

GENERAL

The taxation of income and capital gains of the Company and of Shareholders is subject to the fiscal laws and practice of China, Hong Kong and of the jurisdictions in which Shareholders are resident or otherwise subject to tax.

The following summary of certain relevant taxation provisions is based on current law and practice and does not constitute legal or tax advice. Prospective investors should consult their own professional advisers on the relevant taxation considerations applicable to the acquisition, holding and disposal of Shares and Warrants and the receipt of distributions.

(a) HONG KONG**Tax position of the Company**

The Company will be subject to Hong Kong profits tax if (a) it carries on business in Hong Kong and (b) its profits have a Hong Kong source. Not subject to tax in any event are profits from the sale of shares and other securities listed on an exchange outside Hong Kong, dividends and capital gains. The Board proposes to conduct the affairs of the Company so as to ensure, so far as practicable, that the Company will not be liable for profits tax in Hong Kong.

Tax position of investors

There is no tax in Hong Kong on capital gains arising from the sale by an investor of Shares in the Company or Warrants. However, in the case of certain investors (principally, share traders, financial institutions and insurance companies carrying on business in Hong Kong), such gains may be considered to be part of the investor's normal business profits and in such circumstances will be subject to Hong Kong profits tax at the rate of 17.5 percent (corporations) and 15 percent (individuals), based on current rates.

Dividends which the Company pays on its Shares will not be chargeable to tax in Hong Kong (whether by way of withholding or otherwise) under current legislation and practice.

(b) PEOPLE'S REPUBLIC OF CHINA

The PRC has developed an elaborate tax regime to govern foreign investment. This consists of formally promulgated laws and regulations, as well as informal (unpublished) administrative rulings and circulars. It is impossible for the purpose of this prospectus to provide a comprehensive discussion of all PRC taxes which may be applicable to the Company and its investee-enterprises. The discussion below is intended only as a summary of the major PRC tax legislation which is likely to be relevant to the Company and its investee-enterprises in China.

1. Income Tax

The Income Tax Law of the People's Republic of China Concerning Foreign Investment Enterprises and Foreign Enterprises ("Income Tax Law"), which came into effect on 1st July, 1991, is applicable to the Company. It is expected that the investee-enterprises in the PRC will qualify as foreign investment enterprises, in which case the Income Tax Law will also be applicable to these investee-enterprises in the PRC.

(i) The Company

If the Company's investee-enterprises qualify as foreign investment enterprises under the Income Tax Law, then the dividends and profit distributions received by the Company from its investee-enterprises will be exempted from any income tax, including any withholding tax. The

term “foreign investment enterprises” refers to Sino-foreign equity joint ventures, Sino-foreign cooperative joint ventures and wholly foreign-owned enterprises established in the PRC. Generally, an investee-enterprise will qualify as a foreign investment enterprise if the Company’s investment in the registered capital of the investee-enterprise, either alone or together with other foreign investors, constitutes at least 25 percent of the total registered capital of the investee-enterprise.

Income received by the Company from sources in China, such as dividends (other than those received from foreign investment enterprises), interest, rent and royalties, will be subject to a withholding tax of 20 percent. The 20 percent withholding tax rate will be reduced to 10 percent if the income is received from sources in the Special Economic Zones, the Economy and Technology Development Areas or the Original Urban Districts of the Fourteen Coastal Open Cities, the Pudong New Area in Shanghai and the Coastal Open Economic Zones. The withholding tax will be completely exempted if such income is received from sources in Hainan Province.

If the Company realises a capital gain from the sale, transfer or disposition of its investment in an investee-enterprise in China, the capital gain will be subject to a withholding tax of 20 percent. The 20 percent withholding tax rate will be reduced to 10 percent or be exempted in the same way as described above.

If the investee-enterprises are joint-stock companies listed on the official stock exchanges in China, the Company’s income from dividends and profit distributions of these publicly listed Chinese companies will be subject to a 20 percent withholding tax. Pursuant to regulations issued by the State Council in 1984, the withholding tax rate is reduced to 10 percent on the income received from sources in Shanghai and Shenzhen. Accordingly, if the investee-enterprises are joint-stock companies established in Shanghai or Shenzhen, dividends received by the Company from these companies will be subject to a 10 percent withholding tax. It is possible that some of these joint-stock companies qualify as sino-foreign joint ventures, in which case the dividends and profit distributions received from such companies will be exempted from withholding tax.

Any gains (whether of a capital or trading nature) realised by the Company from the sale of any B Shares will be considered China-sourced income and will be subject to a 20 percent or 10 percent withholding tax for the same reason stated above. However, since B Shares in a Chinese company are a new form of investment made available to foreign investors, there is no precedent on the taxation of gains realised by foreign investors on such B Shares. It is possible that the Chinese tax authorities may decide to grant further tax reductions or exemption to B Share investors.

Notwithstanding the above, with respect to those B Shares which have already been listed and traded on the Shanghai Securities Exchange and Shenzhen Stock Exchange, it appears that the Chinese tax authorities thus far have not enforced the collection of the withholding tax.

The above tax consequences attach if the Company does not have an establishment in China. Under the Income Tax Law, the Company will not be treated as having an establishment in China if it does not have a management establishment, business establishment or an office in China and if it does not operate in China through a business agent. The Investment Manager of the Company will take steps to ensure to the extent possible that the Company will not be treated as having an establishment in China.

(ii) *The Investee-enterprises*

It is expected that the Company’s investee-enterprises in China will qualify as foreign investment enterprises under the Income Tax Law. (Please refer to the definition above)

Foreign investment enterprises are generally subject to income tax at a flat rate of 33 percent, which consists of a national income tax of 30 percent and a local income tax of 3 percent on the net income of the enterprises. Any reduction or exemption of the local income tax is subject to the regulations and discretion of the local provincial and municipal governments.

Under the Income Tax Law, the national income tax is reduced to 24 percent if the foreign investment enterprises are engaged in production and are established in the Coastal Open Economic Zones or in the old urban areas of cities where the Special Economic Zones or the Economic and Technological Development Zones are located. The national income tax is further reduced to 15 percent if the foreign investment enterprises are engaged in production and are established in the Economic and Technological Development Zones or in the Shanghai Pudong New Area. Similarly, the 15 percent tax rate is applicable to foreign investment enterprises which are engaged in production or business operations and are established in the Special Economic Zones or in Hainan Province. The 15 percent tax rate also applies to certain foreign investment enterprises established in the High and New Technology Industrial Development Zones.

If a foreign investment enterprise is engaged in production and has a term of operation of ten years or more, then commencing with the first profit-making year, it will be exempted from income tax in the first and second years and be granted a 50 percent reduction in the third to fifth years.

The Company will receive a refund of 40 percent of the income tax paid by an investee-enterprise with respect to profits reinvested by the Company for a period of not less than five years in the same or another investee-enterprise which qualified as a foreign investment enterprise. A 100 percent tax refund may be available in certain circumstances.

Under the Income Tax Law and various regulations promulgated by the State Council, additional tax incentives and tax holidays are provided to foreign investment enterprises which qualify as technologically-advanced enterprises or export-oriented enterprises, or which are established to engage in specifically designated industries or projects which the Chinese government especially wants to encourage.

2. Turnover Tax and Customs Duty

The Consolidated Industrial and Commercial Tax ("CICT") is applicable to foreign investment enterprises established in China as well as foreign companies with establishments in the PRC. The CICT may be characterized as a broad-based turnover tax levied as a percentage of the revenue of the enterprise at various stages of economic activity. The tax is imposed on sales by producers of goods as well as on the importation of merchandise into China. In addition, the tax is levied at the retail level when goods and services are sold to the ultimate consumers. The CICT is levied at rates specified in the Rate Schedule annexed to the CICT regulations. The Rate Schedule divides taxable products and services into over 100 categories and imposes the tax at more than 40 different rates ranging from 1.5 percent to 69 percent. As distinguished from a value-added tax, the CICT does not allow any credit for taxes previously paid.

With respect to the Company, CICT will only be levied on revenue arising from business conducted by an establishment of the Company located in China. The Investment Manager of the Company will take steps to ensure, to the extent possible, that the Company will not be treated as having an establishment in China.

With respect to the Company's investee-enterprises which qualify as foreign investment enterprises, they will be subject to the CICT at the applicable CICT tax rates depending on the goods and services sold by them. In Shenzhen and the Hainan Province, another form of turnover taxes is used in place of CICT. The applicable turnover taxes are reduced or exempted for products

produced and sold within the Special Economic Zones and Hainan Province by foreign investment enterprises established within the Special Economic Zones and Hainan Province. Moreover, subject to approval by the Ministry of Finance of the PRC the turnover tax is exempted (with certain exceptions) for products exported by foreign investment enterprises regardless of whether such enterprises are established in one of the special zones.

Merchandise imported by foreign investment enterprises will be subject to customs duty at the appropriate rates under the Customs Tariff Schedule and to the CICT (or turnover taxes in Shenzhen and the Hainan Province as hereinafter where appropriate) at the appropriate rates under the CICT Rates Schedule. However, equipment and machinery imported by foreign investment enterprises within the total investment of such enterprises are exempted from the customs duty and the CICT. Moreover, raw materials, components and packaging materials imported by foreign investment enterprises which are used to produce products exported by such enterprises are exempted from the customs duty and the CICT.

(c) UNITED STATES OF AMERICA**General**

The following summary contains a description of the principal United States federal income tax consequences of the purchase, ownership and disposition of Shares and Warrants, but it does not purport to be a comprehensive description of all of the tax considerations that may be relevant to a decision to purchase Shares or Warrants. In particular, this summary of United States federal income tax matters deals only with holders that will hold Shares or Warrants as capital assets and does not address special tax situations, such as the United States tax treatment of holders who are securities dealers, who are citizens or residents of a possession or territory of the United States, who are United States holders (as defined below) with a currency other than US\$ as their functional currency, or who own 10 percent or more of the Shares or Warrants.

The summary is based upon the tax laws of the United States as in effect on the date of this prospectus, which are subject to change. Prospective purchasers of Shares should consult their own tax advisors as to the United States tax consequences of the purchase, ownership and disposition of Shares or Warrants, including, in particular, the effect of any foreign, state or local tax laws. It is particularly important for investors who are United States holders (as defined below) to consult their own tax advisors as to the rules summarized below with respect to passive foreign investment companies.

The Shares will be properly characterized as equity of the Company, and the Company will so characterize all such Shares for all United States federal income tax purposes. This characterization by the Company will be binding on every holder, unless the holder discloses its inconsistent characterization on such holder's United States federal income tax return. The United States Internal Revenue Service will not be bound by the characterization of the Shares by the Company and the holders.

Taxation of the Company

The Company will be treated as "corporation" for all United States federal income tax purposes. In addition, the Company intends to conduct its affairs so that, for United States federal income tax purposes, it will not be engaged in a trade or business within the United States. So long as the Company is not so engaged, it will not be subject to United States federal income tax, apart from certain withholding taxes, and the Company does not intend to invest in securities that would produce income subject to United States federal withholding tax.

United States Holders*Taxation of dividends*

“United States holders” include holders of Securities: who are citizens or residents of the United States; any corporation, partnership or other entity created or organized in or under the laws of the United States or any State thereof; and any estate or trust, the income of which is subject to United States federal income tax regardless of its source. United States holders of Securities will generally be required to include in gross income dividends paid on Shares. Subject to the discussion of the consequences of a United States holder making a qualified electing fund election with respect to the Company, for a United States holder on a cash basis of tax accounting, dividends paid in a currency other than the US dollar will be translated into US dollars at the spot rate on the date the dividends are received by a United States holder, regardless of whether the dividends are in fact converted, and no part of the dividends will be treated as a foreign currency gain or loss. For a United States holder on an accrual basis of tax accounting, dividends accrued in a currency other than the US dollar will be translated into functional currency at the spot rate on the date of accrual. Upon receipt of the non-functional currency dividend, the difference between the US dollar amount previously accrued into income and the dividend received, translated into US dollars at the spot rate on the date of receipt, will be foreign currency gain or loss that will be taken into account as ordinary income or deduction. The functional currency of the Company will be US dollars. The dividends paid by the Company will not be eligible for the dividends received deduction otherwise allowed to corporations under Section 243 of the United States Internal Revenue Code of 1986, as amended (“the Code”). Dividends paid by the Company generally will constitute foreign source “passive income” (or, in the case of certain holders, “financial service income”) for purposes of the United States foreign tax credit limitation. However, the amount of foreign currency gain or loss taken into account by a holder, if any, generally will be US source gain or loss to a United States holder for purposes of the United States foreign tax credit limitation. All non-corporate United States holders, and all United States holders which are corporations and which own less than 10 percent of the voting shares of the Company, will not be entitled to claim a foreign tax credit for any taxes paid by the Company. In addition, dividends will be affected by the discussion of passive foreign investment companies, controlled foreign corporations and foreign personal holding companies described below.

Taxation of capital gains

Subject to the discussion of the consequences of the Company being treated as a passive foreign investment company gains or losses realized by a United States holder on the sale or other disposition of a Share or a Warrant will be subject to United States federal income taxation, as capital gains or losses, in an amount equal to the difference between such United States holder’s basis in the Share or Warrant and the amount realized on its disposition. The United States holder’s basis in a Share or Warrant will generally be the US\$ cost of acquiring the Share and Warrant, and for this purpose the holder will be required to allocate consideration paid for the Shares, and Warrants according to their relative fair market value at the time of acquisition by the holder. Gains realized on the disposition of a Share or a Warrant will be United States source gains for purposes of the United States foreign tax credit limitation. The source of capital losses on dispositions of a Share or a Warrant is not clear under present authorities. Arguments can be made that the entire loss should be allocated against United States source income; there remains, however, a substantial risk that the Internal Revenue Service will take the position that any such losses should be allocated against either foreign source passive income or against all separate categories of foreign source income. United States holders should consult their own tax advisors regarding the foreign tax credit limitation consequences of any losses on the disposition of Shares of Warrants.

If a United States holder makes the election described below to treat the Company as a qualified electing fund, any capital gains or losses recognized upon the sale or other disposition of a Share or a Warrant will be either short term or, if held for more than one year, long term. The

holder's holding period of any Warrant will be added to the holding period of any Shares acquired by exercise of such Warrant. For noncorporate United States holders, the United States income tax rate applicable to the net capital gain recognized for a year currently will not exceed 28 percent. For corporate United States holders, capital gains are currently taxed at the same rate as ordinary income. The deductibility of capital losses is subject to limitations. For noncorporate United States holders, capital losses not in excess of US\$3,000 (US\$1,500 in the case of a married individual filing a separate return) are deductible in the year incurred, with any excess carried forward indefinitely to offset capital gains in such years with limited allowance for deduction as in the year incurred. For corporate United States holders, capital losses can only be used to offset capital gains recognized during the year incurred or during the permitted carryback and carryforward period.

If a United States holder does not make such an election to treat the Company as a qualified electing fund as described below, losses will be subject to the foregoing limitations. Gains, however, with respect to the Shares will not be treated as capital gains but instead as an excess distribution with the consequences described below.

Passive Foreign Investment Companies

The Company will be a "passive foreign investment company" ("PFIC") as defined by Section 1296 of the Code. Unless a United States holder makes the election described below, a United States holder would be required to allocate to each day in its holding period with respect to the Shares a pro rata portion of any distributions received on the Shares which are treated as an "excess distribution", as defined under United States federal income tax law. Generally, an excess distribution is any distribution that is greater than 125 percent of the average annual distributions received by such United States holder in the three preceding years (or such shorter period as the United States holder may have held such Shares). Any amount of the excess distribution treated as allocable to a prior taxable year would be subject to a deferred United States federal income tax charge. In addition, any gain recognized on a disposition of a Share, including on liquidation of the Company, would be treated as an excess distribution which would be subject to a deferred United States federal income tax charge in a similar manner.

Under certain circumstances, Shares held by a non-United States holder may be attributed to a United States person owning an interest, directly or indirectly, in such non-United States person. In such event, dividends and other transactions in respect of the Shares would be attributed to such United States person for purposes of applying the PFIC rules.

The above-described PFIC rules may not apply if the United States holder makes an election to treat the Company as a qualified electing fund ("QEF") for United States federal income tax purposes. If the United States holder makes such election, and if the Company complies with certain reporting requirements, the United States holder must include annually in gross income its pro rata share of the Company's ordinary income (including net foreign currency gains in excess of losses) and net realized capital gains, whether or not such amounts are actually distributed to the United States holder. The Company intends to comply with all accounting, record keeping and reporting requirements necessary for United States holders to make such elections. As noted above under the heading "Distribution Policy", the Company does not intend to distribute capital or capital gains. In the event such election is made, and any undistributed amounts previously taken into income by an electing holder are subsequently distributed, except as discussed below, such subsequent distribution would not be taken into income in such subsequent year and would not be subject to a deferred United States federal income tax charge.

A United States holder of Shares must file Internal Revenue Service Form 8621 for each taxable year in which the United States holder owns Shares.

Passive Foreign Investment Company Rules Applicable to Tax Exempt Organizations and Registered Investment Companies

The United States Internal Revenue Service (the "Service") issued a series of proposed regulations under Section 1291 of the Code on April 1, 1992 ("Proposed Regulations"). Among other things, the Proposed Regulations address the application of the PFIC rules to a United States holder that is an organization exempt from United States federal income taxation (a "TEO Shareholder"), a regulated investment company (a "RIC Shareholder") within the meaning of Section 851(a) of the Code, or a real estate investment trust (a "REIT shareholder") within the meaning of Section 856 of the Code.

With respect to a TEO Shareholder, the Proposed Regulations state that if the shareholder of a PFIC is an organization exempt from tax under the Code, Section 1291 and the Proposed Regulations apply to such shareholder only if a dividend from the PFIC would be taxable to the organization under the Code. Generally, under Section 512(b) a dividend from a PFIC and gain from disposition of Shares of a PFIC will not be taxable in the hands of a TEO Shareholder. A dividend from a PFIC would, however, be taxable to a TEO Shareholder under the Code if the shares of the PFIC held by such organization constituted debt-financed property within the meaning of Section 514(b) of the Code. Under Section 514(b), "debt-financed property" is defined as any property which is held to produce income and with respect to which there is an acquisition indebtedness. Section 514(c) generally defines "acquisition indebtedness" as indebtedness incurred by an organization in acquiring property or indebtedness which would not be incurred but for the acquisition of the property. Thus, provided that a TEO Shareholder does not incur acquisition indebtedness such that its Shares constitute debt-financed property, a dividend with respect to those Shares would not be subject to United States federal income taxation. Accordingly, under the Proposed Regulations Section 1291 would not apply to such TEO Shareholder.

The preamble to the Proposed Regulations provides that, until the Proposed Regulations become effective, shareholders of PFICs must apply "reasonable interpretations" of Section 1291 of the Code in determining their tax consequences. It further provides that the United States Treasury Department and the Service regard the Proposed Regulations as a reasonable interpretation of the Code. Accordingly, the United States counsel to the Company believes that it would be reasonable for a TEO Shareholder of the Company to treat distributions received with respect to its Shares (as well as capital gains realized from the disposition of such Shares) as not subject to taxation under Section 1291 of the Code and the Proposed Regulations issued thereunder, provided such Shares do not constitute debt-financed property. Accordingly, a TEO Shareholder would not have to make a QEF election with respect to the Company (assuming such election is available), provided its Shares do not constitute debt-financed property.

A TEO Shareholder whose Shares constitute debt-financed property will be subject to United States federal income taxation under Section 1291 of the Code. It is unclear whether such TEO Shareholders may choose to make a QEF election in such case. If the QEF election is available, the TEO Shareholder would be subject to taxation under Section 1293 of the Code, which requires electing shareholders of PFICs to currently include in gross income their pro rata share of the PFIC's ordinary earnings and net capital gain. Although no authority on the point exists, it is likely that some or all of such items would be treated as unrelated business taxable income of a TEO Shareholders due to the application of the debt-financed property rules.

A RIC Shareholder of the Company is subject to taxation under Section 1291 of the Code, unless it makes a QEF election. Section 1291 would impose a tax liability at the RIC-level equal to the deferred tax amount attributable to excess distributions made by the Company (or resulting from

dispositions of Shares) that are not allocable to the current year, which liability may not be eliminated by means of a corresponding distribution (and dividends paid deduction) by the RIC. It is likely that RIC Shareholders of the Company will receive excess distributions with respect to their Shares. Accordingly, in order to avoid the RIC-level tax under Section 1291, such Shareholders may choose to make a QEF election. The Company intends to structure its affairs so as to permit its United States holders to make a QEF election. A RIC Shareholder that so elects will be required to take into account its pro rata share of the Company's annual ordinary earnings and net capital gain in computing its investment company taxable income and net capital gain irrespective of actual distributions made by the Company. By distributing all of its investment company taxable income and net capital gain (inclusive of its pro rata share of ordinary earnings and net capital gain attributable to the Company), the RIC Shareholders will not be liable for any federal income tax. In addition, a RIC Shareholder's pro rata share of the Company's ordinary earnings and net capital gain will not qualify as dividends for purposes of the 90 percent gross income test as described in Section 851(b)(2) of the Code, to the extent that corresponding distributions are not made by the Company in the same taxable year. Finally, the Proposed Regulations contain a mark-to-market election for RICs that own shares of a PFIC. However, the election will not be available until the Proposed Regulations become effective.

Foreign Personal Holding Company

In addition, if five or fewer individuals who are United States citizens or residents own more than 50 percent, by vote or value, of the Shares of the Company, the Company may become a foreign personal holding company. In such event, each United States person that holds Shares in the Company, directly or indirectly, on the last day of any taxable year in which the Company is a foreign personal holding company, must include in income for that year such holder's pro rata share of the Company's "undistributed foreign personal holding company income". In the event that a holder is required to include amounts in income under this rules, such amounts will not be required to be again included in income currently under the "qualified electing fund" rules.

Controlled Foreign Corporation

If United States persons owning 10 percent or more of the voting power of the Company's Shares, directly or indirectly, own in aggregate more than 50 percent by vote or value, of the Shares of the Company, the Company will constitute a controlled foreign corporation. If the Company becomes a controlled foreign corporation, a United States person owning 10 percent or more of the Company's Shares, directly or indirectly, will be required to include in income each year such holder's pro rata share of the Company's "subpart F income". Subpart F income will include, among other items, dividends, interest, net foreign currency gains in excess of foreign currency losses and gains from the sale of securities. If a United States person is required to include amounts in income under the rules applicable to controlled foreign corporations, such amounts will not also be required to be again included in income under either the the foreign personal holding company or the qualified electing fund rules.

Non-United States holders

Subject to the discussion of United States backup withholding tax below, a non-United States holder will not be subject to United States federal income or withholding tax on dividends or on gain realised on the sale of Shares unless (i) such dividends or gains are effectively connected with the conduct by the non-United States holder of a trade or business within the United States or (ii) in the case of dividends or gains realised by a non-United States holder who is an individual, the non-United States holder is present in the United States for 183 days or more in the taxable year of receipt of the dividend or of the sale or, on a weighted basis, over a three-year period ending in the taxable year of the receipt or sale.

United States backup withholding tax

Under current Temporary Treasury Regulations, dividends paid on Shares will not be subject to United States backup withholding tax. However, if proposed Treasury regulations are adopted in their current form, on a prospective basis, dividends paid on Shares to United States holders or non-United States holders through United States or United States-related persons will be subject to a 31 percent United States backup withholding tax if certain information reporting requirements are not satisfied. In addition, under current Temporary Treasury Regulations, the proceeds of sales of the Shares or Warrants by United States holders or non-United States holders through United States or United States-related brokers would be subject to the 31 percent United States backup withholding requirements if certain information reporting requirements are not satisfied. United States holders can avoid the imposition of backup withholding tax by reporting their taxpayer identification number to their broker or paying agent on Internal Revenue Service Form W-9. Non-United States holders can avoid the imposition of backup withholding tax by providing a duly completed Internal Revenue Service Form W-8 to their broker or paying agent. Any amounts withheld under the backup withholding tax rules from a payment to a holder will be allowed as a refund or a credit against such holder's United States federal income tax, provided that the required information is furnished to the United States Internal Revenue Service.

Pending tax legislation

Various legislative proposals are under consideration that could have a material effect on the United States federal income tax consequences of the purchase, ownership and disposition of Shares.

ERISA considerations

ERISA imposes certain fiduciary and prohibited transaction restrictions on employee pension and welfare benefit plans subject to Part 4 of Title 1 of ERISA ("ERISA Plans") and on those persons who are fiduciaries with respect to such plans. Section 4975 of the Code imposes essentially the same prohibited transaction on tax-qualified retirement plans described in Section 401 (a) of the Code ("Tax-Qualified Plans") and on Individual Retirement Accounts ("IRAs") described in Section 408 (a) of the Code.

ERISA imposes specific requirements on fiduciaries, namely, that they make prudent investments, that the investments are diversified, and that the investments are made in accordance with the plan documents and in the best interests of participants and their beneficiaries. In addition, Section 406 of ERISA and Section 4975 of the Code prohibit ERISA Plans, Tax-Qualified Plans and IRAs (collectively hereinafter the "Plan" or "Plans") from engaging in certain transactions involving "Plan assets" with persons who are "parties in interest" under ERISA or "disqualified persons" under the Code. A violation of those "prohibited transactions" rules may result in breaches of fiduciary duty under ERISA and excise taxes under the Code.

A possible violation of the prohibited transaction rules could occur upon the acquisition of Shares or Warrants with the assets of any Plan, or upon the exercise of a Warrant by any Plan if the Company, the Investment Manager, the Investment Committee, or upon the exercise of a Warrant by any Plan any of the Managers or any of their respective affiliates were a "party in interest" or "disqualified person" with respect to such Plan. However, the US Department of Labor has issued three class exemptions that may apply to otherwise prohibited transaction arising from the purchase or holding of Shares or the exercise of Warrants: United States Department of Labor Prohibited Transaction Class Exemption 84-14 (Plan Asset Transactions by Independent Qualified Professional Asset Managers), Class Exemption 90-1 (Acquisition or Holding of Employer Securities or Real Property By Insurance Company Pooled Separate Accounts), and Class Exemption 91-38 (Transactions between Bank Collective Investment Companies and Parties in Interest). In view of the foregoing, fiduciaries of a Plan who are considering an investment of Plan assets in the Securities should consult their own counsel regarding whether such purchases could result in liability under ERISA and the Code.

The Securities purchased by a Plan would be considered assets of that Plan. Fiduciaries of Plans should also consider, however, whether a Plan investing in Shares or Warrants deemed to own also an undivided interest in the underlying assets of the Company under relevant US Department of Labor “plan asset” regulations. If the assets of the Company were deemed to be assets to such a Plan, then various violations of the ERISA fiduciary rules, and violations of the prohibited transaction rules under ERISA and the Code, could result. For example, those entities and individuals which exercise discretionary management or authority concerning the investment of the Company’s assets may be deemed to be Plan fiduciaries subject to the ERISA fiduciaries rules. Further, the receipt of compensation by such entities and individuals may be deemed to be a prohibited transaction.

The US Department of Labor “plan asset” regulations provide, however, that the underlying assets of the Company will not be considered “Plan assets” if investment by “benefit plan investors” in the Company is less than 25 percent of the value of any class of equity interests of the Company. For this purpose, “benefit plan investors” includes any Plan and an “employee pension benefit plan” or “employee welfare benefit plan” as defined in ERISA, whether or not such plan is established or maintained in the United States or any other jurisdiction and whether or not subject to ERISA. The term also includes entities whose underlying assets include “Plan assets” by reason of investment by “benefit plan investors” in the entity.

If the Directors determine that investment by “benefit plan investors” at any time exceeds the 25 percent limitation described above, the Directors may require Shares beneficially owned by such investors to be redeemed, transferred or resold. Any purchaser or other transferee of Shares or Warrants will be required to certify whether they are “benefit plan investors” and the purchase by or transfer of Shares or Warrants to any “benefit plan investors” will be subject to the consent of the Directors.