

# CHINA SHENSHAN ORCHARD HOLDINGS CO. LTD.

(Incorporated in Bermuda)  
(Company Registration No. 41457)

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## FURTHER INFORMATION ON THE DELISTING OF TAIWAN DEPOSITORY RECEIPTS ON TAIWAN STOCK EXCHANGE (FOLLOWING COMPLETION OF THE XINGNONG ACQUISITION AND THE DUKANG DISPOSAL)

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### 1. INTRODUCTION

- 1.1. The Board of Directors ("**Board**") of China Shenshan Orchard Holdings Co. Ltd. (formerly known as Dukang Distillers Holdings Limited) ("**Company**") and collectively with its subsidiaries and associated company, "**Current Group**") refers to (a) its previous announcements dated 17 November 2018, 15 November 2019, 8 June 2020, 30 June 2020, 9 December 2020, 30 March 2021, 1 April 2021, 4 May 2021, 6 May 2021, 1 June 2021, 15 June 2021, 24 June 2021, 3 July 2021, 21 July 2021 and 27 July 2021; and (b) the Company's circular lodged with the Singapore Exchange Securities Trading Limited ("**SGX-ST**") on 31 March 2021 ("**Circular**"), in relation to, *inter alia*, the acquisition of Great Resolute Limited as a very substantial acquisition and an interested person transaction ("**Xingnong Acquisition**"), and the disposal of Sea Will International Limited as a major transaction and an interested person transaction ("**Dukang Disposal**"), together with the Xingnong Acquisition, the "**Transactions**").

*Capitalised terms not defined herein shall bear the same meaning ascribed to them in the Circular.*

- 1.2. The Board further refers to the queries raised by the Singapore Exchange Regulation Pte. Ltd. ("**SGX-ST RegCo**") on 26 July 2021 in relation to the delisting of the TDRs from the TWSE ("**TDRs Delisting**") and wishes to clarify the following.

### 2. SGX-ST REGCO'S QUERIES

- (a) Please discuss the Company's and directors' obligations in relation to the TDRs Acquisition, and the financial implications arising from the Company's compliance or non-compliance with the TWSE's letter dated 10 June 2021.
- (b) Please discuss the options available to comply with TWSE's letter dated 10 June 2021.
- (c) Please clarify if the Company has engaged the TWSE in relation to the abovementioned options.

### COMPANY'S RESPONSE

#### Obligations of the Company and Directors in relation to the TDRs Acquisition

##### *Undertakings to Acquire the TDRs*

In order to fulfil the listing requirements of the TWSE, the Company had given an undertaking to the TWSE on 15 November 2010 ("**2010 Undertaking**") pursuant to which the Company is jointly and severally obliged together with all of its Directors (except the Independent Directors) at that point in time, to unconditionally acquire all the outstanding TDRs listed on the TWSE

(**"TDRs Acquisition"**) in accordance with paragraph 12 of Article 50.3 of the TWSE Operating Rules<sup>1</sup>, in the event of a delisting of the TDRs.

Subsequently, as requested for by the TWSE, the Company had separately given an updated undertaking to its TDRs holders (**"2017 Undertaking"**) on 28 April 2017, pursuant to which the Company is jointly and severally obliged together with all of its then Directors (except the Independent Directors) to undertake the TDRs Acquisition, in accordance with paragraph 12 of Article 50.3 of the TWSE Operating Rules.

#### *Expected Cost of the TDRs Acquisition*

Under the applicable TWSE Operating Rules, the acquisition price for each TDR under the TDRs Acquisition shall not be less than (i) the higher of the simple arithmetic average of the closing prices of the Company's TDRs during the one-month period immediately preceding the date of the relevant Board's resolution **or** the date of the Shareholders' resolution, and (ii) the net worth per TDR based on the Company's most recent CPA audited or reviewed financial reports (**"Calculation Mechanism"**).

As disclosed in the Circular, the total acquisition price pursuant to the TDRs Acquisition is expected to be approximately RMB154.01 million (or approximately S\$30.39 million) as at the Latest Practicable Date.

#### *Undertakings from Wang Peng and Zhengzhou Synear*

As disclosed in the Circular and in connection with the Transactions, the Company had obtained an undertaking from each of Wang Peng (the **"Vendor Undertaking"**) and Zhengzhou Synear (the **"Synear Undertaking"**), pursuant to which each of Wang Peng and Zhengzhou Synear undertakes to, *inter alia*, provide the Company with the necessary financial resources to fulfil its obligations to repurchase the outstanding TDRs in the event the TDRs are delisted from the TWSE, and keep the Company fully indemnified from and against any loss (including all costs and expenses incurred in doing so).

The Company wishes to clarify that each of the Vendor Undertaking and Synear Undertaking is not equivalent to a guarantee that the Company will undertake the TDRs Acquisition. They also do not impose any obligation on the Vendor or Zhengzhou Synear (as the case may be) to undertake the TDRs Acquisition in their respective capacities.

#### **Announcement of decision not to undertake the TDRs Acquisition**

The Company will not be undertaking the TDRs Acquisition in view of the considerations set out under the paragraph entitled "Options considered by the Company" below.

The Company announced on the SGXNET on 21 July 2021 that, the Company's TDRs will be delisted from the TWSE with effect from 31 August 2021 (**"Delisting Date"**) and the Company will not be undertaking the TDRs Acquisition (**"21 July Announcement"**).

The Company also duly notified the TDRs holders via the Market Observation Post System (**"M.O.P.S."**) on the same date on 21 July 2021 (**"21 July Company TWSE Notification"**). Further information provided to the TDRs holders via M.O.P.S. in respect of the TDRs Delisting was also announced on the SGXNET on 27 July 2021.

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<sup>1</sup> Paragraph 12 of Article 50.3 of the TWSE Operating Rules provides that a company is jointly and severally obliged together with all of its directors (except the independent directors) to unconditionally acquire all the company's outstanding TDRs listed on the TWSE, in the event of a delisting of the TDRs.

### **Options considered by the Company**

The Company wishes to highlight that it has carefully considered and assessed the following options prior to announcing that the Company and/or the relevant Directors are not in the position to undertake the TDRs Acquisition:

#### ***(a) The Company to undertake the TDRs Acquisition***

As the TDRs Acquisition would involve the purchase of the Shares represented by the TDRs, the Company would have to obtain Shareholders' approval as required by its bye-laws (noting that it would constitute a selective share buy-back exercise), and would have to comply with Bermuda law in connection with the Share purchase.

This option would also require the Company to seek waivers from the SGX-ST for compliance with Rules 881, 882 and 884 under the Listing Manual of the SGX-ST in relation to share buy-backs. Please refer to details set out in the 21 July Announcement.

Based on preliminary consultation with the SGX-ST, the Company understands that the SGX-ST is prepared to consider granting the necessary waivers in appropriate cases where the SGX-ST Listing Rules are in conflict with foreign laws and regulations.

Nevertheless, the Company is cognizant that, even in the event the waivers are obtained from the SGX-ST, the Company is still required to convene a special general meeting to obtain Shareholders' approval for the TDRs Acquisition which constitutes a selective share buy-back exercise, in accordance with its byelaws. The expected cost of the TDRs Acquisition of approximately S\$30.39 million (as stated in the Circular) for a 16.3% of the Company's share capital is significantly higher than the Company's current market capitalisation of approximately S\$20.0 million as at 5 August 2021. In view of the adverse impact on the Company's financial position from undertaking the TDRs Acquisition and the fact that the TDRs Acquisition is only available to the TDRs holders and to the exclusion of the other Shareholders, the Company is of the view that there is significant doubt as to whether Shareholders will approve the TDRs Acquisition. Accordingly, the Board believes that the convening of a special general meeting for such a purpose would likely be a futile endeavour which should not be undertaken, especially when efforts should be focused on ensuring that the Company can successfully apply for a removal from the watch-list pursuant to Rule 1311 of the Listing Manual of the SGX-ST by 4 December 2022, which was one of the key reasons considered by the Board in recommending the Transactions to the Shareholders.

Further, given the time required to (i) prepare the circular to Shareholders; (ii) circulate the said circular for necessary review; and (iii) print and despatch the circular to Shareholders, as well as considering the notice period to be given prior to convening the special general meeting to obtain Shareholders' approval for the TDRs Acquisition, it is inconceivable that the Company will be in the position to commit to the TDRs Acquisition which TWSE requires, amongst others, to be completed within a fixed period of 50 days from the effective date of the TDRs Delisting.

#### ***(b) The relevant Directors to undertake the TDRs Acquisition***

This is not a viable option as the relevant Directors have each considered, and have indicated, that they presently do not have the financial capabilities to undertake the TDRs Acquisition in their respective personal capacities.

#### ***(c) The Company's Controlling Shareholder to undertake the TDRs Acquisition***

The Company has considered the option of the TDRs Acquisition to be undertaken by the Company's controlling shareholder, Wang Peng ("**Controlling Shareholder Acquisition**"), in which event Shareholders' approval is not required as it is not regarded as a share buy-back by the Company. However, the Company has been informed by Wang Peng that he has no intention to undertake the Controlling Shareholder Acquisition for the following reasons:

- (i) Being the Company's controlling shareholder, Wang Peng does not have any legal obligations under the TWSE Operating Rules, and he was not a party to the 2010 Undertaking or the 2017 Undertaking to acquire the outstanding TDRs. This is especially so considering the potential take-over obligations which will be triggered by Wang Peng under this option, as described in (ii) below; and
- (ii) under the Singapore Code on Take-overs and Mergers, Wang Peng will be required to make a mandatory offer for all of the Company's outstanding shares in the event he purchases all the outstanding TDRs. As at the date of this announcement, Wang Peng holds approximately 29.5% of the total voting rights in the Company and the outstanding TDRs represent approximately 13,000,000 underlying shares (comprising approximately 16.3% of the issued share capital of the Company as at the date of this announcement). As such, assuming Wang Peng acquires all the outstanding TDRs, he would have acquired such number of voting rights which will result in his total voting rights increasing to approximately 35.2%, thereby triggering mandatory offer obligations under Rule 14 of the Code. There is no certainty that Wang Peng will have the necessary financial resources to make this general offer. In the event that Wang Peng applies for a waiver from the mandatory offer obligations arising from such acquisition, there is no certainty that the Securities Industry Council would grant the same in favour of Wang Peng.

(d) *The Company to undertake a selective capital reduction*

The Company considered the option of a selective capital reduction exercise through the buy-back of the underlying shares represented by the outstanding TDRs ("**Selective Capital Reduction**"). However, the Company is of the view that a Selective Capital Reduction is not feasible for the following reasons:

- (i) The Company's bye-laws currently do not allow for a capital reduction of a selective nature. To undertake the Selective Capital Reduction, the Company is required to amend its bye-laws which requires Shareholders' approval in a special resolution at a general meeting to be convened.

In any case, the Selective Capital Reduction (if subsequently permitted by the amended bye-laws) remains subject to Shareholders' approval at a general meeting.

There can be no assurance that the Company will be able to obtain the approval from the requisite majority of Shareholders for the bye-laws amendment and the Selective Capital Reduction, considering that the Selective Capital Reduction is meant to benefit only the TDRs Holders to the exclusion of the other Shareholders, in view that the Minimum Acquisition Price is significantly higher than the prevailing trading price of the Shares; and

- (ii) the TWSE Operating Rules do not expressly contemplate a TDRs Acquisition undertaken by way of a Selective Capital Reduction, and this would be subject to further review and discussion with the TWSE. There can be no assurance that the TWSE will be agreeable to a selective capital reduction of this nature in lieu of the

TDRs Acquisition and that it will not impose further conditions on the Selective Capital Reduction which are not favourable to the Company.

For avoidance of doubt, the Company has not engaged the TWSE in relation to the Controlling Shareholder Acquisition or Selective Capital Reduction, given that the Company's assessment on the non-feasibility of these options.

#### **Continued Efforts to Engage TWSE**

The Company, together with its Taiwan legal counsel, will continue its engagement efforts with the TWSE, to explain the limitations and inherent uncertainties brought about by the abovementioned options, and to explore the next best course of action(s). This will include the feasibility of alternative means to satisfy the TDRs Acquisition as well as an appeal against the TWSE Notification and the TDRs Delisting.

The Company will provide Shareholders with updates as and when any material developments arise.

#### **Implications arising from the Company's decision not to undertake the TDRs Acquisition**

##### *(a) In relation to the Company and its past and present Directors*

The Company's TDRs will be delisted from TWSE with effect from 31 August 2021 under the process underlined in the 21 July Company TWSE Notification.

As the TDRs Acquisition will not be undertaken by the Company or its relevant Directors as required under paragraph 12 of Article 50.3 of the TWSE Operating Rules and notwithstanding the 2010 Undertaking and 2017 Undertaking, there can be no assurance that there will not be any regulatory, legal or other enforcement proceedings, suits, complaints and any other such actions taken by the TWSE and/or the TDRs holders against the Company and/or its relevant Directors which may have a material adverse effect on the business, financial condition, results of operations and prospects of the Group. However, as at the date of this announcement, the Company has not received any formal notification from the TWSE and/or TDRs holders that any such actions will be taken against the Company. The Company will provide necessary updates and announcements on SGXNET as and when there are any material developments in this regard.

##### *(b) In relation to the TDRs holders*

As set out in the 21 July Company TWSE Notification, existing TDRs holders may choose to, before the Delisting Date: -

- (i) sell their TDRs on the TWSE; or
- (ii) redeem their TDRs through the Depositary Bank and hold the underlying Shares represented by their TDRs and be registered on the Company's register of members after such redemption; or
- (iii) redeem their TDRs through the Depositary Bank and dispose of the underlying Shares on the SGX-ST.

For the TDRs holders who do not apply to redeem or sell their TDRs in the aforementioned manner prior to the Delisting Date, the Depositary Bank will sell the underlying Shares represented by the TDRs deposited with the Custodian Bank on the market before returning the proceeds, after deduction of the necessary expenses, to the relevant TDRs holders on

or after the Delisting Date. Such sale will be undertaken on a best effort basis, and is subject to the prevailing market conditions and trading liquidity of the Shares.

*(c) In relation to existing Shareholders who are not TDRs holders*

No action is currently required of existing Shareholders who hold the Shares listed on the SGX-ST.

**3. CAUTIONARY STATEMENT**

Shareholders and potential investors are advised to read this announcement and any further announcement(s) by the Company carefully. Shareholders of the Company are advised to refrain from taking any action in respect of their securities in the Company which may be prejudicial to their interests, and to exercise caution when dealing in the securities of the Company. Shareholders and potential investors should consult their stockbrokers, bank managers, solicitors or other professional advisers if they have any doubt about the actions they should take.

By Order of the Board

Hu Chao  
Executive Director and Chief Executive Officer  
13 August 2021