONS FOR SHARE REPURCHASES**

### ***Requirements under the HKEx Listing Rules***

Rule 10.06(2) of the HKEx Listing Rules stipulates various dealing restrictions which an issuer must comply with in repurchasing its own shares. In particular, Rule 10.06(2)(a) prohibits the repurchase of shares on the HKEx where the purchase price is higher by 5% or more than the average closing market price for the 5 preceding trading days on which its shares were traded on the HKEx. Rule 10.06(2)(b) provides that an issuer shall not purchase its shares on the HKEx for a consideration other than cash or for settlement otherwise than in accordance with the trading rules of the HKEx from time to time. Rule 10.06(2)(e) states that no purchase of shares on the HKEx shall be made after a price sensitive event has occurred or has been the subject of a decision until such information is made publicly available, in particular, during the period of one month immediately preceding the earlier of (i) the date of the board meeting for the approval of the issuer's results for any year, half-year, quarterly or other interim period, and (ii) the deadline for the issuer to publish an announcement of its results for any year, half-year, or quarterly or any other interim period.

Rule 19.43(1) of the HKEx Listing Rules provides that the HKEx will be prepared to waive some or all of the applicable dealing restrictions set out in Rule 10.06(2) if an overseas issuer's primary exchange already imposes equivalent dealing restrictions.

### ***Corresponding provisions under Singapore laws and regulations***

As a company incorporated in Singapore and listed on the SGX-ST, the Company is obligated to comply with the requirements under the Singapore Companies Act and the SGX Listing Manual. While there are certain differences between the share repurchase regime in Hong Kong and that in Singapore, the regime under Singapore imposes restrictions which provide sufficient alternative protection to its shareholders, there are certain differences, further details of which are set out below.

The Singapore Companies Act read with the SGX Listing Manual provides a number of ways which the Company is able to repurchase its shares, one being the repurchase of its shares in open market (on the SGX-ST, and after Listing, on the HKEx) pursuant to Section 76E and an off-market acquisition on an equal access scheme (similar to a share repurchase by general offer under the Code on Share Repurchases) pursuant to Section 76D.

The upper limit of the purchase price at which the Company is able to repurchase its shares in the open market is regulated under Rule 884 of the SGX Listing Manual, which states that an issuer may only purchase shares by way of a market acquisition at a price which is not more than 5% above the average closing market price (being the average of the closing market prices of the Shares over the last 5 market days, on which transactions in the Shares were recorded, before the day on which the purchases are made) and deemed to be adjusted for any corporate action that occurs after the relevant 5-day period. For instance, should the Company undertake a share consolidation after the relevant 5-day period, the market price of the shares on the day on which the Company conducts a share buy back would be higher than the average closing price in the preceding 5-day period. In this regard, Rule 884 of the SGX Listing Manual states that the average closing price will be deemed to be adjusted for the share consolidation (i.e.: as if the share consolidation had been in effect during the 5-day period). While similar to Rule 10.06(2)(a) of the HKEx Listing Rules, the deemed adjustment provided in Rule 884 of the SGX Listing Manual is not found in Rule 10.06(2)(a). Further, there is no upper limit stipulated under the SGX Listing Manual other than by way of a market acquisition.

Although there is no equivalent provision in the SGX Listing Manual to Rule 10.06(2)(b) of the HKEx Listing Rules, the Company will comply with Rule 10.06(2)(b) where share repurchases are undertaken by way of on-market share repurchases. However, Section 76F of the Singapore Companies Act states that share repurchases by the Company shall only be made out of the Company's capital and profits so long as the Company is solvent, without any limitation of consideration to cash only. As the Company is able to repurchase its shares using methods other than through acquisitions on the HKEx after the Listing, it would unduly restrict the Company's available options to repurchase its shares if the consideration for such repurchases can only be in cash or in accordance with the trading rules of the HKEx from time to time.

Further, pursuant to Rule 1207(19)(c) of the SGX Listing Manual, the Company should not deal in its securities during the period commencing two weeks before the announcement of its financial statements for each of the first three quarters of its financial year and one month before the announcement of its full year financial statements (the "**Repurchase Blackout Period**"). While the SGX Listing Manual does not expressly prohibit purchases of shares by a listed company during any particular time or times, the Company will not repurchase any shares after the occurrence of an event which could have a material effect on the price of the shares or has been the subject of a consideration and/or a decision of the Board until such time as such information has been publicly announced, as the Directors and the management of the Company will be considered "insiders" and are prohibited from procuring the Company to deal in its securities under the SFA.

There is no requirement under the SGX Listing Manual nor the Singapore Companies Act for the Company to prepare an interim report. Further, the HKEx has granted the Company a waiver from strict compliance with Rule 13.48 of the HKEx Listing Rules and certain disclosure requirements under Appendix 16 of the HKEx Listing Rules. Please refer to the sub-section titled "Delivery of Interim Report to Shareholders" in this section. Instead, the Company publishes its quarterly results on the SGXNET, in accordance with the requirements of the SGX Listing Manual.

In respect of quarterly results of the Company, under the Company's current practice pursuant to Rule 1207(19)(c) of the SGX Listing Manual, the Repurchase Blackout Period occurs two weeks before the announcement of the relevant quarterly results.

#### ***Corresponding provisions under Singapore laws and regulations***

The Company considers the Repurchase Blackout Period currently adopted provides adequate investor protection and accordingly the Company has applied for waivers from the HKEx to follow its current practice instead of the period imposed by the HKEx Listing Rules by having the following Repurchase Blackout Periods:

the Repurchase Blackout Period for annual results will be one month before the announcement of the annual result; and

the Repurchase Blackout Period for quarterly results will be two weeks before the announcement of the quarterly results.

#### ***Waiver granted and conditions***

The Company has applied for, and the HKEx has granted a waiver from strict compliance with Rules 10.06(2)(a) and 10.06(2)(e), subject to the condition that the Company will comply with the requirements under Rule 1207(19)(c) of the SGX Listing Manual and the requirement not to repurchase Shares after a price sensitive event until such information has been made publicly available.

## **REPORTING REQUIREMENTS IN RELATION TO SHARE REPURCHASES**

### ***Requirements under the HKEx Listing Rules***

Rule 10.06(4)(a) of the HKEx Listing Rules provides, inter alia, that where an issuer makes a purchase of shares, whether on the HKEx or otherwise, it shall submit for publication to the HKEx the total number of shares purchased by the issuer the previous day, the purchase price per share or the highest and lowest prices paid for such purchases (as applicable), and confirm that purchases made on the HKEx were made in accordance with the HKEx Listing Rules. In respect of purchases made on another stock exchange, the issuer's report must confirm that those purchases were made in accordance with the domestic rules applying to purchases on that stock exchange.

### ***Corresponding provisions under Singapore laws and regulations***

Under Rule 886 of the SGX Listing Manual, the Company is required to notify the SGX-ST of any share repurchase in a prescribed form:

- (i) in the case of a market acquisition, by 9:00 a.m. on the market day following the day on which it purchased shares;
- (ii) in the case of an off-market acquisition under an equal access scheme, by 9:00 a.m. on the second market day after the close of acceptances of the offer.

The prescribed form of the notification will specify details of the Share purchase, including whether the purchases were done by way of market acquisition or off-market acquisition on an equal access scheme, the maximum number of Shares authorised by shareholders under the share repurchase mandate, and the total number of Shares purchased, the number of Shares cancelled or held as treasury Shares, the price paid per Share or the highest and lowest price paid per Share, the total consideration (including stamp duties, clearing charges, etc) paid or payable for the Shares, details on the cumulative number of shares purchased since the date on which the share repurchase mandate is obtained, the number of issued Shares excluding treasury Shares after the purchase and the number of treasury Shares held after the purchase.

In addition, the Directors of the Company are required under Section 76B(9) of the Singapore Companies Act to lodge with the Registrar of Companies (as appointed under the Singapore Companies Act) the notice of purchase or acquisition in the prescribed form and providing particulars including the date of the purchase, the number of Shares purchased, the number of Shares cancelled and the issued share capital of the Company before and after the purchase, etc.

In respect of debt instruments, there is no specific requirement imposed on issuers whose shares are listed on the SGX-ST to announce repurchases of other securities. However, the Company will still be required to comply with the general disclosure obligation under Rule 703 of the SGX Listing Manual. Additionally, in the event that the relevant debt securities are listed on the SGX-ST, Rules 745 and 747 of the SGX Listing Manual stipulate that the issuer of such debt securities are required to immediately announce information which may have a material effect on the price or value of the debt securities or on an investor's decision whether to trade in such debt securities as well as any redemption or cancellation of such debt securities. In this respect, the practice in Singapore is not to announce every single repurchase of debt securities, but only repurchases which in aggregate are material with respect to the Issuer.

### ***Waiver granted and conditions***

The Company has applied for, and the HKEx has granted a waiver from strict compliance with Rules 10.06(4)(a), 13.25A(2)(a)(vii) and 13.31(1), subject to the conditions that:



- (i) the Company will comply with Rule 13.09(2) to release any announcements required under Rule 886 of the SGX Listing Manual simultaneously on the HKEx to avoid unequal dissemination of information; and
- (ii) the Company will file the share repurchase report as required under the Singapore rules and regulations as an overseas regulatory announcement in Hong Kong under Rule 13.09(2) at the same time it is published in Singapore.

## **SHARE REPURCHASE AND TREASURY SHARES**

### ***Requirements under the HKEx Listing Rules***

According to Rule 10.06(5) of the HKEx Listing Rules, an issuer must ensure that the documents of title of shares repurchased by the issuer are automatically cancelled and destroyed as soon as reasonably practicable following settlement of any such repurchase.

### ***Corresponding provisions under Singapore laws and regulations***

Under the Singapore Companies Act, Shares that are repurchased by the Company shall, unless held in treasury, be deemed to be cancelled immediately on purchase or acquisition. The Company has the option to hold repurchased Shares in treasury (with the option to dispose pursuant to the Singapore Companies Act, instead of automatically cancelling them). If the Company chooses to hold repurchased Shares in treasury, instead of cancelling them, it would not be in compliance with the first requirement under Rule 10.06(5) of the HKEx Listing Rules. In addition, Rule 19.43(2) of the HKEx Listing Rules provides that the HKEx will be prepared to waive the requirement to cancel and destroy the documents of title of purchased shares in the case of an overseas issuer whose primary exchange permits treasury stock, provided that the overseas issuer must apply for the relisting of any such shares which are reissued as if they were a new issue of those shares. The Company currently does not hold any treasury Shares. However, the Company intends to have the option to continue to hold repurchased Shares in treasury in the future and will apply for the relisting of any such treasury Shares which are reissued as if they were a new issue of those Shares in accordance with Rule 19.43(2) of the HKEx Listing Rules. For further information on treasury shares under the Singapore Companies Act, please see “B – Foreign Laws and Regulations – Treasury Shares” below.

### ***Waiver granted and conditions***

Accordingly, the Company has applied for, and the HKEx has granted, a continuing waiver from strict compliance with Rule 10.06(5) of the HKEx Listing Rules with respect to the Company’s current and future Shares held in treasury, subject to the following conditions that the Company:

- (i) is primary listed on the SGX-ST and secondary listed on the HKEx and will apply to the HKEx for the relisting of any such treasury Shares which are reissued under Rule 19.43(2) of the HKEx Listing Rules;
- (ii) comply with the relevant provisions of the HKEx Listing Rules applicable to treasury Shares (subject to applicable statutory and regulatory provisions in the Singapore) if it is no longer listed on the SGX-ST;
- (iii) will comply with the Singapore Companies Act and the SGX Listing Manual regarding the treasury Shares and inform the HKEx of any failure to comply or any waiver to be granted in Singapore;
- (iv) will inform the HKEx of any change being made to the Singapore regime on treasury shares;
- (v) will confirm compliance with the waiver conditions in the Company’s annual reports, circulars or other relevant documents to shareholders seeking approval of the repurchase mandate;

- (vi) will comply with the relevant provisions on changes to the Hong Kong regulatory regime and the HKEx Listing Rules regarding treasury Shares; and
- (vii) will disclose to the public the grant of this waiver setting out relevant details including the circumstances and the conditions imposed.

As part of the waiver application, the Company and the HKEx have agreed to a list of modifications to a number of HKEx Listing Rules necessary to enable the Company to hold its current and future treasury shares. The modifications to the HKEx Listing Rules also reflect various consequential matters to deal with the fact that the Company may hold treasury shares in the future. As there may be rule or other regulatory changes from time to time, the Company is required to submit to the HKEx any further consequential modifications to the HKEx Listing Rules on an annual basis and have them agreed with the HKEx from the outset. Such consequential modifications will also be subject to announcement requirements and disclosures in the annual report. With regard to general disclosure, the Company will disclose, apart from the relevant figures, details on (i) how the Company will use its treasury Shares; and (ii) how the Company used its treasury Shares in its quarterly or annual financial statements under the section describing the changes in share capital.

By way of summary, the modifications relate to certain HKEx Listing Rules which contain a calculation by reference to the Company's issued share capital, in so far as they apply to the Company, so that any Shares which the Company holds in treasury from time to time are excluded for the purposes of such calculation. In addition, the definition of market capitalization in the HKEx Listing Rules has been modified such that for the purpose of calculating the market capitalisation of the Company pursuant to the relevant HKEx Listing Rule, any treasury Shares held by the Company are excluded from such calculation. For a full list of the modifications agreed between the Company and the HKEx, please see the section of the Listing Document entitled "Appendix II – Modifications of the HKEx Listing Rules". The list has included modifications to a number of HKEx Listing Rules enabling the Company to hold treasury Shares currently and in the future.

## **DISCLOSURE OF CERTAIN MATTERS RELEVANT TO THE COMPANY'S BUSINESS**

### ***Requirements under the HKEx Listing Rules***

Rules 13.11 to 13.19 of the HKEx Listing Rules require disclosure of information in relation to specified matters relevant to the Company's business, including in relation to advances to an entity, financial assistance and guarantees to affiliated companies of an issuer, pledging of shares by the controlling shareholder, loan agreements with covenants relating to specific performance of the controlling shareholder, and breach of loan agreement by an issuer. Rules 13.20 to 13.22 stipulate certain continuing disclosure requirements relating to Rule 13.13 and Rules 13.16 to 13.19.

### ***Corresponding provisions under Singapore laws and regulations***

The Company is currently regulated under the SGX Listing Manual, which already provides rules which will cover the information required to be disclosed under Rules 13.11 to 13.15A and 13.19. For instance, the Company is required under Appendix 7.1 paragraph 8(k) read with Rule 703 of the SGX Listing Manual to make an immediate announcement upon the occurrence of the borrowing of a significant amount of funds. The Company is also required under Rules 905 and 906 of the SGX Listing Manual to make an immediate announcement where the value of the loans to be given to interested persons or their associates, and the interest payable on such loans exceeds 3% of the Group's latest audited NTA and obtain shareholders' approval if the value of such loans and interest payable on such loans exceeds 5% of the Group's latest audited NTA. Further, Appendix 7.1 paragraph 8(l) read with Rule 703 of the SGX Listing Manual, the Company is obliged to make immediate disclosure of any occurrences of an event of default in any of its debt or other securities or financing or sale agreements.

In relation to Rules 13.16 to 13.18, although there are no specific analogous provisions under the SGX Listing Manual addressing the subject matter of these Rules in the same manner, the Company is obligated to provide timely disclosure of material information in accordance with the general disclosure requirement pursuant to Rule 703 of the SGX Listing Manual to disclose all information which is necessary to avoid the establishment of a false market in the Company's securities and would be likely to materially affect the price or value of its securities. Therefore, to the extent that any financial assistance and guarantees provided to affiliated companies of the Company, the pledging of shares by any controlling shareholder or any loan agreement with covenants relating to any specific performance of any controlling shareholder entered into by the Group, falls within Rule 703 of the SGX Listing Manual, the Company will announce such information accordingly.

### ***Waiver granted and conditions***

The Company has applied for, and the HKEx has granted, a waiver from strict compliance with Rules 13.11 to 13.22, subject to the condition that the Company will instead make disclosures for all such matters where these are relevant to the general obligation of disclosure under Rule 13.09(1) of the HKEx Listing Rules.

## **GENERAL MANDATE FOR NEW SHARE ISSUANCES**

### ***Requirements under the HKEx Listing Rules***

Rule 13.36(2)(b) of the HKEx Listing Rules states that no consent is required to be obtained from the shareholders in general meeting pursuant to Rule 13.36(1) of the HKEx Listing Rules if the existing shareholders of the issuer have by ordinary resolution in general meeting given a general mandate to the directors of the issuer to allot or issue shares of the issuer subject to a restriction that the aggregate number of securities allotted or agreed to be allotted must not exceed the aggregate of 20% of the existing issued share capital of the issuer (as at the date of granting of such general mandate) plus the number of such securities repurchased by the issuer itself since the granting of the general mandate.

### ***Corresponding provisions under Singapore laws and regulations***

Pursuant to Section 161 of the Singapore Companies Act and Rule 806 of the SGX Listing Manual, the Company is allowed to obtain the approval of its shareholders by way of ordinary resolution for a general mandate to issue Shares and convertible securities, provided that the number of Shares and convertible securities that may be issued under the general mandate must not be more than 50% of the total number of issued Shares excluding treasury Shares, of which the aggregate number of Shares and convertible securities issued other than on a pro rata basis to existing shareholders must not be more than 20% of the total number of issued Shares excluding treasury Shares. The total number of issued Shares is determined by reference to the total number of issued Shares excluding treasury Shares at the time of the passing of the resolution approving the general mandate after adjusting for new Shares arising from the conversion or exercise of convertible securities or share options or vesting of share awards outstanding or subsisting at the time of passing of the resolution approving the mandate and any subsequent bonus issue, consolidation or subdivision of shares. Such a general mandate remains in force until the earlier of (i) the conclusion of the next annual general meeting of the Company or (ii) the date by which the next annual general meeting of the Company is required by law to be held, provided it is not revoked or varied by the Company in a general meeting.

There are some differences between the Singapore regime and the Hong Kong regime. Pursuant to Rule 806 of the SGX Listing Manual, the total number of issued shares is determined by reference to the total number of issued shares excluding treasury shares at the time of the passing of the resolution approving the general mandate after adjusting for new shares arising from the conversion or exercise of convertible securities or share options or vesting of share awards outstanding or subsisting at the time of passing of the resolution approving the mandate and any subsequent bonus issue, consolidation or subdivision of shares. However,

under the HKEx Listing Rules, while the total number of shares which could be issued under a general mandate granted is also determined by reference to the total number of issued shares when the general mandate is approved by shareholders in general meeting, adjustment due to shares repurchased by the issuer have to be approved by existing shareholders of the issuer by a separate ordinary resolution in general meeting to add such repurchased securities to the 20% general mandate. Further, there are no provisions relating to adjustments due to new shares arising from the conversion or exercise of convertible securities, from the exercise of employee share options or vesting of share awards, nor adjustments due to subsequent bonus issues or a consolidation or subdivision of shares.

### ***Waiver granted***

The Company has made an application to the HKEx, and the HKEx has granted a waiver from strict compliance with 13.36(2)(b) of the HKEx Listing Rules so that the total number of shares which it is able to issue under a general mandate will be determined in accordance with Rule 806 of the SGX Listing Manual.

## **DELIVERY OF COPIES OF ANNUAL REPORTS, INTERIM REPORTS, CIRCULARS AND NOTICES**

### ***Requirements under the HKEx Listing Rules***

Rules 13.46(2), 13.48, 13.55(1) and 13.71 of the HKEx Listing Rules require an issuer to provide copies of all annual reports, interim reports, circulars and notices to all holders of listed securities of the Group, wherever they are located.

### ***Corresponding provisions under Singapore laws and regulations***

There is no requirement under the SGX Listing Manual nor the Singapore Companies Act for the Company to provide hard copies of annual reports, interim reports, circulars and notices to holders of its or its subsidiaries' listed debt securities. Currently, as required under the SGX Listing Manual and the Singapore Companies Act, the Company provides its shareholders, but not holders of its or its subsidiaries' listed debt securities, copies of its circulars, annual reports, circulars and notices. The Company does not provide physical copies of its announcements which are only made available on the SGXNET. Further, there is no requirement under the SGX Listing Manual for the Company to issue any interim reports, but it is required to make announcements of its quarterly financial results on the SGXNET.

### ***Background and basis of the waiver***

In relation to Rules 13.46 (Distribution of Annual Reports and Accounts), 13.48 (Distribution of Interim Reports), 13.55(1) (Circulars to Holders of Securities) and 13.71 (Notices to all Holders) of the HKEx Listing Rules, the Company would like to highlight that:

- (a) it has been posting and will continue to post all announcements and communications to holders of its listed securities or its subsidiaries' listed securities on SGXNET, as required by the SGX Listing Manual, and on its corporate website. The Company provides hard copies of annual reports, circular and notices (but not its announcements, which are only made on the SGXNET, nor its interim report because a SGX listed issuer is only required to prepare and announce quarterly results and is not required to prepare an interim report) to its shareholders (but not holders of its or its subsidiaries' listed debt securities), where they request for hard copies in addition to the CD-ROMs, as a matter of practice. Shareholders with registered addresses in Hong Kong will receive the same hard copies or CD-ROMs;
- (b) the Company also posts all its corporate communication, including announcements, circulars to shareholders and annual reports required to be issued by the SGX Listing Manual on its corporate website, [www.capitamallsasia.com](http://www.capitamallsasia.com);

- (c) the Company is not required under SGX Listing Manual to prepare interim reports and has obtained a waiver from strict compliance with Rules 13.48 to deliver interim reports to shareholders (please refer to the waiver below titled as “Delivery of Interim Report to Shareholders” for further information); and
- (d) it is noted that the Company has in place a medium term note programme (“**MTN Programme**”) through the Company’s wholly-owned subsidiary CapitaMalls Asia Treasury Limited (“**CMA Treasury**”). CMA Treasury had issued notes under the MTN Programme, and may continue to do so from time to time pursuant to the MTN Programme. CMA Treasury had also issued retail bonds to the public and may issue other retail or non-retail bonds in the future. As the Company has an aggregate of more than 50,000 holders of shares and listed debt securities of the Company, it is not feasible and it will be extremely costly, burdensome and time consuming to send copies of annual reports, circulars and notices to all holders of the Company’s securities, wherever they are located.

As of 13 March 2013, the Company has a total number of 31,149 shareholders and there are 24,152 holders of listed debt securities of the Company and its subsidiaries. To require the sending of hard copies of corporate communications to holders of listed debt securities of the Company and its subsidiaries who would otherwise not be entitled to receive such documents is unduly burdensome administratively and costly, even though all holders of listed debt securities of the Company and its subsidiaries at whatever location around the world can access all the corporate communications via SGXNET, HKEx’s website and the Company’s website.

Further, in addition to announcements that are required under the SGX Listing Manual, as a matter of good corporate governance to ensure equal dissemination of information to investors, the Company may also post announcements that are not strictly required under the SGX Listing Manual (e.g. the winning of awards, participation in charity events etc) and press releases and slide presentations (e.g. to analysts) that accompany the mandatory announcement required under the SGX Listing Manual, and which do not contain information that is not already contained in the mandatory announcement which it accompanies, or in other announcements that have already been publicly released.

#### ***Waiver granted and conditions***

The Company has applied for, and the HKEx has granted a partial waiver from strict compliance with Rules 13.46(2), 13.48, 13.55(1) and 13.71 of the HKEx Listing Rules to provide physical copies of all corporate communications and such other documents required to all holders of listed debt securities of the Company and its subsidiaries, wherever they are located, subject to the following conditions:

- (a) the Company will publish all corporate communications issued by it to holders of listed securities of the Company and its subsidiaries in the HKEx’s website and its own website in English and Chinese;
- (b) the Company will provide copies of its annual reports, circulars and notices to its shareholders in English and Chinese;
- (c) the Company will provide shareholders with registered addresses in Hong Kong or Singapore after listing with an option to request electronic copies of corporate communications in English and Chinese; and
- (d) the Company will continue to publish a notice on the front page of its website whenever new corporate communications are issued to notify shareholders of the new corporate communications.

## **DELIVERY OF INTERIM REPORT TO SHAREHOLDERS**

### ***Requirements under the HKEx Listing Rules***

Rule 13.48 of the HKEx Listing Rules provides that an issuer must send its interim report and accounts (or a compliant summary report) in respect of the first six months of each financial year of an issuer to its shareholders not later than three months after the end of the interim period. Rule 13.48 also stipulates that the interim report must comply with the requirements of Appendix 16 of the HKEx Listing Rules.

### ***Corresponding provisions under Singapore laws and regulations***

There is no requirement in Singapore to send an interim report to shareholders, and the Company therefore does not do so. The Company does, however, announce its quarterly results on the SGXNET, in accordance with the requirements of the SGX Listing Manual (not later than 45 days after the end of the period to which the report relates). The Company currently publishes its quarterly results within the 45 days after the quarter end or in relation to the financial statements for the full financial year, not later than 60 days after the relevant financial year. Under Section 201 of the Singapore Companies Act and Rule 707 of the SGX Listing Manual, the Company is required to hold its annual general meeting no later than four months from the end of its financial year, and the annual report must be issued to shareholders and the SGX-ST at least 14 days before the date of its annual general meeting. As investors will be receiving more information on the financial and operating position of the Company than currently required under the HKEx Listing Rules, it is submitted that it would not prejudice investors if they do not receive an interim report.

### ***Background and basis of the waiver***

The Company considers that it would be unduly onerous if it were to include information required under Appendix 16 to the HKEx Listing Rules in its interim reports which it is not required in Singapore.

The Company will continue to announce its quarterly results on the SGXNET in accordance with the requirements of the SGX Listing Manual (as set out in Appendix 7.2 of the SGX Listing Manual). These requirements include items such as:

- (i) whether the financial figures included have been audited or reviewed;
- (ii) where the financial figures have been audited or reviewed, the auditors' report;
- (iii) whether there have been any changes to the accounting policies or methods of computation, including the reasons for and the effect of such changes;
- (iv) earnings per share of the group and net asset value per share of the issuer and the group for the relevant financial period and the corresponding period of the immediately preceding year;
- (v) a review of the financial performance of the group, to the extent necessary for a reasonable understanding of the group's business;
- (vi) a commentary of significant trends and competitive conditions of the relevant industry and any known factors which may affect the group in the next reporting period and for the next 12 months; and
- (vii) whether any dividend has been declared or recommended, and if so, the details of such declaration or recommendation as the case may be.

### ***Waiver granted***

Accordingly, the Company has applied for, and the HKEx has granted the Company a waiver from compliance with Rule 13.48 of the HKEx Listing Rules.

## **NOTIFIABLE TRANSACTIONS AND CONNECTED TRANSACTIONS**

### ***Requirements under the HKEx Listing Rules***

Chapters 14 and 14A of the HKEx Listing Rules provide for a range of continuing obligations which apply to an issuer listed on the HKEx, including in relation to “Notifiable Transactions” and “Connected Transactions”. Rule 13.23(1) and paragraphs 8 and 23 of Appendix 16 to the HKEx Listing Rules also prescribe disclosure obligations of an issuer relating to Chapters 14 and 14A. As the Company was incorporated in Singapore and is primarily listed on the SGX-ST, the Company is already subject to a wide range of continuing obligations, which are broadly commensurate with the shareholder protections under Chapters 14 and 14A of the HKEx Listing Rules. For details regarding the rules and regulations under the SGX Listing Manual relating to independent shareholders’ approval or preparation of a shareholder circular on notifiable transactions and connected transactions, please see “B – Foreign Laws and Regulations – Notifiable Transactions and Connected Transactions” below.

The Rules under Chapter 14 of the HKEx Listing Rules relating to notifiable transactions are intended to keep the shareholders of an issuer informed of the ongoing operations of the issuer so that they can assess the impact of a particular transaction and vote on significant transactions. In addition, these rules also reinforce the general disclosure principle of price-sensitive information to keep the public apprised of the position of issuers and to avoid the establishment of a false market in the issuers’ listed securities.

The connected transactions rules in Chapter 14A of the HKEx Listing Rules are intended to guard against the risk that connected persons could take advantage of their positions and influence the issuer into connected transactions which adversely affect the interests of the issuer or its shareholders.

Set out below is a description of the relevant provisions under the SGX Listing Manual which govern transactions that are similar to “notifiable transactions” or “connected transactions” under the HKEx Listing Rules.

### **Corresponding provisions under Singapore laws and regulations**

#### **I. Rules governing Discloseable Transactions under the SGX Listing Manual**

##### ***Background***

Chapter 10 of the SGX Listing Manual sets out the rules for transactions by issuers, principally acquisitions and realisations. However, Chapter 10 is not applicable for acquisitions and realisations which are in, or in connection with, the ordinary course of business or of a revenue nature. It does not matter whether the consideration paid or received is cash, shares, other securities, other assets, or any combination of these. Chapter 10 of the SGX Listing Manual also describes how transactions are classified, what requirements are for announcements, and whether a circular and shareholder approval are required. Practice Note 10.1 of the SGX Listing Manual sets out certain factors which the SGX-ST will take into account in deciding whether a transaction is in the ordinary course of an issuer’s business, including but not limited to, whether the transaction would change the risk profile of the issuer. An opinion from the board of directors of the issuer that there will be a material change in the risk profile of the issuer arising from the transaction and a confirmation by an independent financial adviser acceptable to the SGX-ST that the opinion of the board of directors of the issuer and their basis have been stated after due and careful enquiry would also have to be submitted to the SGX-ST. Where a waiver is granted by the SGX-ST, an issuer will be required to announce such an opinion, the confirmation and their basis via the SGXNET.

A transaction under Chapter 10 of the SGX Listing Manual is categorized into four classes based on certain tests, where transactions are graded in terms of importance for the purpose of determining the appropriate level of information to be available and whether shareholder approval is required. The tests are principally tests of size, comparing certain financial information relating to the issuer making the acquisition or disposal on the one hand, with the company, business or assets being acquired or disposed by it on the other. The figures for each are compared and then expressed as a percentage. The percentage will determine the categorisation of the transaction.

The tests are set out in Rule 1006 of the SGX Listing Manual. There are four comparisons, the first of which only applies to a disposal while the last of which only applies to an acquisition. The comparisons are as follows (the “**Rule 1006 Bases**”):

- (a) **Assets to Assets** – compares the net asset value of the assets to be disposed of, compared with the issuer group’s net asset value.
- (b) **Profits to Profits** – compare the net profits attributable to the assets acquired or disposed of, compared to the issuer group’s net profits.
- (c) **Consideration to Market Capitalisation** – compares the aggregate value of the consideration given or received, compared with the issuer’s market capitalisation based on the total number of issued units excluding treasury shares. This test expresses the value of the transaction as a proportion of the market’s perception of the issuer’s worth which, in respect of the vast majority of companies in most sectors, significantly exceeds the net asset value.
- (d) **Proportion of total equity securities to be issued as consideration** – shows the percentage representing the number of equity securities issued by the issuer as consideration for an acquisition, compared with the number of equity securities previously in issue. This test expresses the proportion of the issuer’s share capital which will be enlarged as a result of an acquisition where the consideration is by the issue of shares in the capital of the issuer.

### ***Classification of transactions***

There are four categories of transactions:

- (a) **Non-discloseable transactions** – A transaction is a non-discloseable transaction if the percentages computed on any of the Rule 1006 Bases amount to 5% or less.
- (b) **Discloseable transactions** – A transaction is a discloseable transaction if the percentage computed on any of the Rule 1006 Bases exceeds 5% but does not exceed 20%.
- (c) **Major transactions** – A transaction is a major transaction if the percentage computed on any of the Rule 1006 Bases exceeds 20%.
- (d) **Very substantial acquisitions or reverse takeovers** – An acquisition is a very substantial acquisition or a reverse takeover if the percentage computed on any of the Rule 1006 Bases (where applicable to acquisitions) is 100% or more, or is one which will result in a change in control of the issuer.

### ***Disclosures – announcements and circulars***

The disclosure and other procedural requirements that must be complied with for each of the classes of transactions are as follows:



A. *Non-discloseable transactions*

- (a) No announcement of a non-discloseable transaction is generally required. However, there may be instances where announcement is required under the general disclosure requirement pursuant to Rule 703 of the SGX Listing Manual if the transaction is nonetheless considered material for disclosure, or under Rule 905 of the SGX Listing Manual where the transaction is an interested person transaction which value is equal to, or more than 3% of the issuer group's latest audited net tangible assets. The announcement requirements for disclosure under Rule 703 should include all material information relating to the non-discloseable transaction. For an announcement under Rule 905, the announcement requirements are set out in Rule 917 of the SGX Listing Manual, which should include information required under Rule 917 of the SGX Listing Manual (details of which are set out in the section "II. Rules governing Interested Person Transactions under the SGX Listing Manual" below).
- (b) Where the issuer wishes to announce the non-discloseable transaction, the announcement should include:
  - (i) details of the consideration, including the aggregate value of the consideration, stating the factors taken into account in arriving at it and how it will be satisfied, including the terms of payment; and
  - (ii) the value (book value, net tangible asset value and the latest available open market value) of assets acquired or disposed of, and in respect of the latest available valuation, the value placed on the assets, the party who commissioned the valuation and the basis and date of such valuation.

B. *Discloseable transactions*

A discloseable transaction requires an immediate announcement to be made after terms of the transaction have been agreed. Pursuant to Rule 1010 of the SGX Listing Manual, the contents of the announcement are as follows:

- (a) particulars of the assets acquired or disposed of, including the name of any company or business, where applicable;
- (b) a description of the trade carried on, if any;
- (c) the aggregate value of the consideration, stating the factors taken into account in arriving at it and how it will be satisfied, including the terms of payment;
- (d) whether there are any material conditions attaching to the transaction including a put, call or other option and details thereof;
- (e) the value (book value, net tangible asset value and the latest available open market value) of the assets being acquired or disposed of, and in respect of the latest available valuation, the value placed on the assets, the party who commissioned the valuation and the basis and date of such valuation;
- (f) in the case of a disposal, the excess or deficit of the proceeds over the book value, and the intended use of the sale proceeds. In the case of an acquisition, the source(s) of funds for the acquisition;
- (g) the net profits attributable to the assets being acquired or disposed of. In the case of a disposal, the amount of any gain or loss on disposal;

- (h) the effect of the transaction on the net tangible assets per share of the issuer for the most recently completed financial year, assuming that the transaction had been effected at the end of that financial year;
- (i) the effect of the transaction on the earnings per share of the issuer for the most recently completed financial year, assuming that the transaction had been effected at the beginning of that financial year;
- (j) the rationale for the transaction, including the benefits which are expected to accrue to the issuer as a result of the transaction;
- (k) whether any director or controlling shareholder has any interest, direct or indirect, in the transaction and the nature of such interests;
- (l) details of any service contracts of the directors proposed to be appointed to the issuer in connection with the transaction; and
- (m) the relative figures that were computed on the Rule 1006 Bases.

In addition, Rule 1011 states that where a sale and purchase agreement is entered into, or a valuation is conducted on the assets to be acquired, the issuer must include a statement in the announcement that a copy of the relevant agreement, or valuation report is available for inspection during normal business hours at the issuer's registered office for 3 months from the date of the announcement.

Rule 1012 further states that where the announcement contains a profit forecast, which may include any statement which quantifies the anticipated level of future profits, the following additional information:

- (a) details of the principal assumptions including commercial assumptions upon which the forecast is based;
- (b) confirmation from the issuer's auditors that they have reviewed the bases and assumptions, accounting policies and calculations for the forecast, and getting out their report on the bases, assumptions, policies and calculations; and
- (c) a report from the issuer's financial advisers, if one is appointed, confirming that it is satisfied that the forecast has been stated by the directors after due and careful enquiry. If no such adviser has been appointed in connection with the transaction, the issuer must submit a letter from the board of directors confirming that the forecast has been made by them after due and careful enquiry.

Rule 1013(1) of the SGX Listing Manual states that, where the issuer accepts a profit guarantee or a profit forecast (or any covenant which quantifies the anticipated level of future profits) from a vendor of assets/business, the following information on the profit guarantee or the profit forecast must be included:

- (a) the views of the board of directors of the issuer in accepting the profit guarantee or the profit forecast and the factors taken into consideration and basis for such a view;
- (b) the principal assumptions including commercial bases and assumptions upon which the quantum of the profit guarantee or the profit forecast is based;
- (c) the manner and amount of compensation to be paid by the vendor in the event that the profit guarantee or the profit forecast is not met and the conditions precedent, if any, and the detailed basis for such a compensation; and
- (d) the safeguards put in place (such as the use of a banker's guarantee) to ensure the issuer's right of recourse in the event that the profit guarantee or the profit forecast is not met, if any.

For the avoidance of doubt, the term “profit guarantee” can only be used for transactions where the vendor will compensate the issuer in cash for any shortfall in the level of profits when it provides a quantifiable anticipated level of future profits.

Where the profit guarantee or the profit forecast has been met, Rule 1013(1) of the SGX Listing Manual requires the issuer to immediately announce this via SGXNET. Where the profit guarantee or the profit forecast has not been met, pursuant to Rule 1013(3) of the SGX Listing Manual, the issuer should immediately announce via SGXNET the following:

- (a) the variance between the profit guarantee or the profit forecast and the actual profit, and the reason for the variance;
- (b) any variation of the rights of the issuer;
- (c) the possible course(s) of action by the issuer to protect the interests of the shareholders of the issuer, if any. Notwithstanding this, the issuer must provide timely updates on the specific course of action including its progress and outcome of the action; and
- (d) where there is any material variation or amendment in the terms of an agreement, of such a variation. Where such a variation prejudices the issuer, the board of directors of the issuer must disclose the basis for the acceptance of such a variation.

#### C. *Major Transactions*

For a major transaction, an announcement is required in the same form as for discloseable transactions. Except in the case of an acquisition of profitable assets where the only percentage threshold exceeded under the Rule 1006 Bases is the profits to profits test, a major transaction must be made conditional upon approval by shareholders in general meeting and a circular must be sent to all shareholders. Practice Note 10.1 of the SGX Listing Manual sets out certain general principles regarding the circumstances under which the SGX-ST may grant a waiver of the requirement for shareholder approval of any major transactions.

The required contents of the circular for a major transaction are as follows:

- (a) all the information required to be contained in an announcement in relation to a discloseable transaction; and
- (b) the information required under Rule 1013(2) of the SGX Listing Manual, being:
  - (i) a confirmation from the auditors of the business/assets to be acquired that they have reviewed the bases and assumptions, accounting policies and calculations for the profit guarantee or the profit forecast, and their opinion on the bases, assumptions, policies and calculations; and
  - (ii) a statement by the financial advisor to the issuer as to whether or not they are of the view that the transaction is on normal commercial terms and is not prejudicial to the interest of the issuer and its shareholders.

#### D. *Very substantial acquisitions or reverse takeovers*

If the transaction is a very substantial acquisition or a reverse takeover, it must be made conditional upon the approval of the shareholders and the approval of the SGX-ST. An announcement will also have to be made with the same content requirements as a major transaction, where applicable, and also include the latest three years of pro forma financial information of the assets to be acquired. A circular will have to be despatched to

shareholders, the contents of which must include those relating to major transactions. In addition, the circular must contain the following:

- (a) information required to be contained in an announcement and circular in relation to a major transaction, where applicable;
- (b) where an issuer is seeking a listing through a reverse takeover, the content required under Part II of Chapter 6 of the SGX Listing Manual which include compliance with prospectus disclosure requirements under the Securities and Futures Act, with the necessary adaptations, as well as disclosure of certain financial information;
- (c) an accountants' report on the assets to be acquired and the enlarged group in compliance with Rule 609 of the SGX Listing Manual, which provides that:
  - (i) in the case of a reverse takeover where there have been material changes to the group structure of the issuer, pro forma group accounts must be presented in addition to the annual combined audited accounts, where applicable. The proforma financial information must provide investors with information about the impact of the proposed group structure by illustrating how that group structure might have affected the financial information presented in the prospectus, had the group structure been put in place at the commencement of the period being reported on or, in the case of a proforma balance sheet or net asset statement, at the date reported on. Accordingly, the proforma information must include all appropriate adjustments of which the issuer is aware, necessary to give effect to the group structure reported on, or in the case of a proforma balance sheet or net asset statement, at the date reported on;
  - (ii) the proforma income statement or statement of comprehensive income should be presented for the latest 3 financial years and for the most recent interim period (if applicable) as if the restructured group had been in existence at the beginning of the period reported on. The proforma statement of financial position should be presented as at the date to which the most recent proforma income statement or statement of comprehensive income has been made up;
  - (iii) the accountants' report must include details of any transfers to and from any reserves if those transfers are not reflected in the proforma results in respect of each of the financial years reported on;
  - (iv) the reporting accountants must express an opinion as to whether the proforma group accounts are properly prepared and consistent with both the format and accounting policies adopted by the issuer in its financial statements, and whether the adjustments are appropriate for the purposes of preparing the proforma financial statements;
  - (v) the proforma information must:
    - (i) clearly state that it is prepared for illustrative purposes only based on certain assumptions and after making certain adjustments to show the financial position and results of the issuer had the proposed group structure been in place during the relevant period;
    - (ii) clearly state that because of its nature, it may not give a true picture of the issuer's actual financial position or results;
    - (iii) identify the basis upon which it is prepared and the source of each item of information and adjustment; and

- (iv) be based upon information from audited accounts;
  - (vi) the issuer should use the most appropriate reporting currency in presenting financial information, taking into account the functional currencies of its businesses, the reporting currency for publication of future financial statements, and other factors relevant to a full and proper understanding by investors of the group's financial condition, risks and prospects;
  - (vii) where there has been a material change to the company's accounting policies, a summary of the significant changes in the accounting policies and the reasons for and quantitative impact of such changes on the issuer's financial results should be provided; and
  - (viii) the annual combined financial statements must be audited by certified public accountants in accordance with Singapore Standards on Auditing, International Standards on Auditing, or US generally accepted auditing standards, as the case may be;
- (d) a statement by the directors that they individually and collectively accept full responsibility for the accuracy of the information given in the document and confirm, having made all reasonable enquiries, that to the best of their knowledge and belief, the facts stated and the opinions expressed in the document are fair and accurate in all material respects as at the date of the circular and that there are no material facts the omission of which would make any statements in the circular misleading, and that the profit forecast (if any) has been stated by the directors after due and careful enquiry; and
- (e) a statement by the financial adviser(s) that, to the best of its knowledge and belief, the circular constitutes full and true disclosure of all material facts about the issue, the issuer and its subsidiaries, and that the financial adviser(s) is not aware of any facts the omission of which would make any statement in the circular misleading, and where the document contains a profit forecast, that it is satisfied that the profit forecast has been stated by the directors after reasonable enquiry.

### ***Shareholders' approval***

Major transactions and very substantial acquisitions or reverse takeovers are subject to shareholders' approval. A shareholders' meeting shall be convened to approve any such transactions after the relevant circular is sent to all shareholders.

## **II. Rules governing Interested Person Transactions under the SGX Listing Manual**

### ***Background***

Chapter 9 of the SGX Listing Manual sets out the obligations of listed companies on the SGX-ST in relation to interested person transactions. The objective of Chapter 9 is to guard against the risk that interested persons could influence the issuer, its subsidiaries and associated companies, to enter into transactions with interested persons that may adversely affect the interest of the issuer or its shareholders.

For the purposes of Chapter 9 of the SGX Listing Manual,

- (a) an "interested person transaction" means a transaction between an entity at risk and an interested person;
- (b) an "interested person" means:
  - (i) a director, chief executive officer, or controlling shareholder of the issuer; or

- (ii) an associate (as defined below) of any such director, chief executive officer, or controlling shareholder;
- (c) an “entity at risk” means (i) the issuer, (ii) a subsidiary of the issuer that is not listed on the SGX-ST or an approved exchange; or (iii) an associated company of the issuer that is not listed on the SGX-ST or an approved exchange, provided that the listed group, or the listed group and its interested person(s), has control over the associated company; and
- (d) an “associate” refers:
  - (i) in relation to any director, chief executive officer, substantial shareholder or controlling shareholder (being an individual), to:
    - I. his immediate family;
    - II. the trustee of any trust of which he or his immediate family is a beneficiary or, in the case of a discretionary trust, is a discretionary object; and
    - III. any company in which he and his immediate family together (directly or indirectly) have an interest of 30% or more, and
  - (ii) in relation to a substantial shareholder or a controlling shareholder (being a company) means any other company which is its subsidiary or holding company or is a subsidiary of such holding company or one in the equity of which it and/or such other company or companies taken together (directly or indirectly) have an interest of 30% or more.

Any transaction between an entity at risk and an interested person will be an interested person transaction, regardless of size, although the size of the transaction will still need to be considered as interested person transactions below a certain threshold value can be disregarded, and the size of the transaction will affect the need for shareholders’ approval and the availability of exemptions from the requirements otherwise applicable.

***Disclosures – announcements and circulars***

The requirements for an interested person transaction, subject to certain exemptions, are as follows:

***(a) Announcement***

The issuer must make an immediate announcement of any interested person transaction of a value equal to, or more than, 3% of the group’s latest audited net tangible assets, or if the aggregate value of all transactions entered into with the same interested person during the same financial year amount to 3% or more of the group’s latest audited net tangible, the issuer must make an immediate announcement of the latest transaction and all future transactions entered into with that same interested person during that financial year. The aforesaid does not apply to any transactions below S\$100,000.

Pursuant to Rule 917 of the SGX Listing Manual, the announcements must contain the following information:

- (i) details of the interested person transacting with the entity at risk, and the nature of that person’s interest in the transaction;
- (ii) details of the transaction including relevant terms of the transaction, and the bases on which the terms were arrived at;

- (iii) the rationale for, and benefit to, the entity at risk;
- (iv) except for transactions satisfying Rule 916(1), (2) and (3), a statement:
  - (I) whether or not the audit committee of the issuer is of the view that the transaction is on normal commercial terms, and is not prejudicial to the interests of the issuer and its minority shareholders; or
  - (II) that the audit committee is obtaining an opinion from an independent financial adviser before forming its view, which will be announced subsequently;
- (v) the current total for the financial year of transactions with the particular interested person whose transaction is the subject of the announcement and the current total of all interested person transactions for the same financial year; and
- (vi) where the issuer accepts a profit guarantee or a profit forecast (or any covenant which quantifies the anticipated level of future profits) from the vendor of businesses/assets the information required under Rule 1013(1) of the SGX Listing Manual. The issuer must also comply with Rule 1013(3) of the SGX Listing Manual.

(b) *Circular*

An issuer must obtain shareholder approval for any interested person transaction of a value equal to, or more than 5% of the group's latest audited net tangible assets, or more than 5% of the group's latest audited net tangible assets, when aggregated with other transactions entered into with the same interested person during the same financial year. However, a transaction which has been approved by shareholders, or is the subject of aggregation with another transaction that has been approved by shareholders, need not be included in any subsequent aggregation. The aforesaid does not apply to any transaction below S\$100,000.

Where shareholder approval is required, the issuer must send an explanatory circular, approved by the SGX-ST, to its shareholders. The circular must contain the information required by the SGX Listing Manual, which includes:

- (i) details of the interested person transacting with the entity at risk, and the nature of that person's interest in the transaction;
- (ii) details of the transaction (and all other transactions which are the subject of aggregation) including relevant terms of the transaction, and the bases on which the terms were arrived at;
- (iii) the rationale for, and benefit to, the entity at risk;
- (iv) (a) an opinion in a separate letter from an independent financial adviser who is acceptable to the SGX stating whether the transaction (and all other transactions which are the subject of aggregation):
  - (I) is on normal commercial terms, and
  - (II) is prejudicial to the interests of the issuer and its minority shareholders;
- (b) however, the opinion from an independent financial adviser is not required for the following transactions. Instead, an opinion from the audit committee in a prescribed form must be disclosed:

- (I) the issue of shares pursuant to Part IV of Chapter 8 of the SGX Listing Manual, or the issue of other securities of a class that is already listed, for cash; or
- (II) purchase or sale of any real property where:
  - the consideration for the purchase or sale is in cash;
  - an independent professional valuation has been obtained for the purpose of the purchase or sale of such property; and
  - the valuation of such property is disclosed in the circular;
- (v) an opinion from the audit committee, if it takes a different view to the independent financial adviser;
- (vi) all other information known to the issuer or any of its directors, that is material to shareholders in deciding whether it is in the interests of the issuer to approve the transaction. Such information includes, from an economic and commercial point of view, the true potential costs and detriments of, or resulting from, the transaction, including opportunity costs, taxation consequences, and benefits forgone by the entity at risk;
- (vii) a statement that the interested person will abstain, and has undertaken to ensure that its associates will abstain, from voting on the resolution approving the transaction; and
- (viii) where the issuer accepts a profit guarantee or a profit forecast (or any covenant which quantifies the anticipated level of future profits) from the vendor of businesses/assets, the information required in Rules 1013(1) and 1013(2) (details which are set out in the section “I. Rules governing Discloseable Transactions under the SGX Listing Manual” above), and a statement confirming that it will comply with Rule 1013(3) (details which are set out in the section “I. Rules governing Discloseable Transactions under the SGX Listing Manual” above).

Where the interested person transactions involve acquisitions or disposals, the announcement and circular requirements under Chapter 10 of the SGX Listing Manual will apply concurrently with Chapter 9 of the SGX Listing Manual.

### ***Shareholders’ approval***

If an interested person transaction requires shareholders’ approval, the issuer must obtain such approval either prior to the transaction being entered into or, if the transaction is expressed to be conditional on such approval, prior to the completion of the transaction. Such shareholders’ approval shall be obtained by ordinary resolution in a general meeting, and the interested person and any of his associates must not vote on the resolution approving the transaction, nor accept appointments as proxies unless specific instructions as to voting are given.

An issuer may seek a general mandate from shareholders for recurrent transactions of a revenue or trading nature or those necessary for its day-to-day operations such as the purchase and sale of supplies and materials, but not in respect of the purchase or sale of assets, undertakings or businesses. Such a general mandate shall be subject to annual renewal.

### ***Waiver granted***

On the basis that the rules applicable to the Company by virtue of its primary listing on the SGX-ST provide sufficient alternative protection, the Company has applied for, and the HKEx has granted, waivers from the requirements under Chapters 14 and 14A and Rule 13.23(1) of the HKEx Listing Rules.



## **CONDITIONS TO THE ISSUE OF OPTIONS, WARRANTS AND SIMILAR RIGHTS**

### ***Requirements under the HKEx Listing Rules***

Chapters 15 and 27 of the HKEx Listing Rules set out certain criteria to be satisfied by a listed issuer before the HKEx will grant approval for the issue or grant of options, warrants or similar rights to subscribe or purchase equity securities by the listed issuer or any of its subsidiaries and to the issue of warrants which are attached to other securities by the listed issuer or any of its subsidiaries, as well as the minimum content to be included in the circular or the notice to be sent to the shareholders when convening a general meeting to approve the issue or grant of such options, warrants or rights.

Rule 15.01 of the HKEx Listing Rules applies to options, warrants and similar rights to subscribe or purchase equity securities of an issuer which are issued or granted on their own by that issuer or any of its subsidiaries, as well as to warrants which are attached to other securities. However, it does not apply to any employee options which are granted on a basis covered by Chapter 17 of the HKEx Listing Rules. Rule 15.02 states that warrants must be approved by the HKEx (even if they are not listed) and by shareholders in a general meeting (or under general mandate). Generally, the securities to be issued on exercise must not, when aggregated with all other equity securities which remain to be issued on exercise of any other subscription rights, exceed 20 per cent. of the issued share capital of the issuer at the time such warrants are issued. Such warrants must expire not less than one year and not more than five years from the date of issue or grant and must not be convertible into further rights to subscribe for securities which expire less than one year or more than five years after the date of issue or grant of the original warrants. Rules 15.06 and 27.04 of the HKEx Listing Rules state that any alterations in the terms of warrants after their issue or grant must be approved by the HKEx. Practice Note 4 of the HKEx Listing Rules sets out certain additional requirements for the issue of new warrants to existing warrant holders by a listed issuer or the alteration of the exercise period or the exercise price of existing warrants.

### ***Corresponding provisions under Singapore laws and regulations***

The Company is already subject to Chapter 8 of the SGX Listing Manual which governs the issue of options, warrants and convertible securities. Rule 824 of the SGX Listing Manual states that every issue of company warrants or other convertible securities not covered under a general mandate must be specifically approved by shareholders in general meeting. Pursuant to Rule 806 of the SGX Listing Manual in respect of the general mandate granted by shareholders, the number of convertible securities that may be issued other than on a pro rata basis to existing shareholders, must not be more than 20% of the total number of issued shares at the time the resolution approving such general mandate is passed. The issuer must also submit an additional listing application for the issue of such convertible securities to the SGX under Rule 875 of the SGX Listing Manual.

There is no requirement under the SGX Listing Manual for alterations in the terms of company warrants or convertible securities after their issue or grant to be approved by the SGX. However, Rule 829 of the SGX Listing Manual states that the terms of the issue must provide for:

- (i) adjustment to the exercise price and, where appropriate, the number of company warrants or convertible securities, in the event of rights, bonus or other capitalisation issues;
- (ii) the expiry of the company warrants or convertible securities to be announced, and notice of expiry to be sent to all holders of the company warrants at least 1 month before the expiration date; and
- (iii) any material alteration to the terms of company warrants after issue to the advantage of the holders of such securities to be approved by holders of such company warrants or convertible securities, except where the alterations are made pursuant to the terms of the issue.

Pursuant to Rule 830 of the SGX Listing Manual, an issuer must announce any adjustment made pursuant to Rule 829(1). Additionally, under Rule 831 of the SGX Listing Manual, except where the alterations are made pursuant to the terms of an issue, an issuer must not:

- (i) extend the exercise period of an existing company warrant;
- (ii) issue a new company warrant to replace an existing company warrant;
- (iii) change the exercise price of an existing company warrant; or
- (iv) change the exercise ratio of an existing company warrant.

Further, Rule 825 of the SGX Listing Manual states that in procuring the approval of shareholders in a general meeting for the issuance of company warrants or other convertible securities, the circular to the shareholders must include the recommendations of the board of directors of the issuer on such an issue of company warrants or convertible securities and the basis for such recommendation(s). Rule 832 of SGX Listing Manual requires the circular issued to shareholders in connection with a general meeting to approve the issue of company warrants or other convertible securities to include the following information:

- (i) the maximum number of the underlying securities which would be issued or transferred on exercise or conversion of the company warrants or other convertible securities;
- (ii) the period during which the company warrants or other convertible securities may be exercised and the dates when this right commences and expires;
- (iii) the amount payable on the exercise of the company warrants or other convertible securities;
- (iv) the arrangements for transfer or transmission of the company warrants or other convertible securities;
- (v) the rights of the holders on the liquidation of the issuer;
- (vi) the arrangements for the variation in the subscription or purchase price and in the number of company warrants or other convertible securities in the event of alterations to the share capital of the issuer;
- (vii) the rights (if any) of the holders to participate in any distributions and/or offers of further securities made by the issuer;
- (viii) a summary of any other material terms of the company warrants or other convertible securities;
- (ix) the purpose for and use of proceeds of the issue, including the use of future proceeds arising from the conversion/exercise of the company warrants or other convertible securities; and
- (x) the financial effects of the issue to the issuer.

The issue of options and warrants by a Singapore incorporated, SGX listed company is subject to a legal and regulatory regime which includes protections to shareholders (described above) which have differences from the rules in Chapter 15, Chapter 27 and Practice Note 4 of the HKEx Listing Rules, so that compliance with the HKEx Listing Rules would put the Company at a disadvantage compared to other companies with listings on the SGX.

### ***Waiver granted***

As a result, the Company has applied for, and the HKEx has granted, a waiver from the application of Chapter 15, Chapter 27 and Practice Note 4 with the effect that such Chapters, Rules and Practice Note shall only apply to the extent the relevant options, warrants or similar rights that are listed or to be listed on the HKEx.

## **CHAPTER 28 OF THE HKEX LISTING RULES**

### ***Requirements under the HKEx Listing Rules***

Chapter 28 of the HKEx Listing Rules sets out the rules relating to the listing of convertible debt securities by an issuer.

For instance, Rule 28.03 of the HKEx Listing Rules is similar conceptually with Rule 827, which provides that the convertible securities (which include convertible debt securities) may be listed only if the underlying securities are (or will become at the same time) one of the following:

- (1) a class of equity securities listed on the SGX; or
- (2) a class of equity securities listed or dealt in on a stock market approved by the SGX.

Among others, Rule 28.01 requires all convertible debt securities to be approved by the HKEx prior to issue and the HKEx should be consulted at the earliest opportunity as to the requirements which will apply. In addition, any alterations in the terms of convertible debt securities after issue shall also be subject to the approval of the HKEx in accordance with Rule 28.05.

Rule 28.02 requires all convertible debt securities which are convertible into new equity securities or outstanding securities of an issuer or a group for which a listing is to be sought to comply with both the requirements applicable to the debt securities for which listing is sought and with the requirements applicable to the underlying equity securities to which such convertible debt securities relate. In the event of any conflict or inconsistency between the various requirements, those applicable to such equity securities shall prevail.

### ***Corresponding provisions under Singapore laws and regulations***

The issuer is also required to submit an additional listing application in respect of the underlying equity securities to be listed on the SGX pursuant to Rule 875 of the SGX Listing Manual. Rule 824 of the SGX Listing Manual further states that every issue of convertible securities (which include convertible debt securities) and covered under a general mandate must be specifically approved by shareholders in general meeting.

There is no requirement under the SGX Listing Manual that alterations of the terms of convertible securities (which includes convertible debt securities) after their issue require the approval of the SGX, although Rule 829 of the SGX Listing Manual requires that the terms of the issue must provide for certain matters. For details of requirements on the terms of the issue under Rule 829 of the SGX Listing Manual, please refer to the section headed “Conditions to the Issue of Options, Warrants and Similar Rights”.

An issuer must also announce any adjustment made pursuant to Rule 829(1) under Rule 830 of the SGX Listing Manual.

Although there are no rules under the SGX Listing Manual specifically comparable to Chapter 28 of the HKEx Listing Rules, the Company is of the view that investors are sufficiently protected as the Company is

already subject to various broadly similar rules and regulations in Singapore and full compliance with Chapter 28 would be unduly onerous on the Company.

***Waiver granted and conditions***

The Company has applied for, and the HKEx has granted a waiver from compliance with Chapter 28 of the HKEx Listing Rules in its entirety on the condition that if any convertible debt securities are issued by the Company and are listed on the HKEx, the Company will comply with Chapter 28 of the HKEx Listing Rules.

**PRACTICE NOTE 5 OF THE HKEX LISTING RULES**

***Requirements under the HKEx Listing Rules***

Paragraphs 41(4) and 45 of Appendix 1A, paragraphs 34 and 38 of Appendix 1B, paragraph 49 of Appendix 1C, paragraphs 30 and 34 of Appendix 1F and paragraphs 12 and 13 of Appendix 16 of the HKEx Listing Rules require issuers to disclose, in certain listing documents and annual and interim reports, details of substantial shareholders' and certain other persons' interests and short positions in the shares and underlying shares of the issuer and directors' and chief executives' interests and short positions in the shares, underlying shares and debentures of the issuer and any associated corporation, as recorded in the registers required to be kept under Sections 336 and 352 of the SFO. Practice Note 5 of the HKEx Listing Rules sets out what and how details of such interests should be set out in the relevant disclosure.

***Waiver granted and conditions***

The Company has been granted a waiver from Rule 13.48 of the HKEx Listing Rules and an exemption from compliance with all of the provisions of Part XV of the SFO (other than Divisions 5, 11 and 12). In addition, the Company has applied for, and the HKEx has granted, a waiver from strict compliance with the requirements of paragraphs 41(4) and 45 of Appendix 1A, paragraphs 34 and 38 of Appendix 1B, paragraph 49 of Appendix 1C, paragraphs 30 and 34 of Appendix 1F, paragraphs 12 and 13 of Appendix 16 and Practice Note 5 of the HKEx Listing Rules on the basis that it has included in the Listing Document, and will include in its relevant shareholder communications after Listing, such interests as are notified to it under the SGX Listing Manual and the relevant Singapore law and regulations in lieu of information required under Part XV of the SFO.

**PRACTICE NOTE 15 OF THE HKEX LISTING RULES AND RELATED MATTERS**

***Requirements under the HKEx Listing Rules***

Practice Note 15 of the HKEx Listing Rules sets out the principles which the HKEx applies when considering proposals submitted by a listed issuer to effect a separate listing of any of its subsidiaries.

***Corresponding provisions under Singapore laws and regulations***

In Singapore, there are no specific rules which exclusively govern the spin-off of assets of an issuer for separate listing. Nevertheless, spin-off proposals will be tested against the Rule 1006 Bases in Chapter 10 of the SGX Listing Manual. Under Rule 1014 of the SGX Listing Manual, where any of the relative figures as computed on any of the Rule 1006 Bases exceeds 20%, the transaction will be classified as a major transaction which must be made conditional upon shareholders' approval in a general meeting.

Additionally, under Rule 805(2) of the SGX Listing Manual, a company listed on the SGX-ST is required to obtain the prior approval of shareholders in general meeting if, inter alia, a principal subsidiary issues shares or convertible securities or options that will or may result in (i) such principal subsidiary ceasing to be a subsidiary or (ii) a percentage reduction of 20% or more of the issuer's equity interest in such principal

subsidiary. Section 160 of the Singapore Companies Act also requires shareholder approval in a general meeting for disposals of the whole or substantially the whole of the company's undertaking or property.

Hence, where spin-offs of assets and business amount to major transactions under Rule 1014 of the SGX Listing Manual or results in a reduction of the Company's equity interest in the principal subsidiary in the manner set out in Rule 805(2) of the SGX Listing Manual, the Company must, after terms have been agreed, immediately announce the information required in under the relevant rules in the SGX Listing Manual, where applicable. Such major transactions must be made conditional upon approval by shareholders in general meeting, in connection with which a circular containing the required information under the SGX Listing Manual must be sent to all shareholders.

### ***Waiver granted***

The Company has applied for, and the HKEx has granted, a waiver from strict compliance with the provisions of Practice Note 15 with respect to any spin-off listings of any subsidiaries on any stock exchange that it may decide to undertake from time to time (including, among others, a waiver from the restrictions on undertaking a spin-off listing within three years following the Company's listing on the HKEx), on the basis that the Company will:

- (a) observe the principle set out in paragraph 3(c) of Practice Note 15 that, after the spin-off listing, the Company would retain a sufficient level of operations and sufficient assets to support the Company's separate listing status;
- (b) observe the principles set out in paragraphs 3(d)(i) to (iv) of Practice Note 15 relating to clear delineation of business between the Company and the spun-off entity, ability of the spun-off entity to function independently of the Company, clear commercial benefits to both the Company and the spun-off entity in the spin-off, and no adverse impact on the interests of Shareholders resulting from the spin-off; and
- (c) in the announcement to be issued by the Company pursuant to Rule 13.09(1) of the HKEx Listing Rules disclosing the spin-off proposal, (i) confirm that the Company would retain a sufficient level of operations and sufficient assets to support the separate listing status; and (ii) explain how the Company is able to meet the principles set out in paragraphs 3(d)(i) to (iv) of Practice Note 15.

## **B. FOREIGN LAWS AND REGULATIONS**

### **B1. LATEST VERSION AS AT 17 MARCH 2014**

#### **LAWS AND REGULATIONS RELATING TO THE BUSINESS**

##### **SINGAPORE**

###### ***REIT management***

CapitaMall Trust Management Limited (“CMTML”), the manager of CapitaMall Trust (“CMT”), and CapitaRetail China Trust Management Limited (“CRCTML”), the manager of CRCT, each carry out the business of REIT management in Singapore to the extent that they manage real estate held by CMT and CRCT whether directly or via property holding entities. The Securities and Futures (Licensing and Conduct of Business) Regulations and the Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) Regulations set out the capital requirements and licence fees for CMTML and CRCTML. The licensing framework and process for persons carrying out the business of REIT management is largely similar to that for persons conducting other regulated activities under the SFA. Unless exempted by the MAS, a person carrying out the business of REIT management is required to hold a capital markets services licence under Section 82 of the SFA. CMTML and CRCTML have each obtained a capital markets services licence in respect of the management of CMT and CRCT, respectively.

In addition to the above, CMTML and CRCTML will have to comply with the applicable provisions of the Listing Manual, the Code on Collective Investment Schemes issued by the MAS (including the Property Fund Guidelines), the respective trust deeds, tax rulings and relevant contracts.

In respect of any new REITs the Company manages that are publicly listed, or available for investment by the general public, whether in Singapore or elsewhere, the Company expects that it will be required to be licensed in the relevant jurisdiction before the Company is able to manage the REIT.

###### ***Fund management***

Each of CapitaMalls Japan Fund Management Pte. Ltd., CapitaMalls India Fund Management Pte. Ltd. and CapitaMalls Fund Management Pte. Ltd. carries on the business of fund management in Singapore pursuant to a licensing exemption under paragraph 5(1)(h) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations available to a fund management company who carries on such business on behalf of qualified investors where the assets managed by it comprise securities issued by one or more corporations or interests in bodies unincorporate, where the sole purpose of each such corporation or body unincorporate is to hold, whether directly or through another entity, immovable assets.

###### ***Stamp Duties Act, Chapter 312 of Singapore (the “Stamp Duties Act”)***

In Singapore, stamp duty ad valorem is payable on documents relating to land, stocks and/or shares mentioned in the First Schedule to the Stamp Duties Act. These documents include conveyances and instruments of transfers of land and tenancy agreements. Under the Stamp Duties Act, a document which is not duly stamped is not admissible as evidence in court, and is as such unenforceable. Penalties are levied for the late payment of stamp duty. Unless there is an express provision to the contrary, a purchaser or tenant is liable for payment of stamp duty.

As part of measures to cool the residential property market in Singapore, the Government of Singapore has imposed stamp duty on sellers of residential properties where the sellers acquired the properties:

- (i) on or after 20 February 2010 and sold within a holding period of one year thereafter;
- (ii) on or after 30 August 2010 and sold within a holding period of three years thereafter; or
- (iii) on or after 14 January 2011 and sold within a holding period of four years thereafter.

The Government of Singapore has on 7 December 2011 announced the implementation of additional buyer's stamp duty ("**ABSD**") for certain profiles of buyers who acquire residential properties on or after 8 December 2011. The ABSD rates were revised on 11 January 2013 in respect of acquisitions of residential properties on or after 12 January 2013. From 12 January 2013, the buyers of residential properties subject to ABSD are (a) foreigners and non-individuals, (b) Singapore permanent residents acquiring their first residential property, (c) Singapore permanent residents who already own more than 1 residential property, (d) Singapore Citizens who already own one residential property and (e) Singapore Citizens who own 2 or more residential properties. Depending on the profile of the buyer, the rate of ABSD chargeable for acquisitions of residential properties on or after 12 January 2013 is between five per cent. (5%) to fifteen per cent. (15%) of the purchase price or of the market value of the property, whichever is higher.

ABSD will apply to a property as long as the property is zoned residential under the Master Plan even though the property may presently be used for non-residential purposes. Buyers of a property subject to ABSD may be eligible for remission of ABSD if they fit a certain profile (e.g. developers) and satisfy certain conditions.

### ***Treasury Shares***

#### *Maximum holdings*

Under the Singapore Companies Act, the number of Shares held as treasury Shares cannot at any time exceed ten per cent. (10%) of the total number of issued Shares.

#### *Voting and other rights*

The Company cannot exercise any right in respect of treasury Shares. In particular, the Company cannot exercise any right to attend or vote at meetings and for the purposes of the Singapore Companies Act, the Company shall be treated as having no right to vote and the treasury Shares shall be treated as having no voting rights.

In addition, under the Singapore Companies Act, no dividend may be paid, and no other distribution of the Company's assets may be made, to the Company in respect of treasury Shares. However, the allotment of Shares as fully paid bonus Shares in respect of treasury Shares is allowed. Also, a subdivision or consolidation of any treasury Share into treasury Shares of a smaller or larger amount, as the case may be, is allowed so long as the total value of the treasury Shares after the subdivision or consolidation is the same as before.

#### *Disposal and cancellation*

Where Shares are held as treasury Shares, under the Singapore Companies Act, the Company may at any time:

- (a) sell the treasury Shares for cash;
- (b) transfer the treasury Shares for the purposes of or pursuant to an employees' share scheme;
- (c) transfer the treasury Shares as consideration for the acquisition of shares in or assets of another company or assets of a person;

- (d) cancel the treasury Shares; or
- (e) sell, transfer or otherwise use the treasury Shares for such other purposes as may be prescribed by the Minister for Finance.

#### *Effect of treasury Shares*

Where Shares are repurchased by the Company and held as treasury Shares, among other things, the total number of Shares outstanding would be reduced by the number of Shares bought back by the Company, and the appropriate adjustments would have to be made for the purpose of computing the earnings per Share. The number of treasury Shares held should be deducted from the number of Shares in issue when determining the weighted average number of Shares outstanding for the purpose of calculating the basic and diluted earnings per Share. Treasury Shares are excluded in the calculation of market capitalisation of the Company under the SGX Listing Manual.

For the modifications to a number of HKEx Listing Rules which are necessary to enable the Company to hold its current and future treasury shares and are technical in nature, please see the section of the Listing Document entitled “Appendix II – Modifications of the HKEx Listing Rules”.

#### ***Notifiable transactions and connected transactions***

The Singapore and Hong Kong regulatory regimes on notifiable transactions and connected transactions are governed by similar general principles. The requirements relating to shareholders’ approval and preparation of a circular under the SGX Listing Manual are similar but not identical to the requirements under the HKEx Listing Rules.

#### ***Notifiable transactions***

The rules under Chapter 14 of the HKEx Listing Rules relating to notifiable transactions are intended to keep the shareholders of an issuer informed of the ongoing operations of the issuer so that they can assess the impact of a particular transaction and vote on significant transactions. In addition, these rules also reinforce the general disclosure principle of price-sensitive information to keep the public apprised of the position of listed issuers and to avoid the establishment of a false market in the listed issuers’ securities. Similarly, Chapter 10 of the SGX Listing Manual contains rules relating to four categories of transactions, namely, non-discloseable transactions, discloseable transactions, major transactions and very substantial acquisitions or reverse takeovers. Under these rules, shareholders’ approval would be required for certain categories of transactions, thereby ensuring that shareholders would be able to exercise their voting rights for significant transactions which affect the issuer’s operations. The rules of Chapter 10 should be read together with the general principle of disclosure of material information which is necessary to avoid the establishment of a false market in the issuer’s securities or would be likely to materially affect the price or value of its securities, as stated in Rule 703 of the SGX Listing Manual.

The following is a summary of the provisions of the SGX Listing Manual relating to notifiable transactions.

#### *Thresholds*

Transactions are classified into four categories, depending on the size of the relative figures computed on the following bases:

- (a) The net asset value of the assets to be disposed of, compared with the group’s net asset value. This basis is not applicable to an acquisition of assets.
- (b) The net profits attributable to the assets acquired or disposed of, compared with the group’s net profits.



- (c) The aggregate value of the consideration given or received, compared with the issuer's market capitalisation based on the total number of issued shares excluding treasury shares.
- (d) The number of equity securities issued by the issuer as consideration for an acquisition, compared with the number of equity securities previously in issue.

The four categories of transactions are non-discloseable transactions, discloseable transactions, major transactions and very substantial acquisitions or reverse takeovers. A non-discloseable transaction is one where the relative figures computed on the bases above amount to 5% or less. A discloseable transaction is one where the relative figures computed on the bases above exceeds 5% but does not exceed 20%. A major transaction is one where all the relative figures computed on the bases above exceed 20%. A very substantial acquisition or reverse takeover is one where all the relative figures computed on the bases above are 100% or more.

#### *Shareholders' approval*

Major transactions and very substantial acquisitions or reverse takeovers are subject to shareholders' approval. A circular containing the information in Rule 1010 of the SGX Listing Manual must be sent to all shareholders.

#### *Circular requirements*

Rule 1206 of the SGX Listing Manual states that any circular sent to shareholders must:

- (1) contain all information necessary to allow shareholders to make a properly informed decision or, if no decision is required, to be properly informed;
- (2) advise shareholders that if they are in any doubt as to any action they should take, they should consult independent advisers;
- (3) state that the SGX-ST takes no responsibility for the accuracy of any statements or opinions made or reports contained in the circular;
- (4) comply with specific circular requirements in the SGX Listing Manual;
- (5) include an appropriate statement if a person is required to abstain from voting on a proposal at a general meeting by a listing rule; and
- (6) name the financial adviser appointed (if any) in the circular, and where required by SGX-ST, include a responsibility statement from the financial adviser in respect of such information contained in the circular as required by SGX-ST, as set out in Practice Note 12.1 of the SGX Listing Manual.

Rule 1010 of the SGX Listing Manual states the information which should be included in a circular to shareholders in relation to major transactions and very substantial acquisitions or reverse takeovers:

- (1) Particulars of the assets acquired or disposed of, including the name of any company or business, where applicable;
- (2) A description of the trade carried on, if any;
- (3) The aggregate value of the consideration, stating the factors taken into account in arriving at it and how it will be satisfied, including the terms of payment;

- (4) Whether there are any material conditions attaching to the transaction including a put, call or other option and details thereof;
- (5) The value (book value, net tangible asset value and the latest available open market value) of the assets being acquired or disposed of, and in respect of the latest available valuation, the value placed on the assets, the party who commissioned the valuation and the basis and date of such valuation;
- (6) In the case of a disposal, the excess or deficit of the proceeds over the book value, and the intended use of the sale proceeds. In the case of an acquisition, the source(s) of funds for the acquisition;
- (7) The net profits attributable to the assets being acquired or disposed of. In the case of a disposal, the amount of any gain or loss on disposal;
- (8) The effect of the transaction on the net tangible assets per share of the issuer for the most recently completed financial year, assuming that the transaction had been effected at the end of that financial year;
- (9) The effect of the transaction on the earnings per share of the issuer for the most recently completed financial year, assuming that the transaction had been effected at the beginning of that financial year;
- (10) The rationale for the transaction including the benefits which are expected to accrue to the issuer as a result of the transaction;
- (11) Whether any director or controlling shareholder (as defined in the SGX Listing Manual) has any interest, direct or indirect, in the transaction and the nature of such interests;
- (12) Details of any service contracts of the directors proposed to be appointed to the issuer in connection with the transaction; and
- (13) The relative figures that were computed on the bases set out in Rule 1006 of the SGX Listing Manual.

### ***Connected transactions***

The connected transactions rules in Chapter 14A of the HKEx Listing Rules are intended to guard against the risk that connected persons could take advantage of their positions and influence the issuer to enter into connected transactions which adversely affect the interests of a listed issuer or its shareholders. These concerns are dealt with in Singapore under Chapter 9 of the SGX Listing Manual relating to interested person transactions.

### ***Definition***

Under Chapter 9 of the SGX Listing Manual, an interested person transaction is broadly defined as any transaction between (i) the issuer, its non-listed subsidiary or its associated company (as defined in the SGX Listing Manual) over which the issuer has control, and (ii) an interested person. Interested persons are broadly defined as the director, chief executive officer or controlling shareholders (as defined in the SGX Listing Manual) (holding at least 15% of the total number of issued shares excluding treasury shares in the issuer or who in fact exercises control over the issuer) of the issuer and their associates.

### ***Shareholders' approval***

Rule 906 of the SGX Listing Manual states that an issuer must obtain shareholder approval for any interested person transaction of a value equal to, or more than

- (i) 5% of the Group's latest audited net tangible assets, or
- (ii) 5% of the Group's latest audited net tangible assets, when aggregated with other transactions entered into with the same interested person during the same financial year (save for transactions which have already been approved by shareholders).

Rule 906 of the SGX Listing Manual does not apply to any transaction below S\$100,000.

Rule 918 of the SGX Listing Manual states that shareholders' approval must be obtained prior to the transaction being entered into or, if the transaction is expressed to be conditional on such approval, prior to the completion of the transaction. Rule 919 of the SGX Listing Manual states that in a meeting to obtain shareholder approval, the interested person and any associate of the interested person must not vote on the resolution nor accept appointments as proxies unless specific instructions as to voting are given.

#### *Circular requirements*

Rule 921 of the SGX Listing Manual states the information which should be included in a circular to shareholders in relation to interested person transactions:

- (1) details of the interested person transacting with the entity at risk, and the nature of that person's interest in the transaction.
- (2) details of the transaction (and all other transactions which are the subject of aggregation pursuant to Rule 906 of the SGX Listing Manual) including relevant terms of the transaction, and the bases on which the terms were arrived at.
- (3) the rationale for, and benefit to, the entity at risk.
- (4) (a) an opinion in a separate letter from an independent financial adviser who is acceptable to the SGX-ST stating whether the transaction (and all other transactions which are the subject of aggregation pursuant to Rule 906 of the SGX Listing Manual):
  - (i) is on normal commercial terms, and
  - (ii) is prejudicial to the interests of the issuer and its minority shareholders.
- (b) however, the opinion from an independent financial adviser is not required for the following transactions. Instead, an opinion from the audit committee in the form required in Rule 917(4)(a) of the SGX Listing Manual must be disclosed:
  - (i) the issue of shares pursuant to Part IV of Chapter 8, or the issue of other securities of a class that is already listed, for cash.
  - (ii) purchase or sale of any real property where:
    - the consideration for the purchase or sale is in cash;
    - an independent professional valuation has been obtained for the purpose of the purchase or sale of such property; and
    - the valuation of such property is disclosed in the circular.

- (5) an opinion from the audit committee, if it takes a different view to the independent financial adviser.
- (6) all other information known to the issuer or any of its directors, that is material to shareholders in deciding whether it is in the interests of the issuer to approve the transaction. Such information includes, from an economic and commercial point of view, the true potential costs and detriments of, or resulting from, the transaction, including opportunity costs, taxation consequences, and benefits forgone by the entity at risk.
- (7) a statement that the interested person will abstain, and has undertaken to ensure that its associates will abstain, from voting on the resolution approving the transaction.
- (8) Where the issuer accepts a profit guarantee or a profit forecast (or any covenant which quantifies the anticipated level of future profits) from the vendor of businesses/assets, the information required in Rules 1013(1) and 1013(2) of the SGX Listing Manual, and a statement confirming that it will comply with Rule 1013(3) of the SGX Listing Manual.

### ***Continuing obligations on disclosure of material information***

#### *Rule 703 of the SGX Listing Manual*

Rule 703(1) of the SGX Listing Manual states that the Company must announce any information known to the Company concerning it or any of its subsidiaries or associated companies which:

- (a) is necessary to avoid the establishment of a false market in its securities; or
- (b) would be likely to materially affect the price or value of its securities.

Rule 703(1) does not apply to information which it would be a breach of law to disclose.

Rule 703(1) also does not apply to particular information while each of the following conditions applies.

Condition 1: a reasonable person would not expect the information to be disclosed;

Condition 2: the information is confidential; and

Condition 3: one or more of the following applies:

- (i) the information concerns an incomplete proposal or negotiation;
- (ii) the information comprises matters of supposition or is insufficiently definite to warrant disclosure;
- (iii) the information is generated for the internal management purposes of the entity;
- (iv) the information is a trade secret.

In complying with the disclosure requirements of the SGX-ST, the Company must (a) observe the Corporate Disclosure Policy set out in Appendix 7.1 of the SGX Listing Manual, and (b) ensure that its directors and executive officers are familiar with the SGX-ST's disclosure requirements and Corporate Disclosure Policy.

The SGX-ST will not waive any requirements under Rule 703 of the SGX Listing Manual.

## ***Share buybacks***

### *Maximum number of shares*

Under Section 76B of the Singapore Companies Act, the Company may purchase or otherwise acquire shares issued by it if it is expressly permitted to do so by the Articles of Association. Only Shares which are issued and fully paid-up may be purchased or acquired by the Company. The total number of Shares which may be purchased or acquired by the Company shall not exceed 10% of the total number of issued Shares of the Company as at the date of the last annual general meeting of the Company held before any resolution passed pursuant to the Singapore Companies Act or as at the date of such resolution relating to the share buyback, whichever is the higher, unless (i) the Company has, at any time during the relevant period, reduced its share capital by a special resolution under the Singapore Companies Act or the Singapore courts have at any time during the relevant period, made an order under the Singapore Companies Act confirming the reduction of share capital of the Company, in which event the total number of Shares shall be taken to be the total number of Shares as altered by the special resolution of the Company or the order of the Singapore courts, as the case may be. Any Shares which are held as treasury shares will be disregarded for purposes of computing the 10% limit.

### *Duration of authority*

Purchases or acquisitions of Shares may be made, at any time and from time to time, on and from the date of the extraordinary general meeting at which a share buyback mandate (the “**Share Buyback Mandate**”) is approved, up to:

- (a) the date on which the next annual general meeting is held or required by law to be held; or
- (b) the date on which the authority conferred by the Share Buyback Mandate is revoked or varied by the Shareholders in a general meeting; or
- (c) the date on which the purchases or acquisitions of Shares pursuant to the Share Buyback Mandate are carried out to the full extent mandated,

whichever is the earliest.

The authority conferred on the Directors by the Share Buyback Mandate to purchase Shares may be renewed by the Shareholders in any general meeting of the Company, such as at the next annual general meeting or at an extraordinary general meeting to be convened immediately after the conclusion or adjournment of the next annual general meeting. When seeking the approval of the Shareholders for the Share Buyback Mandate, the Company is required to disclose details pertaining to purchases or acquisitions of Shares pursuant to the proposed Share Buyback Mandate made during the previous 12 months, including the total number of Shares purchased, the purchase price per Share or the highest and lowest prices paid for such purchases of Shares, where relevant, and the total consideration paid for such purchases.

### *Manner of purchase*

The Company may purchase or acquire Shares by way of:

- (a) on-market purchases (“**Market Purchases**”), transacted on the SGX-ST through the ready market, and which may be transacted through one or more duly licensed stock brokers appointed by the Company for the purpose; and/or
- (b) off-market purchases (“**Off-Market Purchases**”) effected pursuant to an equal access scheme.

Under the Singapore Companies Act, an Off-Market Purchase must, however, satisfy all of the following conditions:

- (i) offers for the purchase or acquisition of Shares shall be made to every person who holds Shares to purchase or acquire the same percentage of their Shares;
- (ii) all of the abovementioned persons shall be given a reasonable opportunity to accept the offers made to them; and
- (iii) the terms of all the offers shall be the same, except that there shall be disregarded differences in consideration attributable to the fact that offers may relate to Shares with different accrued dividend entitlements, differences in consideration attributable to the fact that offers relate to Shares with different amounts remaining unpaid (if applicable) and differences in the offers introduced solely to ensure that each person is left with a whole number of Shares.

Pursuant to the SGX Listing Manual, if the Company wishes to make an Off-Market Purchase in accordance with an equal access scheme, it will issue an offer document to all Shareholders containing at least the following information:

- (1) the terms and conditions of the offer;
- (2) the period and procedures for acceptances;
- (3) the reasons for the proposed purchase or acquisition of Shares;
- (4) the consequences, if any, of the purchases or acquisitions of Shares by the Company that will arise under the Singapore Takeovers Code or other applicable take-over rules;
- (5) whether the purchases or acquisitions of Shares, if made, would have any effect on the listing of the Shares on the SGX-ST;
- (6) details of any purchases or acquisitions of Shares made by the Company in the previous 12 months (whether Market Purchases or Off-Market Purchases), giving the total number of shares purchased, the purchase price per Share or the highest and lowest prices paid for the purchases of Shares, where relevant, and the total consideration paid for the purchases; and
- (7) whether the Shares purchased by the issuer will be cancelled or kept as treasury shares.

#### *Maximum purchase price*

The purchase price (excluding brokerage, stamp duties, commission, applicable goods and services tax and other related expenses (“**related expenses**”)) to be paid for a Share will be determined by the Directors.

However, the purchase price to be paid for the Shares pursuant to the purchases or acquisitions of the Shares in the case of a Market Purchase must not exceed 105% of the Average Closing Price (as defined hereinafter) excluding related expenses.

For the above purposes:

“**Average Closing Price**” means the average of the closing market prices of the Shares over the last five Market Days, on which transactions in the Shares were recorded, before the day on which the purchase or acquisition of Shares was made, or as the case may be, and deemed to be adjusted for any corporate action that occurs after the relevant five Market Days.

### *Status of purchased shares*

A Share purchased or acquired by the Company is deemed cancelled immediately on purchase or acquisition (and all rights and privileges attached to the Share will expire on such cancellation) unless such Share is held by the Company as a treasury share. At the time of each purchase of Shares by the Company, the Directors will decide whether the Shares purchased will be cancelled or kept as treasury shares, or partly cancelled and partly kept as treasury shares, depending on the needs of the Company at that time. The total number of Shares will be diminished by the number of Shares purchased or acquired by the Company and which are not held as treasury shares. All Shares purchased or acquired by the Company (other than treasury shares held by the Company to the extent permitted under the Singapore Companies Act) will be automatically de-listed by the SGX-ST, and certificates (if any) in respect thereof will be cancelled and destroyed by the Company as soon as reasonably practicable following settlement of any such purchase or acquisition.

### *Summary of salient provisions of the laws of Singapore applicable to the Shareholders*

The following summarises the salient provisions of the laws of Singapore applicable to the Shareholders as at the date of this listing document. The summaries below are for general guidance only and do not constitute legal advice, nor must they be used as a substitute for specific legal advice, on the corporate laws of Singapore. Additionally, prospective investors and/or the Shareholders should also note that the laws applicable to the Shareholders may change, whether as a result of proposed legislative reform to the laws of Singapore or otherwise. Prospective investors and/or the Shareholders should consult their own legal advisers for specific legal advice concerning their legal obligations under the relevant laws.

#### *Takeover obligations*

##### Offences and Obligations Relating to Take-overs

###### Section 140 of the SFA

Section 140 of the SFA provides that a person shall not give notice or publicly announce that he intends to make a take-over offer if (a) he has no intention to make a take-over offer; or (b) he has no reasonable or probable grounds for believing that he will be able to perform his obligations if the take-over offer is accepted or approved, as the case may be. A person who contravenes Section 140 of the SFA is guilty of an offence and shall be liable on conviction to a fine not exceeding S\$250,000 or to imprisonment for a term not exceeding 7 years or to both.

##### Obligations under the Singapore Takeovers Code and the consequences of non-compliance

###### Obligations under the Singapore Takeovers Code

The Singapore Takeovers Code regulates the acquisition of ordinary shares of public companies and contains certain provisions that may delay, deter or prevent a future takeover or change in control of the Company. Any person acquiring an interest, either on his own or together with parties acting in concert with him, in 30.0% or more of the voting Shares, or, if such person holds, either on his own or together with parties acting in concert with him, between 30.0% and 50.0% (both inclusive) of the voting Shares, and if he (or parties acting in concert with him) acquires additional voting Shares representing more than 1.0% of the voting Shares in any six-month period, must, except with the consent of the Securities Industry Council in Singapore, extend a takeover offer for the remaining voting Shares in accordance with the provisions of the Singapore Takeovers Code.

“**Parties acting in concert**” comprise individuals or companies who, pursuant to an agreement or understanding (whether formal or informal), co-operate, through the acquisition by any of them of Shares in a company, to obtain or consolidate effective control of that company. Certain persons are presumed (unless the presumption is rebutted) to be acting in concert with each other. They are as follows:

- (a) a company and its related companies, the associated companies of any of the company and its related companies, companies whose associated companies include any of these companies and any person who has provided financial assistance (other than a bank in the ordinary course of business) to any of the foregoing for the purchase of voting rights;
- (b) a company and its directors (including their close relatives, related trusts and companies controlled by any of the directors, their close relatives and related trusts);
- (c) a company and its pension funds and employee share schemes;
- (d) a person with any investment company, unit trust or other fund whose investment such person manages on a discretionary basis;
- (e) a financial or other professional advisers and its clients in respect of Shares held by the advisers and persons controlling, controlled by or under the same control as the advisers and all the funds managed by the advisers on a discretionary basis, where the shareholdings of the advisers and any of those funds in the client total 10.0% or more of the client's equity share capital;
- (f) directors of a company (including their close relatives, related trusts and companies controlled by any of such directors, their close relatives and related trusts) which is subject to an offer or where the directors have reason to believe a bona fide offer for the company may be imminent;
- (g) partners; and
- (h) an individual and his close relatives, related trusts, any person who is accustomed to act in accordance with his instructions and companies controlled by the individual, his close relatives, his related trusts or any person who is accustomed to act in accordance with his instructions and any person who has provided financial assistance (other than a bank in the ordinary course of business) to any of the foregoing for the purchase of voting rights.

In the event that one of the abovementioned trigger-points is reached, the person acquiring an interest (the **"Offeror"**) must make a public announcement stating the terms of the offer and its identity. The Offeror must post an offer document not earlier than 14 days and not later than 21 days from the date of the offer announcement. An offer must be kept open for at least 28 days after the date on which the offer document was posted.

The Offeror may vary the offer by offering more for the shares or by extending the period in which the offer remains open. If a variation is proposed, the Offeror is required to give a written notice to the offeree company and its shareholders, stating the modifications made to the matters set out in the offer document.

The revised offer must be kept open for at least another 14 days. Where the consideration is varied, shareholders who agree to sell before the variation are also entitled to receive the increased consideration.

A mandatory offer must be in cash or be accompanied by a cash alternative at not less than the highest price paid by the offeror or parties acting in concert with the offeror within the six months preceding the acquisition of Shares that triggered the mandatory offer obligation.

Under the Singapore Takeovers Code, where effective control of a company is acquired or consolidated by a person, or persons acting in concert, a general offer to all other shareholders is normally required. An offeror must treat all shareholders of the same class in an offeree company equally. A fundamental requirement is that shareholders in the company subject to the takeover offer must be given sufficient information, advice and time to consider and decide on the offer.



### Consequences of non-compliance with the requirements under the Singapore Takeovers Code

The Singapore Takeovers Code is non-statutory in that it does not have the force of law. Therefore, as provided in Section 139(8) of the SFA, a failure of any party concerned in a take-over offer or a matter connected therewith to observe any of the provisions of the Singapore Code shall not of itself render that party liable to criminal proceedings. However, the failure of any party to observe any of the provisions of the Singapore Takeovers Code may, in any civil or criminal proceedings, be relied upon by any party to the proceedings as tending to establish or to negate any liability which is in question in the proceedings.

Section 139 further provides that where the Securities Industry Council has reason to believe that any party concerned in a take-over offer or a matter connected therewith is in breach of the provisions of the Singapore Takeovers Code or is otherwise believed to have committed acts of misconduct in relation to such take-over offer or matter, the Securities Industry Council has power to enquire into the suspected breach or misconduct. The Securities Industry Council may summon any person to give evidence on oath or affirmation, which it is thereby authorised to administer, or produce any document or material necessary for the purpose of the enquiry.

### *Reporting obligations of directors*

#### Section 164 of the Singapore Companies Act

A company is required to keep a register showing with respect to each director of the company particulars of the following interests (the “**Interests**”):

- (a) shares in that company or in a related corporation, being shares of which the director is a registered holder or in which he has an interest and the nature and extent of that interest;
- (b) debentures of or participatory interests made available by the company or a related corporation which are held by the director or in which he has an interest and the nature and extent of that interest;
- (c) rights or options of the director or of the director and another person or other persons in respect of the acquisition or disposal of shares in the company or a related corporation; and
- (d) contracts to which the director is a party or under which he is entitled to a benefit, being contracts under which a person has a right to call for or to make delivery of shares in the company or in a related corporation.

#### Sections 165 of the Singapore Companies Act

A director of a company is required to notify the company of (A) his Interests or (B) any changes to his Interests. In the case of (A), the notification to the company shall be given within **two business days** after the date he became a director or the date on which he became a registered holder of or acquired his Interest, and in the case of (B), within **two business days** after the date he became a director or the occurrence of the event giving rise to the change in his Interests.

#### Consequences of non-compliance under the Singapore Companies Act

Section 165(9) of the Singapore Companies Act provides for the consequences of non-compliance with Sections 165 of the Singapore Companies Act and states that any director who fails to comply with the obligations under Section 165 of the Singapore Companies Act, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding S\$15,000 or to imprisonment for a term not exceeding three years and, in the case of a continuing offence, to a further fine of S\$1,000 for every day during which the offence continues after conviction.

## *Reporting obligations of shareholders*

### Reporting obligations under the Singapore Companies Act

#### Section 81 of the Singapore Companies Act

A person has a substantial shareholding in a company if he has an “interest” in voting shares in the company, and the total votes attached to those shares is not less than 5.0% of the total votes attached to all the voting shares in the company.

#### Section 82 of the Singapore Companies Act

A substantial shareholder of a company (as defined under the Singapore Companies Act) is required to notify the company in writing of his name, address and full particulars of his “interests” in the voting shares in the company within **two business days** after becoming a substantial shareholder.

#### Sections 83 and 84 of the Singapore Companies Act

A substantial shareholder (as defined under the Singapore Companies Act) is required to notify the company in writing of changes in the “percentage level” of his shareholding or his ceasing to be a substantial shareholder within **two business days** after he is aware of such changes or within **two business days** after he ceases to be a substantial shareholder, as the case may be.

The reference to changes in “percentage level” means any changes in a substantial shareholder’s interest in the company which results in his interest, following such change, increasing or decreasing to the next discrete 1.0% threshold. For example, an increase in interests in the company from 5.1% to 5.9% need not be notified, but an increase from 5.9% to 6.1% will have to be notified.

### Consequences of non-compliance under the Singapore Companies Act

#### Section 89 of the Singapore Companies Act

Section 89 of the Singapore Companies Act provides for the consequences of non-compliance with Sections 82, 83 and 84. Under Section 89, a person who fails to comply shall be guilty of an offence and shall be liable on conviction to a fine not exceeding S\$5,000 and in the case of a continuing offence to a further fine of S\$500 for every day during which the offence continues after conviction.

#### Section 90 of the Singapore Companies Act

Section 90 of the Singapore Companies Act provides for a defence to a prosecution for failing to comply with Sections 82, 83 or 84. It is a defence if the defendant proves that his failure was due to his not being aware of a fact or occurrence the existence of which was necessary to constitute the offence and that he was not so aware on the date of the summons; or he became so aware less than 7 days before the date of the summons. However, a person will conclusively be presumed to have been aware of a fact or occurrence at a particular time (a) of which he would, if he had acted with reasonable diligence in the conduct of his affairs, have been aware at that time; or (b) of which an employee or agent of the person, being an employee or agent having duties or acting in relation to his master’s or principal’s interest or interests in a share or shares in the company concerned, was aware or would, if he had acted with reasonable diligence in the conduct of his master’s or principal’s affairs, have been aware at that time.

## Powers of the court with respect to defaulting substantial shareholders

### Section 91 of the Singapore Companies Act

Section 91 of the Singapore Companies Act provides that where a substantial shareholder fails to comply with Sections 82, 83 or 84, the Court may, on the application of the Minister, whether or not the failure still continues, make one of the following orders:

- (a) an order restraining the substantial shareholder from disposing of any interest in shares in the company in which he is or has been a substantial shareholder;
- (b) an order restraining a person who is, or is entitled to be registered as, the holder of shares referred to in paragraph (a) from disposing of any interest in those shares;
- (c) an order restraining the exercise of any voting or other rights attached to any share in the company in which the substantial shareholder has or has had an interest;
- (d) an order directing the company not to make payment, or to defer making payment, of any sum due from the company in respect of any share in which the substantial shareholder has or has had an interest;
- (e) an order directing the sale of all or any of the shares in the company in which the substantial shareholder has or has had an interest;
- (f) an order directing the company not to register the transfer or transmission of specified shares;
- (g) an order that any exercise of the voting or other rights attached to specified shares in the company in which the substantial shareholder has or has had an interest be disregarded; or
- (h) for the purposes of securing compliance with any other order made under Section 91, an order directing the company or any other person to do or refrain from doing a specified act.

Any order made under Section 91 may include such ancillary or consequential provisions as the Court thinks just. The Court may not make an order other than an order restraining the exercise of voting rights, if it is satisfied (a) that the failure of the substantial shareholder to comply was due to his inadvertence or mistake or to his not being aware of a relevant fact or occurrence; and (b) that in all the circumstances, the failure ought to be excused. Any person who contravenes or fails to comply with an order made under Section 91 that is applicable to him shall be guilty of an offence and shall be liable on conviction to a fine not exceeding S\$5,000 and, in the case of a continuing offence, to a further fine of S\$500 for every day during which the offence continues after conviction.

### Reporting obligations under the SFA

#### Sections 133, 135, 136 and 137 of the SFA

Pursuant to Section 133 of the SFA, the directors and the chief executive officer of a company are required to, within two business days, notify the company in writing of their interests in the company and its related corporations, including interests in shares, debentures, rights or options for the acquisition or disposal of shares in or debentures of, and participatory interests made available by the company and its related corporations. Such persons are also required to notify the company in writing any change to the particulars notified under Section 133, within 2 business days after becoming aware of such change.

A substantial shareholder (as defined under the Singapore Companies Act) is also required under Sections 135, 136 and 137 of the SFA to notify the company in writing, within two business days after becoming

aware of their becoming a substantial shareholder, an subsequent change in the percentage level of their interest in shares (rounded down to the next whole number) or their ceasing to be a substantial shareholder. A person has a substantial shareholding in a company if he has an interest or interests in one or more voting shares in the company, and the total votes attached to that share, or those shares, is not less than 5 per cent of the total votes attached to all the voting shares in the company.

While the definition of an “interest” in the voting Shares for the purposes of substantial Shareholder disclosure requirements under the SFA is similar to that under the Singapore Companies Act, the SFA provides that a person who has authority (whether formal or informal, or express or implied) to dispose of, or to exercise control over the disposal of, a voting share is regarded as having an interest in such share, even if such authority is, or is capable of being made, subject to restraint or restriction in respect of particular voting Shares.

For the purposes of Sections 133, 135, 136 and 137 of the SFA, there shall be a conclusive presumption of a person being “aware” of a fact or occurrence at the time at which he would, if he had acted with reasonable diligence in the conduct of his affairs, have been aware.

#### Sections 137G of the SFA

When a company has been notified by a director, chief executive officer or a substantial shareholder on matters required to be disclosed by them pursuant to Sections 133, 135, 136 and 137 of the SFA, the corporation shall announce or otherwise disseminate the information stated in such notice to the securities exchange on whose official list any or all of the shares are listed (being the SGX-ST and the HKEx in the case of the Company) as soon as practicable and in any case, no later than the end of the business day following the day on which the company received the notice.

#### Consequences of non-compliance under the SFA

##### Section 134, 137D, 137E and 137ZD of the SFA

Sections 134 and 137D of the SFA provides for the consequences of non-compliance with disclosures which will be required from directors, chief executive officers and substantial shareholders of corporations with a primary listing on the SGX-ST. Under these provisions, directors, chief executive officers and substantial shareholders of corporations with a primary listing on the SGX-ST if found to have (i) intentionally or recklessly contravened the disclosure requirements or furnished any information which he knows is false or misleading in a material particular or is reckless as to whether it is, he could, upon conviction, be liable to a fine not exceeding S\$250,000 or to imprisonment for a term not exceeding two years or both and in the case of a continuing offence, and to a further fine of S\$25,000 for every day (or part thereof) during which the offence continues after conviction and (ii) contravened the disclosure requirements or furnished any information which is false or misleading in a material particular, could, upon conviction, be liable to a fine not exceeding S\$25,000, and in the case of a continuing offence, to a further fine of S\$2,500 for every day (or part thereof) during which the offence continues after conviction.

Where a person has failed to comply with the reporting requirements under Sections 135, 136 and 137 of the SFA applicable to substantial shareholders, the MAS may apply to a court under Section 137E of the SFA to make certain orders against such a person including, among others, orders to restrain the substantial shareholder from disposing his interests in the relevant corporation, to restrain the exercise of his voting rights attached to the relevant shares, to direct the sale of any or all of the shares in which has or has had an interest and to disregard any exercise of such person's voting rights attached to the relevant shares.

Section 137ZD of the SFA will also allow the MAS, with the consent of the Public Prosecutor, to bring an action in court to seek an order for a civil penalty in lieu of proceedings in relation to the aforementioned

penalties. If convicted, the court may order the person to pay a civil penalty of a sum not less than S\$50,000 but not exceeding S\$2 million.

#### Section 137G(3) of the SFA

Section 137G(3) of the SFA provides that, if a corporation is found to have (i) intentionally or recklessly contravened the requirement to announce or otherwise disseminate disclosures made by any director, chief executive officer or substantial shareholder under Sections 133, 135, 136 and 137 of the SFA, or announced or disseminated any information which it knows is false or misleading in a material particular, or is reckless as to whether it is, it could, upon conviction, be liable to a fine not exceeding S\$250,000 and in the case of a continuing offence, to a further fine of S\$25,000 for every day (or part thereof) during which the offence continues after conviction, and (ii) contravened the requirement to announce or disseminate disclosures made by any director, chief executive officer or substantial shareholder under Sections 133, 135, 136 and 137 of the SFA, or announced or disseminated any information which it knows is false or misleading in a material particular, it could, upon conviction, be liable to a fine not exceeding S\$25,000 and in the case of a continuing offence, to a further fine of S\$2,500 for every day (or part thereof) during which the offence continues after conviction. Section 137ZD of the SFA will also allow the MAS, with the consent of the Public Prosecutor, to bring an action in court to seek an order for a civil penalty in lieu of proceedings in relation to the aforementioned penalties. If convicted, the court may order the person to pay a civil penalty of a sum not less than S\$50,000 but not exceeding S\$2 million.

#### Duty not to furnish false statements to securities exchange, futures exchange, designated clearing house and Securities Industry Council of Singapore

#### Section 330 of the SFA

Section 330 of the SFA provides that any person who, with intent to deceive, makes or furnishes, or knowingly and wilfully authorises or permits the making or furnishing of, any false or misleading statement or report to any securities exchange, futures exchange, licensed trade repository, approved clearing house or recognised clearing house or any officers thereof relating to dealing in securities shall be guilty of an offence and shall be liable on conviction to a fine not exceeding S\$50,000 or to imprisonment for a term not exceeding 2 years or to both. Section 330 further provides that any person who, with intent to deceive, makes or furnishes or knowingly and wilfully authorises or permits the making or furnishing of, any false or misleading statement or report to the Securities Industry Council or any of its officers, relating to any matter or thing required by the Securities Industry Council in the exercise of its functions under the SFA shall be guilty of an offence and shall be liable on conviction to a fine not exceeding S\$50,000 or to imprisonment for a term not exceeding 2 years or to both.

#### *Prohibited conduct in relation to trading in the securities of the company*

#### Prohibitions against false trading and market manipulation

#### Section 197 of the SFA

Section 197 of the SFA prohibits (i) the creation of a false or misleading appearance of active trading in any securities on a securities exchange; (ii) the creation of a false or misleading appearance with respect to the market for, or price of, any securities on a securities exchange; (iii) affecting the price of securities by way of purchases or sales which do not involve a change in the beneficial ownership of those securities; and (iv) affecting the price of securities by means of any fictitious transactions or devices. In respect and (i) and (ii), Section 197(1A) of the SFA expressly states that a person shall not engage in such prohibited actions if he knows that his actions or he is reckless as to whether his actions, will create, or will be likely to create, that false or misleading appearance.

Section 197(3) of the SFA provides that a person is deemed to have created a false or misleading appearance of active trading in securities on a securities market if he does any of the following acts:

- (i) if he effects, takes part in, is concerned in or carries out, directly or indirectly, any transaction of purchase or sale of any securities, which does not involve any change in the beneficial ownership of the securities;
- (ii) if he makes or causes to be made an offer to sell any securities at a specified price where he has made or caused to be made or proposes to make or to cause to be made, or knows that a person associated with him has made or caused to be made or proposes to make or to cause to be made, an offer to purchase the same number, or substantially the same number, of securities at a price that is substantially the same as the first-mentioned price; or
- (iii) if he makes or causes to be made an offer to purchase any securities at a specified price where he has made or caused to be made or proposes to make or to cause to be made, or knows that a person associated with him has made or caused to be made or proposes to make or to cause to be made, an offer to sell the same number, or substantially the same number, of securities at a price that is substantially the same as the first-mentioned price, unless he establishes that the purpose or purposes for which he did the act was not, or did not include, the purpose of creating a false or misleading appearance of active trading in securities on a securities market.

Section 197(5) of the SFA provides that a purchase or sale of securities does not involve a change in the beneficial ownership if a person who had an interest in the securities before the purchase or sale, or a person associated with the first-mentioned person in relation to those securities, has an interest in the securities after the purchase or sale.

Section 197(6) of the SFA provides a defence to proceedings against a person in relation to a purchase or sale of securities that did not involve a change in the beneficial ownership of those securities. It is a defence if the defendant establishes that the purpose or purposes for which he purchased or sold the securities was not, or did not include, the purpose of creating a false or misleading appearance with respect to the market for, or the price of, securities.

#### Prohibition against securities market manipulation

##### Section 198 of the SFA

Section 198(1) of the SFA provides that no person shall carry out directly or indirectly, 2 or more transactions in securities of a corporation, being transactions that have, or likely to have, the effect of raising, lowering, maintaining or stabilising the price of the securities with intent to induce other persons to purchase them. Section 198(2) of the SFA provides that transactions in securities of a corporation includes (i) the making of an offer to purchase or sell such securities of the corporation; and (ii) the making of an invitation, however expressed, that directly or indirectly invites a person to offer to purchase or sell such securities of the corporation.

#### Prohibition against the manipulation of the market price of securities by the dissemination of misleading information

##### Sections 199 and 202 of the SFA

Section 199 of the SFA prohibits the making of false or misleading statements. Under this provision, a person shall not make a statement, or disseminate information, that is false or misleading in a material particular and is likely (a) to induce other persons to subscribe for securities; (b) to induce the sale or purchase of securities by other persons; or (c) to have the effect of raising, lowering, maintaining or stabilising the market price of securities, if, when he makes the statement or disseminates the information, he

either does not care whether the statement or information is true or false, or knows or ought reasonably to have known that the statement or information is false or misleading in a material particular.

Section 202 of the SFA prohibits the dissemination of information about illegal transactions. This provision prohibits the circulation or dissemination of any statement or information to the effect that the price of any securities of a corporation will, or is likely, to rise, fall or be maintained by reason of transactions entered into in contravention of Sections 197 to 201 of the SFA. This prohibition applies where the person who is circulating or disseminating the information or statements (i) is the person who entered into the illegal transaction; or (ii) is associated with the person who entered into the illegal transaction; or (iii) is the person, or associated with the person, who has received or expects to receive (whether directly or indirectly) any consideration or benefit of circulating or disseminating the information or statements.

#### Prohibition against fraudulently inducing persons to deal in securities

##### Section 200 of the SFA

Section 200 of the SFA prohibits a person from inducing or attempting to induce another person to deal in securities, (a) by making or publishing any statement, promise or forecast that he knows or ought reasonably to have known to be misleading, false or deceptive; (b) by any dishonest concealment of material facts; (c) by the reckless making or publishing of any statement, promise or forecast that is misleading, false or deceptive; or (d) by recording or storing in, or by means of, any mechanical, electronic or other device information that he knows to be false or misleading in a material particular, unless it is established that, at the time when the defendant so recorded or stored the information, he had no reasonable grounds for expecting that the information would be available to any other person.

#### Prohibition against employment of manipulative and deceptive devices

##### Section 201 of the SFA

Section 201 of the SFA prohibits (i) the employment of any device, scheme or artifice to defraud; (ii) engaging in any act, practice or course of business which operates as a fraud or deception, or is likely to operate as a fraud or deception, upon any person; and (iii) making any statement known to be false in a material particular or (iv) omitting to state a material fact necessary to make statements made not misleading, in connection with the subscription, purchase or sale of any securities.

#### Prohibition against the dissemination of information about illegal transactions

##### Section 202 of the SFA

Section 202 of the SFA prohibits the circulation or dissemination of any statement or information to the effect that the price of any securities of a corporation will, or is likely to rise, fall or be maintained by reason of any transaction entered into or to be entered into in contravention of Sections 197 to 201 of the SFA. This prohibition applies where the person who is circulating or disseminating the information or statements (i) is the person who entered into the illegal transaction; or (ii) is associated with the person who entered into the illegal transaction; or (iii) is the person, or associated with the person, who has received or expects to receive (whether directly or indirectly) any consideration or benefit of circulating or disseminating the information or statements.

#### Prohibition against insider trading

##### Sections 218 and 219 of the SFA

Sections 218 and 219 of the SFA prohibit persons from dealing in securities of a corporation if the person knows or reasonably ought to know that he is in possession of information that is not generally available,

which is expected to have a material effect on the price or value of securities of that corporation. Such persons include substantial shareholders of a corporation or a related corporation, and persons who occupy a position reasonably expected to give him access to inside information by virtue of professional or business relationship by being an officer or a substantial shareholder of the corporation or a related corporation, or any other person in possession of inside information. For an alleged contravention of Section 218 or 219, Section 220 makes it clear that it is not necessary for the prosecution or plaintiff to prove that the accused person or defendant intended to use the information referred to in Section 218(1)(a) or (1A)(a) or 219(1)(a) in contravention of Section 218 or 219, as the case may be.

#### Section 216 of the SFA

Section 216 of the SFA provides that a reasonable person would be taken to expect information to have a material effect on the price or value of securities if the information would, or would be likely to, influence persons who commonly invest in securities in deciding whether or not to subscribe for, buy or sell the first-mentioned securities.

#### Penalties

#### Section 232 of the SFA

Section 232 of the SFA provides that the MAS may, with the consent of the Public Prosecutor, bring an action in a court against the offender to seek an order for a civil penalty in respect of any contravention. If the court is satisfied on the balance of probabilities that the contravention resulted in the gain of a profit or avoidance of a loss by the offender, the offender may have to pay a civil penalty of a sum (a) not exceeding 3 times the amount of the profit that the person gained; or the amount of the loss that he avoided, as a result of the contravention; or (b) equal to S\$50,000 if the person is not a corporation, or S\$100,000 if the person is a corporation, whichever is the greater. If the court is satisfied on a balance of probabilities that the contravention did not result in the gain of a profit or avoidance of a loss by the offender, the court may make an order against him for the payment of a civil penalty of a sum not less than S\$50,000 and not more than S\$2 million.

#### Section 204 of the SFA

Any person who contravenes Sections 197, 198, 201 or 202 of the SFA is guilty of an offence and shall be liable on conviction to a fine not exceeding S\$250,000 or to imprisonment for a term not exceeding 7 years or to both under Section 204 of the SFA. Section 204 of the SFA further provides that no proceedings shall be instituted against a person for the offence after a court has made an order against him for the payment of a civil penalty under Section 232 of the SFA, or the person has entered into an agreement with the MAS to pay, with or without admission of liability, a civil penalty under Section 232(5) on the SFA in respect of the contravention.

#### Section 221 of the SFA

Any person who contravenes Section 218 or 219 of the SFA, is guilty of an offence and shall be liable on conviction to a fine not exceeding S\$250,000 or to imprisonment for a term not exceeding 7 years or to both under Section 221(1) of the SFA. Section 221(2) of the SFA further provides that no proceedings shall be instituted against a person for an offence in respect of a contravention of Section 218 or 219 of the SFA after a court has made an order against him for the payment of a civil penalty under Section 232 of the SFA, or the person has entered into an agreement with the MAS to pay, with or without admission of liability, a civil penalty under Section 232(5) on the SFA in respect of that contravention.



## **B. FOREIGN LAWS AND REGULATIONS**

### **B2. BLACKLINE COMPARISON AGAINST THE PREVIOUS VERSION DATED 15 MARCH 2013**

#### **LAWS AND REGULATIONS RELATING TO THE BUSINESS**

##### **SINGAPORE**

###### ***REIT management***

CapitaMall Trust Management Limited (“CMTML”), the manager of CapitaMall Trust (“CMT”), and CapitaRetail China Trust Management Limited (“CRCTML”), the manager of CRCT, each carry out the business of REIT management in Singapore to the extent that they manage real estate held by CMT and CRCT whether directly or via property holding entities. The Securities and Futures (Licensing and Conduct of Business) Regulations and the Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) Regulations set out the capital requirements and licence fees for CMTML and CRCTML. The licensing framework and process for persons carrying out the business of REIT management is largely similar to that for persons conducting other regulated activities under the SFA. Unless exempted by the MAS, a person carrying out the business of REIT management is required to hold a capital markets services licence under Section 82 of the SFA. CMTML and CRCTML have each obtained a capital markets services licence in respect of the management of CMT and CRCT, respectively.

In addition to the above, CMTML and CRCTML will have to comply with the applicable provisions of the Listing Manual, the Code on Collective Investment Schemes issued by the MAS (including the Property Fund Guidelines), the respective trust deeds, tax rulings and relevant contracts.

In respect of any new REITs the Company manages that are publicly listed, or available for investment by the general public, whether in Singapore or elsewhere, the Company expects that it will be required to be licensed in the relevant jurisdiction before the Company is able to manage the REIT.

###### ***Fund management***

Each of CapitaMalls Japan Fund Management Pte. Ltd., CapitaMalls India Fund Management Pte. Ltd. and CapitaMalls Fund Management Pte. Ltd. carries on the business of fund management in Singapore pursuant to a licensing exemption under paragraph 5(1)(h) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations available to a fund management company who carries on such business on behalf of qualified investors where the assets managed by it comprise securities issued by one or more corporations or interests in bodies unincorporate, where the sole purpose of each such corporation or body unincorporate is to hold, whether directly or through another entity, immovable assets.

###### ***Stamp Duties Act, Chapter 312 of Singapore (the “Stamp Duties Act”)***

In Singapore, stamp duty ad valorem is payable on documents relating to land, stocks and/or shares mentioned in the First Schedule to the Stamp Duties Act. These documents include conveyances and instruments of transfers of land and tenancy agreements. Under the Stamp Duties Act, a document which is not duly stamped is not admissible as evidence in court, and is as such unenforceable. Penalties are levied for the late payment of stamp duty. Unless there is an express provision to the contrary, a purchaser or tenant is liable for payment of stamp duty.

As part of measures to cool the residential property market in Singapore, the Government of Singapore has imposed stamp duty on sellers of residential properties where the sellers acquired the properties:

- (i) on or after 20 February 2010 and sold within a holding period of one year thereafter;
- (ii) on or after 30 August 2010 and sold within a holding period of three years thereafter; or
- (iii) on or after 14 January 2011 and sold within a holding period of four years thereafter.

The Government of Singapore has on 7 December 2011 announced the implementation of additional buyer's stamp duty ("**ABSD**") for certain profiles of buyers who acquire residential properties on or after 8 December 2011. The ABSD rates were revised on 11 January 2013 in respect of acquisitions of residential properties on or after 12 January 2013. From 12 January 2013, the buyers of residential properties subject to ABSD are (a) foreigners and non-individuals, (b) Singapore permanent residents acquiring their first residential property, (c) Singapore permanent residents who already own more than 1 residential property, (d) Singapore Citizens who already own one residential property and (e) Singapore Citizens who own 2 or more residential properties. Depending on the profile of the buyer, the rate of ABSD chargeable for acquisitions of residential properties on or after 12 January 2013 is between five per cent. (5%) to fifteen per cent. (15%) of the purchase price or of the market value of the property, whichever is higher.

ABSD will apply to a property as long as the property is zoned residential under the Master Plan even though the property may presently be used for non-residential purposes. Buyers of a property subject to ABSD may be eligible for remission of ABSD if they fit a certain profile (e.g. developers) and satisfy certain conditions.

### ***Treasury Shares***

#### *Maximum holdings*

Under the Singapore Companies Act, the number of Shares held as treasury Shares cannot at any time exceed ten per cent. (10%) of the total number of issued Shares.

#### *Voting and other rights*

The Company cannot exercise any right in respect of treasury Shares. In particular, the Company cannot exercise any right to attend or vote at meetings and for the purposes of the Singapore Companies Act, the Company shall be treated as having no right to vote and the treasury Shares shall be treated as having no voting rights.

In addition, under the Singapore Companies Act, no dividend may be paid, and no other distribution of the Company's assets may be made, to the Company in respect of treasury Shares. However, the allotment of Shares as fully paid bonus Shares in respect of treasury Shares is allowed. Also, a subdivision or consolidation of any treasury Share into treasury Shares of a smaller or larger amount, as the case may be, is allowed so long as the total value of the treasury Shares after the subdivision or consolidation is the same as before.

#### *Disposal and cancellation*

Where Shares are held as treasury Shares, under the Singapore Companies Act, the Company may at any time:

- (a) sell the treasury Shares for cash;
- (b) transfer the treasury Shares for the purposes of or pursuant to an employees' share scheme;
- (c) transfer the treasury Shares as consideration for the acquisition of shares in or assets of another company or assets of a person;

- (d) cancel the treasury Shares; or
- (e) sell, transfer or otherwise use the treasury Shares for such other purposes as may be prescribed by the Minister for Finance.

#### *Effect of treasury Shares*

Where Shares are repurchased by the Company and held as treasury Shares, among other things, the total number of Shares outstanding would be reduced by the number of Shares bought back by the Company, and the appropriate adjustments would have to be made for the purpose of computing the earnings per Share. The number of treasury Shares held should be deducted from the number of Shares in issue when determining the weighted average number of Shares outstanding for the purpose of calculating the basic and diluted earnings per Share. Treasury Shares are excluded in the calculation of market capitalisation of the Company under the SGX Listing Manual.

For the modifications to a number of HKEx Listing Rules which are necessary to enable the Company to hold its current and future treasury shares and are technical in nature, please see the section of the Listing Document entitled “Appendix II – Modifications of the HKEx Listing Rules”.

#### ***Notifiable transactions and connected transactions***

The Singapore and Hong Kong regulatory regimes on notifiable transactions and connected transactions are governed by similar general principles. The requirements relating to shareholders’ approval and preparation of a circular under the SGX Listing Manual are similar but not identical to the requirements under the HKEx Listing Rules.

#### ***Notifiable transactions***

The rules under Chapter 14 of the HKEx Listing Rules relating to notifiable transactions are intended to keep the shareholders of an issuer informed of the ongoing operations of the issuer so that they can assess the impact of a particular transaction and vote on significant transactions. In addition, these rules also reinforce the general disclosure principle of price-sensitive information to keep the public apprised of the position of listed issuers and to avoid the establishment of a false market in the listed issuers’ securities. Similarly, Chapter 10 of the SGX Listing Manual contains rules relating to four categories of transactions, namely, non-discloseable transactions, discloseable transactions, major transactions and very substantial acquisitions or reverse takeovers. Under these rules, shareholders’ approval would be required for certain categories of transactions, thereby ensuring that shareholders would be able to exercise their voting rights for significant transactions which affect the issuer’s operations. The rules of Chapter 10 should be read together with the general principle of disclosure of material information which is necessary to avoid the establishment of a false market in the issuer’s securities or would be likely to materially affect the price or value of its securities, as stated in Rule 703 of the SGX Listing Manual.

The following is a summary of the provisions of the SGX Listing Manual relating to notifiable transactions.

#### *Thresholds*

Transactions are classified into four categories, depending on the size of the relative figures computed on the following bases:

- (a) The net asset value of the assets to be disposed of, compared with the group’s net asset value. This basis is not applicable to an acquisition of assets.
- (b) The net profits attributable to the assets acquired or disposed of, compared with the group’s net profits.

- (c) The aggregate value of the consideration given or received, compared with the issuer's market capitalisation based on the total number of issued shares excluding treasury shares.
- (d) The number of equity securities issued by the issuer as consideration for an acquisition, compared with the number of equity securities previously in issue.

The four categories of transactions are non-discloseable transactions, discloseable transactions, major transactions and very substantial acquisitions or reverse takeovers. A non-discloseable transaction is one where the relative figures computed on the bases above amount to 5% or less. A discloseable transaction is one where the relative figures computed on the bases above exceeds 5% but does not exceed 20%. A major transaction is one where all the relative figures computed on the bases above exceed 20%. A very substantial acquisition or reverse takeover is one where all the relative figures computed on the bases above are 100% or more.

#### *Shareholders' approval*

Major transactions and very substantial acquisitions or reverse takeovers are subject to shareholders' approval. A circular containing the information in Rule 1010 of the SGX Listing Manual must be sent to all shareholders.

#### *Circular requirements*

Rule 1206 of the SGX Listing Manual states that any circular sent to shareholders must:

- (1) contain all information necessary to allow shareholders to make a properly informed decision or, if no decision is required, to be properly informed;
- (2) advise shareholders that if they are in any doubt as to any action they should take, they should consult independent advisers;
- (3) state that the SGX-ST takes no responsibility for the accuracy of any statements or opinions made or reports contained in the circular;
- (4) comply with specific circular requirements in the SGX Listing Manual;
- (5) include an appropriate statement if a person is required to abstain from voting on a proposal at a general meeting by a listing rule; and
- (6) name the financial adviser appointed (if any) in the circular, and where required by SGX-ST, include a responsibility statement from the financial adviser in respect of such information contained in the circular as required by SGX-ST, as set out in Practice Note 12.1 of the SGX Listing Manual.

Rule 1010 of the SGX Listing Manual states the information which should be included in a circular to shareholders in relation to major transactions and very substantial acquisitions or reverse takeovers:

- (1) Particulars of the assets acquired or disposed of, including the name of any company or business, where applicable;
- (2) A description of the trade carried on, if any;
- (3) The aggregate value of the consideration, stating the factors taken into account in arriving at it and how it will be satisfied, including the terms of payment;

- (4) Whether there are any material conditions attaching to the transaction including a put, call or other option and details thereof;
- (5) The value (book value, net tangible asset value and the latest available open market value) of the assets being acquired or disposed of, and in respect of the latest available valuation, the value placed on the assets, the party who commissioned the valuation and the basis and date of such valuation;
- (6) In the case of a disposal, the excess or deficit of the proceeds over the book value, and the intended use of the sale proceeds. In the case of an acquisition, the source(s) of funds for the acquisition;
- (7) The net profits attributable to the assets being acquired or disposed of. In the case of a disposal, the amount of any gain or loss on disposal;
- (8) The effect of the transaction on the net tangible assets per share of the issuer for the most recently completed financial year, assuming that the transaction had been effected at the end of that financial year;
- (9) The effect of the transaction on the earnings per share of the issuer for the most recently completed financial year, assuming that the transaction had been effected at the beginning of that financial year;
- (10) The rationale for the transaction including the benefits which are expected to accrue to the issuer as a result of the transaction;
- (11) Whether any director or controlling shareholder (as defined in the SGX Listing Manual) has any interest, direct or indirect, in the transaction and the nature of such interests;
- (12) Details of any service contracts of the directors proposed to be appointed to the issuer in connection with the transaction; and
- (13) The relative figures that were computed on the bases set out in Rule 1006 of the SGX Listing Manual.

### ***Connected transactions***

The connected transactions rules in Chapter 14A of the HKEx Listing Rules are intended to guard against the risk that connected persons could take advantage of their positions and influence the issuer to enter into connected transactions which adversely affect the interests of a listed issuer or its shareholders. These concerns are dealt with in Singapore under Chapter 9 of the SGX Listing Manual relating to interested person transactions.

### ***Definition***

Under Chapter 9 of the SGX Listing Manual, an interested person transaction is broadly defined as any transaction between (i) the issuer, its non-listed subsidiary or its associated company (as defined in the SGX Listing Manual) over which the issuer has control, and (ii) an interested person. Interested persons are broadly defined as the director, chief executive officer or controlling shareholders (as defined in the SGX Listing Manual) (holding at least 15% of the total number of issued shares excluding treasury shares in the issuer or who in fact exercises control over the issuer) of the issuer and their associates.

### ***Shareholders' approval***

Rule 906 of the SGX Listing Manual states that an issuer must obtain shareholder approval for any interested person transaction of a value equal to, or more than

- (i) 5% of the Group's latest audited net tangible assets, or
- (ii) 5% of the Group's latest audited net tangible assets, when aggregated with other transactions entered into with the same interested person during the same financial year (save for transactions which have already been approved by shareholders).

Rule 906 of the SGX Listing Manual does not apply to any transaction below S\$100,000.

Rule 918 of the SGX Listing Manual states that shareholders' approval must be obtained prior to the transaction being entered into or, if the transaction is expressed to be conditional on such approval, prior to the completion of the transaction. Rule 919 of the SGX Listing Manual states that in a meeting to obtain shareholder approval, the interested person and any associate of the interested person must not vote on the resolution nor accept appointments as proxies unless specific instructions as to voting are given.

#### *Circular requirements*

Rule 921 of the SGX Listing Manual states the information which should be included in a circular to shareholders in relation to interested person transactions:

- (1) details of the interested person transacting with the entity at risk, and the nature of that person's interest in the transaction.
- (2) details of the transaction (and all other transactions which are the subject of aggregation pursuant to Rule 906 of the SGX Listing Manual) including relevant terms of the transaction, and the bases on which the terms were arrived at.
- (3) the rationale for, and benefit to, the entity at risk.
- (4) (a) an opinion in a separate letter from an independent financial adviser who is acceptable to the SGX-ST stating whether the transaction (and all other transactions which are the subject of aggregation pursuant to Rule 906 of the SGX Listing Manual):
  - (i) is on normal commercial terms, and
  - (ii) is prejudicial to the interests of the issuer and its minority shareholders.
- (b) however, the opinion from an independent financial adviser is not required for the following transactions. Instead, an opinion from the audit committee in the form required in Rule 917(4)(a) of the SGX Listing Manual must be disclosed:
  - (i) the issue of shares pursuant to Part IV of Chapter 8, or the issue of other securities of a class that is already listed, for cash.
  - (ii) purchase or sale of any real property where:
    - the consideration for the purchase or sale is in cash;
    - an independent professional valuation has been obtained for the purpose of the purchase or sale of such property; and
    - the valuation of such property is disclosed in the circular.
- (5) an opinion from the audit committee, if it takes a different view to the independent financial adviser.

- (6) all other information known to the issuer or any of its directors, that is material to shareholders in deciding whether it is in the interests of the issuer to approve the transaction. Such information includes, from an economic and commercial point of view, the true potential costs and detriments of, or resulting from, the transaction, including opportunity costs, taxation consequences, and benefits forgone by the entity at risk.
- (7) a statement that the interested person will abstain, and has undertaken to ensure that its associates will abstain, from voting on the resolution approving the transaction.
- (8) Where the issuer accepts a profit guarantee or a profit forecast (or any covenant which quantifies the anticipated level of future profits) from the vendor of businesses/assets, the information required in Rules 1013(1) and 1013(2) of the SGX Listing Manual, and a statement confirming that it will comply with Rule 1013(3) of the SGX Listing Manual.

### ***Continuing obligations on disclosure of material information***

#### *Rule 703 of the SGX Listing Manual*

Rule 703(1) of the SGX Listing Manual states that the Company must announce any information known to the Company concerning it or any of its subsidiaries or associated companies which:

- (a) is necessary to avoid the establishment of a false market in its securities; or
- (b) would be likely to materially affect the price or value of its securities.

Rule 703(1) does not apply to information which it would be a breach of law to disclose.

Rule 703(1) also does not apply to particular information while each of the following conditions applies.

Condition 1: a reasonable person would not expect the information to be disclosed;

Condition 2: the information is confidential; and

Condition 3: one or more of the following applies:

- (i) the information concerns an incomplete proposal or negotiation;
- (ii) the information comprises matters of supposition or is insufficiently definite to warrant disclosure;
- (iii) the information is generated for the internal management purposes of the entity;
- (iv) the information is a trade secret.

In complying with the disclosure requirements of the SGX-ST, the Company must (a) observe the Corporate Disclosure Policy set out in Appendix 7.1 of the SGX Listing Manual, and (b) ensure that its directors and executive officers are familiar with the SGX-ST's disclosure requirements and Corporate Disclosure Policy.

The SGX-ST will not waive any requirements under Rule 703 of the SGX Listing Manual.

## ***Share buybacks***

### *Maximum number of shares*

Under Section 76B of the Singapore Companies Act, the Company may purchase or otherwise acquire shares issued by it if it is expressly permitted to do so by the Articles of Association. Only Shares which are issued and fully paid-up may be purchased or acquired by the Company. The total number of Shares which may be purchased or acquired by the Company shall not exceed 10% of the total number of issued Shares of the Company as at the date of the last annual general meeting of the Company held before any resolution passed pursuant to the Singapore Companies Act or as at the date of such resolution relating to the share buyback, whichever is the higher, unless (i) the Company has, at any time during the relevant period, reduced its share capital by a special resolution under the Singapore Companies Act or the Singapore courts have at any time during the relevant period, made an order under the Singapore Companies Act confirming the reduction of share capital of the Company, in which event the total number of Shares shall be taken to be the total number of Shares as altered by the special resolution of the Company or the order of the Singapore courts, as the case may be. Any Shares which are held as treasury shares will be disregarded for purposes of computing the 10% limit.

### *Duration of authority*

Purchases or acquisitions of Shares may be made, at any time and from time to time, on and from the date of the extraordinary general meeting at which a share buyback mandate (the “**Share Buyback Mandate**”) is approved, up to:

- (a) the date on which the next annual general meeting is held or required by law to be held; or
- (b) the date on which the authority conferred by the Share Buyback Mandate is revoked or varied by the Shareholders in a general meeting; or
- (c) the date on which the purchases or acquisitions of Shares pursuant to the Share Buyback Mandate are carried out to the full extent mandated,

whichever is the earliest.

The authority conferred on the Directors by the Share Buyback Mandate to purchase Shares may be renewed by the Shareholders in any general meeting of the Company, such as at the next annual general meeting or at an extraordinary general meeting to be convened immediately after the conclusion or adjournment of the next annual general meeting. When seeking the approval of the Shareholders for the Share Buyback Mandate, the Company is required to disclose details pertaining to purchases or acquisitions of Shares pursuant to the proposed Share Buyback Mandate made during the previous 12 months, including the total number of Shares purchased, the purchase price per Share or the highest and lowest prices paid for such purchases of Shares, where relevant, and the total consideration paid for such purchases.

### *Manner of purchase*

The Company may purchase or acquire Shares by way of:

- (a) on-market purchases (“**Market Purchases**”), transacted on the SGX-ST through the ready market, and which may be transacted through one or more duly licensed stock brokers appointed by the Company for the purpose; and/or
- (b) off-market purchases (“**Off-Market Purchases**”) effected pursuant to an equal access scheme.



Under the Singapore Companies Act, an Off-Market Purchase must, however, satisfy all of the following conditions:

- (i) offers for the purchase or acquisition of Shares shall be made to every person who holds Shares to purchase or acquire the same percentage of their Shares;
- (ii) all of the abovementioned persons shall be given a reasonable opportunity to accept the offers made to them; and
- (iii) the terms of all the offers shall be the same, except that there shall be disregarded differences in consideration attributable to the fact that offers may relate to Shares with different accrued dividend entitlements, differences in consideration attributable to the fact that offers relate to Shares with different amounts remaining unpaid (if applicable) and differences in the offers introduced solely to ensure that each person is left with a whole number of Shares.

Pursuant to the SGX Listing Manual, if the Company wishes to make an Off-Market Purchase in accordance with an equal access scheme, it will issue an offer document to all Shareholders containing at least the following information:

- (1) the terms and conditions of the offer;
- (2) the period and procedures for acceptances;
- (3) the reasons for the proposed purchase or acquisition of Shares;
- (4) the consequences, if any, of the purchases or acquisitions of Shares by the Company that will arise under the Singapore Takeovers Code or other applicable take-over rules;
- (5) whether the purchases or acquisitions of Shares, if made, would have any effect on the listing of the Shares on the SGX-ST;
- (6) details of any purchases or acquisitions of Shares made by the Company in the previous 12 months (whether Market Purchases or Off-Market Purchases), giving the total number of shares purchased, the purchase price per Share or the highest and lowest prices paid for the purchases of Shares, where relevant, and the total consideration paid for the purchases; and
- (7) whether the Shares purchased by the issuer will be cancelled or kept as treasury shares.

#### *Maximum purchase price*

The purchase price (excluding brokerage, stamp duties, commission, applicable goods and services tax and other related expenses (“**related expenses**”)) to be paid for a Share will be determined by the Directors.

However, the purchase price to be paid for the Shares pursuant to the purchases or acquisitions of the Shares in the case of a Market Purchase must not exceed 105% of the Average Closing Price (as defined hereinafter) excluding related expenses.

For the above purposes:

“**Average Closing Price**” means the average of the closing market prices of the Shares over the last five Market Days, on which transactions in the Shares were recorded, before the day on which the purchase or acquisition of Shares was made, or as the case may be, and deemed to be adjusted for any corporate action that occurs after the relevant five Market Days.

### *Status of purchased shares*

A Share purchased or acquired by the Company is deemed cancelled immediately on purchase or acquisition (and all rights and privileges attached to the Share will expire on such cancellation) unless such Share is held by the Company as a treasury share. At the time of each purchase of Shares by the Company, the Directors will decide whether the Shares purchased will be cancelled or kept as treasury shares, or partly cancelled and partly kept as treasury shares, depending on the needs of the Company at that time. The total number of Shares will be diminished by the number of Shares purchased or acquired by the Company and which are not held as treasury shares. All Shares purchased or acquired by the Company (other than treasury shares held by the Company to the extent permitted under the Singapore Companies Act) will be automatically de-listed by the SGX-ST, and certificates (if any) in respect thereof will be cancelled and destroyed by the Company as soon as reasonably practicable following settlement of any such purchase or acquisition.

### *Summary of salient provisions of the laws of Singapore applicable to the Shareholders*

The following summarises the salient provisions of the laws of Singapore applicable to the Shareholders as at the date of this listing document. The summaries below are for general guidance only and do not constitute legal advice, nor must they be used as a substitute for specific legal advice, on the corporate laws of Singapore. Additionally, prospective investors and/or the Shareholders should also note that the laws applicable to the Shareholders may change, whether as a result of proposed legislative reform to the laws of Singapore or otherwise. Prospective investors and/or the Shareholders should consult their own legal advisers for specific legal advice concerning their legal obligations under the relevant laws.

#### *Takeover obligations*

##### Offences and Obligations Relating to Take-overs

###### Section 140 of the SFA

Section 140 of the SFA provides that a person shall not give notice or publicly announce that he intends to make a take-over offer if (a) he has no intention to make a take-over offer; or (b) he has no reasonable or probable grounds for believing that he will be able to perform his obligations if the take-over offer is accepted or approved, as the case may be. A person who contravenes Section 140 of the SFA is guilty of an offence and shall be liable on conviction to a fine not exceeding S\$250,000 or to imprisonment for a term not exceeding 7 years or to both.

##### Obligations under the Singapore Takeovers Code and the consequences of non-compliance

###### Obligations under the Singapore Takeovers Code

The Singapore Takeovers Code regulates the acquisition of ordinary shares of public companies and contains certain provisions that may delay, deter or prevent a future takeover or change in control of the Company. Any person acquiring an interest, either on his own or together with parties acting in concert with him, in 30.0% or more of the voting Shares, or, if such person holds, either on his own or together with parties acting in concert with him, between 30.0% and 50.0% (both inclusive) of the voting Shares, and if he (or parties acting in concert with him) acquires additional voting Shares representing more than 1.0% of the voting Shares in any six-month period, must, except with the consent of the Securities Industry Council in Singapore, extend a takeover offer for the remaining voting Shares in accordance with the provisions of the Singapore Takeovers Code.

“**Parties acting in concert**” comprise individuals or companies who, pursuant to an agreement or understanding (whether formal or informal), co-operate, through the acquisition by any of them of Shares in a company, to obtain or consolidate effective control of that company. Certain persons are presumed (unless the presumption is rebutted) to be acting in concert with each other. They are as follows:

- (a) a company and its related companies, the associated companies of any of the company and its related companies, companies whose associated companies include any of these companies and any person who has provided financial assistance (other than a bank in the ordinary course of business) to any of the foregoing for the purchase of voting rights;
- (b) a company and its directors (including their close relatives, related trusts and companies controlled by any of the directors, their close relatives and related trusts);
- (c) a company and its pension funds and employee share schemes;
- (d) a person with any investment company, unit trust or other fund whose investment such person manages on a discretionary basis;
- (e) a financial or other professional advisers and its clients in respect of Shares held by the advisers and persons controlling, controlled by or under the same control as the advisers and all the funds managed by the advisers on a discretionary basis, where the shareholdings of the advisers and any of those funds in the client total 10.0% or more of the client's equity share capital;
- (f) directors of a company (including their close relatives, related trusts and companies controlled by any of such directors, their close relatives and related trusts) which is subject to an offer or where the directors have reason to believe a bona fide offer for the company may be imminent;
- (g) partners; and
- (h) an individual and his close relatives, related trusts, any person who is accustomed to act in accordance with his instructions and companies controlled by the individual, his close relatives, his related trusts or any person who is accustomed to act in accordance with his instructions and any person who has provided financial assistance (other than a bank in the ordinary course of business) to any of the foregoing for the purchase of voting rights.

In the event that one of the abovementioned trigger-points is reached, the person acquiring an interest (the **"Offeror"**) must make a public announcement stating the terms of the offer and its identity. The Offeror must post an offer document not earlier than 14 days and not later than 21 days from the date of the offer announcement. An offer must be kept open for at least 28 days after the date on which the offer document was posted.

The Offeror may vary the offer by offering more for the shares or by extending the period in which the offer remains open. If a variation is proposed, the Offeror is required to give a written notice to the offeree company and its shareholders, stating the modifications made to the matters set out in the offer document.

The revised offer must be kept open for at least another 14 days. Where the consideration is varied, shareholders who agree to sell before the variation are also entitled to receive the increased consideration.

A mandatory offer must be in cash or be accompanied by a cash alternative at not less than the highest price paid by the offeror or parties acting in concert with the offeror within the six months preceding the acquisition of Shares that triggered the mandatory offer obligation.

Under the Singapore Takeovers Code, where effective control of a company is acquired or consolidated by a person, or persons acting in concert, a general offer to all other shareholders is normally required. An offeror must treat all shareholders of the same class in an offeree company equally. A fundamental requirement is that shareholders in the company subject to the takeover offer must be given sufficient information, advice and time to consider and decide on the offer.

### Consequences of non-compliance with the requirements under the Singapore Takeovers Code

The Singapore Takeovers Code is non-statutory in that it does not have the force of law. Therefore, as provided in Section 139(8) of the SFA, a failure of any party concerned in a take-over offer or a matter connected therewith to observe any of the provisions of the Singapore Code shall not of itself render that party liable to criminal proceedings. However, the failure of any party to observe any of the provisions of the Singapore Takeovers Code may, in any civil or criminal proceedings, be relied upon by any party to the proceedings as tending to establish or to negate any liability which is in question in the proceedings.

Section 139 further provides that where the Securities Industry Council has reason to believe that any party concerned in a take-over offer or a matter connected therewith is in breach of the provisions of the Singapore Takeovers Code or is otherwise believed to have committed acts of misconduct in relation to such take-over offer or matter, the Securities Industry Council has power to enquire into the suspected breach or misconduct. The Securities Industry Council may summon any person to give evidence on oath or affirmation, which it is thereby authorised to administer, or produce any document or material necessary for the purpose of the enquiry.

### *Reporting obligations of directors*

#### Section 164 of the Singapore Companies Act

A company is required to keep a register showing with respect to each director of the company particulars of the following interests (the “**Interests**”):

- (a) shares in that company or in a related corporation, being shares of which the director is a registered holder or in which he has an interest and the nature and extent of that interest;
- (b) debentures of or participatory interests made available by the company or a related corporation which are held by the director or in which he has an interest and the nature and extent of that interest;
- (c) rights or options of the director or of the director and another person or other persons in respect of the acquisition or disposal of shares in the company or a related corporation; and
- (d) contracts to which the director is a party or under which he is entitled to a benefit, being contracts under which a person has a right to call for or to make delivery of shares in the company or in a related corporation.

#### Sections 165 of the Singapore Companies Act

A director of a company is required to notify the company of (A) his Interests or (B) any changes to his Interests. In the case of (A), the notification to the company shall be given within **two business days** after the date he became a director or the date on which he became a registered holder of or acquired his Interest, and in the case of (B), within **two business days** after the date he became a director or the occurrence of the event giving rise to the change in his Interests.

#### Consequences of non-compliance under the Singapore Companies Act

Section 165(9) of the Singapore Companies Act provides for the consequences of non-compliance with Sections 165 of the Singapore Companies Act and states that any director who fails to comply with the obligations under Section 165 of the Singapore Companies Act, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding S\$15,000 or to imprisonment for a term not exceeding three years and, in the case of a continuing offence, to a further fine of S\$1,000 for every day during which the offence continues after conviction.

## *Reporting obligations of shareholders*

### Reporting obligations under the Singapore Companies Act

#### Section 81 of the Singapore Companies Act

A person has a substantial shareholding in a company if he has an “interest” in voting shares in the company, and the total votes attached to those shares is not less than 5.0% of the total votes attached to all the voting shares in the company.

#### Section 82 of the Singapore Companies Act

A substantial shareholder of a company (as defined under the Singapore Companies Act) is required to notify the company in writing of his name, address and full particulars of his “interests” in the voting shares in the company within **two business days** after becoming a substantial shareholder.

#### Sections 83 and 84 of the Singapore Companies Act

A substantial shareholder (as defined under the Singapore Companies Act) is required to notify the company in writing of changes in the “percentage level” of his shareholding or his ceasing to be a substantial shareholder within **two business days** after he is aware of such changes or within **two business days** after he ceases to be a substantial shareholder, as the case may be.

The reference to changes in “percentage level” means any changes in a substantial shareholder’s interest in the company which results in his interest, following such change, increasing or decreasing to the next discrete 1.0% threshold. For example, an increase in interests in the company from 5.1% to 5.9% need not be notified, but an increase from 5.9% to 6.1% will have to be notified.

### Consequences of non-compliance under the Singapore Companies Act

#### Section 89 of the Singapore Companies Act

Section 89 of the Singapore Companies Act provides for the consequences of non-compliance with Sections 82, 83 and 84. Under Section 89, a person who fails to comply shall be guilty of an offence and shall be liable on conviction to a fine not exceeding S\$5,000 and in the case of a continuing offence to a further fine of S\$500 for every day during which the offence continues after conviction.

#### Section 90 of the Singapore Companies Act

Section 90 of the Singapore Companies Act provides for a defence to a prosecution for failing to comply with Sections 82, 83 or 84. It is a defence if the defendant proves that his failure was due to his not being aware of a fact or occurrence the existence of which was necessary to constitute the offence and that he was not so aware on the date of the summons; or he became so aware less than 7 days before the date of the summons. However, a person will conclusively be presumed to have been aware of a fact or occurrence at a particular time (a) of which he would, if he had acted with reasonable diligence in the conduct of his affairs, have been aware at that time; or (b) of which an employee or agent of the person, being an employee or agent having duties or acting in relation to his master’s or principal’s interest or interests in a share or shares in the company concerned, was aware or would, if he had acted with reasonable diligence in the conduct of his master’s or principal’s affairs, have been aware at that time.

## Powers of the court with respect to defaulting substantial shareholders

### Section 91 of the Singapore Companies Act

Section 91 of the Singapore Companies Act provides that where a substantial shareholder fails to comply with Sections 82, 83 or 84, the Court may, on the application of the Minister, whether or not the failure still continues, make one of the following orders:

- (a) an order restraining the substantial shareholder from disposing of any interest in shares in the company in which he is or has been a substantial shareholder;
- (b) an order restraining a person who is, or is entitled to be registered as, the holder of shares referred to in paragraph (a) from disposing of any interest in those shares;
- (c) an order restraining the exercise of any voting or other rights attached to any share in the company in which the substantial shareholder has or has had an interest;
- (d) an order directing the company not to make payment, or to defer making payment, of any sum due from the company in respect of any share in which the substantial shareholder has or has had an interest;
- (e) an order directing the sale of all or any of the shares in the company in which the substantial shareholder has or has had an interest;
- (f) an order directing the company not to register the transfer or transmission of specified shares;
- (g) an order that any exercise of the voting or other rights attached to specified shares in the company in which the substantial shareholder has or has had an interest be disregarded; or
- (h) for the purposes of securing compliance with any other order made under Section 91, an order directing the company or any other person to do or refrain from doing a specified act.

Any order made under Section 91 may include such ancillary or consequential provisions as the Court thinks just. The Court may not make an order other than an order restraining the exercise of voting rights, if it is satisfied (a) that the failure of the substantial shareholder to comply was due to his inadvertence or mistake or to his not being aware of a relevant fact or occurrence; and (b) that in all the circumstances, the failure ought to be excused. Any person who contravenes or fails to comply with an order made under Section 91 that is applicable to him shall be guilty of an offence and shall be liable on conviction to a fine not exceeding S\$5,000 and, in the case of a continuing offence, to a further fine of S\$500 for every day during which the offence continues after conviction.

## Reporting obligations under the SFA

### Sections 133, 135, 136 and 137 of the SFA

Pursuant to Section 133 of the SFA, the directors and the chief executive officer of a company are required to, within two business days, notify the company in writing of their interests in the company and its related corporations, including interests in shares, debentures, rights or options for the acquisition or disposal of shares in or debentures of, and participatory interests made available by the company and its related corporations. Such persons are also required to notify the company in writing any change to the particulars notified under Section 133, within 2 business days after becoming aware of such change.

A substantial shareholder (as defined under the Singapore Companies Act) is also required under Sections 135, 136 and 137 of the SFA to notify the company in writing, within two business days after becoming

aware of their becoming a substantial shareholder, an subsequent change in the percentage level of their interest in shares (rounded down to the next whole number) or their ceasing to be a substantial shareholder. A person has a substantial shareholding in a company if he has an interest or interests in one or more voting shares in the company, and the total votes attached to that share, or those shares, is not less than 5 per cent of the total votes attached to all the voting shares in the company.

While the definition of an “interest” in the voting Shares for the purposes of substantial Shareholder disclosure requirements under the SFA is similar to that under the Singapore Companies Act, the SFA provides that a person who has authority (whether formal or informal, or express or implied) to dispose of, or to exercise control over the disposal of, a voting share is regarded as having an interest in such share, even if such authority is, or is capable of being made, subject to restraint or restriction in respect of particular voting Shares.

For the purposes of Sections 133, 135, 136 and 137 of the SFA, there shall be a conclusive presumption of a person being “aware” of a fact or occurrence at the time at which he would, if he had acted with reasonable diligence in the conduct of his affairs, have been aware.

#### Sections 137G of the SFA

When a company has been notified by a director, chief executive officer or a substantial shareholder on matters required to be disclosed by them pursuant to Sections 133, 135, 136 and 137 of the SFA, the corporation shall announce or otherwise disseminate the information stated in such notice to the securities exchange on whose official list any or all of the shares are listed (being the SGX-ST and the HKEx in the case of the Company) as soon as practicable and in any case, no later than the end of the business day following the day on which the company received the notice.

#### Consequences of non-compliance under the SFA

##### Section 134, 137D, 137E and 137ZD of the SFA

Sections 134 and 137D of the SFA provides for the consequences of non-compliance with disclosures which will be required from directors, chief executive officers and substantial shareholders of corporations with a primary listing on the SGX-ST. Under these provisions, directors, chief executive officers and substantial shareholders of corporations with a primary listing on the SGX-ST if found to have (i) intentionally or recklessly contravened the disclosure requirements or furnished any information which he knows is false or misleading in a material particular or is reckless as to whether it is, he could, upon conviction, be liable to a fine not exceeding S\$250,000 or to imprisonment for a term not exceeding two years or both and in the case of a continuing offence, and to a further fine of S\$25,000 for every day (or part thereof) during which the offence continues after conviction and (ii) contravened the disclosure requirements or furnished any information which is false or misleading in a material particular, could, upon conviction, be liable to a fine not exceeding S\$25,000, and in the case of a continuing offence, to a further fine of S\$2,500 for every day (or part thereof) during which the offence continues after conviction.

Where a person has failed to comply with the reporting requirements under Sections 135, 136 and 137 of the SFA applicable to substantial shareholders, the MAS may apply to a court under Section 137E of the SFA to make certain orders against such a person including, among others, orders to restrain the substantial shareholder from disposing his interests in the relevant corporation, to restrain the exercise of his voting rights attached to the relevant shares, to direct the sale of any or all of the shares in which has or has had an interest and to disregard any exercise of such person's voting rights attached to the relevant shares.

Section 137ZD of the SFA will also allow the MAS, with the consent of the Public Prosecutor, to bring an action in court to seek an order for a civil penalty in lieu of proceedings in relation to the aforementioned

penalties. If convicted, the court may order the person to pay a civil penalty of a sum not less than S\$50,000 but not exceeding S\$2 million.

#### Section 137G(3) of the SFA

Section 137G(3) of the SFA provides that, if a corporation is found to have (i) intentionally or recklessly contravened the requirement to announce or otherwise disseminate disclosures made by any director, chief executive officer or substantial shareholder under Sections 133, 135, 136 and 137 of the SFA, or announced or disseminated any information which it knows is false or misleading in a material particular, or is reckless as to whether it is, it could, upon conviction, be liable to a fine not exceeding S\$250,000 and in the case of a continuing offence, to a further fine of S\$25,000 for every day (or part thereof) during which the offence continues after conviction, and (ii) contravened the requirement to announce or disseminate disclosures made by any director, chief executive officer or substantial shareholder under Sections 133, 135, 136 and 137 of the SFA, or announced or disseminated any information which it knows is false or misleading in a material particular, it could, upon conviction, be liable to a fine not exceeding S\$25,000 and in the case of a continuing offence, to a further fine of S\$2,500 for every day (or part thereof) during which the offence continues after conviction. Section 137ZD of the SFA will also allow the MAS, with the consent of the Public Prosecutor, to bring an action in court to seek an order for a civil penalty in lieu of proceedings in relation to the aforementioned penalties. If convicted, the court may order the person to pay a civil penalty of a sum not less than S\$50,000 but not exceeding S\$2 million.

#### Duty not to furnish false statements to securities exchange, futures exchange, designated clearing house and Securities Industry Council of Singapore

#### Section 330 of the SFA

Section 330 of the SFA provides that any person who, with intent to deceive, makes or furnishes, or knowingly and wilfully authorises or permits the making or furnishing of, any false or misleading statement or report to ~~any~~ a securities exchange, futures exchange, licensed trade repository, approved clearing house or recognised designated clearing house or any officers thereof relating to dealing in securities shall be guilty of an offence and shall be liable on conviction to a fine not exceeding S\$50,000 or to imprisonment for a term not exceeding 2 years or to both. Section 330 further provides that any person who, with intent to deceive, makes or furnishes or knowingly and wilfully authorises or permits the making or furnishing of, any false or misleading statement or report to the Securities Industry Council or any of its officers, relating to any matter or thing required by the Securities Industry Council in the exercise of its functions under the SFA shall be guilty of an offence and shall be liable on conviction to a fine not exceeding S\$50,000 or to imprisonment for a term not exceeding 2 years or to both.

#### *Prohibited conduct in relation to trading in the securities of the company*

#### Prohibitions against false trading and market manipulation

#### Section 197 of the SFA

Section 197 of the SFA prohibits (i) the creation of a false or misleading appearance of active trading in any securities on a securities exchange; (ii) the creation of a false or misleading appearance with respect to the market for, or price of, any securities on a securities exchange; (iii) affecting the price of securities by way of purchases or sales which do not involve a change in the beneficial ownership of those securities; and (iv) affecting the price of securities by means of any fictitious transactions or devices. In respect and (i) and (ii), Section 197(1A) of the SFA expressly states that a person shall not engage in such prohibited actions if he knows that his actions or he is reckless as to whether his actions, will create, or will be likely to create, that false or misleading appearance.



Section 197(3) of the SFA provides that a person is deemed to have created a false or misleading appearance of active trading in securities on a securities market if he does any of the following acts:

- (i) if he effects, takes part in, is concerned in or carries out, directly or indirectly, any transaction of purchase or sale of any securities, which does not involve any change in the beneficial ownership of the securities;
- (ii) if he makes or causes to be made an offer to sell any securities at a specified price where he has made or caused to be made or proposes to make or to cause to be made, or knows that a person associated with him has made or caused to be made or proposes to make or to cause to be made, an offer to purchase the same number, or substantially the same number, of securities at a price that is substantially the same as the first-mentioned price; or
- (iii) if he makes or causes to be made an offer to purchase any securities at a specified price where he has made or caused to be made or proposes to make or to cause to be made, or knows that a person associated with him has made or caused to be made or proposes to make or to cause to be made, an offer to sell the same number, or substantially the same number, of securities at a price that is substantially the same as the first-mentioned price, unless he establishes that the purpose or purposes for which he did the act was not, or did not include, the purpose of creating a false or misleading appearance of active trading in securities on a securities market.

Section 197(5) of the SFA provides that a purchase or sale of securities does not involve a change in the beneficial ownership if a person who had an interest in the securities before the purchase or sale, or a person associated with the first-mentioned person in relation to those securities, has an interest in the securities after the purchase or sale.

Section 197(6) of the SFA provides a defence to proceedings against a person in relation to a purchase or sale of securities that did not involve a change in the beneficial ownership of those securities. It is a defence if the defendant establishes that the purpose or purposes for which he purchased or sold the securities was not, or did not include, the purpose of creating a false or misleading appearance with respect to the market for, or the price of, securities.

#### Prohibition against securities market manipulation

##### Section 198 of the SFA

Section 198(1) of the SFA provides that no person shall carry out directly or indirectly, 2 or more transactions in securities of a corporation, being transactions that have, or likely to have, the effect of raising, lowering, maintaining or stabilising the price of the securities with intent to induce other persons to purchase them. Section 198(2) of the SFA provides that transactions in securities of a corporation includes (i) the making of an offer to purchase or sell such securities of the corporation; and (ii) the making of an invitation, however expressed, that directly or indirectly invites a person to offer to purchase or sell such securities of the corporation.

#### Prohibition against the manipulation of the market price of securities by the dissemination of misleading information

##### Sections 199 and 202 of the SFA

Section 199 of the SFA prohibits the making of false or misleading statements. Under this provision, a person shall not make a statement, or disseminate information, that is false or misleading in a material particular and is likely (a) to induce other persons to subscribe for securities; (b) to induce the sale or purchase of securities by other persons; or (c) to have the effect of raising, lowering, maintaining or stabilising the market price of securities, if, when he makes the statement or disseminates the information, he

either does not care whether the statement or information is true or false, or knows or ought reasonably to have known that the statement or information is false or misleading in a material particular.

Section 202 of the SFA prohibits the dissemination of information about illegal transactions. This provision prohibits the circulation or dissemination of any statement or information to the effect that the price of any securities of a corporation will, or is likely, to rise, fall or be maintained by reason of transactions entered into in contravention of Sections 197 to 201 of the SFA. This prohibition applies where the person who is circulating or disseminating the information or statements (i) is the person who entered into the illegal transaction; or (ii) is associated with the person who entered into the illegal transaction; or (iii) is the person, or associated with the person, who has received or expects to receive (whether directly or indirectly) any consideration or benefit of circulating or disseminating the information or statements.

#### Prohibition against fraudulently inducing persons to deal in securities

##### *Section 200 of the SFA*

Section 200 of the SFA prohibits a person from inducing or attempting to induce another person to deal in securities, (a) by making or publishing any statement, promise or forecast that he knows or ought reasonably to have known to be misleading, false or deceptive; (b) by any dishonest concealment of material facts; (c) by the reckless making or publishing of any statement, promise or forecast that is misleading, false or deceptive; or (d) by recording or storing in, or by means of, any mechanical, electronic or other device information that he knows to be false or misleading in a material particular, unless it is established that, at the time when the defendant so recorded or stored the information, he had no reasonable grounds for expecting that the information would be available to any other person.

#### Prohibition against employment of manipulative and deceptive devices

##### *Section 201 of the SFA*

Section 201 of the SFA prohibits (i) the employment of any device, scheme or artifice to defraud; (ii) engaging in any act, practice or course of business which operates as a fraud or deception, or is likely to operate as a fraud or deception, upon any person; and (iii) making any statement known to be false in a material particular or (iv) omitting to state a material fact necessary to make statements made not misleading, in connection with the subscription, purchase or sale of any securities.

#### Prohibition against the dissemination of information about illegal transactions

##### *Section 202 of the SFA*

Section 202 of the SFA prohibits the circulation or dissemination of any statement or information to the effect that the price of any securities of a corporation will, or is likely to rise, fall or be maintained by reason of any transaction entered into or to be entered into in contravention of Sections 197 to 201 of the SFA. This prohibition applies where the person who is circulating or disseminating the information or statements (i) is the person who entered into the illegal transaction; or (ii) is associated with the person who entered into the illegal transaction; or (iii) is the person, or associated with the person, who has received or expects to receive (whether directly or indirectly) any consideration or benefit of circulating or disseminating the information or statements.

#### Prohibition against insider trading

##### *Sections 218 and 219 of the SFA*

Sections 218 and 219 of the SFA prohibit persons from dealing in securities of a corporation if the person knows or reasonably ought to know that he is in possession of information that is not generally available,

which is expected to have a material effect on the price or value of securities of that corporation. Such persons include substantial shareholders of a corporation or a related corporation, and persons who occupy a position reasonably expected to give him access to inside information by virtue of professional or business relationship by being an officer or a substantial shareholder of the corporation or a related corporation, or any other person in possession of inside information. For an alleged contravention of Section 218 or 219, Section 220 makes it clear that it is not necessary for the prosecution or plaintiff to prove that the accused person or defendant intended to use the information referred to in Section 218(1)(a) or (1A)(a) or 219(1)(a) in contravention of Section 218 or 219, as the case may be.

#### Section 216 of the SFA

Section 216 of the SFA provides that a reasonable person would be taken to expect information to have a material effect on the price or value of securities if the information would, or would be likely to, influence persons who commonly invest in securities in deciding whether or not to subscribe for, buy or sell the first-mentioned securities.

#### Penalties

#### Section 232 of the SFA

Section 232 of the SFA provides that the MAS may, with the consent of the Public Prosecutor, bring an action in a court against the offender to seek an order for a civil penalty in respect of any contravention. If the court is satisfied on the balance of probabilities that the contravention resulted in the gain of a profit or avoidance of a loss by the offender, the offender may have to pay a civil penalty of a sum (a) not exceeding 3 times the amount of the profit that the person gained; or the amount of the loss that he avoided, as a result of the contravention; or (b) equal to S\$50,000 if the person is not a corporation, or S\$100,000 if the person is a corporation, whichever is the greater. If the court is satisfied on a balance of probabilities that the contravention did not result in the gain of a profit or avoidance of a loss by the offender, the court may make an order against him for the payment of a civil penalty of a sum not less than S\$50,000 and not more than S\$2 million.

#### Section 204 of the SFA

Any person who contravenes Sections 197, 198, 201 or 202 of the SFA is guilty of an offence and shall be liable on conviction to a fine not exceeding S\$250,000 or to imprisonment for a term not exceeding 7 years or to both under Section 204 of the SFA. Section 204 of the SFA further provides that no proceedings shall be instituted against a person for the offence after a court has made an order against him for the payment of a civil penalty under Section 232 of the SFA, or the person has entered into an agreement with the MAS to pay, with or without admission of liability, a civil penalty under Section 232(5) on the SFA in respect of the contravention.

#### Section 221 of the SFA

Any person who contravenes Section 218 or 219 of the SFA, is guilty of an offence and shall be liable on conviction to a fine not exceeding S\$250,000 or to imprisonment for a term not exceeding 7 years or to both under Section 221(1) of the SFA. Section 221(2) of the SFA further provides that no proceedings shall be instituted against a person for an offence in respect of a contravention of Section 218 or 219 of the SFA after a court has made an order against him for the payment of a civil penalty under Section 232 of the SFA, or the person has entered into an agreement with the MAS to pay, with or without admission of liability, a civil penalty under Section 232(5) on the SFA in respect of that contravention.

## C. CONSTITUTIONAL DOCUMENTS

### REGISTRATION NUMBER

The Company is registered with the Accounting and Corporate Regulatory Authority (ACRA) under the registration number 200413169H.

### SUMMARY OF THE ARTICLES OF ASSOCIATION

#### Directors

*(a) Ability of interested directors to vote*

A Director shall not vote in respect of any contract, proposed contract or arrangement or any other proposal whatsoever in which he or his associate (as defined under the Hong Kong Listing Rules) has any direct or indirect personal material interest, and he shall not be counted in the quorum present at a meeting in relation to any resolution on which he is debarred from voting.

*(b) Remuneration*

Fees payable to Non-Executive Directors shall be a fixed sum (not being a commission on or a percentage of the Company's profits or turnover) as shall from time to time be determined by us in general meeting. Fees payable to Directors shall not be increased except at a general meeting convened by a notice specifying the intention to propose such increase.

Any Director who holds any executive office, or who serves on any committee of the Directors, or who performs services which in the opinion of the Directors are outside the scope of the ordinary duties of a Director, may be paid such extra remuneration by way of salary, commission or otherwise, as the Directors may determine.

The remuneration of a Chief Executive Officer shall be fixed by the Directors and may be by way of salary or commission or participation in profits or by any or all of these modes but shall not be by a commission on or a percentage of turnover.

The Directors shall have power to pay and agree to pay pensions or other retirement, superannuation, death or disability benefits to (or to any person in respect of) any Director for the time being holding any executive office and for the purpose of providing any such pensions or other benefits, to contribute to any scheme or fund or to pay premiums.

*(c) Borrowing*

The Directors may exercise all the powers of the Company to borrow money, to mortgage or charge its undertaking, property and uncalled capital, and to issue debentures and other securities, whether outright or as collateral security for any debt, liability or obligation of the Company or any third party.

*(d) Retirement Age Limit*

There is no retirement age limit for Directors under the Articles of Association. Section 153 of the Singapore Companies Act however, provides that no person of or over the age of 70 years shall be appointed a director of a public company, unless he is appointed or re-appointed as a director of the Company or authorized to continue in office as a director of the Company by way of an ordinary resolution passed at an annual general meeting of the Company.

(e) ***Shareholding Qualification***

There is no shareholding qualification for Directors in the Articles of Association.

**Share rights and restrictions**

The Company currently has one class of shares, namely, ordinary shares. Only persons who are registered on the register of shareholders are recognized as the Shareholders. In cases where the person so registered is CDP, the persons named as the depositors in the depository register maintained by CDP for the ordinary shares are recognized as the Shareholders.

***Issue of shares***

Subject to applicable laws and the Articles of Association, no shares may be issued by the Directors without the prior approval of the Company by ordinary resolution. The Directors may, subject to applicable laws, the Articles of Association and to any special rights attached to any Shares for the time being issued, allot and issue shares or grant options over or otherwise dispose of shares to such persons on such terms and conditions and for such consideration and at such time and subject or not to the payment of any part of the amount thereof in cash as the Directors may think fit and any Shares may be issued with such preferential, deferred, qualified or special rights, privileges, conditions or restrictions whether as regards dividend, return of capital, participation in surplus assets and profits, voting, conversion or otherwise as the Directors may think fit, provided that, among others, (subject to any direction to the contrary that may be given by the Company in a General Meeting) any issue of shares for cash to members holding shares of any class shall be offered to such members in proportion as nearly as may be to the number of shares of such class then held by them.

***Dividends and distribution***

The Company may, by ordinary resolution of the Shareholders, declare dividends at a General Meeting, but the Company may not pay dividends in excess of the amount recommended by the Board of Directors. The Company must pay all dividends out of profits available for distribution. It may capitalize any sum standing to the credit of any of its reserve accounts and apply it to pay dividends, if such dividends are satisfied by the issue of shares to the Shareholders. All dividends are paid pro-rata among the Shareholders in proportion to the amount paid up on each shareholder's ordinary shares, unless the rights attaching to an issue of any ordinary share provide otherwise. Unless otherwise directed, dividends are paid by cheque or warrant sent through the post to each shareholder at his registered address. Notwithstanding the foregoing, the payment by the Company to CDP or a clearing house (as defined in the Articles of Association) (as the case may be) of any dividend payable to a shareholder whose name is entered in the depository register shall, to the extent of payment made to CDP or a clearing house (as defined in the Articles of Association) (as the case may be), discharge the Company from any liability to that shareholder in respect of that payment.

The payment by the Directors of any unclaimed dividends or other monies payable on or in respect of a share into a separate account shall not constitute the Company a trustee in respect thereof. All dividends unclaimed after being declared may be invested or otherwise made use of by the Directors for the benefit of the Company. Any dividend unclaimed after a period of six years after having been declared may be forfeited and shall revert to the Company but the Directors may thereafter at their discretion annul any such forfeiture and pay the dividend so forfeited to the person entitled thereto prior to the forfeiture.

The Directors may retain any dividends or other monies payable on or in respect of a share on which the Company has a lien, and may apply the same in or towards satisfaction of the debts, liabilities or engagements in respect of which the lien exists.

### ***Voting rights***

A holder of the Company's ordinary Shares is entitled to attend and vote at any general meeting, in person or by proxy. Proxies need not be a shareholder. Except as otherwise provided in the Company's Articles of Association, two or more shareholders must be present in person or by proxy to constitute a quorum at any general meeting. Under the Articles of Association, a resolution put to the vote of the meeting shall be decided by poll. Every shareholder present in person or by proxy shall have one vote for each ordinary share which he holds or represents. For the purpose of determining the number of votes which a member, being a depositor, or his proxy may cast at any general meeting on a poll, the reference to shares held or represented shall, in relation to shares of that depositor, be the number of shares entered against his name in the register of members or the depository register maintained by the CDP as at 48 hours before the time of the relevant general meeting as certified by the CDP or the Hong Kong share registrar (as the case may be) to the Company. In the case of a tie vote, the Chairman of the meeting shall be entitled to a casting vote.

### **Change in capital**

Changes in the capital structure of the Company (for example, an increase, consolidation, cancellation, subdivision or conversion of its share capital) require shareholders to pass an ordinary resolution. General meetings at which ordinary resolutions are proposed to be passed shall be called by at least 14 days' notice in writing. However, all annual general meetings shall be called by 21 days notice in writing at the least. The notice must be given to each of the Shareholders who has a registered address in Singapore or Hong Kong (as the case may be) for the giving of notices and must set forth the place, the day and the hour of the meeting. The reduction of the Company's share capital is subject to the conditions prescribed by law.

### **Variation of rights of existing shares or classes of shares**

Subject to the Singapore Companies Act, whenever the share capital of the Company is divided into different classes of shares, the special rights attached to any class may be varied or abrogated either with the consent in writing of the holders who represent at least three-quarters of the total voting rights of the issued shares of the class or with the sanction of a special resolution passed at a separate general meeting of the holders of the shares of the class. To every such separate general meeting, the provisions of the Company's Articles of Association relating to the general meetings and to the proceedings thereat shall mutatis mutandis apply, except that the necessary quorum shall be two persons at least holding or representing by proxy at least one-third of the total voting rights of the issued shares of the class, and that any holder of shares of the class present in person or by proxy may demand a poll and that every such holder shall on a poll have one vote for every share of the class held by him, provided always that where the necessary majority for such a special resolution is not obtained at such general meeting, consent in writing if obtained from the holders who represent at least three-quarters of the total voting rights of the issued shares of the class concerned within two months of such general meeting shall be as valid and effectual as a special resolution passed at such general meeting. These provisions shall apply to the variation or abrogation of the special rights attached to some only of the shares of any class as if each group of shares of the class differently treated formed a separate class the special rights whereof are to be varied.

The relevant Article does not impose more significant conditions than the Singapore Companies Act in this regard.

### **Limitations on foreign or non-resident shareholders**

There are no limitations imposed by Singapore law or by the Articles of Association on the rights of the Shareholders who are regarded as non-residents of Singapore, to hold or vote on their Shares.

## **Transfer of shares and replacement of share certificates**

There shall be no restriction on the transfer of fully paid up Shares (except where required by law or the listing rules of any securities exchange upon which the Shares are listed) but the Directors may in their discretion decline to register any transfer of Shares upon which the Company has a lien and in the case of Shares not fully paid up, may refuse to register a transfer to a transferee of whom they do not approve (except where such refusal to register contravenes the listing rules of the securities exchange upon which the shares of the Company may be listed). If the Directors refuse to register a transfer of any Shares, they shall within ten market days after the date on which the transfer was lodged with the Company (or such period of time as may be prescribed by the bye-laws or listing rules of the securities exchange upon which shares in the Company are listed), send to the transferor and to the transferee, written notice of the refusal stating reasons for the refusal as required by applicable law.

The Directors may in their sole discretion refuse to register any instrument of transfer of Shares unless:

- (a) such fee not exceeding the lower of the maximum amounts prescribed by any securities exchange upon which the Shares may be listed as the Directors may from time to time require (which in any case shall not exceed S\$2.00) in accordance with the Articles of Association, is paid to the Company in respect thereof;
- (b) the instrument of transfer is deposited at the registered office of the Company or at such other place (if any) as the Directors may appoint accompanied by the certificates of the Shares to which the transfer relates, and such other evidence as the Directors may reasonably require to show the right of the transferor to make the transfer and, if the instrument of transfer is executed by some other person on his behalf, the authority of the person so to do;
- (c) the instrument of transfer is in respect of only one class of Shares;
- (d) the amount of proper duty (if any) with which each instrument of transfer is chargeable under any law for the time being in force relating to stamps is paid; and
- (e) the Directors reasonably believe that a transferee is not a “Non-Qualifying Person”. See the section “Forced transfers or sales of Shares”.

## **Forced transfers or sales of Shares**

Where the Company or the Directors determine, in their absolute discretion, or are of the opinion (but without imposing an obligation on them to so determine or opine) that Shares of the Company are being held, directly or indirectly, by any shareholder (each of the persons listed in (a) to (d) below, a “**Non-Qualifying Person**”):

- (a) whose ownership of Shares may cause the Company’s tax status or residence to be prejudiced or may cause the Company to suffer any pecuniary disadvantage (including any excise tax, penalties or liabilities under the United States Employee Retirement Income Securities Act of 1974, as amended (“**ERISA**”)); or
- (b) whose ownership of Shares may cause the Company to be required to comply with any registration or filing requirements in any jurisdiction, with which it would not otherwise be required to comply; or
- (c) whose ownership of Shares may cause the Company to be required to register as an “investment company” under the United States Investment Company Act of 1940, as amended, and the rules thereunder (the “**US Investment Company Act**”); or

- (d) who is a US Person (as defined in Regulation S under the United States Securities Act of 1933, as amended) but is not a “qualified purchaser” within the meaning of Section 2(a)(51)(A) of the US Investment Company Act;

then, in each such case, the Company may at its option direct the Non-Qualifying Person to transfer the whole or a specified percentage of such Non-Qualifying Person’s Shares to a person who is not a Non-Qualifying Person and would not by reason of a transfer become a Non-Qualifying Person. If the required transfer is not effected within thirty (30) days after service of notice by the Company and such Non-Qualifying Person directed to transfer his Shares has not established to the reasonable satisfaction of the Board or the designated person within the Company (whose judgment shall be final and binding) that he is not a Non-Qualifying Person, the Shares concerned may be sold by the Company in any manner it thinks fit on behalf of the said shareholder. The consent of such shareholder for the transfer of his Shares by the Company is not required and, notwithstanding any provisions to the contrary in the Articles of Association, until such transfer is effected, the holder of such Shares will not be entitled to receive or exercise any rights, benefits or privileges (including without limitation voting rights, dividends or other distributions) attaching to such Shares, and the Company may deal with any such rights, benefits or privileges of such shareholder at its absolute discretion.