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Real Estate

Singapore

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SINGAPORE

Law and Practice

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1. GENERAL

1.1 Main Sources of Law

The Singapore legal system is based on the English common law system.

Singapore land law falls under two systems:

- the Registration of Deeds Act, where lands are typically known as “unregistered land”; and
- the Land Titles Act or the Land Titles (Strata) Act, where lands are registered and known as “registered land”.

The system of land registration for registered land is adopted from the Torrens system of land registration.

There is legislation governing areas specific to real estate, such as permitted use (the Planning Act), development and construction (the Building and Construction Act), management of strata units in flats and buildings (the Building Maintenance and Strata Management Act) and taxes relating to transactions involving real estate (the Stamp Duties Act).

1.2 Main Market Trends and Deals

The COVID-19 pandemic has had a huge impact on the economy, including the real estate market, and numerous government measures were instituted in response. Despite the impact, there was a slight increase in the total number of private residential properties sold in 2020 compared to 2019, although the increase in prices was smaller in 2020 compared to 2019. Notably, despite a government-imposed “circuit-breaker” from 7 April 2020 to 1 June 2020, when show-flats were closed and physical viewings were curbed, developers still managed to sell more than 9,900 private residential units in 2020.

There were larger percentage decreases in both office rents and office occupancy rates in 2020, whereas demand for industrial warehouse spaces and data centres increased as a result of the accelerated growth of e-commerce.

Notable transactions that took place in the last 12 months amidst the economic downturn caused by the COVID-19 pandemic included the acquisition of a 50% stake interest in AXA Tower by Alibaba Group’s Singapore subsidiary (on an agreed property value of SGD1.68 billion) and the creation of CapitaLand Integrated Commercial Trust (CICT) (with a combined asset base of SGD22.4 billion), which is the second largest REIT in the Asia-Pacific region and the largest REIT in Singapore, arising from the merger of CapitaLand Mall Trust and CapitaLand Commercial Trust.

1.3 Impact of Disruptive Technologies

Apart from instruments and deeds registered or to be registered under the Land Titles Act, the Land Titles (Strata) Act and the Registration of Deeds Act, there is currently no explicit legislation in Singapore governing the use of digital instruments or “tokens” to transact real estate generally. Some “proptech” companies have used or offered blockchain platforms that enable investors to tap into funding for real estate, mainly for the purpose of raising funds or projects outside of Singapore.

The last quarter of 2020 saw the introduction of a new feature in the STARS eLodgement System administered by the Singapore Land Authority (SLA) for the registration of documents on the land register. The SLA piloted the use of the SingPass national digital identity system – “Sign with SingPass” (SingPass Sign) – to facilitate the digital signing of property caveats that are electronically lodged with the SLA. This is run concurrently with the existing system of digital signing by use of a token.

1.4 Proposals for Reform

The government has been looking at existing legislation and considering the potential need to review or supplement it to keep up with developing and new technologies such as blockchain and smart contracts, and examining electronic transactions as part of its Smart Nation initiative and its goal of providing 100% end-to-end digital options under the Digital Government Blueprint. These efforts have been accelerated with the impact of the COVID-19 pandemic. The introduction of features such as SingPass Sign is indicative of the larger role that digital platforms will play in real estate transactions in Singapore.

2. SALE AND PURCHASE

2.1 Categories of Property Rights

Legal and equitable interests may be created in respect of property rights. Legal interests in relation to real estate include an estate in fee simple, a statutory land grant and a leasehold estate. Equitable interests include interests derived under an agreement in relation to land (eg, a purchaser's rights under an agreement for sale and purchase or a lessee's rights under an agreement for lease).

2.2 Laws Applicable to Transfer of Title

For the transfer of title of registered land, the transaction must be effected in a form prescribed under the Land Titles Act and registered with the Land Registry.

Under the Residential Property Act (RPA), there are restrictions on foreign ownership of vacant land or landed residential property. Except for landed homes in Sentosa Cove (situated on Sentosa Island) where ownership by foreigners (who are not Singapore permanent residents) is generally allowed with approval, any purchase of landed residential property by a person who is not a Singapore citizen (but who is a Singapore

permanent citizen) is subject to the approval of the government. Subject to certain rules and conditions, foreign developers may acquire landed residential property to develop for sale. There is generally no law against a foreigner purchasing Singapore commercial property.

2.3 Effecting Lawful and Proper Transfer of Title

As mentioned in **2.2 Laws Applicable to Transfer of Title**, transfers of title to registered land are effected by way of the registration of transfer instruments with the Land Registry. All transfers of registered land are recorded in the Land Register administered by the Registrar of Titles. Title insurance is not common in Singapore, although there have recently been a few transactions that included title insurance.

2.4 Real Estate Due Diligence

Buyers usually carry out title searches, which can be conducted online. Where the land is unregistered, title must be deduced by inspection of the title documents. Buyers of large buildings will typically carry out a building audit and a technical inspection of the real estate (either internally or by the appointment of consultants) to ascertain the state, condition and structural soundness of the buildings, and encroachment surveys on the land. For industrial land, it is not uncommon for the buyer to carry out (or in some cases, require the seller to carry out) an environmental study to determine whether there are any environmental contaminants on the land.

Buyers also carry out legal requisition searches with various government agencies and statutory bodies, which may reveal matters that affect the real estate (eg, notices of government action against the property, roads, drainage lines, reserves, railway lines or schemes, zoning and approved use).

Buyers will usually review sellers' documents relating to, inter alia, title, tenancy information (if applicable), services contracts and building warranties.

Social distancing and crowd limit restrictions imposed on traditional showroom launches and physical viewings of residential properties as a result of the COVID-19 pandemic accelerated efforts to adopt and develop virtual showrooms and viewings, with several sales actually made solely through virtual viewings. While physical viewings are likely to continue as a mainstay feature in private residential property sales in future, given the recent experiences of 2020 virtual viewings are expected to play a larger role and to remain relevant in the future.

2.5 Typical Representations and Warranties

There is no legislation specifically requiring the provision of seller's warranties. Real estate is traditionally sold on an "as-is-where-is" basis – ie, the seller does not generally provide any representations or warranties regarding the real estate.

Where properties are large or transactions are complex, buyers will negotiate with sellers to provide warranties. The scope and extent of the warranties will depend largely on the bargaining power of the sellers and buyers. Typical seller warranties include the following:

- there being no outstanding notices from government agencies;
- related contracts being valid, binding and enforceable; and
- there being no breach of approved use.

If there is a breach of a warranty, the buyer's remedies will be governed by the negotiated agreement between seller and buyer.

2.6 Important Areas of Law for Investors

An investor in real estate should consider the laws governing the ownership of real estate (eg, prohibitions against foreigners purchasing "residential property" as defined under the RPA and terms and conditions that may be imposed where the approval of the state or a statutory board is required for a purchase and subsequent sale), the laws governing the usage (or proposed usage) of the real estate and zoning requirements.

As a significant portion of land ownership in Singapore is derived under leases from the state or statutory boards, it is important to consider specific restrictions imposed under the terms of the relevant lease (eg, prevailing policy with respect to subletting caps and rights of first refusal granted to the lessor in the case of a subsequent sale). In addition, where an investor intends to purchase land for development, laws and regulations relating to rights of development and terms and conditions imposed on approvals granted for development should be considered. Taxation laws (eg, stamp duties imposed on purchases as well as subsequent sale and property tax) should also be taken into account.

2.7 Soil Pollution or Environmental Contamination

An owner or occupier will generally be liable for any pollution. Accordingly, a buyer will become responsible once they become the owner, even if the buyer did not cause the pollution or contamination.

While the Environmental Protection and Management Act distinguishes between an owner and an occupier (including a lessee), in most circumstances both are liable in the event of pollution. There are also statutory presumptions, where, in the case of a discharge of toxic sub-

stances or hazardous substances into water, it is presumed that the occupier is at fault.

2.8 Permitted Uses of Real Estate under Zoning or Planning Law

A buyer can submit legal requisitions to the Urban Redevelopment Authority (URA), and the replies will indicate the prevailing master plan zoning of the land and the approved use.

Prior to the development of land, a developer must submit applications to the URA for planning approval. A buyer or developer may submit an outline application before making plans for the redevelopment of land. The outline application is a broad proposal to test the allowable land use, plot ratio, building height and building form on a development site.

2.9 Condemnation, Expropriation or Compulsory Purchase

The Land Acquisition Act allows the State to acquire land compulsorily where it is needed:

- for any public purposes;
- by any person, corporation or statutory board for any work or an undertaking that, in the opinion of the Minister for Law, is of public benefit or public utility, or is in the public interest; or
- for any residential, commercial or industrial purposes.

The acquisition process will commence with the publication of a notice of intended acquisition in the Government Gazette, after which the Collector of Land Revenue will cause a notice to be published in major newspapers and notices will be sent to persons interested in the real estate. Thereafter, the Collector of Land Revenue will, inter alia, ascertain the persons interested in the real estate and their rights thereto, and make an award of compensation, which must take into

account the market value of the real estate compulsorily acquired.

The Collector of Land Revenue may then acquire or take possession of the real estate, upon making the award of compensation, by posting an appropriate notice.

Other than the Land Acquisition Act, legislation such as the Street Works Act and the Sewerage and Drainage Act empower statutory boards to enter private lands and take possession of or vest lands or part thereof for public purposes. Aggrieved owners may submit appeals according to the process set out in the relevant legislation.

2.10 Taxes Applicable to a Transaction

In a property purchase, the buyer is obliged to pay buyer's stamp duty (BSD) based on the acquisition price or market value of the property (whichever is higher). From 20 February 2018, BSD rates have been differentiated between residential and non-residential properties, with the top marginal BSD rate for residential properties increased to 4%; the BSD rates (of up to 3%) for non-residential properties remain. For a mixed-use or mixed-zoning property, the BSD rates of up to 4% and 3% apply on residential and non-residential components respectively. The market value of residential and non-residential components can be determined by a professional valuer.

Depending on the profile of the buyer, an additional buyer's stamp duty (ABSD) of between 5% and 30% of the acquisition price or market value of the property (whichever is higher) is also payable for the purchase of residential property. Housing developers are generally subject to 30% ABSD, 25% of which may qualify for remission of ABSD for the acquisition of residential property for development and sale, subject to certain terms and conditions.

Seller's stamp duty (SSD) is payable by the seller for the disposal or sale of residential and industrial property if the property was sold within a period of up to three years after the acquisition thereof. Depending on the holding period of the property, the rate of SSD payable for the sale of industrial property ranges from 5% to 15% of the sale price or the market value of the property (whichever is higher), and the rate of SSD payable for the sale of residential property ranges from 4% to 12% of the sale price or the market value (whichever is higher).

Licensed housing developers need not pay SSD when selling residential units they have developed.

Where there is a transfer of shares, stamp duty – typically borne by the buyer – is payable on the actual price or net asset value of the shares, whichever is higher. The rate is 0.2%, or SGD0.2 for every SGD100 (or part thereof). Exemptions may apply in certain circumstances (eg, transfers between associated companies).

Where there is a transfer of equity interests in a property-holding entity (residential PHE) the primary tangible assets of which, owned directly or indirectly, are residential properties in Singapore, additional conveyance duty (ACD) may be payable on the transfer.

The ACD regime applies to the acquisition and disposal of equity interests in a residential PHE by an entity that is considered a significant owner of the residential PHE, or that becomes one after the acquisition.

If applicable, ACD is imposed on both the buyer and the seller in a transaction. ACD for buyers can range up to 34% of the value of the equity interests transferred for transfer instruments executed on or after 6 July 2018. ACD is also payable in addition to the prevailing stamp duty

of 0.2% for the transfer of shares in companies. ACD for sellers is 12% of the value of the equity interests transferred. Sellers are not exposed to ACD if the equity interests disposed have been held for more than three years.

The rates described above will similarly apply in the case of partial ownership transfers.

The sale of non-residential real estate is subject to goods and services tax (GST), currently at the rate of 7%. The sale and purchase of residential property is exempt from GST.

2.11 Legal Restrictions on Foreign Investors

As mentioned in **2.2 Laws Applicable to Transfer of Title**, the RPA sets out restrictions on foreign ownership of residential property in Singapore, but there are some exemptions. Non-Singaporeans and non-Singapore entities may acquire approved condominium developments or flats in buildings of at least six storeys. Subject to other rules, foreign developers may acquire residential property for the purpose of developing it for sale.

3. REAL ESTATE FINANCE

3.1 Financing Acquisitions of Commercial Real Estate

Acquisitions of commercial real estate are traditionally financed by loans from banks and financial institutions. In light of tax incentives and the low-interest environment, in recent years purchasers have turned to corporate bond issuances. Notwithstanding interest generated by crowdfunding – and, in some cases, direct lending of debt funds, particularly to small- and medium-sized enterprises – direct bank lending and corporate debt issuance remain the predominant sources of financing for large commercial acquisitions.

3.2 Typical Security Created by Commercial Investors

An investor (who is the borrower) will typically grant a mortgage on real estate to a lender or lenders.

Where separate title to real estate has been issued, an investor may provide security by way of a mortgage, which will be registered against the title in the land register.

Where separate title has not been issued, an investor may provide security by way of an assignment of rights under the relevant contract for sale (eg, a building agreement or a sale and purchase agreement in respect of real estate). The assignment of the contract will be executed together with a mortgage over real estate, which is executed in escrow and held by the lender until separate title to the real estate has been issued, when the mortgage is then registered.

3.3 Restrictions on Granting Security over Real Estate to Foreign Lenders

Generally, Singapore companies are not restricted from providing security over real estate to foreign lenders, or from making loan repayments to a foreign lender, and there are no exchange controls in Singapore. However, the title to some leasehold real estate may require the lenders or mortgagees to be financial institutions permitted under the laws of Singapore to lend to the borrower.

Financing in the context of the “lending of moneys” is a regulated activity subject to the jurisdiction of certain statutes. Express approval will have to be obtained if a foreign lender who is not licensed under the Banking Act or the Monetary Authority of Singapore Act engages in the lending of moneys.

3.4 Taxes or Fees Relating to the Granting and Enforcement of Security

Stamp duty is payable where security is created over real estate or shares, subject to a cap of SGD500. A registration fee is payable for the registration of the mortgage.

3.5 Legal Requirements Before an Entity Can Give Valid Security

Under the Companies Act (CA), companies incorporated in Singapore are prohibited from directly or indirectly providing financial assistance in connection with the acquisition of shares of a holding company, including the provision of real estate assets as security. As of 1 July 2015, the CA was amended to limit the scope of this prohibition to public companies incorporated in Singapore or companies whose holding company is a public company. With this amendment, acquisition financing is simplified for acquisitions of private companies. “White-wash” procedures will no longer be required if the target and its subsidiaries are expected to provide security over their real estate to finance the acquisition.

With some exceptions, the CA also prohibits companies from giving security for loans made to another company if the directors of the first company have a 20% interest or higher of the total number of equity shares in the latter company.

The CA requires a director to “at all times act honestly and use reasonable diligence in the discharge of the duties of his office.” The directors of a company have to ensure there is corporate benefit in providing any security over its real estate assets, particularly if the real estate assets are provided in a group-borrowing context. Any exercise of the directors’ power to grant security outside of the director’s fiduciary duties may be subject to challenge by the liquidator and other creditors.

Title documents may contain restrictions with respect to giving security over real estate.

3.6 Formalities When a Borrower Is in Default

Generally, security over real estate can be enforced upon default by a borrower through the following methods:

- the appointment of a receiver;
- obtaining possession of the real estate (eg, by court order or by consent) and subsequently exercising the power of sale; or
- foreclosure.

Where the exercise of power of sale is in respect of real estate held under a lease issued by the JTC Corporation, the real estate can only be sold subject to the JTC's prior consent and in accordance with terms imposed. Some real estate held under a lease from a statutory board prohibits the security-holder from exercising its right of foreclosure if the security-holder is owned by a foreign government.

In the case of registered land, the Land Titles Act confers priority according to the order in which security interests are registered.

3.7 Subordinating Existing Debt to Newly Created Debt

The usual methods of subordination are structural subordination and contractual subordination (ie, turnover subordination and subordination of rights of payment in the event of the debtor's insolvency). The efficacy of subordination arrangements remains open to question in Singapore, although it is likely that these arrangements will be upheld as long as the general body of unsecured creditors is not prejudiced thereby.

3.8 Lenders' Liability under Environmental Laws

While the Environmental Protection and Management Act (EPMA) distinguishes between an owner and an occupier (including a lessee), in most circumstances, both are liable in the event of pollution. There are also statutory presumptions under the EPMA, such as the presumption that the occupier is at fault where toxic substances or hazardous substances are discharged into water.

The definition of "occupier" under the EPMA is very broad and includes any "person in occupation of the premises or having the charge, management or control thereof". It may include a mortgagee who has taken possession of the real estate.

3.9 Effects of a Borrower Becoming Insolvent

Under the CA, a company granting security over real estate will be required to file a statement containing the particulars of the charge created with the Accounting and Corporate Regulatory Authority, if the charge is created in Singapore, within 30 days of the creation of the security. If this requirement is not met, the security is void against a liquidator and any creditor of the company.

Liquidators and judicial managers have the power to apply to court to set aside pre-liquidation transactions that are deemed to be at an undervalue or that constitute an unfair preference. Under the Insolvency, Restructuring and Dissolution Act 2018, the claw-back period is three years for undervalue transactions and one year for transactions constituting an unfair preference, calculated backwards from the date of commencement of liquidation. Where an unfair preference was given to an associate of the company, the claw-back period extends to two years prior to the commencement of liquidation.

3.10 Consequences of LIBOR Index Expiry

A definitive replacement for LIBOR has yet to be determined, although the Sterling Over Night Index Average (SONIA) for sterling loans and the Secured Overnight Financing Rate (SOFR) for US dollar loans appear to be front-runners as alternative benchmarks. In 2020, the Monetary Authority of Singapore began moving towards the Singapore Overnight Rate Average (SORA) as a replacement for the Singapore Dollar Swap Offer Rate (SOR), which uses LIBOR in computation. There is concern that existing loan documentation that extends beyond 2021 maturity and relies on LIBOR rates may not contain sufficient provisions to cater to the scenario where LIBOR entirely ceases to be available. The waterfall alternative fall-back rates and market disruption regime in most existing loan documentation are only intended to address temporary issues in interest rate availability. From a borrower's perspective, relying on the market disruption regime in the Loan Market Association (LMA) or Asia Pacific Loan Market Association (APLMA) type of loan documentation may expose borrowers to lenders' individual cost of funds rather than resulting in an objective market benchmark.

However, in previous years, lending documentation published by the LMA and the APLMA has been updated to provide for alternative/replacement benchmark rates to apply with the consent of the majority lenders and the obligors.

Whilst references in loan documentation to the precise replacement of LIBOR will likely evolve over time, once alternative benchmarks in the respective markets are identified, parties to loan documentation should ensure that all future loan documentation is negotiated or amended to contain a replacement of a screen rate clause to cater for the cessation of and transition to a benchmark rate, while due consideration should

be taken regarding the level of consent required to enact such a replacement.

4. PLANNING AND ZONING

4.1 Legislative and Governmental Controls Applicable to Strategic Planning and Zoning

The URA administers the Planning Act and its subsidiary legislation. The Planning Act regulates the development of land in Singapore according to a master plan, which is a statutory land use plan renewed every five years. Development and building works in Singapore require the planning permission of the URA, except for minor development and building works that are exempt from the requirement for planning permission.

4.2 Legislative and Governmental Controls Applicable to Design, Appearance and Method of Construction

All building works require building plan approvals, except works (such as insignificant building works) that are exempt under the Building Control Act (BC Act).

The approval process for building works is an ongoing process involving engagement with the Building & Construction Authority (BCA) via a qualified person (QP) – either an architect registered under the Architects Act or a professional engineer registered under the Professional Engineers Act.

Requirements imposed will depend on the building works concerned and the building/area in which such works are to be carried out. The works should also fulfil the prime objective of safety, amenity and matters of public policy in general, as guided by the BC Act, its regulations and various codes. The BC Act also requires the

licensing of builders, particularly those performing specialist works.

Approvals will also have to be obtained from other government authorities for compliance with requirements such as height restrictions, access to and from public roads, discharge of waste, sewerage or surface water, and fire safety.

4.3 Regulatory Authorities

The URA regulates the use of developments, through the Planning Act and subsidiary legislation. There are allocated permissible uses for each property type. The BCA is the principal agency that regulates developments in Singapore, through approvals of building plans.

The development of a parcel of real estate will have to comply with various legislation and regulations on different aspects, such as development planning and control, building and structural safety, fire safety, environmental control, utilities (water, electricity and gas supply) and workplace safety and health.

4.4 Obtaining Entitlements to Develop a New Project

The development application typically commences with the owner/developer appointing a QP.

After the QP submits a development application to the URA for planning permission, the common types of planning permission that may be granted are provisional permission and grant of written permission. Permissions may be unconditional, or subject to such conditions as the URA deems fit, with reasons being given in writing. Conditions may include granting permission for a specified period and/or restrictions on the height, design, appearance or siting of buildings.

In addition, all building works require building plan approval, including the refurbishment of

an existing building, except for those exempted under the BC Act.

There is no formal process for a third party (eg, a member of the public) to intervene in the planning permission process or the building plan approval process.

4.5 Right of Appeal Against an Authority's Decision

Where the URA rejects an application for planning permission, an appeal to the Minister for National Development may be made within 60 days of the date of notification of the decision.

Where any application made for the approval of plans of any building works is refused, or is granted by the Commissioner of Building Control subject to terms and conditions, an aggrieved applicant may appeal to the Minister for National Development against the decision within 14 days of being served with notice of the decision.

4.6 Agreements with Local or Governmental Authorities

Generally, subject to obtaining the relevant permits/approvals, an owner/developer would be able to develop a project without any requirement to enter into additional agreements with the relevant authorities to facilitate the project. An owner/developer is at liberty to enter into a separate agreement with a utility supplier for the provision of utilities.

4.7 Enforcement of Restrictions on Development and Designated Use

In general, where there appears to be a breach of planning control, the relevant authority has the right to enter the real estate and to serve a notice on the owner or occupier requiring them, inter alia, to provide information relating to use of the real estate. Once a breach is ascertained, the relevant authority has the right to serve an enforcement notice, which may require, inter

alia, the alteration, demolition or removal of any building or works. The possible penalties for non-compliance are fines and/or imprisonment.

5. INVESTMENT VEHICLES

5.1 Types of Entities Available to Investors to Hold Real Estate Assets

Investment in real estate assets can be made by individuals, companies, partnerships (including limited liability partnerships), business trusts or REITs.

Generally, limited liability companies are considered to be the entities that best protect owners (shareholders) from personal liability while retaining the right to control the operations. They also provide an alternative to a direct asset sale by way of sale of their shares.

5.2 Main Features of the Constitution of Each Type of Entity

There are no particular requirements to be included in the constitution of a company used to invest in real estate. The constitution of Singapore companies used to invest in real estate will generally have the capacity and authority to acquire and deal with real estate as express objects in their constitution.

5.3 Minimum Capital Requirement

There is no minimum capital required to set up a Singapore company. However, if a company intends to obtain a licence under the Housing Developers (Control and Licensing) Act, it has to comply with the minimum paid-up capital requirements.

5.4 Applicable Governance Requirements

A company will have a sole director or a board of directors. The company must have at least one director who is ordinarily resident in Singapore.

The business of the company must be managed by, or under the direction or supervision of, the directors, who may exercise all the powers of a company except any power that the CA or the constitution of the company requires the company to exercise in a general meeting.

5.5 Annual Entity Maintenance and Accounting Compliance

It is difficult to quantify compliance cost as they depend on the service provider(s) appointed.

6. COMMERCIAL LEASES

6.1 Types of Arrangements Allowing the Use of Real Estate for a Limited Period of Time

Other than ownership of real estate, arrangements for the occupation and use of real estate include leases and licences. The law also recognises easements that grant limited rights (eg, right of way) and “profit à prendre” (which allows the right holder to take or use something on the land, such as the cutting-down and removal of timber).

6.2 Types of Commercial Leases

In Singapore, commercial leases can generally be divided according to their use – eg, office, retail and industrial leases.

6.3 Regulation of Rents or Lease Terms

The terms of a lease (including rent) are freely negotiable between the parties. Temporary legislation was passed in 2020 to allow a moratorium on legal action against contractual parties if they were unable to perform or had breached their contractual obligations for specified contracts (including leases or licences of non-residential properties) due to the impact of the COVID-19 pandemic and had served a notification for relief as prescribed under such legislation.

A framework for rental relief was also established to support qualifying tenant-occupiers that are small and medium enterprises (SME). Such rental relief was in the form of cash grants from the government as well as mandatory rental waivers by landlords, for the period of April to July 2020, depending on the eligibility of the tenants. However, landlords that were required to provide the one-off rental waiver could offset their obligation against any rental waivers or reduction that they had previously extended to their tenants due to the COVID-19 pandemic.

The government also introduced a further framework allowing the renegotiation of qualifying leases or licences in the fourth quarter of 2020 (Re-Align Framework). Under the Re-Align Framework, parties to qualifying leases or licences could serve a notice of negotiation on other contractual parties between 15 January 2021 and 26 February 2021, to renegotiate the lease or licence. If the renegotiation was unsuccessful, the lease or licence was terminated pursuant to the terms of the Re-Align Framework.

6.4 Typical Terms of a Lease

There is no fixed duration for the length of a lease; it depends on the needs of the lessee and the agreement made between the lessor and lessee.

The tenant is typically responsible for the upkeep of the property and is required to maintain and repair the real estate, preserving it in good condition. The tenant's failure to comply with this covenant will constitute a breach of a term of the lease, for which the landlord will be entitled to enter the premises to carry out necessary works and to recover the costs of so doing from the tenant.

Rent is typically payable monthly in advance.

Please refer to **6.3 Regulation of Rents or Lease Terms** regarding the Re-align Framework for renegotiations of qualifying leases or licences.

6.5 Rent Variation

Whether the rent remains unchanged or is variable during the length of the lease term depends on the agreement between the lessor and lessee.

6.6 Determination of New Rent

The rent may be varied at a fixed rate or may be pegged to an index such as the consumer price index or the prevailing market rent. The exact mechanism is up to the parties to negotiate.

6.7 Payment of VAT

GST is payable on rent, except in the case of leases of residential properties, which are exempt from GST.

6.8 Costs Payable by a Tenant at the Start of a Lease

The tenant usually pays the stamp duty chargeable on the lease and a security deposit as security against breach of terms of the lease. He or she may also be required to pay service charges or charges for the hire of furniture and fittings and the landlord's legal costs and/or administration fees.

6.9 Payment of Maintenance and Repair

Landlords are typically responsible for the costs of maintaining and repairing common areas shared by several tenants.

6.10 Payment of Utilities and Telecommunications

Tenants will arrange with and pay suppliers directly for the supply of utilities and telecommunications. If separate metering for utilities is not possible for the leased premises or if the landlord is purchasing electricity in bulk for the

entire property, the landlord will arrange for the supply of utilities to the leased premises and apportion the charges for utilities to the tenants.

6.11 Insuring the Real Estate That Is Subject to the Lease

The tenant will bear the cost of insuring the real estate that is the subject of a lease. A landlord will usually require the tenant to take up the policy in the joint names of the landlord and the tenant.

A public liability insurance policy is typically required to be taken up to cover claims arising from personal injury, death or property damage or loss. A tenant may also be required to insure (i) all of their property at the leased premises against damage by fire and other risks, and (ii) all plate-glass windows and doors of the leased premises for the full insurable value.

6.12 Restrictions on the Use of Real Estate

The Planning Act permits various uses for various premises. Accordingly, in a lease, a landlord will stipulate the permitted use and require a tenant not to use the premises other than for the permitted use or the use approved by law.

6.13 Tenant's Ability to Alter and Improve Real Estate

Upon entry into a new lease, the landlord will commonly allow the tenant to undertake fitting-out works during a prescribed fitting-out period, subject to compliance with conditions such as approval of plans for the fitting-out works. These conditions are sometimes set out in a handbook.

6.14 Specific Regulations

Specific regulations that apply to the different categories of real estate generally pertain to their uses. A landlord of a commercial real estate approved for one use class may only lease premises for that use class. Similarly, a light industrial

building cannot be utilised for general industrial use without prior approval for change of use.

Legislative relief measures were introduced in 2020 in response to the COVID-19 pandemic in respect of specified contracts, which include qualifying leases or licences for non-residential immovable property for a term not exceeding five years. Additional relief measures were also introduced for tenants of non-residential property who were unable to carry out or complete renovation or fitting-out works during their rent-free period, and landlords who were unable to deliver possession or allow use of premises under a lease or licence of non-residential property. To qualify for the relief measures, such inability to perform must have been reasonably unavoidable and caused by COVID-19-related delay or breach in a construction or supply (or related) contract that occurred between 1 February 2020 and 31 March 2021.

6.15 Effect of the Tenant's Insolvency

If the tenant becomes insolvent, leases will generally provide that the landlord will be entitled to terminate the lease and exercise the right of re-entry to the premises. Leases will also provide that the landlord is entitled to use the security deposit and apply it towards unpaid rent and other outstanding obligations.

Under insolvency legislation, there are limitations to the landlord's possible remedies in the event of the insolvency of the tenant. If bankruptcy or compulsory liquidation proceedings have commenced, legal proceedings against the tenant will require leave of court. A landlord will have to file a claim with the official assignee or the liquidator for outstanding rents and monies owed under the lease. There may also be issues as to whether the landlord is entitled to use the security deposit, as the security deposit may be considered part of the tenant's assets to which all creditors are entitled.

6.16 Forms of Security to Protect against a Failure of the Tenant to Meet Its Obligations

A landlord will collect a security deposit, payable by way of cash, banker's guarantee or both (and sometimes a parent-company guarantee), at the commencement of a lease to secure against non-performance or default on the part of the tenant with respect to its obligations under the lease.

6.17 Right to Occupy after Termination or Expiry of a Lease

If a tenant continues to occupy the real estate after the expiry or termination of a lease without the consent of the landlord, that would constitute a breach of the terms of the lease. Unless otherwise specified in the lease, a tenant remaining in the property after determination of a lease will be chargeable with double rent (or double value). The landlord may also be entitled to claim for mesne profits.

To ensure the tenant vacates the leased premises on the date originally agreed, the landlord must clearly specify this in the lease; it must be expressed that the landlord does not consent to him or her remaining in the property after the expiry or determination of the lease.

6.18 Right to Assign a Leasehold Interest

Leases in Singapore typically prohibit a tenant from assigning or sub-letting without the prior written consent of the landlord, which may be given subject to terms and conditions. Conditions imposed for consent may range from a fee or levy payable to increased rents or a requirement for sharing of profits from the sub-let rents.

6.19 Right to Terminate a Lease

Whilst a tenant would typically have minimal or no right to terminate the lease, the landlord would be able to terminate the lease and exer-

cise the right of re-entry if any of the following occurs:

- non-payment of rent or other sums payable under the lease;
- breach of any term or condition of the lease;
- compulsory land acquisition by the authorities;
- major damage and destruction of the building in which the leased premises are comprised;
- insolvency of the tenant; or
- a prolonged force majeure event.

6.20 Registration Requirements

A lease of land for a period exceeding seven years shall be void under Singapore law unless it is made by deed in the English language. There is no formal requirement for the registration of leases but a lease of registered land for a term exceeding seven years may be registered under the land registration system. A registration fee is payable by the party submitting the lease for registration.

6.21 Forced Eviction

A typical lease will provide for the landlord to determine the lease and exercise the right of re-entry in respect of the premises if any event of default on the part of the tenant occurs.

The Conveyancing and Law of Property Act (CLPA) governs the exercise of a landlord's right of forfeiture, including prescribing for notice requirements. Where the requirements are complied with, the landlord may then exercise its right of re-entry.

Re-entry is usually effected by issuance of a writ of possession (a process by which the landlord seeks from the court the right to serve an order requiring the tenant to leave the premises) but the landlord is entitled to effect peaceable re-entry and take possession of the property if the lease provides for it.

Upon the purported exercise by the landlord of a right to forfeit the lease, the tenant may apply to court for relief from forfeiture, pursuant to the CLPA. Specifically with regard to a situation where rent has not been paid, after the court has ordered the tenant to return possession to the landlord, the tenant has to pay the rent in arrears; if the tenant does so, the tenant may continue to hold on to the lease.

The total duration required before the landlord regains possession will depend largely on whether the statutory requirements have been complied with by the landlord, the complexity of the claim, whether the tenant seeks relief from the forfeiture and whether the tenant has paid outstanding rent prior to the landlord's possession.

The legislative relief measures passed in 2020 in the wake of the COVID-19 pandemic included various moratoriums on forfeiture or re-entry. Parties to qualifying leases or licences could serve a notification for relief as prescribed under such legislation for relief against prescribed legal action (including forfeiture or re-entry) where they had been unable to perform or had breached their contractual obligations under leases or licences of non-residential properties. Such contractual breaches or inability to perform must have been caused by the COVID-19 pandemic. The framework for this relief ceased to be effective from 20 November 2020.

Under the framework for rental relief, there is also a moratorium on forfeiture or re-entry against eligible SME tenant-occupiers that qualify for the rental relief. The moratorium began on 31 July 2020 and will end upon the issuance of a notice of the rental relief to the property owner by the tax authority of Singapore, the Inland Revenue Authority of Singapore. If no such notice is received, the moratorium will end on 30 April 2021.

Under the Re-Align Framework, parties to qualifying leases or licences may serve a notice of negotiation on the other contractual parties between 15 January 2021 and 26 February 2021, to renegotiate the lease or licence. To facilitate such negotiation, a moratorium against prescribed legal action (including forfeiture or re-entry) will be imposed from the date of service of the notice of negotiation. This moratorium will be lifted on various dates, depending on the range of scenarios set out under the Re-Align Framework.

6.22 Termination by a Third Party

As mentioned in **2.9 Condemnation, Expropriation or Compulsory Purchase**, land may be compulsorily acquired.

The length of the compulsory acquisition process will depend on the urgency with which the real estate is needed by the State or relevant agencies, and whether there are objections from the persons concerned.

7. CONSTRUCTION

7.1 Common Structures Used to Price Construction Projects

The two most common contractual models for pricing construction works are the "lump sum" contract and the "measurement" contract.

The lump sum contract is the most common form of construction contract and is used where the type and quantities of works are clearly defined. In this form of contract, the contractor is paid a lump-sum price for works described in the contract. Subject to the conditions, the lump-sum price may be subject to change, due to, for example, the addition or omission of works, extensions of time resulting in increased costs and expenses, and/or agreed fluctuations in prices of materials.

The measurement contract is used where the type and quantities of works are not clearly defined at the time a tender is called. In such a case, the contractor usually submits a schedule of rates (SOR) setting out the cost of each type of materials, parts and labour required for the works. Upon completion of the works, parties would carry out measurements, usually with the assistance of a quantity surveyor, to determine the types and quantities of materials, parts and labour incorporated into and expended for the works, and apply the rates stated in the SOR to determine the amount of payment due to the contractor.

7.2 Assigning Responsibility for the Design and Construction of a Project

Under the traditional contracting model, the employer, who is the owner of the project, will engage a third-party consultant (an architect in a building project, or an engineer in an engineering project) as the lead consultant responsible for the preparation and completion of the design. That lead consultant typically also oversees the development of the project, together with other consultants engaged by the employer, and acts as the contract administrator or superintending officer for the main construction contract. He or she would also undertake the role of an independent certifier who would certify payment, assess claims by the contractor and certify the works done and, ultimately, the completion of the project, fairly and independently, notwithstanding having been appointed by the employer.

In such a model, the responsibility for design lies with the consultants; the contractor will only be responsible for the building works.

The employer will have direct contractual recourse to its directly appointed consultants for any deficiency in design and against the main contractor for any delay or defects in the building works that are not design-related. The main

contractor is responsible for the building works and is typically liable for any delay or any other default under the terms of the main construction contract arising out of its works, even if such delay is caused by a subcontractor. There are specific instances where an employer may wish to have direct rights against a specialist subcontractor (eg, in relation to water-proofing works) or a supplier (eg, in relation to the supply of certain fixtures). This would require the specialist subcontractor or supplier to extend a warranty in relation to those specialist works or material to the employer.

Alternatively, it is increasingly common for employers to enter into a “design and build” contract where responsibility for design and construction lies solely with the main contractor. In this model, the employer provides a desired outcome and broad specifications for the project. As the single point of responsibility, the main contractor undertakes the obligations and risk of the design (through its employment of the relevant architects, engineers and consultants) and the construction of the project. In this model, the employer typically does not have direct contractual recourse against the architect and engineers who are appointed by the main contractor, but would have recourse to the main contractor.

7.3 Management of Construction Risk

Contractors and specialist subcontractors are typically required to furnish undertakings and/or indemnities relating to specific works. Employers of large projects would commonly require a security deposit, in the form of a cash deposit or a performance bond. This provides the employer with some security in the event of non-performance by the contractor. Performance bonds typically secure about 5% to 10% of the value of the contract and are usually valid up to the expiry of the defects liability period.

It is also common for performance bonds to be drafted as “on demand” bonds, which would require the issuer of the performance bond to make payment to the beneficiary on demand, without enquiring into the beneficiary’s reasons for the demand. A restraint on payment under such bonds will only be allowed on limited grounds (eg, fraud or unconscionability), although unconscionability can be excluded as a ground for such restraint under the contract, or in the performance bond.

In some cases, employers may also require a parent-company guarantee from the contractor. Under legislative measures passed in 2020 arising from the COVID-19 pandemic, parties to qualifying construction and supply contracts can serve a notification for relief as prescribed under such legislation for, among other things, temporary relief against calls on performance bonds, where they had been unable to perform or had breached their contractual obligations. Such contractual breaches or inability to perform must have been due to the COVID-19 situation.

Payment mechanisms in the building contract are usually designed to provide payment for works that have already been done, rather than in advance. A contract administrator is often tasked with certifying that the works have been done, whilst reserving the right to require any rectification of defects, or to dispute any such works that fall short of the employer’s requirements. Furthermore, the employer usually reserves rights to have access to and inspect the works, or to request the opening up of the works for inspection. The employer usually also incorporates a contractual right to require the main contractor to rectify defects in the works that might surface during a period of a year or 18 months from the date of completion (usually referred to as a maintenance period or defects liability period).

Typically, the employer would also have various contractual rights to terminate a construction contract in certain pre-agreed events (eg, the bankruptcy of the contractor, failure to start works, failure to comply with material obligations under the contract, etc). The exercise of such rights is usually subject to strict compliance with the contractual provisions (eg, notice requirements and cure period).

Contractors are usually obliged to provide certification and warranties for certain types of works (eg, fire-rating certificates for doors, and water-proofing warranty to guarantee the watertightness of roof and wet areas).

Insurance is also particularly crucial in building contracts for managing risks. The employer often requires contractors to procure contractors’ all-risks insurance, public liability insurance and other insurances as may be prudent, having regard to the work. Employers usually require consultants to obtain professional indemnity insurance. Workers’ compensation insurance is required to be taken out by all parties (including the employer and the contractor) by law under the Work Injury Compensation Act to compensate employees for any personal injury by accident.

7.4 Management of Schedule-Related Risk

Most building contracts will contain provisions allowing for extensions of time and providing for the payment of liquidated damages by the contractor in the event of delay in the completion of the project. Allowance for valid grounds for extensions of time is crucial to prevent time from being set at large, where, for example, a delay is caused by the employer.

A liquidated damages clause gives the employer a remedy of receiving an agreed sum, usually accrued on a daily basis, based on a genuine

pre-estimate of the loss in the event that there is a delay in the completion of the project. Contractors may negotiate for a limitation of delay-related liability with the employer, or for the exclusion of certain liabilities (eg, indirect and consequential losses).

If it appears that there is going to be a delay in the works, the employer's first course of action would usually be a request for the contractor to expedite its works. Depending on the form of contract used, the employer may also request that the contract administrator issues an instruction or direction to the contractor setting out the delay and requiring that the works be expedited. The contractor will not be allowed to claim any additional losses or expenses arising from a delay if the delay is not excusable under any ground for an extension of time. A claim for acceleration costs might be viable if it can be shown that the employer had expressly or constructively issued an instruction or direction for accelerative measures to be undertaken.

Where it is stated that time is of the essence in completing the contract, the employer may rely on this as a ground for terminating the contract.

Under legislative measures passed in 2020 arising from the COVID-19 pandemic, the completion dates of qualifying construction contracts are automatically extended by up to 122 days, to address the severe impact various lockdown measures have had on construction progress and productivity. Employers are also required to co-share up to 50% of qualifying prolongation costs incurred by contractors due to delays arising out of COVID-19. Over and above the default reliefs (which are applicable to most construction contracts), parties to qualifying construction and supply contracts can also serve a notification for relief as prescribed under the COVID-19 legislation for additional reliefs against certain prescribed legal action (including the imposi-

tion of liquidated damages) if they have been unable to perform or have breached their contractual obligations. Such contractual breaches or inability to perform must have been due to the COVID-19 situation. This framework for relief is currently scheduled to cease after 31 March 2021.

7.5 Additional Forms of Security to Guarantee a Contractor's Performance
See **7.3 Management of Construction Risk**.

7.6 Liens or Encumbrances in the Event of Non-payment

The contractor has no right under general law to impose a lien or otherwise encumber an immovable property in the event of non-payment.

However, a contractor has the statutory right under the Building and Construction Industry Security of Payment Act to a lien over unfixed goods supplied by the contractor that have not been paid for, if the contractor has obtained an adjudication determination in its favour under the Act and the amount determined thereunder has not been paid.

7.7 Requirements Before Use or Inhabitation

Upon completion of the works in a building project and before occupation of the building is permitted, the QP has to apply to the BCA for a Temporary Occupation Permit (TOP) and subsequently for a Certificate of Statutory Completion. Upon the issuance of a TOP, the project can be inhabited.

8. TAX

8.1 VAT

Singapore imposes GST at the prevailing rate of 7% on all imports of goods and taxable supplies of goods and services made by a taxable per-

son in the course or furtherance of carrying on a business. In its Budget 2018, the government announced that the GST rate is set to increase to 9% sometime between 2021 and 2025. The government recently confirmed that the GST rate will not be increased in 2021 but an increase to 9% will still be needed by 2025.

A purchaser of non-residential real estate will be liable for payment of the GST unless the purchase is part of the transfer of a business as a going concern and the prescribed conditions for exemption are satisfied. Supplies of residential property are exempt from GST.

8.2 Mitigation of Tax Liability

Subject to the fulfilment of conditions, remission of stamp duty is available at law in a number of circumstances (eg, reconstruction of certain companies and transfers between certain associated companies). Under Section 33A of the Stamp Duties Act, there is a general anti-avoidance rule that grants broad powers to the Commissioner of Stamp Duties to challenge any arrangement that reduces or avoids liability for stamp duty.

8.3 Municipal Taxes

Apart from GST and stamp duty, businesses owning immovable property are also subject to property tax at the rate of up to 10% on the annual value of the property.

8.4 Income Tax Withholding for Foreign Investors

Rental income is subject to income tax, which is payable by the landlord. The prevailing corporate tax rate is 17%. Where real estate is sold by a seller who is a property trader, gains are also subject to income tax. Where the seller is a property trader who is not resident in Singapore and whose operations are carried on outside Singapore, such gains are subject to withholding tax at 15% of the consideration, but the seller may file a tax return to claim deduction for allowable expenses. Where a seller is not a property trader, the gains are not subject to tax as there is no capital gains tax in Singapore.

8.5 Tax Benefits

Expenses incurred solely for producing the rental income and during the period of tenancy may be claimed as tax deductions. Depreciation of furnishings (eg, furniture, fixtures and electrical appliances) is not claimable.

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WongPartnership LLP has more than 400 lawyers across offices in Beijing, Shanghai and Yangon, and also in Abu Dhabi, Dubai, Jakarta, Kuala Lumpur and Manila through member firms of WPG, a regional law network. WongPartnership has one of the largest teams of real estate lawyers in the country and has worked on a diverse range of deals in Singapore and throughout the region, across different real estate investment products. The firm's corporate real estate practice offers domain knowledge on acquisitions, divestments and financing arrangements, joint ventures, purposed build-to-suit projects, commercial leasing and small or extensive development projects. The firm's expertise also includes structuring, preparing and negotiating leases and other documents on behalf of landlords and tenants (including

long-term leases of industrial land or co-working spaces for various complex developments), advising major developers, landlords and tenants across all asset classes (including commercial, retail, industrial, residential and mixed-use developments), advising statutory boards, government bodies and charities on real estate issues, advising investors in the purchase and tenders of land from government and private or statutory bodies or units in collective sales, and acting for both lenders and borrowers in property-backed financing/refinancing transactions. WongPartnership's clientele includes high net worth individuals and families, major developers, foreign and local property funds, publicly listed and private real estate companies and funds, financiers, government-linked companies and statutory bodies.

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Trends and Developments

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Introduction

The COVID-19 pandemic was a defining event of 2020 and created macroeconomic headwinds that were felt the world over. The pandemic's disruption of business activity resulted in Singapore's gross domestic product shrinking by a post-independence record of 5.6%, which has had a significant effect on Singapore's real estate market in the past 12 months. In the commercial real estate sector, office and retail premises were heavily affected, particularly during the "circuit breaker" period in the first half of 2020 when non-essential businesses, shops and services were closed. In contrast, private residential home sales defied recessionary pressure and showed healthy growth in prices and sales volume. In fact, developers managed to sell more than 9,900 private residential units in 2020, which was slightly higher than the number of units sold in the previous year.

To address the economic effects of the unfolding health crisis, the Singapore government rolled out several relief measures, including measures that applied to contracts relating to Singapore real estate, to help counter the impact of the COVID-19 pandemic. Attributable in part to the various relief measures, and even though Singapore's property market stumbled under the stress of the impact of the pandemic on the economy, the adverse effects on the Singapore property market were generally less severe than originally expected and significantly lower than those recorded during the Global Financial Crisis in 2008 and 2009.

In addition to the current policies implemented by the Singapore government, it is important to

note the new developments in real estate as well as the existing property trends that have accelerated as a result of growth in some business sectors caused by the COVID-19 pandemic, such as the positive performance by the industrial and logistics sectors (including data centre businesses and warehouse spaces) in Singapore and the development of property-related technology.

Commercial Real Estate Sector

During the "circuit breaker" period imposed by the Singapore government between 7 April 2020 and 1 June 2020 in response to the health threats of the COVID-19 pandemic, "non-essential" offices and shops were required to close and, where possible, implement work from home (WFH) policies. This had an immediate adverse impact on the retail and food and beverage businesses, leading to a huge fall in business activities in malls and shopping centres. The cash flow of many businesses, particularly small and medium enterprises (SMEs), was crippled.

To support SME tenants and licensees of non-residential properties (including those of commercial properties such as office premises, retail shops and industrial properties) and to buffer the broader economy and help property owners continue to enjoy the stable value of their assets in the longer term, the Singapore government implemented a series of targeted, temporary measures.

As part of the Singapore Budget announced on 18 February 2020 and the supplementary Resilience Budget announced on 26 March 2020, owners of various non-residential properties who were able to satisfy the respective criteria were

granted property tax rebates for the period of 1 January 2020 to 31 December 2020, with up to 100% in property tax rebates for certain qualifying properties. These rebates had to be fully and unconditionally passed on to the tenants either in the form of reduction or offsetting of current or future rents or by way of payments to tenants over a prescribed timeframe.

Legislation was passed at the beginning of the second quarter of 2020 to provide for moratoriums on legal actions taken in response to contracting parties' breaches or inability to fulfil obligations (including non-payment of rent or licence fees) in respect of specified contracts (including leases and licences of non-residential properties) where such breaches or inability were to a material extent caused by the COVID-19 situation.

Temporary relief was also provided in the form of a rental relief framework for qualifying SME or non-profit organisation tenants of non-residential properties. Such relief came in the form of government cash grants for property owners, who were required to pass on the rental relief through a waiver of rents. Landlords were able to offset such obligations to provide rental relief where they had previously extended rental waivers or reductions to tenants as a result of the COVID-19 pandemic.

The measures were aimed at encouraging parties to co-share their contractual obligations and compromise to reach mutually acceptable arrangements. Where parties could not agree (eg, where the inability to perform the contract was materially caused by the COVID-19 pandemic), applications could be made to a panel of assessors for an assessor's determination, which would be final and conclusive. In this regard, legislation was passed for a panel of assessors to be appointed by the Minister of Law. A short

time line was set for the application process and determination by the assessors.

In November 2020, the Singapore government began a transition to a new framework, the Re-Align Framework, in response to the evolving COVID-19 environment in Singapore. Under the Re-Align Framework, eligible parties to specific contracts (including leases and licences of non-residential properties) could serve a notice of negotiation on the other contractual party, between 15 January 2021 and 26 February 2021, to renegotiate the terms of their contracts; if negotiations were unsuccessful, such contracts would be deemed terminated subject to certain default terms applying thereunder. While the impact of the Re-Align Framework on the real estate sector has not yet been determined, it is nevertheless thought that the Framework may affect both landlords/licensors and tenants/licensees of non-residential properties.

Notwithstanding the above, Singapore did see several large property transactions in 2020. These include the successful completion of the merger of two Singapore real estate investment trusts (REITs) to create the largest Singapore REIT and the second largest REIT in Asia-Pacific, as well as the sale and purchase of sizeable buildings and substantial investments into funds and companies holding stakes in prominent commercial buildings. It should be noted that both the rent and prices of office space saw significant drops in 2020 compared to 2019. However, it remains to be seen whether a potential long-term shift to WFH or de-densification after the COVID-19 pandemic will lead to a structural reduction in demand for office space. In this regard, some investors remain optimistic as the need for safe-distancing measures may not necessarily reduce the footprint of offices required by businesses.

The Residential Property Market

In contrast to the commercial real estate sector, demand for residential property generally remained resilient in 2020 and the volume of private residential home sales was healthy. During the “circuit breaker” period, show flats were closed and physical home viewings were discontinued. This caused the monthly new private homes sales in April to drop to lows not seen in close to six years. However, buying activities of residential property rebounded strongly after the government-imposed movement restrictions and restrictions against the operation of physical offices of non-essential businesses were lifted in the second half of the year, and there was little difference in the increase of private residential property prices in 2020 compared to the increase in 2019.

Although non-essential travel reduced dramatically in the past 12 months, the fundamentals that have attracted investors in the past – including sound property market fundamentals, ease of conducting business, real estate planning policy transparency and political stability – are likely to continue to attract wealthy foreign investors to Singapore’s residential property market. This will surely be buffered by Singapore’s push to grow the private wealth management industry. The coming into effect of the Variable Capital Companies Act in January 2020 and the grant offered by the Monetary Authority of Singapore to help defray costs paid to Singapore service providers likely helped to ignite some interest in setting up variable capital companies to invest in and restructure real estate assets held by family offices.

The positive performance of the residential real estate market was also likely due in part to the record low interest rate environment, favourable to buyers. In March 2020, the Singapore government announced a series of measures to support residential homeowners (amongst oth-

ers) who were struggling to meet their loan and insurance commitments, by allowing the deferral of principal payments or both principal and interest payments until 31 December 2020, subject to the satisfaction of certain eligibility criteria and compliance with certain terms and conditions. Following that, in October 2020 the government extended the support measures to give certain eligible individuals and businesses under such loan repayment deferrals more time to resume repayments, by allowing reduced instalment payments pegged at 60% of their monthly instalment for a period of up to nine months.

Many property consultants have observed that buying preferences in Singapore could be shifting as a result of the COVID-19 pandemic, and may continue to persist beyond the near future as Singapore adapts to the “new normal”. Some consultants have identified that, as a result of the increase in remote working that may form part of the “new normal” beyond the current health crisis, there has been a redefinition of “accessibility” from convenient access to business districts to a greater focus on nearby amenities such as shopping malls, supermarkets and dining options. The concept of mixed-use developments (incorporating residential as well as retail and/or other commercial components, such as lifestyle facilities and offices) has already been adopted in a number of large developments and appears to be gaining traction in recent years in Singapore with the concept of “live, work and play” finding many supporters in the push for a more vibrant environment.

Industrial and Logistics Sectors

The industrial and logistics sectors (particularly warehousing and data centre businesses) performed well in the last three quarters and continue to show promise in 2021. This is likely due in part to the ongoing growth of e-commerce and the accelerated use of the internet due to the COVID-19 pandemic. The trend of more

businesses leveraging cloud technologies and digital infrastructure to support their business growth and build their own private, centralised data storage servers bodes well for Singapore, which is the world's third most competitive data centre market. This trend is expected to continue in the coming years, which will likely drive a greater need for data centres.

Real Estate Technology

The COVID-19 pandemic has also accelerated the pace of the ongoing trend of digitisation, and there has been some development in the last 12 months in relation to property technology in Singapore.

For instance, the Urban Redevelopment Authority (URA) has launched enhanced versions of its key e-services URA Space, Real Estate Information System, and the URA's property market information webpage, to promote market transparency and allow citizens and professionals to make better-informed decisions relating to property transactions. First launched in 2016, URA Space is a map-based platform allowing users to access up-to-date planning and real estate information, including land use zoning, permissible development intensity, recent planning decisions and past real estate transactions.

In 2020, the Singapore Land Authority (SLA), which administers land registration in Singapore, announced its intention to pilot a new electronic lodgement system (ELS) for the registration of property-related instruments, to replace the existing ELS launched in 2003. The new system is intended to be more user-friendly and allow more efficient navigation of the digital service, and is supported by different web browsers and devices, including mobile devices. This would make the digital execution and lodgement of certain property-related instruments by mobile phone possible through the use of cryptographic authentication methods in an application devel-

oped by the Government Technology Agency of Singapore, without the need for a hardware token or a laptop, as is currently required.

The SLA is currently piloting the use of a national digital identity system, "Sign with SingPass", for the digital signing of property caveats for electronic lodgement with the SLA. These are welcome advances in Singapore's real estate market and further digitisation of property-related work streams will likely continue in the near future.

There is also a trend for the inclusion of more green initiatives in buildings. The Building Construction Authority is encouraging owners of buildings to show improved standards when they apply for the renewal of green mark certifications. Developers and contractors are increasingly sensitive to the use of renewal materials in construction and renovation works and the use of energy-saving or conserving equipment. On the user front, landlords of some large-scale buildings are requiring tenants to ensure that uses of premises will not affect their green mark certifications, and some are leaning towards the use of renewable energy in an effort to reduce their carbon footprint.

Conclusion

The COVID-19 pandemic and the Singapore government's relief measures have undoubtedly had a significant impact on the development of the Singapore real estate market over the last 12 months. Notwithstanding the economic uncertainty and lack of clarity regarding the long-term effects of the COVID-19 pandemic on Singapore's real estate market, Singapore's real estate is likely to remain an attractive asset class for many investors, both local and foreign.

The configuration of future homes may be different to accommodate more usable space for family members to work from home; condominium developments may see a return of more com-

SINGAPORE TRENDS AND DEVELOPMENTS

Contributed by: Dorothy Marie Ng, Monica Yip, Tan Kay Kheng and Tay Peng Cheng, WongPartnership LLP

mon areas such as reading or study rooms or little enclaves that residents may use outside their own homes but without moving out of the development. The configuration of offices and also co-working spaces will likely change to allow for safe-distancing measures to be adhered to. The need to reduce the movement of people may

also drive an increase in the use of technology to monitor building operations to minimise human involvement. What is clear is that the needs and challenges arising from the COVID-19 pandemic have been powerful catalysts for change in the real estate landscape.

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WongPartnership LLP has more than 400 lawyers across offices in Beijing, Shanghai and Yangon, and also in Abu Dhabi, Dubai, Jakarta, Kuala Lumpur and Manila through member firms of WPG, a regional law network. WongPartnership has one of the largest teams of real estate lawyers in the country and has worked on a diverse range of deals in Singapore and throughout the region, across different real estate investment products. The firm's corporate real estate practice offers domain knowledge on acquisitions, divestments and financing arrangements, joint ventures, purposed build-to-suit projects, commercial leasing and small or extensive development projects. The firm's expertise also includes structuring, preparing and negotiating leases and other documents on behalf of landlords and tenants (including

long-term leases of industrial land or co-working spaces for various complex developments), advising major developers, landlords and tenants across all asset classes (including commercial, retail, industrial, residential and mixed-use developments), advising statutory boards, government bodies and charities on real estate issues, advising investors in the purchase and tenders of land from government and private or statutory bodies or units in collective sales, and acting for both lenders and borrowers in property-backed financing/refinancing transactions. WongPartnership's clientele includes high net worth individuals and families, major developers, foreign and local property funds, public listed and private real estate companies and funds, financiers, government-linked companies and statutory bodies.

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