
RELATIONSHIP WITH THE CONTROLLING SHAREHOLDERS

BACKGROUND OF THE CONTROLLING SHAREHOLDERS

Immediately following the completion of the Share Offer and the Capitalisation Issue, without taking into account any Shares which may be allotted and issued pursuant to the exercise of the Over-allotment Option, Ablaze Rich will directly hold 75% of the equity interest in the issued share capital of the Company. Two of the Directors, Mr. Yan and Ms. Lam together hold the entire issued share capital in Ablaze Rich. Ablaze Rich, Mr. Yan and Ms. Lam will be regarded as the Controlling Shareholders under the Listing Rules.

During the Track Record Period, Mr. Yan and Ms. Lam had been the directors of each of the Operating Subsidiaries and they were in charge for the overall management of the Group and development of its business at the board level of the Group. Mr. Yan and Ms. Lam, who are the executive Directors and the ultimate largest Shareholders immediately prior to completion of the Share Offer and the Capitalisation Issue, were brought up in the PRC and are currently residing in Hong Kong. Up to the Latest Practicable Date, Mr. Yan and Ms. Lam had not been full time government officials of a country nor had they been full time employees of a state or government-owned or operated entity for a substantial period of time.

AGENCY SERVICES PROVIDED BY MILLION MILES

As at the Latest Practicable Date, Million Miles is indirectly owned as to 51% and 49% by Mr. Yan and Ms. Lam respectively. During the Track Record Period, Million Miles acted as the ship owner's agent for each of the Operating Subsidiaries and also provided shipping agency services to a company, which was previously owned by Mr. Yan and Ms. Lam, and is currently a third party.

Pursuant to the agency agreements entered into between Million Miles and each of the Operating Subsidiaries, the agency services, which were provided by Million Miles on a non-exclusive basis, include, inter alia, (1) handling all operational and commercial activities in respect of the vessels; (2) appointing, instructing, liaising with, supervising and coordinating all activities of the ship manager, surveyors and any other sub-agents and sub-contractors in order to ensure the proper performance of all customary requirement for the best possible operation of the vessels; (3) liaising with and maintaining contact with charterers, shippers, consignees, port, other authorities or individual to ensure the best operation of the vessels; (4) handling claims, and/or insurance and the appointment of surveyors; (5) checking all vouchers received for services rendered and preparing and maintaining accounts for the Operating Subsidiaries; and (6) collecting charter hire, freight and related accounts, and arranging for any matters on behalf of the Operating Subsidiaries as they may direct from time to time. The aggregate agency fee expense charged by Million Miles to the Operating Subsidiaries for the three years ended 31 March 2010 were about US\$0.3 million, US\$0.4 million and US\$0.3 million respectively, representing a commission of 0.5% on all the incomes received by the Operating Subsidiaries and a commission of 1% of the aggregate of the management fees charged by the ship manager to each of the Operating Subsidiaries and the expenditures reimbursed by the Operating Subsidiaries to the ship manager. The Directors are of the view that the agency services provided by Million Miles to the Group contemplated under the agency agreements had been entered

RELATIONSHIP WITH THE CONTROLLING SHAREHOLDERS

into on normal commercial terms and in the ordinary and usual course of the Group's business and that the terms and conditions of the agency agreements were fair and reasonable and in the interests of its Shareholders as a whole.

For the purpose of the Listing, Union Apex had, pursuant to the Reorganisation as mentioned under the section headed "History and development" in this prospectus, assumed the role as the ship owners' agent for the Operating Subsidiaries. To rationalise the arrangement, the agency agreements entered into between Million Miles and each of the Operating Subsidiaries were terminated on 9 June 2010 and new agency agreements were entered into between Union Apex and each of the Operating Subsidiaries on 10 June 2010. Further, the employment contracts of the then existing employees of Million Miles, including Mr. Cao Jiancheng, being one of the executive Directors, and other key employees (including Mr. Sung Lik Man, a member of the senior management of the Group) with Million Miles were terminated on 10 June 2010. New employment contracts were entered into between the previous employees of Million Miles with Union Apex on 10 June 2010 and each of Mr. Yan and Ms. Lam entered into an employment contract with Union Apex on 1 August 2010. As Union Apex is managed and operated by the same management of Million Miles, the Directors believe that the Group has the capability and experience to take up the roles and responsibilities of a ship owner's agent since 10 June 2010.

Pursuant to the new agency agreement, the agency services provided by Union Apex include, inter alia:

- (1) appointing, instructing, liaising with, supervising and co-ordinating all activities of the ship managers, surveyors and any other sub-agents and sub-contractors in order to ensure the proper performance of all customary requirements for the best possible operation of the vessels;
- (2) providing marketing and sales activities, obtaining business for the vessels, canvassing and booking cargo, publicising the services of the vessels;
- (3) liaising with and maintaining contact with charterers, shippers, consignees, port and other authorities, trade organisations and any other companies and individuals to ensure the best operation of the vessels;
- (4) negotiating, preparing, signing and issuing all documentation on behalf of the Group including any fixtures, charter parties, bills of lading, hire statements and such other documents;
- (5) providing statistics and information and reporting on cargo bookings and use of space allotments;
- (6) supervising the ship managers and/or port agents and/or sub-agents and/or other companies and individuals if and where required in arranging for such matters such as repairs, crew changes, ship's stores, spare parts, technical, nautical, medical assistance and consular requirements;

RELATIONSHIP WITH THE CONTROLLING SHAREHOLDERS

- (7) supervising the ship manager in handling claims, protection and indemnity matters and/or insurance, and the appointment of surveyors;
- (8) checking all vouchers received for services rendered and preparing accounts;
- (9) preparing and maintaining accounts for the Group; and
- (10) collecting charter hire, freight and related accounts.

The agency fee expense charged by Union Apex to each of the Operating Subsidiaries is at a commission of 0.5% on all the incomes received by the Operating Subsidiaries and a commission of 1% of the aggregate of the management fees charged by the ship manager to each of the Operating Subsidiaries and the expenditures reimbursed by the Operating Subsidiaries to the ship manager. Such arrangement will expose Union Apex (but not any of the Operating Subsidiaries) to the Hong Kong profits tax for any taxable profits.

Since 10 June 2010, Million Miles has no longer rendered ship owner's agency services to any members of the Group. It is currently engaged in provision of agency business services to a company, which was previously owned by Mr. Yan and Ms. Lam, and is currently a third party.

As disclosed above, after Union Apex has assumed the role of ship owner's agent of the Group's fleet, pursuant to the Reorganisation, there is a clear delineation of the businesses between Million Miles and that of the Group and the Directors are of the view that there is no competition between the business of the Group and that of Million Miles.

INDEPENDENCE FROM THE CONTROLLING SHAREHOLDERS

Management independence and operational independence

Although the Controlling Shareholders will retain a controlling interest in the Company after the Listing, the Company has full rights to make all decisions on, and to carry out, its own business operations independently. The Company (through its subsidiaries) holds all relevant licences necessary to carry on its businesses, and has sufficient capital, equipment and employees to operate its businesses independently of any of the Controlling Shareholders.

The Group's management and operational decisions are made by the executive Directors and senior management, who have served the Group for a long time and have substantial experience in the industry in which the Group is engaged. Further, the three independent non-executive Directors will bring independent judgment to the decision-making process of the Board. As disclosed above under the paragraph "Agency services provided by Million Miles" in this section of this prospectus, Million Miles, a company indirectly owned as to 51% and 49% by Mr. Yan and Ms. Lam respectively, had ceased to provide any agency services to the Group since the termination of its agency agreement with each of the Operating Subsidiaries, and save for the leasing of office by the Group from Toprich, a company ultimately owned by Mr. Yan and Ms. Lam, as disclosed under the section headed "Connected transaction — Leasing of property by Toprich to the Group" in

RELATIONSHIP WITH THE CONTROLLING SHAREHOLDERS

this prospectus, the Directors currently do not expect that following the Listing, there will be any other business transactions between the Group and any of the Controlling Shareholders and/or their associates. Based on the above, the Directors are of the view that the Company is independent of the Controlling Shareholders in terms of management and business operations.

The Group has not shared its operational resources, marketing, sales and other general resources with the Controlling Shareholders and/or their associates. Apart from the Lease Agreement (as defined below) entered into between Toprich, a company ultimately owned as to 51% and 49% by Mr. Yan and Ms. Lam respectively, as the landlord and the Group as the tenant as set out under the section headed “Connected Transaction — Leasing of property by Toprich to the Group” in this prospectus, no services and resources are intended to be provided by the Controlling Shareholders and/or their associates to the Group.

Administrative independence

The Group has its own capabilities and personnel to perform all essential administrative functions including financial and accounting management and inventory management development. The Group’s company secretary and senior management staff are independent of any of the Controlling Shareholders.

Financial independence

The Group has its own financial management system and the ability to operate independently from the Controlling Shareholders from a financial perspective. While the Group’s existing banking facilities had been subject to, among others, personal guarantees given by Mr. Yan and Ms. Lam, as more particularly described in the section headed “Business — Business of the Group — Financing arrangements for the fleet” in this prospectus, the Group has executed the relevant agreements with the banks to the effect that these personal guarantees will be replaced by corporate guarantees to be given by the Company upon the Listing. As such, the Directors consider that the Group is capable of obtaining financing from external sources without reliance on the Controlling Shareholders.

Having considered the above reasons, the Directors are of the view that the Group is capable of carrying on its businesses independently of the Controlling Shareholders (including any associate thereof) after the Listing.

DEED OF NON-COMPETITION

Each of the Controlling Shareholders has confirmed that, other than through the Group, neither he/she/it, nor any of his/her/its associates (whether as a shareholder, partner, agent or otherwise), is currently interested, involved or engaged, or is likely to be interested, involved or engaged, directly or indirectly, in business, which competes or is likely to compete, directly or indirectly, with the Group’s business (as disclosed in this prospectus) and would require disclosure under Rule 8.10 of the Listing Rules.

RELATIONSHIP WITH THE CONTROLLING SHAREHOLDERS

The Controlling Shareholders have entered into a deed of non-competition (the “Deed of Non-competition”) with the Company (for itself and on behalf of its subsidiaries from time to time) to the effect that with effect from the Listing Date, each of them will not, and procure that none of the respective associates shall:

- (i) except through his/her/its/their interests in the Company, whether as principal or agent and whether undertaken directly or indirectly in his/her/its/their own account or in conjunction with or on behalf of or through any person, firm, body corporate, partnership, joint venture or other contractual arrangement and whether for profit or otherwise, carry on, participate in, acquire or hold (whether as a shareholder, partner, agent or otherwise) any right or interest in, or otherwise be interested, involved or engaged in or concerned with, directly or indirectly, any business which is in any respect in competition with or similar to or may be in competition, directly or indirectly, with the businesses of the Group (the “**Restricted Business**”) in the territories within Hong Kong and such other parts of the world where any member of the Group carries on business from time to time (“**Restricted Territories**”); and
- (ii) (a) at any time induce or attempt to induce any director, manager or employee or consultant of any member of the Group to terminate his or her employment or consultancy (as appropriate) with the Group, whether or not such act of that person would constitute a breach of that person’s contract of employment or consultancy (as appropriate); or employ any person who had been a director, manager, employee of or consultant to any member of the Group who is or may be likely to be in possession of any confidential information or trade secrets relating to the Restricted Business; or
- (b) alone or jointly with any other person through or as manager, adviser, consultant, employee or agent for or shareholder in any person, firm or company, in competition, directly or indirectly, with any member of the Group, canvass, or solicit or accept orders from or do business with any person with whom any member of the Group has done business or solicit or persuade any person who has dealt with the Group or is in the process of negotiating with the Group in relation to the Restricted Business to cease to deal with the Group or reduce the amount of business which the person would normally do with the Group or seek to improve their terms of trade with any member of the Group.

Each of the Controlling Shareholders further agrees, undertakes to and covenants with the Company (for itself and on behalf of its subsidiaries from time to time) that, with effect from the Listing Date, in the event that any of them and/or any of their respective associates is offered or becomes aware of any business investment or commercial opportunity directly or indirectly relating to a Restricted Business in any of the Restricted Territories, he/she/it shall (a) promptly notify the Company in writing and refer such business opportunity to the Company for consideration and provide all information as may be reasonably required by the Company in order to make an informed assessment of such business investment or commercial opportunity; and (b) not and procure

RELATIONSHIP WITH THE CONTROLLING SHAREHOLDERS

their respective associates shall not, invest or participate in any such project or business investment or commercial opportunity unless (i) such project or business investment or commercial opportunity shall have been rejected by the Company in writing; (ii) written approval is given by the independent non-executive Directors; and (iii) the principal terms of which the Controlling Shareholders or their respective associates invest or participate are no more favourable than those made available to the Company and such terms shall be fully disclosed to the Company prior to consummation of such rejected opportunities.

The Deed of Non-competition also provides that all conflicted Controlling Shareholders shall absent themselves from or procure any conflicted Directors shall absent themselves from meetings and voting of the Board when matters in which such Director or his/her/its associates have a material interest are discussed (including first rights of refusal), unless expressly requested to attend by a majority of the independent non-executive Directors. A Director who has or whose associates have a material interest in a contract is prohibited by the Articles of Association from voting or being counted in the quorum at the meeting at which the contract is considered save in certain circumstances as set out in the Articles of Association.

The Deed of Non-competition also provides, amongst other things, that:

- (i) the independent non-executive Directors shall review, at least on an annual basis, the compliance with the Deed of Non-competition by the Controlling Shareholders and their respective associates, or first rights of refusal provided by the Controlling Shareholders and their respective associates on their existing or future competing businesses;
- (ii) the Controlling Shareholders shall provide all information necessary for the annual review by the independent non-executive Directors and the enforcement of the Deed of Non-competition;
- (iii) the Company shall disclose decisions on matters reviewed by the independent non-executive Directors relating to the compliance and enforcement of the undertakings and first right of refusal provided by the Controlling Shareholders either through the annual report of the Company, or by way of announcements to the public;
- (iv) the Controlling Shareholders shall, during the period that they and their respective associates, individually or taken as a whole, remains as the Controlling Shareholders, abstain from voting at any general meeting of the Company if there is any actual or potential conflict of interests; and
- (v) the terms of Deed of Non-competition cannot be amended or varied save with the prior approval of the Shareholders (other than the Controlling Shareholders and their respective associates who are also Shareholders) by an ordinary resolution at a general meeting.

RELATIONSHIP WITH THE CONTROLLING SHAREHOLDERS

The Deed of Non-competition is conditional upon Listing and will cease to have effect on any of the Controlling Shareholders upon occurrence of the earliest of any of the following events or circumstances: (i) the day on which the Shares cease to be listed on the Stock Exchange; (ii) the day on which the Controlling Shareholders and their respective associates in aggregate cease to be interested (directly or indirectly) in 30% or more of the entire issued share capital of the Company; or (iii) the day on which the Controlling Shareholders beneficially own or are interested in the entire issued share capital of the Company.

The Directors are of the view that there is no competition between the business of Union Apex and those of Million Miles. As such, the Directors are of the view that the business of Million Miles is not currently subject to the Deed of Non-competition.

CONFIRMATION

None of the Controlling Shareholders and the Directors is interested in any business, other than that of the Group, which competes or is likely to compete either directly or indirectly, with the Group's business and which requires disclosure pursuant to Rule 8.10(1) of the Listing Rules.