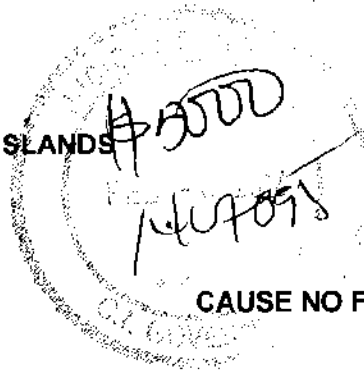


IN THE GRAND COURT OF THE CAYMAN ISLANDS

FINANCIAL SERVICES DIVISION



0014 OF 2012

IN THE MATTER OF GS CAPITAL FUNDING (CAYMAN) LIMITED AND IN THE MATTER OF SECTION 14 TO SECTION 16 OF THE COMPANIES LAW (2011 REVISION)

PETITION



TO: The Grand Court of the Cayman Islands

THE HUMBLE PETITION of GS Capital Funding (Cayman) Limited ("GSCF") of PO Box 309, Uglund House, Grand Cayman, KY1-1104, Cayman Islands, shows that:

Introduction

- 1 The object of this Petition (the "**Petition**") is to seek confirmation of the Court pursuant to Section 16 of the Companies Law (2011 Revision) (together with its predecessors where the context so requires, the "**Companies Law**") of a special resolution of the shareholders of GSCF to reduce the issued and paid-up ordinary share capital of GSCF from US\$235,138,776 divided into 235,138,776 ordinary shares with a par value of US\$1.00 each to US\$2,351,387.76 divided into 235,138,776 ordinary shares with a par value of US\$0.01 each (the "**Capital Reduction**").
- 2 It is proposed that the credit of US\$232,787,388.24 arising from the Capital Reduction will be used to create a fully distributable capital reserve in the amount of US\$232,787,388.24 that

will then be available to be applied to the business of GSCF including for the purpose of paying dividends to shareholders.

Incorporation, share capital and objects of GSCF

- 3 On 8 August 2006 GSCF was incorporated and registered under the Companies Law as an exempted company limited by shares.
- 4 The registered office of GSCF is and always has been situated at PO Box 309, Ugland House, Grand Cayman, KY1-1104, Cayman Islands.
- 5 GSCF is tax resident in the United Kingdom.
- 6 The original authorised share capital of GSCF was US\$10,000,000 divided into 10,000,000 ordinary shares with a par value of US\$1.00 per share. On 2 February 2012, by an ordinary resolution of GS Capital Funding (UK) II Limited ("**GSCF UK II**"), the sole ordinary shareholder of GSCF, the authorised share capital was increased to US\$350,000,000 divided into 350,000,000 shares with a par value of US\$1.00 per share.
- 7 On 2 February 2012 GSCF capitalised US\$283,000,000 of its existing share premium account by issuing an additional 283,000,000 ordinary shares at US\$1.00 each to GSCF UK II.
- 8 Pursuant to a resolution of the directors of GSCF and confirmed by a resolution of the shareholder of GSCF, on 2 February 2012, 47,948,853 of GSCF's issued ordinary shares were re-designated into 47,948,853 redeemable junior preferred shares with a par value of US\$1.00 each ("**Junior Preferred Shares**").
- 9 On 3 February 2012, GSCF issued 22,500,000 redeemable senior preferred shares ("**Senior Preferred Shares**") to Panda Investments Ltd ("**Panda**") and 27,500,000 Senior Preferred Shares to GSFS Investments I Corp ("**GSFS I**").
- 10 As at the date hereof:
 - 10.1 235,138,776 ordinary shares are in issue, are fully paid up and are held by GSCF UK II ("**Ordinary Shares**");

- 10.2 47,948,853 Junior Preferred Shares are in issue, are fully paid up and are held by GSCF UK II;
- 10.3 50,000,000 Senior Preferred Shares are in issue, are fully paid up, with 22,500,000 being held by Panda and 27,500,000 being held by GSFS I.
- 11 The objects for which GSCF is established are unrestricted as set out in Clause 3 of its Amended and Restated Memorandum of Association.
- 12 GSCF was incorporated for the purpose of a financing transaction whereby it lent money to an affiliate incorporated in the United Kingdom.

Rights of Shareholders on a winding up

- 13 Pursuant to Article 44.1 of its Amended and Restated Articles of Association ("**Articles**"), on a winding up of GSCF the holders of the Senior Preferred Shares are preferred as to capital and income over both the holders of the Junior Preferred Shares and the Ordinary Shares and the holders of the Junior Preferred Shares are preferred as to capital and income over the holders of the Ordinary Shares.

- 14 Article 44.1 provides that:

"If the Company shall be wound up, the assets available for distribution amongst the Members shall be distributed in the following order of priority:

- (a) *to the holders of Senior Preferred Shares, distributions in an amount per Senior Preferred Share equal to the sum of \$1.00 (the "**Senior Preferred Share Stated Preferred Liquidation Preference**"), plus an amount equal to accrued and unpaid dividends thereon to but excluding the date of final dissolution;*
- (b) *to the holders of the Junior Preferred Shares, distributions in an amount per Junior Preferred Share equal to the sum of \$1.00107 (the "**Junior Preferred Share Stated Preferred Liquidation Preference**"), plus an amount equal to accrued and unpaid dividends thereon to but excluding the date of final dissolution; and*
- (c) *to the holders of the Ordinary Shares,*

ratably between the holders of the Shares of each relevant class, on the basis of the number of Shares held by them at the commencement of the winding up, subject to a deduction from those Shares in respect of which there are monies due, of all monies payable to the Company for unpaid calls or otherwise."

Capital Reduction

- 15 GSCF is authorised to reduce its share capital in any way pursuant to Article 17.3(d) of its Articles which provides as follows:

"Subject to the provisions of the Statute and the provisions of these Articles as regards the matters to be dealt with by Ordinary Resolution, the Company may by Special Resolution: reduce its share capital and any capital redemption reserve fund."

- 16 The holders of the Ordinary Shares, Senior Preferred Shares and Junior Preferred Shares vote together as a single class in accordance with the rights set out in the Articles. Articles 22.1 to 22.2 of the Articles provide as follows:

"22.1 Subject to any rights or restrictions attached to any Shares, every Member shall have one vote for every Share of which he is the holder. For so long as there are any Junior Preferred Shares in issue, such Junior Preferred Shares shall confer 43.64% of the total voting power of all the Shares in issue. For so long as there are any Senior Preferred Shares in issue, such Senior Preferred Shares shall confer 45.45% of the total voting power of all the Shares in issue. All remaining voting power shall be attributable to the Ordinary Shares in issue. The voting power attributable to each class of Shares shall in turn be attributable rateably to each Share of such class by dividing the voting power attributable to such class by the number of Shares of such class then in issue.

22.2 The Ordinary Shares, the Senior Preferred Shares and the Junior Preferred Shares shall vote together as a single class on all matters on which Members are entitled to vote."

- 17 GSCF's shareholders are entitled to pass unanimous written resolutions in lieu of holding a general meeting. Article 21.3 of the Articles provides that:

" 21.3 A resolution (including a Special Resolution) in writing (in one or more counterparts) signed by or on behalf of all of the Members for the time being entitled to receive notice of and to attend and vote at general meetings (or, being corporations or other non-natural persons, signed by their duly authorised

representatives) shall be as valid and effective as if the resolution had been passed at a general meeting of the Company duly convened and held."

18 On 3 February 2012, the holders of the Ordinary Shares, Junior Preferred Shares and Senior Preferred Shares of GSCF unanimously resolved by way of written special resolution pursuant to Article 21.3:

1. *"Pursuant to Article 17.3 of the Articles of Association of the Company and conditional upon the confirmation by the Grand Court of the Cayman Islands and with effect from the date upon which this resolution takes effect pursuant to the Companies Law (2011 Revision) of the Cayman Islands, the issued and paid-up ordinary share capital of the Company be reduced from US\$235,138,776 divided into 235,138,776 ordinary shares with a par value of US\$1.00 each to US\$2,351,387.76 divided into 235,138,776 ordinary shares with a par value of US\$0.01 each ("**Capital Reduction**") such that the authorised share capital of the Company is US\$117,212,611.76 divided into 114,861,224 shares of a par value of US\$1.00 each and 235,138,776 shares of a par value of US\$0.01 each;*
2. *The credit arising from the Capital Reduction be applied to the creation of a fully distributable capital reserve in the amount of US\$232,787,388.24; and*
3. *Conditional upon the effectiveness of resolution 1 above, the Memorandum and Articles of Association of the Company currently in effect be amended and restated by the deletion in their entirety and the substitution in their place of the Amended and Restated Memorandum and Articles of Association annexed hereto."*

19 The proposed reduction does not involve:

- 19.1 An alteration or variation of the rights attached to the Senior or Junior Preferred Shares;
- 19.2 the diminution of any liability in respect of unpaid capital; or
- 19.3 the repayment to any shareholder of any paid-up capital;

20 The form of the Minute proposed to be registered is as follows:

ENDORSEMENT

This Petition having been presented to the Grand Court of the Cayman Islands on the 6th day of February 2012 will be heard at the Grand Court of the Cayman Islands on the day of 2012 at 10 o'clock or as soon thereafter as the Petition can be heard.

Issued by Maples and Calder, attorneys for the Petitioners, whose address for service is PO Box 309, Ugland House, Grand Cayman, KY1-1104 Cayman Islands. (Ref: CJM/622541/22269828).