

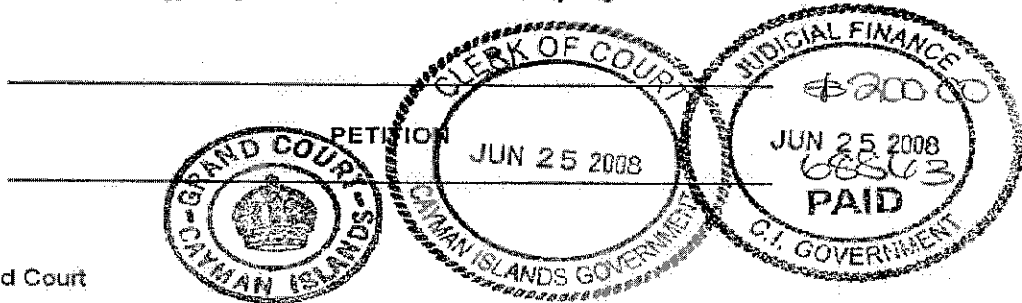
IN THE GRAND COURT OF THE CAYMAN ISLANDS

G0298

CAUSE NO. OF 2008

IN THE MATTER of Section 86 of the Companies Law (2007 Revision)

AND IN THE MATTER of Tongjitang Chinese Medicines Company



To: The Grand Court

THE HUMBLE PETITION OF TONGJITANG CHINESE MEDICINES COMPANY of PO Box 309GT, Uglan House, South Church Street, George Town, Grand Cayman, Cayman Islands (hereinafter called the "Company") SHEWETH as follows:

Introduction

- 1 The object of this Petition is to seek the sanction of the Court pursuant to section 86 of the Companies Law (2007 Revision) (the "Companies Law") to 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 paragraphs 12 and 13 below. A copy of the Scheme is annexed to this Petition by way of Schedule.

Incorporation, Objects and Share Capital

- 2 On 16 May 2006 the Company was incorporated with the name The Chinese Medicines Company as an exempted company limited by shares pursuant to the Companies Law (2004 Revision). On 8 June 2006 the Company changed its name from The Chinese Medicines Company to its current name. The registered office of the Company is and has always been situate at PO Box 309GT, Uglan House, South Church Street, George Town, Grand

Cayman, Cayman Islands. The Company's principal place of business is 5<sup>th</sup> Floor, Block B, Balying Medical Device Park, Nanhai Avenue South, Nanshan District, Shenzhen, Guangdong Province, People's Republic of China.

3 The objects for which the Company was established are unrestricted, and generally to carry out the objects more particularly described in its Restated Memorandum of Association. The Company's principal business activity is the development, manufacturing, marketing and selling of modernised traditional Chinese medicine.

4 The authorised share capital of the Company is US\$500,000 divided into 500,000,000 shares with a par value of US\$0.001 each. As at the date hereof 135,349,722 shares of the Company have been issued and are fully paid or credited as fully paid.

5 The shares of the Company are divided into two classes, being ordinary shares and restricted shares (the "**Restricted Shares**"). Restricted Shares have been issued to certain directors and employees of the Company pursuant to a "2006 Share Incentive Plan" and various "Restricted Share Award Agreements". Restricted Shares have all the rights of ordinary shares, save that they:

- 5.1 are subject to forfeiture if the holder's employment with the Company or any of its subsidiaries terminates for any reason other than death;
- 5.2 are not transferable and cannot be sold, pledged or charged;
- 5.3 have no voting rights; and
- 5.4 do not participate in any dividends.

The Restricted Share Award Agreements provide that the aforesaid restrictions would be waived in respect of certain portions of Restricted Shares at certain intervals after they were issued. Of the 1,656,714 Restricted Shares the Company has issued, 891,714 have had their restrictions waived and have become ordinary shares. Pursuant to the terms of issue of the Restricted Shares, as set out in the 2006 Share Incentive Plan, all restrictions imposed on any remaining Restricted Shares in issue would be waived in the event that the Scheme is sanctioned and becomes effective.

### NYSE Listing

- 6 Since 16 March 2007, 44,708,800 of the ordinary shares of the Company have been quoted on the New York Stock Exchange (the "NYSE") in the form of American depository shares (the "ADSs") issued by The Bank of New York ("BONY"), the depository of the ADSs. The ADSs were created pursuant to a Deposit Agreement dated as of 15 March 2007 between, amongst others BONY and the Company.
- 7 Holders of ADSs ("ADS Holders") are registered either directly with BONY or they hold their ADSs through other banks, custodians or brokers such as, for example, Merrill Lynch or Goldman Sachs. These entities have accounts with The Depository Trust Company, a clearing and settlement house based in the United States ("DTC"), which, through a United States company named Cede & Co., is a registered holder of ADSs with BONY, and it is in these accounts where ADSs that are not registered directly with BONY are traded in scripless form by such banks, custodians and brokers on behalf of underlying beneficial owners of ADSs.

### Shareholder Profile

- 8 The profile of the Company's shareholders, as at the date hereof, is as follows:
- 8.1 Hanmax Investment Limited ("Hanmax") is the largest shareholder and the legal owner of 52,449,892 ordinary shares, representing approximately 38.75% of the issued shares of the Company. Hanmax is wholly owned by Wang Xiaochun ("Wang") and by Chen Yongcun ("Chen"). Wang and Chen are directors of the Company.
- 8.2 BONY is the legal owner of 44,708,800 ordinary shares, representing approximately 33.03% of the issued shares of the Company. The ultimate beneficial owners of these ordinary shares are the ADS Holders referred to at paragraph 7 above. Each ADS represents a beneficial interest in 4 ordinary shares of the Company. BONY has issued 11,177,200 ADSs.
- 8.3 Wang is the legal owner of 270,000 Restricted Shares representing approximately 0.199% of the issued shares of the Company. On 30 June 2008 the restrictions

imposed on 130,000 of Wang's Restricted Shares will be waived and those Restricted Shares will become ordinary shares.

8.4 Chen is the legal owner of 34,000 Restricted Shares representing approximately 0.025% of the issued shares of the Company. On 30 June 2008 the restrictions imposed on 16,000 of Wang's Restricted Shares will be waived and those Restricted Shares will become ordinary shares.

8.5 Aside from the shares that the persons and entities named above are interested in, as at the date hereof there are an additional 37,887,030 shares of the Company registered in the names of 35 shareholders representing approximately 27.99% of the issued shares of the Company.

#### Convertible Securities

9 Pursuant to the 2006 Share Incentive Plan referred to at paragraph 5 (above) and various "Share Option Agreements", the Company issued to Wang, Chen and various other officers and directors of the Company a total of 5,200,000 options to purchase the same number of ordinary shares of the Company on the terms set out in the Share Option Agreements (the "Options").

10 The Options will be dealt with in accordance with their contractual terms of issue, and therefore they do not form part of the Scheme, although, pursuant to their terms of issue, they would be affected by the Scheme if it is sanctioned and becomes effective. In this regard, and pursuant to the terms of the 2006 Share Incentive Plan:

10.1 if the Scheme becomes effective, the Options will vest and become exercisable for ordinary shares in the capital of the Company for the exercise price specified in, and otherwise in accordance with, the terms of the relevant Share Option Agreement. However, the exercise price for each of the Options is US\$2.91, whereas the Scheme values the shares of the Company at US\$2.55 (see paragraph 13 below). Accordingly it is not expected that any Options will be able to be exercised, and all unexercised Options may be cancelled on the effective date of the Scheme in accordance with the terms of issue of the Options; and

10.2 If it transpires that the Scheme does not become effective, the Options would remain unaffected and would continue to be dealt with by the Company and the holders of such securities in accordance with the 2006 Share Incentive Plan and the relevant Share Option Agreements.

11 The Company does not have any other options, warrants or convertible securities in issue.

#### **Object and Mechanics of the Scheme**

12 The object of the Scheme is for the Company to become wholly owned by Hanmax (which, in turn, is wholly owned by Wang and Chen), following which the Company will apply to the NYSE for the withdrawal of the listing of the ADSs. This would be achieved by the transfer to Hanmax of all shares of the Company other than those shares that are already registered in Hanmax's name (the "Scheme Shares").

13 In consideration for the transfer of the Scheme Shares, Hanmax will pay or cause to be paid to holders of Scheme Shares US\$2.55 for each Scheme Share transferred.

#### **Affected Shareholders**

14 The Scheme affects two distinct classes of shareholder of the Company, being:

14.1 the registered holders of shares of US\$0.001 each in the issued share capital of the Company as at 4:00 p.m. Hong Kong time on the day before the Scheme becomes effective, other than Hanmax, Wang and Chen; and

14.2 Wang and Chen as registered holders of shares of US\$0.001 each in the issued share capital of the Company as at 4:00 p.m. Hong Kong time on the day before the Scheme becomes effective.

15 Wang and Chen comprise a different class of affected shareholder to the class referred to at paragraph 14.1 above. This is because Wang and Chen wholly own Hanmax, which, assuming the Scheme is sanctioned and becomes effective, in turn, will wholly own the Company. Accordingly their interest in the implementation of the Scheme differs from the other holders of Scheme Shares referred to at paragraph 14.1 above.

- 16 Hanmax, as the entity to which the Scheme Shares will be transferred and the entity responsible for payment of US\$2.55 for each Scheme Share so transferred, will undertake to the Court to be bound to the Scheme and to comply with its obligations thereunder.

**Court Meetings**

- 17 It is intended that separate meetings of:

17.1 the registered holders of ordinary shares of US\$0.001 each in the issued share capital of the Company other than Hanmax, Wang and Chen (the "**Independent Shareholders Court Meeting**"); and

17.2 Wang and Chen as registered holders of ordinary shares of US\$0.001 each in the issued share capital of the Company (the "**Interested Shareholders Court Meeting**"),

be convened by the Court for the purpose of allowing such holders of ordinary shares of the Company to consider and, if they think fit, approve (with or without modification) the Scheme (the "**Court Meetings**" and each a "**Court Meeting**").

- 18 Subject to the exception set out at paragraph 19 below, it is intended that each shareholder of the Company that votes at the Court Meetings, whether in person or by proxy, shall be:

18.1 counted as a single shareholder for the purpose of the calculation of the "majority in number" under section 86(2) of the Companies Law;

18.2 entitled to vote shares both "for" and "against" the Scheme, and that any shareholder who does so, for the purpose of the calculation of the "majority in number", will be counted as a single shareholder voting "for" the Scheme and a single shareholder voting "against" the Scheme; and

18.3 prohibited from voting any Restricted Shares (which is in keeping with the terms of issue of the Restricted Shares).

- 19 For the calculation of the "majority in number" at the Independent Shareholders Court Meeting, it is intended that BONY will be counted as many times as the voting instructions it

receives from individual ADS Holders registered with it and choosing to vote the shares underlying their respective ADS holdings. For example, if BONY receives instructions from 10 ADS Holders having a combined interest in 100 shares of the Company, each wishing to vote "for" the Scheme, and 5 ADS Holders having a combined interest in 50 shares of the Company, each wishing to vote "against" the Scheme, then, for the calculation of the "majority in number", BONY will be counted as 10 shareholders voting "for" the Scheme as to 100 votes and 5 shareholders voting "against" the Scheme as to 50 votes.

20 The resolution intended to be submitted at each Court Meeting is:

*"THAT this Court Meeting approves 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."*

#### **Application**

21 The Company intends to make an application for, amongst other things, orders and directions:

- 21.1 that the relevant classes of shareholder of the Company affected by the proposed Scheme are those referred to at paragraph 14 above;
- 21.2 that the Company be at liberty to convene the Independent Shareholders Court Meeting and the Interested Shareholders Court Meeting as referred to at paragraph 17 above;
- 21.3 as to the mode of delivery of, amongst other things, an explanatory memorandum and proxy form to the holders of Scheme Shares;
- 21.4 as to the appointment of a chairman of the Court Meetings, and for directions that the chairman of each Court Meeting should report the result of such Court Meeting to the Court; and
- 21.5 that the votes cast by BONY at the Independent Shareholders Court Meeting be counted in accordance with the procedure set out at paragraph 19 above.

YOUR PETITIONER, THE COMPANY, THEREFORE HUMBLY PRAYS:

- 1 That the Scheme be sanctioned by the Court so as to be binding on the Company and the holders of the Scheme Shares.
- 2 That, to this end, all necessary inquiries may be made and directions may be made and given.
- 3 Such further or other relief as the Court shall see fit.

Dated this 25<sup>th</sup> day of June 2008

MAPLES AND CALDER

MAPLES and CALDER

**Note: It is not intended that this Petition be served on anyone.**

#### ENDORSEMENT

This Petition has been presented to the Grand Court of the Cayman Islands on the 25<sup>th</sup> day of June 2008 and will be heard by the Grand Court of the Cayman Islands on the        day of        2008 at        a.m. / p.m. in the fore/after noon (or as soon thereafter as the Petition can be heard).

This Petition was presented by Maples and Calder, Ugland House, PO Box 309GT, George Town, Grand Cayman, Attorneys-at-Law for the Petitioner (CDM/640851)

**SCHEDULE**

**Scheme of Arrangement**

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO.:                      QF 2008

IN THE MATTER OF

Tongjitang Chinese Medicines Company

and

IN THE MATTER OF SECTION 88 OF  
THE COMPANIES LAW

as consolidated and revised of the Cayman Islands

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SCHEME OF ARRANGEMENT

between

Tongjitang Chinese Medicines Company

and

THE HOLDERS OF THE SCHEME SHARES (as defined herein)

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PRELIMINARY

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In this Scheme, unless inconsistent with the subject or context, the following expressions shall bear the meanings respectively set opposite them:

"2006 Share Incentive Plan"	the 2006 Share Incentive Plan adopted by the Company on 9 October, 2006 (as amended)
"ADSs"	the American depositary shares of the Company, issued under the ADS Deposit Agreement and listed on the NYSE, each representing ownership of 4 Scheme Shares
"ADS Deposit Agreement"	the Deposit Agreement dated as of 15 March, 2007, by and among the Company, the ADS Depository and owners and beneficial owners of ADSs
"ADS Depository"	The Bank of New York, a New York banking corporation acting in its capacity as depository under the ADS Deposit Agreement

"Companies Law"	the Companies Law Cap.22 (Law 3 of 1961), as consolidated and revised of the Cayman Islands
"Company"	Tongjitang Chinese Medicines Company, an exempted company incorporated in the Cayman Islands with limited liability
"Court Meetings"	the Independent Shareholders Court Meeting and the Interested Shareholders Court Meeting
"Effective Date"	the date on which the Scheme becomes effective in accordance with Clause 6 of this Scheme
"Explanatory Memorandum"	the explanatory memorandum set out in Part VIII of the Scheme Document and issued in compliance with the Rules of the Grand Court
"Hanmax"	Hanmax Investment Limited, a company incorporated in the British Virgin Islands with limited liability
"Independent Shareholder(s)"	Shareholder(s) (including ADS Holder(s) unless the context otherwise requires) other than the Interested Shareholder(s) and Hanmax
"Independent Shareholders Court Meeting"	a meeting of the Independent Shareholders convened at the direction of the Grand Court at which the Scheme will be voted upon, which will be held at the offices of Latham & Watkins LLP, 41F., One Exchange Square, 8 Connaught Place, Central, Hong Kong on 24 September, 2008 at 3.00 p.m. (Hong Kong time), notice of which is set out on pages 124 to 125 of this Scheme Document, or any adjournment thereof
"Interested Shareholder(s)"	Messrs. Xiaochun Wang and Yongcun Chen
"Interested Shareholders Court Meeting"	a meeting of the Interested Shareholders convened at the direction of the Grand Court at which the Scheme will be voted upon, which will be held at the offices of Latham & Watkins LLP, 41F., One Exchange Square, 8 Connaught Place, Central, Hong Kong on 24 September, 2008 at 3.30 p.m. (Hong Kong time), notice of which is set out on page 126 of this Scheme Document, or any adjournment thereof
"Latest Practicable Date"	June 24, 2008 being the latest practicable date for the purposes of ascertaining certain information contained herein
"NYSE"	The New York Stock Exchange
"Option"	an option to subscribe for Shares or pursuant to the 2006 Share Incentive Plan
"Outstanding Company Share Options"	the outstanding Options granted under the 2006 Share Incentive Plan
"PRC"	the People's Republic of China, which for the purposes of the Scheme Document, excludes Taiwan and the Hong Kong and Macau Special Administrative Regions
"Record Date"	4:00 p.m. (Hong Kong time) on the date immediately preceding the Effective Date or such other time and date as

shall have been announced to the Shareholders, being the record date for the purpose of determining the entitlements of the Scheme Shareholders

"Register"	the register of members of the Company
"Restricted Shares"	Shares issued pursuant to the 2006 Share Incentive Plan. Restricted Shares that cannot be voted at the Court Meetings.
"Scheme"	this scheme of arrangement under Section 86 of the Companies Law involving the transfer of all the Scheme Shares (including those underlying the ADSs) to Hanmax with or subject to any modifications, additions or conditions which the Grand Court may approve or impose
"Scheme Document"	the document to be dated on or about June 26, 2006, including each of the letters, statements, appendices and notices in it, as may be amended or supplemented from time to time and sent by the Company to, among others, the Scheme Shareholders in connection with this Scheme
"Scheme Shareholder(s)"	Shareholder(s) (including ADS holders and the holders of Restricted Shares unless the context otherwise requires) other than Hanmax
"Scheme Share(s)"	Share(s) held by the Scheme Shareholder(s)
"Shareholder(s)"	holder(s) of the Shares (including ADS Holders unless the content otherwise requires)
"Share(s)"	ordinary share(s) of US\$0.001 each in the share capital of the Company (including the Restricted Shares unless the context otherwise requires)
"United States" or "US"	the United States of America, its territories and possessions, any State of the United States, and the District of Columbia
"US\$" or "US dollars"	US dollars, the lawful currency of the United States

The Company was incorporated as an exempted company on 16 May, 2006 in the Cayman Islands under the Companies Law. The authorised share capital of the Company as at the Latest Practicable Date was US\$500,000 divided into 500,000,000 Shares of par value US\$0.001, of which 135,349,722 Shares were issued and fully paid.

Hanmax has proposed the privatisation of the Company by way of the Scheme.

On the Latest Practicable Date, the Shares held by Hanmax, Mr. Xiaochun Wang and Mr. Yongcun Chen are set out as follows:

Hanmax:	52,449,892
Mr. Xiaochun Wang:	270,000
Mr. Yongcun Chen:	34,000

Such Shares held by Hanmax will not form part of the Scheme Shares.

On the Latest Practicable Date, there were in aggregate 5,200,000 Outstanding Company Share Options, of which 1,730,000 have vested and which may be exercised in full or in part.

THE SCHEME

PART I

**TRANSFER OF THE SCHEME SHARES**

1. On the Effective Date, the Scheme Shareholders will transfer their Scheme Shares to Hanmax.

PART II

**CONSIDERATION FOR TRANSFER**

2. In consideration of the transfer of the Scheme Shares (including the Scheme Shares underlying ADSs) pursuant to Clause 1 of this Scheme, Hanmax will pay or cause to be paid to each Scheme Shareholder appearing in the Register at the Record Date the sum of US\$2.55 in cash for each Scheme Share held.

PART III

**GENERAL**

3. (a) Not later than ten days after the Effective Date, Hanmax shall send or cause to be sent to the Scheme Shareholders (as appearing in the Register at the Record Date) cheques in respect of the sums payable to such Scheme Shareholders pursuant to Clause 2 of this Scheme.  
(b) Unless indicated otherwise in writing to the Company, all such cheques shall be sent by ordinary post (by airmail where appropriate) in pre-paid envelopes addressed to such Scheme Shareholders as follows:
  - (i) in the case of each sole Scheme Shareholder, the registered address of such Scheme Shareholder as appearing in the Register at the Record Date; or
  - (ii) in the case of joint Scheme Shareholders, the registered address as appearing in the Register at the Record Date of the joint Scheme Shareholder whose name then stands first in the Register in respect of the relevant joint holding.
- (c) All cheques shall be made payable to the order of the person or persons to whom, in accordance with the provisions of Clause 3(b) of this Scheme, the envelope containing the same is addressed and the encashment of any such cheque shall be a good discharge to Hanmax and the Company for the monies expressed to be represented thereby.
- (d) All cheques and certificates shall be posted at the risk of the addressee and other persons entitled thereto and Hanmax, the Company and any other persons involved in this Scheme shall not be liable for any loss or delay in transmission.
- (e) On or after the day being 6 calendar months after the posting of the cheques pursuant to Clause 3(b) of this Scheme, Hanmax shall have the right to cancel or countermand payment of any cheque posted pursuant to Clause 3(b) of this Scheme which has not then been cashed or has been returned uncashed, and shall place all monies represented thereby in a deposit account in the Company's name with a licensed bank in the Cayman Islands selected by the Company. The Company shall hold such monies on trust for those entitled under the terms of this Scheme until the expiration of one year from the Effective Date and shall prior to such date make payments thereof of the sums

payable pursuant to Clause 2 of this Scheme to persons who satisfy the Company that they are respectively entitled thereto, and the cheques referred to in Clause 3(b) of this Scheme of which they are payees have not been cashed. Any payments made by the Company hereunder shall not include any interest accrued on the sums to which the respective persons are entitled pursuant to Clause 2 of this Scheme. The Company shall exercise its absolute discretion in determining whether or not it is satisfied that any person is so entitled, and a certificate of the Company to the effect that any particular person is so entitled or not so entitled, shall be conclusive and binding upon all persons claiming an interest in the relevant monies.

- (f) On the expiration of one year from the Effective Date, Hanmax shall be released from any further obligation to make any payments under this Scheme and the Company shall thereafter transfer to Hanmax the balance (if any) of the sums standing to the credit of the deposit account referred to in Clause 3(e) of this Scheme including accrued interest subject, if applicable, to the deduction of interest tax or any withholding or other tax or any other deduction required by law and subject also to the deduction of any expenses.
  - (g) The preceding sub-paragraphs of this Clause 3 shall take effect subject to any prohibition or condition imposed by law.
4. As from the Effective Date, each instrument of transfer and certificate existing at the Record Date in respect of a holding of any number of Scheme Shares shall cease to be valid for any purpose as an instrument of transfer or a certificate for such Scheme Shares and every holder of such certificate shall be bound on the request of the Company to deliver up to the Company the certificates for his or her existing shareholding in the Company for the transfer thereof.
  5. All mandates or other instructions to the Company in force at the Record Date relating to any of the Scheme Shares (including elections for the payment of dividends by way of scrip) shall cease to be valid as effective mandates or instructions.
  6. This Scheme shall become effective on the date upon which all of the conditions set out in the paragraph "Conditions of the Scheme" in the Explanatory Memorandum being fulfilled or (to the extent permitted) waived as the case may be.
  7. Hanmax and the Company, by their duly authorised agent(s)/servant(s), may jointly consent for and on behalf of all parties concerned to any modification of or addition to this Scheme or to any condition which the Grand Court may see fit to approve or impose.
  8. Unless this Scheme shall have become effective on or before 31 October, 2008, (or such later date, if any, as Hanmax and the Company may agree and the Grand Court may allow), this Scheme shall lapse.

Dated , 2008