
RELATIONSHIP WITH OUR CONTROLLING SHAREHOLDERS

OVERVIEW

During the Track Record Period, our Company was controlled by (i) Mr. Huang, our founder, chairman and executive Director, by himself and through Xiamen Suntama and Jinyan Tengfei LP, (ii) Mr. Zheng, our vice chairman and executive Director, by himself and through his spouse, and (iii) Mr. Li, our general manager and executive Director, by himself (together with Mr. Huang, Mr. Zheng and Xiamen Suntama, collectively, the “Concert Parties”), pursuant to certain acting in concert agreements dated December 29, 2016 and December 23, 2020 entered into between themselves (the “Concert Party Agreements”). Pursuant to the Concert Party Agreements, the Concert Parties have agreed to act in concert with each other in respect of the decision making at the Board meeting level and Shareholders meeting level relating to the business operation and major issues of the Company since December 29, 2016, and agreed further that if the Concert Parties have disagreements on the major issues of the Company, the Concert Parties will cast vote on such major issues and shall act in accordance with the direction of the Concert Party or Concert Parties with more than two-thirds of the total number of voting rights held by the Concert Parties. The acting in concert arrangement under the Concert Party Agreements will continue until the expiry of 36 months after the [REDACTED] and will be automatically renewed for five years each time after the expiry date unless any of the party to such Concert Party Agreements terminates it in writing.

In addition, Jinyan Tengfei LP (the employee incentive share platform of our Company and its general partner is Mr. Huang) and Ms. Xue (the spouse of Mr. Zheng) are also deemed to be our Controlling Shareholders by virtue of their relationship with the Concert Parties pursuant to the Listing Rules. For further details, See “History, Development and Corporate Structure—Concert Party Arrangement” for more information.

Xiamen Suntama has been controlled by Mr. Huang during the Track Record Period and as of the Latest Practicable Date. In April 2023, Xiamen Suntama repurchased all the 14.43% minority interests in Xiamen Suntama held by Torch Investment, a [REDACTED] Investor and a state-owned entity, at the consideration of RMB42 million. Torch Investment is principally engaged in equity investment in technology and emerging companies includes companies in the industry of manufacturing computer, communications and other electronic equipment as well as research and experimental development. As confirmed by such investor, it did not have any right to nominate directors to the Board and the board of directors of Xiamen Suntama, participate in any management or board meetings of, hold any board seat or have any board representation in Xiamen Suntama or the Company, nor had any veto right to any board resolutions or shareholders resolutions of Xiamen Suntama or the Company. Accordingly, Torch Investment is only a passive investor of the Company and Xiamen Suntama, but not a member of the group of Controlling Shareholders. See “History, Development and Corporate Structure” for more information of Torch Investment. As such, although there had been a change in ownership in Xiamen Suntama, the Company satisfied the requirements of ownership continuity and control for at least the most recent audited financial year under the Listing Rules.

As of the Latest Practicable Date, our group of Controlling Shareholders collectively owned approximately 41.40% of the total issued share capital of the Company, comprising (1) 37.52% of the equity interest directly held by the Concert Parties; (2) 1.89% of the equity interests of the Company held by Jinyan Tengfei LP; and (3) 1.99% of the equity interest of the Company held by Ms. Xue.

Accordingly, pursuant to the Listing Rules, Mr. Huang, Mr. Zheng, Mr. Li, Xiamen Suntama, Jinyan Tengfei LP and Ms. Xue are members of the group of controlling shareholders (the “Controlling Shareholders”).

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Immediately following the completion of the [REDACTED] and [REDACTED] (assuming that the [REDACTED] is not exercised), our group of Controlling Shareholders collectively owned approximately [REDACTED]% of the total issued share capital of the Company, comprising (1) [REDACTED]% of the equity interest directly held by the Concert Parties; (2) [REDACTED]% of the equity interests of the Company held by Jinyan Tengfei LP; and (3) [REDACTED]% of the equity interest of the Company held by Ms. Xue. Accordingly, our group of Controlling Shareholders will remain as our Controlling Shareholders upon completion of the [REDACTED] and assuming no exercise of the [REDACTED]. For details of the shareholding of our Controlling Shareholders, see “Substantial Shareholders.”

COMPETITION

The core business of our Group is producing and sales of edible bird’s nest related products. We mainly produce EBN products and sell our products through online and offline channels, while our offline distributors only distribute and sell our EBN products offline in a specifically designated district. In light the different user portraits for online and offline customers, we have differentiated our products sold through online channels with those through offline channels in various aspects including branding, packaging and product specifications. Union Yutai, which was held as to 38.5 % by Mr. Zheng, our Controlling Shareholder, is the exclusive offline distributor of our EBN products in Tianjin City and it does not sell our products through online channels. Union Yutai only sells EBN products under brands owned by the Group. In addition to EBN products, Union Yutai also sells other retail food products such as Lunar New Year’s Eve dinner gift box from a brand not owned by the Group. During the year ended December 31, 2020, 2021 and 2022 and the five months ended May 31, 2023, the unaudited total revenue of Union Yutai was approximately RMB29.8 million, RMB29.4 million, RMB30.6 million and RMB15.1 million, respectively, accounted for 2.29%, 1.95%, 1.77% and 1.93% of our total revenue in the same periods, respectively. During the year ended December 31, 2020, 2021 and 2022 and the five months ended May 31, 2023, sales of our products to Union Yutai accounted for 1.19%, 1.33%, 1.18% and 0.96% of our total revenue in the same periods, respectively. See “Connected Transactions” for more information. Union Yutai has no present or future intention to expand its EBN distribution business beyond Tianjin City. Although Union Yutai may potentially compete with our core business, our Company believes that such potential competition does not materially and adversely affect the Group because we have differentiated our products sold through online channels with those through offline channels, including those distributed by Union Yutai in Tianjin City, and there are differences in the business model and scale of business between the Group and Union Yutai, and that the business of Union Yutai, as a distributor of the Company is with aligning interests in sales of EBN products with our Company.

Save as disclosed above, each of the Controlling Shareholders and Directors confirm that as of the Latest Practicable Date, he/she/it did not have any interest in a business, apart from the business of our Group, which competes or is likely to compete, directly or indirectly, with our business, and requires disclosure under Rule 8.10 of the Listing Rules.

INDEPENDENCE FROM OUR CONTROLLING SHAREHOLDERS

Management Independence

Our business is primarily managed and conducted by our Board and senior management. Upon the [REDACTED], our Board will consist of nine Directors, comprising four executive Directors, two non-executive Directors and three independent non-executive Directors. For more information, see “Directors, Supervisors and Senior Management.” Mr. Huang, Mr. Zheng and Mr. Li are our executive Directors and our Controlling Shareholders.

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Except for the Concert Parties and HUANG Danyan (sister of Mr. Huang, and our executive Director and deputy general manager), our other Directors and senior management are independent from our group of Controlling Shareholders. Notwithstanding such relationships, our Directors believe that our Board and senior management are able to manage our business and function independently from our group of Controlling Shareholders based on the following reasons:

- (i) except for the Concert Parties and HUANG Danyan (sister of Mr. Huang), the other five Directors are independent of our group of Controlling Shareholders, comprising two non-executive Directors and three independent non-executive Directors, all of whom possess sufficient knowledge, experience and competence in respect of management and corporate governance affairs. Accordingly, they are able to discharge their duties independently from our Controlling Shareholder. Each Director is aware of his fiduciary duties as a Director of our Company which requires, among other things, that he acts for the benefit and in the best interests of our Company and does not allow any conflict between his duties as a Director and his personal interest;
- (ii) in the event that there is a potential conflict of interest arising out of any transaction to be entered into between our Company and our group of Controlling Shareholders or their respective close associates, the interested Director(s) shall abstain from voting at the relevant board meetings of our Company in respect of such transactions, and shall not be counted in the quorum;
- (iii) our Board will comprise nine Directors upon [REDACTED], and three of them will be independent non-executive Directors, which represent one-third of the members of the Board. Our independent non-executive Directors have extensive experience in different areas and have been appointed in accordance with the requirements of the Listing Rules to ensure that the decisions of the Board are made after due consideration of independent and impartial opinions; and
- (iv) our Company has established internal control mechanisms to manage conflict of interests, including, among others, the policies and procedures to identify connected transactions and material interests of our Directors, Supervisors, senior management and Shareholders to ensure that our Shareholders, Directors, Supervisors or senior management with conflicting interests in a proposed transaction will abstain from voting on the relevant resolutions. See “—Corporate Governance Measures” in this section for further details.

Operational Independence

Our Group is operationally independent of our group of Controlling Shareholders. We have established our own organizational structure, and each department is assigned to specific areas of responsibilities. Our Group holds or enjoys the benefits of material relevant licenses and intellectual properties necessary to carry on our business. We have our own facilities, equipment and employees to operate our business independent from our group of Controlling Shareholders. We also have independent access to our customers and suppliers.

During the Track Record Period, our Company conducted certain transactions with our group of Controlling Shareholders and their respective close associates, certain of which are expected to continue after the [REDACTED] and will constitute continuing connected transactions of our Company under the Listing Rules. See “Connected Transactions” for more details. Such transactions are entered into in the ordinary and usual course of business of our Company and our Directors confirm that the terms of such transactions are determined at arm’s length negotiations and are no less favourable to our Company than terms offered by or to independent third parties. Our Directors believe that the continuing connected transactions between our Company and our group of Controlling Shareholders and their close associates do not indicate any undue reliance by our Company on our group of Controlling Shareholders and are beneficial to our Company and our Shareholders as a whole.

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Based on the above, our Directors are of the view that we are able to operate independently of our group of Controlling Shareholders and their respective close associates.

Financial Independence

We have a financial department which is independent of our group of Controlling Shareholders and such financial department is responsible for the Group’s finance, accounting, reporting, credit and internal control. We can make financial decisions independently without interference from our group of Controlling Shareholders and their associates. We maintain bank accounts with banks independently and do not share any bank accounts with our group of Controlling Shareholders and their associates. We believe that we are capable of obtaining financing from third parties without relying on any guarantee or security provided by our group of Controlling Shareholders or their associates.

During the Track Record Period, our group of Controlling Shareholders had provided guarantees for certain of our bank borrowing. All such guarantees have been released as of the Latest Practicable Date. Save as disclosed above, there was no loan, advance or guarantee provided by our group of Controlling Shareholders or his/its close associates during the Track Record Period and as of the Latest Practicable Date.

Xiamen Suntama, an entity controlled by Mr. Huang and one of the group of our Controlling Shareholders, entered into three separate entrusted loan agreements in 2019 with us and Xiamen Bank, acting as our agent bank, for its general working capital and liquidity use. Pursuant to these agreements, we lent Xiamen Suntama a total of RMB54.0 million for terms of one to two years at an annual interest rate of 9.6%, and the agent bank was responsible for the collection of the principal and any interest without assumptions of the loan risks. All of these three entrusted loans have been fully repaid in 2020. We adopted such entrusted loan arrangements to ensure compliance with PRC laws and regulations. As advised by our PRC Legal Advisor, such entrusted loan arrangements were in compliance with applicable PRC laws and regulations including General Rule of Loan (貸款通則). Our Directors believe that each of these entrusted loan agreements was entered in the ordinary course of business on an arm’s length basis, and their terms (including the interest rate) are on normal commercial terms or better to the Group. See “Financial Information” for more details.

Based on the above, our Directors are of the view that we are able to maintain financial independence from our group of Controlling Shareholders and their respective close associates.

NON-COMPETITION AGREEMENTS

On [REDACTED], Mr. Huang, Mr. Zheng, Xiamen Suntama and Mr. Li (collectively, the “Covenantors”) entered into letter of non-competition undertakings in favor of us (collectively, “Non-Competition Agreements”), respectively, pursuant to which, each of them has undertaken that:

- (i) as of the date of the Non-competition Agreements, each of the Covenantors or any of their respective immediate family members and their controlled or invested entities (other than members of our Group) has not engaged in or participated in, through any form, any business which, directly or indirectly, competes or is likely to compete with our principal business of developing, producing and/or selling EBN, EBN+ and/or +EBN products (except for Union Yutai) (the “Restricted Business”);
- (ii) each of the Covenantors will not, at any time during the period he/it is a controlling shareholder or controlled person of our Group, engage in or participate in, by way of investment, cooperation, technology transfer or through any other form, any business which, directly or indirectly, competes or is likely to compete with the Restricted Business;

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- (iii) if there is any entity directly or indirectly held by the Covenantors that engages in business which is deemed to be competing with the Restricted Business, such Covenantors will dispose the relevant business to Independent Third Parties or to our Group and each of the Covenantors will notify our Group of any business opportunities he/it is aware of that may competes with the Restricted Business and will provide our Group the right of first refusal to engage in such business opportunities;
- (iv) each of the Covenantors will not take advantage of its position as a Controlling Shareholder to participate in or be engaged in any activities which may be detrimental to the interests of our Group; and
- (v) the Non-competition Agreements will continue to be valid as long as our Company is [REDACTED] on a stock exchange and each of the Covenantors remains as a Controlling Shareholder.

CORPORATE GOVERNANCE MEASURES

In order to further safeguard the interests of our minority Shareholders, we will adopt the following corporate governance measures to manage potential conflicts of interest:

- (i) as part of our preparation for the [REDACTED], we have adopted our Articles of Association in compliance with the Listing Rules. In particular, our Articles of Association provided that, unless otherwise stipulated;
 - (a) a Director shall not vote on any resolution approving any contract or arrangement or any other proposal in which such Director or any of his/her associates have a material interest nor shall such Director be counted in the quorum present at the meeting; and
 - (b) when the Shareholders' general meeting deliberates on connected transactions, connected Shareholders who hold significant interests in the relevant connected transactions or arrangements shall not participate in voting, and the number of voting shares they represent shall not be counted in the effective voting; the announcement of the Shareholders' general meeting resolution shall fully disclose the voting status of the non-connected Shareholders condition;
- (ii) we are committed to ensure that our Board shall have a sufficiently balanced composition of executive Directors, non-executive Director and independent non- executive Directors that can facilitate the exercise of independent judgment. We believe that the independent non-executive Directors have the necessary expertise to form and exercise independent judgment in the event of any conflict of interest between our Company and our group of Controlling Shareholders. Further, the independent non-executive Directors will be able to seek independent professional advice from external parties in appropriate circumstances at our Company's cost;
- (iii) we have appointed Ping An of China Capital (Hong Kong) Company Limited as our compliance advisor, which will provide advice and guidance to us in respect of compliance with the applicable laws and the Listing Rules, including but not limited to various requirements relating to Directors' duties and corporate governance; and
- (iv) as required by the Listing Rules, our independent non-executive Directors shall review all connected transactions annually and confirm in our annual report that such transactions have been entered into in our ordinary and usual course of business, are either on normal commercial terms or on terms no less favorable to us that those available to or from independent third parties and on terms that are fair and reasonable and in the interest of our Shareholders as a whole.