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## REGULATORY OVERVIEW

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*This section provides a summary of the material regulations directly relevant to our current and future businesses and how these regulations will affect our business operations and future developments. As this is a summary, it does not contain a detailed analysis of the regulations which are relevant to our business and operations. Prospective investors should not place undue reliance on the statements under this section and should consult their own professional advisers about the regulations referred to under this section.*

### LABOUR, HEALTH AND SAFETY

As we mainly undertook slope works in the role of subcontractor during the Track Record Period, we are subject to the laws and regulations in relation to construction works, labour, health and safety.

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

Construction Workers Registration Ordinance requires construction workers to be registered for carrying out construction work on a construction site.

Under the Construction Workers Registration Ordinance, "construction work" means, among other things, any building operation involved in preparing for any operation such as the addition, renewal, alteration, repair, dismantling or demolition of any specified structure that involves the structure of the specified structure or any other specified structure. "Construction site" means, subject to certain exceptions, a place where construction work is, or is to be, carried out. Under section 40 of the Construction Workers Registration Ordinance, no person shall be registered as a registered construction worker unless the Registrar of Construction Workers is satisfied, among other things, that the person has attended the relevant construction work-related safety training course. Further, under section 44 of the Construction Workers Registration Ordinance, the Registrar of Construction Workers shall not renew the registration of a person unless the Registrar of Construction Workers is satisfied that, among other things, (i) the person has attended the relevant construction work-related safety training course; and (ii) if the registration will, on the date of expiry, have been in effect for not less than two years, the person has attended and completed, during the period of one year immediately before the date of application for renewal of the registration, such development courses applicable to his registration as the Construction Industry Council may specify.

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 or 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).

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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, has been 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, 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 in relation to those trade divisions independently.

During the Track Record Period and up to the Latest Practicable Date, there was no material non-compliance with the relevant laws and regulations.

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

The Factories and Industrial Undertakings Ordinance provides for the safety and health protection to workers in the industrial undertakings. Under the Factories and Industrial Undertakings Ordinance, it is the duty of a proprietor of an industrial undertaking, including factories, construction work, catering establishments, cargo and container handling undertakings, repair workshops and other industrial workplaces, to ensure, so far as is reasonably practicable, the health and safety at work of all persons employed by him at the industrial undertaking. The duties of a proprietor extend to include:

- providing and maintaining plant and work systems that do not endanger safety or health;
- making arrangements for ensuring safety and health in connection with the use, handling, storage and transport of articles and substances;
- providing all necessary information, instructions, training and supervision for ensuring safety and health;
- providing and maintaining safe access to and egress from the workplaces; and
- providing and maintaining a safe and healthy working environment.

A proprietor who contravenes any of these duties commits an offence and is liable to a fine of HK\$500,000. A proprietor who contravenes any of these requirements wilfully and without reasonable excuse commits an offence and is liable to a fine of HK\$500,000 and to imprisonment for six months.

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Section 6BA(5) of the Factories and Industrial Undertakings Ordinance also provides that since 1 May 2001 every proprietor shall not employ at the undertaking a relevant person who has not been issued a relevant safety training certificate or whose relevant certificate has expired. A proprietor who contravenes this section commits an offence and is liable to a fine of HK\$50,000.

Matters regulated under the subsidiary regulations of the Factories and Industrial Undertakings Ordinance, including the Construction Sites (Safety) Regulations (Chapter 59I of the Laws of Hong Kong), include (i) the prohibition of employment of persons under 18 years of age (save for certain exceptions); (ii) the construction, maintenance and operation of hoists; (iii) the duty to ensure safety of places of work; (iv) prevention of falls; (v) safety of excavations; (vi) the duty to comply with miscellaneous safety requirements; and (vii) provision of first aid facilities. Non-compliance with any of these rules constitutes an offence and different levels of penalty will be imposed and a contractor guilty of the relevant offence could be liable to a fine up to HK\$200,000 and imprisonment up to 12 months.

During the Track Record Period and up to the latest Practicable Date, there was no material non-compliance with the relevant laws and regulations.

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

The Occupational Safety and Health Ordinance provides for the safety and health protection to employees in workplaces, both industrial and non-industrial.

Employers must, as far as reasonably practicable, ensure the safety and health in their workplaces by attending to the following:

- providing and maintaining plant and systems of work that are safe and without risks to health;
- making arrangements for ensuring safety and absence of risks to health in connection with the use, handling, storage or transport of plant or substances;
- as regards any workplace under the employer's control:
  - provision and maintenance of the workplace in a condition that is safe and without risks to health; and
  - provision and maintenance of means of access to and egress from the workplace that are safe and without any such risks;
- providing all necessary information, instructions, training and supervision for ensuring safety and health; and
- providing and maintaining a working environment for the employees that is safe and without risks to health.

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

The Commission for Labour may also issue an improvement notice against non-compliance of the Occupational Safety and Health Ordinance or the Factories and Industrial Undertakings Ordinance or suspension notice against activity or condition of workplace which may create imminent risk of death or serious bodily injury to the employees. Failure to comply with an improvement notice without reasonable excuse constitutes an offence punishable by a fine of HK\$200,000 and imprisonment of up to 12 months and failure to comply with a suspension notice without reasonable excuse constitutes an offence punishable by a fine of HK\$500,000 and imprisonment of up to 12 months, and to a further fine of \$50,000 for each day or part of a day during which the employer knowingly and intentionally continues the non-compliance or contravention.

We have set up an occupational health and safety management system to promote safe working practice among all employees and to prevent the occurrence of accidents through safety inspections. For details, please refer to the paragraph headed "Business – Occupational health and work safety" in this document.

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

The Employees' Compensation Ordinance establishes a no-fault and non-contributory employee compensation system for work injuries and 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 even if the employee might have committed acts of faults or negligence when the accident occurred. Similarly, an employee who suffers incapacity arising from an occupational disease is entitled to receive the same compensation as that payable to employees injured in occupational accidents.

According to section 15 of the Employees' Compensation Ordinance, an employer must notify the Commissioner for Labour of any work accident by submitting Form 2 (within 14 days for general work accidents and within 7 days for fatal accidents), irrespective of whether the accident gives rise to any liability to pay compensation. If the happening 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 or 14 days (as the case may be) then such notice shall be given not later than 7 days or, as may be appropriate, 14 days after the happening of the accident was first brought to the notice of the employer or otherwise came to his knowledge.

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Pursuant to section 24 of the Employees' Compensation Ordinance, a principal contractor shall be liable to pay compensation to subcontractors' employees who are injured in the course of their employment to the subcontractor. The principal contractor is, nonetheless, entitled to be indemnified by the subcontractor who would have been liable to pay compensation to the injured employee. The employees employed by the subcontractors in question are required to serve a notice in writing on the principal contractor before making any claim or application against such principal contractor.

According to section 40 of the Employees' Compensation Ordinance, all employers (including contractors and subcontractors) are required to take out insurance policies to cover their liabilities both under the Employees' Compensation Ordinance and at common law for injuries at work in respect of all their employees (including full-time and part-time employees).

Section 40(1B) of the Employees' Compensation Ordinance provides that 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 his liability and that of his 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 section 40(1) of the Employees' Compensation Ordinance.

An employer who fails to comply with the Employees' Compensation Ordinance to secure an insurance cover is liable on conviction upon indictment to a fine of HK\$100,000 and to imprisonment for two years; and on summary conviction to a fine of HK\$100,000 and to imprisonment for one year.

For our insurance coverage in this connection, please refer to the paragraph headed "Business – Insurance" in this document. For the information of employees' compensation claims and common law personal injury claims experienced by our Group during the Track Record Period and up to the Latest Practicable Date, please refer to the paragraph headed "Business – Litigations and claims" in this document.

### **Limitation Ordinance (Chapter 347 of the Laws of Hong Kong)**

Under the Limitation Ordinance, the time limit for an applicant to commence common law claims for personal injuries is three years from the date on which the cause of action accrued.

For information regarding the potential common law claims for personal injuries which were within the three year period and which might be brought against our Group as at the Latest Practicable Date, please refer to the paragraph headed "Business – Litigations and claims" of this document.

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

A principal contractor shall be subject to the provisions on subcontractor's employees' wages in the Employment Ordinance. According to section 43C of the Employment Ordinance, a principal contractor or a principal contractor and every superior subcontractor jointly and severally is/are liable to pay any wages that become due to an employee who is employed by a subcontractor on any work which the subcontractor has contracted to perform, and such wages are not paid within the period specified in the Employment Ordinance. The liability of a principal contractor and superior subcontractor(s) (where applicable) shall be limited to:

- a) the wages of an employee whose employment relates wholly to the work which the principal contractor has contracted to perform and whose place of employment is wholly on the site of the building works; and
- b) the wages due to such an employee for two months without any deductions (such months shall be the first two months of the period in respect of which the wages are due).

An employee who has outstanding wage payments from subcontractor must serve a notice in writing on the principal contractor within 60 days (or such other additional period not exceeding 90 days as the Commissioner for Labour may permit) after the date on which the wages become due. A principal contractor and superior subcontractor (where applicable) shall not be liable to pay any wages to the employee of the subcontractor if that employee fails to serve a notice on the principal contractor.

Upon receipt of such notice from the relevant employee, a principal contractor shall, within 14 days after receipt of the notice, serve a copy of the notice on every superior subcontractor to that subcontractor (where applicable) of whom he is aware.

A principal contractor who without reasonable excuse fails to serve notice on the superior subcontractor(s) shall be guilty of an offence and shall be liable on conviction to a fine of HK\$50,000.

Pursuant to section 43F of the Employment Ordinance, if a principal contractor or superior subcontractor pays to an employee any wages under section 43C of the Employment Ordinance, the wages so paid shall be a debt due by the employer of that employee to the principal contractor or superior subcontractor, as the case may be. The principal contractor or superior subcontractor who pays an employee any wages under section 43C of the Employment Ordinance may either (1) claim contribution from every superior subcontractor to the employee's employer or from the principal contractor and every other such superior subcontractor as the case may be, or (2) deduct by way of set-off the amount paid by him from any sum due or may become due to the subcontractor in respect of the work that he has subcontracted.

During the Track Record Period and up to the Latest Practicable Date, there was no material non-compliance with the relevant laws and regulations.

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

According to section 38A of the Immigration Ordinance, a construction site controller (i.e. the principal or main contractor and includes a subcontractor, owner, occupier or other person who has control over or is in charge of a construction site) shall take all practicable steps to (i) prevent having illegal immigrants from being on site; or (ii) prevent illegal workers who are not lawfully employable from taking employment on site.

Where it is proved that (i) an illegal immigrant was on a construction site; or (ii) such illegal worker who is not lawfully employable took employment on a construction site, the construction site controller commits an offence and is liable to a fine of HK\$350,000.

During the Track Record Period and up to the Latest Practicable Date, there was no material non-compliance with the relevant laws and regulations.

### **Mandatory Provident Fund Schemes Ordinance (Chapter 485 of the Laws of Hong Kong)**

Employers are required to enrol their employees (except for certain exempt persons) who are at least 18 but under 65 years of age and employed for 60 days or more in a Mandatory Provident Fund ("MPF") scheme within the first 60 days of employment.

For both employees and employers, it is mandatory to make regular contributions into a MPF scheme. For an employee, subject to the maximum and minimum levels of income (HK\$25,000 and HK\$7,100 per month respectively before 1 June 2014 or HK\$30,000 and HK\$7,100 per month respectively on or after 1 June 2014), an employer will deduct 5% of the relevant income on behalf of an employee as mandatory contributions to a registered MPF scheme with a ceiling of HK\$1,250 before 1 June 2014 or HK\$1,500 on or after 1 June 2014. Employer will also be required to contribute an amount equivalent to 5% of an employee's relevant income to the MPF scheme, subject only to the maximum level of income (HK\$25,000 per month before 1 June 2014 or HK\$30,000 on or after 1 June 2014).

### ***Industry scheme***

Industry Schemes were established under the MPF system for employers in the construction and catering industries in view of the high labour mobility in these two industries, and the fact that most employees in these industries are "casual employees" whose employment is on a day-to-day basis or for a fixed period of less than 60 days.

For the purpose of the Industry Schemes, the construction industry covers the following eight major categories:

- a) foundation and associated works;
- b) civil engineering and associated works;
- c) demolition and structural alteration works;

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- d) refurbishment and maintenance works;
- e) general building construction works;
- f) fire services, mechanical, electrical and associated works;
- g) gas, plumbing, drainage and associated works; and
- h) interior fitting-out works.

The Mandatory Provident Fund Schemes Ordinance does not stipulate that employers in these two industries must join the Industry Schemes. The Industry Schemes provide convenience to the employers and employees in the construction and catering industries. Casual employees do not have to switch schemes when they change jobs within the same industry, so long as their previous and new employers are registered with the same Industry Scheme. This is convenient for scheme members and saves administrative costs.

As our slope works projects involve the employment of "casual workers", the Industry scheme is applicable to our business and practice.

During the Track Record Period and up to the Latest Practicable Date, there was no material non-compliance with the relevant laws and regulations.

### ENVIRONMENTAL PROTECTION

We are also subject to the laws and regulations in connection with environmental protection as our slope works projects involve operation of machinery.

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

The Air Pollution Control Ordinance is the principal legislation in Hong Kong for controlling emission of air pollutants and noxious odour from construction, industrial and commercial activities and other polluting sources. Subsidiary regulations of the Air Pollution Control Ordinance impose control on air pollutant emissions from certain operations through the issue of licences and permits.

A contractor shall observe and comply with the Air Pollution Control Ordinance and its subsidiary regulations, including without limitation the Air Pollution Control (Open Burning) Regulation (Chapter 311O of the Laws of Hong Kong), the Air Pollution Control (Construction Dust) Regulation (Chapter 311R of the Laws of Hong Kong) and the Air Pollution Control (Smoke) Regulations (Chapter 311C of the Laws of Hong Kong). The contractor responsible for a construction site shall devise, arrange methods of working and carrying out the works in such a manner so as to minimise dust impacts on the surrounding environment, and shall provide experienced personnel with suitable training to ensure that these methods are implemented. Asbestos control provisions in the Air Pollution Control Ordinance require that building works involving asbestos must be conducted only by registered qualified personnel and under the supervision of a registered consultant.



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We have established an environmental management system in conformance with ISO 14001:2015 international standard to comply with the regulation in relation to air pollution control. For details, please refer to the paragraph headed "Business – Environmental compliance" in this document.

### **Air Pollution Control (Non-road Mobile Machinery) (Emission) Regulation (Chapter 311Z of the Laws of Hong Kong)**

Air Pollution Control (Non-road Mobile Machinery) (Emission) Regulation (the "NRMM Regulation") provides for the control of emission from non-road mobile machinery.

According to the NRMM Regulation, non-road mobile machinery, unless approved or exempted, are required to comply with the prescribed emission standards. All regulated machines sold or lease for use in Hong Kong must be approved or exempted with a proper label in a prescribed format issued by the Environmental Protection Department. Starting from 1 December 2015, only approved or exempted non-road mobile machinery with a proper label are allowed to be used in specified activities and locations including construction sites. The Environmental Protection Department may on application, approve a regulated machine if it is satisfied that the emission from the machine conforms to the prescribed emission standard.

In addition, the Environmental Protection Department may, on application, exempt a regulated machine or non-road vehicle from the application of section 4(1), 5(1) or 6(1) of the NRMM Regulation if it is satisfied that the machine or vehicle was in Hong Kong at any time on or before 30 November 2015.

According to the NRMM Regulation, unless the machine is approved, a person who uses or causes to be used a regulated machine in a specified activity commits an offence and is liable on conviction to a fine of up to HK\$200,000.00 and to imprisonment for six months. Any person who uses or causes to be used in a specified activity a regulated machine that is approved or exempted without ensuring that the label complies with the requirements specified in Schedule 2 of the NRMM Regulation and is painted or affixed on the machine and properly maintained in accordance with the requirements specified in Schedule 2 of the NRMM Regulation or without ensuring that the information set out in the label conforms with the information provided to the authority in support of the application for the approval or exemption of the machine commits an offence and is liable on conviction to a fine of up to HK\$50,000 and to imprisonment for three months.

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On 8 February 2015, the Development Bureau issued a Technical Circular (Works) No. 1/2015 in relation to the implementation plan to phase out the use of exempted non-road mobile machineries for four types of non-road mobile machineries, namely generators, air compressors, excavators and crawler cranes in new capital works contracts of public work including design and build contracts, with an estimated contract value exceeding HK\$200 million as follows:

	<b>Phase 1 Tenders to be invited from 1 June 2015 to 31 May 2017</b>	<b>Phase 2 Tenders to be invited from 1 June 2017 to 31 May 2019</b>	<b>Phase 3 Tenders to be invited from 1 June 2019 onwards</b>
Generators		No exempted NRMM is allowed	
Air Compressors		No exempted NRMM is allowed	
Excavators	Exempted NRMM shall not exceed 50% of all units on site	Exempted NRMM shall not exceed 20% of all units on site	No exempted NRMM is allowed
Crawler Cranes	Exempted NRMM shall not exceed 50% of all units on site	Exempted NRMM shall not exceed 20% of all units on site	No exempted NRMM is allowed

*Note: Notwithstanding the above, exempted NRMM may still be permitted at the discretion of the Architect/Engineer if there is no feasible alternative.*

As at the Latest Practicable Date, our Group owned two Regulated Machines (being air compressors), which were approved by the Environmental Protection Department under the NRMM Regulation. In relation to the government contracts of public work entered into between the Government and our main contractor(s) during the Track Record Period, the estimated contract value of all such government contracts did not exceed HK\$200 million, save for one contract which we did not use our Regulated Machines at all. As such, we have complied with the NRMM Regulation.

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

The Noise Control Ordinance provides statutory controls, among others, to restrict and reduce the nuisance caused by environmental noise from construction, industrial and commercial activities.

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A contractor shall comply with the Noise Control Ordinance and its subsidiary regulations in carrying out construction works. For construction activities that are to be carried out during the restricted hours and for percussive piling during the daytime, not being a general holiday, construction noise permits are required from the director of the Environmental Protection Department in advance.

Under the Noise Control Ordinance, construction works that produce noises and the use of powered mechanical equipment (other than percussive piling) in populated areas are not allowed between 7:00 p.m. and 7:00 a.m. or at any time on general holidays (including Sunday), unless prior approval has been granted by the director of the Environmental Protection Department through the construction noise permit system. The use of certain equipment is also subject to restrictions. For instance, hand-held percussive breakers must comply with noise emissions standards and be issued with a noise emission label from the director of the Environmental Protection Department.

Any person who carries out any construction work except as permitted is liable on first conviction to a fine of HK\$100,000 and on second or subsequent convictions to a fine of HK\$200,000, and in any case to a fine of HK\$20,000 for each day during which the offence continues.

We have established an environmental management system in conformance with ISO 14001:2015 international standard to comply with the regulation in relation to noise control. For details, please refer to the paragraph headed "Business – Environmental compliance" in this document.

## CONTRACTOR LICENSING REGIME AND OPERATION

### Contractor Licensing Regime

Under the current contractors registration system in Hong Kong, the Building Authority keeps (a) a register of general building contractors who are qualified to perform the duties of a general building contractor; (b) a register of specialist contractors who are qualified to carry out specialised works (such as demolition works, foundation works, ground investigation works, site formation works and ventilation works) specified in the category in the sub-register in which they are entered; and (c) a register or provisional register of minor works contractors who are qualified to carry out minor works (such as alteration and addition works, repair works, etc.) belonging to the class, type and item specified in the register in which they are registered.

Subcontractors, including foundation and substructure construction subcontractors, in Hong Kong may apply for registration under the Registered Specialist Trade Contractors Scheme (formerly known as the Subcontractor Registration Scheme) managed by the Construction Industry Council.

With effect from 1 April 2019, the Subcontractor Registration Scheme has been renamed as the Registered Specialist Trade Contractors Scheme. All subcontractors who are registered under the seven trades namely Demolition, Concreting Formwork, Reinforcement Bar Fixing, Concreting, Scaffolding, Curtain Wall and Erection of Concrete Precast

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Component of the Subcontractor Registration Scheme have automatically become Registered Specialist Trade Contractors under the Registered Specialist Trade Contractors Scheme, whilst all subcontractors who are registered under the remaining trades of the Subcontractor Registration Scheme have been retained as Registered Subcontractors under Registered Specialist Trade Contractors Scheme, and no application is required. As such, with effect from 1 April 2019, our operating subsidiary, A-City Workshop, has become a Registered Specialist Trade Contractor under the Registered Specialist Trade Contractors Scheme in Reinforcement Bar Fixing, Concreting Formwork and Concreting; and a Registered Subcontractor under the Registered Specialist Trade Contractors Scheme in General Civil Works with Specialty of Earthwork and Geotechnical Works.

Under section 8B(2) of the Buildings Ordinance, an applicant for registration as a registered general building contractor or registered specialist contractor must satisfy the Building Authority on the following aspects:

- a) if it is a corporation, the adequacy of its management structure;
- b) the appropriate experience and qualifications of its personnel;
- c) his/her ability to have access to plants and resources; and
- d) 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.

In considering each application, the Building Authority is to have regard to the qualifications, competence and experience of the following key personnel of the applicant:

- a) a minimum of one person appointed by the applicant to act for the applicant for the purposes of the Buildings Ordinance, hereinafter referred to as an "Authorised Signatory";
- b) for a corporation – a minimum of one director from the board of directors of the applicant, hereinafter referred to as a "Technical Director" who is authorised by the board to:
  - i) have access to plant and resources;
  - ii) provide technical and financial support for the execution of building works and street works; and
  - iii) make decisions for the company and supervise the Authorised Signatory and other personnel;

for the purpose of ensuring that the works are carried out in accordance with the Buildings Ordinance; and

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- c) for a corporation which appoints a director who does not possess the required qualification or experience as Technical Director to manage the carrying out of building works and street works – an "Other Officer" authorised by the board of directors to assist the Technical Director.

Our operating subsidiary, A-City Workshop, has been registered with the Buildings Department as a Registered Specialist Contractor under the category "site formation works" since 8 June 2017 and a Registered General Building Contractor since 15 May 2017. A-City Workshop has also been registered under the Subcontractor Registration Scheme (currently known as the Registered Specialist Trade Contractors Scheme) since February 2013.

Our executive Director, Mr. Ho is appointed as the Authorised Signatory and the Technical Director to act for the purpose of the Buildings Ordinance for A-City Workshop. For details of the biography of Mr. Ho, please refer to the paragraph headed "Directors and senior management – Directors – Executive Directors" in this document.

In the event that Mr. Ho is otherwise unavailable, we have certain succession and contingency plan in place. For details of the succession and contingency plan, please refer to the paragraph headed "Business – Licences and registrations" in this document.

In addition to the above key personnel, the applicant is also required to demonstrate that it has employed appropriate qualified staff members to assist the applicant and the above key personnel to execute, manage and supervise the building works and street works. For registration as a registered specialist contractor, the applicant must satisfy the Buildings Department that it has the necessary experience and, where appropriate, professional and academic qualifications, to undertake work in the specialist category and should also demonstrate that it has the access to engaging qualified persons to carry out the relevant specialised duties.

The Buildings Department imposes specific requirements on the directors of a contractor and the person appointed by the contractor to act for it for the purposes of the Buildings Ordinance.

### **Private sector slope works projects in Hong Kong**

Private sector slope works are projects launched by private developers as well as any other entities not being Government departments and statutory bodies.

Pursuant to section 9 of the Buildings Ordinance, a contractor who carries out private sector slope works is required to register with the Building Authority as a Registered Specialist Contractor under the sub-register of "site formation works" category, or appoint a Registered Specialist Contractor under the relevant category to carry out the specialised works for him.

A Registered Specialist Contractor appointed to carry out specialised works is required to, among others, provide continuous supervision to the carrying out of the works in accordance with his supervision plan and to notify the Building Authority of any

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contravention of the regulations that would result from carrying out the works shown in the plan approved by the Building Authority for the works, in accordance with section 9 of the Buildings Ordinance.

The requirements mentioned above are the basic requirements for undertaking private sector slope works projects. Other additional requirements on the main contractors or subcontractors may be imposed by the developers, main contractors, or other entities, as the case may be.

For FY2017 and FY2018, revenue attributable to private sector amounted to approximately 4.8% and 4.7% of our total revenue, respectively. During the Track Record Period, we had undertaken a private sector project as main contractor in the role of Registered Specialist Contractor under the category of "site formation works" for a church in Ap Lei Chau, Hong Kong.

### **Public sector slope works projects in Hong Kong**

For public sector projects, contractors responsible for landslip prevention and mitigation and/or land piling works are, among others, required to be listed under List of Approved Specialist Contractors for Public Works maintained by the WBDB, and with the Buildings Department as Registered Specialist Contractors under the sub-register category of "site formation works". For details of the List of Approval Specialist Contractors for Public Works, please refer to the paragraph headed "Requirement for the application of registration as a probationary contractor on the List of Approved Specialist Contractors for Public Works" below in this section.

Generally speaking, as long as the principal contractor holds all the required registrations for the project, the subcontractors are not required to hold the same registrations as the main contractors in public projects. However, being registered on the Registered Specialist Trade Contractors Scheme (formerly known as the Subcontractor Registration Scheme) at the Construction Industry Council is required for subcontractors to participate in public projects commissioned by certain Government departments and statutory bodies, including the Airport Authority, Development Bureau and the Housing Authority.

Pursuant to a technical circular issued by the WBDB (the Environment, Transport and Works Bureau at the time of issue of the technical circular) on 14 June 2004, all capital works and maintenance works contracts of the government with tenders to be invited on or after 15 August 2004 shall require the contractor to employ all subcontractors (whether nominated, specialist or domestic) that are registered from the respective trades available under the Primary Register of the Voluntary Subcontractor Registration Scheme introduced by the Provisional Construction Industry Co-ordination Board whose work was taken over by the Construction Industry Council in February 2007.

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### **Requirement for the application of registration as a probationary contractor on the List of Approved Specialist Contractors for Public Works**

Pursuant to the Contractor Management Handbook – Revision B published by the Development Bureau, the admission and retention on the List of Approved Specialist Contractors for Public Works is subject to certain financial, technical and management criteria.

A contractor's status in a particular group will be either probationary or confirmed. Probationary contractors are limited in the number and value of contracts for which they are eligible to tender and to be awarded.

In order to apply for the registration as a probationary contractor on the List of Approved Specialist Contractors for Public Works under the category of "Landslip Preventive/Remedial works to Slopes/Retaining Walls" ("LPM"), the applicant has to meet, among others, the following financial criteria and submit certain financial information for the assessment:–

- The applicant should generally possess at least a positive capital value;
- The applicant is required to maintain minimum employed capital of HK\$8,600,000 and minimum working capital of HK\$8,600,000;
- If the applicant has outstanding contracts in hand, its working capital for retention purpose should amount to 10% of the combined annual value of uncompleted works on outstanding contracts or the minimum working capital specified above, whichever is higher (if the applicant has both employed and working capital not less than HK\$4.2 million respectively).

Further, the applicant has to meet the minimum technical and management criteria regarding the following areas in order to enter on probation:–

- Job experience
- Registration with relevant authorities in Hong Kong including registration with the Buildings Department as a Registered Specialist Contractor under the sub-register category of "site formation works"
- Top management
- Professional staff
- Technical staff
- Safety staff
- Plant and equipment

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## REGULATORY OVERVIEW

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- Office/workshop facilities
- Training facilities
- Others

Contractors included in the List of Approved Specialist Contractors for Public Works under the category of LPM but have not yet achieved confirmation status (i.e. a probationary contractor) may take on not more than two government contracts tendered under the category of LPM with total outstanding value of works of not greater than HK\$114 million.

Our Group intends to apply for registration as a probationary contractor on the List of Approved Specialist Contractors for Public Works under the category of LPM as one of our business strategies. For details, please refer to the sections headed "Business – Business strategies" and "Future plans and use of [REDACTED]" in this document.

### **Regulatory actions under the Buildings Ordinance**

Under sections 7, 13 and 40 of the Buildings Ordinance, a Registered Specialist Contractor will be subject to prosecution or disciplinary action where an offence is committed or when matters justifying the taking of disciplinary action arise, as discussed in the following paragraphs.

#### *Disciplinary proceedings*

Pursuant to sections 7 and 13 of the Buildings Ordinance, the matters justifying the taking of disciplinary action include, amongst others, being convicted by any court of an offence related to carrying out his professional duties, being negligent or having misconducted himself in a professional way, having permitted a material deviation from a supervision plan for which he is responsible without reasonable cause and having drawn up a supervision plan that does not comply with the material requirements of the Buildings Ordinance, etc.

The disciplinary board may, amongst others, order that the name of such person or the name of the director, officer or person (in the case of a Registered Specialist Contractor) be removed from the relevant register, either permanently or for such period as the disciplinary board thinks fit; or order such person or the director, officer or person (in the case of a Registered Specialist Contractor) be fined.

#### *Prosecution*

In addition to disciplinary proceedings, a Registered Specialist Contractor will, pursuant to section 40 of the Buildings Ordinance, be subject to prosecution where an offence is committed. Set out below are some of the offences under section 40 of the Buildings Ordinance.



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Pursuant to section 40(2A) of the Buildings Ordinance, a Registered Specialist Contractor directly concerned with any prescribed inspection or building works or street works shall not:

- a) permit or authorise to be incorporated in or used in the carrying out of any such inspection or works any materials which are defective or do not comply with the provisions of the Buildings Ordinance; or any materials which have not been mixed, prepared, applied, used, erected, constructed, placed or fixed in the manner required for such materials under the Buildings Ordinance;
- b) diverge or deviate in any material way from any work shown in a plan approved by the Building Authority under the Buildings Ordinance;
- c) diverge or deviate in any material way from any works shown in a plan relating to minor works that is required to be submitted to the Building Authority under the simplified requirements; or
- d) knowingly misrepresent a material fact in any plan, certificate, form, report, notice or other document given to the Building Authority under the Buildings Ordinance.

Failure to comply with any of the above provisions constitutes an offence and offenders are liable on conviction (a) in the case of a prescribed inspection (other than a prescribed inspection in respect of a window in a building) or building works (other than minor works) or street works, to a fine of HK\$1,000,000 and to imprisonment for three years; or (b) in the case of a prescribed inspection in respect of a window in a building or minor works, to a fine of HK\$500,000 and to imprisonment for 18 months.

In addition, any Registered Specialist Contractor who fails to notify the Building Authority of any contravention of the regulations which would result from the carrying out of any work shown in any plan approved by the Building Authority, contravenes sections 9(5)(b), 9(6)(b) or 4(3)(b) of the Buildings Ordinance and shall be guilty of an offence and shall be liable on conviction to a fine of HK\$250,000. However, it shall be a defence in any prosecution for such a contravention for the person charged to prove to the satisfaction of the court that he did not know, nor could reasonably have discovered, the contravention referred to in the charge.

Under section 40(2E) of the Buildings Ordinance, where a Registered Specialist Contractor certifies or carries out minor works belonging to a class, type or item for which he is not registered, he shall be guilty of an offence and is liable on conviction to a fine at level 6 and to imprisonment for six months, and to a fine of HK\$5,000 for each day during which it is proved to the satisfaction of the court that the offence has continued.

Under section 40(2D) of the Buildings Ordinance, any person who knowingly misrepresents a material fact in any report submitted to the Building Authority under section 27C(2)(c) of the Buildings Ordinance shall be guilty of an offence and shall be liable on conviction to a fine of HK\$250,000 and to imprisonment for three years.

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During the Track Record Period and up to the Latest Practicable Date, to the best knowledge of our Directors, neither our Group nor any of our Directors had been subject to any regulatory actions, disciplinary proceedings or prosecutions under the Buildings Ordinance.

### **Security of Payment Legislation for the Construction Industry**

The Development Bureau launched the 3-month public consultation on 1 June 2015 for the proposed Security of Payment Legislation for the construction industry that aims to improve payment terms and payment delays, encourage rapid dispute resolution and increase cash flow of operators in the construction industry to the Legislative Council.

Under the proposed Security of Payment Legislation, contract parties have (i) the right to progress payments; (ii) the right to adjudication; and (iii) the right to suspend works for non-payment.

Under the current payment practices along the construction supply chain, many contracts include "pay when paid" or "pay when certified" clauses, where payment is conditional on the payer receiving payment from a third party or payment is contingent or conditional on the operation of another contract or agreement. This often resulted in actual durations taken for certification and settlement of progress payments and final account payments being longer than the due dates specified in contracts. Under the proposed legislation, parties undertaking construction activities or providing related services, materials and plant shall be entitled to claim a progress payment based on the value of their work, services or supply shall be based on any contract price or rates or other pricing agreed by the parties to the extent it can be reasonably applied or otherwise having regard to market rates or prices prevailing in the industry at the time the contract was entered into.

All parties undertaking construction activities or provide related services, materials and plant shall be entitled to claim progress payments (which shall include single, interim and final progress payments). Payment of an amount due must be made within 60 calendar days of an interim progress payment claim being made or within 120 calendar days for a final progress payment claim.

The proposed Security of Payment Legislation would also introduce adjudication as a means of resolving disputes relating to non-payment, value of works or extensions of time, allow parties to agree their own adjudicator, and impose a strict timetable upon the contract. The proposed legislation will carry an express provision for enforcement by allowing an adjudicator's decision to be filed directly in court. Parties would be entitled to refer the matter to the court or arbitration if unsatisfied with the decision of the adjudicator.

The proposed legislation would provide parties with the right to suspend all or part of their works or to reduce the rate of progress in the event of non-payment, provided that notice is given to the principal contractor and site owner (if known). Parties whom suspend or slow down work due to non-payment would also have rights to extension of time and costs arising from the delay.

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All contracts and sub-contracts, whether in written or oral form, for (i) government works, under which the Government and specified public entities procure construction and maintenance activities or related services, materials or plant; and (ii) private sector works, under which private entities procure construction activities for new buildings (as defined in the Buildings Ordinance) with a main contract value of over HK\$5 million or procure related services, material or plant or supply-only contracts with a contract value of over HK\$500,000, will be governed by the Security of Payment Legislation. Where the main contract is covered by the Security of Payment Legislations, all sub-contracts (irrespective of tier) will be covered by the Security of Payment Legislation regardless of value. The legislation will not apply to private sector construction works relating to new buildings with a main contract value of less than HK\$5 million or related services, material or plant supply-only contracts with a contract value of less than HK\$500,000.

The proposed legislation will not apply retrospectively but will apply only to contracts entered on or after a date to be set by or pursuant to the legislation.

Our Directors are of the view that the proposed Security of Payment Legislation will minimise the risk of non-payment or disputes in the slope works industry. It will provide an effective adjudication framework for us to solve disputes arising from late payment with our customers in a timely and cost-efficient manner, which will reduce the costs and time spent on handling disputes.

On the other hand, our suppliers generally grant us a credit term of 0 to 45 days. We have not adopted any "pay when paid" policy with our suppliers. Therefore, our Directors consider that our payment pattern does not deviate from the requirements stipulated in the Security of Payment Legislation thus, our Directors consider that the Security of Payment Legislation will not have any significant adverse impact on our payment practice, liquidity and cash management.