

Xinyuan Real Estate Co., Ltd.  
Form 20-F  
April 16, 2012

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549**

**FORM 20-F**

(Mark One)

**..REGISTRATION STATEMENT PURSUANT TO SECTION 12(b) OR (g) OF THE SECURITIES  
EXCHANGE ACT OF 1934**

**OR**

**..ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF  
x 1934**

**For The Fiscal Year Ended December 31, 2011.**

**OR**

**..TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT  
OF 1934**

**For The Transition Period From            To**

**OR**

**..SHELL COMPANY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES  
EXCHANGE ACT OF 1934**

**Date of event requiring this shell company report**

**Commission file number: 001-33863**

**XINYUAN REAL ESTATE CO., LTD.  
(Exact name of Registrant as specified in its charter)**

**N/A  
(Translation of Registrant's name into English)**

**Cayman Islands  
(Jurisdiction of incorporation or organization)**

**27/F, China Central Place, Tower II  
79 Jianguo Road, Chaoyang District  
Beijing 100025  
People's Republic of China  
(Address of principal executive offices)**

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**(Name, Telephone, E-mail and/or Facsimile number and Address of Company Contact Person)**

Securities registered or to be registered pursuant to Section 12(b) of the Act:

| Title of Each Class  | Name of Each Exchange on Which Registered |
|--|---|
| <b>American Depositary Shares, each representing two common shares, par value US\$0.0001 per share</b> | New York Stock Exchange                   |

Securities registered or to be registered pursuant to Section 12(g) of the Act:

**None**  
**(Title of Class)**

Securities for which there is a reporting obligation pursuant to Section 15(d) of the Act:

**None**  
**(Title of Class)**

Indicate the number of outstanding shares of each of the Issuer's classes of capital or common stock as of the close of the period covered by the annual report 145,863,676 common shares, par value US\$0.0001 per share, as of December 31, 2011.

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes  No

If this report is an annual or transition report, indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934. Yes  No

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past

90 days. Yes  No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files).

Yes  No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer. See definition of "accelerated filer and large accelerated filer" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer  Accelerated filer  Non-accelerated filer

Indicate by check mark which basis of accounting the registrant has used to prepare the financial statements included in this filing:

U.S. GAAP  International Financial Reporting Standards as issued by the International Accounting Standards Board  Other

If "Other" has been checked in response to the previous question, indicate by check mark which financial statement item the registrant has elected to follow. Item 17  Item 18

If this is an annual report, indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes  No

(APPLICABLE ONLY TO ISSUERS INVOLVED IN BANKRUPTCY PROCEEDINGS DURING THE PAST FIVE YEARS)

Indicate by check mark whether the registrant has filed all documents and reports required to be filed by Sections 12, 13 or 15(d) of the Securities Exchange Act of 1934 subsequent to the distribution of securities under a plan confirmed

by a court. Yes " No "

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## INTRODUCTION

Unless otherwise indicated and except where the context otherwise requires, references in this annual report on Form 20-F to:

“we,” “us,” “our company,” “our,” “the Group” or “Xinyuan” refers to Xinyuan Real Estate Co., Ltd., its predecessor entities and its subsidiaries;

“shares” or “common shares” refers to our common shares, par value US\$0.0001 per share;

“ADSs” refers to our American depositary shares, each of which represents two common shares, and “ADRs” refers to the American depositary receipts that evidence our ADSs;

“China” or “PRC” refers to the People’s Republic of China, excluding, for the purposes of this Form 20-F only, Taiwan, Hong Kong and Macau;

“GFA” refers to gross floor area. The amounts for “total GFA” in this annual report are the amounts of total saleable residential and commercial GFA and are derived on the following basis:

for properties that are sold, the stated GFA is based on the sales contracts relating to such property; GFA may be adjusted based on final examination upon delivery of the property;

for unsold properties that are completed or under construction, the stated GFA is calculated based on the detailed construction blueprint and the calculation method approved by the PRC government for saleable GFA, after necessary adjustments; and

for properties that are under planning, the stated GFA is based on the land grant contract and our internal projection; and

“RMB” or “Renminbi” refers to the legal currency of China and “US\$” or “U.S. dollars” refers to the legal currency of the United States.

At present, there is no uniform standard to categorize the different types and sizes of cities in China. In this annual report, we refer to certain larger and more developed cities as Tier I and Tier II cities based on the categorization used by the CIHAF Valuation Report on Real Estate Investment in PRC Cities published by China Real Estate Business, an

authoritative real estate publication in China, YUBO Media and Institute of Finance and Trade Economics of Chinese Academy of Social Sciences. Based on this approach, there are currently four Tier I cities and over 35 Tier II cities in China.

This annual report includes our audited consolidated financial statements for the years ended December 31, 2009, 2010 and 2011 and as of December 31, 2010 and 2011.

Our financial statements and other financial data included in this annual report are presented in U.S. dollars. Our business and operations are primarily conducted in China through our PRC subsidiaries. The functional currency of our PRC subsidiaries is RMB. The financial statements of our PRC subsidiaries are translated into U.S. dollars, using published exchange rates in China, based on (i) year-end exchange rates for assets and liabilities and (ii) average yearly exchange rates for revenues and expenses. Capital accounts are translated at historical exchange rates when the transactions occurred. The effects of foreign currency translation adjustments are included as a component of accumulated other comprehensive income in our shareholders' equity. We make no representation that any RMB or U.S. dollar amounts could have been, or could be, converted into U.S. dollar or RMB, as the case may be, at any particular rate or at all. See "Item 3. Key Information—A. Selected Financial Data—Exchange Rate Information."

We completed an initial public offering, or IPO, of 20,125,000 ADSs, each representing two common shares, in December 2007. On December 12, 2007, we listed our ADSs on the New York Stock Exchange, or the NYSE, under the symbol "XIN." The closing price of our ADSs on the NYSE as of April 13, 2012 was \$3.47 per ADS.

## FORWARD-LOOKING STATEMENTS

This annual report contains forward-looking statements that involve risks and uncertainties. All statements other than statements of historical facts are forward-looking statements. These statements involve known and unknown risks, uncertainties and other factors that may cause our actual results, performance or achievements to be materially different from those expressed or implied by the forward-looking statements.

You can identify these forward-looking statements by words or phrases such as “may,” “will,” “expect,” “is expected to,” “anticipate,” “aim,” “estimate,” “intend,” “plan,” “believe,” “potential,” “continue,” “is/are likely to” or other similar expressions or negatives of such expressions. These forward-looking statements include, among others, statements about:

- our anticipated growth strategies;
- our future business development, results of operations and financial condition;
- our expectations with respect to our ability to acquire adequate suitable land use rights for future development; and
- our belief with respect to market opportunities in, and growth prospects of, Tier II cities in China.

We have based these forward-looking statements largely on our current expectations and projections about future events and financial trends that we believe may affect our financial condition, results of operations, business strategy and financial needs. However, a number of known and unknown risks, uncertainties and other factors could affect the accuracy of these statements. Among the important factors to consider in evaluating our forward-looking statements are:

- our ability to continue to implement our business model successfully;
- our ability to secure adequate financing for our project development;
- our ability to successfully sell or complete our property projects under construction and planning;
- our ability to enter into new geographic markets and expand our operations;

our ability to maintain strict cost control;

the marketing and sales ability of our third-party sales agents;

PRC laws, regulations and policies relating to real estate developers and the real estate industry in China;

our ability to obtain permits and licenses to carry on our business in compliance with applicable laws and regulations;

competition from other real estate developers;

the growth of the real estate industry in China, particularly Tier II cities; and

fluctuations in general economic and business conditions in China.

You should read thoroughly this annual report and the documents that we refer to herein with the understanding that our actual future results may be materially different from and/or worse than what we expect. We qualify all of our forward-looking statements by these cautionary statements. Other sections of this annual report include additional factors which could adversely impact our business and financial performance, including the risks outlined under “Item 3. Key Information – D. Risk Factors”. Moreover, we operate in an evolving environment. New risk factors emerge from time to time and it is not possible for our management to predict all risk factors, nor can we assess the impact of all factors on our business or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in any forward-looking statements.

This annual report may also contain third party data relating to the real estate industry in China that includes projections based on a number of assumptions. The real estate industry in China may not grow at the rates projected by market data, or at all. The failure of this market to grow at projected rates may have a material adverse effect on our business and the market price of our ADSs. Furthermore, if one or more of the assumptions underlying the market data turn out to be incorrect, the actual results may differ from the projections based on these assumptions. You should not place undue reliance on these forward looking statements.

You should not rely upon forward-looking statements as predictions of future events. The forward-looking statements made in this annual report relate only to events or information as of the date on which the statements are made in this annual report. We undertake no obligation to update or revise any forward-looking statements, whether as a result of new information, future events or otherwise, except as otherwise required by applicable securities laws.

Part I

Item 1. Identity of Directors, Senior Management and Advisers

Not Applicable.

Item 2. Offer Statistics and Expected Timetable

Not Applicable.

Item 3. Key Information

A. Selected financial data

*Our Selected Consolidated Financial Data*

The following selected consolidated statement of operations and other financial data for the years ended December 31, 2009, 2010 and 2011, other than the earnings per ADS data, and the consolidated balance sheet data as of December 31, 2010 and 2011 have been derived from our audited consolidated financial statements which are included elsewhere in this annual report. Our audited consolidated financial statements have been prepared and presented in accordance with United States generally accepted accounting principles, or U.S. GAAP. Except for changes in operating subsidiaries, our consolidated financial statements have been prepared as if our current corporate structure had been in existence throughout the relevant periods.

Our selected consolidated statement of operations data for the years ended December 31, 2007 and 2008 and our selected consolidated balance sheet data as of December 31, 2007, 2008 and 2009 have been derived from our audited consolidated financial statements not included in this annual report.

The selected consolidated financial data should be read in conjunction with, and are qualified in their entirety by reference to, our audited consolidated financial statements and related notes and “Item 5. Operating and Financial Review and Prospects” included elsewhere in this annual report.

|  | Years ended December 31,                                |             |             |             |             |
|--|---|-------------|-------------|-------------|-------------|
|  | 2007  | 2008        | 2009        | 2010        | 2011        |
|  | US\$  | US\$        | US\$        | US\$        | US\$        |
|  | (in thousands except share, per share and per ADS data) |             |             |             |             |
| <b><u>Consolidated Statements of Operations Data:</u></b>      |   |             |             |             |             |
| Total revenues   | 309,725   | 356,632     | 448,984     | 449,972     | 687,508     |
| Total costs of revenues  | (208,135 )  | (356,981 )  | (359,739 )  | (334,453 )  | (487,777 )  |
| Selling and distribution expenses                              | (10,515 )   | (13,578 )   | (11,443 )   | (10,724 )   | (16,209 )   |
| General and administrative expenses                            | (17,077 )   | (32,343 )   | (22,215 )   | (22,209 )   | (27,231 )   |
| Operating income/(loss)  | 73,998  | (46,270 )   | 55,587      | 82,586      | 156,292     |
| Net income/(loss)  | 45,663  | (23,640 )   | 42,419      | 51,123      | 103,005     |
| Accretion of Series A convertible redeemable Preference shares | (2,739 )  | —           | —           | —           | —           |
| Deemed dividend(1)   | (182,229 )  | —           | —           | —           | —           |
| Net income/(loss) attributable to non-controlling interest     | —   | —           | —           | 18          | (707 )      |
| Net (loss)/income attributable to shareholders                 | (139,305 )  | (23,640 )   | 42,419      | 51,141      | 102,298     |
| Earnings (loss) per share                                      |   |             |             |             |             |
| —Basic   | (1.28 )   | (0.16 )     | 0.28        | 0.34        | 0.68        |
| —Diluted   | (1.28 )   | (0.16 )     | 0.26        | 0.33        | 0.68        |
| Shares used in computation                                     |   |             |             |             |             |
| —Basic   | 108,690,267   | 149,149,309 | 151,252,815 | 152,577,960 | 151,314,945 |
| —Diluted   | 108,690,267   | 149,149,309 | 160,871,387 | 155,397,355 | 151,314,945 |
| Earnings (loss) per ADS(2)                                     |   |             |             |             |             |
| —Basic   | (2.56 )   | (0.32 )     | 0.56        | 0.68        | 1.36        |
| —Diluted   | (2.56 )   | (0.32 )     | 0.52        | 0.66        | 1.36        |



On November 13, 2007, the holders of the Series A convertible redeemable preference shares, or Series A preference shares, agreed to waive the contingent conversion option. The modification was deemed to be substantive and was treated for accounting purpose as an extinguishment of the Series A preference shares. In connection with this, we recognized a dividend of approximately US\$182.2 million to the Series A preference shareholders, representing the difference between the fair value of the convertible preference shares immediately after the modification and the carrying value of the preference shares immediately prior to the modification. This deemed dividend did not affect our net income or cash flows. However, it reduced the net income attributable to ordinary shareholders and retained earnings for the year ended December 31, 2007 by the amount of the dividend.

(2) Earnings per ADS are calculated based on each ADS representing two common shares.

|  | Years ended December 31,                                |         |           |         |         |
|--|---|---------|-----------|---------|---------|
|  | 2007  | 2008    | 2009      | 2010    | 2011    |
|  | US\$  | US\$    | US\$      | US\$    | US\$    |
|  | (in thousands except share, per share and per ADS data) |         |           |         |         |
| Other Operating Data                         |   |         |           |         |         |
| Number of projects launched                  | 6   | 3       | —         | 3       | 4       |
| Aggregate GFA delivered(1) (m <sup>2</sup> ) | 513,878   | 519,100 | 1,591,132 | 291,686 | 521,223 |

(1) Delivery occurs when the Company has obtained all the completion acceptance certificates required by the PRC government in respect of the apartment and delivers full access to the apartment, such as the keys, to the buyer.

The following table presents a summary of our consolidated balance sheet data as of December 31, 2007, 2008, 2009, 2010 and 2011:

|  | As of and for the Years Ended December 31,               |         |         |           |           |
|--|--|---------|---------|-----------|-----------|
|  | 2007   | 2008    | 2008    | 2010      | 2011      |
|  | US\$   | US\$    | US\$    | US\$      | US\$      |
|  | (in thousands, except share, per share and per ADS data) |         |         |           |           |
| Consolidated Balance Sheet Data(1)                       |  |         |         |           |           |
| Cash and cash equivalents                                | 309,315  | 135,659 | 157,800 | 13,326    | 319,218   |
| Restricted cash  | 48,267   | 57,951  | 40,240  | 82,305    | 168,384   |
| Real estate property under development(2)                | 388,881  | 623,203 | 560,590 | 710,585   | 761,871   |
| Total current assets                                     | 770,347  | 778,013 | 849,357 | 1,075,045 | 1,364,650 |
| Total assets   | 807,195  | 936,166 | 881,782 | 1,103,965 | 1,390,614 |
| Total current liabilities                                | 154,374  | 417,990 | 369,098 | 463,747   | 627,860   |
| Long-term bank loans                                     | 137,858  | 105,007 | 53,015  | 70,213    | 73,482    |
| Preference shares  | —  | —       | —       | —         | —         |
| Capital stock  | 14,840   | 15,102  | 15,148  | 15,319    | 15,341    |
| Total Xinyuan Real Estate Co., Ltd. shareholders' equity | 389,899  | 400,255 | 446,912 | 517,798   | 634,627   |

(1) Our financial information is first prepared in RMB and then translated into U.S. dollars for assets and liabilities at the year-end exchange rate and, for revenues and expenses at the yearly average exchange rate. The rates used are set forth in the table below. Capital accounts are translated at their historical exchange rates when the transactions occurred.

(2) Includes real estate property under development recorded under current assets and non-current assets.

|  | As of and for the Year Ended December 31, |        |        |        |        |
|--|---|--------|--------|--------|--------|
|  | 2007                                      | 2008   | 2009   | 2010   | 2011   |
| Period-end US\$: RMB exchange rate     | 7.3046                                    | 6.8346 | 6.8282 | 6.6227 | 6.3009 |
| Period average US\$: RMB exchange rate | 7.6079                                    | 6.9480 | 6.8311 | 6.7704 | 6.4614 |

As of April 6, 2012, the US\$: RMB exchange rate was 6.3052.

#### *Exchange Rate Information*

Our financial statements and other financial data included in this annual report are presented in U.S. dollars. Our business and operations are primarily conducted in China through our PRC subsidiaries. The functional currency of our PRC subsidiaries is RMB. The financial statements of our PRC subsidiaries are translated into U.S. dollars, using published exchange rates in China, based on (i) year-end exchange rates for assets and liabilities and (ii) average yearly exchange rates for revenues and expenses. Capital accounts are translated at historical exchange rates when the transactions occurred. The effects of foreign currency translation adjustments are included as a component of accumulated other comprehensive income in our shareholders' equity. We make no representation that any RMB or U.S. dollar amounts could have been, or could be, converted into U.S. dollars or RMB at any particular rate, including the rate stated below.

The RMB is not freely convertible into foreign currency. The PRC government imposes control over its foreign currency reserves in part through direct regulation of the conversion of the RMB into foreign exchange and through restrictions on foreign trade. Since 2005, the People's Bank of China, or the PBOC, has allowed the RMB to fluctuate within a narrow and managed band against a basket of foreign currencies, according to market demand and supply conditions. The PBOC announces the RMB closing price each day and that rate serves as the mid-point of the next day's trading band.

The following table sets forth, for each of the periods indicated, the low, average, high and period-end noon buying rates in New York City for cable transfers, in RMB per U.S. dollar. These rates are provided solely for your convenience and are not necessarily the exchange rates that we used in this annual report or will use in the preparation of periodic reports or other information to be provided to you.

| Year                                  | Noon Buying Rate(1)              |            |        |        |
|---------------------------------------|----------------------------------|------------|--------|--------|
|                                       | Period End<br>(RMB Per US\$1.00) | Average(2) | Low    | High   |
| 2007                                  | 7.2946                           | 7.6058     | 7.2946 | 7.8127 |
| 2008                                  | 6.8225                           | 6.9221     | 6.8225 | 7.2946 |
| 2009                                  | 6.8259                           | 6.8307     | 6.8176 | 6.8470 |
| 2010                                  | 6.6000                           | 6.7426     | 6.6000 | 6.8330 |
| 2011                                  | 6.2939                           | 6.4475     | 6.2939 | 6.6017 |
| Month                                 |                                  |            |        |        |
| October<br>2011                       | 6.3547                           | 6.3710     | 6.3534 | 6.3825 |
| November<br>2011                      | 6.3765                           | 6.3564     | 6.3400 | 6.3839 |
| December<br>2011                      | 6.2939                           | 6.3482     | 6.2939 | 6.3733 |
| January<br>2012                       | 6.3080                           | 6.3119     | 6.2940 | 6.3330 |
| February<br>2012                      | 6.2935                           | 6.2997     | 6.2935 | 6.3120 |
| March<br>2012                         | 6.2975                           | 6.3125     | 6.2975 | 6.3315 |
| April<br>2012<br>(through<br>April 6) | 6.3252                           | 6.3021     | 6.2975 | 6.3123 |

- (1) For December 2008 and prior periods, the noon buying rate refers to the noon buying rate as reported by the Federal Reserve Bank of New York. For January 2009 and later periods, the noon buying rate refers to the exchange rate as set forth in the H.10 statistical release of the Federal Reserve Board.

Annual averages are calculated by averaging the exchange rates on the last business day of each month or the (2) elapsed portion thereof during the relevant period. Monthly averages are calculated using the average of the daily rates during the relevant period.

B. Capitalization and Indebtedness

Not Applicable.

C. Reasons for the Offer and Use of Proceeds

Not Applicable.

D. Risk Factors

*Risks Related to Our Business*

*Our business is sensitive to the current global economic crisis. A severe or prolonged downturn in the global economy could materially and adversely affect our revenues and results of operations.*

Global market and economic conditions have been challenging with tight credit conditions and recession in most major economies continuing into 2012. Continued concerns about the systemic impact of potential long-term and wide-spread recession, energy costs, geopolitical issues, the availability and cost of credit, and the global housing and mortgage markets have contributed to increased market volatility and diminished expectations for economic growth around the world.

The European sovereign debt crisis has escalated since 2011 and it is unclear whether the European sovereign debt crisis will be contained and what effects it may have. There is considerable uncertainty over the long-term effects of the expansionary monetary and fiscal policies that have been adopted by the central banks and financial authorities of some of the world's leading economies, including China's. There have also been concerns over unrest in the Middle East and Africa, which have resulted in higher oil prices and significant market volatility, and over the possibility of a war involving Iran. There have also been concerns about the economic effect of the earthquake, tsunami and nuclear crisis in Japan. Economic conditions in China are sensitive to global economic conditions, and it is impossible to predict how the Chinese economy would develop in the future and whether it might experience any financial crisis in a manner and scale similar to that in the United States.



Any slowdown in China's economic development might lead to tighter credit markets, increased market volatility, sudden drops in business and consumer confidence and dramatic changes in business and consumer behaviors. In response to their perceived uncertainty in economic conditions, consumers might delay, reduce or cancel purchases of homes, and our homebuyers may also defer, reduce or cancel purchases of our units. Although we have experienced demand softness since the second quarter of 2010 due to strict mortgage policy and other measures taken by the PRC government to slow down the rapid increase in housing prices, we expect continuing economic growth in China. We remain optimistic about the Chinese economy, but to the extent any fluctuations in the Chinese economy significantly affect homebuyers' demand for our units or change their spending habits, our results of operations may be materially and adversely affected.

The PRC economy also faces challenges in the short to medium term. Continued turbulence in the international markets and prolonged declines in consumer spending, including home purchases, as well as any slowdown of economic growth in China, may adversely affect our liquidity and financial condition.

*If we are unable to successfully manage our expansion into other Tier II cities, we will not be able to execute our business plan.*

Historically, our business and operations was concentrated in Zhengzhou. Since 2006, we have expanded our residential property development operations into other Tier II cities, consisting of Chengdu in Sichuan Province, Hefei in Anhui Province, Jinan in Shandong Province, and Suzhou, Kunshan and Xuzhou in Jiangsu Province. We plan to expand into other Tier II cities as suitable opportunities arise. The development of real estate projects in other Tier II cities will impose significant demands on our management and other operational resources. Moreover, we will face additional competition and will need to establish brand recognition and market acceptance for our developments in these new markets. Each of these Tier II cities has its own market conditions, customer requirements and local regulations related to the real estate industry. If we are unable to successfully develop and sell projects outside of our current markets, our future growth may be limited and we may not generate adequate returns to cover our investments in these Tier II cities. In addition, if we expand our operations to other cities with higher land prices, our costs may increase, which may lead to a decrease in our profit margin, or impairments resulting from land value decreases.

*Our business requires access to substantial financing. Our failure to obtain adequate financing in a timely manner could severely adversely (1) restrict our ability to complete existing projects, expand our business, or repay our debts and (2) affect our financial performance and condition.*

Our property development business is capital intensive. To date, we have funded our operations primarily through bank borrowings, shareholder loans, proceeds from sales and pre-sales of our properties and proceeds from issuance of equity and debt securities. We obtain commercial bank financing for our projects through credit lines extended on a case-by-case basis. Our ability to secure sufficient financing for land use rights acquisition and property development and repayment of our existing onshore and offshore debt obligations depends on a number of factors that are beyond

our control, including lenders' perceptions of our creditworthiness, market conditions in the capital markets, investors' perception of our securities, the PRC economy and PRC government regulations that affect the availability and cost of financing for real estate companies or property purchasers.

Since 2003, PRC commercial banks have been prohibited, under the guidelines of the PBOC, from advancing loans to fund the payment of land use rights. In addition, the PRC State Council has taken and may continue to take action to curb speculation in the housing market and housing price increases. Among other actions, as of March 25, 2011, the PBOC raised the reserve requirement ratio for large commercial banks by 0.5% to 20%, and small and middle sized financial institutions by 0.5% to 16.5% and on June 20, 2011, the reserve requirement ratio was raised to its peak of 21.5% for large commercial banks and 18% for small and middle sized financial institutions. As of February 18, 2012, the reserve requirement ratios have been reduced to 20.5% for large commercial banks and 17% for small and middle sized financial institutions. Notwithstanding the recent reduction in requirement amount, the overall increases in the reserve requirement ratio will reduce the amount of commercial bank credit available to businesses in China, including us. We generate significant cash flow through pre-sales, which are subject to government restrictions. In particular, PRC regulations on the pre-sales of properties generally provide that the proceeds from the pre-sales of a real estate project may only be used for the construction of such project. Any additional potential government restrictions on pre-sales could significantly increase our financing needs. Moreover, our ability to move cash through inter-company transfers or transfer funds from onshore subsidiaries to our offshore parent company is limited by PRC government regulations, which limits our ability to use excess cash resources in one subsidiary to fund the obligations of another subsidiary or our offshore parent company.

Furthermore, various other PRC regulations restrict our ability to raise capital through external financing and other methods, including, without limitation, the following:

we cannot borrow from a PRC bank for a particular project if we do not have the land use rights certificate for that project;

we cannot pre-sell uncompleted residential units in a project prior to achieving certain development milestones specified in related regulations;

we cannot borrow from a PRC bank for a particular project unless we fund at least 35% of the total investment amount of that project from our own capital;

property developers are strictly restricted from using the proceeds from a loan obtained from a local bank to fund property developments outside the region where that bank is located; and

PRC banks are prohibited from accepting properties that have been vacant for more than three years as collateral for loans.

As of December 31, 2011, our contractual obligations amounted to US\$592.5 million, primarily arising from contracted construction costs or other capital commitments for future property developments and debt obligations. Of this amount, US\$473.2 million was due within one year.

There can be no assurance that our internally generated cash flow and external financing will be sufficient for us to meet our contractual and financing obligations in a timely manner. Due to the current measures imposed (as well as other measures that may be imposed by the PRC government in the future) which limit our access to additional capital, we cannot assure you that we will be able to obtain sufficient funding to finance intended purchases of land use rights, develop future projects or meet other capital needs as and when required at a commercially reasonable cost or at all. Our failure to obtain adequate financing in a timely manner and on reasonable terms could severely adversely (1) restrict our ability to complete existing projects, expand our business, or repay our debts and (2) affect our financial performance and condition.

*We may be unable to acquire desired development sites at commercially reasonable costs.*

Our revenue depends on the completion and sale of our projects, which in turn depends on our ability to acquire development sites. Our land use rights costs are a major component of our cost of real estate sales and increases in



such costs could diminish our gross margin. In China, the PRC government controls the supply of land and regulates land sales and transfers in the secondary market. As a result, the policies of the PRC government, including those related to land supply and urban planning, affect our ability to acquire, and our costs of acquiring, land use rights for our projects. In recent years, the government has introduced various measures attempting to moderate investment in the property market in China. Although we believe that these measures are generally targeted at the luxury property market and speculative purchases of land and properties, we cannot assure you that the PRC government will not introduce other measures in the future that would adversely affect our ability to obtain land for development. We currently acquire our development sites primarily by bidding for government land. Under current regulations, land use rights acquired from government authorities for commercial and residential development purposes must be purchased through a public tender, auction or listing-for-sale. Competition in these bidding processes has resulted in higher land use rights costs for us. In addition, we may not successfully obtain desired development sites due to the increasingly intense competition in the bidding processes. We may also need to acquire land use rights through acquisition, which could increase our costs. Moreover, the supply of potential development sites in any given city will diminish over time, and we may find it increasingly difficult to identify and acquire attractive development sites at commercially reasonable costs in the future.

*Our secured note contains certain financial and other covenants that restrict our ability to pay dividends, raise further debt and take other corporate actions which may adversely affect our business.*

In April 2010, we issued the secured note that contains a number of significant financial and other covenants substantially similar to the covenants included in the indentures for our floating rate notes and convertible notes repaid in April 2010. Such covenants restrict, among other things, our ability and the ability of our subsidiaries to incur additional debt or guarantees, make restricted payments, make investments, pay dividends or distributions on our or our subsidiaries' capital stock, repurchase our or our subsidiaries' capital stock, pay subordinated indebtedness, make or repay inter-company loans or enter into non-ordinary course business transactions. Among other restrictions, we are limited in the dollar amount of mortgage guarantees we may provide if we do not maintain a minimum consolidated interest expense coverage ratio, or interest coverage ratio.

As a result of the covenants, our ability to pay dividends or other distributions on our common shares and ADSs may be limited. These covenants also restrict our ability to raise additional capital in the future through bank borrowings and debt and equity issuances and may restrict our ability to engage in some transactions that we expect to be of benefit to us. The covenants may also limit the amount of units we may sell in any period by limiting the amount of mortgage guarantees we can provide to purchasers if we do not maintain the requisite interest coverage ratio.

The note is secured by the mortgage of our shares in our wholly owned subsidiary, Xinyuan Real Estate, Ltd., or Xinyuan Ltd., which indirectly holds all of our assets and operations in China. If we default under the note in the future, the holder may enforce its claims against these shares to satisfy our obligations to it. In such an event, the holder of the note could gain ownership of the shares of Xinyuan Ltd., and, as a result, own and control all of our subsidiaries in China. We conduct substantially all of our operations in China and all of our assets are located in China and, if we default under the note, we could lose control or ownership of our assets and operations in China and there may be no assets remaining from which your claims could be satisfied. In addition, the note is also required to be secured by the pledge of all of Xinyuan Ltd.'s shares in Xinyuan (China) Real Estate, Ltd., or Xinyuan China, and a pledge of our and our subsidiaries' assets located outside of the PRC.

*We provide guarantees for the mortgage loans of our customers which expose us to risks of default by our customers.*

We pre-sell properties before actual completion and, in accordance with industry practice, our customers' mortgage banks require us to guarantee our customers' mortgage loans. Typically, we provide guarantees to PRC banks with respect to loans procured by the purchasers of our properties for the total mortgage loan amount until the completion of the registration of the mortgage with the relevant mortgage registration authorities, which generally occurs within six to 12 months after the purchasers take possession of the relevant properties. In line with what we believe to be industry practice, we rely on the credit evaluation conducted by mortgagee banks and do not conduct our own independent credit checks on our customers. The mortgagee banks typically require us to maintain, as restricted cash, 0% to 10% of the mortgage proceeds paid to us as security for our obligations under such guarantees. If a purchaser

defaults on its payment obligations during the term of our guarantee, the mortgagee bank may deduct the delinquent mortgage payment from the security deposit. If the delinquent mortgage payments exceed the security deposit, the banks may require us to pay the excess amount. If multiple purchasers default on their payment obligations, we will be required to make significant payments to the banks to satisfy our guarantee obligations. Factors such as a significant decrease in housing prices, increase in interest rates or the occurrence of natural catastrophes, among others, could result in a purchaser defaulting on its mortgage payment obligations. If we are unable to resell the properties underlying defaulted mortgages on a timely basis or at prices higher than the amounts of our guarantees and related expenses, we will suffer financial losses. For the three years ended December 31, 2011, we experienced certain defaults on mortgage loans by our customers in an aggregate principal amount of approximately US\$159,936.

As of December 31, 2009, 2010 and 2011, our outstanding guarantees in respect of our customers' mortgage loans amounted to US\$509.2 million, US\$666.4 million and US\$709.5 million, respectively. If substantial defaults by our customers occur and we are called upon to honor our guarantees, our financial condition and results of operations will be materially adversely affected.

*Our level of indebtedness could have an adverse effect on our financial condition, diminish our ability to raise additional capital to fund our operations and limit our ability to explore business opportunities.*

As of December 31, 2011, the outstanding balance of our total indebtedness amounted to US\$285.5 million. Our level of indebtedness could have an adverse effect on us. For example, it could:

- require us to dedicate a large portion of our cash flow from operations to fund payments on our debt, thereby reducing the availability of our cash flow to fund working capital, capital expenditures and other general corporate purposes;

- increase our vulnerability to adverse general economic or industry conditions;

- limit our flexibility in planning for, or reacting to, changes in our business or the industry in which we operate;

- limit our ability to raise additional debt or equity capital in the future or increase the cost of such funding;

- restrict us from making strategic acquisitions or exploring business opportunities; and

- make it more difficult for us to satisfy our obligations with respect to our debt.

*Under our seller-financed agreements, we face the risk that our homebuyers may default in their obligations, which could result in a delay of revenue recognition and could negatively affect our financial results.*

Beginning in the third quarter of 2011, due to the restrictions of mortgages to second home buyers, we introduced seller-financed contract arrangements under which the homebuyer pays the purchase price for the residential unit in installment payments. We performed credit checks on homebuyers to whom we offer seller-financed arrangements. While we believe our credit check criteria are appropriate, there is no assurance that the data provided is completely accurate or current. Moreover, there is a limit as to the scope of the investigation we may conduct with respect to each homebuyer. Our check may not reveal all the matters that an in-depth independent investigation performed by a bank

or company whose primary business is credit review could uncover.

Our risk of monetary loss under seller-financed agreements is mitigated by the homebuyers' deposits we hold as collateral and our retention of possession and title to the apartments until the purchase price is paid in full. However, if any homebuyer defaults, our ability to recognize revenue from the sale of the affected apartment will be delayed and our financial results could be adversely affected.

*Our financing costs are subject to changes in interest rates.*

The rates of interest payable on our long-term bank loans are adjustable based on the range of 95% to 120% of the PBOC benchmark rate, which were raised by the PBOC four times from October 19, 2010 until April 5, 2012, and may be raised in the future. The PBOC benchmark rate for a one year loan stands at 6.56% as of April 5, 2012. As of December 31, 2011, the principal amount of our aggregate outstanding variable rate debt was US\$227.6 million. A hypothetical 1% increase in annual interest rates would increase our interest expenses by US\$2.3 million based on our debt level at December 31, 2011.

*We may be required to record impairment charges in the future.*

If the projected profitability of a given project deteriorates due to a decline in the pace of unit sales, a decline in selling prices, or some other factor, such project is reviewed for possible impairment by comparing the estimated future undiscounted cash flows for the project to its carrying value. If the estimated future undiscounted cash flows are less than the asset's carrying value, the asset is written down to its estimated fair value. In the fourth quarter of 2008, Suzhou International City Garden was identified as an unprofitable project subject to recognition of impairment. On a quarterly basis we are required to conduct impairment tests on our projects. If business conditions deteriorate, there is a potential risk that future impairment charges will be recorded.

*We rely on third-party contractors.*

Substantially all of our project construction and related work are outsourced to third-party contractors. We are exposed to risks that the performance of our contractors may not meet our standards or specifications. Negligence or poor work quality by contractors may result in defects in our buildings or residential units, which could in turn cause us to suffer financial losses, harm our reputation or expose us to third-party claims. We work with multiple contractors on different projects and we cannot guarantee that we can effectively monitor their work at all times. Although our construction and other contracts contain provisions designed to protect us, we may be unable to successfully enforce these rights and, even if we are able to successfully enforce these rights, the third-party contractor may not have sufficient financial resources to compensate us. Moreover, the contractors may undertake projects from other property developers, engage in risky undertakings or encounter financial or other difficulties, such as supply shortages, labor disputes or work accidents, which may cause delays in the completion of our property projects or increases in our costs.

*We may be unable to complete our property developments on time or at all.*

The progress and costs for a development project can be adversely affected by many factors, including, without limitation:

- delays in obtaining necessary licenses, permits or approvals from government agencies or authorities;
- shortages of materials, equipment, contractors and skilled labor;
- disputes with our third-party contractors;
- failure by our third-party contractors to comply with our designs, specifications or standards;
- difficult geological situations or other geotechnical issues;
- onsite labor disputes or work accidents; and
- natural catastrophes or adverse weather conditions, including strong winds, storms, floods, and earthquakes.

Any construction delays, or failure to complete a project according to our planned specifications or budget, may delay our property sales, which could harm our revenues, cash flows and our reputation.

Under PRC laws and regulations and our pre-sale contracts, we are required to compensate purchasers for late delivery of or failure to complete our pre-sold units. For the three years ended December 31, 2011, we paid an aggregate amount of approximately US\$1.4 million of compensation to our customers due to late delivery. If the delay extends beyond the contractually specified period, the purchasers may become entitled to terminate the pre-sale contracts and claim damages.

Proceeds from pre-sale of our properties are an important source of financing for our property developments. Under PRC laws, we are not permitted to commence pre-sales until we have completed certain stages of the construction process for a project. Consequently, a significant delay in the construction of a project could restrict our ability to pre-sell our properties, which could extend the recovery period for our capital outlay. This, in turn, could have an adverse effect on our cash flow, business and financial position.

*Changes of laws and regulations with respect to pre-sales may adversely affect our cash flow position and performance.*

We depend on cash flows from pre-sale of properties as an important source of funding for our property projects. Under current PRC laws and regulations, property developers must fulfill certain conditions before they can commence pre-sale of the relevant properties and may only use pre-sale proceeds to finance the construction of the specific developments. On August 5, 2005, PBOC issued a report entitled “2004 Real Estate Financing Report,” in which it recommended that the practice of pre-selling uncompleted properties be discontinued because, according to the report, such activity creates significant market risks and generates transactional irregularities. This and other PBOC recommendations have not been adopted by the PRC government and have no enforceability. However, there can be no assurance that the PRC government will not ban the practice of pre-selling uncompleted properties or implement further restrictions on the pre-sale of properties, such as imposing additional conditions for a pre-sale permit or further restrictions on the use of pre-sale proceeds or that cities will not voluntarily suspend or restrict pre-sales. For example, the Housing and Construction Department in Guangxi Province (in which we do not have any operations) announced in 2010 that it was considering suspending pre-sales of commercial properties, starting in Nanning municipality on a trial basis. Any measures prohibiting or further restricting pre-sales by the PRC government or province or city government affecting cities in which we operate will adversely affect our cash flow position and force us to seek alternative sources of funding for much of our property development business.

*The results of our operations may fluctuate from period to period.*

Our results of operations tend to fluctuate from period to period. The number of properties that we can develop or complete during any particular period is limited due to the substantial capital required for land acquisition and construction, as well as the development periods required before positive cash flows may be generated. In addition, several properties that we have developed or that are under development are large scale and developed in multiple phases over the course of one to several years. The selling prices of the residential units in larger scale property developments tend to change over time, which may impact our sales proceeds and, accordingly, our revenues for any given period.

*Our operations are highly subject to the government policies regulating the real estate market.*

Since 2010, the PRC government has been tightening its control of the real estate market with the aim of curbing the increases in property prices. At the same time, it has also been actively investing in and promoting the construction of government subsidized affordable housing throughout the country. Issued by the PRC State Council, the *Guidelines for the Construction and Administration of Affordable Housing Project* stipulate that by the end of the Twelfth Five-Year Plan (*i.e.*, by the end of 2015), government subsidized affordable housing will account for 20% of all residential properties. Such policies of the PRC government may hamper further development of the commercial real estate market, especially the residential real estate market, and thus impact our operations in China.



*Our operations may be affected by the real property taxes to be imposed by the PRC government.*

In another attempt to cool the real estate market, the PRC government is considering imposing real property tax on a nationwide scale and has designated Shanghai and Chongqing as trial regions. In response, on January 28, 2011 both Shanghai and Chongqing promulgated local rules regarding the imposition of real property tax, with such rules taking immediate effect. Real property tax regulations may eventually be officially promulgated at the national level; any such regulation could significantly impact the real estate market. In light of these developments, we cannot guarantee that our operations will not be adversely affected.

*The recognition of our real estate revenue and costs is dependent upon our estimation of total project revenues and costs.*

We recognize our real estate revenue based on the full accrual method and the percentage of completion method depending on the estimated project construction period. Under both methods, revenue and costs are calculated based on an estimation of total project costs and total project revenues, which are revised on a regular basis as the work progresses. Any material deviation between actual and estimated total project revenues and costs may result in an increase, a reduction or an elimination of reported revenues or costs from period to period, which will affect our gross profit and net income.

*We may be required to pay additional corporate income taxes in China.*

Based on the levy method applied by the Zhengzhou local tax bureau before 2011, our subsidiaries in Zhengzhou were paying corporate income tax, or CIT, on a deemed profit basis, where taxable income was deemed to be 15% of cash receipts, regardless of actual income generated in that year. The local tax authorities may challenge our basis as compared to the actual income basis. Accordingly, we may be subject to CIT on our actual taxable income for the year prior to 2011. We have made provision for the full amount of applicable CIT calculated in accordance with the relevant PRC tax laws and regulations, but we paid CIT each year as required by the local tax authorities. We cannot guarantee that we will not be required to pay additional taxes in accordance with the PRC tax laws and regulations or that our accrued deferred tax liabilities will be sufficient to cover any additional CIT payments we will be required to pay in the future with respect to past financial periods.

*Dividends we receive from our PRC subsidiaries located in the PRC may be subject to PRC withholding tax.*

The PRC Corporate Income Tax Law, or the CIT Law, and the *Implementation for the CIT Law* issued by the PRC State Council became effective as of January 1, 2008. The CIT Law provides that a maximum income tax rate of 20% may be applicable to dividends payable to non-PRC investors that are “non-resident enterprises,” to the extent such dividends are derived from sources within the PRC, and the State Council has reduced such rate to 10% through the *Implementation for the CIT Law*. We are a Cayman Islands holding company and substantially all of our income may be derived from dividends we receive from our PRC subsidiaries. Thus, dividends paid to us by our subsidiaries in China may be subject to the 10% income tax if we are considered a “non-resident enterprise” under the CIT Law. If we are required under the CIT Law to pay income tax for any dividends we receive from our PRC subsidiaries, it will materially and adversely affect the amount of dividends received by us from our PRC subsidiaries.

*We may be deemed a PRC resident enterprise under the CIT Law and be subject to the PRC taxation on our worldwide income.*

The CIT Law also provides that enterprises established outside of China whose “de facto management bodies” are located in China are considered “resident enterprises” and are generally subject to the uniform 25% corporate income tax rate as to their worldwide income (including dividend income received from subsidiaries). Under the *Implementation for the CIT Law*, “de facto management body” is defined as a body that has material and overall management and control over the manufacturing and business operations, personnel and human resources, finances and treasury, and acquisition and disposition of properties and other assets of an enterprise. Under the *Notice on the Issues Regarding Recognition of Overseas Incorporated Domestically Controlled Enterprises as PRC Resident Enterprises Based on the De Facto Management Body Criteria*, which was retroactively effective as of January 1, 2008, an overseas incorporated, domestically-controlled enterprise will be recognized as a PRC resident enterprise if it satisfies certain conditions. However, it is still unclear whether PRC tax authorities would require (or permit) us to be treated as a PRC resident enterprise. If we are treated as a resident enterprise for PRC tax purposes, we will be subject

to PRC tax on our worldwide income at the 25% uniform tax rate, which could have an impact on our effective tax rate and an adverse effect on our net income and results of operations, although dividends distributed from our PRC subsidiaries to us could be exempt from Chinese dividend withholding tax, since such income is exempted under the new CIT Law to a PRC resident recipient.

*Dividends payable by us to our non-PRC investors and gain on the sale of our ADSs may become subject to taxes under PRC tax laws.*

Under the *Implementation for the CIT Law*, a PRC income tax rate of 10% is applicable to dividends payable to investors that are “non-resident enterprises,” which do not have an establishment or place of business in the PRC, or which have such establishment or place of business but the relevant income is not effectively connected with the establishment or place of business, to the extent such dividends have their sources within the PRC. Similarly, any gain realized on the transfer of ADSs by such investors is also subject to 10% PRC income tax if such gain is regarded as income derived from sources within the PRC. If we are considered a PRC “resident enterprise,” it is unclear whether dividends we pay with respect to our ADSs, or the gain you may realize from the transfer of our ADSs, would be treated as income derived from sources within the PRC and be subject to PRC tax. If we are required under the *Implementation for the CIT Law* to withhold PRC income tax on dividends payable to our non-PRC investors that are “non-resident enterprises,” or if you are required to pay PRC income tax on the transfer of our ADSs, the value of your investment in our ADSs may be materially and adversely affected.

*The relevant PRC tax authorities may challenge the basis on which we have been paying our land appreciation tax obligations and our results of operations and cash flows may be affected.*

Under PRC laws and regulations, our PRC subsidiaries engaging in property development are subject to land appreciation tax, or LAT, which is levied by the local tax authorities. All taxable gains from the sale or transfer of land use rights, buildings and their attached facilities in the PRC are subject to LAT at progressive rates ranging from 30% to 60%. Exemptions are available for the sale of ordinary residential properties if the appreciation values do not exceed certain thresholds specified in the relevant tax laws. Gains from the sale of commercial properties are not eligible for this exemption.

We have accrued all LAT payable on our property sales and transfers in accordance with the progressive rates specified in relevant tax laws, less amounts previously paid under the levy method applied by relevant local tax authorities. However, provisioning for LAT requires our management to use a significant amount of judgment with respect to, among other things, the anticipated total proceeds to be derived from the sale of the entire phase of the project or the entire project, the total appreciation of land value and the various deductible items. If the LAT provisions we have made are substantially lower than the actual LAT amounts assessed by the tax authorities in the future, our results of operations and cash flows will be materially and adversely affected.

*We rely on our key management members.*

We depend on the services provided by key management members. Competition for management talent is intense in the property development sector. In particular, we are highly dependent on Mr. Yong Zhang, our founder, Chairman and Chief Executive Officer, Ms. Yuyan Yang, our co-founder, and Mr. Tom Gurnee, our Chief Financial Officer. We do not maintain key employee insurance. In the event that we lose the services of any key management member, we may be unable to identify and recruit suitable successors in a timely manner or at all, which will adversely affect our business and operations. Moreover, we may need to employ and retain more management personnel to support an expansion into other Tier II cities on a much larger geographical scale. If we cannot attract and retain suitable human resources, especially at the management level, our business and future growth will be adversely affected.

*Increases in the price of raw materials or labor costs may increase our cost of sales and reduce our earnings.*

We outsource the design and construction of our projects under development to third-party service providers. Our third-party contractors are responsible for provider labor and procuring almost all of the raw materials used in our project developments. Our construction contracts typically provide for fixed or capped payments, but the payments are subject to changes in government-suggested prices for certain raw materials we use, such as steel. Any increase in labor costs or other costs which may result in adjustments in payments under our construction contracts could result in

an increase in our construction costs. In the event that the price of any raw materials, including cement, concrete blocks and bricks, increase in the future, such increase could be passed on to us by our contractors, and our construction costs would increase accordingly. Passing such increased costs to our customers may result in reduced sales and delay our ability to complete sales for our projects. Any input cost increase could reduce our earnings to the extent we are unable to pass these increased costs to our customers.

*We may engage in joint ventures, which could result in unforeseen expenses or disruptive effects on our business.*

From time to time, we may consider joint ventures with other businesses to develop a property. Any joint venture that we determine to pursue will be accompanied by a number of risks. We may not be in a position to exercise sole decision-making authority regarding the joint ventures. We may not be able to control the quality of products produced by the joint venture. Depending on the terms of the joint venture agreement, we may require the consent of our joint venture partners for the joint venture to take certain actions, such as making distributions to the partners. In addition, our joint venture partners and the joint venture themselves may hold different views or have different interests from ours, and therefore may compete in the same market with us, in which case our interest and future development may be materially adversely affected.

*Any future acquisitions could expose us to unforeseen risks or place additional strain on the management and other resources.*

In late 2010, we completed our acquisition of Zhengzhou Jiantou Xinyuan Real Estate Co., Ltd., or Jiantou Xinyuan, a joint venture in which we had previously held a 45% interest. As part of our business strategy, we regularly evaluate investments in, or acquisitions of, subsidiaries, joint ventures, and we expect that we will continue to make such investments and acquisitions in the future. Any potential future acquisition will be accompanied by a number of risks due to the constantly evolving legal landscape in China. An acquired business may underperform relative to expectations or may expose us to unexpected liabilities. In addition, the integration of any acquisition could require substantial management attention and resources. If we were unable to successfully manage the integration and ongoing operations, or hire and retain additional personnel necessary for the running of the expanded business, the results of our operations and branch performance could be adversely affected.

*Regulations in the PRC may make it more difficult for us to pursue growth through acquisitions.*

On August 8, 2006, six PRC regulatory agencies, including the CSRC, promulgated the Regulations on Mergers and Acquisitions of Domestic Companies by Foreign Investors, or the M&A Rules, which became effective on September 8, 2006 and was amended on June 22, 2009. Among other things, the M&A Rules and regulations and rules concerning mergers and acquisitions established additional procedures and requirements that could make merger and acquisition activities by foreign investors more time-consuming and complex. For example, the M&A Rules require that the Ministry of Commerce be notified in advance of any change-of-control transaction in which a foreign investor takes control of a PRC domestic enterprise or a foreign company with substantial PRC operations, if certain thresholds under the Provisions on Thresholds for Prior Notification of Concentrations of Undertakings, issued by the State Council on August 3, 2008, are triggered. According to the Implementing Rules Concerning Security Review on the Mergers and Acquisitions by Foreign Investors of Domestic Enterprises issued by the Ministry of Commerce in August 2011, mergers and acquisitions by foreign investors involved in an industry related to national security are subject to strict review by the Ministry of Commerce. These rules also prohibit any transactions attempting to bypass such security review, including by controlling entities through contractual arrangements. We believe that our business is not in an industry related to national security. However, we cannot preclude the possibility that the Ministry of Commerce or other government agencies may publish interpretations contrary to our understanding or broaden the scope of such security review in the future. Although we have no current plans to make any acquisitions, we may elect to grow our business in the future in part by directly acquiring complementary businesses in China. Complying with the requirements of these regulations to complete such transactions could be time-consuming, and any required approval processes, including obtaining approval from the Ministry of Commerce, may delay or inhibit our ability to complete such transactions.

*We are a holding company that depends on dividend payments from our subsidiaries for funding.*

We are a holding company established in the Cayman Islands and operate all of our business and operations through our subsidiaries in China. Therefore, our ability to pay dividends to our shareholders and to service our indebtedness depends upon dividends that we receive from our subsidiaries in China. If our subsidiaries incur indebtedness or losses, such indebtedness or losses may impair their ability to pay dividends or other distributions to us. As a result, our ability to pay dividends and to service our indebtedness will be restricted. Regulations in China currently permit payment of dividends only out of accumulated profits as determined in accordance with accounting standards and regulations in China. Each of our PRC subsidiaries, including wholly foreign-owned enterprises and domestic companies, is required to set aside at least 10.0% of its after-tax profit based on PRC accounting standards each year to its general reserves or statutory capital reserve fund until the accumulative amount of such reserves reaches 50.0% of its respective registered capital. As of December 31, 2011, our statutory reserves under PRC GAAP amounted to US\$33.6 million. Our statutory reserves are not distributable as cash dividends. The terms of our secured note contain restrictions on our subsidiaries' ability to pay dividends. In addition, restrictive covenants in bank credit facilities, joint venture agreements or other agreements that we or our subsidiaries currently have or may enter into in the future may also restrict the ability of our subsidiaries to make contributions to us and our ability to receive distributions. Therefore, these restrictions on the availability and usage of our major source of funding may impact our ability to pay dividends to our shareholders and to service our indebtedness.

*If the value of our brand or image diminishes, it could have a material adverse effect on our business and results of operations.*

We intend to continue promoting the “Xinyuan” brand in selected Tier II cities by delivering quality products and attentive real estate-related services to our customers. Our brand is integral to our sales and marketing efforts. Our continued success in maintaining and enhancing our brand and image depends to a large extent on our ability to satisfy customer needs by further developing and maintaining quality of service across our operations, as well as our ability to respond to competitive pressures. If we are unable to satisfy customer needs or if our public image or reputation were otherwise diminished, our business transactions with our customers may decline, which could in turn adversely affect our results of operations.

*Any unauthorized use of our brand or trademark may adversely affect our business.*

We own trademarks for "" in the form of Chinese characters and our company logo. We rely on the PRC intellectual property and anti-unfair competition laws and contractual restrictions to protect brand name and trademarks. We believe our brand, trademarks and other intellectual property rights are important to our success. Any unauthorized use of our brand, trademarks and other intellectual property rights could harm our competitive advantages and business. Historically, China has not protected intellectual property rights to the same extent as the United States or the Cayman Islands, and infringement of intellectual property rights continues to pose a serious risk of doing business in China. Monitoring and preventing unauthorized use is difficult. The measures we take to protect our intellectual property rights may not be adequate. Furthermore, the application of laws governing intellectual property rights in China and abroad is uncertain and evolving, and could involve substantial risks to us. If we are unable to adequately protect our brand, trademarks and other intellectual property rights, our reputation may be harmed and our business may be adversely affected.

*We may be subject to additional payments of statutory employee benefits.*

According to PRC laws and local regulations, we are required to pay various statutory employee benefits, including pensions, housing fund, medical insurance, work-related injury insurance, unemployment insurance and childbearing insurance to designated government agents for the benefit of all our employees. Since the PRC *Social Insurance Law* came into effect on July 1, 2011, the legal framework regulating employee social insurance has been further strengthened. Currently, we pay statutory employee benefits based on the contribution ratio stipulated by local governments and also accrue provisions for unpaid employee benefits based on relevant central government regulations. We cannot be certain that such accrued amounts will be sufficient to meet any additional employee benefit payments that we are required to make in the future.

*Our development plan may be adversely affected in the event that relocation issues related to government housing expropriations are not successfully settled by the relevant PRC governmental authorities.*

We acquire property for development through bidding, auctions and listing procedures held by the government or through acquisitions from third parties. Some of the property we acquire from the government may have been available through expropriation. On January 21, 2011, the PRC State Council issued the *Regulations on the Expropriation of Buildings on State-owned Land and Compensation*, which provides that government entities at the city and county level are responsible for overseeing housing expropriation and compensation within their respective administrative regions. The regulations mandate that a compensation agreement be entered into between the relevant housing expropriation department and the entities or individuals whose houses have been expropriated addressing, among others things, the mode of payment and the amount of compensation, the period of payment, the removal expenses, temporary placement or transitional housing expenses, losses from the closure of business operations, the time period within which the entities or individuals must vacate the expropriated premises, the type of transitional



accommodation and the period of transition. The compensation payable may not be less than the market value of property of a similar nature as of the date when the expropriation notice was issued. Under the regulations, property developers are prohibited from participating in the relocation arrangements. Given the fact that the completion of the relocation procedures is the condition precedent for the relevant PRC governmental authorities to grant land use rights, any failure of the PRC governmental authorities in handling the relocation issues may cause substantial delays in the granting process of land use rights. If we cannot obtain the land use rights from the relevant governmental authorities in time, our development plan may be delayed and we hence may not be able to complete the development and sell the real estate in time. This will, in turn, adversely affect our business operations.

*We do not have insurance to cover potential losses and claims.*

We do not have insurance coverage against potential losses or damages with respect to our properties before their delivery to customers, nor do we maintain insurance coverage against liability from tortious acts or other personal injuries on our project sites. Although we require our contractors to carry insurance, we believe most of our contractors do not comply with this requirement. Our contractors may not be sufficiently insured themselves or have the financial ability to absorb any losses that arise with respect to our projects or pay our claims. In addition, there are certain types of losses, such as losses due to earthquakes, which are currently uninsurable in China. While we believe that our practice is in line with the general practice in the PRC property development industry, there may be instances when we will have to internalize losses, damages and liabilities because of the lack of insurance coverage, which may in turn adversely affect our financial condition and results of operations.

*We may fail to obtain, or may experience material delays in obtaining, necessary government approvals for any major property development, which will adversely affect our business.*

The real estate industry is strictly regulated by the PRC government. Property developers in China must abide by various laws and regulations, including implementation rules promulgated by local governments to enforce these laws and regulations. Before commencing, and during the course of, development of a property project, we need to apply for various licenses, permits, certificates and approvals, including land use rights certificates, construction site planning permits, construction work planning permits, construction permits, pre-sale permits and completion acceptance certificates. We need to satisfy various requirements to obtain these certificates and permits. To date, we have not encountered serious delays or difficulties in the process of applying for these certificates and permits, but we cannot guarantee that we will not encounter serious delays or difficulties in the future. In the event that we fail to obtain the necessary governmental approvals for any of our major property projects, or a serious delay occurs in the government's examination and approval progress, we may not be able to maintain our development schedule and our business and cash flows may be adversely affected.

*We may suffer a penalty or even forfeit land to the PRC government if we fail to comply with procedural requirements applicable to land grants from the government or the terms of the land use rights grant contracts.*

According to the relevant PRC laws and regulations, if we fail to develop a property project according to the terms of the land use rights grant contract, including those relating to the payment of land premiums, specified use of the land and the time for commencement and completion of the property development, the PRC government may issue a warning, may impose a penalty or may order us to forfeit the land. Specifically, under current PRC laws and regulations, if we fail to pay land premiums in accordance with the payment schedule set forth in the relevant land use rights grant contract, the relevant PRC land bureau may issue a warning notice to us, impose late payment penalties or even require us to forfeit the related land to the PRC government. The late payment penalties are usually calculated based on the overdue days for the land premium payments. Furthermore, if we fail to commence development within one year after the commencement date stipulated in the land use rights grant contract, the relevant PRC land bureau may issue a warning notice to us and impose an idle land fee on the land of up to 20% of the land premium. If we fail to commence development within two years, the land will be subject to forfeiture to the PRC government, unless the delay in development is caused by government actions or force majeure. Even if the commencement of the land development is compliant with the land use rights grant contract, if the developed GFA on the land is less than one-third of the total GFA of the project or the total capital invested is less than one-fourth of the total investment of the project and the suspension of the development of the land continues for more than one year without government approval, the land will also be treated as idle land and be subject to penalty or forfeiture. We and Jiantou Xinyuan, during the time we owned only 45% of the company, have made late payments of land premiums for which penalties were imposed.

We cannot assure you that circumstances leading to significant delays in our own land premium payments or development schedules or forfeiture of land will not arise in the future. If we pay a substantial penalty, we may not be able to meet pre-set investment targeted returns for a given project and our financial conditions could be adversely

affected. If we forfeit land, we will not only lose the opportunity to develop the property projects on such land, but may also lose a significant portion of the investment in such land, including land premium deposits and the development costs incurred.

*Any non-compliant GFA of our uncompleted and future property developments will be subject to governmental approval and additional payments.*

The local government authorities inspect property developments after their completion and issue the completion acceptance certificates if the developments are in compliance with the relevant laws and regulations. If the total constructed GFA of a property development exceeds the GFA originally authorized in the relevant land grant contracts or construction permit, or if the completed property contains built-up areas that do not conform with the plan authorized by the construction permit, the property developer may be required to pay additional amounts or take corrective actions with respect to such non-compliant GFA before a completion acceptance certificate can be issued to the property development.

We have obtained completion acceptance certificates for all of our completed properties as of December 31, 2011. However, we cannot be certain that local government authorities will not determine that the total constructed GFA upon completion of our existing projects under development or any future property developments exceed the relevant authorized GFA. Any such non-compliance could lead to additional payments or penalty, which would adversely affect our financial condition. We have not incurred any such payments or penalties since the founding of the company.

*We may not be able to continue obtaining qualification certificates, which will adversely affect our business.*

Real estate developers in the PRC must obtain a formal qualification certificate in order to carry on a property development business in the PRC. According to the PRC regulations on qualification of property developers issued in 2000, a newly established property developer must first apply for a temporary qualification certificate with a one-year validity, which can be renewed for not more than two years. If, however, the newly established property developer fails to commence a property development project within the one-year period during which the temporary qualification certificate is in effect, it will not be allowed to renew its temporary qualification certificate. All qualification certificates are subject to renewal on an annual basis. Under government regulations, developers must fulfill all statutory requirements before they may obtain or renew their qualification certificates. In accordance with the provisions of the rules on the administration of qualifications, the real estate developer qualifications are classified into four classes and the approval system for each class is tiered. A real estate developer may only engage in the development and sale of real estate within the scope of its qualification certificate. For instance, a Class I developer is not restricted to the scale of real estate projects to be developed and may undertake real estate development projects anywhere in the country, while a Class II or below developer may undertake projects with construction area of less than 250,000 square meters per project. See “Item 4. Information on the Company—B. Business Overview—Regulation—Regulations on Qualifications of Developer.”

There can be no assurance that some of our project companies that are in the process of applying for proper qualification certificates will be able to obtain such certificates on a timely basis to commence their planned real estate projects development on schedule. There can be no further assurance that we and our project companies will continue to be able to extend or renew the qualification certificates or be able to successfully upgrade the current qualification class to a higher qualification. If we or our project companies are unable to obtain or renew qualification certificates, the PRC government will refuse to issue pre-sale and other permits necessary for the conduct of the property development business, and our results of operations, financial condition and cash flows will be adversely affected. In addition, if any of our project companies engages in the development and sale of real estate outside the scope of its qualification certificate, it may be ordered to rectify such conduct within a prescribed period, be fined up to RMB100,000, or even have its qualification certificate and business license suspended.

*Our failure to assist our customers in applying for property ownership certificates in a timely manner may lead to compensatory liabilities to our customers.*

We are required to meet various requirements within 90 days after delivery of property, or such other period contracted with our customers, in order for our customers to apply for their property ownership certificates, including passing various governmental clearances, formalities and procedures. Under our typical sales contract, we are liable for any delay in the submission of the required documents as a result of our failure to meet such requirements, and are required to compensate our customers for delays. In the case of serious delays on one or more property projects, we may be required to pay significant compensation to our customers and our reputation may be adversely affected.

*We could face possible regulatory sanctions for the lack of environmental impact assessments, or EIAs, for some of our projects in Zhengzhou, Henan Province.*

Under PRC environmental protection laws and regulations, a construction entity must conduct an EIA and submit an EIA report for a construction project to the competent administrative department of environmental protection for their examination and approval prior to the commencement of construction. Upon the completion of construction of the project, the construction entity must also seek environmental inspection of the construction project by the same administrative department of environmental protection and obtain its permission before the project can be put into use. A construction entity starting construction without approval of the EIA report may be ordered to comply with the foregoing formalities within a prescribed time limit, and the failure to do so may result in an order of suspension of construction work and a fine of up to RMB200,000 for the project in question. In addition, if a particular construction project fails to pass the environmental inspection and is denied permission to use approval, the project may fail to pass the completion acceptance inspection and may fail to obtain the completion acceptance certificate from the relevant administrative department of construction. Such failures may restrict both our ability to use proceeds from the pre-sales of the project even after the completion of construction and that of purchasers of such project from obtaining the title certificate for units they purchased on the project.

Certain of our projects in Zhengzhou, Henan Province did not conduct the EIA, did not prepare and submit an EIA report for approval prior to commencement of construction, or did not seek environmental inspection to obtain permission to use approvals. In the past, we were able to obtain the required completion acceptance certificates and title certificates from the competent administrative department of construction in Zhengzhou even for projects that failed to comply with EIA requirements prior to the commencement of construction and failed to obtain permission to commence use from the environmental protection authority. However, we note that the PRC government has put greater emphasis on environmental protection during recent years and that the local environmental authorities have in fact strengthened the implementation and enforcement of EIA-related regulations since early 2009. Therefore, we cannot assure you that projects that did not conduct an EIA will not be assessed any sanctions as described above in the future or that we will not experience any delay or difficulty in obtaining completion acceptance certificates and/or title certificates. Such sanctions or delay or difficulty may materially adversely affect our business operations and financial condition.

*We may become involved in legal and other proceedings from time to time and may suffer significant liabilities or other losses as a result.*

We have in the past, and may in future, become involved in disputes with various parties relating to the acquisition of land use rights, the development and sale of our properties or other aspects of our business and operations. These disputes may lead to legal or other proceedings and may result in substantial costs and diversion of resources and management's attention. Disputes and legal and other proceedings may require substantial time and expense to resolve, which could divert valuable resources, such as management time and working capital, delay our planned projects and increase our costs. Third parties that are found liable to us may not have the resources to compensate us for our incurred costs and damages. We could also be required to pay significant costs and damages if we do not prevail in any such disputes or proceedings. In addition, we may have disagreements with regulatory bodies in the course of our operations, which may subject us to administrative proceedings and unfavorable decrees that result in pecuniary liabilities and cause delays to our property developments.

*We are subject to potential environmental liability.*

We are subject to a variety of laws and regulations concerning the protection of health and the environment. The particular environmental laws and regulations that apply to any given development site vary significantly according to the site's location and environmental condition, the present and former uses of the site and the nature of the adjoining properties. Environmental laws and conditions may result in delays, may cause us to incur substantial compliance and other costs and can prohibit or severely restrict project development activity in environmentally-sensitive regions or areas. Although the environmental investigations conducted by local environmental authorities have not revealed any environmental liability that we believe would have a material adverse effect on our business, financial condition or results of operations to date, it is possible that these investigations did not reveal all environmental liabilities and that there are material environmental liabilities of which we are unaware. We cannot assure you that future environmental investigations will not reveal material environmental liability. Also, we cannot assure you that the PRC government will not change the existing laws and regulations or impose additional or stricter laws or regulations, the compliance

of which may cause us to incur significant capital expenditure. See “Item 4. Information on the Company—B. Business Overview—Environmental Matters.”

*We are in the early planning stages for the potential expansion into real estate projects in the United States, which could require us to spend significant resources, and there can be no assurance that we will be able to find attractive projects or successfully enter the United States market.*

While our primary focus continues to be residential real estate development in Tier II cities in China, we see potential opportunities for residential projects in the United States at attractive prices that might benefit from incremental demand from Chinese buyers. We are in the early planning and evaluation stage of the potential expansion of our business plan into the United States and there can be no assurance that we will ultimately enter the United States market or that we will be successful in developing projects in the United States. We have no experience in the United States real estate market. Thus, it is difficult to forecast accurately our future revenues and expenses related to this business. Accordingly, it is difficult to predict how successfully our property development process could be implemented under or adapted to United States practices or to forecast accurately future revenues and expenses related to pursuit of projects in United States. Our ability to locate appropriate projects in the United States and generate future revenues from such projects would be dependent on a number of factors, many of which are beyond our control, and could require us to expend significant resources, including capital and management time. If we were to expand our business operations to include developments in the United States, there can be no assurance that this aspect of our business would be successful.

#### *Risks Relating to the Residential Property Industry in China*

*The PRC government adopted various policy and regulatory measures to control the rapid increase in housing prices and cool down the real estate market and may adopt further measures in the future.*

Along with the economic growth in China, investments in the property sector have increased significantly in the past several years. Since the second half of 2009, the PRC real estate market has experienced strong recovery from the financial crisis and housing prices have risen rapidly in certain cities. In response to concerns over the scale of the increase in property investments, the PRC government has implemented measures and introduced policies to curtail property development and promote the healthy development of the real estate industry in China.

On January 7, 2010, the general office of the PRC State Council issued a circular to all ministries and provincial-level local governments to control the rapid increase in housing prices and cool down the real estate market in China. The circular reiterated that the purchasers of a second residential property for their households must make down payments of not less than 40% of the purchase price and the real estate developers must commence the sale within the mandated period as set forth in the pre-sale approvals and at the publicly announced prices. Further, in order to implement the requirements set out in the State Council's circular, the Ministry of Land and Resources, or the MLR, issued a notice on March 8, 2010 in relation to increasing the supply of, and strengthening the supervision over, land for real estate development purposes. MLR's notice stipulated that the floor price of a parcel of land must not be lower than 70% of the benchmark land price set for the area in which the parcel is located, and that real estate developers participating in



land auctions must pay a deposit equivalent to 20% of the land parcel's floor price.

On April 17, 2010, the general office of the PRC State Council issued a further circular to all ministries and provincial-level local governments. Among other matters, the circular provided that purchasers of a first residential property for their households with a gross floor area of greater than 90 square meters must make down payments of 30% of the purchase price; purchasers of a second residential property for their households must make down payments of at least 50% of the purchase price and the interest rate of any mortgage for such property must equal at least the benchmark interest rate plus 10%; and for purchasers of a third residential property, both the minimum down payment amount and applied interest rate must be increased significantly. Moreover, the circular provided that banks could decline to provide mortgage financing to either a purchaser of a third residential property or a non-local resident purchaser.

On May 26, 2010, the Ministry of Housing and Urban-Rural Development, or the MOHURD, the PBOC and China Banking Regulatory Commission, or the CBRC, jointly issued a notice clarifying the criteria for determining what is a "second residential household property". Among other matters, the requirements on down payments and interest rates for mortgages on a second residential property will also apply to non-local resident purchasers (i.e., purchasers who cannot provide proof that they have been making individual income tax payments or social security payments in the relevant local area for more than one year) applying for housing-related mortgage financing, regardless of whether there is any residential property under the name of a member of their households at the time of application.

The General Office of the State Council promulgated the *Circular on Issues Relevant to Improving the Regulation and Control of the Real Property Market* on January 26, 2011, which required each city's government to appropriately set and publicize its target for controlling the prices of local, newly built, residential housing units in 2011. In addition, this circular also provided that for a household purchasing a second residential household property by mortgage financing, the down payment may not be less than 60% of the purchase price and the interest rate for the mortgage on such property may not be less than 1.1 times the benchmark interest rate; in municipalities, the capital city of each province, and other cities where housing prices are too high, a local resident household having one residential household property or a non-local resident household which is able to provide the requisite certificates showing payment of individual income tax or social insurance contribution for a certain number of years, may only purchase one additional residential property; for a local resident household already having two or more residential properties or a non-local resident household that already has one or more residential properties or is unable to provide the requisite certificates, the purchase of any residential properties in the local area is not permitted. Localities that have already promulgated their own policies on limiting the purchase of residential properties must bring those policies in line with the abovementioned principle as soon as possible. Municipalities, capital cities of each province, and other cities where housing prices are too high must promulgate policies to limit the purchase of residential properties.

On February 5, 2011, the MLR issued the *Circular on the Issues of the Management and Control of Land Supply for Urban Residential Properties* which imposed strict controls on the use of land for large commercial housing projects. On March 16, 2011, the National Development and Reform Commission, or the NDRC, issued the *Provisions on Selling Real Estate at Expressly Marked Prices*, which was implemented on May 1, 2011 to regulate price manipulation and arbitrary price increases by, among other things, requiring developers to re-register with the appropriate government department before increasing real estate prices. PRC government agencies have also promulgated several other regulations in a continuous bid to promote the construction of public housing, especially rental housing projects. The urban public rental housing policy is targeted at low to middle income families, new employees without housing and migrants with stable employment in urban areas. Several policies, such as increasing financial aid from central finance agencies and local governments, improving project planning and establishing a sound regulatory mechanism, have been implemented to ensure the successful promotion of affordable housing projects. With the rapid development of the affordable housing projects, we foresee that this may not only reduce demand in the market, but it may also make prices go down with regard to residential properties, which may therefore affect our business operations in the PRC.

In addition to the notice above, local government authorities of several municipalities and cities such as Beijing, Zhengzhou, Jinan, Chengdu and Hefei have successively promulgated more detailed regulations to restrict residents who have not resided in the local area for a certain period of time (ranging from 1 year to 5 years, evidenced by their individual income tax payment track records) from purchasing residential property in that area.

On February 15, 2012, the MLR issued the *Circular on Issues Relevant to the Regulation and Control of the Real Property Market in 2012*, which provides that governments must strictly maintain the current range of restrictions on the real estate market.

It is possible that the government agencies may adopt further measures to implement the policies outlined above. The full effect of these policies on the real estate industry and our business will depend in large part on the implementation and interpretation of the circulars by governmental agencies, local governments and banks involved in the real estate industry.

The PRC government's policies and regulatory measures on the PRC real estate sector could limit our access to required financing and other capital resources, adversely affect the property purchasers' ability to obtain mortgage financing or significantly increase the cost of mortgage financing, reduce market demand for our properties and increase our operating costs. We cannot be certain that the PRC government will not issue additional and more stringent regulations or measures or that agencies and banks will not adopt restrictive measures or practices in response to PRC governmental policies and regulations, which could substantially reduce pre-sales of our properties and cash flow from operations and substantially increase our financing needs, which would in turn materially and adversely affect our business, financial condition, results of operations and prospects.

*The PRC government has adopted various measures to regulate the property development industry and may adopt further restrictive measures in the future.*

In addition to its policies and measures implemented to address housing prices, the PRC government has implemented a number of regulations and measures governing the property development industry.

In July 2006, the MOHURD, the NDRC, the PBOC, the State Administration for Industry and Commerce, or the SAIC, and the State Administration of Foreign Exchange, or the SAFE, issued Opinions on Regulating the Entry and Administration of Foreign Investment in the Real Estate Market, which impose significant requirements on foreign investment in the PRC real estate sector. For instance, these opinions set forth requirements of registered capital of a foreign invested real estate enterprise as well as thresholds for a foreign invested real estate to borrow domestic or overseas loans. In addition, since June 2007, a foreign invested real estate enterprise approved by local authorities is required to file such approvals with the MOFCOM or its provincial branches. We cannot assure you that any foreign invested real estate enterprise that we establish, or whose registered capital we increase, will be able to complete the filing with the MOFCOM or its provincial branches.

On December 24, 2011, the MOFCOM and the NDRC jointly issued the *Catalogue of Industries for Guiding Foreign Investment (2011 Revision)*, or the Catalogue 2011, which took effect on January 30, 2012. Consistent with the provisions of Catalogue 2007, Catalogue 2011 restricts the construction and operation of high-end residential and commercial properties by Sino-foreign and other foreign investment entities. In addition, although it continues to be a permitted type of investment, the development and construction of ordinary residential properties was removed from the “encouraged” category of investment.

On July 10, 2007, the SAFE issued the Notice on Publicity of the List of the 1st Group of Foreign-Invested Real Estate Projects filed with the MOFCOM. This notice may strictly limit our capacity to raise funds offshore for the purpose of funding our PRC subsidiaries by means of increasing their registered capital or extending shareholders’ loans.

The PRC government’s restrictive regulations and measures could increase our operating costs in adapting to these regulations and measures, limit our access to capital resources or even restrict our business operations. We cannot be certain that the PRC government will not issue additional and more stringent regulations or measures, which could further adversely affect our business and prospects.

*We are heavily dependent on the performance of the residential property market in China.*

The residential property industry in the PRC is still in a relatively early stage of development. Although demand for residential property in the PRC has been growing rapidly in recent years, such growth is often coupled with volatility in market conditions and fluctuation in property prices. It is extremely difficult to predict how much and when demand will develop, as many social, political, economic, legal and other factors, most of which are beyond our control, may affect the development of the market. The level of uncertainty is increased by the limited availability of accurate financial and market information as well as the overall low level of transparency in the PRC, especially in Tier II cities, which have lagged in progress in these aspects when compared to Tier I cities.

*We face intense competition from other real estate developers.*

The property industry in the PRC is highly competitive. In the Tier II cities we focus on, local and regional property developers are our major competitors, and an increasing number of large state-owned and private national property developers have started entering these markets. Many of our competitors, especially the state-owned and private national property developers, are well capitalized and have greater financial, marketing and other resources than we have. Some also have larger land banks, greater economies of scale, broader name recognition, a longer track record and more established relationships in certain markets. In addition, the PRC government's recent measures designed to reduce land supply further increased competition for land among property developers.

Competition among property developers may result in increased costs for the acquisition of land for development, increased costs for raw materials, shortages of skilled contractors, oversupply of properties, decrease in property prices in certain parts of the PRC, a slowdown in the rate at which new property developments will be approved and/or reviewed by the relevant government authorities and an increase in administrative costs for hiring or retaining qualified personnel, any of which may adversely affect our business and financial condition. Furthermore, property developers that are better capitalized than we are may be more competitive in acquiring land through the auction process. If we cannot respond to changes in market conditions as promptly and effectively as our competitors, or effectively compete for land acquisition through the auction systems and acquire other factors of production, our business and financial condition will be adversely affected.

In addition, risk of property over-supply is increasing in parts of China, where property investment, trading and speculation have become overly active. We are exposed to the risk that in the event of actual or perceived over-supply, property prices may fall drastically, and our revenue and profitability will be adversely affected.

*Our sales, revenues and operations will be affected if our customers are not able to secure mortgage financing on attractive terms, if at all.*

Substantially all purchasers of our residential properties rely on mortgages to fund their purchases. If the availability or attractiveness of mortgage financing is reduced or limited, many of our prospective customers may not desire or be able to purchase our properties and, as a result, our business, liquidity and results of operations could be adversely affected. Among other factors, the availability and cost of mortgage financing may be affected by changes in PRC regulations or policies or changes in interest rates.

The recent circulars issued by the PRC State Council and related measures taken by ministries and local governments have restricted and may continue to restrict the ability of purchasers to qualify for or obtain mortgage financing. In response to the circular issued since April 2010 provided that banks can decline to provide the financing to either a purchaser of a third residential property or a non-resident purchaser, certain banks in Kunshan in Jiangsu Province (which typically has a high percentage of non-resident purchasers) ceased providing mortgage loans until they had an opportunity to interpret the circular further. This ensuing lending moratorium may not only affect our current and future sales of properties in Kunshan, but may also lead to cancellations of our existing sales and the returning of down payments by us to those persons who have previously entered into a contract with us to purchase a unit but were unable to obtain a mortgage within the 30-day period after the contract date. We cannot predict how long this voluntary lending moratorium will continue or what other action, if any, the banks in Kunshan or any other city in which we operate, may take.

In addition, under existing regulations, mortgage banks may not lend to any individual borrower if the monthly repayment of the anticipated mortgage loan would exceed 50% of the individual borrower's monthly income or if the total debt service of the individual borrower would exceed 55% of such individual's monthly income.

#### *Risks Relating to China*

*PRC economic, political and social conditions as well as government policies can affect our business.*

The PRC economy differs from the economies of most developed countries in many aspects, including:

political structure;

degree of government involvement;

degree of development;

level and control of capital reinvestment;

control of foreign exchange; and

allocation of resources.

The PRC economy has been transitioning from a centrally planned economy to a more market-oriented economy. For more than two decades, the PRC government has implemented economic reform measures emphasizing utilization of market forces in the development of the PRC economy. Although we believe these reforms will have a positive effect on China's overall and long-term development, we cannot predict whether changes in the PRC economic, political and social conditions, laws, regulations and policies will have any adverse effect on our current or future business, financial condition or results of operations.

*Changes in foreign exchange regulations may adversely affect our ability to transfer funds and subsequently impact the results of our operations.*

We currently receive all of our revenues from operations in RMB. The PRC government regulates the conversion between RMB and foreign currencies. Over the years, the PRC government has significantly reduced its control over routine foreign exchange transactions under current accounts, including trade and service related foreign exchange transactions, payment of dividends and service of foreign debt. However, foreign exchange transactions by our PRC subsidiaries under capital accounts continue to be subject to significant foreign exchange controls and require the approval of, or registration with, PRC governmental authorities. There can be no assurance that these PRC laws and regulations on foreign investment will not cast uncertainties on our financing and operating plans in China. Under current foreign exchange regulations in China, subject to the relevant registration at the SAFE, we will be able to pay dividends in foreign currencies, without prior approval from the SAFE, by complying with certain procedural requirements. However, there can be no assurance that the current PRC foreign exchange policies regarding debt service and payment of dividends in foreign currencies will continue in the future. Changes in PRC foreign exchange policies might have a negative impact on our ability to service our foreign currency-denominated indebtedness and to distribute dividends to our shareholders in foreign currencies.

In addition, on August 29, 2008, the SAFE issued a notice with respect to the administration of RMB converted from foreign exchange capital contributions of a foreign invested enterprise. As a result, unless otherwise permitted by PRC laws or regulations, such converted amount can only be applied to activities within the approved business scope of the relevant foreign invested enterprise and cannot be used for domestic equity investment or acquisition. As restricted by the notice, we may not be able to use RMB converted from foreign exchange capital contributions to fund our PRC subsidiaries.

*Fluctuations in the value of RMB will affect the amount of our non-RMB debt service in RMB terms and affect the value of, and dividends payable on, our ADSs in foreign currency terms.*

The value of RMB depends, to a large extent, on China's domestic and international economic, financial and political developments and government policies, as well as the currency's supply and demand in the local and international markets. Since 2005, the PRC central bank has allowed the official RMB exchange rate to float within a band against a basket of foreign currencies. There can be no assurance that such exchange rate will not fluctuate widely against the U.S. dollar or any other foreign currency in the future. Fluctuation of the value of RMB will affect the amount of our non-RMB debt service in RMB terms since we have to convert RMB into non-RMB currencies to service our foreign debt. Since our income and profits are denominated in RMB, any appreciation of RMB will also increase the value of, and any dividends payable on, our ADSs in foreign currency terms. Conversely, any depreciation of RMB will decrease the value of, and any dividends payable on, our ADSs in foreign currency terms.



*PRC regulations relating to the establishment of offshore special purpose companies by PRC residents limit our ability to inject capital into our PRC subsidiaries, limit our PRC subsidiaries' ability to distribute profits to us or otherwise adversely affect us.*

On October 21, 2005, the SAFE issued the *Circular of the SAFE on Relevant Issues Concerning Foreign Exchange Administration for Financing and Round-Trip Investment Undertaken by Domestic Residents Through Overseas Special-Purpose Vehicles*, or the Circular No. 75, requiring PRC residents to register with the local SAFE branch before establishing or acquiring control of any company outside of China for the purposes of financing such offshore company to acquire assets or equity interests in a PRC company. Once such a special purpose vehicle, or SPV, undergoes major changes in capital (including overseas equity or convertible bonds financing), PRC residents must make an application for the registration of such change within 30 days of the occurrence of the event. On May 20, 2011, the SAFE issued the *Circular of the SAFE on Operating Rules Concerning Financing and Round-Trip Investment Undertaken by Domestic Residents through Overseas Special-Purpose Vehicles*, or the Circular No. 19, which took effect on July 1, 2011 and provides that PRC residents can set up offshore SPVs before obtaining SAFE registration. Circular No. 19 also exempts from the Circular No. 75 registration requirements, onshore foreign invested enterprises, or FIEs, set up by offshore companies controlled by PRC residents, where the offshore company was not set up primarily as a financing vehicle for round-trip investments (*e.g.*, those that have undertaken standard overseas investments and operations, but then incidentally made a re-investment back onshore). Circular No. 19 makes registration possible for those round-trip SPVs that should have but failed to register as required by Circular No. 75 but indicates that the SAFE shall penalize such offenders; such penalties can be severe, including a fine amounting to a certain percentage of all funds remitted by the onshore subsidiary to the SPV after November 1, 2005, and possible criminal prosecution. Additionally, as a result of uncertainty concerning the reconciliation of these notices with other approval or registration requirements, it remains unclear how these notices, and any future legislation concerning offshore or cross-border transactions, will be interpreted, amended and implemented by the relevant government authorities. We attempt to comply, and attempt to ensure that our shareholders who are subject to these rules comply, with the relevant requirements. Since Mr. Yong Zhang, Chairman of our board of directors and Chief Executive Officer, and his spouse, Ms. Yuyan Yang, also a board member and Vice President, are PRC residents and our shareholders, each is subject to the SAFE registration requirements. Mr. Zhang and Ms. Yang have updated their registrations with the local SAFE branch. However, we cannot provide any assurances that Mr. Zhang, Ms. Yang, or any of our other shareholders who are PRC residents will comply with our request to make or obtain any applicable registrations or comply with other requirements required by these notices or other related rules for any future updates. The failure or inability of these PRC resident beneficial owners to comply with applicable SAFE registration requirements may subject us to the sanctions described above, including sanctions which may impede our ability to contribute the additional capital from our proceeds of any future offerings to our PRC subsidiaries, and our PRC subsidiaries ability to pay dividends or distribute profits to us.

*Interpretation of PRC laws and regulations involves uncertainty.*

Our core business is conducted within China and is governed by PRC laws and regulations. The PRC legal system is based on written statutes, and prior court decisions can only be used as a reference. Since 1979, the PRC government has promulgated laws and regulations in relation to economic matters such as foreign investment, corporate organization and governance, commerce, taxation and trade, with a view to developing a comprehensive system of commercial law, including laws relating to property ownership and development. However, due to the fact that these laws and regulations have not been fully developed, and because of the limited volume of published cases and the non-binding nature of prior court decisions, interpretation of PRC laws and regulations involves a degree of uncertainty. Some of these laws may be changed without being immediately published or may be amended with retroactive effect. Depending on the government agency or how an application or case is presented to such agency, we may receive less favorable interpretations of laws and regulations than our competitors, particularly if a competitor has long been established in the locality of, and has developed a relationship with, such agency. In addition, any litigation in China may be protracted and result in substantial costs and diversion of resources and management attention. All these uncertainties may cause difficulties in the enforcement of our land use rights, entitlements under its permits, and other statutory and contractual rights and interests.

*The PRC national and regional economies may be adversely affected by a recurrence of epidemic.*

Certain areas of China, including the Tier II cities where we operate, are susceptible to epidemics such as Severe Acute Respiratory Syndrome, or SARS, avian or swine influenza. A recurrence of SARS, avian or swine influenza or any epidemic in these cities or other areas of China could result in material disruptions to our property developments, which in turn could materially and adversely affect our financial condition and results of operations.

*We may face PRC regulatory risks relating to our equity incentive plan and long term incentive plan.*

In February 2012, the SAFE promulgated the *Notice on the Administration of Foreign Exchange Matters for Domestic Individuals Participating in the Stock Incentive Plans of Overseas Listed Companies*, or the Stock Option Notice which replaced the previous *Application Procedures of Foreign Exchange Administration for Domestic Individuals Participating in Employee Stock Holding Plan of Overseas-Listed Company* promulgated by the SAFE on March 28, 2007. Under the Stock Option Notice, if a PRC resident participates in any employee stock incentive plan of an overseas listed company, a qualified domestic PRC agent or the PRC subsidiary of such overseas listed company must, among other things, file, on behalf of such individual, an application with the SAFE or its local counterpart to obtain approval for an annual allowance with respect to the foreign exchange in connection with the stock holding or share option exercises. Concurrently, the qualified domestic PRC agent or the PRC subsidiary must also obtain approval from the SAFE or its local counterpart to open a special foreign exchange account at a PRC domestic bank to hold the funds required in connection with the stock purchase or option exercise, any returned principal or profits upon the sale of shares, any dividends issued on the stock and any other income or expenditures approved by the

SAFE or its local counterpart. If we, or any of these persons mentioned above, fail to comply with the relevant rules or requirements, we may be subject to penalties, and may become subject to more stringent review and approval processes with respect to our foreign exchange activities, such as our PRC subsidiaries' dividend payment to us or borrowing foreign currency loans, all of which may adversely affect our business and financial condition.

*Our auditor, like other independent registered public accounting firms operating in China, is not permitted to be subject to inspection by Public Company Accounting Oversight Board, and as such, investors may be deprived of the benefits of such inspection.*

Our independent registered public accounting firm that issues the audit reports included in our annual reports filed with the SEC, as an auditor of companies that are traded publicly in the United States and a firm registered with the Public Company Accounting Oversight Board (United States), or PCAOB, is required by the laws of the United States to undergo regular inspections by PCAOB to assess its compliance with the laws of the United States and professional standards. Because our auditor is located in China, a jurisdiction where PCAOB is currently unable to conduct inspections without the approval of the PRC authorities, our auditor, like other independent registered public accounting firms operating in China, is currently not inspected by PCAOB.

Inspection of other firms that PCAOB has conducted outside of China have identified deficiencies in those firms' audit procedures and quality control procedures, which may be addressed as part of the inspection process to improve future auditor quality. The inability of PCAOB to conduct inspections of independent registered public accounting firms operating in China makes it more difficult to evaluate the effectiveness of our auditor's audit procedures or quality control procedure. As a result, investors may be deprived of the benefits of PCAOB inspections.

#### *Risks Related to Our ADSs*

*The market price for our ADSs may be volatile.*

The market price for our ADSs may be volatile and subject to wide fluctuations in response to factors such as actual or anticipated fluctuations in our quarterly operating results, changes in financial estimates by securities research analysts, changes in the economic performance or market valuations of other real estate developers, announcements by us or our competitors of material acquisitions, strategic partnerships, joint ventures or capital commitments, fluctuations of exchange rates between RMB and the U.S. dollar, release of transfer restrictions on our outstanding shares or ADSs, and economic or political conditions in China. In addition, the performance, and fluctuation in market prices, of other companies with business operations located mainly in China that have listed their securities in the United States may affect the volatility in the price of and trading volumes of our ADSs. Furthermore, the securities market has from time to time experienced significant price and volume fluctuations that are not related to the operating performance of particular companies. These market fluctuations may also materially and adversely affect the market price of our ADSs.

*You may experience dilution in the net tangible book value of ADSs.*

Our IPO in December 2007 resulted in a dilution to purchasers at the offering of US\$9.35 per ADS. You may experience further dilution with respect to your ADSs upon our issuance of common shares in connection with the exercise of outstanding options, warrants and further options we may grant from time to time, as well as in connection with any future equity capital raise.

*We may raise additional capital through the sale of additional equity or debt securities, which could result in additional dilution to our shareholders, or impose upon us additional financial obligations.*

We may require additional cash resources to finance our continued growth or other future developments, including any investments or acquisitions we may decide to pursue. The amount and timing of such additional financing needs will vary principally depending on the timing of our property developments, investments and/or acquisitions, and the amount of cash flow from our operations. If our resources are insufficient to satisfy our cash requirements, we may seek to sell additional equity or debt securities. The sale of additional equity securities, including additional warrants, could result in additional dilution to our shareholders. The incurrence of indebtedness would result in increased debt service obligations and could result in operating and financing covenants that would restrict our operations, including our ability to pay dividends or redeem stock. We cannot guarantee that financing will be available in amounts or on terms acceptable to us, if at all.

*Substantial future sales or the perception of sales of our ADSs in the public market could cause the price of our ADSs to decline.*

Sales of our ADSs or common shares in the public market, or the perception that such sales could occur, could cause the market price of our ADSs to decline. As of December 31, 2011, we had 145,863,676 common shares outstanding, including 89,464,084 common shares represented by 44,732,042 ADSs. All ADSs are freely transferable without restriction or additional registration under the Securities Act of 1933, as amended, or the Securities Act. The remaining common shares outstanding are available for sale, subject to any volume and other restrictions as applicable under Rule 144 under the Securities Act. To the extent that common shares are sold into the market, the market price of our ADSs could decline.

In addition, certain holders of our common shares had the right to cause us to register the resale of a certain number of shares under the Securities Act. We have registered those shares for resale on a Form F-3 registration statement. We have registered under the Securities Act the sale of all common shares that are issuable upon exercise of stock options or other awards under our equity incentive plans. As a result, shares are freely tradable without restriction under the Securities Act, subject to any applicable lock-up agreements. Sales of those registered shares in the public market could cause the price of our ADSs to decline.

*The interests of our major shareholders may not be aligned with the interests of our other shareholders.*

As of December 31, 2011, Mr. Yong Zhang, Chairman of our board of directors and Chief Executive Officer, together with his spouse, Ms. Yuyan Yang, also a board member and Vice President, beneficially owned 40.4% of our outstanding share capital. Accordingly, they have substantial influence over our business, including decisions regarding mergers, consolidations and the sale of all or substantially all of our assets, election of directors and other significant corporate actions. This concentration of ownership by our major shareholders may result in actions being taken even if opposed by our other shareholders. In addition, it may discourage, delay or prevent a change in control of our company, which could deprive our shareholders of an opportunity to receive a premium for their shares as part of a sale of our company and might reduce the price of our ADSs.

*If we fail to maintain an effective system of internal controls over financial reporting, we may not be able to accurately report our financial results or prevent fraud.*

We are subject to reporting obligations under U.S. securities laws. The U.S. Securities and Exchange Commission, or the SEC, as required by Section 404 of the Sarbanes-Oxley Act of 2002, or the Sarbanes-Oxley Act, adopted rules requiring most public companies to include a management report on such company's internal controls over financial reporting in its annual report, which contains management's assessment of the effectiveness of the company's internal

controls over financial reporting. In addition, an independent registered public accounting firm must attest to and report on the effectiveness of the company's internal controls over financial reporting. Our management may conclude that our internal controls over our financial reporting are not effective. Moreover, even if our management concludes that our internal controls over financial reporting is effective, our independent registered public accounting firm may still issue a report that is qualified or adverse if it believes that the design or implementation of our internal controls is not effective, or if it interprets the relevant requirements differently from us.

If we fail to maintain the adequacy of our internal controls, we may not be able to conclude that we have effective internal control over financial reporting. Moreover, effective internal control over financial reporting is necessary for us to produce reliable financial reports and is important to help prevent fraud. As a result, our failure to maintain effective internal control over financial reporting could result in the loss of investor confidence in the reliability of our financial statements, which in turn could harm our business and negatively impact the trading price of our ADSs. Furthermore, we have incurred and expect to continue to incur considerable costs and devote significant management time and efforts and other resources to comply with Section 404 of the Sarbanes-Oxley Act.

*Compliance with rules and regulations applicable to companies publicly listed in the United States is costly and complex and any failure by us to comply with these requirements on an ongoing basis could negatively affect investor confidence in us and cause the market price of our ADSs to decrease.*

In addition to Section 404, the Sarbanes-Oxley Act also mandates, among other things, that companies adopt corporate governance measures, imposes comprehensive reporting and disclosure requirements, sets strict independence and financial expertise standards for audit committee members, and imposes civil and criminal penalties for companies, their chief executive officers, chief financial officers and directors for securities law violations. For example, in response to the Sarbanes-Oxley Act, the NYSE has adopted additional comprehensive rules and regulations relating to corporate governance. These laws, rules and regulations have increased the scope, complexity and cost of our corporate governance and reporting and disclosure practices. Our current and future compliance efforts will continue to require significant management attention. In addition, our board members, chief executive officer and chief financial officer could face an increased risk of personal liability in connection with the performance of their duties. As a result, we may have difficulty attracting and retaining qualified board members and executive officers to fill critical positions within our company. Any failure by us to comply with these requirements on an ongoing basis could negatively affect investor confidence in us, cause the market price of our ADSs to decrease or even result in the delisting of our ADSs from the NYSE.

*You may not have the same voting rights as the holders of our common shares and may not receive voting materials in time to be able to exercise your right to vote.*

Holders of our ADSs will not be able to exercise voting rights attaching to the common shares evidenced by our ADSs on an individual basis. Holders of our ADSs will appoint the depository or its nominee as their representative to exercise the voting rights attaching to the common shares represented by the ADSs. Holders of ADSs may not receive voting materials in time to instruct the depository to vote, and it is possible that you, or persons who hold their ADSs through brokers, dealers or other third parties, will not have the opportunity to exercise a right to vote. As soon as practicable after the depository receives from us a notice of a shareholders' meeting, the depository will distribute to registered holders of ADRs a notice stating (a) such information as is contained in such notice and any solicitation materials, (b) that each registered holder on the record date set for such purpose will, subject to any applicable provisions of Cayman Islands law, be entitled to instruct the depository as to the exercise of the voting rights and (c) the manner in which such instructions may be given, including instructions to give a discretionary proxy to a person designated by us. The depository will not itself exercise any voting discretion in respect of any common shares nor will it provide any instructions with respect to the common shares represented by any ADSs for which voting instructions were not timely and properly received. There can be no guarantee that registered holders of ADRs will receive the notice described above with sufficient time to enable them to return any voting instructions to the depository in a timely manner. To the extent you hold your ADSs through a bank, broker or other nominee, you will be relying upon such institutions with respect to voting matters.

*You may experience difficulties in effecting service of legal process, enforcing foreign judgments or bringing original actions in China based on United States or other foreign laws against us or our management named in the annual*



*report.*

We are incorporated in the Cayman Islands and conduct substantially all of our operations in China through our wholly-owned subsidiaries in China. All of our assets are located in China. In addition, most of our directors and senior executive officers reside within China and some or all of the assets of those persons are located outside of the United States. As a result, it may not be possible to affect service of process within the United States or elsewhere outside China upon our directors and senior executive officers, including with respect to matters arising under U.S. federal securities laws or applicable state securities laws. Even if you are successful in bringing an action of this kind, the respective laws of the Cayman Islands and China may render you unable to enforce a judgment against our assets or the assets of our directors and officers. There is no statutory recognition in the Cayman Islands of judgments obtained in the United States, although the courts of the Cayman Islands will generally recognize and enforce a non-penal judgment of a foreign court of competent jurisdiction without retrial on the merits. Moreover, our PRC counsel has advised us that the PRC does not have treaties with the United States or many other countries providing for the reciprocal recognition and enforcement of judgment of courts.

*You may not be able to participate in rights offerings and may experience dilution of your holdings as a result.*

We may from time to time distribute rights to our shareholders, including rights to acquire our securities. Under the deposit agreement for the ADSs, the depositary will not offer those rights to ADS holders unless both the rights and the underlying securities to be distributed to ADS holders are either registered under the Securities Act or are exempt from registration under the Securities Act with respect to all holders of ADSs. We are under no obligation to file a registration statement with respect to any such rights or underlying securities or to endeavor to cause such a registration statement to be declared effective. In addition, we may not be able to take advantage of any exemptions from registration under the Securities Act. Accordingly, holders of our ADSs may be unable to participate in our rights offerings and may experience dilution in their holdings as a result.

*You may be subject to limitations on transfer of your ADSs.*

Your ADSs are transferable on the books of the depositary. However, the depositary may close its transfer books at any time or from time to time when it deems expedient in connection with the performance of its duties. In addition, the depositary may refuse to deliver, transfer or register transfers of ADSs generally when our books or the books of the depositary are closed, or at any time if we or the depositary deem it advisable to do so because of any requirement of law or of any government or governmental body, or under any provision of the deposit agreement, or for any other reason.

*We are a Cayman Islands company and, because judicial precedent regarding the rights of shareholders is more limited under Cayman Islands law than under U.S. law, you may have less protection of your shareholder rights than you would under U.S. law.*

Our corporate affairs are governed by our memorandum and articles of association and by the Companies Law (2011 Revision) and common law of the Cayman Islands. The rights of shareholders to take legal action against our directors and us, actions by minority shareholders and the fiduciary responsibilities of our directors to us under Cayman Islands law are to a large extent governed by the common law of the Cayman Islands. The common law of the Cayman Islands is derived in part from comparatively limited judicial precedent in the Cayman Islands as well as from English common law, which has persuasive, but not binding, authority on a court in the Cayman Islands. The rights of our shareholders and the fiduciary responsibilities of our directors under Cayman Islands law are not as clearly established as they would be under statutes or judicial precedents in the United States. In particular, the Cayman Islands have a less developed body of securities laws as compared to the United States, and provide significantly less protection to investors. In addition, Cayman Islands companies may not have standing to initiate a shareholder derivative action before the federal courts of the United States.

The Companies Law introduced a new mechanism for mergers and acquisitions where the merged company or consolidated company will continue to be a Cayman Islands entity. Under this mechanism, dissenting shareholders have the right to be paid the fair value of their shares (which, if not agreed between the parties, will be determined by the Cayman Islands courts) if they follow the required procedures, subject to certain exceptions. However, these rights have never been tested before the Cayman Islands court and as a result, they may not be comparable to the appraisal rights that would ordinarily be available to dissenting shareholders of a U.S. company.

As a result of all of the above, our public shareholders may have more difficulty in protecting their interests through actions against our management, directors or major shareholders than would shareholders of a corporation incorporated in a jurisdiction in the United States.

*Our articles of association may contain anti-takeover provisions that could have a material adverse effect on the rights of holders of our common shares and ADSs.*

Our amended and restated articles of association contain provisions limiting the ability of others to acquire control of our company or cause us to engage in change-of-control transactions. These provisions could have the effect of depriving our shareholders of an opportunity to sell their shares at a premium over prevailing market prices by discouraging third parties from seeking to obtain control of our company in a tender offer or similar transaction. For example, our board of directors has the authority, without further action by our shareholders, to issue preferred shares in one or more series and to fix their designations, powers, preferences, privileges and relative participating, optional or special rights and their qualifications, limitations or restrictions, including dividend rights, conversion rights, voting rights, terms of redemption and liquidation preferences, any or all of which may be greater than the rights associated with our common shares, in the form of ADSs or otherwise. Preferred shares could be issued quickly with terms calculated to delay or prevent a change in control of our company or make removal of management more difficult. If our board of directors decides to issue preferred shares, the price of our ADSs may fall and the voting and other rights of the holders of our common shares and ADSs may be materially and adversely affected. As a result, the price of our ADSs may fall.

*We may be classified as a passive foreign investment company, which could result in adverse U.S. federal income tax consequences to U.S. holders of our ADSs or common shares.*

Based on the composition of our assets and income and the current expectations, while not free from doubt, we believe that we were not a “passive foreign investment company,” or PFIC, for U.S. federal income tax purposes for our taxable year ending December 31, 2011 and we do not expect to become a PFIC with respect to our current taxable year or the foreseeable future. The determination of our PFIC status is dependent upon the composition of our income and assets and, in addition, we must make a separate determination at the close of each taxable year as to whether we are a PFIC. Accordingly, we cannot assure you that we were not a PFIC for the year 2011 or will not be a PFIC for our current taxable year ending December 31, 2012 or any future taxable year. A non-U.S. corporation will be considered a PFIC for any taxable year if either (1) at least 75% of its gross income is passive income or (2) at least 50% of the value of its assets is attributable to assets that produce or are held for the production of passive income. The market value of our assets will be determined based on the market price of our ADSs and common shares, which are likely to fluctuate. If we were treated as a PFIC for any taxable year during which a U.S. person held an ADS or a common share, certain adverse U.S. federal income tax consequences could apply to such U.S. person. See “Item 10. Additional Information—E. Taxation—U.S. Federal Income Taxation—Passive Foreign Investment Company.”

#### Item 4. Information on the Company

##### A. History and Development of the Company

We are a Cayman Islands holding company and conduct substantially all of our business through our operating subsidiaries in China. We were founded by Yong Zhang, our Chairman and Chief Executive Officer, and commenced operations in 1997 in Zhengzhou, the provincial capital of Henan Province. Since 2006, we have expanded into other Tier II cities in China which we strategically selected based on a set of criteria. Our selection criteria includes population and urbanization growth rate, general economic condition and growth rate, disposable income and purchasing power of resident consumers, anticipated demand for private residential properties, availability of future land supply and land prices and governmental urban planning and development policies. We have established operations in seven Tier II cities in China, comprised of Chengdu in Sichuan Province, Hefei in Anhui Province, Jinan in Shandong Province, Suzhou, Kunshan and Xuzhou in Jiangsu Province and Zhengzhou in Henan Province.

Our company was incorporated in the Cayman Islands on March 26, 2007. Our company operates under Cayman Islands Companies Laws (2009 Revision). Our registered address is located at the offices of Maples Corporate Services Limited, PO Box 309, Umland House, Grand Cayman, KY1-1104 Cayman Islands. Our principal executive offices are located at 27/F, China Central Place, Tower II, 79 Jianguo Road, Chaoyang District, Beijing 100025, People’s Republic of China. Our telephone number at this address is (86) 10 8588-9200 and our fax number is (86) 10 8588-9300.

For a discussion of our capital expenditures for the last three fiscal years, see “Item 5. Operating and Financial Review and Prospects – A. Operating Results – Operating Results – Capital Expenditures.”

Shareholder inquiries should be directed to us at the address and telephone number of our principal executive offices set forth above. Our website is [www.xyre.com](http://www.xyre.com). The information contained on our website does not form part of this annual report. Our agent for service of process in the United States is CT Corporation System located at 111 Eighth Avenue, New York, New York 10011.

B.

Business Overview

We are a residential real estate developer that focuses on Tier II cities in China. Our standardized and scalable model emphasizes rapid asset turnover, efficient capital management and strict cost control.

We focus on developing large scale quality residential projects, which typically consist of multiple residential buildings that include multi-layer apartment buildings, sub-high-rise apartment buildings or high-rise apartment buildings. Several of our projects include auxiliary services and amenities such as retail outlets, leisure and health facilities, kindergartens and schools. We also develop small scale residential properties. Our developments aim at providing middle-income consumers with a comfortable and convenient community life. In addition, we provide property management services for our developments and other real estate-related services to our customers. We acquire development sites primarily through public auctions of government land. This acquisition method allows us to obtain unencumbered land use rights to unoccupied land without the need for additional demolition, re-settlement or protracted legal processes to obtain title. As a result, we are able to commence construction relatively quickly after we acquire a site for development.

We have expanded our business and operations significantly during the past three years. The number of projects we had under construction increased from seven projects with a total GFA of 1,069,144 square meters as of December 31, 2007, to eleven projects with a total GFA 2,647,846 square meters as of December 31, 2011. We have two additional projects with a total GFA of 325,900 square meters under planning as of December 31, 2011. As of December 31, 2011, we have completed twenty-two projects with a total GFA of approximately 2,143,862 square meters and comprising a total of 24,303 units, more than 99.6% of which have been sold. For each of the three years ended December 31, 2009, 2010 and 2011, our revenues were US\$449.0 million, US\$450.0 million, and US\$687.5 million, respectively, representing a compound annual growth rate, or CAGR, of 23.7%. Our net income for each of those three years was US\$42.4 million, US\$51.1 million and US\$103.0 million, respectively.

While our primary focus continues to be residential real estate development in Tier II cities in China, we see potential opportunities for residential projects in the United States that might be attractive to Chinese buyers. This process is in its early stages; we have engaged consultants to assist us in the project search and evaluation process but, as of the date of this annual report, have not made any property acquisitions in the United States.

We intend to continue our expansion in selected Tier II cities as suitable opportunities arise. The following map illustrates the geographic locations of our current operations and selected potential target Tier II cities for expansion in the future:

City Information<sup>(1)</sup>:

|  |        |       |       |       |       |       |       |      |
|--|--------|-------|-------|-------|-------|-------|-------|------|
| Population (millions, as of Dec 31, 2010)                                  | 11.5   | 7.6   | 6.0   | 5.0   | 6.4   | 1.7   | 8.7   | 46.9 |
| Real GDP Growth (2010)   | 15.0 % | 13.0% | 12.7% | 17.5% | 13.0% | 14.2% | 13.9% | —    |
| Per Capital Disposable Income for urban households (2010, RMB in billions) | 20.8   | 18.9  | —     | 19.1  | 29.2  | 30.9  | 18.8  | —    |
| Residential Real Estate Investment (2010, RMB in billions)                 | 127.8  | 77.5  | —     | —     | 93.6  | —     | 15.9  | —    |

## Sources of city information

(1) 2010 National Economic and Social Development Statistical Bulletin of various cities

• Current Presence • Potential target Tier II cities  
• The map is for illustrative purposes only

•• Data of City Information for Suzhou includes the data for Kunshan

*Our Markets*

We currently operate in seven markets—Chengdu in Sichuan Province, Hefei in Anhui Province, Jinan in Shandong Province, Suzhou, Kunshan and Xuzhou in Jiangsu Province, and Zhengzhou in Henan Province.

The following table sets forth the numbers of our projects and the total GFA in each location indicated as of December 31, 2011.

|                               | Chengdu | Zhengzhou | Jinan   | Hefei   | Suzhou  | Kunshan | Xuzhou  | Total     |
|-------------------------------|---------|-----------|---------|---------|---------|---------|---------|-----------|
| Properties under construction | 2       | 5         | 1       | —       | 1       | 1       | 1       | 11        |
| Properties under planning     | —       | 1         | —       | —       | —       | —       | 1       | 2         |
| Completed projects            | —       | 16        | 3       | 1       | 2       | —       | —       | 22        |
| Total number of projects      | 2       | 22        | 4       | 1       | 3       | 1       | 2       | 35        |
| Total GFA (m <sup>2</sup> )   | 447,902 | 2,331,593 | 990,796 | 145,455 | 484,500 | 497,941 | 219,421 | 5,117,608 |

For a discussion of revenues from each geographical segment in each of 2009, 2010 and 2011, see “Item 5. Operating and Financial Review and Prospects – A. Operating Results - Discussion of Segment Operations.”

We intend to seek attractive opportunities to expand into additional Tier II cities, which we will select based on certain macroeconomic criteria, including economic growth, per capita disposable income, population and urbanization rate as well as availability of suitable land supply and local residential property market conditions.

### *Our Property Projects*

#### **Overview**

We offer the following three main types of real estate property products:

- multi-layer apartment buildings, which are typically six stories or less and normally require nine to 12 months to construct after we obtain the related construction permit;

- sub-high-rise apartment buildings, which are typically seven to 11 stories and normally require 12 to 18 months to construct after we obtain the related construction permit; and

- high-rise apartment buildings, which are typically 12 to 33 stories and normally require 18 to 24 months to construct after we obtain the related construction permit.

Our projects are in one of the following three stages:



· ***completed projects***, comprising projects the construction of which have been completed;

· ***properties under construction***, comprising properties for which the construction permits have been obtained; and

***properties under planning***, comprising properties for which we have entered into land grant contracts and are in the process of obtaining the required permits to begin construction.

***Properties under Construction and Properties under Planning***

The following table sets forth each of our properties currently under construction or planning as of December 31, 2011:

| Project Name                        | Location  | Type of Construction Products | Pre-sale          | Total                            | Total GFA (m <sup>2</sup> ) | Total                       | Number of Units Sold | GFA Sold |                                |
|-------------------------------------|-----------|-------------------------------|-------------------|----------------------------------|-----------------------------|-----------------------------|----------------------|----------|--------------------------------|
|                                     |           |                               | Commencement Date | Commencement Date <sup>(2)</sup> |                             | Site Area (m <sup>2</sup> ) |                      |          | Number of Units <sup>(4)</sup> |
| Suzhou International City Garden(3) | Suzhou    | H                             | 02/2008           | 05/2008                          | 119,089                     | 204,882                     | 2,436                | 1,651    | 136,353                        |
| Kunshan International City Garden   | Kunshan   | M/H                           | 07/2008           | 09/2008                          | 200,008                     | 497,941                     | 5,133                | 4,067    | 381,916                        |
| Xuzhou Colorful Garden              | Xuzhou    | M/H                           | 05/2010           | 08/2010                          | 46,777                      | 101,821                     | 858                  | 853      | 100,791                        |
| Zhengzhou Modern City(4)            | Zhengzhou | M/H                           | 01/2010           | 05/2010                          | 60,556                      | 255,356                     | 2,513                | 2,124    | 192,487                        |
| Zhengzhou Yipin Xiangshan Phase II  | Zhengzhou | M/S                           | 12/2010           | 03/2011                          | 81,345                      | 198,543                     | 2,078                | 1,322    | 119,193                        |
| Zhengzhou Royal Palace              | Zhengzhou | M/H                           | 06/2011           | 09/2011                          | 45,716                      | 132,238                     | 1,874                | 141      | 21,320                         |
| Zhengzhou Century East B            | Zhengzhou | M/H                           | 02/2011           | 06/2011                          | 51,372                      | 166,468                     | 1,907                | 511      | 48,765                         |
| Chengdu Xinyuan Splendid I          | Chengdu   | H                             | 11/2007           | 09/2008                          | 34,007                      | 231,002                     | 4,069                | 3,617    | 212,345                        |
| Chengdu Xinyuan Splendid II         | Chengdu   | H                             | 02/2010           | 04/2010                          | 30,497                      | 216,900                     | 2,782                | 2,120    | 165,238                        |
| Jinan Xinyuan Splendid              | Jinan     | M/H                           | 03/2011           | 05/2011                          | 200,180                     | 565,355                     | 5,018                | 1,182    | 86,053                         |
| Zhengzhou Century East A            | Zhengzhou | M/H                           | 04/2011           | TBD                              | 22,418                      | 77,341                      | TBD                  | -        | -                              |
| Subtotal                            |           |                               |                   |                                  | 891,965                     | 2,647,846                   | 28,668               | 17,588   | 1,464,460                      |
| Newly Acquired Zhengzhou Land       | Zhengzhou | H                             | —                 | —                                | 61,078                      | 208,300                     | TBD                  | -        | -                              |
| Newly Acquired Xuzhou Land          | Xuzhou    | H                             | —                 | —                                | 45,046                      | 117,600                     | TBD                  | -        | -                              |
| Subtotal                            |           |                               |                   |                                  | 106,124                     | 325,900                     |                      |          |                                |
| Total                               |           |                               |                   |                                  | 998,089                     | 2,973,746                   | 28,668               | 17,588   | 1,464,460                      |

(1) “M” refers to multi-layer buildings, “H” refers to high-rise buildings and “S” refers to sub-high-rise buildings.

(2) Pre-sale commencement dates refer to dates on which we began or expect to begin pre-sale activities after receiving the relevant pre-sale permits.

(3) Suzhou International City Garden was previously being developed under the name Suzhou Xinyuan Splendid.

(4) Zhengzhou Modern City was previously being developed under the name Zhengzhou Longhai Road Project.

(5) “TBD” refers to “to be determined.”

### ***Properties under Construction***

#### ***Suzhou, Jiangsu Province***

*Suzhou International City Garden.* Suzhou International City Garden is located on Mayun Road of Hitech District in Suzhou. It covers a site area of 119,089 square meters, and is expected to have a total GFA of 204,882 square meters, 203,882 square meters of which are for high-rise buildings and 1,000 square meters are for retail stores. We acquired the site in September 2007, commenced construction of this project in February 2008, and delivered in 2011. This project consisted of 2,436 units. We started pre-sales in May 2008 and, as of December 31, 2011, we had sold 1,651 units with a total GFA of 136,353 square meters.

#### ***Kunshan, Jiangsu Province***

*Kunshan International City Garden.* Kunshan International City Garden is located on Lucheng Road in Kunshan of Jiangsu Province. This project covers a site area of 200,008 square meters and has a total GFA of 497,941 square meters, of which 5,989 square meters are for multi-layer buildings, 482,063 square meters are for high-rise buildings and 9,889 square meters are for retail stores. We acquired the site in December 2007, commenced construction of this project in July 2008, and expect to deliver it in 2013. This project, when completed, will consist of 5,133 units. We started pre-sales in September 2008, and, as of December 31, 2011, we had sold 4,067 units with a total GFA of 381,916 square meters.

***Xuzhou, Jiangsu Province***

*Xuzhou Xinyuan Colorful Garden.* Xuzhou Xinyuan Colorful Garden is located on North of Quanshan District in Xuzhou. This project covers a site area of 46,777 square meters and has a total GFA of 101,821 square meters, of which 47,983 square meters are for multi-layer buildings, 53,023 square meters are for high-rise buildings and 815 square meters are for retail stores. We acquired the site in October 2009, commenced construction of this project in May 2010, and expect to deliver it in 2012. This project, when completed, will consist of 858 units. We started pre-sales in August 2010, and as of December 31, 2011, we had sold 853 units with a total GFA of 100,791 square meters.

***Zhengzhou, Henan Province***

*Zhengzhou Modern City.* Zhengzhou Modern City is located on Longhai Road of Erqi District in Zhengzhou. This project covers a site area of 60,556 square meters and has a total GFA of 255,356 square meters, of which 214,402 square meters are for multi-layer buildings and 40,954 square meters are for retail stores. We acquired the site in September 2004, commenced construction in January 2010, and expect to complete delivery in 2012. Acquired directly from a private owner versus out usual arm's length auction process, it took us over 5 years to commence construction on this project as commercial and title issues with the previous private owner were followed by relocation of previous residents, structure demolition and site preparation, and negotiation with the local government on recovery of relocation costs. This project, when completed, will consist of 2,513 units. We started pre-sales in May 2010, and, as of December 31, 2011, we had sold 2,124 units with a total GFA of 192,487 square meters.

*Zhengzhou Yipin Xiangshan Phase II.* Zhengzhou Yipin Xiangshan Phase II is located on Yingcai street of Huiji District in Zhengzhou. This project covers a site area of 81,345 square meters, and has a total GFA of 198,543 square meters, of which 57,678 square meters are for multi-layer buildings, 136,376 square meters are for sub-high-rise buildings and 4,489 square meters are for retail stores. Jiantou Xinyuan acquired the site in April 2008 and commenced construction in December 2010, and started pre-sales in March 2011 and expects to deliver units in 2012. This project, when completed, will consist of 2,078 units. As of December 31, 2011, 1,322 units had been sold with a total GFA of 119,193 square meters.

*Zhengzhou Century East A.* Zhengzhou Century East A is located on south to Yongping Road and west to Kangping Road in New-East-Zheng District in Zhengzhou. It will cover a site area of 22,418 square meters and is expected to have a total GFA of 77,341 square meters. We acquired the site in September 2009 and commenced construction in 2011.

*Zhengzhou Century East B.* Zhengzhou Century East B is located on west to Dongfeng road and north to Anping road in New-East-Zheng District in Zhengzhou. This project covers a site area of 51,372 square meters and is expected to have a total GFA of 166,468 square meters, of which 159,419 square meters are for high-rise buildings and 7,049 square meters are for retail stores. We acquired the site in October 2009 and commenced construction of this project in February 2011, and expect to deliver units in 2013. This project, when completed, will consist of 1,907 units. We started pre-sales in June 2011, and as of December 31, 2011, we had sold 511 units with a total GFA of 48,765 square meters.

*Zhengzhou Royal Palace.* Zhengzhou Century Royal Place is located on South to Nongke Road and East to Wenbo Road in Zhengzhou. This project covers a site area of 45,716 square meters and is expected to have a total GFA of 132,238 square meters, of which 41,314 square meters are for multi-layer buildings, 88,371 square meters are for high-rise buildings and 2,553 square meters are for retail stores. We acquired the site in December 2009 and commenced construction of this project in June 2011, and expect to deliver units in 2013. This project, when completed, will consist of 1,874 units. We started pre-sales in September 2011, and as of December 31, 2011, we had sold 141 units with a total GFA of 21,320 square meters.

#### ***Chengdu, Sichuan Province***

*Chengdu Xinyuan Splendid Phase I.* Chengdu Xinyuan Splendid Phase I is located on Donghong Road of Jinjiang District in Chengdu. This project covers a site area of 34,007 square meters, and has a total GFA of 231,002 square meters, consisting of 9 high-rise buildings. We acquired the site in June 2007, commenced construction of this project in November 2007, and started delivery in 2011. This project, when completed, will consist of 4,069 units. We started pre-sales activities in September 2008, and, as of December 31, 2011, we had sold 3,617 units with a total GFA of 212,345 square meters.

*Chengdu Xinyuan Splendid Phase II.* Chengdu Xinyuan Splendid Phase II is located on Donghong Road of Jinjiang District in Chengdu. This project covers a site area of 30,497 square meters, and has a total GFA of 216,900 square meters, consisting of 8 high-rise buildings. We acquired the site in June 2007, commenced construction of this project in February 2010, and expect to deliver units in 2012. This project, when completed, will consist of 2,782 units. We started pre-sales activities in April 2010, and, as of December 31, 2011, we had sold 2,120 units with a total GFA of 165,238 square meters.

### ***Jinan, Shandong Province***

*Jinan Xinyuan Splendid.* Jinan Xinyuan Splendid is located on west to Lishan road, south to Xiaoqinghe road in Jinan. This project covers a site area of 200,180 square meters, and has a total GFA of 565,355 square meters, consisting of 8 high-rise buildings. We acquired the site in October 2009, commenced construction in March 2011, and expect to deliver units in 2013. This project, when completed, will consist of 5,018 units. We started pre-sales activities in May 2011, and, as of December 31, 2011, we had sold 1,182 units with a total GFA of 86,053 square meters.

### ***Properties under Planning***

#### ***Zhengzhou, Henan Province***

*New Acquired Zhengzhou Land.* The land is located on south to Yongping Road and east to Kangping road in New-East-Zheng District in Zhengzhou, and is currently under planning. It will cover a site area of 61,078 square meters and is expected to have a total GFA of 208,300 square meters] We acquired the site in December 2011 and expect to commence construction in 2012.

*New Acquired Xuzhou Land.* The land is located on south to Kuangshan Road in Quanshan District in Xuzhou, and is currently under planning. It will cover a site area of 45,046 square meters and is expected to have a total GFA of 117,600 square meters. We acquired the site in December 2011 and expect to commence construction in 2012.

### ***Completed Projects***

The following table sets forth each of our completed projects as of December 31, 2011.

| Project Name                              | Location  | Type of Products | Completion Date | Total Site Area (m <sup>2</sup> ) | Total GFA (m <sup>2</sup> ) | Total Number of Units | Number of Units Sold | GFA Sold |
|---|-----------|------------------|-----------------|-----------------------------------|-----------------------------|-----------------------|----------------------|----------|
| Zhengzhou Longhai Star Garden             | Zhengzhou | M/H/S            | 12/2000         | 11,719                            | 39,975                      | 239                   | 239                  | 39,975   |
| Zhengzhou Xinyuan Splendid:               |           |                  |                 |                                   |                             |                       |                      |          |
| Zhengzhou Xinyuan Splendid 1A             | Zhengzhou | M/S              | 07/2002         | 35,444                            | 62,623                      | 484                   | 484                  | 62,623   |
| Zhengzhou Xinyuan Splendid 1B             | Zhengzhou | M                | 04/2004         | 21,800                            | 43,673                      | 333                   | 333                  | 43,673   |
| Zhengzhou Xinyuan Splendid 2A             | Zhengzhou | M                | 04/2003         | 23,460                            | 39,996                      | 271                   | 271                  | 39,996   |
| Zhengzhou Xinyuan Splendid 2B             | Zhengzhou | M                | 06/2004         | 19,295                            | 27,041                      | 86                    | 86                   | 27,041   |
| Zhengzhou Xinyuan Splendid 2C             | Zhengzhou | S                | 04/2004         | 9,968                             | 21,748                      | 132                   | 132                  | 21,748   |
| Zhengzhou Xinyuan Splendid 3A3B3C         | Zhengzhou | M/S              | 08/2005         | 51,014                            | 114,774                     | 792                   | 792                  | 114,774  |
| Zhengzhou Xinyuan Splendid Haojinge       | Zhengzhou | H                | 11/2004         | 8,298                             | 31,089                      | 166                   | 166                  | 31,089   |
| Zhengzhou Xinyuan Splendid City Homestead | Zhengzhou | M                | 08/2005         | 23,606                            | 45,378                      | 369                   | 369                  | 45,378   |
| Zhengzhou Xinyuan Splendid Subtotal       | 192,885   | 386,322          | 2,633           | 2,633                             | 386,322                     |                       |                      |          |
| Zhengzhou City Manor                      | Zhengzhou | M                | 03/2006         | 63,089                            | 118,716                     | 1,633                 | 1,633                | 118,716  |
| Zhengzhou City Family                     | Zhengzhou | M                | 12/2006         | 21,380                            | 39,226                      | 720                   | 720                  | 39,226   |
| Zhengzhou Central Garden—East             | Zhengzhou | M/H/S            | 09/2007         | 60,849                            | 165,206                     | 1,624                 | 1,624                | 165,206  |
| Zhengzhou Central Garden—West             | Zhengzhou | M/H/S            | 09/2007         | 79,464                            | 190,384                     | 1,796                 | 1,796                | 190,384  |
| Jinan City Family                         | Jinan     | M                | 11/2007         | 47,411                            | 61,065                      | 785                   | 785                  | 61,065   |
| Suzhou Lake Splendid                      | Suzhou    | M/H/S            | 01/2009         | 130,945                           | 198,113                     | 2,326                 | 2,313                | 196,692  |
|   | Hefei     | M/H              | 04/2009         | 51,939                            | 145,455                     | 1,649                 | 1,649                | 145,455  |

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|                                       |           |      |         |         |           |        |        |           |
|---------------------------------------|-----------|------|---------|---------|-----------|--------|--------|-----------|
| Hefei Wangjiang Garden                |           |      |         |         |           |        |        |           |
| Suzhou Colorful Garden                | Suzhou    | M/H  | 04/2009 | 41,365  | 81,506    | 970    | 964    | 80,693    |
| Jinan Elegant Scenery                 | Jinan     | H/S  | 06/2009 | 61,502  | 100,386   | 1,127  | 1,127  | 100,386   |
| Zhengzhou Commercial Plaza            | Zhengzhou | H    | 06/2009 | 8,410   | 67,225    | 917    | 916    | 66,782    |
| Jinan International City Garden       | Jinan     | H/S  | 01/2010 | 93,928  | 263,990   | 4,672  | 4,604  | 262,305   |
| Zhengzhou Xinyuan Colorful Garden     | Zhengzhou | M/H  | 01/2010 | 74,462  | 191,891   | 2,233  | 2,179  | 183,149   |
| Zhengzhou Yipin Xiangshan Phase I (1) | Zhengzhou | M/ S | 12/2009 | 57,289  | 94,403    | 979    | 978    | 93,987    |
| Total                                 |           |      |         | 996,637 | 2,143,862 | 24,303 | 24,160 | 2,130,343 |



For purposes of our consolidated financial statements included elsewhere in this annual report, completed projects should satisfy three criteria: (i) construction is completed; (ii) the costs of construction are almost ascertainable and (1) (iii) remaining costs are insignificant. Therefore, Zhengzhou Yipin Xiangshan Phase I is listed as under development in our consolidated financial statement.

*Zhengzhou Central Garden (East and West).* Zhengzhou Central Garden is located on Jinshui Road of Zhengdong District in Zhengzhou, near the central business district of Zhengzhou. The projects cover an aggregate area of 140,313 square meters and have an aggregate GFA of 355,590 square meters, of which 97,627 square meters are for multi layer buildings, 62,570 square meters are for sub-high-rise buildings, 181,789 square meters are for high-rise buildings and 13,604 square meters are for retail stores. The size of the units ranges from studios of approximately 39 square meters to luxury duplex units of approximately 175 square meters. We acquired the site in March 2005, commenced construction of Zhengzhou Central Garden (East) in November 2005, started pre-sales in December 2005 and delivered it in September 2007. We commenced construction of Zhengzhou Central Garden (West) in December 2005, started pre-sales in January 2006 and delivered it in September 2007. All of the 3,420 saleable units of the projects have been sold.

*Jinan City Family.* Jinan City Family is located on Zhanghuang Road of Huaiyin District in Jinan. Jinan City Family covers a site area of 47,411 square meters and has a total GFA of 61,065 square meters, of which 60,256 square meters are for multi-layer buildings and 809 square meters are for retail stores. We acquired the site in August 2006, commenced construction of this project in October 2006 and delivered it in November 2007. All of the 785 saleable units have been sold.

*Suzhou Lake Splendid.* Suzhou Lake Splendid is located on Tongda Road of Wuzhong District in Suzhou. Suzhou Lake Splendid covers a site area of 130,945 square meters and has a total GFA of 198,113 square meters, of which 98,704 square meters are for multi-layer buildings, 58,449 square meters are for sub-high-rise buildings, 35,800 square meters are for high-rise buildings and 5,160 square meters are for retail stores. We acquired the site in January 2007, commenced construction of this project in March 2007, and delivered it in January 2009. As of December 31, 2011, we had sold 2,313 units out of 2,326 saleable units.

*Hefei Wangjiang Garden.* Hefei Wangjiang Garden is located at Wangjiang Road of Baohe District in Hefei. Hefei Wangjiang Garden covers a site area of 51,939 square meters and has a total GFA of 145,455 square meters, of which 9,436 square meters are for multi-layer buildings, 135,157 square meters are for high-rise buildings and 862 square meters are for retail stores. We acquired the site in February 2007, commenced construction of this project in May 2007 and delivered it in April 2009. All of the 1,649 saleable units were sold.

*Suzhou Colorful Garden.* Suzhou Colorful Garden is located on Xihuan Road of Jinchang District in Suzhou. This project covers a site area of 41,365 square meters and has a total GFA of 81,506 square meters, which consists of 33,231 square meters of multi-layer buildings, 45,801 square meters of high-rise buildings and 2,474 square meters of retail stores. We acquired the site in January 2007, commenced construction of this project in June 2007 and delivered

it in April 2009. As of December 31, 2011, we had sold 964 units out of 970 saleable units.

*Jinan Elegant Scenery.* Jinan Elegant Scenery is located on Autoplant Road East of Tianqiao District in Jinan. Jinan Elegant Scenery covers a site area of 61,502 square meters and has a total GFA of 100,386 square meters, of which 78,862 square meters are for sub-high-rise buildings, 15,763 square meters are for high-rise buildings, 5,120 square meters are for retail stores and 641 square meters are for basements. We acquired the site in December 2006, commenced construction of this project in December 2006 and delivered it in June 2009. As of December 31, 2011, all of the 1,127 saleable units were sold.

*Zhengzhou Commercial Plaza.* Zhengzhou Commercial Plaza is located on Jingsan Road of Jinshui District in Zhengzhou. Zhengzhou Commercial Plaza covers a site area of 8,410 square meters and has a total GFA of 67,225 square meters. This project consists of two high-rise buildings. One building with a total GFA of 27,367 square meters is purely for residential use. The other with a total GFA of 39,858 square meters is for both residential and commercial use. We acquired this site in 2004, commenced construction of this project in November 2006 and delivered it in June 2009. As of December 31, 2011, we had sold 916 units out of 917 saleable units.

*Jinan International City Garden.* Jinan International City Garden is located on South Industrial Road of Hitech Industry Park in Jinan. Jinan International City Garden covers a site area of 93,928 square meters and has a total GFA of 263,990 square meters, of which 203,544 square meters are for high-rise buildings, 40,749 square meters are for sub-high-rise buildings, 9,736 square meters are for retail stores, and 9,961 square meters are for basements. We acquired the site in August 2007, commenced construction of this project in September 2007, and delivered it in January 2010. As of December 31, 2011, we had sold 4,604 units out of 4,672 saleable units.

*Zhengzhou Xinyuan Colorful Garden.* Zhengzhou Xinyuan Colorful Garden is located on Hezuo Road of Erqi District in Zhengzhou. It covers a site area of 74,462 square meters and has a total GFA of 191,891 square meters, of which 48,780 square meters are for multi-layer buildings, 139,564 square meters are for high-rise buildings and 3,547 square meters are for retail stores. We acquired this site in February 2008, commenced construction of this project in March 2008 and delivered it in January 2010. As of December 31, 2011, we had sold 2,179 units out of 2,233 saleable units.

*Zhengzhou Yipin Xiangshan Phase I.* Zhengzhou Yipin Xiangshan Phase I is located on Yingcai street of Huiji District in Zhengzhou. This project covers a site area of 57,289 square meters, and has a total GFA of 94,403 square meters, of which 26,867 square meters are for multi-layer buildings, 62,492 square meters are for sub-high-rise buildings and 5,044 square meters are for retail stores. Jiantou Xinyuan acquired the site in December 2007, commenced construction of this project in April 2008, and started delivery in December 2009. As of December 31, 2011, we had sold 978 units out of 979 saleable units.

### ***Cancelled Projects***

*Zhengzhou Xinyuan Huating.* Zhengzhou Xinyuan Huating is located on Funiu Road of Zhongyuan District in Zhengzhou. This project was cancelled in the fourth quarter of 2008 due to failure to resolve inconsistent plot ratios provided by different government agencies. 73.8% of the total paid up land premium of US\$15,963,565 was refunded in the first quarter of 2009; full recovery of the land premium paid in 2007 and 2008 was refunded in the fourth quarter of 2010.

### ***Our Property Development Operations***

We have a systematic and standardized process to project development, which we implement through several well-defined phases. A significant portion of our process is dedicated to land acquisition, which is segmented into three stages: (i) opportunity identification, (ii) initial planning and budgeting and (iii) land acquisition. The following diagram sets forth the key stages of our property development process.

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### ***Opportunity Identification***

The first stage of our development process involves the identification of new opportunities for forthcoming land auctions in our selected Tier II cities around China. Our Land Development Department prepares a strategic plan that specifies our future project development plans and land acquisition requirements. They also conduct in-depth demographic and market research regarding our selected Tier II cities. We have formulated a set of criteria in selecting suitable Tier II cities to expand our operations based on certain indicators, including, among others:

- population and urbanization growth rate;
- general economic condition and growth rate;
- disposable income and purchasing power of resident consumers;
- anticipated demand for private residential properties;
- availability of future land supply and land prices;
- governmental urban planning and development policies; and
- overall competitive landscape.

Once a Tier II city has been identified as meeting our selection criteria, we research for forthcoming land auctions in the identified city and conduct preliminary analysis on whether a given auction opportunity will meet our project development plans, land acquisition requirements and pre-set investment return criteria. We also conduct in-depth demographic and market research regarding the specific region in which the land site is located.

### ***Initial Planning and Budgeting***

Once a forthcoming land auction has been identified, our Land Development Department will conduct a feasibility study based on our collected data as well as preliminary design and pre-planning of the proposed development project on the land site. We will also budget costs and financial requirements for the proposed project to identify whether the land site is suitable for our requirements.

The key factors we consider in land site selection are:

- site area and suitability;
- location within the city;
- neighboring environment and amenities;
- existing or planned infrastructure;
- announced government planning for the vicinity; and

projected cost, investment and financial return ratios.

We evaluate projects through a rigorous planning and approval process. We consider detailed input from each of our Land Development Department, Budget-Planning-Design Department, Operations Department and Financial Department. The proposed project, once vetted and approved by various departments, will be submitted to our chief financial officer and chief executive officer and, thereafter, to a project committee established by our board of directors, for approval.

The flow of initial planning includes, among other things, strategic planning, market investigation and analysis, feasibility study, preliminary design, cost and profit projection and investment approval. In particular, our initial planning includes the engagement of external local design firms to draw up preliminary designs for our proposed projects. In addition, before making any decision to bid for land, we project the financial and cost control metrics for the proposed projects based on studies of market statistics and other relevant information, and select only those projects that satisfy pre-determined benchmarks.

### ***Land Acquisition***

Once we receive approval for a proposed project, we will proceed to bid for the land site. Although we acquire land for development primarily through the governmental auction process, if opportunities arise, we will also consider obtaining land use rights from third parties through negotiation, acquisition of entities, co-development or other joint venture arrangements.

As of December 31, 2011, we had a total GFA of 2,647,846 square meters for property projects under construction and a total GFA of 325,900 square meters for property projects under planning. We continually seek attractive opportunities to acquire development sites which meet our selection criteria.

### ***Project Planning and Design***

Our project planning and design process includes concept and architectural design, construction and engineering design, budgeting, financial analysis and projections as well as arranging for financing. We believe careful planning is essential to control costs, quality and timing of our projects.

We outsource our design work to reputable third-party design firms. Our planning and development team, with 68 employees as of December 31, 2011, works closely with project managers as well as our external designers and architects to ensure that our designs comply with PRC laws and regulations, and meet our design and other project objectives. Our senior management is also actively involved in the whole process, especially in the master planning and architectural design of our projects. We use our enterprise resource planning systems to conduct preliminary planning and scheduling for each stage of the development project, including planning our outsourcing requirements for the project construction stage.

We seek to create a comfortable and convenient middle-class lifestyle concept in our projects by incorporating certain design features, such as landscaped environments. In determining the architectural designs of our projects, we consider the proposed type of products to be developed as well as the surrounding environment and neighborhood.

In selecting external design firms, we consider, among other things, their reputation for reliability and quality, their track record with us, the design proposed and the price quoted. Design firms can participate in the tender process by our invitation only. Our planning and design team monitors the progress and quality of the design firms to ensure that they meet our requirements.

We also begin arranging financing for a project at this stage. We typically finance our property developments through a combination of internal funds, pre-sale proceeds and bank loans. The loans are negotiated with the local branches of national commercial banks. A substantial majority of our bank loans are secured by our assets, including the land to be developed.



### ***Project Construction and Management***

We outsource substantially all of our construction work to independent construction companies which are selected through our invitation to tender bids for the project. We conduct a small portion of our construction work on our own, including fixture installation and gardening and landscaping. We provide landscaping and intercom systems installation services through our subsidiaries, Zhengzhou Mingyuan Landscape Engineering Co., Ltd. and Zhengzhou Xinyuan Computer Network Engineering Co., Ltd. We generally hire more than one contractor for each of our projects, with each contractor responsible for a designated portion of the project on a “turnkey” basis. We have established a selection procedure in order to ensure compliance with our quality and workmanship standards. We take into account the construction companies’ professional qualifications, reputation, track record, past cooperation with our project companies and financial condition and resources when inviting candidates to bid. We also review the qualifications and performance of our construction contractors on an annual basis. We closely supervise and manage the entire project construction process, utilizing our enterprise resource planning systems to monitor and analyze information regarding the process on a real-time basis. We collect information throughout the development cycle on the entire project, including information from our third-party contractors, to avoid unanticipated delays and cost overruns.

Our construction contracts typically provide for fixed or capped payments, subject to adjustments for some types of excess, such as design changes during construction or changes in government-suggested steel prices. The contractors are typically responsible for procuring the necessary raw materials, as well as providing engineering and construction services. We procure certain ancillary fixtures for installation, such as elevators, windows and entrance doors. For our purchases of such fixtures, we use a centralized procurement process to help increase our negotiating power and lower our unit costs. Our major suppliers are suppliers of power distribution boxes, elevators, plastic-steel windows, doors and heat sinks. We maintain good relationships with our suppliers and have not encountered any significant supply shortages or disruptions in the past.

### ***Pre-Sales, Sales and Marketing***

Like other developers, we pre-sell properties prior to the completion of their construction. Under PRC pre-sales regulations, property developers must satisfy specific conditions before they can pre-sell their properties under construction. These mandatory conditions include:

the land premium must have been paid in full;

the land use rights certificate, the construction site planning permit, the construction work planning permit and the construction permit must have been obtained;

at least 25% of the total project development cost must have been incurred;

the progress and the expected completion and delivery date of the construction must be fixed;

the pre-sale permit must have been obtained; and

certain milestones in the construction processes specified by the local government authorities must have been completed.

These mandatory conditions are designed to require a certain level of capital expenditure and substantial progress in project construction before the commencement of pre-sales. Generally, the local governments also require developers and property purchasers to use standard pre-sale contracts prepared under the auspices of the government. Developers are required to file all pre-sale contracts with local land bureaus and real estate administrations after entering into such contracts.

As of December 31, 2011, we maintain a marketing and sales force for our development projects with approximately 30 personnel specializing in marketing and sales. We use outside sales agencies for all of our projects.

Our marketing and sales teams work closely with each other and with our external sales agents to survey the demographics for a particular project area to determine the appropriate advertising, promotion, and selling plans for that project. We develop customer awareness through our marketing and promotion efforts and through referrals from satisfied customers. A sales team at each project is responsible for following through on the entire sales process including setting monthly sales targets, controlling prices, implementing special promotions, monitoring external sales agency performance, and processing customer feedback.

We utilize our customer relationship management system to track customer profiles and sales to forecast future individual requirements and general demand for our products. This allows us to have real-time information on the status of individual customer transactions and the availability of product types for each project, and to anticipate the product preferences of current and future customers.

We use various advertising media to market our property developments, including newspapers, magazines, television, radio, e-marketing and outdoor billboards. We also participate in real estate exhibitions to enhance our brand name and promote our property developments.

Most of our customers purchase our properties using mortgage financing. Under current PRC law, the minimum down payment is 30% of the total purchase price for the purchase of the first self-use residential unit. The loan-to-value of the mortgage loan is also subject to change according to the economic policies of the central and local governments and banks in China.

A typical sales transaction in which a portion of the purchase price is financed by a mortgage loan consists of three steps. First, the customer pays a deposit to us. Within seven days after paying the deposit, the customer will sign a purchase contract with us and make down payment to us in cash. After making the down payment, the customer arranges for a mortgage loan for the balance of the purchase price. Once the loan is approved, the mortgage loan proceeds are paid to us directly by the bank. Finally, we deliver the property to the customer. Legal title, as evidenced by a property ownership certificate issued by local land and construction bureaus, may not pass for a period of six to twelve months following delivery and acceptance.

As is customary in the property industry in China, we provide guarantees to mortgagee banks in respect of the mortgage loans provided to the purchasers of our properties up until completion of the registration of the mortgage with the relevant mortgage registration authorities. Guarantees for mortgages on residential properties are typically discharged when the individual property ownership certificates are issued. In our experience, the issuance of the individual property ownership certificates typically takes six to twelve months, so our mortgage guarantees typically remain outstanding for up to twelve months after we deliver the underlying property.

If a purchaser defaults under the loan while our guarantee is in effect, and we repay all debt owed by the purchaser to the mortgagee bank, the mortgagee bank must assign its rights under the loan to us. We are entitled to full recourse to the property after the registration of the mortgage. In line with what we believe is industry practice, we do not conduct independent credit checks on our customers but rely on the credit checks conducted by the mortgagee banks. As of December 31, 2009, 2010 and 2011, we guaranteed mortgage loans in the aggregate outstanding amounts US\$509.2 million, US\$666.4 million and US\$709.5 million respectively.

### *After-Sale Services and Delivery*

We assist customers in arranging for and providing information relating to financing. We also assist our customers in various title registration procedures relating to their properties, and we have set up an ownership certificate team to assist purchasers to obtain their property ownership certificates. We offer various communication channels to customers to provide their feedback about our products or services. We also cooperate with property management companies that manage our properties and ancillary facilities, such as schools and clubhouses, to handle customer feedback.

We endeavor to deliver the units to our customers on a timely basis. We closely monitor the progress of construction of our property projects and conduct pre-delivery property inspections to ensure timely delivery. The time frame for delivery is set out in the sale and purchase agreements entered into with our customers, and we are subject to penalty payments to the purchasers for any delay in delivery caused by us. Once a property development has been completed, has passed the requisite government inspections and is ready for delivery, we will notify our customers and hand over keys and possession of the properties.

To ensure quality property management, we provide property management services to purchasers until they have become statutorily entitled to elect their own property management companies. As of December 31, 2011, owners of all of our developments who had become statutorily entitled to elect their property management companies have continued to choose us to manage their properties.

Our property management services include security, landscaping, building management and management of public facilities and equipment, and additional services, such as cultural activities, housekeeping and repair. We are currently managing approximately 4,694,000 square meters, comprising more than 37,589 residential units.

#### *Our Leased Properties and Real Estate Related Services*

Ancillary to our property development operations, we also lease certain properties, including an elementary school, a basement, three clubhouses, five kindergartens and parking facilities. The rental income of our lease operations represented 0.1%, approximately 0.1% and 0.4% respectively, of our revenues for the years ended December 31, 2009, 2010 and 2011.

We also provide property management services and other real estate related services such as landscaping and installing intercom systems, through three of our subsidiaries, Henan Xinyuan Property Management Co., Ltd., Zhengzhou Mingyuan Landscape Engineering Co., Ltd. and Zhengzhou Xinyuan Computer Network Engineering Co., Ltd. Prior to 2009, we also provided real estate agency services through our subsidiary, Henan Xinyuan Real Estate Agency Co., Ltd., which we liquidated at the beginning of 2009. For the years ended December 31, 2009, 2010 and 2011, revenues from our real estate related services represented 1.6%, 2.4% and 1.6%, of our total revenues for those periods, respectively.

#### *Quality Control*

We emphasize quality control to ensure that our buildings and residential units meet our standards and provide high quality service. We select only experienced design and construction companies. We provide customers with warranties covering the building structure and certain fittings and facilities of our property developments in accordance with the relevant regulations. To ensure construction quality, our construction contracts contain quality warranties and penalty provisions for poor work quality. In the event of delay or poor work quality, the contractor may be required to pay pre-agreed damages under our construction contracts. Our construction contracts do not allow our contractors to subcontract or transfer their contractual arrangements with us to third parties. We typically withhold 5% of the agreed construction fees for two to five years after completion of the construction as a deposit to guarantee quality, which provides us assurance for our contractors' work quality.

Our contractors are also subject to our quality control procedures, including examination of materials and supplies, on-site inspection and production of progress reports. We require our contractors to comply with relevant PRC laws and regulations, as well as our own standards and specifications. Despite the “turnkey” nature of the construction contracts, we closely monitor the construction work for quality, timing and cost control reasons. Our project construction management team consists of 88 employees as of December 31, 2011, all of whom are professionally qualified civil engineers or surveyors and are responsible for supervising and managing the construction costs, construction schedule and quality of the construction work. We set up a profile for each and every unit constructed and monitor the quality of such unit throughout its construction period until its delivery. We also employ independent surveyors to supervise the construction progress. In addition, the construction of real estate projects is regularly inspected and supervised by PRC governmental authorities.

### *Competition*

The real estate industry in China is highly competitive. In the Tier II cities we focus on, the markets are relatively more fragmented than Tier I cities. We compete primarily with local and regional property developers, but an increasing number of large national property developers have also started to enter these markets. Competitive factors include the geographical location of the projects, the types of products offered, brand recognition, price, design and quality. See “Item 3. Key Information—D. Risk Factors—Risk Relating to the Residential Property Industry in China—We face intense competition from other real estate developers.” In the Tier II cities in which we operate, our major competitors include China Overseas Property Ltd., China Vanke Co., Ltd., Sunshine 100, China Resources Land Limited, Henan Zhengshang Real Estate Co., Ltd., Henan New Greatwall Real Estate Co., Ltd. and Longhu Real Estate Co., Ltd.

### *Intellectual Property Rights*

We rely on a combination of trademarks, service marks, domain name registrations, copyright protection and contractual restrictions to establish and protect our brand name and logos, marketing designs and internet domain names.

We have registered the trademark of “” and the associated logo for the real estate related service in the PRC. We have also applied the same trademark for other goods and services directly or indirectly related to our business operations, to strengthen the protection of our trademark and brand. All these trademark applications are pending examination and approval. We have also registered the Internet domain name “www.xyre.com” and other related domain names.

In the PRC, the registration and protection of a company’s corporate name is regional and limited to its related industry. Although we have registered our corporate name “Xinyuan” in the provinces where we operate, we cannot prevent others from registering the same corporate name in other provinces or in other industries. If a company first registers “Xinyuan” as its corporate name in a province other than Henan Province, Shandong Province, Jiangsu Province, Anhui Province and Sichuan Provinces or in another industry, we will have to adopt another corporate name if we plan to enter that market or industry.

### *Insurance*

We do not maintain insurance policies for properties that we have delivered to our customers, nor do we maintain insurance coverage against potential losses or damages with respect to our properties before their delivery to customers. In addition, our contractors typically do not maintain insurance coverage on our properties under construction. We believe that third-party contractors should bear liabilities from tortuous acts or other personal injuries on our project sites, and we do not maintain insurance coverage against such liabilities. There are certain types of losses, such as losses from natural disasters, terrorist attacks, construction delays and business interruptions, for which insurance is either not available or not available at a reasonable cost. We believe our practice is consistent with the customary industry practice in China.

### *Environmental Matters*

As a developer of property in the PRC, we are subject to various environmental laws and regulations set by the PRC national, provincial and municipal governments. These include regulations on air pollution, noise emissions, as well as water and waste discharge. We in the past have never been required to pay any penalties associated with the breach of

any such laws and regulations. Compliance with existing environmental laws and regulations has not had a material adverse effect on our financial condition and results of operations, and we do not believe it will have such an impact in the future.

Our projects are normally required to undergo an environmental impact assessment by government-appointed third parties, and a report of such assessment needs to be submitted to the relevant environmental authorities in order to obtain their approval before commencing construction. Upon completion of each project, the relevant environmental authorities inspect the site to ensure the applicable environmental standards have been complied with, and the resulting report is presented together with other specified documents to the relevant construction administration authorities for their approval and record. Approval from the environmental authorities of such report is required before we can deliver our completed work to our customers. In the past, we have not experienced any difficulties in obtaining those approvals for commencement of construction and delivery of completed projects. However, we cannot assure you that we will not experience any difficulties in the future. See “Item 4. Information on the Company—B. Business Overview—Regulation—Regulations on Environmental Protection in Construction Projects.”



*Employees*

As of December 31, 2011, we had 446 full time employees. The following table sets forth the number of our full time employees categorized by function as of the period indicated:

|                                    | As of December 31,<br>2009 | As of December 31,<br>2010 | As of December 31,<br>2011 |
|------------------------------------|----------------------------|----------------------------|----------------------------|
| Management                         | 18                         | 14                         | 13                         |
| Finance                            | 70                         | 71                         | 71                         |
| Planning and development           | 75                         | 65                         | 68                         |
| Project construction management    | 108                        | 84                         | 88                         |
| Sales and marketing                | 60                         | 37                         | 29                         |
| Property management                | 53                         | 62                         | 74                         |
| Administrative and human resources | 90                         | 85                         | 80                         |
| Legal and audit                    | 8                          | 8                          | 23                         |
| Total                              | 482                        | 426                        | 446                        |

During the year ended December 31, 2011, our subsidiary, Henan Xinyuan Property Management Co., Ltd., also hired approximately 1,214 temporary employees, most of whom provided security and housekeeping services relating to property management.

As required by PRC regulations, we participate in various employee benefit plans that are organized by municipal and provincial governments, including housing funds, pension, medical and unemployment benefit plans. We are required under PRC law to make contributions to the employee benefit plans at specified percentages of the salaries, bonuses and certain allowances of our employees, up to a maximum amount specified by the respective local government authorities where we operate our businesses from time to time. Members of the retirement plan are entitled to a pension equal to a fixed proportion of the salary prevailing at the member's retirement date. The total amount of contributions we made to employee benefit plans for the years ended December 31, 2009, 2010 and 2011 was, and US\$935,791, US\$1,397,426, and US\$1,783,144 respectively.

On August 11, 2007, we granted share options awards for an aggregate of 6,802,495 common shares to our directors, employees, consultants and employees of our equity investee. On November 5, 2007, we granted options for an aggregate of 2,441,844 common shares to our directors, management, key employees and employees of our equity investee. On July 1, 2008, we granted share option awards for an aggregate of 360,000 common shares to our employees. On March 31, 2009, we granted a share option award of 500,000 common shares to one employee. In August 2009, we granted a share option award of 100,000 common shares to one employee. In April 2010, we granted a share option award of 200,000 common shares to one employee. In December 2010, we granted a share option award of 8,400,000 common shares to employees. In January 2011, we granted a share option award of 200,000

common shares to one employee. In May 2011, we granted a share option award of 100,000 common shares to one employee. In November 2011, we granted a share option award of 1,000,000 common shares to one employee.

We have entered into non-competition agreements with our management and key personnel, which prohibit them from engaging in any activities that compete with our business during, and for one or two years after, the period of their employment with our company. We have also entered into confidentiality agreements with all of our employees.

We offer training programs for our employees, third-party contractors and outsourced employees. We sponsor senior managers for executive MBA programs and other senior employees for part-time non-degree MBA courses at top universities in China. We also invite industry experts to give lectures to our employees and provide training to our third-party contractors.

We have not been subjected to any strikes or other labor disturbances that have interfered with our operations, and we believe that we have a good relationship with our employees. Our employees are not covered by any collective bargaining agreement.

### *Regulation*

The PRC government regulates the real estate industry. This section summarizes the principal PRC regulations relating to our business.

We operate our business in China under a legal regime consisting of the National People's Congress, State Council, which is the highest authority of the executive branch of the PRC central government, and several ministries and agencies under its authority, including the MOHURD, MLR, the MOFCOM, the NDRC, the SAIC, and the SAFE, and their respective authorized local counterparts.

### *Regulations on Land*

The *Law of the PRC on Land Administration*, promulgated on June 25, 1986 and amended on August 28, 2004 by the Standing Committee of National People's Congress, distinguishes between the ownership of land and the right to use land. All land in the PRC is either state-owned or collectively-owned, depending on location. Generally, land in urban areas within a city or town is state-owned, and all land in the rural areas of a city or town and all rural land, unless otherwise specified by law, are collectively-owned.

Although all land in the PRC is owned by the governments or by the collectives, private individuals and businesses are permitted to hold, lease and develop land for a specified term without ever owning the land, the duration of which depends on the use purpose of the land. These rights to use land are termed land use rights.

Under the *Interim Regulations of the PRC on Grant and Transfer of the Right to Use State-owned Land in Urban Areas*, promulgated on and effective as of May 19, 1990 by the State Council, enterprises, companies and other organizations who intend to hold, lease and develop the land, or Land Users, pay a premium to the government as consideration for the grant of the land use rights on terms of use prescribed by the government, and a Land User may transfer, lease and mortgage or otherwise commercially exploit the land use rights within such terms of use. The land administration authority enters into a contract with the Land User for grant of the land use rights. The Land User pays the grant premium as stipulated in the grant contract. After paying the grant premium in full, the Land User registers with the land administration authority and obtains a land use rights certificate. The certificate evidences the acquisition of the land use rights.

The *Regulations on the Grant of State-Owned Construction Land Use Rights through Competitive Bidding, Auction and Listing-for-Sale* (formerly known as the *Regulation on the Grant of State-Owned Land Use Rights through*

*Competitive Bidding, Auction and Listing-for-Sale* ), promulgated by the MLR on May 9, 2002 and amended on September 21, 2007, provides that the land for industrial use (except for mining), commercial use, tourism, entertainment and commodity housing development is granted by way of competitive bidding, public auction or listing-for-sale. The land use rights are granted to the bidder with the highest bid/tender in accordance with the terms and conditions of the bid/tender, or to the bidder who can best fulfill the comprehensive evaluation standards of the bid. The successful bidder/tender will then enter into a grant contract with the local land administration authority. Only after the successful bidder/tender has paid the land premium in full under the land grant contract, can the successful bidder/tender apply for the land registration and obtain the land use right certificate.

Under the *Urgent Notice of Further Strengthening the Administration of the Land*, issued by the MLR on May 30, 2006, the land administration authority is required to rigidly implement the model contract of the state-owned land use rights grant contract and model contract of the state-owned land use rights grant supplementary agreement (for trial implementation) jointly promulgated by the MLR and the SAIC. The requirements of planning, construction and land use, such as the restriction of the dwelling size, plot ratio and the time limit for commencement and completion, should be ascertained and are generally agreed to in the land use rights grant contract.

The *Property Law of the PRC*, promulgated on March 16, 2007 and effective as of October 1, 2007, further clarified land use rights in the PRC with the following rules:

· the land use rights for residences will be automatically renewed upon expiry;

· the car parks and garages within the building area planned for vehicle parks must be used to meet the needs of the owners who live in the building first;

the construction of buildings must abide by relevant laws and regulations with regard to the construction planning and may not affect the ventilation of or lighting to the neighboring buildings; and

where the land use rights for construction use are transferred, exchanged, used as a capital contribution, donated to others or mortgaged, an application for modification registration must be filed with the registration department.

Pursuant to the *Notice on Further Strengthening the Administration of the Costs and Revenues Associated with Land Grant*, jointly issued by the Ministry of Finance, the MLR, the PBOC, the Ministry of Supervision and the National Audit Office on November 18, 2009, all payments for land use rights paid for through installments must be made in full within 1 year. In certain circumstances the payment term may be extended to two years upon the approval of the competent authorities. In addition, the initial installment payment may not be less than 50% of the overall amount owed for the land use rights.

The *Circular of the MLR and the MOHURD on Further Strengthening Administration over Land-use and Constructions of Real Estate*, promulgated on September 21, 2010, specifies that when any bidder participates in a competitive bidding, public auction or listing-for-sale, in addition to the provision of a valid identification certificate and payment of bidding deposit, the bidder shall be also required to submit (i) a letter of commitment specifying that the bidding deposit is not from a bank loan, shareholder loan, etc., and (ii) a credit certificate issued by a commercial financial institution.

#### *Local Regulations on Land*

The *Measures for Implementation of Land Administration Law of Henan Province*, promulgated on September 24, 1999 and amended on November 26, 2004 and on November 27, 2009, provide that the entities obtaining state-owned land use rights by means of grant and other means of valuable consideration may use the land only after paying the required consideration, such as the grant premium, and other relevant fees.

The *Land Administration Regulations of Jiangsu Province*, promulgated on October 17, 2000 and amended on April 16, 2004, provide that the grant premium of state-owned land use rights must not be less than the lowest price fixed by the provincial government. The specific procedures and measures concerning the grant, bid invitation, auction and grant of state-owned land use rights are subject to the regulations of the provincial people's government.

The *Measures on the Grant of State-Owned Land Use Rights through Competitive Bidding, Auction and Listing-for-Sale of Jiangsu Province*, promulgated on May 19, 2003 and effective as of July 1, 2003, provide that the land price for grant of state-owned land use rights by means of competitive bidding, auction and listing-for-sale will be fixed by the local land authority after an institution qualified for land valuation has carried out the valuation

according to the technical guidelines issued by the central and provincial governments.

The *Measures of Anhui Province for Implementation of the Land Administration Law*, promulgated on December 20, 1987 and amended on June 26, 2004, provide that the grant, capital contribution, transfer and mortgage of state-owned land use rights involving land price valuation will be evaluated by an institution qualified for land valuation and report to the relevant land administration for filing.

*Regulations on Establishment of a Real Estate Development Enterprise*

Pursuant to the *Law of the PRC on Administration of Urban Real Estate*, or Urban Real Estate Law, promulgated by the Standing Committee of the National People's Congress on July 5, 1994 and amended on August 30, 2007 and on August 27, 2009, a developer is defined as "an enterprise which engages in the development and sale of real estate for the purposes of making profits."

Under the *Regulations on Administration of Development of Urban Real Estate*, or Development Regulation, promulgated by the State Council on and effective as of July 20, 1998, a real estate development enterprise must satisfy the following requirements:

· has a registered capital of not less than RMB1 million; and

has four or more full time professional real estate/construction technicians and two or more full time accounting officers, each of whom must hold the relevant qualifications.

The Development Regulations also allow people's governments of the provinces, autonomous regions and/or municipalities directly under the central government to impose more stringent requirements regarding the registered capital and qualifications of professional personnel of a real estate development enterprise according to the local circumstances.

To establish a real estate development enterprise, the developer is required to apply for registration with the department of administration of industry and commerce. The developer must also report its establishment to the real estate administration authority in the location of the registration authority within 30 days upon receipt of its business license.

Xinyuan (China) Real Estate, Ltd., Henan Xinyuan Real Estate Co., Ltd., Suzhou Xinyuan Real Estate Development Co., Ltd., Henan Wanzhong Real Estate Co., Ltd., Shandong Xinyuan Real Estate Co., Ltd., Qingdao Xinyuan Xiangrui Real Estate Co., Ltd., Anhui Xinyuan Real Estate Co., Ltd., Xinyuan Real Estate (Chengdu) Co., Ltd., Zhengzhou Jiantou Xinyuan Real Estate Co., Ltd., Beijing Xinyuan Wanzhong Real Estate Co., Ltd., Kunshan Xinyuan Real Estate Co., Ltd., Henan Jiye Real Estate Co., Ltd., Xuzhou Xinyuan Real Estate Co., Ltd. and Henan Wanzhuo Real Estate Co., Ltd are registered as real estate development enterprises.

#### *Local Regulations on Establishment of a Real Estate Development Enterprise*

Under the *Regulations on Administration of Development of Urban Real Estate of Henan Province* promulgated on May 31, 2002 by the Standing Committee of Henan People's Congress and amended on January 14, 2005, a real estate development enterprise must satisfy the following requirements:

has a registered capital of not less than RMB2 million; and

has five or more full time professional real estate/construction technicians and two or more full time accounting officers, each of whom must hold the required qualifications.

#### *Regulations on Foreign Invested Real Estate Enterprise*

*Industrial Restriction*

Under the *Catalogue of Industries for Guiding Foreign Investment*, promulgated on October 31, 2007 jointly by the MOFCOM and the NDRC and amended on and effective as of January 1, 2012, the development of a whole land lot which is to be operated only by sino-foreign equity joint ventures or co-operative joint ventures, the construction and operation of high-end hotels, premium office buildings, international conference centers and large-scale scheme parks, and the real estate intermediary services and second transaction market fall within the category under which foreign investment is restricted. The construction and operation of golf courses and villas falls within the category under which foreign investment is forbidden. The development and construction of ordinary residential properties was removed from the “encouraged” category of investments and, together with other types of real estate-related business, is not specifically mentioned in the catalogue. We have been advised by our PRC counsel that this means that they continue to be permitted by the MOFCOM and the NDRC.

Xinyuan (China) Real Estate, Ltd. is a wholly foreign owned enterprise and targets the development of ordinary residential properties in which foreign investment is permitted.

*Circular No. 171*

Considering the increasing foreign investment in the real estate industry in recent years, the MOHURD, the MOFCOM, the NDRC, the PBOC, the SAIC, and the SAFE jointly promulgated the *Opinions on Regulating the Entry and Administration of Foreign Investment in the Real Estate Market*, or Circular No. 171, on July 11, 2006, which may impact foreign investment in the real estate industry in the following areas:



Circular No. 171 requires a foreign invested real estate enterprise, or FIREE, with total investments equating to or exceeding US\$10 million to have a registered capital consisting of no less than 50% of its total amount of investment. FIREEs with total investments below US\$10 million must have a registered capital in amounts pursuant to and consistent with existing regulations.

· The ratio of registered capital and total investment of Xinyuan (China) Real Estate, Ltd. meets such requirement.

Upon payment of the land use rights grant premium, the FIREE can apply to the land administration authority for a land use rights certificate. Upon obtaining the land use rights certificate, an FIREE may then obtain a recertification of its existing Foreign Invested Enterprises Approval Certificate, or FIEAC, and the Business License, with the same validity period as that of such land use rights certificate; following which, the FIREE may apply to the tax administration for tax registration purposes.

When a foreign investor merges with a domestic real estate enterprise, or acquires an FIREE's equity or project, the investor is required to submit a guarantee which ensures the compliance with the provisions of the land use rights grant contract, construction site planning permit and construction work planning permit, and the land use rights certificate, and the modification certification issued by the construction authorities, and the tax payments certification issued by the relevant tax authorities.

Foreign investors which merge with domestic real estate development enterprises by share transfers or other methods, or which acquire the equity of a PRC party in joint venture enterprises, must allocate their employees appropriately, deal with bank debts and settle the lump sum payment of the transfer price through self-owned funds. However, a foreign investor with an unfavorable record may not be allowed to conduct any of the aforesaid activities.

FIREEs which have not paid up their registered capital fully, or have failed to obtain a land use rights certificate, or which have under 35% of the total capital required for the project, will not be allowed to obtain a loan in or outside China, and foreign exchange administration departments will not approve any settlement of foreign loans by such enterprises.

Any Chinese or foreign investors in an FIREE may not guarantee fixed profit returns or provide other arrangements to the same effect for any party in any form.

#### *Circular No. 50*

On May 23, 2007, the MOFCOM and the SAFE issued the Notice on *Further Strengthening and Standardizing the Approval and Administration of Foreign Direct Investments in Real Estate Enterprises*, or Circular No. 50. Some of the key developments in this area are as follows:

the local governments/authorities that approve FIREE establishments are now required to file such approvals with the MOFCOM;

prior to establishing a FIREE, foreign investors are required to obtain land use rights or the ownership of a real estate project, or the investor should have entered into an indicative land grant contract or indicative project purchase agreement with the land administrative department, developer of the land or owner of the property;

the practice of allowing foreign investors taking over local project companies by way of roundtrip investment is strictly controlled; and

a foreign invested enterprise that intends to engage in real estate development, or an existing FIREE which intends to undertake a new real estate development project, must first apply to the relevant authorities for such business scope and scale expansion in accordance with laws and regulations on foreign investments.

*Circular No. 130*

On July 10, 2007, the SAFE promulgated the *Notice on Publicity of the List of the 1<sup>st</sup> Group of Foreign Invested Real Estate Projects Filed with the MOFCOM*, which is a strict embodiment and application of Circular No. 50, under which some notices will have a significant impact on offshore financings of FIREEs. Some of the key developments in this area are as follows:

an FIREE which has obtained an FIEAC (including new establishment and registered capital increase) and filed with the MOFCOM after June 1, 2007 may not incur foreign debt or convert loans in foreign currency into RMB; and

an FIREE which obtains an FIEAC after June 1, 2007 but fails to file with the MOFCOM after June 1, 2007, may not conduct a foreign exchange registration nor a foreign exchange conversion of its registered capital.

*Circular No. 23*

Under the *Circular on Properly Conducting Filing for the Record for Foreign Investment in the Real Property Sector*, or Circular No. 23, promulgated by the MOFCOM on June 18, 2008 and effective as of July 1, 2008, the MOFCOM delegated to its provincial branches the review of filing records in relation to FIREE's establishment, capital increase, equity transfer, merger and acquisition, etc. Under Circular No. 23, the local branches of the MOFCOM submit all the application documents that were previously required to be filed with the MOFCOM to the aforesaid provincial branches of the MOFCOM for review. Within five days of receipt of the MOFCOM's request, the provincial branches of the MOFCOM that have reviewed such filings must submit all of the aforementioned materials to the MOFCOM.

Notwithstanding the above, Circular No. 23 does not de-regulate the Chinese real estate market. The previous material requirements for granting approval under Circular No. 171 and Circular No. 50 still apply.

*Regulations on Qualifications of Developer*

Under the *Rules on the Administration of Qualifications of Real Estate Developers* promulgated on March 29, 2000 by the MOHURD and effective as of March 29, 2000, a developer must apply for registration of its qualifications. An enterprise may not engage in the development and sale of real estate without a qualification classification certificate for real estate development.

In accordance with the above rules, developers are classified into four classes: class I, class II, class III and class IV. A developer that passes the qualification examination will be issued a qualification certificate of the relevant class by the relevant construction authority.

A developer of any qualification classification may only engage in the development and sale of real estate within its approved scope of business and may not engage in business of another classification. A class I developer is not restricted as to the scale of the real estate projects to be developed and may undertake real estate development projects anywhere in the country. A developer of class II or lower may only undertake projects with a gross area of less than 250,000 square meters and the specific scope of business must be as confirmed by the local construction authority.

Under the Development Regulations, real estate administration authorities examine all applications for the registration of the qualifications of a developer when it reports its establishment, by considering its assets, professional personnel and business results. A developer may only undertake real estate development projects in compliance with the approved qualification registration.

After a newly established developer reports its establishment to the real estate administration authority, the latter will issue a temporary Qualification Certificate to the eligible developer within 30 days of its receipt of the above report. The developer must apply for the qualification classification by the real estate administration authority within one month before expiry of the temporary Qualification Certificate.

*Local Regulations on Qualifications of Developer*

The Regulations on *Administration of Development of Urban Real Estate of Henan Province* provide the following:

- a class I developer is not restricted as to the scale of the real estate development projects it may undertake and may undertake real estate development projects anywhere in the PRC;
- a class II developer may undertake projects with a gross area of less than 250,000 square meters;
- a class III developer may undertake projects with a gross area of less than 100,000 square meters;
- a class IV developer may undertake projects with a gross area of less than 30,000 square meters; and
- a developer with temporary qualification may undertake relevant projects in accordance with its certificate.

The *Rules on the Administration of Qualifications of Real Estate Developers of Shandong Province* promulgated on March 8, 2005 provide the following:

- a class I developer is not restricted as to the scale of the real estate development projects it may undertake and may undertake real estate development projects anywhere in the PRC;
- a class II developer may undertake projects with a gross area of less than 250,000 square meters anywhere in the province;
- a class III developer may undertake projects with a gross area of less than 150,000 square meters anywhere in the province;

a class IV developer may undertake projects with a gross area of less than 100,000 square meters in the city where it is located; and

a developer with temporary qualification may undertake relevant projects complying with its actual conditions such as registered capital and personnel in the city where it is located.

Henan Xinyuan Real Estate Co., Ltd. is classified as a class I developer. Each of Xinyuan (China) Real Estate, Ltd., Shandong Xinyuan Real Estate Co., Ltd., Kunshan Xinyuan Real Estate Co., Ltd., Xuzhou Xinyuan Real Estate Co., Ltd., and Suzhou Xinyuan Real Estate Development Co., Ltd. are classified as a class II developer. Xinyuan Real Estate (Chengdu) Co., Ltd., Anhui Xinyuan Real Estate Co., Ltd. and Zhengzhou Jiantou Xinyuan Real Estate Co., Ltd are classified as class III developers. Henan Jiye Real Estate Co., Ltd. and Henan Wanzhuo Real Estate Co., Ltd and. either holds a valid temporary qualification or is applying for a formal qualification or extension of its expired temporary qualification.

#### *Regulations on Development of a Real Estate Project*

#### *Commencement of a Real Estate Project and the Idle Land*

Under the Urban Real Estate Law, those who have obtained the land use rights through grant must develop the land in accordance with the terms of use and within the period of commencement prescribed in the contract for the land use rights grant.

According to the *Measures on Disposing Idle Land* promulgated by the MLR and enforced on effective as of April 28, 1999, with regards to the land for a real estate project which is obtained by grant and is within the scope of city planning, if the construction work has not been commenced within one year upon the commencement date as set forth in the land use rights grant contract, a surcharge on idle land equivalent to less than 20% of the grant premium may be levied; if the construction work has not been commenced within two years, the land can be confiscated without any compensation, unless the delay is caused by force majeure, or the acts of government or acts of other relevant departments under the government, or by indispensable preliminary work.

### ***Planning of a Real Estate Project***

The *Law of the PRC on Urban and Rural Planning*, promulgated by the National People's Congress on October 28, 2007 and effective as of January 1, 2008, replacing the previous *City Planning Law* of the PRC, provides that a developer who has obtained land use rights by grant must, after obtaining approval for a construction project and signing a land use rights grant contract, apply to the city planning authority for the Permit for Construction Site Planning

It further provides that a developer who has a proposed construction project within the planning area of a city or town must, after obtaining a Permit for Construction Site Planning, prepare the necessary planning and design work, and submit the detailed planning and design report, together with the land use rights certificate, to the city planning authority or the town government designated by the provincial government, and apply for the Permit for Construction Work Planning.

### ***Relocation***

The *Regulations of Administration on City Housing Demolition*, which were promulgated by the PRC State Council on June 13, 2001 and effective as of November 1, 2001, have been revoked and replaced by the *Regulations on the Expropriation of Buildings on State-owned Land and Compensation*, which was promulgated on January 21, 2011 and went into immediate effect. Pursuant to the newly issued regulations, buildings and houses may be expropriated for public interests but fair compensation must be provided. Further, the regulations stipulate that the expropriation of buildings and the corresponding compensation shall be decided based on the principles of democratic decision-making, equitable procedures and transparent results. The compensation for the expropriated buildings must not be less than the market value of property of a similar nature as of the date when the expropriation notice was issued and the fair market value must be determined by qualified real estate appraisal institutes based on the relevant regulations.

Upon granting a demolition and removal permit, the real estate administration department must issue a demolition and removal notice to the inhabitants of the area.

### ***Construction of a Real Estate Project***

According to the *Measures for the Administration of Construction Permits for Construction Projects* promulgated by the MOHURD on October 15, 1999 and amended and effective as of July 4, 2001, after obtaining the Permit for Construction Work Planning, a developer must apply for a Construction Permit from the relevant construction authority.

### ***Completion of a Real Estate Project***

According to the *Development Regulations and the Interim Provisions on the Acceptance Examination Upon the Completion of Construction Work and Municipal Infrastructure* promulgated on June 30, 2000 by the MOHURD and effective as of June 30, 2000, as amended on October 19, 2009, and the *Interim Measures for Reporting Details Regarding Acceptance Examination Upon Completion of Construction Work and Municipal Infrastructure* promulgated on April 7, 2000 by the MOHURD and amended on October 19, 2009, a real estate project must comply with the relevant laws and other regulations, requirements on construction quality, safety standards and technical guidance on survey, design and construction work, as well as provisions of the relevant construction contract. After the completion of works for a project, the developer must apply for an acceptance examination to the construction authority and must also report details of the acceptance examination to the construction authority. A real estate development project may only be delivered after passing the acceptance examination.



### ***Regulations on Sale of Commodity Properties***

Under the *Measures for Administration of Sale of Commodity Properties* promulgated by the MOHURD on April 2001, the sale of commodity properties can include both pre-completion and post-completion sales.

### ***Pre-completion Sales***

In accordance with the *Measures for the Administration of Pre-completion Sale of Commodity Properties*, or Pre-completion Sale Measure, promulgated in November 1994 by the MOHURD and amended on July 20, 2004, a developer intending to sell a commodity building before its construction work's completion must attend to the necessary pre-completion sale registration with the real estate administration authority of the relevant city or county to obtain a Permit for Pre-completion Sale of Commodity Properties.

Commodity properties may only be sold before completion if:

the grant land premium has been paid in full for the grant of the land use rights involved and a land use rights certificate has been obtained;

a permit for construction work planning and a construction permit have been obtained;

the funds invested in the development of the commodity properties put up for pre-completion sale represent 25% or more of the total investment in the project and the progress of works and the completion and delivery dates have been ascertained; and

the pre-completion sale has been registered and a permit for pre-completion sale of commodity properties has been obtained.

The *Circular on Issues Relevant to Further Strengthening the Regulation of the Real Property Market and Improving the System for Pre-sale of Residential Premises*, promulgated by the MOHURD on April 13, 2010, provides that:

For residential projects for which a pre-sale permit has not yet been obtained, real estate developers may not pre-sell such premises, collect or collect in a disguised manner, deposits, reservation fees or other such fees from purchasers

in the form of subscriptions, reservations lot drawings or the issuance of VIP cards, or participate in any exhibition.

Where a real estate developer has obtained a pre-sale permit for its residential project, it must publicize all premises available for sale and the prices of each unit at one time within 10 days, and must sell the premises to the public with clearly marked prices as filed. Real estate developers may not sell the premises reserved for self use to the public before the initial registration of the housing ownership, pre-sell premises through a refund of the sales amount to the purchaser or the guarantee of a lease of the property after sales, or conduct sham transactions.

The minimum unit permitted for pre-sale must be one building. Pre-sale permits may not be made for floors or units.

All proceeds from the pre-sale of commodity residential premises must be deposited into accounts monitored by the regulatory authorities to ensure that such proceeds are used for construction of the commodity residential premises.

The *Regulations on Administration of Development of Urban Real Estate of Henan Province* also provide that commodity properties may only be sold before completion if half or more of the project has been completed and the construction schedule and delivery date has been specified in addition to compliance with the requirements under the Pre-completion Sale Measures.

The *Regulations on Administration of Transfer of Urban Real Estate of Jiangsu Province* promulgated on February 5, 2002 and amended on August 20, 2004 also provide that commodity properties may only be sold before completion in accordance with the requirements under the Pre-completion Sale Measures.

The *Regulations on Administration on Urban Real Estate Transaction of Anhui Province*, promulgated on May 29, 2000 and effective as of December 1, 2000, provide that the development enterprises which have obtained a permit for pre-completion sale of commodity properties must file with the real estate administrative authority of the relevant city or county pre-sale contracts entered into with customers.

### ***Management of Proceeds from Pre-sales of Properties***

The Pre-completion Sale Measures also provide that the proceeds obtained by a real estate developer from the advance sale of commodity properties must be used for the construction of the relevant projects. The specific measures for the supervision of proceeds from the pre-sale of commodity properties are formulated by the real estate administration authorities.

Under the *Implementing Regulations on Supervision of Proceeds from Pre-sales of Commodity Properties of Jinan City*, promulgated by Jinan Committee of Construction on September 26, 2005 and effective as of October 26, 2005, the proceeds from pre-sales of properties must be used in the construction of pre-sale projects, including the purchase of construction materials and equipments, remittance of construction fees and taxes payable, and should not be used for other purposes.

In accordance with the *Implementing Opinions on Strengthening the Management of Pre-sale of Urban Commodity Properties*, promulgated by the People's Government of Sichuan Province on March 23, 2000, the proceeds from pre-sales of properties must be deposited in a special bank account opened by the developers, may only be used for the relevant construction work and may not be used for other purposes. The relevant banks monitor the use of the proceeds of pre-sales and ensure that the proceeds are used in the designated way.

Pursuant to the *Regulations on Supervision of Proceeds from the Pre-sales of Commodity Properties in Zhengzhou*, promulgated by the Zhengzhou People's Government on November 20, 2009 and effective as of December 20, 2009, the proceeds from the pre-sales of properties must be used for the construction of the same, which includes the purchase of construction materials and equipment, remittance of fees for construction and taxes payable.

### ***Post-completion Sales***

In accordance with the *Measures for Administration of Sale of Commodity Properties* promulgated by the MOHURD on April 4, 2001, commodity properties may be put up for post-completion sale only when the following preconditions for such sale have been satisfied:

the developer offering to sell the post-completion properties has a valid business license and a qualification classification certificate;

- the developer has obtained a land use rights certificate or other approval documents of land use;
- the developer has the relevant permit for construction project planning and the permit for construction;
- the commodity properties have been completed, inspected and accepted as qualified;
- the relocation of the original residents has been settled;

the supplementary and essential facilities for supplying water, electricity, heating, gas, communication, etc. have been made ready for use, and other supplementary facilities and public facilities have been made ready for use, or the schedule of construction and delivery date of such facilities have been specified; and

- the property management plan has been completed.

Prior to a post-completion sale of a commodity property, a real estate developer is required to submit the Real Estate Development Project Manual and other documents showing that the preconditions for a post-completion sale have been fulfilled to the real estate development authority.

### ***Regulations on Property Ownership Certificates***

Under the Sale Measures, the developers must submit the documents relating to the application for property ownership certificates to the local real estate administration authorities within 60 days after the delivery of the property to customers. The developers are required to assist customers in applying for amendments in the procedures for land use rights and registration procedures for property ownership.

In accordance with the Pre-completion Sale Measures, the purchasers must apply for property ownership certificates to the local real estate administration authorities within 90 days after the delivery of pre-sale property to purchasers. The developers are required to assist and provide the purchasers with necessary verifying documents. Where the purchasers fail to obtain the property ownership certificates within 90 days thereafter due to the developer's fault, unless otherwise provided between the developers and the purchasers, the developers will be liable for the breach of contract.

### ***Regulations on Transfer, Mortgage and Lease***

#### ***Transfer***

According to the Urban Real Estate Law and the *Provisions on Administration of Transfer of Urban Real Estate* promulgated on August 7, 1995 by the MOHURD and amended on August 15, 2001, a real estate owner may sell, bequeath or otherwise legally transfer real estate to another person or legal entity. When transferring a building, the ownership of the building and the land use rights to the site on which the building is situated are transferred as well.

The parties to a transfer must enter into a real estate transfer contract in writing and register the transfer with the real estate administration authority having jurisdiction over the location of the real estate within 90 days of the execution of the transfer contract.

Where the land use rights were originally obtained by grant, the real property may only be transferred if:

the grant premium has been paid in full for the grant of the land use rights as provided by the grant contract and a land use rights certificate has been obtained; and

the development has been carried out according to the grant contract: in the case of a project for which buildings are developed, development representing more than 25% of the total investment has been completed; in the case of a whole land lot development project, construction works have been carried out as planned, water supply, sewerage, electricity supply, heat supply, access roads, telecommunications and other infrastructure or utilities have been made available, and the site has been leveled and made ready for industrial or other construction purposes.

### *Mortgages of Real Estate*

Under the Urban Real Estate Law and the *Security Law of the PRC* promulgated by the Standing Committee of the National People's Congress on June 30, 1995 and effective as of October 1, 1995 and amended on October 27, 2005, and the *Measures on the Administration of Mortgage of Buildings in Urban Areas* promulgated by the MOHURD in May 1997 and amended on August 15, 2001, when a mortgage is created on the ownership of a building on state-owned land legally obtained, a mortgage will be simultaneously created on the land use rights of the land on which the building is erected. Land use rights occupied by the properties will also be mortgaged at the same time. The mortgager and the mortgagee sign a mortgage contract in writing. Within 30 days after a real estate mortgage contract has been signed, the parties to the mortgage must register the mortgage with the real estate administration authority in the city where the real estate is situated. A real estate mortgage contract will become effective on the date of registration of the mortgage. If a mortgage is created on the property placed on pre-sale or which is still undergoing construction, the registration authority will, when registering the mortgage, record such details on the mortgage contract. If the construction of the property is completed during the term of a mortgage, the parties involved will have to re-register the mortgage after the issuance of the relevant certificates evidencing the rights and ownership to the real estate.

*Lease*

Under the Urban Real Estate Law and the *Measures for Administration of Leases of Commodity Properties in Urban Areas* promulgated by the MOHURD on December 1, 2010 and effective as of February 1, 2011, the parties to a lease of a building are required to enter into a lease contract in writing. When a lease contract is signed, amended or terminated, the parties must register the details with the real estate administration authority in which the building is situated.

*Regulations on Real Estate Financing*

The *Opinion of MOHURD and Other Departments on Adjusting the Housing Supply Structure and Stabilizing the Property Prices*, issued on May 24, 2006 by the State Council, provides that, to tighten the control of advancing loan facilities, commercial banks are not allowed to advance their loan facilities to developers who do not have the required 35% or more of the total capital for the construction projects. The commercial banks should be prudent in granting loan facilities and/or revolving credit facilities in any form to the developers who have a large number of idle land parcels and unsold commodity properties. Banks may not accept mortgages of commodity properties remaining unsold for more than three years.

The *Circular on Strengthening the Management of Commercial Real Estate Credit Facilities*, issued on September 27, 2007 by the PBOC and the CBRC, as supplemented on December 5, 2007, provides that:

the minimum down payment for any purchase of first self-use residential property with a unit GFA of less than 90 square meters is 20% of the purchase price of the property. The minimum down payment for any purchase of first self-use residential property with a unit GFA of 90 square meters or more is 30% of the purchase price of the property; and

if a family member (including the purchaser and his / her spouse and their children under 18) has financed the purchase of a residential property with bank loans from banks, any member of the family that purchases another residential property will be regarded as a second-time property purchaser.

The *Notice of the State Council on Firmly Curbing Precipitous Rise of Some Urban Housing Prices* (GUOFA 2010 No.10), promulgated on April 17, 2010 by the State Council, provides for the implementation of a stricter differentiated housing loan policy, including:

purchasers of a first residential property for a household with a gross floor area of greater than 90 square meters must make down payments of no less than 30% of the purchase price;

purchasers of a second residential property for a household must make down payments of no less than 50% of the purchase price and the interest rate of any mortgage for such property must equal at least the benchmark interest rate plus 10%; and

the minimum down payment amount and applied interest rate must be increased significantly for purchasers of a third residential property.

On May 26, 2010, the MOHURD, the PBOC and the CBRC jointly issued a notice clarifying the criteria for determining a “second residential household property”. Among other matters, the requirements on down payments and interest rates for mortgages on a second residential property will also apply to non-local resident purchasers (i.e., purchasers who cannot provide proof that they have been making individual income tax payments or social security payments in the relevant local area for more than one year) applying for housing-related mortgage financing, regardless of whether there is any residential property under the name of a member of their households at the time of application.



The *Circular of the Ministry of Finance and the State Administration of Taxation on Adjusting the Business Tax Policy on Individual House Transfer*, promulgated by the Ministry of Finance and the State Administration of Taxation on January 27, 2011, provides that:

if a person sells housing purchased less than 5 years ago, business tax will be levied in the full amount; if a person sells non-ordinary housing purchased not less than 5 years ago, business tax will be levied based on the balance of the sales price and the purchase price of the house; and

- if a person sells ordinary housing purchased not less than 5 years ago, business tax will be exempted.

The *Notice of the State Council on Resolutely Curbing the Soaring Housing Prices in Some Cities* (Circular No. 10) promulgated by the General Office of the State Council on January 26, 2011, provides that all local governments and the ministries and commissions under the State Council must comply with the following requirements:

if an individual transfers a house within five years after purchasing it, all his or her income from such sale will be subject to business tax;

a household purchasing a second residential household property by mortgage financing, the down payment must not be less than 60% of the purchase price, and the interest rate for a mortgage on such property must not be less than 1.1 times of the benchmark interest rate;

local governments are required to strengthen the administration of housing land supply and the land supply for housing for low-income people and shantytown renovation. Small and medium-sized common commodity property must not be less than 70% of the total housing land supply;

a local resident household having one residential household property, or a non-local resident household that is able to provide the individual income tax payment certificate or social insurance contribution certificate for a certain number of years, may only be allowed to purchase one more residential property;

a local resident household having two or more residential property, or a non-local resident household having one or more residential property or is unable to provide the individual income tax payment certificate or social insurance contribution certificate for a certain number of years, may not be allowed to purchase any residential property in the local area.

In accordance with the *Notice of MOHURD and SAFE on Further Regulating the Administration of Houses Purchase by Overseas Entities and Individuals* promulgated on November 4, 2010, except as otherwise provided in the law, an overseas individual may only purchase one house unit for personal residence, and an overseas entity establishing

domestic branches or representative offices may only purchase non-residential houses in the city of registration for business purposes.

*Regulations on Housing Supply and Improving the Healthy Development of the Real Estate Market*

*The Opinion of the MOHURD and Other Departments on Adjusting the Housing Supply Structure and Stabilizing Property Prices* provides the following:

commercial banks may not grant loans to any developer whose total investment capital contributed is less than 35% and may not accept any premises that have been left vacant for more than three years as security;

land that has been left idle for two years or more will be repossessed by the government without any compensation payment to the developer. Also, land will be treated as being left idle if construction has been halted for more than one year and the total area developed is less than one-third of the whole project area or the capital invested is less than a quarter of the total investment;

there will be no supply of land for villas and other equivalent real estate development projects, while land allocation for low-density, large housing developments will remain tight; and

no planning permit, construction permit or premises pre-sale permit is to be issued for projects that do not comply with the abovementioned requirements, in particular composite structure projects that exceed planning requirements.

*The Notice on Increasing the Supply of, and Strengthening the Supervision over, Land for Real Estate Development Purposes* issued on March 8, 2010 by the MLR, provides that:

the floor price of a parcel of land must not be lower than 70% of the benchmark land price set for the area in which the parcel is located;

real estate developers participating in land auctions must pay a deposit equivalent to 20% of the land parcel's floor price; and

real estate developers must report to the competent land authorities when they commence and complete the construction of each project, and the land authorities will conduct inspections according to the corresponding land grant contract.

This notice also reiterated the policy that the initial installment payment made by real estate developers for a parcel of land must not be less than 50% of the overall amount owed for the land use rights.

#### *Regulations on Environmental Protection in Construction Projects*

Under the *Regulations on the Administration of Environmental Protection in Construction Projects*, or Environmental Regulations, promulgated by the State Council on November 29, 1998 and effective as of the same date, each construction project is subject to an environmental impact assessment by the relevant authorities.

According to the Environmental Regulations, a developer is required to submit an environmental impact report, or an environmental impact report form, or an environmental impact registration form (as the case may be) to the relevant environmental protection administration for approval during the project's feasibility analysis stage. In the meantime, if any ancillary environmental protection facilities are necessary in the construction project, such facilities are required to be designed, constructed and used in conjunction with the main project. After completion of the project, the developers are required to apply to the relevant environmental protection administrations for final acceptance examination in respect of any ancillary environmental protection facilities. Construction projects are approved for use

after passing the said acceptance examination.

The *Environmental Impact Assessment Law*, promulgated by the National People's Congress on October 28, 2002 and effective as of September 1, 2003, provides that if the environmental impact assessment documents of a construction project have not been examined by the relevant environmental protection administrations or are not approved after examination, the authority in charge of examination and approval of the project may not approve construction on the project, and the construction work unit may not commence work.

On July 6, 2006, the State Environmental Protection Administration issued its *Circular on Strengthening the Environmental Protection Examination and Approval and Strictly Controlling New Construction Project*, which provides for stringent examination and approval procedures for various real estate development projects. It also stipulates that no approvals may be issued for new residential projects or extensions in industry development zones, areas impacted by industrial enterprises or areas where such development poses potential harm to residents' health.

#### *Regulations on Property Management*

The *Property Management Rules*, amended by the State Council on August 26, 2007 and effective as of October 1, 2007, provide that property owners have the right to appoint and dismiss property service enterprises (formerly known as property management enterprises). The rules also establish a regulatory system for property service enterprises, which encompasses the following regulations:

the Measures for the Administration of Qualifications of Property Service Enterprises (formerly known as the Measures for the Administration of Qualifications of Property Management Enterprises) amended by the MOHURD and effective as of November 26, 2007, provide that property service enterprises must apply to the local branch of the MOHURD and undertake a qualification examination to obtain a Property Service Qualification Certificate. A property service enterprise must pass the Property Service Qualification (formerly known as the Property Management Qualification), or PSQ examination, in order to engage in property management. Property service enterprises are classified as Class I, II or III. Different classes of service enterprises have different establishment requirements and may manage different types of premises.

the Provisional Measures on the Administration of Initial Property Management Bid-inviting and Bidding, promulgated on June 26, 2003 by the MOHURD, provide that prior to the selection of the Property Owners' Committee, or the POC, the property developer will select a property management enterprise to provide property management services.

the NDRC and the MOHURD jointly promulgated the Rules on Property Management Service Fees on November 13, 2003, which provide that property management fees will be determined by mutual consent between the POC and the property management enterprise, and set forth in writing in the property management service contract.

Henan Xinyuan Property Service Co., Ltd. is a Class I property management company.

#### *Regulations on Urban Landscaping Services*

The *Regulations Regarding Urban Landscape* promulgated on June 22, 1992 by the State Council and the *Measures on Administration of Qualifications of Urban Landscaping Enterprises* promulgated on July 4, 1995 provide the following:

any enterprise that wishes to provide landscaping services must apply to the MOHURD's local branch for an urban landscaping qualification, or ULQ, certificate; and

if a landscaping enterprise wishes to provide landscaping service outside the province where it is registered, it must establish branches in such locales and submit its original ULQ certificate for filing with the MOHURD's respective local branch.

#### *Local Regulations on Urban Landscaping Services*

On August 7, 2006, the Construction Bureau of Henan promulgated the *Implementation Measures on the Administration of Qualifications of Urban Landscaping Enterprise in Henan*. These measures require a newly-established landscaping enterprise to apply to the local construction administration for a temporary Class III qualification. The requirements for a temporary Class III qualification are the same as for a Class III qualification (except no requirement for experience). A temporary Class III qualification is valid for two years, after which, the local construction administration authority will issue a Class III qualification if the enterprise successfully passes an examination. Otherwise, the local construction administration authority will extend the temporary qualification term or withdraw the temporary Class III qualification. A ULQ certificate is subject to an annual inspection by the local construction administration authorities.

Zhengzhou Mingyuan Landscape Engineering Co., Ltd. is a Class III urban landscaping service company. Its qualification will expire in May 2013.

### C. Organizational Structure

The following diagram illustrates our corporate structure as of March 31, 2012.

D. Property, plant and equipment

Our headquarters are located in Beijing China, where we lease approximately 2,390 square meters of office space. We also lease a total of approximately 3,610 square meters of office space in other cities where our subsidiaries are located, which includes approximately 472 square meters in Chengdu, Sichuan Province, 498 square meters in Jinan, Shandong Province, 562 square meters in Suzhou, Jiangsu Province, 581 square meters in Xuzhou, Jiangsu Province and 1,497 square meters in Zhengzhou, Henan Province.

**ITEM 4A. UNRESOLVED STAFF COMMENTS**

None.

**Item 5. Operating and Financial Review and Prospects**

*You should read the following discussion and analysis of our financial condition and results of operations in conjunction with our consolidated financial statements and the related notes included elsewhere in this annual report on Form 20-F. This discussion may contain forward-looking statements based upon current expectations that involve risks and uncertainties. Our actual results may differ materially from those anticipated in these forward-looking statements as a result of various factors, including those set forth under “Item 3. Key Information—D. Risk Factors” or in other parts of this annual report on Form 20-F.*

A.

Operating Results

*Overview*

Since our inception in 1997, we have completed twenty-two projects with total GFA of 2,143,862 square meters. Since 2006, we have expanded our operations outside of Zhengzhou and we are currently developing and planning projects in seven Tier II cities. As of December 31, 2011, we had thirteen projects in six cities with estimated total GFA of 2,973,746 square meters under construction and planning, of which eleven projects with estimated total GFA of 2,647,846 square meters were under construction.

Our revenue, derived primarily from sales of residential real estate, has increased from US\$449.0 million in 2009 to US\$450.0 million in 2010 and to US\$687.5 million in 2011. Our net income was US\$42.4 million, US\$51.1 million and US\$102.3 million respectively, for the same periods. We acquire land primarily through auctions of government land. This acquisition method allows us to obtain unoccupied land with unencumbered land use rights, which in turn enables us to save the time and expenses associated with protracted legal processes to obtain title, demolition and re-settlement and to commence construction quickly.

On November 1, 2010, we completed the acquisition of the remaining 55% ownership interest in Jiantou Xinyuan for a purchase price of US\$4.4 million (RMB29.2 million) paid in cash. As we had formerly owned 45% of the equity interest in Jiantou Xinyuan, Jiantou Xinyuan had been accounted under the equity accounting method until November 1, 2010, the date of our acquisition of the remaining 55% equity interest in Jiantou Xinyuan and on which date Jiantou Xinyuan became our wholly owned subsidiary. The results of Jiantou Xinyuan have been included in our consolidated financial statements since November 1, 2010. As of December 31, 2011, Jiantou Xinyuan had one project under construction with an estimated total GFA of 198,543 square meters. All of Jiantou Xinyuan's projects are located in Zhengzhou, Henan Province.

As a public company, we are subject to the rules and regulations of the United States securities laws and the NYSE relating to, among other things, corporate governance and internal controls. As such, we have recruited the appropriate amount of experienced management, accounting and other personnel. We have also incurred expenses to improve our enterprise resource management system and internal controls.

The most significant factors that directly or indirectly affect our financial performance and results of operations are:

Economic growth and demand for residential property in China;



- PRC government policies and regulations, including tax guidelines and lending policies for the real estate sector;
- Location, number and type of our property developments;
- Availability and cost of financing;
- Acquisition of quality land use rights in target markets;
- Changes in the price of raw materials and labor costs; and
- Our execution capability to support business expansion.

*Principal Factors Affecting Our Results of Operations*

***Economic growth and demand for residential property in China***

Our business and results of operations are significantly affected by trends and developments in the PRC economy, including disposable income levels, urbanization rate, population growth, and availability of project and consumer financing, which affect demand for residential properties in China. During the past decade, China has experienced significant economic growth, which has created a favorable operating environment for us in the cities where we operate. As of December 30, 2011, 99.6% of the units in our completed projects have been sold. Although we have experienced demand softness since the second quarter of 2010 due to the strict mortgage policy and other measures taken by the PRC government to slow down the rapid increase in housing prices, we expect continuing economic growth in China, rising disposable income levels and population growth in Tier II cities to support demand for residential properties over the next few years.

***PRC government policies and regulations***

Our business and results of operations are significantly affected by PRC government policies and regulations, particularly those that relate to land sales and development, project and consumer financing, property sales and transfers, property taxation and residential property prices.

Since 2004, due to concerns that investment in the PRC property market may become excessive, the PRC government introduced a series of measures to curb speculative investments in the property market, regulate real estate project lending and promote the development of more low- and mid-priced housing. These policies have included, among others, clarification of the measurement and enforcement of land appreciation tax, or LAT, 40% minimum down payment for any purchase of second or subsequent residential property, the increase of the loan interest rate for such purchases to no less than 110% of the benchmark interest rate, the tightening of money supply and the lifting of bank lending rates.

However, due to the financial crisis beginning in late 2008, the PRC government introduced a stimulus package, which included the reduction of deed taxes for first-time purchasers of ordinary residential property of less than 90 square meters, the waiver of stamp duty fees for individuals who are purchasing or selling ordinary residential properties, and the exemption of LAT for individuals who are selling ordinary residential properties, among other benefits.

In late 2009, the PRC real estate market recovered and housing prices rose rapidly in certain cities. In connection with this, the general office of PRC State Council issued a circular on January 7, 2010 which aimed to control the rapid increase in housing prices and cool down of the real estate market. Among other matters, the circular reiterated that purchasers of a second residential property for their households must make down payments of no less than 40% of the purchasing price, and that real estate developers who have received approval to sell property must commence the sale within the mandated period at the price they have publicly announced. The circular also requested local governments to increase the effective supply of low income housing and ordinary commodity housing and instructed the PBOC and CBRC to tighten the supervision of bank lending to the real estate sector. On January 18, 2010, the PBOC decided to tighten the credit supply by increasing the reserve requirement ratio for commercial banks by 0.5%, which was the first increase since June 2008.

The General Office of the State Council promulgated the *Notice of the State Council on Resolutely Curbing the Soaring Housing Prices in Some Cities* on January 26, 2011, which provides, among other things, that for a household purchasing a second residential household property by mortgage financing, the down payment may not be less than 60% of the purchase price, and the interest rate for the mortgage on the second residential household property may not be less than 1.1 times the benchmark interest rate; in municipalities, the capital city of each province, and other cities where housing prices are too high, a local resident household having one residential household property, or a non-local resident household which is able to provide required certificates as to payment of income tax and social

insurance contributions for a certain number of years, may only purchase one additional residential property; for a local resident household already having two or more residential property, or a non-local resident household that already has one or more residential properties or is unable to provide the requisite certificates, the purchase of any residential property in the local area is not permitted. Localities that have already promulgated their own policies on limiting the purchase of residential properties must bring those policies in line with the abovementioned principle as soon as possible. Municipalities, capital cities of each province, and other cities where housing prices are too high must promulgate policies to limit the purchase of residential properties.

In accordance with the *Notice of MOHURD and SAFE on Further Regulating the Administration of Houses Purchase by Overseas Entities and Individuals* promulgated on November 4, 2010, except as otherwise provided in the law, an overseas individual may only purchase one house unit for personal residence, and an overseas entity establishing domestic branches or representative offices may only purchase non-residential houses in the city of registration for business purposes.

We believe it is in the PRC government's interest to stabilize the market, and the urbanization process and the continuous increase of disposable income will continue to support the long-term growth of China's real estate market, so we expect that the government will maintain policies that will foster long-term healthy growth and curb potential bubbles in the market. However, there can be no assurance that the PRC government will not adopt further measures in the near future that may adversely affect our business and financial performance.

Moreover, a substantial portion of our customers depend on mortgage financing to purchase our properties. Although government policies have generally fostered the growth of private home ownership, regulations have been adopted in recent years to tighten and then loosen mortgage lending rules. For example, the minimum down payment required for residential properties of 90 square meters or more was increased from 20% to 30% of the purchase price in 2006. In September 2007, the minimum down payment for any second or subsequent purchase of residential property was increased to 40% of the purchase price where the purchaser had obtained a bank loan to finance the purchase of his or her first property. Moreover, the interest rate for bank loans of such purchase may not be less than 110% of the PBOC, benchmark rate of the same term and category. Effective as of December 20, 2008, however, residents who have already purchased, with mortgages, an "ordinary property for self-use" that is smaller than the average size for their locality are entitled to the preferential loan interest rate and down payment ratio available to first-time purchasers of residential property when they purchase a second property to improve their living conditions. The down payment ratio, the loan interest rate and the size of mortgage financing are important factors that affect our results of operations.

The PRC government will also from time to time introduce sales tax incentives or disincentives to either stimulate or dampen demand. For example, the required holding period for avoidance of tax on capital gains on sale of real estate was extended in December 2009 from 2 years to 5 years in an effort to reduce alleged speculation.

### ***Number, type and location of our property developments***

The amount of revenue we record in any given period is affected by a number of factors, including the number, type and location of properties we have under construction and their stage of completion, whether the completed units have been sold and the realized selling prices for such units. The average selling prices of our projects vary depending on the types and sizes of the units sold and on the location of the projects. As the overall development moves closer to completion, the sales prices tend to increase because a more established residential community is offered to purchasers. The type of property development affects the estimated construction period of the project, which largely determines the revenue recognition method we apply. Revenue recognized in any period under the full accrual method depends on the number, aggregate GFA and average selling prices of units completed and sold during the period. Revenue recognized in any period under the percentage of completion method depends on contracted sales of units in the relevant project and the completion progress of a project (measured by the ratio of cost incurred to total estimated cost). As the completion and sales of our projects are not spread evenly over time, our results of operations may differ significantly from period to period.

*Availability and cost of financing*

Like other property developers, we require substantial capital investment for the acquisition of land use rights and the construction of our projects. Our ability to secure financing for such purposes affects the number of projects we are able to develop at any time. In the wake of the global financial and economic crisis, the PBOC reduced the reserve requirement ratio imposed on banks several times in late 2008 from 17.5% to 15.5%. However after maintaining the reserve requirement at 15.5% for approximately 12 months, the PBOC announced an increase of the rate to 16% effective January 2010 and then after several changes to 17% for small and medium-sized financial institutions and 20.5% for large financial institutions effective February 2012, thus impacting the total amount of bank loans available to the real estate industry. These changes in the availability of bank loans may affect our ability to obtain sufficient funding from banks to finance our business expansion.

The cost of our financing also affects our operating results. We typically obtain bank borrowings for up to 65% of the cost of our land use rights to fund project development after we receive the required permits. Interest rates on our commercial bank borrowings vary and are linked to benchmark lending rates published by the PBOC. The PBOC decreased the benchmark lending rate five times in 2008 but has not changed it since December 23, 2008. In 2007, we issued US\$75 million principal amount of floating rate notes, which bore interest at a variable rate based on LIBOR plus 6.8% per annum, and US\$25 million principal amount of convertible notes, which bore interest at 2% per annum. These notes were paid in full in April 2010, at which time we issued US\$40 million principal amount of secured notes which bear interest at 15.6% per annum. We expect our interest costs to fluctuate in future periods as a result of changes in interest rates and our outstanding borrowing.

***Acquisition of land use rights in target markets***

Our business model depends to a large extent on our ability to acquire land use rights for development sites and proceed quickly with construction to shorten our development cycle. As a consequence, we are frequently surveying the market for attractive development opportunities in our target cities. Under current regulations and market practice, land use rights for residential development purposes may be acquired from local governments through a competitive auction or other bidding process, in which the minimum reserve price is determined based on the appraised value. Land use rights may also be acquired in the secondary markets. Land use rights prices vary significantly from city to city.

Government land auctions are a transparent and competitive process for bringing development land to market, allowing the developer to acquire clean title and the ability to proceed immediately with development. However, as competition for development sites in Tier II cities increases, the auction mechanism tends to lead to higher prices. In 2009, 2010 and 2011, land use rights costs, including auction price and taxes, constituted 42.5%, 38.6% and 36.9%, respectively, of our cost of revenue. We have noted that land use rights costs stabilized in the Tier II cities where we have operations due to softness in the market during the fourth quarter of 2008 and the first quarter of 2009. Then, in late 2009, land use rights costs started to increase slightly again due to the recovery of the real estate market in China and sudden rise in housing prices in certain cities. However, since the fourth quarter of 2011, land use right costs started to decrease slightly due to the less demands in real estate market. In the fourth quarter of 2011, we had acquired two parcels of land in Xuzhou, Jiangsu province and Zhengzhou Henan province respectively.

***Increases in the price of raw materials and labor costs***

We outsource the design and construction of our property developments to third-party service providers. Our third-party contractors are responsible for providing labor and procuring a majority of the raw materials used in our project developments. Our construction contracts typically provide for fixed or capped payments, but the payments are subject to changes in certain cases, such as changes in government-suggested steel prices. Any increase in labor costs or other costs which may result in adjustments in payments under our construction contracts could result in an increase in our construction costs. In addition, the increase in the price of raw materials, such as cement, concrete blocks and bricks, in the long run could be passed on to us by our contractors, which could increase our construction costs. Any input cost increase could reduce our earnings to the extent we are unable to pass these increased costs to our customers.

***Our execution capability to support business expansion***

Since 2006, we have been expanding our residential property development operations from Zhengzhou in Henan Province into other Tier II cities, including Chengdu in Sichuan Province, Hefei in Anhui Province, Jinan in Shandong Province, and Suzhou, Kunshan and Xuzhou in Jiangsu Province. In the fourth quarter of 2009, we acquired land in Xuzhou in Jiangsu Province and plan to expand into additional Tier II cities as suitable opportunities arise. The development of real estate projects outside Zhengzhou will impose significant demand on our management and other operational resources. Moreover, we will face additional competition and will need to establish brand recognition and market acceptance for our developments in these new markets. Any expansion of our business operations to projects in the United States will also impose significant demands on our management and other operational resources and will be subject to challenges similar to those described above for our current operations. Each of our Tier II cities has its own market conditions, customer requirements and local regulations related to the real estate industry. The success of our business expansion depends on our ability to develop, market, and deliver quality development projects on time. The progress and costs of a development project can be adversely affected by many factors, such as delays in obtaining necessary licenses, permits or approvals from relevant government authorities, failure by local contractors to comply with our designs, specifications or standards, and disputes with our third-party contractors. For instance, we are not permitted to commence pre-sales until we have reached certain milestones in the construction progress for a project. Thus, any significant delay in construction could restrict our ability to pre-sell our properties, which could extend the recovery period for our investments. This, in turn, could have an adverse effect on our cash flow, investment returns and financial position.

*Operating Results**Revenues*

Our revenues are derived mainly from the development and sale of real estate. In addition, we generate a small percentage of revenue from leasing ancillary facilities and residential units in certain of our residential developments, as well as from the provision of related services, including property management and real estate agency services.

|                     | Year Ended December 31,                     |       |         |       |         |       |
|---------------------|---|-------|---------|-------|---------|-------|
|                     | 2009  |       | 2010    |       | 2011    |       |
|                     | US\$  | %     | US\$    | %     | US\$    | %     |
|                     | (US\$ in thousands, except for percentages) |       |         |       |         |       |
| Real estate sales   | 441,338                                     | 98.3  | 438,792 | 97.5  | 673,381 | 97.9  |
| Real estate leasing | 320   | 0.1   | 181     | 0.1   | 2,834   | 0.4   |
| Other revenue       | 7,326                                       | 1.6   | 10,999  | 2.4   | 11,293  | 1.6   |
| Total revenues      | 448,984                                     | 100.0 | 449,972 | 100.0 | 687,508 | 100.0 |

The impact of foreign exchange rate variances on the reported revenues in US dollars was a favorable 4.6% for the year ended December 31, 2011, compared to a favorable 0.9% for the year ended December 31, 2010. These variance were due to a steady appreciation of the RMB versus the US\$ during 2011.

*Real Estate Sales*

Real estate sales represent revenues from the sales of residential properties we develop. Throughout this annual report, real estate sales are stated net of sales tax levied on the relevant contracted sales value. Sales tax is a one-time tariff which consists of a business tax at the rate of 5%, an urban construction tax at the rate of 0.35% and an education surcharge at the rate of 0.15%. Total sales tax amounted to US\$25.8 million, US\$26.4 million and US\$40.3 million for 2009, 2010 and 2011, respectively.

When we developed smaller projects in the past, we recognized most of our projects under the full accrual method. In the year ended December 31, 2009, 2010 and 2011, we recognized all our real estate sales revenues under the percentage of completion method.



Our real estate sales revenue for 2011 was negatively impacted by the new government mandates on housing policy affecting the availability of mortgage financing in 2010 and 2011. The increase in 2011 was mainly due to four new projects launched, Jinan Xinyuan Splendid, Zhengzhou Royal Palace, Zhengzhou Century East B and Yipin Xiangshang II.

In the third quarter of 2010, we found that certain of our contracted buyers for the Kunshan International City Garden project were not able to secure mortgages at terms and amounts foreseen at the time of contract execution, resulting from the government issued new mandates on housing policy affecting the availability of mortgage financing in 2010. As a result, we reversed contracted sales amounts of US\$42.8 million related to sales contracts of 348 apartments. We took the position that contracts that were not clearly executable under prevailing government policies were not recognized as revenue under the percentage of completion method. The reversals, which represented 12.0% of all contract sales from inception through December 31, 2010 for Kunshan, reduced revenue by US\$31.5 million under the percentage of completion method for the year ended December 31, 2010. For the year ended December 31, 2011, we reversed contracted sales amounts of US\$4.0 million related to sales contracts of 28 apartments. In all of other projects throughout China, where over 90% of buyers are owner occupiers and not investors, there is no significant mortgage availability problem and, thus, no reversals have been recorded.

*Real Estate Leasing*

Real estate leasing revenues represent the income from the rental of ancillary facilities, including parking facilities, kindergarten, elementary school, and clubhouse in a number of our developments. We also lease a small number of residential units owned by us.

*Other Revenue*

Other revenue consists primarily of fees received for our property management services, landscaping and computer network engineering and other real estate-related services that we provide to residents and purchasers of our residential units.

*Cost of Revenues*

The following table sets forth a breakdown of our cost of revenues for the period indicated.

|   | Year Ended December 31, |       |         |       |         |       |
|---|-------------------------|-------|---------|-------|---------|-------|
|   | 2009                    |       | 2010    |       | 2011    |       |
|   | US\$                    | %     | US\$    | %     | US\$    | %     |
| (US\$ in thousands, except for percentages) |                         |       |         |       |         |       |
| Cost of real estate sales                   |                         |       |         |       |         |       |
| Land use rights costs                       | 153,004                 | 42.5  | 129,036 | 38.6  | 180,025 | 36.9  |
| Construction costs                          | 198,432                 | 55.2  | 196,671 | 58.8  | 297,116 | 60.9  |
| Total cost of real estate sales             | 351,436                 | 97.7  | 325,707 | 97.4  | 477,141 | 97.8  |
| Cost of real estate leasing                 | 598                     | 0.2   | 1,310   | 0.4   | 1,132   | 0.2   |
| Other costs                                 | 7,705                   | 2.1   | 7,436   | 2.2   | 9,504   | 2.0   |
| Total costs of revenues                     | 359,739                 | 100.0 | 334,453 | 100.0 | 487,777 | 100.0 |

*Cost of Real Estate Sales*

Cost of real estate sales consist primarily of land use rights costs and construction costs. Impairment charges, if any, are also recorded under cost of real estate sales. Cost of real estate sales are capitalized and allocated to development projects using the specific identification method. When the full accrual method of revenue recognition is applied, costs are recorded based on the ratio of the sales value of the relevant units completed and sold to the estimated total project sales value, multiplied by the estimated total project costs. When the percentage of completion method of revenue recognition is applied, capitalized costs are released to our statement of operations based on the completion progress of a project.

*Land use rights cost.* Land use rights costs include the amount we pay to acquire land use rights for our property development sites, plus taxes. We acquire our development sites mainly by competitive bidding at public auctions of government land. Our land use rights costs for different projects vary according to the size and location of the site and the minimum reserve price for the site, all of which are influenced by government policies, as well as prevailing market conditions. Our land use rights costs have increased in the past few years due to several factors including geographic expansion into certain higher priced markets, generally rising prices in each of our served markets, and increased competition from a growing number of bidders at government land auctions.

*Construction costs.* We outsource the construction of all of our projects to third party contractors, whom we select through a competitive tender process. Our construction contracts provide for fixed or capped payments which cover substantially all labor, materials, fittings and equipment costs, subject to adjustments for certain prescribed contingencies, such as design changes during the construction process or changes in government-suggested steel prices. Our construction costs consist primarily of the payments to our third-party contractors, which are paid over the construction period based on specified milestones. In addition, we directly purchase and supply a limited range of fittings and equipment, including elevators, window frames and door frames. Our construction costs also include capitalized interest costs in the amount of US\$34.8 million, US\$30.2 million and US\$26.5 million for 2009, 2010 and 2011, respectively.

*Future losses and impairment charges.* When the profitability of a project deteriorates due to a slow down in the sales pace or other factors, this indicates that there may be a possible future loss on delivery and potential impairment in the recoverability of the assets. Accordingly, the assets of such project are reviewed for future losses and impairment by comparing the estimated future undiscounted cash flows for the project to the carrying value of such project. If the estimated future undiscounted cash flows are less than the asset's carrying value, such deficit will be charged as a future loss. Then the asset will be written down to its estimated fair value. We determine estimated fair value primarily by discounting the estimated future cash flows relating to the asset. In estimating the cash flows for a project, we use various factors including (a) the expected pace at which the planned number of units will be sold, based on competitive market conditions, historical trends in sales pace, actual average selling prices, sales of similar product offerings and any other long or short-term economic conditions which may impact the market in which the project is located; (b) the estimated net sales prices expected to be attained based on the current market conditions and historical price trends, as well as any estimated increases in future sales prices based upon the projected rate of unit sales, estimated time gap between presale and expected delivery, the impact of government policies, the local and regional competitive environment, and certain external factors such as the opening of a subway line, school or factory; and (c) the expected costs to be expended in the future, including, but not limited to, construction cost, construction overheads, sales and marketing, sales taxes and interest costs.

Our determination of fair value requires discounting the estimated cash flow at a rate commensurate with the inherent risk associated with the assets and related estimated cash flow. The discount rate used in determining each project's fair value depends on the stage of development, location and other specific factors that increase or decrease the risk associated with the estimated cash flows. In accordance with our accounting policies, we review each of our projects for impairments on a quarterly basis. See also "—Critical Accounting Policies" for our policy on impairment of long-lived assets.

As of December 31, 2010 and December 31, 2011, we tested all of our active projects, consisting of projects under construction or planning, for impairment. Our testing indicated that the undiscounted cash flows of all of our projects exceeded their related carrying value, and accordingly, none of the projects were considered impaired.

#### *Cost of Real Estate Leasing*

Our cost of real estate leasing consists primarily of depreciation expenses and maintenance expenses associated with the leased properties. Depreciation is computed using the straight-line method over the estimated useful lives of the assets. Estimated useful lives of our properties held for lease are generally 20 years.

#### *Other Costs*

Other costs represent costs incurred in connection with the property management services, real estate agency services and other property related services that we provide to residents and purchasers of our developments.

***Selling and Distribution Expenses***

Our selling and distribution expenses include:

· advertising and promotion expenses, such as print advertisement costs, billboard and other display advertising costs, and costs associated with our showrooms and illustrative units;

· staff costs, which consist primarily of salaries and welfares;

· for 2011, agency commissions of approximately 1.2% of contracted sales on outsourced project sales; and

· other related expenses.

As of December 31, 2011, we employed 29 full-time sales and marketing personnel. We expect our selling and marketing expenses to increase in the near future as we increase our sales efforts, launch more projects and target new markets to expand our operations.

### ***General and Administrative Expenses***

General and administrative expenses principally include:

· staff salaries and benefits, quarterly and annual bonuses, and stock-based compensation;

· traveling and office expenses;

· professional fees, such as audit and legal fees; and

· other expenses.

### ***Interest Income***

Interest income represents interest earned on our bank balances.

### ***Interest Expenses***

Interest expenses include (i) interest paid on our bank borrowings and other indebtedness, including our floating rate notes and convertible notes issued in April 2007 (for the years 2009 and 2010) and our secured note (for the year 2010 and 2011), (ii) amortization of warrants and debt issuance cost, (iii) accretion of discount from embedded derivatives and (iv) change in fair value of embedded derivatives, all net of amounts capitalized to construction costs. The floating rate notes bore interest at the adjustable annual rate of six-month LIBOR plus 6.8%, while the convertible notes bore interest at the fixed annual rate of 2% and the guaranteed senior secured note bears interest at the fixed annual rate of 15.6%. Interest rates on our bank borrowings, all of which, except US\$25 million borrowed from ICBC Asia Limited, are granted by PRC commercial banks and denominated in RMB, are typically variable and linked to benchmark rates published by the PBOC. The US\$25 million borrowed during 2011 from ICBC Asia Limited were US\$15million at a rate of 3.0% plus LIBOR and US\$10 million at a rate of 3.5% plus LIBOR, which both are denominated in US\$ and secured by RMB deposits in ICBC Zhengzhou Branch. Our weighted average interest rate on short-term bank loans as of December 31, 2011 was 5.03%. As of December 31, 2011, the PBOC benchmark rate for a one-year loan was 6.56% per annum and those for loans of more than one year ranged from 6.65% to 7.05% per annum.

***Share of Income in Equity Investee***

Share of income in equity investee represented profit associated with our 45% equity interest in Jiantou Xinyuan. Under the relevant joint venture agreement, we share the profit or loss of Jiantou Xinyuan according to our equity interest percentage.

On November 1, 2010, we finalized the purchase of the remaining 55% equity interest in Jiantou Xinyuan, making us the sole owner. As part of the purchase of Jiantou Xinyuan, we recognized a gain on the remeasurement of our previously held 45% interest in Jiantou Xinyuan amounting to US\$2.4 million, reported as an “other income” in the statements of operations.

As of December 31, 2010, Jiantou Xinyuan had two projects under construction, Zhengzhou Yipin Xiangshan Phase I and Zhengzhou Yipin Xiangshan Phase II. Our share of income from Jiantou Xinyuan for the year ended 2009 and for the period from January 1, 2010 to November 1, 2010 were US\$4.4 million and US\$0.2 million, respectively. The results of Jiantou Xinyuan have been included in our consolidated financial statements since November 1, 2010.

***Change in Fair Value of Derivative Liabilities***

We have issued warrants to floating rate note holders and the secured note holder, which are accounted for as derivative liabilities. The warrants issued to the holders of our floating rate notes entitled such holders to purchase our common shares at 80% of the initial public offering price per common share in December 2007, or US\$5.60 per share. The warrants issued to the holder of our secured note entitled the holder to purchase up to 1,516,882 our common shares at \$0.01 per share.

Under US GAAP, we are required to recognize the fair value of the outstanding warrants as a liability on our balance sheet. We determine the fair value of the warrants on a quarterly basis using the Black-Scholes valuation method with increases/decreases in value resulting in a charge/credit to “change in fair value of derivative liabilities”.

The warrants issued to floating rate note holders expired on April 15, 2010, pursuant to the terms of the floating rate note; the fair value of the warrants as of December 31, 2009 was US\$264.

The warrant related to the secured note was issued on April 15, 2010 and exercised on May 12, 2010, at which times the fair values were US\$3,049,509 and US\$2,222,805 respectively. The difference was recorded as a change in the fair value of derivative liabilities in our 2010 results. The decrease mainly resulted from decreases in our ADS price.

### ***Income Taxes***

The following table sets forth the components of income taxes for the periods indicated.

|                       | Year Ended December 31,                |         |        |       |        |       |
|-----------------------|--|---------|--------|-------|--------|-------|
|                       | 2009                                   |         | 2010   |       | 2011   |       |
|                       | US\$                                   | %       | US\$   | %     | US\$   | %     |
|                       | (in thousands, except for percentages) |         |        |       |        |       |
| Corporate income tax  | 23,740                                 | 119.8   | 10,584 | 28.4  | 27,163 | 46.3  |
| Land appreciation tax | 2,186                                  | 11.0    | 16,155 | 43.3  | 25,582 | 43.7  |
| Deferred tax expense  | (6,101 )                               | (30.8 ) | 10,594 | 28.3  | 5,892  | 10.0  |
| Income taxes          | 19,825                                 | 100.0   | 37,333 | 100.0 | 58,637 | 100.0 |

For an explanation of deferred tax expense, see Notes 2(t) and 12 of the consolidated financial statements included elsewhere in this annual report on Form 20-F. For a discussion of corporate income tax and land appreciation tax, see below.

### ***Corporate Income Tax and Tax Uncertainty Benefit***

#### *Cayman Islands*



We are incorporated in the Cayman Islands. Under the current law of the Cayman Islands, we are not subject to income or capital gains tax. In addition, dividend payments are not subject to withholding tax in the Cayman Islands.

*People's Republic of China*

In general, enterprises in the PRC are subject to income tax at a statutory rate of 25%. In 2009 and 2010, in accordance with local provisional tax regulations in Henan province, the local tax authority in Zhengzhou determined that the taxable income of our PRC subsidiaries in Henan province should be deemed from 12% to 20% of their total cash receipts from sales of residential units. Total cash receipts include cash receipts proceeds from pre-sales of our properties that are recorded as customer deposits, which partly comprise mortgage loan proceeds received in our account from mortgage lending banks. The Zhengzhou local tax authority has provisionally confirmed that it suspended the deemed profit method to our PRC subsidiaries located in Henan province and turned to the statutory taxable income method at 25% on income for the year ended December 31, 2011. For our subsidiaries located in Shandong, Jiangsu, Anhui and Sichuan provinces, income tax is levied at the statutory rate of 25% on income as reported in the statutory financial statements after appropriate tax adjustments for the year ended December 31, 2011.

We have made full provision for the corporate income tax, or CIT, payable by our PRC subsidiaries based on the statutory income tax rate of 25%, after appropriate adjustments to our taxable income used in the calculation. The difference between tax payable on our actual taxable income and tax levied on the deemed taxable income basis has been treated as an unrecognized tax uncertainty benefit under ASC 740-10 "Income Tax", or ASC 740-10, which has a balance of US\$13.8 million as of December 31, 2011. The increase related to current year tax positions arises primarily from foreign exchange movements. We believe this treatment is appropriate due to the possibility of reinterpretation of the application of the tax regulations by higher tax authorities in the PRC, as the local authorities have indicated that they will apply the regulation in the same manner in 2011.

### ***Land Appreciation Tax***

Under PRC laws and regulations, our PRC subsidiaries engaging in property development are subject to LAT, which is levied by the local tax authorities upon the “appreciation value” as defined in the relevant tax laws. All taxable gains from the sale or transfer of land use rights, buildings and related facilities in China are subject to LAT at progressive rates that range from 30% to 60%. Certain exemptions are allowed for sales of ordinary residential properties if the appreciation value does not exceed a threshold specified in the relevant tax laws. Gains from sales of commercial properties are not eligible for this exemption. Whether a property qualifies for the ordinary residential property exemption is determined by the local government taking into consideration the property’s plot ratio, aggregate GFA and sales price.

We have recorded a provision for LAT on all projects completed since the date of incorporation. We have accrued all LAT payable on our property sales and transfers in accordance with the progressive rates specified in relevant tax laws, less amounts previously paid under the levy method applied by relevant local tax authorities.

### ***Share-based compensation expense***

We have two share-based compensation plans, our 2007 equity incentive plans and our 2007 long-term incentive plan. Under our 2007 equity incentive plan, we granted share options awards for an aggregate of 6,802,495 common shares at a weighted average exercise price of US\$1.08 on August 11, 2007. Under our 2007 long-term incentive plan we may grant options, restricted shares, restricted stock units, stock appreciation rights and other stock-based awards for the purchase of up to 10,000,000 common shares. As of December 31, 2011, we have granted options and restricted stock awards to acquire up to 13,249,840 common shares. We charged compensation cost of US\$2.7 million and US\$1.7 million as of December 31, 2010 and December 31, 2011 against income comprising of general and administrative expenses of US\$2.6 million and US\$1.7 million and the elimination of shares of share of income in an equity investee of US\$70,294 and US\$nil for those plans with a corresponding credit to additional paid-in capital for the year ended December 31, 2010 and December 31, 2011. For a description of the grants under each of the plans, see Note 13 of the consolidated financial statements included elsewhere in this annual report.

### ***Results of Operations***

The following table presents a summary of our consolidated statements of operations by amount and as a percentage of our total revenues during the periods indicated. Our historical results presented below are not necessarily indicative of the results that may be expected for any other future period.

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|   | Year Ended December 31,                |        |           |        |           |        |
|---|--|--------|-----------|--------|-----------|--------|
|   | 2009                                   |        | 2010      |        | 2011      |        |
|   | US\$                                   | %      | US\$      | %      | US\$      | %      |
|   | (in thousands, except for percentages) |        |           |        |           |        |
| Revenues  | 448,984                                | 100.0  | 449,972   | 100.0  | 687,508   | 100.0  |
| Cost of revenues  | (359,739)                              | (80.1) | (334,453) | (74.3) | (487,777) | (70.9) |
| Gross profit  | 89,245                                 | 19.9   | 115,519   | 25.7   | 199,731   | 29.1   |
| Selling and distribution expenses                           | (11,443)                               | (2.5)  | (10,724)  | (2.4)  | (16,209)  | (2.4)  |
| General and administrative expenses                         | (22,215)                               | (4.9)  | (22,209)  | (4.9)  | (27,231)  | (4.0)  |
| Operating income  | 55,587                                 | 12.5   | 82,586    | 18.4   | 156,291   | 22.7   |
| Interest income   | 2,388                                  | 0.5    | 2,218     | 0.5    | 5,294     | 0.8    |
| Exchange gains  | 80                                     | —      | 202       | 0.0    | 57        | 0.0    |
| Other income (expense)                                      | (383)                                  | (0.1)  | 2,381     | 0.5    | —         | —      |
| Share of income in equity investee                          | 4,402                                  | 1.0    | 227       | 0.1    | —         | —      |
| Change in fair value of derivative liabilities              | 170                                    | 0.0    | 842       | 0.2    | —         | —      |
| Income from operations before income taxes                  | 62,244                                 | 14.0   | 88,456    | 19.7   | 161,642   | 23.5   |
| Income taxes  | (19,825)                               | (4.4)  | (37,333)  | (8.3)  | (58,637)  | (8.5)  |
| Net income  | 42,419                                 | 9.6    | 51,123    | 11.4   | 103,005   | 15.0   |
| Net loss/ (income) attributable to non-controlling interest | —                                      | —      | 18        | 0.0    | (707)     | (0.1)  |
| Net income attributable to ordinary shareholders            | 42,419                                 | 9.6    | 51,141    | 11.4   | 102,298   | 14.9   |

**Year Ended December 31, 2011 Compared to Year Ended December 31, 2010**

***Revenues***

Revenues increased by US\$237.5 million, or 52.8%, to US\$687.5 million for the year ended December 31, 2011 from US\$450.0 million for the year ended December 31, 2010.

***Real estate sales***

Revenue from real estate sales increased by US\$234.6 million, or 53.5%, to US\$673.4million for the year ended December 31, 2011 from US\$438.8 million for the year ended December 31, 2010, mainly due to four new projects launched in 2011, Jinan Xinyuan Splendid, Zhengzhou Royal Palace, Zhengzhou Century East B and Yipin Xiangshang II.

***Full accrual method revenues***

Revenue from the sale of properties where the construction period, the period from the construction permit award date to the unit delivery date, is expected to be 12 months or less, is recognized by the full accrual method when the sale is consummated and the unit has been delivered. A sale is considered to be consummated when the sales price has been paid, any permanent financing for which we are responsible has been arranged, all conditions precedent to closing have been performed, we do not have any substantial continuing involvement with the unit and the usual risks and rewards of ownership have been transferred to the buyer. Costs are recorded based on the ratio of the sales value of the relevant units completed and sold to the estimated total project sales value, multiplied by the estimated total project cost. For these projects, our policy is that cash payments received from the buyer are recorded as a deposit liability and costs are capitalized as incurred, up to when the sale is consummated and the unit has been delivered.

Delivery and closing take place only after the local government has certified that the building is completed and ready for habitation (comparable to a certificate of occupancy in the United States) and the following events have occurred:

The sales department has determined that the sales contract is signed, the sales tax invoice is properly issued, the purchaser is physically present and the purchaser's identification cards are checked;

All consideration has been paid by the purchaser; and

The unit has been inspected and accepted by the purchaser.

For the years ended December 31, 2010 and 2011, no revenues were recognized under the full accrual method.

***Percentage of completion method revenues***

Revenue from the sale of properties where the construction period is expected to be more than 12 months is recognized by the percentage of completion method on the sale of individual units based on the completion progress of a project, as described below.

We apply the percentage of completion method to projects with an expected construction period of over 12 months, not including any unforeseen delay or delays beyond our control. For these projects, our policy is that cash payments received from the buyers are initially recorded as customer deposits, and costs are capitalized as incurred.

Due to the restrictions of mortgages to second home buyers, the Group introduced seller-financed contract arrangements beginning in the third quarter of 2011. Under these seller-financed contract arrangements, the buyer pays the purchase price for the residential unit in installment payments ranging from six months to two years with the final payment to be made 30 days prior to the delivery. These contracts generally require a 10% down payment upon contract execution date, the second payment of 20% within 30 days, a third payment of 30% - 40% six months after the contract date, and the final 30% - 40% payment 30 days before delivery.

Revenue and profit from the sale of these development properties are recognized by the percentage of completion method on the sale of individual units when the following conditions are met:

· Construction is beyond a preliminary stage;

· The buyer is committed to the extent of being unable to require a refund except for non-delivery of the unit;

· Sufficient units have already been sold to assure that the entire property will not revert to rental property;

· Sales prices are collectible; and

· Aggregate sales proceeds and costs can be reasonably estimated.

Under the percentage of completion method, revenues from units sold and related costs are recognized over the course of the construction period, based on the completion progress of a project. In relation to any project, revenue is determined by calculating the ratio of incurred costs, including land use rights costs and construction costs, to total estimated costs and applying that ratio to the contracted sales amounts less business tax. Cost of sales is recognized by determining the ratio of contracted sales during the period to total estimated sales value, and applying that ratio to the incurred costs. Current period amounts are calculated based on the difference between the life-to-date project totals and the previously recognized amounts.

The following table sets forth the percentage of completion, the percentage sold and related revenues for our projects recognized under the percentage of completion method for the year ended December 31, 2010 and 2011.

| Project | Total GFA | Percentage Complete as of December 31, (1) | Percentage Sold                    | Revenues Recognized For The Year Ended December 31, |
|---------|-----------|--|------------------------------------|---|
|         |           |  | (2) Accumulated as of December 31, |   |

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|   | m <sup>2</sup> | 2010<br>% | 2011<br>% | 2010<br>% | 2011<br>% | 2010<br>US\$ | %(3)  | 2011<br>US\$ | %     |
|---|----------------|-----------|-----------|-----------|-----------|--------------|-------|--------------|-------|
| Chengdu Segment                           |                |           |           |           |           |              |       |              |       |
| Chengdu Xinyuan<br>Splendid I             | 231,002        | 92.8      | 93.7      | 77.4      | 89.3      | 58,540,565   | 13.3  | 27,039,741   | 4.0   |
| Chengdu Xinyuan<br>Splendid II            | 216,900        | 65.9      | 90.6      | 39.5      | 77.6      | 52,039,164   | 11.9  | 91,716,159   | 13.6  |
| Jiangsu Segment                           |                |           |           |           |           |              |       |              |       |
| Suzhou                                    |                |           |           |           |           |              |       |              |       |
| International City<br>Garden              | 204,882        | 86.6      | 97.9      | 45.9      | 69.0      | 51,229,246   | 11.7  | 73,840,220   | 11.0  |
| Suzhou Lake<br>Splendid                   | 198,113        | 99.7      | 100.0     | 99.1      | 99.6      | 950,101      | 0.2   | 1,426,485    | 0.2   |
| Suzhou Colorful<br>Garden                 | 81,505         | 99.8      | 99.9      | 99.2      | 99.4      | 2,074,669    | 0.5   | 753,022      | 0.1   |
| Kunshan                                   |                |           |           |           |           |              |       |              |       |
| International City<br>Garden              | 497,941        | 77.9      | 94.0      | 58.8      | 67.1      | 118,008,234  | 26.8  | 98,117,261   | 14.5  |
| Xuzhou Colorful<br>Garden                 | 101,821        | 61.2      | 80.1      | 53.2      | 98.7      | 32,341,422   | 7.4   | 53,311,963   | 7.9   |
| Shandong Segment                          |                |           |           |           |           |              |       |              |       |
| Jinan Elegant<br>Scenery                  | 100,386        | 100.0     | 100.0     | 100.0     | 100.0     | 239,873      | 0.1   | 0.0          | 0.0   |
| Jinan International<br>City Garden        | 263,990        | 99.3      | 99.8      | 99.0      | 99.4      | 3,154,712    | 0.7   | 1,275,733    | 0.2   |
| Jinan Xinyuan<br>Splendid                 | 565,355        | 0.0       | 53.7      | 0.0       | 15.8      | 0.0          | 0.0   | 59,514,976   | 8.8   |
| Henan Segment                             |                |           |           |           |           |              |       |              |       |
| Zhengzhou                                 |                |           |           |           |           |              |       |              |       |
| Xinyuan Colorful<br>Garden                | 191,891        | 99.0      | 99.7      | 93.2      | 97.1      | 46,361,234   | 10.6  | 10,795,169   | 1.6   |
| Zhengzhou<br>Finance Squire               | 67,225         | 100.0     | 100.0     | 98.9      | 97.5      | 1,259,229    | 0.3   | 256,393      | 0.0   |
| Zhengzhou<br>Modern City                  | 255,356        | 48.5      | 67.8      | 46.7      | 70.4      | 66,804,843   | 15.2  | 83,990,243   | 12.5  |
| Zhengzhou Royal<br>Palace                 | 132,238        | 0.0       | 66.9      | 0.0       | 21.1      | 0.0          | 0.0   | 27,734,520   | 4.1   |
| Zhengzhou<br>International City<br>Garden | 107,439        |           |           |           |           |              |       | 5,332,865    | 0.8   |
| Zhengzhou Yipin<br>Xiangshan Phase I      | 94,403         | 93.7      | 97.3      | 92.8      | 99.3      | 5,706,294    | 1.3   | 7,527,077    | 1.1   |
| Zhengzhou Yipin<br>Xiangshan Phase II     | 198,543        | 0.0       | 70.3      | 0.0       | 63.4      | 0.0          | 0.0   | 88,187,380   | 13.1  |
| Zhengzhou Centry<br>East B                | 166,468        | 0.0       | 68.6      | 0.0       | 28.2      | 0.0          | 0.0   | 42,231,484   | 6.3   |
| Anhui Segment                             |                |           |           |           |           |              |       |              |       |
| Hefei Wangjiang<br>Garden                 | 145,455        | 100.0     | 00.0      | 100.0     | 00.0      | 82,376       | 0.0   | 330,902      | 0.0   |
| Total                                     | 3,713,473      |           |           |           |           | 438,791,962  | 100.0 | 673,381,593  | 100.0 |





(1) Percentage of completion is calculated by dividing total costs incurred by total estimated costs for the relevant project, estimated as of the time of preparation of our financial statements as of and for the year indicated.

Percentage sold is calculated by dividing contracted sales value from property sales by total estimated sales value (2) of the relevant project, estimated as of the time of preparation of our financial statements as of and for the year indicated.

(3) Percentage of all real estate sales revenues for the financial year, including revenues recognized under full accrual method and under percentage of completion method.

The following table sets forth the square meters sold and average selling price per square meter by each project, each reportable segment and on a consolidated basis for the year ended December 31, 2010 and 2011.

| Project                           | Year Ended December 31, |                     |                       |                |                     |                       |
|-----------------------------------|-------------------------|---------------------|-----------------------|----------------|---------------------|-----------------------|
|                                   | 2010                    |                     |                       | 2011           |                     |                       |
|                                   | Contract Sales          | Square Meters Sold  | Average Selling Price | Contract Sales | Square Meters Sold  | Average Selling Price |
| US\$                              | m <sup>2</sup>          | US\$/m <sup>2</sup> | US\$                  | m <sup>2</sup> | US\$/m <sup>2</sup> |                       |
| Chengdu region                    |                         |                     |                       |                |                     |                       |
| Chengdu Xinyuan Splendid I        | 40,667,889              | 50,259              | 809                   | 28,357,878     | 28,006              | 1,013                 |
| Chengdu Xinyuan Splendid II       | 83,814,153              | 87,835              | 954                   | 83,615,825     | 77,403              | 1,080                 |
| Total                             | 124,482,042             | 138,094             | 901                   | 111,973,703    | 105,409             | 1,062                 |
| Jiangsu region                    |                         |                     |                       |                |                     |                       |
| Suzhou International City Garden  | 53,825,528              | 30,396              | 1,771                 | 63,349,025     | 36,134              | 1,753                 |
| Suzhou Lake Splendid              | 1,036,547               | 630                 | 1,645                 | 916,735        | 728                 | 1,259                 |
| Suzhou Colorful Garden            | 2,282,466               | 1,709               | 1,336                 | 648,099        | 384                 | 1,688                 |
| Kunshan International City Garden | 148,772,183             | 121,008             | 1,229                 | 52,993,394     | 34,340              | 1,543                 |
| Xuzhou Colorful Garden            | 55,905,286              | 53,636              | 1,042                 | 56,795,857     | 47,155              | 1,204                 |
| Total                             | 261,822,010             | 207,379             | 1,263                 | 174,703,110    | 118,741             | 1,471                 |
| Shandong region                   |                         |                     |                       |                |                     |                       |
| Jinan Elegant Scenery             | 167,449                 | 205                 | 817                   | —              | —                   | —                     |
| Jinan International City Garden   | 2,276,864               | 398                 | 1,567                 | —              | —                   | —                     |
| Jinan Xinyuan Splendid            | —                       | —                   | —                     | 118,242,633    | 85,953              | 1,376                 |
| Total                             | 2,444,313               | 603                 | 1,312                 | 118,242,633    | 85,953              | 1,376                 |
| Henan region                      |                         |                     |                       |                |                     |                       |
| Zhengzhou Xinyuan Colorful Garden | 45,810,567              | 38,299              | 1,196                 | 10,219,455     | 4,998               | 2,045                 |
| Zhengzhou Royal Palace            | —                       | —                   | —                     | 49,156,971     | 21,320              | 2,306                 |
| Zhengzhou Finance Square          | 1,453,690               | 652                 | 2,230                 | 271,820        | —                   | —                     |
| Zhengzhou Modern City             | 145,614,989             | 134,079             | 1,086                 | 89,568,692     | 58,408              | 1,533                 |

| Project                            | Year Ended December 31, |                    |                       |                |                    |                       |
|------------------------------------|-------------------------|--------------------|-----------------------|----------------|--------------------|-----------------------|
|                                    | 2010                    |                    |                       | 2011           |                    |                       |
|                                    | Contract Sales          | Square Meters Sold | Average Selling Price | Contract Sales | Square Meters Sold | Average Selling Price |
|                                    | US\$                    | m <sup>2</sup>     | US\$/m <sup>2</sup>   | US\$           | m <sup>2</sup>     | US\$/m <sup>2</sup>   |
| Zhengzhou Yipin Xiangshan Phase I  | 6,577,527               | 4,691              | 1,402                 | 4,990,399      | 2,949              | 1,692                 |
| Zhengzhou Yipin Xiangshan Phase II | —                       | —                  | —                     | 132,929,557    | 119,193            | 1,115                 |
| Zhengzhou Century East B           | —                       | —                  | —                     | 65,329,740     | 48,765             | 1,340                 |
| Total                              | 199,456,773             | 177,721            | 1,122                 | 352,466,634    | 255,633            | 1,379                 |
| Anhui region                       |                         |                    |                       |                |                    |                       |
| Hefei Wangjiang Garden             | 108,446                 | —                  | —                     | 352,091        | —                  | —                     |
| Total                              | 108,446                 | —                  | —                     | 352,091        | —                  | —                     |
| Grand Total                        | 588,313,584             | 523,797            | 1,123                 | 757,738,171    | 565,736            | 1,339                 |

The total square meters sold increased to 565,736 square meters for the year ended December 31, 2011 from 523,797 square meters for the year ended December 31, 2010. The increase was mainly due to four new projects launched in 2011, Jinan Xinyuan Splendid, Zhengzhou Royal Palace, Zhengzhou Century East B and Yipin Xiangshang II. The overall aggregate average selling price per square meter for the year ended December 31, 2011 increased to US\$1,339 from US\$1,123 for the year ended December 31, 2010.

**Chengdu region.** The square meters in this region sold for the year ended December 31, 2011 decreased to 105,409 square meters from 138,094 square meters for the year ended December 31, 2010. The average selling price per square meter for the year ended December 31, 2011 increased to US\$1,062 from US\$901 for the year ended December 31, 2010. The decrease in square meters sold was mainly due to declining inventory as Chengdu Xinyuan Splendid I was 89.3% sold.

**Jiangsu region.** The square meters sold for the year ended December 31, 2011 decreased to 118,741 square meters from 207,379 square meters for the year ended December 31, 2010 on weaker sales of the Kunshan International City Garden due to the stricter government mortgage policy. The average selling price per square meter for the year ended December 31, 2011 increased to US\$1,471 from US\$1,263 for the year ended December 31, 2010.

**Shandong region.** The square meters sold for the year ended December 31, 2011 increased to 85,953 square meters from 603 square meters for the year ended December 31, 2010, due to the commencement of sales of Jinan Xinyuan Splendid in May 2011. The average selling price per square meter for the year ended December 31, 2011 increased to US\$1,376 from US\$1,312 for the year ended December 31, 2010.

**Henan region.** The square meters sold for the year ended December 31, 2011 increased to 255,633 square meters from 177,721 square meters for the year ended December 31, 2010, mainly due to the launch of three new projects,

Zhengzhou Royal Palace, Zhengzhou Yipin Xiangshan Phase II, and Zhengzhou Century East B. The average selling price per square meter for the year ended December 31, 2011 increased to US\$1,379 from US\$1,122 for the year ended December 31, 2010, resulting from increased selling prices of two higher-priced newly launched projects, Zhengzhou Royal Palace and Zhengzhou Century East B.

**Anhui region.** The only active project in Anhui region, Hefei Wangjiang Garden was essentially sold out by the end of 2009. The sales in 2011 were mainly due to the sale of parking facilities.

#### ***Real estate leasing***

Real estate leasing income increased by US\$2.7 million to US\$2.8 million for the year ended December 31, 2011 from US\$0.2 million for the year ended December 31, 2010. The increase resulted from the leasing of more ancillary facilities, including parking facilities were rented out during the year of 2011.

#### ***Other revenue***

Other revenue increased by US\$0.3 million, or 2.7%, to US\$11.3 million for the year ended December 31, 2011 from US\$11.0 million for the year ended December 31, 2010. The increase primarily resulted from expanded operations from our property management services. Our property management arm provides property management services for all our projects.

***Cost of revenue***

Cost of revenue increased by US\$153.3million, or 45.8%, to US\$487.8 million for the year ended December 31, 2011 from US\$334.5 million for the year ended December 31, 2010.

***Cost of real estate sales***

Cost of real estate sales increased by US\$151.4 million, or 46.5%, to US\$477.1 million for the year ended December 31, 2011 from US\$325.7 million for the year ended December 31, 2010. Total land use rights cost increased by US\$51.0 million, or 39.5%, from US\$129.0 million (38.6% of cost of real estate sales) for the year ended December 31, 2010 to US\$180.0 million (36.9% of cost of real estate sales) for the year ended December 31, 2011. The construction cost, including capitalized interest, increased by US\$100.4 million, or 51.1%, to US\$297.1 million for the year ended December 31, 2011 from US\$196.7 million for the year ended December 31, 2010.

***Cost of real estate leasing***

Cost of real estate leasing decreased by US\$ 0.2 million, or 15.4%, to US\$1.1 million for the year ended December 31, 2011 from US\$1.3 million for the year ended December 31, 2010.

***Other costs***

Other costs increased by US\$2.1 million, or 27.8%, to US\$9.5 million for the year ended December 31, 2011 as compared to US\$7.4 million for year ended December 31, 2010.

***Gross profit***

Gross profit increased by US\$84.2 million, or 72.9%, to US\$199.7 million for the year ended December 31, 2011 from US\$115.5 million for the year ended December 31, 2010. Gross profit margin was 29.1% for the year ended December 31, 2011 compared to 25.7% for the year ended December 31, 2010. The increase was primarily due to price increases and to more profitable newer projects being launched during the year ended 2011, such as Zhengzhou

Century East B and Zhengzhou Yipin Xiangshan Phase II.

***Selling and distribution expenses***

Selling and distribution expenses increased by US\$5.5 million, or 51.1%, to US\$16.2 million for the year ended December 31, 2011 from US\$10.7 million for the year ended December 31, 2010. The increase was primarily due to a US\$4.7 million increase in advertising and promotion expense for new project launches and a US\$0.6 million increase in staff costs. As a percentage of revenue, selling and distribution expenses was 2.4% for the year ended December 31, 2011 compared to 2.4% for the year ended December 31, 2010. As revenue expands in the future, we expect selling and distribution expenses as a percentage of revenue to be flat.

***General and administrative expenses***

General and administrative expenses were US\$27.2 million for the year ended the year ended December 31, 2011, compared to US\$22.2 million for the year ended December 31, 2010. The increase in general and administrative expenses were mainly resulted from an increase in salary and welfare of US\$4.6 million as the average level of salary and bonus increased and new employees were hired.

As a percentage of revenue, general and administrative expenses were 4.0% for the year ended December 31, 2011, compared to 4.9% for the year ended December 31, 2010.

***Interest income***

Interest income was US\$5.3 million for the year ended December 31, 2011, compared to US\$2.2 million for the year ended December 31, 2010. The increase in interest income mainly resulted from the increase in the average cash balance. Also contributing to the increase in interest income for 2011 was the weighted average interest rate on the Company's cash deposits, which was 1.3% for the year ended December 31, 2011, an increase of 0.46% compared to 0.84% for the year ended December 31, 2010.

The balance of non-interest-bearing deposits as of December 31, 2011 was US\$153 (0.0% of total cash deposits), compared to US\$2,317 (0.0% of total cash deposits) as of December 31, 2010.

### ***Interest expenses***

All interest costs were capitalized for the years ended December 31, 2011 and 2010. Total gross interest costs incurred amounted to US\$26.5 million for the year ended December 31, 2011, including US\$25.2 million of interest on loans, US\$1.0 million of accretion of discount arising from warrants and an embedded derivative on floating rate notes, and US\$0.3 million of amortization of debt issuance costs. In the year ended December 31, 2010, the gross interest costs of US\$30.2 million consisted of US\$26.4 million of interest on loans, US\$1.0 million of accretion of discount arising from an embedded derivative on convertible notes, US\$0.9 million of accretion of discount arising from warrants and an embedded derivative on floating rate notes, US\$0.7 million of accretion of discount arising from warrants on secured note and US\$1.0 million of amortization of debt issuance costs.

### ***Exchange gains***

For the year ended December 31, 2011, we recorded an unrealized foreign exchange gain of US\$0.1 million, as compared to US\$0.2 million in year ended December 31, 2010, arising from translating certain U.S. dollar-denominated debts into Renminbi using the exchange rate at the balance sheet date.

### ***Income taxes***

Income taxes increased by US\$21.3 million, or 57.1%, to US\$58.6 million for the year ended December 31, 2011 from US\$37.3 million for the year ended December 31, 2010. The increase was primarily due to an increase in our pre-tax income.

Our effective tax rate decreased to 36.3% for the year ended December 31, 2011, from 42.2% for the year ended December 31, 2010. The higher rate in the year of 2010 was mainly due to the US\$6.8 million one-time LAT tax charge related to a new tax interpretation in Jiangsu Province.

### ***Net income attributable to ordinary shareholders***

Net income increased by US\$51.2 million to US\$102.3 million for the year ended December 31, 2011, from US\$51.1 million for the year ended December 31, 2010.

*Discussion of Segment Operations*

We consider each of our individual property developments as a discrete operating segment. As presentation of segment information for each property development would not be meaningful, we have aggregated our segments into the following reporting segments: (i) property developments in Zhengzhou, Henan Province, (ii) property developments in Jinan, Shandong Province, (iii) property developments in Suzhou and Kunshan, Jiangsu Province, (iv) property developments in Hefei, Anhui Province, (v) property developments in Chengdu, Sichuan Province and (vi) property management services and other real estate-related services we provide.

|  | For the Year Ended December 31,             |   |          |   |          |   |
|--|---|---|----------|---|----------|---|
|  | 2009  |   | 2010     |   | 2011     |   |
|  | (US\$ in thousands, except for percentages) |   |          |   |          |   |
| <b>Zhengzhou, Henan</b>                    |   |   |          |   |          |   |
| Total revenue                              | 90,520                                      |   | 120,440  |   | 269,004  |   |
| Total cost of revenues                     | (73,343                                     | ) | (79,904  | ) | (171,884 | ) |
| Gross profit                               | 17,177                                      |   | 40,536   |   | 97,120   |   |
| Gross margin                               | 19.0  | % | 33.7     | % | 36.1     | % |
| Operating income                           | 4,219                                       |   | 24,884   |   | 75,335   |   |
| <b>Jinan, Shandong</b>                     |   |   |          |   |          |   |
| Total revenue                              | 89,783                                      |   | 3,487    |   | 60,976   |   |
| Total cost of revenues                     | (75,463                                     | ) | (3,372   | ) | (48,595  | ) |
| Gross profit                               | 14,320                                      |   | 115      |   | 12,381   |   |
| Gross margin                               | 15.9  | % | 3.3      | % | 20.3     | % |
| Operating income (loss)                    | 11,549                                      |   | (1,018   | ) | 9,102    |   |
| <b>Suzhou, Kunshan and Xuzhou, Jiangsu</b> |   |   |          |   |          |   |
| Total revenue                              | 198,198                                     |   | 204,782  |   | 227,623  |   |
| Total cost of revenues                     | (153,230                                    | ) | (151,109 | ) | (168,739 | ) |
| Gross profit                               | 44,968                                      |   | 53,673   |   | 58,884   |   |
| Gross margin                               | 22.7  | % | 26.2     | % | 25.9     | % |
| Operating income                           | 36,580                                      |   | 46,636   |   | 50,956   |   |
| <b>Hefei, Anhui</b>                        |   |   |          |   |          |   |
| Total revenue                              | 6,954                                       |   | 92       |   | 332      |   |
| Total cost of revenues                     | (4,356                                      | ) | (55      | ) | (122     | ) |
| Gross profit                               | 2,598                                       |   | 37       |   | 210      |   |
| Gross margin                               | 37.4  | % | 40.2     | % | 63.3     | % |
| Operating income (loss)                    | 2,045                                       |   | (375     | ) | 133      |   |
| <b>Chengdu, Sichuan</b>                    |   |   |          |   |          |   |
| Total revenue                              | 56,620                                      |   | 110,636  |   | 118,790  |   |
| Total cost of revenues                     | (47,818                                     | ) | (92,393  | ) | (89,129  | ) |
| Gross profit                               | 8,802                                       |   | 18,243   |   | 29,661   |   |
| Gross margin                               | 15.5  | % | 16.5     | % | 25.0     | % |
| Operating income                           | 6,209                                       |   | 14,903   |   | 26,273   |   |
| <b>Others</b>                              |   |   |          |   |          |   |
| Total revenue                              | 6,909                                       |   | 10,535   |   | 10,783   |   |
| Total cost of revenues                     | (5,529                                      | ) | (7,620   | ) | (9,308   | ) |
| Gross profit                               | 1,380                                       |   | 2,915    |   | 1,475    |   |
| Gross margin                               | 20.0  | % | 27.7     | % | 13.7     | % |
| Operating loss                             | (5,015                                      | ) | (2,444   | ) | (5,508   | ) |

***Year Ended December 31, 2011 Compared to Year Ended December 31, 2010***

**Zhengzhou, Henan.** Total revenues increased by US\$148.6 million, or 123.4%, from US\$120.4 million for the year ended December 31, 2010 to US\$269.0 million for the year ended December 31, 2011. The increase was primarily due to three new projects, Zhengzhou Royal Palace, Zhengzhou Yipin Xiangshan Phase II and Zhengzhou Century



East B, which commenced sales in 2011. The gross profit for this region was US\$97.1 million in the year ended December 31, 2011, representing an increase of US\$56.7 million, or 139.6%, as compared to US\$40.5 million in the year ended December 31, 2010. Net operating income was US\$75.3 million for the year ended December 31, 2011, representing an increase of US\$50.5 million, or 202.7%, from US\$24.9 million in the year ended December 31, 2010. Such improvement was due to the increases in revenues as described above.

**Jinan, Shandong.** Total revenues increased by US\$57.5 million, from US\$3.5 million for the year ended December 31, 2010 to US\$61.0 million for the year ended December 31, 2011. The increase was primarily due to the new project, Jinan Xinyuan Splendid, which commenced with strong sales in May of 2011. The gross margin increased to 20.3% for the year ended December 31, 2011 from 3.3% for the year ended December 31, 2010. Net operating gain was US\$9.1 million for the year ended December 31, 2011, compared to a net operating loss of US\$1.0 million in the year ended December 31, 2010. Such increase was due to the increase in revenues as described above.

**Suzhou, Kunshan and Xuzhou, Jiangsu.** Total revenues increased by US\$22.8 million, or 11.2%, from US\$204.8 million for the year ended December 31, 2010 to US\$227.6 million for the year ended December 31, 2011. The increase primarily resulted from the completion ratio of projects in Suzhou accelerated during the year of 2011, partly offset by the weaker sales of Kunshan International City Garden due to stricter mortgage policies since April 2010. The gross profit for the Jiangsu segment was US\$58.9 million for the year ended December 31, 2011, increased by US\$5.2 million from US\$53.7 million for the year ended December 31, 2010. The gross margin decreased to 25.9% for the year ended December 31, 2011, compared to 26.2% for the year ended December 31, 2010. The decrease was mainly due to soft demand of Kunshan International City Garden. The net operating income was US\$51.0 million for the year ended December 31, 2011, an increase of US\$4.3 million, or 9.3%, compared to US\$46.6 million for the year ended December 31, 2010. Such improvement was due to the increases in revenues as described above.

**Hefei, Anhui.** Total revenues for the year ended December 31, 2011 was US\$0.3 million, compared to US\$0.1 million for the year ended December 31, 2010. This region had gross profit of US\$0.2 million and a net operating gain of US\$0.1 million in the year ended December 31, 2011, compared to a gross profit of US\$0.04 million and net operating loss of US\$0.4 million in the year ended December 31, 2010. Hefei Wangjiang Garden project is the only project in the Anhui segment, only parking facilities were sold in 2011.

**Chengdu, Sichuan.** Total revenues increased by US\$8.2 million from US\$110.6 million for the year ended December 31, 2010 to US\$118.8 million for the year ended December 31, 2011. The increase was primarily due to the fact that the project construction completion ratio accelerated during the year of 2011, partly offset by a reduction in sellable units of Chengdu Xinyuan Splendid I. The gross profit for the Sichuan segment was US\$29.7 million for the year ended December 31, 2011, an increase of US\$11.5 million from US\$18.2 million for the year ended December 31, 2010. The gross margin increased to 25.0% for the year ended December 31, 2011, compared to 16.5% for the year ended December 31, 2010. The increase was mainly due to a change in project mix as the lower-profit mature project Chengdu Xinyuan Splendid I was winding down. The net operating income was US\$26.3 million for the year ended December 31, 2011, an increase of US\$11.4 million, or 76.3%, compared to US\$14.9 million for the year ended December 31, 2010. Such increase was due to the increases in revenue and gross profit described above.

**Others.** Other revenue of US\$10.8 million for the year ended December 31, 2011 consisted of real estate-related services including, among others, property management services, broadband network installation, landscaping services and consulting services. These services generated a gross profit of US\$1.5 million, or gross margin of 13.7%, in the year ended December 31, 2011, compared to a gross profit of US\$2.9 million, or gross margin of 27.7%, in the year ended December 31, 2010. The decrease in gross margin was primarily resulted from an increase in salary and welfare of workers who provide property management services. Also included in others were US\$7.0 million of operating expenses related to selling and distribution expenses and general and administrative expenses in our head office, compared to US\$5.4 million in the year ended December 31, 2010.

*Year Ended December 31, 2010 Compared to Year Ended December 31, 2009*

**Zhengzhou, Henan.** Total revenues increased by US\$29.9 million, or 33.1%, from US\$90.5 million for the year ended December 31, 2009 to US\$120.4 million for the year ended December 31, 2010. The increase was primarily due to the new project, Zhengzhou Modern City, which commenced with strong sales in the second quarter of 2010. The gross profit for this region was US\$40.5 million in the year ended December 31, 2010, representing an increase of US\$23.4 million, or 136.0%, as compared to US\$17.2 million in the year ended December 31, 2009. The increase in gross profit resulted from the inclusion of a more profitable project, Zhengzhou Modern City, which was launched in the second quarter of 2010. Zhengzhou Modern City was purchased in 2004, when the land use rights prices were relatively lower. Also, a US\$5.6 million refund from local government to reimburse relocation costs was received in December 2010, lowering the cost of this project. Net operating income was US\$24.9 million for the year ended December 31, 2010, representing an increase of US\$20.7 million, or 489.8%, from US\$4.2 million in the year ended December 31, 2009. Such improvement was due to the increases in revenues and gross profit as described above.

**Jinan, Shandong.** Total revenues decreased by US\$86.3 million, or 96.1%, from US\$89.8 million for the year ended December 31, 2009 to US\$3.5 million for the year ended December 31, 2010. The decrease was primarily due to a reduction in sellable units during the year ended December 31, 2010. The gross margin decreased to 3.3% for the year ended December 31, 2010 from 15.9% for the year ended December 31, 2009. Such decrease was due to the decrease in revenues as described above. Net operating loss was US\$1.0 million for the year ended December 31, 2010, down from net operating income of US\$11.5 million in the year ended December 31, 2009. The loss was mainly due to

approximately US\$5.0 million on inter-company borrowings from Xinyuan Real Estate Co., Ltd. Under PRC tax rules and regulations, interest expense on an intercompany loan was not deductible. Therefore, this non-deductible interest expense resulted in an unfavorable corporate income tax effect of approximately US\$1.2 million at the Shandong segment for the year ended December 31, 2010.

**Suzhou, Kunshan and Xuzhou, Jiangsu.** Total revenues increased by US\$6.6 million, or 3.3%, from US\$198.2 million for the year ended December 31, 2009 to US\$204.8 million for the year ended December 31, 2010. The increase primarily resulted from a new project, Xuzhou Colorful Garden, which was launched in third quarter of 2010, partly offset by the weaker sales of Kunshan International City Garden due to stricter mortgage policies. The gross profit for the Jiangsu segment was US\$53.7 million for the year ended December 31, 2010, increased by US\$8.7 million from US\$45.0 million for the year ended December 31, 2009. The gross margin increased to 26.2% for the year ended December 31, 2010, compared to 22.7% for the year ended December 31, 2009. The increase was mainly due to the higher-profit of Xuzhou Colorful Garden, compared to other projects in Jiangsu region. The net operating income was US\$46.6 million for the year ended December 31, 2010, an increase of US\$10.1 million, or 27.5%, compared to US\$36.6 million for the year ended December 31, 2009. Such improvement was due to the increases in revenues and gross profit as described above.

**Hefei, Anhui.** Total revenues for the year ended December 31, 2010 was US\$0.1 million, compared to US\$7.0 million for the year ended December 31, 2009. The decrease was due to the fact that the Hefei Wangjiang Garden project, the only project in the Anhui segment, was virtually sold out in 2009. This region had gross profit of US\$0.04 million, a gross margin of 40.2%, and a net operating loss of US\$0.4 million in the year ended December 31, 2010, compared to a gross profit of US\$2.6 million, or a gross margin of 37.4%, and net operating income of US\$2.0 million in the year ended December 31, 2009.

**Chengdu, Sichuan.** Total revenues increased by US\$54.0 million from US\$56.6 million for the year ended December 31, 2009 to US\$110.6 million for the year ended December 31, 2010. The increase was primarily due to our commencing sales of Chengdu Xinyuan Splendid II in April 2010. The gross profit for the Sichuan segment was US\$18.2 million for the year ended December 31, 2010, an increase of US\$9.4 million from US\$8.8 million for the year ended December 31, 2009. The gross margin increased to 16.5% for the year ended December 31, 2010, compared to 15.5% for the year ended December 31, 2009. The increase was mainly due to increasing price of units in Chengdu Xinyuan Splendid I and the launch of the higher-profit project Chengdu Xinyuan Splendid II. The net operating income was US\$14.9 million for the year ended December 31, 2010, an increase of US\$8.7 million, or 140.0%, compared to US\$6.2 million for the year ended December 31, 2009. Such increase was due to the increases in revenue and gross profit described above.

**Others.** Other revenue of US\$10.5 million for the year ended December 31, 2010 consisted of real estate-related services including, among others, property management services, broadband network installation, landscaping services and consulting services. These services generated a gross profit of US\$2.9 million, or gross margin of 27.7%, in the year ended December 31, 2010, compared to a gross profit of US\$1.4 million in the year ended December 31, 2009. The increase primarily resulted from expanded operations from our property management services. Also included in others were US\$5.4 million of operating expenses related to selling and distribution expenses and general and administrative expenses in our head office, compared to US\$6.4 million in the year ended December 31, 2009. The decrease primarily resulted from our efforts at cost controls.

### ***Status of Projects as of December 31, 2011***

The status of each of our projects under construction and under planning as of December 31, 2011, which were accounted for using the percentage of completion method, is discussed below.

#### ***Chengdu Xinyuan Splendid I***

As of December 31, 2011, the carrying value of this project was US\$11.1 million, net of profit recognized and progress billings. As of December 31, 2011 the cumulative cost incurred on the project was US\$148.8 million relative

to the total estimated cost of US\$158.8 million. In the year ended December 31, 2011, we had contract sales of US\$28.4 million with area sold of 28,006 square meters at an average selling price of US\$1,013 per square meter. Sales for this project began in September 2008 and cumulative contract sales through December 31, 2011 were US\$171.4 million with total area sold of 212,345 square meters.

We estimate that over the full life of the project, we will achieve aggregate gross sales revenue of US\$192.0 million, or US\$181.1 million net of business tax, relative to the estimated total cost of US\$158.8 million, generating a gross margin of 12.3%.

### *Chengdu Xinyuan Splendid II*

As of December 31, 2011, the carrying value of this project was US\$22.3 million, net of profit recognized and progress billings. As of December 31, 2011 the cumulative cost incurred on the project was US\$137.7 million relative to the total estimated cost of US\$152.0 million. In the year ended December 31, 2011, we had contract sales of US\$83.6 million with area sold of 77,403 square meters at an average selling price of US\$1,080 per square meter. Sales for this project began in April 2010 and cumulative contract sales through December 31, 2011 were US\$171.4 million with total area sold of 165,238 square meters.

We estimate that over the full life of the project we will achieve aggregate gross sales revenue of US\$220.9 million, or US\$208.4 million net of business tax, relative to the estimated total cost of US\$152.0 million, generating a gross margin of 27.0%.

***Suzhou International City Garden***

As of December 31, 2011, the carrying value of this project was US\$72.7 million, net of profit recognized and progress billings. As of December 31, 2011 the cumulative cost incurred on the project was US\$214.8 million (net of impairment charges of US\$51.5 million) relative to the total estimated cost of US\$219.3 million. In the year ended December 31, 2011, we had contract sales of US\$63.3 million with area sold of 36,134 square meters at an average selling price of US\$1,753 per square meter. Cumulative contract sales through December 31, 2011 were US\$208.2 million with total area sold of 136,353 square meters.

We estimate that over the full life of the project we will achieve aggregate gross sales revenue of US\$301.8 million, or US\$283.7 million net of business tax, relative to the estimated total cost of US\$219.3 million (US\$167.8 million after removing impairment charges from cost), generating a gross margin of 22.7% (or 40.9% after removing impairment charges from cost).

***Kunshan International City Garden***

As of December 31, 2011, the carrying value of this project was US\$107.3 million, net of profit recognized and progress billings. As of December 31, 2011 the cumulative cost incurred on the project was US\$377.6 million relative to the total estimated cost of US\$401.6 million. In the year ended December 31, 2011, we had contract sales of US\$53.0 million with area sold of 34,340 square meters at an average selling price of US\$1,543 per square meter. Sales for this project began in October 2008 and cumulative contract sales through December 31, 2011 were US\$382.5 million with total area sold of 381,916 square meters.

We estimate that over the full life of the project we will achieve aggregate gross sales revenue of US\$569.6 million, or US\$538.3 million net of business tax, relative to the total estimated cost of US\$401.6 million, generating a gross margin of 25.4%.

***Jinan Xinyuan Splendid***

As of December 31, 2011, the carrying value of this project was US\$197.3 million, net of profit recognized and progress billings. As of December 31, 2011 the cumulative cost incurred on the project was US\$294.6 million relative to total estimated cost of US\$549.2 million. In the year ended December 31, 2011, we had contract sales of US\$117.9 million with area sold of 86,053 square meters at an average selling price of US\$1,543 per square meter. Cumulative contract sales through December 31, 2011 were US\$117.9 million with total area sold of 86,063 square meters.

We estimate that over the full life of the project we will achieve aggregate gross sales revenue of US\$747.4 million, or US\$705.2 million net of business tax, relative to the total estimated cost of US\$549.2 million, generating a gross margin of 22.1%.

### ***Zhengzhou Royal Palace***

As of December 31, 2011, the carrying value of this project was US\$81.6 million, net of profit recognized and progress billings. As of December 31, 2011 the cumulative cost incurred on the project was US\$101.5 million relative to total estimated cost of US\$151.9 million. In the year ended December 31, 2011, we had contract sales of US\$49.2 million with area sold of 21,320 square meters at an average selling price of US\$2,306 per square meter. Cumulative contract sales through December 31, 2011 were US\$44.1 million with total area sold of 21,320 square meters.

We estimate that over the full life of the project we will achieve aggregate gross sales revenue of US\$209.1 million, or US\$197.4 million net of business tax, relative to the estimated total cost of US\$151.9 million, generating a gross margin of 23.1%.

***Zhengzhou Century East B***

As of December 31, 2011, the carrying value of this project was US\$75.3 million, net of profit recognized and progress billings. As of December 31, 2011 the cumulative cost incurred on the project was US\$102.3 million relative to total estimated cost of US\$149.1 million. In the year ended December 31, 2011, we had contract sales of US\$65.3million with area sold of 48,765 square meters at an average selling price of US\$1,340 per square meter. Sales for this project began in May 2010 and cumulative contract sales through December 31, 2011 were US\$65.2 million with total area sold of 48,765 square meters.

We estimate that over the full life of the project we will achieve aggregate gross sales revenue of US\$231.4 million, or US\$218.3 million net of business tax, relative to the estimated total cost of US\$149.1 million, generating a gross margin of 31.7%.

***Zhengzhou Modern City***

As of December 31, 2011, the carrying value of this project was US\$0.1 million, net of profit recognized and progress billings. As of December 31, 2011 the cumulative cost incurred on the project was US\$120.0 million relative to total estimated cost of US\$176.9 million. In the year ended December 31, 2011, we had contract sales of US\$89.6 million with area sold of 58,408 square meters at an average selling price of US\$1,533 per square meter. Sales for this project began in May 2010 and cumulative contract sales through December 31, 2011 were US\$240.4 million with total area sold of 192,487 square meters.

We estimate that over the full life of the project we will achieve aggregate gross sales revenue of US\$341.7 million, or US\$322.6 million net of business tax, relative to the estimated total cost of US\$176.9 million, generating a gross margin of 45.2%

***Zhengzhou Yipin Xiangshan Phase II***



As of December 31, 2011, the carrying value of this project was US\$24.4 million, net of profit recognized and progress billings. As of December 31, 2011 the cumulative cost incurred on the project was US\$91.4 million relative to total estimated cost of US\$130.1 million. This project was executed by Jiantou Xinyuan. In the period from November 1, 2010, the day we finalized the acquisition of Jiantou Xinyuan, to December 31, 2011, we had contract sales of US\$132.9 million with area sold of 119,193 square meters at an average selling price of US\$1,115 per square meter. Sales for this project began in March 2011 and cumulative contract sales through December 31, 2011 were US\$132.9 million with total area sold of 119,193 square meters.

We estimate that over the full life of the project, which commenced while we only had a 45% interest in Jiantou Xinyuan, we will achieve aggregate gross sales revenue of US\$209.7 million, or US\$198.0 million net of business tax, relative to the estimated total cost of US\$130.1 million, generating a gross margin of 34.3%.

### *Xuzhou Colorful Garden*

As of December 31, 2011, the carrying value of this project was US\$2.1 million, net of profit recognized and progress billings. As of December 31, 2011 the cumulative cost incurred on the project was US\$62.8 million relative to total estimated cost of US\$78.4 million. In the year ended December 31, 2011, we had contract sales of US\$56.8 million with area sold of 47,155 square meters at an average selling price of US\$1,204 per square meter. Sales for this project began in August 2010 and cumulative contract sales through December 31, 2011 were US\$115.4 million with total area sold of 100,791 square meters.

We estimate that over the full life of the project we will achieve aggregate gross sales revenue of US\$116.9 million, or US\$110.4 million net of business tax, relative to the estimated total cost of US\$78.4 million, generating a gross margin of 28.9%.

***Status of Projects as of December 31, 2010***

The status of each of our projects under construction and under planning as of December 31, 2010, which were accounted for using the percentage of completion method, is discussed below.

***Chengdu Xinyuan Splendid I***

As of December 31, 2010, the carrying value of this project was US\$24.1 million, net of profit recognized and progress billings. As of December 31, 2010 the cumulative cost incurred on the project was US\$138.2 million relative to the total estimated cost of US\$148.8 million. In the year ended December 31, 2010, we had contract sales of US\$40.7 million with area sold of 50,259 square meters at an average selling price of US\$809 per square meter. Sales for this project began in September 2008 and cumulative contract sales through December 31, 2010 were US\$136.5 million with total area sold of 184,338 square meters.

As of December 31, 2010 we estimated that over the full life of the project, we would achieve aggregate gross sales revenue of US\$176.3 million, or US\$167.5 million net of business tax, relative to the estimated total cost of US\$148.8 million, generating a gross margin of 11.1%.

***Chengdu Xinyuan Splendid II***

As of December 31, 2010, the carrying value of this project was US\$48.6 million, net of profit recognized and progress billings. As of December 31, 2010 the cumulative cost incurred on the project was US\$93.1 million relative to the total estimated cost of US\$141.2 million. In the year ended December 31, 2010, we had contract sales of US\$83.8 million with area sold of 87,835 square meters at an average selling price of US\$954 per square meter. Sales for this project began in April 2010 and cumulative contract sales through December 31, 2010 were US\$83.8 million with total area sold of 87,835 square meters.

As of December 31, 2010 we estimated that over the full life of the project we would achieve aggregate gross sales revenue of US\$212.1 million, or US\$201.5 million net of business tax, relative to the estimated total cost of US\$141.2 million, generating a gross margin of 29.9%.

***Suzhou International City Garden***

As of December 31, 2010, the carrying value of this project was US\$89.5 million, net of profit recognized and progress billings. As of December 31, 2010 the cumulative cost incurred on the project was US\$182.1 million (net of impairment charges of US\$51.5 million) relative to the total estimated cost of US\$210.3 million. In the year ended December 31, 2010, we had contract sales of US\$53.8 million with area sold of 30,396 square meters at an average selling price of US\$1,771 per square meter. Cumulative contract sales through December 31, 2010 were US\$138.5 million with total area sold of 100,219 square meters.

As of December 31, 2010 we estimated that over the full life of the project we would achieve aggregate gross sales revenue of US\$301.3 million, or US\$284.6 million net of business tax, relative to the estimated total cost of US\$261.8 million (US\$210.3 million after removing impairment charges from cost), generating a gross margin of 8.0% (or 26.1% after removing impairment charges from cost).

### ***Kunshan International City Garden***

As of December 31, 2010, the carrying value of this project was US\$59.6 million, net of profit recognized and progress billings. As of December 31, 2010 the cumulative cost incurred on the project was US\$300.8 million relative to the total estimated cost of US\$386.2 million. In the year ended December 31, 2010, we had contract sales of US\$148.8 million with area sold of 121,008 square meters at an average selling price of US\$1,229 per square meter. Sales for this project began in October 2008 and cumulative contract sales through December 31, 2010 were US\$313.1 million with total area sold of 347,577 square meters.

As of December 31, 2010 we estimated that over the full life of the project we would achieve aggregate gross sales revenue of US\$532.2 million, or US\$503.2 million net of business tax, relative to the total estimated cost of US\$386.2 million, generating a gross margin of 23.2%.

***Jinan International City Garden***

As of December 31, 2010, the carrying value of this project was US\$1.6 million, net of profit recognized and progress billings. As of December 31, 2010 the cumulative cost incurred on the project was US\$166.2 million relative to total estimated cost of US\$167.4 million. In the year ended December 31, 2010, we had contract sales of US\$2.3 million with area sold of 398 square meters at an average selling price of US\$1,567 per square meter. Cumulative contract sales through December 31, 2010 were US\$211.4 million with total area sold of 262,305 square meters.

As of December 31, 2010 we estimated that over the full life of the project we would achieve aggregate gross sales revenue of US\$213.4 million, or US\$201.6 million net of business tax, relative to the total estimated cost of US\$167.4 million, generating a gross margin of 17.0%.

***Zhengzhou Xinyuan Colorful Garden***

As of December 31, 2010, the carrying value of this project was US\$11.6 million, net of profit recognized and progress billings. As of December 31, 2010 the cumulative cost incurred on the project was US\$146.1 million relative to total estimated cost of US\$147.6 million. In the year ended December 31, 2010, we had contract sales of US\$45.8 million with area sold of 38,299 square meters at an average selling price of US\$1,196 per square meter. Cumulative contract sales through December 31, 2010 were US\$175.2 million with total area sold of 183,149 square meters.

As of December 31, 2010 we estimated that over the full life of the project we would achieve aggregate gross sales revenue of US\$187.9 million, or US\$178.5 million net of business tax, relative to the estimated total cost of US\$147.6 million, generating a gross margin of 17.3%.

***Henan Modern City***

As of December 31, 2010, the carrying value of this project was US\$21.7 million, net of profit recognized and progress billings. As of December 31, 2010 the cumulative cost incurred on the project was US\$81.4 million relative to total estimated cost of US\$167.7 million. In the year ended December 31, 2010, we had contract sales of US\$145.6 million with area sold of 134,079 square meters at an average selling price of US\$1,086 per square meter. Sales for this project began in May 2010 and cumulative contract sales through December 31, 2010 were US\$145.6 million with total area sold of 134,079 square meters.

As of December 31, 2010 we estimated that over the full life of the project we would achieve aggregate gross sales revenue of US\$312.1 million, or US\$294.9 million net of business tax, relative to the estimated total cost of US\$167.7 million, generating a gross margin of 43.1%.

### ***Zhengzhou Yipin Xiangshan Phase II***

As of December 31, 2010, the carrying value of this project was US\$10.2 million, net of profit recognized and progress billings. As of December 31, 2010 the cumulative cost incurred on the project was US\$67.0 million relative to total estimated cost of US\$71.5 million. This project was executed by Jiantou Xinyuan. In the period from November 1, 2010, the day we finalized the acquisition of Jiantou Xinyuan, to December 31, 2010, we had contract sales of US\$6.6 million with area sold of 4,691 square meters at an average selling price of US\$1,402 per square meter. Sales for this project began in July 2008 and cumulative contract sales through December 31, 2010 were US\$83.5 million with total area sold of 91,038 square meters.

As of December 31, 2010 we estimated that over the full life of the project, which commenced while we only had a 45% interest in Jiantou Xinyuan, we would achieve aggregate gross sales revenue of US\$90.0 million, or US\$85.1 million net of business tax, relative to the estimated total cost of US\$71.5 million, generating a gross margin of 15.9%.

### ***Xuzhou Colorful Garden***

As of December 31, 2010, the carrying value of this project was US\$19.6 million, net of profit recognized and progress billings. As of December 31, 2010 the cumulative cost incurred on the project was US\$44.7 million relative to total estimated cost of US\$72.9 million. In the year ended December 31, 2010, we had contract sales of US\$55.9 million with area sold of 53,636 square meters at an average selling price of US\$1,042 per square meter. Sales for this project began in August 2010 and cumulative contract sales through December 31, 2010 were US\$55.9 million with total area sold of 53,636 square meters.

As of December 31, 2010 we estimated that over the full life of the project we would achieve aggregate gross sales revenue of US\$105.2 million, or US\$99.4 million net of business tax, relative to the estimated total cost of US\$72.9 million, generating a gross margin of 26.6%.

### ***Critical Accounting Policies***

We prepare our consolidated financial statements in accordance with U.S. GAAP, which requires us to make judgments, estimates and assumptions that affect (i) the reported amounts of our assets and liabilities, (ii) the disclosure of our contingent assets and liabilities at the end of each reporting period and (iii) the reported amounts of revenues and expenses during each reporting period. We continually evaluate these estimates based on our own experience, knowledge and assessment of current business and other conditions, and our expectations regarding the future based on available information and reasonable assumptions, which together form our basis for making judgments about matters that are inherently uncertain. Since the use of estimates is an integral component of the financial reporting process, our actual results could differ from those estimates. Some of our accounting policies require a higher degree of judgment than others in their application.

When reading our financial statements, you should consider (i) our selection of critical accounting policies, (ii) the judgment and other uncertainties affecting the application of such policies and (iii) the sensitivity of reported results to changes in conditions and assumptions. We believe the following accounting policies involve the most significant judgments and estimates used in the preparation of our financial statements.

### ***Revenue and cost recognition***

We apply either of two different methods for revenue recognition, full accrual or percentage of completion, depending on the expected construction period. For a discussion on our policy on impairment of long-lived assets, see “Operating Results—Future losses and impairment charges” and “Impairment of long-lived assets”.

*Full accrual method.* Revenue from the sale of properties where the construction period, defined as the period from the construction permit award date to the unit delivery date, is expected to be 12 months or less, is recognized by the full accrual method when the sale is consummated and the unit has been delivered. A sale is considered to be consummated when the sales price has been paid, any permanent financing for which we are responsible has been arranged, all conditions precedent to closing have been performed, we do not have any substantial continuing involvement with the unit and the usual risks and rewards of ownership have been transferred to the buyer. Costs are recorded based on the ratio of the sales value of the relevant units completed and sold to the estimated total project sales value, multiplied by the estimated total project cost. For these projects, our policy is that cash payments received from the buyer are recorded as a deposit liability and costs are capitalized as incurred, up to when the sale is

consummated and the unit has been delivered.

Delivery and closing take place only after the local government has certified that the building is completed and ready for habitation (comparable to a certificate of occupancy in the United States) and the following events have occurred:

The sales department has determined that the sales contract is signed, the sales tax invoice is properly issued, the purchaser is physically present and the purchaser's identification cards are checked;

All consideration has been paid by the purchaser; and

The unit has been inspected and accepted by the purchaser.

*Percentage of completion method.* Revenue from the sale of properties where the construction period is expected to be more than 12 months is recognized by the percentage of completion method on the sale of individual units based on the completion progress of a project, as described below.

We apply the percentage of completion method to projects with an expected construction period of over 12 months, not including any unforeseen delay or delays beyond our control. For these projects, our policy is that cash payments received from the buyers are initially recorded as customer deposits, and costs are capitalized as incurred.

Due to the unavailability of mortgages for non-resident or second home buyers, the Group introduced seller-financed contract arrangements beginning in the third quarter of 2011. Under these seller-financed contract arrangements, the buyer pays the purchase price for the residential unit in installment payments ranging from six months to two years with the final payment to be made 30 days prior to the delivery. These contracts generally require a 10% down payment upon contract execution date, the second payment of 20% within 30 days, a third payment of 30% - 40% six months after the contract date, and the final 30% - 40% payment 30 days before delivery.

Revenue and profit from the sale of these development properties are recognized by the percentage of completion method on the sale of individual units when the following conditions are met:

- Construction is beyond a preliminary stage;
- The buyer is committed to the extent of being unable to require a refund except for non-delivery of the unit;
- Sufficient units have already been sold to assure that the entire property will not revert to rental property;

· Sales prices are collectible; and

· Aggregate sales proceeds and costs can be reasonably estimated.

Under the percentage of completion method, revenues from units sold and related costs are recognized over the course of the construction period, based on the completion progress of a project. In relation to any project, revenue is determined by calculating the ratio of incurred costs, including land use rights costs and construction costs, to total estimated costs and applying that ratio to the contracted sales amounts. Cost of sales is recognized by determining the ratio of contracted sales during the period to total estimated sales value, and applying that ratio to the incurred costs. Current period amounts are calculated based on the difference between the life-to-date project totals and the previously recognized amounts.

Our significant judgments and estimates related to applying the percentage of completion method include our estimates of the time necessary to complete the project, the total expected revenue and the total expected costs. The percentage of completion method requires us to re-evaluate our estimates of future revenues and costs on a quarterly



basis project by project. Factors that are subject to uncertainties in our estimates include the expected future sales prices of the units, sales velocity rates and expected construction costs. These factors are subject to market conditions, including, but not limited to, availability of credit in the market for purchasers to obtain mortgage loans, commodities prices affecting construction materials, locations of future infrastructure improvements, and overall development in the immediate area surrounding the project and changes in governmental policies. Cumulative revenue is determined by multiplying cumulative contract sales proceeds by cumulative incurred cost divided by total estimated project costs. Cumulative cost of sales is calculated by multiplying cumulative incurred cost by cumulative contract sales divided by total estimated project revenue. Whenever we make changes to expected total project life profit margins, a “catch-up” adjustment must be made in the quarter of change to account for the difference between profits previously recognized using the previous profit margin estimate and the comparable profit using the new profit margin estimates. Further, if the updated profit margin indicates that we will have to sell units at a price less than our costs to develop them, we must recognize the full expected gross loss over the life of the project at that time regardless of whether the units have been sold. Additionally for such unprofitable projects we must also determine whether impairment exists, and, if so, write down the cost to the fair value of the project which, in turn, may be less than the basis after recognizing the effect of future losses.

For a further discussion on our policy on impairment of long-lived assets, see “Operating Results—Future losses and impairment charges” and “Impairment of long-lived assets”.

*Interest capitalization*

We obtain loans from banks and we issue debt securities to finance projects and provide for working capital. We charge the borrowing costs related to working capital loans to interest expense when incurred and capitalize interest costs related to project developments as a component of the project costs.

The interest to be capitalized for a project is based on the amount of borrowings related specifically to such project. Interest for any period is capitalized based on the amounts of accumulated capital expenditures and the interest rate of the loans. Payments received from the pre-sales of units in the project are deducted in the computation of the amount of accumulated expenditures during a period. The interest capitalization period begins when expenditures have been incurred and activities necessary to prepare the asset (including administrative activities before construction) have begun, and ends when the project is substantially completed. Interest capitalized is limited to the amount of interest incurred.

The interest rate used in determining the amount of interest capitalized is the weighted average rate applicable to the project-specific borrowings. However, when accumulated expenditures exceed the principal amount of project-specific borrowings, we also capitalize interest on borrowings that are not specifically related to the project, at a weighted average rate of such borrowings.

Our significant judgments and estimates related to interest capitalization include the determination of the appropriate borrowing rates for the calculation, and the point at which capitalization is started and discontinued. Changes in the rates used or the timing of the capitalization period may affect the balance of property under development and the costs of sales recorded.

*Income taxes*

We have adopted the balance sheet approach for financial accounting and reporting for income taxes. We recognize:

the amount of taxes payable or refundable for the current fiscal year;

deferred tax assets and liabilities for the future tax consequences of events that have been recognized in our financial statements or tax returns; and

the difference between the taxes calculated based on our earnings at the statutory rates and the amounts charged by the local tax authorities based on our “deemed earnings.”

Our significant judgments and estimates include the allow-ability of deductible items for income tax purposes and other tax positions that we may take. Disagreements with the tax authorities could subject us to additional taxes, and possibly, penalties.

The minimum amount of future taxable income that would have to be generated to realize the deferred tax assets is US\$108.0 million. We believe that future pre-tax earnings for financial reporting purposes on existing projects are sufficient to generate that minimum amount of future taxable income.

Please see the more detailed discussion in note 12 to our consolidated financial statements included elsewhere in this annual report.

#### *Share-based payments*

Under ASC 718, “*Share-Based Compensation*”, we are required to recognize share-based compensation as compensation expense based on the fair value of stock options and other equity awards on the date of the grant, with the compensation expense recognized over the requisite service period, which is generally the vesting period.

The fair value of each option is estimated on the date of grant using the Dividend Adjusted Black-Scholes option-pricing model that uses various assumptions including assumptions regarding an average risk-free rate of return, expected term of the options, volatility rate of our shares and dividend yield.

The risk-free rate for periods within the expected life of the option is based on the implied yield rates of U.S. Treasury Zero-Coupon Bond as of the valuation date. The expected life of options represents the period of time the granted options are expected to be outstanding. The expected volatility we used in our calculations was based on our historical volatilities. Changes in these assumptions, or the expected forfeiture rate of share-based payments, can have a significant effect on the valuation of the awards, and the amount of expenses recognized in our statement of operations.

#### *Tax contingency*

We have evaluated the available evidence about (a) asserted and unsettled income tax contingencies and (b) unasserted income tax contingencies caused by uncertain income tax positions taken in our current tax treatments or our income tax returns filed with national and local tax authorities in the PRC and foreign tax authorities. The liability recorded in the consolidated financial statements for these income tax contingencies represents management's estimate of the amount that is less than "more likely than not" to be upheld in an examination by the relevant taxing authorities, under the provisions of ASC 740-10, "*Income Tax*".

#### *Impairment of long-lived assets*

We consider on a quarterly basis whether indicators of impairment of long-lived assets are present. These indicators include, but are not limited to, negative gross margins, decreases in the average selling price above 5% and increases in input costs above 5% related to the individual projects in each operating segment. The provisions of ASC 360, "*Property, Plant and Equipment*", require that a two-step impairment test be performed on long-lived assets. In the first step, we test for recoverability of the assets by determining whether the estimated undiscounted cash flows attributable to the assets in question are less than their carrying value. If the estimated undiscounted cash flows are greater than the carrying value, the long-lived assets are considered not impaired and we are not required to perform further testing. If the estimated undiscounted cash flows are less than the carrying value, we must perform the second step of the impairment test, which is to recognize an impairment loss based on the excess of the carrying amount of the assets over their respective fair values, if any. Our determination of fair value requires discounting the estimated cash flows for a project at a rate commensurate with the inherent risk associated with the related assets and estimated cash flows.

Both the undiscounted cash flows and the discount rate used in determining fair value are based on estimates. To project undiscounted cash flows, we use various factors as described above under "Future losses and impairment charges", including the expected pace at which the planned units will be sold, the estimated net sales prices expected to be attained, and expected costs to be expended in the future, including, but not limited to, home construction, construction overhead, sales and marketing, sales taxes and interest costs. The discount rate used in determining each project's fair value depends on the stage of development, location and other specific factors that increase or decrease the risk associated with the estimated cash flows.

*Recently Issued Accounting Pronouncements*

In May 2011, the FASB issued ASU 2011-04, Fair Value Measurement (Topic 820), Amendments to Achieve Common Fair Value Measurement and Disclosure Requirements in U.S. GAAP and IFRSs. ASU 2011-04 amends the fair value measurement and disclosure guidance in ASC 820, Fair Value Measurement, to converge U.S. GAAP and International Financial Reporting Standards requirements for measuring amounts at fair value as well as disclosures about these measurements. Many of the amendments in ASU 2011-04 clarify existing concepts and are generally not expected to result in significant changes to how many entities currently apply the fair value principles. In certain instances, however, the FASB changed a principle to achieve convergence, and while limited, these amendments have the potential to significantly change practice for some entities. For public entities, the amendments are effective during interim and annual periods beginning after December 15, 2011. The Group does not expect that the adoption of ASU 2011-04 will have a material impact to the Group's consolidated financial statements.

In June 2011, the FASB issued ASU No. 2011-05, Presentation of Comprehensive Income (“ASU 2011-05”). ASU 2011-05 requires that all non-owner changes in stockholders’ equity be presented either in a single continuous statement of comprehensive income or in two separate but consecutive statements. In the two-statement approach, the first statement should present total net income and its components followed consecutively by a second statement that should present total other comprehensive income, the components of other comprehensive income, and the total of comprehensive income. ASU 2011-05 eliminates the option to present the components of other comprehensive income as part of the statement of changes in stockholders’ equity. In December 2011, the FASB issued ASU 2011-12, Deferral of the Effective Date for Amendments to the Presentation of Reclassifications of Items Out of Accumulated Other Comprehensive Income in Accounting Standards Update No. 2011-05 (“ASU 2011-12”). ASU 2011-12 defers the requirement in ASU 2011-05 that entities present reclassification adjustments for each component of accumulated other comprehensive income (“AOCI”) in both net income and other comprehensive income on the face of the financial statements. ASU 2011-12 requires entities to continue to present amounts reclassified out of AOCI on the face of the financial statements or disclose those amounts in the notes to the financial statements. The effective date of ASU 2011-12 is consistent with ASU 2011-05, which is effective for fiscal years and interim periods beginning after December 15, 2011 for public entities. The Group does not expect that the adoption of both ASU 2011-05 and ASU 2011-12 will have a material impact to the Group’s consolidated financial statements.

In September 2011, the FASB issued ASU 2011-08, Intangibles—Goodwill and Other (Topic 350) Testing Goodwill for Impairment. The guidance is intended to simplify how entities, both public and non-public, test goodwill for impairment. The pronouncement permits an entity to first assess qualitative factors to determine whether it is “more likely than not” that the fair value of a reporting unit is less than its carrying amount as a basis for determining whether it is necessary to perform the two-step goodwill impairment test described in Topic 350. The guidance is effective for annual and interim goodwill impairment tests performed for fiscal years beginning after December 15, 2011. Early adoption is permitted, including for annual and interim goodwill impairment tests performed as of a date before September 15, 2011, if an entity’s financial statements for the most recent annual or interim period have not yet been issued or, for non-public entities, have not yet been made available for issuance. The Group does not expect that the adoption of ASU 2011-08 will have a material impact on the Group’s consolidated financial statements.

## B. Liquidity and Capital Resources

A principal factor affecting our results of operations and our growth is the acquisition of land use rights in target markets. Under current regulations and market practice, land use rights for residential development purposes may be acquired from local governments through a competitive auction or other bidding process. These competitive auctions and bidding processes are typically announced 20 days before they are about to take place. To participate in these auctions, we are required to make a minimum deposit of 20-50% of the opening auction price in cash. If we are successful on our bids, we are also generally required to remit the remaining purchase price within 30 days of the auction. Further, under current regulations we are not permitted to borrow money from local banks to fund land purchases. As a result we have to fund land purchases either from cash flows from project sales or from financing transactions in foreign markets which have been and continue to be relatively expensive and not easily accessible. (See ITEM 3. KEY INFORMATION “D. Risk Factors - Our business requires access to substantial financing. Our failure to obtain adequate financing in a timely manner could severely adversely (1) restrict our ability to complete existing projects, expand our business, or repay our debts and (2) affect our financial performance and condition.”)

In conjunction with the land acquisitions, we also expect to incur material project development costs on the newly acquired land. The above cash needs can only be partially satisfied by construction loans and future cash flows from real estate projects under development in the upcoming fiscal year. To ensure that we have sufficient funds to secure attractive land parcels, which are vital to our growth strategy, we have chosen to maintain a certain level of cash reserves on hand. In addition, we are required to maintain restricted cash deposits by banks that provide loans to us and our customers. The amount of the restricted cash deposits will vary based on the amount of the related loans. As of December 31, 2011, approximately US\$168.4 million, or 34.5% of our total cash balance reserve, were restricted cash.

Based on our land acquisition plans for the fiscal year 2010, we determined in early 2010 that the projected land acquisition payments combined with our debt repayments and limited financing options could result in a strained liquidity position. Therefore, we issued additional secured notes to Forum Asian Realty Income II, L.P. (“Forum”) on April 15, 2010 for US\$40 million bearing an interest rate of 15.6% per annum, to provide some margin of safety in cash available to execute the land acquisition plans. (See ITEM 5. OPERATING AND FINANCIAL REVIEW AND PROSPECTS “A. Operating Results - Principal Factors Affecting Our Results of Operations - Availability and cost of financing.”)

However, due to the limited number of land auctions announced during the remainder of 2010 that satisfied our investment criteria, the uncertainties caused by additional policies issued by the PRC government to slow down the growth of residential real estate market in PRC and the effects of prior regulations felt during 2010 (See ITEM 3. KEY INFORMATION “D. Risk Factors - The PRC government has recently introduced certain policy and regulatory measures to control the rapid increase in housing prices and cool down the real estate market and may adopt further measures in the future” and “Measures implemented by the PRC government on the property development industry remain in force and further restrictive measures may be adopted in the future.”), we ultimately did not participate in any land auctions during the year ended December 31, 2010. The stated purpose of various governmental policies, which include higher down payments, higher interest rates, and residence requirements for apartment purchases, was to reduce speculation in the housing market by investors. One effect of these policies has been a reduction in the number of qualified buyers of residential apartments which resulted in lower home prices in many residential markets in the PRC. Further, the number of land auctions held by the government decreased significantly starting in the second half of 2010. In the ending of year of 2011, we had acquired two parcels of lands, one located in Xuzhou, Jiangsu province of US\$37.3 million and another one located in Zhengzhou, Henan Province of US\$88.1 million.

To date, we have financed our operations primarily through cash flows from operations, construction loans from Chinese banks, and proceeds from issuances of equity and debt securities.

### *Cash Flows*

|  | Year Ended December 31, |           |           |
|--|-------------------------|-----------|-----------|
|  | 2009                    | 2010      | 2011      |
|  | (US\$ in thousands)     |           |           |
| Net cash provided by operating activities                    | 124,506                 | 51,422    | 212,828   |
| Net cash provided by (used in) investing activities          | (536 )                  | 8,432     | (1,164 )  |
| Net cash used in financing activities                        | (101,962)               | (10,203 ) | (118,674) |
| Net increase in cash and cash equivalents                    | 22,008                  | 49,651    | 92,990    |
| Effect of exchange rate changes on cash and cash equivalents | 133                     | 5,875     | 12,902    |
| Cash and cash equivalents at beginning of year               | 135,659                 | 157,800   | 213,326   |
| Cash and cash equivalents at end of year                     | 157,800                 | 213,326   | 319,218   |

### *Operating Activities*

Net cash provided by operating activities was US\$212.8 million for the year ended December 31, 2011, primarily attributable to US\$103.0 million in net income, an increase in accounts payable of US\$75.6 million, an increase in customer deposits of US\$44.4 million, an increase in income tax payable of US\$23.8 million, partly offset by an increase in other deposits and prepayments of US\$22.5 million, an increase in accounts receivable of US\$16.7 million and an increase in real estate property under development of US\$16.6 million.



Net cash provided by operating activities was US\$51.4 million for the year ended December 31, 2010, primarily attributable to US\$51.1 million in net income, a decrease in other current assets of US\$25.8 million, an increase in account payable of US\$49.4 million, an increase in customer deposits of US\$11.3 million and an increase income tax payable and deferred tax liabilities of US\$34.6 million, partially offset by a increase of US\$122.7 million in the balance of properties under development.

Net cash provided by operating activities was US\$124.5 million for the year ended December 31, 2009, primarily attributable to US\$42.4 million in net income, a decrease in the other receivable of US\$11.9 million, and a US\$74.8 million reduction in the balance of properties under development, as project input costs were reduced substantially in the year of 2009 to better match the GFA sales rate, partially offset by an increase in advances to suppliers of US\$19.0 million.

Proceeds from pre-sales of our properties under development are an important source of cash flow for our operations. PRC law allows us to pre-sell properties before their completion upon satisfaction of certain requirements and requires us to use the pre-sales proceeds to develop the particular project pre-sold. The amount and timing of cash flows from pre-sales are affected by a number of factors, including restrictions on pre-sales imposed by PRC law, market demand for our properties subject to pre-sales, prices at which we can pre-sell and the number of properties we have available for pre-sale. Any pre-sales payments we receive before we recognize revenue are recorded as current liabilities under customer deposits. At December 31, 2009, 2010 and 2011, we recorded current liabilities consisting of customer deposits of US\$10.9 million, US\$22.8 million and US\$69.5 million, respectively. We actively market pre-sales of our properties in accordance with regulations to accelerate cash in flow to the extent possible.

### *Investing Activities*

Net cash used in investing activities was US\$1.2 million in the year ended December 31, 2011, and was mainly attributable to the purchase of property and equipments.

Net cash provided by investing activities was US\$8.4 million in the year ended December 31, 2010, and was mainly attributable to the purchase of Jiantou Xinyuan, whereby the cash balance in the acquired target exceed the cash purchase price.

Net cash used in investing activities was US\$0.5 million in the year ended December 31, 2009, and was mainly attributable to the purchase of office equipment.

### *Financing Activities*

Net cash used in financing activities was US\$118.7 million in the year ended December 31, 2011, was primarily attributable to repayment of short-term and long-term bank loans in the aggregate of US\$199.8 million, an increase in restricted cash of US\$80.0 million, treasury stock purchases of US\$8.0 million and dividend distribution of US\$7.7 million, partially offset by proceeds from short-term and long-term bank loans in the aggregate of US\$176.6 million.

Net cash used in financing activities was US\$10.2 million in the year ended December 31, 2010, and was primarily attributable to repayment of short-term, long-term bank loans and other debts in the aggregate of US\$306.4 million, and an increase in restricted cash of US\$40.0 million, largely offset by proceeds from short-term long-term bank loans and other debt (the secured note) in the aggregate of US\$335.7 million.

Net cash used in financing activities was US\$102.0 million in the year ended December 31, 2009, and was primarily attributable to repayment of short-term and long-term bank loans in the aggregate of US\$227.4 million, largely offset by proceeds from short-term and long-term bank loans in the aggregate of US\$100.9 million.

### ***Bank Borrowings***

Bank borrowings are an important source of funding for our property developments. Our borrowings as of December 31, 2009, 2010 and 2011, respectively, were as follows.

|   | Year Ended December 31, |                |                |
|---|-------------------------|----------------|----------------|
|   | 2009<br>(US\$)          | 2010<br>(US\$) | 2011<br>(US\$) |
| Short-term bank loans                   | 94,661,844              | 108,565,993    | 42,949,816     |
| Long-term bank loans                    | 53,015,436              | 70,213,164     | 73,481,566     |
| Current portion of long-term bank loans | —                       | 78,064,729     | 129,089,496    |
| Total                                   | 147,677,280             | 256,843,886    | 245,520,878    |

As of December 31, 2009, 2010 and 2011, the weighted average interest rate on our short-term bank loans was 5.46%, 5.54%, and 5.03%, respectively. As of December 31, 2009 and 2010, our short-term bank loans were all denominated in Renminbi and were secured by certain property certificates and certain bank deposits. As of December 31, 2011, US\$17.9 million of our short-term bank loans were denominated in Renminbi, which were secured by certain property certificates and certain bank deposits. The remaining of US\$25.0 million was denominated in US\$ and was secured by the equivalent amount of RMB bank deposit.

As of December 31, 2009, 2010 and 2011, the weighted average interest rate on our long-term bank loans, including their current portion, was 5.48%, 5.29% and 6.78%, respectively. As of December 31, 2009, 2010 and 2011, our long-term bank loans were all denominated in Renminbi and were secured by our land use rights and real estate under development.

Since June 2003, commercial banks have been prohibited under PBOC guidelines from advancing loans to fund the payment of land use rights. In addition, the PRC government also encourages property developers to use internal funds to develop their property projects. Under guidelines jointly issued by MOHURD and other PRC government authorities in August 2004, commercial banks in China are not permitted to lend funds to property developers with an internal capital ratio, calculated by dividing the internal funds available by the total capital required for the project, of less than 35%. These internal capital ratio requirements have limited the amount of bank financing that property developers, including us, are able to obtain.

#### *Floating Rate Notes and Convertible Notes*

In April 2007, we issued US\$75.0 million of floating rate notes and US\$25.0 million of convertible notes. The floating rate notes bore interest at a rate of six-month LIBOR plus 6.80% per annum and matured in April 2010. The convertible notes bore interest at a rate of 2% per annum and had a maturity date of April 2012. The holder of the convertible notes had a right beginning June 15, 2010 to demand that we repurchase the convertible notes at a cash price of 120% of the principal amount plus accrued and unpaid interest, unless we have exercised our redemption right to redeem such convertible notes upon a change in tax laws or regulation. As discussed below under “Tabular Disclosure of Contractual Obligations”, on April 15, 2010, we paid in full the outstanding principal amounts of and accrued and unpaid interest on, the floating rate notes. Simultaneously, we repaid the convertible note pursuant to a mutual agreement with the note holder at the repurchase price of US\$30.2 million (including accrued and unpaid interest). A portion of the cash proceeds from the secured note issuance to Forum discussed below was used as partial payment of the repurchase price of the convertible note.

#### *Guaranteed senior secured note*

On April 15, 2010, we entered into a securities purchase agreement, or agreement, with Forum Asian Realty Income II, L.P., or Forum, pursuant to which we issued to Forum a guaranteed senior secured note in the aggregate principal amount of US\$40,000,000 due April 15, 2013 and warrants to purchase up to 1,516,882 common shares, par value \$0.01 per share.

The secured note bears interest at 15.6% per annum payable semi-annually and has a three year term maturing on April 15, 2013. It is subject to events of defaults customary for senior secured notes. It is guaranteed by the our

wholly-owned subsidiaries, Xinyuan Real Estate, Victory Good Development Limited, South Glory International Limited and Elite Quest Holdings Limited. The secured note is secured by a first priority security interest in our assets and those of our subsidiaries located outside of PRC and, subject to approval and registration with the relevant governmental authorities, a pledge of the shares of Xinyuan (China) Real Estate Co., Ltd., or Xinyuan (China), and a negative pledge of certain of Xinyuan (China)'s assets.

The agreement requires that we maintain certain financial ratios, as follows:

- an average daily cash balance of at least US\$30.0 million during the last 30 days of each quarter;
- a ratio of consolidated subsidiary debt to consolidated total tangible assets of no more than 0.35 to 1.00; and
- a working capital ratio of no less than 1.20 to 1.00 at all times.

The agreement also contains other covenants that, among other matters, restrict our ability and the ability of the our subsidiaries to incur additional debt, including guarantees, to make certain payments or investments or to make capital expenditures in excess of a maximum amount over a 12-month period. In addition, under the agreement, we, including our subsidiaries, may only make certain restricted dividend payments or incur certain types or amounts of additional debt if we has satisfied certain requirements, including having a consolidated interest expense coverage ratio greater than 2.5 to 1.00 at the time of, and after giving effect to, the restricted payment or debt incurrence.

Under the terms of the agreement, we are permitted to incur up to an additional US\$60 million of third-party indebtedness at the Company level, or corporate debt, without any consent of Forum. In the event we engage in any financing transaction that results in the amount of corporate debt (including the principal amount of the secured note) exceeding US\$100 million, Forum has the right to require us to repurchase the secured note at the repurchase price of 100% of the principal amount of the secured note then outstanding upon closing of the financing transaction. After the closing of any such financing transaction, as long as the aggregate corporate debt amount (including the principal amount of the secured note) exceeds US\$100 million, Forum has the right, on 60 days advance notice, to exercise the repurchase right at the next semi-annual interest payment date.

Forum was a holder of US\$30 million principal amount of the floating rate notes. The US\$40 million purchase price for the secured note and the warrants was paid by Forum by (a) offsetting the purchase price by the amount owed to it by us for the repayment of US\$30 million principal amount of its floating rate note and (b) payment of US\$10 million in cash.

As of December 31, 2011, under the agreement, our average daily cash balance was US\$487.6 million, our working capital ratio was 2.17 and our subsidiary debt to total tangible assets ratio was 0.22, all within the permitted thresholds under the agreement.

### *Capital Expenditures*

Our capital expenditures were US\$0.5 million, US\$1.0 million and US\$1.2 million in 2009, 2010, and 2011, respectively. Our capital expenditures in 2009, 2010 and 2011 were mainly used for acquisition of subsidiaries, building improvements, purchase of vehicles, fixtures and furniture and computer network equipments, and accumulation of properties held for lease related to newly completed projects. The source of our capital expenditures is primarily the cash flow generated from operating activities.

As of December 31, 2011, we had outstanding commitments with respect to non-cancelable construction contracts for real estate development in the amount of US\$277.9 million.

C. Research and Development, Patent and Licenses, etc.

Not applicable.

D.

Trend Information

Other than as disclosed elsewhere in this annual report, we are not aware of any trends, uncertainties, demands, commitments or events for the period from January 1, 2011 to December 31, 2011 that are reasonably likely to have a material adverse effect on our net revenues, income, profitability, liquidity or capital resources, or that caused the disclosed financial information to be not necessarily indicative of future operating results or financial conditions.

E.

Off-Balance Sheet Arrangements

As is customary in the property industry in China, we provide guarantees to commercial banks in respect of the mortgage loans they extend to our customers prior to the issuance of their property ownership certificates. These guarantees remain outstanding until the completion of the registration of the mortgage with the relevant mortgage registration authorities. In most cases, guarantees for mortgages on residential properties are discharged when we submit the individual property ownership certificates and certificates of other interests in the property to the mortgagee bank. In our experience, the application for and issuance of the individual property ownership certificates typically takes six to twelve months, so the guarantee periods typically last for up to six to twelve months after we deliver the related property.

As of December 31, 2009, 2010 and 2011, we guaranteed mortgage loans in the aggregate outstanding amount of US\$509.2 million, US\$666.4 million and US\$709.5 million, respectively.

The Company generally pre-sells properties prior to the completion of their construction. Sales contracts are executed during the pre-sales period and mortgages are generally executed within 30 days after the buyer signs the sales contract.

The pre-sales period begins upon receipt of a government permit which is issued soon after groundbreaking on a given phase of the project. The period from groundbreaking to delivery consists of building construction, landscaping, municipal government inspections and issuance of a certificate of occupancy. This “delivery period” will generally range from one to two years. The buyers only request the government to record buyer ownership in their official records after the delivery period is completed. Typically, the government will provide certificates of ownership six to twelve months after being requested to record. Therefore, the total elapsed time between the Company’s receipt of mortgage proceeds and the buyer’s receipt of an ownership certificate can range from one and a half years to three years.

Due to the time lag above, the Company’s mortgage guarantees will exceed the real estate balances at any given point in time.

The Company paid US\$0.02 million, US\$0.10 million, and US\$0.04 million to satisfy guarantee obligations related to customer defaults for the years ended December 2009, 2010 and 2011, respectively.

Except for the contingent liabilities set forth above, we have not entered into any financial guarantees or other commitments to guarantee the payment obligations of any third parties. We have not entered into any transactions with unconsolidated entities, derivative contracts that are indexed to our shares and classified as shareholders’ equity, or that are not reflected in our consolidated financial statements. Other than as described above, there are no off-balance sheet arrangements that have or are reasonably likely to have effect on our financial position.

We have no obligation arising out of a variable interest in an unconsolidated entity that provides financing, liquidity, market risk or credit risk support to us, or that engages in leasing, hedging, or research and development arrangements with us.

F. Tabular Disclosure of Contractual Obligations

As of December 31, 2011, our contractual obligations amounted to US\$582.9 million, primarily arising from contracted construction costs or other capital commitments for future property developments and debt obligations. The following table sets forth our contractual obligations for the periods indicated.

| Payments due by period |                     |              |              |                      |
|------------------------|---------------------|--------------|--------------|----------------------|
| Total                  | less than<br>1 year | 1-3<br>years | 3-5<br>years | more than<br>5 years |
| (US\$ in thousands)    |                     |              |              |                      |



|   |         |         |         |     |   |
|---|---------|---------|---------|-----|---|
| Long-term debt obligations:                           |         |         |         |     |   |
| long-term bank loans                                  | 73,482  | —       | 73,482  | —   | — |
| interest on long-term bank loans(1)                   | 7,990   | 5,091   | 2,899   | —   | — |
| current portion of long-term bank loan                | 129,089 | 129,089 | —       | —   | — |
| interest on current portion of long-term bank loan(1) | 8,645   | 8,645   | —       | —   | — |
| Short-term debt obligations                           |         |         |         |     |   |
| short-term bank loans                                 | 42,950  | 42,950  | —       | —   | — |
| interest on short-term debt obligations (2)           | 1,501   | 1,501   | —       | —   | — |
| guaranteed senior secured note                        | 40,000  | —       | 40,000  | —   | — |
| interest on guaranteed senior secured note(3)         | 8,320   | 6,240   | 2,080   | —   | — |
| Operating lease obligations                           | 2,603   | 1,791   | 518     | 294 | — |
| Non-cancellable construction contract obligations     | 277,882 | 277,882 | —       | —   | — |
| Total   | 592,462 | 473,189 | 118,979 | 294 | — |

Our long-term bank loans, including current portion, bear variable interest at rates adjustable based on the PBOC benchmark rate. Interest on long-term loans, including current portion, is calculated based on the current interest rate of each loan, ranging from 5.85% to 7.98% per annum, using the PBOC benchmark rate of 6.65% as of December 31, 2011.

(1) Interest on long-term loans, including current portion, is calculated based on the current interest rate of each loan, ranging from 5.85% to 7.98% per annum, using the PBOC benchmark rate of 6.65% as of December 31, 2011.

(2) Interest on short-term loans is calculated based on the interest rates for relevant loans, ranging from 3.50% to 6.65% per annum.

(3) Interest on guaranteed senior secured note is calculated at a rate of 15.6% per annum.

We have projected cash flows for each of our existing projects, considering a number of factors, including the relative stage of each of our projects under construction and our projects under planning and the demand for and the average selling prices of our projects. For any given project, we use cash early in the project life and generate cash later in the project life. Costs for land acquisition, site preparation, foundation, and early above-ground framing are all incurred before we obtain licenses from local governing authorities to enter into pre-sales activity. The construction of many of our projects is carried out in phases, the timing of which is primarily determined by us based on the pace of the market demand for units in the project. Accordingly, after receiving the pre-sale permits relating to a project, we are able to control much of our construction activities to coincide with the timing of expected pre-sales.

We acquired in 2007 the land parcels for our three largest active projects, Kunshan International City Garden, Chengdu Xinyuan Splendid I and Suzhou International City Garden, and completed the majority of the construction activities on those projects in 2008. Accordingly, we incurred a significant portion of the cash outflows associated with those projects by the end of 2008. However, we only obtained our pre-sales permits and commenced pre-sales activities in September 2008, in the case of the Kunshan International City Garden and Chengdu Xinyuan Splendid I, and May 2008, in the case of the Suzhou International City Garden. As of the end of 2008, we achieved only limited cumulative pre-sales as a percentage of estimated total sales for these three projects. As of December 31, 2009, cumulative pre-sales as a percentage of estimated total sales was 39.0%, 50.2% and 30.2% for each of Kunshan International City Garden, Chengdu Xinyuan Splendid I and Suzhou International City Garden, respectively.

During the first half of 2009, our pre-sales, selling price and gross floor sales all showed positive trends, leading us to project improved cash flows. Given the improved cash flows and customer demand, we made our first land parcel acquisition since 2007 on September 25, 2009 with the auction purchase of a parcel of land with an estimated 77,000 square meters GFA in Zhengzhou for a consideration of US\$20.2 million. Subsequently, we acquired in the fourth quarter of 2009 four more parcels of land with an aggregate estimated GFA of 940,000 square meters in Zhengzhou, Jinan, and Xuzhou for an aggregate consideration of US\$320.8 million. The aggregate land premium consideration for the five parcels was US\$341.0 million. In the fourth quarter of 2011, we acquired two parcels of land with an aggregated estimated GFA of 326,000 square meters an aggregated consideration of US\$125.4 million. As of December 31, 2011, we had made scheduled land premium payment of US\$42.9 million. The remaining payments of US\$29.4 million and US\$13.5 million are scheduled for January 2012 and June 2012, respectively. As of December 31, 2011, we had sufficient cash on hand to make these remaining payments.

On April 15, 2010, we paid in full the outstanding principal amount of, and accrued and unpaid interest on, the floating rate notes. The outstanding warrants to purchase common shares originally issued with the floating rate notes expired upon the maturity of the notes. Simultaneously, we also repaid the convertible note. The holder of the convertible note had a put right exercisable on June 15, 2010 pursuant to which it could require us to repurchase the convertible note at 120% of the principal amount. Pursuant to mutual agreement between us and the holder, we repaid the convertible note early on April 15, 2010 at the repurchase price of US\$30.2 million (including accrued and unpaid interest).

On April 15, 2010, we issued a three-year senior guaranteed secured note in the aggregate principal amount of US\$40 million and detachable warrants to subscribe for common shares to Forum. The secured note bears interest at 15.6% per annum payable semi-annually. Forum also was the holder of US\$30 million principal amount of the floating rate notes. The US\$40 million purchase price for the Secured Note and warrants was paid by Forum by (a) offsetting the purchase price by the amount owed to it by us for the repayment of US\$30 million principal amount of its floating rate note and (b) payment of US\$10 million in cash. A portion of the cash payment was used to partial fund the repayment of the convertible notes.

We believe our cash on hand, projected cash flow from operations, available construction loan borrowing capital, and potential access to capital markets, should be sufficient to meet our expected cash requirements, including our short-term debt obligations and non-cancellable construction contract obligations that are due on various dates through December 2012.

Our ability to secure sufficient financing for land use rights acquisition and property development depends on internal cash flows in addition to a number of other factors that are not completely under our control, including lenders' perceptions of our creditworthiness, market conditions in the capital markets, investors' perception of our securities, the PRC economy and the PRC government regulations that affect the availability and cost of financing for real estate companies or property purchasers.

There can be no assurance that our internally generated cash flow and external financing will be sufficient for us to meet our contractual and financing obligations in a timely manner. We may require additional cash due to changing business conditions or other future developments, including any decline in cash flow from operations or any investments or acquisitions we may decide to pursue. In the event that proceeds from the sale of units for a project are insufficient to meet our contractual and financing obligations, we would need to raise the required funds through new borrowings, refinancing of existing borrowings, public or private sales of equity securities, or a combination of one or more of the above. As discussed above under “- Liquidity and Capital Resources”, our secured notes contain covenants that, among other matters, restrict our ability to incur additional debt. We cannot assure you that we will be able to obtain adequate funding in a timely manner and on reasonable terms, or at all.

G. Safe Harbor

See “FORWARD-LOOKING INFORMATION” at the beginning of this annual report.

Item 6. Directors, Senior Management and Employees

A. Directors and Senior Management

The following table sets forth information regarding our executive officers and directors as of the date of this annual report.

| Name              | Age | Position   |
|-------------------|-----|--|
| Yong Zhang        | 48  | Director, Chairman and Chief Executive Officer             |
| Yuyan Yang        | 49  | Director and Vice President                                |
| Thomas Gurnee     | 61  | Director and Chief Financial Officer                       |
| Huai Chen         | 60  | Director *   |
| Yong Cui          | 37  | Director   |
| Yinfei Hao        | 62  | Director and Executive Vice President of HR&Administration |
| Omer Ozden        | 44  | Director*  |
| Thomas Wertheimer | 71  | Director*  |

\*Indicates Independent Director

Unless otherwise indicated, the business address of each director and executive officer is 27/F, China Central Place, Tower II, 79 Jianguo Road, Chaoyang District, Beijing, 100025, the People’s Republic of China.

A description of the business experience and present position of each director and executive officer is provided below:

*Yong Zhang* founded our company in 1997 and is the Chairman of the board of directors and our Chief Executive Officer. Mr. Zhang has more than 20 years of working experience in the real estate industry. Prior to founding our company, he worked at several construction and property development companies, including Zhengzhou City Construction and Development Inc. and China Antai Real Estate Development Inc. Mr. Zhang is also vice chairman of Henan Real Estate Association, a member of China Democratic National Construction Association and a deputy to the 11th People's Congress of Henan Province in China. Mr. Zhang received an executive master's degree in business administration from Tsinghua University in 2005 and a bachelor's degree in architecture from Henan Zhongzhou University in 1985. Mr. Zhang is married to Yuyan Yang, a director of our company and Vice President.

*Yuyan Yang* co-founded our company in 1997 with Mr. Yong Zhang. She is our director and Vice President. Ms. Yang has more than 10 years' working experience in the real estate industry. Ms. Yang received a bachelor's degree in education management from Henan University in 1985. Ms. Yang received her executive master's degree in business administration at the National University of Singapore in May 2008. Ms. Yang is married to Yong Zhang, Chairman of our board of directors and Chief Executive Officer.

*Thomas Gurnee* was appointed to the board of directors of our company in December 2007 and as Chief Financial Officer in February 2009. Prior to joining Xinyuan, Mr. Gurnee was the Chief Financial Officer of GEM Services Inc., a semiconductor contract manufacturer based in China. Prior to that, Mr. Gurnee served as the president of Globitech Inc., a Texas-based epitaxial semiconductor wafer manufacturer, the Chief Financial Officer of Artest Inc., a California-based semiconductor test subcontractor, and the Chief Financial Officer of Sohu.com (NASDAQ: SOHU), a Beijing-based internet portal. He is also a member of the board of directors of eLong, Inc. Mr. Gurnee obtained his bachelors degree from Stanford University and master's degree in business administration from the University of Santa Clara. His business address is 27/F, China Central Place, Tower II, 79 Jianguo Road, Chaoyang District, Beijing 100025.

*Huai Chen* was appointed as director of our company in December 2007. Mr. Chen is the senior research fellow and director of the Policy Research Center of the MOHURD and was the deputy director of the Institute of Market Research under the PRC State Council's Development and Research Center. Mr. Chen was a visiting professor of Stanford University and Tokai University and has a doctorate from Renmin University of China. His business address is No. 9 Sanlihe Road, Beijing, PRC.

*Yong Cui* has been our director since August 2006. With a doctorate degree in economics from Renmin University of China, Mr. Cui has extensive experience in corporate finance. He is a senior researcher at the Finance and Securities Institute of Renmin University of China and the executive president and a director of Beijing Huiye Huacheng Investment Consulting Co., Ltd. He is also a director of Beijing Gold – Tide Biotechnology Co., Ltd. His business address is Room 1-117, 8 Banbi Road South, Haidian District, Beijing, PRC.

*Yinfei Hao* was appointed as a director on December 10, 2010. Ms. Hao is the Company's Executive Vice President of HR&Administration. She has broad connections in the real estate industry and has more than 38 years of working experience including the last 28 years in government services. Ms. Hao holds a master's degree in economics law, an MBA and a PhD of Management Science and Engineering. She has also received an Independent Director Certificate from the China Securities Regulatory Commission and National Accounting Institute. Ms. Hao also serves as senior officer of the Supreme People's Procuratorate of the Peoples' Republic of China. She is also an independent director of Panggang Group Company Ltd (SSE: 000629). Her business address is 27/F, China Central Place, Tower II, 79 Jianguo Road, Chaoyang District, Beijing 100025.

*Omer Ozden* was appointed as director on May 24, 2011. Mr. Omer Ozden is managing partner of Beijing Capital, a private equity fund focused on investing in China. From 2006 to 2010, he was with Baker McKenzie LLP where he was a Partner in the New York office's corporate and public securities group. From 2000 to 2006, Mr. Ozden was an attorney at Morrison & Foerster LLP and Hodgson Russ LLP, and from 1996 to 2000, he co-founded and managed a business and legal consulting company, and a technology venture incubator in Beijing. Mr. Ozden has a Bachelor of Commerce majoring in Finance from the University of Toronto, completed the International Joint Law Degree program graduating concurrently with a Juris Doctor and LL.B from the University of Detroit Michigan and University of Windsor Ontario, and he studied Mandarin Chinese at National Taiwan Normal University. Mr. Ozden's business address is 1901-1903 Winland International Finance Center, No. 7 Financial Street, Xicheng District,

Beijing, PRC 100140.

*Thomas Wertheimer* was appointed as director of our company in December 2007. Mr. Wertheimer is a highly experienced former audit partner with PricewaterhouseCoopers, and is an expert in financial and accounting issues, including reporting to the SEC, executive compensation, foreign operations, hedging and derivatives. Mr. Wertheimer is a member of board of directors of two other public companies, Fiserv Inc. (NASDAQ: FISV) and Vishay Intertechnology, Inc. (NYSE: VSH). He was also a consultant to the Public Company Accounting Oversight Board (PCAOB). Mr. Wertheimer obtained his bachelor and master's degrees in business administration from the University of Cincinnati. His business address is 28 Wicklow Drive, Hilton Head Island, SC 29928.

## B. Compensation

For the fiscal year ended December 31, 2011, we paid an aggregate compensation of US\$2.3 million in cash to our executive officers, including all directors, and we paid an aggregate of US\$0.2 million in compensation to our non-executive directors. As discussed above under "Item 4. Information on the Company – B. Business Overview – Employees", we made contributions of US\$1.8 million to employee benefit plans for the fiscal year ended December 31, 2011.

*Share Incentives*

***2007 Equity Incentive Plan***

In August 2006, our shareholders agreed to allocate 6,802,495 common shares for our employee bonus scheme. In August 2007, we adopted our 2007 equity incentive plan to attract, retain and motivate key employees, directors and consultants of our company, our subsidiaries and our equity investee. Our plan provides for the grant of options to purchase our common shares. The maximum aggregate number of common shares which may be issued pursuant to all awards, including options, is 6,802,495 common shares, subject to adjustment to account for changes in the capitalization of our company. Our board of directors believes that our company's expansion plans and its long-term success is dependent upon our ability to attract and retain superior individuals who, by virtue of their ability, experience and qualifications, make important contributions to our business.

*Termination.* The terms of a participant's award are set forth in the participant's award agreement. Our board of directors, or any committee designated under it, will determine the terms and conditions of an award in the relevant award agreement. The duration of any award may not exceed ten years from the date of grant. If a participant's service with our company terminates for any reason, unless otherwise provided in the award agreement or determined by our board of directors, or any board committee designated by it, any outstanding unvested or vested but unexercised option granted to the participant will expire and be forfeited for no consideration on the date of the participant's termination of service. In the event any award under the plan expires, terminates, or is forfeited, the common shares underlying the award will revert to our company to be available for the purposes of the plan.

*Administration.* Our 2007 equity incentive plan is administered by our board of directors, or any board committee designated by it. Our board of directors, or any designated committee, is authorized to interpret, establish or amend the plan at any time for any reason. They will determine the terms and conditions of any award, including, but not limited to, the exercise price for any option, restrictions and vesting conditions, including time-based vesting conditions and performance-based vesting conditions, forfeiture provisions and other applicable terms. In addition, they will also specify in the award agreement whether the option constitutes an incentive share option, or ISO, or a non-qualifying stock option. Awards under our 2007 equity incentive plan may also be awarded under certain performance-based criteria based on conditions our board of directors, or any designated committee, deems appropriate.

*Option Exercise and Conditions.* The consideration paid for our common shares upon exercise of an option or purchase of common shares underlying an award or option may be paid in cash or cash equivalents. Our board of directors may accept any form of legal consideration that satisfies Cayman Islands corporate law requirements regarding adequate consideration for options. Participation in our 2007 equity incentive plan may also be subject to certain terms and conditions, including, but not limited to, withholding tax arrangements and certain restrictions on transfer.



*Amendment and Termination.* Our board of directors, or any designated committee, is authorized to interpret the plan and to establish, amend, suspend or terminate the plan at any time for any reason. However, any amendment to increase the number of common shares available for issuance under the plan or materially change the class of persons who are eligible for grants under the plan is subject to approval by our shareholders. Our board of directors at any time may amend the terms of any award provided that the amendment does not impair the rights of a participant under an award, in which case, our board of directors would need the participant's consent.

On August 11, 2007, we granted share options awards to 346 directors, management, employees and consultants and employees of the equity investee for an aggregate of 6,802,495 common shares at a weighted average exercise price of US\$1.08. These options have various vesting periods ranging from four to 60 months.

The following table summarizes, as of December 31, 2011, the outstanding options that we granted to our current directors, executive officers, and other individuals as a group under our 2007 equity incentive plan.

| Name  | Common Shares Underlying Options Granted | Exercise Price of Options Granted (US\$ per share) | Common Shares Underlying Restricted Share Awards Granted (1) | Grant Date      | Date of Expiration |
|---|--|--|--|-----------------|--------------------|
| Yong Zhang                                    | 146,891                                  | 2.5  |  | August 11, 2007 | August 10, 2017    |
| Yong Cui                                      |  |  | 38,890   | August 11, 2007 | August 10, 2017    |
| Other employees and consultants(2) as a group | 540,993                                  | 2.5  | 37,205   | August 11, 2007 | August 10, 2017    |

(1) All restricted share awards were granted at purchase price of US\$0.0001 per common share.

(2) None of these employees and consultants is a director or executive officer of our company.

### ***2007 Long Term Incentive Plan***

In November 2007, we adopted our 2007 long term incentive plan which provides for the grant of options, restricted shares, restricted stock units, stock appreciation rights and other stock-based awards to purchase our common shares. The maximum aggregate number of common shares which may be issued pursuant to all awards, including options, is 10 million common shares, subject to adjustment to account for changes in the capitalization of our company.

**Termination.** The terms of a participant's award are set forth in the participant's award agreement. Our board of directors, or any board committee designated by it, will determine the terms and conditions of an award in the relevant award agreement. The duration of any award may not exceed ten years from the date of grant. If a participant's service with our company terminates for any reason, unless otherwise provided in the award agreement or determined by our board of directors, or any designated committee, the unvested portion of any outstanding awards to the participant will be immediately forfeited without consideration, the vested portion of any outstanding restricted stock units or other stock-based awards will be settled upon termination and the participant will have a period of three months to exercise the vested portion of any outstanding options or stock appreciation rights.

**Administration.** Our 2007 long term incentive plan is administered by our board of directors, or any board committee designated by it. Our board of directors, or any designated committee, is authorized to interpret, establish or amend the plan at any time for any reason. They will determine the terms and conditions of any award, including, but not

limited to, the exercise price for any option, restrictions and vesting conditions, including time-based vesting conditions and performance-based vesting conditions, forfeiture provisions and other applicable terms. In addition, they will also specify in the award agreement whether the option constitutes an ISO, or a non-qualifying stock option. Awards under our 2007 long term incentive plan may also be awarded under certain performance-based criteria based on conditions our board of directors, or any designated committee, deems appropriate.

*Award Exercise and Conditions.* The consideration paid for our common shares upon exercise of an option may be paid in cash or cash equivalents or, subject to prior approval by our board of directors in its discretion, shares, promissory note, irrevocable direction to sell or pledge shares and to deliver proceeds as payment, or any combination of the foregoing methods. The consideration paid for our common shares upon exercise of stock appreciation rights, restricted stock units and other stock-based awards may be paid in cash, shares or any combination thereof. The restricted shares will be awarded for no additional consideration or such additional consideration as our board may determine satisfies Cayman Islands corporate law requirements. Each award of restricted shares will entitle the participant to all voting, dividends and other ownership rights in such shares, subject to any limitation on dividends rights specified in the award agreement. The participant will possess no incidents of ownership with respect to the shares underlying the restricted stock units granted. Participation in our 2007 long term incentive plan may also be subject to certain terms and conditions, including, but not limited to, withholding tax arrangements and certain restrictions on transfer.

*Amendment and Termination.* Our board of directors, or any designated committee, is authorized to interpret the plan and to establish, amend, suspend or terminate the plan at any time for any reason. However, any amendment to increase the number of common shares available for issuance under the plan, or materially change the class of persons who are eligible for grants under the plan is subject to approval by our shareholders. Our board of directors at any time may amend the terms of any award provided that the amendment does not impair the rights of a participant under an award, in which case, our board of directors would need the participant's consent.

On November 5, 2007 and July 1, 2008, we granted options under the 2007 long term incentive plan to our directors, management and key employees of both the Group and our equity investee for an aggregate of 2,801,844 common shares at the average exercise price of US\$6.48 per common share (or US\$12.96 per ADS). These awards have vesting periods of up to 36 months, and will expire no later than the 10th anniversary of the date of grant. The number of common shares underlying options granted to Yong Zhang and Yuyan Yang was 473,493 and 134,956, respectively.

On March 31, 2009, the Company granted options under the 2007 Plan to purchase up to 500,000 common shares to one employee, at an exercise price equal to the price of the grant date (US\$1.87 per share). These options have a weighted average grant date fair value of US\$1.255 per option, and a total expected compensation cost, net of expected forfeitures, of US\$564,750. These options have a vesting period based on length of service of 36 months and will expire no later than March 31, 2019.

On August 11, 2009, under the 2007 Plan, the Company granted share options to purchase up to 100,000 common shares to an employee, at an exercise price of US\$1.30 per share, which is below the market price of our common shares on the grant date (US\$2.71 per share). These options have a weighted average grant date fair value of US\$2.12 per option, and a total expected compensation cost, net of expected forfeitures, of US\$190,800. These options have vesting periods of 27 months and will expire no later than August 11, 2019.

On April 30, 2010, under the 2007 Plan, the Company granted share options to purchase up to 200,000 common shares to an employee, at an exercise price equal to the price of the grant date (US\$1.80 per share). These options have a weighted average grant date fair value of US\$1.08 per option, and a total expected compensation cost, net of expected forfeitures, of US\$193,500. These options have vesting periods of 37 months and will expire no later than April 30, 2020. On December 20, 2010, the options were modified, by amending the vesting schedule.

On December 13, 2010, under the 2007 Plan, the Company granted share options with performance condition to purchase up to 6,900,000 common shares to certain employees, at an exercise price equal to the price of the grant date (US\$1.21 per share). These options have weighted average grant date fair values of US\$0.60 to US\$0.61 per option, depending on vesting period. These options have vesting periods of 25 to 37 months and will expire no later than December 13, 2020. The performance condition is determined by the Board of Directors. For those awards, an evaluation will be made each quarter as to the likelihood of performance criteria being met. Compensation expenses

are then adjusted to reflect the number of shares expected to vest.

On December 13, 2010, under the 2007 Plan, the Company granted share options with service condition to purchase up to 400,000 common shares to certain employees, at an exercise price equal to the price of the grant date (US\$1.21 per share). These options have a weighted average grant date fair value of US\$0.61 per option, and a total expected compensation cost, net of expected forfeitures, of US\$219,600. These options have vesting periods of 37 months and will expire no later than December 13, 2020.

On December 20, 2010, under the 2007 Plan, the Company granted share options with performance condition to purchase up to 1,100,000 common shares to certain employees, at an exercise price equal to the price of the grant date (US\$1.18 per share). These options have a weighted average grant date fair value of US\$0.58 per option. These options have vesting periods of 37 months and will expire no later than December 20, 2020. The performance condition is determined by the Board of Directors. For those awards, an evaluation will be made each quarter as to the likelihood of performance criteria being met. Compensation expenses are then adjusted to reflect the number of shares expected to vest.

On January 4, 2011, under the 2007 Plan, the Company granted share options with performance condition to purchase up to 200,000 common shares to its employees, at an exercise price equal to the price of the grant date (US\$1.365 per share). These options have a weighted average grant date fair value of US\$0.68 per option. These options have vesting periods of 36 months and will expire no later than January 4, 2021. The performance condition is determined by the Board of Directors. For those awards, an evaluation will be made each quarter as to the likelihood of performance criteria being met. Compensation expenses are then adjusted to reflect the number of shares expected to vest.

On May 24, 2011, under the 2007 Plan, the Company granted share options to purchase up to 100,000 common shares to an employee, at an exercise price of US\$1.085 per share. These options have a weighted average grant date fair value of US\$0.53 per option and a total expected compensation cost, net of expected forfeitures, of US\$47,592. These options have vesting periods based on length of service of 36 months and will expire no later than May 24, 2021.

On November 8, 2011, under the 2007 Plan, the Company granted share options with performance conditions to purchase up to 1,000,000 common shares to an employee, at an exercise price of US\$0.945 per share. These options have a weighted average grant date fair value of US\$0.30 per option. Pursuant to the agreements, 1/3 of the options would vest 12 months, 24 months and 36 months after the grant date, respectively, with the condition that the performance criteria are met at each vesting date. These options will expire no later than November 8, 2021. The performance conditions were determined by the Board of Directors. For those awards, an evaluation will be made each quarter as to the likelihood of the performance criteria being met. Compensation expenses are then adjusted to reflect the number of shares expected to vest.

The following table summarizes, as of December 31, 2011, the outstanding options that we granted to our current directors and executive officers and to other individuals as a group under our 2007 long term incentive plan.

| Name                          | Common Shares<br>Underlying Options<br>Granted | Exercise Price of<br>Options Granted<br>(US\$ per share) | Grant Date        | Date of Expiration |
|-------------------------------|--|--|-------------------|--------------------|
| Yong Zhang                    | 473,493  | 7.00   | November 5, 2007  | December 4, 2017   |
|                               | 3,400,000                                      | 1.21   | December 13, 2010 | December 12, 2020  |
| Yuyan Yang                    | 134,956  | 7.00   | November 5, 2007  | December 4, 2017   |
|                               | 600,000  | 1.21   | December 13, 2010 | December 12, 2020  |
| Thomas Gurnee                 | 500,000  | 1.87   | March 31, 2009    | March 30, 2019     |
|                               | 600,000  | 1.21   | December 13, 2010 | December 12, 2020  |
| Yinfei Hao                    | 200,000  | 1.80   | April 30, 2010    | April 29, 2020     |
|                               | 600,000  | 1.21   | December 13, 2010 | December 12, 2020  |
| Yong Cui                      | 1,000,000                                      | 1.21   | December 13, 2010 | December 12, 2020  |
| Thomas Wertheimer             | 100,000  | 1.21   | December 13, 2010 | December 12, 2020  |
| Huai Chen                     | 100,000  | 1.21   | December 13, 2010 | December 12, 2020  |
| Omer Ozden                    | 100,000  | 1.09   | May 24, 2011      | May 25, 2021       |
| Other employees as a group(1) | 202,117  | 7.00   | November 5, 2007  | December 4, 2017   |
|                               | 180,000  | 2.98   | July 1, 2008      | June 30, 2018      |
|                               | 500,000  | 1.21   | December 13, 2010 | December 12, 2020  |
|                               | 200,000  | 1.37   | January 4, 2011   | January 5, 2021    |
|                               | 1,000,000                                      | 0.95   | November 8, 2011  | November 9, 2021   |

(1) None of these employees and consultants is a director or executive officer of our company.

Our board of directors currently has eight directors.

*Committees of the Board of Directors*

We have established three committees under the board of directors: the audit committee, the compensation committee and the corporate governance and nominating committee. We have adopted a charter for each of the three committees. Each committee's members and functions are described below.

*Audit Committee.* Our audit committee consists of Mr. Thomas Wertheimer and Mr. Huai Chen. Under Section 303A.06 of the NYSE Listed Company Manual, as a foreign private issuer, we are required to have an audit committee composed solely of independent directors. However, unlike U.S. listed companies, we are not required to have a minimum number of committee members. Mr. Wertheimer is the chairman of our audit committee. All of the current members of our audit committee satisfy the “independence” requirements of Section 303A of the Corporate Governance Rules of the NYSE and Rule 10A-3 under the Securities Exchange Act of 1934, as amended. Our board of directors has determined that Mr. Wertheimer qualifies as an “audit committee financial expert” under applicable SEC rules. The audit committee oversees our accounting and financial reporting processes and the audits of the financial statements of our company. The audit committee is responsible for, among other things:

· selecting the independent registered public accounting firm and pre-approving all auditing and non-auditing services permitted to be performed by the independent registered public accounting firm;

· reviewing with the independent registered public accounting firm any audit problems or difficulties and management’s response;

· reviewing and approving all proposed related party transactions, as defined in Item 404 of Regulation S-K under the Exchange Act, regardless of the dollar amount involved in such transactions;

· discussing the annual audited financial statements with management and the independent registered public accounting firm;

· reviewing major issues as to the adequacy of our internal controls and any special audit steps adopted in light of material control deficiencies; and

· meeting separately and periodically with management and the independent registered public accounting firm.

*Compensation Committee.* Our compensation committee consists of Mr. Thomas Wertheimer and Mr. Yong Cui. Mr. Wertheimer satisfies the “independence” requirements of Section 303A of the Corporate Governance Rules of the NYSE.

The compensation committee assists the board in reviewing and approving the compensation structure, including all forms of compensation, relating to our directors and executive officers. Our Chief Executive Officer may not be present at any committee meeting during which his compensation is deliberated. The compensation committee is responsible for, among other things:



- reviewing and approving the total compensation package for our three most senior executives;

- reviewing and recommending to the board the compensation of our directors; and

· reviewing periodically and approving any long-term incentive compensation or equity plans, programs or similar arrangements, annual bonuses, employee pension and welfare benefit plans.

*Corporate Governance and Nominating Committee.* Our corporate governance and nominating committee consists of Mr. Huai Chen and Mr. Yong Cui. Mr. Chen is the chairperson of our corporate governance and nominating committee. Mr. Chen satisfies the “independence” requirements of Section 303A of the Corporate Governance Rules of the NYSE.

The corporate governance and nominating committee assists the board of directors in selecting individuals qualified to become our directors and in determining the composition of the board and its committees. The corporate governance and nominating committee is responsible for, among other things:

- identifying and recommending qualified candidates to the board for selection of directors, nominees for board of directors, or for appointment to fill any vacancy;

· reviewing annually with the board of directors the current composition of the board of directors with regards to characteristics such as independence, age, skills, experience and availability of service to us;

· advising the board of directors periodically with regards to significant developments in the law and practice of corporate governance as well as our compliance with applicable laws and regulations, and making recommendations to the board of directors on all matters of corporate governance and on any remedial action to be taken; and

· monitoring compliance with our code of business conduct and ethics, including reviewing the adequacy and effectiveness of our procedures to ensure proper compliance.

### ***Duties of Directors***

Under Cayman Islands law, our directors have a fiduciary duty to act honestly in good faith with a view to our best interests. Our directors also have a duty to exercise the skill they actually possess with the care and diligence that a reasonably prudent person would exercise in comparable circumstances. In fulfilling their duty of care to us, our directors must ensure compliance with our memorandum and articles of association, as amended and restated from time to time. A shareholder has the right to seek damages if a duty owed by our directors is breached.

The functions and powers of our board of directors include, among others:

- convening shareholders' annual general meetings and reporting its work to shareholders at such meetings;
- declaring dividends and distributions;
- appointing officers and determining the term of office of officers;
- exercising the borrowing powers of our company and mortgaging the property of our company; and
- approving the transfer of shares of our company, including the registering of such shares in our register of members.

### ***Terms of Directors and Officers***

Under our memorandum and articles of association, a director holds office until he resigns or otherwise vacates his office or is removed by our shareholders or directors. A director may be removed by special resolution passed by our shareholders before the expiration of such director's term. Officers are elected by and serve at the discretion of the board of directors.

D. Employees

We had 482, 426 and 446 full time employees as of December 31, 2009, 2010 and 2011, respectively. See "Item 4. Information on the Company—B. Business Overview—Employees." None of our employees is represented by a labor union. We consider our relations with our employees to be good.

E. Share Ownership

The following table sets forth information with respect to the beneficial ownership of our common shares as of March 31, 2012, by:

- each of our directors and executive officers;
- each person known to us to own beneficially more than 5% of our common shares; and
- all of our directors and executive officers as a group.

|  | Shares Beneficially Owned(1) |      |
|--|------------------------------|------|
|  | Number                       | %    |
| Directors and Executive Officers:                  |                              |      |
| Yong Zhang(2)                                      | 58,912,473                   | 40.4 |
| Yuyan Yang(3)                                      | 58,912,473                   | 40.4 |
| Yong Cui   | 33,333                       | *    |
| Thomas Wertheimer(4)                               | 36,461                       | *    |
| Thomas Gurnee(5)                                   | 989,500                      | 0.7  |
| Huai Chen(6)                                       | 33,333                       | *    |
| Yinfei Hao(7)                                      | 448,572                      | 0.3  |
| Omer Ozden (8)                                     | 16,667                       | *    |
| All directors and executive officers as a group(9) | 60,223,706                   | 41.3 |
| Principal Shareholders:                            |                              |      |
| Blue Ridge China Partners, L.P.(10)                | 27,505,867                   | 17.9 |

\* Upon exercise of all options granted, would beneficially own less than 1.0% of our outstanding ordinary shares.

Beneficial ownership includes voting or investment power with respect to the securities and, except as indicated below, each person named has sole voting and investment power with respect to the shares shown opposite his or her name. Beneficial ownership is determined in accordance with Rule 13d-3 of the General Rules and Regulations under the Exchange Act, pursuant to which a person or group of persons is deemed to have “beneficial ownership” of any shares of common stock that such person has the right to acquire within 60 days of March 31, 2012. The percentage of beneficial ownership is based on 145,863,676 common shares outstanding as of March 31, 2012. In addition, for purposes of computing the percentage of outstanding shares of common stock held by each person or group of persons named above, any shares which such person or persons had the right to acquire on or before March 31, 2012 are deemed to be outstanding but are not deemed to be outstanding for the purpose of computing the percentage ownership of any other person.

(1) Includes 8,800,000 common shares owned by Yuyan Yang, Mr. Zhang’s spouse, 23,800 common shares represented by 11,900 ADS and 334,956 common shares from vested options held by Star World Finance Limited, (2) a British Virgin Islands company wholly owned and controlled by Ms. Yang and 1,753,717 common shares from vested options, which are held by Shinning Gold Trading Limited, a British Virgin Islands company wholly owned and controlled by Mr. Zhang. Mr. Zhang and Ms. Yang are deemed to beneficial owners of each other’s shares.

(3) Includes 48,000,000 common shares owned by Yong Zhang, Ms. Yang’s spouse, 1,753,717 common shares from vested, which are held by Shinning Gold Trading Limited, a British Virgin Islands company wholly owned and controlled by Mr. Zhang, and 23,800 common shares represented by 11,900 ADS and 334,956 common shares from vested options held by Star World Finance Limited, a British Virgin Islands company wholly owned and controlled by Ms. Yang. Mr. Zhang and Ms. Yang are deemed to beneficial owners of each other’s shares.

(4) Includes 33,333 common shares issuable upon the exercise of options exercisable within 60 days.

- (5) Includes 800,000 common shares issuable upon the exercise of options exercisable within 60 days.
- (6) Represents 33,333 common shares issuable upon the exercise of options exercisable within 60 days.
- (7) Represents 448,572 common shares issuable upon the exercise of options exercisable within 60 days.
- (8) Represents 16,667 common shares, issuable upon the exercise of options exercisable within 60 days.

Includes 1,753,717 common shares issuable upon exercise of options exercisable within 60 days, which are held by Shinning Gold Trading Limited, a British Virgin Islands company wholly owned and controlled by Mr. Zhang, 334,956 common shares from vested options held by Star World Finance Limited, a British Virgin Islands company wholly owned and controlled by Ms. Yang, 33,333 common shares issuable upon exercise of options (9) exercisable within 60 days, which are held by Mr. Wertheimer, 800,000 common shares issuable upon exercise of options exercisable within 60 days, which are held by Mr. Gurnee, 33,333 common shares issuable upon exercise of options exercisable within 60 days, which are held by Mr. Huai Chen, 448,572 common shares issuable upon exercise of options exercisable within 60 days, which are held by Ms. Hao and 16,667 common shares issuable upon exercise of options exercisable within 60 days, which are held by Mr. Ozden.

Based on information contained in a Schedule 13G filed with the SEC on February 14, 2012 Blue Ridge China Partners, L.P., reporting beneficial ownership as of December 31, 2011. The securities are beneficially owned by Blue Ridge China and by its general partner, Blue Ridge China Holdings, L.P., or BRCH, a Cayman Islands exempted limited partnership, and BRCH's general partner, Blue Ridge Capital Offshore Holdings LLC, or BRCOH, a New York limited liability company. John A. Griffin is the sole managing member of BRCOH and in (10) that capacity directs its operations and (through BRCOH and BRCH) has voting and investment control over Blue Ridge China. Blue Ridge China, BRCH, BRCOH, and Mr. Griffin may therefore all be deemed to beneficially own such securities. BRCH's, BRCOH's, and Mr. Griffin's pecuniary interest in such securities is limited to its or his proportionate pecuniary interest in Blue Ridge China. The address of Blue Ridge China Partners, L.P. is c/o M&C Corporat Services Limited, P.O. Box 309GT, Uglan House, South Church Street, George Town, Grand Cayman, Cayman Islands.

Item 7. Major Shareholders and Related Party Transactions

A. Major Shareholders

Please refer to “Item 6. Directors, Senior Management and Employees—E. Share Ownership.”

There are two record holders in the U.S., including the depository for our ADSs, holding, collectively, 58.2% our outstanding common shares, as of March 31, 2012.

B. Related Party Transactions

*Shareholders Agreement*

We entered into a shareholders agreement, dated as of April 9, 2007, with Blue Ridge China, Equity International, Mr. Yong Zhang, Ms. Yuyan Yang, Xinyuan Ltd., Burnham Securities and Mr. Gardner. The agreement was amended and restated on October 31, 2007. Under the terms of the amended and restated shareholders agreement, the following rights generally will apply:

*Co-Sale Rights.* Prior to December 12, 2010, if either Mr. Yong Zhang or Ms. Yuyan Yang proposed to transfer any common shares, he or she had to provide us and the other parties to the agreement written notice detailing the number of common shares to be sold or transferred, the consideration to be paid, the name and address of each prospective purchaser or transferee, and a copy of the proposed transfer documents; provided, however, that this provision did not apply to any shares registered for resale on Form F-3. Within 30 days of such notification, Blue Ridge China, Equity International, Burnham Securities and Mr. Gardner had the right to participate in the sale on the same terms and conditions indicated in the notice. Their pro-rata share is the ratio of the sum of the number of securities held by Blue Ridge China, Equity International, Burnham Securities or Mr. Gardner that were issued pursuant to the Share Exchange and Assumption Agreement, on an as converted and as exercised basis, as the case may be.

*Right of First Refusal on Common Shares by Certain Shareholders.* If any shareholder party to the agreement, other than Mr. Yong Zhang or Ms. Yuyan Yang, desires to transfer all or any portion of its securities, the selling shareholder must first deliver to us a notice identifying the transferee and containing an offer to sell the shares to us at the same price, upon the terms as set forth in the proposed transfer. This right of first refusal does not apply to sales to the public.

*Registration Rights.* Blue Ridge China and Equity International are also entitled to certain registration rights, including demand registration, piggyback registration and Form F-3 registration.

*Termination of Agreement.* The shareholders agreement will terminate upon the expiration of any period of four consecutive weeks after our IPO in December 2007 during which the weekly trading volume in each such week of the common shares on the NYSE, Nasdaq or any applicable major international securities exchange exceeds one-half the number of common shares (on a fully diluted basis) then held by Blue Ridge China and Equity International.

#### *Cash Advances*

As of December 31, 2011, we recorded balances due from employees in the amount of US\$0.02 million as compared to US\$0.05 million for 2010, which mainly represented cash advances paid to employees for their traveling expenses.

#### *Share Incentives*

See “Item 6. Directors, Senior Management and Employees—B. Compensation—Share Incentives” for a description of share options and stock purchase rights we have granted to our directors, officers and other individuals as a group.

*Consulting Agreements and other Agreements with Our Directors*

We entered into a consulting agreement with a consulting company that is beneficially owned by Yong Cui, one of our directors, in April 2005. Under this agreement, the consulting company agreed to provide certain financial consulting services to us. This consulting agreement was renewed in December 2006, under which we had agreed to pay an annual fee of RMB 240,000. In February 2010, we renewed this consulting agreement, under which we agreed to pay an annual fee of RMB 500,000. This new agreement will expire in February 2013.

Effective October 2011 the Company and its board approved additional annual compensation of \$571,000 for Mr. Cui Yong for expanded consulting services in the areas of strategic planning, and partnerships, project acquisitions, project financing, and new markets.

We entered into a business development advisory services agreement with Karmen Equities Limited, of which Omer Ozden is a minority shareholder in November 2011. The term of this agreement is six months with advisory fees amounting to \$10,000 per month.

*Registration Rights*

We have granted registration rights to the holders of our common shares, certain warrants and convertible notes or their assignees, some of which rights may have expired. These rights include (a) demand and Form F-3 registration rights to (i) the holders or assignees of our convertible notes and related warrants, and to (ii) Blue Ridge China and Equity International, and (b) piggyback registration rights to these parties and the holders of the common shares issued upon exercise of the Burnham warrants. We have registered most of the common shares for resale on a Form F-3 registration statement.

*Review and Approval of Related Party Transactions*

Pursuant to our audit committee charter, all transactions or arrangements with related parties, as such term is defined under Item 404 of Regulation S-K, including directors, executive officers, beneficial owners of 5% or more of our voting securities and their respective affiliates, associates and related parties, will require the prior review and approval of our audit committee, regardless of the dollar amount involved in such transactions or arrangements.



*Employment Agreements*

We have entered into employment agreements with all of our executive officers. Under these agreements, each of our executive officers is employed for a specified time period, except for Ms. Yong Zhang and Ms. Yuyan Yang who signed employment agreements with us without fixed terms. We may terminate employment with our executive officers for cause at any time for certain acts of the executive, including but not limited to a conviction of a felony, or willful gross misconduct by the employee in connection with his employment, and in each case if such acts have resulted in material and demonstrable financial harm to us. We may, with thirty-day prior written notice, terminate the executive's employment for (i) incompetency for his or her original position or any other position offered by us after his or her statutory medical period has expired; (ii) failure to perform his or her job satisfactorily after receiving training or being reassigned; or (iii) the parties cannot reach an agreement regarding terms related to the change of employment. Furthermore, an executive officer may terminate his or her employment at any time (i) during his or her probation period; (ii) if he or she is forced to work by violence, threats or illegal restriction of personal freedom; or (iii) if we fail to pay his or her compensation according to the term of employment agreement or to provide the employee with the proper working conditions. Upon termination, the employee is generally entitled to severance pay.

Each executive officer has agreed to hold, both during and subsequent to the terms of his or her agreement, in confidence and not to use, except in pursuant to his or her duties in connection with the employment, our confidential information, commercial secrets and know-how. We have also entered into confidentiality agreements and non-competition agreements with our executive officers.

C. Interests of Experts and Counsel

Not applicable.

Item 8. Financial Information

A. Consolidated Statements and Other Financial Information

We have appended consolidated financial statements filed as part of this annual report.

*Dividend Policy*

Under our secured note, we may only pay dividends if our net income or cash flow exceeds specified thresholds and certain other conditions are satisfied. Assuming these contractual arrangements are satisfied, any future payment of dividends will still be subject to our board of directors' discretion and the form, frequency and amount of any dividend will depend upon our future operations and earnings, capital requirements and surplus, general financial condition, contractual restrictions and other factors that the board of directors may deem relevant.

If we pay any dividends, we will pay our ADS holders to the same extent as holders of our common shares, subject to the terms of the deposit agreement, including the fees and expenses payable thereunder. Cash dividends on our common shares, if any, will be paid in U.S. dollars.

On June 20, 2011, all the conditions to pay dividends required by our secured note were satisfied and therefore, our Board of Directors approved and we paid a cash dividend of US\$0.05 per common share, or US\$0.10 per ADS. Any future payment of dividends will still be subject to our board of directors' discretion and the form, frequency and amount of any dividend will depend upon our future operations and earnings, capital requirements and surplus, general financial condition, contractual restrictions and other factors that the board of directors may deem relevant.

*Legal Proceedings*

We are not currently a party to any pending legal proceedings which are expected to have a significant effect on our business, financial position, results of operations or liquidity, nor are we aware of any other proceedings that are pending or threatened which may have a significant effect on our business, financial position and results of operations or liquidity. However, from time to time, we may be subject to various claims and legal actions arising in the ordinary course of business.

B. Significant Changes

Except as disclosed elsewhere in this annual report, we have not experienced any significant changes since the date of our audited consolidated financial statements included in this annual report.

Item 9. The Offer and Listing

A. Offer and Listing Details

Not applicable.

B. Plan of Distribution

Not applicable.

C. Markets

Our ADSs, each representing two of our common shares, have been listed on the NYSE since December 12, 2007. Our ADSs trade under the symbol "XIN." The following table provides the high and low trading prices for our ADSs on the NYSE for the periods indicated.

|  | Trading Price |      |
|--|---------------|------|
|  | High          | Low  |
|  | US\$          | US\$ |
| Year   | 14.71         | 1.54 |
| 2008   | 7.65          | 2.43 |
| 2009   | 4.82          | 2.20 |
| 2010   |               |      |
| 2011   |               |      |
| Quarter                                      | 4.82          | 3.31 |
| First Quarter 2010                           | 4.17          | 2.23 |
| Second Quarter 2010                          | 2.99          | 2.20 |
| Third Quarter 2010                           | 3.35          | 2.24 |
| Fourth Quarter 2010                          | 2.92          | 2.31 |
| First Quarter 2011                           | 2.53          | 2.11 |
| Second Quarter 2011                          | 2.56          | 1.68 |
| Third Quarter 2011                           | 1.97          | 1.70 |
| Fourth Quarter 2011                          | 2.60          | 1.79 |
| First Quarter 2012                           | 3.59          | 1.74 |
| Second Quarter 2012 (through April 13, 2012) | 3.95          | 2.91 |
| Month  |               |      |
| October 2011                                 | 1.95          | 1.70 |
| November 2011                                | 1.97          | 1.73 |
| December 2011                                | 1.93          | 1.73 |
| January 2012                                 | 2.42          | 1.79 |
| February 2012                                | 2.60          | 2.35 |
| March 2012                                   | 3.59          | 2.31 |
| April 2012 (through April 13, 2012)          | 3.95          | 2.91 |

## D.

## Selling Shareholders

Not applicable.

## E.

## Dilution

Not applicable.

## F.

## Expenses of the Issue

Not applicable.

Item 10. Additional Information

A. Share Capital

Not applicable.

B. Memorandum and Articles of Association

We incorporate by reference into this annual report our amended and restated memorandum and articles of association filed as Exhibit 3.1 to our F-1 registration statement (File No. 333-147477), as amended, initially filed with the SEC on November 16, 2007, and the amendment thereto filed as Exhibit 99.5 to our Form 6-K (File No. 001-33863) filed with the SEC on December 10, 2009.

C. Material Contracts

We have not entered into any material contracts in the year ended December 31, 2011 other than in the ordinary course of business and other than those described in “Item 4. Information on the Company” or elsewhere in this annual report.

D.

Exchange Controls

Under current PRC foreign exchange rules, after complying with certain procedural requirements and producing commercial documents evidencing relevant transactions, RMB is convertible into other currencies without prior approval from SAFE only for current account items, such as trade related payments, interest and dividends, etc. The conversion of RMB into other currencies and remittance of the converted foreign currency outside the PRC under capital account items, such as direct equity investments, loans and repatriation of investment, requires prior approval from SAFE or its local office. Foreign-invested enterprises may retain foreign exchange in accounts with designated foreign exchange banks subject to a cap set by SAFE or its local office. Unless approved otherwise, PRC companies are required to repatriate foreign currency revenues they receive from abroad back to the PRC and to convert all their foreign currency revenues into RMB. These restrictions could affect our ability to obtain foreign currency through debt or equity financing, or for capital expenditures.

E.

Taxation

*Cayman Islands Taxation*

The Cayman Islands currently levies no taxes on individuals or corporations based upon profits, income, gains or appreciation and there is no taxation in the nature of inheritance tax or estate duty. There are no other taxes likely to be material to us levied by the Government of the Cayman Islands except for stamp duties which may be applicable on instruments executed in, or brought within the jurisdiction of the Cayman Islands. The Cayman Islands is not party to any double tax treaties which are applicable to payments made to and by our company. There are no exchange control regulations or currency restrictions in the Cayman Islands.

*People's Republic of China Taxation*

The *PRC Corporate Income Tax Law*, or the CIT Law, and the *Implementation for the CIT Law* issued by the PRC State Council, became effective as of January 1, 2008. The CIT Law provides that enterprises established outside of China whose “de facto management bodies” are located in China are considered “resident enterprises” and are generally subject to the uniform 25% corporate income tax rate as to their worldwide income (including dividend income received from subsidiaries). Under the *Implementation for the CIT Law*, a “de facto management body” is defined as a body that has material and overall management and control of the manufacturing and business operations, personnel and human resources, finances and treasury, and acquisition and disposition of properties and other assets of an enterprise. On April 22, 2009, the State Administration of Taxation issued the *Notice on the Issues Regarding Recognition of Overseas Incorporated Domestically Controlled Enterprises as PRC Resident Enterprises Based on the De Facto Management Body Criteria*, which was retroactively effective as of January 1, 2008. Under this notice, an overseas incorporated domestically controlled enterprise will be recognized as a PRC resident enterprise if it satisfies all of the following conditions: (i) the senior management responsible for daily production/ business

operations are primarily located in the PRC, and the location(s) where such senior management execute their responsibilities are primarily in the PRC; (ii) strategic financial and personnel decisions are made or approved by organizations or personnel located in the PRC; (iii) major properties, accounting ledgers, company seals and minutes of board meetings and shareholder meetings, etc, are maintained in the PRC; and (iv) 50% or more of the board members with voting rights or senior management habitually reside in the PRC. It is not clear whether PRC tax authorities would require (or permit) us to be treated as a PRC resident enterprise.

Under the CIT Law and the *Implementation for the CIT Law*, PRC income tax at the rate of 10% is applicable to dividends payable to investors that are “non-resident enterprises,” which do not have an establishment or place of business in the PRC, or which have such establishment or place of business but the relevant income is not effectively connected with the establishment or place of business, to the extent such dividends have their sources within the PRC. Similarly, any gain realized on the transfer of our ADSs by such investors is also subject to 10% PRC income tax if such gain is regarded as income derived from sources within the PRC. If we are considered a PRC “resident enterprise,” it is unclear whether dividends we pay with respect to our ADSs, or the gain you may realize from the transfer of our ADSs, would be treated as income derived from sources within the PRC and be subject to PRC tax. It is also unclear whether, if we are considered a PRC “resident enterprise,” holders of our ADSs might be able to claim the benefit of income tax treaties entered into between China and other countries.

*U.S. Federal Income Taxation*

***Introduction***

The following is a general discussion of certain U.S. federal income tax consequences of the ownership and disposition of the common shares or ADSs (evidenced by ADRs) by U.S. Holders (as defined below). This discussion applies only to U.S. Holders that hold the common shares or ADSs as capital assets.

This discussion is based on the Internal Revenue Code of 1986, as amended, or the Code, Treasury regulations promulgated thereunder, and administrative and judicial interpretations thereof, all as in effect on the date hereof and all of which are subject to change, possibly with retroactive effect, or to different interpretation.

This discussion does not address all of the tax considerations that may be relevant to specific U.S. Holders in light of their particular circumstances or to U.S. Holders subject to special treatment under U.S. federal income tax law (such as banks, other financial institutions, insurance companies, tax-exempt entities, retirement plans, regulated investment companies, partnerships, dealers in securities, brokers, U.S. expatriates, persons subject to the alternative minimum tax, persons who have acquired the shares or ADSs as part of a straddle, hedge, conversion transaction or other integrated investment, persons that have a “functional currency” other than the U.S. dollar or persons that own directly, indirectly, or constructively 10% or more of the voting power of our stock). If a partnership holds common shares or ADSs, the consequences to a partner will generally depend upon the status of the partner and upon the activities of the partnership. A partner of a partnership holding common shares or ADSs should consult its own tax adviser regarding the U.S. tax consequences of its investment in the common shares or ADSs through the partnership. This discussion does not address any U.S. state or local or non-U.S. tax considerations or any U.S. federal estate, gift or alternative minimum tax considerations.

As used in this discussion, the term “U.S. Holder” means a beneficial owner of the common shares or ADSs that is, for U.S. federal income tax purposes, (i) an individual who is a citizen or resident of the United States, (ii) a corporation, or other entity classified as a corporation for U.S. federal income tax purposes, created or organized in or under the laws of the United States or of any state or political subdivision thereof or therein, including the District of Columbia, (iii) an estate, the income of which is subject to U.S. federal income tax regardless of the source thereof, or (iv) a trust with respect to which a court within the United States is able to exercise primary supervision over its administration and one or more U.S. persons have the authority to control all of its substantial decisions, or certain electing trusts that were in existence on August 19, 1996 and were treated as domestic trusts on that date.

In general, for U.S. federal income tax purposes, a U.S. Holder of an ADS will be treated as the owner of the common shares represented by the ADSs and exchanges of common shares for ADSs, and ADSs for common shares, will not



be subject to U.S. federal income tax.

Investors should consult their tax advisors as to the particular tax considerations applicable to them relating to the ownership and disposition of the common shares or ADSs, including the applicability of U.S. federal, state and local tax laws or non-U.S. tax laws, any changes in applicable tax laws and any pending or proposed legislation or regulations.

### *Dividends*

Subject to the discussion below under “—Passive Foreign Investment Company,” the gross amount of any distribution made by us on the common shares or ADSs generally will be treated as a dividend includible in the gross income of a U.S. Holder as ordinary income to the extent of our current or accumulated earnings and profits, as determined under U.S. federal income tax principles, when received by the U.S. Holder, in the case of common shares, or when received by the Depositary, in the case of ADSs. To the extent the amount of such distribution exceeds our current and accumulated earnings and profits as so computed, it will be treated first as a non-taxable return of capital to the extent of such U.S. Holder’s adjusted tax basis in such common shares or ADSs and, to the extent the amount of such distribution exceeds such adjusted tax basis, will be treated as gain from the sale of such common shares or ADSs. We, however, may not calculate earnings and profits in accordance with U.S. tax principles. In this case, all distributions by us to U.S. Holders will generally be treated as dividends. The dividends will not be eligible for the dividends-received deduction allowed to corporations in respect of dividends received from other U.S. corporations.

Certain dividends received by non-corporate U.S. Holders, including individuals, in taxable years beginning before January 1, 2013, generally will be subject to a maximum income tax rate of 15%. This reduced income tax rate is applicable to dividends paid by “qualified foreign corporations” and only with respect to common shares or ADSs held for a minimum holding period of at least 61 days during a specified 121-day period, and if certain other conditions are met. We are considered a qualified foreign corporation with respect to the ADSs because our ADSs are listed on the NYSE. Accordingly, subject to the discussion below under “—Passive Foreign Investment Company,” dividends paid by us with respect to the ADSs generally should be eligible for the reduced income tax rate.

The U.S. Treasury Department has announced its intention to promulgate rules pursuant to which U.S. Holders of the common shares or ADSs and intermediaries through whom such common shares or ADSs are held will be permitted to rely on certifications from issuers to establish that dividends are treated as qualified dividends eligible for the reduced rate, described above. Because such rules have not yet been issued, it is not clear whether we will be in a position to comply with them. Investors should consult their tax advisors regarding the availability of the lower rate for dividends paid with respect to our ADSs or common shares.

Dividends paid by us will constitute income from sources outside the United States for U.S. foreign tax credit limitation purposes and will be categorized as “passive category income” or, in the case of certain U.S. Holders, as “general category income” for U.S. foreign tax credit purposes. Furthermore, a foreign tax credit for any PRC withholding taxes imposed on dividend paid on the common shares or ADSs may be disallowed, if the U.S. Holder has held such shares for less than a specified minimum period during which the U.S. Holder is not protected from risk of loss, or is obligated to make payments related to the dividends. The rules relating to the U.S. foreign tax credit are complex. U.S. Holders should consult their own tax advisors regarding the effect of these rules in their particular circumstance.

In the event that we are deemed to be a PRC resident enterprise under the CIT Law (see discussion under “—People’s Republic of China Taxation”), you may be subject to PRC withholding taxes on dividends paid to you with respect to the common shares or ADSs. Subject to generally applicable limitations, PRC withholding taxes on dividends, if any, may be treated as foreign taxes eligible for credit against your U.S. federal income tax liability. Investors should consult their tax advisors regarding the availability of the foreign tax credit under their particular circumstances.

A distribution of additional common shares or ADSs to U.S. Holders with respect to their common shares or ADSs that is made as part of a pro rata distribution to all shareholders generally may not be subject to U.S. federal income tax.

For taxable years beginning after December 31, 2012, dividends paid to, and capital gains recognized by, certain U.S. Holders that are individuals, estates or trusts with respect to our shares may be subject to a 3.8% Medicare tax.

*Sale or Other Disposition of Ordinary common shares or ADSs*

Subject to the discussion below under “—Passive Foreign Investment Company,” a U.S. Holder generally will recognize gain or loss for U.S. federal income tax purposes upon a sale or other disposition of the common shares or ADSs in an amount equal to the difference between the amount realized from such sale or disposition and the U.S. Holder’s adjusted tax basis in such common shares or ADSs. Such gain or loss generally will be a capital gain or loss and will be long-term capital gain (taxable at a reduced rate for non-corporate U.S. Holders, including individuals) or loss if, on the date of sale or disposition, such common shares or ADSs were held by such U.S. Holder for more than one year. The deductibility of capital losses is subject to significant limitations. Any gain or loss on the sale or disposition will generally be treated as U.S. source income or loss for U.S. foreign tax credit limitation purposes.

In the event that we are deemed to be a PRC “resident enterprise” under the PRC tax law, you may be eligible for the benefits of the income tax treaty between the United States and the PRC. Under that treaty, if any PRC tax was to be imposed on any gain from the disposition of common shares or ADSs, the gain may be treated as PRC-source income. U.S. Holders are urged to consult their tax advisors regarding the tax consequences if a foreign tax is imposed on a disposition of the common shares or ADSs, including the availability of the foreign tax credit under their particular circumstances.

*Passive Foreign Investment Company*

Based on the composition of our assets and income, we do not believe we were a PFIC in 2011 and do not expect to be a PFIC for U.S. federal income tax purposes with respect to our current taxable year or the foreseeable future. The determination of PFIC status is dependent upon the composition of all income and assets and, in addition, we must make a separate determination at the close of each taxable year as to whether we are a PFIC. Changes in the nature of our income, assets or activities, or a decrease in the share price of the common shares or ADSs, may cause us to be considered a PFIC in the current or any subsequent year. Accordingly, we cannot assure you that we were not a PFIC for the year ended December 31, 2011 or will not be a PFIC for the current taxable year ending December 31, 2012 or any future taxable years.

In general, a non-U.S. corporation will be treated as a PFIC for U.S. federal income tax purposes in any taxable year in which either (i) at least 75% of its gross income is “passive income” or (ii) on average at least 50% of the value of its assets is attributable to assets that produce passive income or are held for the production of passive income. Passive income for this purpose generally includes, among other things, dividends, interest, royalties, rents and gains from commodities and securities transactions. Passive income does not include certain rents and royalties derived from the active conduct of a trade or business. If we own at least 25% (by value) of the stock of another corporation, we will be treated for purposes of the PFIC tests, as owning our proportionate share of the other corporation’s assets and receiving our proportionate share of the other corporation’s income.

If we are a PFIC in any year during which a U.S. Holder owns the common shares or ADSs, such U.S. Holder may experience certain adverse tax consequences. Such U.S. Holder could be liable for additional taxes and interest charges upon (i) distributions received by the U.S. Holder on our common shares or ADSs during the year, but only to the extent that the aggregate of the distributions for the taxable year exceeds 125% of the average amount of distributions received by the U.S. Holder in the preceding three years, or (ii) upon a sale or other disposition of the common shares or ADSs at a gain, whether or not we continue to be a PFIC (each an “excess distribution”). The tax will be determined by allocating the excess distribution ratably to each day of the U.S. Holder’s holding period. The amount allocated to the current taxable year and any taxable year with respect to which we were not a PFIC will be taxed as ordinary income (rather than capital gain) earned in the current taxable year. The amount allocated to other taxable years will be taxed at the highest marginal rates applicable to ordinary income for such taxable years and, in addition, an interest charge will be imposed on the amount of such taxes.

If we are a PFIC for any year during which a U.S. Holder holds the common shares or ADSs, the U.S. Holder generally will be subject to the rules described in the above paragraph for that year and for all succeeding years during which the U.S. Holder holds such shares or ADSs. These adverse tax consequences may be mitigated if the U.S. Holder is eligible to and does elect to annually mark-to-market the common shares or ADSs. If a U.S. Holder makes a mark-to-market election, such holder will generally include as ordinary income the excess, if any, of the fair market value of the ADSs or common shares at the end of each taxable year over their adjusted basis, and will be permitted an ordinary loss in respect of the excess, if any, of the adjusted basis of the ADSs or common shares over their fair market value at the end of the taxable year (but only to the extent of the net amount of previously included income as

a result of the mark-to-market election). Any gain recognized on the sale or other disposition of the ADSs or common shares will be treated as ordinary income. The mark-to-market election is available only for “marketable stock,” which is stock that is regularly traded in other than de minimis quantities on at least 15 days during each calendar quarter on a qualified exchange or other market, as defined in the applicable Treasury regulations. The ADSs are listed on the NYSE, and we expect, although no assurance can be given, that they will be regularly traded on the NYSE.

A U.S. Holder’s adjusted tax basis in the common shares or ADSs will be increased by the amount of any income inclusion and decreased by the amount of any deductions under the mark-to-market rules. If a U.S. Holder makes a mark-to-market election, it will be effective for the taxable year for which the election is made and all subsequent taxable years unless the common shares or ADSs are no longer regularly traded on a qualified exchange or the Internal Revenue Service consents to the revocation of the election. U.S. Holders are urged to consult their tax advisors about the availability of the mark-to-market election, and whether making the election would be advisable in their particular circumstances.

In general, if a non-U.S. corporation is a PFIC, a holder of shares in that corporation may avoid taxation under the rules described by making a “qualified electing fund” election to include its share of the corporation’s income on a current basis, or a “deemed sale” election once the corporation no longer qualifies as a PFIC. However, a U.S. Holder may make a qualified electing fund election with respect to the common shares or ADSs only if we agree to furnish the U.S. Holder annually with certain tax information, and we do not intend to prepare or provide such information.

The reduced tax rate for dividend income, as discussed above under “—Dividends,” is not applicable to any dividends paid by a PFIC or amounts included in income under the mark-to-market election. If we are regarded as a PFIC, a U.S. Holder of common shares or ADSs must make an annual return on IRS Form 8621, reporting distributions received and gains realized with respect to these interests. In addition, pursuant to recently enacted legislation, each U.S. Holder who is a shareholder of a PFIC is required to file an annual report containing such information as the IRS may require. This requirement is in addition to other reporting requirements applicable to ownership in a PFIC. The IRS has advised that it is developing further guidance regarding the PFIC reporting obligations imposed by recent legislation.

Investors should consult their own tax advisors regarding the U.S. federal income tax consequences of an investment in a PFIC.

#### *Backup Withholding Tax and Information Reporting and Disclosure Requirements*

Dividend payments made to U.S. Holders and proceeds paid from the sale or other disposition of their common shares or ADSs may be subject to information reporting to the Internal Revenue Service and possible U.S. federal backup withholding at a current rate of 28%. Certain exempt recipients (such as corporations) are not subject to these information reporting requirements. Backup withholding will not apply to a U.S. Holder who furnishes a correct taxpayer identification number and makes any other required certification, or who is otherwise exempt from backup withholding. U.S. Holders who are required to establish their exempt status generally must provide IRS Form W-9 (Request for Taxpayer Identification Number and Certification).

Backup withholding is not an additional tax. Amounts withheld as backup withholding may be credited against a U.S. Holder’s U.S. federal income tax liability. A U.S. Holder may obtain a refund of any excess amounts withheld under the backup withholding rules by filing the appropriate claim for refund with the Internal Revenue Service in a timely manner and furnishing any required information.

Investors should consult their own tax advisors as to their qualification for an exemption from backup withholding and the procedure for obtaining this exemption.

Effective for taxable years beginning after March 18, 2010, certain U.S. Holders may be required to report information with respect to such holder's interest in "specified foreign financial assets (as defined in Section 6038D of the Code), including stock of a non-U.S. corporation that is not held in an account maintained by a U.S. "financial institution," if the aggregate value of all such assets exceeds \$50,000. Persons who are required to report specified foreign financial assets and fail to do so may be subject to substantial penalties. U.S. Holders are urged to consult their own tax advisors regarding the foreign financial asset reporting obligations and their possible application to the holding of the common shares or ADSs.

F. Dividends and Paying Agents

Not applicable.

G. Statement by Experts

Not applicable.

H. Documents on Display

We are subject to the periodic reporting and other informational requirements of the Exchange Act. Under the Exchange Act, we are required to file reports and other information with the SEC. Specifically, we are required to file annually a Form 20-F no later than four months after the close of each fiscal year, which is December 31. Copies of reports and other information, when so filed, may be inspected without charge and may be obtained at prescribed rates at the public reference facilities maintained by the SEC at 100 F Street, N.E., Room 1580, Washington, D.C. 20549. The public may obtain information regarding the Washington, D.C. Public Reference Room by calling the Commission at 1-800-SEC-0330. The SEC also maintains a web site at [www.sec.gov](http://www.sec.gov) that contains reports, proxy and information statements, and other information regarding registrants that make electronic filings with the SEC using its EDGAR system. As a foreign private issuer, we are exempt from the rules under the Exchange Act prescribing the furnishing and content of quarterly reports and proxy statements, and officers, directors and principal shareholders are exempt from the reporting and short-swing profit recovery provisions contained in Section 16 of the Exchange Act.

I. Subsidiary Information

For a listing of our subsidiaries, see “Item 4. Information on the Company—C. Organizational Structure.”

Item 11. Quantitative and Qualitative Disclosures about Market Risk

Market risk is the risk of loss related to adverse changes in market prices, including interest rate and foreign exchange rates of financial instruments. We are exposed to various types of market risks in the normal course of business. We have not in the past used derivatives to manage our exposure to market interest rate risk or foreign exchange risk. The following discussion and analysis, which involves “forward-looking statements” that involve risk and uncertainties, summarizes our exposure to different market risks.

***Foreign Exchange Risk***

The Company and its subsidiaries are principally engaged in residential real estate development and the provision of property management services in the PRC. The functional currency of the Company’s PRC subsidiaries is Renminbi (“RMB”) while the reporting currency of the Company and its subsidiaries is the United States dollar (“US\$”). We translate the operating results using the average exchange rate for the year and we translate the financial position at the year-end exchange rate. The PRC subsidiaries’ significant net asset position as of December 31, 2011 coupled with the fact that the RMB strengthened against the US\$ during the year ended December 31, 2011, resulted in foreign exchange translation gains. The foreign currency translation gains recognized in the Company’s other comprehensive income amounted to \$28.4 million for the year ended December 31, 2011.



All of our revenues are denominated in RMB. However, we have substantial U.S. dollar denominated obligations, including the obligation to pay interest and principal on our notes. Accordingly, any significant fluctuation between the RMB and the U.S. dollar could expose us to foreign exchange risk. We do not currently hedge our exchange rate exposure. We evaluate such risk from time to time and may consider engaging in hedging activities in the future to the extent we deem appropriate. Such hedging arrangements may require us to pledge or transfer cash and other collateral to secure our obligations under the agreements, and the amount of collateral required may increase as a result of mark-to-market adjustments.

The RMB is not a freely convertible currency. The PRC government may take actions that could cause future exchange rates to vary significantly from current or historical exchange rates. The conversion of RMB into foreign currencies, including U.S. dollars, has been based on rates set by the PBOC. On July 1, 2005, the PRC government changed its previous policy of pegging the value of the RMB to the U.S. dollar. Under the current policy, the RMB is permitted to fluctuate within a narrow and managed band against a basket of certain foreign currencies. Since July 21, 2005, this change in policy has resulted in an approximately 23.9% appreciation of the RMB against the U.S. dollar through December 31, 2011. There remains significant international pressure on the PRC government to adopt an even more flexible currency policy, which could result in a further and more significant appreciation of the RMB against the U.S. dollar. Any appreciation of the RMB against the U.S. dollar or any other foreign currencies would make any new RMB-denominated investments or expenditures more costly to us, to the extent that we need to convert foreign currencies into RMB for such purposes. Any significant depreciation in the exchange rates of the RMB against the U.S. dollar could adversely affect the value of any dividends paid by us, which would be funded by RMB but paid in U.S. dollars. There can be no assurance that any future movements in the exchange rate of the RMB against the U.S. dollar or other foreign currencies will not adversely affect our results of operations and financial condition (including our ability to pay dividends). A significant depreciation in the RMB against major foreign currencies may have a material adverse impact on our results of operations, financial condition and share price because our reporting currency is U.S. dollars and our ADSs are expected to be quoted in U.S. dollars, whereas our revenues, costs and expenses are denominated in RMB.

We generated net foreign exchange gain of US\$ 0.06 million in the year ended December 31, 2011, which represented the exchange difference arising from the translation of U.S. dollar-denominated long-term debt into RMB using the exchange rate effective at the balance sheet date. The exchange gain was recognized in the statement of operations for the year ended December 31, 2011.

### ***Interest Rate Risk***

The cost of financing is sensitive to fluctuations in interest rates. Our bank borrowings and the note bears interest at variable rates, and an increase in interest rates would increase our costs there under. Our net income is affected by changes in interest rates as a result of the impact such changes have on interest income from, and interest expense on, short-term deposits and other interest-bearing financial assets and liabilities. In addition, our sales are also sensitive to fluctuations in interest rates. An increase in interest rates would adversely affect our prospective purchasers' ability to obtain financing and depress the overall housing demand. Higher interest rates, therefore, may adversely affect our revenues, gross profits and net income, and our ability to raise and service debt and to finance our developments.

Our indebtedness consists primarily of short-term and long-term bank borrowings and the note. As of December 31, 2011 we had US\$42.9 million of short-term bank borrowings, all of which, except for US\$25.0 million of loans from ICBC, are denominated in RMB and bear interest rates ranging from 3.50% per annum to 6.65% per annum, with a weighted average interest rate at such date of 5.03%. Interest on short-term loans ranges from 3.5% to 6.65% per annum. All current portion of long-term bank loans bear floating interest rates, which should be adjusted based on PBOC benchmark rates in the range of 95% to 120% in the following years. The PBOC regulates the interest rates of our Renminbi-denominated borrowings. The PBOC-published benchmark one-year lending rates in China, which directly affect the property mortgage rates offered by commercial banks in China, as at December 31, 2009, 2010, and 2011 were 5.31%, 5.81% and 6.56%, respectively. The note is denominated in U.S. dollars. The note bears interest at 15.6% per annum, which is payable on a semi-annual basis on April 15 and October 15 each year. As of December 31, 2011, the principal amount of our aggregate outstanding variable rate debt, including long-term bank loans, was US\$227.6 million. A hypothetical 1% increase in annual interest rates would increase our interest cost by approximately US\$2.3 million per year based on our debt level at December 31, 2011.

### ***Credit Risk***

We provide guarantees to mortgage lending banks in respect of the mortgage loans provided to the purchasers of our properties up until completion of the registration of the mortgage with the relevant authorities, which generally occurs within six to 12 months after the purchaser takes possession of the relevant properties. If a purchaser defaults under the loan while our guarantee is in effect and we repay all debt owed by the purchaser to the mortgagee bank under the loan, the mortgagee bank must assign its rights under the loan and the mortgage to us and, after the registration of the mortgage, we will have full recourse to the property. In line with what we believe is industry practice, we do not conduct independent credit checks on our customers but rely on the credit checks conducted by the mortgagee banks.

As of December 31, 2011, we had outstanding guarantees of mortgages in the principal amount of US\$709.5 million. If a purchaser defaults on the payment of its mortgage during the term of the guarantee, the mortgage lending bank may require us to repay the outstanding amount under the loan plus any accrued interest. In this event, although we are able to retain the customer's deposit and sell the property to recover any amounts paid by us to the bank, there can be no assurance that we would be able to sell the property at a price equal to or greater than the amount we paid on the defaulting purchaser's outstanding loan amount and any accrued interest thereon.

As of December 31, 2011, our cash and cash equivalents totaled US\$319.2 million and restricted cash totaled US\$168.4 million, predominately deposited in accounts maintained with state-owned bank within the PRC. We have not experienced any losses in such accounts and management believes it is not exposed to any risks on its cash in bank accounts.

### *Inflation*

Inflation has not had a significant effect on our business during the past three years. According to the National Bureau of Statistics of China, China's overall national inflation rate, as represented by the general consumer price index, was approximately -0.7%, 3.3% and 5.4%, in 2009, 2010 and 2011, respectively. Deflation could negatively affect our business as it would be a disincentive for prospective property buyers to make a purchase. As of the date of this annual report, we have not been materially affected by any inflation or deflation.

### Item 12. Description of Securities other than Equity Securities

#### A. American Depositary Shares

Our common shares, in the form of ADSs, each representing two common shares, are listed on the NYSE. JPMorgan Chase Bank, N.A. serves as the depository for the ADSs.

The depository may charge each person to whom ADSs are issued, including, without limitation, issuances against deposits of shares, issuances in respect of share distributions, rights and other distributions, issuances pursuant to a stock dividend or stock split declared by us or issuances pursuant to a merger, exchange of securities or any other transaction or event affecting the ADSs or deposited securities, and each person surrendering ADSs for withdrawal of deposited securities in any manner permitted by the deposit agreement, US\$5.00 for each 100 ADSs (or any portion thereof) issued, delivered, reduced, cancelled or surrendered, as the case may be. ADSs are represented and evidenced by American depository receipts, or ADRs.

The depository may charge the following the additional amounts to ADR holders:

a fee of US\$0.02 or less per ADS (or portion thereof) for any cash distribution made pursuant to the deposit agreement;

a fee of US\$0.05 per ADS (or portion thereof) per calendar year for services performed by the depository in administering our ADR program;

any other charge payable by any of the depository, any of the depository's agents, including, without limitation, the custodian, or the agents of the depository's agents in connection with the servicing of our shares or other deposited securities;

a fee for the distribution of securities (or the sale of securities in connection with a distribution), such fee being in an amount equal to the fee for the execution and delivery of ADSs which would have been charged as a result of the deposit of such securities (treating all such securities as if they were shares) but which securities or the net cash proceeds from the sale thereof are instead distributed by the depositary to those holders entitled thereto;

· stock transfer or other taxes and other governmental charges;

· cable, telex and facsimile transmission and delivery charges incurred upon request of an ADR holder;

· transfer or registration fees for the registration of transfer of deposited securities on any applicable register in connection with the deposit or withdrawal of deposited securities;

· expenses of the depositary in connection with the conversion of foreign currency into U.S. dollars; and

such fees and expenses as are incurred by the depositary (including without limitation expenses incurred in connection with compliance with foreign exchange control regulations or any law or regulation relating to foreign investment) in delivery of deposited securities or otherwise in connection with the depositary's or its custodian's compliance with applicable laws, rules or regulations.

The fees described above may be amended from time to time.

The depositary collects its fees for issuance and cancellation of ADSs directly from investors depositing shares or surrendering ADSs for the purpose of withdrawal or from intermediaries acting for them. The depositary collects fees for making distributions to investors by deducting those fees from the amounts distributed or by selling a portion of distributable property to pay the fees. The depositary may collect its annual fee for depositary services by deduction from cash distributions, or by directly billing investors, or by charging the book-entry system accounts of participants acting for them. The depositary may generally refuse to provide services to any holder until the fees and expenses owing by such holder for those services or otherwise are paid.

ADR holders must pay any tax or other governmental charge payable by the custodian or the depositary on any ADS or ADR, deposited security or distribution. If an ADR holder owes any tax or other governmental charge, the depositary may (i) deduct the amount thereof from any cash distributions, or (ii) sell deposited securities and deduct the amount owing from the net proceeds of such sale. In either case the ADR holder remains liable for any shortfall. Additionally, if any tax or governmental charge is unpaid, the depositary may also refuse to effect any registration, registration of transfer, split-up or combination of deposited securities or withdrawal of deposited securities (except under limited circumstances mandated by securities regulations). If any tax or governmental charge is required to be withheld on any non-cash distribution, the depositary may sell the distributed property or securities to pay such taxes and distribute any remaining net proceeds to the ADR holders entitled thereto.

The depositary may remit to us all or a portion of the depositary fees charged for the reimbursement of certain of the expenses we incur in respect of the ADS program established pursuant to the deposit agreement upon such terms and conditions as we may agree from time to time. In the year ended December 31, 2011, the depositary reimbursed us US\$270,421 with respect to certain fees and expenses.

The table below sets forth the types of expenses that the depositary has agreed to reimburse and the amounts reimbursed in 2011.

| Category of Expenses         | Amount Reimbursed in the Year<br>Ended December 31, 2011 |
|------------------------------|--|
| Listing fees                 | \$ 100,864   |
| Investor relations marketing | 122,493  |
| Legal fees                   | 47,064   |
| Total                        | \$ 270,421   |

## **Part II**

### Item 13. Defaults, Dividend Arrearages and Delinquencies

None.

### Item 14. Material Modifications to the Rights of Security Holders and Use of Proceeds

None.

### Item 15. Controls and Procedures

#### ***Evaluation of Disclosure Controls and Procedures***

Our management, with the participation of our chief executive officer and chief financial officer, has performed an evaluation of the effectiveness of our disclosure controls and procedures within the meaning of Rule 13a-15(e) of the Exchange Act as of the end of the period covered by this report. Based on such evaluation, our management has concluded that, as of the end of the period covered by this annual report, our disclosure controls and procedures were effective to ensure that information required to be disclosed by our company in reports that we file or submit under the Exchange Act is (i) recorded, processed, summarized and reported within the time period specified in the Securities and Exchange Commission rules and forms, and (ii) accumulated and communicated to our management, including our chief executive officer and chief financial officer, as appropriate, to allow timely decisions regarding required disclosure.

#### ***Changes in Internal Control over Financial Reporting***

During the year ended December 31, 2011, there were no changes in our internal control over financial reporting that occurred during the period covered by the report for the year ended December 31, 2011 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

#### ***Report of Management on Internal Control over Financial Reporting***

Our management is responsible for establishing and maintaining adequate internal control over financial reporting, as defined under Rule 13(a)-15(f) and 15(d)-15(f) of the Exchange Act. Our internal control over financial reporting is designed to provide reasonable assurance regarding the reliability of financial reports and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. Our internal control over financial reporting includes those policies and procedures that: (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions our assets; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles and that our receipts and expenditures are being made only in accordance with authorizations of our management and directors; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of our assets that could have a material effect on the financials.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate. Management, under the supervision and with the participation of our chief executive officer and chief financial officer, conducted an evaluation of the effectiveness of our internal control over financial reporting based on the framework in *Internal Control-Integrated Framework* issued by the Committee on Sponsoring Organizations of the Treadway Commission. Based on our evaluation under the framework in *Internal Control-Integrated Framework*, our management concluded that, as of December 31, 2011, our internal control over financial reporting was effective to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with U.S. GAAP.



The effectiveness of our internal control over financial reporting as of December 31, 2011 has been audited by Ernst & Young Hua Ming, an independent registered public accounting firm, as stated in their attestation report thereon which appears herein.

***Report of Independent Registered Public Accounting Firm***

*The Board of Directors and Shareholders of Xinyuan Real Estate Co., Ltd.*

We have audited Xinyuan Real Estate Co., Ltd.'s and subsidiaries (the "Company") internal control over financial reporting as of December 31, 2011, based on criteria established in *Internal Control—Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission* (the COSO criteria). The company's management is responsible for maintaining effective internal control over financial reporting, and for its assessment of the effectiveness of internal control over financial reporting included in the accompanying "Report of Management on Internal Control over Financial Reporting". Our responsibility is to express an opinion on the company's internal control over financial reporting based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In our opinion, Xinyuan Real Estate Co, Ltd. and subsidiaries maintained, in all material respects, effective internal control over financial reporting as of December 31, 2011, based on the COSO criteria.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated balance sheets of Xinyuan Real Estate Co., Ltd and its subsidiaries as of December 31, 2010 and 2011 and the related consolidated statements of operations, changes in shareholders' equity, and cash flows for each of the three years in the period ended December 31, 2011 of Xinyuan Real Estate Co., Ltd and its subsidiaries and our report dated April 16, 2012 expressed an unqualified opinion thereon.

/s/ Ernst & Young Hua Ming  
Beijing, People's Republic of China

April 16, 2012

**Part III**

Item 16. [Reserved]

**ITEM 16A. AUDIT COMMITTEE FINANCIAL EXPERT**

Our board of directors has determined that Thomas Wertheimer, one of our independent directors and the chairman of our audit committee, qualifies as an audit committee financial expert under applicable SEC rules.

**ITEM 16B. CODE OF ETHICS**

Our board of directors has adopted a code of business conduct and ethics that pertains to our directors, officers and employees with certain provisions that specifically apply to our chief executive officer, chief financial officer, vice presidents and any other persons who perform similar functions for us. Our code of business conduct and ethics is available at our website at [ir.xyre.com](http://ir.xyre.com).

**ITEM 16C. PRINCIPAL ACCOUNTANT FEES AND SERVICES**

The following table sets forth the aggregate fees by categories specified below in connection with certain professional services rendered by Ernst & Young Hua Ming, our independent registered public accounting firm, for the periods indicated. We did not pay any other fees to our independent registered public accounting firm during the periods indicated below.

|                       | For the Year Ended December 31, |         |         |
|-----------------------|---------------------------------|---------|---------|
|                       | 2009                            | 2010    | 2011    |
| Audit fees(1)         | 730,000                         | 810,307 | 850,433 |
| Audit-related fees(2) | 323,167                         | 121,412 |         |
| Tax fees(3)           | —                               | —       | —       |
| All Other fees        | —                               | —       | —       |

“Audit fees” means the aggregate fees billed for professional services rendered by our independent registered public (1)account firm for the audit of our annual financial statements and the review of our comparative interim financial statements.

“Audit related fees” represents aggregate fees billed for professional services rendered by our independent registered public accounting firm for the assurance and related services that are reasonably related to the performance of the audit or review of our financial statements and are not reported under “Audit fees.” The total audit-related fees billed (2) by our independent registered public accounting firm amounted to US\$121,412 for the year ended December 31, 2010 and were related to the review procedures performed in January 2010 associated with the Company’s Registration Statement on Form F-3. Not included in the table above for the period ended December 31, 2010 was an additional US\$454,890 paid to local accounting firms for audit-related services which were inadvertently included in the 2010 amounts previously disclosed in the Company’s 2010 annual report.

(3) “Tax fees” represents the aggregated fees billed for professional services rendered by our independent registered public accounting firm for tax compliance, tax advice and tax planning.

The policy of our audit committee is to pre-approve, on a project by project basis, all audit and non-audit services provided by Ernst & Young Hua Ming, including audit services, audit-related services, tax services and other services as described above.

#### **ITEM 16D. EXEMPTIONS FROM THE LISTING STANDARDS FOR AUDIT COMMITTEES**

None.

#### **ITEM 16E. PURCHASES OF EQUITY SECURITIES BY THE ISSUER AND AFFILIATED PURCHASERS**

On May 24, 2011, our board of directors approved a share repurchase plan, pursuant to which we were authorized to purchase our own ADSs with an aggregate value of up to US\$10 million within twelve months. The share repurchase program permitted us to purchase shares from time to time on the open market at prevailing market prices, in negotiated transactions off the market and in block trades, in accordance with applicable securities laws and subject to restrictions regarding price, volume and timing.

As of the date of this annual report on Form 20-F, we have purchased 3,771,765 ADSs under this share repurchase plan.

The following table sets forth a summary of our repurchase of our ADSs made from May 16, 2011 to December 31, 2011.

| Period                                 | Total Number<br>of<br>ADSs<br>Purchased <sup>(1)</sup> | Average<br>Price<br>Paid Per<br>ADS | ADSs Purchase<br>as<br>Part of Publicly<br>Announced<br>Plans<br>or Programs <sup>(1)</sup> | Approximate<br>Dollar Value of<br>ADSs that May<br>Yet Be<br>Purchased<br>Under<br>the Programs |
|--|--|-------------------------------------|---|---|
| May 16 through May 31, 2011            | —  | —                                   | —   | —   |
| June 1 through June 30, 2011           | 593,600  | 2.12                                | 593,600   | 8,739,918   |
| July 1 through July 31, 2011           | —  | —                                   | —   | —   |
| August 1 through August 31, 2011       | 1,033,900  | 2.32                                | 1,627,500   | 6,338,091   |
| September 1 through September 30, 2011 | 764,000  | 2.30                                | 2,391,500   | 4,583,323   |
| October 1 through October 30, 2011     | 232,000  | 1.78                                | 2,623,600   | 4,170,989   |
| November 1 through November 30, 2011   | 545,500  | 1.84                                | 3,169,000   | 3,168,817   |
| December 1 through December 30, 2011   | 602,765  | 1.87                                | 3,771,765   | 2,041,159   |
| Total                                  | 3,771,765  | 2.11                                | 3,771,765   | 2,041,159   |

(1) On May 16, 2011, we announced that our board of directors had approved a share repurchase program, under which we may repurchase up to US\$10 million worth of our issued and outstanding ADSs.

(2) Our ADS to common share ratio is one ADS for two common shares.

#### ITEM 16F. CHANGE IN REGISTRANT'S CERTIFYING ACCOUNTANT

None.

## **ITEM 16G. CORPORATE GOVERNANCE**

Our ADSs are listed on the NYSE and we are therefore subject to corporate governance requirements of the NYSE. We are incorporated in the Cayman Islands and thus our corporate governance practices are also governed by applicable Cayman Islands law. Under Section 303A of the NYSE Listed Company Manual, NYSE-listed non-U.S. companies may, in general, follow their home country corporate governance practices in lieu of some of the NYSE corporate governance requirements.

Section 303A.01 of the NYSE Listed Company Manual requires that the board of directors of a listed company consist of a majority of independent directors, as defined by the NYSE. The corporate governance practice in our home country, the Cayman Islands, does not require a majority of directors of a corporation to be independent. As of the date of this annual report, we do not have a majority of independent directors, however we are actively searching for new directors.

Section 303A.04(a) of the NYSE Listed Company Manual requires each issuer to have a nominating and corporate governance committee composed entirely of independent directors. Section 303A.05(a) of the NYSE Listed Company Manual requires each issuer to have a compensation committee composed entirely of independent directors. The corporate governance practice in our home country, the Cayman Islands, does not require the implementation of a compensation committee, nor a nominating and corporate governance committee, nor does it require any such committees to be comprised solely of independent directors. We are committed to a high standard of corporate governance and, as such, we endeavor to comply with most of the NYSE corporate governance practices. We have established a separate compensation committee and a nominating and corporate governance committee. As of this date of this annual report, our corporate governance and nominating committee and our compensation committee does not consist of a majority of independent directors.

Section 303A.06 of NYSE Listed Company Manual requires us to have an audit committee that satisfies the requirements of Section 10A of the Exchange Act. As a foreign private issuer, we are not required to comply with certain other NYSE rules related to audit committees, including the requirement of having a minimum of three members. Our audit committee has as of the date of this annual report, only two members, each of whom satisfy the “independence” requirements of Section 303A of the NYSE Listed Company Manual and Rule 10A-3 under the Exchange Act, and one such member qualifies as an “audit committee financial expert” under applicable SEC rules.

## **Item 17. Financial Statements**

We have elected to provide financial statements pursuant to Item 18.

## **Item 18. Financial Statements**

The consolidated financial statements of Xinyuan Real Estate Co., Ltd. are included at the end of this annual report.

## **Item 19. Exhibits**

### **Exhibit**

#### **Number Description of Document**

- |     |   |
|-----|---|
| 1.1 | Amended and Restated Memorandum and Articles of Association (incorporated by reference to Exhibit 3.1 from our F-1 registration statement (File No. 333-147477), as amended, initially filed with the SEC on November 16, 2007)   |
| 1.2 | Amendment to Amended and Restated Articles of Association (incorporated by reference to Exhibit 99.5 from our Form 6-K (File No. 001-33863 ) filed with the SEC on December 10, 2009)   |
| 2.1 | Deposit Agreement, dated as of December 11, 2007, among Xinyuan Real Estate Co., Ltd., JPMorgan Chase Bank, N.A., as depositary, and holders of American Depositary Shares (incorporated by reference to Exhibit 2.5 from Amendment No. 1. to our annual report (File No. 001-33863), as amended, initially filed with the SEC on September 29, 2009) |
| 4.1 | 2007 Equity Incentive Plan (incorporated by reference to Exhibit 10.1 from our F-1 registration statement (File No. 333-147477), as amended, initially filed with the SEC on November 16, 2007)   |
| 4.2 | 2007 Long Term Incentive Plan (incorporated by reference to Exhibit 10.2 from our F-1 registration statement (File No. 333-147477), as amended, initially filed with the SEC on November 16, 2007)  |

- 4.3 Share exchange and assumption agreement, dated as of April 9, 2007, among Blue Ridge China Partners, L.P., EI Fund II China, LLC, Yong Zhang, Yuyan Yang, Xinyuan Real Estate, Ltd. and Xinyuan Real Estate Co., Ltd. (incorporated by reference to Exhibit 10.9 from our F-1 registration statement (File No. 333-147477), as amended, initially filed with the SEC on November 16, 2007)
- 4.4 Amended and Restated shareholders agreement, dated as of October 31, 2007, among Blue Ridge China Partners, L.P., EI Fund II China, LLC, Yong Zhang, Yuyan Yang, Xinyuan Real Estate, Ltd., Xinyuan Real Estate Co., Ltd. and, to the extent set forth herein, Burnham Securities Inc. and Joel B. Gardner (incorporated by reference to Exhibit 10.10 from our F-1 registration statement (File No. 333-147477), as amended, initially filed with the SEC on November 16, 2007)
- 4.5 Form of Indemnification Agreement (incorporated by reference to Exhibit 10.17 from our F-1 registration statement (File No. 333-147477), as amended, initially filed with the SEC on November 16, 2007)
- 4.6 Form of employment agreement between the registrant and senior executives (incorporated by reference to Exhibit 10.18 from our F-1 registration statement (File No. 333-147477), as amended, initially filed with the SEC on November 16, 2007)



**Exhibit**

**Number Description of Document**

- 4.7 Form of confidentiality and non-competition agreement between the registrant and senior executives (incorporated by reference to Exhibit 10.19 from our F-1 registration statement (File No. 333-147477), as amended, initially filed with the SEC on November 16, 2007)
- 4.11 Securities Purchase Agreement, dated as of April 15, 2010 between Xinyuan Real Estate, Ltd. and Forum Asian Realty Income II, L.P. (incorporated by reference to Exhibit 99.2 from our Form 6-K (File No. 001-33863) filed with SEC on April 16, 2010)
- 4.12 Note, dated as of April 15, 2010, issued by Xinyuan Real Estate Co., Ltd. in favor for Forum Asian Realty Income II, L.P. in the aggregate principal amount of US\$40,000,000. (incorporated by reference to Exhibit 99.3 from our Form 6-K (File No. 001-33863) filed with SEC on April 16, 2010)
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- 4.14 Registration Rights Agreement, dated as of April 15, 2010, between Xinyuan Real Estate Co., Ltd. and Forum Asian Realty Income II, L.P. (incorporated by reference to Exhibit 99.5 from our Form 6-K (File No. 001-33863) filed with SEC on April 16, 2010)
- 4.15 Collateral Agency Agreement, dated as of April 15, 2010, among The Bank of New York Trust Company (Cayman) Limited, The Bank of New York Mellon, Forum Asian Realty Income II, L.P. and Xinyuan Real Estate Co., Ltd. (incorporated by reference to Exhibit 99.6 from our Form 6-K (File No. 001-33863) filed with SEC on April 16, 2010)
- 4.16 Equity Mortgage in Respect of Shares of Victory Good Development Limited, South Glory International Limited and Elite Quest Holdings Limited (collectively, the “Hong Kong Companies”), dated April 15, 2010, among Xinyuan Real Estate, Ltd., the Hong Kong Companies and The Bank of New York Mellon, as Collateral Agent. (incorporated by reference to Exhibit 99.7 from our Form 6-K (File No. 001-33863) filed with SEC on April 16, 2010)
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- 4.18 Debenture, dated April 15, 2010, among Xinyuan Real Estate, Co., Ltd., Xinyuan Real Estate, Ltd. and The Bank of New York Trust Company (Cayman) Limited, as Collateral Agent. (incorporated by reference to Exhibit 99.9 from our Form 6-K (File No. 001-33863) filed with SEC on April 16, 2010)
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4.20 Pledge and Security Agreement, dated as of April 15, 2010, by and between Xinyuan Real Estate, Ltd. and The Bank of New York Mellon, as Collateral Agent. (incorporated by reference to Exhibit 99.11 from our Form 6-K (File No. 001-33863) filed with SEC on April 16, 2010)

4.21 Equity Pledge Agreement, dated as of April 15, 2010, by and among Forum Asian Realty Income II, L.P., Xinyuan Real Estate, Ltd. and Xinyuan (China) Real Estate Co., Ltd. (incorporated by reference to Exhibit 99.12 from our Form 6-K (File No. 001-33863) filed with SEC on April 16, 2010)

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**Exhibit**

**Number Description of Document**

- 8.1\* Subsidiaries of Xinyuan Real Estate Co., Ltd.
  
- 11.1 Code of Business Conduct and Ethics of the Registrant (incorporated by reference to Exhibit 99.1 from our F-1 registration statement (File No. 333-147477), as amended, initially filed with the SEC on November 16, 2007)
  
- 12.1\* CEO Certification Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
  
- 12.2\* CFO Certification Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
  
- 13.1\* CEO Certification Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
  
- 13.2\* CFO Certification Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
  
- 23.1\* Consent of Ernst & Young Hua Ming
  
- 101 The following materials from Xinyuan Real Estate Co., Ltd.’s Annual Report on Form 20-F for the year ended December 31, 2011 formatted in XBRL (eXtensible Business Reporting Language): (i) the Condensed Consolidated Statement of Operations, (ii) the Condensed Consolidated Balance Sheet, (iii) the Condensed Consolidated Statement of Stockholders’ Equity, (iv) the Condensed Consolidated Statement of Cash Flows, and (v) Notes to the Condensed Consolidated Financial Statements. In accordance with Rule 406T of Regulation S-T, the XBRL related information shall not be deemed to be “filed” for purposes of Section 18 of the Exchange Act, or otherwise subject to the liability of that section, and shall not be part of any registration statement or other document filed under the Securities Act or the Exchange Act, except as shall be expressly set forth by specific reference in such filing.

\*Filed with this Annual Report on Form 20-F

**SIGNATURES**

The registrant hereby certifies that it meets all of the requirements for filing on Form 20-F and that it has duly caused and authorized the undersigned to sign this Annual Report on its behalf.

Xinyuan Real Estate Co., Ltd.

By: /s/ Yong Zhang

Name: Yong Zhang

Title: Chairman and Chief Executive Officer

Date: April 16, 2012

## EXHIBIT INDEX

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Securities Purchase Agreement, dated as of April 15, 2010 between Xinyuan Real Estate, Ltd. and Forum Asian Realty Income II, L.P. (incorporated by reference to Exhibit 99.2 form our Form 6-K (File No. 001-33863) filed with SEC on April 16, 2010

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**Exhibit**

**Number Description of Document**

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\*Filed with this Annual Report on Form 20-F

**Xinyuan Real Estate Co., Ltd. and Subsidiaries**

**As of December 31, 2010 and 2011**

**For the years ended December 31, 2009, 2010 and 2011**

**CONTENTS**

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| Consolidated Statements of Operations for the years ended December 31, 2009, 2010 and 2011                      | F-5   |
| Consolidated Statements of Cash Flows for the years ended December 31, 2009, 2010 and 2011                      | F-6   |
| Consolidated Statements of Changes in Shareholders' Equity for the years ended December 31, 2009, 2010 and 2011 | F-8   |
| Notes to Consolidated Financial Statements  | F-9   |

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## **Report of Independent Registered Public Accounting Firm**

The Board of Directors and Shareholders of Xinyuan Real Estate Co., Ltd.

We have audited the accompanying consolidated balance sheets of Xinyuan Real Estate Co., Ltd. and its subsidiaries (the “Company”) as of December 31, 2010 and 2011, and the related consolidated statements of operations, changes in shareholders' equity, and cash flows for each of the three years in the period ended December 31, 2011. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of Xinyuan Real Estate Co., Ltd. and its subsidiaries at December 31, 2010 and 2011, and the consolidated results of their operations and their cash flows for each of the three years in the period ended December 31, 2011, in conformity with U.S. generally accepted accounting principles.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), Xinyuan Real Estate Co., Ltd.'s and its subsidiaries' internal control over financial reporting as of December 31, 2011, based on criteria established in Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated April 16, 2012 expressed an unqualified opinion thereon.

/s/ Ernst & Young Hua Ming

Beijing, People's Republic of China

April 16, 2012

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**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES****CONSOLIDATED BALANCE SHEETS****As of December 31, 2010 and 2011****(All amounts stated in US\$, except for number of shares data)**

|  | Notes | December 31,<br>2010<br>US\$ | December 31,<br>2011<br>US\$ |
|--|-------|------------------------------|------------------------------|
| <b>ASSETS</b>                              |       |                              |                              |
| Current assets                             |       |                              |                              |
| Cash and cash equivalents                  |       | 213,325,871                  | 319,218,155                  |
| Restricted cash                            |       | 82,305,057                   | 168,384,344                  |
| Accounts receivable                        |       | 3,510,683                    | 20,805,939                   |
| Other receivables                          |       | 6,462,138                    | 13,351,674                   |
| Other deposits and prepayments             |       | 34,789,500                   | 60,006,141                   |
| Advances to suppliers                      |       | 21,933,342                   | 13,578,649                   |
| Real estate property development completed | 3     | 1,470,241                    | 6,775,141                    |
| Real estate property under development     | 3     | 710,585,316                  | 761,871,391                  |
| Due from employees                         | 15    | 51,475                       | 20,750                       |
| Other current assets                       |       | 611,403                      | 638,047                      |
| Total current assets                       |       | 1,075,045,026                | 1,364,650,231                |
| Real estate properties held for lease, net |       |                              |                              |
| Property and equipment, net                | 4     | 19,875,971                   | 18,526,504                   |
| Other long-term investment                 | 5     | 2,686,946                    | 2,980,536                    |
| Deferred tax assets                        | 6     | 241,648                      | 241,648                      |
| Other assets                               | 12    | 1,924,929                    | 1,306,930                    |
|  |       | 4,190,806                    | 2,907,777                    |
| <b>TOTAL ASSETS</b>                        |       | <b>1,103,965,326</b>         | <b>1,390,613,626</b>         |

The accompanying notes are an integral part of these consolidated financial statements.

**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES****CONSOLIDATED BALANCE SHEETS – (continued)****As of December 31, 2010 and 2011****(All amounts stated in US\$, except for number of shares data)**

|  | Notes | December 31,<br>2010<br>US\$ | December 31,<br>2011<br>US\$ |
|--|-------|------------------------------|------------------------------|
| <b>LIABILITIES AND SHAREHOLDERS' EQUITY</b>  |       |                              |                              |
| <b>Current liabilities</b>   |       |                              |                              |
| Accounts payable   |       | 150,669,651                  | 235,911,354                  |
| Short-term bank loans  | 8     | 108,565,993                  | 42,949,816                   |
| Customer deposits  | 11    | 22,788,928                   | 69,523,639                   |
| Income tax payable   |       | 40,895,101                   | 69,908,624                   |
| Deferred tax liabilities   | 12    | 18,731,090                   | 22,175,358                   |
| Other payables and accrued liabilities   | 14    | 39,162,310                   | 50,970,495                   |
| Payroll and welfare payable  |       | 4,538,564                    | 7,017,967                    |
| Current portion of long-term bank loans and other debt   | 9,10  | 78,395,362                   | 129,402,796                  |
| <b>Total current liabilities</b>   |       | <b>463,746,999</b>           | <b>627,860,049</b>           |
| <b>Long-term bank loans</b>  |       |                              |                              |
| Long-term bank loans   | 9     | 70,213,164                   | 73,481,566                   |
| Unrecognized tax benefits  | 12    | 13,152,596                   | 13,824,326                   |
| Other long-term debt   | 10    | 38,687,613                   | 39,708,981                   |
| <b>Total liabilities</b>   |       | <b>585,800,372</b>           | <b>754,874,922</b>           |
| Commitments and contingencies  | 19    | —                            | —                            |
| <b>Shareholders' equity</b>  |       |                              |                              |
| <b>Common shares, US\$0.0001 par value:</b>  |       |                              |                              |
| Authorized—500,000,000; shares issued and outstanding—145,863,676 shares for 2011 (2010: 153,185,548 shares) | 16    | 15,319                       | 15,341                       |
| Treasury shares  | 16    | —                            | (7,958,841 )                 |
| Additional paid-in capital   |       | 507,972,627                  | 509,713,488                  |
| Statutory reserves   |       | 27,559,300                   | 33,579,209                   |
| (Accumulated deficit)/Retained earnings  |       | (69,198,063 )                | 19,418,841                   |
| Accumulated other comprehensive income   |       | 51,448,320                   | 79,859,172                   |

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|   |               |               |
|---|---------------|---------------|
| Total Xinyuan Real Estate Co., Ltd shareholders' equity | 517,797,503   | 634,627,210   |
| Non-controlling interest                                | 367,451       | 1,111,494     |
| Total equity  | 518,164,954   | 635,738,704   |
| TOTAL LIABILITIES AND EQUITY                            | 1,103,965,326 | 1,390,613,626 |

The accompanying notes are an integral part of these consolidated financial statements.

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**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES****CONSOLIDATED STATEMENTS OF OPERATIONS****For the years ended December 31, 2009, 2010 and 2011****(All amounts stated in US\$, except for number of shares data)**

|  | Notes | Year ended December 31 |               |               |
|--|-------|------------------------|---------------|---------------|
|  |       | 2009<br>US\$           | 2010<br>US\$  | 2011<br>US\$  |
| Revenue:   |       |                        |               |               |
| Real estate sales, net of sales taxes of US\$25,839,457 in 2009, US\$26,373,671 in 2010 and US\$ 40,278,653 in 2011 respectively |       | 441,337,677            | 438,791,962   | 673,381,593   |
| Real estate lease income   |       | 320,458                | 180,891       | 2,834,080     |
| Other revenue  |       | 7,326,359              | 10,998,992    | 11,292,523    |
| Total revenue  |       | 448,984,494            | 449,971,845   | 687,508,196   |
| Costs of revenue:  |       |                        |               |               |
| Cost of real estate sales  |       | (351,436,057)          | (325,706,756) | (477,140,798) |
| Cost of real estate lease income   |       | (598,255 )             | (1,309,972 )  | (1,131,787 )  |
| Other costs  |       | (7,704,968 )           | (7,435,828 )  | (9,504,214 )  |
| Total cost of revenue  |       | (359,739,280)          | (334,452,556) | (487,776,799) |
| Gross profit   |       | 89,245,214             | 115,519,289   | 199,731,397   |
| Selling and distribution expenses  |       | (11,443,008 )          | (10,724,040 ) | (16,208,559 ) |
| General and administrative expenses  |       | (22,214,511 )          | (22,208,545 ) | (27,230,865 ) |
| Operating income   |       | 55,587,695             | 82,586,704    | 156,291,973   |
| Interest income  |       | 2,387,985              | 2,218,156     | 5,293,920     |
| Other (expenses)/income  |       | (383,333 )             | 2,381,037     | —             |
| Exchange gains   |       | 79,638                 | 201,592       | 56,725        |
| Share of income in an equity investee  | 7     | 4,402,098              | 226,579       | —             |
| Change in fair value of warrant liabilities  |       | 169,736                | 841,560       | —             |
| Income from operations before income taxes   |       | 62,243,819             | 88,455,628    | 161,642,618   |
| Income taxes   | 12    | (19,824,791 )          | (37,333,374 ) | (58,637,489 ) |
| Net income   |       | 42,419,028             | 51,122,254    | 103,005,129   |
| Net loss/(income) attributable to non-controlling interest   |       | —                      | 17,957        | (707,259 )    |



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|   |    |             |             |             |
|---|----|-------------|-------------|-------------|
| Net income attributable to shareholders |    | 42,419,028  | 51,140,211  | 102,297,870 |
| Earnings per share:                     |    |             |             |             |
| Basic                                   | 17 | 0.28        | 0.34        | 0.68        |
| Diluted                                 | 17 | 0.26        | 0.33        | 0.68        |
| Shares used in computation:             |    |             |             |             |
| Basic                                   | 17 | 151,252,815 | 152,577,960 | 151,314,945 |
| Diluted                                 | 17 | 160,871,387 | 155,397,355 | 151,314,945 |

The accompanying notes are an integral part of these consolidated financial statements.

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**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES****CONSOLIDATED STATEMENTS OF CASH FLOWS****For the years ended December 31, 2009, 2010 and 2011****(All amounts stated in US\$, except for number of shares data)**

|  | Year ended December 31 |               |               |
|--|------------------------|---------------|---------------|
|  | 2009                   | 2010          | 2011          |
|  | US\$                   | US\$          | US\$          |
| <b>CASH FLOWS FROM OPERATING ACTIVITIES:</b>   |                        |               |               |
| Net income   | 42,419,028             | 51,122,254    | 103,005,129   |
| Adjustments to reconcile net income to net cash provided by operating activities:                |                        |               |               |
| Depreciation and amortization  | 2,173,278              | 2,737,723     | 2,500,832     |
| Stock-based compensation expenses  | 3,302,750              | 2,646,699     | 1,740,861     |
| Deferred tax (benefit)/expense   | (6,100,697 )           | 10,594,874    | 5,892,472     |
| Share of earnings in an equity interest  | (4,402,098 )           | (226,579 )    | —             |
| Remeasurement gain on pre-existing interest in an equity investee at acquisition-date fair value | —                      | (2,352,607 )  | —             |
| Exchange gains   | (79,638 )              | (201,592 )    | (56,725 )     |
| Changes in fair value of warrant liabilities   | (169,736 )             | (841,560 )    | —             |
| Changes in operating assets and liabilities:   |                        |               |               |
| Accounts receivable  | (3,889,516 )           | 5,860,928     | (16,690,757 ) |
| Real estate property development completed   | (3,609,037 )           | (4,095,668 )  | (4,033,497 )  |
| Real estate property under development   | 74,774,869             | (122,656,772) | (16,555,831 ) |
| Advances to suppliers  | (18,973,772 )          | (1,566,490 )  | 9,238,112     |
| Other receivables  | 11,949,517             | 4,295,664     | (6,396,548 )  |
| Other deposits and prepayments   | 3,438,620              | (8,492,221 )  | (22,520,849 ) |
| Other current assets   | (685,046 )             | 25,810,028    | (348,252 )    |
| Other assets   | 1,052,211              | 109,076       | 1,356,305     |
| Accounts payable   | 7,996,345              | 49,438,402    | 75,620,252    |
| Customer deposits  | (3,411,241 )           | 11,346,685    | 44,438,747    |
| Income tax payable   | 5,312,554              | 23,985,448    | 23,772,502    |
| Other payables and accrued liabilities   | 12,833,400             | 4,550,058     | 9,658,015     |
| Payroll and welfare payable  | 2,102,631              | 86,338        | 2,191,773     |
| Amount due from employees  | (48,488 )              | 34,946        | 32,525        |
| Accrued interest   | (1,479,948 )           | (763,464 )    | (17,333 )     |
| Net cash provided by operating activities  | 124,505,986            | 51,422,170    | 212,827,733   |

The accompanying notes are an integral part of these consolidated financial statements.

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**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES****CONSOLIDATED STATEMENTS OF CASH FLOWS – (Continued)**

|   | Year ended December 31 |                    |                    |
|---|------------------------|--------------------|--------------------|
|   | 2009<br>US\$           | 2010<br>US\$       | 2011<br>US\$       |
| <b>CASH FLOWS FROM INVESTING ACTIVITIES:</b>                                    |                        |                    |                    |
| Disposal of properties held for lease or property and equipment                 | (182,407 )             | 144,955            | —                  |
| Purchase of property and equipment  | (353,113 )             | (981,194 )         | (1,164,086 )       |
| Acquisition of subsidiary, net of cash acquired                                 | —                      | 9,268,548          | —                  |
| Net cash (used in)/provided by investing activities                             | (535,520 )             | 8,432,309          | (1,164,086 )       |
| <b>CASH FLOWS FROM FINANCING ACTIVITIES</b>                                     |                        |                    |                    |
| Proceeds from issuance of common shares   | 399,110                | 15,188             | 22                 |
| Purchase of treasury shares   | —                      | —                  | (7,958,841 )       |
| Dividends to shareholders   | —                      | —                  | (7,661,057 )       |
| Increase of restricted cash   | 17,757,959             | (39,926,219 )      | (79,841,815 )      |
| Repayments of short-term bank loans and current portion of long-term bank loans | (182,082,837)          | (171,785,111)      | (174,925,760)      |
| Proceeds from short-term bank loans and current portion of long-term bank loans | 67,196,093             | 147,455,302        | 106,619,872        |
| Repayment of long-term bank loans   | (45,279,898 )          | (59,573,808 )      | (24,860,148 )      |
| Proceeds from long-term bank loans  | 33,666,632             | 178,251,735        | 69,953,700         |
| Proceeds from other long-term debt  | —                      | 10,000,000         | —                  |
| Repayment of other long-term debt   | —                      | (75,000,000 )      | —                  |
| Repayment from related parties  | 6,380,871              | 359,685            | —                  |
| Net cash used in financing activities   | (101,962,070)          | (10,203,228 )      | (118,674,027)      |
| <b>NET INCREASE IN CASH AND CASH EQUIVALENTS</b>                                | <b>22,008,396</b>      | <b>49,651,251</b>  | <b>92,989,620</b>  |
| Effect of exchange rate changes on cash and cash equivalents                    | 133,074                | 5,874,430          | 12,902,664         |
| Cash and cash equivalents, at beginning of period                               | 135,658,720            | 157,800,190        | 213,325,871        |
| <b>CASH AND CASH EQUIVALENTS, AT END OF PERIOD</b>                              | <b>157,800,190</b>     | <b>213,325,871</b> | <b>319,218,155</b> |
| <b>SUPPLEMENTARY INFORMATION ON CASH FLOWS</b>                                  |                        |                    |                    |
| Incomes taxes paid  | 15,249,936             | 20,155,434         | 30,774,135         |
| Total interest paid   | 20,982,330             | 24,563,386         | 23,429,225         |
| <b>SUPPLEMENTARY INFORMATION OF NON-CASH INVESTING ACTIVITES</b>                | <b>796,518</b>         | <b>—</b>           | <b>—</b>           |

|  |   |            |   |
|--|---|------------|---|
| Transfer of real estate held for lease to real estate property development completed |   |            |   |
| Non-cash repayment of other debt   | — | 30,000,000 | — |

The accompanying notes are an integral part of these consolidated financial statements.

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## XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES

## CONSOLIDATED STATEMENTS OF CHANGES IN SHAREHOLDERS' EQUITY

For the years ended December 31, 2009, 2010 and 2011

(All amounts stated in US\$, except for number of shares data)

|  | Xinyuan Real Estate Co., Ltd Shareholders |                  |                   |                                  |                       |                         |  |   |
|--|---|------------------|-------------------|----------------------------------|-----------------------|-------------------------|--|---|
|  | Number<br>of Shares                       | Common<br>Shares | Treasury<br>Stock | Additional<br>Paid-in<br>Capital | Statutory<br>Reserves | Comprehensive<br>Income | Retained<br>Earnings /<br>(Accumulated<br>Deficit) | Accumulated<br>Other<br>Comprehen<br>Earnings |
|  |   | US\$             | US\$              | US\$                             | US\$                  | US\$                    | US\$   | US\$  |
| BALANCE<br>AT<br>DECEMBER<br>31, 2008      | 151,017,040                               | 15,102           | —                 | 499,154,814                      | 13,167,418            | 1,561,207               | (148,365,420)                                      | 36,282,854                                    |
| Exercise of<br>share options               | 463,892                                   | 46               | —                 | 399,064                          | —                     | —                       | —  | —   |
| Foreign<br>currency<br>translation<br>gain | —   | —                | —                 | —                                | —                     | 372,375                 | —  | 372,375                                       |
| Stock-based<br>compensation<br>expenses    | —   | —                | —                 | 3,466,916                        | —                     | —                       | —  | —   |
| Net income                                 | —   | —                | —                 | —                                | —                     | 42,419,028              | 42,419,028   | —   |
| Appropriation<br>of statutory<br>reserves  | —   | —                | —                 | —                                | 11,267,500            | —                       | (11,267,500 )                                      | —   |
| BALANCE<br>AT<br>DECEMBER<br>31, 2009      | 151,480,932                               | 15,148           | —                 | 503,020,794                      | 24,434,918            | 42,791,403              | (117,213,892)                                      | 36,655,229                                    |
| Exercise of<br>share options               | 187,734                                   | 19               | —                 | —                                | —                     | —                       | —  | —   |
| Conversion of<br>Forum<br>warrants         | 1,516,882                                 | 152              | —                 | 2,237,824                        | —                     | —                       | —  | —   |

|   |                    |               |                    |                    |                   |                    |                      |                   |
|---|--------------------|---------------|--------------------|--------------------|-------------------|--------------------|----------------------|-------------------|
| (Note 10)<br>Jiantou<br>Xinyuan<br>United Real<br>Estate Co.,<br>Ltd. as a result<br>of the<br>acquisition of<br>subsidiary | —                  | —             | —                  | —                  | —                 | —                  | —                    | —                 |
| (Note 7)<br>Foreign<br>currency<br>translation<br>gain  | —                  | —             | —                  | —                  | —                 | 14,793,091         | —                    | 14,793,091        |
| Stock-based<br>compensation<br>expenses   | —                  | —             | —                  | 2,714,009          | —                 | —                  | —                    | —                 |
| Net<br>income/(loss)  | —                  | —             | —                  | —                  | —                 | 51,140,211         | 51,140,211           | —                 |
| Appropriation<br>of statutory<br>reserves   | —                  | —             | —                  | —                  | 3,124,382         | —                  | (3,124,382 )         | —                 |
| <b>BALANCE<br/>AT<br/>DECEMBER<br/>31, 2010</b>   | <b>153,185,548</b> | <b>15,319</b> | <b>—</b>           | <b>507,972,627</b> | <b>27,559,300</b> | <b>65,933,302</b>  | <b>(69,198,063 )</b> | <b>51,448,320</b> |
| Exercise of<br>share options  | 221,658            | 22            | —                  | —                  | —                 | —                  | —                    | —                 |
| Treasury<br>share<br>repurchases<br>(Note 16)   | (7,543,530 )       | —             | (7,958,841)        | —                  | —                 | —                  | —                    | —                 |
| Foreign<br>currency<br>translation<br>gain  | —                  | —             | —                  | —                  | —                 | 28,447,636         | —                    | 28,410,852        |
| Stock-based<br>compensation<br>expenses   | —                  | —             | —                  | 1,740,861          | —                 | —                  | —                    | —                 |
| Net income  | —                  | —             | —                  | —                  | —                 | 102,297,870        | 102,297,870          | —                 |
| Appropriation<br>of statutory<br>reserves   | —                  | —             | —                  | —                  | 6,019,909         | —                  | (6,019,909 )         | —                 |
| Dividends to<br>shareholders  | —                  | —             | —                  | —                  | —                 | —                  | (7,661,057 )         | —                 |
| <b>BALANCE<br/>AT<br/>DECEMBER</b>  | <b>145,863,676</b> | <b>15,341</b> | <b>(7,958,841)</b> | <b>509,713,488</b> | <b>33,579,209</b> | <b>130,745,506</b> | <b>19,418,841</b>    | <b>79,859,172</b> |

31, 2011

The accompanying notes are an integral part of these consolidated financial statements.

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**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

**As of December 31, 2010 and 2011 and**

**For the years ended December 31, 2009, 2010 and 2011**

**(All amounts stated in US\$, except for number of shares data)**

**1. Background information of business and organization**

Xinyuan Real Estate Co. Ltd. (the “Company”) and its subsidiaries (collectively the “Group”) are principally engaged in residential real estate development and the provision of property management services.

The Company’s subsidiaries as of December 31, 2011 are set out below:

| <b>Company Name</b>  | <b>Registered/Place and Date of Incorporation</b> | <b>Paid-up Capital RMB’000</b> | <b>Percentage of Equity Directly Attributable to the Group</b> | <b>Principal Activities</b>  |
|--|---|--------------------------------|--|------------------------------|
| Subsidiary companies:  |   |                                |  |                              |
| Xinyuan International Property Investment Co., Ltd.          | Cayman Islands<br>October 6, 2011                 | US\$ 500                       | * 100  | % Investment holding company |
| Xinyuan International (HK) Property Investment Co., Limited. | Hong Kong<br>October 26, 2011                     | HK\$ 3,000                     | * 100  | % Investment holding company |
|  |   | US\$ 0                         | * 100  | % Investment holding company |

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|   |                                    |      |          |   |     |                              |
|---|------------------------------------|------|----------|---|-----|------------------------------|
| XIN Development Group International Inc.              | United States<br>November 10, 2011 |      |          |   |     |                              |
| Xinyuan Real Estate, Ltd. (“Xinyuan”)                 | Cayman Islands<br>January 27, 2006 | US\$ | 50,000   | * | 100 | % Investment holding company |
| South Glory International Ltd.                        | Hong Kong<br>January 17, 2001      | HK\$ | 10       | * | 100 | % Investment holding company |
| Victory Good Development Ltd.                         | Hong Kong<br>January 17, 2001      | HK\$ | 10       | * | 100 | % Investment holding company |
| Elite Quest Holdings Ltd.                             | Hong Kong<br>November 19, 2001     | HK\$ | 10       | * | 100 | % Investment holding company |
| Xinyuan (China) Real Estate, Ltd. (“WFOE”)            | The PRC<br>April 10, 2006          | US\$ | 307,000* |   | 100 | % Investment holding company |
| Henan Xinyuan Real Estate Co., Ltd. (“Henan Xinyuan”) | The PRC<br>May 19, 1997            |      | 200,000  |   | 100 | % Real estate development    |
| Henan Wanzhong Real Estate Co., Ltd.                  | The PRC<br>February 6, 2005        |      | 10,000   |   | 100 | % Real estate development    |
| Qingdao Xinyuan Xiangrui Real Estate Co., Ltd.        | The PRC<br>February 9, 2006        |      | 10,000   |   | 100 | % Real estate development    |
| Shandong Xinyuan Real Estate Co., Ltd.                | The PRC<br>June 2, 2006            |      | 300,000  |   | 100 | % Real estate development    |

**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS****As of December 31, 2010 and 2011 and****For the years ended December 31, 2009, 2010 and 2011**

| Company Name  | Registered/Place<br>and Date of<br>Incorporation | Paid-up<br>Capital<br>RMB'000 | Percentage<br>of Equity<br>Directly<br>Attributable<br>to the Group | Principal Activities                        |
|---|--|-------------------------------|---|---|
| Subsidiary companies:                                       |  |                               |   |   |
| Xinyuan Property Service Co., Ltd.                          | The PRC<br>December 28, 1998                     | 50,000                        | 100   | % Providing property<br>management services |
| Zhengzhou Mingyuan Landscape<br>Engineering Co., Ltd.       | The PRC<br>February 17, 2004                     | 2,000                         | 100   | % Landscaping engineering and<br>management |
| Zhengzhou Xinyuan Computer<br>Network Engineering Co., Ltd. | The PRC<br>May 26, 2004                          | 2,000                         | 100   | % Installation of intercom<br>systems       |
| Henan Wanzhuo Real Estate Co.,<br>Ltd.                      | The PRC<br>December 14, 2011                     | 20,000                        | 100   | % Real estate development                   |
| Suzhou Xinyuan Real Estate<br>Development Co., Ltd.         | The PRC<br>November 24, 2006                     | 200,000                       | 100   | % Real estate development                   |
| Anhui Xinyuan Real Estate Co.,<br>Ltd.                      | The PRC<br>December 7, 2006                      | 50,000                        | 100   | % Real estate development                   |
| Kunshan Xinyuan Real Estate Co.,<br>Ltd.                    | The PRC<br>January 1, 2008                       | 200,000                       | 100   | % Real estate development                   |
| Xinyuan Real Estate (Chengdu)<br>Co., Ltd.                  | The PRC<br>December 12, 2007                     | 220,000                       | 100   | % Real estate development                   |
|   |  | 50,000                        | 100   | % Real estate development                   |

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|   |                              |        |     |                           |
|---|------------------------------|--------|-----|---------------------------|
| Xuzhou Xinyuan Real Estate Co., Ltd.                                      | The PRC<br>November 09, 2009 |        |     |                           |
| Henan Jiye Real Estate Co., Ltd.  | The PRC<br>November 15, 2009 | 50,000 | 100 | % Real estate development |
| Beijing Xinyuan Wanzhong Real Estate Co., Ltd.                            | The PRC<br>March 4, 2008     | 30,000 | 100 | % Real estate development |
| Beijing Heju Construction Material Co. Ltd                                | The PRC<br>January 16, 2009  | 30,000 | 100 | % Real estate development |
| Xinyuan Renju (Beijing) Asset Management Co., Ltd                         | The PRC<br>January 16, 2009  | 30,000 | 100 | % Real estate development |
| Zhengzhou Jiantou Xinyuan Real Estate Co., Ltd. ("Jiantou Xinyuan")<br>** | The PRC<br>June 13, 2005     | 10,000 | 100 | % Real estate development |
| Zhengzhou Jiantou Xinyuan United Real Estate Co., Ltd<br>***              | The PRC<br>July 7, 2006      | 10,000 | 52  | % Real estate development |

\* Expressed in US\$'000 or HK\$'000

\*\* Acquired on November 1, 2010, which was a formerly 45% owned equity investee

\*\*\* Owned by Jiantou Xinyuan

Equity holdings remained unchanged throughout the year ended December 31, 2011.

**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**(All amounts stated in US\$, except for number of shares data)**

**2. Summary of significant accounting policies**

***(a) Basis of presentation and consolidation***

The accompanying consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles (“U.S. GAAP”). The consolidated financial statements include the financial statements of the Company, and its subsidiaries (collectively, the “Group”). All inter-company transactions and balances between the Company and its subsidiaries have been eliminated upon consolidation.

Subsidiaries are consolidated from the date on which control is transferred to the Group and cease to be consolidated from the date on which control is transferred out of the Group. Where there is a loss of control of a subsidiary, the consolidated financial statements include the results for the part of the reporting year during which the Group has control.

Certain information and footnote disclosures normally included in financial statements prepared in accordance with U.S. generally accepted accounting principles have been condensed or omitted. Certain items reported in the prior year’s consolidated financial statements have been reclassified to conform to the current year’s presentation.

***(b) Use of Estimates***

The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the amounts reported in the consolidated financial statements and accompanying notes, and disclosure of contingent liabilities at the date of the consolidated financial statements. Estimates are used for, but not limited to, the selection of the useful lives of property and equipment, provision necessary for contingent liabilities,

fair values, revenue recognition, taxes, budgeted costs and other similar charges. Management believes that the estimates utilized in preparing its consolidated financial statements are reasonable and prudent. Actual results could differ from these estimates.

*(c) Fair value of financial instruments*

Financial instruments include cash and cash equivalents, restricted cash, accounts receivable, other deposits and prepayments, due from employees, other receivables, long-term investments, accounts payable, customer deposits, other payables, and borrowings. The carrying amounts of cash and cash equivalents, restricted cash, accounts receivable, other deposits and prepayments, due from employees, other receivables, accounts payable, customer deposits, other payables and accrued liabilities, and short-term bank borrowings approximate their fair value due to the short term maturities of these instruments. The Group is exposed to credit risk for financial assets and its maximum amount of loss in the event of non performance by the counterparty is the recorded amount. The Group generally does not require collateral for its financial assets or liabilities, except as disclosed in Note 8.

Long-term investments have no quoted market prices and it is not practicable to estimate their fair value without incurring excessive costs. The Company reviews the investments for impairment whenever events or changes in circumstances indicate that the carrying amount may no longer be recoverable.

Long-term borrowings bear a floating rate of interest. As the stated interest rate reflects the market rate, the carrying value of the bank borrowings approximates its fair value.

The Company applies Accounting Standards Codification (“ASC”) 820, “*Fair Value Measurements and Disclosures*” (“ASC 820”) for all financial assets and liabilities and nonfinancial assets and liabilities that are recognized or disclosed at fair value in the consolidated financial statements on a recurring basis (at least annually). ASC 820 defines fair value, establishes a framework for measuring fair value, and expands disclosures about fair value measurements.

**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**(All amounts stated in US\$, except for number of shares data)**

ASC 820 defines fair value as the price that would be received from selling an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. When determining the fair value measurements for assets and liabilities required or permitted to be recorded at fair value, the Company considers the principal or most advantageous market in which it would transact and it considers assumptions that market participants would use when pricing the asset or liability.

ASC 820 describes three main approaches to measure the fair value of assets and liabilities: 1) market approach; 2) income approach and 3) cost approach. The market approach uses prices and other relevant information generated from market transactions involving identical or comparable assets or liabilities. The income approach uses valuation techniques to convert future amounts to a single present value amount. The measurement is based on the value indicated by current market expectations about those future amounts. The cost approach is based on the amount that would currently be required to replace an asset.

ASC 820 establishes a fair value hierarchy that requires an entity to maximize the use of observable inputs and minimize the use of unobservable inputs when measuring fair value. A financial instrument's categorization within the fair value hierarchy is based upon the lowest level of input that is significant to the fair value measurement. ASC 820 establishes three levels of inputs that may be used to measure fair value:

Level 1 applies to assets or liabilities for which there are quoted prices in active markets for identical assets or liabilities.

Level 2 applies to assets or liabilities for which there are inputs other than quoted prices included within Level 1 that are observable for the asset or liability such as quoted prices for similar assets or liabilities in active markets; quoted prices for identical assets or liabilities in markets with insufficient volume or infrequent transactions (less active markets); or model-derived valuations in which significant inputs are observable or can be derived principally from, or corroborated by, observable market data.

Level 3 applies to assets or liabilities for which there are unobservable inputs to the valuation methodology that are significant to the measurement of the fair value of the assets or liabilities.

In accordance with ASC 820, the Company measures its warrant liability at fair value. The warrant liability is classified as Level 2 because it is valued using models utilizing market observable inputs.

During the year ended December 31, 2010, all outstanding warrants were exercised and the Company incurred a gain of US\$841,560 resulting from the change in fair value. These gains are reported as a “change in fair value of warrant liability” in the accompanying consolidated statements of operations, as the warrants are not hedging instruments.

***(d) Foreign currency translation***

The Group’s financial information is presented in U.S. dollars. The functional currency of the Company is U.S. dollars. The functional currency of the Company’s subsidiaries is Renminbi (“RMB”), the currency of the PRC. transactions by the Company’s subsidiaries which are denominated in currencies other than RMB are translated into RMB at the exchange rate quoted by the People’s Bank of China (“PBOC”) prevailing at the dates of the transactions. Exchange gains and losses resulting from transactions denominated in a currency other than RMB are included in the consolidated statements of operations as exchange gains. The consolidated financial statements of the Company’s subsidiaries have been translated into U.S. dollars in accordance with ASC 830, “*Foreign Currency Matters*”. The financial information is first prepared in RMB and then is translated into U.S. dollars at period-end exchange rates as to assets and liabilities and average exchange rates as to revenue and expenses. Capital accounts are translated at their historical exchange rates when the capital transactions occurred.



**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**(All amounts stated in US\$, except for number of shares data)**

The effects of foreign currency translation adjustments are included as a component of accumulated other comprehensive income in shareholders' equity.

|  | December 31,<br>2009 | December 31,<br>2010 | December 31,<br>2011 |
|--|----------------------|----------------------|----------------------|
| Year end RMB: US\$ exchange rate       | 6.8282               | 6.6227               | 6.3009               |
| Period average RMB: US\$ exchange rate | 6.8311               | 6.7704               | 6.4614               |

The RMB is not freely convertible into foreign currency and all foreign exchange transactions must take place through authorized institutions. No representation is made that the RMB amounts could have been, or could be, converted into U.S. dollars at the rates used in translation.

***(e) Cash and cash equivalents***

The Group considers all highly liquid investments with original maturities of three months or less when purchased to be cash equivalents. The Group maintains bank accounts in the PRC and Hong Kong. The Group does not maintain any bank accounts in the United States. Vast majority of PRC bank balances are denominated in RMB. Hong Kong bank balances are denominated in U.S. dollars.

Cash includes cash on hand and demand deposits in accounts maintained with state-owned and private banks within the PRC and Hong Kong. Total cash in banks at December 31, 2011 amounted to US\$319,218,155 (December 31, 2010: US\$213,325,871), of which no deposits are covered by insurance. The Group has not experienced any losses in such accounts and management believes it is not exposed to any risks on its cash in bank accounts.

***(f) Restricted cash***

The Group is required to maintain certain deposits with banks that provide mortgage loans to the Group (see Note 8) and the Group's customers in order to purchase residential units from the Group (see Note 11). These balances are subject to withdrawal restrictions and totaled US\$49,627,126 as of December 31, 2011 (December 31, 2010: US\$12,118,477). As of December 31, 2011, the Group held US\$93,757,218 (December 31, 2010: US\$70,186,580) in its restricted cash accounts, representing funds received from loans, which were designated to finance permitted project development expenditures that are subject to approval by the lender. As of December 31, 2011, the Group also held an equivalent of US\$25,000,000 in RMB in its restricted cash accounts as security for its short-term loans (see Note 8). These restricted cash deposits are not covered by insurance. The Group has not experienced any losses in such accounts and management believes it is not exposed to any risks on its cash in bank accounts.

***(g) Real estate property development completed and under development***

Real estate properties consist of finished residential unit sites, commercial offices and residential unit sites under development. The Group leases the land for the residential unit sites under land use right leases with various terms from the PRC. Real estate property development completed and real estate property under development are stated at the lower of cost or fair value less selling costs.

Expenditures for land development, including cost of land use rights, deed tax, pre-development costs and engineering costs, are capitalized and allocated to development projects by the specific identification method. Costs are allocated to specific units within a project based on the ratio of the sales value of units to the estimated total sales value times the total project costs.

## XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES

### NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

(All amounts stated in US\$, except for number of shares data)

Costs of amenities transferred to buyers are allocated as common costs of the project that are allocated to specific units as a component of total construction costs. For amenities retained by the Group, costs in excess of the related fair value of the amenity are also treated as common costs. Results of operations of amenities retained by the Group are included in current operating results.

In accordance with ASC 360, “*Property, Plant and Equipment*” (“ASC 360”), real estate property development completed and under development are subject to valuation adjustments when the carrying amount exceeds fair value. An impairment loss is recognized only if the carrying amount of the assets is not recoverable and exceeds fair value. The carrying amount is not recoverable if it exceeds the sum of the undiscounted cash flows expected to be generated by the assets.

When the profitability of a current project deteriorates due to a slow down in the sales pace, reduction of pricing or some other factor, this indicates that there may be a possible future loss on delivery and possible impairment in the recoverability of the assets. Accordingly, the assets of such project are subsequently reviewed for future losses and impairment by comparing the estimated future undiscounted cash flows for the project to the carrying value of such project. If the estimated future undiscounted cash flows are less than the asset’s carrying value such deficit will be charged as a future loss and the asset will then be written down to its estimated fair value.

The Company determines estimated fair value primarily by discounting the estimated future cash flows relating to the asset. In estimating the cash flows for a project, the Company uses various factors including (a) the expected pace at which the planned number of units will be sold, based on competitive market conditions, historical trends in sales pace and actual average selling prices of similar product offerings and any other long or short-term economic conditions which may impact the market in which the project is located; (b) the estimated net sales prices expected to be attained based on the current market conditions and historical price trends, as well as any estimated increases in future sales prices based upon the projected rate of unit sales, the estimated time gap between presale and expected delivery, the impact of government policies, the local and regional competitive environment, and certain external factors such as the opening of a subway line, school or factory; and (c) the expected costs to be expended in the future by the Company, including, but not limited to, construction cost, construction overhead, sales and marketing, sales taxes and interest costs.

The Company's determination of fair value requires discounting the estimated cash flow at a rate commensurate with the inherent risk associated with the assets and related estimated cash flow. The discount rate used in determining each project's fair value depends on the stage of development, location and other specific factors that increase or decrease the risk associated with the estimated cash flows.

For the years ended December 31, 2009, 2010 and 2011, the Group had not recognized any impairment for real estate property under development.

***(h) Revenue recognition***

Real estate sales are reported in accordance with the provisions of ASC 360, "*Property, Plant and Equipment*" and ASC 976, "*Real Estate-Retail Land*".

Revenue from the sales of development properties where the construction period is 12 months or less is recognized by the full accrual method at the time of the closing of an individual unit sale. This occurs when title to or possession of the property is transferred to the buyer. A sale is not considered consummated until (a) the parties are bound by the terms of a contract, (b) all consideration has been exchanged, (c) any permanent financing of which the seller is responsible has been arranged, (d) all conditions precedent to closing have been performed, (e) the seller does not have substantial continuing involvement with the property, and (f) the usual risks and rewards of ownership have been transferred to the buyer. In addition, the buyer's initial and continuing investment must be adequate to demonstrate a commitment to pay for the property, and the buyer's receivable, if any, must not be subject to future subordination. Sales transactions not meeting all the conditions of the full accrual method are accounted for using the deposit method in which all costs are capitalized as incurred, and payments received from the buyer are recorded as a deposit liability.

**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**(All amounts stated in US\$, except for number of shares data)**

Due to the restrictions of mortgages to second home buyers, the Group introduced seller-financed contract arrangements in the third quarter of 2011. Under these seller-financed contract arrangements, the buyer pays the purchase price for the residential unit in installment payments ranging from six months to two years with the final payment to be made 30 days prior to the delivery of the property. These contracts generally require a 10% down payment upon contract execution date, the second payment of 20% within 30 days, a third payment of 30% to 40% six months after the contract date, and the final 30% to 40% payment 30 days before delivery.

Revenue and profit from the sale of development properties where the construction period is more than 12 months is recognized by the percentage-of-completion method on the sale of individual units when the following conditions are met:

- a. Construction is beyond a preliminary stage.
- b. The buyer is committed to the extent of being unable to require a refund except for non-delivery of the unit.
- c. Sufficient units have already been sold to assure that the entire property will not revert to rental property.
- d. Sales prices are collectible.
- e. Aggregate sales proceeds and costs can be reasonably estimated.

If any of the above criteria is not met, proceeds are accounted for as customer deposits until the criteria are met.

Under the percentage of completion method, revenues from units sold and related costs are recognized over the course of the construction period, based on the completion progress of a project. In relation to any project, revenue is determined by calculating the ratio of incurred costs, including land use rights costs and construction costs, to total estimated costs and applying that ratio to the contracted sales amounts. Cost of sales is recognized by determining the ratio of contracted sales during the period to total estimated sales value, and applying that ratio to the incurred costs. Current period amounts are calculated based on the difference between the life-to-date project totals and the previously recognized amounts.

The effect of changes to total estimated contract cost or revenues, if any, are recognized in the period in which they are determined. Revenue recognized to date in excess of amounts received from customers is classified as current assets under real estate property under development. Amounts received from customers in excess of revenue recognized to date are classified as current liabilities under customer deposits. As of December 31, 2010 and December 31, 2011, the amounts received from customers in excess of revenues recognized were US\$128.5 million and US\$162.0 million, respectively.

Any losses incurred or forecast to occur on real estate transactions are recognized in the period in which the loss is first anticipated.

**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**(All amounts stated in US\$, except for number of shares data)**

Real estate lease income is recognized on a straight-line basis over the terms of the tenancy agreements or the remaining life of the land use right. Depreciation cost and maintenance cost of the property are recorded as the cost of rental income.

Other revenue includes services ancillary to the Group's real estate projects, including property management, landscaping and computer network engineering.

***(i) Accounts receivable***

Accounts receivable consists of balances due from customers for the sale of residential units including the billed installment payments related to the seller-financed contract (see Note 2(h)) in the PRC. In cases where the customers deposit more than 50% of the total purchase price, the Group may defer the remaining purchase price. These deferred balances are unsecured, bear no interest and are due within a year from the date of the sale.

Accounts receivable are reviewed periodically as to whether their carrying value has become impaired. The Group considers the assets to be impaired if the collectability of the balances become doubtful. As of December 31, 2010 and 2011, there was no allowance for doubtful debts.

***(j) Other receivables***

Other receivables consist of various cash advances to unrelated companies and individuals with which the Group has business relationships.

Other receivables are reviewed periodically as to whether their carrying value has become impaired. The Group considers the assets to be impaired if the collectability of the balances becomes doubtful. As of December 31, 2010 and 2011, there was no allowance for doubtful debts.

***(k) Advances to suppliers***

Advances to suppliers consist of balances paid to contractors and vendors for services and materials that have not been provided or received and generally relate to the development and construction of residential units in the PRC. Advances to suppliers are reviewed periodically to determine whether their carrying value has become impaired. The Group considers the assets to be impaired if the collectability of the services and materials become doubtful. As of December 31, 2010 and 2011, there was no allowance for doubtful debts.

***(l) Customer deposits***

Customer deposits consist of amounts received from customers relating to the sale of residential units in the PRC. In the PRC, customers will generally obtain financing for the purchase of their residential unit prior to the completion of the project. The lending institution will provide the funding to the Group upon the completion of the financing rather than the completion of the project. The Group receives these funds and recognizes them as a current liability until the revenue can be recognized.

***(m) Other payables***

Other payables consist of balances for non-construction costs with unrelated companies and individuals with which the Group has business relationships. These amounts are unsecured, non-interest bearing and generally are short term in nature.



**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**(All amounts stated in US\$, except for number of shares data)**

***(n) Real estate properties held for lease, net***

Real estate properties held for lease are recorded at cost less accumulated depreciation. Depreciation is computed using the straight-line method over the estimated useful lives of the assets. Estimated useful lives of the real estate properties held for lease are 20 years.

Maintenance, repairs and minor renewals are charged directly to expenses as incurred. Major additions and improvements to the real estate properties held for lease are capitalized.

***(o) Property and equipment, net***

Property and equipment are recorded at cost less accumulated depreciation. Depreciation is computed using the straight-line method over the estimated useful lives of the assets. Estimated useful lives of the assets are as follows:

|                        |          |
|------------------------|----------|
| Buildings              | 20 years |
| Vehicles               | 5 years  |
| Furniture and fixtures | 5 years  |

Maintenance, repairs and minor renewals are charged directly to expense as incurred unless such expenditures extend the useful life or represent a betterment, in which case they are capitalized.

***(p) Long-term investments***

The Group accounts for long-term investments in equities as follows:

Where the Group has significant influence over the investee, the Group applies the equity method of accounting. The reporting dates and accounting policies of the equity investees are the same as the Group. The investments in the equity investees are stated at cost, including the Group's share of the equity investee's net gain or loss, less any impairment in value. The Group recognizes in its consolidated statement of operations its share of the net income of the equity investees.

Where the Group has no significant influence, the investment is classified as other long-term investment and is carried under the cost method. Investment income is recognized by the Group when the investee declares a dividend and the Group believes it is collectible. The Group periodically evaluates the carrying value of its investment under the cost method and any decline in value is included in impairment of cost of the investment.

As of December 31, 2010 and 2011, the Group had no investments under equity method of accounting. As of December 31, 2010 and 2011, the Group only has a 1.85% equity interest in a company in PRC that specializes in the real estate industry. The Group does not exercise significant influence over this investment and therefore, the Group accounts for the investment under the cost method. Investment income is recognized by the Group when the investee declares a dividend and the Group believes it is collectible.

*(q) Capitalized interest*

The Group capitalizes interest as a component of building construction costs in accordance with ASC 835, "Interest" ("ASC 835").

**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)****(All amounts stated in US\$, except for number of shares data)**

As a result of the total interest costs capitalized during the period, the interest expense for the years ended December 31, 2009, 2010 and 2011, was as follows:

|  | 2009<br>US\$ | 2010<br>US\$ | 2011<br>US\$ |
|--|--------------|--------------|--------------|
| Accretion of discount from embedded derivative on Convertible Subordinated Notes     | 515,664      | 1,045,763    | —            |
| Accretion of discount arising from embedded derivative on Senior Floating Rate Notes | 1,214,301    | 302,743      | —            |
| Amortization of issuance cost related to other long term debt                        | 1,445,191    | 1,044,284    | 319,779      |
| Accretion of discount arising from warrants on Senior Floating Rate Notes            | 2,487,069    | 620,064      | —            |
| Accretion of discount arising from warrants on Guaranteed Senior Secured Note        | —            | 730,348      | 1,021,368    |
| Put option contingency expenses  | 5,000,000    | —            | —            |
| Interest on borrowings   | 24,137,852   | 26,444,942   | 25,174,427   |
| Total interest costs   | 34,800,077   | 30,188,144   | 26,515,574   |
| Less: total interest costs capitalized   | (34,800,077) | (30,188,144) | (26,515,574) |
| Interest expense, net  | —            | —            | —            |

***(r) Retirement benefits***

Regulations in the PRC require the Group to contribute to a defined contribution retirement plan for all permanent employees. Pursuant to the mandatory requirement from the local authority in the PRC, the retirement pension insurance, unemployment insurance, health insurance and housing fund were established for the employees during the term they are employed. For the years ended December 31, 2009, 2010 and 2011, the level of contribution to these funds for each employee was determined at 41% of their average salary determined by the Social Welfare Bureau. For the year ended December 31, 2011, the Group recorded expense in the amount of US\$1,783,144 (2010: US\$1,397,426; 2009: US\$935,791)

*(s) Distribution of earnings and reserve fund*

The Company's ability to pay dividends is primarily dependent on the Company receiving distributions from its subsidiaries. The earnings reflected in the consolidated financial statements prepared in accordance with U.S. GAAP differ from those reflected in the statutory financial statements of the Company's subsidiaries. In accordance with the PRC Company Law, the PRC subsidiaries are required to transfer 10% of their profit after tax, as determined in accordance with PRC accounting standards and regulations, to the statutory surplus reserve (the "SSR") until such reserve reaches 50% of the registered capital of the subsidiaries. Subject to certain restrictions set out in the PRC Company Law, the SSR may be distributed to stockholders in the form of share bonus issues to increase share capital, provided that the remaining balance after the capitalization is not less than 25% of the registered capital.

*(t) Income taxes*

The Group accounts for income tax using the balance sheet method. Deferred taxes are provided for the net tax effects of temporary differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts used for income tax purposes, as well as unutilized net operating losses. A valuation allowance is provided for deferred tax assets if it is more likely than not these items will either expire before the Group is able to realize their benefits, or that future utilization is uncertain. The Company assesses its need for valuation allowances by tax reporting unit by jurisdiction. Generally, each of the Company's reportable operating segments is organized in a separate tax reporting unit in a single tax jurisdiction.

**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**(All amounts stated in US\$, except for number of shares data)**

Interest and penalties arising from underpayment of income taxes is recognized according to the relevant tax law. The amount of interest expense to be recognized is computed by applying the applicable statutory rate of interest to the difference between the tax position recognized and the amount previously taken or expected to be taken in a tax return. Interest recognized in accordance with ASC 740-10, “*Income Tax*” (“ASC 740-10”) is classified in the consolidated financial statements as interest expense, while penalties recognized in accordance with this Interpretation are classified in the consolidated financial statements as other expenses.

In accordance with the provisions of ASC 740-10, the Group recognizes in its consolidated financial statements the impact of a tax position if a tax return’s position or future tax position is “more likely than not” to prevail (defined as a likelihood of more than fifty percent of being sustained upon audit, based on the technical merits of the tax position). Tax positions that meet the “more likely than not” threshold are measured (using a probability weighted approach) at the largest amount of tax benefit that has a greater than fifty percent likelihood of being realized upon settlement. The Group’s estimated liability for unrecognized tax benefits is periodically assessed for adequacy and may be affected by changing interpretations of laws, rulings by tax authorities, certain changes and/or developments with respect to audits, and expiration of the statute of limitations. The outcome for a particular audit cannot be determined with certainty prior to the conclusion of the audit and, in some cases, appeal or litigation process. The actual benefits ultimately realized may differ from the Group’s estimates. As each audit is concluded, adjustments, if any, are appropriately recorded in the Group’s consolidated financial statements. Additionally, in future periods, changes in facts, circumstances, and new information may require the Group to adjust the recognition and measurement estimates with regard to individual tax positions. Changes in recognition and measurement estimates are recognized in the period in which the changes occur.

**(u) *Land Appreciation Tax (“LAT”)***

In accordance with the relevant taxation laws for real estate companies of the provinces in which the subsidiaries operate in the PRC, the local tax authorities levy LAT based on progressive rates ranging from 30% to 60% on the appreciation of land value, being the proceeds of sales of properties less deductible expenditures, including borrowing costs and all property development expenditures. LAT is prepaid on customer deposits and is expensed when the related revenue is recognized, as explained at Note 2 (h).

***(v) Comprehensive income***

Comprehensive income is defined to include all changes in equity except those resulting from investments by owners and distributions to owners. The Group's only components of comprehensive income during the years ended December 31, 2009, 2010 and 2011 were net income and the foreign currency translation adjustment.

***(w) Advertising and promotion expenses***

Advertising and promotion costs are expensed as incurred, or the first time the activity takes place, in accordance with ASC 720-35, "Advertising Costs". For the year ended December 31, 2011, the Group recorded advertising and promotion expenses of US\$13,767,135 (2009: US\$8,696,895; 2010: US\$9,117,423)

***(x) Leases***

In accordance with ASC 840, "Leases", leases are classified at the inception date as either a capital lease or an operating lease. For the lessee, a lease is a capital lease if any of the following conditions exist: a) ownership is transferred to the lessee by the end of the lease term, b) there is a bargain purchase option, c) the lease term is at least 75% of the property's estimated remaining economic life or d) the present value of the minimum lease payments at the beginning of the lease term is 90% or more of the fair value of the leased property to the lessor at the inception date. A capital lease is accounted for as if there was an acquisition of an asset and an incurrence of an obligation at the inception of the lease. All other leases are accounted for as operating leases wherein rental payments are expensed as incurred.

**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**(All amounts stated in US\$, except for number of shares data)**

The Group has no capital leases for any of the periods stated herein. For the year ended December 31, 2011, the Group recorded lease expenses of US\$2,148,169 (2010: US\$1,653,781; 2009: US\$1,778,052)

***(y) Property warranty***

The Company and its subsidiaries provide customers with warranties which cover major defects of building structure and certain fittings and facilities of properties sold as stipulated in the relevant sales contracts. The warranty period varies from two months to three years, depending on different property components the warranty covers.

The Group regularly estimates potential costs for materials and labor with regard to warranty-type claims expected to be incurred subsequent to the delivery of a property. Reserves are determined based on historical data and trends with respect to similar property types and geographical areas. The Group regularly monitors the warranty reserve and makes adjustments to its pre-existing warranties, if any, in order to reflect changes in trends and historical data as information becomes available. The Group may seek recourse against its contractors or any related third parties if it can be demonstrated they are at fault. In addition, the Group withholds up to 5% of the contract cost from sub-contractors for periods of 2 to 5 years. These amounts are included in current liabilities, and are only paid to the extent that there has been no warranty claim against the Group relating to the work performed or materials supplied by the subcontractors. For the years ended December 31, 2009, 2010 and 2011, the Group had not recognized any warranty liability or incurred any warranty costs in excess of the amount retained from subcontractors.

***(z) Earnings per share***

Earnings per share is calculated in accordance with ASC 260, “*Earnings Per Share*”. Basic earnings per share is computed by dividing net income attributable to holders of common shares by the weighted average number of common shares outstanding during the period. Diluted earnings per common share reflects the potential dilution that could occur if securities or other contracts to issue common shares were exercised or converted into common shares.

Common shares issuable upon the conversion of the convertible, redeemable preference shares were included in both basic and diluted earnings per common share computation for the period during which they were outstanding, as they are considered participating securities. Contingent exercise price resets are accounted for in a manner similar to contingently issuable shares.

Common share equivalents are excluded from the computation of diluted earnings per share if their effects would be anti-dilutive. The nonvested shares granted with performance condition are excluded in the computation of diluted EPS unless the options are dilutive and unless their conditions (a) have been satisfied at the reporting date or (b) would have been satisfied if the reporting date was the end of the contingency period.

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**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**(All amounts stated in US\$, except for number of shares data)**

***(aa) Treasury Shares***

The Company accounted for those shares repurchase as Treasury Shares at cost in accordance to ASC Subtopic 505-30 (“ASC 505-30”), Treasury Shares, and is shown separately in the Shareholders’ Equity as the Company has not yet decided on the ultimate disposition of those ADSs acquired. When the Company decides to retire the treasury shares, the difference between the original issuance price and the repurchase price is debited into retained earnings.

On May 26, 2011, the Board of Directors unanimously authorized management to repurchase up to US\$10 million of the Company’s ADSs (“Share Repurchase Plan”) within 12 months of the approval date. The Board of Directors also agreed to review the Company’s share repurchase program periodically, and to adjust the amount authorized for repurchase as necessary. During 2011, the Company has repurchased 3,771,765 ADSs (7,543,530 common shares) under this plan for a consideration of US\$8.0 million.

***(ab) Convertible subordinated notes***

On April 13, 2007, the Company issued 2% Convertible subordinated notes due 2012 (the “Convertible Notes”) with an aggregate principal amount of US\$25 million. The holder had the right, at such holder’s option, to convert the principal amount of the Convertible Notes, or any portion of such principal amount which was a multiple of US\$100,000, into fully paid and non-assessable common shares (as such shares were then constituted) at the conversion price in effect at such time. On April 15, 2010, the Company paid in full the outstanding principal amount of, and accrued and unpaid interest on, the Convertible Notes. The put option interest of about US\$5.0 million was also paid to the bondholder pursuant to mutual agreement. See Note 10 for a discussion of the put option.

The Convertible Notes, net of the contingent interest feature, were accreted to their face amount at maturity using the effective interest method. Since a qualifying IPO occurred prior to April 2, 2012, the debt amount, including any unamortized debt discount on the Convertible Notes could be immediately credited to equity upon conversion.

On April 15, 2010, upon mutual agreement with the holder of the Convertible Notes, the holder exercised its option to demand that the Company repurchase the Convertible Notes, for cash, at a repurchase price of 120% of the principal amount, plus accrued and unpaid interest. As such, the Company paid in full the outstanding principal amount of, and accrued and unpaid interest on, the Convertible Notes. The remaining 20% principal amount, which was accrued for as put option contingency expense as of December 31, 2009 amounting to US\$5.0 million was also paid to the holder pursuant to the mutual agreement (see Note 10).

*(ac) Senior Floating Rate Notes and Warrants*

On April 13, 2007, the Company issued Senior Floating Rate Notes due 2010 (the “FRNs”) with a par value of US\$100,000 with an aggregate principal amount of US\$75 million and detachable warrants to subscribe for common shares (the “FRN Warrants”). On April 15, 2010, the Company paid in full the outstanding principal amount of, and accrued and unpaid interest on, the floating rate notes. The outstanding warrants to purchase common shares originally issued with the floating rate notes expired upon the maturity of the notes.

**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**(All amounts stated in US\$, except for number of shares data)**

Given that the FRNs were debt in their legal form, they were classified as other long-term debt. According to ASC 815-40-25, “*Contracts in Equity’s Own Equity*” (“ASC 815-40-25”), the portion of the proceeds of debt securities issued with detachable stock purchase warrants that is allocable to the warrants were accounted for as a derivative liability associated with other long-term debt. The allocation is based on the relative fair value of the two securities at time of issuance. Any resulting discount or premium on the debt securities was accounted for as such.

*FRNs*

According to the terms of the FRNs, the Company could have repurchased or redeemed in cash the FRNs on the third anniversary of the issuance date at the price equal to 100% of the principal amount, and if no qualifying IPO had occurred on or prior to the expiration of 30 months after their issuance, the repurchase price would be equal to 112% of the principal amount plus accrued but unpaid interest. Hence, the additional premium was indexed to the Qualifying IPO, which is not considered clearly and closely related to the economic characteristics of the debt host. Accordingly, the premium was considered an embedded derivative that has been bifurcated from the FRNs and valued separately.

*FRN Warrants*

One FRN with par value of US\$100,000 attached with one warrant was called one unit, and one unit was issued at the price of US\$100,000. Therefore, a total of 750 units were issued. Upon issuance, the FRN Warrants were immediately separable and detachable. Each FRN Warrant entitled the holder to purchase 7,142 common shares at US\$5.60 per share.

The FRN Warrants were initially recorded as a derivative liability associated with long-term debt at a fair value of US\$7,359,000 and expired in April 2010 (December 31, 2009: US\$264). The fair value was determined by utilizing the Black-Scholes model. The proceeds, net of the portion allocated to the warrants, were allocated to the FRNs, which was accreted to its face amount at maturity using the effective interest method. The accretion amount was

recognized as interest expense.

*(ad) Guaranteed Senior Secured Note and Warrants*

On April 15, 2010, the Company entered into a Securities Purchase Agreement (the “Forum agreement”) with Forum Asian Realty Income II, L.P. (the “Forum”), pursuant to which the Company agreed to issue to Forum: (i) a guaranteed senior secured note in the aggregate principal amount of US\$40,000,000 due April 15, 2013 (the “Secured Note”) and (ii) warrants to purchase up to 1,516,882 common shares of the Company (the “Forum Warrants”) (see Note 10).

Given that the Secured Note is debt in its legal form, it has been classified as other long-term debt. According to ASC 815-40-25, the portion of the proceeds of debt securities issued with detachable stock purchase warrants that is allocable to the warrants are accounted for as a derivative liability associated with other long-term debt. The allocation is based on the relative fair value of the two securities at time of issuance. Any resulting discount or premium on the debt securities is accounted for as such.

*Secured Note*

The Secured Note bears interest at 15.6% per annum payable semi-annually. The Note has a three-year term maturing on April 15, 2013. It is subject to events of defaults customary for senior secured notes. It is guaranteed by the Company’s wholly-owned subsidiaries, Xinyuan Real Estate, Victory Good Development Limited, South Glory International Limited and Elite Quest Holdings Limited. The Secured Note is secured by a first priority security interest in the assets of the Company and its subsidiaries located outside of the People’s Republic of China and, subject to approval and registration with the relevant governmental authorities, a pledge of the shares of Xinyuan (China) Real Estate Co., Ltd., a wholly foreign-owned limited liability company organized under the laws of the PRC, and a negative pledge of certain of Xinyuan (China) Real Estate Co., Ltd.’s assets.

**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**(All amounts stated in US\$, except for number of shares data)**

*Forum Warrants*

The Forum Warrants grant Forum the right to acquire 1,516,882 common shares at an exercise price of US\$0.01 per share, subject to anti-dilution adjustments only in the event of a stock-split or similar reclassification of the Company's capital stock.

The Forum Warrants were initially recorded as a derivative liability associated with long-term debt at a fair value of US\$3,049,509. The fair value was determined by utilizing the Black-Scholes model. The proceeds, net of the portion allocated to the warrants, were allocated to the Secured Note, which were accreted to its face amount at maturity using the effective interest method. The accretion amount was recognized as interest expense.

On May 12, 2010, Forum exercised the warrants to purchase 1,512,882 common shares at the price of US\$0.01 per share (see Note 10).

*(ae) Debt Issuance Costs*

Debt issuance costs are capitalized and amortized over the life of the loan to which they relate using the effective interest method.

*(af) Effect of change in estimate*

Revisions in estimated gross profit margins related to percentage of completion revenues are made in the period in which circumstances requiring the revisions become known. During the year ended December 31, 2011, nine real estate development projects (Chengdu Xinyuan Splendid I, Chengdu Xinyuan Splendid II, Suzhou International City Garden, Shandong International City Garden, Kunshan International City Garden, Henan Colorful Garden, Henan Modern City, Xuzhou Colorful Garden, Zhengzhou Yipin Xiangshan), which recognized gross profits in 2010, had changes in their estimated gross profit margins. As of December 31, 2011, each of these projects has a percentage of completion at 68% or more. As the gross floor area sales and the selling price showed a rising trend during the year ended December 31, 2011, the Company revised upwards its prior estimates related to selling prices and total estimated sales values, which lead to a decrease of the percentage sold and thus a decrease in the recognized costs. As a result of the changes in gross profit, net income and basic and diluted earnings per share increased by US\$11.2 million (2010:US\$11.7 million), US\$8.4 million (2010: US\$9.7 million), US\$0.06 per share (2010: US\$0.06 per share) and US\$0.06 per share (2010: US\$0.06 per share), respectively, for the year ended December 31, 2011.

In the third quarter of 2010, the Company found that certain of its contracted buyers for the Kunshan International City Garden project were not able to secure mortgages at terms and amounts foreseen at the time of contract execution, resulting from the government issued new mandates on housing policy affecting the availability of mortgage financing in 2010. As a result, the Company reversed contracted sales amounts of US\$42.8 million related to sales contracts of 348 apartments when determining revenue to be recognized under the percentage of completion method (see Note 2h for further detail). The Company took the position that contracts that were not clearly executable under prevailing government policies were not recognized as revenue under the percentage of completion method. The reversals, which represented 12.0% of all contract sales from inception through December 31, 2010 for Kunshan, reduced revenue by US\$31.5 million under the percentage of completion method for the year ended December 31, 2010. As a result of the change, net income and basic and diluted earnings per share decreased by US\$5.5 million, US\$0.04 per share and US\$0.04 per share, respectively, for the year ended December 31, 2010. For the year ended December 31, 2011, the Company reversed contracted sales amounts of US\$4.0 million related to sales contracts of 28 apartments, which reduced revenue by US\$3.6 million. In all of other projects throughout China, where over 90% of buyers are owner occupiers and not investors, there is no significant mortgage availability problem and, thus, no reversals have been recorded.

**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**(All amounts stated in US\$, except for number of shares data)**

***(ag) Share-based compensation***

The Group has adopted ASC 718, “*Compensation-Stock Compensation*”, which requires that share-based payment transactions with employees, such as restricted shares or stock options, be measured based on the grant-date fair value of the equity instrument issued and recognized as compensation expense over the requisite service period, which is generally the vesting period. The Company issues new shares to employees when options are exercised.

For options granted with performance condition, share-based compensation expense is recognized based on the probable outcome of the performance condition. A performance condition is not taken into consideration in determining fair value of the nonvested shares granted.

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**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**(All amounts stated in US\$, except for number of shares data)**

***(ah) Recent accounting pronouncements***

In May 2011, the FASB issued ASU 2011-04, *Fair Value Measurement (Topic 820), Amendments to Achieve Common Fair Value Measurement and Disclosure Requirements in U.S. GAAP and IFRSs*. ASU 2011-04 amends the fair value measurement and disclosure guidance in ASC 820, *Fair Value Measurement*, to converge U.S. GAAP and International Financial Reporting Standards requirements for measuring amounts at fair value as well as disclosures about these measurements. Many of the amendments in ASU 2011-04 clarify existing concepts and are generally not expected to result in significant changes to how many entities currently apply the fair value principles. In certain instances, however, the FASB changed a principle to achieve convergence, and while limited, these amendments have the potential to significantly change practice for some entities. For public entities, the amendments are effective during interim and annual periods beginning after December 15, 2011. The Group does not expect that the adoption of ASU 2011-04 will have a material impact to the Group's consolidated financial statements.

In June 2011, the FASB issued ASU No. 2011-05, *Presentation of Comprehensive Income* ("ASU 2011-05"). ASU 2011-05 requires that all non-owner changes in stockholders' equity be presented either in a single continuous statement of comprehensive income or in two separate but consecutive statements. In the two-statement approach, the first statement should present total net income and its components followed consecutively by a second statement that should present total other comprehensive income, the components of other comprehensive income, and the total of comprehensive income. ASU 2011-05 eliminates the option to present the components of other comprehensive income as part of the statement of changes in stockholders' equity. In December 2011, the FASB issued ASU 2011-12, *Deferral of the Effective Date for Amendments to the Presentation of Reclassifications of Items Out of Accumulated Other Comprehensive Income in Accounting Standards Update No. 2011-05* ("ASU 2011-12"). ASU 2011-12 defers the requirement in ASU 2011-05 that entities present reclassification adjustments for each component of accumulated other comprehensive income ("AOCI") in both net income and other comprehensive income on the face of the financial statements. ASU 2011-12 requires entities to continue to present amounts reclassified out of AOCI on the face of the financial statements or disclose those amounts in the notes to the financial statements. The effective date of ASU 2011-12 is consistent with ASU 2011-05, which is effective for fiscal years and interim periods beginning after December 15, 2011 for public entities. The Group does not expect that the adoption of both ASU 2011-05 and ASU 2011-12 will have a material impact to the Group's consolidated financial statements.



In September 2011, the FASB issued ASU 2011-08, Intangibles—Goodwill and Other (Topic 350) Testing Goodwill for Impairment. The guidance is intended to simplify how entities, both public and non-public, test goodwill for impairment. The pronouncement permits an entity to first assess qualitative factors to determine whether it is “more likely than not” that the fair value of a reporting unit is less than its carrying amount as a basis for determining whether it is necessary to perform the two-step goodwill impairment test described in Topic 350. The guidance is effective for annual and interim goodwill impairment tests performed for fiscal years beginning after December 15, 2011. Early adoption is permitted, including for annual and interim goodwill impairment tests performed as of a date before September 15, 2011, if an entity’s financial statements for the most recent annual or interim period have not yet been issued or, for non-public entities, have not yet been made available for issuance. The Group does not expect that the adoption of ASU 2011-08 will have a material impact on the Group’s consolidated financial statements.

**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)****(All amounts stated in US\$, except for number of shares data)****3. Real estate property development completed and under development**

The following summarizes the components of real estate property completed and under development at December 31, 2010 and 2011:

|  | December 31,<br>2010<br>US\$ | December 31,<br>2011<br>US\$ |
|--|------------------------------|------------------------------|
| Development completed:                     |                              |                              |
| Zhengzhou Xinyuan Splendid 1A              | 226,091                      | 101,009                      |
| Zhengzhou Xinyuan Splendid 3A3B3C          | 52,642                       | —                            |
| Zhengzhou Commercial Plaza                 | 10,061                       | 10,574                       |
| Suzhou Lake Splendid                       | 440,071                      | 363,548                      |
| Suzhou Colorful Garden                     | 384,353                      | 401,592                      |
| Jinan City Family                          | 31,233                       | —                            |
| Hefei Wangjiang Garden                     | 325,790                      | 290,699                      |
| Zhengzhou Xinyuan Colorful Garden          | —                            | 4,929,264                    |
| Jinan International City Garden            | —                            | 678,455                      |
| Real estate property development completed | 1,470,241                    | 6,775,141                    |
| Under development:                         |                              |                              |
| Current:                                   |                              |                              |
| Suzhou International City Garden           | 135,511,818                  | 119,484,041                  |
| Xuzhou Colorful Garden                     | 46,241,852                   | 38,471,017                   |
| Zhengzhou Xinyuan Colorful Garden          | 46,646,119                   | —                            |
| Zhengzhou Modern City                      | 81,727,603                   | 60,299,157                   |
| Zhengzhou Century East A                   | 23,851,265                   | 36,226,170                   |
| Zhengzhou Century East B                   | 64,158,671                   | 104,832,456                  |
| Zhengzhou Royal Place                      | 78,163,709                   | 103,516,481                  |
| Jinan International City Garden            | 5,220,378                    | —                            |
| Jinan Xinyuan Splendid                     | 204,066,031                  | 302,470,861                  |
| Kunshan International City Garden          | 162,449,821                  | 126,205,482                  |

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|  |                |                |
|--|----------------|----------------|
| Chengdu Xinyuan Splendid I   | 68,528,161     | 29,109,213     |
| Chengdu Xinyuan Splendid II  | 94,017,899     | 92,164,170     |
| Zhengzhou Yipin Xiangshan I  | 14,491,672     | 4,487,385      |
| Zhengzhou Yipin Xiangshan II   | 53,934,244     | 96,222,612     |
| Xuzhou New land  | —              | 38,415,147     |
| Zhengzhou New Land   | —              | 92,486,788     |
|  | 1,079,009,243  | 1,244,390,980  |
| Profit recognized  | 142,628,524    | 239,583,913    |
| Less: progress billings (see Note 11)                                  | (511,052,451 ) | (722,103,502 ) |
| Real estate property under development—current                         | 710,585,316    | 761,871,391    |
| Real estate property under development—non-current                     | —              | —              |
| Total real estate property under development                           | 710,585,316    | 761,871,391    |
| Total real estate property development completed and under development | 712,055,557    | 768,646,532    |

As of December 31, 2011, land use rights included in the real estate properties under development totaled US\$558,104,645 (2010: US\$590,215,527).

As of December 31, 2011, real estate properties under development with an aggregate net book value of US\$265,921,670 (2010: US\$ 397,692,383) were pledged as collateral for certain bank loans.

**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)****(All amounts stated in US\$, except for number of shares data)****4. Real estate properties held for lease, net**

|  | December 31,<br>2010<br>US\$ | December 31,<br>2011<br>US\$ |
|--|------------------------------|------------------------------|
| Elementary schools                             | 3,220,565                    | 3,385,046                    |
| Basement Parking                               | 1,828,580                    | 1,921,969                    |
| Kindergartens                                  | 3,554,399                    | 3,555,371                    |
| Parking facilities                             | 11,389,501                   | 11,970,594                   |
| Clubhouses                                     | 3,901,167                    | 3,125,133                    |
| <br>Total costs                                | <br>23,894,212               | <br>23,958,113               |
| <br>Accumulated depreciation                   | <br>(4,018,241 )             | <br>(5,431,609 )             |
| <br>Real estate properties held for lease, net | <br>19,875,971               | <br>18,526,504               |

Depreciation expense for year ended December 31, 2011 amounted to US\$1,285,497 (2009: US\$498,356; 2010: US\$1,218,126).

As of December 31, 2010 and 2011, no real estate properties held for lease were pledged as collateral for certain bank loans.

As of December 31, 2011, minimum future rental income on non-cancellable leases, in aggregate and for each of the five succeeding fiscal years and thereafter, is as follows:

Amount

| <b>Year</b>  | <b>US\$</b>       |
|--------------|-------------------|
| 2012         | 1,017,279         |
| 2013         | 1,023,628         |
| 2014         | 1,026,802         |
| 2015         | 1,028,323         |
| 2016         | 1,005,117         |
| Thereafter   | 29,065,596        |
| <b>Total</b> | <b>34,166,745</b> |

## 5. Property and equipment, net

Property and equipment consisted of the following:

|                                    | December 31,<br>2010<br>US\$ | December 31,<br>2011<br>US\$ |
|------------------------------------|------------------------------|------------------------------|
| Buildings and improvements         | 636,749                      | 1,126,014                    |
| Vehicles                           | 2,145,381                    | 3,205,983                    |
| Furniture and fixtures             | 2,898,854                    | 2,720,664                    |
| <b>Total</b>                       | <b>5,680,984</b>             | <b>7,052,661</b>             |
| Accumulated depreciation           | (2,994,038 )                 | (4,072,125 )                 |
| <b>Property and equipment, net</b> | <b>2,686,946</b>             | <b>2,980,536</b>             |

Depreciation expense for the year ended December 31, 2011 amounted to US\$888,314 (2009: US\$801,553; 2010: US\$1,138,887).

**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)****(All amounts stated in US\$, except for number of shares data)****6. Other long-term investment**

As of December 31, 2010 and 2011, the other long-term investment that was accounted for at cost consisted of the following:

| <b>Investee</b>                    | <b>Initial Cost</b> | <b>Ownership</b> | <b>December 31,</b> | <b>December 31,</b> |
|------------------------------------|---------------------|------------------|---------------------|---------------------|
|                                    |                     |                  | <b>2010</b>         | <b>2011</b>         |
|                                    | <b>US\$</b>         |                  | <b>US\$</b>         | <b>US\$</b>         |
| Henan Lianhe Real Estate Co., Ltd. | 241,648             | 1.85 %           | 241,648             | 241,648             |

For the years ended December 31, 2009, 2010 and 2011 the Group recognized no investment profit or loss. As of December 31, 2010 and 2011, management noted no indicators of impairment related to this investment.

**7. Acquisition of Jiantou Xinyuan**

On September 30, 2009, Xinyuan's wholly owned subsidiary, Henan Xinyuan Real Estate Co., Ltd. ("Henan Xinyuan"), signed an agreement to acquire the remaining 55% equity interest in Jiantou Xinyuan it did not currently own to expand its portfolio of real estate projects. As a result, Xinyuan became the sole shareholder of Jiantou Xinyuan. Jiantou Xinyuan was a joint venture among Zhengzhou General Construction Investment Company ("Jiantou Construction"), which held 50% of Jiantou Xinyuan's registered capital; Zhengzhou Jiantou Project Consulting Co., Ltd. ("Engineering Consulting Company"), which held 5% of Jiantou Xinyuan's registered capital; and Henan Xinyuan, which held 45% of Jiantou Xinyuan's registered capital.

The acquisition was completed on November 1, 2010 and the purchase price was US\$4.4 million (RMB29.2 million) in cash on the date of acquisition. As the Company formerly own 45% equity interest of Jiantou Xinyuan, Jiantou

Xinyuan had been accounted for as an equity method until November 1, 2010, the date Jiantou Xinyuan became a wholly-owned subsidiary. The results of Jiantou Xinyuan have been included in the Company's consolidated financial statements since November 1, 2010.

The following table summarizes the fair values of the assets acquired and liabilities assumed at the date of acquisition on November 1, 2010.

|  | US\$         |
|--|--------------|
| Total purchase price   | 4,362,647    |
| Fair value of 48% non-controlling interest of Jiantou Xinyuan United Real Estate Co., Ltd. | 382,008      |
| Fair value of 45% equity interests of Xinyuan Jiantou owned by the Company                 | 3,569,438    |
| Debt assumed   | 13,904,255   |
| Total purchase consideration   | 22,218,348   |
| Net identifiable assets acquired:  |              |
| Cash and cash equivalents  | 13,744,581   |
| Trade accounts receivables   | 1,634,674    |
| Real estate property development completed   | 708,388      |
| Real estate property under development   | 66,888,076   |
| Other currents assets  | 11,239,770   |
| Other assets   | 184,736      |
| Current liabilities  | (67,393,903) |
| Deferred tax liabilities   | (4,787,974 ) |
| Net assets acquired  | 22,218,348   |

**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**(All amounts stated in US\$, except for number of shares data)**

Jiantou Xinyuan owns a 52% equity interest in Jiantou Xinyuan United Real Estate Co., Ltd. and the remaining 48% equity interest belongs to one third party.

There was no project under construction or for sale, or any land in possession of Jiantou Xinyuan United Real Estate Co., Ltd., the fair value of Jiantou Xinyuan United Real Estate Co., Ltd. approximated the net book value of assets. As a result, the fair value of the non-controlling interest was the Company's proportionate share of the net book assets of Jiantou Xinyuan United Real Estate Co., Ltd. as of the acquisition date. The fair value of 45% equity interest of Jiantou Xinyuan owned by the Company was derived from the total purchase price of Jiantou Xinyuan's 55% equity interest. The fair values of the real estate properties were determined with the assistance of an independent value. The fair value was determined based on an independent valuation using the market value approach, based on current market transactions and other market data.

As part of the purchase of Jiantou Xinyuan, the Company recognized a gain on the remeasurement of its previously held 45% interest in Jiantou Xinyuan amounting to US\$2.4 million, reported as "other income" in the Statements of Operations for the year ended December 31, 2010.

The amount of revenue and net loss of Jiantou Xinyuan included in the Company's consolidated statement of operations for the period from November 1, 2010, the acquisition date, to December 31, 2010 are as follows:

|                 | US\$        |
|-----------------|-------------|
| Revenue         | 3,113,794   |
| Cost of revenue | 4,634,247   |
| Gross loss      | (1,520,453) |
| Net loss        | (684,406 )  |

*Unaudited pro forma consolidated financial information*



The following unaudited pro forma consolidated financial information for the years ended December 31, 2009 and 2010 are presented as if the acquisition had occurred at the beginning of the period presented. These pro forma results have been prepared for comparative purpose only and do not purport to be indicative of what operating results would have been had the acquisition actually taken place on the date indicated. The pro forma adjustments are based on available information and certain assumptions the management believes are reasonable.

|                             | Year Ended<br>December 31,<br>2009 | Year Ended<br>December 31,<br>2010 |
|-----------------------------|------------------------------------|------------------------------------|
|                             | US\$ (unaudited)                   | US\$ (unaudited)                   |
| Revenue                     | 539,521,141                        | 496,133,731                        |
| Cost of revenue             | 415,989,008                        | 371,259,719                        |
| Gross profit                | 123,532,133                        | 124,874,012                        |
| Operating expenses          | 37,617,411                         | 35,006,046                         |
| Net income (loss)           | 51,173,363                         | 47,057,512                         |
| Earnings per diluted shares | 0.31                               | 0.31                               |

Jiantou Xinyuan was a 45% equity investee through November 1, 2010 at which time Henan Xinyuan acquired the remaining 55% equity interest making Jiantou Xinyuan a 100% owned subsidiary of Xinyuan. At December 31, 2009, the carrying value of the investment in the equity of Jiantou Xinyuan as US\$868,084 with an initial cost of US\$569,296.

**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**(All amounts stated in US\$, except for number of shares data)**

For the year ended December 31, 2009, the investee recognized earnings of US\$9,786,450. The Group's share of the income of the equity investee was US\$ 4,402,098. For the period from January 1, 2010 to November 1, 2010, the investee recognized losses of US\$336,010. The Group's share of the income of the equity investee was US\$226,579 in 2010. No dividends were declared in 2010 and 2011.

Jiantou Xinyuan developed one project which is excluded from the Group's interest. Losses from this project included in the amounts above were US\$nil in 2011 (2009 losses: US\$ nil; 2010 losses: US\$651,594).

## XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

(All amounts stated in US\$, except for number of shares data)

## 8. Short-term bank loans

Short term bank loans represent amounts due to various banks and are due on the dates indicated below. These loans generally can be renewed with the banks. Short term bank loans at December 31, 2010 and 2011 consisted of the following:

|  | December 31,<br>2010<br>US\$ | December 31,<br>2011<br>US\$ |
|--|------------------------------|------------------------------|
| Loan from China Agriculture Bank                         |                              |                              |
| Due July 13, 2011, at 5.40% per annum                    | 2,868,921                    | —                            |
| Due June 1, 2011, at 5.31% per annum                     | 7,549,791                    | —                            |
| Due December 20, 2011, at 5.40% per annum                | 7,549,791                    | —                            |
| Due July 5, 2012, at 6.56% per annum                     | —                            | 6,348,299                    |
| Due July 13, 2012, at 6.56% per annum                    | —                            | 809,408                      |
|  | 17,968,503                   | 7,157,707                    |
| Loan from Bank of Jiangsu                                |                              |                              |
| Due December 24, 2012, at 6.65% per annum (2010: 5.40%)* | 15,099,582                   | 10,792,109                   |
|  | 15,099,582                   | 10,792,109                   |
| Loan from Zhongrong International Trust Co., Ltd         | 37,748,954                   | —                            |
| Due April 16, 2011, at 5.61% per annum                   | 37,748,954                   | —                            |
| Due April 21, 2011, at 5.61% per annum                   | 75,497,908                   | —                            |
| Loan from ICBC   | —                            | 15,000,000                   |
| Due May 18, 2012, at 3.00% plus LIBOR**                  | —                            | 10,000,000                   |
| Due September 28, 2012, at 3.50% plus LIBOR**            | —                            | 25,000,000                   |
| Total short-term bank loans                              | 108,565,993                  | 42,949,816                   |



**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—UNAUDITED—(Continued)**

**(All amounts stated in US\$, except for number of shares data)**

\* Pursuant to the loan contract with Bank of Jiangsu, the Group has an obligation to repay the loan on demand if required by the Bank. Therefore, the loan from Bank of Jiangsu has been classified as short-term as of December 31, 2010.

\*\*Pursuant to the loan contract with ICBC, these two short-term loans from ICBC, amounting to US\$15.0 million and US\$10.0 million, respectively, are denominated in US\$ and are secured by the deposits of the equivalent amounts denominated in RMB. Such deposits are classified as restricted cash on the consolidated balance sheet as of December 31, 2011.

As of December 31, 2011, except for the two US\$ denominated loans from ICBC amounting to US\$15.0 million and US\$10.0 million, respectively, all of the Group's short term bank loans are denominated in RMB and are mainly secured by the Group's real estate properties under development with net book value of US\$40,725,321 (December 31, 2010: US\$96,411,414).

The weighted average interest rate on short-term bank loans as of December 31, 2011 was 5.03% (December 31, 2010: 5.54%).

## XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

(All amounts stated in US\$, except for number of shares data)

## 9. Long-term bank loans

Long-term bank loans as of December 31, 2010 and 2011 consisted of the following:

|   | December 31,<br>2010<br>US\$ | December 31,<br>2011<br>US\$ |
|---|------------------------------|------------------------------|
| Loan from ICBC  |                              |                              |
| Due November 2, 2013 at 6.65% per annum (2010: 5.60%)   | 7,549,791                    | 7,935,374                    |
| Due October 18, 2013 at 6.40% per annum                 | —                            | 39,676,872                   |
| Due November 1, 2013 at 7.98% per annum                 | —                            | 28,567,348                   |
|   | 7,549,791                    | 76,179,594                   |
| Loan from China Agriculture Bank                        |                              |                              |
| Due March 2, 2012, at 5.40% per annum                   | 19,629,456                   | —                            |
| Due June 1, 2012, at 5.40% per annum                    | 10,569,707                   | —                            |
| Due February 10, 2013, at 6.32% per annum (2010: 5.13%) | 41,976,836                   | 158,708                      |
| Due February 10, 2013, at 6.32% per annum (2010: 5.32%) | 29,293,189                   | 30,789,252                   |
| Due February 10, 2013 at 6.32% per annum                | —                            | 3,174,150                    |
| Due February 10, 2013 at 6.65% per annum                | —                            | 1,269,660                    |
| Due April 23, 2013, at 6.32% per annum (2010: 5.13%)    | 12,683,648                   | 13,331,429                   |
| Due May 5, 2013, at 6.65% per annum (2010: 5.60%)       | 15,099,582                   | 12,855,306                   |
| Due May 19, 2013, at 6.32% per annum (2010: 5.13%)      | 11,475,684                   | 12,061,769                   |
|   | 140,728,102                  | 73,640,274                   |
| Loan from Guangdong Development Bank                    |                              |                              |
| Due January 19, 2013, at 5.85% per annum                | —                            | 12,696,599                   |
| Due January 24, 2013, at 6.65% per annum                | —                            | 2,539,320                    |
| Due June 28, 2013, at 7.32% per annum                   | —                            | 7,935,374                    |
| Due June 30, 2013, at 7.32% per annum                   | —                            | 2,698,027                    |
|   | —                            | 25,869,320                   |
| Loan from Bank of China                                 |                              |                              |

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|  |               |               |
|--|---------------|---------------|
| Due May 26, 2013, at 7.65% per annum           | —             | 21,425,511    |
|  | —             | 21,425,511    |
| Loan from Bank of Communications               |               |               |
| Due March 1, 2013, at 6.65% per annum          | —             | 5,456,363     |
|  | —             | 5,456,363     |
| Total  | 148,277,893   | 202,571,062   |
| Less: current portion of long term bank loans* | (78,064,729 ) | (129,089,496) |
| Total long-term bank loans                     | 70,213,164    | 73,481,566    |

\* Pursuant to the loan contracts, the Group has an obligation to repay the loan in advance if certain sales ratios on real estate property under development that the loan is funding are achieved. Therefore, these loans have been classified as current portion of long-term bank loans as of December 31, 2010 and 2011.

**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**(All amounts stated in US\$, except for number of shares data)**

As of December 31, 2011, the contractual maturities of all long term loans were due in 2013. There are no loans with contractual maturities extending past December 31, 2013.

As of December 31, 2011, the Group's long term bank loans are all denominated in RMB and are mainly secured by the Group's real estate properties under development with net book value of US\$225,196,349 (December 31, 2010: US\$301,280,969).

The interest rates of these bank loans are adjustable based on the range of 95% to 120% of the PBOC prime rate. The weighted average interest rate on long-term bank loans as of December 31, 2011 was 6.78% (December 31, 2010: 5.29%).

**10. Other long-term debt**

As of December 31, 2010 and 2011, other long term debt consisted of the following:

|   | December 31,<br>2010<br>US\$ | December 31,<br>2011<br>US\$ |
|---|------------------------------|------------------------------|
| Guaranteed senior secured note due in April 15, 2013 at 15.6%   | 40,000,000                   | 40,000,000                   |
| Total principal of other long-term debt                         | 40,000,000                   | 40,000,000                   |
| Less: Unaccreted discount from embedded derivative and warrants | (2,333,754 )                 | (1,312,386 )                 |
| Accrued interest  | 1,352,000                    | 1,334,667                    |
| Total   | 39,018,246                   | 40,022,281                   |
| Less: current portion   | (330,633 )                   | (313,300 )                   |



|                            |            |            |
|----------------------------|------------|------------|
| Total other long-term debt | 38,687,613 | 39,708,981 |
|----------------------------|------------|------------|

### *Convertible Subordinated Notes*

On April 13, 2007, the Company issued the Convertible Notes with an aggregate principal amount of US\$25 million bearing a 2% interest rate and due on April 15, 2012. On April 15, 2010, the Company paid in full the outstanding principal amount of, and accrued and unpaid interest on, the Convertible Notes. The put option interest related to the Convertible Notes of about US\$5.0 million was also paid to the bondholder pursuant to mutual agreement.

The holder had the right, at such holder's option at any time prior to April 9, 2012 (the "Conversion Period"), to convert the principal amount of the Convertible Notes, or any portion of such principal amount which is a multiple of US\$100,000, into fully paid and non-assessable common shares (as such shares shall then be constituted) at the conversion price in effect at such time. The holder of the Convertible Notes also had the right, at such holder's option, on June 15, 2010 to demand that the Company repurchase the Convertible Notes, for cash, at a repurchase price of 120% of the principal amount, plus accrued and unpaid interest, unless the Company had called the notes for redemption due to a change in tax law or regulations. In the event of a change in tax law, regulations or official interpretations thereof that would require the Company to pay additional amounts as specified in the indenture, the Company had the right, at its option, at any time prior to October 15, 2010 to repurchase the Convertible Notes for cash at a repurchase price of 100% of the principal amount, plus accrued and unpaid interest or any such additional amounts. The holder had a right, at its option, to demand that the Company repurchase the Convertible Notes for cash at a repurchase price of 100% of the principal amount, plus accrued and unpaid interest, upon the termination of the listing of the common shares on US national stock exchange or a fundamental change, including a merger, tender offer, or exchange offer, as a result of which the common shares represented the right to acquire, were converted into, or exchanged for any consideration or assets other than securities traded on a US national stock exchange.

**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**(All amounts stated in US\$, except for number of shares data)**

In addition, if there were certain events, such as the Company granting its shareholders the right to purchase common shares at a relatively low price, or distributing a dividend (in excess of 5% of the fair value of the common shares), the Convertible Notes could have been surrendered for conversion at any time on and after the date that the Company gave notice to the holder of such transactions.

The conversion price was set such that each US\$100,000 principal amount of the notes was convertible into 38,388 shares of the Company's common shares (US\$2.6049 per share at inception) and was adjustable from time to time for anti-dilutive purposes.

The contingent interest feature was an embedded derivative in accordance with ASC 815-10-15, "*Derivatives and Hedging*" ("ASC 815-10-15"). Therefore, it was initially recorded as a derivative liability associated with long-term debt at fair value of US\$2,543,000 and the fair value at December 31, 2007 became zero because the IPO in December 2007 invalidated the contingent interest feature embedded in the notes.

The Company evaluated and determined that there were no other embedded derivative requiring bifurcation from the Convertible Notes under the requirements of ASC 815-10-15. The conversion option was not considered a derivative for purposes of ASC 815-10-15 in accordance with EITF 00-19 ("ASC 815-40-25"). The embedded contingent put, contingent call and the repurchase option did not qualify for derivative accounting because the embedded derivatives were considered clearly and closely related to the characteristics of the Convertible Notes.

The Convertible Notes were subject to various restrictive covenants, including restrictions on the Company's ability to incur additional debt or guarantees, make restricted payments, payment of dividends or distributions on capital stock, repurchase of capital stock, payment of subordinated indebtedness, settlement of intercompany loans or advances, sales or transfers of properties or assets, sales of capital stock, enter into non-ordinary course business transactions, make investments, merge or consolidate with another company and engage in any business other than related businesses.

On April 15, 2010, upon mutual agreement with the holder of the Convertible Notes, the holder exercised its option to demand that the Company repurchase the Convertible Notes, for cash, at a repurchase price of 120% of the principal amount, plus a accrued and unpaid interest. As such, the Company paid in full the outstanding principal amount of, and accrued and unpaid interest on, the Convertible Notes. The remaining 20% principal amount, which was accrued for as put option contingency expense as of December 31, 2009 amounting to US\$5.0 million, was also paid to the holder pursuant to the mutual agreement (see Note 10).

### ***Senior Floating Rate Notes and Warrants***

On April 13, 2007, the Company issued the FRNs with an aggregate principal amount of US\$75 million and detachable warrants to subscribe for common shares. On April 15, 2010, the Company paid in full the outstanding principal amount of, and accrued and unpaid interest on, the floating rate notes. The outstanding warrants to purchase common shares originally issued with the floating rate notes expired upon the maturity of the notes, of which the fair value was US\$264 as of December 31, 2009. The FRNs bore interest at 6-month LIBOR (with the LIBOR rate reset semi-annually) plus 6.80%, payable semi-annually in arrears. The FRNs were to be repurchased or redeemed by the Company in cash on the third anniversary of the issuance date at the price equal to 100% of the principal amount plus accrued but unpaid interest.

**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**(All amounts stated in US\$, except for number of shares data)**

In connection with the FRNs, a total of 750 FRN Warrants were issued. The FRN Warrants entitled the holders to purchase 7,142 common shares at US\$5.60 per share. The expiration date of the FRN Warrants was 3 years after the date of issuance. The fair value of the FRN Warrants was evaluated quarterly using the Dividend Adjusted Black-Scholes option-pricing model that uses the assumptions noted below.

|                                  | As of December 31, 2009 |   |
|----------------------------------|-------------------------|---|
| Average risk-free rate of return | 1.16                    | % |
| Expected term                    | 0.28 years              |   |
| Volatility rate                  | 49.0                    | % |
| Dividend yield                   | 0                       | % |

The risk-free rate for periods within the expected life of the FRN Warrants was based on the implied yield rates of China International Bond denominated in US\$ as of the valuation date. The expected life of the FRN Warrants represents the period of time the granted warrants were expected to be outstanding. As of December 31, 2009, the Company had not paid dividends in the past nor did it expect to pay dividends in the foreseeable future. Because the Company lacked sufficient trading history, the expected volatility was based on the historical volatilities of comparable publicly traded companies engaged in similar business.

The embedded derivative associated with the FRNs was initially recorded as a derivative liability associated with long-term debt at fair value of US\$3,593,000 and the fair value at December 31, 2007 became zero because the IPO in December 2007 invalidated the contingent maturity redemption feature embedded in the FRNs. The FRNs were subject to various restrictive covenants, including restrictions on the Company's ability to incur additional debt or guarantees, make restricted payments, payment of dividends or distributions on capital stock, repurchase of capital stock, payment of subordinated indebtedness, settlement of intercompany loans or advances, sales or transfers of properties or assets, sales of capital stock, enter into non-ordinary course business transactions, make investments, merge or consolidate with another company and engage in any business other than related businesses.

***Guaranteed Senior Secured Note and Warrants***

On April 15, 2010, the Company issued the Secured Note to Forum with an aggregate principal amount of US\$40 million and detachable warrants to subscribe for common shares. The Secured Note bears interest at 15.6% per annum payable semi-annually. The Note has a three-year term maturing on April 15, 2013. It is subject to events of defaults customary for senior secured notes.

In connection with the Secured Note, Forum Warrants were issued. The Forum Warrants entitled the holder to purchase 1,516,882 common shares at an exercise price of \$0.01 per share. The expiration date of the Forum Warrants was 3 years after the date of issuance.

On May 12, 2010, Forum exercised the warrants to purchase 1,516,882 common shares at the price of US\$0.01 per share.

The fair values of the Forum Warrants as of the issuance day and exercise day were evaluated using the Dividend Adjusted Black-Scholes option-pricing model that uses the assumptions noted below.

|                                  | As of April 15,<br>2010 | As of May 12,<br>2010 |  |   |
|----------------------------------|-------------------------|-----------------------|--|---|
| Average risk-free rate of return | 1.29                    | % 1.32                |  | % |
| Expected term                    | 3.00 years              | 2.92 years            |  |   |
| Volatility rate                  | 63.4                    | % 59.3                |  | % |
| Dividend yield                   | 0                       | % 0                   |  | % |

**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**(All amounts stated in US\$, except for number of shares data)**

The risk-free rate for periods within the expected life of the Forum Warrants was based on the implied yield rates of China International Bond denominated in US\$ as of the valuation date. The expected life of the Forum Warrants represents the period of time the granted warrants were expected to be outstanding. As of December 31, 2010, the Company has not paid dividends in the past nor did it expect to pay dividends in the foreseeable future. The expected volatility was based on the historical daily stock price of the Company, annualized.

The fair values of the Forum Warrants were US\$3,049,509 and US\$2,222,805 as of the issuance day and the exercise day, respectively.

|                      | Fair Value Measurement<br>using quoted price<br>(Level 1) | Fair Value Measurement<br>using Significant Other<br>Observable Inputs<br>(Level 2) | Total         |
|----------------------|---|---|---------------|
| As of April 15, 2010 | US\$  | —US\$ 3,049,509   | US\$3,049,509 |
| As of May 12, 2010   | US\$  | —US\$ 2,222,805   | US\$2,222,805 |

The embedded derivative associated with the Secured Note was initially recorded as a derivative liability associated with long-term debt at fair value.

The Secured Note are subject to various restrictive covenants, including restrictions on the Company's ability and the ability of the Company's subsidiaries to incur additional debt or guarantees, to make restricted payments, to make investments, to pay dividends or distributions on the Company or subsidiaries' capital stock, to repurchase the Company or subsidiaries' capital stock, to pay subordinated indebtedness, and make or repay inter-company loans or enter into non-ordinary course business transactions. Among other restrictions, the Company is limited in the dollar amount of mortgage guarantees the Company may provide if it does not maintain a minimum consolidated interest expense coverage ratio, or interest coverage ratio. In the event the Company engages in any financing transaction that results in the amount of third-party indebtedness at the Company level (the "Corporate Debt") (including the principal amount of the Note) exceeding US\$100 million, Forum has the right to require the Company to repurchase the

Secured Note at the repurchase price of 100% of the principal amount of the Secured Note then outstanding upon closing of the financing transaction. After the closing of any such financing transaction, as long as the aggregate Corporate Debt amount (including the principal amount of the Secured Note) exceeds US\$100 million, Forum has the right, on 60 days advance notice, to exercise the repurchase right at the next semi-annual interest payment date.

Forum also was the holder of US\$30 million principal amount of FRNs. The US\$40 million purchase price for the Secured Note and warrants was paid by Forum by (a) offsetting the purchase price by the amount owed to it by the Company for the repayment of US\$30 million principal amount of its FRNs and (b) payment of US\$10 million in cash.

The Company was in compliance with its financial ratio covenants under the Forum Note as of December 31, 2011.

## 11. Customer deposits

Customer deposits consisted of amounts received from customers for the pre-sale of residential units in the PRC.

|  | December 31,<br>2010<br>US\$ | December 31,<br>2011<br>US\$ |
|--|------------------------------|------------------------------|
| Advances for real estate properties under development                | 532,732,902                  | 773,014,656                  |
| Add: revenue recognized in excess of amounts received from customers | 1,108,477                    | 18,612,485                   |
| Less: recognized as progress billings (see Note 3)                   | (511,052,451)                | (722,103,502)                |
| Total net balance  | 22,788,928                   | 69,523,639                   |

**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**(All amounts stated in US\$, except for number of shares data)**

Customer deposits are typically funded up to 70% – 80% by mortgage loans made by banks to the customers. Until the customer obtains legal title to the property, the banks have a right to seek reimbursement from the Group for any defaults by the customers. The Group holds certain cash balances in restricted deposit accounts at the relevant banks (see Note 2 (f)). The Group, in turn, has a right to withhold transfer of title to the customer until outstanding amounts are fully settled.

**12. Income taxes****(a) Corporate income tax (“CIT”)**

As a Cayman Island resident company, the Company is not subject to income tax.

The PRC subsidiaries are governed by the Income Tax Law of the PRC concerning Chinese limited liability companies. Under the Income Tax Laws of the PRC, the PRC subsidiaries are subject to an income tax at a statutory rate of 25% on income reported in the statutory financial statements after appropriate tax adjustments.

The Company had minimal operations in jurisdiction other than the PRC. Income before income tax expenses consists of:

|         | Year ended December 31, |              |              |
|---------|-------------------------|--------------|--------------|
|         | 2009                    | 2010         | 2011         |
|         | US\$                    | US\$         | US\$         |
| PRC     | 79,707,121              | 100,129,993  | 173,729,290  |
| Non PRC | (17,463,302)            | (11,674,365) | (12,086,672) |



Total 62,243,819 88,455,628 161,642,618

Income tax expense for the years ended December 31, 2009, 2010 and 2011 is summarized as follows:

|                                       | Year ended December 31, |            |            |
|---------------------------------------|-------------------------|------------|------------|
|                                       | 2009                    | 2010       | 2011       |
|                                       | US\$                    | US\$       | US\$       |
| Current:                              |                         |            |            |
| CIT tax expense                       | 23,739,713              | 10,583,933 | 27,162,678 |
| Land Appreciation Tax ("LAT") expense | 2,185,775               | 16,154,567 | 25,582,339 |
| Deferred tax (benefit)/expense        | (6,100,697 )            | 10,594,874 | 5,892,472  |
| Income tax expense                    | 19,824,791              | 37,333,374 | 58,637,489 |

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**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)****(All amounts stated in US\$, except for number of shares data)**

The Group's income tax expense differs from the tax expense computed by applying the statutory CIT rate of 25% for the year ended December 31, 2009, 2010 and 2011, as follows:

|  | Year ended December 31, |              |              |
|--|-------------------------|--------------|--------------|
|  | 2009                    | 2010         | 2011         |
|  | US\$                    | US\$         | US\$         |
| CIT at rate of 25%   | 15,560,955              | 22,113,907   | 40,410,655   |
| Tax effect of non-deductible expenses                      | 2,185,055               | 3,527,302    | 2,562,233    |
| Tax effect of non-taxable income                           | (1,178,165 )            | (623,524 )   | —            |
| LAT expense  | 2,185,775               | 16,154,567   | 25,582,339   |
| CIT benefit of LAT   | (546,444 )              | (4,038,642 ) | (6,395,585 ) |
| Changes in valuation allowance                             | (1,677,358 )            | 19,154       | (3,115,025 ) |
| International rate difference                              | 1,437,957               | 252,290      | (397,031 )   |
| One-time tax effect of 2008 China tax return filed in 2009 | 2,149,972               | —            | —            |
| Income tax on undistributed earnings of PRC subsidiaries   | —                       | —            | 3,680,000    |
| Adjustment of estimated income tax accruals                | —                       | —            | (3,988,507 ) |
| Others   | (292,956 )              | (71,680 )    | 298,410      |
| Actual income tax expense                                  | 19,824,791              | 37,333,374   | 58,637,489   |

The one-time tax effect charge was based on a Central Government interpretation clarified during the second quarter of 2009. According to the new interpretation, provisional deemed profit tax payments made prior to January 1, 2008, when tax rates were at 33%, will be considered final and not subject to adjustment for the new tax rate of 25% effective January 1, 2008. Prior to the release of the new interpretation, the Company accounted for income taxes on pre-sales as prepaid taxes, measured at the applicable current tax rate in the year pre-sales occurred. Prepaid taxes then were credited against subsequent tax obligations when sales were finalized. As a result of the release of the new interpretation, the Company will no longer be entitled to credit prepaid taxes against subsequent tax obligations to the extent prepaid taxes were assessed based on a tax rate in excess of the tax rate applicable in the year the sales are finalized (i.e. 33% prepaid tax will now be credited based on a tax cost of 25%).

The income tax on undistributed earnings of PRC subsidiaries for the year ended December 31, 2011 represented accrued withholding taxes related to the portion of the Group's retained earnings that were not considered permanently

reinvested. See Note 12(d) for more detail.

*(b) Liability for unrecognized tax benefit*

On January 1, 2007, the Group adopted ASC 740-10. There was no cumulative effect adjustment to beginning retained earnings resulting from the adoption of ASC 740-10, as the total liability for cumulative unrecognized tax benefits of \$2,667,594 as of January 1, 2007 was recognized in deferred tax liability, as discussed below. The following table summarizes the activity related to the Group's unrecognized tax benefits:

|   | US\$       |
|---|------------|
| Balance as of December 31, 2008                                   | 12,744,813 |
| Movement in current year due to foreign exchange rate fluctuation | 11,945     |
| Balance as of December 31, 2009                                   | 12,756,758 |
| Movement in current year due to foreign exchange rate fluctuation | 395,838    |
| Balance as of December 31, 2010                                   | 13,152,596 |
| Movement in current year due to foreign exchange rate fluctuation | 671,730    |
| Balance as of December 31, 2011                                   | 13,824,326 |

The current year movement in ASC 740-10 liability of US\$671,730 (2010: US\$395,838, 2009: US\$11,945), was due to the fluctuation of US\$-RMB exchange rate, and therefore was recorded as other comprehensive income arising from the foreign currency translation.

**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**(All amounts stated in US\$, except for number of shares data)**

The liability for unrecognized tax benefit relates to the application of the deemed profit method by the local tax authority of Zhengzhou city. During the years ended December 31, 2005 to 2010, in accordance with the provisions of the PRC tax law, the local tax authority of Zhengzhou City concluded that a deemed profit method is a better measure of income tax liability for companies in the real estate industry located in that province, including the PRC subsidiaries, than the statutory taxable income method.

Under the deemed profit method, the local tax authority levies income tax based an arbitrary deemed profit of range from 12% to 20% of total cash receipts of real estate property companies, rather than based on the statutory income tax rate on the adjusted taxable income, which was 33% for the years up to 2007 and 25% for 2008 and onwards. The PRC subsidiaries in that province had filed their tax returns based on the deemed profit method for the years ended December 31, 2009 and 2010. The local tax authority was entitled to re-evaluate prior years' income taxes assessed under the deemed profit method, upon receipt of audited accounts or upon completion of specific development projects.

The entire unrecognized tax benefit, if ultimately recognized, will impact the effective tax rate. The Group anticipates new unrecognized tax benefits, related to tax positions similar to those giving rise to its existing unrecognized tax benefits, to originate after December 31, 2011. However, a reasonable estimate of the range of the possible increases related to similar positions originating after December 31, 2011 cannot be made at this time.

Although the local tax authority of Zhengzhou City has not indicated that it will re-evaluate prior years, the Group believes that the possibility exists for reinterpretation of the application of the tax regulations by higher tax authorities in the PRC, potentially overturning the decision made by the local tax authority to apply the deemed profit method. Because of the uncertainty surrounding whether or not these tax years will be re-evaluated and the taxes adjusted, the difference between the taxes due based on taxable income calculated according to statutory taxable income method and the taxes due based on the deemed profit method has been recorded as an additional receivable or payable and has been included in unrecognized tax benefits. Management believes if the local tax authority of Zhengzhou City or a higher tax authority were to re-evaluate any of these tax years, the PRC subsidiaries would be required to pay additional taxes due, based on the accumulated difference between the amounts paid under the deemed profit method and the amounts due under the PRC statutory taxable income method.

The PRC income tax returns for fiscal year 2005 through fiscal year 2011 remain open to potential examination. In addition, local tax authorities may exercise broad discretion in applying the tax law, thus potentially exposing the PRC subsidiaries to audits of tax years outside the general statute of limitations.

It is the Group's continuing practice to recognize interest and penalties related to uncertain tax positions in other expenses. As of the years ended December 31, 2009, 2010 and 2011, no interest and penalties have been recognized under ASC 740-10 as the management believes that revaluation of tax levy method will not be charged of interest and penalties.

*(c) LAT*

Since January 1, 1994, LAT has been applicable at progressive tax rates ranging from 30% to 60% on the appreciation of land values, with an exemption provided for the sales of ordinary residential properties if the appreciation values do not exceed certain thresholds specified in the relevant tax laws. However, prior to September 2004, the Group's local tax authority in Zhengzhou city did not impose the regulation on real estate companies in its area of administration. Since September 2004, the local tax authority has levied the LAT at the rate of 0.8% or 1.0% against total cash receipts from sales of real estate properties, rather than according to the progressive rates. In early 2007, the national PRC tax authorities clarified the regulations to require the full payment of LAT in accordance with the progressive rates.

**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**(All amounts stated in US\$, except for number of shares data)**

For the years ended December 31, 2009, 2010 and 2011, the Group has made full provision for LAT with respect to properties sold up to December 31, 2011 in accordance with the requirements set forth in the relevant PRC tax laws and regulations.

In the third quarter of 2010, the tax authorities of Jiangsu Province issued their interpretation of the definition of a “standard ordinary apartment”, for the purposes of LAT. The Company previously believed that all of the units in its projects met the definition of “standard ordinary apartment”. However, based on the interpretation, none of the units in its Jiangsu projects meet this definition. This interpretation differs from that adopted by other provinces in China. Thus, an exemption for LAT on profits up to 20% on “standard ordinary apartments” would not apply and the LAT rate for the Company’s projects in Jiangsu Province was increased from zero to 30% on those apartments. In light of Jiangsu Province’s interpretation, in the third quarter of 2010 the Company recognized a one-time charge of US\$6.8 million to income tax expense and a \$6.8 million increase of income tax liabilities

In the second quarter of 2010, one of Jiantou Xinyuan’s projects, Zhengzhou International City Garden II, completed an LAT settlement from local tax bureau. The settlement is based on deemed profit method of US\$4.2 million, while the Company has accrued the tax liability based on actual revenue method of US\$21.4 million. As of December 31, 2010 and 2011, the unsettled liability has been accrued and carried forward.

## XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

*(d) Deferred tax*

The tax effects of temporary differences that give rise to the Group's net current deferred tax assets and liabilities as of December 31, 2010 and 2011 are as follows:

|   | December 31,<br>2010<br>US\$ | December 31,<br>2011<br>US\$ |
|---|------------------------------|------------------------------|
| Current deferred tax assets:  |                              |                              |
| Tax loss to be carried forward  | 1,527,140                    | 126,295                      |
| Accruals and provisions   | 11,162,733                   | 15,923,774                   |
| Impairment on Suzhou International City Garden project                        | —                            | 20,564,064                   |
| Allowance for deferred tax assets   | —                            | (7,870,785 )                 |
| Total current deferred tax assets   | 12,689,873                   | 28,743,348                   |
| Current deferred tax liabilities:   |                              |                              |
| Revenue recognized based on percentage of completion                          | (25,265,959 )                | (44,809,072 )                |
| Real estate properties accelerated cost deduction                             | (1,257,042 )                 | (1,321,242 )                 |
| Taxable temporary differences arise during the acquisition of Jiantou Xinyuan | (4,835,617 )                 | (1,077,761 )                 |
| Income tax on undistributed earnings of PRC subsidiaries                      | —                            | (3,680,000 )                 |
| Others  | (62,345 )                    | (30,631 )                    |
| Total current deferred tax liabilities  | (31,420,963 )                | (50,918,706 )                |
| Net current deferred tax liabilities  | (18,731,090 )                | (22,175,358 )                |

The tax effects of temporary differences that give rise to the Group's net long-term deferred tax assets and liabilities as of December 31, 2010 and 2011 are as follows:

|                                | December 31,<br>2010<br>US\$ | December 31,<br>2011<br>US\$ |
|--------------------------------|------------------------------|------------------------------|
| Long-term deferred tax assets: |                              |                              |

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|  |               |           |
|--|---------------|-----------|
| Tax loss to be carried forward                         | 3,039,165     | —         |
| Accruals and provisions                                | 902,568       | 708,419   |
| Impairment on Suzhou International City Garden project | 19,805,164    | —         |
| Allowance for deferred tax assets                      | (10,527,504 ) | —         |
| Others   | —             | 598,511   |
| <br>   |               |           |
| Total long-term deferred tax assets                    | 13,219,393    | 1,306,930 |
| Long-term deferred tax liabilities:                    |               |           |
| Revenue recognition based on percentage of completion  | (11,294,464 ) | —         |
| <br>   |               |           |
| Total long-term deferred tax liabilities               | (11,294,464 ) | —         |
| <br>   |               |           |
| Net long-term deferred tax assets                      | 1,924,929     | 1,306,930 |

Certain of the Company's PRC subsidiaries have PRC tax net operating loss carry forwards of US\$0.1 million (2010: US\$1.5 million) which will expire in the beginning of 2016, if unutilized.



## **XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES**

### **NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (Continued)**

The Company did not provide for deferred income taxes and foreign withholding taxes on the undistributed earnings of foreign subsidiaries as of December 31, 2010, as it was permanently reinvesting all of its PRC subsidiaries' undistributed earnings to finance their future expansions and operations. During 2011, the Company has considered its operational funding needs, future development initiatives and its dividend distribution plan and is permanently reinvesting all but US\$36.8 million of its 2011 earnings of its PRC subsidiaries. Accordingly, the Company has accrued deferred income tax liabilities of US\$3.7 million for the withholding tax liability associated with the distribution of retained earnings that are not permanently reinvested. Determination of the amount of unrecognized deferred tax liability related to the earnings that are permanently reinvested is not practicable.

For each PRC subsidiary, deferred tax assets have been netted against deferred tax liabilities by current or non-current classification, as the reversal of the underlying temporary differences is expected to occur in the same future periods.

The deferred tax assets and liabilities will reverse when the originating temporary differences reverse. In addition, as a result of applying the deemed profit method to calculate PRC income taxes payable, deferred tax assets and liabilities will reverse either if the tax years are re-evaluated and reassessed under the statutory taxable income method or the tax years are no longer open for tax review.

In assessing the ability to realize the deferred tax assets, the Company has considered whether it is more likely than not that some portion or all of the deferred tax assets will not be realized. The ultimate realization of deferred tax assets is dependent upon the generation of future taxable income during the periods in which those temporary differences become deductible. The Company records a valuation allowance to reduce deferred tax assets to a net amount that management believes is more-likely-than-not of being realizable based on the weight of all available evidence.

### **13. Share-based compensation**

As of December 31, 2011, the Company has two share-based compensation plans under which awards may be granted to both employees and non-employees, which are described below. Compensation cost of US\$1,740,861 (2009: US\$3,466,916, 2010: US\$2,716,993) was charged against income comprising of general and administrative expenses of US\$1,740,861 (2009: US\$3,302,750, 2010: US\$2,646,699) and the elimination of share of income in an equity

investee of US\$nil (2009: US\$164,166, 2010: US\$70,294), for those plans with a corresponding credit to additional paid-in capital in the year ended December 31, 2011, of which, US\$1,662,132 (2009: US\$3,160,293, 2010: US\$2,543,812) was related to the options granted to employees and US\$78,729 (2009: US\$306,623, 2010: US\$173,181) was related to the options granted to non-employees. The compensation cost is regarded as a permanent difference for income tax purposes as the options were granted by the Company, which is registered in Cayman, a country free of tax. Hence, no tax benefit was recognized upon the compensation cost. The Company has a policy of repurchasing shares in the open market to satisfy any future exercise of share options in addition to the existing pool of authorized shares. During 2011, the Company repurchased 7,543,530 shares in the amount of US\$7,958,841.

***2007 Equity Incentive Plan (the “Plan”)***

On August 11, 2007, the Company granted share options to purchase up to 6,125,374 common shares to its directors and employees, at exercise prices ranging from US\$0.0001 to US\$2.50 per share. These options have a weighted average grant-date fair value of US\$2.67 per option, and a total expected compensation cost, net of expected forfeitures, of US\$15,564,801. These options have vesting periods based on length of service ranging from 10 to 40 months and will expire no later than August 10, 2017. These options are performance-based and did not begin vesting until the Company’s IPO was in effect. However, upon the effectiveness of the IPO, these awards had an immediate vesting of all shares that would have vested between the grant date and the effectiveness of the IPO.

**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**(All amounts stated in US\$, except for number of shares data)**

***2007 Long Term Incentive Plan (the “2007 Plan”)***

In November 2007, the Company adopted the 2007 Plan which provides for the grant of options, restricted shares, restricted stock units, stock appreciation rights and other stock-based awards to purchase its common shares. The maximum aggregate number of common shares which may be issued pursuant to all awards, including options, is 10 million common shares, subject to adjustment to account for changes in the capitalization of the Company.

On November 5, 2007, the Company granted options under the 2007 Plan to directors, management and key employees for an aggregate of 2,389,840 common shares at the exercise price equal to the price of the IPO (US\$7.00 per share). These options have a weighted average grant-date fair value of US\$3.51 per option, and a total expected compensation cost, net of forfeitures, of US\$7,628,415. These options have vesting periods of up to 36 months, and will expire no later than November 5, 2017.

On July 1, 2008, the Company granted options under the 2007 Plan to purchase up to 360,000 shares to two of its employees, at exercise prices equal to the price of the grant date (US\$2.975 per share). These options have a weighted average grant-date fair value of US\$1.79 per option, and a total expected compensation cost, net of expected forfeitures, of US\$579,960. These options have a vesting period based on length of service of 33 months and will expire no later than July 1, 2018.

On March 31, 2009, the Company granted options under the 2007 Plan to purchase up to 500,000 common shares to one employee, at an exercise price equal to the price of the grant date (US\$1.87 per share). These options have a weighted average grant date fair value of US\$1.255 per option, and a total expected compensation cost, net of expected forfeitures, of US\$564,750. These options have a vesting period based on length of service of 36 months and will expire no later than March 31, 2019.

In August 2009, under the 2007 Plan, the Company granted share options to purchase up to 100,000 common shares to an employee, at an exercise price of US\$1.30 per share. These options have a weighted average grant date fair value of US\$2.12 per option, and a total expected compensation cost, net of expected forfeitures, of US\$190,800. These options have vesting periods of 27 months and will expire no later than August 11, 2019.

On April 30, 2010, under the 2007 Plan, the Company granted share options to purchase up to 200,000 common shares to an employee, at an exercise price of US\$1.80 per share. These options have a weighted average grant date fair value of US\$1.08 per option, and a total expected compensation cost, net of expected forfeitures, of US\$193,500. These options have vesting periods of 37 months and will expire no later than April 30, 2020. On December 20, 2010, the options were modified, by amending the vesting schedule.

On December 13, 2010, under the 2007 Plan, the Company granted share options with performance conditions to purchase up to 6,900,000 common shares to certain employees, at an exercise price of US\$1.21 per share. These options have weighted average grant date fair values of US\$0.60 to US\$0.61 per option, depending on the vesting period. Pursuant to the agreements, 1/3 of the options would vest 13 months, 25 months and 37 months after the grant date, respectively, with the condition that the performance criteria are met at each vesting date. For certain employees, 1/2 of the options would vest 13 months and 25 months after the grant date, respectively. These options will expire no later than December 13, 2020. The performance conditions were determined by the Board of Directors. For those awards, an evaluation will be made each quarter as to the likelihood of the performance criteria being met. Compensation expenses are then adjusted to reflect the number of shares expected to vest.

**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**(All amounts stated in US\$, except for number of shares data)**

On December 13, 2010, under the 2007 Plan, the Company granted share options with a service condition to purchase up to 400,000 common shares to certain employees, at an exercise price of US\$1.21 per share. These options have a weighted average grant date fair value of US\$0.61 per option, and a total expected compensation cost, net of expected forfeitures, of US\$219,600. These options have vesting periods of 37 months and will expire no later than December 13, 2020.

On December 20, 2010, under the 2007 Plan, the Company granted share options with performance conditions to purchase up to 1,100,000 common shares to certain employees, at an exercise price of US\$1.18 per share. These options have a weighted average grant date fair value of US\$0.58 per option. Pursuant to the agreements, 1/3 of the options would vest 13 months, 25 months and 37 months after the grant date, respectively, with the condition that the performance criteria are met at each vesting date. These options will expire no later than December 20, 2020. The performance conditions were determined by the Board of Directors. For those awards, an evaluation will be made each quarter as to the likelihood of the performance criteria being met. Compensation expenses are then adjusted to reflect the number of shares expected to vest.

On January 4, 2011, under the 2007 Plan, the Company granted share options with performance conditions to purchase up to 200,000 common shares to an employee, at an exercise price of US\$1.365 per share. These options have a weighted average grant date fair value of US\$0.68 per option. Pursuant to the agreements, 1/3 of the options would vest 12 months, 24 months and 36 months after the grant date, respectively, with the condition that the performance criteria are met at each vesting date. These options will expire no later than January 4, 2021. The performance conditions were determined by the Board of Directors. For those awards, an evaluation will be made each quarter as to the likelihood of the performance criteria being met. Compensation expenses are then adjusted to reflect the number of shares expected to vest.

On May 24, 2011, under the 2007 Plan, the Company granted share options to purchase up to 100,000 common shares to an employee, at an exercise price of US\$1.085 per share. These options have a weighted average grant date fair value of US\$0.53 per option and a total expected compensation cost, net of expected forfeitures, of US\$47,592. These options have vesting periods based on length of service of 36 months and will expire no later than May 24, 2021.

On November 8, 2011, under the 2007 Plan, the Company granted share options with performance conditions to purchase up to 1,000,000 common shares to an employee, at an exercise price of US\$0.945 per share. These options have a weighted average grant date fair value of US\$0.30 per option. Pursuant to the agreements, 1/3 of the options would vest 12 months, 24 months and 36 months after the grant date, respectively, with the condition that the performance criteria are met at each vesting date. These options will expire no later than November 8, 2021. The performance conditions were determined by the Board of Directors. For those awards, an evaluation will be made each quarter as to the likelihood of the performance criteria being met. Compensation expenses are then adjusted to reflect the number of shares expected to vest.

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**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—UNAUDITED—(Continued)**

**(All amounts stated in US\$, except for number of shares data)**

*Options Granted to Non-employee*

On August 11, 2007, the Company granted options under the Plan to purchase up to 333,333 common shares to a non-employee consultant, with an exercise price of US\$0.0001 per share, and options to purchase up to 343,788 common shares to the employees of the Group's equity investee, Jiantou Xinyuan, with exercise prices ranging from US\$0.0001 to US\$2.50. These options have vesting periods based on length of service ranging from 40 to 60 months and will expire no later than August 10, 2017. In addition, the Company granted options under the 2007 Plan to purchase up to 52,004 common shares to employees of Jiantou Xinyuan. These options have a vesting period based on length of service of 36 months and will expire no later than November 5, 2017. All other terms of these awards are the same as the employee awards. These awards are accounted for under ASC 505-50, "*Equity-Based Payments to Non-employees*" ("ASC 505-50") and the cost will be measured at the date that the services are complete.

The forfeiture rate and fair value assumptions used to value the above options is consistent with the assumptions used to value the options to employees issued under the Plan and the 2007 Plan.

In November, 2010, Jiantou Xinyuan has become a wholly-owned subsidiary (Note 7) and the non-employee consultant was transferred to employee status as he was recruited as an employee of the Group's. There are no other share options issued to non-employee from August 11, 2007 to December 31, 2011. During the year ended December 31, 2010, adjustments were recorded to expenses in order to properly reflect the cumulative expense based on the then current fair value of the vested options over the vesting period.

For the year ended December 31, 2011, compensation cost of US\$78,729 (2010: US\$173,181) was charged against income for those options granted to non-employees under the Plan and the 2007 Plan.

*Assumptions*

The Company assumed a forfeiture ratio of 10% for non-executive employees in arriving at the total compensation expense.

The fair value of each option is estimated on the date of grant using the Dividend Adjusted Black-Scholes option-pricing model that uses the assumptions noted below.

|                                  | Options Granted in<br>2009<br>Under the 2007 Plan | Options Granted in<br>2010<br>Under the 2007 Plan | Options Granted in<br>2011<br>Under the 2007 Plan |
|----------------------------------|---|---|---|
| Average risk-free rate of return | 3.26  | % 2.28%-2.47                                      | % 2.47  |
| Expected term                    | 5.75 Years  | 5.75-6 Years                                      | 6 Years   |
| Volatility rate                  | 75.7  | % 49.8%-50.4                                      | % 48.4%-50  |
| Dividend yield                   | 0   | % 0   | % 0-5   |

The risk-free rate for periods within the expected life of the option is based on the implied yield rates of U.S Treasury Zero-coupon Bond as of the valuation date. The expected life of options represents the period of time the granted options are expected to be outstanding. The Company had limited historical exercising pattern. Therefore, the expected life was estimated as the average of the contractual term and the vesting period. The dividend yield was based on the Company's dividend distribution plan. Prior to 2010, the expected volatility was based on the historical volatilities of comparable publicly traded companies engaged in similar businesses due to lacking sufficient trading history. Since 2010, the expected volatility was based on the historical daily stock price of the Company, annualized.



**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)****(All amounts stated in US\$, except for number of shares data)*****Share Option Activity***

The following table is a summary of the Company's share option activity under the Plan (in US\$, except shares):

| Options under the Plan              | Number of Options | Weighted Average Exercise Price | Weighted Remaining Contractual Life (Years) | Aggregate Intrinsic Value |
|-------------------------------------|-------------------|---------------------------------|---|---------------------------|
| Outstanding, January 1, 2011        |                   |                                 |   |                           |
| 0.0001 (exercise price)             | 297,753           | 0.0001                          | 6.58  | 391,515                   |
| 2.50 (exercise price)               | 848,635           | 2.5                             | 6.58  | —                         |
| Granted to employee                 | —                 | —                               | —   | —                         |
| Exercised                           |                   |                                 |   |                           |
| 0.0001 (exercise price)             | 221,658           | 0.0001                          | —   | 193,929                   |
| Expired                             | —                 | —                               | —   | —                         |
| Forfeited/Cancelled                 |                   |                                 |   |                           |
| 0.0001 (exercise price)             | —                 | 0.0001                          | 5.58  | —                         |
| 2.50 (exercise price)               | 160,751           | 2.5                             | 5.58  | —                         |
| Outstanding, December 31, 2011      |                   |                                 |   |                           |
| 0.0001 (exercise price)             | 76,095            | 0.0001                          | 5.58  | 66,576                    |
| 2.50 (exercise price)               | 687,884           | 2.5                             | 5.58  | —                         |
| Exercisable as at December 31, 2011 |                   |                                 |   |                           |
| 0.0001 (exercise price)             | —                 | 0.0001                          | 5.58  | —                         |
| 2.50 (exercise price)               | 687,884           | 2.5                             | 5.58  | —                         |

The aggregate intrinsic value in the table above represents the total intrinsic value (the aggregate difference between the Company's closing stock price of US\$0.875 per common share as of December 31, 2011 and the exercise price for

in-the-money options) that would have been received by the option holders if all in-the-money options had been exercised on December 31, 2011.

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**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)****(All amounts stated in US\$, except for number of shares data)**

As of December 31, 2011, there was US\$126,393 and US\$100,777 of total unrecognized compensation cost related to unvested share-based compensation arrangements granted to employees and non-employees, respectively, under the Plan. The cost is expected to be recognized using a straight-line method over a weighted-average period of 0.58 years.

The following table is a summary of the Company's share option activity under the 2007 Plan (in US\$, except shares):

| Options Under the 2007 Plan  | Number of Options | Weighted Average Exercise Price | Weighted Remaining Contractual Life (Years) | Aggregate Intrinsic Value |
|------------------------------|-------------------|---------------------------------|---|---------------------------|
| Outstanding, January 1, 2011 |                   |                                 |   |                           |
| 7.0 (exercise price)         | 836,206           | 7.00                            | 6.83  | —                         |
| 2.975 (exercise price)       | 180,000           | 2.975                           | 7.50  | —                         |
| 1.87 (exercise price)        | 500,000           | 1.87                            | 8.25  | —                         |
| 1.30 (exercise price)        | 100,000           | 1.30                            | 8.58  | 1,500                     |
| 1.80 (exercise price)        | 200,000           | 1.80                            | 9.50  | —                         |
| 1.21 (exercise price)        | 7,200,000         | 1.21                            | 9.95  | 756,000                   |
| 1.18 (exercise price)        | 1,100,000         | 1.18                            | 9.97  | 148,500                   |
| Granted                      |                   |                                 |   |                           |
| 1.365 (exercise price)       | 200,000           | 1.365                           | 9.00  | —                         |
| 1.085 (exercise price)       | 100,000           | 1.085                           | 9.50  | —                         |
| 0.945 (exercise price)       | 1,000,000         | 0.945                           | 9.80  | —                         |
| Exercised                    | —                 | —                               | —   | —                         |
| Expired                      | —                 | —                               | —   | —                         |
| Forfeited/Cancelled          |                   |                                 |   |                           |
| 7.0 (exercise price)         | 25,640            | 7.00                            | 5.83  | —                         |
| 1.30 (exercise price)        | 100,000           | 1.30                            | 7.58  | —                         |
| 1.21 (exercise price)        | 300,000           | 1.21                            | 8.95  | —                         |
| 1.18 (exercise price)        | 1,100,000         | 1.18                            | 8.97  | —                         |

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Outstanding, December 31, 2011

|                        |           |       |      |   |
|------------------------|-----------|-------|------|---|
| 7.0 (exercise price)   | 810,566   | 7.00  | 5.83 | — |
| 2.975 (exercise price) | 180,000   | 2.975 | 6.50 | — |
| 1.87 (exercise price)  | 500,000   | 1.87  | 7.25 | — |
| 1.80 (exercise price)  | 200,000   | 1.80  | 8.5  | — |
| 1.21 (exercise price)  | 6,900,000 | 1.21  | 8.95 | — |
| 1.365 (exercise price) | 200,000   | 1.365 | 9.00 | — |
| 1.085 (exercise price) | 100,000   | 1.085 | 9.50 | — |
| 0.945 (exercise price) | 1,000,000 | 0.945 | 9.80 | — |

Exercisable as at December 31, 2011

|                        |           |       |      |   |
|------------------------|-----------|-------|------|---|
| 7.0 (exercise price)   | 810,566   | 7.00  | 5.83 | — |
| 2.975 (exercise price) | 180,000   | 2.975 | 6.50 | — |
| 1.87 (exercise price)  | 472,222   | 1.87  | 7.25 | — |
| 1.8 (exercise price)   | 120,000   | 1.80  | 8.50 | — |
| 1.21 (exercise price)  | 2,166,667 | 1.21  | 8.95 | — |
| 1.365 (exercise price) | 66,667    | 1.365 | 9.00 | — |
| 1.085 (exercise price) | 16,667    | 1.085 | 9.50 | — |

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**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)****(All amounts stated in US\$, except for number of shares data)**

As of December 31, 2011, there was US\$237,494 of total unrecognized compensation cost related to nonvested share-based compensation arrangements granted to employees, under the 2007 Plan. The cost is expected to be recognized using a straight-line method over a weighted-average period of 1.49 years.

**14. Other payables and accrued liabilities**

The components of accrued expenses and other liabilities are as follows:

|   | December 31,<br>2010<br>US\$ | December 31,<br>2011<br>US\$ |
|---|------------------------------|------------------------------|
| Contract deposit                                    | 22,366,622                   | 25,633,930                   |
| Accrued expense                                     | 6,968,104                    | 10,893,610                   |
| Deed tax and maintenance fund withheld for customer | 3,707,310                    | 5,805,077                    |
| Bidding deposit                                     | 864,769                      | 843,960                      |
| Welfare   | 1,672,667                    | 1,758,094                    |
| Other tax payable                                   | 2,625,482                    | 4,473,315                    |
| Others  | 957,356                      | 1,562,509                    |
| Total   | 39,162,310                   | 50,970,495                   |

**15. Related party and Employee transactions***(a) Due from employees*

|                       | December 31,<br>2010<br>US\$ | December 31,<br>2011<br>US\$ |
|-----------------------|------------------------------|------------------------------|
| Advances to employees | 51,475                       | 20,750                       |

The balance represents cash advances to employees for traveling expenses and other expenses. The balances bear no interest and have no fixed payment terms.

***(b) Others***

For the year ended December 31, 2011, total directors' remuneration paid amounted to US\$2,261,501 (2009: US\$752,611; 2010: US\$990,309).

On December 27, 2006, Henan Xinyuan entered into a consulting agreement with another consulting company which is beneficially owned by Yong Cui, one of Henan Xinyuan's directors, to provide similar finance consulting services to the Group, with an annual fee of US\$30,735 starting from April 16, 2007. This consulting agreement was renewed on February 15, 2010, under which we had agreed to pay an annual fee of US\$77,382. The agreement will expire in February 2013, and it can be terminated by written consent from both parties. The agreement contains provisions on confidentiality and non-competition.

In November 2011, the Company entered into a business development advisory services agreement with Karmen Equities Limited, of which Omer Ozden, one of the Company's directors, is a minority shareholder. The term of this agreement is six months with advisory fees amounting to US\$10,000 per month.

**16. Equity**

(i) As at December 31, 2011 the Company's authorized share capital was 500 million common shares, par value US\$0.0001 per share (December 31, 2010: 500 million common shares).

(ii) During the year ended December 31, 2009, nil options had been exercised at US\$0.8115 per share under the Plan, 304,140 options had been exercised at US\$0.0001 per share under the Plan, and 159,632 options had been exercised at US\$2.5 per share under the Plan.

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**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**(All amounts stated in US\$, except for number of shares data)**

(iii) During the year ended December 31, 2010, 187,734 options had been exercised at US\$0.0001 per share under the Plan.

(iv) In May 2010, the Forum Warrants were exercised and converted to for 1,516,882 common shares at the price of US\$0.01 per share (Note 10).

(v) During the year ended December 31, 2011, 221,658 options had been exercised at US\$0.0001 per share under the Plan.

(vi) On May 16, 2011, the Company announced a share repurchase program of up to US\$10 million. During the year ended December 31, 2011, 7,543,530 common shares were repurchased at a total cost of US\$7,958,841.

(vii) In June 2011, the Company distributed dividends to common shareholders of US\$7.7 million.

**17. Earnings per share**

Basic and diluted net earnings per share for each period presented are calculated as follows:

|            | December 31, |      |      |
|------------|--------------|------|------|
|            | 2009         | 2010 | 2011 |
|            | US\$         | US\$ | US\$ |
| Numerator: |              |      |      |



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|  |             |             |             |
|--|-------------|-------------|-------------|
| Net income   | 42,419,028  | 51,140,211  | 102,297,870 |
| Net income attributable to common shareholders—basic and diluted | 42,419,028  | 51,140,211  | 102,297,870 |
| Denominator:   |             |             |             |
| Number of shares outstanding, basic                              | 151,252,815 | 152,577,960 | 151,314,945 |
| Weighted average number of convertible notes                     | 9,597,000   | 2,742,000   | —           |
| Weighted average number of stock options                         | 21,572      | 77,395      | —           |
| Number of shares outstanding—diluted                             | 160,871,387 | 155,397,355 | 151,314,945 |
| Basic earnings per share   | 0.28        | 0.34        | 0.68        |
| Diluted earnings per share                                       | 0.26        | 0.33        | 0.68        |

During the year ended December 31, 2011, 7,060,214 (2010: 11,055,799) stock options were excluded from the calculation of earnings per share because their effect would be anti-dilutive.

During the year ended December 31, 2009, 3,295,976 stock options were excluded from the calculation of earnings per share because their effect would be anti-dilutive. Further, during the year ended December 31, 2009, 5,357,143 FRN Warrants were excluded from the calculation of earnings per share from January 1, 2010 through April 15, 2010, because their effect would be anti-dilutive.

**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**(All amounts stated in US\$, except for number of shares data)**

**18. Segment reporting**

The Group's long-lived assets and revenue are substantially located in and derived from the PRC. The Group considers that each of its individual property developments is a discrete operating segment. The Group has aggregated its segments on a provincial basis as property development projects undertaken within a province have similar expected economic characteristics, type of properties offering, customers and market and regulatory environment. The Group's reportable operating segments are comprised of the Henan Province, Shandong Province, Jiangsu Province, Sichuan Province and Anhui Province.

Each geographic operating segment is principally engaged in the construction and development of residential real estate units. The "other" category relates to investment holdings, property management services, installation of intercom systems, landscaping, engineering and management, real estate sale, purchase and lease activities. The accounting policies of the various segments are the same as those described in Note 2, "Summary of Significant Accounting Policies".

The Group's chief operating decision maker relies upon net sales, gross profit and net income when making decisions about allocating resources and assessing performance of the Group. Net sales for geographic segments are generally based on the location of the project development. Net income for each segment includes net sales to third parties, related cost of sales and operating expenses directly attributable to the segment.

**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)****(All amounts stated in US\$, except for number of shares data)**

No single customer accounted for more than 10% of net sales for the year ended December 31 2009, 2010 and 2011.

Summary information by operating segment is as follows:

| December 31,<br>2009             | Henan         | Shandong      | Jiangsu        | Anhui        | Sichuan       | Others       | Consolidated   |
|----------------------------------|---------------|---------------|----------------|--------------|---------------|--------------|----------------|
|                                  | US\$          | US\$          | US\$           | US\$         | US\$          | US\$         | US\$           |
| Net real estate sales            | 90,049,823    | 89,713,230    | 198,070,688    | 6,902,453    | 56,601,483    | —            | 441,337,677    |
| Real estate lease income         | 319,433       | 1,025         | —              | —            | —             | —            | 320,458        |
| Other revenue                    | 151,442       | 69,117        | 127,340        | 51,074       | 18,458        | 6,908,928    | 7,326,359      |
| Total revenue                    | 90,520,698    | 89,783,372    | 198,198,028    | 6,953,527    | 56,619,941    | 6,908,928    | 448,984,494    |
| Cost of real estate sales        | (72,590,799 ) | (75,362,270 ) | (151,343,773 ) | (4,335,579 ) | (47,803,636 ) | —            | (351,436,057 ) |
| Cost of real estate lease income | (597,164 )    | (1,091 )      | —              | —            | —             | —            | (598,255 )     |
| Other costs                      | (155,419 )    | (99,955 )     | (1,886,234 )   | (20,104 )    | (14,748 )     | (5,528,508 ) | (7,704,968 )   |
| Total cost of revenue            | (73,343,382 ) | (75,463,316 ) | (153,230,007 ) | (4,355,683 ) | (47,818,384 ) | (5,528,508 ) | (359,739,280 ) |
| Gross profit                     | 17,177,316    | 14,320,056    | 44,968,021     | 2,597,844    | 8,801,557     | 1,380,420    | 89,245,214     |
| Operating expenses               | (12,957,908 ) | (2,770,894 )  | (8,388,311 )   | (552,520 )   | (2,593,035 )  | (6,394,851 ) | (33,657,519 )  |
| Operating income/(loss)          | 4,219,408     | 11,549,162    | 36,579,710     | 2,045,324    | 6,208,522     | (5,014,431 ) | 55,587,695     |
| Interest income                  | 1,041,212     | 134,122       | 885,586        | 19,085       | 173,183       | 134,797      | 2,387,985      |
|                                  | 79,638        | —             | —              | —            | —             | —            | 79,638         |

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|   |              |              |               |            |              |              |               |
|---|--------------|--------------|---------------|------------|--------------|--------------|---------------|
| Exchange gains  |              |              |               |            |              |              |               |
| Other operating expenses                              | —            | —            | —             | —          | —            | (383,333 )   | (383,333 )    |
| Income from change in fair value of warrant liability | —            | —            | —             | —          | —            | 169,736      | 169,736       |
| Share of income/(loss) in an entity                   | 4,562,610    | —            | —             | —          | —            | (160,512 )   | 4,402,098     |
| Income/(loss) before income taxes                     | 9,902,868    | 11,683,284   | 37,465,296    | 2,064,409  | 6,381,705    | (5,253,743 ) | 62,243,819    |
| Income tax expense                                    | (2,398,908 ) | (3,758,223 ) | (10,259,748 ) | (878,126 ) | (1,702,352 ) | (827,434 )   | (19,824,791 ) |
| Net income/(loss)                                     | 7,503,960    | 7,925,061    | 27,205,548    | 1,186,283  | 4,679,353    | (6,081,177 ) | 42,419,028    |
| Depreciation and amortization                         | 1,137,425    | 352,662      | 175,078       | 24,828     | 123,714      | 359,571      | 2,173,278     |
| Capital expenditure                                   | 353,113      | —            | —             | —          | —            | —            | 353,113       |
| Real estate property development completed            | 1,080,537    | 226,313      | —             | —          | —            | —            | 1,306,850     |
| Real estate property under development (current)      | 241,231,627  | 3,485,125    | 224,648,684   | 180,252    | 91,044,731   | —            | 560,590,419   |
| Real estate property under development (non-current)  | —            | —            | —             | —          | —            | —            | —             |
| Real estate property held for lease                   | 5,622,713    | 1,824,828    | 8,883,795     | 945,250    | —            | —            | 17,276,586    |
| Total long-lived assets                               | 11,912,865   | 2,134,271    | 14,878,412    | 1,034,079  | 635,767      | 1,829,893    | 32,425,287    |
| Total assets  | 483,746,910  | 57,035,256   | 200,266,970   | 15,942,909 | 83,305,122   | 41,485,282   | 881,782,449   |

## XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

(All amounts stated in US\$, except for number of shares data)

| December 31, 2010                         | Henan<br>US\$ | Shandong<br>US\$ | Jiangsu<br>US\$ | Anhui<br>US\$ | Sichuan<br>US\$ | Others<br>US\$ | Consolidated<br>US\$ |
|---|---------------|------------------|-----------------|---------------|-----------------|----------------|----------------------|
| Net real estate sales                     | 120,131,600   | 3,394,585        | 204,603,672     | 82,376        | 110,579,729     | —              | 438,791,962          |
| Real estate lease income                  | 97,014        | 15,240           | 62,055          | 6,582         | —               | —              | 180,891              |
| Other revenue                             | 211,691       | 76,809           | 115,960         | 2,761         | 56,482          | 10,535,289     | 10,998,992           |
| Total revenue                             | 120,440,305   | 3,486,634        | 204,781,687     | 91,719        | 110,636,211     | 10,535,289     | 449,971,845          |
| Cost of real estate sales                 | (79,671,781 ) | (3,260,993 )     | (150,325,460 )  | (5,212 )      | (92,365,779 )   | (77,531 )      | (325,706,756 )       |
| Cost of real estate lease income          | (702,556 )    | (110,365 )       | (449,385 )      | (47,666 )     | —               | —              | (1,309,972 )         |
| Other costs                               | 469,975       | (490 )           | (333,632 )      | (2,122 )      | (26,997 )       | (7,542,562 )   | (7,435,828 )         |
| Total cost of revenue                     | (79,904,362 ) | (3,371,848 )     | (151,108,477 )  | (55,000 )     | (92,392,776 )   | (7,620,093 )   | (334,452,556 )       |
| Gross profit                              | 40,535,943    | 114,786          | 53,673,210      | 36,719        | 18,243,435      | 2,915,196      | 115,519,289          |
| Operating expenses                        | (15,651,485 ) | (1,132,792 )     | (7,037,123 )    | (411,485 )    | (3,340,810 )    | (5,358,890 )   | (32,932,585 )        |
| Operating income/(loss)                   | 24,884,458    | (1,018,006 )     | 46,636,087      | (374,766 )    | 14,902,625      | (2,443,694 )   | 82,586,704           |
| Interest income                           | 1,134,581     | 132,697          | 479,665         | 2,918         | 159,318         | 308,977        | 2,218,156            |
| Other income                              | 2,352,607     | —                | —               | —             | —               | 28,430         | 2,381,037            |
| Exchange gains                            | 201,592       | —                | —               | —             | —               | —              | 201,592              |
| Change in fair value of warrant liability | —             | —                | —               | —             | —               | 841,560        | 841,560              |
| Share of income/(loss) in an entity       | 226,579       | —                | —               | —             | —               | —              | 226,579              |
| Income/(loss) before income taxes         | 28,799,817    | (885,309 )       | 47,115,752      | (371,848 )    | 15,061,943      | (1,264,727 )   | 88,455,628           |
| Income tax expense                        | (11,158,923 ) | (1,552,197 )     | (19,085,355 )   | (699,910 )    | (4,314,291 )    | (522,698 )     | (37,333,374 )        |
| Net income/(loss)                         | 17,640,894    | (2,437,506 )     | 28,030,397      | (1,071,758 )  | 10,747,652      | (1,787,425 )   | 51,122,254           |

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|  |             |             |             |            |             |            |               |
|--|-------------|-------------|-------------|------------|-------------|------------|---------------|
| Depreciation and amortization                    | 1,034,452   | 178,127     | 1,018,937   | 70,546     | 221,059     | 214,602    | 2,737,723     |
| Capital expenditure                              | —           | 287,779     | 365,612     | —          | —           | 327,803    | 981,194       |
| Real estate property development completed       | 288,795     | 31,233      | 824,423     | 325,790    | —           | —          | 1,470,241     |
| Real estate property under development (current) | 263,594,606 | 205,680,349 | 168,662,723 | —          | 72,647,638  | —          | 710,585,316   |
| Real estate property held for lease              | 8,504,572   | 1,983,736   | 8,461,811   | 925,852    | —           | —          | 19,875,971    |
| Total long-lived assets                          | 11,777,816  | 2,548,914   | 11,003,344  | 939,610    | 256,865     | 2,393,751  | 28,920,300    |
| Total assets                                     | 464,403,931 | 172,819,504 | 267,307,884 | 10,688,870 | 153,472,671 | 35,272,466 | 1,103,965,326 |

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## XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

(All amounts stated in US\$, except for number of shares data)

| December 31, 2011                 | Henan<br>US\$ | Shandong<br>US\$ | Jiangsu<br>US\$ | Anhui<br>US\$ | Sichuan<br>US\$ | Others<br>US\$ | Consolidated<br>US\$ |
|-----------------------------------|---------------|------------------|-----------------|---------------|-----------------|----------------|----------------------|
| Net real estate sales             | 266,055,131   | 60,790,709       | 227,448,951     | 330,902       | 118,755,900     | —              | 673,381,593          |
| Real estate lease income          | 2,607,441     | 181,042          | 45,597          | —             | —               | —              | 2,834,080            |
| Other revenue                     | 342,865       | 4,063            | 128,181         | 850           | 33,607          | 10,782,957     | 11,292,523           |
| Total revenue                     | 269,005,437   | 60,975,814       | 227,622,729     | 331,752       | 118,789,507     | 10,782,957     | 687,508,196          |
| Cost of real estate sales         | (171,351,063) | (48,476,077)     | (168,148,014)   | (62,957)      | (89,102,687)    | —              | (477,140,798)        |
| Cost of real estate lease income  | (492,447)     | (118,519)        | (470,876)       | (49,945)      | —               | —              | (1,131,787)          |
| Other costs                       | (40,865)      | —                | (120,300)       | (8,809)       | (26,455)        | (9,307,785)    | (9,504,214)          |
| Total cost of revenue             | (171,884,375) | (48,594,596)     | (168,739,190)   | (121,711)     | (89,129,142)    | (9,307,785)    | (487,776,799)        |
| Gross profit                      | 97,121,062    | 12,381,218       | 58,883,539      | 210,041       | 29,660,365      | 1,475,172      | 199,731,397          |
| Operating expenses                | (21,784,890)  | (3,279,303)      | (7,927,609)     | (76,597)      | (3,387,604)     | (6,983,421)    | (43,439,424)         |
| Operating income/(loss)           | 75,336,172    | 9,101,915        | 50,955,930      | 133,444       | 26,272,761      | (5,508,249)    | 156,291,973          |
| Interest income                   | 4,216,641     | 326,579          | 381,103         | 246           | 202,459         | 166,892        | 5,293,920            |
| Exchange gains                    | 56,725        | —                | —               | —             | —               | —              | 56,725               |
| Income/(loss) before income taxes | 79,609,538    | 9,428,494        | 51,337,033      | 133,690       | 26,475,220      | (5,341,357)    | 161,642,618          |
| Income tax expense                | (33,322,951)  | (2,346,751)      | (15,947,960)    | (67,007)      | (6,530,367)     | (422,453)      | (58,637,489)         |
| Net income/(loss)                 | 46,286,587    | 7,081,743        | 35,389,073      | 66,683        | 19,944,853      | (5,763,810)    | 103,005,129          |
| Depreciation and amortization     | 1,510,923     | 182,878          | 631,267         | 59,167        | 64,740          | 51,857         | 2,500,832            |
| Capital expenditure               | 118,024       | 35,020           | 25,792          | 232           | 9,914           | 975,104        | 1,164,086            |
|                                   | 5,040,848     | 665,899          | 777,695         | 290,699       | —               | —              | 6,775,141            |

|   |             |             |             |            |             |            |               |
|---|-------------|-------------|-------------|------------|-------------|------------|---------------|
| Real estate<br>property<br>development<br>completed       |             |             |             |            |             |            |               |
| Real estate<br>property under<br>development<br>(current) | 310,705,133 | 197,255,151 | 220,478,957 | —          | 33,432,150  | —          | 761,871,391   |
| Real estate<br>property held for<br>lease                 | 7,830,238   | 1,348,478   | 8,425,868   | 921,920    | —           | —          | 18,526,504    |
| Total long-lived<br>assets                                | 10,995,939  | 2,571,597   | 8,774,859   | 923,748    | 190,311     | 2,506,941  | 25,963,395    |
| Total assets  | 685,397,504 | 202,903,110 | 304,969,620 | 10,241,454 | 145,895,377 | 41,206,561 | 1,390,613,620 |

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**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)****(All amounts stated in US\$, except for number of shares data)****19. Commitments and contingencies**

The Group leases certain of its office properties under operating lease arrangements. Payments under operating leases are expensed on a straight-line basis over the periods of their respective leases, and the terms of the leases do not contain rent escalation, or contingent rent, renewal, or purchase options. There are no restrictions placed upon the Group by entering into these leases.

***Commitments***

As of December 31, 2011, the Group had lease payments under non-cancellable leases falling due as follows:

|                        | Amount<br>US\$ |
|------------------------|----------------|
| 2012                   | 1,791,287      |
| 2013                   | 321,700        |
| 2014                   | 98,138         |
| 2015                   | 98,138         |
| 2016 and<br>thereafter | 294,415        |
| Total                  | 2,603,678      |

As of December 31, 2011, the Group had outstanding commitments with respect to non-cancelable construction contracts for real estate development and land use rights purchases as follows:

|                   | Amount      |
|-------------------|-------------|
|                   | US\$        |
| Due within 1 year | 277,882,144 |

### *Contingencies*

As at December 31, 2011, the Group provided guarantees of US\$709,489,907 (2010: US\$666,446,709), in favor of its customers in respect of mortgage loans granted by banks to such customers for their purchases of the Group's properties where the underlying real estate ownership certificates can only be provided to the banks on a time delay manner due to administrative procedures in the PRC. Pursuant to the terms of the guarantees, upon default in mortgage payments by these purchasers, the Group is responsible to repay the outstanding mortgage principal together with the accrued interest and penalty owed by the defaulted purchasers to the bank and the Group is entitled to take over the legal titles and possession of the related properties. The Group's guarantee period starts from the date of grant of the relevant mortgage loan and ends upon issuance of real estate ownership certificate which will generally be available within six to twelve months after the purchaser takes possession of the relevant property. The Group paid US\$0.02 million, US\$0.10 million, and US\$0.04 million to satisfy guarantee obligations related to customer defaults for the years ended December 2009, 2010 and 2011, respectively.

The fair value of the guarantees is not significant and the management considers that in case of default in payments, the net realizable value of the related properties can cover the repayment of the outstanding mortgage principal together with the accrued interest and penalty and therefore no provision has been made for the guarantees.

**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**(All amounts stated in US\$, except for number of shares data)**

Upon adoption of ASC 740-10 on January 1, 2007, the Group decreased deferred tax payable by US\$2,667,594 and increased unrecognized tax benefits by the same amount as ASC 740-10 specifies that tax positions for which the timing of the ultimate resolution is uncertain should be recognized as long-term liabilities. The Company also recognized additional unrecognized tax benefits of US\$11,945, US\$395,838 and US\$671,730 for the years ended December 31, 2009, 2010 and 2011, respectively. At this time, the Company is unable to make a reasonably reliable estimate of the timing of payments in individual years beyond 12 months due to uncertainties in the timing of tax audit outcomes.

**20. Concentration of risk**

The Group's operations are conducted in the PRC. Accordingly, the Group's business, financial condition and results of operations may be influenced by the political, economic and legal environments in the PRC and by the general state of the PRC economy.

The Group's operations in the PRC are subject to special considerations and significant risks not typically associated with companies in North America and Western Europe. These include risks associated with, among others, the political, economic and legal environments and foreign currency exchange. The Group's results may be adversely affected by changes in the political and social conditions in the PRC, and by changes in governmental policies with respect to laws and regulations, anti-inflationary measures, currency conversion and remittance abroad, and rates and methods of taxation, among other things.

The Group transacts most of its business in RMB, which is not freely convertible into foreign currencies. All foreign exchange transactions take place either through the PBOC or other banks authorized to buy and sell foreign currencies at the exchange rates quoted by the PBOC. Approval of foreign currency payments by the PBOC or other institutions requires submitting a payment application form together with suppliers' invoices, shipping documents and signed contracts.

On July 21, 2005, the PRC government changed its decade-old policy of pegging the value of the RMB to the US\$. Under the new policy, the RMB is permitted to fluctuate within a narrow and managed band against a basket of certain foreign currencies. This change in policy has resulted in a 23.9% appreciation of the RMB against the US\$ from July 21, 2005 to December 31, 2011.

Additionally, the value of the RMB is subject to changes in central government policies and to international economic and political developments affecting supply and demand in the PRC foreign exchange trading system market.

The Group uses various suppliers and sells to a wide range of customers. All the homebuyers who signed seller-financed contracts are subject to credit verification procedures. In addition, receivable balances are monitored on an ongoing basis via the Group's management reporting procedures. The Group provides longer payment terms, ranging between six months to two years to particular home buyers after applying strict credit requirements based on the Group's credit policy. There is no concentration of credit risk with respect to receivables as the Group has a large number of seller-financed customers. The Group does not have a significant exposure to any individual debtors.

In addition, no single supplier or customer accounted for more than 10% of revenue or project expenditures for the year ended December 31, 2009, 2010 and 2011.

## **21. Condensed financial information of the Company**

The condensed financial statements of Xinyuan Real Estate Co., Ltd. (the "Company") have been prepared in accordance with accounting principles generally accepted in the United States of America. Under the PRC laws and regulations, the Company's PRC subsidiaries are restricted in their ability to transfer certain of their net assets to the Company in the form of dividend payments, loans or advances. The amounts restricted include paid-in capital and statutory reserves, as determined pursuant to PRC generally accepted accounting principles, totaling US\$340,579,209 as of December 31, 2011 (2010:US\$334,559,300).

**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (Continued)****(All amounts stated in US\$, except for number of shares data)****Condensed Balance Sheet**

|   | Year ended December 31 |                    |
|---|------------------------|--------------------|
|   | 2010                   | 2011               |
|   | US\$                   | US\$               |
| <b>ASSETS</b>                               |                        |                    |
| Current assets                              |                        |                    |
| Cash and cash equivalents                   | 4,944                  | 8,516,544          |
| Other receivable                            | 30                     | —                  |
| Other current assets                        | 4,363                  | 3,167              |
| Due from a subsidiary                       | 288,925,977            | 281,467,371        |
| Total current assets                        | 288,935,314            | 289,987,082        |
| Other assets                                | 1,418,092              | 750,743            |
| Investments in subsidiaries                 | 267,704,528            | 410,994,746        |
| <b>TOTAL ASSETS</b>                         | <b>558,057,934</b>     | <b>701,732,571</b> |
| <b>LIABILITIES AND SHAREHOLDERS' EQUITY</b> |                        |                    |
| Current liabilities                         |                        |                    |
| Short-term bank loan                        | —                      | 25,000,000         |
| PRC income tax payable                      | 13,013                 | 13,388             |
| PRC other tax payable                       | 926,306                | 902,190            |
| Other payable and accrued liabilities       | 302,866                | 1,167,502          |
| Other long-term debt due within one year    | 330,633                | 313,300            |
| Total current liabilities                   | 1,572,818              | 27,396,380         |
| Other long-term debt                        | 38,687,613             | 39,708,981         |
| Total liabilities                           | 40,260,431             | 67,105,361         |

|   |             |              |
|---|-------------|--------------|
| Shareholders' equity  |             |              |
| Common shares, \$0.0001 par value:  |             |              |
| Authorized—500,000,000 shares, issued and outstanding—145,863,676 shares for 2011<br>(2010: 153,185,548 shares) | 15,319      | 15,341       |
| Treasury stock  | —           | (7,958,841 ) |
| Additional paid-in capital  | 507,972,626 | 509,713,488  |
| Retained earnings   | 9,809,558   | 132,857,222  |
| Total shareholders' equity  | 517,797,503 | 634,627,210  |
| TOTAL LIABILITIES AND SHAREHOLDERS' EQUITY  | 558,057,934 | 701,732,571  |

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**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (Continued)****(All amounts stated in US\$, except for number of shares data)****Condensed Statement of Operations**

|   | Year ended December 31 |              |              |
|---|------------------------|--------------|--------------|
|   | 2009                   | 2010         | 2011         |
|   | US\$                   | US\$         | US\$         |
| Sales tax   | (324,464 )             | (330,904 )   | (3,104 )     |
| Selling and distribution expenses                     | —                      | —            | —            |
| General and administrative expenses                   | (1,778,767 )           | (1,098,624 ) | (2,360,042 ) |
| Operating loss  | (2,103,231 )           | (1,429,528 ) | (2,363,146 ) |
| Interest expense                                      | (11,526,711)           | (8,497,106 ) | (8,022,254 ) |
| Interest income                                       | 13                     | 130,128      | 6,818        |
| Income from change in fair value of warrant liability | 169,736                | 841,560      | —            |
| Other expenses  | (383,333 )             | —            | —            |
| Equity in profit of subsidiaries, net                 | 56,911,483             | 60,388,873   | 112,676,827  |
| Income from operations before income taxes            | 43,067,957             | 51,433,927   | 102,298,245  |
| Income taxes  | (648,929 )             | (293,716 )   | (375 )       |
| Net income attributable to common shareholders        | 42,419,028             | 51,140,211   | 102,297,870  |

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**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (Continued)****(All amounts stated in US\$, except for number of shares data)***Condensed Statement of cash flows*

|  | Year ended December 31 |              |               |
|--|------------------------|--------------|---------------|
|  | 2009<br>US\$           | 2010<br>US\$ | 2011<br>US\$  |
| Cash flows from operating activities:  |                        |              |               |
| Net income   | 42,419,028             | 51,140,211   | 102,297,870   |
| Adjustment to reconcile net income to net cash provided by operating activities: |                        |              |               |
| Equity in profit of subsidiaries, net  | (56,911,483)           | (60,388,873) | (112,676,827) |
| Depreciation and amortization  | 1,445,191              | —            | 319,779       |
| Accretion of long-term debt  | 4,217,034              | —            | 1,021,368     |
| Changes in fair value of warrants and embedded derivatives                       | (169,736 )             | (841,560 )   | —             |
| Put option contingency expenses  | 5,000,000              | —            | —             |
| Stock based compensation expense   | —                      | —            | 38,382        |
| Changes in operating assets and liabilities:                                     |                        |              |               |
| Other receivables  | 3,624                  | (2,792 )     | (3,137 )      |
| Other assets   | (605,876 )             | 508,595      | 348,766       |
| Income tax payable   | 54,973                 | (829,790 )   | 375           |
| Other tax payable  | 324,464                | 222,476      | (24,116 )     |
| Other payable and accrued liabilities  | 826,742                | (1,175,084 ) | 864,636       |
| Accrued interest   | (617,128 )             | 5,812,765    | (514,226 )    |
| Net cash used in operating activities  | (4,013,137 )           | (5,554,052 ) | (8,327,130 )  |
| Cash flows from financing activities:  |                        |              |               |
| Changes in due from a subsidiary   | 3,604,230              | 73,204,741   | 7,458,606     |
| Proceeds from short-term debt  | —                      | —            | 25,000,000    |
| Proceeds from other long-term debt   | —                      | 10,000,000   | —             |
| Repayment of other debt  | —                      | (77,954,175) | —             |
| Purchase of treasury stock   | —                      | —            | (7,958,841 )  |
| Dividends to shareholders  | —                      | —            | (7,661,057 )  |
| Proceeds from issuance of common shares  | 399,110                | 15,188       | 22            |



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|   |           |            |             |
|---|-----------|------------|-------------|
| Net cash provided by financing activities                         | 4,003,310 | 5,265,754  | 16,838,730  |
| Net (decrease)/ increase in cash and cash equivalents             | (9,827    | ) (288,298 | ) 8,511,600 |
| Cash and cash equivalents, at the beginning of the year           | 303,069   | 293,242    | 4,944       |
| Cash and cash equivalents, at end of the period                   | 293,242   | 4,944      | 8,516,544   |
| <b>SUPPLEMENTARY INFORMATION OF NON-CASH FINANCING ACTIVITIES</b> |           |            |             |
| Non-cash repayment of other debt                                  | —         | 30,000,000 | —           |

*(a) Basis of presentation*

In the Company-only financial statements, the Company’s investment in subsidiaries is stated at cost plus its equity interest in undistributed earnings of subsidiaries since inception. The Company-only financial statements should be read in conjunction with the Company’s consolidated financial statements.

The Company records its investment in its subsidiaries under the equity method of accounting as prescribed in ASC 323 “*Investment-Equity Method and Joint Ventures*” (“ASC 323”). Such investment is presented on the balance sheet as “Investment in subsidiaries” and share of the subsidiaries’ profit or loss as “Equity in profit of subsidiary company” on the statements of operations.

The subsidiaries and equity investee did not pay any dividends to the Company for the periods presented.

**XINYUAN REAL ESTATE CO., LTD. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (Continued)**

*(b) Related party transactions*

As of December 31, 2010 and 2011, the Company has US\$288,925,977 and US\$281,467,371 due from a subsidiary. These amounts reflect intercompany loans from the Company to Xinyuan (China) Real Estate, Ltd. (“WFOE”), a wholly-owned subsidiary of the Company. While intercompany loans have no fixed payments terms, the Company has a legally enforceable right to demand payment and the WFOE has the ability to repay the outstanding balance on demand. In April 2010, the Company accrued 3% per annum interest on a US\$9.50 million intercompany loan. In September 2010, the WFOE repaid US\$9.00 million of that loan. The remaining of US\$0.5 million was paid off in June 2011. As of December 31, 2010 and 2011, the balance outstanding on the loan was US\$500,000 and US\$nil. Interest income earned on the loan during the year ended December 31, 2010 and 2011, was US\$130,128 and US\$6,818, respectively. The interest income earned during the year ended December 31, 2011 was lower because the outstanding balance throughout the year was lower as compared to the prior year.

*(c) Commitments*

The Company does not have significant commitments or long-term obligations as of the period end presented.