

IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION

CAUSE NO. FSD 165 OF 2019 ()

BETWEEN:

FAMILYMART CHINA HOLDING CO., LTD

Plaintiff

AND:



- (1) YIN-HENG WEI
- (2) SHIH-CHIEH WEI
- (3) YING-CHIAO WEI
- (4) YING-CHUN WEI



(5) NEXUS (CAYMAN ISLANDS) HOLDING CORP

(6) SHANGHAI NEXUS INFORMATION TECHNOLOGY CO., LTD

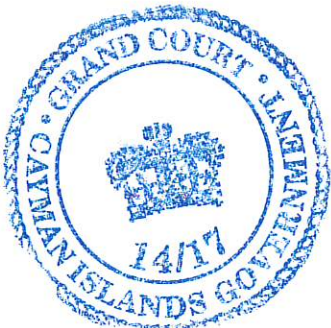
(7) GOOD CHOICE (CAYMAN ISLANDS) HOLDING CORP

(8) GOOD CHOICE (HONG KONG) HOLDING CO LTD

(9) SHANGHAI ZHENHUIXUAN ELECTRONIC COMMERCE LTD

(10) CHINA CVS (CAYMAN ISLANDS) HOLDINGS CORP.

Defendants



WRIT OF SUMMONS

TO:

- (1) Yin-Heng Wei
- (2) Shih-Chieh Wei
- (3) Ying-Chiao Wei

- (4) Ying-Chun Wei
- (5) Nexus (Cayman Islands) Holding Corp
- (6) Shanghai Nexus Information Technology Co., Ltd
- (7) Good Choice (Cayman Islands) Holding Corp
- (8) Good Choice (Hong Kong) Holding Co Ltd
- (9) Shanghai Zhenhuixuan Electronic Commerce Ltd
- (10) China CVS Cayman Islands Holding Corp

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff, FamilyMart China Holding CO., Ltd, in respect of the claim set out on the next page.

Within 14 days after the service of this Writ on you, counting the day of service, (or within the period fixed by the Court if this Writ is served on you outside the jurisdiction of the Cayman Islands) you must either satisfy the claim or return to the Court Office, P.O. Box 495 GT, George Town, Grand Cayman, Cayman Islands, the accompanying Acknowledgment of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgment within the time stated, or if you return the Acknowledgment without stating therein an intention to contest the proceedings, the Plaintiff may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this ^{28th} day of August 2019.

NOTE - This Writ may not be served later than 4 calendar months (or, if leave is required to effect service out of the jurisdiction, 6 months) beginning with the date of issue unless renewed by order of the Court.

IMPORTANT

Directions for Acknowledgment of Service are given with the accompanying form.

STATEMENT OF CLAIM

I. INTRODUCTION

- 1 The Plaintiff, FamilyMart China Holding Co., Ltd ("**FMCH**") brings these proceedings by way of a derivative claim seeking compensatory and equitable relief on behalf of the Tenth Defendant, China CVS (Cayman Islands) Holding Corp (the "**Company**").
- 2 The claims against the First, Second, Third and Fourth Defendants are brought against them in their capacities as directors of the Company for breaches of their fiduciary duties to the Company.
- 3 The claims against the Fifth to Ninth Defendants are brought against them in their capacities as third parties who have each knowingly received funds and/or assets or benefitted from the First to Fourth Defendants' breaches of fiduciary duties or from opportunities of the Company disposed of by the First to Fourth Defendants in breach of their fiduciary duties.

II. THE PARTIES

(A) *The Company and its Shareholders*

- 4 FMCH is a special purpose vehicle that was incorporated in Japan under Japanese law on 20 January 2003 for the purpose of holding shares in the Company. FMCH's shareholders are:
 - (a) Taiwan FamilyMart Co., Ltd ("**TFM**"), which holds 45.35% of the issued shares in FMCH.
 - (b) FamilyMart Co. Ltd ("**JFM**"), which holds 54.65% of the issued shares in FMCH (as well as 50% of the issued shares in TFM). Itochu Corporation ("**Itochu**") indirectly holds 50.10% of the issued shares in JFM through FamilyMart UNY Holdings Co., Ltd ("**FM UNY**") which owns 100% of the shares in JFM.
- 5 FMCH's parent companies, TFM, JFM and FM UNY have extensive experience in the convenience store business market in Asia, having commenced operations in Japan forty years ago in 1978 and expanded to Taiwan in 1988 and Thailand in 1992.

- 6 The Company was incorporated under the laws of the Cayman Islands as an exempted company with limited liability on 17 February 2003. The Company was established as a joint venture company with two shareholders: FMCH and Ting Hsin (Cayman Islands) Holding Corporation ("**Ting Hsin**").
- 7 The Company engages in the convenience store business in the People's Republic of China, excluding Hong Kong, Macau and Taiwan (the "**PRC**") under the FamilyMart brand through a number of wholly owned operating subsidiaries incorporated in the PRC (the "**FM CVS Business**").
- 8 In October 2006, Ting Hsin transferred its shareholding of 50.5% of the issued shares of the Company to Ting Chuan (Cayman Islands) Holding Corporation ("**Ting Chuan**"), a wholly owned subsidiary of Ting Hsin. Ting Hsin and Ting Chuan are members of the Ting Hsin International Group (the "**TH Group**").
- 9 Ting Chuan was incorporated in the Cayman Islands as an exempted company with limited liability on 30 January 2006. In or about January 2011, Ting Chuan acquired a further 9.15% of the issued shares in the Company from FMCH. Since that time, Ting Chuan has held 59.65% of the Company's issued shares and FMCH has held 40.35%.
- 10 The TH Group was founded by the Wei family and is controlled by the First Defendant and his three elder brothers, being the Third Defendant, who is also a director of the Company, the Fourth Defendant, who is also a director of the Company, and Mr. Ing-Chou Wei (the "**Eldest Brother**"), who is not a director of the Company, all of whom are originally from Taiwan (together, the "**Wei Brothers**").
- 11 The Second Defendant is the First Defendant's son and a director of the Company.
- 12 The TH Group has been active in the food and distribution business in the PRC for more than 30 years. The annual revenue of the TH group exceeds US \$20 billion.
- 13 Ting Hsin's shareholders are:
- (a) Ho Te Investments Limited ("**Ho Te**") which holds 44.761% of the issued shares in Ting Hsin;

- (b) Rich Cheer Holdings Limited ("**Rich Cheer**") which holds 30.239% of the issued shares in Ting Hsin;
- (c) Rich Gold Capital Inc. ("**Rich Gold**") which holds 17.835% of the issued shares in Ting Hsin (until July 2018, these shares were held by Itochu);
- (d) China Foods Investment Corporation, which holds 6.482% of the issued shares in Ting Hsin; and
- (e) Certain unrelated parties which hold the remaining 0.683% of the shares.

14 Ho Te and Rich Cheer are wholly owned by Profit Surplus Holdings Limited ("**Profit Surplus**"). Profit Surplus is the trustee of a unit trust, which is held by four discretionary trusts in equal portions. Lion Trust (Singapore) Trustee Limited is the trustee of the four discretionary trusts in which:

- (a) Wei, Chang Lu-Yun, the wife of the Eldest Brother, is a settlor of the first discretionary trust. Wei, Chang Lu-Yun and the Eldest Brother are beneficiaries of this trust;
- (b) Lin Li-Mien, the wife of the Third Defendant, is a settlor of the second discretionary trust and Lin Li-Mien and the Third Defendant are its beneficiaries;
- (c) Wei, Hsu Hsiu-Mien, the wife of the Fourth Defendant, is a settlor of the third discretionary trust and Wei, Hsu Hsiu-Mien and the Fourth Defendant are its beneficiaries; and,
- (d) Wei, Tu Miao, the wife of the First Defendant, is the settlor of the fourth discretionary trust and Wei, Tu Miao and the First Defendant are its beneficiaries.

15 Rich Gold is wholly owned by Tingho Capital Holding Co., Limited, which is owned as to 25% each by Wei, Chang Lu-Yun, Lin Li-Mien, Wei, Hsu Hsiu-Mien and Wei, Tu Miao.

(B) Organisation of the Company's Business

16 To reflect the respective expertise of the parties to the joint-venture, FMCH and Ting Hsin agreed that the business would be operated as follows:

- (a) The business would have operating subsidiaries in the PRC;

- (b) FMCH would, in return for a royalty of 1% on all revenues, sub-licence its FamilyMart brand to the Company pursuant to a Sublicense Agreement between the Plaintiff and the Company dated 11 May 2011 (the "**SLA**"). Pursuant to the terms of the SLA, the Plaintiff agreed to:
- (i) sublicense the FamilyMart Mark, including its logo, style standards, and fittings for stores;
 - (ii) provide the know-how for the set up and operation of the business, including educational materials for store manager and employee training, style design standards for stores, advice regarding employees, product displays and promotions, and establishment of and recommendation of a system for the purchase of store products; and,
 - (iii) send staff from TFM to take on the roles of general manager and department heads in the FM CVS Business, with a view to these roles ultimately being transferred to senior staff dispatched or recruited by Ting Hsin to enable them to take over the operations in the PRC;
- (c) The TH Group would contribute resources in the PRC to provide the infrastructure for the FM CVS Business, including arranging the Company's contracts for food factories, identifying food storage providers and systems, putting in place logistics and supply chain services, and the provision of an information processing system including a point of sale ("**POS**") system (together, the "**Infrastructure**") as set out at paragraph 36 below.

17 Between 2004 and 2014, the Company established nine subsidiaries incorporated under the laws of the PRC, each of which is 100% owned by the Company (together the "**Operating Subsidiaries**"):

No.	Operating Subsidiaries	Date Established
1.	Shanghai Family Mart Co., Ltd (" Shanghai FM ")	13 May 2004
2.	Guangzhou FamilyMart Co., Ltd	7 September 2006
3.	Suzhou FamilyMart Co., Ltd	16 July 2007

4.	Hangzhou FamilyMart Co., Ltd	8 November 2011
5.	Chengdu FamilyMart Co., Ltd	13 December 2011
6.	Shenzhen FamilyMart Co., Ltd	6 November 2012
7.	Wuxi FamilyMart Co., Ltd	9 January 2014
8.	Beijing FamilyMart Co., Ltd	20 May 2014
9.	Dongguan FamilyMart Co., Ltd	21 July 2014

- 18 Citic Trust Investment Company ("CITIC") initially held shares in Shanghai FM because until about 2005, PRC law did not permit a company operating retail businesses to be wholly owned by foreign entities. In June 2005 the Company purchased CITIC's shares. Ting Chuan and FMCH initially held shares (50.5% and 49.5% respectively) in Guangzhou FM and transferred their shares to the Company in April 2009. All other Operating Subsidiaries were 100% owned by the Company when established.
- 19 Shanghai FM, Guangzhou FM and Suzhou FM each initially entered into area franchise agreements and trade mark licences with FMCH directly.
- 20 From May 2011, area franchise agreements were concluded between all the Operating Subsidiaries and the Company.
- 21 Until about 2015, the directors appointed to the Operating Subsidiaries comprised:
- (a) in respect of Shanghai FM, initially 4 directors nominated by Ting Hsin, 3 directors nominated by FMCH and, until 2005, 2 directors nominated by CITIC. After 2005 the board was reduced to 7; and
 - (b) in respect of the other Operating Subsidiaries, 7 directors, 4 nominated by Ting Chuan, 3 nominated by FMCH.
- 22 In about 2015, the number of directors for each established Operating Subsidiary was reduced to 3 directors, one being nominated by FMCH.
- 23 The Operating Subsidiaries were managed by the Company and not by the boards of directors of the Operating Subsidiaries, which performed no meaningful management role in that the boards of the Operating Subsidiaries were accustomed to and did act upon instructions from

the Company. The directors of the Operating Subsidiaries primarily performed the function of signing official resolutions and executing formal documents which were required to be executed by the Operating Subsidiary for legal purposes.

(C) The Company's Majority Directors

24 The Company has had the following directors:

(a) Directors nominated by Ting Chuan (together, the "**Majority Directors**"):

- (i) the First Defendant (appointed in 2003);
- (ii) the Second Defendant (appointed in 2014);
- (iii) the Third Defendant (appointed in 2003);
- (iv) the Fourth Defendant (appointed in 2003); and

(b) The current directors of CCH nominated by FMCH are (together with the other directors of the Company who have been nominated from time to time by FMCH, the "**FMCH Directors**"):

- (i) Mr Jin-Tin Pan ("**Mr. Pan**") (appointed in 2003);
- (ii) Mr Yoshifumi Kiriya ("**Mr. Kiriya**") (appointed in 2018); and
- (iii) Mr Isao Kubo ("**Mr. Kubo**") (appointed in 2018).

(D) Shanghai Nexus

25 The Sixth Defendant ("**Shanghai Nexus**") is a company incorporated in the PRC and is a wholly-owned subsidiary of the Fifth Defendant, Nexus (Cayman Islands) Holding Corp ("**Nexus Cayman**") which was incorporated in the Cayman Islands on 14 June 2012.

26 Shanghai Nexus operates a store loyalty card system known as the "Maxxipoint" scheme, further particulars of which are set out in paragraphs 48 - 54 below.

27 On 23 June 2014, Zhang Qihua was appointed director of Shanghai Nexus for a period of 3 years. The present director of Shanghai Nexus is Mr Liu Chengzhang.

28 The Wei Brothers and their respective families are the ultimate beneficial owners of the entire share capital of Nexus Cayman and each of the Wei Brothers and their respective families owns a 25% interest in Nexus Cayman.

(E) Shanghai Zhenhuixuan

29 The Eighth Defendant ("**Good Choice Hong Kong**") and Ninth Defendant ("**Shanghai Zhenhuixuan**") are companies incorporated in the PRC. Shanghai Zhenhuixuan is a wholly owned subsidiary of Good Choice Hong Kong.

30 Good Choice Hong Kong is wholly owned by the Seventh Defendant ("**Good Choice Cayman**"), which was incorporated in the Cayman Islands on 12 December 2016.

31 Shanghai Zhenhuixuan operates an online shopping mall/e-commerce website that is open exclusively to Maxxipoint VIP card members. The website sells imported products, further particulars of which are set out in paragraphs 55 and 57 below.

32 The Second Defendant is a director of Good Choice Hong Kong.

33 The Wei Brothers are the ultimate beneficial owners of Good Choice Cayman and therefore of Good Choice Hong Kong and Shanghai Zhenhuixuan.

III. THE DUTIES OF THE MAJORITY DIRECTORS RELEVANT TO THE CLAIMS

34 Each of the Majority Directors, as directors of the Company, owed the following common law duties to the Company:

- (a) a duty not to put themselves in a position where they have a direct or an indirect personal interest in a transaction that conflicts with or possibly may conflict with the interests of the Company;
- (b) the duty at (a) above applies also to the exploitation of any property or opportunity, whether or not the Company could have taken advantage of the property or the opportunity and an opportunity is to be treated in the same way as property;
- (c) a duty not to engage in self-dealing in permitting or causing the Company to enter into a transaction with a company in which he had a material interest or of which he was a director;

- (d) a duty to act bona fide in the best interests of the Company;
- (e) a duty not to misapply the Company's assets; and/or
- (f) a duty to disclose important and/or material information to the Company including his own breaches of duty and those of fellow directors or officers.

35 If the Majority Directors were to disclose conflicts of interests or secret profits to the Company, such disclosure was required to be made to FMCH as the only unrelated shareholder in the Company and the FMCH Directors on a full and frank basis and was required to be made before a transaction was concluded, or as otherwise agreed by FMCH and the FMCH Directors.

IV. THE COMPANY'S TRANSACTIONS WITH THE RELATED PARTIES

36 The TH Group had resources in the PRC to provide the Infrastructure. In these circumstances, it was initially agreed that the Infrastructure for the FM CVS Business would be organised or provided by the TH Group through the following companies:

- (a) Ting Tong (Cayman Islands) Holding Corp., to provide logistics services;
- (b) Shing Tzoong Goods, to provide food factory facilities; and
- (c) Puwei Technologies, to provide information processing systems.

37 Initially, the Infrastructure for Shanghai FM was not provided by the TH Group and was procured from third parties on arm's length terms, save for logistic services provided by Ting Tong (warehousing and delivery management).

38 However, as the scale of the business grew, a number of companies (the "**Infrastructure Companies**") were set up by Ting Hsin to provide the Infrastructure for the FM CVS Business. The best particulars of those companies and the volume of business conducted by them are identified in the table below:

Business	Company name	Transaction values 2012-2017 (RMB'000)
Logistics services	1. Shanghai Dingshi Warehousing Ltd (2008)	14,462,008
	2. Shanghai Dinghui Trading Ltd (2008)	154,062

Home meal products and food factory providers	3. Shanghai Dingzhen Foods Ltd (2008)	1,835,596
	4. Shanghai Dinghong Foods Ltd (2005)	749,867
	5. Shanghai Dingfa Foods Ltd (2012)	718,000
	6. Guangzhou Dinghong Foods Ltd (2011)	Not known
Bakery products	7. Shanghai Dingsheng Food Industry Ltd (2008)	273,087

- 39 All of the companies in the table above are ultimately owned by Ting Chuan:
- (a) Infrastructure Companies 1 and 2 are owned by Ting Shi (BVI) Holding Corp;
 - (b) Infrastructure Companies 3 to 6 are owned by Ting Zhen (BVI) Holding Corp; and
 - (c) Infrastructure Company 7 is owned by Ting Sheng (BVI) Holding Corp.
- 40 Ting Shi (BVI) Holding Corp and Ting Zhen (BVI) Holding Corp are wholly owned subsidiaries of Ting Chuan which, as pleaded in paragraph 8 above, is a wholly owned subsidiary of Ting Hsin.
- 41 Ting Sheng (BVI) Holding Corp's shareholders are Ting Chuan, Pasco Corporation and Itochu, holding 60%, 24% and 16% of the issued shares in Ting Sheng (BVI) Holding Corp respectively.
- 42 In the circumstances, the Majority Directors had a personal interest in the transactions entered into by the Infrastructure Companies as counterparties providing goods and services to the Company and/or to the Operating Companies where their respective interests in providing those goods and services was in actual or potential conflict with the interests of the Company and/or the Operating Companies.
- 43 In the period from 2004 until 2012 the Majority Directors disclosed the transactions entered into by the Company/Operating Subsidiaries with the Infrastructure Companies by the following mechanisms:
- (a) The identities of the Infrastructure Companies and their connection to the TH Group were disclosed at or before the time that trading with the Infrastructure Companies commenced;

- (b) TFM personnel were employed by or seconded to the Company and/or the Operating Subsidiaries which enabled them to oversee the operations of the business on a day-to-day basis, trading with the Company and/or the Operating Subsidiaries. In particular, the transactions with the Infrastructure Companies were monitored and scrutinised by Mr Tung-tu Hsueh ("**Mr Hsueh**"), an employee of TFM, who had been seconded to the Company from 2004 to 2012:
- (i) Mr Hsueh was the Company's General Manager and the manager of the Operating Subsidiaries and was involved in the approval of financial statements for the Company;
 - (ii) the Company held weekly business meetings attended by senior members of staff; weekly management meetings attended by heads of department to report on the running of the business; and monthly performance review meetings, which meetings were attended by Mr Hsueh;
 - (iii) Mr Hsueh reviewed the pricing information under the logistics and supply arrangements in place with respect to the Related Party Transactions and was therefore able to consider whether these arrangements were in commercial terms;
- (c) The Majority Directors and/or the Company agreed or otherwise accepted that the FMCH Directors, JFM and TFM personnel were free to share the information they received from the Company with JFM, TFM and their related parties.

44 The transactions with the Infrastructure Companies prior to 2012 would have constituted a breach of the duty to refrain from self-dealing and/or the duty to avoid conflicts of interest had it not been for the fact that the Company had a mechanism for representatives of FMCH to inform themselves of and/or to scrutinise and/or monitor the terms on which the Company and/or Operating Subsidiaries transacted business with the Infrastructure Companies and/or with other third parties disclosed as parties in which the TH Group and/or the Majority Directors had a material interest or of which one of them was a director (each of whom including each Infrastructure Company is referred to as a "**Related Party**"). FMCH accepted such a mechanism as providing it with full and frank and/or sufficient disclosure.

45 From about April 2012, the Majority Directors' conduct of the business of the Company had changed and the mechanism by which representatives of FMCH could inform themselves of new transactions and business arrangements with the Related Parties ("**Related Party Transactions**") and/or scrutinise and/or monitor the same ceased to operate adequately, or at all in that:

- (a) In 2011/2012, Mr Hsueh was gradually excluded from management of the FM CVS Business:
 - (i) the First Defendant took over the role of the General Manager of the FM CVS Business from Mr Hsueh who was demoted to "chief of staff";
 - (ii) from the time when Mr Hsueh was demoted, the meetings at operational level ceased;
 - (iii) Mr Hsueh was no longer given access to detailed financial information of the Company or the Operating Subsidiaries; and
 - (iv) Mr Hsueh returned to Taiwan in late 2012;

- (b) Although FMCH was able to nominate Mr Tadashi Kurakake ("**Mr Kurakake**") as the Company's deputy general manager in September 2011 and he was also appointed as a director of all Operating Subsidiaries in 2015:
 - (i) Mr Kurakake was provided only with limited information regarding the daily operation of the Company;
 - (ii) Mr Kurakake was not provided with information of (a) transaction terms with known related parties; or, (b) how the undisclosed related parties were related to the TH Group or the Majority Directors;
 - (iii) Mr Kurakake's role as the Company's deputy general manager was terminated by the First Defendant in about May 2017; and
 - (iv) Mr Kurakake's appointment as a director of the Operating Subsidiaries in 2015 did not confer on him any real managerial power and did not furnish him with a channel of information which he would not have had as deputy general manager of the Company;

- (c) The directors of the Operating Subsidiaries nominated by FMCH were not members of the management or operational teams of the Operating Subsidiaries and were not provided with information to enable them to assess and review transactions with Infrastructure Companies or any other related Companies. As pleaded above, the directors of the Operating Subsidiaries did not perform any meaningful managerial role as directors; and
- (d) Between about 2010 and 2011 staff seconded to the Company from TFM either returned to Taiwan or were employed directly by the Operating Subsidiaries (no longer reporting to TFM or FMCH).

46 The Majority Directors cancelled a board meeting of the Company that was due to be held in August 2014. In the period from August 2014 to 5 December 2017, the Majority Directors did not convene a single board meeting or not one to which the FMCH Directors were invited, notwithstanding that the FMCH Directors made several requests for face to face board meetings to be held:

- (a) Mr Masaaki Kosaka, one of the then FMCH Directors, travelled to Shanghai on a number of occasions in 2015 and 2016 and met the First Defendant in person and on each occasion requested face to face board meetings which were declined;
- (b) after 2016, the First Defendant refused to meet with Mr Kosaka and directed him instead to meet with the CEO of the Company, Mr Lin Chien-Hung, who only disclosed limited information regarding the Company's plans and operation but no detailed information regarding Related Party Transactions; and
- (c) at the Company's board meeting on 21 March 2018, one of the FMCH Directors (Mr Kubo) asked for copies of the audited financial statements of the main related parties from whom the Company and/or the Operating Subsidiaries had purchased goods and services to enable him to identify the revenue and profits and, therefore, the benefit the Majority Directors had obtained from their relationship with the Company and/or the Operating Subsidiaries. The request was declined by the First Defendant.

47 In the premises, by 2012, because there was no longer a mechanism in place by which the Majority Directors had previously ensured that there was full and frank and/or adequate disclosure of dealings by them on behalf of the Company, by continuing with such dealings

and/or by increasing the scope thereof, the Majority Directors were in breach of their aforementioned duties, in particular:

- (a) the duty not to put themselves in a position where they have or may have a direct or an indirect personal interest that conflicts with or possibly may conflict with the interests of the Company;
- (b) the duty not to self-deal by taking advantage of their positions as directors of the Company by acting in their own interests and furthering their private interests rather than those of the Company in permitting the Company and/or the Operating Companies to enter into these transactions or any of them;
- (c) the duty to act bona fide in the interests of the Company; and/or
- (d) the duty to disclose material information to the Company,

in causing the Company and/or the Operating Subsidiaries to enter into the Related Party Transactions.

PARTICULARS OF BREACH

The Plaintiff sets out below the best particulars which the Plaintiff is presently able to give until full discovery and/or the administration of interrogatories and/or the provision of an account has been provided by the Majority Directors:

- (a) From 2012 to 2017, the Majority Directors authorised and caused the Company and/or the Operating Subsidiaries to make payments to the Related Parties as set out in Schedule 1 of this Statement of Claim.

V. THE MAXXIPOINT SCHEME, SHANGHAI NEXUS AND SHANGHAI ZHENHUIXUAN

(A) *The Maxxipoint Scheme and Zhenhuixuan e-commerce platform*

48 Shanghai Nexus operates a loyalty card system branded under the trademark "Maxxipoint" (the "**Maxxipoint Scheme**") for its members ("**Maxxipoint Merchants**").

49 The Maxxipoint Scheme has the following features for customers who become Maxxipoint members ("**Customers**"):

- (a) Customers receive physical cards but also have access to account information in electronic form as an application on a smartphone;
- (b) Customers collect credits by purchasing goods from participating merchant stores (each a "**Maxxipoint Merchant store**");
- (c) Customers can earn 1 point per RMB 1 purchased in a Maxxipoint Merchant store and can use 100 points as RMB 1 at any Maxxipoint Merchant store;
- (d) Customers can also deposit cash to be credited to their loyalty account and then use such credit in Maxxipoint Merchant stores;
- (e) Customers can use points earned in any Maxxipoint Merchant Store by purchasing goods or services in any other Maxxipoint Merchant store;
- (f) the points given by the Maxxipoint Merchant stores to their customers represent potential discounts required to be given by the other Maxxipoint Merchant stores to those customers when those points are redeemed; and
- (g) Customers can purchase VIP membership for RMB 100 per year entitling them to receive privileges such as double points and online shopping with Shanghai Zhenhuixuan and various special offers.

50 The Maxxipoint Scheme administered by Shanghai Nexus has the following features for the Maxxipoint Merchants:

- (a) the Maxxipoint application can be used to reach the entire base of customers of all Maxxipoint Merchants to advertise particular Maxxipoint Merchant stores and services;
- (b) the credits given by the Maxxipoint Merchants to their customers represent potential discounts required to be given by the other Maxxipoint Merchant stores to those customers redeeming points;
- (c) the fair operation of the Maxxipoint Scheme requires Shanghai Nexus to operate a form of clearing system to enable participating businesses to account to each other for the credits given in one Maxxipoint Merchant store and redeemed in another; and

- (d) by reason of the aforesaid, the Maxxipoint Merchants have an interest in maximising the terms on which contributions are made by the owners of the other Maxxipoint Merchants and in minimising their own contributions.

51 For Shanghai Nexus, as the operator of the Maxxipoint Scheme, the Maxxipoint Scheme represented a business which had the following features:

- (a) It generates and allows Shanghai Nexus to receive a fixed monthly fee from Maxxipoint Merchants for the provision of the point system platform and other service fees and surcharges;
- (b) Shanghai Nexus also receives commission when:
 - (i) a point is granted to consumers;
 - (ii) consumers use points at a Maxxipoint Merchant store;
 - (iii) customers deposit cash in the Maxxipoint card;
 - (iv) electronic coupons and etc. are issued and/or used;
 - (v) text messages are sent to customers;
- (c) Shanghai Nexus also charged a clearing service fee in 2018;
- (d) As the Maxxipoint Scheme advertised to the entire customer base of the Maxxipoint Scheme Members would become increasingly valuable the more Customers signed up to the Maxxipoint Scheme;
- (e) By operating the Maxxipoint Scheme, Shanghai Nexus was building an independent and/or separate business, the value of which would reflect the large customer or user base enabling Shanghai Nexus to do the following:
 - (i) to continue to advertise to Maxxipoint Merchants goods and services to all the Customers;
 - (ii) to expand the number of Maxxipoint Merchants;
 - (iii) to sell goods and/or services and/or operate as an online market;

(f) Since the Maxxipoint Scheme was offered as a web-based application it could be used to establish an internet market place for other goods and services sold.

52 Apart from the stores of the Operating Subsidiaries, all other Maxxipoint Merchant stores have been and/or are currently operated by companies which are wholly owned and operated by the TH Group (the "**TH Maxxipoint Merchants**"):

- (a) Restaurant chains operated by Tianjin Dingqiao Catering Service Consulting Co., Ltd ("**Tianjin Tingqiao**") or Tingqiao (Cayman Islands) Ltd, the owner of 100% of the share capital of Tianjin Tingqiao in which the Majority Directors have a beneficial interest;
- (b) Dicos (a fast food restaurant chain);
- (c) Master Kong's Beef Noodle (a beef noodle restaurant chain);
- (d) Master Kong's Big Meal (a fast food restaurant chain);
- (e) Bulide (a bakery);
- (f) Pizza Naples (a pizza restaurant); and
- (g) Zhenhuixiang (a restaurant for Maxxipoint Card VIP members).

53 Shanghai Nexus as operator of the Maxxipoint Scheme was able to charge and earned fees from the Company related to all goods purchased by Customers at stores of the Operating Subsidiaries and/or from points redeemed by Customers at such stores.

54 The TH Maxxipoint Merchants' turnover has been substantially increased by virtue of their ability to award points redeemable in the stores of the Operating Subsidiaries:

(a) In the two year period prior to August 2019 and, it is to be inferred before that period, there was a greater volume of Customer point-redemptions in the stores of the Operating Subsidiaries than in the stores of all TH Maxxipoint Merchants combined. As disclosed by the Majority Directors:

- (i) in 2017, the value of the points redemption in the FM CVS Business of points earned in TH Maxxipoint Merchants was RMB 26.79 million. In the same year

the points earned from expenditure in the FM CVS Business and redeemed in TH Maxxipoint Merchants was RMB 7.64 million;

(ii) in 2018, the value of the points redemption in the FM CVS Business of the points earned in TH Maxxipoint Merchants was RMB 41.41 million. In the same year the points earned from expenditure in the FM CVS Business and redeemed in TH Maxxipoint Merchants was RMB 16.25 million;

(b) It is to be inferred that Customers of the TH Merchants were attracted by the ability to redeem Maxxipoint points or obtain associated discounts in the stores of the Operating Subsidiaries and therefore more likely to purchase goods and services from TH Maxxipoint Merchants than they would have been without the ability to redeem them in the stores of the Operating Subsidiaries.

55 Shanghai Nexus as operator of the Maxxipoint System has been used to create an online marketplace operated by Shanghai Zhenhuixuan, which is a shopping e-commerce website selling imported products (food, wine, cosmetics, healthcare products and electronic products:

(a) Shanghai Zhenhuixuan commenced its business as a marketplace by being open only to Maxxipoint VIP members;

(b) Shanghai Zhenhuixuan started up in business by using the customer base of Shanghai Nexus and, directly as well as indirectly, the customer base of the FM CVS Business in that:

(i) Shanghai Zhenhuixuan advertised its services in the stores of the Operating Subsidiaries;

(ii) Shanghai Zhenhuixuan has had access to and/or been able to use the Maxxipoint Scheme to solicit customers of the Company; and

(iii) The Majority Directors have allowed Shanghai Zhenhuixuan the facility of offering the stores of the Operating Subsidiaries as the collection point for the goods purchased by customers from Shanghai Zhenhuixuan;

(c) In due course, once Shanghai Zhenhuixuan had a sufficient number of users it would be able to grow into a more widely used e-commerce site;

- (d) Shanghai Zhenhuixuan makes a profit from maintaining its website and from selling goods but its value can be measured independent of Shanghai Nexus based on its average revenue per user; and
- (e) Shanghai Zhenhuixuan allows VIP Customers to redeem points earned in Maxxipoint Merchant Stores, including the Operating Subsidiaries, by spending them on the Shanghai Zhenhuixuan e-commerce website.

56 In addition, Shanghai Zhenhuixuan has direct transactions with the Operating Subsidiaries as supplier of goods such as wine, milk and mineral water. By March 2018 the revenue generated from the transactions between Shanghai Zhenhuixuan and the Company and the Operating Subsidiaries amounted to RMB 21,702,000.

57 In the premises, the Plaintiff will say that the e-commerce business of Shanghai Zhenhuixuan and its opportunity to expand beyond an offering to VIP Maxxipoint members to a wider group represents a logical progression from the Maxxipoint Scheme operated by Shanghai Nexus.

(B) Breaches of Duty with respect to the Maxxipoint Scheme

58 Setting up and/or operating Shanghai Nexus so as to enable the TH Maxxipoint Merchants to advertise to the customers of the Company and/or Operating Subsidiaries was a breach by the Majority Directors of their obligation not to engage in self-dealing and/or to avoid conflicts of interest and/or to refrain from profiting from their position and/or to act bona fide in the interests of the Company:

PARTICULARS OF BREACH

The Plaintiff sets out below the best particulars which the Plaintiff is presently able to give until full discovery and/or the administration of interrogatories and/or the provision of an account has been provided by the Majority Directors:

- (a) The Majority Directors caused and/or permitted Shanghai Nexus to market the Maxxipoint Scheme inside stores of the Operating Subsidiaries to their customers;
- (b) The Majority Directors caused and/or permitted Shanghai Nexus to use the FamilyMart trademark licensed to Operating Subsidiaries in that:

- (i) the FamilyMart logo is attached to the Maxxipoint cards issued by Shanghai Nexus;
 - (ii) the FamilyMart logo is used on the Maxxipoint web-based application;
 - (iii) material promoting the Maxxipoint Scheme was made available in stores of the Company and/or of the Operating Subsidiaries where the FamilyMart trademark was on display;
- (c) By allowing the TH Maxxipoint Merchants to advertise their goods and services to the customer base of the Company and/or of the Operating Subsidiaries, Shanghai Nexus was able to provide a valuable benefit to the TH Maxxipoint Merchants at the expense of the Company and/or Operating Subsidiaries.

59 Further, the Majority Directors caused and permitted TH Maxxipoint Merchants (companies beneficially owned by the Wei Brothers) to profit from their dealings with the Operating Subsidiaries in breach of their obligation not to engage in self-dealing and/or to avoid conflicts of interest and/or to refrain from profiting from their position and/or to act bona fide in the interests of the Company:

PARTICULARS OF BREACH OF DUTY

The Plaintiff sets out below the best particulars which the Plaintiff is presently able to give until full discovery and/or the administration of interrogatories and/or the provision of an account has been provided by the Majority Directors:

- (a) The TH Maxxipoint Merchants were permitted to offer to their actual and potential customers the ability to redeem points in the FamilyMart stores of the Operating Subsidiaries:
 - (i) as set out in paragraph 54 above, in 2017 and 2018 more points earned by Customers in TH Maxxipoint Merchant stores were used in stores of the Operating Subsidiaries as compared with the points earned in the FM CVS Business and used in TH Maxxipoint Merchant stores;
 - (ii) the Company is entitled to an account of the profits made by TH Maxxipoint Merchants on goods sold by them in exchange for points given by the Operating Subsidiaries.

- (b) Substantial credits given by the Operating Subsidiaries were redeemed by Customers by acquiring goods or services from TH Maxxipoint Merchants;
- (c) As set out at paragraph 54 above, in the years ending 2017 and 2018 around RMB 24m of goods and services were purchased from TH Maxxipoint Merchants using points issued by the Operating Subsidiaries; and
- (d) The Majority Directors have not provided the Company with an account of the profit earned by TH Maxxipoint Merchants on the sales of goods and services using points issued by the Operating Subsidiaries.

60 Further, the Majority Directors have enabled Shanghai Nexus to receive profits and/or financial incentives and benefits from the operation of the Maxxipoint Scheme in breach of their duty to refrain from profiting from their position and/or self-dealing and/or to refrain from profiting from their position and/or to act bona fide in the interests of the Company:

PARTICULARS OF BREACH

The Plaintiff sets out below the best particulars which the Plaintiff is presently able to give until full discovery and/or the administration of interrogatories and/or the provision of an account has been provided by the Majority Directors:

- (a) Shanghai Nexus receives commission when, among other things, a point is granted to Customers and when Customers use points at a Maxxipoint Merchant store;
- (b) Shanghai Nexus charged a VIP membership account service fee equal to 10% of the membership fee in 2017;
- (c) Shanghai Nexus's revenue depends on commissions and fees from the operation of the Maxxipoint Scheme paid to it by the Company and/or the Operating Subsidiaries. By way of example:
 - (i) According to information given by Mr Lin at a Board Meeting on 21 March 2018, the turnover generated from the transactions covered by the Maxxipoint Scheme between the Company and/or the Operating Subsidiaries and its Customers amounted to:

(A) RMB 145,595,000 in 2015; and

(B) RMB 112,608,000 in 2016; and

(C) RMB 96,517,000 in 2017;

(ii) In 2017-2018 the fees paid to Shanghai Nexus by the Company and/or the Operating Subsidiaries were RMB 60,966,000 including platform and handling fees, according to information disclosed by the Company on 2 August 2019.

61 In addition, each of the Majority Directors in breach of their obligation not to engage in self-dealing and/or to avoid conflicts of interest and/or to refrain from profiting from their position and/or to act bona fide in the interests of the Company misused and/or misapplied and/or exploited corporate opportunities of the Company with respect to the business of Shanghai Nexus and/or Shanghai Zhenhuixuan:

PARTICULARS OF BREACH OF DUTY

The Plaintiff sets out below the best particulars which the Plaintiff is presently able to give until full discovery and/or the administration of interrogatories and/or an account has been provided by the Majority Directors:

- (a) The Majority Directors caused or permitted Shanghai Nexus to approach the customer base of the FM CVS Business to sign up to the Maxxipoint Scheme as aforesaid;
- (b) From the start, Shanghai Nexus depended heavily on the customer base of the FM CVS Business. In the period from January to September 2015 alone:
 - (i) 85% of new Maxxipoint Scheme Customers (3.63 million users) had registered at FM CVS Business stores owned or franchised by the Operating Subsidiaries;
 - (ii) 95% of the Maxxipoint Scheme points (6.6 billion) had been granted by reason of consumption at FM CVS Business stores owned or franchised by the Operating Subsidiaries; and
 - (iii) 99% of the Maxxipoint Scheme points used (4.56 billion) had been used at FM CVS Business stores owned or franchised by the Operating Subsidiaries;
- (c) The more Customers or users who are signed up to the Maxxipoint Scheme, the more valuable it becomes as a web-based platform for advertising and/or selling other goods

and services to Customers (such as that operated by Shanghai Zhenhuixuan) and/or as a business with an independent value;

- (d) As set out above, the Maxxipoint Scheme operated by Shanghai Nexus represents an opportunity to create an independent business with value as a web-based advertising platform, which already has millions of users and which can logically expand to include other Maxxipoint Merchants and/or to provide a platform for the sale of other goods and/or services;
- (e) Without the ability to enrol the customers of the FM CVS Business as Customers, Shanghai Nexus would have only been able to rely on the much smaller number of enrolments made by the TH Maxxipoint Merchants and the user base of Shanghai Nexus would have been correspondingly smaller than it is with the customers of the FM CVS Business as Customers and/or correspondingly less valuable;
- (f) Having set up and operated the Maxxipoint Scheme, the Majority Directors caused Shanghai Nexus and/or Maxxipoint Merchants including the Operating Subsidiaries to promote Shanghai Zhenhuixuan's e-commerce website as part of the "VIP Maxxipoint" offering;
- (g) The e-commerce business of Shanghai Zhenhuixuan and its opportunity to expand beyond an offering to VIP Maxxipoint members to a wider group represents, as averred above, a logical progression from the Maxxipoint Scheme operated by Shanghai Nexus and was the springboard for the business of Shanghai Zhenhuixuan and that opportunity.

62 Further, each of the Majority Directors have enabled Shanghai Zhenhuixuan to receive profits and/or benefits from its dealings with Operating Subsidiaries in breach of their duty to refrain from profiting from their position and/or self-dealing and/or to refrain from profiting from their position and/or to act bona fide in the interests of the Company:

PARTICULARS OF BREACH

The Plaintiff sets out below the best particulars which the Plaintiff is presently able to give until full discovery and/or the administration of interrogatories and/or an account has been provided by the Majority Directors:

- (a) The Majority Directors caused and/or permitted Shanghai Zhenhuixuan to have access to the customer base of the FM CVS Business to sell goods and services on the e-commerce platform through Shanghai Nexus;
- (b) The Majority Directors caused and/or permitted Shanghai Zhenhuixuan to market the VIP Maxxipoint offering and the ecommerce platform in stores of the Operating Subsidiaries;
- (c) Shanghai Zhenhuixuan made profits from the Customers who became VIP Maxxipoint members and who purchased goods and services from the ecommerce website operated by it; and
- (d) As set out at paragraph 56 above, Shanghai Zhenhuixuan made profits from direct transactions with the Company and/or the Operating Subsidiaries.

63 By the aforementioned breaches of duty and by setting up and/or operating the Maxxipoint Scheme, the Majority Directors intentionally and deliberately benefitted the Wei Brothers as ultimate beneficial owners of Nexus Cayman, Shanghai Nexus, Shanghai Zhenhuixuan, Good Choice Cayman, Good Choice Hong Kong and of the TH Maxxipoint Merchants.

(C) *The Majority Directors' Failure to Provide Full and Frank Disclosure of Transactions with Nexus Cayman, Shanghai Nexus, Good Choice Cayman, Good Choice Hong Kong and Shanghai Zhenhuixuan*

64 In breach of his duty of disclosure, each of the Majority Directors failed to disclose, adequately or at all, in advance and/or on a continuing basis or otherwise to disclose material information to the Company and/or, in the premises, the Plaintiff will also claim that there was no full and frank disclosure excusing any breaches of duty:

PARTICULARS OF BREACH

- (a) Each of the Majority Directors should have disclosed to the Company in advance and/or on a continuing basis his personal interests and/or those of his fellow Majority Directors in Nexus Cayman, Shanghai Nexus, Good Choice Cayman, Good Choice Hong Kong or Shanghai Zhenhuixuan and/or the fact that members of the Maxxipoint Scheme were and/or would be TH Maxxipoint Merchants and/or of the extent of the benefit obtained and/or to be obtained by the TH Maxxipoint Merchants from the Company and/or the Operating Subsidiaries and/or the extent of benefit received and/or to be received by

Nexus Cayman and/or Shanghai Nexus from fees and/or income earned from the Maxxipoint Merchant including the Operating Subsidiaries and/or the extent and/or nature and/or value of the Company's corporate opportunity which the Majority Directors had caused and/or were to cause Shanghai Nexus and/or Shanghai Zhenhuixuan to use;

- (b) The FMCH Directors first became aware of the existence of Shanghai Nexus from explanatory material included in a document prepared by Shanghai Nexus management in 2015. The FMCH Directors considered that it was necessary for them to understand the relationship between Shanghai Nexus and the FamilyMart business being conducted in the PRC. On or around September 2016 the relevant Shanghai Nexus staff were interviewed. In December 2016 FMCH requested further interviews, but the meeting was cancelled at the request of the TH Group;
- (c) In the board meeting material provided on 7 June 2018 for the purpose of the board meeting on 12 June 2018, the Majority Directors confirmed to the FMCH Directors for the first time that Shanghai Nexus and Shanghai Zhenhuixuan were related parties, but no explanation was provided as to how Shanghai Nexus and Shanghai Zhenhuixuan were related to the Company or the Majority Directors. This information was provided in response to a request made at a meeting on 21 March 2018;
- (d) On 28 August 2018, Mr Kiriya attended the Company's offices to inspect documents apparently relevant to the Related Party Transactions but was unable to identify relevant contracts and supporting materials (and he was not permitted to remove or copy any materials to show the other FMCH Directors in any event);
- (e) At the board meeting of the Company on 16 November 2018, Mr Kubo asked the First Defendant what, if any, interest he held in Shanghai Nexus and the First Defendant refused to answer that question and stated that the answer was in the documents that had been provided to Mr Kiriya for his inspection on 28 August 2018;
- (f) In a letter dated 28 December 2018, the FMCH Directors were informed that an (unidentified) company in the TH Group had invested in Shanghai Nexus and Shanghai Zhenhuixuan;

- (g) The first time that the FMCH Directors were informed that the Majority Directors are the beneficial owners of Shanghai Nexus was in the evidence filed on behalf of the TH Group on 10 January 2019 in support of their application to strike-out the winding-up petition brought by FMCH to wind-up the Company;
- (h) At a board meeting on 17 July 2019 Mr Kubo asked the First Defendant for an explanation of a number of matters, including the beneficial ownership of Shanghai Nexus. The First Defendant provided written answers on 2 August 2019 which included the statement that the final beneficiaries of Shanghai Nexus "are the four brothers of the Wei family of [the TH Group] and their respective families, each holding 25% of the shares"; and
- (i) The Majority Directors on 2 August 2019 also provided a brief document headed "Statement of the related transactions between CCH and Nexus". Much of the information provided is unclear and none of the underlying documents has been provided to support what is set out in that statement.

(D) *Knowing Receipt by Shanghai Nexus and Nexus Cayman*

65 Nexus Cayman and/or Shanghai Nexus were the knowing beneficial recipients of the profits and benefits obtained from the aforementioned breaches of duty by the Majority Directors set out in paragraphs 58, 60, 61 and 64 above and those secured by the aforementioned misused and/or misapplied opportunity of the Company set out in paragraph 61 above relating to the Maxxipoint Scheme:

PARTICULARS OF KNOWING RECEIPT

The Plaintiff will say that Nexus Cayman and/or Shanghai Nexus had the knowledge of the Majority Directors of the following:

- (a) the Majority Directors knew of the features of the Maxxipoint Scheme as regards Shanghai Nexus;
- (b) the Majority Directors knew of the role of the customers of the FM CVS Business in making the Maxxipoint Scheme a success;

- (c) the Majority Directors knew of the aforementioned misuse of the goodwill and customer base of the Operating Subsidiaries;
- (d) the Majority Directors knew or appreciated that by allowing the TH Maxxipoint Merchants to market goods and services to the customers of the FM CVS Business, Shanghai Nexus was allowing the TH Maxxipoint Merchants to benefit unfairly from advertising; and
- (e) the Majority Directors knew or appreciated that by operating the Maxxipoint Scheme Shanghai Nexus was building a separate and/or independent business with value as a web-based advertising platform, which already has millions of users and which can logically expand to include other Maxxipoint Merchants and/or to provide a platform for the sale of other goods and/or services that it can advertise to all the Maxxipoint Members.

(E) *Knowing Receipt by Good Choice Cayman, Good Choice Hong Kong and Shanghai Zhenhuixuan*

66 Good Choice Cayman, Good Choice Hong Kong and Shanghai Zhenhuixuan were the beneficial recipients of the opportunities of the Company to set-up and use the online shopping mall/e-commerce website as set out in paragraphs 61 and 62 above.

67 Good Choice Cayman, Good Choice Hong Kong and Shanghai Zhenhuixuan were the knowing beneficial recipients of the profits and benefits obtained from the aforementioned breaches of duty by the Majority Directors set out in paragraphs 61 and/or 62 and/or 64 above and those secured by the aforementioned misused and/or misapplied opportunity of the Company set out in paragraph 61 above.

68 Good Choice Cayman, Good Choice Hong Kong and Shanghai Zhenhuixuan acted with the knowledge that the opportunities were traceable to a breach of fiduciary duty by the Majority Directors.

PARTICULARS OF KNOWING RECEIPT

The Plaintiff will say that Good Choice Cayman, Good Choice Hong Kong and Shanghai Zhenhuixuan had the knowledge of the Majority Directors of the following:

- (a) Paragraph 65 above is repeated; and

- (b) In causing Shanghai Nexus to operate the Maxxipoint Scheme the Majority Directors intended to create an e-commerce website by marketing the same to Maxxipoint consumers.

(F). Dishonest Assistance Claims Arising From The Maxxipoint Scheme

- 69 The Majority Directors, in breach of their fiduciary duties to the Company, caused or permitted Shanghai Nexus and/or Shanghai Zhenhuixuan and/or the TH Maxxipoint Merchants and/or Related Parties to make profits derived from those breaches as set out above.
- 70 The Majority Directors, in breach of their fiduciary duties to the Company as pleaded above, caused or permitted opportunities that belonged in equity to the Company and/or the Operating Subsidiaries to be diverted for the use of Nexus Cayman and/or Shanghai Nexus and/or Choice Cayman and/or Good Choice Hong Kong and/or Shanghai Zhenhuixuan.
- 71 Nexus Cayman and/or Shanghai Nexus and/or Good Choice Cayman and/or Good Choice Hong Kong and/or Shanghai Zhenhuixuan assisted in those breaches of fiduciary duty in that each were the beneficial recipients of the opportunities of the Company and/or the Operating Subsidiaries and/or their economic value through shareholdings and/or otherwise used the same and/or profited there when such opportunities had resulted from the said breaches of fiduciary duty by the Majority Directors.
- 72 Each of Nexus Cayman, Shanghai Nexus, Good Choice Cayman, Good Choice Hong Kong and Shanghai Zhenhuixuan acted with the knowledge that the opportunities were traceable to a breach of fiduciary duty by the Majority Directors.
- 73 At the time when the opportunity was exploited by Nexus Cayman and/or Shanghai Nexus and/or Good Choice Cayman and/or Good Choice Hong Kong and/or Shanghai Zhenhuixuan, the Majority Directors knew that the opportunities were assets of the Company and/or the Operating Subsidiaries and their knowledge is to be attributed to Nexus Cayman and Shanghai Nexus and/or Good Choice Cayman and/or Good Choice Hong Kong and/or Shanghai Zhenhuixuan.
- 74 In these circumstances, Nexus Cayman and Shanghai Nexus and/or Good Choice Cayman and/or Good Choice Hong Kong and/or Shanghai Zhenhuixuan knowingly assisted in the

breaches of fiduciary duty related to those opportunities that belonged to the Company and/or to the profits related to them.

VII. RELIEF CLAIMED

(A) *Relief Sought Against the Majority Directors*

75 In the above premises, the Majority Directors have acted in breach and/or disregard of their duties to the Company in that:

- (a) They have each allowed their personal interests to conflict with the interests of the Company without full and frank and/or proper and/or appropriate disclosure of the transactions in issue;
- (b) They have each taken advantage of their positions as directors of the Company by acting in their own interests and furthering their private interests rather than those of the Company;
- (c) They have each acted otherwise than bona fide in the interests of the Company; and/or,
- (d) They have each misapplied assets of the Company.

76 By reason of the aforesaid, the Majority Directors are required:

- (a) to account to the Company for any benefit and/or gain received by them as a consequence of the Company and/or the Operating Subsidiaries entering into Related Party Transactions in breach of their duties to the Company;
- (b) to pay equitable compensation to make good the loss suffered by the Company as a consequence of the Related Party Transactions;
- (c) to pay equitable compensation as a consequence of the loss caused by the Company's opportunities to set-up and/or to operate the Maxxipoint Scheme being diverted to Nexus Cayman and/or Shanghai Nexus; and/or
- (d) to pay equitable compensation to make good the loss suffered by the Company as a consequence of the Company's opportunities to set-up and/or operate the online

shopping mall/e-commerce website being diverted to Good Choice Cayman and/or to Good Choice Hong Kong and/or to Shanghai Zhenhuixuan.

(B) Relief Sought Against Nexus Cayman and Shanghai Nexus

77 As set out above Nexus Cayman and/or Shanghai Nexus were the knowing beneficial recipients of the opportunities of the Company and/or the Operating Subsidiaries and/or secret profits that were received as a result of a breach of fiduciary duty by the Majority Directors, as particularised at paragraphs 59 and 61 above.

78 In the premises, the Plaintiff seeks:

- (a) an order that Nexus Cayman and Shanghai Nexus account to the Company and/or the Operating Subsidiaries for any benefit or gain received by them as a consequence of setting-up and operating the Maxxipoint card system;
- (b) a declaration that the shares in Nexus Cayman are in equity the property of the Company and an order that the shares in Nexus Cayman be transferred to the Company; alternatively, a declaration that the shares in Shanghai Nexus are in equity the property of the Company and an order that the shares in Shanghai Nexus be transferred to the Company; and
- (c) an order that Nexus Cayman and/or Shanghai Nexus do pay equitable compensation to put the Company in the position that it would have been had the Company not been deprived of the opportunities of setting-up and operating the Maxxipoint Scheme.

(C) Relief Sought Against Good Choice Cayman, Good Choice Hong Kong and Shanghai Zhenhuixuan

79 Good Choice Cayman and/or Good Choice Hong Kong and/or Shanghai Zhenhuixuan were the knowing beneficial recipients of the opportunities of the Company and/or the Operating Subsidiaries and/or secret profits that were received as a result of a breach of fiduciary duty by the Majority Directors, as particularised at paragraphs 59 and 61 above.

80 In the premises, the Plaintiff seeks:

- (a) an order that Good Choice Cayman and/or Good Choice Hong Kong and/or Shanghai Zhenhuixuan account to the Company and/or the Operating Subsidiaries for any benefit

or gain received by them as a consequence of setting-up and operating the online shopping mall/e-commerce website;

- (b) a declaration that the shares in Good Choice Cayman and/or Good Choice Hong Kong are in equity the property of the Company and an order that the shares in Good Choice Cayman and/or Good Choice Hong Kong be transferred to the Company; alternatively, a declaration that the shares in Shanghai Zhenhuixuan are in equity the property of the Company and an order that the shares in Shanghai Zhenhuixuan be transferred to the Company; and
- (c) An order that Good Choice Cayman and/or Good Choice Hong Kong and/or Shanghai Zhenhuixuan do pay equitable compensation to put the Company in the position that it would have been had the Company not been deprived of the opportunities of setting-up and operating the online shopping mall/e-commerce website.

AND on behalf of the Company, FMCH claims:

- (1) The taking of a full account of any benefit and/or gain made by the Majority Directors or any of them and/or Nexus Cayman, Shanghai Nexus, Good Choice Cayman and/or Good Choice Hong Kong and/or Shanghai Zhenhuixuan.
- (2) Orders that the sum or sums found due as a consequence of the taking of a full account under (1) above be paid to the Company.
- (3) Declarations that the shares in the Nexus Cayman and/or Shanghai Nexus and/or Good Choice Cayman and/or Good Choice Hong Kong and/or Shanghai Zhenhuixuan are held in equity for the Company.
- (4) Orders that the shares held in equity for the Company be transferred to the Company.
- (5) Orders for equitable compensation.
- (6) FMCH be indemnified out of the Company's assets in respect of the legal costs of the derivative claim.
- (7) All other necessary and incidental orders, enquiries and directions.
- (8) Further or other relief.

(9) Costs.



OGIER

Attorneys for the Plaintiff

Schedule 1

	Purchases from Related Parties (in \$USD)					
Related Party	2012	2013	2014	2015	2016	2017
Shanghai Ding Shi	\$178,722,897	\$273,163,715	\$323,244,804	\$404,511,842	\$489,783,314	\$575,413,732
Shanghai Ting Zhen	\$32,799,081	\$43,629,341	\$42,992,558	\$47,608,827	\$53,825,930	\$65,319,401
Shanghai Dinghong	\$26,448,295	\$10,888,983	\$10,747,895	\$11,873,505	\$25,500,598	\$30,545,345
Shanghai Dinghui	\$24,426,328					
Shanghai Ting Sheng	\$12,176,049	\$9,899,387	\$3,090,127	\$6,103,768	\$5,733,562	\$5,955,004
Shanghai Ding Fa		\$13,266,889	\$23,241,875	\$25,773,186	\$25,054,868	\$24,592,003
Guangzhou Pepsi Cola Beverage Co., Ltd.				\$679,393		\$1,022,372
Tingjin Food Co., Ltd.						\$247,691
Hangzhou Wei Chuan Foods Co. Ltd.						\$3,254,145
Total	\$274,621,585	\$350,848,314	\$403,317,260	\$496,550,521	\$599,898,271	\$706,349,693

**DIRECTIONS FOR ACKNOWLEDGMENT
OF SERVICE OF WRIT OF SUMMONS**

1. The accompanying form of Acknowledgment of Service should be completed by an Attorney acting on behalf of the Defendants or by the Defendants if acting in person.
2. After completion it must be delivered or sent by post to the Law Courts, PO Box 495 GT, George Town, Grand Cayman.
3. A Defendant who states in his Acknowledgment of Service that he intends to contest the proceedings must also serve a defence on the Attorney for the Plaintiff (or on the Plaintiff if acting in person).

If a Statement of Claim is indorsed on the Writ (i.e., the words "Statement of Claim" appear on the top of page 2), the Defence must be served within 14 days after the time for acknowledging service of the Writ, unless in the meantime a summons for judgment is served on the Defendant.

If the Statement of Claim is not indorsed on the Writ, the Defence need not be served until 14 days after a Statement of Claim has been served on the Defendant.

If the Defendant fails to serve his defence within the appropriate time, the Plaintiff may enter judgment against him without further notice.

4. A Stay of Execution against the Defendant's goods may be applied for where the Defendant is unable to pay the money for which any judgment is entered. If a Defendant to an action for a debt or liquidated demand (i.e. a fixed sum) who does not intend to contest the proceedings states, in answer to Question 3 in the Acknowledgment of Service, that he intends to apply for a stay, execution will be stayed for 14 days after his Acknowledgment, but he must, within that time, issue a Summons for a stay of execution, supported by an Affidavit of his means. The Affidavit should state any offer which the Defendant desires to make for payment of the money by instalments or otherwise.

See over for notes for guidance.

Please complete overleaf.

Notes for Guidance

1. Each Defendant (if there are more than one) is required to complete an Acknowledgment of Service and return it to the Courts Office.
2. For the purpose of calculating the period of 14 days for acknowledging service, a writ served on the Defendant personally is treated as having been served on the day it was delivered to him.
3. Where the Defendant is sued in a name different from his own, the form must be completed by him with the addition in paragraph 1 of the words "sued as (the name stated on the Writ of Summons)".
4. Where the Defendant is a FIRM and an attorney is not instructed, the form must be completed by a PARTNER by name, with the addition of paragraph 1 of the description "Partner in the firm of _____" after his name.
5. Where the Defendant is sued as an individual TRADING IN A NAME OTHER THAN HIS OWN, the form must be completed by him with the addition in paragraph 1 of the description "trading as _____" after his name.
6. Where the Defendant is a LIMITED COMPANY the form must be completed by an Attorney or by someone authorised to act on behalf of the Company, but the Company can take no further step in the proceedings without an Attorney acting on his behalf.
7. Where the Defendant is a MINOR or a MENTAL PATIENT, the form must be completed by an Attorney acting for a guardian ad litem.
8. A Defendant acting in person may obtain help in completing the form at the Courts Office.

IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION

CAUSE NO. FSD OF 2019 ()

BETWEEN:

FAMILYMART CHINA HOLDING CO., LTD

Plaintiff

AND:

(1) YIN-HENG WEI

(2) SHIH-CHIEH WEI

(3) YING-CHIAO WEI

(4) YING-CHUN WEI

(5) NEXUS (CAYMAN ISLANDS) HOLDING CORP

(6) SHANGHAI NEXUS INFORMATION TECHNOLOGY CO., LTD

(7) GOOD CHOICE (CAYMAN ISLANDS) HOLDING CORP

(8) GOOD CHOICE (HONG KONG) HOLDING CO LTD

(9) SHANGHAI ZHENHUIXUAN ELECTRONIC COMMERCE LTD

(9) CHINA CVS (CAYMAN ISLANDS) HOLDINGS CORP.

Defendants

ACKNOWLEDGMENT OF SERVICE OF
WRIT OF SUMMONS

If you intend to instruct an Attorney to act for you, give him this form IMMEDIATELY.

Important: Read the accompanying directions and notes for guidance carefully before completing this form. If any information required is omitted or given wrongly, THIS FORM MAY HAVE TO BE RETURNED.

Delay may result in judgment being entered against a Defendant whereby he may have to pay the costs of applying to set it aside.

1. State the full name of the Defendant by whom or on whose behalf the service of the Writ of Summons is being acknowledged.

2. State whether the Defendant intends to contest or otherwise participate in the proceedings (*tick appropriate box*).

yes

no

3. If the claim against the Defendant is for a debt or liquidated demand, AND he does *not* intend to contest the proceedings, state if the Defendant intends to apply for a stay of execution against any judgment entered by the Plaintiff (*tick box*).

yes

no

Service of the Writ of Summons is acknowledged accordingly.

(Signed) _____

Attorney for:

Address for service:

Notes on address for service:

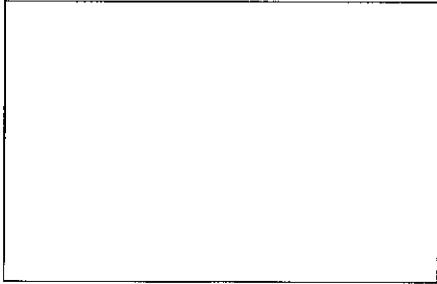
Attorney: where the Defendant is represented by an attorney, state the attorney's place of business in the Cayman Islands. A Defendant may not act by a foreign attorney.

Defendant in person: where the Defendant is acting in person, he must give his post office box number and the physical address of his residence or, if he does not reside in the Cayman Islands, he must give an address in Grand Cayman where communications for him should be sent. In the case of a limited company, "residence" means its registered principal office.

Endorsement by Plaintiff's Attorney (or by Plaintiff if suing in person) of his name, address and reference, if any, in the box below.

OGIER Attorneys-at-Law 89 Nexus Way, Camana Bay Grand Cayman Cayman Islands KY1-9009 (Reference: MKS/GEL/426095.00001)

Endorsement by Defendant's Attorney (or by Defendant is suing in person) of his name, address and reference, if any, in the box below.

A large, empty rectangular box with a thin black border, intended for the defendant's attorney or the defendant to provide their name, address, and reference.