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## REGULATORY OVERVIEW

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This section sets out summaries of the relevant laws and regulations which are required business and operations in Hong Kong.

### **Factories and Industrial Undertakings Ordinance (Chapter 59 of the Laws of Hong Kong)**

Industrial undertakings, which include construction work, are subject to the Factories and Industrial Undertakings Ordinance, and any person or body corporate having the management or control of the business carried on in an industrial undertaking, including a body corporate, is required to comply with the Factories and Industrial Undertakings Ordinance and provide for the safety and health protection to workers in the industrial undertaking.

Under the Factories and Industrial Undertakings Ordinance, it is the duty of a proprietor of an industrial undertaking (namely the person or body corporate having the management or control of the business carried in an industrial undertaking) to ensure, so far as is reasonably practicable, the health and safety at work of all persons employed by it at the industrial undertaking. The duties of a proprietor include: (i) providing and maintaining plant and work systems that do not endanger safety or health; (ii) making arrangements for ensuring safety and health in connection with the use, handling, storage and transport of articles and substances; (iii) providing all necessary information, instructions, training and supervision for ensuring safety and health; (iv) providing and maintaining safe access to and egress from the workplaces; and (v) providing and maintaining a safe and healthy working environment.

A proprietor who contravenes any of these requirements wilfully and without reasonable excuse commits an offence and could be held liable to a fine of HK\$500,000 and to imprisonment for 6 months. Our Group may be considered to fall within the meaning of proprietor under the Factories and Industrial Undertakings Ordinance due to our operations encompassing the management or control of industrial undertakings for the time being of our projects, and as such any breach of our duties under the Factories and Industrial Undertakings Ordinance may constitute an offence and result in our Group being liable to a fine of HK\$500,000.

Further, as our project management team is responsible for the on-site supervision and inspection works of our projects, the members of our project management team are required to carry with their persons valid Green Cards or an equivalent document in accordance with the Factories and Industrial Undertakings Ordinance while carrying out such on-site supervision and inspection works.

Pursuant to Section 6BA of the Factories and Industrial Undertakings Ordinance, persons employed by industrial undertakings engaging in construction work must attend a relevant safety training course recognised under the Factories and Industrial Undertakings Ordinance and be issued a Green Card for attendance of such safety training course. On and after the appointed day, as defined in the Factories and Industrial Undertakings Ordinance, it shall be the duty of every relevant person employed at an industrial undertaking engaging in construction work who has been issued a relevant Green Card which has not expired to, among other things, carry with his person the Green Card or an equivalent document while

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at work at the undertaking, and it is the duty of every proprietor of an industrial undertaking engaging in construction work not to employ at the undertaking a relevant person who has not been issued a relevant Green Card or whose relevant Green Card has expired. A Green Card shall expire between 1 to 3 years after the day on which the certificate was issued.

Any proprietor who contravenes Section 6BA commits an offence and is liable to a fine of HK\$50,000. However, it shall be a defence for an offence contrary to Section 6BA for the proprietor to show that it believed, and that it was reasonable for it to believe, that the relevant person to whom the offence relates had been issued with a relevant Green Card and that it had not expired.

We are also required to comply with subsidiary regulations of the Factories and Industrial Undertakings Ordinance such as the Construction Sites (Safety) Regulations (Chapter 59I of the Laws of Hong Kong). The Construction Sites (Safety) Regulations provides for, among others, (i) the prohibition of employment of persons under 18 years of age on construction sites (save for certain exceptions); (ii) maintenance and operation of construction plants (including any plant, equipment, gear, machinery, apparatus, or appliance, or any part thereof) used or intended to be used for the purpose of construction work; (iii) the duty of a contractor responsible for a construction site to ensure the safety of the place of construction work; (iv) the duty of a contractor responsible for a construction site to take adequate steps to prevent falls; (v) provision of first aid facilities; and (vi) other miscellaneous safety requirements.

Rules arising from the Construction Sites (Safety) Regulations carry different levels of penalty and any person who contravenes or fails to comply with a rule under the Construction Sites (Safety) Regulations commits an offence and may be liable to a fine corresponding to that rule. A contractor found guilty of an offence could be held liable to a fine of up to HK\$200,000 and imprisonment up to 12 months.

### **Occupational Safety and Health Ordinance (Chapter 509 of the Laws of Hong Kong)**

As our operations involve industrial workplaces such as construction sites and our workers may be exposed to injuries whilst carrying out construction work, our Group is subject to the Occupational Safety and Health Ordinance. Our project management team is also responsible for providing safety and health protection to employees in workplaces, both industrial and non-industrial in accordance with the Occupational Safety and Health Ordinance.

Employers must as far as reasonably practicable ensure the safety and health in their workplaces by: (i) providing and maintaining plant and work systems that do not endanger safety or health; (ii) making arrangement for ensuring safety and health in connection with the use, handling, storage or transport of plant or substances; (iii) providing all necessary information, instruction, training, and supervision for ensuring safety and health; (iv) providing and maintaining safe access to and egress from the workplaces; and (v) providing and maintaining a safe and healthy work environment.

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Failure to comply with the above provisions constitutes an offence of which the employer is liable on conviction to a fine of HK\$200,000. An employer who fails to do so intentionally, knowingly or recklessly commits an offence and is liable on conviction to a fine of HK\$200,000 and to imprisonment for 6 months.

The Commissioner for Labour may also issue improvement notices against non-compliance of this Ordinance or the Factories and Industrial Undertakings Ordinance or suspension notice against activity of workplace which may create imminent hazard to the employees. Failure to comply with such notices constitutes an offence punishable by a fine of HK\$200,000 and HK\$500,000 respectively and imprisonment of up to 12 months.

### **Occupiers Liability Ordinance (Chapter 314 of the Laws of Hong Kong)**

Our Group has leased a property and is considered to be the occupier of such property under the Occupiers Liability Ordinance. As such, we are required to comply with the Occupiers Liability Ordinance, which regulates the obligations of a person or business occupying or having control of the premises on which injury resulting to persons or damage has been caused to goods or other property lawfully on the premises.

The Occupiers Liability Ordinance imposes a common duty of care on an occupier of a premises to take such care so as to ensure that any person will be reasonably safe in using the premises for the purposes for which he is invited or permitted by the occupier to be there.

### **Public Health and Municipal Services Ordinance (Chapter 132 of the Laws of Hong Kong)**

The Public Health and Municipal Services Ordinance regulates, among other things, activities that are carried out in Hong Kong that may be considered a nuisance or injurious or dangerous to health, including construction works.

Under the Public Health and Municipal Services Ordinance, the Environmental Protection Department may cause a nuisance notice to be served on any contractor of construction works if, for example, any premises has been found to be in such a state as to be a nuisance or injurious or dangerous to health, or if the emission of dust from any building under construction or demolition has been found to be in such a manner as to be a nuisance. The nuisance notice shall require the person on whom the notice is served to do what is necessary for preventing the recurrence of the nuisance and, if the Environmental Protection Department thinks it desirable, specify any works to be executed for that purpose.

Any person by reason of whose act, default or sufferance the nuisance arose or continues, or, if that person cannot be found, the occupier or owner of the premises on which the nuisance exists, who does not observe and comply with the nuisance notice could be held liable, where the premises is found to be in such a state as to be a nuisance and injurious to health, or where the emission of dust from any building under construction or demolition is found to be in such a manner so as to be a nuisance, to a fine of up to HK\$10,000 and a daily fine of HK\$200.

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Additionally, any accumulation of water on any premises found to contain mosquito larvae or pupae is actionable under the Public Health and Municipal Services Ordinance, with a maximum penalty of HK\$25,000 upon conviction and a daily fine of HK\$450. Any accumulation of refuse which is a nuisance or injurious to health is actionable under the Public Health and Municipal Services Ordinance, with a maximum penalty of HK\$10,000 upon conviction and a daily fine of HK\$200.

### **Waste Disposal Ordinance (Chapter 354 of the Laws of Hong Kong)**

The nature of our business operations creates solid and chemical waste, and as a construction waste producer we are subject to the Waste Disposal Ordinance.

Section 16B of the Waste Disposal Ordinance strictly prohibits depositing construction waste disposal on private lots, unless (i) the total area on which the construction waste has been deposited within the lot does not exceed 20 sq. m.; or (ii) the sole owner or all of the owners of the private lot has given valid permission for the depositing of construction waste on the private lot. Such permission must be in the specified form for permission for the depositing of construction waste on a private lot under section 16C and must bear an acknowledgement by the Director of the Environmental Protection Department. The acknowledgement must be submitted at least 21 days before the intended date on which the depositing activity is to commence.

Any person who, except under and in accordance with an authorisation, does, causes or allows another person to do anything for which such authorisation is required, commits an offence and is liable to a fine of HK\$200,000 and to imprisonment for 6 months for the first offence, and to a fine of HK\$500,000 and to imprisonment for 2 years for a second or subsequent offence.

The Construction Waste Disposal Charging Scheme has been established by the Waste Disposal (Charges for Disposal of Construction Waste) Regulation (Chapter 354N of the Laws of Hong Kong), pursuant to which all construction waste to be disposed of in Government waste disposal facilities carry respective construction waste disposal charges. As a construction waste producer, we are required to, prior to using Government waste disposal facilities, pay applicable charges for such disposal. Construction waste is defined as any substance, matter or thing that is generated from construction work and abandoned, whether or not it has been processed or stockpiled before being abandoned.

For contracts with a value of HK\$1 million or above, we are required, as a main contractor who undertakes construction work under a particular contract, within 21 days of the award of the contract to establish a billing account with the Environmental Protection Department in respect of that particular contract and pay the prescribed charges for construction waste generated from works under that contract. For contracts with a value less than HK\$1 million, any person may establish the account and make arrangements for the disposal of construction waste.

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### **Air Pollution Control Ordinance (Chapter 311 of the Laws of Hong Kong)**

The Air Pollution Control Ordinance and its subsidiary regulations regulate the emission of air pollutants and noxious odour from construction, industrial and commercial activities and other polluting sources in Hong Kong.

The Air Pollution Control Ordinance provides that the owner of any premises, which includes a contractor who has possession of a site for the purposes of construction work, used for the conduct of any process specified in the Air Pollution Control Ordinance shall use the best practicable means for preventing the emission of noxious or offensive emissions from such premises.

In addition, the Air Pollution Control Ordinance requires that building works involving asbestos must be conducted only by registered asbestos contractors and under the supervision of registered asbestos consultants. Any owner of premises which contain or may reasonably be suspected of containing asbestos containing material and/or who intends to carry out work which involves the use or handling of any asbestos containing material in the premises must engage a registered asbestos consultant to carry out an investigation, prepare an asbestos management plan and monitor the implementation of the asbestos management plan and hire a registered asbestos contractor to implement the asbestos management plan and carry out the work.

Any owner of premises who fails to appoint a registered asbestos consultant to carry out an investigation, prepare an asbestos management plan or monitor the implementation of the asbestos management plan commits an offence and is liable to a fine of HK\$200,000 and to a further fine of HK\$5,000 for each day during which it is proved that the offence has continued. Any owner of premises who fails to appoint a registered asbestos contractor to implement an asbestos abatement plan or carry out work commits an offence and is liable to a fine of HK\$200,000 and to imprisonment for 6 months and to a further fine of HK\$20,000 for each day during which it is proved that the offence has continued.

Under the Air Pollution Control (Construction Dust) Regulation, we are responsible, as a contractor for a construction site where notifiable work is proposed to be carried out, for giving notice to the Environmental Protection Department before the commencement of the work. Example of notifiable works include (i) site formation; (ii) reclamation; (iii) demolition of a building; (iv) construction of the foundation of a building; or (v) construction of the superstructure of a building.

It is the responsibility of the contractor for a construction site where a notifiable work is being carried out, to ensure that the work is carried out in accordance with the specified dust control requirements as under the Air Pollution Control (Construction Dust) Regulation. A contractor under the Air Pollution Control (Construction Dust) Regulation is defined as any person or firm engaged in carrying out construction work by way of trade or business, either on his own account or pursuant to a contract or arrangement entered into with another person or firm.

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Any contractor who contravenes the notification requirement under the Air Pollution Control (Construction Dust) Regulation commits an offence and is liable on conviction to a fine of HK\$25,000 for the first offence and to a fine of HK\$50,000 for a second or subsequent offence. Any contractor who contravenes the dust control requirements under the Air Pollution Control (Construction Dust) Regulation commits an offence and is liable on conviction to a fine of HK\$50,000 for the first offence and to a fine of HK\$100,000 and to imprisonment for 3 months for a second or subsequent offence, and in addition, if the offence is continuing, to a fine of HK\$10,000 for each day during which the offence continues. However, notifiable works do not include certain types of construction works, such as renovation, maintenance and alteration work carried out entirely within the external walls and under the roof of a building, and do not require prior notification to the Environmental Protection Department before the commencement of the work or compliance with the specified dust control requirements.

### **Noise Control Ordinance (Chapter 400 of the Laws of Hong Kong)**

The Noise Control Ordinance controls the noise from construction, industrial and commercial activities. As a contractor, our Group is required to comply with the Noise Control Ordinance in carrying out general construction works. For construction activities that are to be carried out during restricted hours, construction noise permits are required from the Environmental Protection Department in advance.

Under the Noise Control Ordinance, noisy construction work or the use powered mechanical equipment in populated areas are not permitted between 7 p.m. and 7 a.m. or at any time on general holidays, unless with a construction noise permit and the prior approval of the Noise Control Authority.

Any person who carries out noisy construction work without a construction noise permit commits an offence and shall be liable to a fine of HK\$100,000 on the first conviction and to a fine of HK\$200,000 on a second or subsequent conviction and in any case to a fine of HK\$20,000 for each day during which the offence continues.

### **Construction Industry Council Ordinance (Chapter 587 of the Laws of Hong Kong)**

In accordance with Section 32 of the Construction Industry Council Ordinance, a Construction Industry Levy at a rate of 0.5% is imposed in respect of all construction works or operations carried out in Hong Kong with a total value exceeding HK\$1 million.

Construction works include building works; construction, alteration, repair, maintenance, extension, demolition or dismantling of buildings or structures, power-lines, telecommunications apparatus or pipelines; supply and installation of fittings or equipment in any building or structures; supply and installation of fittings or equipment in any building or structures; external or internal cleaning of any buildings or structures; painting or decorating any external or internal surfaces or parts of any buildings or structures; and operations which form an integral part of, or are preparatory to any of the above operations.



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Where the total value of our construction works under a contract exceeds HK\$1 million, our Group is responsible for paying the proportionate Construction Industry Levy to the Construction Industry Council.

### **Buildings Ordinance (Chapter 123 of the Laws of Hong Kong)**

The Buildings Ordinance regulates the planning, design and construction of buildings and associated works. It provides that before the commencement of any building works: (i) prior approval and consent from the Building Authority must be obtained; (ii) authorised persons, such as architects, engineers and surveyors registered under the Buildings Ordinance, must be appointed to coordinate the works, prepare and submit plans for the approval from the Building Authority; (iii) registered professionals must be appointed to design and supervise the works; and (iv) registered contractors must be appointed to carry out the works.

Section 14(1) of the Buildings Ordinance provides that no person shall commence or carry out any building works without having obtained such prior approval and consent from the Building Authority and such proper appointments. According to Section 41(3), building works (other than draining works, ground investigation in the scheduled areas, site formation works and minor works) in any building are exempt from the requirement for approval and consent from the Building Authority if the works do not involve the structure of the building.

If the building works are within the purview of Section 41(3), the works must further comply with the building standards specified in the relevant Building Regulations empowered under the Building Ordinance. The Buildings Ordinance further requires that any authorised person of the buildings works must be appointed by the ultimate beneficiary of the works, the employer of the works or the contractor.

The Buildings Ordinance also establishes, among others, a general building contractors’ register, in which registered general building contractors (“**RGBC**”) may carry out general building works and street works which are not designated by the Building Authority as a category of specialised works (including, demolition works, foundation works, ground investigation field works, site formation works and ventilation works) specifically designated for registered specialist contractors. A building owner is required to appoint an RGBC from the general building contractors’ register corresponding to the category of building works to be carried out.

Under Section 8B(2) of the Buildings Ordinance, an applicant for registration as a general building contractor or specialist contractor must satisfy the Buildings Department on the following aspects: (i) if it is a corporation, the adequacy of its management structure; (ii) the appropriate experience and qualifications of its personnel; (iii) its ability to have access to plant and resources; and (iv) the ability of the person appointed to act for the applicant for the purposes of the Buildings Ordinance to understand building works and street works through relevant experience and a general knowledge of the basic statutory requirements.

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### **Approved contractors of the Housing Authority**

The Housing Authority prescribes its own requirements for approved contractors to tender for maintenance works of its projects. In order to tender for Housing Authority maintenance works, a contractor must be approved by the Housing Authority and included in either “Group M1” or “Group M2” under the category of “Building Work (Maintenance)” of the List of Building Contractors for Public Works as administered by the Housing Authority.

A contractor under the Building (Maintenance) category must possess ISO 9001, ISO 14001 and OHSAS 18001 certificates, must demonstrate a proven relevant record and is subject to management and on-site personnel requirements, stringent financial criteria and an annual assessment on its financial position. A Group M1 Contractor is eligible to tender for maintenance and improvement contracts with a value of HK\$50 million and for term maintenance and improvement contracts with an average annual expenditure of up to HK\$50 million. A Group M2 Contractor is eligible to tender for maintenance and improvement contracts of unlimited value.

Annual renewal of status as an approved contractor by the Housing Authority is subject to satisfactory compliance with the requirements stated in the “Specific Guidelines for Building Contractors” and the “Guide to Registration of Works Contractors and Property Management Services Providers” published by the Housing Authority and the payment of a renewal fee.

In our attempt to further diversify income source, we intend to apply for registration to be included in the “Group M1” of the List of Building Contractors for Public Works as administered by the Housing Authority under the category of “Building Work (Maintenance Work)” which will enable us to tender for maintenance and improvement contracts of the Housing Authority.

### **Construction Workers Registration Ordinance (Chapter 583 of the Laws of Hong Kong)**

The Construction Workers Registration Ordinance provides for, among other things, the registration of construction workers and the regulation of construction workers personally carrying out construction work. Under the Construction Workers Registration Ordinance, a person shall not personally carry out on a construction site construction work unless the person is a registered construction worker of the Register of Construction Workers. Likewise, principal contractors, subcontractors, employers and/or controllers of the construction site are required to employ only registered construction workers.

Under the Construction Workers Registration Ordinance, a principal contractor is defined as the person who enters into a contract with another person (whether or not the principal contractor) to undertake all or any part of the construction work that the principal contractor has undertaken. Our Group is considered a principal contractor and/or controller of construction sites of our projects and is required to only employ registered construction workers to personally carry out construction works for our projects. Our Group may also engage subcontractors from time to time to perform our works, who in turn engage



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construction workers and/or may also be considered principal contractors or controllers. As such, they may also be required to only employ registered construction workers to personally carry out sub-contracted construction works for our projects.

Any person who employs a person who is not a registered construction worker to personally carry out construction work on a construction site shall be guilty of an offence and shall be liable on conviction to a maximum fine of HK\$50,000.

The Construction Workers Registration Ordinance also contains a “designated workers for designated skills” provision, which provides that only registered skilled or semi-skilled workers of designated trade divisions are permitted to carry out construction works on construction sites relating to those trade divisions independently. Unregistered skilled or semi-skilled workers are only allowed to carry out construction works of designated trade divisions (i) under the instruction and supervision of registered skilled or semi-skilled workers of relevant designated trade division(s); (ii) in proposed emergency works (i.e. construction works which are made/maintained consequential upon the occurrence of emergency incidents); or (iii) in small-scale construction works (e.g. value of works not exceeding HK\$100,000).

Stage 1 of the “designated workers for designated skills” provision, of which “designated works” will include construction, re-construction, addition, alternation and building services works, shall be implemented with immediate effect from 1 April 2017. Upon implementation of Stage 1 of the “designated workers for designated skills” provision pursuant to the Construction Workers Registration Ordinance, registered skilled and semi-skilled workers for designated trade divisions shall be included as registered construction workers of the Register of Construction Workers, and accordingly, contractors and subcontractors of construction sites are required to employ only registered skilled and semi-skilled workers for designated trade divisions to carry out construction works on construction sites relating to those trade divisions independently.

### **Pneumoconiosis and Mesothelioma (Compensation) Ordinance (Chapter 360 of the Laws of Hong Kong)**

The Pneumoconiosis and Mesothelioma (Compensation) Ordinance establishes the Pneumoconiosis Compensation Fund, which consists of monies received from the government and the relevant levies, surcharges and penalties received from contractors in relation to pneumoconiosis and mesothelioma. The Pneumoconiosis Compensation Fund is administered by the Pneumoconiosis Compensation Fund Board, a statutory body responsible for assessing and collecting the imposed levies and compensating persons suffering from pneumoconiosis and/or mesothelioma and/or family members of persons who died of pneumoconiosis and/or mesothelioma.

Under the Pneumoconiosis and Mesothelioma (Compensation) Ordinance, we are required to pay a levy for any construction operations carried out by us in Hong Kong with a total value exceeding HK\$1 million, at a rate of 0.15% of the total value of the construction operations concerned.

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### **Employment Ordinance (Chapter 57 of the Laws of Hong Kong)**

As a principal contractor, we are liable under the Employment Ordinance to pay wages of employees who are employed by our subcontractors or nominated subcontractors. If any wages become due to an employee who is employed by our subcontractor on any work which the subcontractor has contracted by us to perform, and such wages are not paid within the specified period, such wages shall be payable by us and/or every superior subcontractor jointly and severally.

However, our liability as principal contractor shall be limited to (i) wages of an employee whose employment relates wholly to the work which we have contracted the subcontractor to perform and whose place of employment is wholly on the site of the building work; and (ii) wages due to such an employee for 2 months (i.e. the first 2 months of the period in respect of which the wages are due). Moreover, we (and superior subcontractor, where applicable) shall not be liable to pay any wages to the employee of our subcontractor if that employee fails to serve a notice in writing on us within 60 days after the wage due date.

A principal contractor or superior subcontractor may either (i) claim contribution from every superior subcontractor to the employer of the employee or from the principal contractor and every other such superior subcontractor, as the case may be; or (ii) deduct by way of set-off the amount paid by it from any sum due or may become due to the subcontractor in respect of the work that it has subcontracted.

### **Employees' Compensation Ordinance (Chapter 282 of the Laws of Hong Kong)**

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 employment, the employer is generally liable to pay compensation even if the employee might have committed acts of faults or negligence when the accident occurred. If an employee suffers incapacity or dies as a result of an occupational disease arising out of and in the course of employment, the employee is entitled to receive the same compensation as that payable to an employee injured in an occupation accident.

According to Section 15 of the Employees' Compensation Ordinance, an employer must notify the Commissioner for Labour (as defined under the Occupational Safety and Health Ordinance) of a work accident by submitting a Form 2 within 14 days for general work accidents or within 7 days for fatal accidents. The employer must submit a Form 2 irrespective of whether the accident gives rise to any liability for the employer to pay compensation. If the occurrence of such accident was not brought to the notice of the employer or did not otherwise come to his knowledge within such periods of 7 and 14 days respectively, the Form 2 must be submitted not later than 7 and 14 days respectively, as the case may be, after the occurrence of the accident was first brought to the notice of the employer or otherwise came to his knowledge.

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Additionally, pursuant to Section 24 of the Employees’ Compensation Ordinance, a principal contractor shall be liable to pay compensation to the employees of its subcontractors who are injured in accidents arising out of and in the course of employment with the subcontractor. However, a principal contractor is entitled to be indemnified for such compensation by any person who would have been liable to pay compensation to the injured employee.

Under Section 40 of the Employees’ Compensation Ordinance, all employers, including contractors and sub-contractors, are required to take out insurance policies to cover their liabilities in respect of injuries of all their employees.

Where a principal contractor has undertaken to perform any construction work, it may take out an insurance policy for an amount not less than HK\$200 million per event to cover its liability and that of its subcontractor(s) under the Employees’ Compensation Ordinance and at common law. Where a principal contractor has taken out a policy of insurance under Section 40(1B) of the Employees’ Compensation Ordinance, the principal contractor and a subcontractor insured under the policy shall be regarded as having complied with the relevant requirements of the Employees’ Compensation Ordinance. As a principal subcontractor, our Group’s liability in respect of the claims from employees of our Group and our Group’s subcontractors arising out of and in the course of their employment will be covered by the insurance policy taken out by our Group. An employer who fails to secure an insurance cover shall be liable on conviction to a fine of HK\$100,000 and to imprisonment for 2 years.

### **Immigration Ordinance (Chapter 115 of the Laws of Hong Kong)**

As a principal or main contractor who has control over or is in charge of the construction sites of our projects, we are considered a construction site controller under the Immigration Ordinance and are required to comply with its provisions against employing illegal immigrants and/or persons otherwise not lawfully employable for our construction works.

Pursuant to Section 38A of the Immigration Ordinance, a construction site controller should prevent (i) illegal immigrants from being on the construction site; and (ii) persons who are not lawfully employable, as defined under the Immigration Ordinance, from taking employment on the construction site.

Any construction site controller who contravenes Section 38A of the Immigration Ordinance may be held liable upon conviction of a fine of HK\$350,000. However, it is a defence in proceedings for an offence under Section 38A of the Immigration Ordinance for the construction site controller to prove that it took all practicable steps to prevent illegal immigrants from being on the construction site and/or persons who are not lawfully employable from taking employment on the construction site.

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### **Minimum Wage Ordinance (Chapter 608 of the Laws of Hong Kong)**

The Minimum Wage Ordinance provides for a prescribed minimum hourly wage rate (currently set at HK\$32.5 per hour) during the wage period for every employee engaged under a contract of employment (as defined under the Employment Ordinance). Under the Minimum Wage Ordinance, any provision of the employment contract which purports to extinguish or reduce the right, benefit or protection conferred on the employee by the Minimum Wage Ordinance is void.