

CHIPMOS TECHNOLOGIES BERMUDA LTD

Form 6-K

October 29, 2012

# **SECURITIES AND EXCHANGE COMMISSION**

**Washington, DC 20549**

## **FORM 6-K**

**REPORT OF FOREIGN PRIVATE ISSUER  
PURSUANT TO RULE 13a-16 OR 15d-16 OF  
THE SECURITIES EXCHANGE ACT OF 1934**

**For the month of October, 2012**

## **ChipMOS TECHNOLOGIES (Bermuda) LTD.**

**(Translation of Registrant's Name Into English)**

**No. 1, R&D Rd. 1, Hsinchu Science Park**

**Hsinchu, Taiwan**

**Republic of China**

**(Address of Principal Executive Offices)**

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(Indicate by check mark whether the registrant files or will file annual reports under cover of Form 20-F or Form 40-F.)

Form 20-F  Form 40-F

(Indicate by check mark whether the registrant by furnishing the information contained in this form is also thereby furnishing the information to the Commission pursuant to Rule 12g3-2(b) under the Securities Exchange Act of 1934.)

Yes  No

(If  Yes is marked, indicate below the file number assigned to the registrant in connection with Rule 12g3-2(b): 82- .)

On October 26, 2012, ChipMOS TECHNOLOGIES (Bermuda) LTD. ( ChipMOS or the Company ) entered into an underwriting agreement (the Underwriting Agreement ) with Cowen and Company, LLC, and Craig-Hallum Capital Group LLC (the Underwriters ), and ThaiLin Semiconductor Corp., a subsidiary of ChipMOS ( ThaiLin ), and Siliconware Precision Industries Co., Ltd. ( Siliconware Precision ) (ThaiLin and Siliconware Precision collectively are referred to as the Selling Shareholders ). The Underwriting Agreement provides for an underwritten public offering of 2,500,000 shares (the Shares ) of the Company s common shares, par value US\$0.04 per share, of which 1,700,000 shares are being sold by ThaiLin and 800,000 shares are being sold by Siliconware Precision. The offering price to the public is US\$10.10 per share. The Underwriters have agreed to purchase the Shares from the Selling Shareholders pursuant to the Underwriting Agreement at a price of US\$9.4435 per share. Under the terms of the Underwriting Agreement, ThaiLin has granted the Underwriters an option, exercisable for 30 days, to purchase up to an additional 300,000 shares of the Company s common shares.

The Shares are being sold pursuant to a registration statement on Form F-3 that the Company previously filed with the Securities and Exchange Commission (the SEC ), which was declared effective on September 5, 2012 (File No. File No. 333-181367), and a registration statement on Form F-3 pursuant to Rule 462(b) under the Securities Act of 1933, which became effective on October 26, 2012 (File No. 333-184603). A prospectus supplement relating to the offering has been filed with the SEC. The closing of the offering and delivery of the Shares are expected to take place on October 31, 2012, subject to the satisfaction of customary closing conditions.

The Underwriting Agreement is filed as Exhibit 1.1 to this Report on Form 6-K, and is incorporated herein by this reference. This Report on Form 6-K provides only a brief description of the material terms of the Underwriting Agreement. It is not a complete description of the Company s, the Underwriters and the Selling Shareholders rights and obligations contained in the Underwriting Agreement and is qualified in its entirety by reference to this exhibit.

The legal opinion of Appleby relating to the Shares, including Appleby s related consent, is filed as Exhibit 5.1 to this Report on Form 6-K, and is incorporated herein by this reference.

On October 25, 2012, the Company issued a press release announcing the intended public offering by the Selling Shareholders of the Company s common shares. On October 26, 2012, the Company issued a press release announcing the pricing of the Shares described above. These press releases are furnished respectively as Exhibit 99.1 and Exhibit 99.2 to this Report on Form 6-K.

This Report on Form 6-K will be hereby incorporated by reference into the registration statements on Form F-3 of the Company (File Nos. 333-181367) and will be a part thereof from the date on which this report is furnished, to the extent not superseded by documents or reports subsequently filed or furnished.

**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

ChipMOS TECHNOLOGIES (Bermuda) LTD.  
(Registrant)

Date: October 26, 2012

By /s/ S. J. Cheng  
Name: S. J. Cheng  
Title: Chairman & Chief Executive Officer

EXHIBIT INDEX

Exhibit

Number	Description
1.1	Underwriting Agreement, dated October 26, 2012, among ChipMOS TECHNOLOGIES (Bermuda) LTD., and as Underwriters, Cowen and Company, LLC, and Craig-Hallum Capital Group LLC, and as Selling Shareholders, ThaiLin Semiconductor Corp. and Siliconware Precision Industries Co., Ltd.
5.1	Opinion of Appleby
23.1	Consent of Appleby (included in Exhibit 5.1)
99.1	Press release dated October 25, 2012
99.2	Press release dated October 26, 2012

2,500,000 Common Shares

ChipMOS TECHNOLOGIES (Bermuda) LTD.

UNDERWRITING AGREEMENT

October 26, 2012

Cowen and Company, LLC

599 Lexington Avenue

New York, New York 10022

-and-

Craig-Hallum Capital Group LLC

222 South Ninth Street

Suite 350

Minneapolis, Minnesota 55402

Ladies and Gentlemen:

Certain shareholders of ChipMOS TECHNOLOGIES (Bermuda) LTD., an exempted company incorporated in Bermuda (the Company), identified on Schedule II attached hereto (the Selling Shareholders), severally propose to sell to Cowen and Company, LLC and Craig-Hallum Capital Group LLC, as underwriters (the Underwriters), an aggregate of 2,500,000 shares (the Firm Shares) of the Company's common shares, par value U.S.\$0.04 per share (the Common Shares), in the respective amounts set forth opposite their respective names on Schedule II hereto. In addition, ThaiLin Semiconductor Corp. (ThaiLin), as a Selling Shareholder, proposes to grant to the Underwriters an option to purchase up to an additional 300,000 Common Shares (the Option Shares) and together with the Firm Shares, the Shares) from ThaiLin for the purpose of covering over-allotments in connection with the sale of the Firm Shares.

In consideration of the mutual agreements contained herein and of the interests of the parties in the transactions contemplated hereby, the parties hereto agree as follows:

**1. Representations and Warranties of the Company and the Selling Shareholders.**

(a) The Company represents and warrants to the Underwriters as follows:

(i) A registration statement on Form F-3 (File No. 333-181367) in respect of the Shares, including a form of prospectus (the Base Prospectus), has been prepared and filed by the Company, in conformity with the requirements of the Securities Act of 1933, as amended (the Act) and the rules and regulations (the Rules and Regulations) of the Securities and Exchange Commission (the Commission) thereunder and become effective under the Act on September 5, 2012. The Company and the transactions contemplated by this Agreement meet the requirements and comply with the conditions for the use of Form F-3. Copies of such registration statement, including any amendments thereto, the Base Prospectus, as supplemented by any preliminary prospectus (including any preliminary prospectus supplement) relating to the Shares filed with the Commission pursuant to Rule 424(b) under the Act, and including the documents incorporated in the Base Prospectus by reference (a Preliminary Prospectus), and the exhibits, financial statements and schedules to such registration statement, in each case as finally amended and revised, have heretofore been delivered by the Company to the Underwriters. Such registration statement is herein referred to as the Registration Statement, which shall be deemed to include all information omitted therefrom in reliance upon Rules 430A, 430B or 430C under the Act and contained in the Prospectus referred to below, has become effective under the Act and no post-effective amendment to the Registration Statement has been filed as of the date of this Agreement. Any registration statement filed by the Company pursuant to Rule 462(b) under the Act is called the Rule 462(b) Registration Statement, and from and after the date and time of filing of the Rule 462(b) Registration Statement, the term Registration Statement shall include the Rule 462(b) Registration Statement. Prospectus means the form of prospectus

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relating to the Shares first filed with the Commission pursuant to and within the time limits described in Rule 424(b) under the Act and in accordance with Section 4(a)(i) hereof. Any reference herein to the Registration Statement, the Rule 462(b) Registration Statement any Preliminary Prospectus or to the Prospectus or to any amendment or supplement to any of the foregoing documents shall be deemed to refer to and include any documents incorporated by reference therein, and, in the case of any reference herein to the Prospectus, also shall be deemed to include any documents incorporated by reference therein, and any supplements or amendments thereto, filed with the Commission after the date of filing of the Prospectus under Rule 424(b) under the Act, and prior to the termination of the offering of the Shares by the Underwriters.

(ii) As of the Applicable Time (as defined below) and as of the Closing Date and the Option Closing Date (as such dates are hereinafter defined), neither (a) the General Use Free Writing Prospectus (as defined below) issued at or prior to the Applicable Time, the Statutory Prospectus (as defined below), and the pricing information set forth on Schedule IV, all considered together (collectively, the **General Disclosure Package**), nor (b) any individual Limited Use Free Writing Prospectus (as defined below), when considered together with the General Disclosure Package, included or will include any untrue statement of a material fact or omitted or will omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading provided, however, that the Company makes no representations or warranties as to information contained in or omitted from any Issuer Free Writing Prospectus (as defined below), in reliance upon, and in conformity with, (x) written information furnished to the Company by or on behalf of the Underwriters, specifically for use therein, it being understood and agreed that the only such information is described in Section 15(a) herein and (y) written information furnished to the Company by or on behalf of the Selling Shareholders, specifically for use therein, it being understood and agreed that the only such information is described in Section 15(b) herein. As used in this subsection and elsewhere in this Agreement:

**Applicable Time** means 8:00 a.m. (New York time) on the date of this Agreement or such other time as agreed to by the Company and the Underwriters.

**Delivery Date** shall mean the Closing Date or the Option Closing Date (as such dates are hereinafter defined), as the case may be, as defined in Section 2 below.

**General Use Free Writing Prospectus** means any Issuer Free Writing Prospectus that is identified on Schedule III to this Agreement.

**Issuer Free Writing Prospectus** means any issuer free writing prospectus, as defined in Rule 433 under the Act, relating to the Shares in the form filed or required to be filed with the Commission or, if not required to be filed, in the form retained in the Company's records pursuant to Rule 433(g) under the Act.

**Limited Use Free Writing Prospectus** means any Issuer Free Writing Prospectus that is not a General Use Free Writing Prospectus (including Permitted Free Writing Prospectuses as defined below).

**Statutory Prospectus** means the Base Prospectus, as amended and supplemented immediately prior to the Applicable Time, including any document incorporated by reference therein and any prospectus supplement deemed to be a part thereof.

(iii) The Company and each of its subsidiaries have been duly incorporated and are validly existing as corporations in good standing under the laws of their respective jurisdictions of incorporation (to the extent good standing is recognized in such jurisdictions), are duly qualified to do business and are in good standing as foreign corporations in each jurisdiction in which their respective ownership or lease (to the extent that good standing is recognized in such jurisdiction) of property or the conduct of their respective businesses requires such qualification, and have all power and authority necessary to own or hold their respective properties and to conduct the businesses in which they are engaged, except where the failure to be so qualified or be in good standing (if applicable), individually or in the aggregate, would not have a material adverse effect on the general affairs, management, consolidated financial position, shareholders' equity, business prospects or results of operations of the Company and its subsidiaries taken as a whole (a **Material Adverse Effect**).



(iv) Reserved.

(v) Each of the Company's subsidiaries is not currently prohibited or otherwise restricted, directly or indirectly, from paying any dividends to the Company or to any other intermediate holding company of such subsidiary, except as described in the Registration Statement, General Disclosure Package and the Prospectus.

(vi) Other than as set forth in the Registration Statement, General Disclosure Package and the Prospectus, all dividends and other distributions declared and payable on the issued Common Shares may under the current laws and regulations of Bermuda be paid in U.S. dollars or any other currency and may be freely transferred out of Bermuda, and all such dividends and other distributions will not be subject to withholding or other taxes under the laws and regulations of Bermuda and are otherwise free and clear of any other tax, withholding or deduction in Bermuda and without the necessity of obtaining any consents, approvals, authorizations, orders, registrations, clearances or qualifications of or with any court or governmental agency or body or any shares exchange authorities in Bermuda having jurisdiction over the Company or any of its subsidiaries or any of their properties (hereinafter referred to as **Governmental Authorizations** ).

(vii) The authorized share capital of the Company conforms to the description thereof contained in the Registration Statement, General Disclosure Package and the Prospectus; no class of authorized share capital, other than the Common Shares, is issued and outstanding.

(viii) The Company has an authorized share capital as set forth in the Registration Statement, General Disclosure Package and the Prospectus, and all of the issued Common Shares have been duly and validly issued, are fully paid and non-assessable and conform to the description thereof contained in the Registration Statement, General Disclosure Package and the Prospectus; and all of the issued shares of capital shares of each subsidiary of the Company have been duly and validly authorized and issued and are fully paid and non-assessable and are owned directly or indirectly by the Company, to the extent set forth in the Registration Statement, General Disclosure Package and the Prospectus, free and clear of all liens, encumbrances, equities or claims, except as described in the Registration Statement, General Disclosure Package and the Prospectus.

(ix) The Shares to be sold by the Selling Shareholders to the Underwriters hereunder have been duly and validly authorized and issued, fully paid and non-assessable and the delivery of such Shares will not be subject to any preemptive or similar rights; the Shares will conform to the descriptions thereof contained in the Registration Statement, General Disclosure Package and the Prospectus; except as described in the Registration Statement, General Disclosure Package and the Prospectus, there are no outstanding securities convertible into or exchangeable for, or warrants, rights or options to purchase from the Company, or obligations of the Company to issue Common Shares.

(x) This Agreement has been duly authorized, executed and delivered by the Company.

(xi) The Commission has not issued an order preventing or suspending the use of any Preliminary Prospectus, any Issuer Free Writing Prospectus or the Prospectus relating to the proposed offering of the Shares, and no proceeding for that purpose or pursuant to Section 8A of the Act has been instituted or, to the Company's knowledge, threatened by the Commission. The Registration Statement and the General Disclosure Package contain, and the Prospectus and any amendments or supplements thereto will contain, all statements which are required to be stated therein by, and will conform to, the requirements of the Act and the Rules and Regulations. The documents incorporated, or to be incorporated, by reference in the Prospectus, at the time filed with the Commission conformed or will conform, in all respects to the requirements of the Securities Exchange Act of 1934 (Exchange Act) or the Act, as applicable, and the rules and regulations of the Commission thereunder. The Registration Statement and any amendment thereto do not contain, and will not contain, any untrue statement of a material fact and do not omit, and will not omit, to state a material fact required to be stated therein or necessary to make the statements therein, not misleading. The Prospectus and any amendments and supplements thereto do not contain, and will not contain, any untrue statement of a material fact; and do not omit, and will not omit, to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that the Company makes no representations or warranties as to information contained in or omitted from the Registration Statement, the General Disclosure Package or the Prospectus, or any such amendment or supplement, in reliance upon, and in conformity with, (a) written information furnished to the Company by or on behalf of the Underwriters, specifically for use therein, it being understood and agreed that the only such information is that described in Section 15(a) herein and (b) written information furnished to the Company by or on behalf of the Selling Shareholders, specifically for use therein, it being understood and agreed that the only such information is described in Section 15(b) herein.

(xii) Each Issuer Free Writing Prospectus, as of its issue date and at all subsequent times through the completion of the public offer and sale of the Shares or until any earlier date that the Company notified or notifies the Underwriters that the Company did not, does not and will not include any information that conflicted, conflicts or will conflict with the information contained in the Registration Statement or the Prospectus, including any document incorporated by reference and any Prospectus Supplement deemed to be a part thereof that has not been superseded or modified. The foregoing sentence does not apply to statements in or omissions from any Issuer Free Writing Prospectus based upon and in conformity with written information furnished to the Company by the Underwriters specifically for use therein.

(xiii) The Company has not, directly or indirectly, distributed and will not distribute any offering material in connection with the offering and sale of the Shares other than any Preliminary Prospectus, the Prospectus and other materials, if any, permitted under the Act and consistent with Section 5 below. The Company will file with the Commission all Issuer Free Writing Prospectuses in the time and manner required under Rules 163(b)(2) and 433(d) under the Act.

(xiv) The execution, delivery and performance of this Agreement and each of the other documents to be entered into in connection with this transaction by the Company and the consummation of the transactions contemplated hereby and thereby will not conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under, any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which the Company or any of its subsidiaries is a party or by which the Company or any of its subsidiaries is bound or to which any of the property or assets of the Company or any of its subsidiaries is subject, other than any such conflicts, breaches, violations or defaults which, individually or in the aggregate, would not have a Material Adverse Effect, nor will such actions result in any violation of the provisions of the memorandum of association or by-laws of the Company or any of the governing documents of any of its subsidiaries or any statute or any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Company or any of its subsidiaries or any of their properties or assets, other than any such conflicts, breaches, violations or defaults which, individually or in the aggregate, would not have a Material Adverse Effect; and except for the registration of the Shares under the Act and the Rules and Regulations and such consents, approvals, authorizations, registrations or qualifications as may be required under the Exchange Act and the rules and regulations promulgated thereunder, the rules and regulations of the Financial Industry Regulatory Authority (FINRA), filing of the Form F-3 with the Registrar of Companies of Bermuda and applicable state securities laws and foreign securities laws in connection with the purchase and distribution of the Shares by the Underwriters, no consent, approval, authorization or order of, or filing or registration with, any such court or governmental agency or body is required for the execution, delivery and performance of this Agreement or any of the other documents to be entered into in connection with this transaction by the Company and the consummation of the transactions contemplated hereby and thereby except as described in the Registration Statement, General Disclosure Package and the Prospectus.

(xv) Except as described in the Registration Statement, General Disclosure Package and the Prospectus, there are no contracts, agreements or understandings between the Company and any person granting such person the right to require the Company to file a registration statement under the Act with respect to any securities of the Company owned or to be owned by such person or to require the Company to include such securities in the securities registered pursuant to the Registration Statement or in any securities being registered pursuant to any other registration statement filed by the Company under the Act.

(xvi) (i) At the earliest time after the filing of the Registration Statement that the Company or another offering participant made a *bona fide* offer (within the meaning of Rule 164(h)(2) under the Act) of the Shares and (ii) as of the date hereof (with such date being used as the determination date for purposes of this clause (ii)), the Company was not and is not an ineligible issuer (as defined in Rule 405 under the Act, without taking into account any determination by the Commission pursuant to Rule 405 under the Act that it is not necessary that the Company be considered an ineligible issuer), including, without limitation, for purposes of Rules 164 and 433 under the Act with respect to the offering of the Shares as contemplated by the Registration Statement.

(xvii) Except as described in the Registration Statement, the General Disclosure Package and the Prospectus, the Company has not sold or issued any Common Shares or any securities convertible into or exchangeable for Common Shares during the six-month period preceding the date of the Prospectus, including any sales pursuant to Rule 144A under, or Regulations D or S of, the Act, other than shares issued pursuant to employee benefit plans, qualified stock option plans or other employee compensation plans or pursuant to outstanding options, rights or warrants.

(xviii) Neither the Company nor any of its subsidiaries has sustained, since the date of the latest audited financial statements included in the Prospectus, any material loss or interference with its business from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor dispute or court or governmental action, order or decree, otherwise than as set forth or contemplated in the Registration Statement, General Disclosure Package and the Prospectus or that do not have or would not be reasonably expected to have a Material Adverse Effect; and, since such date, there has not been any change in the capital shares or long-term debt of the Company or any of its subsidiaries or any material adverse change, or any development involving a prospective material adverse change, in or affecting the general affairs, management, consolidated financial position, shareholders' equity, results of operations, or business prospects of the Company and its subsidiaries, otherwise than as set forth or contemplated in the Registration Statement, General Disclosure Package and the Prospectus.

(xix) Moore Stephens ( Moore Stephens HK ), who has certified certain financial statements of the Company, whose report appears in the Registration Statement, General Disclosure Package and the Prospectus and who has delivered the initial letter referred to in Section 7(k) hereof, are independent registered public accountants with respect to the Company as required by the Act, the Rules and Regulations, and the applicable Rules and Regulations and the Public Company Accounting Oversight Board (United States) ( PCAOB ).

(xx) All financial statements of the Company certified by Moore Stephens HK and which appear in the Registration Statement, General Disclosure Package and the Prospectus have been reviewed by Moore Stephens, P.C. New York ( Moore Stephens NY ) and Moore Stephens NY has delivered a written report to Moore Stephen HK which states that in the opinion of Moore Stephens NY, the audit conducted by Moore Stephens HK was conducted in accordance with the generally accepted auditing standards in the Republic of China ( ROC ) or ROC GAAP which differs in certain material respects from US GAAP and that the reconciliation of the underlying financial statements was prepared in conformity with generally accepted accounting principles in the United States.

(xxi) The audited consolidated financial statements (and the notes and schedules thereto) of the Company and its subsidiaries included in the Registration Statement, General Disclosure Package and the Prospectus present fairly in all material respects the financial conditions and results of operation of the Company and its subsidiaries as of the dates indicated and the results of operations and changes in financial position of the Company and its subsidiaries for the periods specified, and such financial statements have been prepared in conformity with ROC GAAP applied on a consistent basis throughout the periods involved (other than as described therein); the unaudited consolidated interim financial information (as amended and included in the Prospectus Supplement, including the Registration Statement, General Disclosure Package and the Prospectus), present fairly the information shown therein and have been compiled on a basis consistent with that of the audited financial statements included therein.

(xxii) The Company and each of its subsidiaries have good and marketable title to all real property and good and marketable title to all personal property owned by them, in each case free and clear of all liens, encumbrances and defects, except such as are described in the Registration Statement, General Disclosure Package and the Prospectus or such as do not materially affect the value of such property and do not materially interfere with the use made and proposed to be made of such property by the Company and its subsidiaries; and all real property and other assets held under lease by the Company and its subsidiaries are held by them under valid, subsisting and enforceable leases, with such exceptions as are not material and do not materially interfere with the use made and proposed to be made of such property and buildings by the Company and its subsidiaries.

(xxiii) The Company and each of its subsidiaries carry, or are covered by, insurance in such amounts and covering such risks as is prudent and customary for companies of similar size engaged in similar businesses in similar industries and whose operations are primarily located in the same jurisdiction.

(xxiv) Except as described in the Registration Statement, General Disclosure Package and the Prospectus, the Company and each of its subsidiaries own or possess the legal rights to use all material patents, patent applications, trademarks, service marks, trade names, trademark registrations, service mark registrations, copyrights and licenses necessary to conduct their respective businesses as presently conducted, and have not received any notice of any claim of conflict with, any such rights of others, which notice or claim remains in dispute and which is reasonably likely to have a Material Adverse Effect.

(xxv) Except as described in the Registration Statement, General Disclosure Package and the Prospectus, there are no legal or governmental proceedings pending to which the Company or any of its subsidiaries is a party or of which any property or assets of the Company or any of its subsidiaries is the subject which, if determined adversely to the Company or any of its subsidiaries, would be reasonably expected to have a Material Adverse Effect; and to the best of the Company's knowledge, no such proceedings are threatened by governmental authorities or others.

(xxvi) Except as otherwise described in the Registration Statement, General Disclosure Package and the Prospectus, each of the Company and its subsidiaries has such certificates, authorizations, licenses, concessions, approvals, orders or permits issued by the appropriate regulatory agencies or bodies necessary to own, lease or license, as the case may be, and to operate their properties and to conduct the businesses now conducted by the Company and its subsidiaries in the manner described in the Registration Statement, General Disclosure Package and the Prospectus, except to the extent that the failure to have any such certificate, authorization, license, concession, approval, order to permit would not have a Material Adverse Effect.

(xxvii) No labor disturbance by the employees of the Company exists or, to the knowledge of the Company, is imminent, which would be reasonably expected to have a Material Adverse Effect.

(xxviii) The Company is not in material violation of any provision of the Employee Retirement Income Security Act of 1974, as amended, or the rules and regulations promulgated thereunder.

(xxix) Except as otherwise described in the Registration Statement, General Disclosure Package and the Prospectus, the Company and its subsidiaries have filed with the appropriate taxing authorities all material Tax Returns (as defined below) required to be filed through the date hereof and has paid all taxes shown as due thereon other than those (i) currently payable without penalty or interest or (ii) being contested in good faith and by appropriate proceedings; such Tax Returns are each true, correct and complete in all material respects; and no tax deficiency has been determined adversely to the Company or any of its subsidiaries which has had (nor does the Company have any knowledge of any tax deficiency which, if determined adversely to the Company or any of its subsidiaries, would be reasonably expected to have) a Material Adverse Effect. The term **Tax Returns** means any return or report regarding taxes supplied by the Company or any of its subsidiaries to a taxing authority in the ROC, the People's Republic of China (**PRC**), Hong Kong Special Administrative Region of the PRC (**Hong Kong**), Bermuda or the United States.

(xxx) This Agreement is in proper legal form under the laws of Bermuda for the enforcement thereof, and the Shares to be transferred and delivered pursuant to this Agreement have been duly and validly issued under the laws of Bermuda, and to ensure the legality, validity, enforceability and admissibility into evidence in Bermuda of this Agreement or any other document, it is not necessary that this Agreement or any other document be filed or recorded with any court or other authority in Bermuda.

(xxxi) Since the date as of which information is given in the Registration Statement, General Disclosure Package and the Prospectus through the date hereof, neither the Company nor any of its subsidiaries has (i) issued or granted any securities, other than those issued pursuant to effective employee benefit plans, qualified stock option plans or other employee compensation plan or pursuant to outstanding options, rights or warrants, (ii) incurred any material liability or obligation, direct or contingent, other than liabilities and obligations which were incurred in the ordinary course of business, (iii) entered into any material transaction not in the ordinary course of business or (iv) declared or paid any dividend on its capital shares.

(xxxii) Each of the Company and its subsidiaries maintains internal accounting controls which provide reasonable assurance that (A) transactions are executed in accordance with management's authorization, (B) transactions are recorded as necessary to permit preparation of its financial statements and to maintain accountability for its assets, (C) access to its assets is permitted only in accordance with management's authorization and (D) the recorded accountability for its assets is compared with existing assets at reasonable intervals.

(xxxiii) Other than as described in the Registration Statement, General Disclosure Package and the Prospectus, neither the Company nor any of its subsidiaries (i) is in violation of its charter or by-laws or other governing documents, (ii) is in default in any respect, and no event has occurred which, with notice or lapse of time or both, would constitute such a default, in the due performance or observance of any term, covenant or condition contained in any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which it is a party or by which it is bound or to which any of its properties or assets is subject or (iii) is in violation in any respect of any law, ordinance, governmental rule, regulation or court decree to which it or its property or assets may be subject or has failed to obtain any license, permit, certificate, franchise or other governmental authorization or permit necessary to the ownership of its property or to the conduct of its business; other than any such conflicts, breaches, violations or defaults with respect to (i), (ii) and (iii) above which, individually or in the aggregate, would not have a Material Adverse Effect.

(xxxiv) Neither the Company nor any of its subsidiaries nor, to the knowledge of the Company, any director, officer, agent, employee or other person acting on behalf of the Company or any of its subsidiaries has violated or is in violation of any provision of the Foreign Corrupt Practices Act of 1977, as amended.

(xxxv) Except as set forth in the Registration Statement, General Disclosure Package and the Prospectus, the Company and its subsidiaries are (i) in compliance with any and all applicable foreign, federal, state and local laws and regulations relating to the environment or use, disposal or release or protection of human exposure to hazardous or toxic substances or wastes, pollutants or contaminants (**Environmental Laws**), (ii) have received and are in compliance with all permits, licenses or other approvals required of them under applicable Environmental Laws to conduct their respective businesses and (iii) have not received notice of any actual or potential liability for the investigation or remediation of any disposal or release of hazardous or toxic substances or wastes, pollutants or contaminants, except where such non-compliance with Environmental Laws, failure to receive required permits, licenses or other approvals, or liability would not, individually or in the aggregate, have a Material Adverse Effect.

(xxxvi) In the ordinary course of its business, each of the Company and its subsidiaries conducts periodic reviews of the effect of any and all Environmental Laws on its business, operations and properties, in the course of which it identifies and evaluates associated costs and liabilities (including, without limitation, any capital or operating expenditures required for clean-up, closure or properties or compliance with Environmental Laws or any permit, license or approval, any related constraints on operating activities and any potential liabilities to third parties). On the basis of such review, the Company has reasonably concluded that such associated costs and liabilities would not, individually or in the aggregate, have a Material Adverse Effect.

(xxxvii) Neither the Company nor any of its subsidiaries is, or, as of the Delivery Date after giving effect to the offering and sale of the Shares and the application of the net proceeds therefrom as described in the Registration Statement, General Disclosure Package and the Prospectus, will be required to register as an investment company under the Investment Company Act of 1940, as amended.

(xxxviii) The Company is not and is not likely to become a passive foreign investment company within the meaning of Section 1297 of the Internal Revenue Code of 1986, as amended.

(xxxix) On or prior to the Delivery Date, each of the documents to be entered into in connection with the transactions contemplated hereby (other than this Agreement) will have been duly authorized, executed and delivered by the Company in substantially the form previously provided to the Underwriters and will in all material respects conform to the descriptions thereof in the Registration Statement, General Disclosure Package and the Prospectus.

(xl) Neither the Company nor any of its subsidiaries has taken, nor will they take, directly or indirectly, any action designed to or which has constituted or which might be reasonably expected to cause or result in the stabilization or manipulation of the price of the Common Shares to facilitate the sale or resale of the Shares in violation of the Act or the Rules and Regulations (it being understood that no representation, warranty or undertaking is made regarding the Underwriters).

(xli) Except for this Agreement, there are no contracts, agreements, or understandings between the Company and any person that would give rise to a valid claim against the Company or the Underwriters for a brokerage commission, finder's fee or other like payment in connection with this offering.

(xlii) The Registration Statement and its filing with the Commission, and the Prospectus have been duly authorized by and on behalf to the Company, and the Registration Statement has been duly executed pursuant to such authorization by and on behalf of the Company.

(xliii) The Company has validly appointed CT Corporation System as its authorized agent for service of process pursuant to this Agreement and in connection with the Registration Statement.

(xliv) The Company has established and maintains disclosure controls and procedures (as such term is defined in Rule 13a-14 under the Exchange Act), which (i) are designed to ensure that material information relating to the Company, including its consolidated subsidiaries, is made known to the Company's principal executive officer and principal financial officer by others within those entities, particularly during the periods in which the Company's annual reports on Form 20-F are being prepared; (ii) have been evaluated for effectiveness as of December 31, 2011; and (iii) are effective in all material respects to perform the functions for which they were established.

(xlv) Based on the evaluation of its disclosure controls and procedures, the Company is not aware of (i) any significant deficiency or material weakness in the design or operation of internal controls which is reasonably likely to adversely affect the Company's ability to record, process, summarize and report financial information; or (ii) any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal control over financial reporting.

(xlvi) Since the date of the most recent evaluation of such disclosure controls and procedures, there have been no significant changes in internal controls or in other factors that could significantly affect internal controls, including any corrective actions with regard to significant deficiencies and material weaknesses.

(xlvii) The Company (i) has a non-affiliate, public common equity float of at least \$100 million as of a date within 60 days of the date of this Agreement and annual trading volume of at least three million shares for the continuous 12-month period ending on the date of this Agreement and (ii) has been subject to the Exchange Act reporting requirements for a period of at least 36 months.

(xlviii) The Shares have been approved for listing on the NASDAQ Capital Market.

(b) Each Selling Shareholder represents and warrants as follows in Sections 1(b)(i) through 1(b)(viii) below, and ThaiLin represents and warrants as follows in Section 1(b)(ix) below:

(i) Such Selling Shareholder now has and at the Closing Date (as such date is hereinafter defined) and the Option Closing Date (as such date is hereinafter defined), as the case may be, will have good and marketable title to the Shares to be sold by such Selling Shareholder, free and clear of any liens, encumbrances, equities and claims, and full right, power and authority to effect the sale and delivery of such Shares; and upon the delivery of, against payment for, such Shares pursuant to this Agreement, the Underwriters will acquire good and marketable title thereto, free and clear of any liens, encumbrances, equities and claims.

(ii) Such Selling Shareholder has full right, power and authority to execute and deliver this Agreement. This Agreement has been duly authorized, executed and delivered by or on behalf of such Selling Shareholder. The execution and delivery of this Agreement and the consummation by such Selling Shareholder of the transactions herein contemplated and the fulfillment by such Selling Shareholder of the terms hereof will not require any consent, approval, authorization, or other order of any court, regulatory body, administrative agency or other governmental body (except as may be required under the Act, state securities laws or Blue Sky laws) and will not result in a breach of any of the terms and provisions of, or constitute a default under, organizational documents of such Selling Shareholder, if not an individual, or any indenture, mortgage, deed of trust or other agreement or instrument to which such Selling Shareholder is a party (except such breach or default of any indenture, mortgage, deed or trust, instrument, or agreement as would not reasonably be expected to materially impair the ability of such Selling Shareholder to consummate the transactions herein contemplated), or any violation of any order, rule or regulation applicable to such Selling Shareholder of any court or of any regulatory body or administrative agency or other governmental body having jurisdiction over such Selling Shareholder other than any such breach, default or violation that would not have a material adverse effect on the ability of such Selling Shareholder consummate the transactions contemplated under this Agreement.

(iii) Such Selling Shareholder has not taken and will not take, directly or indirectly, any action designed to, or which has constituted, or which might reasonably be expected to cause or result in the stabilization or manipulation of the price of the Common Shares and, other than as permitted by the Act, such Selling Shareholder will not distribute any prospectus or other offering material in connection with the offering of the Shares.

(iv) The information pertaining to such Selling Shareholder under the caption "Selling Shareholders" in the Registration Statement and the Prospectus (and any similar section or information contained in the General Disclosure Package) is complete and accurate in all material respects.



(v) No consent, approval or waiver is required under any instrument or agreement to which such Selling Shareholder is a party or by which such Selling Shareholder is bound or under which he or it is entitled to any right or benefit, in connection with the offering, sale or purchase by the Underwriters of any of the Shares which may be sold by such Selling Shareholder under this Agreement or the consummation by such Selling Shareholder of any of the other transactions contemplated hereby.

(vi) To such Selling Shareholder's knowledge, there are no affiliations or associations between any member of FINRA and such Selling Shareholder or any affiliate of such Selling Shareholder, except as set forth in the Registration Statement, the General Disclosure Package and the Prospectus.

(vii) None of the sale, transfer or delivery to the Underwriters of the Shares is subject to any tax imposed on such Selling Shareholder by Bermuda or the British Virgin Islands (the **BVI**), or any political subdivision thereof.

(viii) Subject to the applicable laws governing the service of process in the ROC and the BVI, the Selling Shareholder has validly appointed CT Corporation System as its authorized agent for service of process pursuant to this Agreement and in connection with the Registration Statement.

(ix) ThaiLin represents and warrants that ThaiLin has no knowledge that any of the representations or warranties of the Company set forth in Section 1(a) above are untrue or inaccurate in any respect. For purposes of this Section 1(b)(ix) the term "knowledge" means the actual knowledge of the incumbent president of ThaiLin as of the date hereof, Mr. Lafair Cho.

## **2. Purchase, Sale and Delivery of Shares.**

(a) On the basis of the representations, warranties and covenants herein contained, and subject to the conditions herein set forth, the Selling Shareholders severally agree to sell to the Underwriters, and the Underwriters agree, severally and not jointly, to purchase from the Selling Shareholders, at a price of \$9.4435 per share (the **Purchase Price**), the respective number of Firm Shares set forth opposite the names of the Underwriters in Schedule I hereto.

(b) Payment for the Firm Shares to be sold hereunder is to be made in Federal (same day) funds to an account designated by the Selling Shareholders for the shares to be sold by the Selling Shareholders against delivery of certificates therefor to the Underwriters. Such payment and delivery are to be made through the facilities of The Depository Trust Company at 10:00 a.m., New York time, on the third business day after the date of this Agreement or at such other time and date not later than five business days thereafter as the Underwriters and the Selling Shareholders shall agree upon, such time and date being herein referred to as the **Closing Date**. (As used herein, **business day** means a day on which each of the NASDAQ Capital Market is open for trading and on which banks in New York are open for business and not permitted by law or executive order to be closed.)

(c) For the purpose of covering any over-allotments in connection with the distribution and sale of the Firm Shares as contemplated by the Prospectus, the Underwriters may purchase all or less than all of the Option Shares. The price per share to be paid for the Option Shares shall be the Purchase Price. ThaiLin agrees to sell to the Underwriters the number of Option Shares specified in the written notice delivered by the Underwriters to ThaiLin described below and the Underwriters agree, severally and not jointly, to purchase such Option Shares. Such Option Shares shall be purchased from ThaiLin for the account of each Underwriter in the same proportion as the number of Firm Shares set forth opposite such Underwriter's name on Schedule I bears to the total number of Firm Shares. The option granted hereby may be exercised by written notice as to all or any part of the Option Shares at any time, and from time to time, not more than thirty (30) days subsequent to the date of this Agreement. No Option Shares shall be sold and delivered unless the Firm Shares previously have been, or simultaneously are, sold and delivered. The right to purchase the Option Shares or any portion thereof may be surrendered and terminated at any time upon notice by the Underwriters to ThaiLin.

(d) The option granted hereby may be exercised by written notice being given to ThaiLin by the Underwriters setting forth the number of Option Shares to be purchased by the Underwriters and the date and time for delivery of and payment for the Option Shares. Each date and time for delivery of and payment for the Option Shares (which may be the Closing Date, but not earlier) is herein called the **Option Closing Date** and, with respect to any Option Shares delivered pursuant to a written notice given after the Closing Date, shall in no event be earlier than three (3) business days nor later than five (5) business days after such written notice is given.

(e) Payment for the Option Shares to be sold hereunder is to be made in Federal (same day) funds to an account designated by ThaiLin for the shares to be sold by ThaiLin against delivery of certificates therefor to the Underwriters. Such payment and delivery are to be made through the facilities of The Depository Trust Company at 10:00 a.m., New York time, on the Option Closing Date.

### **3. *Offering by the Several Underwriters.***

It is understood that the Underwriters are to make a public offering of the Shares as soon as they deem it advisable to do so. The Shares are to be initially offered to the public at the initial public offering price set forth in the Registration Statement, General Disclosure Package, and the Prospectus. The Underwriters may from time to time thereafter change the public offering price and other selling terms.

### **4. *Covenants of the Company and the Selling Shareholders.***

(a) The Company covenants and agrees with the Underwriters that:

(i) The Company will (A) prepare the Rule 462(b) Registration Statement, if necessary, in a form approved by the Underwriters and file such Rule 462(b) Registration Statement with the Commission by 10:00 P.M., New York time, on the date hereof, and the Company shall at the time of filing either pay to the Commission the filing fee for the Rule 462(b) Registration Statement or give irrevocable instructions for the payment of such fee pursuant to Rule 111(b) under the Rules and Regulations, (B) prepare and timely file with the Commission under Rule 424(b) (without reliance on Rule 424(b)(8)) under the Act a Prospectus in a form approved by the Underwriters containing information previously omitted at the time of effectiveness of the Registration Statement in reliance on Rules 430A, 430B or 430C under the Act, (C) not file any amendment to the Registration Statement or distribute an amendment or supplement to the General Disclosure Package or the Prospectus or document incorporated by reference therein of which the Underwriters shall not previously have been advised and furnished with a copy or to which the Underwriters shall have reasonably objected in writing or which is not in compliance with the Rules and Regulations and (D) file on a timely basis all reports required to be filed by the Company with the Commission pursuant to the Exchange Act subsequent to the date of the Prospectus and prior to the termination of the offering of the Shares by the Underwriters.

(ii) The Company will advise the Underwriters promptly (A) when any post-effective amendment to the Registration Statement or new registration statement relating to the Shares shall have become effective, or any supplement to the Prospectus shall have been filed, (B) of the receipt of any comments from the Commission, (C) of any request of the Commission for amendment of the Registration Statement or the filing of a new registration statement or any amendment or supplement to the General Disclosure Package or the Prospectus or any document incorporated by reference therein or otherwise deemed to be a part thereof or for any additional information, and (D) of the issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement or such new registration statement or any order preventing or suspending the use of any Preliminary Prospectus, any Issuer Free Writing Prospectus or the Prospectus, or of the institution of any proceedings for that purpose or pursuant to Section 8A of the Act.

(iii) For a period of 60 days from the date of the Prospectus, not to, directly or indirectly, (1) offer for sale, sell, pledge or otherwise dispose of (or enter into any transaction or device which is designed to, or could be expected to, result in the disposition by any person at any time in the future of) any Common Shares or securities convertible into or exchangeable for Common Shares (other than the Shares and (a) shares issued pursuant to employee benefit plans, qualified shares option plans or other employee compensation plans existing on the date hereof, (b) shares issued upon conversion of outstanding debt securities existing on the date hereof, (c) shares issued upon exercise of outstanding options, warrants or rights existing on the date hereof and (d) shares issued pursuant to any technology license agreement, strategic alliance or joint venture existing on the date hereof), or sell or grant options, rights or warrants with respect to any Common Shares or securities convertible into or exchangeable for Common Shares (other than the grant of options pursuant to option plans existing on the date hereof), or (2) enter into any swap or other derivatives transaction that transfers to another, in whole or in part, any of the economic benefits or risks of ownership of such Common Shares, whether any such transaction described in clause (1) or (2) above is to be settled by delivery of Common Shares or other securities, in cash or otherwise, in each case without the prior written consent of the Underwriters. Notwithstanding the foregoing, if (1) during the last 17 days of the 60 restricted period, the Company issues an earnings release or material news or a material event relating to the Company occurs; or (2) prior to the expiration of the 60 restricted period, the Company announces that it will release earnings results during the 16-day period following the last day of the 60 restricted period, then in each case the restrictions imposed by this Agreement shall continue to apply until the expiration of the 18-day period beginning on the date of the release of the earnings results or the occurrence of material news or a material event relating to the Company, as the case may be, unless the Underwriters waive, in writing, such extension. The Company will cause each person listed in Exhibit B hereto to furnish to the Underwriters, prior to the Closing Date, a letter, substantially in the form of Exhibit A hereto.

(iv) The Company will cooperate with the Underwriters in endeavoring to qualify the Shares for sale under the securities laws of such jurisdictions as the Underwriters may reasonably have designated in writing and will make such applications, file such documents, and furnish such information as may be reasonably required for that purpose, provided the Company shall not be required to qualify as a foreign corporation or to file a general consent to service of process in any jurisdiction where it is not now so qualified or required to file such a consent. The Company will, from time to time, prepare and file such statements, reports, and other documents, as are or may be required to continue such qualifications in effect for so long a period as the Underwriters may reasonably request for distribution of the Shares.

(v) The Company will deliver to, or upon the order of, the Underwriters, from time to time, as many copies of any Preliminary Prospectus or any Issuer Free Writing Prospectus as it may reasonably request. The Company will deliver to, or upon the order of the Underwriters, during the period when delivery of a Prospectus (or, in lieu thereof, the notice referred to under Rule 173(a) under the Act) (the **Prospectus Delivery Period**) is required under the Act, as many copies of the Prospectus in final form, or as thereafter amended or supplemented, as the Underwriters may reasonably request. The Company will deliver to the Underwriters at or before the Closing Date, four signed (facsimiles versions) copies of the Registration Statement and all amendments thereto including all exhibits filed therewith, and will deliver to the Underwriters such number of copies of the Registration Statement (including such number of copies of the exhibits filed therewith that may reasonably be requested), including documents incorporated by reference therein, and of all amendments thereto, as the Underwriters may reasonably request.

(vi) The Company will comply with the Act and the Rules and Regulations, and the Exchange Act, and the rules and regulations of the Commission thereunder, so as to permit the completion of the distribution of the Shares as contemplated in this Agreement and the Prospectus. If during the period in which a prospectus (or, in lieu thereof, the notice referred to under the Registration Statement, the General Disclosure Package and the Rule 173(a) under the Act) is required by law to be delivered by the Underwriters or a dealer, any event shall occur as a result of which, in the judgment of the Company or in the reasonable opinion of the Underwriters, it becomes necessary to amend or supplement the Prospectus in order to make the statements therein, in the light of the circumstances existing at the time the Prospectus is delivered to a purchaser, not misleading, or, if it is necessary at any time to amend or supplement the Prospectus to comply with any law, the Company promptly will either (i) prepare and file with the Commission an appropriate amendment to the Registration Statement or supplement to the Prospectus or (ii) prepare and file with the Commission an appropriate filing or submission under the Exchange Act which shall be incorporated by reference in the Prospectus so that the Prospectus as so amended or supplemented will not, in the light of the circumstances when it is so delivered, be misleading, or so that the Prospectus will comply with the law.

(vii) If the General Disclosure Package is being used to solicit offers to buy the Shares at a time when the Prospectus is not yet available to prospective purchasers and any event shall occur as a result of which, in the judgment of the Company or in the reasonable opinion of the Underwriters, it becomes necessary to amend or supplement the General Disclosure Package in order to make the statements therein, in the light of the circumstances, not misleading, or to make the statements therein not conflict with the information contained in the Registration Statement then on file, or if it is necessary at any time to amend or supplement the General Disclosure Package to comply with any law, the Company promptly will either (i) prepare, file with the Commission (if required) and furnish to the Underwriters and any dealers an appropriate amendment or supplement to the General Disclosure Package or (ii) prepare and file with the Commission an appropriate filing or submission under the Exchange Act which shall be incorporated by reference in the General Disclosure Package so that the General Disclosure Package as so amended or supplemented will not, in the light of the circumstances, be misleading or conflict with the Registration Statement then on file, or so that the General Disclosure Package will comply with law.

(viii) The Company will make generally available to its security holders and deliver to the Underwriters as soon as it is practicable to do so, but in any event not later than 12 months after the effective date of the Registration Statement (as defined in Rule 158(c) under the Act), an earnings statement (which need not be audited) in reasonable detail, complying with the requirements of Section 11(a) of the Act and the Rule 158 under the Act and will advise the Underwriters in writing when such statement has been so made available.

(ix) Prior to the Closing Date, the Company will furnish to the Underwriters, as soon as it has been prepared by or is available to the Company, a copy of any unaudited interim financial statements of the Company for any period subsequent to the period covered by the most recent financial statements appearing in the Registration Statement and the Prospectus.

(x) The Company will use its reasonable efforts to maintain the listing of the Shares on the NASDAQ Capital Market.

(xi) In any suit in a court of competent jurisdiction (whether in the United States or any other jurisdiction) seeking enforcement of this Agreement or provisions of this Agreement, (i) if the plaintiffs therein seek a judgment in United States dollars, the Company will not interpose any defense or objection to or otherwise oppose judgment, if any, being awarded in such currency, and (ii) if the plaintiffs therein seek to have any judgment (or any aspect thereof) awarded in foreign currency linked, for the period from entry of such judgment until actual payment thereof in full has been made, to the changes in the foreign currency-United States dollar exchange rate, the Company will not interpose any defense or objection to or otherwise oppose inclusion of such linkage in any such judgment (except to comply with any applicable law); and the Company agrees that it will not initiate or seek to initiate any action, suit or proceeding, in Bermuda or in any other jurisdiction other than the United States, seeking damages or for the purpose of obtaining any injunction or declaratory judgment against the enforcement of, or a declaratory judgment concerning any alleged breach by the Company of or other claim by the Underwriters in respect of, this Agreement or any of the Underwriters' rights under this Agreement, including without limitation any action, suit or proceeding challenging the enforceability of or seeking to invalidate in any respect the submission by the Company hereunder to the jurisdiction of federal or New York state courts or the designation of the laws of the State of New York as the law applicable to this Agreement.

(xii) If any payment of any sum due under this Agreement from the Company is made to or received by any of the Underwriters or any controlling person of any of the Underwriters in a currency other than freely transferable United States dollars, whether by judicial judgment or otherwise, the obligations of the Company under this Agreement shall be discharged only to the extent of the net amount of freely transferable United States dollars that the Underwriters or such controlling persons, as the case may be, in accordance with normal bank procedures, are able to lawfully purchase with such amount of such other currency on the business day immediately following the day on which such party receives such payment; and to the extent that the Underwriters or such controlling persons are not able to purchase sufficient United States dollars with such amount of such other currency to discharge the obligations of the Company to the Underwriters or such controlling persons, as the case may be, the Company shall not be discharged with respect to such difference, and any such undischarged amount will be due as a separate obligation and shall not be affected by payment of or judgment being obtained for any other sums due under or in respect of this Agreement.

(b) Each Selling Shareholder covenants and agrees with the Underwriters that:

(i) No offering, sale, short sale or other disposition of any Common Shares or other capital stock of the Company or other securities convertible, exchangeable or exercisable for Common Shares or derivative of Common Shares owned by such Selling Shareholder or request the registration for the offer or sale of any of the foregoing (or as to which such Selling Shareholder has the right to direct the disposition of) will be made for a period of 60 days after the date of this Agreement, directly or indirectly, by such Selling Shareholder otherwise than hereunder or with the prior written consent of the Underwriters. Notwithstanding the foregoing, if (1) during the last 17 days of the 60 restricted period, the Company issues an earnings release or material news or a material event relating to the Company occurs; or (2) prior to the expiration of the 60 restricted period, the Company announces that it will release earnings results during the 16-day period following the last day of the 60 restricted period, then in each case the restrictions imposed by this Agreement shall continue to apply until the expiration of the 18-day period beginning on the date of the release of the earnings results or the occurrence of material news or a material event relating to the Company, as the case may be, unless the Underwriters waive, in writing, such extension.

(ii) In order to document the Underwriters' compliance with the reporting and withholding provisions of the Tax Equity and Fiscal Responsibility Act of 1982 and the Interest and Dividend Tax Compliance Act of 1983 with respect to the transactions herein contemplated, such Selling Shareholder agrees to deliver to the Underwriters prior to or at the Closing Date a properly completed and executed United States Treasury Department Form W-8 or W-9 (or other applicable form or statement specified by Treasury Department regulations in lieu thereof).

(iii) Such Selling Shareholder will not take, directly or indirectly, any action designed to cause or result in, or that has constituted or would reasonably be expected to constitute, the stabilization or manipulation of the price of any securities of the Company.

(iv) Such Selling Shareholder agrees that it will not prepare or have prepared on its behalf or use or refer to, any free writing prospectus (as defined in Rule 405 under the Act), and agrees that it will not distribute any written materials in connection with the offer or sale of the Shares.

(v) During the Prospectus Delivery Period, such Selling Shareholder will advise the Underwriters promptly, and will confirm such advice in writing to the Underwriters, of any change in the information relating to such Selling Shareholder in the Registration Statement, the Prospectus or any document comprising the General Disclosure Package.

#### ***5. Free Writing Prospectuses.***

Each of the Company, the Selling Shareholders and the Underwriters represents and agrees that, unless it obtains the prior consent of the other parties, it has not made and will not make any offer relating to the Shares that would constitute an Issuer Free Writing Prospectus, or that would otherwise constitute a free writing prospectus, as defined in Rule 405 under the Act. Any such free writing prospectus consented to pursuant to the preceding sentence is hereinafter referred to as a **Permitted Free Writing Prospectus**. The Company represents that it has treated and agrees that it will treat each Permitted Free Writing Prospectus as an issuer free writing prospectus, as defined under Rule 433 under the Act, and has complied with the requirements of Rules 164 and 433 applicable to any Permitted Free Writing Prospectus, including timely Commission filing where required, legending and record keeping. The Underwriters covenant to the Company not to take any action that would result in the Company being required to file with the Commission under Rule 433(d) a free writing prospectus prepared by or on behalf of the Underwriters that otherwise would not be required to be filed by the Company thereunder, but for the actions of the Underwriters.

#### ***6. Costs and Expenses.***

(a) Except as otherwise provided herein, the Company shall pay all costs, expenses and fees incident to the performance of its obligations under this Agreement including, without limiting the generality of the foregoing, the following: accounting fees of the Company; the fees and disbursements of counsel for the Company; the cost of printing and delivering to, or as requested by, the Underwriters copies of the Registration Statement, Preliminary Prospectuses, the Issuer Free Writing Prospectuses, the Prospectus, this Agreement, the Listing Application with the NASDAQ Capital Market, the Blue Sky Survey and any supplements or amendments thereto; the filing fees of the Commission; the filing fees and expenses (including legal fees and disbursements) incident to securing any required review by FINRA of the terms of the sale of the Shares; the Listing Fee of the NASDAQ Capital Market; the costs and expenses (including without limitation any damages or other amounts payable in connection with legal or contractual liability) associated with the reforming of any contracts for sale of the Shares made by the Underwriters caused by a breach of the representation in Section 1(a)(ii); and the expenses (including legal fees and disbursements) incurred in connection with the qualification of the Shares under State securities or Blue Sky laws.

(b) To the extent any of the costs, expenses and fees referred to in Section 6(a) have been paid by the Company, ThaiLin shall reimburse the Company on a pro rata basis based upon the number of Shares sold by ThaiLin.

(c) ThaiLin shall reimburse the Underwriters for reasonable out-of-pocket expenses, including fees and disbursements of counsel, reasonably incurred in connection with investigating, marketing and proposing to market the Shares or in contemplation of performing their obligations hereunder in an amount not to exceed \$150,000.

(d) The Selling Shareholders shall pay all of their costs, expenses and fees incident to the performance of their obligations under this Agreement. Any transfer taxes imposed on the sale of the Shares to the Underwriters will be paid by the Selling Shareholders.

(e) Notwithstanding anything to the contrary in this Section 6, if this Agreement shall not be consummated because the conditions in Section 7 hereof are not satisfied, or because this Agreement is terminated by the Underwriters pursuant to Sections 10 or 13 hereof, or by reason of any failure, refusal or inability on the part of the Company or the Selling Shareholders to perform any undertaking or satisfy any condition of this Agreement or to comply with any of the terms hereof on their part to be performed, (i) ThaiLin shall reimburse the Underwriters for reasonable out-of-pocket expenses, including fees and disbursements of counsel, reasonably incurred in connection with investigating, marketing and proposing to market the Shares or in contemplation of performing their obligations hereunder in an amount not to exceed \$150,000 and (ii) ThaiLin shall reimburse the Company for reasonable out-of-pocket expenses, including fees and disbursements of counsel, reasonably incurred in connection with investigating, marketing and proposing to market the Shares or in contemplation of performing its obligations hereunder in an amount not to exceed \$150,000; provided, however, that in no event shall ThaiLin in any event be liable to the Underwriters for damages on account of loss of anticipated profits from the sale by them of the Shares.

#### ***7. Conditions of the Several Underwriters' Obligations.***

The obligations of the several Underwriters to purchase the Firm Shares on the Closing Date and the Option Shares on the Option Closing Date (if other than the Closing Date), as the case may be, are subject to the accuracy, as of the Applicable Time or the Closing Date or Option Closing Date, as the case may be, of the representations and warranties of the Company and the Selling Shareholders contained herein, and to the performance by the Company and the Selling Shareholders of their covenants and obligations hereunder and to the following additional conditions:

(a) The Registration Statement and all post-effective amendments thereto shall have become effective and the Rule 462(b) Registration Statement, the Preliminary Prospectus, the Prospectus and each Issuer Free Writing Prospectus required shall have been filed as required by Rules 424(b) (without reliance on Rule 424(b)(8)), 430A, 430B, 430C, 433 or 462(b) under the Act, as applicable, within the time period prescribed by, and in compliance with, the Rules and Regulations, and any request of the Commission for additional information (to be included in the Registration Statement or otherwise) shall have been disclosed to the Underwriters and complied with to its reasonable satisfaction. No stop order suspending the effectiveness of the Registration Statement, as amended from time to time, shall have been issued and no proceedings for that purpose or pursuant to Section 8A under the Act shall have been taken or, to the knowledge of the Company or the Selling Shareholders, shall be contemplated or threatened by the Commission and no injunction, restraining order or order of any nature by a Federal or state court of competent jurisdiction shall have been issued as of the Closing Date and the Option Closing Date, as the case may be, which would prevent the sale, transfer and delivery of the Shares.

(b) K&L Gates LLP, as special U.S. counsel to the Company and the Selling Shareholders, shall have furnished to the Underwriters their written opinion, addressed to the Underwriters and dated the Delivery Date, in form and substance reasonably satisfactory to the Underwriters, to the effect that:

(i) The Registration Statement has become effective under the Act. Any required filing of the Prospectus pursuant to Rule 424(b) has been made in accordance with Rule 424(b). To such counsel's knowledge, based solely on a telephone conversation with a member of the staff of the Commission, no stop order suspending the effectiveness of the Registration Statement has been issued under the Act and no proceedings for that purpose have been initiated or threatened by the Commission;

(ii) Upon payment of the purchase price for the Shares to be sold by the Selling Shareholders pursuant to the Agreement, delivery of the Shares, as directed by the Underwriters, to Cede & Co. or such other nominee as may be designated by the Depository Trust Company ( "DTC" ), and the crediting of such Shares on the books of DTC to securities accounts of the Underwriters (assuming that neither DTC nor any of the Underwriters has notice of any adverse claim within the meaning of Section 8-105 of the Uniform Commercial Code as in effect in The State of New York (the "UCC" ) with respect to the Shares), (A) DTC shall be a protected purchaser of the Shares within the meaning of Section 8-303 of the UCC, (B) under Section 8-501 of the UCC, the Underwriters will acquire a security entitlement in respect of the Shares and (C) no action based on any adverse claim (within the meaning of Section 8-102 of the UCC) to the Shares may be asserted against the Underwriters with respect to such security entitlement;

(iii) Under the laws of the State of New York relating to personal jurisdiction, each of the Company and the Selling Shareholders has, pursuant to Section 11 of this Agreement, validly and irrevocably submitted to the personal jurisdiction of any state or federal court located in the Borough of Manhattan, The City of New York, New York (each a New York Court ) in any action arising out of or relating to this Agreement or the transactions contemplated hereby brought by the Underwriters, and has appointed the Authorized Agent (as defined in Section 11) as its authorized agent for the purpose described in Section 11 hereof; and service of process effected on such agent in the manner set forth in Section 11 hereof will be effective to confer valid personal jurisdiction over the Company and the Selling Shareholders in the New York Courts assuming (a) the validity of such submission, waiver and appointment insofar as the laws of Bermuda with respect to the Company, and the ROC and the BVI, with respect to the Selling Shareholders, are concerned, (b) the due authorization, execution and delivery of this Agreement by the Underwriters and the Selling Shareholders and (c) that all of the provisions of this Agreement (other than Section 11) are enforceable in accordance with their terms;

(iv) The Registration Statement and the Prospectus, as of their respective effective or issue dates (other than the financial statements and related notes and schedules and other financial, accounting, and statistical information included therein or omitted therefrom, as to which we express no opinion), complied as to form in all material respects with the requirements of the Act and the regulations under the Act; and

(v) No authorization, approval or consent of any U.S. federal or New York state court or governmental authority or agency is required in connection with the transactions contemplated by this Agreement, except such as have been obtained under the Act and such as may be required under foreign, state securities or blue sky laws in connection with the sale and delivery of the Shares to the Underwriters (as to which such counsel expresses no opinion).

On the basis of its review of the Registration Statement, the General Disclosure Package and the Prospectus and its participation in their preparation, nothing has come to such counsel's attention that causes it to believe that the Registration Statement, at the time it became effective, contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein not misleading, the General Disclosure Package, at the Applicable Time, contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, or that the Prospectus or any amendment or supplement thereto, at the time the Prospectus was issued, at the time any such amendment or supplement was issued or at the Closing Date and Option Closing Date, as the case may be, included or includes an untrue statement of a material fact or omitted or omits to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. Such counsel shall express no opinion with respect to, and this paragraph does not address, (i) the financial statements and related notes and schedules, and other financial, accounting, and statistical information, included in, incorporated by reference in, or omitted from the Registration Statement, the General Disclosure Package, the Prospectus, or any further amendment or supplement to either of them, or (ii) the materiality of any information included in the Registration Statement, the General Disclosure Package or the Prospectus that relates to the public offering price, the underwriting syndicate (including any material relationships between the registrant and underwriters named therein), underwriting discounts or commissions, discounts or commissions to dealers, amounts of proceeds, delivery dates, and terms of the Shares dependent upon the offering date.



In rendering such opinion, such counsel may state in such opinion to the effect that:

(1) the foregoing opinion is limited to the Federal laws of the United States and the laws of the State of New York, that such counsel is expressing no opinion as to the effect of the laws of any other jurisdiction, and with respect to all matters of the laws of the ROC, such counsel understands that the Underwriters are relying on the opinions of Lee and Li and delivered to them pursuant to Section 7(e) of this Agreement, and with respect to all matters of the laws of Bermuda, such counsel understands that the Underwriters are relying on the opinion of Appleby delivered to them pursuant to Section 7(d) of this Agreement, and with respect to all matters of the laws of the BVI, such counsel understands that the Underwriters are relying on the opinion of Appleby delivered to them pursuant to Section 7(h) of this Agreement;

(2) with the Underwriters' approval, such counsel has relied as to certain matters on information obtained from public officials, officers of the Company, the Selling Shareholders and other sources believed by such counsel to be responsible, and such counsel has assumed that: (A) this Agreement has been duly authorized by the Company, (B) the Shares have been duly authorized by the Company, (C) insofar as the laws of the Bermuda are concerned, this Agreement have been duly executed and delivered by the Company as applicable, and (D) the signatures on all documents examined by such counsel are genuine, assumptions which such counsel has not independently verified;

(3) such counsel is not opining as to factual matters, and such counsel may state that the character of determinations involved in the registration process is such that such counsel is not passing upon and do not assume any responsibility for the accuracy, completeness or fairness of the information included in the Registration Statement and the Prospectus, and such counsel assumes the correctness and completeness of the information included in the Registration Statement and the Prospectus, and it has made no independent investigation or verification of that information;

(4) such opinion is furnished by such counsel as special United States counsel for the Company and the Selling Shareholders solely to the Underwriters and solely for the benefit of the Underwriters in their capacity as underwriters in connection with the public offer and sale of the Shares and, without such counsel's specific prior written consent, (i) may not be relied upon in any other connection, (ii) may not be furnished to or relied upon by any other person for any other purposes, and (iii) may not be quoted, referred to or furnished to any purchaser or prospective purchaser of the Shares and may not be used in furtherance of any offer or sale of the Shares; and

(5) such counsel has reviewed the Registration Statement, the General Disclosure Package and the Prospectus, participated in discussions with the Underwriters' representatives, those of the Underwriters' United States counsel, those of the Selling Shareholders and their United States and ROC counsel, and those of the Company, its ROC, Bermuda, and BVI counsel and its accountants, and between the date of the most recent prospectus supplement and the time of the delivery of the letter, such counsel participated in further discussions with the Underwriters' representatives, those of the Underwriters' United States counsel, those of the Selling Shareholders and their United States and ROC counsel and those of the Company, its ROC, Bermuda, and BVI counsel and its accountants regarding the contents of certain portions of the Prospectus and related matters, and such counsel reviewed certificates of certain officers of the Company and the Selling Shareholders, opinions addressed to the Underwriters from ROC, Bermuda, and BVI counsel for the Company regarding certain portions of the Prospectus and related matters, opinions addressed to the Underwriters from its United States counsel and letters addressed to the Underwriters from the Company's independent accountants.

(c) Intentionally omitted.

(d) Appleby, as Bermuda counsel to the Company, shall have furnished to the Underwriters their written opinion, addressed to the Underwriters and dated the Delivery Date, in form and substance reasonably satisfactory to the Underwriters, to the effect that:

(i) The Company is an exempted company duly incorporated with limited liability and is validly existing under the laws of Bermuda under the Companies Act 1981 of Bermuda (as amended), with power and authority to carry on the business of an investment holding company.

(ii) The Company possesses the capacity to sue and be sued in its own name.

- (iii) The Company has an authorised share capital as set forth in the Registration Statement, the General Disclosure Package and the Prospectus.
- (iv) Based on review of the Register of Members of the Company, all of the issued Common Shares have been duly and validly issued, are fully paid and are non-assessable, and conform to the description thereof contained in the Registration Statement, the General Disclosure Package and the Prospectus.
- (v) The statements contained in the Registration Statement, the General Disclosure Package and the Prospectus under the caption Description of Share Capital insofar as they describe Bermuda laws, statutes, rules and regulations conform in all material respects to the rights attached to the Common Shares of the Company under the Company's Memorandum of Association and Bye-Laws and the Bermuda Companies Act.
- (vi) There are no pre-emptive or other rights to subscribe for or to purchase, nor any restriction upon the voting or transfer of, any Common Shares pursuant to the Company's Memorandum of Association or Bye-Laws.
- (vii) The statements contained in the Prospectus under the captions Description of Share Capital and Enforceability of Civil Liabilities insofar as they describe Bermuda laws, statutes, rules and regulations, constitute a fair summary thereof and the opinion of such counsel filed as Exhibit 5.1 to the Registration Statement is confirmed as at the date of its issue and the Underwriters may rely upon such opinion as if it were addressed to them.
- (viii) The Company has all requisite corporate power and authority to enter into, this Agreement under the laws of Bermuda, and this Agreement has been duly authorized, executed and delivered by the Company. All corporate action required by the laws of Bermuda and the Bye-Laws to be taken by the Company for the offering, sale and delivery of the Shares by the Selling Shareholders has been validly and sufficiently taken.
- (ix) Insofar as matters of Bermuda law are concerned, the filing of the Registration Statement and the Prospectus with the Commission has been duly authorised by and on behalf of the Company and the Registration Statement has been duly executed pursuant to such authorisations in accordance with the laws of Bermuda.
- (x) The execution, delivery and performance by the Company of this Agreement and the transactions contemplated thereby have been duly authorised by all necessary corporate action on the part of the Company.
- (xi) This Agreement has been duly executed by the Company and constitutes legal, valid and binding obligations of the Company, enforceable against the Company in accordance with its terms.
- (xii) No consent, approval, licence, authorisation or order of, or filing or registration with, any governmental agency, body authority or court of Bermuda is required to be obtained by the Company in connection with the execution, delivery or performance by the Company of this Agreement.
- (xiii) No consents, authorizations, approvals, orders, certificates or permits of and from, and no declarations and filings with, any local or other governmental authorities in Bermuda or any courts and other tribunals in Bermuda are required for the Company to own, lease, license and use its properties and assets and to conduct the business of an investment holding company.

(xiv) The sale, transfer and delivery to the Underwriters of the Shares to be sold, transferred and delivered by the Selling Shareholders to the Underwriters are not subject to any tax imposed on the Company by any court or government agency or body in Bermuda.

(xv) All dividends and other distributions declared and payable on the Common Shares of the Company ( **Distributions** ) may under the current laws and regulations of Bermuda be paid in U.S. dollars or any other non-Bermudian currency that may be freely transferred out of Bermuda, and Distributions will not be subject to withholding or other taxes under the laws and regulations of Bermuda and are otherwise payable free and clear of any other tax, withholding or deduction in Bermuda and without the necessity of obtaining any governmental authorizations in Bermuda.

(xvi) The statements in the Registration Statement, the General Disclosure Package and the Prospectus specifically and expressly referring to the Company's By-Laws or resolutions of the shareholders and board of directors of the Company which are governed by the laws of Bermuda, are accurate and adequate in all material respects insofar as such statements refer to statements of the laws of Bermuda.

(xvii) The execution, delivery and performance by the Company of all of the provisions of this Agreement and the transactions contemplated thereby, do not and will not violate, conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under (i) any requirement of any law or any regulation of Bermuda or (ii) the Memorandum of Association and Bye-Laws of the Company.

(xviii) The choice of the laws of the State of New York as the proper law to govern this Agreement is a valid choice of law under Bermuda law and such choice of law would be recognised, upheld and applied by the courts of Bermuda as the proper law of this Agreement in proceedings brought before them in relation