OVERVIEW

Our Group's business operations are principally based in Hong Kong and are therefore subject to the relevant laws and regulations therein. Set forth below is a summary of the material laws and regulations relating to our Group's business and operations in Hong Kong.

HONG KONG

Health and safety

Public Health and Municipal Services Ordinance

The legal framework for food safety control in Hong Kong is set out in Part V of the Public Health and Municipal Services Ordinance (Chapter 132 of the Laws of Hong Kong) ("**Public Health Ordinance**") and the relevant sub-legislations thereunder. As we are a provider of a number of health and beauty supplements and products, we are subject to the Public Health Ordinance and the relevant sub-legislations thereunder.

The Public Health Ordinance requires manufacturers and sellers of food or drugs to ensure that their products are fit for human consumption and comply with the requirements in respect of food safety, food standards and labelling.

Section 50 of the Public Health Ordinance prohibits the manufacturing, advertising and sale in Hong Kong of food or drugs that are injurious to health. Anyone who fails to comply with this section commits an offence punishable by a fine at level 3 (currently at HK$10,000) and imprisonment for three months.

Section 52 of the Public Health Ordinance provides that, subject to the statutory defences available in section 53 of the same ordinance, if a seller sells to the prejudice of a purchaser any food or drug which is not of the nature, substance or quality of the food or drug demanded by the purchaser, the seller shall be guilty of an offence punishable by a fine at level 3 (currently at HK$10,000) and imprisonment for three months.

Section 54 of the Public Health Ordinance provides that, any person who sells or offers for sale any food intended for, but unfit for, human consumption, or any drug intended for use by human but unfit for the purpose, shall be guilty of an offence. The maximum penalty for contravention of section 54 is a fine at level 5 (currently at HK$50,000) and imprisonment for six months.

Section 61 of the Public Health Ordinance provides that, it shall be an offence for any person who gives with any food or drug sold by him/her or displays with any food or drug exposed for sale by him any label which falsely describes the food or drug or is calculated to mislead as to its nature, substance or quality, unless he proves that he did not know, and could not with reasonable diligence have ascertained, that the label was of such a character as aforesaid. It shall also be an offence if any person publishes or is party to the publication of an advertisement, falsely describing any food or drug or is likely to mislead as to the nature, substance or quality of any food or drug, unless he proves either that he did not know, and could not with reasonable diligence have ascertained, that the advertisement was of such a character as is described in that subsection, or that, being a person whose business it is to publish, or arrange for the publication of advertisements, he received the advertisement in the ordinary course of business. The maximum penalty for contravention of section 61 is a fine at level 5 (currently at HK$50,000).

Food and Drugs (Composition and Labelling) Regulations

Food and Drugs Regulations is a subsidiary legislation of the Public Health Ordinance which contains provisions for the advertising and labelling of food. Given that we are engaged in the import, distribution and sale of health and beauty supplements and products in Hong Kong, compliance with the Food and Drugs Regulations is relevant to our business operations. We must ensure that all products distributed or sold in Hong Kong meet these statutory labelling and description requirements to avoid regulatory breaches, consumer complaints, or enforcement actions.

Regulation 3 of the Food and Drugs Regulations provides that the standards of composition of the foods and drugs specified in Schedule 1 to the Food and Drugs Regulations shall be up to the standards as specified in that Schedule. The applicability of individual standards specified thereunder depends on whether the individual product in question is a drug within the Public Health Ordinance.

Regulation 5 of the Food and Drugs Regulations provides that any person who advertises for sale, sells or manufactures for sale any food or drug which does not conform to the relevant requirements as to composition prescribed in Schedule 1 to the Food and Drugs Regulations commits an offence and is liable to a fine at level 5 (currently at HK$50,000) and imprisonment for six months.

Regulation 4A of the Food and Drugs Regulations provides that, all pre-packaged food, except for those exempted items listed in Schedule 4 to the Food and Drugs Regulations, shall be marked and labelled in the manner prescribed in Schedule 3 to the Food and Drugs Regulations. Contravention of those requirements may result in a fine at level 5 (currently at HK$50,000) and imprisonment for six months upon conviction.

Regulation 4B of the Food and Drugs Regulations provides that, pre-packaged food should be marked or labelled with its energy value and nutrient content in the manner prescribed in Part 1 of Schedule 5, and nutrition claims, if any, made on the label of the product or in any advertisement for the product should comply with Part 2 of Schedule 5. Contravention of those requirements may result in a fine at level 5 (currently at HK$50,000) and imprisonment for six months upon conviction.

Food Safety Ordinance

Food Safety Ordinance establishes a regulatory framework that includes a mandatory registration scheme for food importers and food distributors, as well as record-keeping requirements to facilitate food traceability. Under the Food Safety Ordinance, all food traders must keep proper documentation of the source and distribution of their food products, enabling authorities to track food movement throughout the supply chain.

As we are involved in the importation and distribution of health and beauty supplements and products, we must comply with the Food Safety Ordinance by registering as a food importer or distributor and maintaining the required records. Failure to do so could result in regulatory sanctions, hinder food recall efforts, and damage our reputation and ability to operate within the Hong Kong's regulatory framework.

Registration as food importer and distributor

Sections 4 and 5 of the Food Safety Ordinance require any person who carries on a food importation business or food distribution business to register with the Food and Environmental Hygiene Department as a food importer or food distributor. Any person who does not register but carries on a food importation or distribution business, without reasonable excuse, commits an offence and is liable to a fine at level 5 (currently at HK$50,000) and imprisonment for six months.

Record-keeping requirement relating to movement of food

Section 24 of the Food Safety Ordinance provides that, a person who, in the course of business, supplies food in Hong Kong by wholesale must record the following information about the supply within 72 hours after the time the supply took place: (a) the date the food was supplied; (b) the name and contact details of the person to whom the food was supplied; (c) the total quantity of the food; and (d) a description of the food. Any person who fails to comply with the record-keeping requirement, without reasonable excuse, commits an offence and is liable to a fine at level 3 (currently at HK$10,000) and imprisonment for three months.

Consumer Goods Safety Ordinance

The Consumer Goods Safety Ordinance (Chapter 456 of the Laws of Hong Kong) imposes a duty on manufacturers, importers and suppliers of certain consumer goods to ensure that the consumer goods they supply are safe and for incidental purposes. The products sold by our Group are governed by the Consumer Goods Safety Ordinance and the Consumer Goods Safety Regulation (Chapter 456A of the Laws of Hong Kong).

Section 4(1) of the Consumer Goods Safety Ordinance provides that, consumer goods are required to be reasonably safe having regard to all of the circumstances including: (a) the manner in which, and the purpose for which the products are presented, promoted or marketed; (b) the use of any mark in relation to the products, instructions and warnings given for the keeping or use of the consumer goods; (c) reasonable safety standards published by a standards institute or other similar bodies; and (d) the existence of any reasonable means to make the products safer. Any person who supplies, manufactures, or imports into Hong Kong any consumer goods fails to comply with the general safety requirements or approved standard for particular consumer goods without proper defence as set out in section 22 of the Consumer Goods Safety Ordinance commits an offence and is liable, on first conviction, to a fine at level 6 (currently at HK$100,000) and imprisonment for one year, and, on subsequent conviction, to a fine of HK$500,000 and imprisonment for two years.

Section 2(1) of the Consumer Goods Safety Regulation provides that, where consumer goods or their packages are marked with, or where any labels affixed to or any documents enclosed in their packages contain any warning or caution regarding the safe keeping, use, consumption or disposal, such warning or caution shall be in both the English and the Chinese languages. Such warnings and cautions, as required by section 2(2) of the Consumer Goods Safety Regulation, shall be legible and be placed in a conspicuous position on: (a) the consumer goods; (b) any package of the consumer goods; (c) a label securely affixed to the package; or (d) a document enclosed in the package. Any person who supplies consumer goods which do not comply with the warnings or cautions requirements commits an offence and is liable, on first conviction, to a fine at level 6 (currently at HK$100,000) and imprisonment for one year, and, on subsequent conviction, to a fine of HK$500,000 and imprisonment for two years.

Occupational Safety and Health Ordinance

The Occupational Safety and Health Ordinance (Chapter 509 of the Laws of Hong Kong) provides for protection to employees with respect to their safety and health in workplaces. It applies not only to industrial workplaces but also non-industrial.

Under the Occupational Safety and Health Ordinance, every employer must, as far as reasonably practicable, ensure the safety and health at work for all employees by: (a) providing and maintaining plant and systems of work that are safe and without risks to health; (b) making arrangements for ensuring safety and absence of risks to health in connection with the use, handling, storage or transport of plant or substances; (c) providing such information, instruction, training and supervision as may be necessary to ensure the safety and health at work of the employees; (d) as regards any workplace under the employer's control, (i) maintaining the workplace in a condition that is safe and without risks to health; and (ii) providing or maintaining means of access to and egress from the workplace that are safe and without any such risks; and (e) providing and maintaining a working environment for the employees that is safe and without risks to health. An employer who fails to comply with the above provisions commits an offence and is liable on conviction to a fine of HK$200,000. Further, an employer who intentionally, knowingly or recklessly fails to comply with these provisions commits an offence and is liable on conviction to a fine of HK$200,000 and to imprisonment for six months.

The Commissioner for Labour may serve improvement notices on an employer or an occupier of the workplace against contravention of the Occupational Safety and Health Ordinance or the Factories and Industrial Undertakings Ordinance (Chapter 59 of the Laws of Hong Kong), or suspension notices against an activity or condition or use of workplace where there is an imminent risk of death or serious bodily injury. An employer or occupier who fails to comply with such notices without reasonable excuse commits an offence and is liable on conviction to a fine of HK$200,000 and HK$500,000 respectively, and imprisonment of up to 12 months.

Occupiers Liability Ordinance

The Occupiers Liability Ordinance (Chapter 314 of the Laws of Hong Kong) provides for the liability of occupiers and others for injury or damage resulting to persons or goods lawfully on any land or other property from dangers due to the state of the property or to things done or omitted to be done there, and for purposes connected therewith. Without altering the rules of the common law as to the persons on whom a duty is so imposed or to whom it is owed, the Occupiers Liability Ordinance regulates the nature of the duty imposed by law in consequence of a person's occupation or control of premises and of any invitation or permission he gives (or is to be treated as giving) to another to enter or use the premises.

Trade

Sale of Goods Ordinance

The Sale of Goods Ordinance (Chapter 26 of the Laws of Hong Kong) codifies the law relating to the sale of goods. In general, where the seller sells goods in the course of a business, there is an implied condition that the goods supplied under the sale contract are of merchantable quality and reasonably fit for the particular purpose for which the goods are being bought.

Section 15 of the Sale of Goods Ordinance provides that, where a contract for the sale of goods is by description, there is an implied condition that the goods shall correspond with the description. Section 17 of the Sale of Goods Ordinance provides that, in the case of a contract for sale by sample, there is an implied condition that: (a) the bulk shall correspond with the sample in quality; (b) the buyer shall have a reasonable opportunity of comparing the bulk with the sample; and (c) the goods shall be free from any defect, rendering them unmerchantable, which would not be apparent on reasonable examination of the sample. If the sale is by sample as well as by description, the goods still need to correspond with the description even when the bulk of the goods corresponds with the sample.

Trade Descriptions Ordinance

The Trade Descriptions Ordinance (Chapter 362 of the Laws of Hong Kong) prohibits false trade description, false, misleading or incomplete information, false statements etc., in respect of goods offered in the course of trade. All the products we sold in Hong Kong are required to comply with the relevant provisions of the Trade Descriptions Ordinance.

Section 2 of the Trade Descriptions Ordinance provides, amongst others, that "trade description" in relation to goods means an indication, direct or indirect, and by whatever means given, of certain matters (including among other things, quantity, method of manufacture, composition, fitness for purpose, availability, compliance with a standard specified or recognised by any person, price, their being of the same kind as goods supplied to a person, price, place or date of manufacture, production, processing or reconditioning, person by whom manufactured, produced, processed or reconditioned etc.), with respect to any goods or parts of the goods; and in relation to services, means an indication, direct or indirect, and by whatever means given, of certain matters (including among other things, nature, scope, quantity, fitness for purpose, method and procedures, availability, the person by whom the service is supplied, after-sale service assistance, price etc.).

Section 7 of the Trade Descriptions Ordinance provides that no person shall in the course of trade or business apply a false trade description to any goods or sell or offer for sale any goods with false trade descriptions applied thereto. Section 7A provides that a trader who applies a false trade description to a service supplied or offered to be supplied to a consumer or supplies or offers to supply to a consumer a service to which a false trade description is applied, commits an offence. Sections 13E, 13F, 13G, 13H and 13I provide that a trader who engages in relation to a consumer in a commercial practice that (a) is a misleading omission; or (b) is aggressive; (c) constitutes bait advertising; (d) constitutes a bait and switch; or (e) constitutes wrongly accepting payment for a product, commits an offence.

In accordance with section 18 of the Trade Descriptions Ordinance, a person who commits an offence under sections 7, 7A, 13E, 13F, 13G, 13H or 13I shall be subject, on conviction on indictment, to a fine of HK$500,000 and to imprisonment for 5 years, and on summary conviction, to a fine at HK$100,000 and to imprisonment for 2 years.

Undesirable Medical Advertisements Ordinance

UMAO restricts certain advertisements relating to medical and health matters. The UMAO applies to health and beauty supplements and products companies like our Group to protect public heath through prohibiting or restricting the publication of advertisements for medicine, surgical appliance or treatment that may induce the seeking of improper management of certain health conditions.

According to section 3 of the UMAO, unless by or with due authorisation from relevant authorities, no advertisement shall be published or caused to be published if it is likely to lead to the use of any medicine, surgical appliance or treatment for: (a) the treatment or prevention of any disease or condition listed in column 1 of Schedule 1 to the UMAO, except for a purpose specified in column 2 of the said Schedule; and (b) the treatment of human beings for any purpose listed in Schedule 2 to the UMAO. Section 2 of the UMAO defines "medicine" to include any kind of medicament or other curative or preventive substance, and whether a proprietary medicine, a patent medicine, a Chinese herbal medicine, a proprietary Chinese medicine, or purported natural remedy. Section 2 of the UMAO further provides that the sale of medicine in a labelled container or package shall constitute the publication of an advertisement. Section 3B of the UMAO provides that no person shall publish, or cause to be published, an advertisement for an orally consumed product which makes for the product a claim specified in column 1 of Schedule 4 to the UMAO, or any similar claim, except as allowed under the provisions in column 2 of that Schedule 4.

Some diseases and conditions listed in Schedule 1 to the UMAO include parasitic diseases, diseases of the heart or cardiovascular system, gastro-intestinal diseases, diseases of the nervous system, diseases of the blood or lymphatic system, diseases of the musculoskeletal system, diseases of the skin, hair or scalp, and viral, bacterial, fungal or other infectious diseases. The list in Schedule 2 to the UMAO contains treatment of human beings for the purposes of: (a) the induction of menstruation or relief of amenorrhea or delayed menstruation of any other gynecological or obstetrical disease; (b) the promotion of sexual virility, desire or fertility, or the restoration of lost youth; and (c) the correction of deformity or the surgical alteration of a person's appearance.

Any person who contravenes sections 3, 3B or 4 of the UMAO shall be guilty of an offence and shall be liable upon a first conviction to a fine of HK$50,000 and imprisonment for 6 months and upon a second or subsequent conviction to a fine of HK$100,000 and imprisonment for 1 year.

Competition Ordinance

The Competition Ordinance (Chapter 619 of the Laws of Hong Kong) (a) prohibits conduct that prevents, restricts or distorts competition in Hong Kong; (b) prohibits mergers that substantially lessen competition in Hong Kong; (c) establishes the Competition Commission and the Competition Tribunal; and (d) provides for incidental and connected matters.

The Competition Ordinance includes, among other provisions, the following:

(a) the First Conduct Rule: this rule aims to prohibit anti-competitive agreements, concerted practices and decisions among parties. Under the First Conduct Rule, an undertaking must not: (i) make or give effect to an agreement; (ii) engage in a concerted practice; or (iii) make or give effect to a decision of an association as a member of the association of undertakings, if the object or effect of the agreement, concerted practice or decision is to prevent, restrict or distort competition in Hong Kong;

(b) the Second Conduct Rule: this rule aims to prohibit anti-competitive conduct by a party with substantial market power. The Second Conduct Rule prohibits an undertaking that has a substantial degree of market power in a market to abuse that power by engaging in conduct that has as its object or effect the prevention, restriction or distortion of competition in Hong Kong. Conduct such as predatory behaviour towards competitors or limiting production, markets or technical development to the prejudice of end-customers may constitute such an abuse. In determining whether an undertaking has a substantial degree of market power, matters such as the undertaking's market share, its power to make decisions including pricing, and the entry barriers to competitors are all relevant.

Upon contravention of a competition rule by an offender, the Competition Tribunal may impose penalties which includes pecuniary penalty, injunctive orders, disqualification orders, costs orders, award of damages, and other orders. If a pecuniary penalty is to be imposed, the maximum amount of such pecuniary penalty imposed in relation to conduct constituting a single contravention is 10% of the turnover of the undertaking concerned for each year the contravention occurred, for up to three years of contravention.

Import and Export Ordinance

The Import and Export Ordinance (Chapter 60 of the Laws of Hong Kong) provides for the regulation and control of the import of articles into Hong Kong, the export of articles from Hong Kong, the handling and carriage of articles within Hong Kong which have been imported into

Hong Kong or which may be exported from Hong Kong, and any matter incidental to or connected with the foregoing. Given that we engage in cross-border trade of our products with our suppliers, we are subject to the relevant statutory requirements under the Import and Export Ordinance and the Import and Export (Registration) Regulations (Chapter 60E of the Laws of Hong Kong), including the filing of import/export declarations.

The import and export of certain articles are prohibited unless with the relevant licences under sections 6C and 6D of the Import and Export Ordinance which are issued under section 3 of the Import and Export Ordinance. Section 6C of the Import and Export Ordinance provides that no person shall import any article specified in Schedule 1 to the Import and Export (General) Regulations (Chapter 60A of the Laws of Hong Kong) except under and in accordance with an import licence issued by the Director-General of Trade and Industry under section 3 of the Import and Export Ordinance. Section 6D of the Import and Export Ordinance provides that no person shall export any article specified in the second column of Schedule 2 to the Import and Export (General) Regulations to the place specified opposite thereto in the third column of the Schedule except under and in accordance with an export licence issued by the Director-General of Trade and Industry under section 3 of the Import and Export Ordinance. Any person who contravenes sections 6C or 6D of the Import and Export Ordinance shall be guilty of an offence and liable to a fine of HK$500,000 and to imprisonment for two years on summary conviction, or a fine of HK$2,000,000 and to imprisonment for seven years on conviction on indictment.

Import and Export (Registration) Regulations

Regulations 4 and 5 of the Import and Export (Registration) Regulations ("**Import and Export Regulations**") (Chapter 60E of the Laws of Hong Kong) provide for the circumstances to which import and export declarations shall be lodged, which is subject to the exceptions as set out in regulation 3 of the Import and Export Regulations.

Pursuant to regulation 4 of the Import and Export Regulations, every person, including company, who imports any article other than an exempted article shall lodge with the Commissioner of Customs and Excise an accurate and complete import declaration relating to such article using services provided by a specified body, in accordance with the requirements that the Commissioner of Customs and Excise may specify. Every declaration required to be lodged shall be lodged within 14 days after the importation of the article to which it relates.

Regulation 5 of the Import and Export Regulations requires that every person who exports or re-exports any article other than an exempted article shall lodge with the Commissioner of Customs and Excise an accurate and complete export declaration relating to such article using services provided by a specified body, in accordance with the requirements that the Commissioner of Customs and Excise may specify. Every declaration required to be lodged shall be lodged within 14 days after the exportation of the article to which it relates.

Any person fails or neglects to do such declaration as required under regulations 4 and 5 of the Import and Export Regulations within 14 days after the importation or exportation (as the case may be) of the article to which it relates without any reasonable excuse shall be liable to (a) a fine of HK$1,000 upon summary conviction; and (b) commencing from the date of conviction, a fine of HK$100 in respect of everyday during which his failure or neglect to lodge such declaration in that manners continues. Further, any person who knowingly or recklessly lodges any declaration with the Commissioner of Customs and Excise that is inaccurate in any material particular shall be liable on summary conviction to a fine of HK$10,000.

Intellectual property

Copyright Ordinance

The Copyright Ordinance (Chapter 528 of the Laws of Hong Kong) makes provisions in respect of copyright and related rights subsisting in copyright works. A person may incur civil liability if he or she infringes the copyright in a work indirectly by secondary infringement.

Section 30 of the Copyright Ordinance provides that, the copyright in a work is infringed by a person who, without the licence of the copyright owner, imports, exports, possesses, deals with or provides means for making infringing copies, for the purpose or in the course of any trade or business, and which he knows or has reason to believe to be an infringing copy of the work. Further, section 31 of the Copyright Ordinance provides that the copyright in a work is infringed by a person who, without the licence of the copyright owner: (a) possesses for the purpose of or in the course of any trade or business; (b) sells or lets for hire, or offers or exposes for sale or hire; (c) exhibits in public or distributes for the purpose of or in the course of any trade or business; or (d) distributes (otherwise than for the purpose of or in the course of any trade or business) to such an extent as to affect prejudicially the owner of the copyright, a copy of the work which is, and which he knows or has reason to believe to be, an infringing copy of the work.

However, the person will only be liable if, at the time he committed the act, he knew or had reason to believe that he was dealing with infringing copies. If such knowledge or guilty state of mind cannot be proved, that person will not be liable for secondary infringement. An infringement of copyright is actionable by the copyright owner and a person infringing the copyright may incur civil liability for various ways of remedies including damages, injunctions, accounts, order for delivery up or disposal of infringing copy.

Further, section 118 of the Copyright Ordinance sets out criminal offences for copyright infringement. Under section 118(1) of the Copyright Ordinance, a person commits an offence if he, amongst others, without the licence of the copyright owner of a copyright work: (a) makes for sale or hire an infringing copy of the work; (b) imports or exports an infringing copy of the work into or from Hong Kong other than for his private and domestic use; (c) sells, lets for hire or offers or exposes for sale or hire an infringing copy of the work for the purpose of or in the course of any trade or business; (d) exhibits in public or distributes an infringing copy of the work for the purpose of or in the course of any trade or business which consists of dealing in infringing copies of copyright works; (e) possesses an infringing copy of the work with a view to sell or hire or exhibit for the purpose of or in the course of any trade or business; or (f) distributes an infringing copy of the work to such an extent as to prejudicially affect the copyright owner. A person who commits an offence under section 118(1) of the Copyright Ordinance is liable on conviction on indictment to a fine at level 5 (currently HK$50,000) and to imprisonment for four years.

Section 118(4) of the Copyright Ordinance also provides that a person commits an offence if he makes, imports or exports from Hong Kong, possesses, sells or lets for hire an article specifically designed or adopted for making copies of a particular copyright work which article is used or intended to be used for making infringing copies for sale or hire, or use for the purpose of or in the course of any trade or business. Under section 118(8) of the Copyright Ordinance, a person also commits an offence if he possesses an article knowing or having reason to believe that it is used or is intended to be used to make infringing copies for sale or hire or use for the purpose of or in the course of any trade or business. The penalty for an offence under sections 118(4) or 118(8) is liable on conviction on indictment to a fine of HK$500,000 and to imprisonment for eight years.

As to what constitutes as an infringing copy, section 35(2) of the Copyright Ordinance provides that a copy of a work is an infringing copy if its making constituted an infringement of the copyright in the work in question. Further, section 35(3) provides that except as otherwise provided in sections 35A or 35B of the Copyright Ordinance, a copy of a work other than a copy of an accessory work is also an infringing copy if: (a) it has been or is proposed to be imported into Hong Kong; and (b) its making in Hong Kong would have constituted an infringement of the copyright in the work in question, or a breach of an exclusive licence agreement relating to that work.

In respect of sections 118 to 133 of the Copyright Ordinance in relation to criminal provisions, section 35(4) of the Copyright Ordinance provides that "infringing copy" does not include a copy of a work (a) that was lawfully made in the country, territory or area where it was made; (b) that has been or is proposed to be imported into Hong Kong any time after the expiration of 15 months beginning on the first day of publication of the work in Hong Kong or elsewhere; and (c) its making in Hong Kong would have constituted an infringement of the copyright in the work in question, or a breach of an exclusive licence agreement relating to that work. Section 35(5) also provides that, in respect of the provisions on proceedings relating to importation of infringing articles (i.e. Division VII of the Copyright Ordinance), "infringing copy" does not include a copy of a work or a copy of an accessory work (a) that was lawfully made in the country, territory or area where it was made; (b) that has been or is proposed to be imported into Hong Kong; and (c) its making in Hong Kong would have constituted an infringement of the copyright in the work in question, or a breach of an exclusive licence agreement relating to that work.

Section 35(8) provides that for the purpose sections 35(3), 35(4) and 35(5), accessory work means a work incorporated in or consisting of (a) a label affixed to, or displayed on, an article; (b) the packaging or container in which an article is packaged or contained; (c) a label affixed to, or displayed on, the packaging or container in which an article is packaged or contained; (d) a written instruction, warranty or other information incidental to an article and provided with the article on its sale; or (e) an instructional sound recording or film incidental to an article and provided with the article on its sale, and the economic value of the article (inclusive of the label, packaging, container, instruction, warranty, other information, sound recording or film, as the case may be) is not predominantly attributable to the economic value of the work.

Trade Marks Ordinance

The Trade Marks Ordinance (Chapter 559 of the Laws of Hong Kong) provides for the registration of trade marks, the use of registered trade marks and connected matters. Hong Kong provides territorial protection for trade marks. Therefore, trade marks registered in other countries or regions are not automatically entitled to protection in Hong Kong. To enjoy trade mark protection by the laws of Hong Kong, trade marks must be registered with the Trade Marks Registry of the Intellectual Property Department pursuant to the Trade Marks Ordinance and the Trade Marks Rules (Chapter 559A of the Laws of Hong Kong).

Under section 18 of the Trade Marks Ordinance, a person infringes a registered trade mark if: (a) in the course of trade or business, he uses a sign which is identical or similar to the trade mark in relation to goods or services which are identical or similar to those for which it is registered; and (b) the use of the sign in relation to those goods or services is likely to cause confusion on the part of the public. Subject to the exceptions in sections 19 to 21 of the Trade Marks Ordinance, any use of trade mark by third parties without the consent of the owner is an infringement of the trade mark.

An infringement of a registered trade mark is actionable by the owner of the trade mark who may apply to the court for orders to deal with the infringing goods, material or articles, such as an order for delivery up, forfeiture, destroy, disposal or an order as the court may decide.

Section 20 of the Trade Marks Ordinance provides that, notwithstanding section 18 of the Trade Marks Ordinance, a registered trade mark is not infringed by the use of the trade mark in relation to goods which have been put on the market anywhere in the world under that trade mark by the owner or with his consent (whether express or implied or conditional or unconditional), unless the condition of the goods has been changed or impaired after they have been put on the market and the use of the registered trade mark in relation to those goods is detrimental to the distinctive character or repute of the trade mark.

Trade marks which are not registered under the Trade Marks Ordinance and the Trade Marks Rules may still obtain protection by the common law action of passing off, which requires proof of the owner's reputation in the unregistered trade marks and that use of the trade marks by third parties will cause the owner damage.

Law on passing off

The action for passing off is recognised at common law. Passing off is concerned with the right of a trader to bring a legal action for protecting business goodwill, which is not confined to the imitation of a trade mark or registered trade mark. In a passing off action, it is not necessary that the plaintiff's customers must be themselves deceived. The passing off action has extended to cases where the defendant sells fraudulently marked goods to retail dealers with the express purpose of the goods being resold to the end purchasers as the plaintiff's goods.

An action of passing off occurs when a trader unlawfully misrepresents (acts misleadingly) that his goods or services are those of another trader. Such misrepresentation made by a trader is typically by way of imitating, among other things: (a) the trade mark or brand name of another trader; (b) the trade name or personal name of another trader; (c) the packaging, label or get-up of goods of another trader; or (d) a fictional character created by another trader. Other common forms of misrepresentation which can also give rise to legal action for passing off include: a trader supplying his own goods in response to an order for goods of another trader, a trader falsely pretending to be an agent or dealer of another trader, a trader falsely stating that his goods or services are endorsed by a third party (usually a celebrity), or a trader pretending that goods or services of another trader are his goods or services (often referred to as "**inverse passing off**").

To succeed in a legal action against passing off, the plaintiff must establish reputation, misrepresentation and damage. For reputation, the plaintiff must establish he has goodwill or reputation in his goods or services (e.g. the relevant goods/services are well-known to the public). For misrepresentation, the plaintiff must establish the defendant has made a misrepresentation leading or likely to lead the public to believe that his goods or services are those of the plaintiff. For damage, the plaintiff must establish he has suffered or is likely to suffer damage (usually business loss) as a result.

An action for passing off is a civil litigation. The relief (in the form of various kinds of court order) available to the victim includes damages, injunction, surrender the infringing goods, and surrender the profits derived by the infringer in respect of the infringing goods.

The importation and sale in local market of the brand owner's goods bearing the marks under which the owner has allowed them to be sold in a foreign country does not generally amount to passing off since no misrepresentation is involved as to the origin of the goods.

Nonetheless, it may amount to passing off for an importer to import and sell the brand owner's goods of one quality, which is not marketed by the brand owner in Hong Kong, as goods of another quality sold by the brand owner in local market. Further, actionable passing off may occur when the importer alters the labelling of the foreign quality goods to the labelling used by the brand owner for his goods of the quality sold on the local market.

Other relevant laws and regulations

Personal Data (Privacy) Ordinance

The Personal Data (Privacy) Ordinance (Chapter 486 of the Laws of Hong Kong) protects the privacy of individuals in relation to personal data. A data user shall not do an act, or engage in a practice, that contravenes a data protection principle unless the act or practice, as the case may be, is required or permitted under the Personal Data (Privacy) Ordinance.

The Personal Data (Privacy) Ordinance also places a statutory duty on data users to comply with the requirements of the six data protection principles contained in Schedule 1 thereto: (a) principle 1 – purpose and manner of collection of personal data; (b) principle 2 – accuracy and duration of retention of personal data; (c) principle 3 – use of personal data; (d) principle 4 – security of personal data; (e) principle 5 – information to be generally available; and (f) principle 6 – access to personal data.

In conducting our business, we would collect personal data of our retail customers such as name, address (for delivery), email address, telephone number, gender, month of birth, age and etc. for the purpose of membership registration. These are data which can help identify a particular customer and collected for that purpose. We should therefore comply with the data protection principle 1 contained in Schedule 1 of the Personal Data (Privacy) Ordinance.

Non-compliance with a data protection principle may lead to a complaint to the Privacy Commissioner for Personal Data. Section 50 of the Personal Data (Privacy) Ordinance provides that if, following the completion of an investigation, the Privacy Commissioner is of the opinion that the relevant data user is contravening or has contravened a requirement under the Personal Data (Privacy) Ordinance, the Commissioner may serve on the data user a notice in writing, directing the data user to remedy and, if appropriate, prevent any recurrence of the contravention.

A data user who contravenes an enforcement notice commits an offence and is liable: (a) on a first conviction: (i) to a fine at level 5 (currently at HK$50,000) and to imprisonment for two years; and (ii) if the offence continues after the conviction, to a daily penalty of HK$1,000; and (b) on a second or subsequent conviction: (i) to a fine at level 6 (currently at HK$100,000) and to imprisonment for two years; and (ii) if the offence continues after the conviction, to a daily penalty of HK$2,000.

Business Registration Ordinance

The Business Registration Ordinance (Chapter 310 of the Laws of Hong Kong) requires every entity which carries on a business in Hong Kong to apply for business registration. We held valid business registration certificates throughout the Track Record Period and as at the Latest Practicable Date.

Employment Ordinance

The Employment Ordinance (Chapter 57 of the Laws of Hong Kong) provides for the protection of the wages of employees and regulates general employment conditions. According to Part VIII of the Employment Ordinance, penalties for contravening the provisions in the Employment Ordinance may range from a fine at level 3 (currently at HK$10,000) to a fine of HK$350,000 and imprisonment for three years, depending on the particular sections offended. In the case of outstanding wages, pursuant to section 65 of the Employment Ordinance, an employer convicted of an offence under the Employment Ordinance may also be ordered to pay any wages or other sum outstanding in addition to any fine imposed.

Employees' Compensation Ordinance

The Employees' Compensation Ordinance (Chapter 282 of the Laws of Hong Kong) provides for the payment of compensation to employees who are injured in the course of their employment. This ordinance sets out the rights and obligations of employers and employees in respect of injuries or death caused by accidents arising out of and in the course of employment or by prescribed occupational diseases.

Under the Employees' Compensation Ordinance, if an employee sustains an injury or dies as a result of an accident arising out of and in the course of his employment, his employer is in general liable to pay compensation notwithstanding the employee might have been at fault or negligent when the accident occurred. Similarly, if incapacity or the death of an employee results from an occupational disease and is due to the nature of any employment in which the employee was employed at any time within the prescribed period immediately preceding such incapacity or death, then the employee or members of his family, as the case may be, shall be entitled to the same compensation as if such incapacity or death had been caused by an accident arising out of and in the course of employment.

Pursuant to section 40(1) of the Employees' Compensation Ordinance, no employer shall employ any employee in any employment unless there is in force in relation to such employee a policy of insurance issued by an insurer for an amount not less than the applicable amount specified in the Fourth Schedule of the ordinance. An employer contravening section 40(1) of the Employees' Compensation Ordinance commits an offence and is liable: (a) on conviction upon indictment to a fine at level 6 (currently at HK$100,000) and to imprisonment for two years; and (b) on summary conviction to a fine at level 6 (currently at HK$100,000) and to imprisonment for one year.

Minimum Wage Ordinance

The Minimum Wage Ordinance (Chapter 608 of the Laws of Hong Kong) provides for a minimum wage at a prescribed hourly rate during the wage period for every employee engaged under a contract of employment under the Employment Ordinance subject to the exceptions stipulated in section 7 of the Minimum Wage Ordinance. Pursuant to section 15 of the Minimum Wage Ordinance, a provision of a contract of employment purporting to extinguish or reduce any right, benefit or protection conferred on the employee by the ordinance is void.

If an employer wilfully and without any reasonable excuse fails to pay the statutory minimum wage rate when it becomes due is liable to be prosecuted under Sections 23, 24 and/or 63C of the Employment Ordinance, and upon conviction, to a fine of HK$350,000 and to imprisonment for 3 years.

Mandatory Provident Fund Schemes Ordinance

The Mandatory Provident Fund Schemes Ordinance (Chapter 485 of the Laws of Hong Kong) provides for, among others, the establishment, contributions, registration and regulation of non-governmental mandatory provident fund schemes for the purpose of funding benefits on retirement.

Unless otherwise exempted, pursuant to the Mandatory Provident Fund Schemes Ordinance, every employer of a relevant employee shall take all practicable steps to ensure that the employee becomes a member of a registered scheme within 60 days (non-casual employee) and 10 days (casual employee) and every employer of a relevant employee shall take all practicable steps to ensure that the employee continues to be so registered afterwards throughout his employment with that employer. Employers and employees are both required to contribute 5% of the employee's monthly relevant income as mandatory contribution to a mandatory provident fund scheme, subject to the minimum and maximum level of relevant income for contribution purpose, which are currently HK$7,100 per month and HK$30,000 per month respectively. An employer who without reasonable excuse fails to enroll his employees in a mandatory provident fund scheme commits an offence and is liable on conviction to a fine of HK$350,000 and to imprisonment for three years, while an employer who without reasonable excuse fails to comply with the contribution requirement is liable to a fine of HK$450,000 and to imprisonment for four years.

Inland Revenue Ordinance

The Inland Revenue Ordinance is an ordinance for the purposes of imposing taxes on property, earnings and profits in Hong Kong. The Inland Revenue Ordinance provides, among others, that persons, which include corporations, partnerships, trustees and bodies of persons, carrying on any trade, profession or business in Hong Kong are chargeable to tax on all profits (excluding profits arising from the sale of capital assets) arising in or derived from Hong Kong from such trade, profession or business. The Inland Revenue Ordinance also contains provisions relating to, among others, permissible deductions for outgoings and expenses, set-offs for losses and allowances for depreciation.