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# WAIVERS FROM COMPLIANCE WITH THE GEM LISTING RULES AND COMPANIES ORDINANCE

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## WAIVERS FROM COMPLIANCE WITH THE GEM LISTING RULES

In preparation for the listing of the Shares on the GEM, the Company has made a number of waiver applications to the Stock Exchange in relation to the requirements set out in Rule 13.16 and Rule 23.03 of the GEM Listing Rules. Details of such waivers are described below.

### LOCK-UP PERIOD WAIVER

#### Initial Management Shareholder moratorium

Under Rule 13.16 of the GEM Listing Rules, a new applicant shall procure that every initial management shareholder of the Company (as defined in the GEM Listing Rules) who, immediately prior to the listing date is entitled to exercise or control the exercise of five per cent. or more of the voting power at general meetings of the issuer should:

1. place in escrow, with an escrow agent acceptable to the Stock Exchange, his/its relevant securities for a period of 2 years (the “Lock-up Period”) from the listing date, on terms acceptable to the Stock Exchange; and
2. undertake to the new applicant and the Stock Exchange that, during the Lock-up Period he/it will not, save as provided in Rule 13.17, dispose of (nor enter into any agreement to dispose of) nor permit the registered holder to dispose of (or to enter into any agreement to dispose of) any of his direct or indirect interest in relevant securities.

After completion of the Reorganisation, the Placing and the Capitalisation Issue and immediately prior to the listing of the Shares on the GEM and not taking into account Shares which may be taken up in the Placing and any Shares which may be issued upon the exercise of the Over-allotment Option, the following persons will be regarded as Initial Management Shareholders of the Company:

Name	Number of Shares	Approximate percentage of Shareholding (%)
Otto Link	168,000,000	48.00
Dr. Sze <sup>1</sup>	168,000,000	48.00
Mr. Tung <sup>2</sup>	168,000,000	48.00
Goldwiz	61,824,000	17.66
Goldwiz Holdings <sup>3</sup>	61,824,000	17.66

*Notes:*

1. Dr. Sze is the chairman of the Company and a director of Otto Link which is an investment company 80% owned by Dr. Sze. He is deemed to be an Initial Management Shareholder and will have a deemed interest in the 168,000,000 Shares held by Otto Link for the purpose of the GEM Listing Rules.
2. Mr. Tung is a Director and a director of Otto Link, which is an investment company 20% owned by Mr. Tung. He is deemed to be an Initial Management Shareholder and will have a deemed interest in the 168,000,000 Shares held by Otto Link for the purpose of the GEM Listing Rules.

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3. Goldwiz Holdings holds 100% of the issued share capital of Goldwiz, an investment company. Goldwiz Holdings is deemed to be an Initial Management Shareholder and will have a deemed interest in the 61,824,000 Shares held by Goldwiz for the purpose of the GEM Listing Rules.

### Waiver I - moratorium period

By a joint press announcement issued by the SFC and the Stock Exchange on 11 March 2000, it was stated that the SFC and the Stock Exchange have agreed the two-year lock-up period referred to in Rule 13.16 of the GEM Listing Rules applicable to initial management shareholders be reduced to six months provided that no controlling shareholders (as such term is defined in the GEM Listing Rules) are allowed to dispose of any Relevant Securities in the second six-month period falling after the Listing Date if such disposal would result in the controlling shareholder or the group of persons constituting the controlling shareholder ceasing to have control over 35% of the voting powers at general meetings of the relevant company.

A waiver application has been made to the Stock Exchange to exempt each of the Initial Management Shareholders from strict compliance with the moratorium requirements under Rule 13.16 of the GEM Listing Rules. The Stock Exchange has granted a waiver to the effect that the moratorium period prescribed in Rule 13.16 of the GEM Listing Rules applicable to the Initial Management Shareholders is reduced from two years to six months from the Listing Date provided that during the First Relevant Lock-up Period, the Initial Management Shareholders must not, save as provided in the GEM Listing Rules, dispose of (or enter into any arrangement to dispose of) nor permit the registered holder to dispose of (or to enter into any agreement to dispose of) any of its/his respective direct or indirect interest in the Relevant Securities and, during the Second Relevant Lock-Up Period, Otto Link, Dr. Sze and Mr. Tung must not dispose of (or enter into any arrangement to dispose of) nor permit the registered holder to dispose of (or enter into any arrangement to dispose of) any of its/his respective direct and indirect interest in the Relevant Securities such that it/he would control less than 35 per cent. of the issued share capital of the Company.

The following sets out a list of Initial Management Shareholders whose Shares will be subject to lock-up:

Name of Initial Management Shareholders <sup>2</sup>	Number of Shares subject to the moratorium	Percentage of total issued Shares subject to the moratorium <sup>1</sup> (%)	Moratorium period
Otto Link <sup>3</sup>	168,000,000	48.00	6 months
Dr. Sze <sup>3</sup> & <sup>4</sup>	168,000,000	48.00	6 months
Mr. Tung <sup>3</sup> & <sup>5</sup>	168,000,000	48.00	6 months
Goldwiz	61,824,000	17.66	6 months
Goldwiz Holdings <sup>6</sup>	61,824,000	17.66	6 months

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*Notes:*

1. The number of Shares and percentages referred to above reflect each Initial Management Shareholder's interest in the Relevant Securities immediately after completion of the Placing and the Capitalisation Issue and on the assumption that the Over-allotment Option is not exercised.
2. Each of the Initial Management Shareholders has undertaken with the Company, JS Cresvale (for and on behalf of the Underwriters), China Everbright and the Stock Exchange that it/he will not dispose of (or enter into any arrangement to dispose of) nor permit the registered holder to dispose of (or enter into any arrangement to dispose of) any of its/his respective direct or indirect interest in the Relevant Securities during the First Relevant Lock-up Period.
3. Each of Otto Link, Dr. Sze and Mr. Tung has undertaken with the Company, JS Cresvale (for and on behalf of the Underwriters), China Everbright and the Stock Exchange that it/he will not dispose of (or enter into any arrangement to dispose of) any of its direct or indirect interest in the Relevant Securities during the Second Relevant Lock-up Period if such disposal would result in it/he ceasing to have control in 35 per cent. or more of the voting power of general meetings of the Company.
4. Dr. Sze is the chairman of the Company and a director of Otto Link which is an investment company 80% owned by Dr. Sze. He is deemed to be an Initial Management Shareholder and will have a deemed interest in the 168,000,000 Shares held by Otto Link for the purpose of the GEM Listing Rules.
5. Mr. Tung is a Director and a director of Otto Link which is an investment company 20% owned by Mr. Tung. He is deemed to be an Initial Management Shareholder and will have a deemed interest in the 168,000,000 Shares held by Otto Link for the purpose of the GEM Listing Rules.
6. Goldwiz Holdings holds 100% of the issued share capital of Goldwiz, an investment company. Goldwiz Holdings is deemed to be an Initial Management Shareholder and will have a deemed interest in the 61,824,000 Shares held by Goldwiz for the purpose of the GEM Listing Rules.

### **Waiver II - stock borrowing arrangement**

JS Cresvale and Otto Link have entered into a stock borrowing arrangement pursuant to which Otto Link has agreed upon the request of JS Cresvale to lend up to 10,500,000 Shares held by it to JS Cresvale. The stock borrowing arrangement entered into between JS Cresvale and Otto Link is to facilitate settlement of over-allocations in connection with the Placing pending the exercise of the Over-allotment Option. The stock borrowing arrangement would result in non-compliance with Rule 13.16 of the GEM Listing Rules.

The granting of Over-allotment Option together with the accompanying stock borrowing arrangement is adopted by JS Cresvale to facilitate the distribution of the Shares under the Placing. A waiver application has been made on the basis that (a) such borrowing arrangement will only be effected by JS Cresvale for settlement of over-allocations in connection with the Placing; (b) the maximum number of Shares which may be borrowed from Otto Link will be limited to the maximum number of Shares which may be issued upon exercise of the Over-allotment Option; (c) the same number of Shares will be returned to Otto Link or its nominees (as the case may be) no later than three business days following the earlier of (i) the last day on which the Over-allotment Option may be exercised and (ii) the day on which the Over-allotment Option is exercised in full; and (d) the returned Shares will be placed in escrow as soon as practicable with an escrow agent acceptable to the Stock Exchange.

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### SHARE OPTION SCHEME WAIVER

Rule 23.03(2) of the GEM Listing Rules states, inter alia, that when a listed issuer adopts a share option scheme for the benefit of its full time employees and/or executives, the total number of securities subject to that share option scheme and any other schemes must not, in aggregate, exceed 10 per cent. of the relevant class of securities of the listed issuer in issue from time to time during a specified period of 10 consecutive years (the “Option Period”).

The Share Option Scheme has been approved conditionally by a resolution of shareholders of the Company in writing on 22 January 2001. Under the Share Option Scheme, the Company will be entitled to grant to the full time employees, including executive directors, of the Group the share options which if fully exercised will represent an aggregate of 30 per cent. of the relevant class of securities of the Company in issue from time to time. As a result of an application made on behalf of the Company, the Stock Exchange has granted a waiver from strict compliance with Rule 23.03 (2) of the GEM Listing Rules. On this basis, the Company is allowed to increase the share option limit under the Share Option Scheme from 10 per cent. to a maximum of 30 per cent. of the issued share capital of the Company subject to the following conditions:

1. the total number of Shares available for issue under options which may be granted under the Share Option Scheme and any other schemes, must not in aggregate exceed 10 per cent. of the issued share capital of the Company as at the first date of listing of the Shares on the GEM unless shareholders’ approval has been obtained pursuant to paragraphs (2) and (4) below;
2. the Company may seek the approval by shareholders in general meeting to increase the limit on the number of shares subject to option beyond 10 per cent. Prior to granting such approval, the Company must not grant options under the Share Option Scheme and any other schemes which will result in the issue of Shares which in aggregate exceed 10 per cent. of its issued share capital;
3. the shareholders’ approval which may be sought as referred to in (2) above must be subject to the following restrictions: (i) the maximum number of Shares subject to the Share Option Scheme and any other schemes does not in aggregate exceed 30 per cent. of the issued share capital of the Company from time to time and (ii) to the extent that the number of shares subject to options proposed to be granted (when aggregated with those already then granted) will exceed the 10 per cent. limit, those proposed options are granted only to participants specified by the Company before such approval is sought;
4. the Company may seek approval by shareholders at general meeting to refresh the 10 per cent. limit. However, the total number of Shares available for issue under options which may be granted under the Share Option Scheme and any other share option schemes of the Company in these circumstances must not exceed 10 per cent. of the issued share capital of the Company at the date of approval of the refreshing of the limit;
5. any grant of options to a connected person must be approved by all independent non-executive directors (as defined in the GEM Listing Rules) of the Company;

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6. where options are proposed to be granted to a connected person who is also a substantial shareholder of the Company or an independent non-executive director of the Company or any of his respective associates, and the proposed grant of options, when aggregated with the options already granted to such connected person in the 12 months immediately preceding the proposed grant, would entitle that person to receive more than 0.1 per cent. of the total issued Shares of the Company for the time being and the value of which exceeds HK\$5 million, then the proposed grant must be subject to the approval of shareholders in a general meeting. Apart from the connected person involved, all other connected persons of the Company must abstain from voting in such general meeting (except where any connected person intends to vote against the proposed grant). A circular must be prepared by the Company explaining the proposed grant, disclosing the number and terms of the options to be granted and containing a recommendation from the independent non-executive directors on whether or not to vote in favour of the proposed grant;
  
7. The following additional disclosures will be made in the annual and interim reports of the Group:
  - (i) details of options granted to each Director and all other participants;
  
  - (ii) a summary of the major terms of each share option scheme approved by shareholders.

Further details relating to the Share Option Scheme are set out in the paragraph headed “Share Option Scheme” in Appendix V to this prospectus.

### **WAIVERS FROM COMPLIANCE WITH SECTION 342(1) OF THE COMPANIES ORDINANCE**

Under paragraph 27 of Part I of the Third Schedule to the Companies Ordinance, a listing applicant is required to set out in its listing document a statement as to the gross trading income or sales turnover during the three preceding years. Paragraph 31 of Part II of the Third Schedule to the Companies Ordinance requires a listing applicant to set out a report, prepared by its auditors and reporting accountants, containing its financial information in respect of each of the three financial years immediately preceding the issue of the listing document.

The Company has applied to the SFC for a waiver from full compliance with paragraphs 27 and 31 of the Third Schedule to the Companies Ordinance, in reliance on the requirements of Rule 7.03 of the GEM Listing Rules which only requires the disclosure of financial results for the two financial years immediately preceding the issue of the listing document and on the ground that full compliance with paragraphs 27 and 31 of the Third Schedule to the Companies Ordinance would be unduly burdensome for the Company.

The SFC has granted such a waiver to the Company so that the Group is only required to include in this prospectus its trading records, financial results and information covering the two financial years immediately preceding the issue of this prospectus.

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The Directors confirm that they have performed sufficient due diligence on the Group to ensure that, save as disclosed herein, up to the date of issue of this prospectus, there has been no material adverse change in the financial position of the Group since 30 June 2000, and there is no event which would materially affect the information shown in the accountants' report set out in Appendix I to this prospectus.

### **WAIVER ON FINANCIAL REPORTING REQUIREMENT SET OUT IN RULE 11.11 OF THE GEM LISTING RULES**

**Rule 11.11 of the GEM Listing Rules require that the latest financial period reported by the reporting accountants in the listing document of a new issuer not to have ended more than six months before the date of the listing document.**

The Company has sought and obtained from the Stock Exchange a waiver from strict compliance with the requirement of Rule 11.11 of the GEM Listing Rules on the basis of a confirmation from the Directors that they have performed sufficient due diligence on the Group to ensure that, save as disclosed in this prospectus, up to the date of issue of this prospectus, there has been no material adverse change in the financial position of the Group since 30 June 2000 and there is no event which would materially affect the information shown in the accountants' report, the text of which is set out in Appendix I to this prospectus.