

IN THE GRAND COURT OF THE CAYMAN ISLANDS

FINANCIAL SERVICES DIVISION

CAUSE NO. FSD 268 OF 2020 (RPJ)

IN THE MATTER OF SECTIONS 14 TO 16 AND SECTION 86 OF THE COMPANIES LAW (2020 REVISION)

AND IN THE MATTER OF CIMC-TIANDA HOLDINGS COMPANY LIMITED 中集天達控股有限公司

PETITION



TO: THE GRAND COURT OF THE CAYMAN ISLANDS

THE HUMBLE PETITION OF CIMC-TianDa Holdings Company Limited 中集天達控股有限公司, a company incorporated under the laws of the Cayman Islands with its registered office located at Conyers Trust Company (Cayman) Limited, Cricket Square, Hutchins Drive, P. O. Box 2681, Grand Cayman KY1-1111, Cayman Islands (the "**Company**") shows that:

**INTRODUCTION**

- 1. The objects of this Petition are to seek:
  - (a) the sanction of the Court pursuant to section 86 of the Companies Law (2020 Revision) (the "**Companies Law**") of a proposed Scheme of Arrangement (the "**Scheme**") between the Company and the holders of the Scheme Shares, as defined in the Scheme and as set out at paragraph 9 below; and
  - (b) the confirmation of the Court, pursuant to section 16 of the Companies Law, of the intended resolution of the Company's shareholders to reduce the Company's share capital to give effect to the Scheme, which is intended to be passed by the Company's shareholders as a special resolution, as set out further at paragraph 9 below.

## INCORPORATION, OBJECTS AND SHARE CAPITAL

2. On 3 January 2002, the Company was incorporated with the name of Wanyou Fire Safety Technology Holdings Limited as an exempted company limited by shares pursuant to the Companies Law. On 6 October 2003, the Company changed its name to CHINA FIRE SAFETY ENTERPRISE GROUP HOLDINGS LIMITED. On 5 June 2009, the Company changed its name to China Fire Safety Enterprise Group Holdings Limited. On 24 April 2018, the Company changed its name to its present name. The registered office of the Company is situated at Conyers Trust Company (Cayman) Limited, Cricket Square, Hutchins Drive, P. O. Box 2681, Grand Cayman KY1-1111, Cayman Islands. The Company's head office is situated at Units A-B, 16/F, China Overseas Building, 139 Hennessy Road, Wan Chai, Hong Kong and the Company's principal place of business in the People's Republic of China (the "**PRC**") is situated at No. 9, Fuyuan 2nd Road, Fuyong, Baoan District, Shenzhen, PRC.
3. The objects for which the Company was established are unrestricted, and are generally to carry out the objects more particularly described in its Memorandum of Association. The Company is an investment holding company, and conducts business through its subsidiaries (the Company and its subsidiaries, together the "**Group**"). The Group is principally engaged in the business of (a) the manufacture and sale of airport facilities; (b) the provision of engineering and computer software solutions for baggage, cargo and material handling and warehousing systems; and (iii) the manufacture and sale of fire engines and fire equipment and mobile fire stations and rescue stations in the PRC.
4. The authorised share capital of the Company is HK\$500,000,000 divided into 50,000,000,000 ordinary shares of a single class with a par value of HK\$0.01 each (each a "**Share**"). As at 31 October 2020, the issued share capital of the Company is HK\$166,380,461.83 divided into 16,638,046,183 Shares, all of which are fully paid. Since 6 October 2008, the issued shares of the Company have been listed and traded on the Main Board of The Stock Exchange of Hong Kong Limited (the "**Hong Kong Stock Exchange**").

## SHAREHOLDER PROFILE

5. The profile of the Company's shareholders, as at 31 October 2020, is as follows:

- (a) Sharp Vision Holdings Limited ("**Sharp Vision**") is the registered holder of 6,755,369,842 Shares, representing approximately 40.60% of the Company's issued Shares;
- (b) HKSCC Nominees Limited ("**HKSCC Nominees**"), a company incorporated in Hong Kong, is the registered holder of 8,002,098,261 Shares, comprising approximately 48.10% of the Company's issued Shares. HKSCC Nominees acts as a common nominee in respect of securities held through the Central Clearing and Settlement System depository in Hong Kong ("**CCASS**") and takes its instructions from persons admitted to participate in CCASS ("**CCASS Participants**"). It is not known how many entities have beneficial interests in the Shares of the Company registered in HKSCC Nominees' name;
- (c) certain parties acting in concert with the Joint Offerors (as defined at paragraph 7 below) in relation to the Company (the "**Joint Offeror Concert Parties**") hold or are beneficially interested in 5,811,482,571 Shares, comprising approximately 35.84% of the Company's issued Shares, some of which are held via HKSCC Nominees. The Joint Offeror Concert Parties are as follows:
- (i) CIMC Top Gear B.V. – registered holder of 1,223,571,430 Shares (7.35%);
- (ii) The Rollover Shareholders:
- (1) Mr Jiang Xiong, an executive Director and honorary chairman of the Company ("**Mr Jiang**") – holder of 981,600,000 Shares (5.90%), of which he is the registered holder of 655,300,000 Shares;
- (2) Mr Zheng Zu Hua, an executive Director and the chief executive officer of the Company – holder of 4,600,000 Shares (0.03%);
- (3) Fengqiang Holdings Limited – holder of 2,366,751,693 Shares (14.22%);
- (4) HongKong Ruicheng Co., Limited – holder of 561,734,448 Shares (3.37%);

- (5) CSR China Merchant Buyout Fund – holder of 673,225,000 Shares (4.05%); and
  - (iii) Mr Jiang Qing (Mr Jiang's brother and associate (as defined under the Hong Kong Code on Takeovers and Mergers issued by the Securities and Futures Commission (the "**Takeovers Code**")), who does not currently hold any shares in the Company; and
  - (d) the remaining 4,071,193,770 Shares of the Company, representing approximately 24.47% of the Company's issued Shares, are registered in the name of the public.
6. The number of Shares of the Company in issue and the ownership of the same is likely to fluctuate between the date of this Petition and the date of the sanction of the Scheme (if so sanctioned) as a result of the normal trading of the Shares.

#### **OBJECT AND MECHANICS OF THE SCHEME**

7. On 28 September 2020, Sharp Vision and Expedition Holding Corporation Limited (the "**Joint Offerors**") requested that the directors of the Company put forward a proposal to the Scheme Shareholders (as defined at paragraph 9(d) below) regarding the proposed privatisation of the Company by way of the Scheme.
8. The object of the Scheme is for the Joint Offerors and the Joint Offeror Concert Parties to (in aggregate) hold the entire issued share capital of the Company (among which the Rollover Shareholders, in aggregate, will hold approximately 27.57% of the issued share capital of the Company) upon the completion of the Scheme, and for the listing of the Shares to be withdrawn from the Hong Kong Stock Exchange.
9. This is intended to be achieved by:
- (a) the Company reducing its share capital by the cancellation and extinguishment of all of its issued Shares other than those issued Shares registered in the name of the Joint Offerors and the Joint Offeror Concert Parties (the "**Scheme Shares**");
  - (b) the Company, forthwith upon the said share capital reduction taking effect, increasing its share capital to its former amount by the issue of the same number

of new Shares to the Joint Offerors as the number of Scheme Shares cancelled and extinguished;

- (c) the Company applying the credit arising in its books of account as a result of the share capital reduction in paying up in full at par the Shares newly issued to the Joint Offerors;
- (d) in consideration for the cancellation and extinguishment of the Scheme Shares, each holder of the Scheme Shares as at the Scheme Record Date (a "**Scheme Shareholder**") receiving HK\$0.266 per Scheme Share from the Joint Offerors; and
- (e) upon the Scheme being sanctioned, the listing of the Shares of the Company on the Hong Kong Stock Exchange being withdrawn.

#### **AFFECTED SHAREHOLDERS**

- 10. The Scheme affects a single class of shareholders of the Company, being the Scheme Shareholders (i.e. those registered holders of the Shares of the Company other than the Shares registered in the names of the Joint Offerors and the Joint Offeror Concert Parties).

#### **APPLICATION FOR DIRECTIONS**

- 11. In relation to the Scheme, the Company intends to make an application for, amongst other things, orders and directions:
  - (a) that the relevant class of shareholders of the Company affected by the Scheme is that referred to at paragraph 10 above;
  - (b) that the Company be at liberty to convene a single meeting of the Scheme Shareholders for the purpose of allowing Scheme Shareholders to consider, and if they think fit, approve the Scheme with or without modification (the "**Court Meeting**");

- (c) as to the mode of delivery of, amongst other things, an explanatory memorandum and proxy form to, amongst others, the holders of the Scheme Shares;
- (d) as to the appointment of a chairman of the Court Meeting, and for directions that the chairman of the Court Meeting should report the results thereof to the Court; and
- (e) as to the treatment of Shares held by custodians, clearing houses, and other nominees for the purpose of the "majority in number" calculation.

## **COURT MEETING**

12. The resolution intended to be submitted at the Court Meeting is:

*"THAT this Court Meeting approves, with or without modification, the proposed Scheme of Arrangement, a print of which has been submitted to this Court Meeting and, for the purpose of identification, signed by the Chairman of this Court Meeting".*

13. It is intended that each Scheme Shareholder (other than HKSCC Nominees) that votes at the Court Meeting, whether in person or by proxy shall be counted as a single shareholder for the purpose of the calculation of the "*majority in number*" component of the statutory threshold under section 86(2) of the Companies Law. Each Scheme Shareholder (other than HKSCC Nominees) is entitled to vote either "*for*" or "*against*" the Scheme, but not both "*for*" and "*against*" the Scheme.
14. HKSCC Nominees is entitled to vote shares both "*for*" and "*against*" the Scheme and for the purpose of the calculation of the "*majority in number*" component of the statutory threshold under section 86(2) of the Companies Law, HKSCC Nominees shall be treated as casting one vote for each CCASS Participant that instructs HKSCC Nominees to vote "*for*" the Scheme and one vote for each CCASS Participant that instructs HKSCC Nominees to vote "*against*" the Scheme.
15. The Joint Offerors and the Joint Offeror Concert Parties will not be voting at the Court Meeting to approve the Scheme, as the Shares owned by the Joint Offerors and the Joint Offeror Concert Parties will not form part of the Scheme Shares.

## CAPITAL REDUCTION

16. Clause 8 of the Company's Memorandum of Association and Article 6 of the Company's Articles of Association provide that the Company may, by special resolution, reduce its share capital in any manner authorised and subject to any conditions prescribed by the Companies Law.
17. The Company intends to convene an Extraordinary General Meeting ("**EGM**") to take place immediately after the meeting of the Court Meeting. The special resolution relating to the capital reduction and ordinary resolution relating to the immediate increase in share capital thereafter intended to be submitted to the EGM are as follows:

*"THAT AS A SPECIAL RESOLUTION:*

- A. the Scheme of Arrangement dated [x] (the "**Scheme**") between the Company and the Scheme Shareholders (as defined in the Scheme of Arrangement) in the form of the print thereof, which has been produced to this meeting and for the purposes of identification signed by the chairman of this meeting, or in such other form and on such terms and conditions as may be approved or imposed by the Grand Court of the Cayman Islands be and hereby is approved;*
- B. for the purpose of giving effect to the Scheme, on the Effective Date (as defined in the Scheme of Arrangement), the issued share capital of the Company shall be reduced by cancelling and extinguishing the Scheme Shares".*

*"THAT AS AN ORDINARY RESOLUTION*

- A. subject to and forthwith upon such reduction of capital referred to in resolution 1(B) taking effect, the share capital of the Company will be increased to its former amount by the issuance at par to Sharp Vision Holdings Limited and Expedition Holding Corporation Limited, credited as fully paid, of the aggregate number of Shares (as defined in the Scheme of Arrangement) as is equal to the number of Scheme Shares cancelled and extinguished;*
- B. the reserve created in the Company's books of account as a result of the capital reduction will be applied in paying up in full at par the new Shares so issued, credited as fully paid, to Sharp Vision Holdings Limited and Expedition Holding Corporation*

*Limited, and the directors of the Company be and are hereby authorised to allot and issue the same accordingly;*

*C. any one of the directors of the Company be and is hereby authorised to do all such acts and things considered by him / her to be necessary or desirable in connection with the implementation of the Scheme of Arrangement, including (without limitation) the giving of consent to any modification of or addition to, the Scheme of Arrangement or the reduction of capital, which the Grand Court of the Cayman Islands may see fit to impose; and*

*D. any one of the directors of the Company be and is hereby authorised to apply to The Stock Exchange of Hong Kong Limited for the withdrawal of the listing of the shares of the Company."*

18. The reduction of the Company's share capital intended to be effected by the said special resolution would neither involve the diminution of liability in respect of any unpaid share capital nor the payment to any shareholder of any paid up capital. Such a capital reduction is for a discernible purpose and its terms and effect will be properly explained to the Company's shareholders a sufficient time prior to the EGM so as to ensure those shareholders are treated equitably.

19. The form of minute proposed to be registered with the Cayman Islands Companies Registrar is as follows:

*"The issued share capital of CIMC-TianDa Holdings Company Limited was by virtue of a special resolution of the Company dated [x] (the "**Special Resolution**") and with the confirmation of an order of the Grand Court of the Cayman Islands dated [x] (the "**Order**") reduced from HK\$166,380,461.83 divided into 16,638,046,183 shares of HK\$0.01 each to HK\$125,668,524.13 divided into 12,566,852,413 shares of HK\$0.01 each. An ordinary resolution of the Company dated [x] (the "**Ordinary Resolution**") further provides that subject to and forthwith upon such reduction of capital taking effect, the issued share capital of the Company be increased to its former amount of HK\$166,380,461.83 by the issue of 4,071,193,770 shares of HK\$0.01 each.*

*By virtue of a Scheme of Arrangement sanctioned by an order of the Grand Court of the Cayman Islands dated [x], the Order, the Special Resolution and the Ordinary Resolution, the issued share capital of the Company at the time of the registration of this minute is accordingly HK\$166,380,461.83 divided into 16,638,046,183 shares of HK\$0.01 each".*

**YOUR PETITIONER THEREFORE HUMBL Y PRAYS THAT:**

1. The Scheme be sanctioned by the Court so as to be binding on the Company and the holders of the Scheme Shares.
2. The reduction of the share capital of the Company proposed to be effected by the special resolution set out at paragraph 17 above be confirmed and that the form of minute set out at paragraph 19 be approved by the Court;
3. That all necessary inquiries may be made and directions may be made and given.
4. Such further or other relief be granted as the Court shall see fit.

AND your Petitioner will ever pray etc.

**DATED** the 3<sup>rd</sup> day of November 2020.

*Walkers*

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**WALKERS**

Attorneys at Law for the Petitioner

**NOTE:** This petition is not intended to be served on anyone.

## NOTICE OF HEARING

TAKE NOTICE THAT the hearing of this Petition will take place at the Law Courts, George Town, Grand Cayman on **6th** day of **January 2021** at **9a.m.**

Any correspondence or communication with the Court relating to the hearing of this Petition should be addressed to the Registrar of the Financial Services Division of the Grand Court at PO Box 495, Grand Cayman, KY1-1106, Telephone 345 949 4296.

This **PETITION** was presented by Walkers, Attorneys at Law, 190 Elgin Avenue, George Town, Grand Cayman KY1-9001, for the Petitioner whose address for service is care of its said Attorneys at Law.