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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549

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**FORM 20-F**

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REGISTRATION STATEMENT PURSUANT TO SECTION 12(b) OR (g) OF THE SECURITIES EXCHANGE ACT OF 1934

OR

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended December 31, 2011

OR

TRANSITION REPORT PURSUANT TO SECTION 13 or 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

OR

SHELL COMPANY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

Date of event requiring this shell company report

Commission file number: 001-14714

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**兖州煤业股份有限公司**

(Exact name of Registrant as specified in its charter)

**Yanzhou Coal Mining Company Limited**

(Translation of Registrant's name into English)

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**People's Republic of China**  
(Jurisdiction of incorporation or organization)

**298 Fushan South Road  
Zoucheng, Shandong Province  
People's Republic of China**  
(Address of principal executive offices)

**Zhang Baocai**  
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**Tel: (86)537 5382319**  
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(Name, Telephone, E-mail and/or Facsimile number and Address of Company Contact Person)

**Securities registered or to be registered pursuant to Section 12(b) of the Act.**

Title of each class

Name of each exchange on which registered

American Depositary Shares

New York Stock Exchange

Class H Ordinary Shares

New York Stock Exchange\*

\* Not for trading in the United States, but only in connection with the registration of American Depositary Shares, pursuant to the requirements of the Securities and Exchange Commission.

**Securities registered or to be registered pursuant to Section 12(g) of the Act.**

None  
(Title of class)

**Securities for which there is a reporting obligation pursuant to Section 15(d) of the Act.**

None  
(Title of class)

Indicate the number of outstanding shares of each of the issuer's classes of capital or common stock as of the close of the period covered by the annual report.

**2,960,000,000 Domestic Shares, par value RMB1.00 per share**  
**1,958,400,000 H Shares, par value RMB1.00 per share, including H Shares that were represented by 13,933,698 ADSs**

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes  No

If this report is an annual or transition report, indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934. Yes  No

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this Chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files.) Yes  No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer. See definition of "accelerated filer and large accelerated filer" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer

Accelerated filer

Non-accelerated filer

Indicate by check mark which basis of accounting the registrant has used to prepare the financial statements included in this filing:

U.S. GAAP

International Financial Reporting Standards as issued  
by the International Accounting Standards Board

Other

If "Other" has been checked in response to the previous question, indicate by check mark which financial statement item the registrant has elected to follow. Item 17  Item 18

If this is an annual report, indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes  No

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## CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS

This annual report includes statements of our expectations, intentions, plans and beliefs that constitute “forward-looking statements” within the meaning of Section 27A of the Securities Act of 1933, as amended (the “Securities Act”) and Section 21E of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), and are intended to come within the safe harbor protection provided by those sections. The statements relate to future events or our financial performance, including, but not limited to, projections and estimates concerning the timing and success of specific projects and acquisitions. We use words such as “anticipate,” “believe,” “continue,” “could,” “estimate,” “expect,” “forecast,” “intend,” “may,” “plan,” “potential,” “predict,” “project,” “should,” “will” and the negatives of such terms or other similar expressions to identify forward-looking statements.

Without limiting the foregoing, all statements relating to our future operating results and anticipated capital expenditures, borrowings and sources of funding are forward-looking statements and speak only as of the date of this annual report. These statements are based on numerous assumptions that we believe are reasonable, but are subject to a wide range of risks, uncertainties and contingencies, which may cause actual results to differ materially from those discussed in these statements. Among the factors that could cause actual results to differ materially are:

- price volatility for our coal and other products;
- demand for coal in the PRC and overseas markets;
- difficulty in managing our rapid growth, business diversification, geographic expansion and integrating our acquisitions;
- changes in legislation, regulations and policies;
- the factors affecting the methanol industry and methanol prices;
- our ability to reduce costs and compete effectively;
- our need for, and ability to obtain, capital to finance our future expansion plans and capital expenditures;
- expected increases in production capacity and utilization of new facilities;
- intensity of competition;
- uncertainties in estimating our proven and probable coal reserves and our ability to replace and develop coal reserves;
- effects of land reclamation and other liabilities;
- geologic, equipment and operational risks related to mining;
- changes in economic strength and political stability of countries in which we have operations or serve customers;
- our ability to realize the anticipated benefits of our acquisition of equity interests or assets of coal mines;
- obtaining governmental permits and approvals for our operations;
- proximity of our coal resources to end-markets and costs of transportation;
- availability, timing of delivery and cost of key supplies;
- impacts of natural disasters, epidemics and safety accidents; and
- other factors, including, but not limited to, those discussed under “Risk Factors”, set forth in Part D of Item 3 of this annual report.

All of the forward-looking statements made in this annual report are qualified by this cautionary statement. We cannot assure you that the actual results or developments anticipated by us will be realized or, even if substantially realized, that they will have the expected effect on us, our business or our operations. We caution you not to place undue reliance on any such forward-looking statements. Unless we are required to do so under U.S. federal securities laws or other applicable laws, we do not intend to update or revise any forward-looking statements.

## DEFINITIONS AND SUPPLEMENTAL INFORMATION

As used in this annual report, references to “Yanzhou Coal,” “we,” “our,” “our Company,” “the Group” or “us” refer to Yanzhou Coal Mining Company Limited and its subsidiaries, which have been consolidated into its accounts for the purpose of the consolidated financial statements, unless the context indicates otherwise. References to “the Company” refer to Yanzhou Coal as a stand-alone statutory entity.

“ADSs” are to the American depositary shares.

“A Shares” are to domestic shares in the ordinary share capital of the Company, with nominal value of RMB1.00 each, which are listed on the Shanghai Stock Exchange.

“Articles of Association” are to our Articles of Association, as amended from time to time.

“ASX” are to ASX Limited or, as the context requires, the financial market known as the Australian Securities Exchange operated by it.

“Austar Company” are to Austar Coal Mine Pty Limited, a wholly owned subsidiary of Yancoal Australia Limited incorporated in Australia, which mainly engages in the mining, processing and sale of coal in Australia.

“Australia” are to the Commonwealth of Australia.

“BBSY” are to the Australian Bank Bill Swap Rate.

“Beisheng Industry and Trade” are to Zoucheng Yankuang Beisheng Industry and Trade Co., Ltd., a limited liability company incorporated in the PRC;

“Beisu Company” are to Yankuang Group Beisu Coal Mine Co., Ltd., a limited liability company incorporated in the PRC, which is a wholly owned subsidiary of Yankuang Group

“CAGR” are to the compound annual growth rate.

“CASs” are to Accounting Standard for Business Enterprises (2006) and the relevant regulations and explanations issued by the Ministry of Finance of the PRC.

“China” or the “PRC” are to the People’s Republic of China, excluding, for purposes of this annual report, the Hong Kong Special Administrative Region (“Hong Kong”), Macau Special Administrative Region and Taiwan.

“CSRC” are to the China Securities Regulatory Commission.

“CVR Shares” are to fully paid shares in the share capital of Yancoal Australia as defined in the amended merger proposal deed for the Gloucester acquisition.

“Directors” as used herein refer to our directors as discussed in Item 6 herein.

“Eastern China” are collectively to Shandong Province, Jiangsu Province, Anhui Province, Zhejiang Province, Fujian Province, Jiangxi Province and Shanghai Municipality; “Southern China” are to Guangdong Province, Hunan Province and Guangxi Zhuang Autonomous Region; “Northern China” are to Beijing Municipality, Tianjin Municipality, Hebei Province, Shanxi Province and the Inner Mongolia Autonomous Region; and “Northwestern China” are to Shaanxi Province, Gansu Province, Qinghai Province, Xinjiang Uyghur Autonomous Region and Ningxia Hui Autonomous Region.

“Excluded Assets” are the following assets which are to be excluded from the Yancoal Australia prior to the Merger and held by or by other subsidiaries of the Company (and all but the last two of which are to be subject to a right of first refusal in favor of Yancoal Australia):

- all of the issued shares in Tonford Pty Limited and as a result a 100% interest in the Harrybrandt Project tenements near Nebo in Queensland’s Bowen Basin (“Harrybrandt”);
- all of the issued shares in Athena Coal Pty Limited and as a result a 51% interest in the Athena Coal Project joint venture in Queensland (“Athena”);
- 100% interest in certain Wilpeena tenements held by Yarrabee Coal Company Pty Limited in Queensland (“Wilpeena”);

- all of the issued shares in each of Syntech Holdings Pty Limited and Syntech Holdings II Pty Limited and as a result a 100% interest in the Cameby Downs open-pit mine located approximately 30 kilometers from the town of Chinchilla in the Surat Basin, Queensland (“Syntech”);
- all of the issued shares in Premier Coal Limited (“Premier Coal”) and Premier Char Pty Limited (“Premier Char”) and thereby, among other things, a 100% interest in the Premier Coal Mine (together, “Premier”);
- all of the issued shares in Yancoal Technology Development Pty Limited; and
- all of the issued shares in UCC Energy Pty Limited;

“FOB” are to Free on Board, meaning the risk passes to the buyer, including payment of all transportation and insurance costs, once goods are delivered on board of the ship by the seller, as defined in the latest edition of the International Rules for the Interpretation of Trade Terms as published by ICC Publishing SA, 38 cours Albert 1er, 75008 Paris, France from time to time or such official rules for interpretation of trade terms as issued by the ICC in substitution therefore as amended from time to time.

“Gloucester” are to Gloucester Coal Ltd., a company incorporated in Australia, which focuses on the exploration, mining and sale of coal in Australia.

“Grant Thornton” are to a registered firm of certified public accountants in the People’s Republic of China and is the principal auditor for the purpose of reporting to the United States Securities and Exchange Commission and other relevant U.S. regulatory bodies.

“Grant Thornton Hong Kong” are to a firm of certified public accountants which was a former member firm of Grant Thornton International Ltd. and has since changed its name to JBPB & Co as of December 10, 2010 (original official name in Hong Kong: Grant Thornton).

“Grant Thornton Jingdu Tianhua” are to a firm of certified public accountants in Hong Kong, which has been a member firm of Grant Thornton International Ltd. since November 2010. This firm is the auditor for the purpose of the Hong Kong H Share listing only.

“H Shares” are to overseas listed foreign invested shares in the ordinary share capital of the Company, with nominal value of RMB1.00 each, which are listed on the HKSE.

“Haosheng Company” are to Inner Mongolia Haosheng Coal Mining Company Limited, a Company incorporated in the PRC and a 61%-owned subsidiary of the Company, which engages in applying for project development and mining rights for Shilawusu Coal Field in the Inner Mongolia Autonomous Region.

“Heze Nenghua” are to Yanmei Heze Nenghua Company Limited, a Company incorporated in the PRC and a 98.33%-owned subsidiary of the Company, which manages our exploration for coal resources at the Juye Mine in Heze City, Shandong Province.

“Hong Kong Listing Rules” are to the Rules Governing the Listing of Securities on the HKSE.

“Hong Kong Stock Exchange” or “HKSE” are to The Stock Exchange of Hong Kong Limited.

“Hua Ju Energy” are to Shandong Hua Ju Energy Co., Limited, a Company incorporated in the PRC and a 95.14%-owned subsidiary of the Company, which engages in the generation of electric power from coal gangue and coal slurry, which are by-products of our coal mining process.

“IFRS” are to International Financial Reporting Standards, as issued by the International Accounting Standard Board (“IASB”).

“Industry Guide 7” are to the United States Securities and Exchange Commission Industry Guide 7.

“Inner Mongolia Xintai” are to Inner Mongolia Xintai Coal Mining Company Limited, a company incorporated in the PRC that is a 80%-owned subsidiary of Ordos Neng Hua, which operates the Wenyu Coal Mine in Inner Mongolia Autonomous Region.

“JBPB” are to JBPB & Co., a firm of certified public accountants in Hong Kong Special Administrative Region formerly known as Grant Thornton in Hong Kong.

“Jiemei Wall Materials” are to Jining Jiemei New Wall Materials Co., Ltd., a limited liability company incorporated in the PRC.

“JORC Code” are to the 2004 Australasian Code for Reporting Exploration Results, Mineral Resources and Ore Reserves prepared by the Joint Ore Reserves Committee of the Australasian Institute of Mining and Metallurgy, Australian Institute of Geoscientists and Minerals Council of Australia.

“LIBOR” are to the London Interbank Offered Rate.

“MEP” are to the Ministry of Environmental Protection of the PRC.

“Merger” are to the merger by way of scheme of arrangement under Australian law pursuant to which Yancoal Australia will acquire all of the shares in Gloucester, and Gloucester shareholders will receive a combination of Yancoal Australia ordinary shares and CVR Shares, unless they elect to receive only Yancoal Australia ordinary shares, as further described below in this annual report.

“MLR” are to the Ministry of Land and Resources of the PRC.

“MOC” are to the Ministry of Commerce of the PRC.

“MRRT” are to the Minerals Resource Rent Tax, a tax on assessable profits generated from the extraction of coal and iron ore in Australia.

“NDRC” are to the National Development and Reform Commission of the PRC.

“NYSE” are to the New York Stock Exchange, Inc.

“Ordos Neng Hua” are to Yanzhou Coal Ordos Neng Hua Company Limited, a wholly owned subsidiary of the Company incorporated in the PRC that is principally engaged in the construction of a 600,000-tonne methanol project in Ordos City and the development of coal resources in the Inner Mongolia Autonomous Region.

“PBOC” are to the People’s Bank of China.

“PRC government” are to the central, provincial or municipal government of the PRC.

“PRC Standards” are to the standards in the Solid Mineral Resource/Reserve Classification of the PRC (GB/T17766-1999).

“Promoter Shares” are to the domestic legal person shares held by Yankuang Group.

“SAFE” are to the State Administration of Foreign Exchange of the PRC.

“SASAC” are to the State-owned Assets Supervision and Administration Commission.

“SAT” are to the State Administration of Taxation of the PRC.

“SEC” are to the United States Securities and Exchange Commission.

“SERC” are to the State Electricity Regulatory Commission of the PRC.

“Shanxi Nenghua” are to Yanzhou Coal Shanxi Nenghua Company Limited, a wholly owned subsidiary of the Company incorporated in the PRC that manages our investment projects in Shanxi Province.

“Shares” refers collectively to our (i) domestic invested shares listed on the Shanghai Stock Exchange, par value RMB1.00 each (the “Domestic Shares” or “A Shares”), (ii) foreign-invested shares issued and traded in HK dollars and listed on the Hong Kong Stock Exchange, par value RMB1.00 each (the “H Shares”) and (iii) American Depositary Shares (the “ADSs”), each of which represents ten H Shares.

“ShengyangWood” are to Shandong Shengyang Wood Co., Ltd., a limited liability company incorporated in the PRC.

“SSE” are to the Shanghai Stock Exchange.

“State” are to the PRC government.

“Tianhao Chemicals” are to Shanxi Tianhao Chemicals Company Limited, a 99.89%-owned subsidiary of Shanxi Nenghua and a Company incorporated in the PRC, which is principally engaged in the operation of a 100,000 tonne methanol project in Shanxi Province.

“Tonne” are to metric tonne, which is equivalent to 1,000 kilograms or approximately 2,205 pounds.

“Treasurer” are to the Treasurer of Australia.

“Twelfth Five-Year Plan” are to the Twelfth Five-Year Plan (2011 to 2015) for National Economic and Social Development in the PRC.

“Yancoal Australia” are to Yancoal Australia Limited, a subsidiary of the Company incorporated in Australia that manages our investment projects in Australia, which is currently wholly owned by the Company (save for one temporary redeemable preference share held by Gloucester in connection with the Merger) but which will become 78%-owned by the Company and 22%-owned by Gloucester shareholders following the Merger.

“Yancoal Canada” are to Yancoal Canada Resources Co., Ltd., a wholly owned subsidiary of the Company that manages our investment projects in Canada.

“Yancoal Resources” are to Yancoal Resources Limited, formerly known as Felix Resources Limited (“Felix”), a limited company incorporated under the laws of Australia and an indirect wholly owned subsidiary of Yancoal Australia, which mainly engages in coal mining, sales and exploration of coal.

“Yancoal International (Holding)” are to Yancoal International (Holding) Co., Limited, a wholly owned subsidiary of the Company.

“Yankuang Finance” is Yankuang Group Finance Company Limited, a joint venture established by the Yankuang Group, China Credit Trust Co., Ltd. and Yanzhou Coal Mining.

“Yankuang Group” or “Controlling Shareholder” are to Yankuang Group Corporation Limited (formerly known as Yanzhou Mining (Group) Corporation Limited), a wholly state-owned enterprise established in the PRC, and the Controlling Shareholder of our Company.

“Yulin Nenghua” are to Yanzhou Coal Yulin Nenghua Company Limited, a wholly owned subsidiary of the Company incorporated in the PRC, which is principally engaged in the operation of a 600,000-tonne methanol project in Shaanxi Province.

Certain mining terms used in this annual report are defined in the “Glossary of Mining Terms”, which was included as Appendix B to our registration statement on Form F-1 that we filed with the U.S. Securities and Exchange Commission. A copy of the “Glossary of Mining Terms” may be obtained upon written request to the Company.

## **CONVENTIONS**

Unless otherwise specified, references in this annual report to “U.S. dollars”, “USD” or “US\$” are to United States dollars, the lawful currency of the United States of America; references to “HK dollars”, “HKD” or “HK\$” are to Hong Kong dollars, the lawful currency of Hong Kong; references to “AUD” or “A\$” are to Australian dollars, the lawful currency of Australia; and references to “RMB” are to Renminbi, the lawful currency of the PRC. Our financial statements are denominated in RMB and, except as otherwise stated, all monetary amounts in this annual report are presented in RMB.

Solely for your convenience, certain items in this annual report contain translations of Renminbi amounts into U.S. dollars, which have been made at the rate of RMB6.2939 to US\$1.00, the exchange rate as set forth in the H.10 weekly statistical release of the Board of Governors of the Federal Reserve System of the United States on December 30, 2011. All such translations in this annual report are provided solely for your convenience and no representation is made that the Renminbi amounts could have been or could be converted into U.S. dollars at that rate, or at all.

In this annual report, where information has been presented in percentages, or thousands or millions or billions of units, amounts may have been rounded up or down. Accordingly, the amounts identified as total amounts in tables may not be equal to the apparent sum of the amounts listed therein.



In this annual report, business taxes and surcharges have been reclassified as corresponding costs of each category of revenue to provide a more appropriate presentation. The same adjustments have been made to the corresponding prior year. The reclassification has no impact on our overall results. The attention of Shareholders and potential investors is drawn to such adjustments.

Coal resources and reserves are key elements in our Company's investment decision-making process. The term "resources" describes a concentration or occurrence of material of intrinsic economic interest in or on the Earth's crust in such form, quality and quantity that there are reasonable prospects for eventual economic extraction. The location, quantity, grade, geological characteristics and continuity of a mineral resource are known, estimated or interpreted from specific geological evidence and knowledge. Resources are sub-divided, in order of increasing geological confidence, into Inferred, Indicated and Measured categories. "Inferred resource" is the part of a mineral resource for which tonnage, grade and mineral content can be estimated with a low level of confidence. It is inferred from geological evidence and assumed but not verified geological and/or grade continuity. It is based on information gathered through appropriate techniques from locations such as outcrops, trenches, pits, workings and drill holes which may be limited or of uncertain quality and reliability. "Indicated resource" is the part of a mineral resource for which tonnage, densities, shape, physical characteristics, grade and mineral content can be estimated with a reasonable level of confidence. It is based on exploration, sampling and testing information gathered through appropriate techniques from locations such as outcrops, trenches, pits, workings and drill holes. The locations are too widely or inappropriately spaced to confirm geological and/or grade continuity but are spaced closely enough for continuity to be assumed. "Measured resources" refers to the part of a mineral resource for which tonnage, densities, shape, physical characteristics, grade and mineral content can be estimated with a high level of confidence. It is based on detailed and reliable exploration, sampling and testing information gathered through appropriate techniques from locations such as outcrops, trenches, pits, workings and drill holes. The locations are spaced closely enough to confirm geological and grade continuity. The term "reserves" describes the recoverable quantity of coal that is commercially viable for development given the prevailing economic situation, particularly with respect to the prices of coal at the time of estimation. Reserves are estimated using a deterministic method, in which a single best estimate is made based on known geological, engineering and economic data, or a probabilistic method, in which known geological, engineering and economic data are used to generate a range of estimates and their associated probabilities. All coal reserves data are estimates, which are revised when additional information becomes available (for example, when additional coal mines commence operations or when actual coal production or extraction commences). "Proven reserves" refers to estimated quantities of coal that geological and engineering data demonstrate have reasonable certainty of being recovered in future years from known deposits under existing economic and operating conditions (that is, prices and costs at the date the estimate is made). "Probable reserves" refers to the estimated quantities of coal that geological and engineering data demonstrate have fair to good probability of being recovered in future years from known deposits under existing economic and operating conditions. To qualify as proven reserves, there should be at least a 90% probability that the quantities actually recovered will equal or exceed the proven estimate. To qualify as probable reserves, there should be at least a 50% probability that the quantities actually recovered will equal or exceed the proven plus probable estimate. Our total in-place proven and probable reserves are presented to include all mining and preparation losses that occur during the processing of coal after it is mined. Recoverable reserves refer to the amount of in-place proven and probable reserves but exclude all mining and preparation losses that occur during the processing of coal after it is mined. Our estimates of recoverable reserves are reported after deduction of actual production volume and non-accessible reserves up to December 31, 2011. Unless otherwise specified, coal reserves and resources are presented on a 100% basis.

A majority of our Company's total estimated proven coal reserves are located in China and Australia. The coal reserves data in this annual report represent estimates of our Company that were calculated by its internal reserves system, which includes, among others, procedures for classifying and estimating reserves. Our Company believes that the methods it uses to estimate these reserves are consistent with definitions and classifications in the Industry Guide 7, the JORC Code and the PRC Standards, as applicable, to its PRC and Australian mines. Our Company's internal geological team focuses on periodically estimating reserves information based on geological data obtained from various geological, geophysical and engineering studies. Estimates of net reserves are based on numerous assumptions and estimates relating to technical factors such as initial coal reserves, initial production rates, production decline rates, ultimate recovery of reserves, as well as commercial factors such as future coal prices, timing and amount of capital expenditures, and operating costs that may occur during the production life of the coal reserves.

Unless otherwise indicated, information regarding our Company's coal production in this annual report refers to our Company's share of production based on its percentage of equity interest in the relevant subsidiaries or coal mining projects.

## **PART I**

### **ITEM 1. IDENTITY OF DIRECTORS, SENIOR MANAGEMENT AND ADVISERS**

Not applicable.

### **ITEM 2. OFFER STATISTICS AND EXPECTED TIMETABLE**

Not applicable.

### **ITEM 3. KEY INFORMATION**

#### **A. Selected Financial Data**

##### *Historical Financial Data*

The following table sets forth selected financial data as of and for the years ended December 31, 2007, 2008, 2009, 2010 and 2011. The selected income statement data for the years ended December 31, 2009, 2010 and 2011 and the selected balance sheet data as of December 31, 2010 and 2011 have been derived from our audited consolidated financial statements included elsewhere in this annual report and should be read in conjunction with those financial statements and the accompanying notes. Unless otherwise indicated, the financial statements have been prepared and presented in accordance with IFRS as issued by the IASB. Our selected income statement data for the years ended December 31, 2007 and 2008 and our selected balance sheet data as of December 31, 2007, 2008 and 2009 have been derived from our audited consolidated financial statements for those periods and dates, which are not included in this annual report.

**As of and for the Year Ended December 31,**

	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2011</b>
	<b>RMB</b>	<b>RMB</b>	<b>RMB</b>	<b>RMB</b>	<b>RMB</b>	<b>US\$</b>
<b>INCOME STATEMENT DATA</b>						
(in millions except per Share and per ADS data)						
Total revenue <sup>(1)</sup>	15,403.7	25,287.4	20,677.1	33,944.3	47,065.8	7,478.0
Gross sales of coal	15,193.0	24,933.3	19,947.8	32,590.9	45,181.2	7,178.6
Railway transportation service income	210.7	255.7	267.3	513.3	476.9	75.6
Gross sales of electricity power	—	59.8	187.5	185.5	328.0	52.1
Gross sales of methanol	—	38.6	258.9	629.3	1,059.3	168.3
Gross sales of heat supply	—	—	15.6	25.2	20.5	3.3
Transportation costs of coal	(549.8)	(508.7)	(403.3)	(1,160.5)	(1,248.3)	(198.3)
Cost of sales and service provided	(7,625.2)	(12,201.1)	(10,590.0)	(16,801.3)	(25,725.3)	(4087.3)
Cost of electricity power	—	(88.3)	(190.8)	(195.5)	(362.5)	(57.6)
Cost of methanol	—	(37.8)	(352.9)	(716.8)	(930.2)	(147.8)
Cost of heat supply	—	—	(9.7)	(12.5)	(13.8)	(2.2)
Gross profit	7,228.7	12,451.5	9,130.4	15,057.6	18,785.8	2,984.8
Selling, general and administrative expenses	(2,854.7)	(3,832.0)	(3,820.2)	(5,093.9)	(6,570.2)	(1,043.9)
Share of income (loss) of an associate	(2.4)	(67.4)	109.8	8.9	68.9	10.9
Other income	198.9	351.5	311.0	3,108.1	1,075.8	170.9
Interest expense	(27.2)	(38.4)	(45.1)	(603.3)	(839.3)	(133.4)
Profit before income taxes	4,543.3	8,865.2	5,685.8	12,477.3	12,521.0	1,989.4
Income taxes	(1,315.5)	(2,385.6)	(1,553.3)	(3,171.0)	(3,545.4)	(563.3)
Profit for the year	3,227.8	6,479.6	4,132.5	9,306.3	8,975.6	1,426.1
Profit attributable to our equity holders	3,230.5	6,488.9	4,117.3	9,281.4	8,928.1	1,418.5
Earnings per Share	0.66	1.32	0.84	1.89	1.82	0.3
Earnings per ADS	6.56	13.19	8.37	18.87	18.15	2.9
Operating income per Share before income tax	0.92	1.80	1.16	2.54	2.55	0.40
Profit from continuing operation per ADS before income tax	9.24	18.02	11.56	25.37	25.46	4.04
<b>CASH FLOW DATA</b>						
Net cash from operating activities	4,558.6	7,095.5	6,520.1	5,399.8	17,977.3	2,856.3
Net cash from (used in) investing activities	(3,790.9)	(2,091.5)	(24,842.9)	(5,884.4)	(25,611.1)	(4,069.2)
Net cash from (used in) financing activities	(1,018.7)	(921.7)	18,503.7	1,360.5	9,441.1	1,500.0
<b>BALANCE SHEET DATA</b>						
Total current assets	9,908.2	14,994.4	20,000.9	24,281.4	30,431.1	4,835.0
Total current liabilities	4,099.5	5,297.0	10,410.4	10,133.9	34,721.5	5,516.7
Net current assets	5,808.7	9,697.4	9,590.5	14,147.5	(4,290.4)	(681.7)
Property, plant and equipment	13,524.6	14,149.4	18,877.1	19,874.6	31,273.8	4,968.9
Total assets	26,187.4	32,338.6	62,432.6	72,755.9	97,151.6	15,435.8
Long-term bank borrowing	258.0	176.0	20,911.7	22,400.8	14,869.3	2,362.5
Equity attributable to our equity holders	21,417.5	26,755.1	29,151.8	37,331.9	42,634.5	6,773.9
<b>DIVIDEND DECLARED PER SHARE</b>						
A and H Shares	0.17	0.40	0.25	0.59	0.57	0.09
ADSs	1.70	4.00	2.50	5.9	5.7	0.9

(1) In this annual report, business taxes and surcharges have been reclassified as corresponding costs of each category of revenue to provide a more appropriate presentation. The same adjustments have been made to the corresponding prior year. The reclassification has no impact on the overall results of the Group. The attention of Shareholders and potential investors is drawn to such adjustments. For details, please see Note 2 of the consolidated financial statements attached to this annual report.

### Number of Shares Outstanding

The following table sets forth the number of our A Shares, H Shares and ADSs outstanding as of the dates indicated.

	As of December 31,				
	2007	2008	2009	2010	2011
A Shares	2,960,000,000	2,960,000,000	2,960,000,000	2,960,000,000	2,960,000,000
H Shares	1,958,400,000	1,958,400,000	1,958,400,000	1,958,400,000	1,958,400,000
ADSs	3,338,368	18,919,105	19,403,533	19,744,158	13,933,698

### Exchange Rate Information

The following table sets forth information concerning exchange rates between the Renminbi and the U.S. dollar for the periods indicated. These rates are provided solely for your convenience and are not necessarily the exchange rates that we use in this annual report or will use in the preparation of our periodic reports or any other information to be provided to you. The source of these rates is the Federal Reserve H.10 Statistical Release.

<u>Period</u>	<u>Period End</u>	<u>Average<sup>(1)</sup></u>	<u>High</u>	<u>Low</u>
(expressed in RMB per US\$)				
2005	8.0702	8.1826	8.2765	8.0702
2006	7.8041	7.9579	8.0702	7.8041
2007	7.2946	7.5806	7.8127	7.2946
2008	6.8225	6.9193	7.2946	6.7800
2009	6.8259	6.8295	6.8470	6.8176
2010	6.6000	6.7603	6.8330	6.6000
2011	6.2939	6.4475	6.6364	6.2939
September	6.3780	6.3885	6.3975	6.3780
October	6.3547	6.3709	6.3825	6.3547
November	6.3765	6.3564	6.3839	6.3400
December	6.2939	6.3482	6.3733	6.2939
2012				
January	6.3080	6.3119	6.3330	6.2940
February	6.2935	6.2997	6.3120	6.2935
March	6.2975	6.3125	6.3323	6.2981
April (through April 20, 2012)	6.3080	6.3052	6.3150	6.2975

(1) Determined by averaging the rates on the last business day of each month during the respective period, except for monthly averages, which are determined by averaging the rates on each business day of the month.

On April 20, 2012, the noon buying rate was US\$1.00 = RMB6.3080.

### B. Capitalization and Indebtedness

Not applicable.

### C. Reasons for the Offer and Use of Proceeds

Not applicable.

### D. Risk Factors

Our business, financial condition and results of operations are subject to various changing business, industry, competitive, economic, political and social conditions in China and worldwide. In addition to the factors discussed elsewhere in this annual report, the following are some of the important factors that could cause our actual results to differ materially from those projected in any forward-looking statements.

## **Risks Relating to Our Business and Industry**

### ***Our business and profitability are affected by global and local economic conditions.***

The coal industry depends on general economic conditions, including the conditions of global and local economies. For the past three years, the economies of the United States, Europe and certain countries in Asia experienced a severe and prolonged recession and China experienced a slowdown in overall economic growth, which has led to a reduction in economic activity. Moreover, in the second half of 2011, the European sovereign debt crisis worsened and international financial markets experienced significant volatility. In this regard, following GDP growth of 10.4% in 2010 and 9.2% in 2011, according to statistics published by the National Bureau of Statistics of the PRC, the PRC lowered its GDP growth target for 2012 to 7.5% in the face of continuing global turbulence and pressing domestic demand for economic restructuring. In the first quarter of 2012, the PRC's GDP grew at an annualized rate of 8.1%, according to statistics published by the National Bureau of Statistics of the PRC. Australia's overall economy, as well as its export-oriented coal industry, has also been adversely affected by these developments. The growth of the Australian economy was also affected by natural disasters, including flooding in Queensland in early 2011. Australia experienced GDP growth of 2.7% in 2010 and, according to the World Bank, Australia's GDP was expected to grow by 3.2% in 2011. The International Monetary Fund has forecasted Australia's GDP growth in 2012 to be 3.5%. From late 2008 to mid-2009, the export prices of thermal coal in the PRC and Australia both decreased significantly. Since late 2009, the export prices of thermal coal in China and Australia have recovered but continue to fluctuate. In addition, in the period from February 2011 to April 2012, demand for semi-hard coking coal declined considerably and demand for semi-soft coking coal also declined. The export coal market and, in particular, this segment of the market, are expected to remain weak for the balance of the current financial year, based on our analysis of market trends. Despite policies and initiatives implemented by the PRC government to alternately stimulate and then moderate economic conditions, recession or a decline in overall economic conditions may recur in the future. In the event of such a recession or decline in economic conditions, whether globally, locally in the PRC or Australia or in our other major markets, our business and profitability may be materially and adversely affected. In addition, increases in inflation and the consumer price index may put pressure on governments to maintain caps on the price of coal and to subsidize power generation companies. At various times, the PRC or Australian governments may implement policies to stimulate or slow the growth of the economy in the future which may, in turn, affect coal prices. In the event that this occurs, our business, results of operations and financial condition may be materially and adversely affected.

### ***Our business, results of operations and financial condition depend on volatile domestic and international coal markets.***

Coal sales accounted for 96.5%, 96.0% and 96.0% of our revenues in 2009, 2010 and 2011, respectively, and we expect our coal sales to continue to account for a substantial portion of our revenue. As we derive a substantial portion of our revenue from sales of coal and coal-related products, our business and operating results depend heavily upon supply and demand for coal and coal-related products in the domestic and international coal markets. Accordingly, we are vulnerable to downturns in the demand for coal, increases in supply of coal through new or expanded coal production and declines in coal prices.

The prices of coal and coal-related products have historically been volatile and fluctuate in response to general economic conditions, supply and demand and the level of global inventories. From the fourth quarter of 2008 through early 2009, the demand for coal decreased significantly as a result of the global financial crisis. Since 2009, overall demand for most types of coal in China and the rest of the world, along with coal prices, has generally recovered. The average selling price of our coal products was RMB529.2, RMB663.5 and RMB707.7 per tonne in 2009, 2010 and 2011, respectively. However, we cannot assure you that demand for and prices of coal will not decline again, the occurrence of which may adversely affect our business, results of operations and financial condition. Global coal demand correlates strongly with the global economy and the performance of coal-consuming industries, including the power generation, chemical, metallurgy and construction materials industries. In addition, the availability and prices of alternative energy sources to coal, as well as international shipping costs, also affect coal demand. Coal supply is primarily affected by the geographic location of coal reserves, transportation capacity, the level of domestic and international coal supplies and the type, quality and price of coal from various producers. Developments in the international coal market may adversely affect our overseas sales, which we expect to increase following the expansion of our Australian operations and the anticipated completion of the acquisition of Gloucester. A significant increase in global coal supply or reduction in demand for coal from key consuming industries may decrease coal prices, which in turn may reduce our profitability and adversely affect our business, results of operations and financial condition.

### ***Our domestic products may be subject to PRC government price control measures, which may materially and adversely affect our profitability.***

Although the PRC government has implemented measures to overhaul historical price and supply controls and continues to support the development of a market-oriented PRC coal market, it may intervene in the domestic coal market from time to time to stabilize the market and achieve national social and economic goals. For example, the State Council and the NDRC adopted measures in 2010 and 2011, respectively, to control the prices of thermal coal, pursuant to which prices of thermal coal supplied to power generation enterprises in 2012 must be no more than 5% higher than the thermal coal prices effective in 2011, and the spot prices of thermal coal (5,500 kcal/kg) received at major domestic ports are capped at RMB800 per tonne, inclusive of VAT. Such price-intervention measures may limit the degree of control we have over certain aspects of our business and may have a material and

adverse effect on our business, results of operations and financial condition.

***We derive a significant portion of our revenue from a limited number of customers, and the loss of, or a significant reduction in, sales to any of these customers could materially and adversely affect our business, results of operations and financial condition.***

We expect that our results of operations will continue to depend on sales to a limited number of customers for the foreseeable future. For the years ended December 31, 2009, 2010 and 2011, our top five customers accounted for 28.7%, 24.7% and 19.4% of our revenue, respectively, and sales to our largest customer accounted for 15.4%, 13.0% and 8.5% of our revenue, respectively. We may not be able to rely on these customers for revenue generation. We may experience reduction, delay or cancellation of orders from one or more of our significant customers, and any decline in the businesses of our customers could also reduce their purchase of our products. The loss of sales to any of these customers could have a material adverse effect on our business, results of operations and financial condition.

***We face risks associated with our sales contracts and letters of intent, which may materially and adversely affect our business, results of operations and financial condition.***

Sales of our coal produced in China are made primarily on the spot market or pursuant to letters of intent and to a lesser extent, pursuant to sales contracts. Sales of our coal produced in Australia are made pursuant to sales contracts. Our domestic sales contracts generally have terms of one year and specify the price, quantity and quality of coal and delivery schedule of coal. Our Australian sales contracts generally have terms of one year and specify the quantity and quality of coal and delivery schedule of coal, while the purchase price is determined every month or quarter by our customer and us, subject to market conditions. As such, if we experience a weak coal pricing environment that results in a decline in coal prices at the time of actual delivery, our revenue and profitability may be adversely affected. In addition, the renewal of sales contracts upon expiration of the term is not automatic but subject to mutual agreement between the relevant customer and us. If we are not able to maintain our sales contracts with our major customers on terms commercially acceptable to us or at all, our business, results of operations and financial condition may be adversely affected.

In addition, our letters of intent generally only specify the quantity and quality of coal and delivery schedule of coal, while the purchase price is determined on the basis of comparable prices in the spot market at the time of actual delivery. As a result, we are subject to market conditions at the time of actual delivery. Moreover, as letters of intent are not legally binding, customers entering into letters of intent with us are not obligated to purchase the agreed quantity of products, or any products at all. In addition, in accordance with industry practice, our customers do not enter into long-term contracts (those exceeding one year) with us. Therefore, we do not have long-term commitments from our customers to purchase our products, and our customers may reduce or stop purchasing products from us for various reasons such as decreases in demand for electricity and availability of similar products from our competitors. In addition, our lack of long-term contracts makes it difficult for us to make long-term business plans, which may also adversely affect our business, results of operations and financial condition.

***We rely primarily on ports, highways and private and national railway systems in the PRC and Australia to deliver our coal, any major disruption of which may adversely affect our business, results of operations and financial condition. We have limited ability to secure sufficient capacity on national railways to transport our coal products to target markets.***

We rely primarily on highways and our own railway network, as well as the PRC national railway system, to deliver coal to customers in China. The remaining portion of our sales of coal products, which comprise the invoiced amount of coal sold, net of returns and discounts, was transported through ports and canals. As to our domestic transportation on highways, our customers generally engage a transportation provider and will bear the costs and risks with respect to the transport of products. With respect to domestic transportation on the PRC national railway system, we generally enter into transportation agreements with the national railway authorities, with such transportation costs included in the invoices to be paid by our customers. Coal resources and production in China are mainly located in Northern and Northwestern China, while coal consumption is primarily in Eastern and Southern China. As a result, coal suppliers must transport coal via the PRC national railway system from major supply areas to major demand areas. Although the PRC government has taken steps to upgrade and expand the national railway system, its current capacity is not sufficient to meet the entire domestic coal transportation demand resulting from regional imbalances. Even though our domestic customers are mainly located in Eastern China, where the railway system is more developed than other regions of China, our ability to deliver coal is still restricted by the transportation capacity. The future development of our mining assets in Inner Mongolia may therefore require us to build our own railway system, which may require us to incur substantial costs and time. In addition, constructing and expanding the capacity of our own railway is subject to various approvals and permits granted by the relevant PRC authorities, and the cost of operating our own railway network may increase. In addition to railway transportation, we use major coal shipping ports along the coast of China to deliver coal to customers located along the coastal regions of China. However, we may not be able to continue securing sufficient railway or port capacity to deliver our coal and may experience material delivery delays or substantial increases in transportation costs as a result of insufficient railway capacity.

In Australia, we rely substantially on national and privately operated railway networks to deliver coal to ports in New South Wales and Queensland, for onward shipping to our customers. We generally enter into transportation agreements with national and privately operated railway networks, rail haulage operators and ports to secure transportation capacity, generally for terms of five to ten years and generally on a “take or pay” basis. As the transportation capacity secured by these agreements is based on assumed production volume, we may not have sufficient capacity if our actual production volume exceeds our estimated production volume. Conversely, we may have excess transportation capacity (which, in the case of “take or pay” agreements, we will have to pay for even if unused) if our actual production volume is lower than our estimated production volume. In addition, we may not be able to continue securing sufficient transportation capacity to deliver our coal in the future and may experience material delivery delays or substantial increases in transportation costs as a result of insufficient transportation capacity, which may also adversely affect our business, results of operations and financial condition.

***Competition in the PRC and the international coal industry is intensifying, and we may not be able to maintain our competitiveness.***

We face competition in all aspects of our business, including pricing, production capacity, coal quality and specifications, transportation capacity, cost structure and brand recognition. Our coal business competes in the domestic and international markets with other large domestic and international coal producers. The ongoing consolidation in the PRC and Australian coal industry has increased the level of competition we face in our core business. Our competitors may have higher production capacities, stronger brand names and more financial, marketing, distribution and other resources than we do. We may not be able to maintain our competitiveness if changes or developments in the market weaken our existing competitive advantages. Efforts taken by our competitors to improve the quality of their coal may erode any quality advantage we have over them.

Continual improvements in China’s transportation infrastructure, particularly the national railway transportation network, may reduce our proximity advantage of being located in Eastern China, the region with the highest coal demand in the PRC. Our principal competitors are located predominately in Shanxi Province, Shaanxi Province and the Inner Mongolia Autonomous Region, where there have been occasional rail capacity shortages and the average costs of transporting coal to Eastern China are higher. However, the PRC government has constructed and plans to continue constructing additional railways to transport coal from Northern China and Northwestern China to Eastern China. The improvement and completion of transportation infrastructure, including these railway projects, may increase the supply of coal to customers in Eastern China, which may have a material adverse impact on our business, results of operations and financial condition.

In addition, we face intense competition in Australia, particularly with respect to port and railway network access. As the majority of Australia’s coal is exported overseas, the ability to expand and guarantee port and railway network access is a critical factor for competing successfully in the Australia coal industry. In the past, we have taken action to expand and guarantee port and railway access to secure enough transportation capacity. However, we may not be able to expand and secure sufficient port and railway access and capacity in the future.

***We may not be able to meet our capital expenditure requirements or secure additional external financing in the future.***

Our business is capital intensive and will require substantial expenditures for, among other things, the acquisition of equity interests in and assets of coal mines as well as mining rights, purchase of and investment in properties, machinery and equipment and operational capital expenditures. In 2009, 2010 and 2011, our total capital expenditures were approximately RMB25,324.8 million, RMB3,785.3 million and RMB23,336.4 million, respectively, largely due to investment in our core coal businesses. We intend to use cash on hand, funds from operations and additional debt and equity financing to finance our capital expenditures going forward. However, we may not be able to obtain sufficient amounts of capital in a timely manner, on terms acceptable to us, or at all, which could result in a material adverse effect on our business, results of operations and financial condition.

Our business plans may change from time to time due to changing circumstances, new opportunities or unforeseen contingencies. If we change our business plans, we may need to obtain additional external financing which may include bank borrowings or issuances of debt securities to meet our capital expenditure plans. If we raise additional funds through debt financing, our interest and debt repayment obligations will increase and we may be subject to additional covenants that could limit our ability to access cash flows from operations. We may not be able to raise sufficient financing to fund our future capital expenditures or at all. Failure to obtain sufficient financing could cause delays or abandonment of business development plans and have a material adverse effect on our business, results of operations and financial condition.

***The coal reserve data in this annual report are only estimates, which may differ materially from actual reserve amounts.***

Our coal reserve data are only estimates, which may differ materially from actual reserve amounts. Our reserve estimates may change substantially if new information becomes available. There are inherent uncertainties in estimating reserves, which require the consideration of a number of factors, assumptions and variables, many of which may be beyond our control and cannot be ascertained despite due investigation.



In addition, reserve data for our PRC mines are typically estimated in accordance with Industry Guide 7 for proven and probable reserves, the JORC Code for reserves and PRC Standards for basic reserves. Reserve data for our Australian mines are typically estimated in accordance with the JORC Code. As the mining standards and mining terminology of the JORC Code and PRC Standards may differ substantially from Industry Guide 7, our reserve data may materially vary when we compile and present such data. As such, our actual results of operations may differ materially from our long-term business and operational projections, which are based on our coal reserve estimates. We may adjust our coal reserve estimates downward in the future, and in such event, our long-term production and the useful lives of our mines may be materially and adversely affected.

***Our business, results of operations and financial condition depend on in part our ability to continue acquiring or developing suitable coal reserves.***

The coal reserves in our existing mines decline as we produce coal. Due to limitations to significantly increase our production capacity at existing mines, the growth of our coal production depends on the coal reserves we developed recently or will develop in the future, as well as our newly acquired coal reserves and resources domestically and overseas. We acquired the following coal mines and mining rights from 2009 to the date of this annual report:

- In December 2009, we completed the acquisition of the entire equity interest in Felix, which had an equity interest in four operational mines and three exploratory mines in Australia.
- In December 2010, we acquired the operating assets of Anyuan Coal Mine. The approval, production permit and registration of this acquisition and transfer of the operating assets are still in progress. See “ – We cannot assure you that we will be able to obtain all necessary approvals, permits and licenses.”
- In January 2011, we acquired the mining rights of Zhuanlongwan Project located in the Dongsheng coalfield through public bidding for a consideration of RMB7.8 billion, of which a payment of RMB2.34 billion is currently pending. In addition, the approval, production permit and registration of the mining rights to Zhuanlongwan Project are still in progress.
- In May 2011, we acquired an additional 30% of the equity interest in the Ashton Coal Mine Joint Venture, which owns Ashton Coal Mine. This increased our ownership in the Ashton Coal Mine Joint Venture increased from 60% to 90%.
- In July 2011, we acquired 80% of the equity interest in Inner Mongolia Xintai, which operates Wenyu Coal Mine.
- In August 2011, we acquired the entire equity interest of both Syntech Holdings Pty Ltd. and Syntech Holdings II Pty Ltd., which jointly operate Cameby Downs Coal Mine in Australia.
- In December 2011, we acquired the entire equity interest of both Wesfarmers Premier Coal Limited (now called Premier Coal Limited), which operates Premier Coal Mine in Australia, and Wesfarmers Char Pty Ltd. (now called Premier Char Pty Ltd.).
- In December 2011, we and our subsidiary Yancoal Australia entered into a merger proposal deed with Gloucester (amended in March 2012), pursuant to which Yancoal Australia intends to implement a merger by way of a scheme of arrangement under the Australian law pursuant to which it or its wholly owned subsidiary will acquire all of the shares of Gloucester, and Gloucester’s shareholders will receive a combination of Yancoal Australia ordinary shares and CVR Shares, unless they elect to receive only Yancoal Australia ordinary shares.

The acquisition of new mines by PRC coal companies, either within China or overseas, and the procurement of related licenses and permits are subject to PRC government approvals. Delays in securing or failures to secure relevant PRC government approvals, licenses or permits, as well as any adverse change in government policies, may hinder our expansion plans, which may materially and adversely affect our future profitability and growth prospects. In connection with overseas acquisitions and expansion, we may encounter challenges due to our unfamiliarity with local laws and regulations, and may suffer foreign exchange losses on overseas investments or face political or regulatory obstacles to acquisitions. As a result of these challenges, overseas expansion plans and investments may not be successful and may not achieve their anticipated growth.

In addition, we may not be able to continue to identify suitable acquisition targets or acquire these targets on competitive terms, at an acceptable cost or in a timely manner. We may not be able to successfully develop new coal mines or expand our existing ones in accordance with our development plans, or at all. Failure to acquire suitable targets on competitive terms, develop new coal mines or expand our existing coal mines could have an adverse effect on our competitiveness and growth prospects.

Moreover, the acquisition of new mines or the grant of mining leases in Australia are subject to approval under Australia’s foreign acquisition legislation and policy, including the Foreign Acquisitions and Takeovers Act 1975 (Cth), which is administered by the Treasurer acting through the Foreign Investment Review Board. Such foreign investment approvals may be granted subject to conditions imposed by the Treasurer, including conditions requiring the divestment or sell down of existing interests in Australian mines. This foreign investment regime subjects us to additional risks and uncertainties, and may adversely impact our ongoing and potential expansion plans in Australia. In particular, the Treasurer has imposed a variety of conditions in connection with the approval of the planned Yancoal Australia and Gloucester Merger.

***We may experience difficulty integrating our acquisitions, which could result in a material adverse effect on our business, results of operations and financial condition.***

We may from time to time expand our business through acquisitions of other coal mining companies, assets or other coal or mining-related businesses. We are devoting significant resources to the integration of our operations in order to achieve the anticipated synergies and benefits of the acquisitions and expansion.

Acquisitions and expansion involve uncertainties and a number of risks, including:

- difficulty in integrating the assets, operations and technologies of the acquired companies or assets, including their employees, corporate cultures, managerial systems, processes and procedures and management information systems and services;
- complying with the laws, regulations and policies applicable to the acquired businesses;
- failure to achieve the objectives or benefits, or to generate sufficient revenue to recover the costs and expenses, resulting from the acquisition and integration of such companies or assets;
- managing relationships with employees, customers and business partners during the course of integrating new businesses;
- attracting, training and motivating members of our management and workforce;
- accessing our capital resources and internally generated funds to fund acquisitions, which may divert financial resources otherwise available for other purposes;
- strengthening our operational, financial and management controls, particularly those of our newly acquired assets and subsidiaries, to maintain the reliability of our reporting processes;
- difficulty in exercising control and supervision over the newly acquired operations, including failure to implement and communicate our safety management procedures resulting in additional safety hazards and risks; and
- potential ongoing financial obligations and unforeseen or hidden liabilities of the acquired companies or coal or potash-related businesses.

We may have difficulties assimilating the operations and products of newly acquired companies or businesses. We may also require additional funding for acquisitions and our inability to borrow additional amounts or refinance the existing debt associated with the acquired entities could adversely affect our business, results of operations and financial condition.

In addition, the continued integration of our acquisitions into our Company depends significantly on integrating other acquired employee groups with our employee groups and on maintaining productive employee relations. We may face possible difficulties in the management of overseas personnel and business operations including a potential increase in labor costs due to our overseas expansion and lack of experience in the local business environment.

Moreover, the continued integration of Yancoal Resources and Gloucester into Yancoal Australia specifically may be affected by the terms and conditions of the Merger, as the Merger will result in Yancoal Australia, other than the Excluded Assets, ceasing to be a wholly owned subsidiary of our Company, as we will hold 78% of the Yancoal Australia ordinary shares in issue immediately following the implementation of the Merger. As a result of this reduced control, we may not be able to influence the actions or implement the measures necessary to successfully integrate Yancoal Resources and Gloucester into Yancoal Australia. In the event that we are unable efficiently and effectively to integrate newly acquired companies or coal or potash-related businesses into our Company for whatever reason, we may be unable to achieve the objectives or anticipated benefits of such acquisitions, and such acquisitions may adversely impact our business, results of operations and financial condition. In addition, we may have to write down the carrying value of the intangible assets associated with any acquired companies, which could adversely affect our earnings.

***We may not be able to successfully complete the Merger in time or at all. Moreover, this transaction may not significantly increase our total resource base and strengthen our coal mining operations and market profit, globally and in Australia, as we expect.***

In December 2011, we and our subsidiary Yancoal Australia entered into a merger proposal deed with Gloucester (amended in March 2012), pursuant to which Yancoal Australia intends to implement a merger by way of a scheme of arrangement under Australian law pursuant to which it or its wholly owned subsidiary will acquire all of the shares of Gloucester, and Gloucester's shareholders will receive a combination of Yancoal Australia ordinary shares and CVR Shares, unless they elect to receive only Yancoal Australia ordinary shares.

Upon completion of the Merger, Gloucester will become a wholly owned subsidiary of Yancoal Australia, and the Company and Gloucester shareholders will hold 78% and 22%, respectively, of the ordinary share capital of Yancoal Australia. However, as a condition of the foreign investment approval for the Merger, we are required by the Treasurer to reduce our economic ownership in Yancoal Australia to less than 70% by December 31, 2013, and our economic ownership must not exceed 70% thereafter. Upon the expected completion of the Merger and fulfillment of the relevant ASX Listing Rules, Yancoal Australia will be listed on the ASX,

and its ordinary shares and CVR shares will be separately quoted for trading. As a condition of the foreign investment approval for the Merger imposed by the Treasurer, Yancoal Australia's listing on the ASX must be completed by December 31, 2012. In addition, it is a condition of the Merger that the repayment date for two of the three repayments of Yancoal Australia loans due 2012 and 2013 that financed the acquisition of Felix be extended by at least five years and that additional debt facilities in the amount of A\$700 million be obtained by Yancoal Australia. The Merger is subject to approvals of Australian regulatory agencies, PRC government and regulatory agencies, relevant stock exchanges, courts, Gloucester shareholder approvals, indebtedness limits for Yancoal Australia and Gloucester, as well as other closing conditions. Accordingly, Yancoal Australia's ability to consummate the Merger remains subject to risk and uncertainty, and we cannot assure you that the Merger will be carried out as currently contemplated.

Furthermore, prior to the Merger, certain Yancoal Australia Excluded Assets will be transferred from the Yancoal Australia group, either to the Company or our other subsidiaries, although the Excluded Assets will continue to be managed by Yancoal Australia. Most of the Excluded Assets will be subject to a right of first refusal in favor of Yancoal Australia. Under certain circumstances, two entities, namely Syntech (including Came by Downs) and Premier Coal, may also be transferred and sold back to Yancoal Australia on or shortly before December 31, 2014, either on agreed terms or at an independent valuation. Such a transaction will be subject to the relevant regulatory approvals and the approval of Yancoal Australia's shareholders.

Moreover, although we believe this transaction will significantly increase our total resource base and strengthen our coal mining operations and market profile in Australia and globally, we may face difficulty integrating the operations of Gloucester. The continued integration of Yancoal Resources and Gloucester into Yancoal Australia specifically may be affected by the terms and conditions of the Merger, as the Merger will result in Yancoal Australia, other than the Excluded Assets, ceasing to be a wholly owned subsidiary of our Company. As a result of this reduced control, we may not be able to influence the actions or implement the measures necessary to successfully integrate Yancoal Resources and Gloucester. See “— We may experience difficulty integrating our acquisitions, which could result in a material adverse effect on our business, results of operations and financial condition” and “— Our business, results of operations and financial condition depend on in part our ability to continue acquiring or developing suitable coal reserves.” As a result, this transaction may not significantly increase our total resource base or strengthen our coal mining operations and market profile in Australia and globally as we expect, which could result in a material adverse effect on our business, results of operations and financial condition. We also expect that, should the Merger be completed, we will make significant capital expenditures to develop Gloucester's projects and our existing indebtedness will be significantly increased, due to our assumption of existing indebtedness of Gloucester, as well as new indebtedness to be incurred in connection with the Merger.

***We may be required to allocate additional funds for land subsidence, restoration, rehabilitation and environmental protection.***

Underground and surface mining may cause the land above mining sites to subside and otherwise adversely affect the environment. We may compensate inhabitants in areas surrounding our mining sites for their relocation expenses or for any property loss or damage as a result of our mining activities. PRC regulations require us to set aside provisions to cover the costs associated with land subsidence, restoration, rehabilitation and environmental protection. An estimated provision is deducted as a cost and expense item in our income statement based on the amount of coal actually extracted. In addition, under the relevant Australian environmental regulations, rehabilitation costs are generally estimated in accordance with the expected costs of land rehabilitation. These land rehabilitation costs may exceed current estimates. Environmental legislation may also change, which could result in mandated modifications to mining operations that are costly.

In 2009, 2010 and 2011, we expensed approximately RMB1,733.3 million, RMB1,532.2 million and RMB1,513.1 million, respectively, of our provisions for land subsidence, restoration, rehabilitation and environmental protection as determined by our directors based on estimations of various factors, including past occurrences of land subsidence. However, the provisions that we make are only estimates and may be adjusted to reflect the actual effects of our mining activities on the land above and surrounding our mining sites. Therefore, such estimates may not be accurate and land subsidence, restoration, rehabilitation and environmental costs may substantially increase in the future. Moreover, governments may impose new fees or change the basis of calculating compensation and reclamation costs in respect of land subsidence, the occurrence of any of which could increase our costs and have a material adverse effect on our business, results of operations and financial condition.

***Our business and industry may be affected by the development of alternative energy sources and climate change.***

We supply coal as fuel to, among others, the PRC thermal power generation industry and, as a result, are affected by the demand and growth of the PRC thermal power industry, which in turn is affected by the development of alternative energy sources, climate change and global environmental factors. If alternative combustion technologies develop and reduce the demand for coal in electricity generation, then demand for coal in the PRC thermal power generation industry may decrease, which would materially and adversely affect its demand for our products.

In addition, coal combustion generates significant greenhouse gas and other pollutants, and the effects of climate change resulting from global warming and increased pollution levels may provide incentives for governments to promote or invest in “green” energy technologies such as wind, solar, nuclear and biomass power plants, or to reduce their consumption of conventional energy sources such as coal. While the majority of global energy consumption is from conventional energy sources such as coal, alternative energy industries are rapidly developing and are gradually gaining widespread acceptance. In particular, pursuant to the Twelfth Five-Year Plan, the PRC government plans to continue to encourage the development of non-fossil fuel energy sources, such as wind power, solar power, biomass and geothermal energy, in the next five years. As such, alternative energy industries may rapidly develop and gradually gain mainstream acceptance in the PRC and the rest of the world. If alternative energy technologies continue to develop and prove suitable for wide commercial application in the PRC and overseas, demand for conventional energy sources such as coal could gradually be reduced, which could have a material adverse effect on the coal mining industry and, consequently, our business, results of operations and financial condition. See “— Our business, results of operations and financial condition may be adversely affected by present or future environmental regulations.”

***We may not successfully diversify our operations to include new products or successfully manage our operations in new markets.***

One of our business strategies is to diversify our operations and enter into new markets. In addition to our core business of coal, we have been engaged in other operations, including coal chemical, rail transportation, methanol and electricity and heat generation. We also expanded into the potash business by acquiring the mining and exploration rights to potash resources in Canada in September 2011. Moreover, through Yancoal Australia, we conduct mining operations in Australia, and intend to further develop our operations there. However, we may not be able to successfully expand our product portfolio to include new products, such as potash, or to successfully manage our operations in new markets, such as Australia and Canada, with which we do not have significant operating experience, and as a result our competitiveness may be materially affected. In addition, our expansion into new markets includes various risks that are beyond our control. See “– We may experience difficulty integrating our acquisitions, which could result in a material adverse effect on our business, results of operations and financial condition.” As such, any of the foregoing could have a material adverse effect on our business, results of operations and financial condition.

***Exploration of mineral properties and development of resources could involve significant uncertainties.***

Exploration of mineral properties is speculative in nature. The success of any mining exploration program depends on various factors including, among other things, whether mineral bodies can be located and whether the locations of mineral bodies are economically viable to mine. As a result, we cannot assure you that any of our exploration activities will result in the discovery of valuable resources or reserves, or that reported resources can be converted into reserves in the future.

The development of these resources could face significant uncertainties. It can take several years and requires capital expenditures from the initial exploration phase until production commences, during which time market fundamentals, capital costs and economic feasibility may change, and the actual results may differ from those anticipated by third-party independent technical studies. Furthermore, there are a number of uncertainties inherent in the development and expansion of mining operations, including: (i) the availability and timing of necessary governmental permits, licenses and approvals; (ii) the timing and cost necessary to construct mining and processing facilities; (iii) the availability and cost of labor, utilities, and supplies; (iv) the accessibility of transportation and other infrastructure; and (v) the availability of funds to finance construction and production activities.

We currently have exploration projects in Australia and we may have additional exploration projects in the PRC, Canada and other countries and regions in the future. Exploration projects are subject to extensive environmental, health and safety laws and regulations. These laws and regulations set various standards regulating certain aspects of environmental quality and public and employee health and safety, including emissions, waste management and obligations to rehabilitate current and former facilities and locations where mining operations are or were conducted. We must undergo inspections by relevant government environmental authorities and obtain various environmental permits, licenses and approvals related to our mining operations. Any violation of these laws could lead to penalties and liabilities including a loss of our exploration permits or the imposition of costly compliance procedures. It is also uncertain whether the requisite approvals will be granted. In Australia, the ability to commence mining operations will depend, among other things, the grant of appropriate mining tenure, approvals, land access and coordination agreements where petroleum tenements, including with respect to coal seam gas, are situated nearby.

***We are exposed to fluctuations in exchange rates and interest rates.***

We face risks relating to fluctuations in exchange rates for RMB against other currencies, primarily those between the Australian dollar and the U.S. dollar. China has adopted a managed floating exchange rate system to allow the value of the Renminbi to fluctuate within a regulated band based on market supply and demand with reference to a basket of currencies. In April 2012, the PRC government further enlarged the trading band. In this regard, the PBOC has allowed the Renminbi to rise or fall 1% against the U.S. dollar from the central parity rate every day, effective April 16, 2012, compared with its previous 0.5% limit. It is possible that the PRC government could continue to adopt more flexible currency policy, which could result in further and more significant revaluations of the Renminbi against the U.S. dollar or any other foreign currency. We are primarily affected by exchange rate fluctuations that arise from our export sales denominated in Australian dollars and U.S. dollars, which may affect the RMB values of such export sales. In addition, exchange rate fluctuations can result in exchange losses on our foreign currency deposits and loans and other indebtedness. As of December 30, 2011, the exchange rate for the Australian dollar against the U.S. dollar was US\$1.00 = A\$1.0251, compared with US\$1.00 = A\$0.9840 as of December 30, 2010. We recorded an exchange gain of RMB2,665.4 million for the year ended December 31, 2010 and RMB518.6 million for the year ended December 31, 2011, respectively. Exchange rate fluctuations can affect our cost of imported equipment and components. See “Item 3. Key Information — Exchange Rate Information.”

We are exposed to interest rate risk caused by interest rate changes in relation to our bank borrowings and our other indebtedness, as well as our variable rate bank balances, term deposits and restricted cash held with banks. Our interest rate risk primarily arises from fluctuations in the PBOC benchmark interest rate in relation to our RMB-denominated borrowings, and fluctuations in the LIBOR in relation to our U.S. dollar-denominated borrowings. As of December 31, 2011, we had approximately US\$3,243 million of borrowings denominated in U.S. dollars, with the remaining borrowings denominated in RMB. A substantial majority of our borrowings denominated in RMB are linked to the benchmark lending rate published by the PBOC, which is subject to fluctuations as the PRC government will, from time to time, adjust interest rates and related policies as a matter of national economic policy.

In addition, a substantial majority of our borrowings denominated in U.S. dollars are linked to floating LIBOR rates which decreased in the second half of 2010 and first half of 2011 and then increased in the second half of 2011. Our lending rates may increase in the future as a result of reasons beyond our control, and may result in an adverse effect on our business, results of operations and financial condition.

To manage uncertainty in our revenue stream and capital expenditures caused by exchange rate fluctuations, we have entered into forward foreign exchange contracts to sell or purchase specified amounts of foreign currencies at stipulated exchange rates. We have also entered into interest rate swap contracts with banks to hedge a portion of our variable interest rate borrowings. As of December 31, 2011, the fair value of our derivative assets in respect of our forward foreign exchange contracts was RMB104.9 million, compared with the fair value liability of our forward foreign exchange contracts and interest rate swap contracts of approximately RMB222.1 million. See “Item 11. Quantitative and Qualitative Disclosures of Market Risks.” Our hedging arrangements may not be effective and our business, results of operations and financial condition may be materially and adversely affected by fluctuations in exchange rates or interest rates.

***Our substantial indebtedness could adversely affect our business, results of operations and financial condition.***

As of December 31, 2011, we had approximately RMB34,457.8 million in bank borrowings, of which approximately RMB19,588.5 million is due within a year and approximately RMB14,869.3 million is due after one year. In the first quarter of 2012, we did not enter into additional loan agreements. See “Item 5. Operating and Financial Review and Prospects — B. Liquidity and Capital Resource — Description of Material Indebtedness.” This level of debt could have significant consequences for our operations, including:

- reducing the availability of our cash flow to fund working capital, capital expenditures, acquisitions and other general corporate purposes as a result of our debt servicing obligations;
- limiting our flexibility in planning for, or reacting to, and increasing our vulnerability to, changes in our business, our industry and the general economy; and
- potentially limiting our ability to obtain, or increasing the cost of, any additional financing.

If we are not able to generate sufficient cash flow to service our debt obligations, we may need to refinance or restructure our debt, sell assets, reduce or delay capital investments, or seek to raise additional capital. If we are unable to implement one or more of these alternatives, our business, results of operations and financial condition may be materially and adversely affected.

***Our business, results of operations and financial condition are subject to resource taxes and we may not be able to pass on our increased costs relating to resource taxes to our customers.***

We currently pay a resource tax of RMB3.60 and RMB3.20 for each tonne of raw coal output in Shandong Province and Shanxi Province, respectively. The PRC government is considering changes to this tax whereby it would be based on pricing and not on volume. If such a change is adopted, we may not have the flexibility to pass on the increased costs to our customers, which could have a material adverse effect on our business, results of operations and financial condition. In addition, on March 29, 2012, the Australian MRRT became law, effective July 1, 2012. The MRRT is a profits-based tax that will be charged at an effective rate of 22.5% on the assessable profits (excess of annual mining revenue over annual mining expenditures with respect to mineral interests, less certain allowances) of, among others, coal mining enterprises. At this stage, the extent to which the implementation of the foregoing tax will affect our operations in Australia is yet to be determined. However, the MRRT has the potential to increase the overall tax liability of Yancoal Australia.

***Our Controlling Shareholder has significant influence over us.***

As of December 31, 2011, our Controlling Shareholder, the Yankuang Group, owned 52.86% of our outstanding shares and has significant influence over us. Pursuant to approval granted at the eighth meeting of the fifth session of the board of directors of the Company held on March 23, 2012, the Company entered into six continuing connected transaction agreements with the Yankuang Group, namely the Materials Supply Agreement, the Supply of Labor and Services Agreement, the Pension Fund Management Agreement, the Coal Products and Materials Supply Agreement, the Electricity and Heat Energy Supply Agreement and the Finance Service Agreement, together with the respective annual caps for such transactions from 2012 to 2014, in the ordinary course of business. The above agreements will become effective upon independent shareholders’ approval during the shareholders’ meeting that will be held on April 23, 2012. These related party transactions were reviewed and approved according to the procedures under relevant regulations and standards of the HKSE, SSE, NYSE and SEC. However, we may continue to enter into related party transactions with Yankuang Group and, as such, any material financial or operational developments experienced by the Yankuang Group that lead to the disruption of its operations or impairs its ability to perform its obligations under the agreements could materially affect our business, results of operations and financial condition and future prospects.

As our Controlling Shareholder, the Yankuang Group has the ability to exercise control over the Company's business and affairs, including, but not limited to, decisions with respect to:

- mergers or other business combinations;
- the acquisition or disposition of assets;
- the issuance of additional shares or other debt or equity securities; and
- management of our Company.

Accordingly, our Controlling Shareholder may vote, take other actions or make decisions that conflict with our interests or the interests of our other security holders.

***Our coal operations are extensively regulated by the PRC and Australian government, and government regulations may limit our activities and adversely affect our business, results of operations and financial condition.***

Our coal operations in China are subject to extensive regulation by the PRC government. National governmental authorities, such as the NDRC, the MEP, the MLR, the State Administration of Coal Mine Safety ("SACMS"), the State Administration of Work Safety, the National Energy Administration and the State Bureau of Taxation, as well as corresponding provincial and local authorities and agencies, exercise extensive control over the mining and transportation (including rail and sea transport) of coal within China. Our operations in Australia are subject to similar laws and regulations of general application governing mining and processing, land tenure and use, environmental requirements, including site-specific environmental licenses, permits and statutory authorizations, workplace health and safety, trade and export, competition, access to infrastructure, foreign investment and taxation. These regulations may be implemented by various federal, state and local government departments and authorities including the Department of Resources, Energy and Tourism, the Department of Sustainability, Environment, Water, Population and Communities, and the National Native Title Tribunal. Regulatory oversight from these authorities and agencies may affect the following aspects of our operations, among others:

- the use and granting of mining rights;
- access to land for mining and mining-related purposes;
- exploration and production licenses;
- rehabilitation of mining sites and surrounding areas;
- mining recovery rates;
- pricing of our transportation services for coal in China;
- taxes, levies and fees on our business;
- return on investments;
- application of capital investments;
- pension fund contributions;
- technological innovations;
- preferential tax treatment; and
- environmental and safety standards.

As a result of the foregoing regulation, our ability to execute our business strategies or to carry out or expand our business operations may be restricted. We are still in the process of obtaining or renewing some of the regulatory approvals, permits and licenses required for our business operations, and may experience substantial delays in obtaining such regulatory approvals, permits and licenses.

Our business may also be adversely affected by future changes in PRC or Australian regulations and policies that affect the coal industry. The adoption of new legislation or regulations or the new interpretation of existing legislation or regulations or changes in conditions attaching to approvals may materially and adversely affect our operations, our tax costs and cost structure or product demand. The occurrence of any of the foregoing may cause us to substantially change our existing operations, incur significant compliance costs and increase the risk of our future investment or prevent us from carrying out mining operations, which could have a material adverse effect on the profitability of our operations in Australia and our overall business, results of operations and financial condition. See "— Our business, results of operations and financial condition may be adversely affected by present or future environmental regulations" and "— Our business, results of operations and financial condition are subject to resource taxes and we may not be able to pass on our increased costs relating to resource taxes to our customers."

***We cannot assure you that we will be able to obtain all necessary approvals, permits and licenses.***

Pursuant to applicable laws and regulations in China, we are required to obtain or renew approvals, permits and licenses with respect to our exploration activities, mining operations and environmental protection. As of the date of this annual report, the following material approvals, permits and licenses have expired or need to be renewed:

- We are in the process of obtaining the permit for our acquisition of Anyuan Coal Mine, which is pending regulatory review and approval by the Inner Mongolia government authorities. In addition, we have not obtained the renewed mining license and coal production license for our operations at Anyuan Coal Mine after we expanded the production capacity in 2011. Furthermore, we have not renewed the scope of our business license to include coal mining and sales of coal at Anyuan Coal Mine, which we expect to renew after we obtain the renewed mining license and coal production license for Anyuan Coal Mine. Moreover, until we receive such approvals, we are prohibited from transferring or disposing of this mine. As of the date of this annual report, we are not aware of any pending administrative action, fines or penalties for the continued operation of Anyuan Coal Mine; however, until we obtain the relevant approvals, we remain subject to penalties imposed by the relevant government authorities, including a fine of up to RMB100,000 and the revocation of the business license of Anyuan Coal Mine.
- We are in the process of obtaining the mining license for Zhuanlongwan Project.
- We are in the process of obtaining the exploration licenses for Yingpanhao Project and Wanfu Project.
- We are in the process of renewing the water pollution discharge permits for the Six Coal Mines, Zhaolou Coal Mine and Wanfu Project.

Further, some of our PRC subsidiaries are in the process of applying for or will apply for land-use rights certificates or building ownership certificates. In addition, some PRC subsidiaries lease properties whose owners do not possess valid land-use rights certificates or building ownership certificates. We do not expect that our rights to use or occupy such properties will be challenged by third parties and as of the date of this annual report, we are not aware of any administrative or legal action with respect to these properties. However, we are prohibited from the transfer, lease, mortgage, or disposal of such properties until we obtain relevant real estate or building ownership certificates. In addition, we cannot assure you that administrative or legal action will not arise with respect to these properties, which could have a material adverse effect on our business and results of operations.

In addition to the above, a number of material Australian regulatory approvals, permits and licenses are pending, outstanding, have not been applied for as yet or have expired, including:

- surface mining leases for the development of proposed additional stages of the Moolarben Coal Mine, as well as agreements with affected landholders (including a competitor of Yancoal Australia), which are still in process;
- planning approval for the proposed additional “South East Open Cut” project of the Ashton Coal Mine, which has been refused by the relevant regulatory authority and as a result, Yancoal Australia has commenced a court appeal. In addition to the required planning approval, other approvals, permits and licenses, as well as agreement with affected landholders, will be required for this project; and
- approvals, permits and licenses relevant to the mines and projects operated by Gloucester, including new mining leases for the proposed longwall mining operations at two of its Donaldson mines, which are still in process. These outstanding Gloucester approvals, permits and licenses will only be relevant to use if the Merger is implemented.

If any of these or our other mining licenses, coal production licenses, safety production licenses or other certificates, approvals or permits are revoked, not renewed or not obtained, we could be required to cease operations of the affected mine or production facility. The loss of some or all of our mining licenses, coal production licenses, safety production licenses or other certificates, approvals or permits may have a material adverse effect on our business, results of operations and financial condition.

***Our business, results of operations and financial condition may be adversely affected by present or future environmental regulations.***

Our coal mining operations produce waste water, gas emissions and solid waste materials. In addition, surface mining operations also produce noise pollution. As a PRC and Australian coal producer, we are subject to extensive and increasingly stringent environmental protection laws and regulations. These laws and regulations:

- impose fees for the discharge of waste substances;
- require provisions for land reclamation and rehabilitation;
- impose fines and other penalties for serious environmental offenses;
- authorize the government to close any facility that fails to comply with environmental regulations and suspend any coal operation that causes excessive environmental damage; and
- establish the conditions (including environmental requirements) for domestic mining operations.



Due to the increasing awareness of environmental issues, the PRC government has tightened its enforcement of applicable laws and regulations and adopted more stringent environmental standards. In November 2009, the State Council announced that the PRC was committed to reducing carbon dioxide emissions per unit of GDP by 40% to 45% by 2020 from the level in 2005. In order to achieve this target, the PRC government plans to reduce reliance on fossil fuel-based energy and encourage the development of the clean energy industry and the non-fossil fuel-based energy industry. The PRC government has issued several plans relating to renewable energy development, energy conservation and emissions reduction. In particular, the PRC government has committed to increasing the proportion of total energy consumption from non-fossil fuel sources from the current level of 3% to 15% by 2020. On December 1, 2011, the State Council issued the Working Plan for the Control of Discharge of Greenhouse Gases under the Twelfth Five-Year Plan (“the Working Plan”), pursuant to which China plans to continue to increase the proportion of non-fossil fuels used as an overall primary energy source to 11.4% by 2015 and reduce the proportion of coal used as an overall primary energy source. In addition, pursuant to the Working Plan, the PRC government aims to reduce energy consumption per unit of GDP by 17% by 2015 compared to 2010.

Similarly, our Australian operations are subject to Australia’s stringent federal and state and territory environmental laws and regulations. In March 2012, the Australian government enacted a carbon pricing mechanism (or carbon tax) law, effective July 1, 2012, which will impose a charge on the amount of carbon dioxide emissions of enterprises with significant emissions, with an eventual transition to a “cap and trade” carbon emissions scheme. The carbon tax law imposes a charge based on tonnage of carbon dioxide equivalent (CO<sub>2</sub>-e) emissions, which is intended to disincentivize the use of fossil fuels such as coal.

In addition, there have recently been cases in New South Wales and Queensland relating to the environmental effects of greenhouse gas emissions produced as a result of coal mining. Compliance with laws and involvement in litigation can be expensive, lengthy and disruptive to normal business operations. If this area of law develops further, more stringent regulations may be developed, particularly in relation to greenhouse gas emissions, which could increase the costs of using coal and reduce demand for coal as a fuel source, thus adversely affecting the sales volumes and prices of our coal.

If efforts to increase energy efficiency, control greenhouse gas emissions and enhance environmental protection result in a decrease in coal consumption, our revenue may decrease and our business may be adversely affected. In addition, our budgeted amount for environmental regulatory compliance may not be sufficient, and we may need to allocate additional funds for this purpose. If we fail to comply with current or future environmental laws and regulations, we may be required to pay penalties or fines or take corrective actions, any of which may have a material adverse effect on our business, results of operations and financial condition.

Moreover, Australian environmental approval processes require a technical environmental assessment to be prepared prior to granting approval, as well as public consultation. Community groups may lobby for more restrictive conditions to be imposed on approvals granted or for the approval to be declined, either of which may result in a material adverse effect on our business and results of operations.

***Our ability to operate effectively could be impaired if we lose key personnel, including mine planners, or if we are unable to attract and retain skilled and qualified personnel.***

Our operations, to a substantial extent, rely on the services of our key employees with professional skills, qualifications and experience, including mine planners. We may not be able to continue to employ our key personnel or attract and retain skilled and qualified personnel and the loss of any of these personnel could materially and adversely affect our operations.

As our mining operations expand, we believe our success will depend on our continued ability to attract and retain skilled and qualified personnel. Any difficulty in attracting, recruiting, training and retaining skilled and qualified personnel could materially and adversely affect our business, results of operations and financial condition.

***Our operations may be affected by uncertain mining conditions.***

Our operations are subject to certain risks inherent in underground mining, which may affect the safety of our workforce or cost of producing coal, including without limitation, roof collapses, deterioration in the quality or variations in the thickness of coal seams, mine water discharge and flooding, inclement weather, explosions from methane gas or coal dust, ground falls and other mining hazards. Additionally, we are exposed to operational risks associated with industrial or engineering activities, such as maintenance problems or equipment failures. Although we conduct geological assessments on mining conditions and adapt our mining plans to the mining conditions at each mine, adverse mining conditions may endanger our workforce, increase our production costs, reduce our coal output or temporarily suspend our operations. The occurrence of any of the foregoing events or conditions would have a material adverse impact on our business, results of operations and financial condition.

***We may suffer losses resulting from mining safety incidents.***

Our coal mines and operating facilities may be damaged by water, gas, fire or cave-ins due to unstable geological structures. In addition, operations at our mining sites involve the operation of heavy machinery and explosives. Like other coal mining companies, we have experienced accidents that have resulted in property damage and personal injuries. Although we have implemented safety measures at our mining sites, trained our employees on occupational safety and maintain liability insurance for personal injuries as well as limited property damage for certain of our operations, safety incidents may occur. Any significant accident, business disruption or safety incident could harm our reputation, result in substantial uninsured costs and the diversion of our resources, which could materially and adversely affect our business, results of operations and financial condition.

***We face price volatility and intense competition in our methanol operations.***

We entered the PRC methanol market and commenced production of coal-based methanol at Tianhao Chemicals and Yulin Nenghua in September 2008 and August 2009, respectively. In 2009, 2010 and 2011, we generated revenue of RMB258.9 million, RMB629.3 million and RMB1,059.3 million from sales of methanol, respectively, which represented 1.3%, 1.9% and 2.3% of our total revenue for the same periods, respectively.

The methanol business is a cyclical and competitive commodity industry with rapidly changing supply and demand fundamentals. In recent years, the domestic methanol industry suffered from significant overcapacity following a period of rapid expansion. In addition, stagnant market demand for methanol further exacerbated the oversupply. Although the PRC methanol benchmark price continued to increase from 2009 to 2011, the market demand of methanol is not expected to grow significantly in the short term, primarily because the conventional methanol downstream market shrinks and the emerging methanol downstream market are subject to policy and technology constraints.

We expect our methanol prices to be affected by a number of factors, including, without limitation:

- global and domestic methanol production;
- global energy prices;
- methanol plant utilization rates, capacity expansions and shutdowns;
- global economic conditions;
- compliance costs and environmental risks; and
- competition from low-cost methanol producers.

As of the end of 2011, we had a total methanol production capacity of 700,000 tonnes. We may not be able to optimize the utilization of our new facilities as planned. For example, Tianhao Chemicals has not been able to procure a steady supply of key raw material from its sole supplier of coke oven waste gas and has not been able to maintain steady operations, which significantly curtailed its production in 2010 and 2011. We are currently seeking to secure a supply of key raw material from different suppliers. However, we may not be able to successfully do so, which could affect our operations and result in decreased production in 2012. In addition, we are currently constructing a 600,000-tonne methanol project in Ordos City, Inner Mongolia, which we expect to become operational in 2013. If our projections for the domestic methanol market prove incorrect or if we are unable to otherwise compete effectively, we may not recover the capital and resources we have invested in our methanol operations and realize the intended benefits of our business expansion. In either event, our business, results of operations and financial condition will be adversely affected.

***Our insurance will not cover all the potential risks associated with our operations.***

Our business is subject to a number of risks and hazards generally, including adverse environmental conditions, industrial accidents, labor disputes, unusual or unexpected geological conditions, ground or slope failures, changes in regulatory environment and natural phenomena such as inclement weather conditions, floods, earthquakes and fires. Such occurrences could result in damage to mineral properties or production facilities, personal injury or death, environmental damage to our properties or properties of others, delays in development or mining, monetary losses and possible legal liability. Customary to what we believe to be industry practice, we have maintained insurance to protect against certain risks in such amounts we consider to be reasonable. However, our insurance may not cover all potential risks associated with our operations. We may also be unable to maintain insurance to cover these risks at economically feasible premiums and may not be able to pass on any increased costs relating to insurance to our customers. If such costs exceed the levels which we expect, there could be a material adverse effect on our business, results of operations and financial condition.

***We may not be able to protect our patents or other intellectual property rights, which could have a material adverse effect on our business.***

From 2009 to 2011, we completed 166 technology improvement projects, and obtained 64 patents and over 150 technology-advancement prizes, which have enhanced our coal mining and related business operations. Further, we own other intellectual property such as proprietary technologies procedures and processes. We believe our patents and other intellectual property rights are important to our success. Existing laws in China offer limited protection for our intellectual property rights. We rely upon a combination of patents, confidentiality policies, nondisclosure and other contractual arrangements to protect our intellectual property rights. We cannot assure you that we will be able to detect any unauthorized use of, or take appropriate, adequate and timely actions to enforce, our intellectual property rights. Consequently, we may not be able to effectively prevent unauthorized use of our patents in other countries where such patents are not registered.

Historically, China has not protected intellectual property rights to the same extent as has the United States and Hong Kong. The measures we take to protect our intellectual property rights may not be adequate, and monitoring and preventing unauthorized use is difficult. The protection of our intellectual property may be compromised as a result of (i) expiration of the protection period of our registered intellectual property rights, (ii) infringement by others of our intellectual property rights; (iii) refusal by relevant regulatory authorities to approve our pending patent applications. Furthermore, the application of laws governing intellectual property rights in China and abroad is uncertain and evolving, and could involve substantial risks to us. If we are unable to adequately protect our intellectual property rights, our reputation may be negatively impacted and our business may be materially and adversely affected.

***The audit report included in this annual report is prepared by an auditor who is not inspected by the Public Company Accounting Oversight Board and, as such, you are deprived of the benefits of such inspection.***

Auditors of companies that are registered with the SEC and traded publicly in the United States, including our independent registered public accounting firm, must be registered with the United States Public Company Accounting Oversight Board (the "PCAOB") and are required by the laws of the United States to undergo regular inspections by the PCAOB to assess their compliance with the laws of the United States and professional standards in connection with their audits of financial statements filed with the SEC. Because we have substantial operations within the Peoples' Republic of China and the PCAOB is currently unable to conduct inspections of the work of our auditors as it relates to those operations without the approval of the Chinese authorities, our auditor's work related to our operations in China is not currently inspected by the PCAOB.

This lack of PCAOB inspections of audit work performed in China prevents the PCAOB from regularly evaluating the audits performed by Grant Thornton and its quality control procedures. As a result, investors are deprived of the full benefits of PCAOB inspections of auditors.

The inability of the PCAOB to conduct inspections of audit work performed in China makes it more difficult to evaluate the effectiveness of our auditor's audit procedures as compared to auditors in other jurisdictions that are subject to PCAOB inspections on all of their work. Investors may lose confidence in our reported financial information and procedures and the quality of our financial statements.

## **Risks Relating to the PRC**

***Changes in China's economic, political and social conditions as well as governmental policies could affect our business, results of operations and financial condition.***

China's economy differs from the economies of more developed countries in many aspects, including the structure of the economy, level of government involvement, level of development, growth rate, control of capital investment, control of foreign currency and allocation of resources. China's economy has been in transition from a planned economy to a more market-oriented economy. For the past three decades, the PRC government authorities have implemented economic reform measures to emphasize market forces in economic development. The PRC government authorities from time to time implement various macroeconomic and other policies and measures, including contractionary and expansionary policies and measures at times of, or in anticipation of, changes in China's economic conditions. Economic reform measures, however, may be adjusted, modified or applied inconsistently from industry to industry or across different regions of the country. As a result, we may not continue to benefit from all, or any, of these measures. We cannot predict whether changes in the PRC's political, economic and social conditions, laws, regulations and policies will have any adverse effect on our current or future business, results of operations and financial condition.

***Uncertainties with respect to the PRC legal system could limit the protections available to us.***

The PRC legal system is a civil law system based on written statutes. Prior court decisions may be cited for reference but have limited precedential value. Since 1979, PRC legislation and regulations have significantly enhanced the protections afforded to various forms of foreign investments in China. However, since many laws, rules and regulations are relatively new, and as the PRC legal system continues to evolve rapidly, the interpretations of many laws, regulations and rules are not always uniform. Enforcement of these laws, regulations and rules involve uncertainties, which may limit legal protections available to us. For example, we may have to resort to administrative and court proceedings to enforce legal protections under law or contract. Since PRC administrative and court authorities have significant discretion in interpreting and implementing statutory and contractual terms, it may be more difficult to evaluate and predict the outcome of PRC administrative and court proceedings and the enforceability of rights in China as compared to more developed legal systems. These uncertainties may impede our ability to enforce contracts with future partners, service providers and suppliers. We cannot predict the effect of future developments in the PRC legal system, particularly with regard to the coal mining industry in China, including the promulgation of new laws, changes to existing laws or the interpretation or enforcement thereof, or the preemption of local regulations by national laws. These uncertainties could limit the legal protections available to us. In addition, any litigation in China may be protracted and result in substantial costs and diversion of our resources and management attention.

***Government control of currency conversion and future movements in exchange rates may adversely affect our business, results of operations and financial condition.***

A portion of our Renminbi revenue may need to be converted into other currencies to meet our substantial requirements for foreign currencies, including debt service on foreign currency denominated debt, overseas acquisitions of mining properties, purchases of imported equipment, and payment of dividends declared in respect of shares held by international investors.

Foreign exchange transactions under the capital account, including principal payments with respect to foreign currency denominated obligations, are subject to the approval requirements of SAFE. In addition, the value of Renminbi against the U.S. dollar and other currencies may fluctuate and is affected by, among other things, changes in China's political and economic conditions. Fluctuations in the exchange rate of the Renminbi against the U.S. dollar, the Australian dollar and certain other foreign currencies may adversely affect our business, results of operations and financial condition. For further information, please see "Item 11. Quantitative and Qualitative Disclosures of Market Risks — Foreign Currency Exchange Rate Risk."

***Our subsidiaries are subject to restrictions on the payment of dividends to us.***

Our ability to meet our payment obligations under the Guarantees partially depends on the dividends that we receive from our subsidiaries. The ability of our subsidiaries to pay dividends to their shareholders is subject to, among other things, distributable earnings and restrictions contained in the articles of association of our subsidiaries. The ability of our subsidiaries in the PRC to pay dividends to us is subject to the requirements of PRC laws and regulations. PRC laws and regulations permit payment of dividends only out of accumulated profits as determined in accordance with PRC accounting standards and regulations. Such profits differ from profits determined in accordance with IFRS in certain significant respects, including the use of different bases of recognition of revenue and expenses. Our PRC subsidiaries are also required to set aside a portion of their after-tax profits according to PRC accounting standards and regulations to fund certain reserves that are not distributable as such dividends.

**Risks Relating to Australia**

***Coal mining operations in Australia have inherent title risks associated with renewal and native title rights.***

Interests in tenements in Australia are governed by the respective State and Territory legislation and are evidenced by the granting of licenses or leases. Each license or lease is for a specific term and carries with it annual expenditure and reporting commitments, as well as other conditions requiring compliance. Consequently, we could lose title to or our interest in tenements if license or lease conditions are not met or if insufficient funds are available to meet expenditure commitments.

It is also possible that, in relation to tenements which we have an interest in or will in the future acquire, there may be areas over which legitimate native title rights of Aboriginal Australians exist. If native title rights do exist, our ability to gain access to tenements (through obtaining consent of any relevant landowner), or to progress from the exploration phase to the development and mining phases of operations, may be adversely affected. The tenements in which we have an interest are subject to applications for renewal. There is a risk that these applications will not be granted or transfers not approved.

All of the granted tenements in which we have or may earn an interest in will be subject to applications for renewal or grant (as the case may be). The renewal or grant of each tenement or license is usually at the discretion of the relevant government authority which will consider various factors, including our compliance with any conditions placed on an existing license, when making its decisions. It is possible that the government authority may reject our applications for renewal or grant, in which case, our operations in Australia may be adversely affected.

Additionally, tenements are subject to a number of specific legislative conditions including payment of rent and meeting minimum annual expenditure and reporting commitments. Our inability to meet these conditions could affect the standing of a tenement or restrict its ability to be renewed. If a tenement is not renewed, we may suffer significant damage through loss of the opportunity to discover and/or develop any mineral resources on that tenement.

***Coal mining operations in Australia are subject to certain domestic operational risks.***

Our coal mining operations in Australia are subject to certain domestic operational risks, which include the following.

*Land access.* The granting of mining tenure does not remove the need to enter into land access arrangements with third-party land holders (where the land underlying the mining tenure is owned by a third party). In some cases, the underlying land may be owned by a competitor, pastoralist or other third parties. In addition, elements of the agricultural industry and other groups are opposed to the future development of land for mining or mining-related purposes. These groups are actively lobbying the relevant government entities or seeking public support in an effort to limit the amount of land available for mining, and to make access arrangements for mines more difficult.

*Coordination agreements.* Coal mining tenure in Australia is frequently granted over land over which coal seam gas tenure has or may be granted. Where coal mining and coal seam gas tenures overlap, it is necessary for the coal miner and coal seam gas producer to enter into a coordination agreement. Where overlapping tenure exists, mining operations cannot commence without a coordination agreement. In some cases, the interests of the coal miner and coal seam gas producer may not be aligned and accordingly, mining operations may be delayed or adversely affected.

*Environmental conditions and action groups.* Before any mining tenure is granted in Australia, it is required that a comprehensive public environmental assessment on the impact of the proposed mining operations be undertaken. Such an assessment involves a public consultation process, which often involves encountering organized environmental or community groups that seek to restrict or block contemplated mining operations. Generally, where environmental approvals are granted, conditions are frequently imposed that materially affect mining operations.

**The risks associated with our joint ventures in Australia may have a material adverse effect on our business, results of operations and financial condition.**

Yancoal Australia, through Yancoal Resources, holds majority equity interests in joint ventures including the Moolarben joint venture, Ashton joint venture and Athena joint venture. Following the Merger, Yancoal Australia, through Gloucester, will also have an approximately 50% interest in the Middle mount joint venture, and Yancoal Australia's interest in the Athena joint venture will be transferred to the Company or another subsidiary. We may continue to seek opportunities to form additional joint ventures with third parties to develop business. Risks associated with joint ventures include the possibility that the joint venture partners, which in certain cases may be our competitors, may:

- have economic or business interests or goals that are inconsistent with ours;
- take actions contrary to our policies or objectives with respect to their investments, for instance, by vetoing proposals in respect of the joint venture operations;
- be unable or unwilling to fulfill their obligations under the joint venture or other agreements; or
- experience financial or other difficulties.

Any of the foregoing may have a material adverse effect on our business, results of operations and financial condition. In addition, the termination of any joint venture agreements, if not replaced on similar terms, could have a material adverse effect on our business, results of operations and financial condition.

## **ITEM 4. INFORMATION ON THE COMPANY**

### **A. History and Development of our Company**

#### ***Overview***

Yanzhou Coal Mining Company Limited was established on September 25, 1997 as a joint stock company with limited liability under the Company Law of the PRC (the "Company Law"). The predecessor of our Company, Yanzhou Mining Bureau, was established in 1976. With the approval of the former State Economic and Trade Commission and the former Ministry of Coal Industry in 1996, the predecessor was incorporated under the name Yanzhou Mining (Group) Corporation Limited and subsequently renamed Yankuang Group Corporation Limited after undergoing a reorganization in 1999.

In 1999, the Minister of Foreign Trade and Economic Cooperation, the predecessor of the Ministry of Commerce, approved our conversion into a Sino-foreign joint stock company with limited liability under the Company Law and the Sino-Foreign Joint Venture Law of the PRC.

Our contact information is:

Business address : 298 South Fushan Road  
Zoucheng, Shandong Province  
People's Republic of China (273500)  
Telephone number : (86) 537 538 2319  
Website : <http://www.yanzhoucoal.com.cn>  
(the contents of our website do not form part of this annual report)

### **Acquisitions**

We have been involved in several acquisitions in 2011, a description of which is as follows:

#### **Inner Mongolia Xintai**

Ordos Neng Hua acquired 80% of the equity interests in Inner Mongolia Xintai for a total consideration of RMB2,801.6 million in November 2011. Inner Mongolia Xintai operates Wenyu Coal Mine. For details of Wenyu Coal Mine, see “— D. Property, Plant and Equipment — Coal Mines and Coal Production Facilities — Wenyu Coal Mine.”

#### **Syntech Resources Pty Ltd and Syntech Holdings II Pty Ltd in Australia**

Austar Company acquired the entire equity interest in Syntech Resources Pty Ltd. and Syntech Holdings II Pty Ltd., for a consideration of A\$201.6 million in August 2011. Upon the completion of the equity transfer, Austar Company owns Cameby Downs Coal Mine and operates the Syntech Project. For details of the Cameby Downs Coal Mine and Syntech Project, see “— D. Property, Plant and Equipment — Coal Mines and Coal Production Facilities — Cameby Downs Coal Mine.”

#### **Wesfarmers Premier Coal Limited and Wesfarmers Char Pty Ltd in Australia**

Austar Company acquire the entire equity interest in Wesfarmers Premier Coal Limited and Wesfarmers Char Pty Ltd., for a consideration of A\$296.8 million in December 2011. Wesfarmers Premier Coal Limited is engaged in the exploration, production and processing of coal and Wesfarmers Char Pty Ltd. is engaged in research and development of the technology and procedures relating to processing coal char from low grade coal. Upon the completion of the equity transfer, Austar Company will own Premier Coal Mine. For details of Premier Coal Mine, see “— D. Property, Plant and Equipment — Coal Mines and Coal Production Facilities — Premier Coal Mine.”

#### **19 Potash Mineral Exploration Permits in Canada**

The Company acquired 11 potash mineral exploration permits and eight potash mineral exploration permits, for a total consideration of US\$260 million in September 2011. For details of these potash mining rights, see “— D. Property, Plant and Equipment — Mining Rights — 19 potash mineral exploration permits in Canada.”

#### **Establishment of Yancoal International (Holding)**

We established Yancoal International (Holding) in Hong Kong on July 13, 2011 as the management platform for our overseas business and assets. Yancoal International (Holding) established three wholly owned subsidiaries in Hong Kong on July 20, 2011, namely Yancoal International Trading Co., Limited, Yancoal International Technology Development Co., Limited and Yancoal International Resources Development Co., Limited. Yancoal International (Holding) established another wholly owned subsidiary, Yancoal Luxembourg Energy Holding Co., Limited, in Luxembourg on September 16, 2011 and Yancoal Luxembourg Energy Holding Co., Limited established its wholly owned subsidiary, Yancoal Canada in Canada on August 18, 2011.

#### **Gloucester Acquisition**

In December 2011, we and our subsidiary Yancoal Australia entered into a merger proposal deed with Gloucester (amended in March 2012), pursuant to which Yancoal Australia intends to implement a merger by way of a scheme of arrangement under Australian law pursuant to which it or its wholly owned subsidiary will acquire all of the shares of Gloucester, and Gloucester's shareholders will receive a combination of Yancoal Australia ordinary shares and CVR Shares, unless they elect to receive only Yancoal Australia ordinary shares.

Upon completion of the Merger, Gloucester will become a wholly owned subsidiary of Yancoal Australia, and the Company and Gloucester shareholders will hold 78% and 22%, respectively, of the ordinary share capital of Yancoal Australia. However, as a condition of the foreign investment approval for the Merger, we are required by the Treasurer to reduce our economic ownership in Yancoal Australia to less than 70% by December 31, 2013, and our economic ownership must not exceed 70% thereafter. Upon the expected completion of the Merger and fulfilment of the relevant ASX Listing Rules, Yancoal Australia will be listed on the ASX, and its ordinary shares and CVR Shares will be separately quoted for trading. As a condition of the foreign investment approval for the Merger imposed by the Treasurer, Yancoal Australia's listing on the ASX must be completed by December 31, 2012. In addition, it is a condition of the Merger that the repayment date for two of the three repayments of Yancoal Australia loans due 2012 and 2013 that were used to finance the acquisition of Felix be extended by at least five years and that additional debt facilities in the amount of A\$700 million be obtained by Yancoal Australia. The Merger is expected to be completed in June or July 2012, and is subject to approvals of Australian regulatory agencies, PRC government and regulatory agencies, relevant stock exchanges, courts, Gloucester shareholder approvals, indebtedness limits for Yancoal Australia and Gloucester as well as other closing conditions. Accordingly, Yancoal Australia's ability to consummate the Merger remains subject to risk and uncertainty, and we cannot assure you that the Merger will be carried out as currently contemplated.

Moreover, prior to the Merger, certain Yancoal Australia Excluded Assets will be transferred from Yancoal Australia, either to the Company or our other subsidiaries, although the Excluded Assets will continue to be managed by Yancoal Australia. Most of the Excluded Assets will be subject to a right of first refusal in favor of Yancoal Australia. Under certain circumstances, two entities, namely Syntech (including Cameby Downs) and Premier Coal, may also be transferred and sold back to Yancoal Australia on or shortly before December 31, 2014, either on agreed terms or through independent valuation. Such a transaction will be subject to the relevant regulatory approvals and the approval of Yancoal Australia's shareholders.

After the Merger, Yancoal Australia is expected to continue offering diversified coal products through the development of seven operating mines in Australia and attributable coal reserves of 701 million tonnes (817 million tonnes on a 100% basis), not including the Excluded Assets<sup>(1)</sup>. Yancoal Australia will be supported by its interests in infrastructure holdings, including in Newcastle Infrastructure Group and the parent company of the developer of the Wiggins Island Coal Export Terminal, and its ability to utilize the port facilities of New South Wales and Queensland, Australia. We also believe this transaction will significantly increase our total resource base and strengthen our coal mining operations and market profile in Australia and globally.

### ***Acquisition of Coal Mines From Yankuang Group***

On April 23, 2012, Yankuang Group and its wholly owned subsidiary, Beisu Company and our Company entered into an Assets Transfer Agreement, pursuant to which we will purchase from Yankuang Group and Beisu Company all of the assets and liabilities of Beisu and Yangcun. The assets we will purchase includemining rights, building ownership certificates, mining and related equipment and other fixed assets, as well as certain equity investments of Beisu and Yangcun and in Beisheng Industry and Trade, Shengyang Wood and Jiemei Wall Materials. Entering into the Assets Transfer Agreement constitutes a connected transaction of our Company under Chapter 14A of the Hong Kong Listing Rules.

The consideration for the Target Assets was determined by the appraised net asset value of the Target Assets, or RMB824,142,300, as appraised by Beijing China Enterprise Appraisal as of the valuation date, or August 31, 2011. The appraisal value was approved by the SASAC of the Shandong Provincial Government on April 16, 2012. The consideration will be paid for in cash upon the commencement of delivery of the Target Assets to our Company.

### ***Bond Offerings***

#### **The Proposed RMB Bond Offering**

At our 2012 First Extraordinary General Meeting held on February 8, 2012, our shareholders passed a resolution approving the issuance of an RMB-denominated corporate bond of up to RMB15 billion in the PRC domestic market (the "RMB Bond Offering"). Yankuang Group will provide an irrevocable and joint liability guarantee in respect of the RMB-denominated bonds. On March 23, 2012, the Issuance Examination Committee of the CSRC approved our application for the first tranche of the RMB Bond Offering equivalent to RMB5 billion. As of the date of this annual report, the RMB Bond Offering has not yet been completed and the terms and conditions of the RMB Bond Offering have not been finalized.

#### **The Proposed US\$ Bond Offering**

At our 2012 Second Extraordinary General Meeting held on April 23, 2012, a resolution was passed approving our US\$-denominated bonds offering of up to US\$1 billion for a term of not exceeding ten years through Yancoal International Resources Development Co., Limited, a second-tier wholly owned subsidiary of the Company incorporated in Hong Kong (the "US\$ Bond Offering"). The Company will provide a guarantee for the US\$ Bonds to be issued, which will cover the principal amount, the interests payable and related expenses incurred by the creditors for enforcing the principal amount. Pursuant to applicable PRC laws and regulation, the guarantee to be provided by the Company is subject to approval by SAFE. On April 24, 2012, the Company obtained approval from SAFE to guarantee indebtedness of Yancoal International Resources Development Co., Limited incurred

outside the PRC in connection with the US\$ Bonds for a principal amount of up to the equivalent of US\$1 billion and all interest and relevant expenses incurred in relation to the US\$ Bonds. As of the date of this annual report, the details of the US\$ Bond Offering have not been finalized.

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<sup>(1)</sup> The Excluded Assets include Cameby Downs and Premier Coal Mine, which had recoverable reserves of 409.0 million tonnes (as of December 1, 2011) and 141.0 million tonnes (as of December 31, 2010), respectively. Before the Merger becomes effective, the Excluded Assets will be transferred to the Company (or a subsidiary of the Company that is not also a subsidiary of Yancoal Australia).



### ***Capital Expenditures***

Our principal source of cash in 2011 was cash generated from our operating activities and bank borrowings. Our capital expenditures in 2011 were primarily for operational capital expenditures, purchase of properties, machinery and equipment, payment of dividends, and considerations for our acquisitions of assets and equity interest.

The following table sets forth a summary of our capital expenditures in the periods indicated:

	<b>Year Ended December 31,</b>			
	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2011</b>
	<b>RMB</b>	<b>RMB</b>	<b>RMB</b>	<b>US\$</b>
	<b>(in millions)</b>			
Coal mining	24,086.5	3,298.0	22,736.5	3,612.5
Coal railway transportation	11.4	34.5	40.9	6.5
Electricity power and methanol	1,220.0	452.8	555.2	88.2
Undistributed items	—	—	—	—
Corporate	7.0	—	3.8	0.6
<b>Total</b>	<b><u>25,324.9</u></b>	<b><u>3,785.3</u></b>	<b><u>23,336.4</u></b>	<b><u>3,650.6</u></b>

Our planned capital expenditures for 2012 are in the amount of approximately RMB11,810.3 million. For more information, see “Item 5. Operating and Financial Review and Prospects — B. Liquidity and Capital Resources — Capital Expenditures” in this annual report.

### ***Potential Takeovers by Third Parties***

There were no indications of any public takeover offers by third parties in respect of our common shares in 2011.

## B. Business Overview

We are one of the primary coal producers in China with rapidly growing coal mining operations in China and Australia. We primarily engage in the mining, washing, processing and distribution of coal through railway transportation. We offer a wide variety of coal products including thermal coal, semi-hard coking coal, semi-soft coking coal, pulverized coal injection (“PCI”) coal and other mixed coal products which are sold to power plants, metallurgical mills, chemical manufacturers, construction material manufacturers and fuel trading companies in China and other countries, including Japan and South Korea. Since 2004, we have expanded our operations to include the production of coal chemicals, the generation of electricity and heat and the potash exploration business.

As of December 31, 2011, we owned and operated 16 coal mines across regions with abundant and quality coal resources, including Shandong, Shanxi and Inner Mongolia in China, as well as Queensland and New South Wales in Australia. In addition, as of December 31, 2011, we had eight developmental-stage projects in China and Australia and 17 exploration tenements in Australia that might be potentially developed.

We directly own and operate six coal mines in the PRC, namely, Nantun, Xinglongzhuang, Baodian, Dongtan, Jining II and Jining III, which produced approximately 61.1% of our total coal output in 2011. As of December 31, 2011, the Six Coal Mines had approximately 1,762.8 million tonnes of in-place proven and probable reserves. Through our subsidiaries, we also hold equity interests in a number of coal mines in China. Shanxi Nenghua operates Tianchi Coal Mine, which holds approximately 26.6 million tonnes of recoverable reserves, and Heze Nenghua operates Zhaolou Coal Mine, which holds approximately 103.6 million tonnes of recoverable reserves. Since December 1, 2010, Ordos Neng Hua has operated Anyuan Coal Mine and Wenyu Coal Mine, which have approximately, in aggregate, 81.7 million tonnes of basic reserves. In addition, we had four projects in China that were under development as of December 31, 2011.

The map below shows the approximate locations of the Domestic Coal Mines.



We conduct our operation in Australia primarily through our subsidiary, Yancoal Australia. Yancoal Australia currently operates ten coal mines in Australia. These include the operational coal mines Astar, Yarrabee, Ashton and Moolarben, which collectively held approximately 473.6 million tonnes of JORC-compliant reserves as of June 30, 2011, Cameby Downs, which held approximately 409.0 million tonnes of JORC-compliant reserves as of December 1, 2011, and Premier Coal Mine which held approximately 141.0 million tonnes of JORC-compliant reserves as of December 31, 2010, as well as the developmental-stage projects Athena, Harrybrandt, Wilpeena and Wilga. In addition, we had 17 exploration tenements in Australia with potential for developments as of December 31, 2011.

The map below shows the approximate locations of the Australian Coal Mines.



As of December 31, 2011, we were 52.86% owned by our parent, the Yankuang Group, which is wholly owned by the Shandong Provincial Government under the control of SASAC of the Shandong Provincial Government. The Yankuang Group was founded in 1973 to focus on coal mining and sales, the coal chemical industry, power generation, aluminum production and machinery manufacturing. We were established in 1997 and listed on the SSE, HKSE and NYSE in 1998.

Our revenue increased from RMB20,677.1 million in 2009 to RMB33,944.3 million in 2010 and further to RMB47,065.8 million in 2011, representing a CAGR of 50.9%. Our profit attributable to our equity shareholders increased significantly from RMB4,117.3 million in 2009 to RMB9,281.4 million in 2010 but slightly decreased to RMB8,928.1 million in 2011.

### ***Our Competitive Strengths***

We believe we have the following competitive strengths.

#### **We are one of the leading coal mining companies in the PRC with a successful operating track record and strong industry reputation.**

We commenced operations in the PRC in 1997, and expanded overseas to Australia in 2004 and Canada in 2011. We were the third-largest listed coal producer in the PRC in terms of total coal reserves and coal production in 2011. We have built a successful operating track record and have experienced significant growth since our inception. Our revenue increased from RMB20,677.1 million in 2009 to RMB33,944.3 million in 2010 and further to RMB47,065.8 million in 2011, representing a CAGR of 50.9%. Our profit attributable to our equity shareholders increased significantly from RMB4,117.3 million in 2009 to RMB9,281.4 million in 2010 but slightly decreased to RMB8,975.6 million in 2011. We have received several significant awards and recognitions, including:

- ranking 407th in the Global Top 500 among all companies in all industries globally in terms of total market value according to the *Financial Times* in 2011;
- ranking 22nd in the Platts Top 250 Global Energy Company Rankings in 2011;
- Best Board of Directors Award for Main Board Listed Companies in China awarded by *Money Week* in 2011;
- National Quality Award awarded by the China Association for Quality in 2011; and
- Best Corporate Governance Award for Listed Companies awarded by the Corporate Governance Net and the Research Center of Corporate Governance of Nankai University in 2010.

#### **We have an abundant and diversified portfolio of coal reserves and resources strategically located in key areas in the PRC and Australia.**

We are one of the primary coal producers in the PRC, with rapidly growing coal mining operations in Australia and China. Our mines have significant coal reserves and resources. As of December 31, 2011, in China, we had total proven and probable reserves of 1,762.8 million tonnes, recoverable reserves of 130.2 million tonnes and basic reserves of 81.7 million tonnes. Our total raw coal production in 2011 was 55.7 million tonnes. As of December 31, 2011, we owned directly or indirectly through our subsidiaries ten operational coal mines and four developmental-stage projects in China across regions with abundant and high quality coal resources totalling 5,318 million tonnes, according to our internal estimates. We directly operate the Six Coal Mines and have control of, and mining and exploration rights to, four operational coal mines and four developmental-stage projects in Shandong, Shanxi and Inner Mongolia through our operating subsidiaries in China. We have expanded and upgraded our mining operations by deploying

advanced technologies developed from multiple sources, including those from our research and development initiatives, in the coal production process. We are positioned to take advantage of coal demand in the PRC as our mines in Shandong and Shanxi are strategically located in close proximity to end customers that are situated in economically developed areas of Eastern China where there is strong demand for thermal and coking coal. In addition, the developed infrastructure of the region, with railways, ports and roads, self-owned railways, and abundant port capacity, provides valuable access to transport and enables us to quickly respond to customer demand while controlling our transportation and logistics costs. At the same time, our growing operations in Inner Mongolia are expected to provide us with increased access to markets in Northern China.

In addition, as of December 31, 2011, we have control of, and mining and exploration rights to, six operational coal mines and four developmental-stage projects in Australia through our operating subsidiaries. Our operational coal mines Astar, Yarrabee, Ashton and Moolarben collectively held approximately 473.6 million tonnes of JORC-compliant reserves as of June 30, 2011, Cameby Downs held approximately 409.0 million tonnes of JORC-compliant reserves as of December 1, 2011, and Premier held approximately 141.0 million tonnes of JORC-compliant reserves as of December 31, 2010. In addition, we had 17 exploration tenements in Australia that might be potentially developed as of December 31, 2011. Our Australian coal mines are strategically located in close proximity to ports where we have secured sufficient long-term port capacity for our exports. Yancoal Australia owns a 15.4% interest in Newcastle Infrastructure Group (“NCIG”), a joint venture responsible for constructing and operating the third export terminal at Newcastle Port, the largest coal export port in New South Wales, and will have an annual port capacity of 8.3 million tonnes through NCIG’s facility when it reaches its full design capacity. Yancoal Australia also has an annual port capacity of 5.3 million tonnes at Newcastle Port through Port Warratah Coal Services (“PWCS”) facility in 2012 pursuant to the agreement between Yancoal Australia and PWCS and 5.7 million tonnes per year starting from 2013. Upon the completion of the development of PWCS terminal 4 in 2016, Yancoal Australia is expected to obtain additional allocated annual port capacity through that new terminal. In addition, Yancoal Australia owns a 5.6% interest in Wiggins Island Coal Export Terminal Holdings Pty Limited, which is the parent company of the developer of the Wiggins Island Coal Export Terminal, and has been allocated an annual port capacity of 1.5 million tonnes in 2014 through that terminal at Gladstone Port. We believe these allocated port capacities will support our current export sales and our future growth for the next five years.

**We have a strong track record of acquisitions and expansions domestically and overseas to secure and grow our coal reserves and business scale.**

We have successfully expanded our domestic and overseas operations through acquisitions and expansions of our coal mine operations. Our acquisitions have transformed our Company from a regional Chinese coal company to an international enterprise with a well-diversified assets portfolio in the PRC and Australia. We have organically grown through the development of our domestic coal mines and projects, mining technologies, research and development and commitment to quality control. From 2006 to 2011, we successfully increased our raw coal production from 36.0 million tonnes to 55.7 million tonnes. These measures have enabled us to build a strong base from which we have expanded overseas. In addition, the success of our expansion activities has also been facilitated by our consistent execution of our acquisition strategy. The first component of this strategy has been to expand our operations in the PRC. Beginning in 2006, we have completed a number of acquisitions of coal mine and mining-related assets in the PRC, including Shanxi Nenghua and Heze Nenghua. In 2010, we acquired 51% of the equity interest in Haosheng Company and acquired an additional 10% equity interest in 2011. In 2010, we established Ordos Neng Hua, our investment management platform for coal mining, coal chemicals and a coal power project in Inner Mongolia, which in 2010 acquired 100% of the equity interest in a 600,000 tonne per annum methanol project and all the assets of Anyuan Coal Mine in the same year. In January 2011, Ordos Neng Hua obtained the mining rights of Zhuanlongwan coalfield through public bidding and in July 2011 acquired 80% of the equity interest in Inner Mongolia Xintai, which operates the Wenyu Coal Mine.

In addition to our PRC acquisitions, we have rapidly expanded our operations in Australia to secure the region’s abundant high-quality coal reserves. In this regard, in 2004, we had the insight and execution capability to become the first PRC coal company to acquire and operate an overseas coal mine, the Astar Coal Mine. We subsequently acquired Felix in 2009, which had equity interests in three operational mines with total JORC-compliant reserves of 429.4 million tonnes as of June 30, 2011 and three exploration mines in Australia. We successfully brought Moolarben, one of the three exploration projects, into production in 2010. In 2011, we acquired Cameby Downs which held approximately 409.0 million tonnes of JORC-compliant reserves as of December 1, 2011 and Premier Coal Mine which held approximately 141.0 million tonnes of JORC-compliant reserves as of December 31, 2010. We and our subsidiary Yancoal Australia also entered into a merger proposal deed in December 2011 with Gloucester, which currently has control of, and equity interests in three operational mines and an exploratory project in Australia and holds 343.7 million tonnes of JORC-compliant reserves as of February 23, 2012. After the completion of the Merger, Yancoal Australia is expected to be the largest listed Australian pure-play coal mining enterprise in terms of saleable coal production in 2011. To further diversify our product portfolio and grow our business operations, we acquired 19 potash mineral exploration permits in Canada in 2011.

**We have strong support from the PRC government.**

We were established by the Yankuang Group, a wholly owned subsidiary of SASAC of the Shandong Provincial Government, upon approval by the Ministry of Coal Industry in 1997. From then, the majority of our directors and senior management have maintained close professional relationships with the PRC government decision-makers, regulatory authorities and industry experts. The majority of directors and officers of Yankuang Group are jointly appointed by the Organization Department of the Communist Party of China and SASAC of the Shandong Provincial Government.

As a significant state-owned enterprise based in Shandong Province, we receive and have benefited from various forms of government support. In 2011, our total assets and revenue were both the fourth largest in Shandong Province, and our total profit was the second-largest among all PRC coal enterprises. As a result of our strong domestic performance, the PRC government has encouraged our overseas development through its “Go Out” policy, which has facilitated our overseas expansion and acquisitions. We have received priority foreign investment review and “green channel” arrangements from the relevant government entities, which allow us to enjoy substantially shortened governmental review and approval periods for our expansion and acquisition plans, enabling us to quickly respond to acquisition opportunities as they arise. These policies have facilitated our overseas growth, as we expanded to Australia through the establishment of Yancoal Australia in 2004 and the acquisition of Felix in 2009, and further to Canada, through the acquisition of the mining and exploration rights to potash resources in Canada in 2011. Upon the expected acquisition of Gloucester, Yancoal Australia will likely become the largest coal mining company in Australia in terms of saleable coal production in 2011. Upon the expected acquisition of Gloucester, we would further expand our operations in Australia.

In addition, we have received government support for our domestic operations and foreign expansion, including financing arrangements at reduced costs, preferential tax and foreign exchange treatment and governmental subsidies for our foreign investment projects. These measures have enabled us to rapidly grow and to maintain our competitiveness, while reducing our investment and acquisition costs, which enable us to increase our profits.

### **We have industry-leading research and development capabilities.**

We maintain our competitiveness, increase the efficiency of our mining operations and reduce costs through technology and innovation. In line with our development strategy with a focus on technology innovation, we have established a multi-layer development system consisting of various entities, including technology and professional committees and technology centers, as well as cooperation with external research institutions and organizations with specialized technology-development capabilities. We have accumulated extensive experience and expertise in coal mining and coal processing, particularly with respect to underground raw coal mining technology. For example, we have patented our independently developed technology for longwall top caving mining in the PRC, Australia and South Africa and received the State Scientific and Technological Progress Award (Second Place) by the National Office for Science and Technology Awards of the PRC in 2009. Our longwall top caving mining method has been adopted by various international coal mining enterprises, such as DBT. In addition, Bucyrus International, one of the largest coal mining equipment suppliers worldwide, entered into a technology license agreement with us in 2010 to manufacture and implement our longwall top caving coal mining equipment in Australia. Furthermore, Peabody, one of the world’s largest coal companies, entered into a license agreement in 2011 with us to develop and commercialize longwall top caving coal mining equipment. From 2009 to 2011, we completed 166 technology improvement projects, and obtained 64 patents and over 150 technology-advancement prizes, which have enhanced our coal mining and related business operations. We believe our achievements in, and capabilities with respect to, research and development, will enable us to continue increasing our production efficiency and utilization rates of our coal resources, while reducing our operating costs.

### **We have established strong relationships with our diversified and stable customer base.**

As a result of our superior product quality and competitive position, we have established strong long-standing relationships with our diversified customer base, which comprises power plants, metallurgical mills, chemical manufacturers and construction material manufacturers with strong market reputations and good credit quality. As of December 31, 2011, our top five customers were Huadian Power International Corporation Limited (“Huadian International”), Baoshan Iron & Steel Co., Ltd., POSCO, Yankuang Meihua Gongxiao Co., Ltd. and Linyi Yehua Coking Co., Ltd. We have cooperated with these customers for an average of nine years. For the year ended December 31, 2009, 2010 and 2011, our sales income to our top five customers accounted for 28.7%, 24.7% and 19.4%, respectively, of our total sales income. In addition to the stable revenue base founded on the long-standing relationships with our top five customers, we also have a large, diversified customer base in the PRC. Outside of China, we substantially increased revenues generated in Japan and South Korea from 3.6% of overall revenues in 2009 to 13.2% in 2011. We believe the secure, long-term nature of our relationships with key customers, as well as our diversified revenue generation sources across China and the Asia region, will help manage market and cyclical fluctuations and support stable growth.

### **We have a strong and experienced management team with a proven track record.**

Our senior management team has extensive industry knowledge and management experience. LI Weimin, the Chairman of our Company and WANG Xin, the Vice-Chairman of our Company, both have approximately 30 years of experience in the coal mining and engineering industries, and have been instrumental to our achievements and development to date. Other members of our senior management team provide strong strategic direction and leadership for our Company, which we believe will sustain our success and position us for continued growth. A majority of our senior management team have over 20 years of experience in the coal, coal mining and engineering industries and general business management. Our day-to-day operations are managed by a capable team with significant operational experience and management ability. We have a strong on-the-ground management team at Yancoal Australia, which has enabled us to grow our Australian operations. We have a highly skilled and loyal workforce comprising individuals with significant industry experience.

## ***Our Business Strategies***

Our long-term objective is to maintain our leading position in the PRC and global coal industry and diversity our operations to sustain our growth. The principal components of our strategy are to:

### **Maintain our leading domestic industry position and expand our operations overseas by increasing our coal reserves and resources and developing our projects.**

In accordance with our twelfth five-year development strategy, we plan to continue to expand our coal reserves and resources through organic growth by taking advantage of the exploration potential under our existing coal mines and exploration permits. In the PRC, in addition to stabilizing coal production within Shandong Province and increasing production outside of Shandong Province, we are dedicated to further exploring and developing new coal resources and constructing or upgrading projects to optimize our coal production. We are currently developing four projects in China: Wanfu, Shilawusu, Zhuanlongwan and Yingpanhao. In addition, we are currently applying to the relevant PRC government authorities for new exploration permits to exploit new coal reserves.

Since 2004, we have acquired six new coal mines, four developmental-stage projects as well as 17 exploration tenements that might be potentially developed in Australia. We plan to continue to expand our coal reserves, resources and production scale through organic growth by pursuing exploration potential, developing and constructing new projects and upgrading our existing mines. In the PRC, we are dedicated to bringing our four development projects, Wanfu, Shilawusu, Zhuanlongwan and Yingpanhao, into successful production. According to our internal estimates, as of December 31, 2011, Wanfu, Zhuanlongwan, Shilawusu and Yingpanhao held approximately 291 million tonnes, 548 million tonnes, 2,168 million tonnes and 2,311 million tonnes of coal resources, respectively. We also plan to increase and optimize production at our existing mining operations. In addition, we are currently applying to the relevant PRC government authorities for new exploration permits to identify and exploit new coal reserves.

In Australia, we intend to execute our strategy by fully developing our significant portfolio of high-quality assets containing abundant reserves and resources. Upon the expected completion of the Merger, and not including the Excluded Assets, Yancoal Australia is expected to be the largest listed Australian pure-play coal mining enterprise in terms of saleable coal production in 2011, on an equity basis. Assuming the Merger proceeds and not including the Excluded Assets, we expect to increase our total annual saleable coal production to 16 million tonnes in 2012, as well as ramp-up production at Moolarben and optimize production profiles at other mines. Leveraging our increased economies of scales and stronger internal cash flow generation capabilities, we plan on developing the resource potential at our four projects: Athena, Harrybrandt, Wilpeena and Wilga, through additional exploration and ongoing project development. Upon completing the Merger, we will include the ASX as the fourth stock exchange on which the securities of our Company or a subsidiary of our Company are listed, which currently include the SSE, HKSE and NYSE. In addition, we anticipate that being listed on four stock exchanges in four separate jurisdictions will enhance our ability to raise capital and our market profile. Furthermore, we intend to construct the necessary facilities and plan the commencement of operations of four coal projects in Australia: Athena, Harrybrandt, Wilpeena and Wilga. We believe our organic growth will enable us to enhance our market profile.

### **Continue to explore, evaluate and pursue future acquisition opportunities.**

We plan to expand our asset portfolio through exploring and pursuing future mergers and acquisitions in China and Australia in a disciplined manner. To further increase our coal reserves and strengthen our competitiveness in China, we plan to capture opportunities provided by coal industry trends and government initiatives to evaluate opportunities to acquire and integrate small-scale coal mines. By leveraging our scale, management and technological strengths, we believe we can efficiently integrate and optimize these acquisitions.

Building on the proposed Merger with Gloucester, we plan to leverage our strong market position and industry experience to continuously identify and selectively evaluate available acquisition opportunities. We intend to pursue the acquisition of additional coal mines in Australia at a well-managed pace to complement our organic growth strategies, while expanding production at our existing coal mines, which we believe will enable us to achieve greater economies of scale. We are also currently applying to the relevant Australian government authorities for new exploration permits to exploit new coal reserves.

### **Continue to enhance our operating efficiency to lower our costs.**

We believe improving our efficiency and cost control measures are critical elements for maximizing our profitability and maintaining our competitiveness. We intend to continue our research and development efforts to improve our coal production systems, processing technologies and coal mine designs, which will allow us to increase our resource utilization rates and production efficiency while reducing our costs. To this end, we expect to continue deploying advanced mining facilities and technologies, such as our mechanized top caving coal mining equipment and other advanced mining techniques. We also intend to continue enhancing the management efforts of, and conduct periodic reviews of, certain coal mines to improve productivity and reduce costs.

**Continue to leverage our technical and industry expertise to pursue product improvement and enhance our competitive position domestically and abroad.**

Since our inception in 1997, we have accumulated extensive technical and industry expertise through our internal research and development efforts, which have yielded award-winning mining technologies that have improved coal recoverability, mining efficiency and operational safety. We plan to build upon these achievements by continuing our internal research and development efforts and cooperating with third parties to bolster our methods and technology. We expect to leverage our technical and industry expertise to improve the mining recovery rates of our mines, which will allow us to generate additional income. In the domestic and international markets, we plan to explore cooperative opportunities including providing our technical and industry expertise to other coal mining companies in the PRC and Australia that have mining operations characterized by thick coal seams.

**Continue to diversify our operations.**

To grow our business and maintain our competitiveness, we expect to further diversify our operations. Currently, we are able to offer our customers thermal coal and metallurgical coal products as a result of our diversified coal resources. We intend to develop and introduce new coal products to meet market demand. In addition to our coal products, we have diversified our operations in recent years to include railway transportation, methanol operations and electricity and heat operations. We also intend to further expand our methanol operations and develop new products and services such as coal liquefaction. In addition, we have recently acquired potash mineral exploration permits in Saskatchewan Province in Canada. We expect to further develop these potash assets and bring to market selected potash products in the near future, which we believe will further diversify our product offerings, and enable us to secure a new source of revenue. We believe that by enhancing our product portfolio and maintaining our competitive pricing and value-added coal processing services, we will be able to continue building strong relationships with diverse customers. In addition, a more balanced product portfolio will also enable us to minimize the effects of market fluctuations of certain products and stabilize our sales, while allowing us to adjust our product portfolio as necessary, which will enable us to take advantage of favorable pricing trends of specific products.

**Strengthen our existing customer relationships while diversifying our customer base.**

Our long operating history, industry reputation, product quality and strategic location in Shandong have allowed us to build stable, long-standing relationships with a strong customer base in the PRC. We intend to preserve this competitive advantage by strengthening our existing customer relationships through, among other efforts, evaluating and entering into long-term supply agreements. We expect our senior management's industry network and customer connections with large coal end users in the PRC and customer and supplier enterprises overseas in Australia and Canada to complement and further support our customer relationship enhancement strategy.

With the strengthening of Yancoal Australia's production profile, we have and will continue to explore export opportunities to key coal-consuming nations across the Asia-Pacific region. Leveraging our existing market reach and industry position in markets to which we currently sell, we intend to further diversify our revenue sources by developing relationships with selected new coal end user customers with market reputations and credit profiles consistent with our existing customer base.

**Continue to prioritize production safety and environmental protection in our domestic and overseas operations.**

We are committed to production safety and protecting the environment. In our PRC operations, we have implemented a safety control program to achieve the targets set in our internal guidelines for safety and risk control management and to maintain compliance with the PRC Coal Industry Law and the National Mining Safety Law in China. In Australia, we have been continuously reviewing and evaluating safety control and performance. We will continue our efforts in this regard by enhancing our internal safety measures and ensuring that our employees are familiar with occupational safety and health guidelines. We will continue to enhance our internal control systems and regularly inspect our mining operations to ensure they comply with the relevant mining laws and regulations of the jurisdiction where the mining operation is located. In addition, we are committed to conducting our operations in a manner that fully complies with environmental laws and regulations. While mining processes inherently generate certain pollution and wastes, we will continue to implement measures, such as environmental remediation and other clean-up measures, to mitigate the adverse effect of our operations on the environment.

***Coal Business***

We are primarily engaged in the production of coal, which involves the mining, washing, processing and distribution of coal. Historically, our coal operations were primarily based in the PRC, but we began our operations in Australia in 2004 after we acquired the Auster Coal Mine, and have rapidly expanded our Australian coal operations since the fourth quarter of 2009 when we acquired Felix. Our products consist primarily of thermal coal, semi-soft coking coal, semi-hard coking coal, PCI coal and other mixed coal products which are suitable for power generation and metallurgical production. The following table sets forth the specifications and principal applications of our coal products.



	<b>Sulfur Content</b>	<b>Range of and Average Ash Content</b>	<b>Calorific Value</b>	<b>Washed</b>	<b>Principal Applications</b>
	<b>%</b>	<b>%</b>	<b>(megajoule/kilogram)</b>		
<b>The Company</b>					
No. 1 clean coal	0.43	7-8 average 7.75	26-28 average 28	Yes	Metallurgical production
No. 2 clean coal	0.52	8-9 average 8.55	26-28 average 27.73	Yes	Metallurgical production, construction, liquefied coal production
No. 3 clean coal	0.57	10-11 average 10.32	26.3-26.9 average 26.79	Yes	Electricity generation and coal chemical production
Lump coal	0.48	9-14 average 9.81	25-28 average 27.86	Yes	Construction, power generation, coal for oven application
Screened raw coal	0.6	18-27 average 25.7	20-23.5 average 21.36	No	Power generation
Mixed coal	0.94	22-30 average 29.42	18-22 average 19.89	Yes	Power generation
<b>Shanxi Nenghua</b>					
Screened raw coal	0.96	27-30, average 29.01	21-23, average 21.38	No	Power generation
<b>Heze Nenghua</b>					
No. 2 clean coal	0.63	8-9, average 8.45	average 29.23	Yes	Metallurgical production, construction, coal slurry
Mixed coal and others	1.12	average 33.85	average 18.15	Yes	Power generation
<b>Ordos Neng Hua</b>					
Screened raw coal	<0.60	7.85-13.00	20.90-21.33	No	Power generation
<b>Yancoal Australia</b>					
Semi-hard coking coal	1.30	5.0	average 33.18	Yes	Metallurgical production
Semi-soft coking coal	0.65	9.5	average 29.82	Yes	Metallurgical production, construction
PCI coal	0.7	9.5-10.5	average 30.66	Yes	Metallurgical production
Thermal coal	0.5-0.6	13.5-17.0	27.30-27.93	No	Power generation

The following table sets forth our principal coal products by sales volume and sales income of coal for the periods indicated. For the purposes of the table below, the figures of sales income and sales volume include inter-segment sales.

	Year Ended December 31,					
	2009		2010		2011	
	Sales volume ('000 tonnes)	Sales income <sup>(1)</sup> (RMB in millions)	Sales volume ('000 tonnes)	Sales income <sup>(1)</sup> (RMB in millions)	Sales volume ('000 tonnes)	Sales income <sup>(1)</sup> (RMB in millions)
<b>The Company</b>	33,330	17,507.3	33,657	21,324.8	33,276	22,827.6
No. 1 clean coal	694	526.6	691	677.2	534	587.9
No. 2 clean coal	8,362	6,414.4	9,002	8,771.2	8,950	9,373.4
No. 3 clean coal	1,717	1,156	1,560	1,293.7	2,222	1,969.3
Lump coal	1,402	1,036.8	1,297	1,206	1,786	1,845.5
Screened raw coal	17,100	7,359.6	16,726	8,085.5	13,495	6,714.0
Mixed coal and others	4,055	1,013.4	4,381	1,290.7	6,289	2,337.5
<b>Shanxi Nenghua</b>	986	289.5	1,498	572.3	1,223	572.1
Screened raw coal	986	289.5	1,498	572.3	1,223	572.1
<b>Heze Nenghua</b>	16	8.3	1,079	833.0	2,004	1,829.2
No. 2 clean coal	5	4.9	546	603.2	1,211	1,471.0
Screened raw coal	2	1.2	119	62.6	37	19.7
Mixed coal and others	9	2.2	414	167.2	756	338.4
<b>Ordos Neng Hua</b>	—	—	—	—	4,379	1,273.0
Screened raw coal	—	—	—	—	4,379	1,273.0
<b>Yancoal Australia</b>	1,627	1,199.3	8,022	6,210.2	10,060	9,353.4
Semi-hard coking coal	1,627	1,199.3	1,146	1,043.3	914	1,023.2
Semi-soft coking coal	—	—	1,279	1,202.3	1,049	1,319.6
PCI coal	—	—	2,046	1,893.8	2,333	2,988.9
Thermal coal	—	—	3,551	2,070.8	5,764	4,021.7
Externally purchased coal	2,058	1,112.5	5,378	3,990.0	13,308	9,613.2
<b>Total</b>	<b>38,017</b>	<b>20,116.9</b>	<b>49,634</b>	<b>32,930.3</b>	<b>64,250</b>	<b>45,468.5</b>

(1) Sales income comprises the invoiced amount of coal sold net of returns and discounts.

## Sales and Marketing

We sell the majority of our domestic coal products to power plants, metallurgical mills, coking manufacturers, chemical manufacturers and construction material manufacturers with whom we have established long-standing and stable relationships. The majority of the coal sales of our Australian subsidiary, Yancoal Australia, are to power plants and metallurgical mills. The following table sets forth a breakdown of our sales income, which represents the invoiced amount of products sold net of returns and discounts of coal by the industry of our customers for the periods indicated. For the purposes of the table below, the figures of sales income include inter-segment sales.

	Year Ended December 31,					
	2009		2010		2011	
	<u>Sales income<sup>(1)</sup></u> (RMB in millions)	<u>% of sales income</u>	<u>Sales income<sup>(1)</sup></u> (RMB in millions)	<u>% of sales income</u>	<u>Sales income<sup>(1)</sup></u> (RMB in millions)	<u>% of sales income</u>
Power plants	5,845.4	29.1	7,493.8	22.8	8,875.0	19.5
Metallurgical mills	2,085.3	10.4	5,200.2	15.8	6,445.7	14.2
Chemical manufacturers	2,764.3	13.7	1,405.3	4.3	1,740.6	3.8
Others <sup>(2)</sup>	9,421.9	46.8	18,831.0	57.2	28,407.2	62.5
<b>Total</b>	<b>20,116.9</b>	<b>100.0</b>	<b>32,930.3</b>	<b>100.0</b>	<b>45,468.5</b>	<b>100.0</b>

(1) Sales income comprises the invoiced amount of coal sold net of returns and discounts.

(2) Others comprises industries such as coking and construction material manufacturing.

The following table sets forth a breakdown of sales income of coal by geographical region for the periods indicated. For the purposes of the table below, the figures of sales income include inter-segment sales.

	Year Ended December 31,					
	2009		2010		2011	
	<u>Sales income<sup>(1)</sup></u> (RMB in millions)	<u>% of sales income</u>	<u>Sales income<sup>(1)</sup></u> (RMB in millions)	<u>% of sales income</u>	<u>Sales income<sup>(1)</sup></u> (RMB in millions)	<u>% of sales income</u>
China	19,081.7	94.9	27,619.7	83.9	36,703.8	80.7
Eastern China	14,573.1	72.4	21,861.5	66.4	28,464.1	62.6
Northern China	254.3	1.3	511.9	1.6	2,449.6	5.4
Southern China	340.8	1.7	251.1	0.8	211.4	0.5
Other regions	3,913.4	19.5	4,995.2	15.2	5,578.8	12.3
South Korea	235.2	1.2	2,349.0	7.1	4,030.3	8.9
Japan	479.8	2.4	1,920.0	5.8	1,972.4	4.3
Australia	44.8	0.2	482.2	1.5	271.0	0.6
Others	275.4	1.4	559.3	1.7	2,490.9	5.5
<b>Total</b>	<b>20,116.9</b>	<b>100.0</b>	<b>32,930.3</b>	<b>100.0</b>	<b>45,468.5</b>	<b>100.0</b>

(1) Sales income comprises the invoiced amount of coal sold net of returns and discounts.

Our domestic coal sales are concentrated primarily in Eastern China, particularly in Shandong and, to a lesser extent, in Northern China. Our Company's sales income, which represents the invoiced amount of products sold net of returns and discounts, generated from Eastern China as a percentage of total sales income was 72.4%, 66.4% and 62.6% in 2009, 2010 and 2011, respectively. The majority of our sales income is in the PRC. In 2009, 2010 and 2011, we generated 94.9%, 83.9% and 80.7%, respectively, of our sales income from the PRC.

The following table sets forth a breakdown of export sales of our Company and Yancoal Australia for the periods indicated.

	Year Ended December 31,					
	2009		2010		2011	
	<u>Sales income<sup>(1)</sup></u> <u>(RMB</u> <u>in millions)</u>	<u>% of</u> <u>total</u> <u>sales income</u>	<u>Sales income<sup>(1)</sup></u> <u>(RMB</u> <u>in millions)</u>	<u>% of</u> <u>total</u> <u>sales income</u>	<u>Sales</u> <u>income<sup>(1)</sup></u> <u>(RMB</u> <u>in millions)</u>	<u>% of</u> <u>total</u> <u>sales income</u>
<b>Our Company</b>						
Japan	50.7	4.2	9.7	0.2	14.3	0.2
<b>Yancoal Australia</b>						
South Korea	232.5	19.3	2,349.0	38.5	4,030.3	44.2
Japan	440.1	36.5	1,910.3	31.3	1,958.1	21.5
China	209.9	17.4	909.4	14.9	603.0	6.6
Others	271.6	22.5	926.4	15.2	2,506.7	27.5
<b>Total</b>	<u>1,204.8</u>	<u>100.0</u>	<u>6,104.8</u>	<u>100.0</u>	<u>9,112.4</u>	<u>100.0</u>

(1) Sales income comprises the invoiced amount of coal sold net of returns and discounts.

Export sales represent only a small percentage of our total coal sales income. In 2009, 2010 and 2011, we generated 6.0%, 18.5% and 20.0%, respectively, of our sales income from export sales. Our major overseas markets include South Korea, Japan and Australia. The majority of our overseas customers are located in Asia, and South Korea is our biggest market in this region. Even though we conduct all of our export sales from the PRC through export agents, we maintain close relationships with our overseas customers.

In 2009, 2010 and 2011, Yancoal Australia's domestic sales income was 3.8%, 1.9% and 2.7%, respectively, of its total sales income and in these same years its export sales income was 96.2%, 98.1% and 97.3%, respectively, of its total sales income. Yancoal Australia's export sales income represented 95.8%, 99.8% and 99.8% of our total export sales income in 2009, 2010 and 2011, respectively. Yancoal Australia primarily conducts its export sales directly by entering into agreements with end user customers. Yancoal Australia also exports a small portion of coal through export agents with which Yancoal Australia has established long-standing relationships. The primary destinations for the export sales of Yancoal Australia are South Korea, Japan and China.

A significant portion of our PRC domestic sales is made on the spot market or pursuant to letters of intent, while the remainder of our coal sales are made pursuant to sales contracts generally for a term not exceeding one year. These sales contracts or letters of intent generally specify the quantity and delivery schedule of the coal to be purchased. The contract price in sales contracts is the result of market-based negotiations between the contracting parties, while the contract prices for letters of intent are generally determined at the time of sale to reflect prevailing market prices. As of March 31, 2012, we have entered into domestic sales contracts and letters of intent to sell a total of approximately 33.0 million tonnes of coal, including contracts to sell approximately 7.7 million tonnes of coal at a tax-inclusive price of RMB589.1 per tonne, representing a decrease of approximately RMB 74.4 per tonne, or 11.2%, from our average selling price in 2010. The sales price under the letters of intent will be determined at the time of sale. In addition, as of March 31, 2012, Yancoal Australia has entered into agreements to sell approximately 3.0 million tonnes of coal in the first quarter of 2012 at a tax-exclusive price of US\$133.7 per tonne, which remained relatively stable as compared with the price of US\$133.4 per tonne in the first quarter of 2011. These customers primarily included power plants and metallurgical mills outside Australia. These agreements include terms with respect to the quantity and delivery schedule of the coal to be purchased. The prices of the coal are generally subject to negotiation between the contracting parties, on a monthly or quarterly basis, based on prevailing market prices.

### Customers

As of December 31, 2011, our major customers include Huadian International, Baoshan Iron & Steel Co., Ltd., POSCO, Yankuang Meihua Gongxiao Co., Ltd. and Linyi Yehua Coking Co., Ltd., among which Huadian International was our largest customer. In 2009, 2010 and 2011, sales to our top five largest customers accounted for 28.7%, 24.7% and 19.4% of our sales income, respectively. In 2009, 2010 and 2011, sales to our largest customer, Huadian International, accounted for 15.4%, 13.0% and 8.5%, respectively, of our sales income. A substantial portion of Huadian International's coal purchases was, in turn, supplied to Zouxian Power Plant.

Leveraging the high quality of our products and the strength of our brand, we have established long-term relationships with our customers. We make significant efforts to establish and maintain long-term cooperative relationships with our customers, and in particular, with our key customers. We have annual evaluations of our customers to identify key customers. To maintain the relationships with our key customers, we generally provide favorable price terms and product delivery priority. Our sales and marketing department conducts routine customer visits and customer surveys to keep abreast of market developments, collect and evaluate customers' responses, maintain customer relationships and continually improve our business. In addition, we closely monitor the market information about Eastern China, South Korea, Japan and other regions, which we use for business planning and execution.

We have a flexible credit policy, and the credit terms we grant to our customers may vary from customer to customer depending on each customer's creditworthiness, historical relationship with the Company and the credit amount involved. We may allow open accounts, require acceptance bills or require cash on delivery. We rely on data from our enterprise resource planning system to determine the appropriate payment arrangement and credit terms for each customer, which generally do not exceed 180 days. We evaluate the creditworthiness of potential new customers before entering into a sales contract with them and reassess the creditworthiness of all of our customers on an annual basis. For customers without a strong credit history, we require them to settle their accounts upon delivery.

### **Pricing**

The pricing for our coal products sold in the PRC is generally based on negotiations between the contracting parties that reflect market conditions. However, a portion of our thermal coal sales may be affected by pricing guidelines announced by the PRC government from time to time or subject to temporary price controls. For example, the State Council and the NDRC adopted measures to control the prices of thermal coal in 2010 and 2011, pursuant to which prices of thermal coal supplied to power generating enterprises in 2012 may not increase by more than 5% from 2011 prices, and the spot prices of thermal coal (5,500 kcal/kg) received at major domestic ports must be less than RMB800 per tonne. See "— Regulatory Oversight of Our Group." For our Australian operations, the pricing of our coal products is dependent on negotiations between the contracting parties, as well as prevailing market prices. There are no price control schemes in Australia. In both our PRC and Australian markets, to price our coal products, we consider the prevailing prices in the relevant local coal markets, the grade and quality of the coal and our relationship with the purchaser. Our sales and marketing department monitors domestic and international market information, enabling us to keep abreast of pricing developments in our principal markets.

### **Transportation**

Most of our major coal customers are located in Eastern China and our remaining domestic customers are located in Southern and Northern China. We deliver coal to our customers primarily by railways and highways. We also deliver our coal by domestic and international shipping lanes. With our private railway network, we are able to connect to the national railway system or deliver coal directly to Zouxian Power Plant.

We also ship coal on the national railway system to ports, such as Rizhao, Qingdao and Lianyungang, for delivery to customers. Rizhao Port is our main port for shipping coal. We also use the Beijing-Hangzhou Grand Canal to ship coal on barges to customers located in the area serviced by the canal, primarily Jiangsu and Zhejiang. In Shanxi, we rely on the Yangshe Railway, which intersects the Tianchi Coal Mine, and trucks to deliver coal to Hebei, Shandong and other nearby areas. We rely on the Baoshen Railway and trucks to deliver coal from Anyuan Coal Mine and Wenyu Coal Mine to Hebei and the surrounding areas.

We plan to construct a privately operated railway to connect Zhaolou Coal Mine with the national railway system. Before completing the construction, we will continue to rely on trucks to deliver coal from Zhaolou Coal Mine to the national railway and customers.

We transport Yancoal Australia's coal products to Newcastle Port and Gladstone Port in Australia at our cost using Australia's state and private railway networks. These coal products are then exported to South Korea, Japan and other destinations via sea transportation primarily on FOB terms. Yancoal Australia owns a 15.4% interest in NCIG, a joint venture responsible for constructing and operating the third export terminal at Newcastle Port, and has an annual port capacity of 8.3 million tonnes through NCIG's facility when it reaches its full design capacity. Yancoal Australia also has an annual port capacity of 5.3 million tonnes at Newcastle Port through PWCS's facility also at Newcastle Port in 2012 pursuant to the agreement between Yancoal Australia and PWCS, increasing to 5.7 million tonnes per year from 2013. Upon the completion of the development of PWCS's terminal 4 in 2016, Yancoal Australia is expected to obtain additional allocated annual port capacity through that new terminal. In addition, Yancoal Australia owns a 5.6% interest in Wiggins Island Coal Export Terminal Holdings Pty Limited in Queensland, which is the parent company of the developer of the Wiggins Island Coal Export Terminal and has been allocated an annual port capacity of 1.5 million tonnes in 2014 through that terminal at Gladstone Port. We believe these allocated port capacities will support current export sales and our future growth over the next five years.

## **Mining process**

The geological characteristics of our reserves largely determine the coal mining method that we employ. We use two primary methods to mine coal: underground mining and open-pit mining.

### Domestic underground mining operations

Our domestic underground mining operations consist of four main steps: tunneling, coal extraction, transportation and coal preparation. The tunneling process is necessary for the construction of underground roadways, which are required for the installation of mining equipment. We conduct a majority of our tunneling using high-powered headers and use this method whenever geological conditions permit. When the use of headers is not feasible, we use explosives to excavate tunnels. Coal extracted during tunneling is carried by conveyor adhesive tapes to our underground storage bunkers to be stored together with other extracted coal. Rock and other minerals produced during the excavation of roadways are separated and transported out of the mine.

The extraction process is undertaken by a standardized and fully mechanized longwall operation, which includes shearers that work in conjunction with conveyers to cut and transport the coal away from the longwall work face. For coal seams up to 4.5 meters thick, we use a fully mechanized method to extract coal. Generally, for coal seams that are thicker than 4.5 meters, we add a caving method to the fully mechanized longwall mining operation, whereby coal that is beyond the reach of our shearers collapses in a controlled manner onto our conveyers as the coal support underneath it is removed by our shearers. Coal is then transported away from a longwall work face by a series of conveyors positioned in front of and behind the system of roof supports. Roof supports provide continuous support for and protection along the length of the longwall work face and move the conveyors and shearers forward after each pass of the shearers along the work face using horizontal hydraulic rams positioned at the base of each support. Our hydraulic roof supports were manufactured in the PRC.

The shaft hoist system equipment that we use at most of our mines was imported. Coal is transported from the coal shaft either to a surface storage or directly to a coal preparation plant. In addition to the main coal shaft, our mines also have a service shaft and supplemental roadways and rail systems within the mines that provide a means of underground transportation for workers and equipment.

After raw coal is carried to the surface, it undergoes a mechanized selection process that separates coal from other mineral materials. A small portion of such selected coal is directly sold to customers as raw coal, and the remainder is transported to our coal preparation plants for further processing and classification. Each of the Six Coal Mines, Zhaolou Coal Mine, Austar Coal Mine, Yarrabee Coal Mine, Moolarben Coal Mine and Ashton Coal Mine has a coal preparation plant. In general, the coal washing conducted in our coal preparation plants includes a water bed washing and separation process by jig machines, a sink-and-float separation process and a final floating separation process. Most of the equipment used in our coal preparation plants is automated, enabling us to control the ash content and grade of our processed coal. The average recovery rate of our coal preparation plants was 69.1%, 69.5% and 67.0% in 2009, 2010 and 2011, respectively.

### Domestic open-pit mining operations

The open-pit mining process involves the removal of topsoil and overburden (earth and rock covering the coal), tunneling and extraction of coal from coal seams. The extracted coal undergoes selection and is then transported to treatment facilities for preparation. After coal is removed, we restore the affected land by replacing the overburden and topsoil.

### Australian mining operations

With respect to underground mines in our Yancoal Australia mining operations, we conduct continuous tunneling, longwall operations and coal extraction by the fully mechanized caving method. Open-pit mining is used when coal is found relatively close to the surface, which is the same as our domestic open-pit mining operations.

## **Materials, Water and Energy Supply**

### Domestic mining operations

The primary materials we use to conduct our coal mining and processing operations are steel to support work faces and underground tunnels, cement for the construction of underground tunnels and ground structures and water used in our production process. We procure steel primarily from Jinan Iron and Steel Company Ltd., Laiwu Iron & Steel Group Corp., Ltd. and Shandong Shiheng Special Steel Group Co., Ltd. and cement primarily from Shandong Lucheng Cement Company, Ltd. and China United Cement Taishan Co., Ltd. We procure water primarily from the Yankuang Group pursuant to the Materials Supply Agreement and its supplemental agreements, and, to a lesser extent, from local water companies. The prices of steel, cement and water is set at market rates or determined through negotiations. We believe that we have well-established, cooperative relationships with our suppliers, enabling us to secure reliable supplies of materials required in our production process. We believe that a number of alternative suppliers exist for our key materials in our coal operations, accordingly, we do not foresee any difficulty in obtaining adequate supplies.

We use a significant amount of electricity in our operations. Electricity prices in China are regulated by the government. Even though we have not experienced any material disruptions in our electricity supply in the past, we acquired Hua Ju Energy to secure a stable supply of energy for our Six Coal Mines and to reduce our electricity costs. After we commenced selling substantially all of the electricity generated by Hua Ju Energy to the local grid company in 2011, we began to purchase electricity from the local grid company for our Six Coal Mines.

#### Australian mining operations

Similar to our domestic coal mining and preparation operations, the primary materials we use in our Australian mining operations are steel, cement, explosives and water. We procure such materials primarily from local suppliers with which we have established long-standing relationships, and are able to procure sufficient materials for our mining and preparation operations.

### **Competition**

#### Domestic mining operations

Our primary market, the PRC domestic coal market, is characterized by numerous small-scale coal suppliers. Although the domestic coal market is segmented principally by geographic regions due to the wide distribution of coal reserves, the domestic market in China is dominated by a number of large-scale coal producers. We compete principally on the basis of the availability and cost of transportation, coal quality and timely deliveries.

Our domestic competitors primarily include a number of coal mines located in Shanxi, Shaanxi and Inner Mongolia. Certain of our competitors from these regions have substantial reserves and favorable geological conditions. However, these competitors incur significant transportation costs when they supply to their end-user customers located in Eastern China. In addition to coal mines located in Shanxi, Shaanxi and Inner Mongolia, we also compete with local mines located in close proximity to our customers. In particular, Shandong Energy Group Co., Ltd. (“Shandong Energy”), which was established in March 2011, is our sole competitor in Shandong. Shandong Energy has a large-scale production capacity and marketing capability. Although we have strengths in the quality of our coal product and our sales network, we may not be able to compete effectively with Shandong Energy in this region. Our failure to compete effectively may in turn materially and adversely affect our results of operations.

#### Australian mining operations

We primarily compete with several large coal mining enterprises in Australia, including BHP Billiton, Peabody Energy Australia, Rio Tinto Coal, Xstrata and Whitehaven Coal. Given that we mainly export our coal production in Australia to other Asian countries, particularly South Korea and Japan, we also compete with other mining enterprises located in China, Indonesia and Inner Mongolia, some of which are located in close proximity to our customers. Some of our competitors are large mining companies with a longer operating history, greater financial resources, stronger brand recognition and greater economies of scale as compared to our Company. However, we believe we are able to maintain our competitiveness. Through the use of our independently developed longwall top caving mining method, we believe we are able to extract coal more efficiently in our mining operation than our competitors, particularly those competitors with mining operations that involve coal extraction from thick coal seams.

#### Seasonality

Our coal business is not affected by seasonality.

### **Quality control**

We have implemented a quality assurance program at each of our PRC coal mines to control quality throughout our coal operations from production to transportation. Utilizing advanced processing technology and management techniques, our coal preparation plants are able to separate both metal and non-metal impurities from coal. Our quality inspection division within our sales and marketing department conducts spot inspections on our coal production to maintain high quality standards.

Each of Nantun Coal Mine, Xinglongzhuang Coal Mine, Baodian Coal Mine, Dongtan Coal Mine, Jining II Coal Mine and Jining III Coal Mine has obtained ISO 9002 quality and ISO 14000 environmental management certification. Tianchi Coal Mine has obtained ISO 9000 quality and ISO 14000 environmental management certification, and Zhaolou Coal Mine has obtained ISO 9001 quality and ISO 14001 environmental management certification. We believe we are the only Chinese coal company to have ever won a National Quality Management Award, a China Quality Tripod and an Asia-Pacific International Quality Gold Medal.

Yancoal Australia has engaged Bureau Veritas, Societe Generale De Surveillance and ALS Laboratory Group to supervise and inspect the quality of the coal produced from the respective mines in Australia to ensure quality control and advise on quality improvement.

## **Safety control**

In our PRC operations, we have implemented a safety control program to achieve the targets set in our internal guidelines for safety and risk control management and to maintain compliance with the PRC Coal Industry Law and the National Mining Safety Law in China. In Australia, our operations in New South Wales comply with the Coal Mine Health and Safety Act 2002 (NSW) and Occupational Health and Safety Act 2000 (NSW), and our operations in Queensland comply with the Coal Mining Safety and Health Act 1999 (QLD).

Our safety control program combines close supervision and routine inspection of mining conditions with continual implementation of safety features and procedures at our mines and safety training for our production team. In addition, in our PRC operations, the compensation of the officers and managers of each division reflects the division's safety record. Each of our mines has a safety inspection unit which is responsible for the supervision and inspection of our mining activities. We reward employees who report unsafe mining conditions to encourage accident prevention.

As a result of our safety control program, we have been able to maintain a zero fatality rate in our PRC operations since 2007 compared with the national average of 0.564 fatalities per million tonnes of coal produced in 2011 according to the State Administration of Work Safety of the PRC. In 2011, we produced approximately 55.7 million tonnes of coal and did not experience any production accidents that involved serious work injuries or death in our PRC operations. Following our acquisition of Felix in December 2009, we have been continuously reviewing and evaluating its safety control and performance. With respect to our Australian operations in 2011, our lost time injury frequency rate, measured as the number of lost time injuries per million man-hours worked, was 6.6 for open-pit mines and 16.7 for underground mines. We had no fatalities in our Australian operations in 2011.

## **Environmental protection**

We are subject to PRC environmental protection laws and regulations which impose fees for the discharge of waste substances and require the payment of fines for serious pollution. PRC regulations also authorize government agencies to close any facility that fails to comply with orders to cease, or bring into compliance with relevant laws and regulations, operations that cause environmental damage. In addition, the operations of Yancoal Australia must comply with relevant Australian environmental protection laws and regulations. In 2011, we incurred expenses related to environmental protection of RMB83.7 million.

## ***Railway Transportation Business***

In addition to transporting coal to support our own operations, we also provide railway transportation services to our customers, including the Yankuang Group, for fees. In 2011, we transported 18.1 million tonnes of coal on our railway network, representing a decrease of 1.6 million tonnes or 8.1% from 19.7 million tonnes in 2010. We generated sales income of RMB476.9 million from railway transportation services in 2011, representing a decrease of RMB36.4 million, or 7.1%, from RMB513.3 million in 2010.

We own 15 diesel locomotives, 10 steam locomotives, 360 rail cars, and approximately 204 kilometers of railway tracks constructed for coal transportation that connect most of our coal mines with Zouxian Power Plant located in Jining City, Shandong. Our railway network also connects to two major national railways, namely, Beijing-Shanghai Railway and Yanzhou-Shijiang Railway. As of December 31, 2011, our railway transportation business had 3,849 employees.

We maintain ISO 9001 quality accreditation, ISO 14001 environmental management certification, OHS 18000 occupational safety and health certificate and ISO 10012:2003 management certification for the operation of our railway network.

## ***Coal Chemical Business***

Our coal chemical business focuses on the production of methanol, a liquid commodity that can be produced from coal or natural gas. We operate our coal chemical business through Yulin Nenghua and Tianhao Chemicals. In 2011, we produced 532,000 tonnes of methanol and sold 529,000 tonnes of methanol. We generated sales income of RMB1,059.3 million in 2011, representing an increase of RMB430.0 million, or 68.3%, from RMB629.3 million in 2010. Yulin Nenghua produced 459,000 tonnes of methanol and Tianhao Chemicals produced 73,000 tonnes of methanol in 2011.

## **Sales and marketing**

Our coal chemical sales are made pursuant to sales contracts that we enter into from time to time with customers. We sell our methanol exclusively in China and predominately to chemical producers in Northern and Eastern China and methanol distributors. We rely on regional highways to deliver our products.



## **Pricing**

The pricing for our methanol product is generally based on negotiation between the contracting parties, taking into consideration prevailing market prices, market conditions and the customer's creditworthiness.

## **Production process**

*Yulin Nenghua.* At Yulin Nenghua's plant, raw coal is pulverized, cleaned and then fed to a gasifier bed where it reacts with oxygen and steam. The product is synthesized into crude methanol and then purified through distillation.

*Tianhao Chemicals.* Tianhao Chemicals uses coke oven waste gas as its primary raw material. We reduce the sulphur contained in coke oven waste gas and then convert the treated gas into synthesis gas. The synthesis gas is further processed into crude methanol and then purified through distillation.

## **Materials, water and energy supply**

Coal and coke oven waste gas are the primary materials in our methanol production. Production at Yulin Nenghua is reliant on thermal coal, which it currently sources from local coal mines owned by third party. We plan to source thermal coal internally once our adjoining Yushuwan Coal Mine is registered and commences operations. Yulin Nenghua sources water from a local reservoir.

Production at Tianhao Chemicals is dependent on receiving coke oven waste gas from one supplier whose facility is connected to Tianhao Chemicals' plant through transmission pipelines. Production at Tianhao Chemicals was disrupted twice in 2010 when this supplier was not able to provide sufficient coke oven waste gas. As of the date of this annual report, we have not been able to find an alternative supplier.

## **Quality control**

We have implemented a series of quality control measures for our coal chemical operations to ensure product quality and obtained AAA measurement management system, ISO 9001 quality accreditation and ISO 14001 environmental management certification in November 2009. We perform regular inspections and maintenance on our methanol plants.

Tianhao Chemicals has implemented a series of management measures beginning in 2010, covering various areas including the evaluation of quality control, environmental protection and occupational health and safety measures. As of the date of this annual report, the relevant certifications regarding the foregoing management systems were ongoing.

## **Safety control**

For our coal chemical operations, we have implemented safety control measures in compliance with the People's Republic of China Production Safety Law, the People's Republic of China Regulations on the Safe Administration of Dangerous Chemicals and other safety guidelines for chemical manufacturers.

## **Competition**

We compete with domestic methanol manufacturers in Shanxi and Shaanxi and Inner Mongolia. We expect to benefit from economies of scale as Yulin Nenghua's 600,000-tonne methanol project achieves optimal utilization of its facilities and we further expand our coal chemical operations with the construction of Ordos Neng Hua's methanol plant.

## **Seasonality**

Our coal chemical operations are not affected by seasonality.

## ***Electric Power and Heat Supply Business***

As of the date of this annual report, we owned and operated eight power plants, which generate electricity for internal use and external sales. In addition, we have one power plant currently under construction. In 2011, we generated a total of 1,367.1 million KWh of electricity and we sold externally 932.7 million KWh. We generated sales income of RMB328.0 million in 2011, representing an increase of RMB142.5 million, or 76.8%, from RMB185.5 million in 2010.

Hua Ju Energy operates coal-fired power plants whose main facilities consist of energy conversion CFB boilers and extraction and condensing steam turbines. The power plants at Hua Ju Energy have an aggregate installed capacity of 144 MW. In 2011, Hua Ju Energy generated 1,028.8 million KWh and sold externally 895.5 million KWh of electricity. From 2011, we sold substantially all of the electricity generated by Hua Ju Energy to the local power grid company.

The power plants at Yulin Nenghua and Tianhao Chemicals were established with the primary intention to satisfy the power demand of the methanol projects of these two entities while we sell a small amount of electricity externally. Together they had an aggregate installed capacity of 84 MW as of the date of this annual report. In 2011, the power plants operated by Yulin Nenghua generated 258.7 million KWh of electricity and sold externally 33.1 million KWh of electricity. Tianhao Chemicals generated 79.6 million KWh of electricity and sold externally 4.0 million kWh in 2011.

We commenced the construction of the Zhaolou Coal Mine power plant for Zhaolou Coal Mine in March 2010. The integrated power plant has two phases with a designed capacity of 300 MW for each phase. As of the date of this annual report, phase I was under construction. For further information on the Zhaolou Coal Mine power plants, please see “D. Property, Plant and Equipment — Methanol and Cogeneration Power Plants — Zhaolou Coal Mine Power Plants.”

We commenced heat supply operations, which consist of the production and sale of heat supply, following our acquisition of Hua Ju Energy in 2009. In 2011, Hua Ju Energy generated 1.3 million steam tonnes of heat energy. We consume internally the substantial majority of heat energy produced by Hua Ju Energy by our coal mines. In addition, we sold externally 0.2 million steam tonnes of heat and generated sales income of RMB20.5 million.

### **Sales and marketing**

In addition to our own use, we sold 68.2% of the electric power we produced to other end-users through power grids in 2011. We consume most of the heat generated by our power plants and, to a lesser extent, sell to the Yankuang Group.

### **Pricing**

The pricing and adjustments for the on-grid tariff are determined by the PRC government. The pricing of our heat products is determined in accordance with regulations set by price administration authorities.

### **Production process**

Yulin Nenghua. We select, break, grind and feed coal to a boiler where the coal is burned to generate steam, which is converted by steam turbines into electricity.

Tianhao Chemical. Middling is carried by belts and fuel feeding devices to a fluidized-bed boiler, where the coal is burned to generate steam, which is converted by steam turbines into electricity. Tianhao Chemical owns two power plants with an installed capacity of 12 MW each to satisfy the electricity demand for methanol production or even the electricity demand for the whole factory.

Hua Ju Energy. We recycle by-products of our coal mining operations, such as coal gangue and coal slurry, to generate electricity. Coal gangue and coal slurry are fed to a CFB boiler by means of a conveyer belt and fuel-feeding device where they are burned to generate steam, which is converted by steam turbines into electricity. The power plants of Hua Ju Energy are cogeneration systems that are able to produce heat simultaneously with power generation. Part of the steam produced in power generation is extracted from the steam turbines and provided to our mining operations via a heat supply system.

In the production processes, we filter the exhaust gas that we produce and recycle the cinder for future use.

### **Materials, water and energy supply**

Our power plants are all coal-fired power plants. The power plants of Hua Ju Energy generate electricity by recycling coal gangue and coal slurry. Tianhao Chemicals and Yulin Nenghua currently source thermal coal from local coal mines.

### **Quality control**

Hua Ju Energy obtained ISO 9001 quality accreditation and ISO 14001 environmental management certification in November 2003 and has maintained its certification since then. Yulin Nenghua obtained AAA measurement management system, ISO 9001 quality accreditation and ISO 14001 environmental management certification in November 2009. Tianhao Chemicals implemented a series of internal evaluation and management measurement systems for quality control, environmental management and health and safety control in 2010. The management measurement system certification is being processed.

### **Safety control**

Safety measures for our electric power and heat supply operations were designed to meet the requirement of the Electricity Law and other related laws.

## **Seasonality**

Our electric power operations are not affected by seasonality. Our heat supply operations are affected by seasonality and experience higher demand during winter.

## ***Regulatory Oversight of Our Group***

### **Regulation of the PRC Coal Industry**

To establish a coal mining enterprise under the Coal Industry Law of the People's Republic of China, amended in 2011 (the "PRC Coal Industry Law"), the applicant must submit an application to the relevant department in charge of the coal industry. After obtaining approval to establish a coal mining enterprise, the applicant will be granted a mining permit by the MLR. Thereafter, the applicant must obtain a coal production permit before it commences coal production. Coal mining enterprises that have legally obtained coal production licenses will have the right to sell the coal that they produce. To establish a coal trading enterprise, an applicant must apply for a different business license and may engage in coal trading only after it obtains a trading license from the relevant administrative department of industry and commerce.

Mining activities in the PRC are also subject to the MLR. The Mineral Resources Law of the PRC (the "Mineral Resources Law") regulates any matters relating to the planning or the exploration, exploitation and mining of mineral resources. According to the Mineral Resources Law, all mineral resources in China, including coal, are owned by the State. Any enterprise planning to engage in the exploration, development and mining of mineral resources must obtain exploration rights and mining rights before commencing the relevant activities. The transfer of exploration and exploitation rights shall be subject to governmental approval pursuant to the PRC Coal Industry Law, the Mineral Resources Law and other relevant regulations.

We are principally subject to supervision and regulation by the following agencies of the PRC government:

- the State Council, the highest level of the executive branch, which is responsible for (i) examining and approving of major investment projects specified in the Catalogue of Investment Projects released by the PRC government in 2004 and as amended from time to time; and (ii) promoting the integration and development of coal resources through the acquisition of mergers, restructuring and reorganizations of coalmining enterprises through the General Office of the State Council's Notice of Forwarding the National Development and Reform Commission's Certain Opinions on Accelerating and Boosting Mergers and Reorganizations of Coal Mining Enterprises (Guo Ban Fa [2010] No. 46) on October 16, 2010;
- the NDRC, which formulates and implements major policies concerning China's economic and social development, examines and approves investment projects exceeding certain capital expenditure amounts or in specified industry sectors, including the examination and approval of foreign investment projects, and formulates industrial policies and investment guidelines for natural resource industries, such as the coal industry. In addition, the NDRC administers coal export activities and export quotas jointly with the MOC. The NDRC is also responsible for the evaluation and implementation of the pricing mechanism that links the prices of coal and power;
- the MLR, which has the authority to grant land use licenses and mining right permits, approve the transfer and lease of mining rights, and review the transfer price of mining rights and reserve estimates;
- the SACMS, which is responsible for the implementation and supervision of the relevant safety laws and regulations applicable to coal mines and coal mining operations;
- the MOR, which supervises China's railway operations and provides strategic development plans for railway transportation. The MOR, together with the NDRC, reviews all applications for railway construction plans, including railways designated or used for coal transportation; and
- the MEP, which supervises and controls environmental protection and monitors China's environmental system at the national level.

The following is a summary of the principal laws, regulations, policies and administrative directives to which we are subject.

### **Pricing Laws**

Until 2002, the production and pricing of coal was generally subject to the close control and supervision of the PRC government, which centrally managed the production and pricing of coal. To transition from a planned economy to market economy practices, the PRC government eliminated the state guidelines for coal prices on January 1, 2002 and took other measures intended to establish a pricing mechanism that would reflect market demand.

Under the Price Law of the PRC, the PRC government reserves the right to intervene in price fluctuations of important commodities such as coal. The State Council and the provincial governments, autonomous regions and municipalities directly under the PRC government may adopt intervention measures, such as restricting margins or profits, and imposing price limits. Since 2002, the NDRC has executed temporary measures several times to prevent and control unusual fluctuations in thermal coal prices.

To ensure a stable supply of thermal coal and reduce pricing pressure on electric power companies, the NDRC issued Announcement No. 46 on June 19, 2008 to implement temporary price caps on thermal coal until December 31, 2008. On December 3, 2008, the NDRC issued the Notice Relating to the Good Preparation for Inter-Provincial Coal Production Transportation Works (Fa Gai Yun Xing [2008] No. 3294), which announced the elimination of the price control measures implemented in June 2008. On December 30, 2008, the NDRC issued an announcement (No. 67) to abolish the temporary price intervention measures on thermal coal, effective January 1, 2009. On December 14, 2009, the NDRC published the Guidance on the Improvement of Linking Up Coal Manufacture, Transportation and Demand, which provides measures by which enterprises may choose the manner in which they transport coal. The Guidance reiterates the government's support for the market orientation of the coal industry.

We sell our coal both on the spot market and under sales contracts and letters of intent. We set the purchase volume and schedule in a period of time (generally, within one year) in the sales contracts and letters of intent with our customers. The purchase price in a sales contract is set at the time of execution of the contract. The purchase price in a letter of intent, however, is set at the time of an actual sale.

#### Regulation of fees and taxes

The table below sets forth material taxes and fees that are imposed upon coal producers in China, as well as reserves which we are required to set aside.

<b>Item</b>	<b>Base</b>	<b>Rate</b>
Corporate income tax	Taxable income	25%
VAT (coal and other commodity)	Sales revenue	17%
VAT (heating supply)	Sales revenue	13%
Business tax	Revenue from service	3% or 5%
City construction tax	Amount of VAT and business tax	7%
Education surcharge	Amount of VAT and business tax	3%
Local education surcharge	Amount of VAT and business tax	2%
Water conservancy fund	Amount of VAT and business tax	1%
Resource tax	Aggregate volume of raw coal sold or used <sup>(1)</sup>	RMB3.6 per tonne (Shandong Province)  RMB3.2 per tonne (Shanxi Province and Inner Mongolia)
Compensation for the depletion of coal resources	Revenue from coal produced by us	1%
Price adjustment fund	Volume of raw coal produced or sales volume of merchantable coal	1. Jining City, Shandong Province: RMB8 per tonne based on volume of raw coal produced; 2. Heze City, Shandong Province: (1) RMB1.5 per tonne for 20% of the sales volume of clean coal and RMB20 per tonne for 80% of the sales volume of clean coal; (2) RMB1 per tonne for 20% of the sales volume of other types of coal and RMB15 per tonne for 80% of the sales volume of other types of coal.
Real estate tax	70% of original value of real estate	1.2%

(1) The resource tax applicable to our coal operation in Shandong and Shanxi Provinces is calculated by multiplying the aggregate volume of raw coal sold and raw coal consumed in the production of clean coal by the applicable per tonne resource tax in the respective province.

Coal producers may be fined if they damage the environment, arable land, grasslands or forest areas. Under the Mineral Resources Law, if a mining enterprise's mining activities result in damage to arable land, grasslands or forest areas, the mining enterprise must return the land to an arable state or plant trees or grass or take other restorative measures. The Mineral Resources Law and other applicable laws and regulations also state that anyone who causes others to suffer loss in terms of production or living standards is liable for the loss and must compensate the affected persons and remedy the situation.

Additionally, all coal producers are subject to PRC environmental protection laws and regulations which currently impose fees for the discharge of waste substances, require the payment of fines for serious pollution and provide for the discretion of the PRC government to close any facility which fails to comply with orders requiring it to cease or cure operations causing environmental damage.

#### Foreign exchange laws

The Notice of the State Administration of Foreign Exchange on Deciding the External Financing Guarantee Balance Quota of Domestic Banks in 2011 (Huiifa [2011] No. 30), promulgated by the SAFE on July 27, 2011, provides that the SAFE will conduct a strict review of any application from a domestic enterprise with respect to external financing guarantees. In addition, when domestic banks provide offshore financing guarantees, the SAFE will conduct a strict review of the financing measures with respect to the external financing guarantee. The proceeds of any offshore financing under an offshore financing guarantee must not be repatriated into the PRC, directly or indirectly, either in the form of equity or debt interests, through, including but not limited to, the following methods:

- financing applied towards the repayment of the original loans of the enterprise or other offshore companies which were repatriated into the PRC through equity or debt interests;
- financing directly applied towards the acquisition of the equity of an offshore target company, and the principal assets of the target company are predominantly located in the PRC; or

other methods of repatriation recognized by the SAFE.

#### Import and export laws

According to the Foreign Trade Law, the Cargo Import and Export Ordinance and the Administrative Measures of Coal Export Quota, coal exports remain subject to State control and require governmental approval.

Our company has not been authorized as a PRC coal exporter. Our coal exports are conducted through three export agents, namely China National Coal Industry Import and Export Corporation, China National Minerals Import and Export Company Limited and Shanxi Coal Import and Export Group Company.

Pursuant to the Administrative Measures of Coal Export Quota, the NDRC and the MOC are responsible for determining China's national coal export quota and allocating the quota among authorized coal exporters. Upon receiving a quota approval, authorized coal exporters may apply for coal export permits to the relevant authority designated by the MOC. Authorized coal exporters are also required to report their monthly quota usage to the NDRC.

The regulations provide that quotas may be adjusted in the event of:

- a major change in the international market;
- a major change in domestic coal resources;
- an imbalance in the usage of the coal export quota by an authorized coal exporter compared to its allocation of the coal export quota; and
- other circumstances which require an adjustment to the coal export quotas.

The total national quotas approved for coal exports in 2010 and 2011 were 25.5 million tonnes and 38.0 million tonnes, respectively. The total national quota approved for coal export in 2012 is 38.0 million tonnes with the first 18.0 million tonnes' quota already granted to exporters.

According to the Notice of the Customs Tariff Committee of the State Council on Tariff Adjustment on Certain Export Commodities (Notice 2008 No. 56), beginning August 20, 2008, the provisional tariff rate of coke, coking coal and soft coal will be 40%, 10% and 10%, respectively. Export tariffs are generally passed on to the purchaser. Therefore, changes in export tariffs do not directly affect us.

#### Domestic trading regulations

Pursuant to the Measures for the Regulation of Coal Operations promulgated by the NDRC on December 27, 2004, the State implemented a system to examine the qualifications of an entity to engage in coal operations, including the wholesale and retail of raw coal and processed coal products and the processing and distribution of coal for civilian use. Before an entity can engage in coal operations, it must obtain a coal operation qualification certificate. A coal production enterprise that deals in coal products produced and processed by a third party is required to obtain a coal operation qualification.

### Environmental protection

Pursuant to the Environmental Protection Law, the MEP is authorized to formulate national environmental quality and discharge standards and to monitor China's environmental system at the national level to protect the environment. Environmental protection bureaus at the county level and above are responsible for environmental protection within their respective jurisdictions.

China has promulgated a series of laws and regulations which establish national and local legal frameworks for environmental protection. These laws and regulations include standards applicable to emission controls, discharges of wastes and pollutants to the environment, generation, handling, storage, transportation, treatment and disposal of waste materials by production facilities, land rehabilitation and reforestation.

The Environmental Protection Law requires any entity operating a facility that produces pollutants or may create a hazard to incorporate environmental protection measures into its operations and to establish an environmental protection responsibility system which includes effective measures to control and properly dispose of waste materials.

In the environmental impact statement of a construction project, the project operator must assess the pollution and environmental hazards the project is likely to produce and its impact on the ecosystem and measures for the prevention and control of such hazards. The statement shall, after initial examination by the authorities in charge of the construction project, be submitted by a specified procedure to the competent department of environmental protection administration for approval. Facilities for the prevention and control of pollution must be designed, constructed and implemented simultaneously with the primary construction contemplated by a project. These facilities must be inspected by the competent environmental protection authority and determined to conform with specified requirements before they can be implemented.

Enterprises that discharge pollutants must report to and register with the relevant authorities in accordance with the provisions of a department of environmental protection administration under the State Council. Enterprises that discharge pollutants in excess of the prescribed national or local standards will be fined for excessive discharge according to State provisions and will be responsible for eliminating and controlling the pollution.

According to the Law on Prevention and Control of Water Pollution of the PRC, and the Administrative Regulations on the Levy and Use of Discharge Fees, any new construction projects which directly or indirectly discharge pollutants to water, such as coal mines and coking plants, must conduct an environmental impact assessment. Every new production facility must be equipped with wastewater processing facilities which must be put in use together with the production facilities. Construction projects that discharge pollutants into water shall pay a pollutant discharge fee in accordance with state regulations.

Violators of the Environmental Protection Law and various environmental regulations may be subject to warnings, payment of damages and fines. Any entity undertaking construction work or manufacturing activities before the pollution and waste control and processing facilities are inspected and approved by the environmental protection department may be ordered to suspend production or operations and may be fined. The violators of relevant environment protection laws and regulations may be exposed to criminal liability if violations result in severe loss of property, personal injuries or death.

The rehabilitation of mining sites is another priority of the PRC government. Under the Law of Land Administration of the PRC as amended on August 28, 2004 and the Regulation on Land Reclamation effected on March 5, 2011, issued by the State Council in 1988, coal producers must undertake measures to restore a mining site to its original state within a prescribed time frame if their mining activities result in damage to arable land, grassland or forest. The rehabilitated land must meet rehabilitation standards, as required by law from time to time, and may only be subsequently used upon examination and approval by the land authorities. A coal producer's failure to comply with this requirement or its failure to return the mining site to its original state will result in the imposition of fines, rehabilitation fees and/or rejection of applications for land use rights by the local bureau of land and resources.

In addition to the PRC environmental laws and regulations, China is a signatory to the 1992 United Nations Framework Convention on Climate Change and the 1998 Kyoto Protocol, which propose emission targets to reduce greenhouse gas emissions. The Kyoto Protocol came into force in 2005. At present, the Kyoto Protocol has not set any specific emission targets for certain countries, including China.

### Mining safety

On June 7, 2005, the State Council promulgated Several Opinions on Promoting the Healthy Development of the Coal Industry, which contains the PRC government's policies with respect to the development and restructuring of the coal industry. The opinions reiterated the PRC government's policies with respect to the administration of coal reserves, enhancement of coal mine safety, encouragement of industry consolidation among coal producers, acceleration of the construction of large coal production bases, improvement of mining techniques and equipment for coal production and the organization and regulation of small coal mines.

According to the Measures for Implementing Work Safety Permits in Coal Mine Enterprises issued by the State Administration of Work Safety and the SACMS, a coal mine enterprise without a work safety permit may not engage in coal production activities. Coal mining enterprises and their mines that do not satisfy the safety conditions set forth in this document, or those that violate the provisions of this document, may be punished by fines, warnings, temporary suspension of the work safety permit, mandatory remediation measures, orders to cease production and cancellation of the work safety permit. Coal mine enterprises that remain compliant with the requirements set in these documents may apply for administrative approval to extend the validity period of their Work Safety Permits.

The Special Regulations by the State Council on Preventing Work Safety Related Accidents in Coal Mines were promulgated and entered into effect on September 3, 2005. These regulations specify that coal mine enterprises are responsible for preventing coal mine work safety-related accidents. If a coal mine has not obtained, in accordance with the law, a mining right permit, work safety permit, coal production permit or business license and if the mine manager has not obtained, in accordance with the law, a mine manager qualification certificate and a mine manager safety qualification certificate, the coal mine may not engage in production. Coal mining enterprises should establish a sound system for the detection, elimination, treatment and reporting of latent work safety-related dangers. If a major latent work safety-related danger exists in a coal mine, the enterprise should immediately suspend production and eliminate the latent danger. Coal mining enterprises should provide their personnel working underground and their special operation personnel with safety education and training in accordance with relevant state regulations. The person in charge of a coal mine and the production and operation management personnel should go into mines and act as foremen on a rotating basis in accordance with state regulations, and a file recording their entry into the mine should be maintained.

In addition, on September 24, 2005, the State Administration of Work Safety issued the Measures for Rewarding the Reporting of Major Latent Work Safety Related Dangers in, and Violations of the Law by, Coal Mines (for Trial Implementation). Subsequently, the State Administration of Work Safety issued three sets of measures on September 26, 2005: (i) the Measures for Determining Major Latent Work Safety Related Dangers in Coal Mines (for Trial Implementation); (ii) the Implementing Measures for the Detection and Elimination of Latent Dangers in Coal Mines and the Rectification and Closure of Such Mines (for Trial Implementation); and (iii) the Measures for the Supervision and Inspection of Coal Mine Safety Training (for Trial Implementation). On October 31, 2005, the State Administration of Work Safety issued the Guiding Opinions on Persons in Charge of Coal Mines and Production and Operation Management Personnel Going into Mines as Foremen.

Moreover, the Shandong Provincial Government issued the Opinions regarding Integration of Mineral Resources and Implementation of Intensive Exploitation (Lu Zheng Ban Fa [2006] No. 52) on June 21, 2006, which encourages the integration of mineral resources and the upgrading of safety production standards and the efficient exploitation of mineral resources.

#### Coal mining industry and resources integration

Several measures have been enacted by various PRC government and provincial authorities to promote the integration and enhancement of mineral resources to maximize domestic coal production and encourage developmental efficiency.

The General Office of the Shandong Provincial Government issued the Notice to Implement Circular Guo Fa Ban [2006] No. 108 and Notice to Effectively Implement Integration of Mineral Resources (Lu Zheng Ban Fa [2007] No. 37), on June 19, 2007, which further implement Circular Guo Fa Ban [2006] No. 108 and promote the integration of mineral resources in Shandong Province.

In addition, the Shandong Provincial Government issued the Notice to Deepen Integration Works of Mineral Resources (Lu Zheng Ban Fa [2010] No. 1), on January 4, 2010, which requires further promotion of integration of mineral resources, reduces the number of mines and mining approvals, and enhances intensive production in Shandong Province. The State-owned Assets Supervision and Administration Commission of Shandong Province issued the Notice Regarding Document Lu Zheng Ban Fa [2010] No. 1 from the General Office of Provincial Government to Deepen the Integration Work of Integrated Exploitation of Mineral Resources (Lu Guozi Guihua [2010] No. 1) on February 3, 2010, which requires enterprises under provincial administration to review and integrate resources, as well as actively participate in the integration of mineral resources province-wide.

The government authorities of Inner Mongolia issued the Notice of Printing and Distributing the Work Plan of Mergers and Reorganizations of Coal Mining Enterprises in Inner Mongolia Autonomous Region (Nei Zheng Fa [2011] No. 32) on March 15, 2011, which sets forth the guiding principles, integrative approach, applicable policies, regulations and working requirements for coal resources in the region. By the end of 2013, the notice indicates that coal mining enterprises located in Inner Mongolia must achieve production of 1.2 million tonnes per annum (three million tonnes per annum may apply to certain regions upon certain conditions) or be required to merge with other enterprises. Enterprises with a production capacity of more than five million tonnes of raw coal, among others, or enterprises with at least either one underground coal mine with a singular well production capacity of more than 1.2 million tonnes or an open-pit coal mine with a singular well production capacity of more than three million tonnes, subject to certain operational safety conditions, will be given preference as entities into which other smaller entities may merge.

In addition, the government authorities of Inner Mongolia issued the Notice of Working Well on the Related Issues Concerning Integration of Coal Resources (Nei Zheng Ban Fa [2011] No. 92) on October 9, 2011, which sets forth supplemental information on the determination of the status of coal mining entities and the scope of coal resources to be integrated in the region.

These mining industry and resources integration regulations will affect the production capacity and rates of our mines that are located in the particular provinces or regions.

### **Regulation of the Australian Coal Industry**

Our operations in Australia are subject to laws and regulations of general application governing mining and processing, land tenure and use, environmental requirements, including site-specific environmental licenses, permits and statutory authorizations, industrial relations, workplace health and safety, trade and export, competition, access to infrastructure, foreign investment and taxation. These regulations are implemented by various federal, state and local government departments and authorities, including the Department of Resources, Energy and Tourism, the Department of Sustainability, Environment, Water, Population and Communities and the National Native Title Tribunal.

#### *Environmental and planning issues*

Our mining operations in Australia are regulated by Australian federal, state and local governments with respect to environmental issues (such as water quality, air quality, dust impact, noise impact) and planning issues (such as approvals to expand existing mines or to develop new mines or to change mining interests). Australian state governments require coal companies to post deposits or give other security on the land which is being used for mining and exploration, with those deposits being returned or security released after satisfactory reclamation is completed.

The particular provisions of the various state and territory environment and planning legal regimes vary depending upon the jurisdiction. Despite variation in details, each state and territory has a system involving broadly at least two major phases, including: (i) obtaining major environment/planning developmental approval addressing planning and significant environmental issues and (ii) obtaining pollution control approvals regarding pollution control issues such as emissions to the atmosphere; emissions in waters; noise impact, impact from blasting; dust impact; and the generation, handling, storage and transportation of waste.

The federal environmental protection regime will apply if matters of national environmental significance are likely to be significantly impacted. If so, federal regulatory approval will be required. Most coal projects require such federal approval.

#### *Occupational health and safety*

The combined effect of various state and federal statutes requires an employer to ensure that persons employed in a mine are safe from injury by providing a safe working environment and systems of work; safety machinery; safety equipment, plant and work materials; and appropriate information, instruction, training and supervision.

In recognition of the specialized nature of mining and mining activities, specific occupational health and safety obligations have been mandated under law and legislation that deals specifically with the coal mining industry. Mining employers, owners, directors and managers, persons in control of work places, mine managers, supervisors and employees are all subject to these duties. The Australian federal government is currently conducting a review of health and safety legislation with a view to harmonizing requirements across the country.

It is mandatory for an employer to have insurance coverage with respect to the compensation of injured workers. Similar coverage is in effect throughout Australia which is of a no-fault nature and which provides for benefits up to a prescribed level. The specific benefits vary by jurisdiction, but generally include the payment of weekly compensation to an injured employee, together with payment of medical, hospital and related expenses. The injured employee may have a right to sue his or her employer for further damages if a case of negligence can be established (but on the condition that the injured employee waives his or her right to the insurance coverage).

#### *MRRT*

On March 29, 2012, the Australian MRRT became law, effective July 1, 2012. The MRRT is a profits-based tax that will be charged at an effective rate of 22.5% on the assessable profits (excess of annual mining revenue over annual mining expenditures with respect to mineral interests, less certain allowances) of, among others, coal mining enterprises. At this stage, the extent to which the implementation of the foregoing tax will affect our operations in Australia is yet to be determined. However, the MRRT has the potential to increase the overall tax liability of Yancoal Australia.



### Carbon tax scheme

A number of countries, including Australia have ratified the Kyoto Protocol to the United Nations Framework Convention on Climate Change. The Australian government has devoted efforts in meeting the emissions target for Australia as set forth in the Kyoto Protocol. To this end, the Australian federal government has recently passed laws imposing a tax on the amount of carbon dioxide emissions by enterprises having significant emissions, which may include coal mining enterprises in Australia. In addition, the Australian federal government intends to gradually shift from a carbon tax scheme to a “cap and trade” carbon emissions scheme. The legislation will become effective from July 1, 2012.

### Foreign investment

There are no specific restrictions on foreign investment in Australia’s coal industry. However, under Australian law and Australia’s foreign investment policy, certain acquisitions require prior approval of the Treasurer of Australia. Generally, these include acquisitions of substantial interests (15% or more) in an Australian business where the value of the business’ total assets is, or the proposal value is, above A\$244 million. However, since the Controlling Shareholder is owned or controlled by the PRC government, the Company and each of its subsidiaries (including Yancoal Australia) is a “related entity” of a “foreign government” for the purposes of Australia’s foreign investment policy. Accordingly, these entities must notify the Australian federal government and obtain the Treasurer’s prior approval before making any direct investment in Australia (generally, investment of 10% or more), regardless of the value of the investment, as well as before starting a new business or acquiring an interest in land, including any interest in a prospecting, exploration, mining or production tenement.

### **Power generation industry**

#### The Electric Power Law and the Electric Power Regulatory Ordinance

The Electric Power Law of the PRC (the “Electric Power Law”) sets out the regulatory framework of the power industry. The Electric Power Law encourages power plant operators to focus on environmental protection and adopt new technology to decrease waste discharge.

In 2005, the State Council promulgated the Electric Power Regulatory Ordinance. The Electric Power Regulatory Ordinance sets forth regulatory requirements for many aspects of the power industry, including, among others, the issuance of electric power business permits, the regulatory inspections of power generators and grid companies and the legal liabilities resulting from violations of the regulatory requirements.

#### Approvals and licenses for power plants

Applications for all new coal-fired power plants are required to be submitted to the NDRC for approval, as well as to the State Council for significant power plant projects. According to the Provisions on the Administration of Electric Power Business Licenses, applicants are also required to obtain requisite permits, including an Electric Power Business for Power Generation and approvals related to plant site, land use rights, construction and the environment.

#### Pricing

Since 1996, the Electric Power Law has set forth general principles for determining power tariffs. The Interim Provisions for the Administration of Grid Power Price promulgated by NDRC states that tariffs are to be formulated to provide reasonable compensation for costs and a reasonable return on investment, to share expenses fairly and to promote the construction of power projects. With the exception of grid power prices set by governmental bids or power plans that produce alternative energy, grid power prices of new power plants within the same region should be uniform. The on-grid tariffs for planned output and excess output are subject to a review and approval process involving the NDRC and the provincial price bureaus. In 2004, the NDRC, with the approval of the State Council, issued a policy to link thermal coal and power prices. This policy allows on-grid tariffs to increase if the average price of coal increases by more than 5% within a six-month period.

#### Safety

In accordance with the Measures for Supervising the Safe Production of Electricity, issued by the SERC, power plants are responsible for maintaining safe operations in accordance with requirements set by the regional grid in which they are located. Power plants are required to report worker fatalities or serious or extraordinary accidents to the SERC and relevant local government authorities.

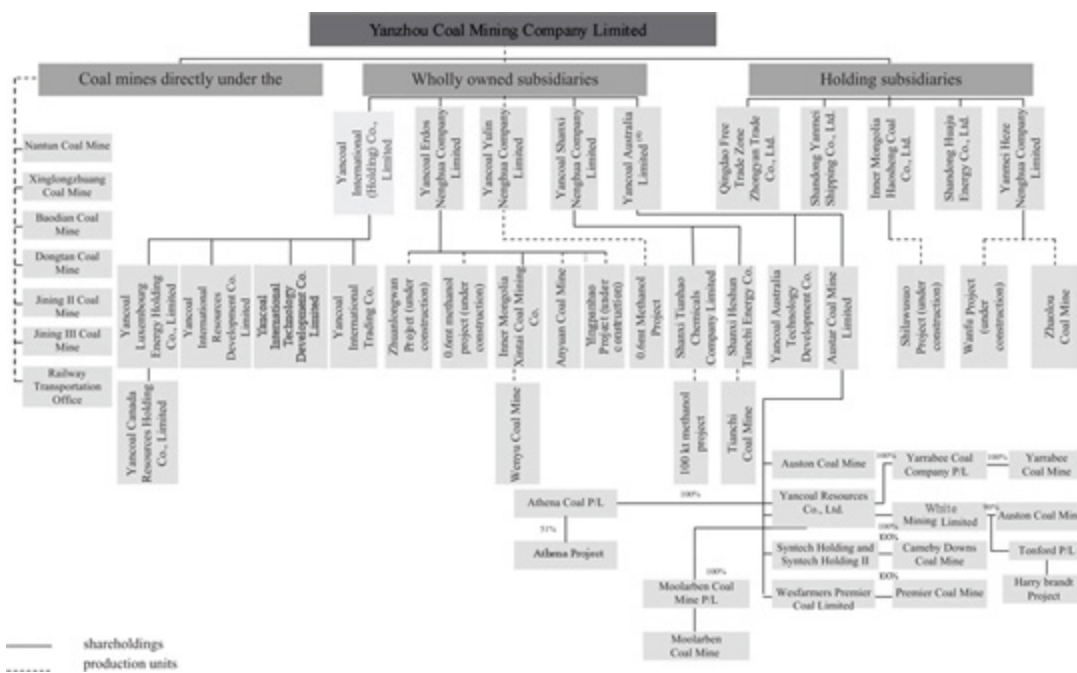
### **Coal chemical processing industry**

The PRC Coal Industry Law, encourages and supports coal mining enterprises and other enterprises to produce both coal and electricity, coking coal and coal chemicals. The NDRC issued the Notice of Strengthening the Administration of Coal Chemical Processing Industry and Improving the Healthy Development of the Industry, which was aimed at strengthening the coal chemical processing industry through the promotion of transportation safety, risk prevention and management standardization. According to the Enterprise Income Tax Law (the "EIT Law") and its implementation regulations, enterprises that produce products which are not restricted by the State and satisfy State and industry standards by using resources encouraged by industrial policies of the State are eligible for preferential tax treatment. If an enterprise uses any of the materials that are listed in the Catalogue of Income Tax Preference for Enterprises of Comprehensive Utilization of Resources as a major raw material in its product, 90% of the total income derived from such product will be treated as taxable income under the preferential tax arrangement. Coke oven gas, one of the primary raw materials at one of our methanol production facilities, is one of the materials listed in the catalogue.

### **C. Organizational Structure**

As of December 31, 2011, our Company consisted of 18 departments, namely the Secretariat of the Board of Directors, Audit Department of the Board of Directors, Department of Coordination, Department of Human Resources, Department of Financial, Planning and Management Department, Information Management Department, Enterprise Development Department, Risk Management Department, General Control Center, Department of Production Technology, Department of Safety Inspection, Electrical Engineering and Power Department, Ventilation and Dust Elimination Department, Geological Survey Department, Office of Community Relationship, Technical Center and Overseas Management Department.

The following chart shows our simplified corporate structure as of December 31, 2011:



## **D. Property, Plant and Equipment**

### ***Real Property and Leasehold Property***

As of December 31, 2011, the net book value of our property, plant and equipment was RMB31,273.8 million. The properties for which we own land-use rights in China occupy an area of approximately 6.8 million square meters, while the coalfields to which we possess mining rights in Australia occupy an area of approximately 1,214.6 million square meters. Under PRC law, our land-use rights for properties in China are granted for 50 years commencing from the respective grant dates of such land use rights and are freely transferable. In addition, the land ownership rights held by Yancoal Australia are held in perpetuity pursuant to Australian law.

As of the date of this annual report, we have not obtained certain land-use rights and building ownership certificates which comprise certain land with an aggregate site area of approximately 301,300 square meters and certain properties with an aggregate gross floor area of approximately 140,000 square meters in China. In addition, we have not completed the registration procedure with relevant real estate administrative authorities with respect to certain properties we lease in China. We do not expect that our rights to use or occupy such properties will be challenged by third parties and as of the date of this annual report, we are not aware of any administrative or legal action with respect to these properties. However, we are prohibited from the transfer, lease, mortgage, or disposal of such properties until we obtain relevant real estate or building ownership certificates.

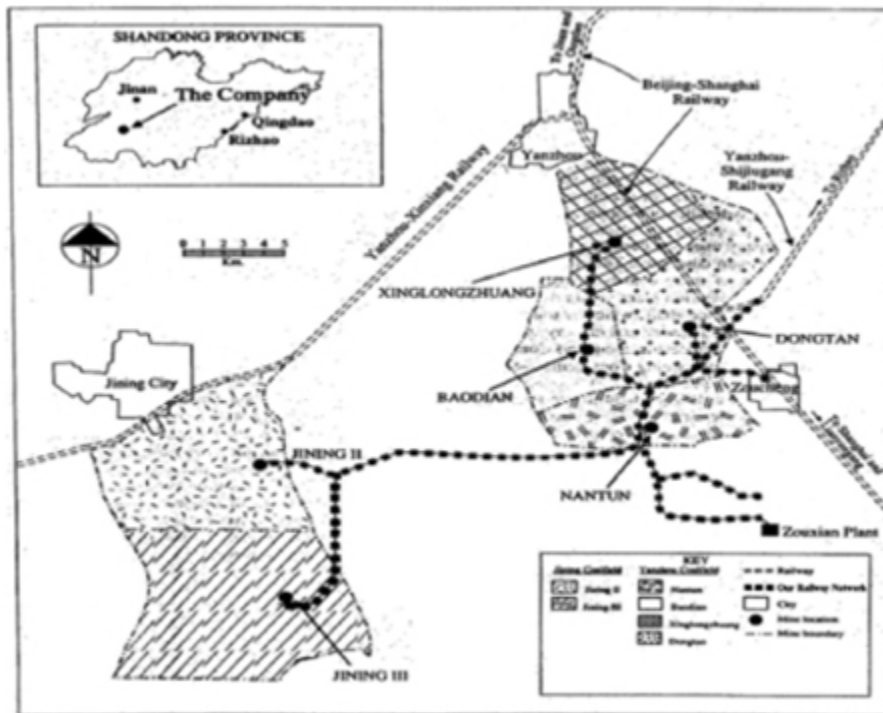
### ***Coal Mines and Coal Production Facilities***

The Six Coal Mines are all located in the southwestern part of Shandong. All of these mines are connected by our railway network, which directly connect to our customers or the PRC national railway or highway systems. We acquired Heze Nenghua, the operator of Tianchi Coal Mine in 2006 and subsequently the mining rights of Zhaolou Coal Mine through Heze Nenghua in 2008. Our wholly owned subsidiary Ordos Neng Hua acquired Anyuan Coal Mine in 2010 and acquired the mining rights of Zhuanlongwan coalfield through public bidding in 2011. As of the date of this annual report, we are in the process of obtaining the approval, permit and registration for the acquisition of Anyuan Coal Mine and obtaining the mining rights for Zhuanlongwan Project. We expect to obtain the relevant approvals and mining rights by 2013. In addition, Ordos Neng Hua acquired 80% of the equity interest in Inner Mongolia Xintai, which has operated Wenyu Coal Mine since July 2011.

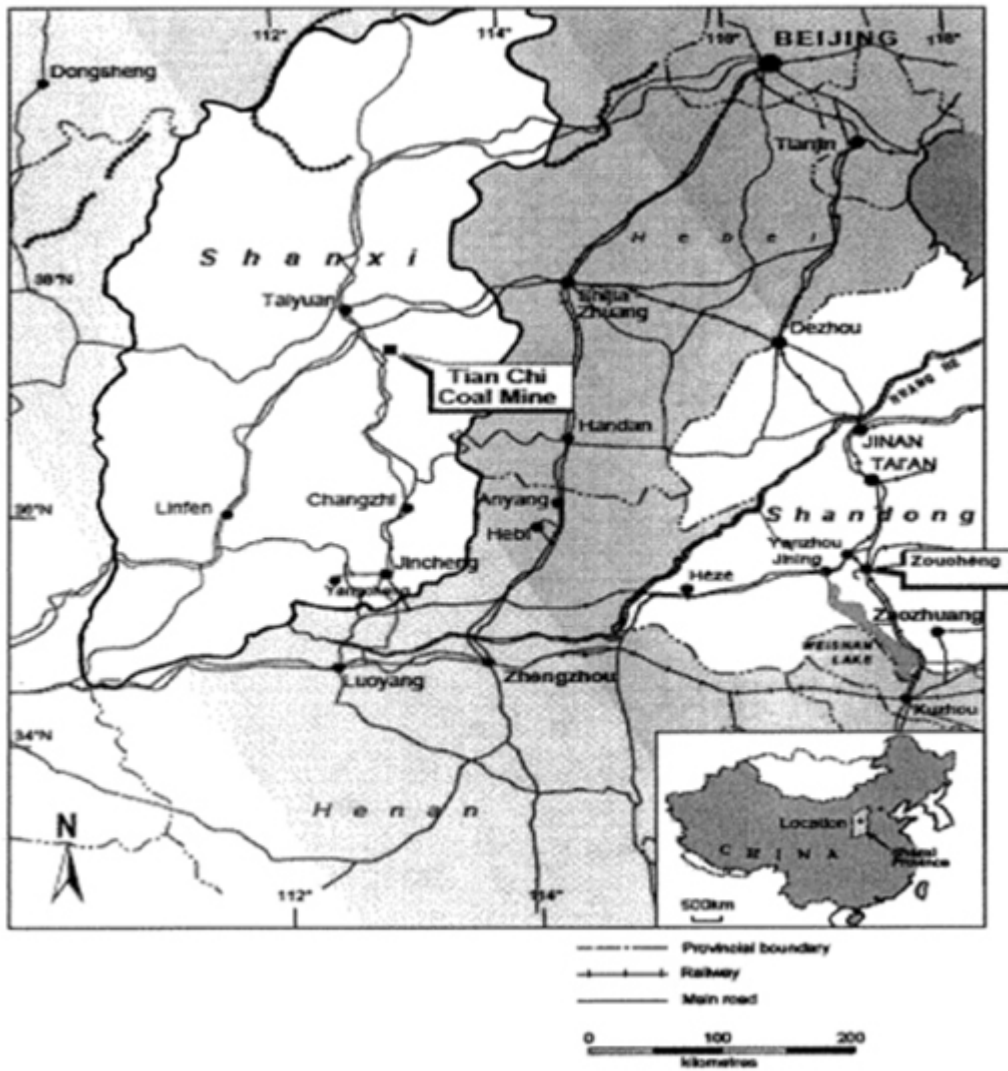
We acquired Astar Coal Mine in Australia in 2004 and we acquired the entire equity interest in Felix through Yancoal Australia in 2009. Felix (Yancoal Resources) is a company incorporated in Australia whose principal activities include the exploration, mining and sale of coal. The major coal assets currently owned by Yancoal Resources are located in New South Wales and Queensland. As of the date of this annual report, Yancoal Resources had an ownership interest in the following operational coal mines: Ashton Coal Mine, Yarrabee Coal Mine and Moolarben Coal Mine. Yancoal Resources also holds ownership interests in three exploratory mine projects and 15.4% interest of the equity in Newcastle Coal Infrastructure Group. We acquired an additional 30% of the equity interest in the Ashton Coal Mine Joint Venture and disposed of 51% of the equity interest in the Minerva Coal Mine Joint Venture in 2011. As of December 31, 2011, we held 90% of the equity interest in the Ashton Coal Mine Joint Venture. In August 2011, we acquired the entire equity interest of both Syntech Holdings Pty Ltd. and Syntech Holdings II Pty Ltd., which operate the Cameby Downs Coal Mine and have 5 exploration tenements that can be potentially developed. In September 2011, we acquired the entire equity interest of both Premier Coal which operates the Premier Coal Mine and Wilga Exploration Area and Premier Char. In addition, in December 2011, we and our subsidiary Yancoal Australia entered into a merger proposal deed with Gloucester (amended in March 2012), pursuant to which Yancoal Australia intends to implement a merger by way of a scheme of arrangement under Australian law. After the completion of the Merger, Yancoal Australia is expected to be the largest listed Australian pure-play coal mining enterprise in terms of saleable coal production in 2011. See “— A. History and Development of Our Company — Merger Proposal with Gloucester.”

We operate all of our mines either directly or through our subsidiaries and we have not contracted the mining operations at any of our mines to third-party contractors.

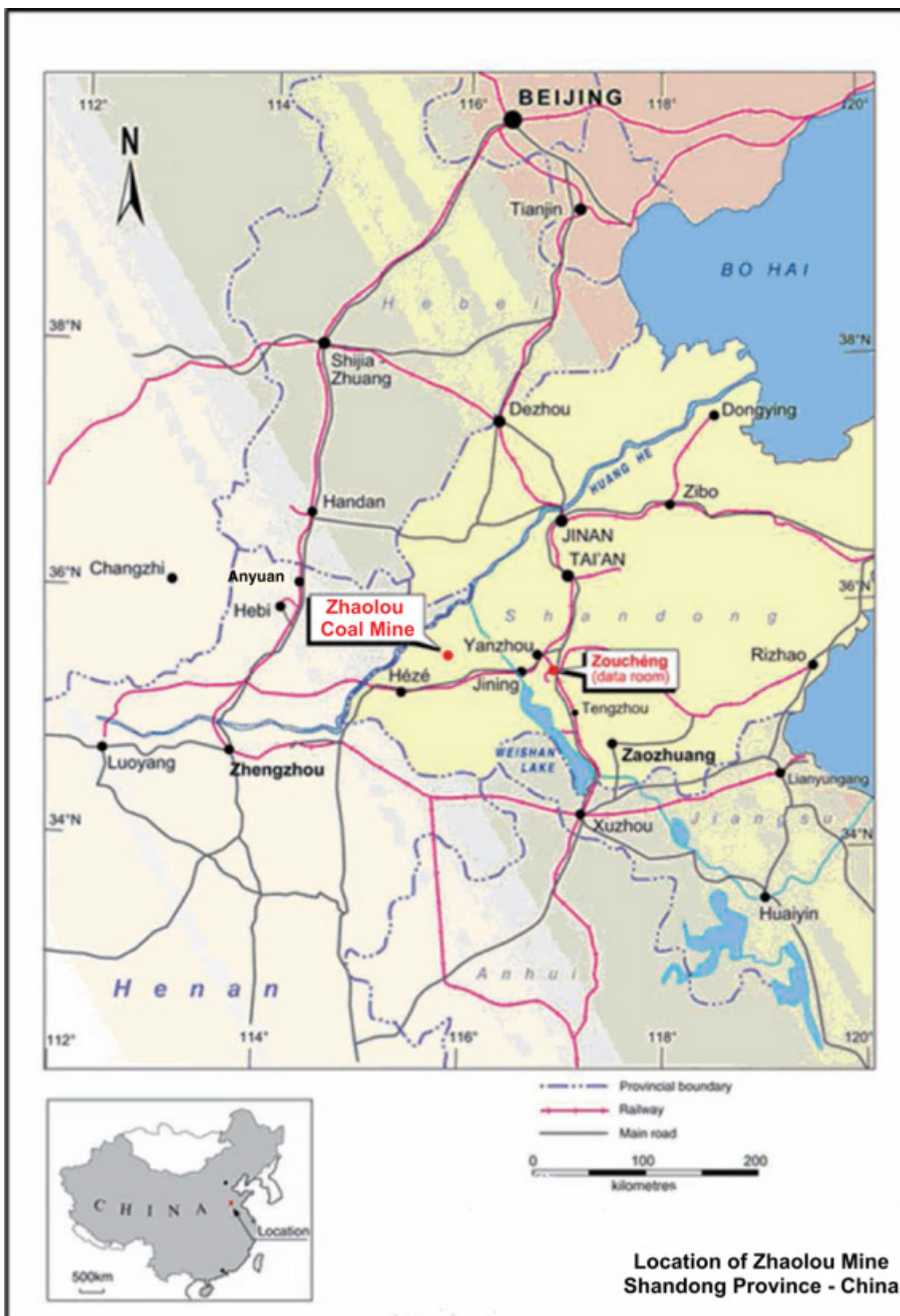
The map below shows the location of the Six Coal Mines and our railway system:



The map below shows the location of Tianchi Coal Mine:



The map below shows the location of Zhaolou Coal Mine:



The map below shows the location of Anyuan Coal Mine and Wenyu Coal Mine operated by Ordos Neng Hua:

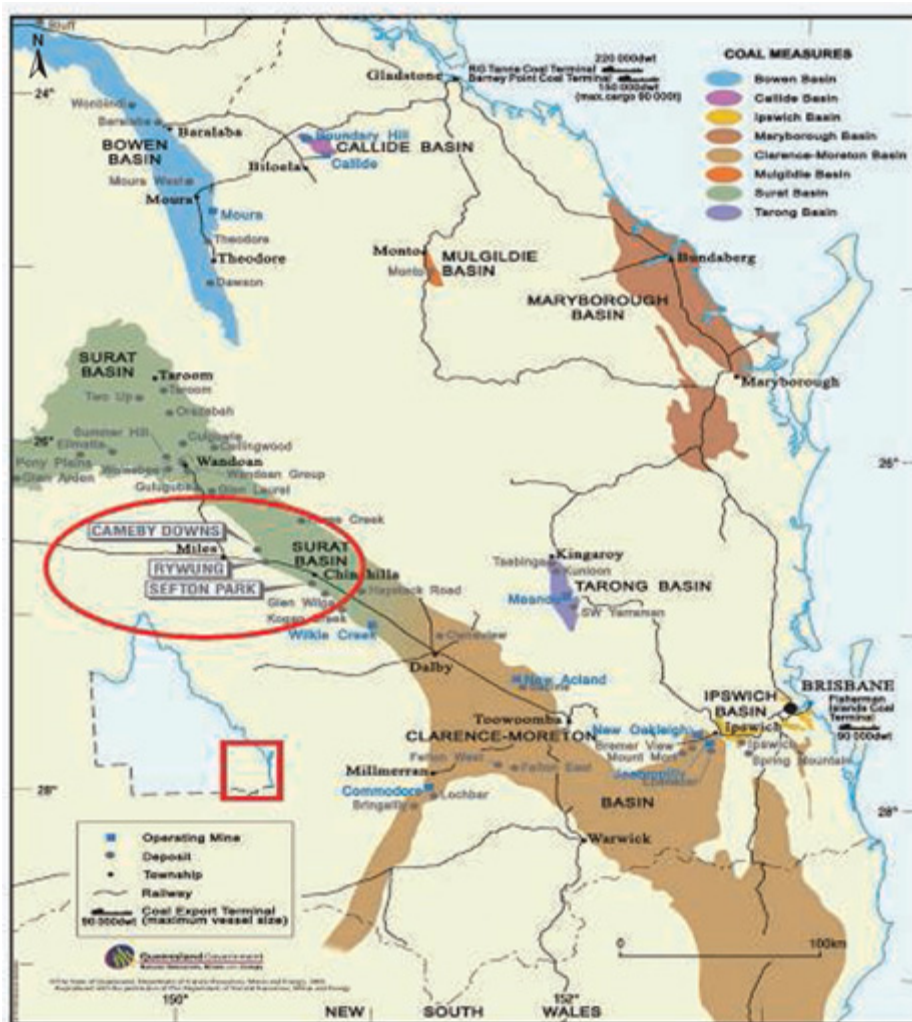




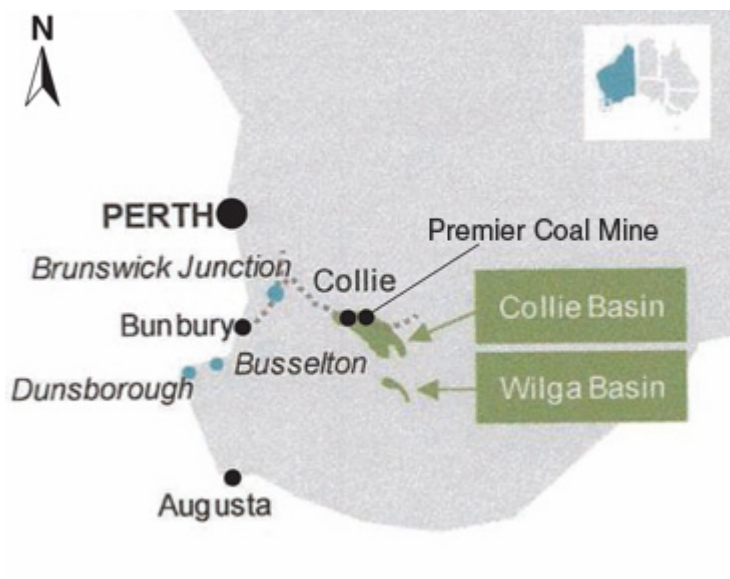
The map below shows the location of Astar Coal Mine and coal mines and projects owned (directly or indirectly) by Yancoal Resources:



The map below shows the location of Cameby Downs Coal Mine owned by Syntech:



The map below shows the location of Premier Coal Mine owned by Premier Coal Limited:



## The Six Coal Mines

The following table sets forth information about each of the Six Coal Mines, which are directly owned and operated by the Company:

	Nantun	Xinglong-zhuang	Baodian	Dongtan	Jining II	Jining III	Total
<b>Background data:</b>							
Commencement of construction	1966	1975	1977	1979	1989	1993	N/A
Commencement of commercial production	1973	1981	1986	1989	1997	2000	N/A
Coalfield area (square kilometers)	35.2	59.8	36.4	60.0	87.1	105.1	383.6
<b>Reserve data (millions of tonnes as of December 31, 2011)</b>							
Total in-place proven and probable reserves <sup>(1)</sup>	111.1	311.7	276.4	443.8	404.3	215.5	1,762.8
Mining recovery rate (%) <sup>(2)</sup>	81.28	80.80	81.57	83.88	79.83	80.91	N/A
Coal preparation plant recovery rate (%) <sup>(3)</sup>	67.59	87.40	62.12	60.96	69.43	62.55	69.52
Depth of mine (meters underground)	397.0	429.2	474.7	710.0	593.0	556.0	N/A
Average thickness of main coal seam (meters)	8.6	8.3	8.8	8.4	6.8	6.2	N/A
Type of coal	thermal coal	thermal coal	thermal coal	thermal coal	thermal coal	thermal coal	N/A
Leased/owned	owned	owned	owned	owned	owned	owned	N/A
Assigned/unassigned <sup>(4)</sup>	assigned	assigned	assigned	assigned	assigned	assigned	N/A
Average calorific value (Kcal/kg)	5,572	5,881	5,890	5,586	5,467	5,412	N/A
Sulfur content (%)	0.60	0.47	0.52	0.60	0.56	0.52	N/A
<b>Production data:(millions of tonnes)</b>							
Designed raw coal production capacity	2.4	3.0	3.0	4.0	4.0	5.0	21.4
Designed washing capacity	1.8	3.0	3.0	4.0	3.0	5.0	19.8
<b>Raw coal production</b>							
2006	3.9	7.2	5.6	8.0	4.0	6.8	35.5
2007	3.9	6.8	5.8	7.6	3.4	5.3	32.8
2008	3.5	6.6	6.0	7.0	3.9	6.1	33.1
2009	3.8	6.6	5.7	7.5	3.6	6.2	33.4
2010	3.6	6.8	6.1	7.4	4.2	6.2	34.3
2011	3.3	6.8	6.1	7.3	4.4	6.0	34.0
Cumulative raw coal production as of December 31, 2011	47.8	81.7	72.5	90.9	53.0	74.2	420.1

(1) The proven and probable reserves of the above coal mines are based on the report dated February 6, 1998 prepared by International Mining Consultants Limited, a UK-based company, in accordance with the standards in Industry Guide 7.

Under Industry Guide 7, "proven reserves" are reserves for which (a) quantity is computed from dimensions revealed in outcrops, trenches, workings or drill holes, grade and/or quality are computed from the results of detailed sampling and (b) the sites for inspection, sampling and measurement are spaced so closely and the geologic character is so well defined that size, shape, depth and mineral content of reserves are well-established. "Probable reserves" are reserves for which quantity and grade and/or quality are computed from information similar to that used for proven reserves, but the sites for inspection, sampling, and measurement are further apart or are otherwise less adequately spaced. The degree of assurance of "probable reserves," although lower than that for proven reserves, is high enough to assume continuity between points of observation.

The total proven and probable reserves as of the end of a year are derived by deducting the proven and probable reserves consumed in the coal production in the same year from the proven and probable reserves as of the end of the immediately preceding year.

(2) The mining recovery rate is the rate of the amount of coal recovered from a determined amount of proven and probable reserves, which is calculated by dividing the actual volume of coal recovered in a year by the volume of proven and probable reserves mined and consumed in the same year.

- (3) “Coal preparation plant recovery rate” refers to the wash plant recovery rate of raw coal used during the production of our coal products.
- (4) “Assigned” refers to coal reserves which have been committed to a particular mining complex (mine shafts, mining equipment, and plant facilities), and all coal which has been leased by the company to others. “Unassigned” refer to coal reserves which have not been committed, and which would require new mine shafts, mining equipment or plant facilities before operations could begin on the property.

#### Nantun Coal Mine

Nantun is located in the southern portion of our coalfield, with a coalfield area of approximately 35.2 square kilometers. Nantun began commercial production in 1973 with a designed annual raw coal production capacity of 2.4 million tonnes of coal. The main coal seam of Nantun is divided into two leaves. The thickness of the upper leaf averages 5.35 meters and the thickness of the lower leaf averages 3.21 meters. As of December 31, 2011, the total in-place proven and probable reserves on the main coal layer were approximately 111.1 million tonnes.

We primarily use the fully mechanized sublevel caving mining method to extract coal from the upper layer of the coal seam and use a fully mechanized longwall system to mine the lower layer of the coal seam. As of December 31, 2011, Nantun produced coal from three work faces. Nantun’s coal preparation plant produces mainly No. 2 Clean Coal and employs movable-sieve jig machines and jig machines. Most of the equipment used in the Nantun coal preparation plant was manufactured in the PRC.

#### Xinglongzhuang Coal Mine

Xinglongzhuang is located in the northern portion of our coalfield, with coalfield area of approximately 59.8 square kilometers. Xinglongzhuang began commercial production in 1986 with a designed annual raw coal production capacity of 3.0 million tonnes. The main coal seam of Xinglongzhuang is concentrated in one leaf with an average thickness of 8.3 meters. As of December 31, 2011, the total in-place proven and probable reserves on the main coal layer were approximately 311.7 million tonnes.

We primarily use the fully mechanized sublevel caving method to extract coal from the coal seam of Xinglongzhuang Coal Mine. At this coal mine, we produced coal from two work faces as of December 31, 2011. The Xinglongzhuang coal preparation plant produces No. 1 and No. 2 Clean Coal and lump coal. The majority of the equipment in the Xinglongzhuang coal preparation plant, including its jig machines and movable-sieve jig machines, was manufactured in the PRC while a small portion of the equipment was imported.

#### Baodian Coal Mine

Baodian is located in the central western portion of our coalfield, with coalfield area of approximately 36.4 square kilometers. Baodian began commercial production in 1986 with a designed annual raw coal production capacity of 3.0 million tonnes. Certain sections of the main coal seam of Baodian are concentrated in one leaf, with an average thickness of 8.81 meters. The remaining sections are divided into two leaves with an average thickness of 5.74 meters for the upper leaf and 3.38 meters for the lower leaf. As of December 31, 2011, the total in-place proven and probable reserves on the main coal layer were approximately 276.4 million tonnes.

We primarily use the fully mechanized sublevel caving method to extract coal from the upper layer of the coal seam and use mechanized longwall faces to mine the lower layer of the coal seam. At this coal mine, we maintained two work faces as of December 31, 2011. The Baodian coal preparation plant produces No. 2 Clean Coal and lump coal. The majority of equipment in the Baodian coal preparation plant, including its slanted wheel, cyclones and jig machines, was manufactured in the PRC.

#### Dongtan Coal Mine

Dongtan is located in the central eastern portion of our coalfield, with coalfield area of approximately 60.0 square kilometers. Baodian began commercial production in 1989 with a designed annual raw coal production capacity of 4.0 million tonnes. Certain sections of the main coal seam consist of one layer with an average thickness of 8.41 meters, and the remaining sections are divided into two layers, with an average thickness of 5.38 meters for the upper layer and 3.22 meters for the lower layer. As of December 31, 2011, the main coal layer held approximately 443.8 million tonnes of in-place proven and probable reserves.

We primarily use the fully mechanized sublevel caving method to extract coal from the sections of the coal seam with one layer of coal and the upper layer in the sections with two layers of coal. At this mine, we maintained two work faces as of December 31, 2011. The Baodian coal preparation plant produces No. 2 and No. 3 Clean Coal and lump coal. The principal pieces of equipment in the Baodian coal preparation plant, including its slanted wheel, cyclones and jig machines, were manufactured in the PRC.

#### Jining II Coal Mine

Jining II is located in the northern portion of the Jining coalfield, with coalfield area of approximately 87.1 square kilometers. Baodian began commercial production in 1997 with a designed annual raw coal production capacity of 4.0 million tonnes. Certain sections of the main coal seam of Jining II are concentrated in one layer, with an average thickness of 6.78 meters. The remaining sections are divided into two layers, with an average thickness of 2.1 meters for the upper leaf and an average thickness of 4.68 meters for the lower leaf. As of December 31, 2011, the total in-place proven and probable reserves on the main coal layer were approximately 404.3 million tonnes.

We primarily use the fully mechanized sublevel caving method to extract coal from the upper layer of the coal seam and use mechanized longwall mining method to mine the lower layer of the coal seam. At this coal mine, we produced coal from two work faces as of December 31, 2011. The main equipment used in Jining II are movable-sieve jig machines and jig machines, most of which were manufactured in the PRC. The principal product of the coal preparation plant of Jining II is No. 2 Clean Coal.

#### Jining III Coal Mine

Jining III is located in the southern portion of the Jining coalfield and covers an area of 105.0 square kilometers. Jining III had a designed annual raw coal production capacity of 5 million tonnes in 2000. The average thickness of the main coal seam of Jining III is 6.2 meters. As of December 31, 2011, the total in-place proven and probable reserves on the main coal layer were approximately 215.5 million tonnes.

We primarily use the fully mechanized sublevel caving method to extract coal from three work faces in Jining III Coal Mine as of December 31, 2011. The main pieces of equipment used in Jining III are slanted wheel, cyclones and movable-sieve jig machines, which were manufactured in the PRC. The principal products of the coal preparation plant of Jining III are No. 2 and No. 3 Clean Coal. In 2010, Jining III made technical improvements which provided it with washing capacity.

## Coal Mines operated by Shanxi Nenghua and Heze Nenghua

The following table sets forth information about Tianchi Coal Mine and Zhaolou Coal Mine in China that are operated by Shanxi Nenghua and Heze Nenghua:

	Tianchi	Zhaolou	Total
<b>Background data:</b>			
Commencement of construction <sup>(1)</sup>	2004	2004	N/A
Commencement of commercial production <sup>(1)</sup>	2006	2009	N/A
Coalfield area ( <i>square kilometers</i> )	20.0	143.4	163.4
<b>Reserve data:</b> <i>(millions of tonnes as of December 31, 2011)</i>			
Recoverable reserves <sup>(2)</sup>	26.6	103.6	130.2
Mining recovery rate (%) <sup>(3)</sup>	82.5	79.7	N/A
Coal preparation plant recovery rate (%) <sup>(4)</sup>	N/A	69.2	N/A
Depth of mine ( <i>meters underground</i> )	225	905	N/A
Average thickness of main coal seam ( <i>meters</i> )	4.6	5.2	N/A
Type of coal	thermal coal	1/3 coking coal	N/A
Leased/owned	owned	owned	N/A
Assigned/unassigned <sup>(5)</sup>	assigned	assigned	N/A
Average calorific value ( <i>Kcal/kg</i> )	5,177	6,937	N/A
Sulfur content (%)	0.90	0.53	N/A
<b>Production data: (millions of tonnes)</b>			
Designed raw coal production capacity	1.2	3.0	4.2
Designed coal preparation input washing capacity	—	3.0	3.0
<b>Raw coal production</b>			
2006	0.1	—	0.1
2007	1.2	—	1.2
2008	1.1	—	1.1
2009	1.0	0.04	1.04
2010	1.5	1.6	3.1
2011	1.2	3.0	4.2
Cumulative raw coal production as of December 31, 2011	6.1	4.64	10.74

(1) With respect to the Tianchi Coal Mine, the “commencement of construction” refers to capacity expansion and technology upgrade undertaken after our 2006 acquisition; the “commencement of commercial production” refers to the resumption of production after completion of the foregoing expansion and upgrade.

(2) The recoverable reserves of the above coal mines are based on the report prepared by Minarco AsiaPacific Pty Limited in May 2006 in accordance with the standards in the JORC Code.

“Recoverable reserves” generally refer to proved and probable reserves under the JORC Code as revised in 2004,. “Proved reserves” are the economically mineable part of a measured coal resource and “probable reserves” are the economically mineable part of an indicated, and in some circumstances, measured coal resource. Both “proved reserves” and “probable reserves” incorporate mining dilution and allow for mining losses and are based on an appropriate level of mine planning, mine design and scheduling.

(3) The mining recovery rate is the rate of the amount of coal recovered from a determined amount of proven and probable reserves, which is calculated by dividing the actual volume of coal recovered in a year by the volume of proven and probable reserves mined and consumed in the same year.

(4) “Coal preparation plant recovery rate” refers to the wash plant recovery rate of raw coal used during the production of our coal products.

(5) “Assigned” refer to coal reserves which have been committed to a particular mining complex (mine shafts, mining equipment and plant facilities), and all coal which has been leased by the company to others. “Unassigned” refers to coal reserves which has not been committed, and which would require new mine shafts, mining equipment, or plant facilities before operations could begin on the property.

### Tianchi Coal Mine

Tianchi Coal Mine is an underground mine located in Heshun County of Shanxi, with an area of approximately 20 square kilometers. Tianchi Coal Mine commenced commercial production in 2006 and the designed production capacity was increased to 1.2 million tonnes per annum in the same year. Tianchi Coal Mine is operated by inclined shaft development and primarily produces thermal coal and lump coal. The average thickness of the target coal seam is 4.6 meters. As of December 31, 2011, the total recoverable reserves of Tianchi Coal Mine were approximately 26.6 million tonnes.

We primarily used the longwall caving mining method to extract coal from one work face at Tianchi Coal Mine as of December 31, 2011. The primary piece of equipment in this system is a slanted wheel, which was manufactured in China. The operations at Tianchi Coal Mine are powered by electricity from local power grids. We ship coal products from the Tianchi Coal Mine to Hebei and surrounding areas on the Yangshe Railway and the national railway network, as well as the highway network.

### Zhaolou Coal Mine

Zhaolou Coal Mine is an underground longwall mine located in the central portion of Juye Coal Field in Shandong. Zhaolou Coal Mine covers an area of approximately 143.4 square kilometers, and is accessible by roadway and railway.

Zhaolou Coal Mine commenced commercial production in December 2009 and has a designed annual raw coal production capacity of 3.0 million tonnes. Zhaolou Coal Mine produces 1/3 coking coal. The average thickness of the main coal seam of Zhaolou Coal Mine is 5.2 meters. The total recoverable reserves of Zhaolou Coal Mine were approximately 103.6 million tonnes as of December 31, 2011.

We primarily used the longwall caving mining method to extract coal from the two work faces at Zhaolou Coal Mine as of December 31, 2011. The coal preparation plant at Zhaolou Coal Mine commenced commercial production in September 2009. The main equipment used in the coal preparation plant was a slanted wheel, cyclone machines and TBS separators, which were mainly produced in China. The main product of Zhaolou's coal preparation plant is No. 2 Clean Coal. The operations at Zhaolou Coal Mine are powered by electricity from local power grids. We ship coal products to Hebei and surrounding areas by truck.



## Coal Mines operated by Ordos Neng Hua

The following table sets forth information about Anyuan Coal Mine and Wenyu Coal Mine in China that are operated by Ordos Neng Hua:

	<u>Anyuan</u>	<u>Wenyu</u>	<u>Total</u>
<b>Background data:</b>			
Commencement of construction	—	1996	N/A
Commencement of commercial production	2004	1997	N/A
Coalfield area ( <i>square kilometers</i> )	9.3	9.4	18.7
<b>Reserve data:</b> <i>(millions of tonnes as of December 31, 2011)</i>			
Basic reserves <sup>(1)</sup>	35.6	46.1	81.7
Mining recovery rate (%) <sup>(2)</sup>	89.0	89.3	N/A
Coal preparation plant recovery rate (%) <sup>(3)</sup>	N/A	N/A	N/A
Depth of mine ( <i>meters underground</i> )	68	59	N/A
Average thickness of main coal seam ( <i>meters</i> )	2.8	3.9	N/A
Type of coal	thermal coal	thermal coal	N/A
Leased/owned	owned	owned	N/A
Assigned/unassigned <sup>(4)</sup>	assigned	assigned	N/A
Average calorific value ( <i>Kcal/kg</i> )	5,350	6,385	N/A
Sulfur content (%)	0.65	0.42	N/A
<b>Production data: (millions of tonnes)</b>			
Designed raw coal production capacity	1.2	3.0	4.2
Designed coal preparation input washing capacity	—	—	—
<b>Raw coal production</b>			
2011	2.3	2.1	4.4
Cumulative raw coal production as of December 31, 2011	2.3	2.1	4.4

- (1) The basic reserves of the Anyuan and Wenyu coal mines are assessed based on the PRC Standards which are different from the standards under the Industry Guide 7 or the JORC Code. Such estimates have not been reviewed by an independent competent person using the standards in the Industry Guide 7 or the JORC Code. The term “basic reserves” generally refers to measured and indicated economical reserves (as defined in the PRC Standards) prior to deduction of design and extraction losses.
- (2) The mining recovery rate is the rate of the amount of coal recovered from a determined amount of proven and probable reserves, which is calculated by dividing the actual volume of coal recovered in a year by the volume of proven and probable reserves mined and consumed in the same year.
- (3) “Coal preparation plant recovery rate” refers to the wash plant recovery rate of raw coal used during the production of our coal products.
- (4) “Assigned” reserves refer to coal reserves which have been committed to a particular mining complex (mine shafts, mining equipment and plant facilities), and all coal which has been leased by the company to others. “Unassigned” reserves refers to coal reserves which have not been committed, and which would require new mine shafts, mining equipment, or plant facilities before operations could begin on the property.

### Anyuan Coal Mine

Through Ordos Neng Hua, we wholly control Anyuan Coal Mine, which is located in Yijinhualuoqi of Ordos City in Inner Mongolia, and covers an area of approximately 9.3 square kilometers. Ordos Neng Hua commenced commercial production in 2011. In accordance with our internal estimates, Anyuan was estimated to have basic reserves of approximately 35.6 million tonnes as of December 31, 2011.

In 2011, we increased the annual production capacity of Anyuan Coal Mine the designed annual production capacity of 600,000 tonnes to 1.2 million tonnes through reconstruction and expansion in 2011. Anyuan Coal Mine primarily produces thermal coal. The average thickness of the main coal seam of Anyuan Coal Mine is 2.8 meters. We principally extract coal from one work face at Anyuan Coal Mine as of December 31, 2011. Anyuan Coal Mine is located in close proximity to railway and road transportation. The provincial highway and Baoshen railway are located approximately six kilometers to the west of the coalfield.

### Wenyu Coal Mine

Through our subsidiary, Inner Mongolia Xintai, we operate Wenyu Coal Mine, which is located in Ordos City in Inner Mongolia, and covers an area of approximately 9.36 square kilometers. According to data calculated in accordance with Chinese national mining standards, Wenyu was estimated to have basic reserve of approximately 46.1 million tonnes as of December 31, 2011.

The original designed annual raw coal production capacity of Wenyu Coal Mine was 1.1 million tonnes. Inner Mongolia Xintai obtained the approvals from the relevant administrative authority to increase the annual production capacity to 3.0 million tonnes in September 2011. As of December 31, 2011, we have completed production capacity expansion and commenced commercial production. The average thickness of the main seam of Wenyu Coal Mine is 4.0 meters. The type of coal is thermal coal. We principally extract coal from two work faces at Wenyu Coal Mine as of December 31, 2011. Wenyu Coal Mine is located in close proximity to Anyuan Coal Mine and railway and road transportation.

### **Coal Mines operated by Yancoal Australia**

The following two tables set forth information about our operational coal mines in Australia, which are directly or indirectly held by Yancoal Australia:

	<u>Austar</u>	<u>Yarrabee</u>	<u>Ashton</u>	<u>Moolarben</u>	<u>Cameby Downs</u>	<u>Premier</u>	<u>Total</u>
<b>Background data:</b>							
Commencement of construction <sup>(1)</sup>	1998	1981	2003	2009	2009	1996	N/A
Commencement of commercial production <sup>(1)</sup>	2000	1982	2004	2010	2010	1996	N/A
Coalfield area <sup>(2)</sup> (square kilometers)	63	62.7	19.2	17.4	27.2	141.8	1,214.64
<b>Reserve data (millions of tonnes)<sup>(3)</sup>:</b>							
Recoverable reserves <sup>(4)</sup>	44.2	57.2	57.2	315.0	409.0	141.0	1,023.6
Depth of mine <sup>(5)</sup> (meters underground)	500	N/A	190-280	N/A	N/A	N/A	N/A
Type of coal	semi-hard coking coal	PCI coal	semi-soft coking coal	thermal coal	thermal coal	thermal coal	N/A
Leased/owned	owned	owned	owned	owned	owned	owned	N/A
Assigned/unassigned <sup>(6)</sup>	assigned	assigned	assigned	assigned	assigned	assigned	N/A
Average calorific value (Kcal/kg)	7,350	7,300	7,100	6,650	6,100	4,442	N/A
Sulfur content (%)	1.80	0.70	0.65	0.50	0.5	0.5	N/A
<b>Production data: (millions of tonnes)</b>							
Designed raw coal production capacity	3.6	3.0	5.2	16.0	1.80	5.0	34.6
Designed coal preparation input washing capacity	3.3	2.4	6.5	16.0	1.8	N/A	30.0
Raw coal production							
2006	0.4	—	—	—	—	—	0.4
2007	1.6	—	—	—	—	—	1.6
2008	1.9	—	—	—	—	—	1.9
2009	1.9	—	—	—	—	—	1.9
2010	1.7	2.3	2.7	3.9	—	—	10.6
2011	1.9	3.1	1.7	5.6	0.8	—	13.1
Cumulative raw coal production as of December 31, 2011	9.4	5.4	4.4	9.5	0.8	—	29.5

- (1) The Austar Coal Mine was closed in 2003 as the result of an underground fire. We acquired Austar Coal Mine in 2004 and implemented a production expansion and technology upgrade in 2005. Austar Coal Mine resumed part of its operations in October 2006. Each of the Ashton Coal Mine and Moolarben Coal Mine has an open-pit coal mine and an underground coal mine. The "commencement of commercial production" indicates the time when the open-pit mines, the earlier of the two types of mines, commenced commercial production.
- (2) The coalfield area refers to the area of current leased land for mining, excluding the area on which we own prospecting rights. The coalfield area of Harry-Brandt refers to the area on which we own prospecting rights.
- (3) The reserve data for the Austar, Yarrabee, Ashton and Moolarben coal mines are their reported reserve data as of June 30, 2011. The reserve data for Cameby Downs Coal Mine are its reported reserve data as of December 1, 2011. The reserve data for Premier Coal Mine are its reported reserve data as of December 31, 2010.
- (4) The recoverable reserves of the above coal mines are based on the report prepared by the competent persons appointed by Yancoal Australia or Yancoal Resources and other companies which have been acquired by Yancoal Australia and such reserves refer to total proved and probable reserves that were prepared in accordance with the standards in the JORC Code.
- (5) Ashton Coal Mine has both open-pit and underground coal mines. The depth of mine indicates the depth of the underground mines.
- (6) "Assigned" refers to coal reserves which have been committed to a particular mining complex (mine shafts, mining equipment and plant facilities), and all coal which has been leased by the company to others. "Unassigned" refers to coal reserves which have not been committed, and which would require new mine shafts, mining equipment, or plant facilities before operations could begin on the property.

### Austar Coal Mine

Austar Coal Mine is an underground mine located in Hunter Valley, New South Wales, Australia and is accessible by railway. Austar Coal Mine covers an area of 63.0 square kilometers. Austar Coal Mine was constructed in 1998 and commenced commercial production in 2000.

In 2003, an underground fire occurred at Austar Coal Mine when it was still owned by Southland Coal Pty Limited, resulting in the closure of the mine. On December 24, 2004, we acquired the entire interest in the Austar Coal Mine for approximately A\$32.0 million from Southland Coal Pty Limited, an independent third party. After we invested approximately A\$230.3 million in the reconstruction, capacity expansion and technology upgrade of Austar Coal Mine in 2005, which included funding for equipment and machinery, the mine resumed commercial production of semi-hard coking coal in October 2006.

The average thickness of the main coal seam of Austar Coal Mine is 5.30 meters. As of June 30, 2011, the mine's JORC-compliant reserves were approximately 44.2 million tonnes.

We principally use the fully mechanized longwall top coal caving mining method to extract coal from the underground mine. The main equipment used in the coal handling preparation plant consists of coal crushing equipment, cyclones and other associated equipment which were generally manufactured in Australia. The operations at Austar Coal Mine are powered by electricity from local power grids. We transport coal products from Austar Coal Mine to Newcastle Port via railway.

### Yarrabee Coal Mine

Yarrabee Coal Mine is an open-pit mine located in Bowen Basin, Queensland, Australia and is accessible by railway to the Gladstone Port. Yarrabee Coal Mine covers an area of 62.7 square kilometers. The construction of Yarrabee Coal Mine started in 1981 and commercial production commenced in 1982.

Through Yancoal Resources, Yancoal Australia wholly owns Yarrabee Coal Mine. Currently, the designed annual capacity of Yarrabee Coal Mine is approximately 3.2 million tonnes. Yarrabee Coal Mine mainly produces low volatility PCI coal. The thickness of the main coal seam of Yarrabee Coal Mine ranges from 3.2 to 4 meters. As of June 30, 2011, the mine's JORC-compliant reserves were approximately 57.2 million tonnes. We utilize conventional truck shovel and open-pit mining methods to extract coal at Yarrabee Coal Mine.

Yarrabee Coal Mine has a coal preparation plant. The main pieces of equipment used in the coal preparation plant are heavy-medium cyclone machines and floating separation machines, which were generally manufactured in Australia. The operations at Yarrabee Coal Mine are powered by electricity from local power grids. We transport coal products from Yarrabee Coal Mine to Gladstone Port via railway.

### Ashton Coal Mine

Ashton Coal Mine consists of an underground mine and an open-pit mine located in Hunter Valley, New South Wales, Australia and is accessible by railway to Newcastle Port. Ashton Coal Mine covers an area of approximately 19.2 square kilometers. The construction of the open-pit and underground mines of Ashton Coal Mine started in 2003 and commercial production commenced in 2004.

The designed annual capacity of Ashton Coal Mine is approximately 5.2 million tonnes of coal. Ashton Coal Mine mainly produces semi-soft coking coal. The thickness of the main coal seams of the open-pit mine and the underground mine of Ashton Coal Mine ranges from 2.1 to 2.3 meters and 1.7 to 2.4 meters, respectively. As of June 30, 2011, the mine's JORC-compliant reserves were approximately 57.2 million tonnes. We principally use longwall operations to extract coal from the underground coal seam and use conventional truck shovel mining methods at the open-pit mine of Ashton Coal Mine.

The main pieces of equipment used in the coal preparation plant of Ashton Coal Mine are heavy-medium cyclone machines and floating separation machines, which were generally manufactured in Australia. The operations at Ashton Coal Mine are powered by electricity from local power grids. We transport coal products from Ashton Coal Mine to Newcastle Port via railway.

### Moolarben Coal Mine

Moolarben Coal Mine consists of an open-pit mine and an underground development project and is located near Mudgee in central western New South Wales. It is connected by railway to Newcastle Port. Moolarben Coal Mine covers an area of 17.4 square kilometers. Construction of the open-pit mine commenced in 2009 with commercial production starting in mid-2010. The construction of the underground mine at Moolarben is expected to commence in early 2013 and commercial production is expected to commence in 2014.

Yancoal Australia holds 80% of the equity interest in Moolarben Coal Mine through its subsidiary, Moolarben Coal Mines Pty Limited. The designed annual capacity of Moolarben Coal Mine is approximately 17.0 million tonnes, of which the annual capacity of the underground mine is expected to be approximately 4.0 million tonnes and the annual capacity of the open-pit mine is approximately 13.0 million tonnes. Moolarben Coal Mine produces thermal coal. The average thickness of the main coal seam of the open-pit mine of Moolarben Coal Mine is 5.5 to 11.7 meters. As of June 30, 2011, the mine's JORC-compliant reserves were approximately 315.0 million tonnes. We use conventional truck shovel mining methods in the open-pit mine and expect to use longwall machines to extract coal in the underground mine project.

Moolarben Coal Mine has a coal handling preparation plant with a capacity of approximately 1,800 TPH, and utilizes conventional equipment including medium-heavy cyclones and flotation cells which are primarily manufactured in Australia. The operations at Moolarben Coal Mine are powered by electricity from local power grids. We transport thermal coal products from Moolarben Coal Mine to Newcastle Port via railway.

#### Cameby Downs Coal Mine

Cameby Downs Coal Mine consists of an open-pit mine and is located near Chinchilla in Southwest Queensland. Cameby Downs Coal Mine covers an area of approximately 27.2 square kilometers. The construction of Cameby Downs Coal Mine commenced in 2009 and commercial production started in late 2010. Yancoal Australia owns 100% of Cameby Downs Coal Mine. Cameby Downs Mine produces thermal coal and the average thickness of Cameby Downs Coal Mine ranges from 1.0 to 3.5 meters. As of December 1, 2011, the mine's JORC-compliant reserves were approximately 409.0 million tonnes.

The phase 1 stage of Cameby Downs Coal Mine has raw coal annual production capacity of 1.8 million tonnes and product capacity of approximately 1.4 million tonnes product coal. We intend to increase annual raw coal annual production capacity to approximately 16 million tonnes and annual commercial coal production capacity to approximately 11.4 million tonnes subject to positive feasibility studies and obtaining port allocation through the construction of the phase II at Cameby Downs Coal Mine in the future.

Cameby Downs Coal Mine has a coal handling preparation plant with an annual capacity of approximately 220 TPH, and utilizes medium-heavy cyclones and flotation cells which are primarily manufactured in Australia. The operations at Cameby Downs Coal Mine are powered by electricity from the local power grid. We transport coal products from Cameby Downs Coal Mine to Brisbane Port via railway.

#### Premier Coal Mine

Premier Coal Mine, located in Perth, is an open-pit coal mine covering an area of approximately 141.8 square kilometers. The construction of Premier Coal Mine began in 1996 and commercial production commenced in the same year. Yancoal Australia indirectly wholly owns Premier Coal Mine. The annual production capacity of Premier Coal Mine is approximately 5.0 million tonnes. Premier Coal Mine primarily produces low ash and low sulfur sub-bituminous coal. As of December 31, 2010, Premier Coal Mine had JORC-compliant reserves of approximately 141.0 million tonnes. We utilize conventional truck shovel open-pit mining methods to mine the coal from a number of seams at the mine. The coal mined at Premier Coal Mine is crushed and sold without washing.

The operations at Premier Coal Mine are powered by electricity from local power grids. As there are only two main coal mines in Western Australia, namely, Premier Coal Mine and Griffin Coal Mine, we entered into a long-term sales agreement with Verve Energy, a power generator owned by the Western Australian Government, to supply Verve Energy with up to five million tonnes of coal per year, making Verve Energy the largest customer of Premier Coal Mine. We transport coal products from Premier Coal Mine by conveyors to power stations and by railway to other domestic customers.

### ***Mining and Exploration Rights***

#### **Nantun, Xinglongzhuang, Baodian, Dongtan and Jining II**

According to the approvals from the State-owned Asset Supervision Department and the Coal Industry Supervision Department obtained at the establishment of the Company, and the Mining Agreement entered into between the Yankuang Group and us in 1997 and its supplemental agreement, we undertook to make ten annual payments of approximately RMB13.0 million to the Yankuang Group commencing in 1997, as compensation for the depletion of coal resources at the Nantun, Xinglongzhuang, Baodian, Dongtan and Jining II coal mines. We fulfilled this obligation in 2007 after we made the final installment payment and we are not obligated to make further payment under this arrangement.

In September 2006, the State Council approved the Implementation Plan for the Compensation System Reform Testing in relation to Deepening Coal Resources as jointly promulgated by the Finance Department, the MLR and the NDRC. According to the implementation plan, enterprises that obtain mining rights as a result of state-funded exploration must pay mining right fees based on the valuation of the remaining reserves. Shandong is subject to this mining right fee. As of the date of this annual report, there remains uncertainty on the detailed rules of the implementation plan regarding the use of mining rights in Shandong. Since 2008, in anticipation of Shandong's implementation of detailed rules for resource compensation fees, we have made provisions of RMB5.0 per tonne of coal extracted to cover any resource compensation fees that may arise from the mining rights of the five foregoing coal mines. For the year ended December 31, 2011, our provisions for resource compensation fees for the five mines were approximately RMB139.8 million.

### **Jining III Coal Mine**

Pursuant to the Jining III Coal Mine Acquisition Agreement dated August 4, 2000 that we entered into with the Yankuang Group, the consideration for the mining right of Jining III Coal Mine was approximately RMB132.5 million, which was to be paid to the Yankuang Group in ten equal interest-free annual installments commencing in 2001. We fully paid the consideration for the mining rights of Jining III Coal Mine in 2010.

### **Austar Coal Mine**

We obtained an exploration license for Austar Coal Mine from the New South Wales Department of Primary Industries in 2005. Pursuant to the underlying Asset Sale Agreement, we paid A\$32.0 million to the receivers of Gympie Gold for the mine after we obtained the exploration license to the new exploration site adjacent to the Austar Coal Mine in 2006.

### **Tianchi Coal Mine**

We acquired Shanxi Nenghua for RMB748.3 million, of which RMB136.6 million was consideration for the mining rights of Tianchi Coal Mine.

### **Zhaolou Coal Mine**

We purchased the mining rights of Zhaolou Coal Mine for a consideration of RMB747.3 million in 2008.

### **Anyuan Coal Mine**

We acquired the entire equity interest in Anyuan Coal Mine for a consideration of approximately RMB143.5 million in November 2010. The fair market value of the mining rights for Anyuan Coal Mine was approximately RMB131.3 million as of October 31, 2010. As of the date of this annual report, we were in the process of obtaining of the approval, permit and registration of the acquisition of Anyuan Coal Mine, and have confirmed with the relevant mining authorities that our approval, permit and registration of Anyuan Coal Mine is pending regulatory review. Despite the outstanding approvals and lack of mining license, we have received confirmation from the relevant mining authorities to continue our coal mining operations at Anyuan Coal Mine. Until we receive such approvals, we are prohibited from transferring or disposing of this mine. As of the date of this annual report, we are not aware of any pending administrative action, fines or penalties for the continued operation of Anyuan Coal Mine.

### **Wenyu Coal Mine**

In July 2011, Ordos Neng Hua acquired 80% of the equity interest in Inner Mongolia Xintai, which operates Wenyu Coal Mine, for a consideration of RMB2,801.6 million.

### **Zhuanlongwan Coalfield**

Ordos Neng Hua won the bid for the mining rights of Zhuanlongwan coalfield of Dongsheng Coal Field in Inner Mongolia for a consideration of RMB7,800 million on January 28, 2011. Ordos Neng Hua paid the first installment of RMB3,120 million (representing 40% of the total consideration) on February 25, 2011. Ordos Neng Hua is obligated to pay the second installment of RMB2,340 million (representing 30% of the total consideration) by November 30, 2011 and the third installment of RMB2,340 million (representing 30% of the total consideration) by November 30, 2012. As of the date of this annual report, we are in the process of obtaining the mining rights for Zhuanlongwan Project. We expect to obtain the mining rights by 2013.

### **Coal Mines Owned by Yancoal Resources**

We acquired the entire equity interest in Felix, a wholly owned subsidiary of Yancoal Australia, for A\$3,333 million in 2009. The fair market value of our attributable reserves and attributable resources was A\$2,845.2 million as of December 23, 2009. The acquisition included all mining rights to the coal mines owned by Felix (now Yancoal Resources), environment protection licenses, exploration licenses and mining leases.

Yancoal Resources sold 51% of the equity interest in Minerva Coal Joint Venture to Sojitz Coal Resources Pty Ltd, an independent third party on December 30, 2010. The value of the equity interest sold by Yancoal Resources was estimated to be between approximately A\$188.0 million to A\$201.0 million according to an evaluation report issued by an independent evaluator dated September 9, 2010.

In May 2010, through Yancoal Resources, Yancoal Australia acquired 30% of the equity interest in the Ashton Coal Mine Joint Venture originally held by Austral-Asia Coal Holdings Pty Ltd., a wholly owned subsidiary of Singapore IMC Group, for a consideration of US\$250 million. According to an evaluation report issued by an independent evaluator dated January 20, 2012, 30% of the equity interest Ashton Coal Mine Joint Venture was valued at approximately A\$230.0 million. Upon completion of this acquisition, our equity interest in the Ashton Coal Mine Joint Venture increased from 60% to 90%. The remaining 10% interest is held by ICRA Ashton Pty Ltd., a wholly owned subsidiary of Itochu Coal Resources Australia Pty Ltd.

### **Cameby Downs Coal Mine**

We acquired Cameby Downs Coal Mine and Syntech's exploration tenements through the acquisition of the entire equity interest in Syntech Resources Pty Ltd. and Syntech Holdings II Pty Ltd., for a consideration of A\$201.6 million on August 1, 2011. In addition to the Cameby Downs Coal Mine, Syntech Resources Pty Ltd. and Syntech Holdings II Pty Ltd. also have five exploration tenements that might be potentially developed. According to an evaluation report issued by an independent evaluator dated February 14, 2012, the fair market value of the reserves, resources and mining rights of the five exploration tenements was A\$65.8 million as of August 1, 2011. Currently, the Syntech project is the phase I of Cameby Downs Coal Mine operation.

### **Premier Coal Mine and Wilga Exploration Area**

We acquired the Premier Coal Mine and the Wilga Exploration Area through the acquisition of Premier Coal Limited (then called Wesfarmers Premier Coal Limited) and Premier Char Ltd. (then called Wesfarmers Char Pty Ltd.), for a consideration of A\$313.5 million in September 2011. The fair market value of the reserves, resources and mining rights of the coal mines owned by Premier Coal Limited was A\$49.9 million as of December 31, 2011 according to an evaluation report issued by an independent evaluator.

### **Potash Mineral Exploration Permits in Canada**

We acquired 11 potash mineral exploration permits from Devonian Potash Inc. and eight potash mineral exploration permits from North Atlantic Potash Inc. for a total consideration of US\$260 million in September 2011. The 19 potash mineral exploration permits cover an aggregate area of approximately 5,363.84 square kilometers in Saskatchewan, Canada. According to the preliminary exploration report, we expect that the permitted area may have abundant potash resources. We intend to conduct further in-depth exploration work to produce formal estimates of potash resources in compliance with internationally recognized reporting standards.

### ***Railway Assets***

We own and operate a railway transportation network that connects our coal mines in Shandong to the national railway system and Zouxian Power Plant in Jining City of Shandong. As of the date of this annual report, our railway network spans a total length of approximately 204 kilometers. Our railway network provides us with a substantial control over a major means of transportation for our key product, allowing us to benefit from the synergies from coal production, sales and transportation.

### ***Methanol and Cogeneration Power Plants***

***Yulin Nenghua.*** Yulin Nenghua, located in Yunlin City of Shanxi, operates a 600,000-tonne methanol plant and a supporting power plant. The primary pieces of equipment at the methanol plant include boilers, steam turbines, air compressors and booster set, GEA air-cooler exchangers, gasifiers and gasification compressors, synthetic compressors, a methanol synthetic gas-cooled reactor, a methanol synthetic water-cooled reactor and propylene refrigeration compressors. Yulin Nenghua also operates a supporting power plant with an installed capacity of 60 MW for its methanol production.

***Tianhao Chemicals.*** Tianhao Chemicals, located in Xiaoyi City of Shanxi, operates a 100,000-tonne methanol plant and a supporting power plant. The primary pieces of equipment at the methanol plant include low pressure wet type spiral gas cabinets, coke oven gas compressors, reformers and converters. Tianhao Chemicals also operates a supporting power plant with an installed capacity of 24 MW for its methanol production.

**Hua Ju Energy.** Hua Ju Energy is headquartered in Zoucheng City, Shandong. Hua Ju Energy owns and operates six cogeneration power plants, each of which is able to supply electric power and heat to our coal mines in its proximity. The power plants consist of the Nantun power plant, Xinglongzhuang power plant, Baodian power plant, Dongtan power plant, Jining II power plant and Jidongxincun power plant. The aggregate installed capacity of these six power plants is 144 MW and the annual power generation capacity and heat supply capacity are 1.0 to 1.1 billion KWh and 1.0 to 1.2 million steam tonnes, respectively. The main pieces of equipment used at Hua Ju Energy include energy conversion CFB boilers and extraction and condensing steam turbines.

**Zhaolou Coal Mine Power Plants.** Zhaolou Coal Mine power plants are intended to be integrated power plants for Zhaolou Coal Mine, located in Heze City of Shandong. The power plants are being constructed in two phases with designed capacity of 300 MW for each phase. We commenced construction of phase I of the power plants which utilize a power generator of 300 MW and a circulating fluidized-bed boiler with capacity of 1,025 tonnes per hour in March 2010. The main pieces of equipment used at Zhaolou Coal Mine power plants include extraction and condensing steam turbines, water hydrogen generators and CFB boilers.

#### **ITEM 4A. UNRESOLVED STAFF COMMENTS**

There are no unresolved staff comments from the Securities and Exchange Commission.

#### **ITEM 5. OPERATING AND FINANCIAL REVIEW AND PROSPECTS**

The following discussion and analysis should be read in conjunction with the information set forth in our consolidated financial statements, together with the related notes, included in this annual report.

##### **A. Operating Results**

During the period covered by this annual report, our five business segments consist of:

- coal business;
- railway transportation business;
- coal chemical business;
- electric power business; and
- heat supply business.

## **Overview**

### ***Coal Business***

We are one of the primary coal producers in China with rapidly growing coal mining operations in China and Australia. We primarily engage in the mining, washing, processing and distribution of coal through railway transportation. We offer a wide variety of coal products including thermal coal, semi-hard coking coal, semi-soft coking coal, PCI coal and mixed coal products which are sold to power plants, metallurgical mills, chemical manufacturers, construction material manufacturers and fuel trading companies in China and multiple other countries, including Japan and South Korea. Since 2004, we have expanded our operations to include the production of coal chemicals, the generation of electricity and heat and the potash exploration business.

In 2011, we produced approximately 55.7 million tonnes of raw coal and sold approximately 64.3 million tonnes of coal, which included approximately 13.3 million tonnes of coal that was purchased externally from third parties for trading. In 2009, 2010 and 2011 our sales income of coal was approximately RMB19,947.8 million, RMB32,590.9 million and RMB45,181.2 million, respectively, which represented approximately 96.5%, 96.0%, and 96.0%, respectively, of our total sales income. Domestic sales income of coal accounted for 94.9%, 83.9% and 80.7% and overseas sales income of coal accounted for 5.1%, 16.1% and 19.3% of our total sales income of coal during 2009, 2010 and 2011, respectively.

Our invoiced amount of coal sold includes returns, discounts, sales-related taxes, port fees and other fees and, in certain cases, transportation costs payable by customers. Gross sales, or sales income as used elsewhere in this annual report, of coal equals the invoiced amount of coal sold less returns and discounts. Sales taxes and other fees consist primarily of business tax paid at 5% of our revenue and city construction tax and education surcharge calculated at 7% and 3%, respectively, on the total amount of our VAT payable and business tax payable. We also pay a local resource tax based on the aggregate volume of raw coal sold and consumed at the rate of RMB3.20 per tonne in the Inner Mongolia Autonomous Region, RMB3.60 per tonne in Shandong Province and RMB3.20 per tonne in Shanxi Province to the local tax bureau. Effective July 1, 2012, our coal in Australia will be taxed under the recently-enacted Australian MRRT. The MRRT is a profits-based tax that will be charged at an effective rate of 22.5% on the excess of annual mining revenue over annual mining expenditures with respect to coal and iron ore projects, less certain allowances.

### ***Railway Transportation Business***

We own a railway network spanning over 200 kilometers, which we use primarily to transport coal, as well as other goods upon the request of our railway transportation customers. To facilitate our production and sales of coal, we provide railway transportation services to our coal customers and the Yankuang Group. The annual transport volume on our railway network has remained steady in recent years. In 2011, we transported a total of approximately 18.1 million tonnes of goods on our railway network, compared to approximately 19.7 million tonnes in 2010 and approximately 19.9 million tonnes in 2009.

We derive income from our railway transportation services through the delivery of (i) coal purchased from us on an ex-mine basis, an arrangement where customers separately bear the cost of transporting the coal they purchase to a designated location, and (ii) goods other than coal that we deliver on behalf of customers who engage us exclusively for our railway transportation services. In 2011, income from our railway transportation services totaled approximately RMB476.9 million.

### ***Coal Chemical Business***

Our coal chemical operations consist primarily of the production and sale of methanol. We currently have two subsidiaries engaged in methanol operations: Yulin Nenghua and Shanxi Nenghua. Yulin Nenghua's methanol plant, which has a production capacity of 600,000 tonnes per annum, commenced commercial operations in August 2009. In 2010, Yulin Nenghua produced 311,000 tonnes and sold 319,000 tonnes of methanol (including inventory from the prior year), generating sales income of approximately RMB523.5 million. In 2011, Yulin Nenghua and Shanxi Nenghua (through its wholly owned subsidiary Tianhao Chemicals) produced a total of approximately 532,000 tonnes and sold 529,000 tonnes of methanol, generating sales income of approximately RMB1,059.3 million. In addition, Ordos Neng Hua is constructing a 600,000-tonne methanol project in Ordos City in the Inner Mongolia Autonomous Region which will have a production capacity of 600,000 tonnes per annum.



### ***Electric Power Business***

We own and operate eight power plants, with total net installed capacity of 218 MW, which generate electric power primarily for internal use and, to a lesser extent, external sales. The cogeneration power plants operated by Hua Ju Energy are able to generate both electric power and heat. In 2011, we generated a total of approximately 1,367.1 million kWh of electricity and sold approximately 932.7 million kWh of electricity, generating approximately RMB328.0 million in revenue.

### ***Heat Supply Business***

In 2011, we produced approximately 1.3 million steam tonnes of heat and sold approximately 170,000 steam tonnes of heat, generating sales revenue of approximately RMB20.5 million.

### ***Factors Affecting Our Results of Operations***

Our results of operations and financial condition are affected by a number of factors, many of which are beyond our control, including those set forth below:

#### **Conditions and regulations affecting the coal mining industry**

Our coal mining operations in the PRC are subject to various PRC laws and regulations, including developmental, environmental and health and safety laws and regulations, and various national and local policies. For example, as part of its plans to modernize the coal mining industry, the PRC government has implemented various industry-wide measures such as the Twelfth Five-Year Plan which, among other things, encourages the consolidation of the PRC coal mining industry. While these measures could facilitate our acquisition activities and the overall growth of our business and operations, industry consolidation could result in larger coal mining enterprises that compete against us. In addition, certain industry-wide measures to improve the operating efficiency and safety of the coal mining industry, as well as regulatory efforts to enhance the mechanization rate of the industry, could result in increased operational costs. As such, PRC government policies affecting the coal mining industry have had, and will continue to have, a material effect on our business and results of operations.

Our mining operations in Australia are regulated by Australian federal and state governments with respect to environmental issues such as water quality, air quality, dust impact, noise impact, planning issues (such as approvals to expand existing mines, develop new mines or change mining methods), and health and safety issues. Future changes to, and our continuing compliance with, these regulations may have a material effect on our business and results of operations. See “Item 3. Key Information — D. Risk Factors — Risks Relating to Our Business and Industry – Our coal operations are extensively regulated by the PRC and Australian government, and government regulations may limit our activities and adversely affect our business, results of operations and financial condition.” As our Canadian potash operations develop, we will be subject to the relevant developmental, environmental and health and safety laws of Canada.

In addition, the availability and prices of alternative energy sources to coal, as well as international shipping costs, also affect coal demand. In particular, developments in the international coal market may affect our overseas sales, which we expect to increase following the expansion of our Australian operations.

#### **Demand for coal**

Given the nature of our operations, the demand for coal will continue to have a significant effect on our results of operations. Global coal demand correlates strongly with the global economy and, as such, any downturn or prolonged depression of economic activity may have an adverse effect on demand for coal. Coal demand is also affected by a variety of factors beyond our control, including:

- the global economy and the performance of coal-consuming industries, including the power generation, chemical, metallurgy and construction materials industries;
- the availability and prices of alternative energy sources to coal;
- international shipping costs;
- coal production and coal mining activity in the PRC and overseas;
- expected cost of developing new reserves;
- cost of conducting coal mining operations;
- competitive factors and market development; and

- related economic, political, macroeconomic and regulatory developments.

Our coal customers are primarily power plants, metallurgical mills, chemical manufacturers, construction material manufacturers and fuel trading companies. Growth in the domestic economy is expected to drive growth of these types of major coal consumption industries, which in turn is expected to increase domestic coal demand. The demand for coal in the global market may be affected by events such as flooding in Australia, which has from time to time caused a decrease in the supply of Australian coal, while coal demand from the PRC and India remains steady or has continued to increase. Changes in demand and our ability to meet such demand with our coal products will affect our revenues and future growth. See “Item 3. Key Information — D. Risk Factors — Risks Relating to Our Business and Industry – Our business, results of operations and financial condition depend on volatile domestic and international coal markets.”

### **Acquisition and expansion**

Our business expansion plans are primarily dependent on successfully acquiring companies that can grow or diversify our existing operations. Recently, our acquisitions have included equity interests in coal mines in Australia and potash mineral exploration permits in Canada. In line with industry trends, we also plan to continue exploring opportunities to acquire and integrate small-scale coal mines in the PRC and Australia. Our coal reserves, future production capacity and, consequently, our revenues and results of operations, will depend on the success of acquired mining operations. Our business and results of operations could be affected if we are unable to successfully integrate our acquisitions or achieve anticipated additional revenue and earnings. In addition, the costs related to any future acquisitions may have a material effect on our results of operations. Our international expansion also exposes us to markets in which sales terms, cost structure and expenses may be different from those that apply in China. For example, because we sell much of the coal from our Australian operations in export markets, coal transportation costs for this geographic segment are significantly higher than those for our China coal sales. Accordingly, this cost item will rise as the scale of our Australian sales increases.

### **Exchange rate fluctuations**

Assets, liabilities and the fair value of financial instruments and balances that we incur, create or acquire in the process of our international operations and which are denominated in currencies other than RMB, or in currencies other than the functional currencies of the relevant business units, may fluctuate substantially depending on changes in currency exchange rates. For example, we recorded large exchange gains as a result of the reduction in the fair value of U.S. dollar obligations incurred for the acquisition of Felix arising from the depreciation of the U.S. dollar against the Australian dollar during the period 2009 to 2010. See “Item 3. Key Information — D. Risk Factors — Risks Relating to Our Business and Industry – Our business, results of operations and financial condition depend in part on our ability to continue acquiring or developing suitable coal reserves” and “Item 11. Quantitative and Qualitative Disclosures of Market Risk – Foreign Currency Exchange Rate Risk.”

### **Product mix**

Our products, which include thermal coal, semi-hard coking coal, semi-soft coking coal, PCI coal and 1/3 coking coal, generally have different prices and gross margins. For example, our No. 1 clean coal has historically had a higher gross margin than our other products and, as such, an increased proportion of sales income generated from No. 1 clean coal would result in higher gross profits. Conversely, if the sales volume of lower gross margin coal products, such as thermal coal, increased in comparison to higher margin coal products, then we would have lower gross profits despite an increase in sales volume. In addition, the future launch of new products will also affect our product mix and, consequently, our revenues, gross margins and results of operations.

### **Production capacity**

Our results of operations and future growth prospects are affected by our coal production capacity. We plan to increase production capacity as we expand our market share and global presence. Our production capacity may be affected by PRC government policies such as the Twelfth Five-Year Plan and other relevant regulations, which control overall national coal production capacity and production volume. Our production capacity and volume will also depend on our ability to obtain necessary capital and required approvals and permits, as well as production capacity, customer demand and general economic factors. We will continue to focus on increasing our production capacity by developing our existing projects, including expansion of Moolarben Coal Mine in Australia and Zhuanlongwan Project, Shilawusu Project and Yingpanhao Project in the PRC. We will also continue increasing our production capacity through domestic and international acquisitions. Subject to market supply and demand conditions, we expect to increase our sales from the output of our development projects and acquired mines. Increasing our production capacity also increases costs, expenses and capital expenditures.

### **Coal prices**

The selling prices of our coal products are influenced by price fluctuations in the PRC domestic market and the global market. Due to strong demand and economic growth, the PRC continues to be short of domestic coal supply. As a result of growing demand for coal to fuel industrialization and urbanization and steady production cost increase due to higher royalties and environmental and social related costs, coal prices are expected to continue to increase. However, coal prices are also affected by a variety of factors beyond our control, including: the supply and demand for thermal coal in the PRC and the global market, the coal characteristics and quality, the availability of coal transportation and capacity and means and cost of transportation, the adoption of temporary measures to limit increases in coal prices, and government policy regarding coal-consuming industry. Changes to any of these factors may lead to changes in coal prices, which will affect our business and results of operations. See “Item 3. Key Information — D. Risk Factors — Risks Relating to Our Business and Industry— Our business, results of operations and financial condition depend on volatile domestic and international coal markets.”

### **Cost of sales**

Our results of operations are affected by our cost of sales, which mainly comprises wages and employee benefits, purchases of coal from third parties for trading purposes, materials, land subsidence, restoration, rehabilitation and environmental costs, depreciation and amortization expenses and business tax and surcharges associated with our coal business and railway transportation business. Key factors impacting these costs include variations in production volume, the cost of power, fuel and labor, the application of advanced mining technologies, changes in railway fees and port fees, and contractual terms of our coal products.

### **Transportation volume and cost**

We primarily use railways and highways to transport coal and, to a lesser extent, we also ship our coal on domestic and international shipping lanes. We primarily rely on the national railway system and state railway system in the PRC and Australia, respectively, to transport our coal. In addition, we also utilize our private railway network to transport coal, as well as other goods upon the request of our railway transportation customers. We also transport coal on the national railway system to ports, from which we ship coal to our customers. Railway, waterway and roadway transportation costs are charged by carriers who deliver our coal products to our customers. Our revenue and results of operation may be affected by fluctuations in the transportation volume and capacity of national and state railway systems and of our own railway assets, as well as fluctuations in the costs associated with transporting coal to our customers.

### **Coal resources and reserves**

Coal resources and reserves data is a key element in our decision-making process. Resources refers to the concentration or occurrence of material of intrinsic economic interest in or on the Earth’s crust in such form, quality and quantity that there are reasonable prospects for eventual economic extraction. The location, quantity, grade, geological characteristics and continuity of a mineral resource are known, estimated or interpreted from specific geological evidence and knowledge. Coal reserves are estimated using a deterministic method, in which a single best estimate is made based on known geological, engineering and economic data, or a probabilistic method, in which known geological, engineering and economic data are used to generate a range of estimates and their associated probabilities. All coal reserves data are estimates, which are revised when additional information becomes available (for example, when additional coal mines commence operations or when actual coal production or extraction commences). If the amount or quality of coal mined differs from the reserve estimates, we may have to further process or wash the coal mined in order to produce coal of a saleable quality. See “Item 3. Key Information — D. Risk Factors — Risks Relating to Our Business and Industry— The coal reserve data in this annual report are only estimates, which may differ materially from actual reserve amounts.”

## Results of Operations

The following table sets forth our income statement and the percentage of each line item to our total revenue for the periods indicated:

	2009		2010		2011	
	RMB (in millions)	%	RMB (in millions)	%	RMB (in millions)	%
Total revenue	20,677.1	100.0	33,944.3	100.0	47,065.8	100.0
Gross sales of coal	19,947.7	96.5	32,590.9	96.0	45,181.2	96.0
Railway transportation service income	266	1.3	513.3	1.5	476.9	1.0
Gross sales of electric power	187.5	0.9	185.6	0.5	328.0	0.7
Gross sales of methanol	258.9	1.3	629.3	1.9	1,059.3	2.3
Gross sale of heat supply	15.6	0.0	25.2	0.1	20.5	0.0
Transportation costs of coal	(403.3)	(2.0)	(1,160.5)	(3.4)	(1,248.3)	(2.6)
Cost of sales and service provided <sup>(1)</sup>	(10,590.0)	(51.2)	(16,801.3)	(49.5)	(25,725.3)	(54.7)
Cost of electric power	(190.8)	(0.9)	(195.5)	(0.6)	(362.5)	(0.8)
Cost of methanol	(352.9)	(1.7)	(716.8)	(2.1)	(930.2)	(2.0)
Cost of heat supply	(9.7)	0.0	(12)	0.0	(13.8)	0.0
Gross profit	9,130.4	44.2	15,057.6	44.4	18,785.8	39.9
Selling, general and administrative expenses	(3,820.3)	(18.5)	(5,093.9)	(15.0)	(6,570.2)	(13.9)
Share of income (loss) of an associate	109.8	0.5	8.9	0.0	68.9	0.1
Other income	311.0	1.5	3,108.0	9.2	1,075.8	2.3
Interest expense	(45.1)	(0.2)	(603.3)	(1.8)	(839.3)	(1.8)
Profit before income taxes	5,685.8	27.5	12,477.3	36.8	12,521.0	26.6
Income taxes	(1,553.3)	(7.5)	(3,171.0)	(9.3)	(3,545.4)	(7.5)
Profit for the year	4,312.5	20.0	9,306.3	27.4	8,975.6	19.1
Attributable to:						
Equity holders of the Company	4,117.3	19.9	9,281.4	27.3	8,928.1	19.0
Noncontrolling interests	15.2	0.1	24.9	0.1	47.5	0.1

<sup>(1)</sup> In this annual report, business taxes and surcharges have been reclassified as corresponding costs of each category of revenue to provide a more appropriate presentation. The same adjustments have been made to the corresponding year prior. The reclassification has no impact on the overall results of the Group. The attention of Shareholders and potential investors is drawn to such adjustments. For details, please see Note 2 of the consolidated financial statements attached to this annual report.

### Year Ended December 31, 2011 Compared with Year Ended December 31, 2010

#### Total revenue

Our total revenue increased RMB13,121.5 million, or 38.7%, from approximately RMB33,944.3 million in 2010 to approximately RMB47,065.8 million in 2011. Our gross sales of coal, which accounted for 96.0% of our total revenue in 2011, increased RMB12,590.3 million, or 38.6%, to approximately RMB45,181.2 million in 2011. The increase in gross sales of coal was primarily due to changes in our product mix, increased domestic and global demand and an increase in our average selling price. In 2011, our average selling price of coal products increased approximately RMB44.2 per tonne to RMB707.7 per tonne, a 6.7% increase from 2010. Our sales volume of coal products increased 29.5% from approximately 49.6 million tonnes in 2010 to 64.3 million tonnes in 2011.

In 2011, the transportation volume of our railway assets was approximately 18.1 million tonnes, representing a decrease of approximately 1.7 million tonnes, or 8%, from 2010, primarily due to lower demand by customers for goods to be transported on our railways. Accordingly, our railway transportation services income (income from transported volume settled on the basis of ex-mine prices and special purpose railway transportation fees borne by customers) was approximately RMB476.9 million in 2011, a decrease of RMB36.4 million, or 7.1%, from 2010.

We generated gross sales of methanol of approximately RMB1,059.3 million in 2011, an increase of approximately RMB430.0 million, or 68.3%, from RMB629.3 million in 2010. The increase in gross sales of methanol was mainly attributable to an increase in sales volumes of methanol.

In 2011, our gross sales of electric power amounted to approximately RMB328.0 million, representing an increase of approximately RMB142.4 million, or 76.8%, from 2010. Our gross sales of heat supply decreased approximately RMB4.8 million, or 18.9%, from RMB25.2 million in 2010 to approximately RMB20.5 million in 2011, due primarily to increased consumption of heat supply by our own coal mines.

#### **Transportation costs of coal**

Transportation costs of coal primarily consist of railway, waterway and roadway transportation costs charged by carriers that deliver our coal products to our customers. Our coal transportation costs increased by RMB87.8 million, or 7.6%, from approximately RMB1,160.5 million in 2010, to approximately RMB1,248.3 million in 2011, which included transportation costs for our coal sold in the PRC of approximately RMB311.7 million and for coal sold outside the PRC of approximately RMB936.6 million. This increase was primarily due to our acquisition of Felix and the related increase in sales volumes.

#### **Cost of sales and services provided**

Our cost of sales and railway transportation services consists of the costs of our coal business and railway transportation business, which primarily consist of wages and employee benefits, purchases of coal from third parties for trading purposes, materials, land subsidence, restoration, rehabilitation and environmental costs, depreciation and amortization expenses and business tax and surcharges. Our total cost of sales and services provided increased by RMB8,924.0 million, or 53.1%, from RMB16,801.3 million in 2010 to approximately RMB25,725.3 million in 2011, primarily due to increased sales volumes of coal. The increased sales volumes resulted in an increase of RMB5,593.3 million in purchases of coal from third parties for trading purposes, an increase of RMB1,151.1 million in wages and employee benefits and an increase of RMB523.5 million in costs for materials. The increase was also due to a RMB366.9 million increase in annual fees and amortization of mining rights, an increase of RMB297.3 million increase in electricity costs and an RMB808.8 million in other costs of sales and services.

#### **Cost of electric power**

Our cost of electric power operations primarily consists of raw material and labor costs incurred to generate electric power. Our cost of electric power increased by RMB166.9 million from approximately RMB195.5 million in 2010, to approximately RMB362.5 million in 2011, primarily due to an increase in electric power sold, as Hua Ju Energy sold the excess power it generated. Hua Ju Energy sold approximately 895.5 million kWh of electric power in 2011 compared to 468.6 million kWh of electric power in 2010.

#### **Cost of methanol**

Our cost of methanol primarily consists of raw materials, labor costs, depreciation and other manufacturing overhead. Our production costs increased from approximately RMB716.8 million in 2010 to approximately RMB930.2 million in 2011, primarily due to an increase in the volume of methanol sold from approximately 376,000 tonnes in 2010 to 529,000 tonnes in 2011 reflecting increased customer demand.

#### **Cost of heat supply**

Our cost of heat supply primarily consists of raw materials and labor in our heat supply business. Our cost of heat supply increased by RMB1.3 million, from approximately RMB12.5 million in 2010 to approximately RMB13.8 million in 2011, primarily due to increases in coal prices and wages, as well as a slight increase in production volumes from 1.27 million steam tonnes to 1.28 million steam tonnes.

#### **Selling, general and administrative expenses**

Our selling, general and administrative expenses increased by RMB1,476.3 million, or 29.0%, from approximately RMB5,093.9 million in 2010 to approximately RMB6,570.2 million in 2011. Our selling, general and administrative expenses increased primarily due to increased selling, general and administrative expenses for Yancoal Australia primarily reflecting increased sales volumes. The increase was also due to increased selling, general and administrative expenses for Ordos Neng Hua, primarily reflecting increased sales volumes and expanded operations. In addition, the increase also reflected a RMB184.4 million increase in impairment loss on Tianhao Chemicals' property, plant and equipment.

#### **Share of income of associates**

Our share of income from associates, increased by RMB60.1 million, or 677.2%, from RMB8.9 million in 2010 to approximately RMB68.9 million in 2011, primarily due to increases in investment income of RMB19.0 million and RMB41.0 million from Huadian Zouxian Power Generation Company Limited ("Huadian Zouxian") and Yankuang Finance, respectively.

### **Other income**

Our other income decreased by RMB2,032.3 million, or 65.4%, from approximately RMB3,108.1 million in 2010 to approximately RMB1,075.8 million in 2011, primarily due to a decrease in foreign exchange gains of RMB2,146.9 million. The decrease in foreign exchange gains was due primarily to Yancoal Australia's decrease in foreign exchange gains from RMB2,688.2 million in 2010 to RMB504.4 million in 2011 relating to its foreign exchange hedging contracts to manage foreign currency risk arising from its expected revenue in foreign currencies. The decrease was partially offset by an increase of RMB170.5 million in interest income, due primarily to an increase in bank deposits as compared to the prior year.

### **Interest expenses**

Our interest expenses increased by RMB236.0 million, from approximately RMB603.3 million in 2010 to approximately RMB839.3 million in 2011, primarily due to an increase in our bank borrowings and financing costs in connection with the acquisition of mining rights of Zhuanlongwan Project.

### **Profit before income tax**

As a result of the foregoing, our profit before income taxes increased by approximately RMB43.7 million, or 0.4%, from approximately RMB12,477.3 million in 2010 to approximately RMB12,521.0 million in 2011.

### **Income tax expenses**

Our income tax expenses increased by RMB374.3 million, or 11.8%, from approximately RMB3,171.0 million in 2010, to approximately RMB3,545.4 million in 2011, primarily due to an increase in our taxable income.

### **Profit for the year**

As a result, our profit for the year decreased by RMB330.7 million, or 3.6%, from approximately RMB9,306.3 million in 2010 to approximately RMB8,975.6 million in 2011. The profit attributable to equity holders of the Company decreased by RMB353.3 million, or 3.8%, from approximately RMB9,281.4 million in 2010 to approximately RMB8,928.1 million in 2011.

## ***Year Ended December 31, 2010 Compared with Year Ended December 31, 2009***

### **Total revenue**

Our total revenue in 2010 increased RMB13,267.2 million, or 64.2%, to approximately RMB33,944.3 million. Our gross sales of coal, which accounted for 96.0% of our total revenue in 2010, increased RMB12,643.2 million, or 63.4%, to approximately RMB32,590.9 million in 2010. The increase in gross sales of coal was primarily due to the increase in the average selling price and the sales volume of our coal products driven by rapidly growing market demand in 2010. In 2010, our average selling price of coal products increased approximately RMB134.3 per tonne to RMB663.5 per tonne, representing a 25.4% increase from 2009. Our sales volume of coal products increased 30.5% from approximately 38.0 million tonnes in 2009 to 49.6 million tonnes in 2010. The increase in coal sales volume was attributable principally to our acquisition of Yancoal Resources in 2009. For the year 2010, Felix's sales volume of coal products was approximately 6.9 million tonnes, accounting for 13.9% of our total coal sales.

In 2010, the transportation volume of our railway assets was approximately 19.7 million tonnes, representing a decrease of approximately 0.2 million tonnes, or 0.8%, from 2009, primarily caused by the decrease in our internal transportation volume where we bear the transportation costs by ourselves, and partly offset by an approximate 0.98 million tonnes increase in the volume of goods for which our customers bear the transportation fees, or external transportation volume. Our railway transportation services income (income from transported volume settled on the basis of ex-mine prices and special purpose railway transportation fees borne by customers) was approximately RMB513.3 million in 2010, representing an increase of RMB246.0 million, or 92.0%, from that in 2009, primarily due to an increase in the standard transportation fee from RMB0.32 per tonne kilometer to RMB0.57 per tonne kilometer, which became effective from January 1, 2010. The increase in the railway transportation services income was also partly attributable to an increase of 0.98 million tonnes, or 5.7%, in 2010 in the volume of goods for which our customers bear the transportation fees.

We increased production in our coal chemical operations and generated gross sales of methanol of approximately RMB629.3 million in 2010, representing an increase of approximately RMB370.4 million, or 143.1%, from RMB258.9 million in 2009. The increase in gross sales of methanol was mainly attributable to the increased production at Yulin Nenghua's methanol plant, which completed its first full year of operations in 2010 and produced approximately 311,000 tonnes in 2010 compared to 190,000 tonnes in 2009.

In 2010, our gross sales of electric power amounted to approximately RMB185.5 million, representing a slight decrease of approximately RMB2.0 million, or 1.1%, from 2009. Our gross sales of heat supply increased to approximately RMB25.2 million, representing an increase of approximately RMB9.6 million, or 61.3%, from 2009, mainly attributable to a slight increase in electric power sales volume to 526.6 million kWh of electricity in 2010 from 562.2 million kWh of electricity in 2009.

#### **Transportation costs of coal**

Our coal transportation costs increased by RMB757.2 million, or 187.8%, from approximately RMB403.3 million in 2009 to approximately RMB1,160.5 million in 2010. Coal transportation costs in 2010 included transportation costs for our coal sold in the PRC of approximately RMB316.5 million and for coal sold outside the PRC of approximately RMB844.0 million. In particular, transportation costs for coal sold outside the PRC increased by RMB745.8 million in 2010. The increase was partly due to our acquisition of Felix because coal from our Australian operations is primarily exported to overseas markets, and partly due to an increase in export sales volumes, which involved the incurrence of port fees and railways costs to deliver coal to ports. As our operations increase in Australia, we expect the transportation costs incurred by our coal business to continue to increase.

#### **Cost of sales and services provided**

In 2010, our total cost of sales and services provided increased RMB6,211.3 million, or 58.7%, to approximately RMB16,801.3 million, primarily due to a RMB2,878.1 million increase in the cost of traded coal, as a result of the increases in the volumes and prices of coal we purchased from third parties for trading purposes. The increase was also partly attributable to a higher cost of sales for coal from the Zhaolou Coal Mine, which had been in operation for less than a full year and had not yet reached designed production capacity. Cost of sales and services provided also increased due to a RMB1,413.4 million increase in wages and employee benefits in line with the increase in our employee headcount, and partly offset by a RMB192.8 million decrease in land subsidence, restoration, rehabilitation and environmental costs.

#### **Cost of electric power**

Our cost of electric power increased by RMB4.7 million to approximately RMB195.5 million in 2010, from approximately RMB190.8 million in 2009, primarily due to increases in coal prices and wages.

#### **Cost of methanol**

Our production costs increased significantly from approximately RMB352.9 million in 2009 to approximately RMB716.8 million in 2010, primarily due to the increased production at Yulin Nenghua's methanol plant, which completed its first full year of operations in 2010.

#### **Cost of heat supply**

Our cost of heat supply increased by RMB2.8 million, from approximately RMB9.7 million in 2009 to approximately RMB12.5 million in 2010, primarily due to the significant growth in Hua Ju Energy's production volume of 50,000 steam tonnes to approximately 1.2 million steam tonnes.

#### **Selling, general and administrative expenses**

Our selling, general and administrative expenses were approximately RMB5,093.9 million in 2010, representing an increase of RMB1,273.7 million, or 33.3%, from approximately RMB3,820.2 million in 2009. Our selling, general and administrative expenses increased primarily due to a RMB687.3 million increase in distribution charges, mainly caused by the increase of our operations in Australia after the acquisition of Felix. Such distribution charges relate primarily to transportation costs from the mines to the ports for export, which are borne. We expect to incur similar types and amounts of distribution charges as we continue our operations in Australia. The increase in our selling, general and administrative expenses was also attributable to the increase in depreciation, repair and maintenance expenses and utilities relating to administrative buildings.

#### **Share of income of associates**

Our share of income from our investment in Huadian Zouxian and Yankuang Finance was approximately RMB8.9 million in 2010, compared to RMB109.8 million in 2009. This decrease was primarily a result of the decreased income of Huadian Zouxian due to increased thermal coal prices in 2010.

### Other income

Our other income increased significantly by RMB2,797.1 million from RMB311.0 million in 2009 to RMB3,108.1 million in 2010. Our increase in other income in 2010 was primarily attributable to an exchange gain of RMB2,688.2 million recorded by Yancoal Australia, mainly resulting from the reduction in the fair value of U.S. dollar obligations in the principal amount of US\$3,040 million incurred for the acquisition of Felix arising from the appreciation of the Australian dollar against the U.S. dollar from an exchange rate of 0.8985 as of December 31, 2009 to 1.0163 as of December 31, 2010. We also recorded earnings of RMB117.9 million from the disposal of our equity interest in the Minerva coal mine by Yancoal Australia.

### Interest expenses

Our interest expenses increased significantly by RMB558.2 million, from approximately RMB45.1 million in 2009 to approximately RMB603.3 million in 2010. This increase was primarily due to an increase in interest expenses on bank borrowings wholly repayable within five years from approximately RMB18.8 million in 2009 to approximately RMB594.6 million in 2010, mainly attributable to an increase of approximately RMB575.2 million of interest expense in relation to the bank loans of Yancoal Australia incurred in relation to the acquisition of Felix in late 2009. The increase in interest expenses was partially offset by a decrease of approximately RMB11.0 million in the bills receivable discounted without recourse in 2010.

### Profit before income tax

As a result of the foregoing, our profit before income taxes increased by approximately RMB6,791.5 million, or 119.4%, from approximately RMB5,685.8 million in 2009 to approximately RMB12,477.3 million in 2010.

### Income tax expenses

Our income tax expenses increased by RMB1,617.7 million, or 104.2%, to approximately RMB3,171.0 million in 2010. The increase primarily reflected an increase in our taxable income.

### Profit for the year

As a result, our profit for the year increased by RMB5,173.8 million, or 125.2%, from approximately RMB4,132.5 million in 2009 to approximately RMB9,306.3 million in 2010. The profit attributable to equity holders of the Company increased by RMB5,164.1 million, or 125.4%, from approximately RMB4,117.3 million in 2009 to approximately RMB9,281.4 million in 2010.

### Segment Information

The following table sets forth a breakdown of our total consolidated gross revenues for each of the years indicated and the percentage contribution of each segment to our total gross revenues:

	2009		2010		2011	
	RMB	%	RMB	%	RMB	%
	(in millions, except for percentages)					
Mining revenue	20,116.9	97.3	32,930.3	97.0	45,468.5	96.6
Coal railway transportation revenue	328.9	1.6	549.3	1.6	528.6	1.1
Methanol, electricity and heat supply revenue	937.0	4.5	1,295.3	3.8	1,664.1	3.5
Unallocated and eliminations	(705.6)	(3.4)	(830.7)	(2.4)	(595.3)	(1.3)
<b>Gross revenue</b>	<u>20,677.1</u>	<u>100.0</u>	<u>33,944.3</u>	<u>100.0</u>	<u>47,065.8</u>	<u>100.0</u>

We are mainly engaged in the mining, washing, processing and railway distribution of coal. For the year ended December 31, 2011, our total revenue was mainly from coal sales in the PRC.

### B. Liquidity and Capital Resources

Our principal sources of liquidity in 2011 were bank borrowings and the cash generated from our operating activities. In 2011, we primarily utilized cash to pay our operating expenses, purchase of property, machinery and equipment, finance acquisitions and pay dividends to Shareholders.



Our primary sources of cash in 2009, 2010 and 2011 were cash flows from operating activities and bank borrowings. We used cash primarily to finance working capital, fund payments of interest and principal due on our indebtedness, finance acquisitions and fund capital expenditures and the growth and expansion of our facilities and operations.

Taking into account our cash and cash equivalents on hand, our available credit facilities, cash generated from our future operations and the estimated proceeds from our proposed RMB Bond Offering and US\$ Bond Offering, we believe we have sufficient working capital to meet our financial requirements for at least the next 12 months from the date of this annual report. As of December 31, 2011, we estimate that we had approximately RMB102,000 million of banking facilities available to us from commercial banks, of which approximately RMB65,000 million was not utilized, and cash and cash equivalents of RMB8,145.3 million.

We conduct our operations directly and through our operating subsidiaries, some of which we do not wholly own, are joint ventures or are public companies. Therefore, we may not be able in all circumstances to allocate our free cash flow as we would like among our subsidiaries. In addition, PRC law restricts the ability of our subsidiaries to transfer funds to us in the form of cash dividends, loans or advances. PRC regulations currently permit payment of dividends by PRC companies only out of accumulated profits as determined in accordance with PRC accounting standards and regulations. In addition, under current PRC laws, regulations and accounting standards, each subsidiary is required to allocate at least 10% of its after-tax profit based on PRC accounting standards to its statutory common reserve fund each year until the cumulative amount of these reserves reaches 50% of its registered capital. These reserves are not distributable as cash dividends. As of December 31, 2011, the required deductions attributable to these statutory common reserve funds amounted to approximately RMB4,551.8 million.

Furthermore, under SAFE regulations, the Renminbi is not convertible into foreign currencies for capital account items, such as loans, repatriation of investments and investments outside of China, unless the prior SAFE approval is obtained and prior registration with the SAFE is made. These restrictions have not historically had, and are not expected in the future to have, a material impact on our ability to meet our financial requirements.

### **Cash Flows**

The following table sets forth a summary of our cash flow for the periods indicated:

	<b>Year Ended December 31,</b>		
	<b>2009</b>	<b>2010</b>	<b>2011</b>
	<b>(RMB in millions)</b>		
Net cash from operating activities	6,520.1	5,399.8	17,977.3
Net cash used in investing activities	(24,842.9)	(5,884.4)	(25,611.1)
Net cash from (used in) financing activities	18,503.7	(1,360.5)	9,441.0
Net increase/ (decrease) in cash and cash equivalents	180.9	(1,845.1)	1,807.3
Cash and cash equivalents as of end of year	8,522.4	6,771.3	8,145.3

### **Cash flow from operating activities**

Net cash from operating activities represents cash generated from operations after income taxes, interest and dividend income. Cash generated from operations consisted of profit before income taxes adjusted for certain noncash items, including depreciation, certain interest expenses and income, amortization and our share of investment in an associate company and cash generated from other activities.

Net cash from operating activities was approximately RMB17,977.3 million in 2011, and included profit before income taxes of approximately RMB12,521.0 million, adjustments for non-cash items of approximately RMB4,053.8 million, and positive changes in working capital of approximately RMB3,820.8 million. Adjustments for non-cash items primarily consisted of (i) depreciation of property, plant and equipment of approximately RMB2,266.0 million; (ii) interest expenses of approximately RMB839.3 million; and (iii) amortization of intangible assets of approximately RMB720.0 million. Positive changes in working capital primarily consisted of (i) a decrease in bills and accounts receivables of approximately RMB2,800.2 million; (ii) an increase in bills and accounts payables of approximately RMB623.9 million; (iii) an increase in land subsidence, restoration, rehabilitation and environmental costs of approximately RMB556.7 million; and (iv) an increase in other payables and accruals of approximately RMB531.3 million, partially offset by an increase in prepayments and other current assets of approximately RMB870.5 million.

Net cash from operating activities was approximately RMB5,399.8 million in 2010, and included profit before income taxes of approximately RMB12,477.3 million, adjustments for non-cash items of approximately RMB1,018.2 million, and negative changes in working capital of approximately RMB5,646.5 million.

Adjustments for non-cash items primarily consisted of (i) depreciation of property, plant and equipment of approximately RMB2,426.6 million; and (ii) interest expenses of approximately RMB603.3 million, partially offset by net unrealized foreign exchange gains of approximately RMB2,180.3 million. Negative changes in working capital primarily consisted of (i) an increase in bills and accounts receivables of approximately RMB5,286.1 million; (ii) an increase in inventories of approximately RMB728.0 million; and (iii) an increase in prepayments and other current assets of approximately RMB694.7 million, partially offset by an increase in land subsidence, restoration, rehabilitation and environmental costs of approximately RMB838.5 million.

Net cash from operating activities was approximately RMB6,520.1 million in 2009, and included profit before income taxes of approximately RMB5,685.8 million, adjustments for non-cash items of approximately RMB1,652.3 million, and positive changes in working capital of approximately RMB620.8 million. Adjustments for non-cash items primarily consisted of depreciation of property, plant and equipment of approximately RMB1,793.3 million, partially offset by interest income of approximately RMB187.6 million and income generated from associates' investments of approximately RMB109.8 million. Positive changes in working capital primarily consisted of (i) an increase in land subsidence, restoration, rehabilitation and environmental costs of approximately RMB1,109.7 million; and (ii) an increase in other payables and accruals of approximately RMB622.1 million, partially offset by an increase in bills and accounts receivables of approximately RMB1,416.6 million.

#### **Cash flows used from investing activities**

Net cash used in investing activities was approximately RMB25,611.0 million in 2011, and primarily consisted of (i) acquisition of assets and equity of approximately RMB9,620.0 million; (ii) purchase of property, plant and equipment of approximately RMB8,619.5 million; and (iii) increase in term deposits of approximately RMB6,975.5 million.

Net cash used in investing activities was approximately RMB5,884.4 million in 2010, and primarily consisted of (i) our payment of approximately RMB2,045.8 million and approximately RMB1,080.0 million as partial payments for our acquisition of Haosheng Company and Anyuan Coal Mine; (ii) our purchase of property, plant and equipment of approximately RMB3,576.1 million; (iii) an increase in restricted cash of approximately RMB874.6 million; and (iv) our investment of approximately RMB125.0 million to establish Yankuang Finance, partially offset by equity transfer income of approximately RMB1,147.8 million from the disposal of Minerva Coal Mine.

Net cash used in investing activities was approximately RMB24,842.9 million in 2009, and primarily consisted of (i) our acquisition of Felix for cash of approximately RMB19,558.5 million; (ii) capital expenditures of approximately RMB2,133.7 million in property, plant and equipment; (iii) an increase in term deposits of approximately RMB1,971.4 million; and (iv) our purchase of an equity interest in Hua Ju Energy for approximately RMB761.7 million.

#### **Cash flows from (used in) financing activities**

Net cash from financing activities was approximately RMB9,441.0 million in 2011, and primarily consisted of bank borrowings of approximately RMB16,712.3 million, partially offset by (i) dividend payments of approximately RMB2,901.9 million; and (ii) the repayment of bank borrowings of approximately RMB4,367.1 million.

Net cash used in financing activities was approximately RMB1,360.5 million in 2010, and primarily consisted of (i) cash dividend payments of approximately RMB1,229.6 million and (ii) repayments of bank borrowings of approximately RMB655.5 million, partially offset by bank borrowings of approximately RMB1,111.0 million.

Net cash from financing activities was approximately RMB18,503.7 million in 2009, and primarily consisted of bank borrowings of approximately RMB20,757.7 million that we obtained to finance the acquisition of Felix, partially offset by cash dividend payments of approximately RMB1,967.4 million.

#### **Inventories**

Our inventories comprise methanol, auxiliary materials, spare parts and small tools used in the construction of mining structures and coal products in our stockpiles. The following table sets forth our inventories as of the dates indicated:

	<b>As of December 31,</b>		
	<b>2009</b>	<b>2010</b>	<b>2011</b>
	<b>(RMB in millions)</b>		
Methanol	27.3	10.3	11.8
Auxiliary materials, spare parts and small tools	288.6	372.0	414.5
Coal products	570.5	1,263.8	965.0
<b>Total</b>	<b>886.4</b>	<b>1,646.1</b>	<b>1,391.2</b>

Our total inventories increased from approximately RMB886.4 million in 2009 to RMB1,646.1 million in 2010, primarily due to an increase in our inventory of coal products. Our inventories decreased from approximately RMB1,646.1 million in 2010 to RMB1,391.2 million in 2011, primarily due to a decrease in our inventory of coal products, despite a slight increase in our inventories of methanol, auxiliary materials, spare parts and small tools.

### ***Bills and Accounts Receivables***

Bills and accounts receivables represent unconditional written orders issued by, or negotiated from, our customers for completed sales orders which allow us to collect certain specified amounts from banks or other parties. These bills are noninterest-bearing and generally have a maturity of six months. The following table sets forth our bills and accounts receivables as of the dates indicated:

	<b>As of December 31,</b>		
	<b>2009</b>	<b>2010</b>	<b>2011</b>
	<b>(RMB in millions)</b>		
Accounts receivable			
-From third parties	357.3	439.6	636.8
-From jointly controlled entities	81.3	53.5	181.2
Total accounts receivable	438.6	493.1	818.0
Less: Impairment loss	(4.5)	(5.4)	(4.2)
	434.1	487.7	813.8
Total bills receivable	<u>4,289.9</u>	<u>9,529.6</u>	<u>6,498.3</u>
<b>Total bills and accounts receivable, net</b>	<u><b>4,723.9</b></u>	<u><b>10,017.3</b></u>	<u><b>7,312.1</b></u>

Our bills and accounts receivable increased from approximately RMB4,723.9 million in 2009 to RMB10,017.3 million in 2010, primarily due to an increase in bills receivable for coal sales by Yancoal Australia on credit terms. Our bills and accounts receivable decreased from approximately RMB10,017.3 million in 2010 to RMB7,312.1 million in 2011, primarily due to a decrease in bills receivable for coal sales on credit terms. We allow a range of credit periods to our trade customers which take into account the credit rating of our customers. Our credit periods do not exceed 180 days.

The following table sets forth an aging analysis of our bills and accounts receivables based on the applicable invoice dates:

	<b>As of December 31,</b>		
	<b>2009</b>	<b>2010</b>	<b>2011</b>
	<b>(RMB in millions)</b>		
0 - 90 days	2,592.7	4,738.9	4,037.9
90 - 180 days	2,131.2	5,278.3	3,274.2
<b>Total</b>	<u><b>4,723.9</b></u>	<u><b>10,017.3</b></u>	<u><b>7,312.1</b></u>

Before accepting any new customer, we assess the potential customer's credit quality and define credit limits by customer. Limits attributed to customers are reviewed once a year. In 2009, 2010 and 2011, we did not have any significant trade receivables that were past due but not yet impaired as of the balance sheet dates above. We do not hold any collateral over these balances. The average ages of these receivables were 88 days, 93 days and 86 days for 2009, 2010 and 2011, respectively. Our management closely monitors the credit quality of accounts receivables and considers the balances that are neither past due nor impaired to be of good credit quality.

We have provided fully for all receivables over three years because our experience is such that receivables that are past due beyond three years are generally not recoverable. Receivables aged over four years are considered irrecoverable by management and are written off. We wrote off approximately RMB5.8 million of our receivables in 2009. We did not write off any of our receivables in 2010 and 2011.

The following table sets forth an analysis of our impairment losses on bills and accounts receivables:

	<b>2009</b>	<b>2010</b>	<b>2011</b>
	<b>(RMB in millions)</b>		
Balance at January 1	29.5	4.5	5.4
Provided for the year	0.3	0.9	—
Written off recognized	(5.8)	—	—
Reversal	(19.5)	—	(1.3)
Balance at December 31	<u><b>4.5</b></u>	<u><b>5.4</b></u>	<u><b>4.1</b></u>

Our allowance for doubtful debts in 2009, 2010 and 2011 were approximately RMB4.5 million, RMB5.4 million and RMB4.1 million, respectively, for individually impaired trade receivables, which were primarily receivables from corporate customers in the PRC and considered irrecoverable by management after considering the credit quality of those individual customers, the ongoing relationship with us and the aging of these receivables. The recognized impairment represents the difference between the carrying amount of these trade receivables and the present value of the amounts.

### ***Prepayments and Other Receivables***

The following table sets forth our prepayments and other receivables as of the dates indicated:

	<b>As of December 31,</b>		
	<b>2009</b>	<b>2010</b>	<b>2011</b>
	<b>(RMB in millions)</b>		
Advances to suppliers	75.6	243.2	738.4
Prepaid freight charges and related handling charges	5.2	—	—
Due from a jointly controlled entity <sup>(1)</sup>	66.3	115.5	198.8
Deposit for environment protection	226.3	254.2	651.7
Prepaid relocation costs of inhabitants	1,288.5	1,709.9	1,714.5
Others	206.3	290.9	321.5
<b>Total</b>	<b><u>1,868.2</u></b>	<b><u>2,613.7</u></b>	<b><u>3,624.8</u></b>

(1) Amounts due from a jointly controlled entity are unsecured, interest-free and have no fixed repayment term.

Our prepayments and other receivables increased from approximately RMB1,868.2 million in 2009 to RMB2,613.7 million in 2010, primarily due to an increase in the prepayment of removal and relocation costs. Our prepayments and other receivables increased from approximately RMB2,613.7 million in 2010 to RMB3,624.8 million in 2011, primarily due to equipment purchases made by Ordos Neng Hua, Yancoal Australia and Heze Neng Hua.

As of December 31, 2009, 2010 and 2011, we had impairment losses of approximately RMB21.9 million, RMB16.1 million and RMB17.2 million, respectively, on our prepayments and other receivables. In 2009, we wrote off impairment losses of RMB536,000. We did not write off any impairment losses on our prepayments and other receivables in 2010 and 2011.

We have provided fully for all receivables over three years because our experience is such that receivables that are past due beyond three years are generally not recoverable. Receivables are written off if aged over four years and considered irrecoverable by management after considering the credit quality of the individual party and the nature of the amount overdue. We do not set aside provisions for bad debt.

### ***Bills and Accounts Payables***

Our bills and accounts payable are primarily related to purchases from our suppliers and payables to export agents. The following table sets forth our bills and accounts payables as of the dates indicated:

	<b>As of December 31,</b>		
	<b>2009</b>	<b>2010</b>	<b>2011</b>
	<b>(RMB in millions)</b>		
Accounts payable			
-To third parties	1,242.3	1,420.0	2,003.5
-To jointly controlled entities	5.7	7.9	0.2
Subtotal	1,248.0	1,428.0	2,003.6
Bills payable	119.0	126.5	237.2
<b>Total</b>	<b><u>1,367.0</u></b>	<b><u>1,554.4</u></b>	<b><u>2,240.8</u></b>

Our bills and accounts payable increased slightly from approximately RMB1,367.0 million in 2009 to RMB1,554.4 million in 2010. Our bills and accounts payable increased from approximately RMB1,554.4 million in 2010 to RMB2,240.8 million in 2011, primarily due to an increase in accounts payable of Yancoal Australia due to its acquisitions and related increase in operational costs during the year.

The following table sets forth an aging analysis of our bills and accounts payables based on the applicable invoice dates as of the dates indicated:

	<b>As of December 31,</b>		
	<b>2009</b>	<b>2010</b>	<b>2011</b>
	<b>(RMB in millions)</b>		
1 - 90 days	1,153.7	1,321.1	1,790.7
91 - 180 days	84.4	78.6	257.4
181 - 365 days	47.0	23.6	60.9
1 - 2 years	81.9	131.0	131.8
<b>Total</b>	<b>1,367.0</b>	<b>1,554.4</b>	<b>2,240.8</b>

The average credit period for accounts payable and bills payable is 90 days. We have financial risk management policies in place to ensure that all payables are settled within the applicable credit timeframe. We generally do not negotiate for extensions of our payment periods.

### ***Other Payables and Accrued Expenses***

The following table sets forth our other payables and accrued expenses as of the dates indicated:

	<b>As of December 31,</b>		
	<b>2009</b>	<b>2010</b>	<b>2011</b>
	<b>(RMB in millions)</b>		
Customers' deposits	1,488.7	1,378.8	1,523.6
Accrued wages	578.7	823.7	1,047.1
Other taxes payable	166.6	280.0	431.7
Payables in respect of purchases of property, plant and equipment and construction materials	643.7	324.1	2,733.7
Accrued freight charges	58.1	5.5	3.9
Accrued repairs and maintenance	35.8	24.2	35.0
Accrued utility expenses	18.8	8.5	—
Staff welfare payable	122.5	96.5	94.1
Withholding tax payable	1.9	0.3	0.6
Deposits received from employees	14.5	9.9	12.8
Coal price adjustment fund	34.8	36.0	47.1
Accrued land subsidence, restoration, rehabilitation and environmental costs	78.4	0.7	0.5
Payable on compensation fee of mining rights	272.2	412.9	552.7
Payables by Yancoal Resources to companies related to its directors <sup>(1)</sup>	602.6	—	—
Others	324.6	419.8	861.9
<b>Total</b>	<b>4,441.8</b>	<b>3,821.0</b>	<b>7,344.8</b>

(1) To assist with the funding of the dividends paid to Yancoal Resources' shareholders prior to the acquisition by the Group, certain of Yancoal Resources' directors, through their related entities, loaned unsecured funds to Yancoal Resources. The amounts due were fully repaid during that year.

Our other payables and accrued expenses decreased slightly from approximately RMB4,441.8 million in 2009 to RMB3,821.0 million in 2010. Our other payables and accrued expenses increased from approximately RMB3,821.0 million in 2010 to RMB7,344.8 million in 2011, primarily due to increase in wages payable, interest payable, advances from customers, other tax payables and mining rights fees.

### ***Working Capital and Liabilities***

We have historically maintained sufficient working capital for our operations. Our principal source of cash in 2011 was cash generated from operating activities and bank borrowings.

As of December 31, 2011, we recorded net current liabilities of approximately RMB4,290.4 million. Our current assets increased by RMB6,149.8 million from RMB24,281.4 million in 2010 to RMB30,431.1 million in 2011, primarily as a result of (i) an increase in pledged bank deposits of approximately RMB6,975.5 million; (ii) a decrease in bills and accounts receivables of approximately RMB2,705.2 million; (iii) an increase in bank and cash deposits of approximately RMB1,374.0 million; and (iv) an increase in prepayments and other receivables of approximately RMB1,011.2 million. Our current liabilities increased by RMB24,587.6 million from approximately RMB10,133.9 million in 2010 to approximately RMB34,721.5 million in 2011, primarily due to (i) an increase in short-term borrowings due within one year of approximately RMB18,973.6 million; (ii) an increase in other payables and accruals of approximately RMB3,523.8 million; (iii) an increase in tax payable of approximately RMB881.8 million; (iv) an increase in bills and accounts payables of approximately RMB686.4 million; and (v) an increase in the land subsidence, restoration, rehabilitation and environmental costs that had been accrued, but not paid, of approximately RMB555.6 million.

As of December 31, 2011 and 2010, we had cash and cash equivalents of approximately RMB8,145.3 million and RMB6,771.3 million, respectively. Our cash and cash equivalents primarily consist of cash on hand and demand deposits with original maturities of three months or less that are placed with banks and other financial institutions.

As of December 31, 2011 and 2010, we had outstanding bank borrowings of approximately RMB34,457.8 million and RMB23,015.8 million, respectively. The following table sets forth the maturity profile of our bank borrowings as of the dates indicated:

	<b>As of December 31,</b>	
	<b>2010</b>	<b>2011</b>
	<b>(RMB in millions)</b>	
Less than one year	614.9	19,588.5
One to three years	14,858.9	13,598.3
Three to five years	7,498.0	1,249.0
More than five years	44.0	22.0
<b>Total</b>	<b><u>23,015.8</u></b>	<b><u>34,457.8</u></b>

As of December 31, 2011, the interest rates relating to our bank borrowings ranged from 1.31% to 6.90% per annum. The interest rates for these bank borrowings are variable rates that are subject to adjustment based on the interest rate set by the PBOC, LIBOR or BBSY. As of December 31, 2011, all of our bank loans carry variable interest rates. As of the date of this annual report, our bank borrowings were denominated in Renminbi and U.S. dollars. As of December 31, 2011, our total bank loans denominated in Renminbi amounted to approximately RMB14,024 million, while our total bank loans denominated in U.S. dollars amounted to approximately US\$3,243 million, respectively. See Note 36 of the consolidated financial statements for more information on our borrowings. The interest expenses and exchange rate fluctuations associated with our bank borrowings may impair our future profitability.

We have, and in the future may continue to have, substantial debts. As of December 31, 2011, our long-term debt to equity ratio was 34.32%. The interest expenses associated with these debts may impair our future profitability.

### ***Capital Expenditures***

Our principal capital expenditures, incurred for the purchase and construction of property, plant and equipment increased by RMB9,665.6 million, or 271.3%, from approximately RMB3,562.1 million in 2010 to approximately RMB13,227.7 million in 2011. The increase was primarily due to (i) the acquisition of Zhuanlongwan Project's mining rights by Ordos Neng Hua for approximately RMB7,800.0 million; (ii) the acquisition of potash exploration permits in Canada by Yancoal International of approximately RMB1,645.2 million and (iii) a decrease in the capital expenditures of Yancoal Australia of approximately RMB547.8 million.

Our estimated capital expenditures for 2012 are in the amount of RMB11,810.3 million. We plan to finance our capital commitments primarily through a combination of funds generated from operations, bank borrowings and the proceeds of the offerings of the RMB Bonds and US\$ Bonds. The following table sets forth our estimated capital expenditures for 2012 and actual capital expenditures we incurred in 2011.

<b>Companies</b>	<b>Estimated capital expenditure for 2012 (RMB in millions)</b>	<b>Capital expenditure incurred in 2011</b>
The Company	1,638.5	1,244.2
Shanxi Nenghua	42.9	20.0
Yancoal Australia	4,167.0	1,545.7
Yulin Nenghua	51.3	46.5
Heze Nenghua	1,748.3	225.8
Hua Ju Energy	40.0	55.7
Ordos Neng Hua	3,626.3	8,444.6
Yancoal International	296.1	1,645.2
Haosheng Company	199.9	—
<b>Total</b>	<b>11,810.3</b>	<b>13,227.7</b>

### C. Research and Development, Patents and Licenses, Etc.

One of our core strategies is to maintain our competitiveness and increase the efficiency of our mining operations through technology and innovation. In line with our development strategy with a focus on technology innovation, we have established a multi-layer system for integrating new technology into our operations consisting of various entities, including a technology committee, a professional committee, a technology center, as well as relationships with external institutions or organizations with specialized technology development capacities. We have accumulated extensive experience and expertise in coal mining and coal processing procedures, particularly with respect to the underground raw coal mining technology. For example, our independently developed longwall top caving mining method has been adopted by various international coal mining enterprises such as DBT and has been awarded the State Scientific and Technological Progress Award (Second Class) by the National Office for Science and Technology Awards of the PRC in 2009. In 2011, we had completed 28 technology improvement projects, and obtained 32 patents and over 55 technology-advancement prizes, which have enhanced our coal mining and related business operations. Our expenditures for research and development were RMB46.3 million, RMB70.6 million and RMB119.2 million in 2009, 2010 and 2011, respectively, accounting for 0.2%, 0.2% and 0.2%, respectively, of our total sales income for the same periods.

Our mining technology research and development efforts have contributed to increases in our production. Our predecessor first adopted the longwall top caving mining method in 1992. Since then, we have focused on modifying and updating this method, taking into account the distinct geological conditions of our mining operations. Due to our research and development efforts, we have:

- increased our production efficiency by utilizing improved mining extraction equipment;
- extended the length of certain longwall coal mine faces to approximately 300 meters, which reduced our tunneling, support equipment and related costs;
- reduced the number of coal pillars required to support mining areas, thereby enhancing our recovery;
- patented our advanced technology for longwall top caving mining in the PRC, Australia and South Africa. We believe the use of our longwall caving extraction technology reduces the per-tonne production cost of our operations;
- conducted research projects that contributed to the development and export of the technology for advanced two-pillar hydraulic roof supports for the top coal caving process; Bucyrus International, Inc., the largest coal mining equipment supplier worldwide, signed a technology license agreement to manufacture and use the longwall top caving coal mining equipment in Australia;
- cooperated with Peabody to trial and commercialize longwall top caving coal mining equipment; and
- implemented various innovative projects to improve equipment installation, safety, energy conservation and environmental protection measures in our coal mining operations.

We intend to focus our future research and development efforts on improving our longwall caving extraction technology, fully mechanized caving operations and related equipment and mining methods for medium and thick coal seams.

## **D. Trend Information**

### ***Outlook for the Coal Market***

While demand for coal and the supply of coal in both the domestic and international markets in 2011 were affected by the slowdown in the global economic recovery, we expect demand in 2012 to generally recover, and for the supply of coal in certain markets to remain tight during the peak seasons. In line with the sustainable growth of domestic economy, we expect domestic PRC coal demand to continue to grow, although at a slower rate than in 2011. Driven by increasing coal demand of major coal consumption industries, PRC imports of coal is expected to continue to increase, which should result in increased coal supply. However, the increase of domestic coal supply in China is likely to be restricted by national policies. Through measures such as the elimination of outdated production capacity and closing of small-sized coal mines, these national policies promote the continued consolidation of the domestic coal industry and adopt controls on PRC coal production capacity and production volume. Moreover, the effective supply of coal is expected to remain restricted as major domestic coal consumers are generally located in Eastern and Southern China, while domestic coal resources are concentrated in Western China. As a result of the foregoing supply and demand factors, coal prices in China are expected to increase, but remain subject to price and demand fluctuations, along with changes in demand and supply conditions.

The demand for and supply of coal in the international market is expected to be relatively balanced in 2012. As a result of the slowdown in the global economy, overall energy demand is expected to experience limited growth. As a result of the economic downturn and sovereign debt crises in the Euro Zone, coal demand in Europe is expected to remain weak. Coal demand in the Asia-Pacific region is expected to continue growing, and could become an alternative coal consumption market to Europe. Coal exports from Vietnam and Indonesia are expected to decrease as domestic consumption increases, while coal exports from major coal exporting countries such as Australia and South Africa are expected to increase as the result of the improvements on the coal mining infrastructure in those countries. As a result, coal supply and demand are expected to be relatively balanced in the Asia market. We expect coal demand in the Asia-Pacific region to increase slightly, with coal imports in countries situated in East Asia and South Asia in particular to continue to increase. Given these dynamics, coal prices in the global coal markets are expected to fluctuate significantly.

Our average selling price of coal is expected to increase in 2012 compared with 2011. As of March 31, 2012, we have entered into domestic sales contracts and letters of intent to sell a total of approximately 33.0 million tonnes of coal, including contracts to sell approximately 7.7 million tonnes of coal at a tax-inclusive price of RMB589.1 per tonne, representing an increase of approximately RMB17.8 per tonne, or 3.1%, from our average selling price in 2010. The sales price under the letters of intent will be determined at the time of sale. In addition, as of March 31, 2012, Yancoal Australia has entered into agreements to sell approximately 3.0 million tonnes of coal in the first quarter of 2012 at a tax-exclusive price of US\$133.7 per tonne, which remained relatively stable as compared with the price of US\$133.4 per tonne in the first quarter of 2011. These customers primarily included power plants, and metallurgical mills outside Australia. We intend to sell 75.9 million tonnes of coal in 2012.

### ***Outlook for the PRC Methanol Market***

In 2012, we expect that supply will continue to exceed demand in the domestic methanol market, making material increases in methanol prices unlikely. The gradual increase in production capacities of the newly built and existing domestic methanol facilities coupled with an increase in the imports of low cost foreign prime methanol, will further increase the domestic supply of methanol. The demand for methanol remains weak due to overproduction of downstream products such as methanol, dimethylether and acetic acid. However, methanol supply and demand factors are expected to become more balanced with the accelerated elimination of outdated production capacity and promotion of methanol fuel for vehicles, together with the antidumping measures imposed on methanol imports by certain countries. On the other hand, increases in prices of raw materials, including coal and natural gas, electricity and transportation costs will stimulate increases in methanol prices. Our methanol sales target for 2012 is 570,000 tonnes.

## **E. Off-balance Sheet Arrangements**

As of December 31, 2011, other than the capital expenditure commitments and contractual obligations disclosed in this annual report, we did not have any off-balance sheet arrangements.



## F. Contractual Obligations

The following table sets forth our contractual obligations and commercial commitments as of December 31, 2011:

	Payments Due by Period				
	Total	Less than one Year	One to three years	Three to five years	More than five years
			(RMB in millions)		
<b>Contractual Obligations</b>					
Unsecured bank borrowings	15,303.1	13,193.1	839	1,249	22.0
Secured bank borrowings	19,154.7	6,395.4	12,759.3	—	—
Finance leases	—	—	—	—	—
Capital commitments for the acquisition of assets	2,203.6	2,203.6	—	—	—
Amounts due to Controlling Shareholder and its subsidiaries	352.6	352.6	—	—	—
<b>Total</b>	<b>37,014.0</b>	<b>22,144.7</b>	<b>13,598.3</b>	<b>1,249</b>	<b>22.0</b>

The following table sets forth our consolidated interest-bearing borrowings as of December 31, 2010 and 2011:

	As of December 31,	
	2010	2011
	(RMB in millions)	
Secured bank borrowings	21,247.5	19,154.7
Unsecured bank borrowings	946.2	15,303.1
<b>Total</b>	<b>22,193.8</b>	<b>34,457.8</b>

### Secured Bank Borrowings

As of December 31, 2011, we had secured bank loans outstanding of approximately RMB19,154.7 million (approximately US\$3,040.0 million), which primarily consisted of secured bank borrowings obtained for financing the acquisition of Felix. Borrowings of RMB18,272.6 million (US\$2,900.0 million) carried interest at three-month LIBOR plus a margin of 0.75% (approximately 1.31%) and borrowings of RMB882.1 million (US\$140.0 million) carried interest at three-month LIBOR plus a margin of 0.8% (approximately 1.36%). The borrowings are guaranteed by the Company and counter-guaranteed by our Controlling Shareholder. The borrowings are secured by a portion of our term deposits. As of December 31, 2011, we had term deposits of approximately RMB21.1 million that secured bank borrowings. For more information on our secured borrowings, please see Note 36 of the consolidated financial statements.

### Unsecured Bank Borrowings

We had unsecured bank borrowings of RMB15,303.1 million as of December 31, 2011, including a loan in the amount of RMB1,279.1 billion (US\$203.0 million), carrying interest at LIBOR plus a margin of 2.6% per annum, obtained by Yancoal International to acquire potash exploration permits in Canada. For more information about our unsecured borrowings, please see Note 36 of the consolidated financial statements to this annual report. For additional information on material bank borrowings, please see “— Description of Material Indebtedness.”

## Description of Material Indebtedness

### ICBC Working Capital Loans

On March 23 and April 5, 2012, we entered into a total of five working capital loan agreements with the Industrial and Commercial Bank of China Limited, Zoucheng Branch (“ICBC Zoucheng”) for an aggregate loan amount of RMB1.2 billion (the “ICBC Working Capital Loans”). The proceeds have been used for purchase of raw materials.

**Interest.** The principal amounts outstanding under the ICBC Working Capital Loans bear interest at the PBOC benchmark rate. Interest payments are payable monthly.

**Covenants.** Under the terms of the ICBC Working Capital Loans, we have agreed, among other things, not to take any of the following actions without first obtaining the written approval of ICBC Zoucheng:

- obtain any debt financing that substantially increases its debt;

- provide a guarantee that may affect its ability to repay the debt under this loan agreement; or
- engage in any consolidation, separation, reduction of the registered capital, change of share ownership, transfer of material assets and debt collecting rights or engage in material investments.

**Maturity.** The principal amounts of the ICBC Working Capital Loans are to be repaid in a lump sum at the end of the 12-month term.

**Prepayment.** Prepayments are permitted only after ten days' notice to, and approval from, ICBC Zoucheng. Prepayments must be made in full, and include the principal amount, accrued interest and other fees.

**Dividend restriction.** Pursuant to the ICBC Working Capital Loans, we cannot pay any dividends before fully repaying the principal, interest and other related payments under the agreements.

**Events of default.** The ICBC Working Capital Loans contain certain customary events of default, including insolvency, material litigation, defaults on other loans which may impact our ability to repay the ICBC Working Capital Loans, and breaches of the terms of the loan agreements. ICBC Zoucheng is entitled to terminate these agreements and/or demand immediate repayment of the loan, including any accrued interest and related damages upon the occurrence of an event of default.

### **ICBC Fixed Assets Loan**

On September 21, 2011, we have entered into a fixed assets loan agreement with ICBC Zoucheng for a loan facility with a total available drawdown amount of RMB3.9 billion (the "ICBC Fixed Assets Loan"). As of December 31, 2011, RMB1.9 billion had been utilized. The proceeds were used to finance the acquisition of the Zhuanlongwan Project. The total available amount of this loan was guaranteed by the Yankuang Group under a maximum amount guarantee agreement (the "ICBC Fixed Assets Guarantee") entered into on September 29, 2011.

**Interest.** The principal amounts outstanding under the ICBC Fixed Assets Loan bear interest at the PBOC benchmark rate. Interest payments are payable monthly.

**Covenants.** Under the ICBC Fixed Assets Loan, we have agreed, among other things, not to take any of the following actions without first obtaining the written approval of ICBC Zoucheng:

- obtain any debt financing that substantially increases its debt;
- provide a guarantee that may affect its ability to repay the debt under this loan agreement; or
- engage in any consolidation, separation, reduction of the registered capital, change of share ownership, transfer of material assets and debt collecting rights or engage in material investments.

**Maturity.** The ICBC Fixed Assets Loan is to be repaid in one lump sum (including the principal amount and all accrued interest) at the end of the 60-month term.

**Prepayment.** Prepayments are permitted only after ten days' notice to, and approval from, ICBC Zoucheng. Prepayments must be made in full, and include the principal amount, accrued interest and other fees.

**Guarantee and security.** Pursuant to the ICBC Fixed Assets Guarantee, the Yankuang Group has agreed to guarantee the total available amount, including interest accrued from the loan and any applicable damages. The period for this guarantee began on September 29, 2011 and will end on September 21, 2018 or within two years of the repayment date of the ICBC Fixed Assets Loan, whichever is earlier. We have agreed to provide the mining rights of Zhuanlongwan Project as collateral until Ordos Neng Hua completes the mortgage registration of such mining rights.

Under the ICBC Fixed Assets Guarantee, the Yankuang Group has agreed, among other things, not to take any of the following actions without first obtaining the written approval of ICBC Zoucheng:

- provide a guarantee to another third-party that would affect ICBC Zoucheng's interest; or
- engage in any consolidation, separation, reduction of the registered share capital, change of share ownership, transfer of material assets and debt collecting rights or engage in material investments without the written approval of ICBC Zoucheng.

**Dividend restriction.** Pursuant to the ICBC Fixed Assets Loan, we cannot pay any dividends before fully repaying the principal, interest and other related payments under the agreement. The ICBC Fixed Assets Guarantee does not subject the Yankuang Group to any dividend restrictions.

Events of default. The ICBC Fixed Assets Loan and ICBC Fixed Assets Guarantee contain certain customary events of default, including insolvency, material litigation, defaults on other loans which may impact our ability to repay the ICBC Working Capital Loans, and breaches of the terms of the loan agreements. ICBC Zoucheng is entitled to terminate this agreement and/or demand immediate repayment of the loan, any accrued interest and related damages upon occurrence of an event of default or in the event that we fail to obtain the mining rights of the Zhuanlongwan Project by 2012 or if we transfer such mining rights to a third party.

### **CCB Working Capital Loans**

On October 27, November 10, and December 28, 2011, and March 7, 2012 we entered into four Renminbi working capital loan agreements with China Construction Bank, Yanzhou Mining Area Branch (“CCB Yanzhou”) in the aggregate amount of RMB1.4 billion (the “CCB Working Capital Loans”). The proceeds have been used for working capital purposes.

Interest. The principal amounts outstanding under the CCB Working Capital Loans bear interest at the PBOC benchmark rate. Interest payments are payable monthly.

Covenants. Under the CCB Working Capital Loans, we have agreed, among other things, not to take any of the following actions without first giving notice to CCB Yanzhou:

- provide a guarantee to a third party, in which case CCB Yanzhou must be informed within three days of the provision of such guarantee;
- enter into related party transactions that involve more than 10% of our net assets; or
- undertake actions that may harm CCB Yanzhou’s right to collect the debt owed it.

Further, we have agreed, among other things, not to take any of the following actions without first obtaining the written approval of CCB Yanzhou:

- obtain any debt financing that will substantially increase its debt;
- pledge assets purchased using the proceeds of these loans to any third party; or
- engage in any consolidation, separation, reduction of the registered capital, change of share ownership, transfer of material assets and debt collecting rights or engage in material investments.

Maturity. The principal amounts of the CCB Working Capital Loans are to be repaid in one lump sum at the end of the 12-month term for each loan.

Prepayment. Prepayments are permitted only after notice to, and approval from, CCB Yanzhou as specified by each loan agreement. Prepayments must be made in full subject to approval from CCB Yanzhou.

Dividend restriction. The CCB Working Capital Loans do not subject us to any dividend payment restrictions.

Events of default. The CCB Working Capital Loans contain certain customary events of default such as breaching the terms of the loan agreements. The CCB Working Capital Loans also set forth events that may adversely affect CCB Yanzhou’s rights, including but not limited to material changes in business structure, transfer of assets, insolvency, material litigation, defaults on other loans, cross default and our shareholders, abuse of the privilege of corporate status. The occurrence of any of the foregoing would entitle CCB Yanzhou to terminate this agreement and/or demand immediate repayment of the loan, any accrued interest and related damages.

Bank consents. Pursuant to the terms of the loan agreement, we have notified CCB Yanzhou of our guarantee of the US\$ Bond Offering on March 20, 2012 and CCB Yanzhou has given written approval to us to provide a guarantee for the US\$ Bond Offering.

### **BOC Working Capital Loans**

On October 31, 2011, November 25, 2011, December 15, 2011 and February 29, 2012, we entered into four working capital loan agreements with the Bank of China, Zoucheng Mine Branch (“BOC Zoucheng”) in the aggregate amount of RMB1.2 billion (the “BOC Working Capital Loans”). The proceeds have been used for working capital purposes.

Interest. The principal amounts outstanding under the BOC Working Capital Loans bear interest at a fixed rate of 6.56% per annum, which is subject to adjustment if certain specified financial indices, such as our assets/liabilities ratio, current ratio, and various ratios on total and current assets, fall below the industry average listed in the “Enterprise Evaluation Standard 2010” for more than one year. Interest payments are payable monthly.

Covenants. Under the BOC Working Capital Loans, hawse have agreed, among other things, that it will not guarantee more than twice the value of its net assets, and any guarantees given, individually or in the aggregate, must comply with its articles of association. Further, we have agreed, among other things, not to take any of the following actions without first obtaining the written approval of BOC Zoucheng:

- obtain any debt financing that will substantially increase its debt; or
- engage in any consolidation, separation, reduction of the registered capital, change of share ownership, transfer of material assets and debt collecting rights or engage in material investments.

Maturity. The principal amounts of the BOC Working Capital Loans are to be repaid in one lump sum at the end of the term for each loan.

Prepayment. Prepayments are permitted only after ten days' notice to, and approval from, BOC Zoucheng, and must consist of the principal, the interest accrued to date and 10% of the unrealized interest.

Dividend restriction. Pursuant to the BOC Working Capital Loans, we may not distribute any dividends to its shareholders if: (i) net profits after tax are zero, negative or insufficient to cover accumulated losses in the previous fiscal year; or (ii) pre-tax profits are not used to repay the principal, interest and fees that have reached maturity for the current fiscal year, or are insufficient to repay the principal, interest and fees that will mature in the following fiscal year.

Events of default. The BOC Working Capital Loans contain customary events of default, including insolvency, material litigation, defaults on other loans which may impact our ability to repay the BOC Working Capital Loans, and breaches of the terms of the loan agreements. BOC Zoucheng is entitled to terminate this agreement and/or demand immediate repayment of the loan, any accrued interest and related damages upon occurrence of an event of default.

### **CITIC Working Capital Loans**

On October 26, 2011, and March 28, 2012 we entered into two working capital loan agreements with China CITIC Bank, Jining Branch ("CITIC Jining") in the aggregate amount of RMB400 million (the "CITIC Working Capital Loans"). The proceeds have been used for working capital purposes.

Interest. The principal amounts outstanding under the CITIC Working Capital Loans generally bear interest at the PBOC benchmark rate, subject to adjustment after the first six months after entry into the loan agreement according to the terms of the loan. Interest payments are payable monthly.

Covenants. Under the CITIC Working Capital Loans, we have agreed, among other things, not to take any of the following actions without first giving written notice as specified in the relevant agreement and obtaining approval from CITIC Jining:

- substantially increase any debt financing that will substantially increase its debt;
- transfer the CITIC Working Capital Loan to third parties;
- transfer, lease or pledge a material amount of its assets or income as a security or guarantee for other debts;
- engage in certain transactions which could impact CITIC Jining's rights under the CITIC Working Capital Loans, including but not limited to, mergers, acquisitions, equity transfers, substantial increases in debt financing, consolidations, changes in registered capital, changes or engage in material investments.

Maturity. The principal amounts of the CITIC Working Capital Loans and all accrued interest are to be repaid at the end of the one-year term for each loan.

Prepayment. Prepayments are permitted only after 20 days' written notice to, and approval from, CITIC Jining. Prepayments must be made in full including the principal, the interest accrued to date and other related fees.

Loan restructuring. If we are unable to make repayments on schedule, we must give one month's notice prior to the expiry of the term of the loan. With CITIC Jining's approval, the Company and CITIC Jining may enter into a loan restructuring agreement.

Dividend restriction. The CITIC Working Capital Loans do not subject us to any dividend restrictions.

Events of default. The CITIC Working Capital Loans contain customary events of default, including insolvency, cross default, material adverse change in the borrower's industry which may endanger its repayment ability, any management members involved in any material bribery or illegal business matter, and breach of the terms of the loan agreements. Upon the occurrence of an event of default, CITIC Jining is entitled to terminate their agreements or any other facility agreements with the same borrower and/or demand immediate repayment of the loan, any accrued interest and other payable fees.

## **SDB Loan Facility**

On May 23, 2011, the Company entered into a comprehensive credit line agreement with Shenzhen Development Bank (“SDB”) for a facility with a total drawdown amount of RMB1 billion (the “SDB Loan Facility”). As of December 31, 2011, RMB200 million had been utilized, and as of the date of this offering memorandum, a total of RMB800 million had been utilized. The proceeds were used for purchases of coal and raw materials.

Interest. Borrowings under the SDB Loan Facilities the principal amounts understanding bear interest at the PBOC benchmark rate as of the drawdown date. Interest is payable quarterly.

Covenants. Under the SDB Loan Facility, the Company has agreed, among other things, not to engage in related-party transactions that involve more than 10% of the Company’s net assets without giving notice to SDB.

Further, the Company has agreed, among other things, not to take any of the following actions without first giving notice to SDB:

- obtain any debt financing that will materially affect its ability to repay the debt under this loan agreement; or
- engage in a separation, merger, substantial property ownership transfer, structure reform, merger, transfer of material assets debt collecting rights or engage in material investments.

Maturity. Borrowings under the SDB Loan Facility are to be repaid in a lump sum at the end of the term on November 22, 2012.

Prepayment. Prepayments are permitted only with approval from SDB.

Dividend restriction. The SDB Loan Facility does not subject the Company to any dividend payment restrictions.

Events of default. The SDB Loan Facility contains certain customary events of default, including changes in the use of proceeds of the loan, defaults on other loans, failure to disclose material information to the lender, failure to collect debts owed to the Company, material adverse changes in the borrower’s industry, and breaches of the terms of the loan agreement. SDB is entitled to terminate this agreement and/or demand immediate repayment of the loan, any accrued interest and other related fees.

## **Loan Agreements of Yancoal Australia**

### Acquisition loan facilities of Yancoal Australia

On October 19, 2009, Yancoal Australia entered into a facility agreement with Bank of China Ltd., Sydney Branch (“BOC Sydney”), China Development Bank and China Construction Bank for a U.S. dollar loan facility with a total drawdown amount of US\$2.9 billion. On December 9, 2009, Yancoal Australia entered into an additional facility agreement with BOC Sydney for a U.S. dollar loan facility with a total drawdown amount of US\$140 million. The proceeds of these two loan facilities were on-lent to Austar Coal Mining Pty Limited for the acquisition of Felix.

Interest. The principal amounts outstanding under these loans bear interest at LIBOR plus a margin of 0.75% and LIBOR plus a margin of 0.80%, respectively. Interest payments are payable monthly, or as otherwise selected by Yancoal Australia or agreed with the lender in accordance with the terms of the relevant agreement.

Covenants. Under these loans, Yancoal Australia has agreed, among other things, not to take any of the following actions without first obtaining the prior consent of the lenders (subject to certain exceptions):

- disclose the loan agreements to third parties;
- any of the followings:
  - create or permit to subsist any security over any assets;
  - sell, transfer or dispose of any assets on terms whereby they may be leased or reacquired by Yancoal Australia;;
  - dispose of any receivables on recourse terms;
  - enter into title retention arrangement;
  - enter into any setoff or similar arrangement; or
  - enter into a preferential agreement,

save for, among other things, existing securities or related refinancing of financial accommodation that does not exceed the facilities that are refinanced;

- any substantial change to the general nature of its business; or
- any substantial dispose of any assets, subject to certain exceptions.

Maturity. The US\$2.9 billion facility is repayable in installments of US\$970 million on December 16, 2012 and December 16, 2013, respectively, and US\$960 million on December 16, 2014, with any remaining balance to be paid on the earlier of December 16, 2014 or ten business days prior to the expiry date of certain letters of credit granted in relation to the facility.

The US\$140 million facility is repayable in installments of US\$45 million on December 16, 2012 and December 16, 2013, respectively, and US\$50 million on December 16, 2014, with any remaining balance to be paid on the earlier of December 16, 2014 or ten business days prior to the expiry date of a letter of credit granted in relation to the facility. It is a condition precedent of the Merger that the repayments under each of these facilities due on December 16, 2012 and 2013, respectively, be extended until at least December 16, 2017 and 2018, respectively. It is likely that other terms of these facilities may also be amended as part of these extensions, if obtained.

Prepayment. Prepayments are permitted only after five business days' notice to the relevant lender(s). Prepayments must be made in a minimum amount of US\$5 million and in multiples of US\$1 million or as agreed between Yancoal Australia and the relevant lender(s). Prepayment of the outstanding amounts and all accrued interest and related amounts may be required by the lender (s) upon:

- it becoming illegal to comply with the terms and obligations of the loan; or
- if we cease to control Yancoal Australia (upon giving 90 days notice).

Events of default. The loans contain certain customary events of default, including insolvency, non-payment, cross default and breaches of the terms of the loan agreements. The lender(s) are entitled to terminate their respective agreements and/or demand immediate repayment of the loans, any accrued interest and related amounts, upon the occurrence of an event of default.

#### Multicurrency Contingent Liability Facility and Revolving Loan Facility of Yancoal Resources

On October 11, 2005, Yancoal Resources and certain of its subsidiaries entered into a multicurrency contingent liability facility with Commonwealth Bank of Australia and Westpac Banking Corporation for the issue of credit support documents (such as bank guarantees or letters of credit) in support of obligations of the corporate group for a total available amount of A\$170 million. As of December 31, 2011, approximately A\$131 million of credit support of the commitment under this facility had been utilized. On March 30, 2012, the facility was amended, resulting in, among other things, an extension of the maturity date to July 12, 2012, an increase in the facility limit to A\$250 million and the addition of a separate revolving cash advance facility of A\$50 million. Since December 31, 2011, approximately A\$14 million in additional credit support has been utilized under the credit facility. As of April 26, 2012, the A\$50 million revolving cash advance facility remains wholly undrawn. This facility is secured by fixed and floating charges over assets granted by Yancoal Resources Limited and certain of its subsidiaries.

The credit support documents issued comprise bank guarantees in favor of (i) various Australian government departments as related to costs of environmental rehabilitation works and (ii) port and rail services providers as related to charges associated with allocated future port and rail capacity.

Interest and fees. The principal amounts of the revolving loan facility bear interest at BBSY plus a margin of 3.00% per annum. An issuance fee of 1.20% of the amounts under the credit support documents issued is also payable to the issuer of the credit support document.

Covenants. Under this loan, Yancoal Resources has agreed, among other things, not to take any of the following actions without first obtaining the prior consent of the lenders (subject to certain exceptions):

- create or permit to subsist any security over any assets;
- dispose of any assets;
- incur any financial indebtedness;
- give financial accommodation to any person; or
- declare or pay any dividend.

The facility also contains financial covenants.

Maturity. This facility is repayable on or before July 12, 2012.

Prepayment. Prepayments are permitted only after five business days' notice to the lenders. Prepayments must be made in a minimum amount of A\$1 million and/or an integral multiple of that A\$1 million.

Events of default. The loan contains certain customary events of default, including insolvency, nonpayment, cross default and breaches of the terms of the loan agreement. The lenders are entitled to terminate the loan and/or demand immediate repayment of the loan, any accrued interest and related amounts, upon the occurrence of an event of default. The facility also contains a change of control review event.

### **Loan Agreement of Yancoal International**

#### ICBC Project Loan

On December 23, 2011, Yancoal International entered into a project loan agreement with Industrial and Commercial Bank of China Limited ("ICBC") in the amount of US\$203 million (the "ICBC Project Loan"), guaranteed by the Yankuang Group and the Company. The proceeds have been partially used in the acquisition of potash exploration rights in Canada and will partially be used in potash exploration and operations.

Interest. The principal amount outstanding under the ICBC Project Loan bears interest at the LIBOR plus a margin of 2.6%. Interest payments are payable quarterly.

Covenants. Under the ICBC Project Loan, Yancoal International has agreed, among other things, not to take any of the following actions without first obtaining the written approval of ICBC:

- provide a guarantee using its assets or income; or
- engage in any contract, lease, joint venture, merger, acquisition, separation, reduction of the registered capital, change of share ownership, transfer of material assets and debt collecting rights.

In addition, ICBC has the right to examine and supervise any newly incurred debt, guarantee, capital expenditures, sales of assets and dividend payments made by Yancoal International and its guarantors under this loan.

Maturity. The ICBC Project Loan is to be repaid in a lump sum at the end of its 12-month term.

Prepayment. Prepayments are permitted only after 10 days' written notice to, and approval from, ICBC and must include additional 1% of the voluntary payment amount. Mandatory prepayment is required if Yancoal International receives funds from refinancing or sale of assets.

Dividend restriction. The ICBC Project Loan gives ICBC the right to examine and supervise any dividend payments.

Events of default. The ICBC Project Loan contains customary events of default, including, among others, material adverse changes in Yancoal International's financial position, defaults on other loans, material litigation, material adverse changes to the operations or market value of the acquired potash assets, and breach as of the terms of the loan agreement. Upon the occurrence of an event of default, ICBC is entitled to terminate the loan agreement and/or demand immediate repayment of the loan, any accrued interest and other payable fees.

### **Additional Indebtedness Incurred In 2012**

In March and April 2012, we entered into nine new loan agreements with banking institutions in the PRC under which we borrowed an additional aggregate amount of approximately RMB2.2 billion. In February and March 2012, we drew down an additional RMB600 million from our existing loan facility with Shenzhen Development Bank.

#### ***Amounts due to Controlling Shareholder and its Subsidiaries***

Pursuant to the Jining III Coal Mine Acquisition Agreement dated August 4, 2000, which we entered into with the Controlling Shareholder, we acquired the mining rights of Jining III Coal Mine for approximately RMB132.5 million. This amount was to be paid to the Controlling Shareholder in ten interest-free equal annual installments beginning in 2001. We paid an aggregate of approximately RMB132.5 million in full from 2001 to 2010 to the Controlling Shareholder for the mining rights of Jining III Coal Mine.



The amounts due to the Controlling Shareholder and its subsidiary companies do not bear any interest and are unsecured. The following table sets forth the amounts due to the Controlling Shareholder and its subsidiary companies as of December 31, 2010 and 2011.

	<b>As of December 31,</b>	
	<b>2010</b>	<b>2011</b>
	<b>(RMB'000)</b>	
<b>Term for Repayment</b>		
Within one year	438,783	352,625
More than one year, but not exceeding two years	—	—
Total due	438,783	352,625
<b>Less: amounts due within one year</b>	<b>(438,783)</b>	<b>(352,625)</b>
Amounts will due over one year	—	—

As of December 31, 2011, the Controlling Shareholder or its subsidiaries had not used our funds for non-operational matters.

### **Critical Accounting Policies**

We prepare our consolidated financial statements in accordance with IFRS. The preparation of these financial statements requires us to make estimates and assumptions about the carrying amounts of items in the financial statements that cannot be measured accurately. These judgments, estimates and assumptions are based on the historical experience of our management as well as other relevant factors. Actual results may differ from these estimates. We review the foregoing judgments, estimates and assumptions regularly on a going concern basis. Revisions to accounting estimates are recognized in the period in which the estimate is revised if the revision affects only that period or in the period of the revision and future periods if the revision affects both current and future periods.

The following are the critical estimates that we have made in the process of applying the accounting policies and that have the most significant effect on the amounts recognized in financial statements.

#### **Depreciation**

The cost of mining structures is depreciated using the units of production method based on the estimated production volume for which the structure was designed. Management exercises its judgment in estimating the useful lives of the depreciable assets and the production volume of each mine. The estimated coal production volume of each mine is updated on a regular basis and takes into account recent production and technical information of each mine. These changes are considered changes in estimates for accounting purposes and are reflected on a prospective basis in related depreciation rates. Estimates of the production volumes are inherently imprecise and represent only approximate amounts because of the subjective judgments involved in developing such information.

#### **Amortization of assets**

Coal reserves, coal resources and rail access rights are amortized on a straight-line basis or unit of production basis over the shorter of their useful lives and the contractual period. The expensing of overburden removal costs is based on saleable coal production over the estimated economically recoverable reserves. The useful lives are estimated on the basis of the total proven and probable reserves of a coal mine. Proven and probable coal reserve estimates are updated on a regular basis and take into account each mine's recent production and technical information.

#### **Provision for land subsidence, restoration, rehabilitation and environmental costs**

The provision for land subsidence, restoration, rehabilitation and environmental costs is reviewed regularly to verify that it properly reflects the remaining obligation arising from the current and past mining activities. Provisions for land subsidence, restoration, rehabilitation and environmental costs are determined by our management based on past experience, its estimate of current and future costs and predictions for government policies.

#### **Impairment of goodwill**

Determining whether goodwill is impaired requires an estimation of the value in use of the cash-generating units to which goodwill has been allocated. The determination of value in use requires us to estimate the future cash flows expected to arise from the cash-generating unit and a suitable discount rate in order to calculate the present value. As of December 31, 2011, the carrying amount of goodwill was approximately RMB1,866.0 million. Cash flow projections during the budget period for each of the above units are based on the budgeted revenue and expected gross margins during the budget period and the raw materials price inflation during the budget period. Expected cash inflows/outflows have been determined based on past performance and management's market development expectations. There is no material uncertainty regarding the carrying value of goodwill due to the profitability of the underlying reporting units.

### **Estimated impairment of property, plant and equipment**

When there are indications of impairment, we take into consideration the estimate of future cash flows. The amount of the impairment loss is measured as the difference between the asset's carrying amount and the present value of estimated future cash flows. When actual future cash flows are less than expected, a material impairment loss may arise. In estimating future cash flows, management takes into account recent production and technical advancements. As price and cost levels change from year to year, the estimate of future cash flows also changes. Notwithstanding that management has considered all the available information in making their impairment assessment, inherent uncertainty exists as to the conditions of mines and the environment, and actual write-offs may be higher than the estimated amounts. As of December 31, 2011, the carrying amount of property, plant and equipment was approximately RMB31,273.8 million.

In the process of applying our accounting policies, management has made the following accounting judgments:

#### **Acquisitions**

During the year, we acquired several subsidiaries or business as set out in Notes 46, 48, 49 and 50 of the consolidated financial statements to this annual report. We determined whether acquisitions were to be accounted for as an acquisition of business or an acquisition of assets based on factors including (i) whether the acquiree has relevant input, process or output and (ii) whether the acquiree has planned principal activities or is pursuing a plan to produce output and has access to a customer base.

In addition, management also made judgments in determining whether we would register the transfer of certain operating licenses immediately upon the payment of consideration.

#### ***Recent Changes in Accounting Pronouncements***

In the current year, we have applied, for the first time, a number of new standards and interpretations, amended and revised standards and interpretations ("new IFRSs") issued by the IASB and the International Financial Reporting Interpretations Committee (the "IFRIC") of the IASB which are effective for our fiscal year beginning January 1, 2011:

IFRSs (Amendments)	Improvements to IFRSs 2010
IAS 24 (Revised)	Related Parties Disclosures

The adoption of the New IFRS had no material effect on how the results and the financial position for the current or prior accounting years have been prepared. Accordingly, no prior period adjustment is required.

We have not applied the following new and revised standards, amendments or interpretations that have been issued but are not effective as of the date of this annual report:

IFRS 7 (Amendments)	Disclosures – Transfers of Financial Assets <sup>1</sup>
IFRS 7 (Amendments)	Disclosures – Offsetting Financial Assets and Financial Liabilities <sup>2</sup>
IFRS 9	Financial Instruments <sup>3</sup>
IFRS 10	Consolidated Financial Statements <sup>2</sup>
IFRS 11	Joint Arrangements <sup>2</sup>
IFRS 12	Disclosure of Interests in Other Entities <sup>2</sup>
IFRS 13	Fair Value Measurement <sup>2</sup>
IAS 1 (Amendments)	Presentation of Items of Other Comprehensive Income <sup>4</sup>
IAS 28 (Revised)	Investments in Associates and Joint Ventures <sup>2</sup>
IAS 32 (Revised)	Offsetting Financial Assets and Financial Liabilities <sup>5</sup>
IFRIC 20	Stripping Costs in the Production Phase of a Surface Mine <sup>2</sup>

- (1) Effective for annual periods beginning on or after July 1, 2011
- (2) Effective for annual periods beginning on or after January 1, 2013
- (3) Effective for annual periods beginning on or after January 1, 2015
- (4) Effective for annual periods beginning on or after July 1, 2012
- (5) Effective for annual periods beginning on or after January 1, 2014

Under IFRS 9, all recognized financial assets that are within the scope of IAS 39 Financial Instruments: Recognition and Measurement are subsequently measured at either amortized cost or fair value. Specifically, debt investments that are held within a business model whose objective is to collect the contractual cash flows, and that have contractual cash flows that are solely payments of principal and interest on the principal outstanding are generally measured at amortized cost at the end of subsequent accounting periods. All other debt investments and equity investments are measured at their fair values at the end of subsequent accounting periods.

In relation to financial liabilities, the significant change relates to financial liabilities that are designated as at fair value through profit or loss. Specifically, under IFRS 9, for financial liabilities that are designated as at fair value through profit or loss, the amount of change in the fair value of the financial liability that is attributable to changes in the credit risk of that liability is presented in other comprehensive income, unless the presentation of the effects of changes in the liability's credit risk in other comprehensive income would create or enlarge an accounting mismatch in profit or loss. Changes in fair value attributable to a financial liability's credit risk are not subsequently reclassified to profit or loss. Previously, under IAS 39, the entire amount of the change in the fair value of the financial liability designated as at fair value through profit or loss was presented in profit or loss.

IFRS 10 replaces the consolidation guidance in IAS 27 Consolidated and Separate Financial Statements and SIC-12 Consolidation — Special Purpose Entities by introducing a single consolidation model for all entities based on control, irrespective of the nature of the investee (i.e. whether an entity is controlled by voting rights of investors or by other contractual arrangements as is common in special purpose entities). Under IFRS 10, control is based on whether an investor has (1) power over the investee; (2) exposure, or rights, to variable returns from its involvement with the investee; and (3) the ability to use its power over the investee to affect the amount of the returns.

IFRS 11 introduces new accounting requirements for joint arrangements, replacing IAS 31 Interests in Joint Ventures. The option to apply the proportional consolidation method when accounting for jointly controlled entities has been removed. Additionally, IFRS 11 eliminates jointly controlled assets to now only differentiate between joint operations and joint ventures. A joint operation is a joint arrangement whereby the parties that have joint control have rights to the assets and obligations for the liabilities. A joint venture is a joint arrangement whereby the parties that have joint control have rights to the net assets.

IFRS 12 requires enhanced disclosures about both consolidated entities and unconsolidated entities in which an entity has involvement. The objective of IFRS 12 is to require information so that financial statement users may evaluate the basis of control, any restrictions on consolidated assets and liabilities, risk exposures arising from involvements with unconsolidated structured entities and non-controlling interest holders' involvement in the activities of consolidated entities.

IFRS 13 applies when another IFRS requires or permits fair value measurements or disclosures about fair value measurements (and measurements such as fair value less costs to sell, based on fair value or disclosures about those measurements), except for certain exemptions. IFRS 13 requires the disclosures of fair values through a 'fair value hierarchy'. The hierarchy categorizes the inputs used in valuation techniques into three levels. The hierarchy gives the highest priority to (unadjusted) quoted prices in active markets for identical assets or liabilities and the lowest priority to unobservable inputs. If the inputs used to measure fair value are categorized into different levels of the fair value hierarchy, the fair value measurement is categorized entirely at the lowest level input that is significant to the entire measurement.

IAS 1 (Amendments) retain the option to present profit or loss and other comprehensive income in either a single statement or in two separate but consecutive statements. However, IAS 1 (Amendments) requires additional disclosures to be made in the other comprehensive income section such that items of other comprehensive income are grouped into two categories: (1) items that will not be reclassified subsequently to profit or loss; and (2) items that may be reclassified subsequently to profit or loss when specific conditions are met. Income tax on items of other comprehensive income is required to be allocated on the same basis. IAS 1 (Amendments) are effective for annual periods beginning on or after July 1, 2012. The presentation of items of other comprehensive income will be modified accordingly when the amendments are applied in the future accounting periods.

IFRIC 20 Stripping Costs in the Production Phase of a Surface Mine applies to waste removal costs that are incurred in surface mining activity during the production phase of the mine (“production stripping costs”). Under this Interpretation, the costs from this waste removal activity (“stripping”) which provide improved access to ore are recognized as a non-current asset (“stripping activity asset”) when certain criteria are met, whereas the costs of stripping activities where the benefit is realized in the form of inventory produced are accounted for in accordance with IAS 2 Inventories. The stripping activity asset is accounted for as an addition to, or as an enhancement of, an existing asset and classified as tangible or intangible according to the nature of the existing asset of which it forms part. When the costs of the stripping activity asset and the inventory produced are not separately identifiable, production stripping costs are allocated between the inventory produced and the stripping activity asset by using an allocation basis that is based on a relevant production measure. IFRIC 20 is effective for annual periods beginning on or after January 1, 2013. Under the existing policy, the Company separately present the stripping costs on the balance sheet. Upon the subsequent adoption of the Interpretation, the presentation on the balance sheet will be amended accordingly.

Except for the abovementioned standards or interpretations, the directors expect that the application of other standards or interpretations will have no material impact on the Group’s financial statements.

**G. Safe Harbor**

See the section headed “Cautionary Statement Regarding Forward-Looking Statements”.

**ITEM 6. DIRECTORS, SUPERVISORS, SENIOR MANAGEMENT AND EMPLOYEES**

**A. Directors, Supervisors and Senior Management**

The following table sets forth selected information concerning our board of directors (“Board of Directors” or “Board”), board of supervisors and executive officers as of the date of this annual report. As of the date of this annual report, our Board of Directors consists of 11 directors, including one chairman, one vice chairman, four independent directors and one employee director. All Directors serve three-year terms beginning their respective election date until the election of their respective successor.

As more than 50% of our voting power is held by the Controlling Shareholder, we are not required to have a majority of our Board be comprised of independent directors in reliance on the exemption provided under Section 303A of the NYSE Listing Rules.

The following table sets forth information on our directors, supervisors and executive officers:

<u>Name</u>	<u>Age</u>	<u>Position at the Company</u>	<u>Date Term of Office Expires<sup>1</sup></u>
<i>Executive Directors</i>			
LI Weimin	51	Chairman of the Board of Directors	May 2014
WANG Xin	53	Vice Chairman of the Board of Directors	May 2014

<u>Name</u>	<u>Age</u>	<u>Position at the Company</u>	<u>Date Term of Office Expires<sup>1</sup></u>
ZHANG Yingmin	58	Director, General Manager	May 2014
SHI Xuerang	57	Director	May 2014
WU Yuxiang	50	Director and Chief Finance Officer	May 2014
ZHANG Baocai	44	Director, Deputy General Manager and Secretary of the Board of Directors	May 2014
DONG Yunqing	56	Employee Director	May 2014
<b><i>Independent Non-executive Directors</i></b>			
WANG Xianzheng	65	Independent Non-executive Director	May 2014
CHENG Faguang	69	Independent Non-executive Director	May 2014
WANG Xiaojun	58	Independent Non-executive Director	May 2014
XUE Youzhi	47	Independent Non-executive Director	May 2014
<b><i>Supervisors</i></b>			
SONG Guo	57	Chairman of Supervisory Committee	May 2014
ZHOU Shoucheng	59	Deputy Chairman of Supervisory Committee	May 2014
ZHANG Shengdong	55	Supervisor	May 2014
ZHEN Ailan	48	Supervisor	May 2014
WEI Huanmin	55	Employee Supervisor	May 2014
XU Bentai	53	Employee Supervisor	May 2014
<b><i>Other Management Team</i></b>			
HE Ye	54	Deputy General Manager	May 2014
LAI Cunliang	51	Deputy General Manager	May 2014
TIAN Fengze	55	Deputy General Manager	May 2014
SHI Chengzhong	49	Deputy General Manager	May 2014
LIU Chun	50	Deputy General Manager	May 2014
NI Xinghua	55	Chief Engineer	May 2014

(1) The expiration of the term of office is generally the date of the shareholders' meeting when a new session of the Board will be elected. Executives who retire in the interim are replaced at the next Board meeting.

### ***Executive Directors***

**LI Weimin**, a researcher in engineering technique applications with a doctorate degree in mining engineering and holder of an EMBA degree, was appointed as Chairman of our Board of Directors on December 30, 2010. Mr. Li joined the predecessor of the Company in 1982. In November 2002, Mr. Li was appointed as the Manager of the Jining III Coal Mine. In August 2006, Mr. Li was appointed as the Deputy Chief Engineer and the Deputy Head of the Safety and Supervision Bureau of the Yankuang Group. In December 2007, Mr. Li was promoted to the Head of the Safety and Supervision Bureau of the Yankuang Group. In May 2009, Mr. Li was appointed as the Deputy General Manager of the Yankuang Group. Mr. Li was appointed as the General Manager of the Company in July 2009 and was subsequently appointed as the Vice Chairman of the Company in February 2010. On December 15, 2010, Mr. Li was appointed as a Director, the General Manager and the Deputy Secretary of the Party Committee of the Yankuang Group. He is a graduate of China University of Mining and Technology and Nankai University.

**WANG Xin**, a researcher in applied engineering techniques with a doctorate degree in engineering technology and an EMBA degree, is the Vice Chairman of our Board of Directors. Mr. Wang is actively involved in the Yankuang Group and serves as the Chairman of the Board and the Party Committee Secretary for the Yankuang Group. Mr. Wang joined the Company's predecessor in 1982 and became a Vice General Manager of the Yankuang Group in 2000. He was appointed a board director and Vice General Manager of the Yankuang Group in 2002 and was promoted to the Vice Chairman of the board of directors and the General Manager of the Yankuang Group in 2003. Since 2007, he has been the Party Committee Deputy Secretary of the Yankuang Group. On December 30, 2010, Mr. Wang was appointed as the Vice Chairman of the Board of Directors. He is a graduate of China University of Mining and Technology and Nankai University.

**ZHANG Yingmin**, a researcher in applied engineering techniques with an EMBA degree, is the General Manager of the Company and a Director of the Yankuang Group. Mr. Zhang joined the Company's predecessor in 1971, appointed as the Director of the Division of Production Technology of the Yankuang Group in 1996 and became the head of Baodian Coal Mine in 2000. He was also appointed Deputy General Manager of the Yankuang Group in 2003 and the Chief of the Safety Supervision Bureau of the Company from 2004 to 2007. Mr. Zhang was appointed as the General Manager of the Company in 2011. He is a graduate of Nankai University.

**SHI Xuerang**, a senior engineer with an EMBA degree, is a Director of our Board of Directors and Deputy General Manager of the Yankuang Group. From 2001 to 2003, Mr. Shi acted as the Deputy General Manager of the Xinwen Coal Mining Group Company Limited. He joined the Yankuang Group as a Deputy General Manager in 2003 and was appointed a Director of the Company in 2005. He is a graduate of Nankai University.

**WU Yuxiang**, a senior accountant with a master's degree in accounting, has served as a Director and the Chief Financial Officer of the Company since 2002. Mr. Wu joined the Company's predecessor in 1981 and was appointed as the Company's Manager of the Finance Department in 1997. He is a graduate of the Party School of Shandong Provincial Communist Committee.

**ZHANG Baocai**, a senior accountant with an EMBA degree, is a Director, Deputy General Manager and the Board Secretary of the Company. Mr. Zhang joined the Company's predecessor in 1989 and was appointed as the head of the Planning and Finance Department of the Company in 2002. He was appointed as a Director and the Board Secretary of the Company in 2006 and a Deputy General Manager of the Company in 2011. He is a graduate of Nankai University.

**DONG Yunqing**, a professional-level senior administrative officer, has served as a Director and the Chairman of the labor union of the Company since 2002. Mr. Dong joined the Company's predecessor in 1981 and was the Vice Chairman of the labor union of Yankuang Group from 1996 to 2002. Mr. Dong was appointed as a Director and the Chairman of the labor union of the Company in 2002. He is a graduate of the Central Communist Party School Correspondence Institute.

#### *Independent Non-executive Directors*

**WANG Xianzheng**, a professional-level senior engineer with a university education, is currently a president of the China Coal Industry Association and a member of the sixteenth session of the China Central Discipline Inspection Committee. Mr. Wang was appointed as a Vice Minister of the Ministry of Coal Industry and a party member from April 1995 to March 1998. He was appointed as the Deputy Head of the State Coal Industry Bureau, Deputy Head and a party member of the SACMS from March 1998 to August 2000. Mr. Wang was the Vice Governor of Shanxi Province from August 2000 to May 2002 and became a standing member of the Provincial Committee in October 2001. From May 2002 to February 2005, he was appointed as the Head and the Party Committee Secretary of the SACMS. From February 2005 to May 2008, Mr. Wang was appointed as the Deputy Head and Vice Secretary to the Party Committee of the State Administration of Work Safety. Mr. Wang has been the President of the China Coal industry Association since January 2007. Mr. Wang is also an independent director of Beijing Haohua Energy Resource Company Ltd. He is a graduate of Fuxin School of Mining.

**CHENG Faguang**, is a senior accountant with a post-graduate education. Mr. Cheng was the Vice Governor of the People's Government of Ningxia Hui Autonomous Region from May 1988 to May 1992. He was a standing member and the Executive Vice Governor of the Party Committee of Ningxia Hui Autonomous Region from May 1992 to March 1994. Mr. Cheng was appointed as the Chairman, President and Secretary to the Party Committee of China Haohua Chemical (Group) Corporation, which was under the Ministry of Chemical Industry from March 1994 to May 1996. From May 1996 to May 2003, Mr. Cheng was the Deputy Head and a party member of the SAT. He was a member of the Financial and Economic Affairs Committee of the tenth National People's Congress from March 2003 to March 2008. He is a graduate of the Central University of Finance and Economics.

**WANG Xiaojun**, a solicitor admitted in England and Wales and Hong Kong, is a holder of a master's degree in law and is a partner of Jun He Law Offices. He was admitted in the PRC, Hong Kong and England and Wales in 1988, 1995 and 1996, respectively. Mr. Wang has worked as a legal adviser in the HKSE and Richards Butler. He was an Independent Non-executive Director of the Company from 2002 to 2008. Mr. Wang is also an independent non-executive director of the Guangzhou Shipyard International Company Limited, Zijin Mining Group Company Limited and Norinco International Cooperation Ltd. He is a graduate of the People's University of China and the Graduate School of the Chinese Academy of Social Sciences.

**XUE Youzhi**, holder of a master's degree in corporate management, a doctorate degree in economics and a post-doctoral's degree in business management, is currently the Vice President, a professor and a doctoral tutor in the School of Business of Nankai University. Mr. Xue has extensive experience in economics management and completed various projects supported by the National Social Science Foundation. Mr. Xue became the Vice Dean of the School of Business of Nankai University in 2005. He is a graduate of Jilin University.

#### *Supervisors*

**SONG Guo**, a professional-level senior administrative officer with an EMBA degree, is the Chairman of the Supervisory Committee of the Company and a Deputy Secretary of the Party Committee of the Yankuang Group. In 2002, Mr. Song was the Officer-in-charge of the Office of Coal Management Bureau of Shandong Province. He joined the Yankuang Group in 2003 and served as the Secretary of the Disciplinary Inspection Committee from 2003 to 2007. He was appointed as a Deputy Secretary of the Party Committee of the Yankuang Group in 2004 and the Vice Chairman of the Supervisory Committee of the Company in 2005. In 2008, Mr. Song became the Chairman of the Supervisory Committee of the Company. He is a graduate of Nankai University.

**ZHOU Shoucheng**, a professional-level senior administrative officer with a master's degree, was appointed the Vice Chairman of the Supervisory Committee of the Company in 2008 and has served as the Secretary of the Disciplinary Inspection Committee and the Chairman of the labor union of the Yankuang Group since 2007. Mr. Zhou joined the predecessor of the Company in 1979 and has held the posts of the Secretary of the Youth League committee of Yankuang Group, the Secretary of the Party Committee of Beisu Coal Mine and the Secretary of the Party Committee of Xinglongzhuang Coal Mine successively from 1985 to 2002. He was the Chairman of the labor union of the Yankuang Group from 2002 to 2007. He is a graduate of the Central Communist Party School Correspondence Institute.

**ZHANG Shengdong**, a senior accountant, has been a supervisor of the Company since 2002. He is also the Assistant to the General Manager, the Deputy Chief Accountant and the Head of the Finance Department of the Yankuang Group. Mr. Zhang joined the Company's predecessor in 1981 and became the Head of the Finance Department of the Yankuang Group in 1999. He also became the Deputy Chief Accountant of the Yankuang Group, a supervisor of the Company, the Head of the Finance Company Preparatory Office of the Yankuang Group in 2002. Mr. Zhang was appointed as the Assistant to the General Manager of Yankuang Group in 2008. He is a graduate of China University of Mining and Technology.

**ZHEN Ailan**, a senior accountant and senior auditor, was appointed a Supervisor of the Company in 2008. She has served as the Deputy Director of the Audit Department of the Yankuang Group since 2005. After joining the Company's predecessor in 1980, she was appointed to the Deputy Chief of the Audit Division of the Yankuang Group in 2002 and subsequently promoted to the Deputy Director of the Audit Department in 2005. In 2008, Ms. Zhen became a Supervisor of the Company. She is a graduate of Northeastern University of Finance and Economics.

**WEI Huanmin**, a professional-level senior administrative officer, was appointed the Supervisor and the Secretary of the Disciplinary Inspection Committee of the Company in 2008 and 2006, respectively. Mr. Wei joined the Company's predecessor in 1984, and served as the Company's Deputy Secretary of the Disciplinary Inspection Committee and the Chief of the Division of Inspection from 2002 to 2006, when he was promoted to the Secretary of the Disciplinary Inspection Committee. In 2008, Mr. Wei became an Employee Supervisor of the Company. He is a graduate of the Central Communist Party School Correspondence Institute.

**XU Bentai**, a professional-level senior administrative officer with a master's degree, has been the employee supervisor of the Company since 2002 and the Chairman of the labor union of Jining III Coal Mine since 1999. Mr. Xu joined the Company's predecessor in 1978 and became an employee Supervisor of the Company in 2002. He is a graduate of the Party School of Shandong Provincial Communist Committee.

#### *Other Executive Officers*

**HE Ye**, a researcher in engineering technology application, with a doctorate in engineering, has served as a Deputy General Manager of the Company since 2004. Mr. He joined the Company's predecessor in 1993 and became the Head of Jining II Coal Mine in 1999. In 2002, he was appointed the Executive Deputy General Manager of an industrial company that is a subsidiary of Yankuang Group in 2002. He is a graduate of China University of Mining and Technology.

**LAI Cunliang**, a senior engineer with a doctor's degree in mining engineering and an EMBA degree, has served as a Deputy General Manager of the Company since 2005. Mr. Lai joined the Company's predecessor in 1980 and became the Head of Xinglongzhuang Coal Mine in 2000. He has been a director and the General Manager of Yancoal Australia since 2004. Mr. Lai became a Deputy General Manager of the Company in 2005 and became an Executive Director of Yancoal Australia in 2009. He is a graduate of Coal Science Research Institute and Nankai University.

**TIAN Fengze**, a senior economist with a master's degree, has served as a Deputy General Manager of the Company since 2002. Mr. Tian joined the Company's predecessor in 1976 and became the Head of Beisu Coal Mine in 1991. He is a graduate of Party School of Shandong Provincial Communist Committee.

**SHI Chengzhong**, a researcher in engineering technique application with an EMBA degree and a master's degree in mining engineer, has served as a Deputy General Manager of the Company since 2002. Mr. Shi joined the Company's predecessor in 1983 and became a Deputy Chief Engineer of the Yankuang Group in 2000. He is a graduate of Northeastern University and Nankai University.

**LIU Chun**, a senior engineer with an EMBA degree, has served as a Deputy General Manager of the Company since 2011. Mr. Liu joined the Company's predecessor in 1983 and served as Head of the Coal Sales and Transportation Department of the Company in 2002. He is graduated from Nankai University.

**NI Xinghua**, a researcher in engineering technique application with a master's degree, has been the Chief Engineer of the Company since 2002. Mr. Ni joined the Company's predecessor in 1975 and became a Deputy Chief Engineer of the Yankuang Group in 2000. He is a graduate of Tianjin University.

### ***Appointment of Directors, Chairman and Vice Chairman of the Board***

At the first extraordinary general meeting of 2010 of the Company and the thirteenth meeting of the fourth session of the Board held on February 26, 2010, Mr. LI Weimin was elected as Director and Vice Chairman of the fourth session of the Board.

At the seventeenth meeting of the fourth session of the Board held on December 30, 2010, Mr. LI Weimin and Mr. WANG Xin were elected as the Chairman and the Vice Chairman of the fourth session of the Board respectively.

At the 2010 Annual General Meeting held on May 20, 2011, Mr. LI Weimin, Mr. WANG Xin, Mr. SHI Xuerang, Mr. WU Yuxiang and Mr. ZHANG Baocai were re-elected as Directors of the fifth session of the Board upon their retirement by rotation at the conclusion of 2010 Annual General Meeting. Mr. ZHANG Yingmin was elected as a Director of the fifth session of the Board at the 2010 Annual General Meeting held on May 20, 2011.

Mr. DONG Yunqing was re-elected as the employee director of the fifth session of the Board by the employees of the Company.

Mr. WANG Xianzheng, Mr. CHENG Faguang, Mr. WANG Xiaojun and Mr. XUE Youzhi were elected as Independent Non-executive Directors of the fifth session of the Board at the 2010 Annual General Meeting held on May 20, 2011.

At the first meeting of the fifth session of the Board held on May 20, 2011, Mr. LI Weimin and Mr. WANG Xin were elected as the Chairman and the Vice Chairman of the fifth session of the Board, respectively.

### ***Resignation and Retirement of Directors***

Mr. GENG Jiahuai, the former Vice Chairman of the Board and Director of the Company submitted his resignation report to the Board on December 30, 2010, effective immediately.

Mr. CHEN Changchun, the former Director of the Board, submitted his resignation report to the Board on March 9, 2011, effective immediately.

Mr. WANG Xinkun retired as director of the Board by rotation at the conclusion of 2010 Annual General Meeting. Mr. PU Hongjiu, Mr. ZHAI Xigui, Mr. LI Weian and Mr. WANG Junyan retired as independent non-executive directors by rotation at the conclusion of 2010 Annual General Meeting.

### ***Appointment of Supervisors, Chairman and Deputy Chairman of the Supervisory Committee***

At the 2010 Annual General Meeting held on May 20, 2011, Mr. SONG Guo, Mr. ZHOU Shoucheng, Mr. ZHANG Shengdong and Ms. ZHEN Ailan were elected as the non-worker representative supervisors of the fifth session of the supervisory committee of the Company.

Mr. WEI Huanmin and Mr. XU Bentai were elected as the worker representative supervisors of the fifth session of the supervisory committee by the employees of the Company.

At the first meeting of the fifth session of the supervisory committee held on May 20, 2011, Mr. SONG Guo and Mr. ZHOU Shoucheng were elected as the Chairman and the co-deputy Chairmen of the fifth session of the supervisory committee.

### ***Change of the Senior Management***

Mr. QU Tianzhi, former Vice General Manager of the Company resigned from his position on August 27, 2010 as a result of change of employment.

At the twentieth meeting of the fourth session of the Board held on March 25, 2011, Mr. ZHANG Yingmin was appointed as the General Manager of the Company and Mr. ZHANG Baocai was appointed as a Deputy General Manager of the Company.

At the first meeting of the fifth session of the Board held on May 20, 2011, Mr. Zhang Yingmin was appointed as the General Manager of the Company and Mr. JIN Tai, Mr. HE Ye, Mr. LAI Cunliang, Mr. TIAN Fengze, Mr. ZHANG Baocai and Mr. SHI Chengzhong were appointed as Deputy General Managers. Mr. WU Yuxiang was appointed as Chief Financial Officer and Mr. NI Xinghua was appointed as chief engineer at the same meeting.

Mr. JIN Tai, former Deputy General Manager of the Company resigned from his position on October 12, 2011 as a result of reaching the age of retirement.



At the fifth meeting of the fifth session of the Board held on December 2, 2011, Mr. LIU Chun was appointed as a deputy general manager of the Company.

## B. Compensation

Three directors, namely LI Weimin, WANG Xin and SHI Xuerang as well as four supervisors, SONG Guo, ZHOU Shoucheng, ZHANG Shengdong and ZHEN Ailan receive salaries from our Controlling Shareholder, while the rest of our directors, supervisors and executive officers who are our employees receive compensation in the form of salaries, housing allowances and other allowances and benefits, including pension contributions. The aggregate amount of cash remuneration paid by us to directors, supervisors and executive officers for the years 2009, 2010 and 2011 was approximately RMB4.3 million, RMB5.8 million and RMB6.2 million (tax inclusive), respectively. We did not pay any discretionary bonus during the reporting period of this annual report to our directors, supervisors or executive officers. Details of each of the directors' and supervisors' salaries and benefits are as follows:

	<b>For the Year Ended December 31, 2011</b>			
	<b>Fees</b>	<b>Salaries, allowances and other benefits in kind</b>	<b>Retirement benefit plan contributions</b>	<b>Total</b>
	<b>RMB'000</b>	<b>RMB'000</b>	<b>RMB'000</b>	<b>RMB'000</b>
<b>Independent Non-Executive Directors<sup>(1)</sup></b>				
WANG Xianzheng	72	—	—	72
CHENG Faguang	72	—	—	72
WANG Xiaojun	72	—	—	72
XUE Youzhi	72	—	—	72
	<u>288</u>	<u>—</u>	<u>—</u>	<u>288</u>
<b>Directors</b>				
WANG Xin	—	—	—	—
LI Weimin	—	—	—	—
ZHANG Yingmin	—	169	34	203
SHI Xuerang	—	—	—	—
WU Yuxiang	—	381	76	457
ZHANG Baocai	—	390	78	468
DONG Yunqing	—	396	79	475
	<u>—</u>	<u>1,336</u>	<u>267</u>	<u>1,603</u>

	<b>For the Year Ended December 31, 2011</b>			
	<b>Fees</b>	<b>Salaries, allowances and other benefits in kind</b>	<b>Retirement benefit plan contributions</b>	<b>Total</b>
	<b>RMB'000</b>	<b>RMB'000</b>	<b>RMB'000</b>	<b>RMB'000</b>
<b>Supervisors</b>				
SONG Guo	—	—	—	—
ZHANG Shengdong	—	—	—	—
ZHOU Shoucheng	—	—	—	—
ZHEN Ailan	—	—	—	—
WEI Huanmin	—	390	78	468
XU Bentai	—	430	86	516
	<u>—</u>	<u>820</u>	<u>164</u>	<u>984</u>
<b>Other Members of Management</b>				
HE Ye	—	169	43	283
LAI Cunliang	—	700	—	700
TIAN Fengze	—	428	86	514
SHI Chengzhong	—	462	92	554
LIU Chun <sup>(2)</sup>	—	13	3	16
NI Xinghua	—	438	88	526
<b>Total</b>	<u>—</u>	<u>2,210</u>	<u>312</u>	<u>2,513</u>

(1) Mr. WANG Xiaozheng, Mr. CHENG Faguang, Mr. WANG Xiaojun and Mr. XUE Youzhi started to receive salaries and benefits as independent non-executive directors from June 2011.

(2) Mr. LIU Chun started to receive salaries and benefits as a member of management from December 2011.

Details of each of our retired or resigned directors' and supervisors' salaries and benefits are as follows:

	<b>For the Year Ended December 31, 2011</b>			
	<b>Fees</b>	<b>Salaries, allowances and other benefits in kind</b>	<b>Retirement benefit plan contributions</b>	<b>Total</b>
	<b>RMB'000</b>	<b>RMB'000</b>	<b>RMB'000</b>	<b>RMB'000</b>
<b>Retired Independent Non-Executive Directors</b>				
WANG Xianzheng	49	—	—	49
CHENG Fanguang	49	—	—	49
WANG Xiaojun	49	—	—	49
XUE Youzhi	49	—	—	49
<b>Retired Directors</b>				
WANG Xinkun	329	66	—	395
<b>Resigned Member of Management</b>				
JIN Tai	169	34	—	203

### C. Board Practices

#### *Board of Directors*

Directors are elected to serve three year terms. We have adopted cumulative voting for the election of a new Board of Directors.

Pursuant to our Articles of Association, the Board of Directors is accountable to shareholders in general meeting and exercises the following functions and powers:

- (i) convening shareholders' meetings and reporting on the work of the Board of Directors at general meetings;
- (ii) implementing resolutions passed by the shareholders at general meetings;
- (iii) determining our business plans and investment proposals;
- (iv) formulating our annual preliminary and final budgets;
- (v) formulating our profit distribution and loss recovery proposals;
- (vi) formulating proposals for the increase or reduction of our registered capital and the issuance of our debentures or other forms of securities;
- (vii) drawing up plans for material acquisitions, repurchases of shares of the Company, mergers, divisions, dissolutions or changes of corporate structure;
- (viii) deciding our internal management structure;
- (ix) appointing or removing our general manager and secretary of the board and appointing or removing the deputy general manager(s) and other senior officers (including the financial controller(s) of the Company) based on the recommendations of the general manager, to decide on their remuneration and matters relating to awards and penalty;
- (x) formulating our basic management system;
- (xi) formulating proposals for any amendment of the Articles of Association;
- (xii) deciding on our business involving overseas investments, acquisitions and disposals of assets, mortgages of assets and other guarantees, entrusted assets management and connected transactions within the authority conferred by the general meeting;
- (xiii) managing the disclosure of information relating to the Company;
- (xiv) making recommendations on the appointment or replacement of the Company's independent auditors to shareholders at shareholders' general meetings;
- (xv) reviewing management's performance based on the working report submitted by management;
- (xvi) approving an aggregate amount of provision for impairment of assets not more than 10% of our latest audited consolidated net asset value, clearing an amount of provision for impairment of assets not more than 5% of our latest audited consolidated net asset value, and executing and clearing any provision of impairment of assets involving connected transactions in compliance with relevant connected transaction regulations; and

- (xvii) being responsible for matters with respect to the Company's corporate governance, including (i) developing and reviewing the Company's policies and practices on corporate governance; (ii) reviewing and monitoring the training and continuous professional development of Directors and senior management; (iii) reviewing and monitoring the Company's policies and practices on the compliance with legal and regulatory requirements; (iv) developing, reviewing and monitoring the code of conduct and compliance manual (if any) applicable to employees and directors; and (v) reviewing the Company's compliance with the code of the stock exchange on which the Company's securities are listed and the disclosure in the corporate governance report.

- (xviii) exercising any other powers specified by the law, administrative regulations, departmental rules, the Articles of Association and conferred by shareholders at a general meeting.

Except for matters specified in (vi), (vii) and (xi), which require the affirmative vote of more than two-thirds of all of the Directors, resolutions in respect of the above listed matters can be approved by a simple majority of the Directors.

The Board of Directors makes decisions on the company's scope of authority and inspection and decision making procedures with respect to company matters relating to foreign investment, asset sales and purchases, mortgages, guarantee provisions, entrusted asset management and connected transactions and, if a major investment involved, should appoint experts and professionals to make an assessment and submit such assessment to the shareholders' meeting for approval.

With the approval of over two-thirds of all Directors, the Board of Directors may make decisions on the following matters:

- (1) transactions falling within the strictest of the following limits with respect to asset sales and purchases, foreign investment (including entrusted financial management and entrusted loans), financial assistance provisions, leasing of assets as lessor or lessee, restructuring of claims or debts, giving or receiving assets as a gift, entrusted or trusted asset or business management, license agreements, and research and development projects:
  - a. the total assets value (where book value and assessed value are available, whichever is higher) involved in a single transaction with amount more than 10% and below 50% of the Company's latest audited total asset value prepared in accordance with the PRC GAAP; or more than 5% and less than 25% of the Company's latest published total assets value prepared in accordance with the IFRS;
  - b. a single investment of which the completion consideration (including liabilities and expenses) accounts for more than 10% and less than 50% of the Company's latest audited net asset value prepared in accordance with the PRC GAAP; or more than 5% and less than 25% of the total market capitalization of the Company (which is calculated by the average closing price of the Company's shares as stated in the Hong Kong Stock Exchange's daily quotations sheets for the five business days immediately preceding the date of a transaction);
  - c. the latest annual income from principal operations of the subject of a single transaction which accounted for more than 10% and less than 50% of the Company's latest audited income from principal operations for the latest financial year prepared in accordance with the PRC GAAP; or more than 5% and less than 25% of the Company's latest audited income from principal operations for the latest financial year prepared in accordance with the IFRS; and
  - d. the latest annual net profit of the subject of a single transaction which accounted for more than 10% and less than 50% of the Company's latest audited net profit for the latest financial year prepared in accordance with the PRC GAAP; or more than 5% and less than 25% of the Company's latest audited net profit for the latest financial year prepared in accordance with the IFRS.

The above transactions that involve a public offer of securities, which requires the approval of the China Securities Regulatory Commission, shall be subject to a vote at the shareholders' general meeting;

- (2) a single loan representing more than 10% and less than 25% of the Company's most recently audited net asset value if the debt ratio to the Company's assets remains under 80% after such financing;
- (3) mortgages or pledges of assets so long as the cumulative outstanding amount is less than 30% of the Company's most recently audited net asset value;
- (4) external guarantees that do not require the approval of the shareholders pursuant to the Articles of Association; and
- (5) connected transactions, which must be conducted in accordance with the relevant regulations of competent securities authorities and the listing rules of applicable stock exchanges.

The transactions referred to in item (1) above that involve the provision of financial assistance and entrusted financial management are calculated on an accrued basis for twelve consecutive months according to the transaction categories and applicable approval limit proportion of the Board of Directors. When the Company conducts transactions other than those involving the provision of financial assistance and entrusted financial management, relevant approval requirements of the Board of Directors regarding each transaction under the same category shall be calculated on the principle of accrued basis for twelve consecutive months. Transactions already approved by the Company in accordance with the principle of accrued basis shall not be included in the scope of accrual calculation.

Provisions of regulatory authorities that the Company is subject to within and outside the PRC that are of a stricter standard than these Articles of Association shall apply accordingly.

In addition to obligations imposed by laws, administrative regulations or the listing rules of the stock exchanges on which our Shares are listed, the Articles of Association place on each Director, supervisor, general manager, deputy general manager and any other senior officer the following duties to each shareholder, in the exercise of his or her functions and powers:

- to act honestly in our best interests;

- not to expropriate our property in any way, including (without limitation) usurpation of opportunities which benefit us; and
- not to expropriate the individual rights of shareholders, including (without limitation) rights to distributions and voting rights, save and except pursuant to our restructuring which has been submitted to the shareholders for their approval in accordance with the Articles of Association.

The Articles of Association further place on each Director, supervisor, general manager, deputy general manager and senior officer:

- a duty to exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances in the discharge of his or her duties;
- a fiduciary obligation not to have interests that conflict with the Company's;
- a duty not to direct a person or entity related or connected to the Director, supervisor, general manager, deputy general manager or senior officer in certain relationships enumerated in the Articles of Association to act in a manner which such person is prohibited from doing; and
- a duty not to cause us to exceed the scope of business stipulated in our business license.

The shareholders in a general meeting may by ordinary resolution remove any Director or supervisor before the expiration of his or her term of office if such Director fails to perform any of the Director's duties. A senior officer of the Company may be removed by the Board if he or she fails to perform his or her duty.

#### ***Directors' Decision-making Risk Fund***

Upon approval by our shareholders at the 2004 annual shareholders' general meeting, we established a Directors' Decision-making Risk Fund ("Risk Fund") to compensate our Directors, supervisors, executive officers and other applicable personnel for personal economic losses resulting from their performance of duties in accordance with the laws, regulations or our Articles of Association or while attempting to procure legitimate benefits for our Company.

#### ***Directors, Supervisors and Management's Indemnification***

Upon approval at the 2010 general meeting that was held on May 20, 2010, we continued to purchase liability insurance for our Directors, supervisors and senior officers with coverage of up to US\$15 million.

#### ***Audit Committee of the Board of Directors***

Upon approval at the first meeting of the fifth session of the Board of Directors held on May 20, 2011, the Company set up our audit committee of the fifth session of the Board of Directors. The audit committee is mainly responsible for ensuring the independence of the Company's independent auditors to maintain the integrity of audits, ensuring the efficiency of audit procedures, proposing the appointment or replacement of independent auditors; reviewing the accounting policies of the Company, the disclosure of the financial information and the procedures for preparing financial reports; and reviewing the Company's internal control and risk management systems. The audit committee comprises four independent non-executive directors, namely Mr. CHENG Faguang, Mr. WANG Xianzheng, Mr. WANG Xiaojun, Mr. XUE Youzhi, and one non-executive director, Mr. DONG Yunqing. Mr. CHENG Faguang serves as the Chairman of the audit committee.

The details of the responsibilities of the audit committee can be found on our Company's website. We also filed the responsibilities of the audit committee with the SSE, the Hong Kong Stock Exchange and the SEC.

The members of the audit committee of our Board of Directors are:

<u>Name</u>	<u>Age</u>	<u>Position</u>	<u>Ownership of Shares</u>
CHENG Faguang	69	Independent non-executive director, Chairman of the Audit Committee	—
WANG Xiaozheng	65	Independent non-executive director	—
WANG Xiaojun	58	Independent non-executive director	—
XUE Youzhi	47	Independent non-executive director	—
DONG Yunqing	56	Employee director	—

In 2011 and up to March 31, 2011, the audit committee held four meetings on March 17, 2011, August 17, 2011, January 16, 2012 (morning) and January 16, 2012 (afternoon).

As a foreign private issuer, we rely on the exemption under Section 303A.00 of the NYSE Listed Company Manual as well as affiliated director and employee director exemptions as provided under Rule 10A-3 of the Exchange Act to be in compliance with the audit committee standards set out in Section 303A.06 of the NYSE Listed Company Manual. See “Item 16D. Exemptions from the Listing Standards For Audit Committees.”

#### ***Remuneration Committee***

The Remuneration Committee of the fifth session of the Board of Directors was set up following approval from the Board of Directors at the first meeting of the fifth session of the Board of Directors held on May 20, 2011. The primary duties of our Remuneration Committee as set out in the committee charter include drafting and establishing a compensation policy for our directors, supervisors, and the senior officers and making recommendations on the compensation for our directors, supervisors and senior officers. Further details on the responsibilities of the Remuneration Committee can be found on our website. We also filed the responsibilities of the compensation committee with the SSE, the Hong Kong Stock Exchange and the SEC.

The remuneration committee is comprised of three members: two independent non-executive directors, namely Mr. XUE Youzhi and Mr. WANG Xiaojun, and one non-executive director, namely Mr. DONG Yunqing. Mr. XUE Youzhi was elected to serve as the Chairman of the Remuneration Committee.

#### ***Nomination Committee***

Pursuant to approval granted at the first meeting of the fifth session of the Board of Directors held on May 20, 2011, we established the Nomination Committee of the first session of the Board of Directors. The main duties of the Nomination Committee include (i) considering and formulating the selection criteria and procedures for directors and managers and making recommendations; (ii) extensively searching for suitable candidates of directors and managers for the Company and making recommendations to the Board of Directors; (iii) reviewing the candidates for directors and managers for recommendation to the Board of Directors regarding proposed appointments and succession of directors and managers for recommendation to the Board of Directors; and (iv) assessing the independence of independent non-executive directors. Further details on the responsibilities of the nomination committee can be found on our website. We also filed the responsibilities of the nomination committee with the SSE, the Hong Kong Stock Exchange and the SEC.

The Nomination Committee is comprised of three directors, namely Mr. LI Weimin, Mr. WANG Xiaojun and Mr. CHENG Faguang. Mr. WANG Xiaojun serves as the Chairman of the Nomination Committee.

#### ***Strategy and Development Committee***

Pursuant to approval granted at the first meeting of the fifth session of the Board of Directors held on May 20, 2011, we established the Strategy and Development Committee of the fifth session of the Board. The main duties of the Strategy and Development Committee include: (i) conducting studies and making proposals regarding the long-term development strategy and significant investment decisions of the Company; (ii) conducting studies and making proposals regarding the annual strategic development and operating plans; (iii) supervising the implementation of the Company’s strategic and operating plans; and (iv) conducting studies and making proposals regarding other significant issues impacting the development of the Company. The Strategy and Development Committee consists of five directors, namely Mr. LI Weimin, Mr. WANG Xin, Mr. ZHANG Baocai and Mr. XUE Youzhi. Mr. LI Weimin serves as the Chairman.

#### ***Supervisory Committee***

Supervisors serve a term of three years and attend board meetings. The Supervisory Committee is accountable to shareholders and exercises the following duties in accordance with the applicable laws:

- reviewing our periodic reports as prepared by the Board of Directors and providing written comments;
- reviewing our financial position;
- supervising the directors and senior officers and proposing a removal of a director or a senior officer who has contravened any law, administrative regulation, our Articles of Association or resolutions passed at a shareholders’ general meeting;
- demanding any director or any senior officer who acts in a manner which is harmful to our interest to rectify such behavior;
- verifying financial information such as financial reports, business reports and profit distribution plans to be submitted by the Board of Directors to Shareholders’ general meetings and authorizing, in the Company’s name, publicly certified and practicing accountants to assist in the reexamination of such information should any doubt arise in respect thereof;

- proposing the convening of Shareholders' extraordinary general meetings and extraordinary board meetings. Where the board of directors fails to convene or hold the general meeting of shareholders in accordance with the provisions of the Company Law of the PRC, convening and conducting the shareholders' general meeting;
- making proposals at the Shareholders' general meetings;
- representing the Company in proceedings against a director or senior officers in accordance with section 152 of the Company Law of the PRC;
- conducting investigations of any identified irregularities in the Company's operations; and
- performing other functions and powers specified in our articles of association.

Our supervisory committee consists of six members, namely Mr. SONG Guo, Mr. ZHOU Shoucheng, Mr. ZHANG Shengdong, Ms. ZHEN Ailan, Mr. WEI Huanmin and Mr. XU Bentai. Mr. SONG Guo serves as the chairman of the supervisory committee and Mr. ZHOU Shoucheng serves as the deputy chairman of the supervisory committee.

### ***Corporate Governance***

As of December 31, 2011 the Yankuang Group held 2,600,000,000 Shares, representing 52.86% of our total shares on the same day. As the Yankuang Group holds more than 50% of our voting power, we are a "controlled company" under Section 303A.00 of the NYSE Listed Company Manual. As a result, we are not required to establish a Nomination Committee or Corporate Governance Committee under Sections 303A.04 and 303A.05 of the NYSE listing rules. Although we have established a Nomination Committee, we have not established a Corporate Governance Committee. For details related to our corporate governance, please refer to "Item 16G — Corporate Governance".

### ***Arrangement to Purchase Equity or Debt Securities and Other Arrangements***

At no time during the year ended December 31, 2011 were we, our Controlling Shareholder or any of the Yankuang Group's subsidiaries, a party to any arrangement that enabled our Directors or supervisors to acquire benefits through the acquisition of any securities, including our equity or debt securities, with the exception of the A Shares issued to certain of our Directors, supervisors and senior management.

There is no arrangement or understanding between any Director and any major shareholder, customer or supplier in connection with the selection of such Director.

### ***Service Contracts of Directors and Supervisors***

Each of our directors and supervisors has entered into a service contract with us. Under those contracts, the salaries and discretionary year-end bonuses paid to the directors and supervisors, are proposed by the Board of Directors and approved by our shareholders at general meetings. The discretionary year-end bonuses paid to our directors and other employees (including, but not limited to, our supervisors and senior officers) in any given year may not, in aggregate, exceed 1% of our net profit (after taxation and extraordinary losses, but before extraordinary gains) for that year.

No director or supervisor has entered into any service contract with our Company which cannot be terminated by us within one year without payment other than statutorily mandated payments.

## **D. Employees**

### ***General***

The table below sets forth the number of our employees by function as of the dates indicated:

	<b>As of December 31,</b>		
	<b>2009</b>	<b>2010</b>	<b>2011</b>
Coal production employees	34,516	36,411	39,008
Engineers and technicians	1,816	1,875	2,009
Management and administrative personnel	3,595	4,059	4,348
Support staff	9,706	10,023	10,738
<b>Total</b>	<b>49,633</b>	<b>52,368</b>	<b>56,103</b>

The table below sets forth a breakdown of our employees by location as of December 31, 2011:

<b>Location</b>	<b>Employees</b>	<b>% of Total</b>
<b>PRC</b>		
Shandong	54,216	96.6%
Shaanxi	230	0.4%
Shanxi	289	0.5%
Inner Mongolia	236	0.4%
<b>Australia</b>	<u>1,132</u>	<u>2.0%</u>
<b>Total</b>	<u>56,103</u>	<u>100.0%</u>

As of the date of this annual report, all of our employees are employed under employment contracts which specify the employee's position, responsibilities, remuneration and permissible grounds for termination. We have a labor union that protects employees' rights, aims to assist in the achievement of our economic objectives, encourages employee participation in management decisions and assists in mediating disputes between union members and us. Each of our operating units has a labor union. We have not experienced any strikes or other labor disturbances that have interfered with our operations, and we believe that we maintain strong relationships with our employees.

### ***Domestic Employees***

The total remuneration of our domestic employees includes wages and allowances. The compensation of a domestic employee directly involved in underground mining is based on the employee's productivity, as well as the productivity of the employee's mining team. Our domestic employees and their families also receive certain social welfare benefits and logistics services indirectly through the Yankuang Group. These benefits are provided in some cases by the Yankuang Group as required by PRC laws, rules and regulations. We, in turn, pay the Yankuang Group for such benefits.

According to the Provision of Insurance Fund Administrative Services Agreement and the annual caps from 2009 to 2011, the Yankuang Group will provide free management services for the contributions that we make to an endowment insurance fund, basic medical insurance fund, supplementary medical insurance fund, unemployment insurance fund and maternity insurance fund for our employees. We paid an aggregate of approximately RMB1,239.6 million to the above listed insurance funds in 2011.

In 2009, 2010 and 2011, we paid pension contributions for our directors, supervisors, executive officers and senior management of approximately RMB550,000, RMB778,000 and RMB834,000, respectively. In addition, each of our domestic employees currently pays a percentage of his or her salary as an additional pension contribution. Upon retirement, our domestic employees are entitled to pension payments under the pension plan.

All domestic employees who are unable to work due to illness or disability are entitled to certain benefits during the period of their absence from work. In addition, the PRC government requires us to provide casualty and life insurance for each domestic employee who works underground in mining sites through work injury funds. We contribute an amount to the work injury fund equivalent to 2% of each employee's total remuneration the prior year.

### ***Medical insurance plan***

In accordance with the relevant regulations of the Shandong Provincial Government, since 2002, we have established a basic medical insurance plan for domestic employees, which comprises basic medical insurance and supplementary medical insurance plans.

We set aside 6% and 4% of the total wages of each employee to a basic medical insurance fund and supplementary medical insurance, respectively. Production personnel's supplementary medical insurance was recorded in our statement of income as "Wages and Employee Benefits" under "Cost of Sale and Service Provided," while management and administrative personnel's supplementary medical insurance was recorded under "Selling, General and Administrative Expenses."

### ***Housing plan***

Under the Labor and Service Supply Agreement, the Yankuang Group is partly responsible for providing housing accommodations to our domestic employees. We and the Yankuang Group share the incidental expenses relating to the provision of housing accommodation on a pro rata basis based upon our respective number of employees and other negotiations. Such expenses amounted to approximately RMB140.0 million, RMB140.0 million and RMB140.0 million for 2009, 2010 and 2011, respectively.



Since 2002, we have paid each of our domestic employees a housing allowance, which is calculated based on a fixed percentage of each domestic employee's wage, to assist domestic employees in their purchase of residential housing. In 2009, 2010 and 2011, we paid an aggregate of approximately RMB238.5 million, RMB247.7 million and RMB291.8 million, respectively, for our domestic employees' housing allowances.

### *Australian Employees*

Pursuant to applicable Australian laws and regulations, we provide our Australian employees a base salary and also make contributions to our Australian employees' benefits fund. Upon retirement, our Australian employees are entitled to receive payments from the benefits fund. In addition, we maintain commercial medical insurance policies for our Australian employees to cover their medical and additional expenses.

### **E. Share Ownership**

No director, supervisor or member of senior management owns more than 1% of our outstanding shares. We have not entered into any arrangement that enables any of our directors, supervisors or other executive officers to purchase securities issued by us or other institutions. See "Item 6. Directors, Supervisors, Senior Management and Employees — A. Directors, Supervisors and Senior Management".

We have not had and have no plan to grant options for our Shares or other equity-linked securities to our employees. We have not had and have no plan to implement any share bonus scheme for employees.

## **ITEM 7. MAJOR SHAREHOLDERS AND RELATED PARTY TRANSACTIONS**

### **A. Major Shareholders**

As of December 31, 2011, the Yankuang Group owned 52.86% of our share capital. As a majority shareholder, the Yankuang Group is able to make most of the decisions reserved for shareholders.

The following table sets forth certain information regarding ownership of our capital stock as of December 31, 2011 by all persons who are known by us to own beneficially more than 5% of our capital stock.

<u>Shareholder</u>	<u>Shares Owned</u>	<u>Percentage</u>
Yankuang Group <sup>(1)(2)</sup>	2,600,000,000	52.86%
HKSCC Nominee Limited <sup>(3)(4)</sup>	1,949,005,945	39.63%

(1) Ordinary Shares in the form of legal person shares.

(2) Yankuang Group is 100% held by SASAC of the Shandong Provincial Government.

(3) Ordinary Shares in the form of H Shares.

(4) As the nominee of the clearing and settlement agent for our H Shares, HKSCC Nominee Limited is the record holder of our H Shares.

The following table sets forth the substantial shareholders of our H Shares as of December 31, 2011.

<u>Name of substantial shareholders</u>	<u>Class of shares</u>	<u>Number of shares held (shares)</u>	<u>Capacity</u>	<u>Type of interest</u>	<u>Percentage in the relevant class of share capital of the Company</u>	<u>Percentage in total share capital of the Company</u>
Yankuang Group	A Share (state-owned legal person shares)	2,600,000,000(L)	Beneficial owner	Corporate	87.84%(L)	52.86%(L)
JP Morgan Chase & Co.	H Share	313,171,083(L)	Beneficial owner, investment manager and custodian corporation / approved lending agency	Corporate	15.99%(L)	6.37%(L)
		29,450,458(S)			1.50%(S)	0.60%(S)
		147,107,678(P) <sup>(2)</sup>			7.51%(P)	2.99%(P)
Templeton Asset Management Ltd.	H Share	274,258,000(L)	Investment manager	Corporate	14.00%(L)	5.58%(L)
BlackRock, Inc	H Share	154,909,874(L)	Interest of controlled corporation	Corporate	7.91%(L)	3.15%(L)
		10,415,831(S) <sup>(3)</sup>			0.53%(S)	0.21%(S)
BNP Paribas Investment Partners SA	H Share	117,641,207(L)	Investment manager	Corporate	6.00%(L)	2.39%(L)
Morgan Stanley	H Share	101,796,781(L)	Interest of controlled corporation	Corporate	5.20%(L)	2.07%(L)
		34,872,704(S) <sup>(4)</sup>			1.78%(S)	0.71%(S)

(1) The letter "L" denotes a long position. The letter "S" denotes a short position. The letter "P" denotes interests in a lending pool.

(2) The long positions in H Shares included 40,175,937 H Shares, which were held in the capacity of beneficial owners, 125,887,468 H Shares were held by investment managers and 147,107,678 H Shares were held as interests of controlled custodian corporation/approved lending agent. The aggregate interests of short positions in H Shares were held in the capacity of beneficial owners. Among the aggregate interests of long position in H Shares, 9,908,000 H Shares were held as derivatives. Among the aggregate interests of short position in H Shares, 11,880,600 H Shares were held as derivatives.

(3) Among the aggregate interests of long position in H Shares, 28,000 H Shares were held as derivatives. Among the aggregate interests of short position in H Shares, 92,133 H Shares were held as derivatives.

(4) Among the aggregate interests of long position of H Shares, 7,071,215 H Shares were held as derivatives. Among the aggregate interests of short position in H Shares, 282,000 H Shares were held as derivatives.

Except as described in the table above, we are not aware of any holder of more than 5% of any class of our shares. Our major shareholders do not have voting rights different from those of other shareholders. All of our ordinary shareholders enjoy equal voting rights for each share that they hold.

To our knowledge, other than the Yankuang Group, which owned 52.86% of our Shares as of December 31, 2011, we are not owned or controlled, directly or indirectly, by any other corporation, government, or other natural or legal person or persons, jointly or severally. We are not aware of any arrangement which may at a subsequent date result in a change of control over us.

## **B. Related Party Transactions**

Our connected transactions (as defined under the Hong Kong Listing Rules) were mainly made with the Controlling Shareholder (including its subsidiaries) for the provision of materials and services, giving rise to the continuing connected transactions (as defined under the Hong Kong Listing Rules) described below, and asset purchase transactions.

### ***Continuing Connected Transactions***

Upon our restructuring for listing, the Controlling Shareholder, the Yankuang Group, injected its major assets and business relating to coal production and operations into the Company, while the Yankuang Group continues to provide products, materials, services and logistics support services to the Company through its remaining businesses and utilizing its remaining assets. In addition, Yankuang Finance, a joint venture established by the Yankuang Group, China Credit Trust Co., Ltd. and the Company, started to provide financial services after its commencement of operation in November 2010. As both the Yankuang Group and the Company are located in Zoucheng City of Shandong Province, we are able to obtain a steady supply of materials, ancillary support services, financial and other services from the Yankuang Group, which may minimize the operational risks, financing costs and financing risks and in turn have a positive impact on our results of operations. In addition, the Yankuang Group purchases products and materials from us at market price, which may secure part of our sales market. Therefore, the continuing connected transactions are necessary and will continue.

Pursuant to approval granted at the eighth meeting of the fifth session of the Board of Directors of the Company held on March 23, 2012, the Company entered into five continuing connected transaction agreements with the Yankuang Group, namely the Materials Supply Agreement, Supply of Labor and Services Agreement, Pension Fund Management Agreement, Coal Products and Materials Supply Agreement and Electricity and Heat Energy Supply Agreement, together with the respective annual caps for such transactions from 2012 to 2014, in the ordinary course of business. The above agreements will become effective upon independent shareholders' approval during the shareholders' meeting that was held on April 23, 2012. We determined the prices of these transactions primarily based on government pricing. If there is no government pricing, then the market price applies. If there is no government pricing or market price, then we determine prices based on actual cost. The supply fees can be settled in one lump sum or by installments. The supply fees for continuing connected transactions within the same calendar month shall be settled in the following month, except those transactions which are not yet completed or those amounts which are in dispute.

Pursuant to approval granted at the third meeting and the eighth meeting of the fifth session of the Board of Directors of the Company held on August 19, 2011 and March 23, 2012, respectively, we entered into two Financial Services Agreements with Yankuang Finance. Pursuant to the agreements, Yankuang Finance will provide us with financial services including deposit services, borrowing services and settlement services. The two agreements also fixed the proposed annual caps for the transactions from 2011 to 2012 and from 2012 to 2014, respectively. The above agreement entered into on March 23, 2012 has become effective upon independent shareholders' approval during the shareholders' meeting that was held on April 23, 2012. Yankuang Finance has agreed to charge us at the same or a more favorable price for its financial services, compared with those charged by the major commercial banks in the PRC for the same kind of financial services. Fund risk control measures were also taken to safeguard the security of the fund. The previous Financial Services Agreement between our Company and Yankuang Finance dated January 7, 2011 was also terminated.

The continuing connected transactions between our Company and the Controlling Shareholder for 2010 and 2011 included the following:

**Continuing Connected Transaction of Supply of Products and Services under the Materials Supply Agreement, Supply of Labor and Services Agreement, Coal Products and Materials Supply Agreement and Electricity and Heat Energy Supply Agreement**

Details of arrangement to supply products and services between our Company and Yankuang Group to the Materials Supply Agreement, the Supply of Labor and Services Agreement, the Coal Products and Materials Supply Agreement and the Electricity and Heat Energy Supply Agreement for 2010 and 2011 are shown in the following table.

	<b>For the Year Ended December 31,</b>			
	<b>2010</b>		<b>2011</b>	
	<b>Amount (RMB'000)</b>	<b>% of operating income</b>	<b>Amount (RMB'000)</b>	<b>% of operating income</b>
Sales of goods and rendering of services by the Group to the Controlling Shareholder	3,361,680	9.65	2,755,278	5.65
Sales of goods and rendering of services by the Controlling Shareholder to the Group	2,258,967	6.48	2,717,912	5.57

*Note:* The listed figures are under PRC CASs.

The table below shows the effect on profits from sales of coal by the Group to the Controlling Shareholder in 2011:

	<b>Sales income (RMB'000)</b>	<b>Operation cost (RMB'000)</b>	<b>Gross profit (RMB'000)</b>
Coal sold to the Controlling Shareholder	2,088,794	957,921	1,130,873

*Note:* The listed figures are under PRC CASs.

**Continuing Connected Transaction under the Pension Fund Management Agreement**

Pursuant to approval granted at the second 2008 extraordinary shareholders' meeting and according to the Pension Fund Management Agreement and the annual transaction caps thereunder from 2009 to 2011, the Yankuang Group provided free management services for contributions that we make to the endowment insurance fund, basic medical insurance fund, supplementary medical insurance fund, unemployment insurance fund and maternity insurance fund. We contributed an aggregate of approximately RMB1,045.3 million and RMB1,239.6 million to the foregoing insurance funds in 2010 and 2011, respectively.

### Continuing Connected Transaction under the Financial Services Agreement

Pursuant to approval granted at the third meeting of the fifth session of the Board of Directors of the Company held on April 19, 2011, we entered into the Financial Services Agreement with Yankuang Finance on August 19, 2011, which sets forth the annual caps for such transactions in 2011 and 2012 as follows:

- the maximum daily balance (including accrued interests) on our settlement account in Yankuang Finance is RMB1.82 billion;
- the credit facility limit for each of 2011 and 2012 is RMB1.6 billion; and
- the total fees for the discounted note services and other financial services is RMB28.54 million, in which the annual cap for discounted note service fees is RMB20.94 million.

As of December 31, 2011, our deposit balance in Yankuang Finance was RMB1,820.0 million, representing 10.6% of our total bank deposits as of December 31, 2011. The payment of the fees for financial services was RMB10.1 million.

Details of the annual transaction cap for 2009, 2010 and 2011 and the actual transaction amounts in 2009, 2010 and 2011 for the above continuing connected transactions are shown in the following table.

<b>Connected Transactions</b>	<b>Agreement</b>	<b>Annual cap for 2011 (RMB'000)</b>	<b>Transaction amount for 2011 (RMB'000)</b>
Materials and facilities provided by Yankuang Group	Materials Supply Agreement	726,000	696,802
Labor and services provided by Yankuang Group	Supply of Labor and Services Agreement	2,594,340	2,021,109
Pension fund management provided by Yankuang Group	Pension Fund Management Agreement	1,451,510	1,239,556
Coal and material provided to Yankuang Group	Coal Products and Materials Supply Agreement	4,650,000	2,574,470
Electricity and heat provided to Yankuang Group	Electricity and Heat Energy Supply Agreement	360,400	180,808
Financial services provided by Yankuang Finance	Financial service agreement		
deposit balance		1,820,000	1,820,000
credit facility		1,600,000	0
financial service fee		28,540	10,119

The table below sets forth the continuing connected transactions that we conducted with Yankuang Group or its subsidiaries during the periods indicated:

	<b>Year Ended December 31,</b>		
	<b>2009</b>	<b>2010</b>	<b>2011</b>
	<b>(RMB'000)</b>		
<b>Sales Income</b>			
Sales of coal	2,086,542	2,672,424	2,088,794
Sales of auxiliary materials	317,479	454,254	485,676
Sales of heat and electricity	204,061	235,002	180,808
<b>Total</b>	<b>2,608,082</b>	<b>3,361,680</b>	<b>2,755,278</b>
<b>Expenditure</b>			
Utilities and facilities	39,069	34,006	31,646
Purchases of supply materials and equipment	598,498	421,606	696,802
Repair and maintenance services	388,917	262,478	323,550
Social welfare and support services	769,561	794,621	848,121
Technical support and training	26,000	26,000	26,000
Road transportation services	79,560	64,945	73,638
Construction services	242,593	655,311	718,155
<b>Total</b>	<b>2,144,198</b>	<b>2,258,967</b>	<b>2,717,912</b>

## Opinions of the Independent Non-executive Directors

The Company's independent non-executive Directors have reviewed the our continuing connected transactions with the Controlling Shareholder for the year 2011 and confirm that all such connected transactions have been: (i) entered into by us in our ordinary and usual course of business; (ii) conducted either on normal commercial terms, or where there are not sufficient comparable transactions to judge whether they are on normal commercial terms, on terms no less favorable to independent third parties; and (iii) entered into in accordance with the relevant governing agreement on terms that are fair and reasonable and in the interests of the Shareholders as a whole. The independent directors also confirmed that transaction amount of each of the above continuing connected transactions did not exceed their respective annual caps for 2011 as approved by independent shareholders and the board of directors.

## Opinion of the Auditors

Pursuant to the Hong Kong Listing Rules, the Directors have engaged the auditors of the Company to perform certain procedures required by the Hong Kong Listing Rules in respect of the continuing connected transactions of the Group. The auditors have reported to the Directors that the above continuing connected transactions: (1) have received the approval of the Board; (2) are in accordance with the pricing policies of the Company; (3) have been entered into in accordance with the relevant agreement governing the transactions; and (4) have not exceeded the relevant annual caps.

## Acquisition from Connected Parties

### Installation Payment for the Mining Rights of Jining III Coal Mine

Pursuant to the Jining III Coal Mine Acquisition Agreement entered into between the Company and the Yankuang Group in 2000, we agreed to purchase the mining rights of Jining III Coal Mine for approximately RMB132.5 million. Payment was to be made in ten interest-free annual installments beginning in 2001. We paid the total of RMB132.5 million in full for the mining rights of Jining III Coal Mine from 2001 to 2010.

## External Connected Transactions Entered Into Jointly by Us and Related Parties

### Investment in Yankuang Finance among Yankuang Group

Pursuant to approval granted at the thirteenth meeting of the third session of the Board of Directors held on August 3, 2007, we established Yankuang Finance jointly with the Yankuang Group and China Credit Trust Co., Ltd. The registered capital of Yankuang Finance is RMB500.0 million, of which we have contributed RMB125.0 million in cash, representing an equity interest of 25%. Yankuang Finance commenced its operations on November 1, 2010. Yankuang Finance provides financial services such as accepting deposits from members, interbank borrowings and making the bill acceptance and discount for its members.

## Establishment of Future Energy

For details of our establishment of Future Energy, please see "Item 4 Information on the Company — A. History and Development of our Company — Establishment of Future Energy". Up to the date of this annual report, we have paid RMB945 million as the registered capital of Future Energy.

## Debt and Debt Obligations Between the Controlling Shareholder and Our Company

The table below sets forth the balances due from/to the Controlling Shareholder between the Controlling Shareholder and us in 2011.

<b>Related Parties</b>	<b>Balance due from</b>		<b>Balance due to</b>	
	<b>Amount involved</b>	<b>Remaining</b>	<b>Amount involved</b>	<b>Remaining</b>
Yankuang Group	4,547,983	2,595,569	4,063,259	1,155,168

## Amounts due to the Controlling Shareholder and Its Subsidiaries

For the details of the amounts due to the Controlling Shareholder and its subsidiaries, please refer to "Item 5 — Operating and Financial Review and Prospects — F. Contractual Obligations — Amounts due to the Controlling Shareholder and Its Subsidiaries." As of December 31, 2011, the Controlling Shareholder or its subsidiaries had not used our funds for non operational matters.

### ***Transactions / Balances with Other State-owned Entities in the PRC***

We operate in an economic environment currently predominated by entities directly or indirectly owned or controlled by the PRC government (“state-owned entities”). In addition, our Controlling Shareholder is also a state-owned entity. Apart from the transactions with the Controlling Shareholder and its subsidiaries and other disclosure disclosed above, we also conduct business with other state-owned entities. Our Directors consider those state-owned entities as independent third parties so far as our business transactions with them are concerned.

Material transactions with other state-owned entities are as follows:

	<b>Year Ended December 31,</b>		
	<b>2009</b>	<b>2010</b>	<b>2011</b>
		<b>(RMB'000)</b>	
Trade sales	6,970,855	9,823,814	8,487,421
Trade purchases	1,191,783	1,581,427	2,597,741

Material balances with other state-owned entities are as follows:

	<b>As of December 31,</b>	
	<b>2010</b>	<b>2011</b>
	<b>(RMB'000)</b>	
Amounts due from other state-owned entities	1,320,801	681,413
Amounts due to other state-owned entities	443,403	580,726

In addition, we have entered into various transactions, including deposit placements, borrowings and other general banking facilities, with certain banks and financial institutions that are state-owned entities in the ordinary course of business. In view of the nature of those banking transactions, our Directors are of the opinion that separate disclosures are not be necessary.

Except as disclosed above, our Directors are of the opinion that transactions with other state-owned entities are not significant to our operations.

### ***Interest of Management in Certain Transactions***

None of the Directors or supervisors or executive officers had, either directly or indirectly, any material interest in any significant material contract to which we were a party during the year ended December 31, 2011.

### **C. Interests of Experts and Counsel**

Not applicable.

## **ITEM 8. FINANCIAL INFORMATION**

### **A. Consolidated Statements and Other Financial Information**

#### ***Financial Statements***

You should read “Item 18. Financial Statements” for information regarding our audited consolidated financial statements and other financial information.

#### ***Significant Legal Proceedings and Arbitration***

We were not involved in any other significant litigation or arbitration during the reporting period other than as disclosed in this report.

#### ***Dividend Policy***

Pursuant to approval granted at the annual general meeting for the year 2008 held on June 26, 2009, the Company amended the terms of the Articles of Association relating to profit distribution.

According to our Articles of Association, we shall maintain the continuance and stability of our profit distribution policy. We pay final dividends once a year. Shareholders shall, by way of an ordinary resolution, authorize our Board of Directors to declare and pay dividends, and we distribute interim dividends pursuant to the approval of the board and shareholders. We may distribute dividends in the form of cash or shares. Cash dividends shall account for approximately 35% of the net profit of the fiscal year after deduction of the statutory common reserve. Pursuant to our Articles of Association, our after-tax profit shall be allocated in the following order: (1) compensation of losses (if our statutory common reserve fund is not sufficient to compensate our losses from the previous year, we will utilize our after tax profit to compensate our losses before making any provision for the statutory common reserve fund) (2) allocation to the statutory common reserve fund; (3) allocation to the discretionary common reserve fund upon approval by a resolution of a shareholders' general meeting; and (4) dividend payments for ordinary shares.

The Company's dividend distribution plan was approved at the 2010 annual general meeting on May 20, 2011 to distribute cash dividends of RMB0.59 per share (tax inclusive) for 2010. As of the date of this annual report, the 2010 dividends have been distributed to the Shareholders.

## B. Significant Changes

We have not experienced any significant changes since the date of the consolidated financial statements in this annual report.

## ITEM 9. THE OFFER AND LISTING

### A. Offer and Listing Details

The following tables set forth a summary of the issuance of our Shares:

	H Shares			A Shares	
	Initial offering	Second offering	Third offering	Initial offering	Second offering
Time of issuance	March 1998	May 2001	July 2004	June 1998	January 2001
Issue amount	850,000,000	170,000,000	204,000,000	80,000,000	100,000,000

As of December 31, 2011, our share capital structure was as follows:

Type	Number of shares	Percentage of total shares
<b>Listed shares with restricted trading condition</b>		
Promoter Shares	2,600,021,800	52.8632%
A Shares held by our Directors, supervisors and executive officers	21,800	0.0005%
<b>Listed shares without trading condition</b>		
A Shares	2,318,378,200	47.1368%
H Shares	359,978,200	7.3190%
	1,958,400,000	39.8178%
<b>Total</b>	<b>4,918,400,000</b>	<b>100.0%</b>

As of December 31, 2011, we had 2,600,021,800 listed Shares that were subject to trading restrictions, substantially all of which are held by our Controlling Shareholder on behalf of the State and the remainder by our Directors, supervisors and executive officers.

In 2011, our listed Shares subject to trading restrictions did not change. The following table sets forth information on Shares subject to trading restrictions.

<b>Shareholders</b>	<b>Shares subject to trading restrictions as of January 1, 2011 (shares)</b>	<b>Shares released from trading restrictions in 2011 (shares)</b>	<b>Increase in Shares subject to trading restrictions in 2011 (shares)</b>	<b>Shares subject to trading restrictions as of December 31, 2011 (share)</b>	<b>Basis for Imposition of or release from Trading restriction</b>
Yankuang Group	2,600,000,000	0	0	2,600,000,000	Share reform plan <sup>(1)</sup>
WU Yuxiang	20,000	0	0	20,000	Share held by Directors, Supervisors and senior management
SONG Guo	1,800	0	0	1,800	
<b>Total</b>	<b>2,600,021,800</b>	<b>0</b>	<b>0</b>	<b>2,600,021,800</b>	<b>—</b>

***Capitalization of Capital Reserve and Our Capital Structure:***

Our total Shares remained the same in 2011; however, our shareholding structure changed to reflect the release of the restriction on restricted Shares held by Directors, Supervisors and senior management:

	<b>Number of Shares as of January 1, 2010</b>	<b>Increase/decrease in shares during the year</b>	<b>Number of Shares as of December 31, 2011</b>
<b>Restricted Shares</b>	2,600,021,800	—	2,600,021,800
Promoter Shares	2,600,000,000	—	2,600,000,000
A Shares held by our Directors, supervisors and executive officers	21,800	—	21,800
<b>Unrestricted Shares</b>	2,318,378,200	—	2,318,378,200
A Shares	359,978,200	—	359,978,200
H Shares	1,958,400,000	—	1,958,400,000
<b>Total</b>	<b>4,918,400,000</b>	<b>—</b>	<b>4,918,400,000</b>



The table below sets forth certain market information relating to the H Shares, ADSs and A Shares for the periods indicated:

	Price per H Share (HK\$)		Price per ADS (US\$)		Price per A Share (RMB)	
	High	Low	High	Low	High	Low
<b>Annual highs and lows</b>						
2007	17.82	6.28	23.35	8.01	27.68	7.07
2008	17.94	2.98	22.90	4.04	26.99	7.60
2009	17.34	4.00	22.32	5.11	26.15	8.40
2010	25.25	14.00	32.26	18.29	33.65	14.88
2011	32.95	13.72	41.89	17.49	39.50	20.38
<b>Quarterly highs and lows</b>						
2009						
First quarter	7.10	4.00	9.08	5.11	13.35	8.40
Second quarter	11.70	5.55	15.00	7.33	16.81	12.60
Third quarter	13.00	9.20	16.81	11.68	23.70	14.60
Fourth quarter	17.34	10.48	22.32	13.52	26.15	16.95
2010						
First quarter	20.75	14.00	25.65	18.39	25.66	18.47
Second quarter	22.40	14.50	28.72	18.50	23.76	16.27
Third quarter	19.18	14.50	24.71	18.29	19.50	14.88
Fourth quarter	25.25	19.40	32.26	24.54	33.65	18.98
2011						
First quarter	29.25	21.05	36.71	27.67	36.45	23.29
Second quarter	32.95	27.55	41.89	35.41	39.50	29.92
Third quarter	31.20	16.02	41.62	20.75	36.98	26.50
Fourth quarter	22.60	13.72	28.22	17.49	30.44	20.38
<b>Monthly highs and lows</b>						
2011						
October	21.60	13.72	27.08	17.49	30.44	24.30
November	22.60	17.28	28.22	22.07	30.10	25.60
December	19.08	15.36	24.74	20.01	27.24	20.38
2012						
January	19.78	15.72	25.47	20.87	25.29	20.61
February	20.15	18.14	25.81	23.75	26.54	23.32
March	19.36	16.20	24.86	20.56	26.40	22.06
April (through April 13, 2012)	17.48	16.22	22.32	20.85	23.65	22.01

As of December 31, 2011, a total of 1,958,400,000 H Shares were outstanding, of which approximately 139,336,980 H Shares or 7.1% of the outstanding H Shares, were held in the form of 19,744,158 ADSs. The outstanding ADSs were held collectively by 110 holders of record as of March 31, 2011.

#### ***Repurchase, Sale or Redemption of H shares***

The shareholders at the 2010 first A shareholders' meeting and the 2010 first H shareholders' meeting, each of which was held on June 25, 2010, and the 2010 Annual General Meeting, held on May 20, 2011, resolved and granted the Board of Directors a general mandate to (i) repurchase H Shares up to 10% of the outstanding H Shares as of the date of the resolutions' passage; and (ii) issue additional H shares up to 20% of the outstanding H Shares as of the date of the resolutions' passage. During the mandate period, the Board of Directors may exercise the mandate based on our interests and market conditions, subject to the approvals of the relevant regulatory authorities and in compliance with laws, regulations and the Articles of Association. As of the date of this annual report, the general mandate to repurchase H Shares or issue additional H Shares has not been exercised.

#### **B. Plan of Distribution**

Not applicable.

**C. Markets**

Our A Shares are listed on the Shanghai Stock Exchange under the approval of the China Securities Regulatory Commission. The principal trading market for the H Shares is the Hong Kong Stock Exchange. The ADSs have been issued by The Bank of New York Mellon, acting as Depository Bank, and are listed on the New York Stock Exchange under the symbol “YZC”. For market price information on the exchanges on which our securities are listed, see “– A. Offer and Listing Details”.

**D. Selling Shareholders**

Not applicable.

**E. Dilution**

Not applicable.

**F. Expenses of the Issue**

Not applicable.

**ITEM 10. ADDITIONAL INFORMATION**

**A. Share Capital**

Not applicable.

**B. Memorandum and Articles of Association**

Since the effective date of our Articles of Association, the PRC government and other regulatory authorities have promulgated various rules, regulations and opinions which include the Securities Laws of the PRC, the General Meeting Opinions, and the Guide for Articles of Association of Listed Companies. As a listed company, we are required to incorporate these rules, regulations and opinions into our Articles of Association as appropriate.

*Selected Summary of our Articles of Association*

A copy of the English translation of our Articles of Association was filed with the Commission as an exhibit to our registration statement on Form F-1 under the Securities Act in connection with the global offering of our H Shares and related American Depository Shares in 1997. The following table sets forth the dates our Articles of Association were amended or filed with the Commission, or both:

<b>Date of Amendment to the Articles of Association</b>	<b>Filing</b>
April 22, 2002	Appendix to 2001 20-F
June 25, 2004	Appendix to 2003 20-F
July 8, 2004	Appendix to 2004 20-F
June 28, 2005	
August 22, 2005	Appendix to 2005 20-F
June 28, 2006	Appendix to 2006 20-F
November 10, 2006	
June 15, 2007	Appendix to 2007 20-F
January 30, 2008	
December 23, 2008	Appendix to 2008 20-F
June 26, 2009	
June 25, 2010	
February 18, 2011	Appendix to 2010 20-F
May 20, 2011	
April 23, 2011	Appendix to 2011 20-F

## **Objects and Purposes**

We are a joint stock limited company established in accordance with the “Company Law”, “State Council’s Special Regulations Regarding the Issue of Shares Overseas and the Listing of Shares Overseas by Companies Limited by Share” and other relevant laws and administrative regulations of the State. We were established by way of promotion with the approval of the former State Commission for Restructuring the Economic System on September 24, 1997, as evidenced by approval document Ti Gai Sheng (1997) No. 154 of 1997. We were registered with and have obtained a business license from Shandong Provincial Administration Bureau of Industry and Commerce on September 25, 1997. Our business license number is: 370000400001016.

Our scope of business includes: selection and sale of coal (among others, the export of coal should be made through companies with coal export rights according to existing state regulations); transportation of goods through self-owned railways within the mining areas; transportation of goods through highways; operation of ports; manufacture, sale, lease and repair of relevant mining equipment; production and sale of other mining materials; sale and lease of electronic equipment and sale of parts; sale of metallic materials, electronic products, construction materials, timber, rubber products and methanol; provision of mining, science and technological services; property development within the mining areas, property leasing and provision of services such as dining and accommodation; production and sale of coal residual stones as construction materials; sale of coking coal and iron ore; import and export of goods and technology; warehousing; and automotive repairs.

## **Board of Directors**

The Board of Directors is accountable to shareholders and exercises the powers granted to it by the Articles of Association.

Directors who are not employee representatives are elected or removed at shareholders’ general meetings. Employee directors are elected in staff representative meetings or by other democratic methods. All Directors are elected for a term of three years, which can be renewed by re-election at the expiry of the term, unless an Director is removed for cause during his term.

We have established a system of independent Directors and currently have four independent Directors. Independent Directors do not hold any positions in the Company other than their role as directors and do not maintain with us or our substantial shareholders a connection which may hamper their independent and objective judgment. In addition to the powers granted to Directors by the Company Law and other relevant laws, regulations and the Articles of Association, independent Directors have the following powers:

- (i) a majority of the independent Directors must agree to the engagement of substantial connected transactions, as determined in accordance with the standards promulgated from time to time by the regulatory organizations of the place where the Company’s shares are listed, and the appointment of accounting firm(s) before submitting such decisions to the Board of Directors;
- (ii) a majority of the independent Directors may call an extraordinary general meeting for the Board of Directors, propose a board meeting, and publicly collect proxy votes from shareholders before shareholders’ general meetings; and
- (iii) with the consent of a majority of the independent Directors, the independent Directors may independently engage external auditors and consultants to provide audit and consultation for specific Company matters, with the Company bearing the associated costs.

If the above recommendations are not accepted or the above powers cannot be exercised ordinarily, the Company shall disclose the circumstances accordingly.

Where a Director, supervisor or senior officer of the Company is in any way, directly or indirectly, materially interested in a contract, transaction or arrangement or proposed contract, transaction or arrangement with the Company (other than his contract of service with the Company), he shall declare the nature and extent of his interests to the Board of Directors at the earliest opportunity, whether or not the contract, transaction or arrangement or proposal therefore is otherwise subject to the approval of the board of directors. Unless the interested director, supervisor or senior officer discloses his interests in accordance with the preceding sub-paragraph of this Article and the contract, transaction or arrangement is approved by the board of directors at a meeting in which the interested director, supervisor or senior officer is not counted as part of the quorum and refrains from voting, a contract, transaction or arrangement in which that Director, supervisor or senior officer is materially interested is voidable at the instance of the Company except as against a bona fide party thereto who did not have notice of the breach of duty by the interested director, supervisor or senior officer.

Similarly, our Articles provide that when passing a resolution in relation to a connected transaction, or where any Director or any of its associates (as defined under the Listing Rules of the Stock Exchange of Hong Kong) is connected with such resolution, such connected director must recuse himself from the Board meeting, not have any voting rights in respect thereof, not exercise any voting right on behalf of other directors and not be counted as part of the quorum of the Board of Directors’ meeting. Such board meeting can be convened where not less than half of the disinterested directors of the Company attend the meeting and any such resolutions shall be passed by at least half of the disinterested directors of the Company. If less than three non-connected Directors attend the Board of Directors’ meeting, the connected transaction shall be submitted as a resolution at a shareholders’ general meeting of the Company.

Pursuant to our Articles of Association, with the approval of over two-thirds of all Directors, the Board of Directors may exercise its borrowing powers subject to the following guidelines:

- (1) a single loan of more than 10% and less than 25% of the Company's latest audited net asset value so long as the debt ratio to the Company's assets remains under 80% after such financing; and
- (2) mortgages or pledges of assets the cumulative outstanding amount of which is less than 30% of the Company's latest audited net asset value.

Remuneration of Directors are determined by resolution of the shareholders. The Articles of Association do not impose a mandatory retirement age or share ownership qualification on Directors.

### **Description of the Shares and Shareholder Rights**

As of December 31, 2011, our share capital structure consists of 4,918,400,000 ordinary shares, comprising

- (1) 2,960,000,000 domestic shares, which represent 60.18% of our share capital, of which:
  - a. 2,600,000,000 shares, which represent 52.86% of our share capital, were held by the promoter, Yankuang Group Corporation Limited, and
  - b. 360,000,000 shares, which represent 7.32% of our share capital, were held by other shareholders; and
- (2) 1,958,400,000 foreign H shares, which represent 39.82% of our share capital, were held by the H Shares shareholders.

Holders of our ordinary Shares are entitled to share in the Company's profits, dividends and other distributions in proportion to the number of Shares held and are not liable for making any further contribution other than the subscription amount. Our ordinary shareholders enjoy the following rights:

- (i) the right to receive dividends and other distributions in proportion to the number of shares held;
- (ii) the right to demand the convening of a shareholders' meeting, convene a shareholders' meeting, attend or appoint a proxy to attend shareholders' meetings and to vote thereat;
- (iii) the right of supervisory management over our business operations and the right to present proposals or to raise queries;
- (iv) the right to transfer, grant or pledge shares so held in accordance with laws, administrative regulations and provisions of our Articles of Association;
- (v) the right to obtain relevant information in accordance with the provisions of our Articles of Association;
- (vi) in the event of our termination or liquidation, the right to participate in the distribution of our surplus assets in accordance with the number of shares held;
- (vii) for shareholders who disagree with the resolutions for the merger and separation of the Company made in a general meeting, the right to demand the Company to purchase their shares; and
- (viii) other rights conferred by laws, administrative regulations and our Articles of Association.

### **Voting Rights**

Shareholders (including proxies), when voting at a shareholders' general meeting, may exercise such voting rights as are attached to the number of voting shares which they hold. Each share represents one vote. Shares held by the Company do not have voting rights and these shares will not count as the total number of shares entitled to vote. Resolutions at shareholders' general meetings shall be divided into ordinary resolutions and special resolutions. An ordinary resolution must be passed by votes representing more than half of the voting rights represented by the shareholders (including proxies) present at the meeting. A special resolution must be passed by votes representing more than two-thirds of the voting rights represented by the shareholders (including proxies) present at the meeting.

Other than the obligations provided by the laws, administrative legislations and the listing rules of the stock exchange on which the Company's shares are listed, our Controlling Shareholder (as defined in the Articles) shall not exercise its voting rights to approve the following matters which will be prejudicial to the interests of all or some of the other shareholders.

- (i) to relieve a director or supervisor of his duty to act honestly in the best interests of the Company;
- (ii) to approve the expropriation by a Director or supervisor (for his own benefit or for the benefit of another person) of the Company's assets in any way, including (without limitation) opportunities which are beneficial to the Company; and

- (iii) to approve the expropriation by a director or supervisor (for his own benefit or for the benefit of another person) of the individual rights of other shareholders, including (without limitation) rights to distributions and voting rights (save pursuant to a restructuring which has been submitted for approval by the shareholders in a general meeting in accordance with these Articles of Association).

### **Sources of Shareholders' Rights**

The rights and obligations of holders of H Shares and other provisions relating to shareholder protection are principally provided in the Articles of Association and the PRC Company Law. The Articles of Association incorporate mandatory provisions in accordance with the Mandatory Provisions for the Articles of Association of Companies Listed Overseas promulgated by the State Council Securities Commission and the State Restructuring Commission on August 27, 1994 (the "Mandatory Provisions"). We are further subject to management ordinances applicable to the listed companies in Hong Kong SAR and the United States, as our H Shares are listed on the Hong Kong Stock Exchange and the New York Stock Exchange (in the form of ADSs).

In addition, for so long as the H Shares are listed on the Hong Kong Stock Exchange, we are subject to the Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited (the "HKSE Rules"), the Securities and Futures Ordinance of Hong Kong (the "SFO") and the Hong Kong Code on Takeovers and Mergers and Share Repurchases. The Listing Agreement between us and the Hong Kong Stock Exchange further provides that we may not permit amendments to certain sections of the Articles of Association subject to the Mandatory Provisions. These sections include provisions relating to (i) varying the rights of existing classes of shares; (ii) voting rights; (iii) the power of us to purchase our own shares; (iv) rights of minority shareholders; and (v) procedures upon liquidation. In addition, certain amendments to the Articles of Association require the approval and assent of relevant PRC authorities.

### **Mergers and Acquisitions**

In the event of the merger or division of our Company, a plan must be presented by our Board of Directors and approved in accordance with the procedures stipulated in our Articles of Association. Shareholders who object to the plan of merger or division will have the right to demand us or the shareholders who consent to the plan of merger or division to acquire their shares at fair market price. A resolution proposing a merger or division by our company constitutes a special document, which will be available for inspection by our shareholders.

### **Redemption Provisions**

In accordance with the procedures set out in the Articles of Association and upon obtaining approval from relevant government authorities, we may repurchase our issued Shares under the following circumstances:

- (i) canceling Shares to reduce our capital;
- (ii) merger with another company that holds Shares of our Company;
- (iii) granting employee incentive Shares;
- (iv) purchasing the shares of dissenting shareholders; and
- (v) other circumstances permitted by relevant laws and administrative regulations.

Apart from the above, the Company is not allowed to engage in trading of its own shares.

We may repurchase shares in one of the following ways, with the approval of the relevant government authorities:

- (i) by making a general offer to repurchase shares of all our shareholders on a pro rata basis;
- (ii) by repurchasing shares through a public dealing on a stock exchange;
- (iii) by repurchasing shares outside of the stock exchange by means of an off-market agreement; or
- (iv) by other means as authorized by the competent securities authorities under the State Council.

### **Variation of Rights**

The rights attached to any class of shares may not be varied or abrogated except with the approval of a special resolution by all shareholders at a general meeting, along with a special resolution of the holders of the affected class of shares at a separate meeting in accordance with the Articles of Association.

## **Shareholders' Meetings and Notices**

Shareholders' general meetings are divided into annual general meetings and extraordinary general meetings. Shareholders' general meetings shall be convened by the Board of Directors. Annual general meetings are held once every year and within six months from the end of the preceding financial year. The Board of Directors shall convene an extraordinary general meeting within two months of the occurrence of any one of the following events:

- (i) where the number of Directors is less than the number stipulated in the Company Law or two-thirds of the number specified in our Articles of Association or is less than eight (8);
- (ii) where our unrecovered losses amount to one-third of the total amount of our share capital;
- (iii) where shareholder(s) singly or jointly holding 10% or more of our issued and outstanding voting shares request(s) in writing for the convening of an extraordinary general meeting. Within 10 days of receiving such proposal, the Board shall provide its written decision as to whether it agrees to convene such general meeting in accordance with the laws, administrative regulations and the Articles of Association.;
- (iv) whenever the Board of Directors deems necessary or the supervisory committee so requests;
- (v) other cases as provided in laws, administrative regulations and the Articles of Association; or
- (vi) whenever more than a half of the independent Directors so request.

When we convene a shareholders' general meeting, written notice of the meeting shall be given 45 days before the date of the meeting (when calculating the 45 day period, the date on which the meeting is held shall not be included) to notify all of the shareholders whose names appear in the share register of the matters to be considered and the date and place of the meeting, along with the matters to be resolved in the meeting. Shareholders who intend to attend the meeting shall deliver to us their written reply concerning their attendance at such meeting 20 days before the date of the meeting. When we convene an annual general meeting, a shareholder singly or shareholders jointly holding 5% or more of the voting shares of the Company may propose new motions in writing, and we shall include in the agenda those motions which are within the authority of the shareholders' general meeting.

When we convene a shareholders' general meeting, the Board of Directors, the supervisory committee and shareholder(s) individually and jointly holding more than 5% of our shares have the right to propose resolutions to the Company. Shareholder(s) individually and jointly holding more than 5% of our shares may propose special resolutions in writing to the convenor 20 days before the shareholders' general meeting is convened. The convenor shall issue a supplementary notice of the general meeting within two days after receiving the resolutions to announce the contents of the resolutions. Apart from the above, no amendment to the resolutions as set out in the notice of general meeting or proposal of new resolutions shall be made after the convenor has issued the notice of general meeting. The resolutions not set out in the notice of general meeting or that fail to comply with the Articles of Association shall be not voted and resolved in the shareholders' general meeting.

## **Limitations on Voting and Shareholding**

Holders of H Shares and Domestic Shares, with minor exceptions, are entitled to the same economic and voting rights. Consistent with PRC law, the Articles of Association provide that the H Shares can only be traded by investors of Taiwan, Hong Kong, Macau and any country other than the PRC, while A Shares may be traded only by PRC investors and qualified foreign institutional investors. State-owned legal person shares can not be traded unless the approval from the relevant government authorities.

## **Ownership Threshold**

There are no ownership thresholds above which shareholder ownership is required to be disclosed.

## **Changes in Registered Capital**

Pursuant to the Article of Association, any increase or reduction in share capital must be resolved by a special resolution at a shareholders general meeting.

## **Recent Amendments to the Articles of Association**

During the reporting period of this annual report, we made a number of amendments to our Articles of Association. At the first extraordinary general meeting for the year 2011 held on February 18, 2011, our shareholders approved amendments to our Articles of Association regarding the convening of an extraordinary general meeting, the attendance of shareholders' general meeting, the power of the Board and the power of the general manager. At the 2010 annual general meeting held on May 20, 2011, our shareholders approved amendments to our Articles of Association regarding the structure of the Board and the convening of an extraordinary general meeting.

### **C. Material Contracts**

#### ***Acquisition Agreement with Syntech Resources Pty Ltd and Syntech Holdings II Pty Ltd***

On May 13, 2011, Yancoal Australia and Astar Company entered into a share sale agreement with GS Power Holdings LLC to acquire the entire equity interest in Syntech Resources Pty Ltd. and Syntech Holdings II Pty Ltd., for a consideration of A\$202.5 million. The principal business of Syntech Resources Pty Ltd. and Syntech Holdings II Pty Ltd. includes the exploration, production, sorting and processing of coal. Upon the approvals by relevant administrative authorities, the equity transfer was completed on August 1, 2011. Upon the completion of the equity transfer, Astar Company owns Cameby Downs Coal Mine and operates the Syntech Project.

#### ***Acquisition of Inner Mongolia Xintai***

On July 11, 2011, Ordos Neng Hua entered into an equity transfer agreement with two individual to acquire 80% of the equity interest in Inner Mongolia Xintai for a consideration of RMB2,801.6 million. The equity transfer was completed on November 4, 2011.

#### ***Share Sale Agreement with Wesfarmers Premier Coal Limited and Wesfarmers Char Pty Ltd***

On September 27, 2011, Astar Company entered into a share sale agreement with Wesfarmers Coal Resources Pty Ltd., Wesfarmers Chemicals, Energy and Fertilisers Limited, Wesfarmers Resources Limited. Pursuant to the share sale agreement, Astar Company will acquire the entire equity interest in Wesfarmers Premier Coal Limited and Wesfarmers Char Pty Ltd., for a consideration of A\$296.8 million. Wesfarmers Premier Coal Limited is engaged in the exploration, production and processing of coal and Wesfarmers Char Pty Ltd. is engaged in research and development of the technology and procedures relating to processing coal char from low grade coal. We completed the share transfer in December 2011.

#### ***Purchase Agreement with Devonian Potash Inc. and North Atlantic Potash Inc.***

On July 18, 2011, the Company entered into two purchase agreements with Devonian Potash Inc. and North Atlantic Potash Inc. and assigned to Yancoal Canada on September 22, 2011. Pursuant to the purchase agreement, we acquired 11 potash mineral exploration permits from Devonian Potash Inc. and eight potash mineral exploration permits from North Atlantic Potash Inc., for a total consideration of US\$260 million. The transfer has been approved by relevant administrative authorities in China and Canada. We completed the permit transfer registration in September 2011.

#### ***Merger Proposal Deed with Gloucester***

On December 22, 2011, we and Yancoal Australia entered into a merger proposal deed with Gloucester (amended in March 2012) pursuant to which Yancoal Australia intends to implement a merger by way of a scheme of arrangement under Australian law pursuant to which it or its subsidiary will acquire all of the shares of Gloucester, and Gloucester's shareholder will receive a combination of Yancoal Australia ordinary shares and CVR Shares, unless they elect to receive only Yancoal Australia ordinary shares. See "Item 4. Information on the Company — A. History and Development of our Company — Acquisitions — Gloucester Acquisition."

### **D. Exchange Controls**

Our Articles of Association require that we pay dividends and other distributions to holders of Foreign-Invested Shares in accordance with relevant foreign exchange control regulations. If there is no applicable regulation, the exchange rate that we use to convert dividends and distributions to foreign currencies will be the average exchange rate of Renminbi to the relevant foreign currency announced by the Bank of China five business days prior to the announcement of the dividend or distribution.

The Renminbi currently is not a freely convertible currency. The PRC State Administration of Foreign Exchange ("SAFE"), under the authority of the PBOC, controls the conversion of Renminbi into foreign currency. Under existing foreign exchange regulations, unless otherwise approved by the SAFE or exempted by relevant regulations, PRC enterprises must price and sell their goods and services in the PRC in Renminbi.

Since August 1, 2008, all foreign exchange income generated from current account transactions of PRC enterprises (including foreign-invested enterprises) may be retained by enterprises themselves or be sold to the financial institutions operating the foreign exchange settlement or sale business in accordance with relevant regulations. Foreign exchange income from loans issued by organizations outside the territory or from the issuance of bonds and shares (for example foreign exchange income received by our Company from the sale of shares overseas) is also not required to be sold to financial institutions operating the foreign exchange settlement or sale business, but may be deposited in foreign exchange accounts at the financial institutions operating foreign exchange businesses.

PRC enterprises (including foreign-invested enterprises) which require foreign exchange for transactions relating to current account items may, without the approval of SAFE, effect payment from their foreign exchange accounts at financial institutions operating foreign exchange businesses, with valid receipts and proof. Upon a board approval, foreign-invested and PRC enterprises that need foreign currency to distribute profits to their shareholders, such as our Company, may make distributions from their foreign exchange accounts or convert RMB into foreign currencies at foreign exchange businesses.

The conversion of foreign exchange with respect to capital account items, like direct investment and capital contribution, is subject to registration formalities at the foreign exchange administrative department of the State Council.

We have established a limited independent foreign currency account since 2001. The primary source of our foreign currency is revenues denominated in U.S. dollars from coal sales. We use foreign currency primarily to settle equipment and machinery purchases and pay cash dividends on our H Shares (in HK dollars). We have not experienced any shortage of foreign currency. In addition, we can exchange Renminbi for additional foreign currency from designated banks for current account transactions by presenting relevant documents to evidence foreign currency requirements in accordance with relevant regulations.

## **E. Taxation**

The following summary of certain tax provisions does not address all of the tax considerations that may be relevant to each investor and is based on the tax laws, notices and treaties of the relevant jurisdictions as of the date of this annual report, all of which are subject to amendments or changes in interpretation, possibly with retroactive effect. This discussion does not deal with all possible tax consequences relating to an investment in the H Shares or ADSs. In particular, the tax consequences under state, local and other laws are not discussed. This discussion does not constitute legal or tax advice. Accordingly, potential investors are strongly urged to consult their own tax adviser to determine the tax consequences of their investment.

### ***The People's Republic of China***

The following discussion summarizes the material PRC tax provisions relating to the ownership and disposition of H Shares or ADSs held by investors as capital assets.

#### **Taxation on Dividends**

***Individual investors.*** Under the Individual Income Tax Law of the PRC of 1993, as amended on December 29, 2007, and other applicable tax laws and regulations, dividends paid by Chinese companies to individuals are generally subject to a PRC withholding tax of 20%. Foreign persons are generally subject to a 20% withholding tax on the dividends received from Chinese companies, unless they are subject to tax relief under applicable taxation arrangement. The SAT issued the Notice on the Issues Concerning the Collection and Administration of Individual Income Tax Following the Repeal of Circular 45, under which Hong Kong residents will generally be subject to a dividend withholding tax of 10% pursuant to the arrangement for the avoidance of double taxation signed between the PRC and Hong Kong.

***Enterprises.*** According to the EIT Law and the Notice of the State Administration of Taxation on the Issues Concerning Withholding the Enterprise Income Tax on the Dividends Paid by Chinese Resident Enterprises to H Share Holders Which are Overseas Non-resident Enterprises promulgated on November 6, 2008, where a Chinese resident enterprise pays dividends for the year of 2008 or any year thereafter to its H shareholders that are overseas non-resident enterprises, it shall withhold the enterprise income tax thereon at the uniform rate of 10%. After receiving dividends, a non-resident enterprise shareholder may submit an application to the competent tax authority to claim any treatment under a relevant tax agreement (arrangement).



## **Tax Treaties**

Non-PRC shareholders who are residents or citizens of countries that have entered into treaties to avoid double-taxation with China may be entitled to a reduction in the withholding tax imposed on the payment of dividends. China currently has such treaties with a number of countries, including:

- the United States;
- Australia;
- Canada;
- France;
- Germany;
- Japan;
- Malaysia;
- the Netherlands;
- Singapore; and
- the United Kingdom.

Under each one of these treaties, the withholding tax imposed by China's tax authorities is generally reduced. For example, under the treaty between China and the United States, China may tax dividends paid by us to an eligible U.S. holder up to a maximum of 10% of the gross amount of the dividend. For the purposes of this discussion, an eligible U.S. holder is a person who, by reason of domicile, residence, place or head office, place of incorporation or any other criterion of similar nature is subject to taxation in the United States.

## **Taxation on Capital Gains**

According to the EIT Law, capital gains realized by foreign enterprises which have no establishment or residence in China or whose capital gains from China do not relate to their establishment or residence in China are generally subject to capital gains tax at the rate of 10%.

According to the Interim Measures for Administration of Withholding at Source of Income Tax of Non-resident Enterprises, which was promulgated by the SAT on January 9, 2009, when two non-resident enterprises enter into an equity assignment transaction to transfer the equity of a Chinese enterprise outside the territory of China, the assigning non-resident enterprise shall pay taxes to the competent tax authority in the place where the Chinese enterprise whose equity has been transferred is located. In addition, the Chinese enterprise whose equity is being assigned shall assist the tax authority in the collection of applicable taxes for the transaction.

With respect to individual holders of H Shares, the Provisions for Implementing the Individual Income Tax Law of China, as amended, provides that the levy of individual income tax on the gains realized on the sale of shares will be regulated and separate rules will be drafted by the Ministry of Finance. However, to date, no such implementing measures have been promulgated by the Ministry of Finance, and no individual income tax on gains realized on sales of shares has been levied. On June 20, 1994, February 9, 1996 and March 30, 1998, the Ministry of Finance and the SAT issued notices providing that gains realized by individuals were temporarily exempt from individual income tax. If such exemption becomes inapplicable or is not renewed, a non-PRC enterprise shareholder might be subject to a 20% tax on capital gains under the Individual Income Tax Law of the PRC and its amendments.

## **Additional PRC Tax Considerations**

Under the Provisional Regulations of the PRC Concerning the Stamp Duty, Chinese stamp duty is not imposed on the transfer of shares, such as the H Shares or ADSs, of Chinese publicly traded companies by non-Chinese investors that take place outside of China.

## ***United States Federal Income Taxation***

Investors are strongly urged to consult their own tax advisors to determine the particular United States federal, state, local, treaty and foreign tax consequences related to purchasing, owning or disposing of the H Shares or ADSs.

The following is a general discussion of material United States federal income tax consequences of purchasing, owning and disposing of the H Shares or ADSs if you are a U.S. holder, as defined below, who holds the H Shares or ADSs as capital assets within the meaning of Section 1221 of the Internal Revenue Code of 1986 as amended (the "Code"). This discussion does not address all of the tax consequences relating to the ownership and disposition of the H Shares or ADSs, and does not take into account U.S. holders who may be subject to special rules including:

- tax-exempt entities;
- partnerships or other entities treated as partnerships for United States federal income tax purposes;
- banks, financial institutions, and insurance companies;
- real estate investment trusts, regulated investment companies and grantor trusts;
- dealers or traders in securities, commodities or currencies;
- U.S. holders liable for alternative minimum tax;
- U.S. holders that own, actually or constructively, 10% or more of our voting stock;
- persons who receive the H Shares or ADSs as compensation for services;
- U.S. holders that hold the H Shares or ADSs as part of a straddle or a hedging or a conversion transaction;
- certain U.S. expatriates; or
- U.S. holders whose functional currency is not the U.S. dollar.

Moreover, this description does not address United States federal estate, gift or alternative minimum taxes or any state or local tax consequences of the purchase, ownership and disposition of the H Shares or ADSs.

This discussion is based on the Code, its legislative history, final, temporary and proposed United States Treasury regulations promulgated thereunder, published rulings and court decisions as in effect on the date hereof, all of which are subject to change, or changes in interpretation, possibly with retroactive effect. In addition, this discussion is based in part upon representations of the depository and the assumption that each obligation in the deposit agreement and any related agreements will be performed according to its terms.

*You are a "U.S. holder" if you are a beneficial owner of H Shares or ADSs and are:*

- an individual citizen or resident of the United States for United States federal income tax purposes;
- a corporation, or other entity treated as a corporation for United States federal income tax purposes, created or organized under the laws of the United States or any political subdivision thereof;
- an estate the income of which is subject to United States federal income tax without regard to its source; or
- a trust:
  - subject to the primary supervision of a United States court and the control of one or more United States persons; or
  - that has elected to be treated as a United States person under applicable United States Treasury regulations.

If a partnership (including any entity treated as a partnership for United States federal tax purposes) is a beneficial owner of the H Shares or ADSs, the treatment of a partner in such partnership will generally depend upon the status of the partner and the activities of the partnership. If an investor is a partner in a partnership that holds H Shares or ADSs, such investor should consult its tax advisor. We urge you to consult your tax advisors regarding the United States federal, state, local and non-United States tax consequences of the purchase, ownership and disposition of the H Shares or ADSs.

In general, if you hold ADSs, you will be treated as the owner of the H Shares represented by the ADSs. Exchanges of H shares for ADSs, and ADSs for H shares, generally will not be subject to United States federal income tax.

**INVESTORS SHOULD CONSULT THEIR TAX ADVISORS AS TO THE PARTICULAR TAX CONSIDERATIONS APPLICABLE TO THEM RELATING TO THE OWNERSHIP AND DISPOSITION OF THE H SHARES OR ADSs, INCLUDING THE APPLICABILITY OF U.S. FEDERAL, STATE AND LOCAL TAX LAWS OR NON-U.S. TAX LAWS, ANY CHANGES IN APPLICABLE TAX LAWS AND ANY PENDING OR PROPOSED LEGISLATION OR REGULATIONS.**

## **Distributions on the H Shares or ADSs**

Subject to the discussions below under “ — Passive Foreign Investment Company,” the gross amount of any distribution (without reduction for any PRC tax withheld) we make on the H Shares or ADSs out of our current or accumulated earnings and profits (as determined for United States federal income tax purposes) will be includible in your gross income as ordinary dividend income when the distribution is actually or constructively received by you, or by the depository in the case of ADSs. Distributions that exceed our current and accumulated earnings and profits will be treated as a return of capital to you to the extent of your basis in the H Shares or ADSs and thereafter as capital gain. We, however, may not calculate earnings and profits in accordance with U.S. tax principles. In that case, all distributions by us to U.S. Holders will generally be treated as dividends. Any dividend will not be eligible for the dividends-received deduction generally allowed to United States corporations in respect of dividends received from United States corporations. The amount of any distribution of property other than cash will be the fair market value of such property on the date of such distribution.

Subject to certain exceptions for short-term and hedged positions, the U.S. dollar amount of dividends received by an individual, trust or estate in a taxable year prior to January 1, 2011 with respect to the H Shares or ADSs will be subject to taxation at a maximum rate of 15% if the dividends are “qualified dividends.” Dividends paid on H Shares or ADSs will be treated as qualified dividends if either (i) we are eligible for the benefits of a comprehensive income tax treaty with the United States that the Internal Revenue Service, or IRS, has approved for the purposes of the qualified dividend rules, or (ii) the dividends are with respect to ADSs readily tradable on a U.S. securities market, provided that we were not, in the year prior to the year in which the dividend was paid, and are not, in the year in which the dividend is paid, a passive foreign investment company, or PFIC. The Agreement Between the Government of the United States of America and the Government of the People’s Republic of China for the Avoidance of Double Taxation and the Prevention of Tax Evasion with Respect to Taxes on Income PFIC rules (the “Treaty”) has been approved for the purposes of the qualified dividend rules, and we expect to qualify for benefits under the Treaty. We are considered a qualified foreign corporation with respect to the ADSs because our ADSs are listed on the New York Stock Exchange.

The U.S. Treasury has announced its intention to promulgate rules pursuant to which holders of common stock and intermediaries through whom such stock is held will be permitted to rely on certifications from issuers to establish that dividends are treated as qualified dividends. Because such procedures have not yet been issued, it is not clear whether we will be able to comply with them. Holders of H Shares or ADSs should consult their own tax advisers regarding the availability of the reduced dividend tax rate in light of their own particular circumstances.

If we make a distribution paid in HK dollars, you will be considered to receive the U.S. dollar value of the distribution determined at the spot HK dollar/U.S. dollar exchange rate on the date such distribution is received by you or by the depository, regardless of whether you or the depository convert the distribution into U.S. dollars. Any gain or loss resulting from currency exchange fluctuations during the period from the date the dividend payment is includible in your income to the date you or the depository convert the distribution into U.S. dollars will be treated as ordinary income or loss from U.S. sources.

Dividends paid by us generally will constitute income from sources outside the United States for U.S. foreign tax credit limitation purposes and will be categorized as “passive income” or, in the case of certain U.S. Holders as “general category income” for U.S. foreign tax credit purposes. We may be required to withhold PRC income tax on dividends paid to U.S. Holders on the H Shares or ADSs. Subject to various limitations, any PRC tax withheld from distributions in accordance with the Treaty may be deductible or creditable against your United States federal income tax liability.

In the event we are required to withhold PRC income tax on dividends paid to U.S. Holders on the H Shares or ADSs (see discussion under “Taxation – The People’s Republic of China”), you may be able to claim a reduced 10% rate of PRC withholding tax if you are eligible for the benefits under the Treaty. You should consult your own tax advisor about the eligibility for reduction of PRC withholding tax.

You may not be able to claim a foreign tax credit (and instead may claim a deduction) for non-United States taxes imposed on dividends paid on the H Shares or ADSs if you (i) have held the H Shares or ADSs for less than a specified minimum period during which you are not protected from risk of loss with respect to such shares, or (ii) are obligated to make payments related to the dividends (for example, pursuant to a short sale). The rules relating to the U.S. foreign tax credit are complex. U.S. Holders should consult their own tax advisors regarding the effect of these rules in their particular circumstance.

### **Sale, Exchange or Other Disposition**

Subject to the discussions below under “ — Passive Foreign Investment Company,” upon a sale, exchange or other disposition of the H Shares or ADSs, you will generally recognize capital gain or loss for United States federal income tax purposes in an amount equal to the difference between the U.S. dollar value of the amount realized and your tax basis, determined in U.S. dollars, in such H Shares or ADSs. Any gain or loss will generally be United States source gain or loss for foreign tax credit limitation purposes and as a result of the U.S. foreign tax credit limitation, foreign taxes, if any, imposed upon capital gains in respect of H Shares or ADSs may not be currently creditable. Under the Treaty, if any PRC tax was to be imposed on any gain from the disposition of H Shares or ADSs, the gain may be treated as PRC-source income. U.S. Holders are urged to consult their tax advisors regarding the tax consequences if a foreign withholding tax is imposed on a disposition of H Shares or ADSs, including the availability of the foreign tax credit under their particular circumstances.

If you are paid in a currency other than U.S. dollars, any gain or loss resulting from currency exchange fluctuations during the period from the date of the payment resulting from sale, exchange or other disposition is made to the date you convert the payment into U.S. dollars will be treated as United States source ordinary income or loss.

### **Medicare Tax on Unearned Income**

Newly enacted legislation requires certain U.S. Holders that are individuals, estates or trusts to pay an additional 3.8% tax on, among other things, dividends on and capital gains from the sale or other disposition of stock for taxable years beginning after December 31, 2012. U.S. Holders that are individuals, estates or trusts should consult their tax advisors regarding the effect, if any, of this legislation on their ownership and disposition of our common stock.

### **Passive Foreign Investment Company**

In general, a foreign corporation is a PFIC for any taxable year in which, after applying relevant look-through rules with respect to the income and assets of subsidiaries:

- 75% or more of its gross income consists of passive income, such as dividends, interest, rents, royalties, and gains from the sale of assets that give rise to such income; or
- 50% or more of the average quarterly value of its assets consists of assets that produce, or are held for the production of, passive income.

Passive income does not include rents and royalties derived from the active conduct of a trade or business. If we own at least 25% (by value) of the stock of another corporation, we will be treated, for purposes of the PFIC tests, as owning our proportionate share of the other corporation’s assets and receiving our proportionate share of the other corporation’s income.

Based on the current and anticipated composition of our assets and income and current expectations regarding the price of the H Shares and ADSs, we believe that we should not be treated as a PFIC for U.S. federal income tax purposes with respect to our 2009 taxable year and we do not intend on or anticipate becoming a PFIC for any future taxable year. The determination of PFIC status is a factual determination that must be made annually at the close of each taxable year and therefore, there can be no certainty as to our status in this regard for the taxable year ending December 31, 2011 until the close of the 2011 taxable year. Changes in the nature of our income or assets or a decrease in the trading price of the H Shares or ADSs may cause us to be considered a PFIC in the current or any subsequent year.

If we were a PFIC in any taxable year that you held the H Shares or ADSs, you generally would be subject to special rules with respect to “excess distributions” made by us on the H Shares or ADSs and with respect to gain from your disposition of the H Shares or ADSs. An “excess distribution” generally is defined as the excess of the distributions you receive with respect to the H Shares or ADSs in any taxable year over 125% of the average annual distributions you have received from us during the shorter of the three preceding years, or your holding period for the H Shares or ADSs. Generally, you would be required to allocate any excess distribution or gain from the disposition of the H Shares or ADSs ratably over your holding period for the H Shares or ADSs. The portion of the excess distribution or gain allocated to a prior taxable year, other than a year prior to the first year in which we became a PFIC, would be taxed at the highest United States federal income tax rate on ordinary income in effect for such taxable year, and you would be subject to an interest charge on the resulting tax liability, determined as if the tax liability had been due with respect to such particular taxable years. The portion of the excess distribution or gain that is not allocated to prior taxable years, together with the portion allocated to the years prior to the first year in which we became a PFIC, would be included in your gross income for the taxable year of the excess distribution or disposition and taxed as ordinary income.

These adverse tax consequences may be avoided if the U.S. Holder is eligible and does elect to annually mark-to-market the H Shares or ADSs. If a U.S. Holder makes a mark-to-market election, such holder will generally include as ordinary income the excess, if any, of the fair market value of the H Shares or ADSs at the end of each taxable year over their adjusted basis, and will be permitted an ordinary loss in respect of the excess, if any, of the adjusted basis of the H Shares or ADSs over their fair market value at the end of the taxable year (but only to the extent of the net amount of previously included in income as a result of the mark-to-market election). Any gain recognized on the sale or other disposition of the H Shares or ADSs will be treated as ordinary income. The mark-to-market election is available only for “marketable stock,” which is stock that is traded in other than de minimis quantities on at least 15 days during each calendar quarter on a qualified exchange or other market, as defined in the applicable Treasury regulations. The H Shares or ADSs may qualify as “marketable stock” because the ADSs are listed on the New York Stock Exchange.

A U.S. Holder’s adjusted tax basis in the H Shares or ADSs will be increased by the amount of any income inclusion and decreased by the amount of any deductions under the mark-to-market rules. If a U.S. Holder makes a mark-to-market election it will be effective for the taxable year for which the election is made and all subsequent taxable years unless the H Shares or ADSs are no longer regularly traded on a qualified exchange or the IRS consents to the revocation of the election. U.S. Holders are urged to consult their tax advisors about the availability of the mark-to-market election, and whether making the election would be advisable in their particular circumstances.

Alternatively, a timely election to treat us as a qualified electing fund would avoid the foregoing rules with respect to excess distributions and dispositions. You should be aware, however, that if we become a PFIC, we do not intend to satisfy record keeping requirements that would permit you to make a qualified electing fund election.

If you own the H Shares or ADSs during any year that we are a PFIC, you must file IRS Form 8621. The reduced tax rate for dividend income, as discussed above under “ — Distributions on the H Shares or ADSs,” is not applicable to a dividend paid by us if we are a PFIC for either our taxable year in which the dividend is paid or the preceding year. We encourage you to consult your own tax advisor concerning the United States federal income tax consequences of holding the H Shares or ADSs that would arise if we were considered a PFIC.

### **Backup Withholding and Information Reporting**

In general, information reporting requirements will apply to dividends in respect of the H Shares or ADSs or the proceeds of the sale, exchange, or redemption of the H Shares or ADSs paid within the United States, and in some cases, outside of the United States, other than to various exempt recipients, including corporations. In addition, you may, under some circumstances, be subject to “backup withholding” with respect to dividends paid on the H Shares or ADSs or the proceeds of any sale, exchange or transfer of the H Shares or ADSs, unless you:

- are a corporation or fall within various other exempt categories, and, when required, demonstrate this fact; or
- provide a correct taxpayer identification number on a properly completed IRS Form W-9 or a substitute form, certifying that you are exempt from backup withholding and otherwise comply with applicable requirements of the backup withholding rules.

Any amount withheld under the backup withholding rules generally will be creditable against your United States federal income tax liability provided that you furnish the required information to the IRS in a timely manner. If you do not provide a correct taxpayer identification number you may be subject to penalties imposed by the IRS. Investors should consult their own tax advisors as to their qualifications for an exemption from backup withholding and the procedures for obtaining this exemption.

### ***Hong Kong Taxation***

The following discussion summarizes the material Hong Kong tax provisions relating to the ownership of H shares or ADSs held by you.

#### **Dividends**

Under current Hong Kong Inland Revenue Department practice, no Hong Kong tax is payable by the recipient in respect of dividends paid by us.

#### **Taxation of Capital Gains**

No Hong Kong tax is imposed on capital gains arising from the sale of property (such as H shares) acquired and held as investment assets. However, if a person carries on a trade, profession or business in Hong Kong (e.g., trading and dealing in securities) and derives trading gains from that trade, profession or business in or from Hong Kong, Hong Kong profits tax will be payable. Gains from purchases and sales of H shares effected on the Hong Kong Stock Exchange are considered to derive from or arise in Hong Kong for this purpose. Hong Kong profits tax is currently charged at the rate of 16.5% for corporations and at the rate of 15% for individuals.

No Hong Kong tax liability will arise on capital or trading gains arising from the sale of ADSs where the purchase and sale is effected outside Hong Kong, e.g., on the NYSE.

### Hong Kong Stamp Duty

Hong Kong stamp duty is payable by each of the seller and the purchaser for every sold note and every bought note created for every sale and purchase of the H shares. Stamp duty is charged at the total rate of 0.2% of the value of the H shares transferred (the buyer and seller each paying half of such stamp duty). In addition, a fixed duty of HK\$5 is currently payable on an instrument of transfer of H shares. If one of the parties to a sale is a non-resident of Hong Kong and does not pay the required stamp duty, the stamp duty not paid will be assessed on the instrument of transfer (if any), and the transferee will be liable for payment of such stamp duty.

If the withdrawal of H shares when ADSs are surrendered or the issuance of ADSs when H shares are deposited results in a change of beneficial ownership in the H shares under Hong Kong law, Hong Kong stamp duty at the rate described above for sale and purchase transaction will apply. The issuance of ADSs for deposited H shares issued directly to the depository or for the account of the depository should not lead to a Hong Kong stamp duty liability. Holders of the ADSs are not liable for the Hong Kong stamp duty on transfers of ADSs outside of Hong Kong so long as the transfers do not result in a change of beneficial interest in the H shares under Hong Kong law.

### F. Dividends and Paying Agents

Not applicable.

### G. Statement by Experts

Not applicable.

### H. Documents on Display

In accordance with the Exchange Act, we must file reports, including this annual report, and other information with the Commission. The reports and other information we have filed under the Exchange Act and the registration statement on Form F-1 and exhibits thereto we have previously filed with the Commission may be inspected and copied by the public at the public reference facilities maintained by the Commission at 100 F Street NE, Washington D.C. 20549, U.S.A. and will also be available for inspection and copying at the regional offices of the Commission located at Seven World Trade Center, 13th Floor, New York, New York 10048, U.S.A. and at Northwest Atrium Center, 500 Madison Street (Suite 1400), Chicago, Illinois 60661, U.S.A. Copies of such material may also be obtained from the Public Reference Section of the Commission at 100 F Street NE, Washington D.C. 20549, U.S.A. at prescribed rates. Our annual reports and other information filed with the Commission are also available at the Commission's website at [www.sec.gov](http://www.sec.gov). Such reports and other information may also be inspected at the office of the New York Stock Exchange, 11 Wall Street, New York, New York 10005, U.S.A.

### I. Subsidiaries

As of December 31, 2011, we owned the following significant subsidiaries:

Name of subsidiary	Country of incorporation/ registration	Issued and fully paid capital/ registered capital	Proportion of registered capital/issued share capital held by us		Proportion of voting power held	Principal activities
			Directly	Indirectly		
Moolarben Coal Mines Pty Limited	Australia	A\$2	—	100%	100%	Coal business development
White Mining (NSW) Pty Limited	Australia	A\$10	—	100%	100%	Coal mining and sales
Yancoal Australia Limited	Australia	A\$64,000,000	100%	—	100%	Management of investment project in Australia
Yanzhou Coal Ordos Neng Hua Company Limited	PRC	RMB500,000,000	100%	—	100%	Coal resources exploration in Inner Mongolia and construction of a 600,000-tonne methanol project
Yancoal Resources Limited	Australia	A\$446,410,000	—	100%	100%	Coal mining, sales and exploration

For details of our shareholding in other direct and indirect subsidiaries, please see “Item 4 Information on the Company — C. Organizational Structure”.

## **ITEM 11. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISKS**

Market risk represents the potential for loss due to adverse changes in the fair value of financial instruments. As a global concern, we are exposed to adverse developments in commodity prices, interest rates, foreign currency exchange rates, equity prices and inflation. These exposures may change over time as our business develops and could have a material impact on our financial results.

### **Commodity Price Risk**

Price fluctuations may directly affect our operating and financial performance. We have historically experienced substantial price fluctuations and believe these fluctuations will continue. We primarily face risk relating to coal price fluctuations, and to a lesser extent methanol price fluctuations. For the years ended December 31, 2009, 2010 and 2011, the average selling price of our coal products in the PRC was RMB529.2, RMB663.5 and RMB707.7 per tonne, respectively. The periodic fluctuation in coal prices was caused by factors such as general economic conditions, supply and demand and the level of global inventories. Although the average selling price of our coal increased in 2011, the price may fluctuate as a result of pricing guidelines announced by the government authorities from time to time, temporary price controls, general economic conditions, supply and demand and the level of global inventories, which may, in turn, adversely affect our results of operations and financial condition.

We expect the production capacities of new domestic methanol facilities to increase, which may cause the supply of methanol to exceed demand. Methanol prices may decrease as a result of this overproduction, uncertain demand and an increase in imported methanol. However, methanol prices may also increase due to any increases in the prices of coal, natural gas, electricity and transportation, and the promotion of ethanol gasoline for motor vehicles by the PRC government.

### **Interest Rate Risk**

We are exposed to interest rate risk caused by interest rate changes in relation to our bank borrowings and our other indebtedness, as well as our variable-rate bank balances, term deposits and restricted cash held with banks. Our interest rate risk primarily arises due to fluctuations in the PBOC benchmark interest rate in relation to our RMB-denominated borrowings and fluctuations in LIBOR in relation to our U.S. dollar-denominated borrowings. We undertake debt obligations to fund our ordinary expenses, including capital expenditures and working capital needs. Upward fluctuations in interest rates increase the cost of new debt and the interest cost of outstanding variable rate liabilities. Interest rate fluctuations can also lead to significant fluctuations in the fair values of our debt obligations.

The Company monitors its interest rate exposure and has entered into contracts with three banks to hedge a proportion of borrowings issued at variable interest rates through the use of floating-to-fixed interest rate swap contracts. As of December 31, 2011, the outstanding notional amount of these interest rate swap contracts was approximately RMB9,451 million (US\$1,500 million). These interest rate swap contracts mature within four years from the date of the contract and have an assessment period of three months with a floating rate of LIBOR + 0.75% and fixed rates of approximately 2.75%, 2.42% and 2.41% for the three contracts, respectively. The noncurrent portion of the derivatives is not material and is included in the current portion.

As of December 31, 2011, our Australian subsidiaries had not entered into any contracts with banks to hedge a portion of borrowings issued at variable interest rates through the use of floating-to-fixed interest rate swap contracts.

Our exposure to interest rate risk on our financial assets and liabilities, as well as our sensitivity to interest rate fluctuation, are not significant. We have prepared a sensitivity analysis to assess the impact of interest rate fluctuations on our 2011 operating results, assuming the financial instruments outstanding at the end of the reporting period were outstanding for the whole year and all the variables were held constant, including the interest rate fluctuation of the above-mentioned PBOC rate and LIBOR. Based on this analysis, we estimate that an increase in interest rates of 1% would have decreased our reported net income attributable to our equity holders for 2011 by approximately RMB114.3 million.

### **Foreign Currency Exchange Rate Risk**

We mainly face foreign currency exchange rate risks relating to RMB fluctuations and risks stemming from exchange rate fluctuations between the Australian dollar and U.S. dollar. China has adopted a managed floating exchange rate system to allow the value of the Renminbi to fluctuate within a regulated band based on market supply and demand with reference to a basket of currencies. Exchange rate fluctuations may adversely affect the value of our net assets, earnings and any declared dividends when translated or converted into U.S. dollars or Hong Kong dollars.

RMB fluctuations mainly affect our (i) income from coal exports, which must be converted into RMB since our coal exports are denominated in U.S. dollars; (ii) conversion of foreign currency deposits and loans; (iii) exposure to the foreign currency loans we granted to our foreign operations; and (iv) costs of imported equipment and fittings.

The sales and costs of each entity in our Company are generally denominated in the functional currency of the relevant entity. Accordingly, we are not exposed to significant foreign currency risk attributable to operations. However, our results have been significantly affected by volatility in exchange rates affecting the fair value of our foreign currency-denominated bank borrowings, giving rise to substantial exchange gains and losses. The table below sets forth the foreign currency-denominated assets and liabilities of the Company and its Subsidiaries that are in currencies other than the functional currency of the entity that carries such assets or liabilities on its balance sheet as of December 31, 2011.

	<b>Liabilities</b>		<b>Assets</b>	
	<b>2011</b>	<b>2010</b>	<b>2011</b>	<b>2010</b>
	<b>(foreign currencies converted and denominated in RMB millions)</b>			
United States dollars (US\$)	19,309.8	20,516.3	1,025.7	902.4
Euro (EUR)	—	—	0.2	0.2
Hong Kong dollar (HK\$)	—	—	0.5	6.1
Notional amounts to sell US\$ foreign exchange contracts used for hedging	1,996.3	—	2,836.0	4,169.0
Notional amounts of buy US\$ foreign exchange contracts used for hedging	—	79.0	—	—
Notional amounts of buy Yen foreign exchange contracts used for hedging	—	9.0	—	—

Except as disclosed in our financial statements and as described below, we do not have a foreign currency hedging policy. However, our management monitors our foreign exchange exposure and will consider hedging significant currency exposure if the need arises.

We have prepared a sensitivity analysis to assess the impact of exchange rate fluctuations on our operating results based on a 5% increase or decrease in the exchange rates for the U.S. dollar or Hong Kong dollar against the Renminbi. The sensitivity analysis includes only outstanding monetary items denominated in foreign currencies and adjusts the translation of these monetary items as of the end of the indicated year for a 5% change in the exchange rates for the relevant currencies. The sensitivity analysis also assesses the impact of a 5% increase or decrease in the exchange rate for the Australian dollar against the U.S. dollar, which would affect loans to foreign operations within our Company that are denominated in a currency other than the functional currency of the lender or the borrower.

The sensitivity analysis represents management's assessment of reasonably possible changes in foreign exchange rates over the period until the next annual balance sheet date. It includes only outstanding foreign currency-denominated monetary items and adjusts their translation at the year end for a 5% change in foreign currency rates and also assumes all other risk variables remained constant. The sensitivity analysis includes loans to foreign operations within the Company where the denomination of the loan is in a currency other than the functional currency of the lender or the borrower.

The following table sets forth the sensitivity analysis of the relevant foreign currencies of the periods indicated:

	<b>US\$<sup>(1)</sup></b>		<b>HK\$<sup>(1)</sup></b>	
	<b>2011</b>	<b>2010</b>	<b>2011</b>	<b>2010</b>
	<b>(RMB in millions)</b>			
<b>Increase (decrease) to profit and loss</b>				
- if RMB weakens against respective foreign currency	14.3	35.3	—	0.2
- if RMB strengthens against respective foreign currency	(14.3)	(35.3)	—	(0.2)



	US\$( <sup>2</sup> )	
	2011	2010
	(RMB in millions)	
<b>Increase (decrease) to profit and loss</b>		
- if AUD weakens against respective foreign currency	(873.6)	(718.0)
- if AUD strengthens against respective foreign currency	873.6	718.0
<b>Increase decrease) to profit attributable to the equity holders of the Company</b>		
- if AUD weakens against respective foreign currency	(680.6)	(726.0)
- if AUD strengthens against respective foreign currency	680.6	726.0

(1) Reflects primarily our exposure outstanding on bank deposits and loans to foreign operations or subsidiaries denominated in U.S. dollars and Hong Kong dollars as of the year end.

(2) Reflects primarily the exposure outstanding on the loans to foreign operations within the Company, foreign currency bank borrowings and derivative financial instruments where the denomination of the loan is in a currency other than the functional currency of the borrower.

During the year ended December 31, 2011, our subsidiaries in Australia entered into forward foreign exchange contracts to sell or purchase specified amounts of foreign currencies in the future at stipulated exchange rates. The objective of entering into the forward foreign exchange contracts is to reduce the foreign exchange rate-related volatility of revenue streams and capital expenditures and thereby assist in our risk management. These contracts are to sell or purchase U.S. dollars with Australian dollars. The outstanding contracts to sell U.S. dollars hedge highly probable forecasted sales of coal, whereas the outstanding contracts to buy U.S. dollars and Yen contracts relate to the purchase of mining equipment.

As of December 31, 2011, the outstanding notional amount to sell U.S. dollars and buy Australian dollars was approximately RMB4,832 million, all maturing within one year with forward rates ranging approximately from US\$1.00 = A\$0.9182 to US\$1.00 = A\$1.080.

As of December 31, 2011, we had not entered into any contracts to buy United States dollars or buy Yen.

For the year ended December 31, 2011, the ineffective hedging portion of the changes in fair values of the forward foreign exchange contracts of approximately RMB1.9 million was recognized as selling, general and administrative expenses.

### Equity Price Risk

In addition to financial instruments, we are exposed to equity price risk because we hold investments in listed equity securities. We currently do not have any arrangements to hedge the price risk exposure of our investment in equity securities. We have conducted a sensitivity analysis and determined that our exposure to equity price risk stemming from our investment in listed equity securities is not significant.

### Inflation Risk

The recent global economic slowdown and turmoil in the global financial markets that began in the second half of 2008 have had a negative impact on the PRC economy, including increases in the inflation rate as measured by the consumer price index. According to the National Bureau of Statistics of the PRC, the change in the Consumer Price Index in China was -0.7%, 3.3% and 5.4% in 2009, 2010 and 2011, respectively. Inflation generally results in the increase of fuel prices, which is a component of our cost of sales. An increase in the price of fuel could lead to a corresponding increase in the cost of our coal production and have a material adverse affect on our business and results of operations.

### Liquidity Risk

We are exposed to liquidity risks related to meeting our financial obligations as they fall due. To mitigate this risk, we monitor and maintain a level of cash and cash equivalents deemed adequate by our management to finance our operations. Our management also monitors the utilization of bank borrowings and ensures compliance with loan covenants to ensure that we are able to meet our short-term and long-term liquidity requirements.

## ITEM 12. DESCRIPTION OF SECURITIES OTHER THAN EQUITY SECURITIES

### A. Debt Securities

Not applicable.

### B. Warrants and Rights

Not applicable.

### C. Other Securities

Not applicable.

### D. American Depositary Shares

The following table summarizes the fees and charges that a holder of our ADSs may have to pay, directly or indirectly, in connection with the ownership of our American Depositary Receipts.

#### Persons depositing or withdrawing shares must pay:

\$5.00 (or less) per 100 ADSs (or portion of 100 ADSs)

A fee equivalent to the fee that would be payable if securities distributed to you had been shares and the shares had been deposited for issuance of ADSs

Registration or transfer fees

Expenses of the depository

Taxes and other governmental charges the depository or the custodian have to pay on any ADS or share underlying an ADS, for example, stock transfer taxes, stamp duty or withholding taxes

Any charges incurred by the depository or its agents for servicing the deposited securities

#### For:

- Issuance of ADSs, including issuances resulting from a distribution of shares or rights or other property
- Cancellation of ADSs for the purpose of withdrawal, including if the deposit agreement terminates
- Distribution of securities to holders of deposited securities that are distributed by the depository to ADS registered holders
- Transfer and registration of shares on our share register to or from the name of the depository or its agent when you deposit or withdraw shares
- Cable, telex and facsimile transmissions (when expressly provided in the deposit agreement)
- Converting foreign currency to U.S. dollars
- As necessary
- As necessary

The Bank of New York Mellon, as depository, has agreed to waive certain standard fees related to the administration of our ADR program and investor relationship programs. From January 1, 2010 to December 31 2011, the total amount of the fees that were waived was US\$133,133.57.

## PART II

## ITEM 13. DEFAULTS, DIVIDEND ARREARAGES AND DELINQUENCIES

As of December 31, 2011, we were not in default, in arrears or otherwise delinquent in the payment of principal or interest of any indebtedness or dividends.

## ITEM 14. MATERIAL MODIFICATIONS TO THE RIGHTS OF SECURITY HOLDERS AND USE OF PROCEEDS

None.

## **ITEM 15. CONTROLS AND PROCEDURES**

### ***Evaluation of Disclosure Controls and Procedures***

Under the supervision and with the participation of our general manager and chief financial officer, our management evaluated the effectiveness of our disclosure controls and procedures (as such term is defined in Rules 13a-15(e) and 15d-15(e) of the Exchange Act, as amended) as of December 31, 2011. Based on the evaluation described below, our general manager and chief financial officer concluded that, as of that date, our disclosure controls and procedures were effective.

### ***Management's Report on Internal Control over Financial Reporting***

Management is responsible for establishing and maintaining adequate internal control over financial reporting. Our internal control framework was designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of our consolidated financial statements for external purposes in accordance with generally accepted accounting principles.

Management conducted an evaluation of the effectiveness of our internal control over financial reporting using the criteria issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) in *Internal Control—Integrated Framework*. Based on this evaluation, management concluded that our internal control over financial reporting was effective to provide reasonable assurance that the desired control objectives were achieved as of December 31, 2011.

The effectiveness of our internal control over financial reporting as of December 31, 2011 has been audited by Grant Thornton, our independent registered public accounting firm, as stated in their report which is included herein.

### ***Limitations on Effectiveness of Controls and Procedures***

Our internal control over financial reporting includes policies and procedures that (1) pertain to the maintenance of records that accurately and fairly reflect the transactions and dispositions of a company's assets, (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures are being made only in accordance with authorizations of our management and directors, and (3) provide reasonable assurance regarding the prevention or timely detection of unauthorized acquisition, use, or disposition of our assets that could have a material effect on the financial statements. Because of its inherent limitations, internal control over financial reporting may not be able to prevent or detect misstatements on a timely basis, which may be a product of collusion, failure to abide by controls, error or fraud. In addition, projections of the internal control's effectiveness to future periods are subject to the risk that the control may become inadequate because of changes in conditions, or that the degree of compliance with the internal control policies or procedures may deteriorate.

### ***Changes in Internal Control over Financial Reporting***

During the period covered by this annual report, there have been no changes in our internal control over financial reporting that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

## **ITEM 16A. AUDIT COMMITTEE FINANCIAL EXPERT**

Our audit committee consists of Mr. CHENG Faguang, Mr. WANG Xianzheng, Mr. WANG Xiaojun, Mr. XUE Yonzhi and Mr. DONG Yunqing. Our Board of Directors has determined that Mr. CHENG Faguang meets the independence requirement of Section 303A.02 of the NYSE Listed Company Manual and qualifies as an audit committee financial expert as the term is defined in the rules and regulations established by the SEC.

## **ITEM 16B. CODE OF ETHICS**

We have adopted a code of ethics that applies to our chairman, vice chairman, chief executive officer, chief financial officer, board secretary, chief engineer, controller and the managers of our finance and audit departments. Our code of ethics is posted on our website at [www.yanzhoucoal.com.cn](http://www.yanzhoucoal.com.cn). No amendments to, or waivers from, our code of ethics have been made. A copy of our code of ethics is available to any shareholder, without charge, upon written request to the address on the cover of this annual report.

## ITEM 16C. PRINCIPAL ACCOUNTANT FEES AND SERVICES

Upon approval at the extraordinary general meeting held on February 18, 2011, Grant Thornton and Grant Thornton Jingdu Tianhua were appointed as the international auditors of the Company and its subsidiaries and should hold this office until the conclusion of the 2010 annual general meeting of the Company. Upon approval at the Annual General Meeting held on May 20, 2011, Grant Thornton Jingdu Tianhua (i.e. Grant Thornton and Grant Thornton Jingdu Tianhua) and ShineWing Certified Public Accountants were appointed as our international and domestic auditors, respectively, for the year ended December 31, 2011. Grant Thornton Jingdu Tianhua and Grant Thornton audit the financial statements of the Company with respect to the listing of the H shares on the Hong Kong Stock Exchange and reporting requirements of the Hong Kong Stock Exchange and the listing of the ADSs on the NYSE and reporting requirements of the SEC and the NYSE, respectively. Grant Thornton is therefore the principal auditor for the purpose of this filing.

### *Audit Fees*

Audit fees primarily consist of fees for the audits of the consolidated financial statements prepared under IFRS and PRC GAAP and the statutory financial statements of our subsidiaries for the relevant year, the review of interim consolidated financial statements and the audit of our internal control over financial reporting as required by the Sarbanes-Oxley Act. Service fees denominated in Australian dollars were incurred for the audit of Yancoal Australia's financial statements and internal control.

The following table sets forth the aggregate audit fees of our principal accountants for periods indicated:

	Audit Fees	
	(RMB)	(AUD)
2010	7,300,000	800,000
2011	7,300,000	800,000

In addition, we also paid RMB500,000 to our principal accountants as internal control assessment fees in 2011.

### *Audit-related Fees, Tax Fees, All Other Fees*

In 2011, we paid our principal accountants (domestic auditors) audit fees of RMB200,000 for our proposed RMB Bond Offering. We did not incur other audit-related fees, tax fees or other fees for professional service rendered by our principal accountants during the last two fiscal years.

### *Audit Committee Pre-Approval Policies and Procedures*

The audit committee of our Board of Directors is responsible for, among other things, the recommendation or termination of external auditors subject to the requirements of applicable domestic and overseas listing rules and regulations. Before our principal accountants were engaged by the Company or our subsidiaries to render audit or non-audit services, their respective engagements were approved by our audit committee. All of the audit services provided by Grant Thornton (SEC principal auditor), Grant Thornton Jingdu Tianhua (Hong Kong H Share auditor) and ShineWing Certified Public Accountants (China domestic statutory auditor) in 2011 were pre-approved by our audit committee.

## ITEM 16D. EXEMPTIONS FROM THE LISTING STANDARDS FOR AUDIT COMMITTEES

Our audit committee consists of four independent non-executive directors, Mr. CHENG Faguang, Mr. WANG Xianzheng, Mr. WANG Xiaojun, Mr. XUE Yonzhi and one employee director, Mr. DONG Yunqing. As a foreign private issuer, we rely on the exemption under Section 303A.06 of the NYSE Listed Company Manual, as well as exemptions for affiliated directors and employee directors as provided under Rule 10A-3 of the Exchange Act, to remain compliant with the audit committee standards set out in Section 303A.06 of the NYSE Listed Company Manual.

Our connected directors do not accept any consulting fees or other compensation from our Group or any subsidiary of our Group, directly or indirectly, except for serving as members of our Board and Audit Committee, which meets the independence requirements under Rule 10A-3(1)(ii)(A) of the Exchange Act.

The employee director qualifies for the exemption under Rule 10A-3(b)(1)(iv)(C) of the Exchange Act because he is not our executive officer and was elected to the Board of Directors of the Company pursuant to the *Advisory Opinion Regarding the Establishment of Sound Corporate Governance for Company Employee Directors and Employee Supervisors*, which was promulgated by the Shandong Economic and Trade Commission. Rule 10A-3(b)(1)(iv)(C) of the Exchange Act provides an exemption to the independence requirement and permits an employee director of a foreign private issuer who is a non-executive officer who is elected or named to the foreign private issuer's board of directors or audit committee pursuant to the issuer's governing law or documents, an employee collective bargaining or similar agreement or other home country legal or listing requirements. The employee director is neither a voting member nor the chairman of the audit committee.

#### **ITEM 16E. PURCHASES OF EQUITY SECURITIES BY THE ISSUER AND AFFILIATED PURCHASERS**

Not applicable.

#### **ITEM 16F. CHANGE IN REGISTRANT'S CERTIFYING ACCOUNTANT**

##### **(a) Change of Principal Accountant**

At the 2009 annual general meeting of the Company held on June 25, 2010, the shareholders of our Company approved the appointment of Grant Thornton Hong Kong as the Company's international auditor for the year ended December 31, 2010. On November 26, 2010, it was announced that BDO and Grant Thornton Hong Kong had concluded an agreement to merge their businesses and practice in the name of BDO Limited. As a consequence of this merger, the Grant Thornton Hong Kong entity changed its name to JBPB & Co on December 10, 2010 and ceased trading. It was noted that Grant Thornton Hong Kong had ceased to be a member firm of Grant Thornton International with effect from November 23, 2010. The audit committee of our Board recommended the appointment of Grant Thornton (for the purpose of reporting to the United States Securities and Exchange Commission) and Grant Thornton Jingdu Tianhua (for the purpose of the Hong Kong H Share listing) as the international auditors to replace JBPB on December 24, 2010, which was approved by the Board on December 30, 2010. Subsequently JBPB tendered its letter of resignation, and the appointment of Grant Thornton and Grant Thornton Jingdu Tianhua as our international auditors was approved at the extraordinary general meeting held on February 18, 2011. We reported the change in our independent registered public accounting firm on Form 6-K filed with the SEC on January 3, 2011.

JBPB's report on the Company's consolidated financial statements as of and for the two fiscal years ended December 31, 2009 did not contain an adverse opinion or disclaimer of opinion, nor were such reports qualified or modified as to uncertainty, audit scope, or accounting principles. JBPB's audit report on the Company's effectiveness of internal control over financial reporting as of December 31, 2008 contained an adverse opinion because of a material weakness. We reported the identification of the material weakness and our remediation and changes in internal control on Form 20-F filed with the SEC on June 25, 2009.

During JBPB's tenure as the independent auditor, we did not have any disagreements with JBPB on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, which disagreements, if not resolved to the satisfaction of JBPB, would have caused them to make reference to the subject matter of the disagreements in their report on the consolidated financial statements for such year and for such period.

During JBPB's tenure as the independent auditor, save as disclosed above, there were no "reportable events" (hereinafter defined) requiring disclosure pursuant to Item 16F(a)(1)(v) of Form 20-F. As used herein, the term "reportable event" means any of the items listed in paragraphs (a)(1)(v)(A)-(D) of Item 16F of Form 20-F.

We provided a copy of this disclosure to JBPB and requested that JBPB furnish a letter addressed to the SEC stating whether it agrees with the above statements, and if not, stating the respects in which it does not agree. A copy of the letter from JBPB addressed to the SEC, dated June 24, 2011, was filed as Exhibit 15.3 to the Form 20-F for the year ended December 31, 2010 which we filed with SEC on June 24, 2011.

##### **(b) Engagement of New Principal Accountant**

On December 30, 2010, the Board approved the proposal to appoint Grant Thornton and Grant Thornton Jingdu Tianhua as the independent registered public accounting firms of the Company and should hold office until the conclusion of the 2010 annual general meeting of the Company. On February 18, 2011, the appointment of Grant Thornton and Grant Thornton Jingdu Tianhua as our independent registered public accounting firms was approved at the extraordinary general meeting. Grant Thornton Jingdu Tianhua and Grant Thornton audit the financial statements of the Company with respect to the listing of the H Shares on the Hong Kong Stock Exchange and reporting requirements of the Hong Kong Stock Exchange and the listing of the ADSs on the NYSE and reporting requirements of the SEC and the NYSE, respectively. During the fiscal year ended December 31, 2009 and through February 18, 2011, neither we nor anyone on our behalf consulted Grant Thornton or Grant Thornton Jingdu Tianhua regarding either (i) the application of accounting principles to a specified transaction, either completed or proposed, or the type of audit opinion that might be rendered on our consolidated financial statements. Also, we have not obtained any written report or oral advice that Grant Thornton and Grant Thornton Jingdu Tianhua concluded was an important factor considered by us in reaching a decision as to the accounting, auditing or financial reporting issue, or (ii) any matter that was either the subject of a "disagreement", as that term is defined in Item 16F(a)(1)(v) of Form 20-F and related instructions to Item 16-F of Form 20-F, with Grant Thornton and Grant Thornton Jingdu Tianhua or a "reportable event", as that term is described in Item 16F(a)(1)(v) of Form 20F).

## ITEM 16G. CORPORATE GOVERNANCE

The NYSE imposes a series of corporate governance listing standards for companies listed on the NYSE in Section 303A of the NYSE Listed Company Manual. However, the NYSE allows foreign private issuers, subject to certain limitations and conditions, to follow “home country” practice in lieu of certain provisions of Section 303A. To qualify for this exemption, a foreign private issuer must disclose the significant manners in which its corporate governance practices differ from those generally required under NYSE listing standards.

As of the date of this annual report, 52.86% of our voting rights are held by our controlling shareholder, the Yankuang Group. We therefore are not required to comply with the majority of independent directors requirement of Section 303A.01 when forming our board of directors. Moreover, we are not required to form a nominating, corporate governance and compensation committee composed entirely of independent directors under the requirements of Sections 303A.04 and 303A.05.

We have established an audit committee pursuant to Section 303A.06 of the NYSE Listed Company Manual. We rely on the exemption under Section 303A.00 for foreign private issuers, as well as the exemption for employee directors provided under Rule 10A-3 of the Exchange Act to comply with the audit committee requirements set out in the NYSE Listed Company Manual.

As a foreign private issuer, we are subject to more than one set of corporate governance requirements, including those applicable in our home country. In the table below, we set out material differences between our corporate governance practices and the NYSE’s corporate governance requirements:

	<u>NYSE Listed Company Manual Requirements on Corporate Governance</u>	<u>Our Practice</u>
<b>Non-executive directors must meet at regularly scheduled executive sessions without management</b>	Section 303A.03 requires non-executive directors of each listed company to meet at regularly scheduled executive sessions without management participation.	There is no identical corporate governance requirement in the PRC. We have established a reporting system to the Board to ensure that the Directors stay informed of our business and operations. We believe that convening board meetings on a regular basis offers non-executive directors an effective forum to opine their views and engage in full and open discussions regarding our business affairs.
<b>Corporate Governance Guidelines</b>	<p>Section 303A.09 requires a listed company to adopt and disclose corporate governance guidelines. In addition, Section 303A.09 lists out matters that must be addressed in the guidelines:</p> <ul style="list-style-type: none"><li>• director qualification standards;</li><li>• director responsibilities;</li><li>• communications between directors and the management and independent advisors;</li><li>• director compensation;</li><li>• director orientation and continuing education;</li><li>• management succession; and</li><li>• annual performance evaluation of the board.</li></ul>	<p>Although we have not adopted a separate set of corporate governance guidelines encompassing all the corporate governance matters required by the NYSE, we formulated the Rules of Procedures for the Shareholders’ Meetings, Rules of Procedures for the Board Meetings, Rules of Procedures for the Supervisory Committee, Rules for the Work of the Independent Non-Executive Directors, Rules for Disclosure of Information, Rules for the Approval and the Disclosure of the Connected Transactions of the Company, and other corporate governance documentation in accordance with the regulations and requirements of listing in China.</p> <p>We believe that, collectively, the foregoing rules and measures adequately address the corporate governance requirements of the NYSE and provide a comprehensive and detailed set of corporate governance requirements that promote the effective operation of the Company. This enables the promotion of the standard operation of the Company.</p>

**NYSE Listed Company Manual  
Requirements on Corporate Governance**

**Our Practice**

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**Code of Business Conduct and Ethics**

Section 303A.10 requires a listed company to adopt and disclose a code of business conduct and ethics for directors, officers and employees, and promptly disclose any waivers from the code for directors or executive officers. The following topics must be addressed in a code of business conduct and ethics:

- conflicts of interest;
- corporate opportunities;
- confidentiality;
- fair dealing;
- protection and proper use of company assets;
- compliance with laws, rules and regulations (including insider trading laws); and
- encouraging the reporting of any illegal or unethical behavior.

We have adopted a code of ethics, which is published on our website, in compliance with PRC laws and regulations as well as the rules of relevant stock exchanges. Although our current code of ethics as adopted does not completely conform to the NYSE rules, we believe that the existing code of ethics adequately protects the interests of the Company and Shareholders.

**ITEM 16H. MINING SAFETY DISCLOSURE**

As of the date of this annual report, the Company did not own or operate any mine in the United States. For details of the mining safety control of our coal mines in China and Australia, see “Item 4. Information on the Company — B. Business Overview — Coal Business — Safety Control.”

**PART III**

**ITEM 17. FINANCIAL STATEMENTS**

We have elected to provide the financial statements and related information specified in Item 18 in lieu of Item 17.

**ITEM 18. FINANCIAL STATEMENTS**

Our consolidated financial statements are included at the end of this annual report on Form 20-F.

**ITEM 19. EXHIBITS**

Documents filed as exhibits to this annual report:

<b>Exhibit Number</b>	<b>Description</b>
<b>1.1</b>	Articles of Association of Yanzhou Coal Mining Limited
<b>4.1</b>	Share Sale Agreement among GS Power Holdings LLC, Austar Coal Mine Pty Ltd and Yancoal Australia Limited
<b>4.2</b>	Equity Transfer Agreement among Wang Jun, He Ning and Yanzhou Coal Ordos Neng Hua Company Limited
<b>4.3</b>	Share Sale Agreement among Wesfarmers Coal Resources Pty Ltd., Wesfarmers Chemicals, Energy and Fertilisers Limited, Wesfarmers Resources Limited and Austar Coal Mine Pty Ltd.
<b>4.4</b>	Purchase Agreement between Yanzhou Coal Mining Limited and Devonian Potash Inc.
<b>4.5</b>	Purchase Agreement between Yanzhou Coal Mining Limited and North Atlantic Potash Inc.
<b>4.6</b>	Merger Proposal Deed among Yancoal Australia Limited, Yanzhou Coal Mining Company Limited and Gloucester Coal Ltd.
<b>4.7</b>	Amendment Deed to the Merger Proposal Deed among Yancoal Australia, Yanzhou Coal Mining Company Limited and Gloucester Coal Ltd.
<b>8.1</b>	List of subsidiaries of Yanzhou Coal Mining Company Limited
<b>12.1</b>	Certification of general manager pursuant to Rule 13a-14 or 15d-14 promulgated under the U.S. Securities Act of 1934
<b>12.2</b>	Certification of chief financial officer pursuant to Rule 13a-14 or 15d-14 promulgated under the U.S. Securities Act of 1934
<b>13.1</b>	Certification of general manager pursuant to 18 U.S.C. Section 1350, as enacted pursuant to Section 906 of the U.S. Sarbanes-Oxley Act of 2002
<b>13.2</b>	Certification of chief financial officer pursuant to 18 U.S.C. Section 1350, as enacted pursuant to Section 906 of the U.S. Sarbanes-Oxley Act of 2002



## SIGNATURES

The registrant hereby certifies that it meets all the requirements for filing on Form 20-F and that it has duly caused and authorized the undersigned to sign this annual report on its behalf.

**YANZHOU COAL MINING COMPANY LIMITED**  
**(Registrant)**

**Date: April 27, 2012**

By: \_\_\_\_\_ /s/ ZHANG YINGMIN

Name: Zhang Yingmin

Title: General Manager

**YANZHOU COAL MINING COMPANY LIMITED**  
**CONSOLIDATED FINANCIAL STATEMENTS**  
**FOR THE YEARS ENDED DECEMBER 31, 2011, 2010 AND 2009**  
**AND REPORTS OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

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**REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

**TO THE BOARD OF DIRECTORS AND SHAREHOLDERS OF  
YANZHOU COAL MINING COMPANY LIMITED 兖州煤业股份有限公司**

(A joint stock company with limited liability established in the People's Republic of China)

We have audited the accompanying consolidated balance sheets of Yanzhou Coal Mining Company Limited and its subsidiaries (the "Group") as of December 31, 2011 and 2010, and the related consolidated income statements, statements of comprehensive income, changes in equity, and cash flows for each of the two years in the period ended December 31, 2011. These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provides a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of the Group as of December 31, 2011 and 2010, and the results of its operations and its cash flows for each of the two years in the period ended December 31, 2011, in conformity with International Financial Reporting Standards as issued by the International Accounting Standards Board.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the Group's internal control over financial reporting as of December 31, 2011, based on the criteria established in Internal Control—Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated April 26, 2012 expressed an unqualified opinion on the Group's internal control over financial reporting.

**/s/ Grant Thornton**

Beijing, People's Republic of China

April 26, 2012

**REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

**TO THE BOARD OF DIRECTORS AND SHAREHOLDERS OF  
YANZHOU COAL MINING COMPANY LIMITED 兖州煤业股份有限公司**

(A joint stock company with limited liability established in the People's Republic of China)

We have audited the internal control over financial reporting of Yanzhou Coal Mining Company Limited and its subsidiaries (the "Group") as of December 31, 2011, based on criteria established in Internal Control — Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission. The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the Management's Report on Internal Control over Financial Reporting disclosed in Item 15 of the Form 20-F ("Management's Report"). Our responsibility is to express an opinion on the Group's internal control over financial reporting based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audits provide a reasonable basis for our opinion.

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of the effectiveness to future periods are subject to the risk that the controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In our opinion, the Group maintained, in all material respects, effective internal control over financial reporting as of December 31, 2011, based on the criteria established in Internal Control — Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated financial statements as of and for the year ended December 31, 2011 of the Group and our report dated April 26, 2012 expressed an unqualified opinion on those financial statements.

**/s/ Grant Thornton**

Beijing, People's Republic of China  
April 26, 2012

## **REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

To the Board of Directors and Shareholders of  
Yanzhou Coal Mining Company Limited

We have audited the accompanying consolidated income statement, statement of comprehensive income, changes in equity and cash flows of Yanzhou Coal Mining Company Limited and its subsidiaries (the "Group") for the year ended December 31, 2009. These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the results of operations and its cash flows of the Group for the year ended December 31, 2009 in conformity with International Financial Reporting Standards as issued by the International Accounting Standards Board.

**/s/ JBPB & Co. (formerly known as GRANT THORNTON)**

Hong Kong  
June 29, 2010

**YANZHOU COAL MINING COMPANY LIMITED**  
**CONSOLIDATED INCOME STATEMENTS**

	NOTES	Year ended December 31,		
		2011 RMB'000	2010 RMB'000	2009 RMB'000
GROSS SALES OF COAL	7	45,181,229	32,590,911	19,947,748
RAILWAY TRANSPORTATION SERVICE INCOME		476,852	513,282	267,345
GROSS SALES OF ELECTRICITY POWER		327,969	185,542	187,540
GROSS SALES OF METHANOL		1,059,323	629,290	258,867
GROSS SALES OF HEAT SUPPLY		20,467	25,227	15,638
TOTAL REVENUE		47,065,840	33,944,252	20,677,138
TRANSPORTATION COSTS OF COAL	7	(1,248,268)	(1,160,470)	(403,311)
COST OF SALES AND SERVICE PROVIDED	8	(25,725,294)	(16,801,323)	(10,589,991)
COST OF ELECTRICITY POWER		(362,472)	(195,536)	(190,802)
COST OF METHANOL		(930,239)	(716,802)	(352,943)
COST OF HEAT SUPPLY		(13,777)	(12,490)	(9,734)
GROSS PROFIT		18,785,790	15,057,631	9,130,357
SELLING, GENERAL AND ADMINISTRATIVE EXPENSES	9	(6,570,203)	(5,093,904)	(3,820,241)
SHARE OF INCOME OF ASSOCIATES	28	68,939	8,870	109,786
OTHER INCOME	10	1,075,765	3,108,081	311,019
INTEREST EXPENSE	11	(839,305)	(603,343)	(45,115)
PROFIT BEFORE INCOME TAXES		12,520,986	12,477,335	5,685,806
INCOME TAXES	12	(3,545,379)	(3,171,043)	(1,553,312)
PROFIT FOR THE YEAR	13	8,975,607	9,306,292	4,132,494
Attributable to:				
Equity holders of the Company		8,928,102	9,281,386	4,117,322
Non-controlling interests		47,505	24,906	15,172
		8,975,607	9,306,292	4,132,494
EARNINGS PER SHARE, BASIC	16	RMB 1.82	RMB 1.89	RMB 0.84
EARNINGS PER ADS, BASIC	16	RMB 18.15	RMB 18.87	RMB 8.37

**YANZHOU COAL MINING COMPANY LIMITED**  
**CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME**

	Year ended December 31,		
	2011 RMB'000	2010 RMB'000	2009 RMB'000
Profit for the year	8,975,607	9,306,292	4,132,494
Other comprehensive income (after income tax):			
Available-for-sales investments:			
Change in fair value	(20,763)	(87,270)	125,225
Deferred taxes	5,190	21,818	(31,306)
	(15,573)	(65,452)	93,919
Cash flow hedges:			
Cash flow hedge amounts recognized in other comprehensive income	(213,459)	54,532	12,280
Reclassification adjustments for amounts transferred to income statement (included in selling, general and administrative expenses)	12,627	(6,576)	18,118
Deferred taxes	62,073	(24,350)	(11,780)
	(138,759)	23,606	18,618
Share of other comprehensive income of associates	—	1,107	—
Exchange difference arising on translation of foreign operations	(569,310)	173,415	134,184
Other comprehensive (loss) income for the year	(723,642)	132,676	246,721
Total comprehensive income for the year	<u>8,251,965</u>	<u>9,438,968</u>	<u>4,379,215</u>
Attributable to:			
Equity holders of the Company	8,204,460	9,414,110	4,364,043
Non-controlling interests	47,505	24,858	15,172
	<u>8,251,965</u>	<u>9,438,968</u>	<u>4,379,215</u>



**YANZHOU COAL MINING COMPANY LIMITED**  
**CONSOLIDATED BALANCE SHEETS**

	NOTES	At December 31,	
		2011	2010
		RMB'000	RMB'000
<b>ASSETS</b>			
<b>CURRENT ASSETS</b>			
Bank balances and cash	17	8,145,297	6,771,314
Term deposits	17	9,543,214	2,567,722
Restricted cash	17	21,076	85,188
Bills and accounts receivable	18	7,312,074	10,017,260
Inventories	19	1,391,247	1,646,116
Prepayments and other receivables	20	3,624,879	2,613,686
Prepaid lease payments	21	18,975	18,280
Prepayment for resources compensation fees	22	3,356	3,948
Derivative financial instruments	37	104,910	239,476
Tax recoverable		4,637	169,013
Overburden in advance	25	261,441	149,351
<b>TOTAL CURRENT ASSETS</b>		<b>30,431,106</b>	<b>24,281,354</b>
<b>NON-CURRENT ASSETS</b>			
Intangible assets	23	26,205,619	19,633,164
Prepaid lease payments	21	713,425	728,082
Prepayment for resources compensation fees	22	5,309	8,072
Property, plant and equipment	24	31,273,824	19,874,615
Goodwill	26	1,866,037	1,196,586
Investments in securities	27	372,800	224,442
Interests in associates	28	1,683,897	1,074,958
Interests in jointly controlled entities	31	19,453	751
Restricted cash	17	387,066	1,365,995
Long term receivables	29	300,083	—
Deposits made on investments	30	2,557,807	3,243,679
Deferred tax assets	39	1,335,165	1,124,166
<b>TOTAL NON-CURRENT ASSETS</b>		<b>66,720,485</b>	<b>48,474,510</b>
<b>TOTAL ASSETS</b>		<b>97,151,591</b>	<b>72,755,864</b>
<b>LIABILITIES AND SHAREHOLDERS' EQUITY</b>			
<b>CURRENT LIABILITIES</b>			
Bills and accounts payable	33	2,240,844	1,554,444
Other payables and accrued expenses	34	7,344,815	3,820,971
Provision for land subsidence, restoration, rehabilitation and environmental costs	35	2,856,229	2,300,637
Amounts due to Parent Company and its subsidiary companies	52	352,625	438,783
Borrowings - due within one year	36	19,588,496	614,925
Current portion of long term payable - due within one year	38	3,205	6,536
Derivative financial instruments	37	222,089	166,178
Tax payable		2,113,168	1,231,388
<b>TOTAL CURRENT LIABILITIES</b>		<b>34,721,471</b>	<b>10,133,862</b>
<b>NON-CURRENT LIABILITIES</b>			
Borrowings - due after one year	36	14,869,324	22,400,833
Deferred tax liability	39	3,895,304	2,601,207
Provision for land subsidence, restoration, rehabilitation and environmental costs	35	325,414	152,594
Non-current portion of long term payable - due after one year	38	15,028	28,917
<b>TOTAL NON-CURRENT LIABILITIES</b>		<b>19,105,070</b>	<b>25,183,551</b>
<b>TOTAL LIABILITIES</b>		<b>53,826,541</b>	<b>35,317,413</b>
<b>Capital and reserves</b>			
Share capital	40	4,918,400	4,918,400
Reserves		37,716,090	32,413,486
Equity attributable to equity holders of the Company		42,634,490	37,331,886
Non-controlling interests		690,560	106,565
<b>TOTAL EQUITY</b>		<b>43,325,050</b>	<b>37,438,451</b>
<b>TOTAL LIABILITIES AND EQUITY</b>		<b>97,151,591</b>	<b>72,755,864</b>

**YANZHOU COAL MINING COMPANY LIMITED**  
**CONSOLIDATED STATEMENTS OF CHANGES IN EQUITY**

	Share capital RMB'000 (note 40)	Share premium RMB'000	Future development fund RMB'000 (note 40)	Statutory common reserve fund RMB'000 (note 40)	Translation reserve RMB'000	Investment revaluation reserve RMB'000	Cash flow hedge reserve RMB'000	Retained earnings RMB'000	Attributable to equity holders of the Company RMB'000	Non-controlling interests RMB'000	Total RMB'000
Balance at January 1, 2009	4,918,400	2,981,002	2,969,324	2,823,175	(115,169)	57,949	(11,736)	13,132,179	26,755,124	61,486	26,816,610
Profit for the year	—	—	—	—	—	—	—	4,117,322	4,117,322	15,172	4,132,494
Other comprehensive income :											
- Fair value change of available-for-sale investments	—	—	—	—	—	93,919	—	—	93,919	—	93,919
- Cash flow hedge reserve recognized	—	—	—	—	—	—	18,618	—	18,618	—	18,618
- Exchange difference arising on translation of foreign operations	—	—	—	—	134,184	—	—	—	134,184	—	134,184
Total comprehensive income for the year	—	—	—	—	134,184	93,919	18,618	4,117,322	4,364,043	15,172	4,379,215
Transactions with owners											
- Appropriations to reserves	—	—	292,550	381,280	—	—	—	(673,830)	—	—	—
- Dividends	—	—	—	—	—	—	—	(1,967,360)	(1,967,360)	(466)	(1,967,826)
- Acquisition of non-controlling interests	—	—	—	—	—	—	—	—	—	(134,820)	(134,820)
- Acquisition of subsidiaries	—	—	—	—	—	—	—	—	—	161,114	161,114
Total transactions with owners	—	—	292,550	381,280	—	—	—	(2,641,190)	(1,967,360)	25,828	(1,941,532)
Balance at December 31, 2009	<u>4,918,400</u>	<u>2,981,002</u>	<u>3,261,874</u>	<u>3,204,455</u>	<u>19,015</u>	<u>151,868</u>	<u>6,882</u>	<u>14,608,311</u>	<u>29,151,807</u>	<u>102,486</u>	<u>29,254,293</u>
Balance at January 1, 2010	4,918,400	2,981,002	3,261,874	3,204,455	19,015	151,868	6,882	14,608,311	29,151,807	102,486	29,254,293
Profit for the year	—	—	—	—	—	—	—	9,281,386	9,281,386	24,906	9,306,292
Other comprehensive income :											
- Fair value change of available-for-sale investments	—	—	—	—	—	(65,452)	—	—	(65,452)	—	(65,452)
- Cash flow hedge reserve recognized	—	—	—	—	—	—	23,606	—	23,606	—	23,606
- Exchange difference arising on translation of foreign operations	—	—	—	—	173,463	—	—	—	173,463	(48)	173,415
- Share of other comprehensive income of associates	—	—	—	—	—	1,107	—	—	1,107	—	1,107
Total comprehensive income for the year	—	—	—	—	173,463	(64,345)	23,606	9,281,386	9,414,110	24,858	9,438,968
Transactions with owners											
- Disposal of a joint venture and subsidiaries	—	—	—	—	—	—	—	—	—	(23,325)	(23,325)
- Appropriations to reserves	—	—	398,750	665,965	—	—	—	(1,064,715)	—	—	—
- Dividends	—	—	—	—	—	—	—	(1,229,600)	(1,229,600)	(1,871)	(1,231,471)
- Acquisition of non-controlling interests	—	—	—	—	—	—	—	(4,431)	(4,431)	4,417	(14)
Total transactions with owners	—	—	398,750	665,965	—	—	—	(2,298,746)	(1,234,031)	(20,779)	(1,254,810)
Balance at December 31, 2010	<u>4,918,400</u>	<u>2,981,002</u>	<u>3,660,624</u>	<u>3,870,420</u>	<u>192,478</u>	<u>87,523</u>	<u>30,488</u>	<u>21,590,951</u>	<u>37,331,886</u>	<u>106,565</u>	<u>37,438,451</u>
Balance at January 1, 2011	4,918,400	2,981,002	3,660,624	3,870,420	192,478	87,523	30,488	21,590,951	37,331,886	106,565	37,438,451
Profit for the year	—	—	—	—	—	—	—	8,928,102	8,928,102	47,505	8,975,607
Other comprehensive income :											
- Fair value change of available-for-sale investments	—	—	—	—	—	(15,573)	—	—	(15,573)	—	(15,573)
- Cash flow hedge reserve recognized	—	—	—	—	—	—	(138,759)	—	(138,759)	—	(138,759)
- Exchange difference arising on translation of foreign operations	—	—	—	—	(569,310)	—	—	—	(569,310)	—	(569,310)
Total comprehensive income for the year	—	—	—	—	(569,310)	(15,573)	(138,759)	8,928,102	8,204,460	47,505	8,251,965
Transactions with owners											
- Appropriations to reserves	—	—	490,161	681,340	—	—	—	(1,171,501)	—	—	—
- Dividends	—	—	—	—	—	—	—	(2,901,856)	(2,901,856)	(440)	(2,902,296)
- Acquisition of a subsidiary	—	—	—	—	—	—	—	—	—	536,930	536,930
Total transactions with owners	—	—	490,161	681,340	—	—	—	(4,073,357)	(2,901,856)	536,490	(2,365,366)
Balance at December 31, 2011	<u>4,918,400</u>	<u>2,981,002</u>	<u>4,150,785</u>	<u>4,551,760</u>	<u>(376,832)</u>	<u>71,950</u>	<u>(108,271)</u>	<u>26,445,696</u>	<u>42,634,490</u>	<u>690,560</u>	<u>43,325,050</u>

**YANZHOU COAL MINING COMPANY LIMITED**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS**

	NOTES	Year ended December 31,		
		2011 RMB'000	2010 RMB'000	2009 RMB'000
<b>OPERATING ACTIVITIES</b>				
Profit before income taxes		12,520,986	12,477,335	5,685,806
Adjustments for:				
Interest expenses		839,305	603,343	45,115
Interest income		(357,708)	(187,189)	(187,604)
Dividend income		(2,433)	(4,504)	(2,288)
Net unrealized foreign exchange losses (gain)		244,655	(2,180,277)	37,676
Depreciation of property, plant and equipment		2,266,017	2,426,626	1,793,278
Release of prepaid lease payments		19,018	17,958	17,027
Amortization of prepayment for resources compensation fees		3,355	3,949	2,761
Amortization of intangible assets		720,008	349,655	44,278
Reversal of impairment loss on accounts receivable and other receivables		(101)	(4,923)	(13,634)
Provision for inventory		—	4,411	—
Impairment loss on property, plant and equipment		281,994	97,559	—
Share of income of associates		(68,939)	(8,870)	(109,786)
Gain on disposal of a joint venture and subsidiaries		—	(117,928)	—
Loss on disposal of property, plant and equipment		108,627	16,937	11,252
Written off of property, plant and equipment		—	1,491	14,199
Operating cash flows before movements in working capital		16,574,784	13,495,573	7,338,080
Decrease (increase) in bills and accounts receivable		2,800,237	(5,286,147)	(1,416,577)
Decrease (increase) in inventories		403,324	(728,026)	228,862
Movement in land subsidence, restoration, rehabilitation and environmental cost		556,706	838,510	1,109,659
Movement in overburden cost		(121,690)	224,546	—
(Increase) decrease in prepayments and other current assets		(870,492)	(694,726)	20,193
Increase (decrease) in bills and accounts payable		623,933	158,859	(4,964)
Increase in other payables and accrued expenses		531,298	153,893	622,093
(Decrease) increase in long-term payables		(16,327)	5,654	3,980
(Decrease) increase in amounts due to Parent Company and its subsidiary companies		(86,158)	(319,099)	57,549
Cash generated from operations		20,395,615	7,849,037	7,958,875
Income taxes paid		(2,155,602)	(2,038,697)	(1,596,774)
Interest paid		(608,601)	(602,743)	(28,501)
Interest income received		343,431	187,561	184,243
Dividend income received		2,433	4,646	2,288
<b>NET CASH FROM OPERATING ACTIVITIES</b>		<u>17,977,276</u>	<u>5,399,804</u>	<u>6,520,131</u>

**YANZHOU COAL MINING COMPANY LIMITED**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS—Continued**

	NOTES	Year ended December 31,		
		2011 RMB'000	2010 RMB'000	2009 RMB'000
<b>INVESTING ACTIVITIES</b>				
(Increase) decrease in term deposits		(6,975,492)	648,975	(1,971,371)
Purchase of property, plant and equipment		(8,619,515)	(3,576,136)	(2,133,726)
Decrease (increase) in restricted cash		1,002,057	(874,643)	(432,492)
Increase in long term receivables		(300,083)	—	—
Increase in deposit made on investment		(394,128)	(3,125,753)	(57,095)
Proceeds on disposal of property, plant and equipment		57,956	205,446	79,626
Acquisition of non-controlling interests of Shanxi Tianhao		—	(14)	—
Acquisition of three subsidiaries	45	—	(133,000)	—
Acquisition of Hua Ju Energy	43	—	—	(761,683)
Acquisition of Yancoal Resources	44	—	—	(19,558,544)
Proceeds on disposal of a joint venture and subsidiaries	51	—	1,147,821	—
Investments in securities		(169,121)	(16,257)	—
Investments in associates		(540,000)	(125,000)	—
Acquisition of An Yuan Coal Mine	46	(355,000)	—	—
Acquisition of Xintai	50	(2,751,557)	—	—
Acquisition of additional interests in a joint venture		(1,494,767)	—	—
Acquisition of Syntech	48	(1,316,174)	—	—
Acquisition of Premier Coal and Premier Char	49	(2,057,276)	—	—
Acquisition of potash mineral exploration permits		(1,645,227)	—	—
Purchase of intangible assets		(52,648)	(35,352)	(233)
Purchase of land use right		—	(442)	(7,420)
<b>NET CASH USED IN INVESTING ACTIVITIES</b>		<u>(25,610,975)</u>	<u>(5,884,355)</u>	<u>(24,842,938)</u>
<b>FINANCING ACTIVITIES</b>				
Dividend paid		(2,901,856)	(1,229,600)	(1,967,360)
Proceeds from bank borrowings		16,712,320	1,110,954	20,840,505
Repayments of bank borrowings		(4,367,079)	(655,528)	(188,705)
Repayments of other borrowings		—	(584,478)	—
Repayment to Parent Company and its subsidiary companies in respect of consideration for acquisition of Jining III		—	—	(13,248)
Dividend paid to non-controlling interests of a subsidiary		(2,408)	(1,871)	(201)
Dividend paid to the former shareholders of Hua Ju Energy		—	—	(47,250)
Repayment of borrowings to Parent Company		—	—	(120,000)
<b>NET CASH FROM (USED IN) FINANCING ACTIVITIES</b>		<u>9,440,977</u>	<u>(1,360,523)</u>	<u>18,503,741</u>
<b>NET INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS</b>		1,807,278	(1,845,074)	180,934
<b>CASH AND CASH EQUIVALENTS, AT JANUARY 1</b>		6,771,314	8,522,399	8,439,578
<b>EFFECT OF FOREIGN EXCHANGE RATE CHANGES</b>		<u>(433,295)</u>	<u>93,989</u>	<u>(98,113)</u>
<b>CASH AND CASH EQUIVALENTS, AT DECEMBER 31, REPRESENTED BY BANK BALANCES AND CASH</b>		<u>8,145,297</u>	<u>6,771,314</u>	<u>8,522,399</u>

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**

**1. GENERAL**

*Organization and principal activities*

Yanzhou Coal Mining Company Limited (the “Company”) is established as a joint stock company with limited liability in the People’s Republic of China (the “PRC”). In April 2001, the status of the Company was changed to that of a sino-foreign joint stock limited company. The Company’s A shares are listed on the Shanghai Securities Exchange (“SSE”), its H shares are listed on The Stock Exchange of Hong Kong (the “SEHK”), and its American Depositary Shares (“ADS”, one ADS represents 10 H shares) are listed on the New York Stock Exchange, Inc. The address of the registered office and principal place of business of the Company is 298 Fushan South Road, Zoucheng, Shandong Province, PRC.

The Company operates six coal mines, namely the Xinglongzhuang coal mine, Baodian coal mine, Nantun coal mine, Dongtan coal mine, Jining II coal mine (“Jining II”) and Jining III coal mine (“Jining III”), as well as a regional rail network that links these mines with the national rail network. The Company’s parent and ultimate holding company is Yankuang Group Corporation Limited (the “Parent Company”), a state-owned enterprise in the PRC.

The principal activities of the Company’s associates, joint controlled entities and joint ventures are set out in notes 28, 31 and 32 respectively.

As at December 31, 2011, the Group had net current liabilities of RMB4,290,365,000 (2010: net current assets of RMB14,147,492,000) and total assets less current liabilities of RMB62,430,120,000 (2010: RMB62,622,002,000).

Although the Group had net current liabilities as at December 31, 2011, the Group will adopt appropriate measures such as issuing long term corporate bond (note 56) to improve its financial position. Since the Group is planning to issue long term corporate bonds to improve its liquidity, the directors do not consider the net current liabilities status as at December 31, 2011 would affect any of the impairment testing such as goodwill (note 26) and property, plant and equipment (note 24). The directors have evaluated the Group’s financial position subsequent to December 31, 2011 and the aforesaid measures, and therefore considered that the Group should continue to prepare financial statements using going concern basis.

*Acquisitions and establishment of major subsidiaries*

In 2006, the Company acquired a 98% equity interest in Yankuang Shanxi Neng Hua Company Limited (“Shanxi Neng Hua”) and its subsidiaries (collectively referred as the “Shanxi Group”) from the Parent Company at cash consideration of RMB733,346,000. In 2007, the Company further acquired the remaining 2% equity interest in Shanxi Neng Hua from a subsidiary of the Parent Company at cash consideration of RMB14,965,000. The principal activities of Shanxi Group are to invest in heat and electricity, manufacture and sale of mining machinery and engine products, coal mining and the development of integrated coal technology.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**1. GENERAL—Continued**

*Acquisitions and establishment of major subsidiaries—continued*

Shanxi Neng Hua is an investment holding company, which holds 81.31% equity interest in Shanxi Heshun Tianchi Energy Company Limited (“Shanxi Tianchi”) and approximately 99.85% equity interest in Shanxi Tianhao Chemical Company Limited (“Shanxi Tianhao”). In 2010, Shanxi Neng Hua acquired approximately 0.04% equity interest of Shanxi Tianhao at cash consideration of RMB14,000. The principal activities of Shanxi Tianchi are to exploit and sale of coal from Tianchi Coal Mine, the principal asset of Shanxi Tianchi. Shanxi Tianchi has completed the construction of Tianchi Coal Mine and commenced production by the end of 2006. Shanxi Tianhao is established to engage in the production of methanol and other chemical products, coke production, exploration and sales. The construction of the methanol facilities by Shanxi Tianhao commenced in March 2006 and it has commenced production in 2008.

In 2004, the Company acquired a 95.67% equity interest in Yanmei Heze Company Limited (“Heze”) from the Parent Company at cash consideration of RMB584,008,000. The principal activities of Heze are to exploit and sale of coal in Juye coal field. The equity interests held by the Company increased to 96.67% after the increase of the registered capital of Heze in 2007. The equity interests held by the Company increased to 98.33% after the increase of the registered capital of RMB1.5 billion in 2010.

The Company originally held 97% equity interest in Yanzhou Coal Yulin Power Chemical Co., Ltd. (“Yulin”). The Company acquired the remaining 3% equity interest and made further investment of RMB600,000,000 in Yulin in 2008.

In February 2009, the Company acquired a 74% equity interest in Shandong Hua Ju Energy Company Limited (“Hua Ju Energy”) from the Parent Company at a consideration of RMB593,243,000. Hua Ju Energy is a joint stock limited company established in the PRC with the principal business of the supply of electricity and heat by utilizing coal gangue and coal slurry produced from coal mining process. In July 2009, the Company entered into acquisition agreements with three shareholders of Hua Ju Energy, pursuant to which, the Company agreed to acquire 21.14% equity interest in Hua Ju Energy at a consideration of RMB173,007,000.

In 2009, the Group entered into a binding scheme implementation agreement with Felix Resources Limited (“Felix”), a corporation incorporated in Australia with shares listed on the Australian Securities Exchange, to acquire all the shares of Felix in cash of approximately AUD3,333 million. The principal activities of Felix are exploring and extracting coal resources, operating, identifying, acquiring and developing resource related projects that primarily focus on coal in Australia. This acquisition was completed in 2009. During the year, Felix Resources Limited was renamed as Yancoal Resources Limited (“Yancoal Resources”).

In 2009, the Company invested RMB500 million to set up a wholly owned subsidiary located in Inner Mongolia, Yanzhou Coal Ordos Neng Hua Company Limited (“Ordos”). Ordos is a limited liability company incorporated in the PRC with the objectives of production and sale of methanol and other chemical products. During the year, the Company invested additional equity in the registered capital of Ordos of RMB2.6 billion. The Company also acquired Yiginhuoluo Qi Nalin Tao Hai Town An Yuan Coal Mine (“An Yuan Coal Mine”) at a consideration of RMB1,435,000,000.

In 2010, the Company acquired 100% equity interest of Inner Mongolia Yize Mining Investment Co., Ltd (“Yize”) and other two companies at a consideration of RMB190,095,000. The main purpose of this acquisition is to facilitate the business of methanol and other chemical products in Inner Mongolia Autonomous Region.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**1. GENERAL—Continued**

*Acquisitions and establishment of major subsidiaries—continued*

During the year, Ordos acquired 80% equity interest of Inner Mongolia Xintai Coal Mining Company Limited (“Xintai”) at a consideration of RMB2,801,557,000 from an independent third party. Xintai owns and operates Wenyu Coal Mine in Inner Mongolia. The principal activities of Xintai are coal production and coal sales.

During the year, the Group acquired 100% equity interests in Syntech Holdings Pty Ltd and Syntech Holdings II Pty Ltd (collectively “Syntech”) at a cash consideration of AUD208,480,000. The principal activities of Syntech include exploration, production, sorting and processing of coal. The acquisition was completed on August 1, 2011.

The Group entered into a sales and purchases agreement on September 27, 2011 to acquire 100% equity interests in both Premier Coal Limited (“Premier Coal”) and Premier Char Pty Ltd (“Premier Char”) (Called Westfarmers Premier Coal Limited and Westfarmers Char Pty Ltd, respectively, at the time) at a consideration of AUD313,533,000. The acquisition was completed on December 30, 2011. Premier Coal is mainly engaged in the exploration, production and processing of coal. Premier Char is mainly engaged in the research and development of the technology and procedures in relation to processing coal char from low rank coals.

During the year, the Company invested USD2.8 million to set up a wholly owned subsidiary, Yancoal International (Holding) Co., Limited (“Yancoal International”). Yancoal International was established in Hong Kong to act as a platform for overseas assets and business management. Yancoal International has four subsidiaries, namely Yancoal International Trading Co., Limited, Yancoal International Technology Development Co., Limited, Yancoal International Resources Development Co., Limited and Yancoal Luxembourg Energy Holding Co., Limited (“Yancoal Luxembourg”). Yancoal Luxembourg established a wholly owned subsidiary, Yancoal Canada Resources Co., Ltd (“Yancoal Canada”) with USD 290 million as investment. The Company acquired, at a total consideration of USD260 million, 19 potash mineral exploration permits in the Province of Saskatchewan, Canada through Yancoal Canada. The permit transfer registrations were completed on September 30, 2011.

**2. BASIS OF PREPARATION**

The accompanying consolidated financial statements have been prepared in accordance with International Financial Reporting Standards (“IFRS”) as issued by the International Accounting Standards Board. The consolidated financial statements were approved and authorized for issue by the Board of Directors on April 26, 2012.

The consolidated financial statements are presented in Renminbi, which is also the functional currency of the Company.

*Changes in accounting estimates*

Starting from 2010, unit-of-production method is applied for the amortization of coal reserves located in China. In the previous years, these assets were amortized on a straight-line basis. The directors of the Company consider unit-of-production method can better reflect the expected pattern of consumption of economic benefits of such assets. Changes of accounting estimates have no material impact on the consolidated financial statements.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**2. BASIS OF PREPARATION—Continued**

*Comparative figures*

Business taxes and surcharges have been presented as a deduction of each categories of revenue to each corresponding costs of these revenue to provide a more appropriate presentation. Therefore, for the year ended December 31, 2009, subtotals of income and corresponding costs increased by RMB423,776,000. The reclassification has no impact to the overall results of the Group. The reclassification does not result in any changes to the consolidated balance sheet as at December 31, 2009 and therefore they are not presented in the consolidated financial statements.

**3. ADOPTION OF NEW AND REVISED INTERNATIONAL FINANCIAL REPORTING STANDARDS**

In the current year, the Group has applied, for the first time, a number of new and amended and revised standards and interpretations (“new IFRSs”) applicable to the Group issued by the International Accounting Standards Board (the “IASB”) and the International Financial Reporting Interpretations Committee (the IFRIC) of IASB, which are effective for the Group’s financial year beginning January 1, 2011.

IFRSs (Amendments)	Improvements to IFRSs 2010
IAS 24 (Revised)	Related Party Disclosures

Except for those new accounting policies effective for the financial year beginning January 1, 2011 as applied in these financial statements of the Group, the accounting policies adopted for the current year are the same as those adopted for the Group’s financial statements for the year ended December 31, 2010.

The adoption of the new IFRSs had no material impact on the results or financial position of the Group for the current or prior accounting year. Accordingly, no prior period adjustment has been required.



**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**3. ADOPTION OF NEW AND REVISED INTERNATIONAL FINANCIAL REPORTING STANDARDS—Continued**

The Group has not early applied the following new and revised standards, amendments or interpretations that have been issued but are not yet effective.

IFRS 7 (Amendments)	Disclosures – Transfers of Financial Assets <sup>1</sup>
IFRS 7 (Amendments)	Disclosures – Offsetting Financial Assets and Financial Liabilities <sup>2</sup>
IFRS 9	Financial Instruments <sup>3</sup>
IFRS 10	Consolidated Financial Statements <sup>2</sup>
IFRS 11	Joint Arrangements <sup>2</sup>
IFRS 12	Disclosure of Interests in Other Entities <sup>2</sup>
IFRS 13	Fair Value Measurement <sup>2</sup>
IAS 1 (Amendments)	Presentation of Items of Other Comprehensive Income <sup>4</sup>
IAS 28 (Revised)	Investments in Associates and Joint Ventures <sup>2</sup>
IAS 32 (Revised)	Offsetting Financial Assets and Financial Liabilities <sup>5</sup>
IFRIC 20	Stripping Costs in the Production Phase of a Surface Mine <sup>2</sup>

- <sup>1</sup> Effective for annual periods beginning on or after July 1, 2011.  
<sup>2</sup> Effective for annual periods beginning on or after January 1, 2013.  
<sup>3</sup> Effective for annual periods beginning on or after January 1, 2015.  
<sup>4</sup> Effective for annual periods beginning on or after July 1, 2012.  
<sup>5</sup> Effective for annual periods beginning on or after January 1, 2014.

- IFRS 9 Financial instruments

Under IFRS 9, all recognised financial assets that are within the scope of IAS 39 Financial Instruments: Recognition and Measurement are subsequently measured at either amortised cost or fair value. Specifically, debt investments that are held within a business model whose objective is to collect the contractual cash flows, and that have contractual cash flows that are solely payments of principal and interest on the principal outstanding are generally measured at amortised cost at the end of subsequent accounting periods. All other debt investments and equity investments are measured at their fair values at the end of subsequent accounting periods.

In relation to financial liabilities, the significant change relates to financial liabilities that are designated as at fair value through profit or loss. Specifically, under IFRS 9, for financial liabilities that are designated as at fair value through profit or loss, the amount of change in the fair value of the financial liability that is attributable to changes in the credit risk of that liability is presented in other comprehensive income, unless the presentation of the effects of changes in the liability's credit risk in other comprehensive income would create or enlarge an accounting mismatch in profit or loss. Changes in fair value attributable to a financial liability's credit risk are not subsequently reclassified to profit or loss. Previously, under IAS 39, the entire amount of the change in the fair value of the financial liability designated as at fair value through profit or loss was presented in profit or loss.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**3. ADOPTION OF NEW AND REVISED INTERNATIONAL FINANCIAL REPORTING STANDARDS—Continued**

- **IFRS 10 Consolidated Financial Statements**

IFRS 10 replaces the consolidation guidance in IAS 27 Consolidated and Separate Financial Statements and SIC-12 Consolidation — Special Purpose Entities by introducing a single consolidation model for all entities based on control, irrespective of the nature of the investee (i.e., whether an entity is controlled through voting rights of investors or through other contractual arrangements as is common in special purpose entities). Under IFRS 10, control is based on whether an investor has 1) power over the investee; 2) exposure, or rights, to variable returns from its involvement with the investee; and 3) the ability to use its power over the investee to affect the amount of the returns.

- **IFRS 11 Joint Arrangements**

IFRS 11 introduces new accounting requirements for joint arrangements, replacing IAS 31 Interests in Joint Ventures. The option to apply the proportional consolidation method when accounting for jointly controlled entities is removed. Additionally, IFRS 11 eliminates jointly controlled assets to now only differentiate between joint operations and joint ventures. A joint operation is a joint arrangement whereby the parties that have joint control have rights to the assets and obligations for the liabilities. A joint venture is a joint arrangement whereby the parties that have joint control have rights to the net assets.

- **IFRS 12 Disclosures of Involvement with Other Entities**

IFRS 12 requires enhanced disclosures about both consolidated entities and unconsolidated entities in which an entity has involvement. The objective of IFRS 12 is to require information so that financial statement users may evaluate the basis of control, any restrictions on consolidated assets and liabilities, risk exposures arising from involvements with unconsolidated structured entities and non-controlling interest holders' involvement in the activities of consolidated entities.

- **IFRS 13 Fair Value Measurement**

IFRS 13 applies when another IFRS requires or permits fair value measurements or disclosures about fair value measurements (and measurements, such as fair value less costs to sell, based on fair value or disclosures about those measurements), except for certain exemptions. IFRS 13 requires the disclosures of fair values through a 'fair value hierarchy'. The hierarchy categorises the inputs used in valuation techniques into three levels. The hierarchy gives the highest priority to (unadjusted) quoted prices in active markets for identical assets or liabilities and the lowest priority to unobservable inputs. If the inputs used to measure fair value are categorised into different levels of the fair value hierarchy, the fair value measurement is categorised in its entirety in the level of the lowest level input that is significant to the entire measurement.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**3. ADOPTION OF NEW AND REVISED INTERNATIONAL FINANCIAL REPORTING STANDARDS—Continued**

- IAS 1 (Amendments) Presentation of Items of Other Comprehensive Income

IAS 1 (Amendments) retain the option to present profit or loss and other comprehensive income in either a single statement or in two separate but consecutive statements. However, IAS 1 (Amendments) require additional disclosures to be made in the other comprehensive income section such that items of other comprehensive income are grouped into two categories: (a) items that will not be reclassified subsequently to profit or loss; and (b) items that may be reclassified subsequently to profit or loss when specific conditions are met. Income tax on items of other comprehensive income is required to be allocated on the same basis. IAS 1 (Amendments) are effective for annual periods beginning on or after July 1, 2012. The presentation of items of other comprehensive income will be modified accordingly when the amendments are applied in the future accounting periods.

- IFRIC 20 Stripping Costs in the Production Phase of a Surface Mine

IFRIC 20 Stripping Costs in the Production Phase of a Surface Mine applies to waste removal costs that are incurred in surface mining activity during the production phase of the mine (“production stripping costs”). Under the Interpretation, the costs from this waste removal activity (“stripping”) which provide improved access to ore are recognised as a non-current asset (“stripping activity asset”) when certain criteria are met, whereas the costs of stripping activities where the benefit is realised in the form of inventory produced are accounted for in accordance with IAS 2 Inventories. The stripping activity asset is accounted for as an addition to, or as an enhancement of, an existing asset and classified as tangible or intangible according to the nature of the existing asset of which it forms part. When the costs of the stripping activity asset and the inventory produced are not separately identifiable, production stripping costs are allocated between the inventory produced and the stripping activity asset by using an allocation basis that is based on a relevant production measure. IFRIC 20 is effective for annual periods beginning on or after January 1, 2013. Under the existing policy, the Company separately present the striping costs on the balance sheet. Upon the subsequent adoption of the Interpretation, the presentation on the balance sheet will be amended accordingly.

The directors considered that except for the abovementioned standards or interpretations, the application of other standards or interpretations will have no material impact to the Group’s financial statements.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**4. SIGNIFICANT ACCOUNTING POLICIES**

The consolidated financial statements have been prepared on the historical cost basis except for certain financial instruments, which are stated at fair value. The accounting policies are set out below.

***Basis of consolidation***

The consolidated financial statements incorporate the financial statements of the Company and all entities controlled by the Company (including special purpose entities). Control is achieved where the Company has the power to govern the financial and operating policies of an entity so as to obtain benefits from its activities.

Income and expenses of subsidiaries acquired or disposed of during the year are included in the consolidated income statement from the effective date of acquisition or up to the effective date of disposal, as appropriate. Total comprehensive income of subsidiaries is attributed to the owners of the Company and to the non-controlling interests even if this results in the non-controlling interests having a deficit balance.

Where necessary, adjustments are made to the financial statements of subsidiaries to bring their accounting policies into line with those used by other members of the Group.

All intra-group transactions, balances, income and expenses are eliminated on consolidation.

Changes in the Group's ownership interests in subsidiaries that do not result in the Group losing control over the subsidiaries are accounted for as equity transactions. The carrying amounts of the Group's interests and the non-controlling interests are adjusted to reflect the changes in relative interests in the subsidiaries. Any difference between the amount by which the non-controlling interests are adjusted and the fair value of the consideration paid or received is recognized directly in equity and attributed to owners of the Company.

***Business combination***

Acquisitions of businesses are accounted for using the acquisition method. The consideration transferred in a business combination is measured at fair value, which is calculated as the sum of the acquisition-date fair values of assets transferred by the Group, liabilities incurred by the Group to former owners of the acquiree and the equity interests issued by the Group in exchange for control of the acquiree. Acquisition-related costs are recognised in profit or loss as incurred.

Identifiable assets acquired and liabilities and contingent liabilities assumed in a business combination are measured initially at their fair values at the acquisition date. Subsequent adjustments to the consideration are recognized against the cost of acquisition within the measurement period which does not exceed one year from the acquisition date. Subsequent accounting for changes in fair values of the contingent consideration that do not qualify as measurement period adjustments is included in the income statement or within equity for contingent consideration classified as an asset/liability and equity respectively.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**4. SIGNIFICANT ACCOUNTING POLICIES—Continued**

*Business combination—Continued*

Goodwill is measured as the excess of the sum of the consideration transferred, the amount of any non-controlling interests in the acquiree, and the fair value of the acquirer's previously held equity interest in the acquiree (if any) over the net of the acquisition-date amounts of the identifiable assets acquired and the liabilities assumed. If, after assessment, the Group's interest in the fair value of the acquiree's identifiable net assets exceeds the sum of the consideration transferred, the amount of any non-controlling interests in the acquiree and the fair value of the acquirer's previously held interest in the acquiree (if any), the excess is recognised immediately in profit or loss as a bargain purchase gain.

Non-controlling interests that are present ownership interests and entitle their holders to a proportionate share of the entity's net assets in the event of liquidation may be initially measured either at fair value or at the non-controlling interests' proportionate share of the recognised amounts of the acquiree's identifiable net assets. The choice of measurement basis is made on a transaction-by-transaction basis. The Group applies the non-controlling interests' proportionate share of the recognized amounts of the acquiree's identifiable net assets to account for all its acquisitions.

*Interests in associates*

An associate is an entity over which the Group has significant influence and that is neither a subsidiary nor an interest in a joint venture. Significant influence is the power to participate in the financial and operating policy decisions of the investee but is not control or joint control over those policies.

The results and assets and liabilities of associates are incorporated in these consolidated financial statements using the equity method of accounting. Under the equity method, investments in associates are carried in the consolidated balance sheet at cost and adjusted for post-acquisition changes in the Group's share of net assets of the associates, less any identified impairment loss. When the Group's share of losses of an associate equals or exceeds its interest in that associate (which includes any long-term interests that, in substance, form part of the Group's net investment in the associate), the Group discontinues recognizing its share of further losses. Additional share of losses is provided for and a liability is recognized only to the extent that the Group has incurred legal or constructive obligations or made payments on behalf of that associate. If the associate subsequently reports profits, the Group resumes recognizing its share of those profits only after its share of the profits exceeds the accumulated share of losses that has previously not been recognized.

Any excess of the cost of acquisition over the Group's share of the net fair value of the identifiable assets, liabilities and contingent liabilities of the associate recognized at the date of acquisition is recognized as goodwill. The goodwill is included within the carrying amount of the investment and is assessed for impairment as part of the investment. Any excess of the Group's share of the net fair value of the identifiable assets, liabilities and contingent liabilities over the cost of acquisition, after reassessment, is recognized immediately in profit or loss.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**4. SIGNIFICANT ACCOUNTING POLICIES—Continued**

*Interests in associates—Continued*

The requirements of IAS 39 are applied to determine whether it is necessary to recognise any impairment loss with respect to the Group's investment in an associate. When necessary, the entire carrying amount of the investment (including goodwill) is tested for impairment in accordance with IAS 36 Impairment of Assets as a single asset by comparing its recoverable amount (higher of value in use and fair value less costs to sell) with its carrying amount. Any impairment loss recognised forms part of the carrying amount of the investment. Any reversal of that impairment loss is recognised in accordance with IAS 36 to the extent that the recoverable amount of the investment subsequently increases.

Where a group entity transacts with an associate of the Group, profits and losses are eliminated to the extent of the Group's interest in the relevant associate.

*Interests in joint ventures*

A joint venture is a contractual arrangement whereby the Group and other parties undertake an economic activity that is subject to joint control (i.e. when the strategic financial and operating policy decisions relating to the activities of the joint venture require the unanimous consent of the parties sharing control).

When a group entity undertakes its activities under joint venture arrangements directly, the Group's share of jointly controlled assets and any liabilities incurred jointly with other venturers are recognized in the financial statements of the relevant entity and classified according to their nature. Liabilities and expenses incurred directly in respect of interests in jointly controlled assets are accounted for on an accrual basis. Income from the sale or use of the Group's share of the output of jointly controlled assets, and its share of joint venture expenses, are recognized when it is probable that the economic benefits associated with the transactions will flow to/from the Group and their amount can be measured reliably.

Joint venture arrangements that involve the establishment of a separate entity in which each venturer has an interest are referred to as jointly controlled entities. The Group reports its interests in jointly controlled entities using the equity method of accounting and the details of equity method of accounting have been set out in the accounting policy for interests in associates. When a group entity transacts with a jointly controlled entity of the Group, unrealized profits and losses are eliminated to the extent of the Group's interest in the joint venture.

The Group's share using proportionate consolidation of the assets, liabilities, revenue and expenses of other joint ventures (no separate entity has been established) are included in the appropriate items of the financial statements.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**4. SIGNIFICANT ACCOUNTING POLICIES—Continued**

*Revenue recognition*

Revenue is measured at the fair value of the consideration received or receivable and represents amounts receivable for goods sold and services provided in the normal course of business, net of discounts and sales related taxes. Provided it is probable that the economic benefits will flow to the Group and the revenue and costs, if applicable, can be measured reliably, revenue is recognized in profit or loss as follows:

Sales of goods (including coal and methanol) are recognised upon transfer of the significant risks and rewards of ownership to the customer. This is usually taken as the time when the goods are delivered and the customer has accepted the goods.

Service income such as coal railway transportation and electricity and heat supply is recognized when services are provided.

Interest income from a financial asset is accrued on a time basis, by reference to the principal outstanding and at the effective interest rate applicable, which is the rate that exactly discounts the estimated future cash receipts through the expected life of the financial assets to that asset's net carrying amount.

Dividend income from investments is recognized when the shareholders' rights to receive payments have been established.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**4. SIGNIFICANT ACCOUNTING POLICIES—Continued**

*Intangible assets (other than goodwill)*

*Intangible assets acquired separately*

Intangible assets acquired separately are carried at cost less accumulated amortization and accumulated impairment losses. Amortization is recognized over their estimated useful lives. The estimated useful life and amortization method are reviewed at the end of each annual reporting period, with the effect of any changes in estimate being accounted for on a prospective basis.

*Internally-generated intangible assets – research and development expenditure*

Expenditure on research activities is recognized as an expense in the period in which it is incurred.

An internally-generated intangible asset arising from development expenditure is recognized only if it is anticipated that the development costs incurred on a clearly-defined project will be recovered through future commercial activity. The resultant asset is amortized on a straight line basis over its useful life. Expenditure incurred on projects to develop new products is capitalized only when the Group can demonstrate the technical feasibility of completing the intangible asset so that it will be available for use or sale, its intention to complete and its ability to use or sell the asset, how the asset will generate future economic benefits, the availability of resources to complete the project and the ability to measure reliably the expenditure during the development.

*Intangible assets acquired in a business combination*

Intangible assets acquired in a business combination and recognized separately from goodwill are initially recognized at their fair value at the acquisition date (which is regarded as their cost).

Subsequent to initial recognition, intangible assets acquired in a business combination are reported at cost less accumulated amortization and accumulated impairment losses, on the same basis as intangible assets that are acquired separately.

*(i) Coal reserves*

Coal reserves represent the portion of total proven and probable reserves in the coal mine of a mining right. Coal reserves are amortized over the life of the mine on a unit of production basis of the estimated total proven and probable reserves or the Australia Joint Ore Reserves Committee (“JORC”) reserves for the Group’s subsidiaries in Australia. Changes in the annual amortization rate resulting from changes in the remaining reserves are applied on a prospective basis from the commencement of the next financial year.



**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**4. SIGNIFICANT ACCOUNTING POLICIES—Continued**

*Intangible assets (other than goodwill)—Continued*

*(ii) Coal resources*

Coal resources represent the fair value of economically recoverable reserves (excluding the portion of total proven and probable reserves of a mining right i.e. does not include the above coal reserves) of a mining right (Details are set out in the accounting policy of exploration and evaluation expenditure). When production commences, the mining resources for the relevant areas of interest are amortized over the life of the area according to the rate of depletion of the economically recoverable reserves.

*(iii) Rail access rights*

Rail access rights are amortized on a straight line basis or on a unit of production basis under agreement over the life of the mine.

*Exploration and evaluation expenditure*

Exploration and evaluation expenditure incurred is accumulated in respect of each separately identifiable area of interest which is at individual mine level. These costs are only carried forward where the right of tenure for the area of interest is current and to the extent that they are expected to be recouped through successful development and commercial exploitation, or alternatively, sale of the area, or where activities in the area have not yet reached a stage which permits reasonable assessment of the existence of economically recoverable reserves and active and significant operations in, or in relation to, the area of interest are continuing.

The carrying amount of exploration and evaluation assets is assessed for impairment when facts or circumstances suggest the carrying amount of the assets may exceed their recoverable amount.

A regular review is undertaken of each area of interest to determine the appropriateness of continuing to carry forward costs in relation to that area of interest. Accumulated costs in relation to an abandoned area are written-off in full in the period in which the decision to abandon the area is made.

When production commences, the accumulated costs for the relevant area of interest are amortized over the life of the area according to the rate of depletion of the economically recoverable reserves.

Capitalized exploration and evaluation expenditure considered to be tangible is recorded as a component of property, plant and equipment. Otherwise, it is recorded as an intangible asset.

Exploration and evaluation expenditure acquired in a business combination are recognized at their fair value at the acquisition date (the fair value of potential economically recoverable reserves at the acquisition date which is shown as “Coal resources”)

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**4. SIGNIFICANT ACCOUNTING POLICIES—Continued**

***Prepaid lease payments***

Prepaid lease payments represent land use rights under operating lease arrangement and are stated at cost less accumulated amortization and accumulated impairment losses.

***Property, plant and equipment***

Property, plant and equipment, other than construction in progress and freehold land, are stated at cost less subsequent accumulated depreciation and accumulated impairment losses.

Depreciation is charged so as to write off the cost of items of property, plant and equipment, other than construction in progress and freehold land, over their estimated useful lives and after taking into account their estimated residual value, using the straight line method or unit of production method.

Construction in progress represents property, plant and equipment under construction for production or for its own use purposes. Construction in progress is carried at cost less any impairment loss. Construction in progress is classified to the appropriate category of property, plant and equipment when completed and ready for intended use. Depreciation commences when the assets are ready for their intended use.

Any gain or loss arising on the disposal of an item of property, plant and equipment is determined as the difference between the sales proceeds and the carrying amount of the asset and is recognized in the consolidated income statement.

***Impairment other than goodwill***

At each balance sheet date, the Group reviews the carrying amounts of its tangible assets and intangible assets with finite useful life to determine whether there is any indication that those assets have suffered an impairment loss. If any such indication exists, the recoverable amount of the asset (determined at the higher of its fair value less costs to sell and its value in use) is estimated in order to determine the extent of the impairment loss (if any). Intangible assets with an indefinite useful life will be tested for impairment annually.

In assessing value in use, the estimated future cash flows are discounted to their present value using a pre-tax discount rate that reflects current market assessments of the time value of money and the risks specific to the asset.

If the recoverable amount of an asset (or cash-generating unit) is estimated to be less than its carrying amount, the carrying amount of the asset (cash-generating unit) is reduced to its recoverable amount. Impairment loss is recognized as an expense immediately.

Where an impairment loss subsequently reverses, the carrying amount of the asset (cash-generating unit) is increased to the revised estimate of its recoverable amount, but such that the increased carrying amount does not exceed the carrying amount that would have been determined had no impairment loss been recognized for the asset (cash-generating unit) in prior years. A reversal of an impairment loss is recognized as an income immediately.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**4. SIGNIFICANT ACCOUNTING POLICIES—Continued**

***Goodwill***

*Goodwill arising on acquisitions prior to January 1, 2005 (transition to new IFRS)*

Goodwill arising on an acquisition of net assets and operations of another entity for which the agreement date is before January 1, 2005 represents the excess of the cost of acquisition over the Group's interest in the fair value of the identifiable assets and liabilities of the relevant acquiree at the date of acquisition.

The Group has discontinued amortization from January 1, 2005 onwards, and such goodwill is tested for impairment annually, and whenever there is an indication that the cash-generating unit to which the goodwill relates may be impaired (see the accounting policy below).

*Goodwill arising on acquisitions on or after January 1, 2005*

Goodwill arising on an acquisition of a business for which the agreement date is on or after January 1, 2005 represents the excess of the cost of acquisition over the Group's interest in the fair value of the identifiable assets, liabilities and contingent liabilities of the relevant business at the date of acquisition. Such goodwill is carried at cost less any accumulated impairment losses.

Goodwill is presented separately in the consolidated balance sheet.

For the purposes of impairment testing, goodwill is allocated to each of the Group's cash-generating units expected to benefit from the synergies of the acquisition. Cash-generating units to which goodwill has been allocated are tested for impairment annually, or more frequently when there is an indication that the unit may be impaired. If the recoverable amount of the cash-generating unit is less than the carrying amount of the unit, the impairment loss is allocated to reduce the carrying amount of any goodwill allocated to the unit first and then to the other assets of the unit pro-rata on the basis of the carrying amount of each asset in the unit. Any impairment is recognized immediately in the consolidated income statement and is not subsequently reversed.

On disposal of the relevant cash-generating unit, the attributable amount of goodwill is included in the determination of the gain or loss on disposal.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**4. SIGNIFICANT ACCOUNTING POLICIES—Continued**

*Inventories*

Inventories of coal and methanol are stated at the lower of cost and net realizable value. Cost, which comprises direct materials and, where applicable, direct labour and overheads that have been incurred in bringing the inventories to their present location and condition, is calculated using the weighted average method. Net realizable value represents the estimated selling price less all further costs to completion and costs to be incurred in selling, marketing and distribution.

Inventories of auxiliary materials, spare parts and small tools expected to be used in production are stated at weighted average cost less allowance, if necessary, for obsolescence.

*Overburden in advance*

Overburden in advance comprises the accumulation of expenses incurred to enable access to the coal seams, and includes direct removal costs, machinery and plant running costs. The deferred costs are then charged to the consolidated income statement in subsequent periods on the basis of run-of-mine (“ROM”) coal tonnes mined. This is calculated by multiplying the ROM coal tonnes mined during the period by the weighted average cost to remove a bank cubic metre (“BCM”) of waste by the stripping ratio (ratio of waste removed in BCMs to ROM coal tonnes mined). The stripping ratio of the Company’s Australian subsidiaries is based on the JORC reserves of each mine.

*Taxation*

Income tax expense represents the sum of the tax currently payable and deferred tax.

The tax currently payable is based on taxable profit for the year. Taxable profit differs from profit as reported in the consolidated income statement because it excludes items of income or expense that are taxable or deductible in other years and it further excludes items that are never taxable or deductible. The Group’s liability for current tax is calculated using tax rates that have been enacted or substantively enacted by the balance sheet date.

Deferred tax is recognized on differences between the carrying amounts of assets and liabilities in the consolidated financial statements and the corresponding tax bases used in the computation of taxable profit, and are accounted for using the balance sheet liability method. Deferred tax liabilities are generally recognized for all taxable temporary differences, and deferred tax assets are recognized to the extent that it is probable that taxable profits will be available against which deductible temporary differences can be utilized. Such assets and liabilities are not recognized if the temporary difference arises from goodwill or from the initial recognition (other than in a business combination) of other assets and liabilities in a transaction that affects neither the taxable profit nor the accounting profit.

Deferred tax liabilities are recognized for taxable temporary differences arising on investments in subsidiaries, interest in associates and joint ventures, except where the Group is able to control the reversal of the temporary difference and it is probable that the temporary difference will not reverse in the foreseeable future.

The carrying amount of deferred tax assets is reviewed at each balance sheet date and reduced to the extent that it is no longer probable that sufficient taxable profit will be available to allow all or part of the asset to be recovered.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**4. SIGNIFICANT ACCOUNTING POLICIES—Continued**

*Taxation—Continued*

Deferred tax is calculated at the tax rates that are expected to apply in the period when the liability is settled or the asset realised. Deferred tax is charged or credited in the consolidated income statement, except when it relates to items that are recognized in other comprehensive income or directly in equity, in which case the deferred tax is also recognized in other comprehensive income or directly in equity respectively.

Deferred tax assets and liabilities are offset when they relate to income taxes levied by the same taxation authority and the Group intends to settle its current tax assets and liabilities on a net basis.

The Company's wholly-owned Australian subsidiaries have formed an income tax consolidated group under the tax consolidation regime. Each entity in the tax consolidated group recognizes its own deferred tax assets and liabilities, except where the deferred tax assets relate to unused tax losses and credits, in which case the Australian subsidiaries recognizes the assets. Australian subsidiaries have entered into a tax sharing agreement whereby each company of Australian subsidiaries contributes to the income tax payable in proportion to their contribution to the profit before tax of the tax consolidated group. The tax consolidated group has also entered into a tax funding agreement whereby each entity in Australian subsidiaries group can recognize their balance of the current tax assets and liabilities through inter-entity accounts.

*Land subsidence, restoration, rehabilitation and environmental costs*

One consequence of coal mining is land subsidence caused by the resettlement of the land above the underground mining sites. Depending on the circumstances, the Group may relocate inhabitants from the land above the underground mining sites prior to mining those sites or the Group may compensate the inhabitants for losses or damages from land subsidence after the underground sites have been mined. The Group may also be required to make payments for restoration, rehabilitation or environmental protection of the land after the underground sites have been mined.

An estimate of such costs is recognized in the period in which the obligation is identified and is charged as an expense in proportion to the coal extracted. At each balance sheet date, the Group adjusts the estimated costs in accordance with the actual land subsidence status. The provision is also adjusted for changes in estimates. Those adjustments are accounted for as a change in the corresponding capitalised cost, except where a reduction in the provision is greater than the undepreciated capitalised cost of any related assets, in which case the capitalised cost is reduced to nil and remaining adjustment is recognised in the income statement. Changes to the capitalised cost result in an adjustment to future depreciation and financial charges.

*Leasing*

Leases are classified as finance leases whenever the terms of the lease transfer substantially all the risks and rewards of ownership to the lessee. All other leases are classified as operating leases.

Where the Group acquires the use of assets under finance leases, the amounts representing the fair value of the leased asset, or, if lower, the present values of the minimum lease payments of such assets are included in property, plant and equipment and the corresponding liabilities, net of finance charges, are recorded as an obligation under finance leases.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**4. SIGNIFICANT ACCOUNTING POLICIES—Continued**

*Leasing—Continued*

Each lease payment is allocated between liability and finance charges so as to achieve a constant rate of interest on the remaining balance of the liability. The finance lease liabilities are included in current and non-current borrowings. The finance charges are expensed in the income statement over the lease periods so as to produce a constant periodic rate of interest on the remaining balance of the liability for each period. The assets accounted for as finance leases are depreciated over the shorter of their estimated useful lives or the lease periods.

Operating lease payments are recognized as an expense on a straight-line basis over the lease term. Contingent rentals arising under operating leases are recognized as an expense in the period in which they are incurred.

*Provisions and contingent liabilities*

Provisions are recognized when the Group has a present obligation (legal or constructive) as a result of a past event, and it is probable that an outflow of economic benefits will be required to settle the obligation and a reliable estimate of the amount of the obligation can be made. Where the time value of money is material, provisions are stated at the present value of the expenditure expected to settle the obligation.

All provisions are reviewed at each balance sheet date and adjusted to reflect the current best estimate.

Where it is not probable that an outflow of economic benefits will be required, or the amount cannot be estimated reliably, the obligation is disclosed as a contingent liability, unless the probability of outflow of economic benefits is remote. Possible obligations, whose existence will only be confirmed by the occurrence or non-occurrence of one or more future uncertain events not wholly within the control of the Group are also disclosed as contingent liabilities unless the probability of outflow of economic benefits is remote.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**4. SIGNIFICANT ACCOUNTING POLICIES—Continued**

*Borrowing costs*

Borrowing costs directly attributable to the acquisition, construction or production of qualifying assets, which are assets that necessarily take a substantial period of time to get ready for their intended use or sale, are capitalized as part of the cost of those assets. Investment income earned on the temporary investment of specific borrowings pending their expenditure on qualifying assets is deducted from the borrowing costs eligible for capitalization. Capitalization of borrowing costs is suspended or ceases when substantially all the activities necessary to prepare the qualifying asset for its intended use or sale are interrupted or complete.

All other borrowings costs are recognized as expenses in the period in which they are incurred.

*Foreign currencies*

In preparing the financial statements of each individual group entity, transactions in currencies other than the functional currency of that entity (foreign currencies) are recorded in the respective functional currency (i.e., the currency of the primary environment in which the entity operates) at the rates of exchanges prevailing on the dates of the transactions. At each balance sheet date, monetary items denominated in foreign currencies are retranslated at the rates prevailing on the balance sheet date. Non-monetary items carried at fair value that are denominated in foreign currencies are translated at the rates prevailing on the date when the fair value was determined. Non-monetary items that are measured in terms of historical cost in a foreign currency are not retranslated.

Exchange differences arising on the settlement of monetary items, and on the translation of monetary items, are recognized in profit or loss in the period in which they arise.

For the purposes of presenting the consolidated financial statements, the assets and liabilities of the Group's foreign operations are translated into the presentation currency of the Company (i.e. Renminbi) at the rate of exchange prevailing at the balance sheet date, and their income and expenses are translated at the average exchange rates for the year, unless exchange rates fluctuate significantly during the period, in which case, the exchange rates prevailing at the dates of transactions are used. Exchange differences arising, if any, are recognized in other comprehensive income and accumulated in equity (attributed to non-controlling interests as appropriate). Such exchange differences are recognized in profit or loss in the period in which the foreign operation is disposed of.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**4. SIGNIFICANT ACCOUNTING POLICIES—Continued**

*Government grants*

Government grants are recognized as income over the periods necessary to match them with the related costs. If the grants do not relate to any specific expenditure incurred by the Group, they are reported separately as other income. If the grants subsidize an expense incurred by the Group, they are deducted in reporting the related expense. Grants relating to depreciable assets are presented as a deduction from the cost of the relevant asset.

*Annual leave, sick leave and long service leave*

Benefits accruing to employees in respect of wages and salaries, annual leave and sick leave are included in trade and other payables. Related on-costs are also included in trade and other payables as other creditors. Long service leave is provided for when it is probable that settlement will be required and it is capable of being measured reliably.

Employee benefits expected to be settled within 12 months are measured using the remuneration rate expected to apply at the time of settlement. Provisions made in respect of employee benefits which are not expected to be settled within 12 months are measured as the present value of the estimated future cash outflows to be made by the Group in respect of services provided by employees up to the reporting date.

*Retirement benefit costs*

Payments to defined contribution retirement benefit plans are charged as expenses when the employees render the services entitling them to the contributions.

*Financial instruments*

Financial assets and financial liabilities are recognized when the Group becomes a party to the contractual provisions of the instrument. Financial assets and financial liabilities are initially measured at fair value. Transaction costs that are directly attributable to the acquisition or issue of financial assets and financial liabilities (other than financial assets and financial liabilities at fair value through profit or loss) are added to or deducted from the fair value of the financial assets or financial liabilities, as appropriate, on initial recognition. Transaction costs directly attributable to the acquisition of financial assets or financial liabilities at fair value through profit or loss are recognized immediately in profit or loss.

*Financial assets*

The Group's financial assets are classified into loans and receivables and available-for-sale financial assets. All regular way purchases or sales of financial assets are recognized and derecognized on a trade date basis. Regular way purchases or sales are purchases or sales of financial assets that require delivery of assets within the time frame established by regulation or convention in the marketplace. The accounting policies adopted in respect of financial assets are set out below.



**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**4. SIGNIFICANT ACCOUNTING POLICIES—Continued**

*Financial instruments—Continued*

*Financial assets—Continued*

*Loan and receivables*

Loans and receivables are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market. Loans and receivables (including bank balances and cash, term deposits, restricted cash, bills and accounts receivable, other current assets and long-term receivables) are subsequently measured at amortized cost using the effective interest method, less any identified impairment loss.

*Available-for-sale financial assets*

Available-for-sale financial assets are non-derivatives that are either designated or not classified as financial assets at fair value through profit or loss, loans and receivables or held-to-maturity investments.

At each balance sheet date subsequent to initial recognition, available-for-sale financial assets are measured at fair value. Changes in fair value are recognized initially in other comprehensive income and accumulated in equity, until the financial asset is disposed of or is determined to be impaired, at which time, the cumulative gain or loss previously recognized in equity is removed from equity and recognized in profit or loss (see accounting policy on impairment loss on financial assets below).

Available-for-sale equity investments that do not have a quoted market price in an active market and whose fair value cannot be reliably measured are measured at cost less any identified impairment losses at each balance sheet date subsequent to initial recognition (see accounting policy on impairment loss on financial assets below).

*Impairment of financial assets*

Financial assets are assessed for indicators of impairment at each balance sheet date. Financial assets are impaired where there is objective evidence that, as a result of one or more events that occurred after the initial recognition of the financial asset, the estimated future cash flows of the financial assets have been impacted.

For an available-for sale equity investment, a significant or prolonged decline in the fair value of that investment below its cost is considered to be objective evidence of impairment.

For all other financial assets, objective evidence of impairment could include:

- significant financial difficulty of the issuer or counterparty; or
- default or delinquency in interest or principal payments; or
- it becoming probable that the borrower will enter bankruptcy or financial re-organization.

For certain categories of financial asset, such as trade and bills receivables, assets that are assessed not to be impaired individually are subsequently assessed for impairment on a collective basis. Objective evidence of impairment for a portfolio of receivables could include the Group's past experience of collecting payments and changes in national or local economic conditions that correlate with default on receivables.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**4. SIGNIFICANT ACCOUNTING POLICIES—Continued**

*Financial instruments—Continued*

*Financial assets—Continued*

*Impairment of financial assets—Continued*

For financial assets carried at amortized cost, an impairment loss is recognized in profit or loss when there is objective evidence that the asset is impaired, and is measured as the difference between the asset's carrying amount and the present value of the estimated future cash flows discounted at the original effective interest rate.

For available-for-sale equity investments carried at cost, the amount of the impairment loss is measured as the difference between the asset's carrying amount and the present value of the estimated future cash flows discounted at the current market rate of return for a similar financial asset. Such impairment loss will not be reversed in subsequent periods.

The carrying amount of the financial asset is reduced by the impairment loss directly for all financial assets with the exception of trade and bills receivables and other receivables, where the carrying amounts are reduced through the use of an allowance account. Changes in the carrying amount of the allowance account are recognized in profit or loss. When a trade and bills receivables and other receivables are considered uncollectible, it is written off against the allowance account. Subsequent recoveries of amounts previously written off are credited to profit or loss.

For financial assets measured at amortized cost, if, in a subsequent period, the amount of impairment loss decreases and the decrease can be related objectively to an event occurring after the impairment losses was recognized, the previously recognized impairment loss is reversed through profit or loss to the extent that the carrying amount of the asset at the date the impairment is reversed does not exceed what the amortized cost would have been had the impairment not been recognized.

Impairment losses on available-for-sale equity investments will not be reversed in profit or loss in subsequent periods. Any increase in fair value subsequent to impairment loss is recognized initially in other comprehensive income and accumulated in equity.

*Financial liabilities and equity*

Financial liabilities and equity instruments issued by the Group are classified according to the substance of the contractual arrangements entered into and the definitions of a financial liability and an equity instrument.

An equity instrument is any contract that evidences a residual interest in the assets of the Group after deducting all of its liabilities.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**4. SIGNIFICANT ACCOUNTING POLICIES—Continued**

*Financial instruments—Continued*

*Financial liabilities and equity—Continued*

*Financial liabilities*

The Group's financial liabilities including accounts payable and bills, other payables, amounts due to Parent Company and its subsidiary companies and bank borrowings are subsequently measured at amortized cost, using the effective interest method.

*Equity instruments*

Equity instruments issued by the Company are recorded at the proceeds received, net of direct issue costs.

*Derecognition*

Financial assets are derecognized when the rights to receive cash flows from the assets expire or, the financial assets are transferred and the Group has transferred substantially all the risks and rewards of ownership of the financial assets. On derecognition of a financial asset, the difference between the asset's carrying amount and the sum of the consideration received and receivable and the cumulative gain or loss that had been recognized directly in equity is recognized in profit or loss.

Financial liabilities are derecognized when the obligation specified in the relevant contract is discharged, cancelled or expired. The difference between the carrying amount of the financial liability derecognized and the consideration paid and payable is recognized in profit or loss.

*Accounting for derivative financial instruments and hedging activities*

Derivatives are initially recognized at fair value at the date a derivative contract is entered into and are subsequently re-measured at their fair value. The method of recognizing the resulting gain or loss depends on whether the derivative is designated as a hedging instrument, and if so, the nature of the item being hedged. The Group designates certain derivatives as either: (i) hedges of the fair value of recognized assets or liabilities (fair value hedge); and (ii) hedges of highly probable forecast transactions (cash flow hedge).

The Group documents at the inception of the transaction the relationship between hedging instruments and hedged items, as well as its risk management objectives and strategy for undertaking various hedging transactions. The Group also documents its assessment, both at the inception of the hedge and on an ongoing basis, of whether the derivatives that are used in hedging transactions are highly effective in offsetting changes in fair values or cash flows of the hedged items.

The fair values of various derivative instruments used for hedging purposes are disclosed in note 37. The full fair value of a hedging derivative is classified as a non-current asset or liability when the remaining maturity of the hedged item is more than 12 months and as a current asset or liability when the remaining maturity of the hedged item is less than 12 months.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**4. SIGNIFICANT ACCOUNTING POLICIES—Continued**

*Financial instruments—Continued*

*Accounting for derivative financial instruments and hedging activities—Continued*

*(i) Cash flow hedge*

The effective portion of changes in the fair value of derivatives that are designated and qualify as cash flow hedges are recognized initially in other comprehensive income and accumulated in equity. The gain or loss relating to the ineffective portion is recognized immediately in the consolidated income statement. Amounts accumulated in equity are recognized in the consolidated income statement as the underlying hedged items are recognized.

Amounts previously recognised in other comprehensive income and accumulated in equity are reclassified to profit or loss in the periods when the hedged item is recognised in profit or loss.

When a hedging instrument expires or is sold, or when a hedge no longer meets the criteria for hedge accounting, any cumulative gain or loss existing in equity at that time remains in equity and is recognized when the forecast transaction is ultimately recognized in the consolidated income statement. When a forecast transaction is no longer expected to occur, the cumulative gain or loss that was reported in equity is immediately transferred to the consolidated income statement.

*(ii) Derivatives that do not qualify for hedge accounting and those not designated as hedging instruments*

Changes in the fair value of any derivative instruments that do not qualify for hedge accounting and those not designated as hedges are recognized immediately in the consolidated income statement.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**4. SIGNIFICANT ACCOUNTING POLICIES—Continued**

*Related Parties*

(a) A person, or a close member of that person's family, is related to the group if that person:

- (1) has control or joint control over the group;
- (2) has significant influence over the group; or
- (3) is a member of the key management personnel of the group or the group's parent.

Close members of the family of a person are those family members who may be expected to influence, or be influenced by, that person in their dealings with the entity.

(b) An entity is related to the group if any of the following conditions applies:

- (1) The entity and the group are members of the same group (which means that each parent, subsidiary and fellow subsidiary is related to the others);
- (2) One entity is an associate or joint venture of the other entity (or an associate or joint venture of a member of a group of which the other entity is a member);
- (3) Both entities are joint ventures of the same third party;
- (4) One entity is a joint venture of a third entity and the other entity is an associate of the third entity;
- (5) The entity is a post-employment benefit plan for the benefit of employees of either the group or an entity related to the group;
- (6) The entity is controlled or jointly controlled by a person identified in (a); or
- (7) A person identified in (a)(1) has significant influence over the entity or is a member of the key management personnel of the entity (or of a parent of the entity).

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**5. ACCOUNTING JUDGEMENTS AND KEY SOURCES OF ESTIMATION UNCERTAINTY**

In the application of the Group's accounting policies, which are described in note 4, management is required to make judgements, estimates and assumptions about the carrying amounts of assets and liabilities that are not readily apparent from other sources. The estimates and associated assumptions are based on historical experience and other factors that are considered to be relevant. Actual results may differ from these estimates.

The estimates and underlying assumptions are reviewed on an ongoing basis. Revisions to accounting estimates are recognized in the period in which the estimate is revised if the revision affects only that period, or in the period of the revision and future periods if the revision affects both current and future periods.

***Depreciation of property, plant and equipment***

The cost of mining structures is depreciated using the unit of production method based on the estimated production volume for which the structure was designed. The management exercises their judgment in estimating the useful lives of the depreciable assets and the production volume of the mine. The estimated coal production volumes are updated at regular intervals and have taken into account recent production and technical information about each mine. These changes are considered a change in estimate for accounting purposes and are reflected on a prospective basis in related depreciation rates. Estimates of the production volume are inherently imprecise and represent only approximate amounts because of the subjective judgements involved in developing such information.

***Amortization of assets***

Coal reserves, coal resources and rail access rights are amortized on a straight line basis or unit of production basis over the shorter of their useful lives and the contractual period. The expensing of overburden removal costs is based on saleable coal production over estimated economically recoverable reserves. The useful lives are estimated on the basis of the total proven and probable reserves of the coal mine. Proven and probable coal reserve estimates are updated at regular intervals and have taken into account recent production and technical information about each mine.

***Provision for land subsidence, restoration, rehabilitation and environmental costs***

The provision is reviewed regularly to verify that it properly reflects the remaining obligation arising from the current and past mining activities. Provision for land subsidence, restoration, rehabilitation and environmental costs are determined by the management based on their best estimates of the current and future costs, latest government policies and past experiences.

***Impairment of goodwill***

Determining whether goodwill is impaired requires an estimation of the value in use of the cash-generating units to which goodwill has been allocated. The value in use calculation requires the Group to estimate the future cash flows expected to arise from the cash-generating unit and a suitable discount rate in order to calculate the present value. As at December 31, 2011, the carrying amount of goodwill is RMB1, 866,037,000 (2010: RMB1,196,586,000).

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**5. ACCOUNTING JUDGEMENTS AND KEY SOURCES OF ESTIMATION UNCERTAINTY—Continued**

*Impairment of goodwill—Continued*

Cash flow projections during the budget period for each of the above units are based on the budgeted revenue and expected gross margins during the budget period and the raw materials price inflation during the budget period. Expected cash inflows/outflows have been determined based on past performance and management's expectations for the market development.

*Estimated impairment of property, plant and equipment*

When there is an impairment indicator, the Group takes into consideration the estimation of future cash flows. The amount of the impairment loss is measured as the difference between the asset's carrying amount and the present value of estimated future cash flows. Where the actual future cash flows are less than expected, a material impairment loss may arise. In estimating the future cash flows, the management have taken into account the recent production and technical advancement. As prices and cost levels change from year to year, the estimate of the future cash flow also changes. Notwithstanding the management has used all the available information to make their impairment assessment, inherent uncertainty exists on conditions of the mine and of the environment and actual written off may be higher than the amount estimated. As at December 31, 2011, the carrying amounts of property, plant and equipment is approximately RMB31,273,824,000 (2010: RMB19,874,615,000). During the year ended December 31, 2011, no property, plant and equipment was written off as expenses (2010: RMB1,491,000; 2009: RMB14,199,000). In addition, during the year ended December 31, 2011, impairment loss on property, plant and equipment of RMB281,994,000 was recognized (2010: RMB97,559,000; 2009: Nil) by the Group and details of this impairment are set out in note 24.

In the process of applying the Group's accounting policies, management has made the following accounting judgements:

*Acquisitions*

During the year, the Group acquired several subsidiaries or businesses as set out in notes 46, 48, 49 and 50. The Group determined whether the acquisitions are to be accounted for as acquisition of businesses or as acquisition of assets by reference to a number of factors including (i) whether the acquiree has relevant input, process or output; (ii) whether the acquiree has planned principal activities or is pursuing a plan to produce output and will be able to obtain access to customers.

In addition, the management also made judgement to determine if the Group has taken control over the subsidiaries or assets acquired as from time to time, the registration of transfer of certain operating licences may not be changed immediately upon the payment of consideration.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**6. SEGMENT INFORMATION**

The Group is engaged primarily in the coal mining business. The Group is also engaged in the coal railway transportation business. The Company does not currently have direct export rights in the PRC and all of its export sales is made through China National Coal Industry Import and Export Corporation (“National Coal Corporation”), Minmetals Trading Co., Ltd. (“Minmetals Trading”) or Shanxi Coal Imp. & Exp. Group Corp. (“Shanxi Coal Corporation”). The final customer destination of the Company’s export sales is determined by the Company, National Coal Corporation, Minmetals Trading or Shanxi Coal Corporation. Certain of the Company’s subsidiaries and associates are engaged in trading and processing of mining machinery and the transportation business via rivers and lakes and financial services in the PRC. No separate segment information about these businesses is presented in these financial statements as the underlying gross sales, results and assets of these businesses, which are currently included in the coal mining business segment, are insignificant to the Group. Certain of the Company’s subsidiaries are engaged in production of methanol and other chemical products, and invest in heat and electricity.

Gross revenue disclosed below is same as the turnover.

For management purposes, the Group is currently organized into three operating divisions - coal mining, coal railway transportation and methanol, electricity and heat supply. These divisions are the basis on which the Group reports its segment information.



**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**6. SEGMENT INFORMATION—Continued**

Principal activities are as follows:

Mining	-	Underground and open-cut mining, preparation and sales of coal and potash mineral exploration
Coal railway transportation	-	Provision of railway transportation services
Methanol, electricity and heat supply	-	Production and sales of methanol and electricity and related heat supply services

The accounting policies of the reportable segments are the same as the Group's accounting policies described in note 4. Segment results represents the results of each segment without allocation of corporate expenses and directors' emoluments, results of associates, interest income, interest expenses and income tax expenses. This is the measure reported to the chief operating decision maker for the purposes of resources allocation and assessment of segment performance.

Segment information about these businesses is presented below:

***INCOME STATEMENT***

	For the year ended December 31, 2011					
	<u>Mining</u> RMB'000	<u>Coal railway transportation</u> RMB'000	<u>Methanol, electricity and heat supply</u> RMB'000	<u>Unallocated</u> RMB'000	<u>Eliminations</u> RMB'000	<u>Consolidated</u> RMB'000
<b>GROSS REVENUE</b>						
External	45,181,229	476,852	1,407,759	—	—	47,065,840
Inter-segment	<u>287,280</u>	<u>51,705</u>	<u>256,364</u>	<u>—</u>	<u>(595,349)</u>	<u>—</u>
Total	<u>45,468,509</u>	<u>528,557</u>	<u>1,664,123</u>	<u>—</u>	<u>(595,349)</u>	<u>47,065,840</u>

Inter-segment revenue is charged at prices pre-determined by the relevant governmental authority.

	For the year ended December 31, 2011				
	<u>Mining</u> RMB'000	<u>Coal railway transportation</u> RMB'000	<u>Methanol, electricity and heat supply</u> RMB'000	<u>Eliminations</u> RMB'000	<u>Consolidated</u> RMB'000
<b>RESULT</b>					
Segment results	<u>13,476,481</u>	<u>479</u>	<u>(365,011)</u>	<u>—</u>	<u>13,111,949</u>
Unallocated corporate expenses					(699,291)
Unallocated corporate income					520,986
Interest income					357,708
Share of profit of associates	43,124	—	25,815	—	68,939
Interest expenses					(839,305)
Profit before income taxes					12,520,986
Income taxes					(3,545,379)
Profit for the year					<u>8,975,607</u>

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**6. SEGMENT INFORMATION—Continued**

***BALANCE SHEET***

	At December 31, 2011			
	Mining RMB'000	Coal railway transportation RMB'000	Methanol, electricity and heat supply RMB'000	Consolidated RMB'000
<b>ASSETS</b>				
Segment assets	80,411,147	604,824	4,474,098	85,490,069
Interests in associates	170,226	—	1,513,671	1,683,897
Interests in jointly controlled entities	19,453	—	—	19,453
Unallocated corporate assets				9,958,172
				<u>97,151,591</u>
<b>LIABILITIES</b>				
Segment liabilities	23,026,520	72,476	2,857,624	25,956,620
Unallocated corporate liabilities				27,869,921
				<u>53,826,541</u>

***OTHER INFORMATION***

	For the year ended December 31, 2011					
	Mining RMB'000	Coal railway transportation RMB'000	Methanol, electricity and heat supply RMB'000	Unallocated RMB'000	Corporate RMB'000	Consolidated RMB'000
Capital additions (note 1)	22,736,499	40,890	555,250	—	3,790	23,336,429
Investments in associates	540,000	—	—	—	—	540,000
Amortization of intangible assets	719,756	252	—	—	—	720,008
Release of prepaid lease payments	10,432	5,372	3,214	—	—	19,018
Impairment loss on property, plant and equipment	—	—	281,994	—	—	281,994
Depreciation of property, plant and equipment	1,711,257	73,885	477,872	—	3,003	2,266,017
Impairment losses (reversed) charged on accounts receivable and other receivables	(789)	—	688	—	—	(101)

Note 1: Capital additions include those arising from the acquisition of additional interests in joint venture and subsidiaries during the year.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**6. SEGMENT INFORMATION—Continued**

***INCOME STATEMENT***

	For the year ended December 31, 2010					Consolidated RMB'000
	Mining	Coal railway transportation	Methanol, electricity and heat supply	Unallocated	Eliminations	
	RMB'000	RMB'000	RMB'000	RMB'000	RMB'000	
<b>GROSS REVENUE</b>						
External	32,590,911	513,282	840,059	—	—	33,944,252
Inter-segment	339,355	36,051	455,259	—	(830,665)	—
Total	<u>32,930,266</u>	<u>549,333</u>	<u>1,295,318</u>	<u>—</u>	<u>(830,665)</u>	<u>33,944,252</u>

Inter-segment revenue is charged at prices pre-determined by the relevant governmental authority.

	For the year ended December 31, 2010					Consolidated RMB'000
	Mining	Coal railway transportation	Methanol, electricity and heat supply	Eliminations		
	RMB'000	RMB'000	RMB'000	RMB'000	RMB'000	
<b>RESULT</b>						
Segment results	11,096,252	51,554	(459,610)	—		10,688,196
Unallocated corporate expenses						(473,502)
Unallocated corporate income						2,669,925
Interest income						187,189
Share of profit of an associate	2,102	—	6,768	—		8,870
Interest expenses						(603,343)
Profit before income taxes						12,477,335
Income taxes						(3,171,043)
Profit for the year						<u>9,306,292</u>

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**6. SEGMENT INFORMATION—Continued**

***BALANCE SHEET***

	At December 31, 2010			
	Mining RMB'000	Coal railway transportation RMB'000	Methanol, electricity and heat supply RMB'000	Consolidated RMB'000
<b>ASSETS</b>				
Segment assets	57,600,041	637,184	5,083,532	63,320,757
Interest in an associate	127,102	—	947,856	1,074,958
Interests in jointly controlled entities	751	—	—	751
Unallocated corporate assets				8,359,398
				<u>72,755,864</u>
<b>LIABILITIES</b>				
Segment liabilities	5,170,012	38,782	2,653,337	7,862,131
Unallocated corporate liabilities				27,455,282
				<u>35,317,413</u>

***OTHER INFORMATION***

	For the year ended December 31, 2010					
	Mining RMB'000	Coal railway transportation RMB'000	Methanol, electricity and heat supply RMB'000	Unallocated RMB'000	Corporate RMB'000	Consolidated RMB'000
Capital additions (note 1)	3,297,996	34,498	452,838	—	2	3,785,334
Investments in associates	125,000	—	—	—	—	125,000
Amortization of intangible assets	341,003	5,014	3,638	—	—	349,655
Release of prepaid lease payments	9,760	5,372	2,826	—	—	17,958
Provision for inventories	—	—	4,411	—	—	4,411
Impairment loss on property, plant and equipment	—	—	97,559	—	—	97,559
Depreciation of property, plant and equipment	1,796,579	77,399	442,427	—	3,042	2,319,447
Written off of property, plant and equipment	—	—	1,491	—	—	1,491
Impairment losses (reversed) charged on accounts receivable and other receivables	(6,828)	—	1,905	—	—	(4,923)
Gain on disposal of a joint venture and subsidiaries	117,928	—	—	—	—	117,928

Note 1: Capital additions include those arising from the acquisition of three subsidiaries during the year.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**6. SEGMENT INFORMATION—Continued**

***INCOME STATEMENT***

	For the year ended December 31, 2009					Consolidated RMB'000
	Mining RMB'000	Coal railway transportation RMB'000	Methanol, electricity and heat supply RMB'000	Unallocated RMB'000	Eliminations RMB'000	
<b>GROSS REVENUE</b>						
External	19,947,748	267,345	462,045	—	—	20,677,138
Inter-segment	169,153	61,507	474,946	—	(705,606)	—
Total	<u>20,116,901</u>	<u>328,852</u>	<u>936,991</u>	<u>—</u>	<u>(705,606)</u>	<u>20,677,138</u>

Inter-segment revenue is charged at prices pre-determined by the relevant governmental authority.

	For the year ended December 31, 2009					Consolidated RMB'000
	Mining RMB'000	Coal railway transportation RMB'000	Methanol, electricity and heat supply RMB'000	Eliminations RMB'000		
<b>RESULT</b>						
Segment results	6,353,496	(171,712)	(277,320)	—		5,904,464
Unallocated corporate expenses						(473,221)
Unallocated corporate income						2,288
Interest income						187,604
Share of loss of an associate	—	—	109,786	—		109,786
Interest expenses						(45,115)
Profit before income taxes						5,685,806
Income taxes						(1,553,312)
Profit for the year						<u>4,132,494</u>

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**6. SEGMENT INFORMATION—Continued**

***OTHER INFORMATION***

	For the year ended December 31, 2009					
	Mining	Coal railway transportation	Methanol, electricity and heat supply	Unallocated	Corporate	Consolidated
	RMB'000	RMB'000	RMB'000	RMB'000	RMB'000	RMB'000
Capital additions (note 1)	24,086,467	11,401	1,219,970	—	6,954	25,324,792
Investments in jointly controlled entities	1,257	—	—	—	—	1,257
Amortization of intangible assets	44,274	—	4	—	—	44,278
Release of prepaid lease payments	9,606	5,372	2,049	—	—	17,027
Depreciation of property, plant and equipment	1,409,507	86,251	295,321	—	2,199	1,793,278
Written off of property, plant and equipment	13,609	—	590	—	—	14,199
Impairment reversed on accounts receivable and other receivables	(14,222)	—	588	—	—	(13,634)

Note 1: Capital additions include the increase in goodwill during the year which represents RMB766,816,000 and RMB239,879,000 in respect of mining and methanol, electricity and heat supply segments respectively.

Note 2: Capital additions and investments in jointly controlled entities include those arising from the acquisition of subsidiaries.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**6. SEGMENT INFORMATION—Continued**

***GEOGRAPHICAL INFORMATION***

The following table sets out the geographical information. The geographical location of sales to external customers is based on the location at which the services were provided or the goods delivered. The geographical location of the specified non-current assets is based on the physical location of the asset, in the case of property, plant and equipment, the location of the operation to which they are allocated, in the case of intangible assets and goodwill, and the location of operations, in the case of interests in associates and jointly controlled entities.

The geographical information of sales are as follows:

	<b>Revenue from external customers</b>		
	<b>For the year ended December 31,</b>		
	<b>2011</b>	<b>2010</b>	<b>2009</b>
	<b>RMB'000</b>	<b>RMB'000</b>	<b>RMB'000</b>
The PRC (place of domicile)	38,301,175	28,633,685	19,633,977
Australia	255,206	115,227	45,121
Others	8,509,459	5,195,340	998,040
<b>Total</b>	<b>47,065,840</b>	<b>33,944,252</b>	<b>20,677,138</b>

The geographical information of specified non-current assets are as follows:

	<b>Specified non-current assets</b>	
	<b>At December 31,</b>	
	<b>2011</b>	<b>2010</b>
	<b>RMB'000</b>	<b>RMB'000</b>
The PRC (place of domicile)	31,130,104	17,412,174
Australia	28,986,924	25,095,982
Canada	1,645,227	—
<b>Total non-current assets</b>	<b>61,762,255</b>	<b>42,508,156</b>

For the year ended December 31, 2011, the revenue from mining segment amounted to RMB45,181,229,000 (2010: RMB32,590,911,000; 2009: RMB19,947,748,000) which including sales to the Group's largest customer located in the PRC of approximately RMB3,854,540,000 (2010: RMB4,443,729,000; 2009: RMB3,122,684,000). As at December 31, 2011, accounts receivable from this customer accounted for approximately 0% (2010: 0%) of the Group's total accounts receivable. Other than this customer, there is no other customer whose sales accounted for 10% or more of the Group's total revenue.

**7. NET SALES OF COAL**

	<b>Year ended December 31,</b>		
	<b>2011</b>	<b>2010</b>	<b>2009</b>
	<b>RMB'000</b>	<b>RMB'000</b>	<b>RMB'000</b>
Coal sold in the PRC, gross	36,416,565	27,280,344	18,903,375
Less: Transportation costs	311,708	316,452	305,110
<b>Coal sold in the PRC, net</b>	<b>36,104,857</b>	<b>26,963,892</b>	<b>18,598,265</b>
Coal sold outside the PRC, gross	8,764,664	5,310,567	1,044,373
Less: Transportation costs	936,560	844,018	98,201
<b>Coal sold outside the PRC, net</b>	<b>7,828,104</b>	<b>4,466,549</b>	<b>946,172</b>
<b>Net sales of coal</b>	<b>43,932,961</b>	<b>31,430,441</b>	<b>19,544,437</b>

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**7. NET SALES OF COAL—Continued**

Net sales of coal represent the invoiced value of coal sold and are net of returns, discounts and transportation costs if the invoiced value includes transportation costs to the customers.

**8. COST OF SALES AND SERVICE PROVIDED**

	Year ended December 31,		
	2011	2010	2009
	RMB'000	RMB'000	RMB'000
Materials	2,541,192	2,017,681	1,482,653
Wages and employee benefits	5,846,108	4,695,000	3,281,578
Electricity	520,890	223,639	500,518
Depreciation	1,398,711	1,462,706	1,286,265
Land subsidence, restoration, rehabilitation and environmental costs	1,720,740	1,545,302	1,738,103
Annual fee and amortization of mining rights (note 23)	848,615	481,711	181,344
Transportation costs	73,560	76,171	86,618
Cost of traded coal	9,548,869	3,955,603	1,077,538
Business tax and surcharges	579,782	505,491	419,459
Others	2,646,827	1,838,019	535,915
	<u>25,725,294</u>	<u>16,801,323</u>	<u>10,589,991</u>

**9. SELLING, GENERAL AND ADMINISTRATIVE EXPENSES**

	Year ended December 31,		
	2011	2010	2009
	RMB'000	RMB'000	RMB'000
Wages and employee benefits	1,703,713	1,347,221	1,402,920
Additional medical insurance	78,285	67,420	20,919
Staff training costs	53,682	65,097	35,398
Depreciation	230,542	298,895	168,334
Distribution charges	1,078,107	835,900	148,580
Resource compensation fees (note)	263,238	226,578	177,842
Repairs and maintenance	609,211	614,173	474,233
Research and development	119,234	70,606	46,321
Freight charges	29,246	24,540	28,556
Property, plant and equipment written off	—	1,491	14,199
Impairment loss on property, plant and equipment	281,994	97,559	—
Loss on disposal of property, plant and equipment	108,627	16,937	11,252
Legal and professional fees	94,148	71,152	88,320
Social welfare and insurance	173,349	135,341	101,693
Utilities relating to administrative buildings	175,209	368,063	239,439
Environmental protection	83,690	110,254	82,426
Travelling, entertainment and promotion	188,087	98,709	79,734
Coal price adjustment fund	367,038	289,652	266,876
Bonus payments	6,409	—	67,842
Other sundry taxes	253,583	102,810	74,781
Others	672,811	251,506	290,576
	<u>6,570,203</u>	<u>5,093,904</u>	<u>3,820,241</u>

Note: In accordance with the relevant regulations, the Group pays resource compensation fees (effectively a government levy) to the Ministry of Geology and Mineral Resources at the rate of 1% on the sales value of raw coal.



**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**10. OTHER INCOME**

	Year ended December 31,		
	2011	2010	2009
	RMB'000	RMB'000	RMB'000
Dividend income	2,433	4,504	2,288
Gain on sales of auxiliary materials	20,751	22,820	25,769
Government grants	29,431	43,273	29,839
Interest income from bank deposits	357,708	187,189	187,604
Exchange gain, net	518,553	2,665,421	46,151
Gain on disposal of a joint venture and subsidiaries	—	117,928	—
Others	146,889	66,946	19,368
	<u>1,075,765</u>	<u>3,108,081</u>	<u>311,019</u>

The above dividend income is from listed investments.

**11. INTEREST EXPENSE**

	Year ended December 31,		
	2011	2010	2009
	RMB'000	RMB'000	RMB'000
Interest expenses on:			
- bank borrowings wholly repayable within 5 years	804,700	594,679	18,838
- bank borrowings not wholly repayable within 5 years	9,675	5,369	11,396
- bills receivable discounted without recourse	24,930	2,695	13,665
Deemed interest expenses in respect of acquisition of Jining III	—	600	1,216
	<u>839,305</u>	<u>603,343</u>	<u>45,115</u>

**12. INCOME TAXES**

	Year ended December 31,		
	2011	2010	2009
	RMB'000	RMB'000	RMB'000
Income taxes:			
Current taxes	3,176,627	2,467,741	1,771,674
Under provision in prior years	20,174	10,085	42,221
	<u>3,196,801</u>	<u>2,477,826</u>	<u>1,813,895</u>
Deferred tax charge (note 39)	348,578	693,217	(260,583)
	<u>3,545,379</u>	<u>3,171,043</u>	<u>1,553,312</u>

The Company and its subsidiaries in the PRC are subject to a standard income tax rate of 25% on its taxable income (2010: 25%; 2009: 25%).

Taxation arising in other jurisdictions is calculated at the rates prevailing in the relevant jurisdictions.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**12. INCOME TAXES—Continued**

The total charge for the year can be reconciled to the profit per the consolidated income statement as follows:

	Year ended December 31,		
	2011 RMB'000	2010 RMB'000	2009 RMB'000
Standard income tax rate in the PRC	25%	25%	25%
Standard income tax rate applied to income before income taxes	3,130,247	3,119,333	1,421,452
Reconciling items:			
Tax effect of future development fund deductible for tax purposes	—	(18,601)	(20,436)
Deemed interest not deductible for tax purposes	—	150	304
Effect of income exempt from taxation	33,520	(242,252)	(64,170)
Deemed interest income from subsidiaries subject to tax	63,058	18,571	31,134
Tax effect of tax losses not recognized	217,791	150,590	135,268
Under provision in prior years	20,174	10,085	42,221
Utilization of unrecognized tax losses in prior years	(83,336)	—	—
Effect of tax rate differences in other taxation jurisdictions	164,297	135,942	1,504
Others	(372)	(2,775)	6,035
Income taxes	<u>3,545,379</u>	<u>3,171,043</u>	<u>1,553,312</u>
Effective income tax rate	<u>28%</u>	<u>25%</u>	<u>27%</u>

**13. PROFIT FOR THE YEAR**

	Year ended December 31,		
	2011 RMB'000	2010 RMB'000	2009 RMB'000
Profit for the year has been arrived at after charging:			
Amortization of intangible assets	720,008	349,655	44,278
Depreciation of property, plant and equipment	2,266,017	2,319,447	1,793,278
Total depreciation and amortization	<u>2,986,025</u>	<u>2,669,102</u>	<u>1,837,556</u>
Release of prepaid lease payments	19,018	17,958	17,027
Loss on disposal of property, plant and equipment	108,627	16,937	11,252
Auditors' remuneration	18,112	16,763	12,401
Staff costs, including directors' and supervisors' emoluments	8,222,047	5,988,821	4,897,951
Retirement benefit scheme contributions (included in staff costs above)	1,699,443	785,051	1,092,817
Cost of inventories	12,723,350	16,167,748	9,219,686
Including: provision for inventories and crediting:	—	4,411	—
Exchange gains, net	(518,553)	(2,665,421)	(46,151)
Reversal of impairment loss on accounts receivable and other receivables	<u>(101)</u>	<u>(4,923)</u>	<u>(13,634)</u>

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**14. DIRECTORS' AND SUPERVISORS' REMUNERATION AND FIVE HIGHEST PAID INDIVIDUALS**

*(a) Directors' and supervisors' emoluments*

Details of the directors' and supervisors' emoluments are as follows:

	For the year ended December 31, 2011			Total RMB'000
	Fees RMB'000	Salaries, allowance and other benefits in kind RMB'000	Retirement benefit scheme contributions RMB'000	
<u>Independent non-executive directors</u>				
Pu Hongjiu	49	—	—	49
Di Xigui	49	—	—	49
Li Weian	49	—	—	49
Wang Junyan	49	—	—	49
Wang Xiaojun	72	—	—	72
Wang Xianzheng	72	—	—	72
Cheng Faguang	72	—	—	72
Xue Youzhi	72	—	—	72
	<u>484</u>	<u>—</u>	<u>—</u>	<u>484</u>
<u>Executive directors</u>				
Wang Xin	—	—	—	—
Zhang Yingmin	—	169	34	203
Li Weimin	—	—	—	—
Shi Xuerang	—	—	—	—
Chen Changchun	—	—	—	—
Wu Yuxiang	—	381	76	457
Wang Xinkun	—	329	66	395
Zhang Baocai	—	390	78	468
Dong Yunqing	—	396	79	475
	<u>—</u>	<u>1,665</u>	<u>333</u>	<u>1,998</u>
<u>Supervisors</u>				
Song Guo	—	—	—	—
Zhang Shengdong	—	—	—	—
Zhou Shoucheng	—	—	—	—
Zhen Ailan	—	—	—	—
Wei Huanmin	—	390	78	468
Xu Bentai	—	430	86	516
	<u>—</u>	<u>820</u>	<u>164</u>	<u>984</u>
<u>Other management team</u>				
Jin Tai	—	169	34	203
Liu Chun	—	13	3	16
He Ye	—	169	34	203
Tian Fengze	—	428	86	514
Shi Chengzhong	—	462	92	554
Ni Xinghua	—	438	88	526
Lai Cunliang	—	700	—	700
	<u>—</u>	<u>2,379</u>	<u>337</u>	<u>2,716</u>

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**14. DIRECTORS' AND SUPERVISORS' REMUNERATION AND FIVE HIGHEST PAID INDIVIDUALS—Continued**

*(a) Directors' and supervisors' emoluments—Continued*

Details of the directors' and supervisors' emoluments are as follows:

	For the year ended December 31, 2010			Total RMB'000
	Fees RMB'000	Salaries, allowance and other benefits in kind RMB'000	Retirement benefit scheme contributions RMB'000	
<u>Independent non-executive directors</u>				
Pu Hongjiu	113	—	—	113
Zhai Xigui	113	—	—	113
Li Weian	113	—	—	113
Wang Junyan	113	—	—	113
	<u>452</u>	<u>—</u>	<u>—</u>	<u>452</u>
<u>Executive directors</u>				
Wang Xin	—	—	—	—
Geng Jiahuai	—	—	—	—
Li Weimin	—	188	38	226
Shi Xuerang	—	—	—	—
Chen Changchun	—	—	—	—
Wu Yuxiang	—	269	54	323
Wang Xinkun	—	343	69	412
Zhang Baocai	—	312	62	374
Dong Yunqing	—	309	62	371
	<u>—</u>	<u>1,421</u>	<u>285</u>	<u>1,706</u>
<u>Supervisors</u>				
Song Guo	—	—	—	—
Zhang Shengdong	—	—	—	—
Zhou Shoucheng	—	—	—	—
Zhen Ailan	—	—	—	—
Wei Huanmin	—	305	61	366
Xu Bentai	—	346	69	415
	<u>—</u>	<u>651</u>	<u>130</u>	<u>781</u>
<u>Other management team</u>				
Jin Tai	—	189	38	227
Zhang Yingmin	—	189	38	227
He Ye	—	188	38	226
Tian Fengze	—	291	58	349
Shi Chenzhong	—	342	68	410
Qu Tianzhi	—	285	57	342
Ni Xinghua	—	328	66	394
Lai Cunliang	—	664	—	664
	<u>—</u>	<u>2,476</u>	<u>363</u>	<u>2,839</u>

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**14. DIRECTORS' AND SUPERVISORS' REMUNERATION AND FIVE HIGHEST PAID INDIVIDUALS—Continued**

*(a) Directors' and supervisors' emoluments—Continued*

Details of the directors' and supervisors' emoluments are as follows:

	For the year ended December 31, 2009			
	Fees RMB'000	Salaries, allowance and other benefits in kind RMB'000	Retirement benefit scheme contributions RMB'000	Total RMB'000
<u>Independent non-executive directors</u>				
Pu Hongjiu	109	—	—	109
Zhai Xigui	109	—	—	109
Li Weian	109	—	—	109
Wang Junyan	109	—	—	109
	<u>436</u>	<u>—</u>	<u>—</u>	<u>436</u>
<u>Executive directors</u>				
Wang Xin	—	—	—	—
Geng Jiahuai	—	—	—	—
Yang Deyu	—	148	29	177
Shi Xuerang	—	—	—	—
Chen Changchun	—	—	—	—
Wu Yuxiang	—	220	44	264
Wang Xinkun	—	250	50	300
Zhang Baocai	—	220	44	264
Dong Yunqing	—	220	44	264
	<u>—</u>	<u>1,058</u>	<u>211</u>	<u>1,269</u>
<u>Supervisors</u>				
Song Guo	—	—	—	—
Zhang Shengdong	—	—	—	—
Zhou Shoucheng	—	—	—	—
Zhen Ailan	—	—	—	—
Wei Huanmin	—	220	44	264
Xu Bentai	—	259	52	311
	<u>—</u>	<u>479</u>	<u>96</u>	<u>575</u>
<u>Other management team</u>				
Li Weimin	—	61	12	73
Jin Tai	—	61	13	74
Zhang Yingmin	—	61	12	73
He Ye	—	61	12	73
Tian Fengze	—	221	44	265
Shi Chenzhong	—	250	50	300
Qu Tianzhi	—	250	50	300
Ni Xinghua	—	250	50	300
Lai Cunliang	—	540	—	540
	<u>—</u>	<u>1,755</u>	<u>243</u>	<u>1,998</u>

No directors waived any emoluments in each of the year ended December 31, 2011, 2010 and 2009.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**14. DIRECTORS' AND SUPERVISORS' REMUNERATION AND FIVE HIGHEST PAID INDIVIDUALS—Continued**

*(b) Employees' emoluments*

The five highest paid individuals in the Group included no director for the year ended December 31, 2011 (2010: nil; 2009: nil). The emoluments of the five highest paid individuals (2010: five; 2009: five) were stated as follows:

	Year ended December 31,		
	2011	2010	2009
	RMB'000	RMB'000	RMB'000
Salaries, allowance and other benefits in kind	19,282	4,411	6,380
Retirement benefit scheme contributions	74	228	574
Discretionary bonuses	1,725	28	228
	<u>21,081</u>	<u>4,667</u>	<u>7,182</u>

Their emoluments were within the following bands:

	Year ended December 31,		
	2011	2010	2009
	No. of employees	No. of employees	No. of employees
Nil to HK\$1,000,000	—	3	—
HK\$1,000,001 to HK\$1,500,000	—	1	3
HK\$1,500,001 to HK\$2,000,000	—	1	1
HK\$2,000,001 to HK\$2,500,000	—	—	1
HK\$3,500,001 to HK\$4,000,000	1	—	—
HK\$4,000,001 to HK\$4,500,000	2	—	—
HK\$5,000,001 to HK\$5,500,000	1	—	—
HK\$8,000,001 to HK\$8,500,000	1	—	—
	<u>1</u>	<u>—</u>	<u>—</u>

**15. DIVIDEND RECOGNIZED AS DISTRIBUTION DURING THE YEAR**

	Year ended December 31,		
	2011	2010	2009
	RMB'000	RMB'000	RMB'000
2010 final dividend, RMB 0.590 per share (2010: 2009 final dividend RMB0.250; 2009: 2008 final dividend RMB0.400)	2,901,856	1,229,600	1,967,360

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**15. DIVIDENDS RECOGNIZED AS DISTRIBUTION DURING THE YEAR—Continued**

In the annual general meeting held on June 26, 2009, a final dividend in respect of the year ended December 31, 2008 was approved by the shareholders and paid to the shareholders of the Company.

In the annual general meeting held on June 25, 2010, a final dividend in respect of the year ended December 31, 2009 was approved by the shareholders and paid to the shareholders of the Company.

In the annual general meeting held on May 20, 2011, a final dividend in respect of the year ended December 31, 2010 was approved by the shareholders and paid to the shareholders of the Company.

The board of directors proposes to declare a final dividend of approximately RMB2,803,488,000 calculated based on a total number of 4,918,400,000 shares issued at RMB1 each, at RMB0.570 per share, in respect of the year ended December 31, 2011. The declaration and payment of the final dividend needs to be approved by the shareholders of the Company by way of an ordinary resolution in accordance with the requirements of the Company's Articles of Association. A shareholders' general meeting will be held for the purpose of considering and, if thought fit, approving this ordinary resolution.

**16. EARNINGS PER SHARE AND PER ADS**

The calculation of the earnings per share attributable to the equity holders of the Company for the years ended December 31, 2011, 2010 and 2009 is based on the profit attributable to the equity holders of the Company for the year of RMB8,928,102,000, RMB9,281,386,000 and RMB4,117,322,000 and on the 4,918,400,000 shares in issue, during each of the three years.

The earnings per ADS have been calculated based on the profit for the relevant periods and on one ADS, being equivalent to 10 H shares.

No diluted earnings per share has been presented as there are no dilutive potential shares in issue during the years ended December 31, 2011, 2010 and 2009.

**17. BANK BALANCES AND CASH/TERM DEPOSITS AND RESTRICTED CASH**

Bank balances carry interest at market rates which ranged from 0.50% to 4.25% (2010: from 0.36% to 4.75%) per annum.

At the balance sheet dates, the short-term restricted cash, which carry interest at market rates of 0.50%-3.59 % per annum (2010: 0.36%-4.53%), represents the bank deposits pledged to certain banks to secure banking facilities granted to the Group. The long-term amount represents the bank deposits placed as guarantee for the future payments of rehabilitation costs as required by the Australian government and as guarantee for borrowings. The long-term deposits carry interest rate of 5.20% (2010: 5.20%) per annum.

The term deposits carry fixed interest rate of 3.10% to 6.20% (2010: 2.25% to 4.80%) per annum.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**18. BILLS AND ACCOUNTS RECEIVABLE**

	At December 31,	
	2011	2010
	RMB'000	RMB'000
Accounts receivable		
- From third parties	636,788	439,646
- From a jointly controlled entity	181,164	53,450
Total accounts receivable	817,952	493,096
Less: Impairment loss	(4,143)	(5,406)
	813,809	487,690
Total bills receivable	6,498,265	9,529,570
Total bills and accounts receivable, net	<u>7,312,074</u>	<u>10,017,260</u>

Bills receivable represents unconditional orders in writing issued by or negotiated from customers of the Group for completed sale orders which entitle the Group to collect a sum of money from banks or other parties. The bills are non-interest bearing and have a maturity of six months.

According to the credit rating of different customers, the Group allows a range of credit periods to its trade customers not exceeding 180 days.

The following is an aged analysis of bills and accounts receivable based on the invoice dates at the balance sheet dates:

	At December 31,	
	2011	2010
	RMB'000	RMB'000
1 - 90 days	4,037,903	4,738,930
91 - 180 days	3,274,171	5,278,330
	<u>7,312,074</u>	<u>10,017,260</u>

Before accepting any new customer, the Group assesses the potential customer's credit quality and defines credit limits by customer. Limits attributed to customers are reviewed once a year.

There are no significant trade receivables which are past due but not yet impaired on both balance sheet dates. The Group does not hold any collateral over these balances. The average age of these receivables is 86 days (2010: 93 days). The management closely monitors the credit quality of accounts receivable and consider the balance that are neither past due nor impaired are of good credit quality.

The Group has provided fully for all receivables over 3 years because historical experience is such that receivables that are past due beyond 3 years are generally not recoverable. For receivable aged over 4 years and considered irrecoverable by the management will be written off.



**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**18. BILLS AND ACCOUNTS RECEIVABLE—Continued**

An analysis of the impairment loss on bills and accounts receivable is as follows:

	<u>2011</u>	<u>2010</u>
	<u>RMB'000</u>	<u>RMB'000</u>
Balance at January 1	5,406	4,542
Provided for the year	—	895
Reversal	(1,263)	(31)
Balance at December 31	<u>4,143</u>	<u>5,406</u>

Included in the allowance for doubtful debts is an allowance of RMB4.1 million (2010: RMB5.4 million) for individually impaired trade receivables, which are mainly due from corporate customers in the PRC and considered irrecoverable by the management after consideration on the credit quality of those individual customers, the ongoing relationship with the Group and the aging of these receivables. The impairment recognized represents the difference between the carrying amount of these trade receivables and the present value of the amounts. The Group does not hold any collateral over these balances.

**19. INVENTORIES**

	<u>At December 31,</u>	
	<u>2011</u>	<u>2010</u>
	<u>RMB'000</u>	<u>RMB'000</u>
<b>COST</b>		
Methanol	11,786	10,279
Auxiliary materials, spare parts and small tools	414,475	372,046
Coal products	964,986	1,263,791
	<u>1,391,247</u>	<u>1,646,116</u>

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**20. PREPAYMENTS AND OTHER RECEIVABLES**

	At December 31,	
	2011	2010
	RMB'000	RMB'000
Advances to suppliers	738,395	243,210
Due from a jointly controlled entity (note)	198,780	115,480
Deposit for environment protection	651,699	254,193
Prepaid relocation costs of inhabitants	1,714,506	1,709,872
Others	321,499	290,931
	<u>3,624,879</u>	<u>2,613,686</u>

Included in the above balances as of December 31, 2011 is an impairment loss of RMB17,229,000 (2010: RMB16,067,000). During the years ended December 31, 2011 and 2010, there were no impairment loss written off.

The Group has provided fully for all receivables over 3 years because historical experience is such that receivables that are past due beyond 3 years are generally not recoverable. Receivable will be written off, if aged over 4 years and considered irrecoverable by the management after considering the credit quality of the individual party and the nature of the amount overdue.

Note: The amount due from a jointly controlled entity is unsecured, interest-free and has no fixed repayment term.

**21. PREPAID LEASE PAYMENTS**

	At December 31,	
	2011	2010
	RMB'000	RMB'000
Current portion	18,975	18,280
Non-current portion	713,425	728,082
	<u>732,400</u>	<u>746,362</u>

The amounts represent prepaid lease payments for land use rights which are situated in the PRC and have a term of 45 to 50 years from the date of grant of land use rights certificates.

**22. PREPAYMENT FOR RESOURCES COMPENSATION FEES**

In accordance with the relevant regulations, the Shanxi Group is required to pay resources compensation fees to the Heshun Municipal Coal Industry Bureau at a rate of RMB2.70 per tonne of raw coal mined. During the year 2006, Shanxi Group was requested by the relevant government to prepay the fees based on production volume of 10 million tonnes. At the balance sheet date, the amount represented the prepayment for resources compensation fees not yet utilized. The current portion represents the amount to be utilized in the coming year which is estimated based on expected production volume.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**23. INTANGIBLE ASSETS**

	Coal reserves	Coal resources	Potash mineral exploration permit	Technology	Rail access rights	Water Licenses	Others	Total
	RMB'000	RMB'000	RMB'000	RMB'000	RMB'000	RMB'000	RMB'000	RMB'000
<b>COST</b>								
At January 1, 2010	14,942,216	3,859,559	—	153,235	41,523	7,356	4,045	19,007,934
Exchange re-alignment	1,224,643	354,020	—	14,613	2,135	699	713	1,596,823
Acquisition of Yize	—	—	—	—	—	124,565	7,420	131,985
Additions for the year	—	25,921	—	—	1,317	—	8,114	35,352
Transfer	206,922	(206,922)	—	—	—	—	—	—
Disposal of a joint venture and subsidiaries	(539,070)	(127,293)	—	—	(41,410)	—	(348)	(708,121)
At December 31, 2010 and at January 1, 2011	15,834,711	3,905,285	—	167,848	3,565	132,620	19,944	20,063,973
Exchange re-alignment	(705,304)	(189,370)	—	(7,615)	(80)	(366)	(636)	(903,371)
Acquisition of additional interests in a joint venture	887,022	97,111	—	—	—	—	77	984,210
Acquisition of Syntech	228,334	164,040	—	—	—	—	—	392,374
Acquisition of Premier Coal and Premier Char	276,890	234,296	—	—	—	—	—	511,186
Acquisition of An Yuan Coal Mine	1,258,433	—	—	—	—	—	—	1,258,433
Acquisition of Xintai	3,333,970	—	—	—	—	—	—	3,333,970
Acquisition of potash mineral exploration permits	—	—	1,645,227	—	—	—	—	1,645,227
Additions for the year	1,825	47,201	—	—	—	—	3,622	52,648
Disposals for the year	—	—	—	—	(3,485)	—	(177)	(3,662)
Transfer	17,335	(17,335)	—	—	—	—	—	—
At December 31, 2011	<u>21,133,216</u>	<u>4,241,228</u>	<u>1,645,227</u>	<u>160,233</u>	<u>—</u>	<u>132,254</u>	<u>22,830</u>	<u>27,334,988</u>
<b>AMORTIZATION</b>								
At January 1, 2010	141,256	—	—	—	—	—	4	141,260
Exchange re-alignment	8,601	—	—	—	11	—	100	8,712
Provided for the year	341,003	—	—	—	5,014	—	3,638	349,655
Disposal of a joint venture and subsidiaries	(63,976)	—	—	—	(4,773)	—	(69)	(68,818)
At December 31, 2010 and at January 1, 2011	426,884	—	—	—	252	—	3,673	430,809
Exchange re-alignment	(20,393)	—	—	—	(6)	—	(304)	(20,703)
Provided for the year	708,848	—	—	—	324	—	10,836	720,008
Eliminated on disposals	—	—	—	—	(570)	—	(175)	(745)
At December 31, 2011	<u>1,115,339</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>14,030</u>	<u>1,129,369</u>
<b>CARRYING VALUES</b>								
At December 31, 2011	<u>20,017,877</u>	<u>4,241,228</u>	<u>1,645,227</u>	<u>160,233</u>	<u>—</u>	<u>132,254</u>	<u>8,800</u>	<u>26,205,619</u>
At December 31, 2010	<u>15,407,827</u>	<u>3,905,285</u>	<u>—</u>	<u>167,848</u>	<u>3,313</u>	<u>132,620</u>	<u>16,271</u>	<u>19,633,164</u>

The Parent Company and the Company have entered into a mining rights agreement pursuant to which the Company has agreed to pay to the Parent Company, effective from September 25, 1997, an annual fee of RMB12,980,000 as compensation for the Parent Company's agreement to give up the mining rights associated with the Xinglongzhuang coal mine, Baodian coal mine, Nantun coal mine, Dongtan coal mine and Jining II. The annual fee is subject to change after a ten-year period. Up to the date of these financial statements, compensation fee of RMB5 per tonne of raw coal mined amounting to RMB139,767,000 (2010: RMB140,708,000) for the year has been preliminary agreed. The revised compensation fees are to be settled with governmental authority directly. The actual amount of compensation fee payable each year is still to be confirmed by the governmental authority.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**23. INTANGIBLE ASSETS—Continued**

The other mining rights (coal reserves) are amortized on the following basis:

	<u>Amortization method</u>
Jining III	Unit of production method
Zhaolou	Unit of production method
Tianchi	Unit of production method
An Yuan	Unit of production method
Wenyu	Unit of production method
Austar	Unit of production method
Ashton	Unit of production method
Moolarben	Unit of production method
Yarrabee	Unit of production method
Cameby Downs	Unit of production method
Premier	Unit of production method

Rail access rights are amortized on a straight line basis or unit of production basis over the life of the mine.

The exploration activities of the relevant locations have not yet been started and the permits were acquired in the second half of the year which the amortization charge is immaterial. Therefore, no amortization was provided for the potash mineral exploration permit.

Technology has not yet reached the stage of commercial application and therefore is not amortized.

Water licenses are amortized over the life of coal mine. The mining activities of the relevant locations have not yet been started and the connections to water sources have not been completed. Therefore, no amortization was provided.

Other intangible assets namely represent computer software which is amortized on a straight line basis of 2.5 to 5 years over the useful life.

Amortization expense of the mining rights for the year of RMB708,848,000 (2010: RMB341,003,000) has been included in cost of sales and service provided. Amortization expense of other intangible assets for the year of RMB11,160,000 (2010: RMB8,652,000) has been included in selling, general and administrative expenses.

At December 31, 2011, intangible assets with a carrying amount of approximately RMB2,095,988,000 (2010: RMB18,297,975,000) have been pledged to secure the borrowings of the Company's subsidiaries (note 36).

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**24. PROPERTY, PLANT AND EQUIPMENT**

	Freehold land in Australia RMB'000	Buildings RMB'000	Harbor works and crafts RMB'000	Railway structures RMB'000	Mining structures RMB'000	Plant, machinery and equipment RMB'000	Transportation equipment RMB'000	Construction in progress RMB'000	Total RMB'000
<b>COST</b>									
At January 1, 2010	290,512	3,777,044	253,678	1,346,588	5,179,785	17,429,186	373,445	1,173,033	29,823,271
Exchange re-alignment	26,598	10,471	—	—	67,144	357,436	25	77,736	539,410
Acquisition of Yize	—	4,670	—	—	—	8	73	—	4,751
Additions	41,764	77,300	—	—	281,451	94,707	2,337	3,059,827	3,557,386
Transfers	10	89,868	—	95,596	271,913	2,897,788	23,330	(3,378,505)	—
Written off	—	—	—	—	—	—	—	(1,491)	(1,491)
Disposals	—	(18,055)	—	(27,588)	—	(514,073)	(10,279)	—	(569,995)
Disposal of a joint venture and subsidiaries	(66,076)	—	—	—	(87,366)	(173,670)	—	—	(327,112)
At December 31, 2010 and January 1, 2011	292,808	3,941,298	253,678	1,414,596	5,712,927	20,091,382	388,931	930,600	33,026,220
Exchange re-alignment	(15,704)	(13,900)	—	—	(63,626)	(273,697)	—	(34,671)	(401,598)
Acquisition of additional interests in joint venture	—	6,188	—	—	86,838	262,050	—	57,044	412,120
Acquisition of Syntech	27,723	—	—	—	189,139	638,413	—	70,256	925,531
Acquisition of Premier Coal and Premier Char	51,459	211,047	—	—	260,069	1,121,542	—	104,497	1,748,614
Acquisition of An Yuan Coal Mine	—	47,524	—	—	112,016	16,429	98	—	176,067
Acquisition of Xintai	—	—	—	—	—	167,976	—	—	167,976
Additions	23,155	9,884	—	—	23,389	94,501	4,842	10,873,321	11,029,092
Transfers	3,330	94,505	—	158,156	263,351	1,595,832	58,712	(2,173,886)	—
Disposals	(1,413)	(7,983)	—	(23,789)	(204,616)	(1,283,471)	(26,522)	—	(1,547,794)
At December 31, 2011	381,358	4,288,563	253,678	1,548,963	6,379,487	22,430,957	426,061	9,827,161	45,536,228
<b>ACCUMULATED DEPRECIATION AND IMPAIRMENT</b>									
At January 1, 2010	—	1,530,513	77,467	418,831	1,886,164	6,787,291	245,871	—	10,946,137
Exchange re-alignment	—	890	—	—	7,470	56,790	20	—	65,170
Provided for the year	—	109,779	5,819	165,254	271,295	1,836,394	38,085	—	2,426,626
Impairment loss	—	15,356	—	4,127	—	78,076	—	—	97,559
Eliminated on disposals	—	(4,761)	—	(4,858)	—	(328,379)	(9,614)	—	(347,612)
Disposal of a joint venture and subsidiaries	—	—	—	—	(9,799)	(26,476)	—	—	(36,275)
At December 31, 2010 and January 1, 2011	—	1,651,777	83,286	583,354	2,155,130	8,403,696	274,362	—	13,151,605
Exchange re-alignment	—	(925)	—	—	(8,856)	(46,220)	—	—	(56,001)
Provided for the year	—	109,558	5,702	300,136	179,661	1,634,746	36,214	—	2,266,017
Impairment loss	—	49,826	—	20,271	—	211,682	215	—	281,994
Eliminated on disposals	—	(5,140)	—	(23,199)	(54,358)	(1,273,354)	(25,160)	—	(1,381,211)
At December 31, 2011	—	1,805,096	88,988	880,562	2,271,577	8,930,550	285,631	—	14,262,404
<b>CARRYING VALUES</b>									
At December 31, 2011	381,358	2,483,467	164,690	668,401	4,107,910	13,500,407	140,430	9,827,161	31,273,824
At December 31, 2010	292,808	2,289,521	170,392	831,242	3,557,797	11,687,686	114,569	930,600	19,874,615

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**24. PROPERTY, PLANT AND EQUIPMENT—Continued**

The following estimated useful lives are used for the depreciation of property, plant and equipment, other than construction in progress and freehold land:

Buildings	10 to 30 years
Harbor works and crafts	40 years
Railway structures	15 to 25 years
Plant, machinery and equipment	2.5 to 25 years
Transportation equipment	6 to 18 years

Transportation equipment includes vessels which are depreciated over the estimated useful lives of 18 years.

The mining structures include the main and auxiliary mine shafts and underground tunnels. Depreciation is provided to write off the cost of the mining structures using the units of production method based on the estimated production volume for which the structure was designed and the contractual period of the relevant mining rights.

During the year ended December 31, 2011, the directors conducted a review of the Group's mining assets and determined that no assets were impaired due to physical damage and technical obsolescence (2010: RMB1,491,000).

At December 31, 2011, property, plant and equipment with a carrying amount of approximately RMB3,325,937,000 (2010: RMB4,361,373,000) have been pledged to secure bank borrowings of the Group (note 36).

In addition, at December 31, 2011, no property, plant and equipment had been pledged to secure the finance leases of the Group (2010: RMB856,876,000).

As a result of shortage in raw materials supply of methanol operations, the raw material prices continue to rise. Therefore the Group assessed the recoverable amount of property, plant and equipment and the Group recognized impairment loss of RMB281,994,000 (2010: RMB97,559,000) (included in selling, general and administrative expenses) for the year ended December 31, 2011.

**25. OVERBURDEN IN ADVANCE**

	At December 31,	
	2011	2010
	RMB'000	RMB'000
Overburden in advance - cost	261,441	149,351

Overburden in advance comprises the accumulation of expenses incurred to enable access to the coal seams, and includes direct removal costs, machinery and plant running costs. The deferred costs are presented after the deduction of the portion that has been transferred to the income statement in the period.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**26. GOODWILL**

	<u>2011</u> RMB'000	<u>2010</u> RMB'000
<b>COST</b>		
At January 1	1,196,586	1,305,345
Acquisition of Syntech	25,642	—
Acquisition of Premier Coal and Premier Char	17,849	—
Acquisition of Xintai	653,837	—
Disposal of a joint venture and subsidiaries	—	(181,883)
Exchange re-alignment	(27,877)	73,124
At December 31	<u>1,866,037</u>	<u>1,196,586</u>

Goodwill acquired in a business combination is allocated, at acquisition, to the cash generating units that are expected to benefit from that business combination. The carrying amount of goodwill had been allocated as follows:

	<u>At December 31,</u>	
	<u>2011</u> RMB'000	<u>2010</u> RMB'000
<b>Mining</b>		
- Jining II	10,106	10,106
- Shandong Yanmei Shipping Co., Ltd	10,046	10,046
- Heze	35,645	35,645
- Shanxi Group	145,613	145,613
- Yancoal Resources	628,202	658,057
- Syntech	28,035	—
- Premier Coal and Premier Char	17,434	—
- Xintai	653,837	—
<b>Coal Railway Transportation</b>		
- Railway Assets	97,240	97,240
<b>Electricity and heat supply</b>		
- Hua Ju Energy	239,879	239,879
	<u>1,866,037</u>	<u>1,196,586</u>

The recoverable amounts of goodwill from each of the above cash generating units have been determined on the basis of value in use calculations. The recoverable amounts are based on certain similar key assumptions on discount rates, growth rates and expected changes in selling prices and direct cost. All value in use calculations use cash flow projections based on financial budgets approved by management covering a 5-year period, using a zero percent growth rate and with a discount rate of 8-10% (2010: 8-10%).

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**26. GOODWILL—Continued**

The cash flows beyond the 5-year period are extrapolated for 5 years using a zero percent growth rate. Cash flow projections during the budget period for each of the above units are based on the budgeted revenue and expected gross margins during the budget period and the same raw materials price inflation during the budget period. Expected cash inflows/outflows, which include budgeted sales, gross margin and raw material price inflation, have been determined based on past performance and management's expectations for the market development. Management believes that any reasonably possible change in any of these assumptions would not cause the carrying amount of each of the above units to exceed the recoverable amount of each of the above units. During the years ended December 31, 2011 and 2010, management of the Group determined that there are no impairments of any of its cash-generating units containing goodwill.

**27. INVESTMENTS IN SECURITIES**

The investments in securities represent available-for-sale equity investments:

	At December 31,	
	2011	2010
	RMB'000	RMB'000
Equity securities listed on the SSE		
- Stated at fair value	173,495	194,258
Unlisted equity securities	199,305	30,184
	372,800	224,442

The investments in equity securities listed on the SSE of the Company included Shenergy Company Limited and Jiangsu Lian Yun Gang Port Corporation Limited, stated at the fair value as at December 31, 2011 of RMB167,533,000 (2010: RMB185,661,000) and RMB5,962,000 (2010: RMB8,597,000) respectively.

The investments in equity securities listed on the SSE are carried at fair value determined according to the quoted market prices in an active market.

The unlisted equity securities are stated at cost less impairment at each balance sheet date because the range of reasonable fair value estimates is so significant that the directors of the Company are of the opinion that their fair value cannot be measured reliably.



**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**28. INTERESTS IN ASSOCIATES**

	<u>At December 31,</u>	
	<u>2011</u>	<u>2010</u>
	<u>RMB'000</u>	<u>RMB'000</u>
Cost of investments in associates	1,565,000	1,025,000
Share of post-acquisition profit and other comprehensive income	118,897	49,958
	<u>1,683,897</u>	<u>1,074,958</u>

Information on major associates is as follows:

<u>Name of associate</u>	<u>Place of establishment and operation</u>	<u>Class of shares held</u>	<u>Principal activity</u>	<u>At December 31,</u>	
				<u>2011</u>	<u>2010</u>
				<u>Interest held</u>	<u>Interest held</u>
Huadian Zouxian Power Generation Company Limited	PRC	Registered Capital	Electricity generation business	30%	30%
Yankuang Group Finance Company Limited	PRC	Registered Capital	Financial services	25%	25%
Shaanxi Future Energy Chemical Corp. Ltd	PRC	Registered Capital	Coal mining and liquefaction of coal	25%	—

Huadian Zouxian Power Generation Company Limited, Yankuang Group Finance Company Limited and Shaanxi Future Energy Chemical Corp. Ltd are held by the Company directly.

Summarized financial information in respect of the Group's associates is set out below:

	<u>At December 31,</u>	
	<u>2011</u>	<u>2010</u>
	<u>RMB'000</u>	<u>RMB'000</u>
Total assets	15,707,916	12,631,030
Total liabilities	(9,621,441)	(8,963,100)
Net assets	6,086,475	3,667,930
Group's share of net assets of associates	<u>1,683,897</u>	<u>1,074,958</u>

	<u>Year ended December 31,</u>	
	<u>2011</u>	<u>2010</u>
	<u>RMB'000</u>	<u>RMB'000</u>
Revenue	4,343,215	4,239,375
Profit for the year	258,546	30,968
Group's share of profit of associates	<u>68,939</u>	<u>8,870</u>
Group's share of other comprehensive income of associates	<u>—</u>	<u>1,107</u>

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**29. LONG TERM RECEIVABLES**

	At December 31,	
	2011	2010
	RMB'000	RMB'000
Receivables	300,383	—

The long term receivables represented (i) investment in preference shares of a company (AUD15,300,000) with cumulative dividends; (ii) investment in the long term bonds of a company (AUD31,500,000) with floating interest rate.

**30. DEPOSITS MADE ON INVESTMENTS**

	At December 31,	
	2011	2010
	RMB'000	RMB'000
Shaanxi coal mine operating company	117,926	117,926
Inner Mongolia Haosheng Coal Mining Limited	2,439,881	2,045,753
Yijinhuoluo Qi Nalin Tao Hai Town An Yuan Coal Mine	—	1,080,000
	2,557,807	3,243,679

During 2006, the Company entered into a co-operative agreement with two independent third parties to establish a company for acquiring a coal mine in Shaanxi province for operations. The Company will have to invest approximately RMB196.8 million in order to obtain 41% equity interest. As at December 31, 2011, the Company made a deposit of RMB118 million (2010: RMB118 million) in relation to this acquisition. As at December 31, 2011, the relevant procedures to establish the new company are still in progress, and the establishment has not yet been completed.

During 2010, the Company entered into a co-operative agreement with three independent companies to acquire 51% equity interest of Inner Mongolia Hao Sheng Coal Mining Limited ('Hao Sheng') at a consideration of RMB6,649 million and to obtain the mining rights of the Shilawusu Coal Field ('the mining right') in name of Hao Sheng. During the year, the Company entered into a co-operative agreement with two independent companies to acquire additional 10% shareholding of Hao Sheng at a consideration of RMB1,313,760,000. As at December 31, 2011, the Company made a deposit of RMB2,440 million (2010: RMB 2,046 million) in relation to this acquisition. According to the agreement, if the mining right is not obtained within two years, the acquisition would be cancelled and any consideration paid would be refunded to the Group. As at December 31, 2011, the relevant procedures are still in progress and the mining right has not yet been obtained. As the conditions of the acquisition is to obtain the mining right in name of Hao Sheng, hence the acquisition has not been completed.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**31. INTERESTS IN JOINTLY CONTROLLED ENTITIES**

	At December 31,	
	2011	2010
	RMB'000	RMB'000
Share of net assets	19,453	751

Information on major jointly controlled entities is as follows:

Name of jointly controlled entity	Place of establishment and operation	Class of shares held	Principal activity	At December 31,			
				2011		2010	
				Voting power	Interest held	Voting power	Interest Held
Australian Coal Processing Holdings Pty Ltd (i)	Australia	Ordinary shares	Holding company	50%	90%	33.33%	60%
Ashton Coal Mines Limited (ii)	Australia	Ordinary shares	Real estate holder & sales company	50%	90%	33.33%	60%

- (i) During 2011, the Company, through a subsidiary company, acquired 30% equity interest held indirectly by a shareholder of Australian Coal Processing Holding Pty Ltd. The Company's control in the Australian Coal Processing Holding Pty Ltd increased from 60% to 90%. Under the shareholders agreement between the subsidiary and the remaining one shareholder, all major financial and operating policy decisions require a vote by directors who together represent shareholders holding 100% of the shares or a vote by shareholders who together hold 100% of the shares. Therefore decisions must be passed unanimously by directors or shareholders and the subsidiary's voting power is increased from 33.33% to 50%.
- (ii) During 2011, the Company, through a subsidiary company, acquired 30% equity interest held indirectly by a shareholder of Ashton Coal Mines Limited. The Company's control in the Ashton Coal Mines Limited increased from 60% to 90%. Under the shareholders agreement between the subsidiary and the remaining one shareholder, all major financial and operating policy decisions require a unanimous resolution of the shareholders. Therefore, decisions must be passed unanimously by shareholders and the subsidiary's voting power is increased from 33.33% to 50%.
- (iii) The above jointly controlled entities are indirectly held by the Company.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**31. INTERESTS IN JOINTLY CONTROLLED ENTITIES—Continued**

Summarized financial information in respect of the Group's jointly controlled entities is set out below:

	<u>At December 31,</u>	
	<u>2011</u>	<u>2010</u>
	<u>RMB'000</u>	<u>RMB'000</u>
Total assets	230,367	82,698
Total liabilities	(208,753)	(81,447)
Net assets	<u>21,614</u>	<u>1,251</u>
Group's share of net assets of jointly controlled entities	<u>19,453</u>	<u>751</u>
	 <u>Year ended December 31,</u>	
	<u>2011</u>	<u>2010</u>
	<u>RMB'000</u>	<u>RMB'000</u>
Revenue	1,795,960	2,029,948
Loss for the year	—	(770)
Group's share of net loss of jointly controlled entities	<u>—</u>	<u>(462)</u>

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**32. INTERESTS IN JOINT VENTURES**

Information on major joint ventures (other than jointly controlled entities) is as follows:

<u>Name of joint venture</u>	<u>Place of establishment and operation</u>	<u>Principal activity</u>	<u>At December 31,</u>	
			<u>2011</u>	<u>2010</u>
			<u>Interest held</u>	<u>Interest held</u>
Boonal joint venture	Australia	Provision of a coal haul road and train load out facilities	50%	50%
Athena joint venture	Australia	Coal exploration	51%	51%
Ashton joint venture	Australia	Development and operation of open-cut and underground coal mines	90%	60%
Moolarben joint venture	Australia	Development and operation of open-cut and underground coal mines	80%	80%

The above joint ventures are established and operated as unincorporated businesses and are held indirectly by the Company.

The Group's interest in the assets and liabilities of the joint ventures are set out below:

	<u>At December 31,</u>	
	<u>2011</u>	<u>2010</u>
	<u>RMB'000</u>	<u>RMB'000</u>
Current assets	859,702	588,626
Non-current assets	20,243,996	19,264,652
Current liabilities	(284,493)	(218,206)
Non-current liabilities	(79,765)	(57,218)
	<u>20,739,440</u>	<u>19,577,854</u>

The Group's share of revenue, expenses and profit before income tax of the joint ventures are set out below:

	<u>Year ended December 31,</u>	
	<u>2011</u>	<u>2010</u>
	<u>RMB'000</u>	<u>RMB'000</u>
Revenue	1,007,606	28,834
Expenses	(4,246,184)	(2,138,986)
Loss before income tax	<u>(3,238,578)</u>	<u>(2,110,152)</u>

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**33. BILLS AND ACCOUNTS PAYABLE**

	<b>At December 31,</b>	
	<b>2011</b>	<b>2010</b>
	<b>RMB'000</b>	<b>RMB'000</b>
Accounts payable		
- To third parties	2,003,462	1,420,042
- To a jointly controlled entity	181	7,943
	<u>2,003,643</u>	<u>1,427,985</u>
Bills payable	<u>237,201</u>	<u>126,459</u>
	<u><u>2,240,844</u></u>	<u><u>1,554,444</u></u>

The following is an aged analysis of bills and accounts payable based on the invoice dates at the balance sheet date:

	<b>At December 31,</b>	
	<b>2011</b>	<b>2010</b>
	<b>RMB'000</b>	<b>RMB'000</b>
1 - 90 days	1,790,743	1,321,149
91 - 180 days	257,392	78,647
181 - 365 days	60,865	23,607
Over 1 year	131,844	131,041
	<u><u>2,240,844</u></u>	<u><u>1,554,444</u></u>

The average credit period for accounts payable and bills payable is 90 days. The Group has financial risk management policies in place to ensure that all payables are within the credit timeframe.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**34. OTHER PAYABLES AND ACCRUED EXPENSES**

	At December 31,	
	2011	2010
	RMB'000	RMB'000
Customers' deposits	1,523,567	1,378,811
Accrued wages	1,047,144	823,655
Other taxes payable	431,728	280,028
Payables in respect of purchases of property, plant and equipment and construction materials	2,733,713	324,136
Accrued freight charges	3,871	5,466
Accrued repairs and maintenance	34,957	24,177
Accrued utility expenses	—	8,516
Staff welfare payable	94,121	96,501
Withholding tax payable	641	258
Deposits received from employees	12,847	9,946
Coal Price adjustment fund	47,072	36,031
Accrued land subsidence, restoration, rehabilitation and environmental costs	533	691
Payable on compensation fee of mining rights	552,686	412,919
Others	861,935	419,836
	<u>7,344,815</u>	<u>3,820,971</u>

**35. PROVISION FOR LAND SUBSIDENCE, RESTORATION, REHABILITATION AND ENVIRONMENTAL COSTS**

	2011	2010
	RMB'000	RMB'000
Balance at January 1	2,453,231	1,608,808
Disposal of a joint venture and subsidiaries	—	(6,878)
Exchange re-alignment	(11,267)	12,791
Acquisition of Syntech	14,259	—
Acquisition of Premier Coal and Premier Char	168,847	—
Additional provision in the year	1,513,084	1,532,200
Utilization of provision	(956,511)	(693,690)
Balance at December 31	<u>3,181,643</u>	<u>2,453,231</u>
Presented as:		
Current portion	2,856,229	2,300,637
Non-current portion	325,414	152,594
	<u>3,181,643</u>	<u>2,453,231</u>

The provision for land subsidence, restoration, rehabilitation and environmental costs has been determined by the directors based on their best estimates. However, in so far as the effect on the land and the environment from current mining activities becomes apparent in future periods, the estimate of the associated costs may be subject to change in the near term.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**36. BORROWINGS**

	At December 31,	
	2011	2010
	RMB'000	RMB'000
<b>Current liabilities</b>		
Bank borrowings		
- Unsecured borrowings (i)	13,193,083	156,278
- Secured borrowings (ii)	6,395,413	375,978
Finance leases (iii)	—	82,669
	<u>19,588,496</u>	<u>614,925</u>
<b>Non-current liabilities</b>		
Bank borrowings		
- Unsecured borrowings (i)	2,110,000	789,962
- Secured borrowings (ii)	12,759,324	20,871,536
Finance leases (iii)	—	739,335
	<u>14,869,324</u>	<u>22,400,833</u>
<b>Total borrowings</b>	<u><u>34,457,820</u></u>	<u><u>23,015,758</u></u>

(i) Unsecured borrowings are repayable as follows:

	At December 31,	
	2011	2010
	RMB'000	RMB'000
Within one year	13,193,083	156,278
More than one year, but not exceeding two years	22,000	679,962
More than two years, but not more than five years	2,066,000	66,000
More than five years	22,000	44,000
<b>Total</b>	<u><u>15,303,083</u></u>	<u><u>946,240</u></u>

The balance as of December 31, 2011 represented a borrowing obtained by Shanxi Tianchi before the Company acquired it, short term and long term borrowings obtained by the Company, and a short term borrowing obtained by Yancoal International during the year. The loan of Shanxi Tianchi amounting to RMB132,000,000 (2010: RMB154,000,000) carried interest at 5.94% (2010: 5.94%) per annum and is subject to adjustment based on the interest rate stipulated by the People's Bank of China ("PBOC"). The loan is repayable by 20 instalments over a period of 12 years, with the first instalment due in May 2008. The amount is guaranteed by the Parent Company.

The total unsecured short term borrowings of the Company amounting to RMB11,892,000,000 carried interest at 6.06%-6.56% per annum. The unsecured long term borrowing amounting to RMB2,000,000,000 carried interest at 6.90% per annum and is subject to adjustment based on the interest rate stipulated by the PBOC. The long term loan is guaranteed by the Parent Company.



**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**36. BORROWINGS—Continued**

(i) Unsecured borrowings are repayable as follows:—Continued

The total unsecured short term borrowing of Yancoal International amounting to RMB 1,279,083,000 (USD203,000,000) carried interest at LIBOR plus a margin of 2.6% per annum. The loan is repayable on the due day in full.

The total unsecured borrowings of Australian subsidiaries amounting to RMB792,240,000 (AUD118,000,000) as at December 31, 2010 have been repaid during the year.

(ii) Secured borrowings are repayable as follows:

	At December 31,	
	2011	2010
	RMB'000	RMB'000
Within one year	6,395,413	375,978
More than one year, but not exceeding two years	6,395,413	6,925,847
More than two years, but not more than five years	6,363,911	13,945,689
Total	<u>19,154,737</u>	<u>21,247,514</u>

Included in the balance as of December 31, 2011 are loans amounting to RMB19,154,737,000 (USD3,040,000,000) (2010: RMB20,133,007,000) obtained by the Group for the purpose of settling the consideration in respect of acquisition of Yancoal Resources. The borrowings of RMB18,272,611,000 (USD2,900,000,000) (2010: RMB19,205,829,000) and of RMB882,126,000 (USD140,000,000) (2010: RMB927,178,000) carried interest at three-month LIBOR plus a margin of 0.75% (approximately 1.31%) and at three-month LIBOR plus a margin of 0.8% (approximately 1.36%) respectively. The borrowings are guaranteed by the Company, counter-guaranteed by the Parent Company and secured by the Group's term deposit (note 17).

(iii) Finance leases are repayable as follows:

	At December 31,	
	2011	2010
	RMB'000	RMB'000
<b>Minimum lease payments</b>		
Within one year	—	152,740
More than one year, but not exceeding two years	—	150,125
More than two years, but not more than five years	—	747,900
	—	1,050,765
Less: Future finance charges	—	(228,761)
Present value of lease payments	—	<u>822,004</u>

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**36. BORROWINGS—Continued**

(iii) Finance leases are repayable as follows:—Continued

	<b>At December 31,</b>	
	<b>2011</b>	<b>2010</b>
	<b>RMB'000</b>	<b>RMB'000</b>
Present value of minimum finance lease payments		
Within one year	—	82,669
More than one year, but not exceeding two years	—	88,144
More than two years, but not more than five years	—	651,191
	—	822,004
Less: Amounts due within one year and included in current liabilities	—	(82,669)
Amounts due after one year and included in non-current liabilities	—	739,335

During the year, all the finance lease liabilities have been repaid.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**37. DERIVATIVE FINANCIAL INSTRUMENTS**

	At December 31,	
	2011	2010
	RMB'000	RMB'000
<b>Derivatives used for cash flow hedging:</b>		
Current assets		
- Forward foreign exchange contracts	104,910	239,476
Current liabilities		
- Forward foreign exchange contracts	42,471	12,269
- Interest rate swap contracts	179,618	153,909
	<u>222,089</u>	<u>166,178</u>

During the year ended December 31, 2011, the Group's subsidiaries in Australia entered into forward foreign exchange contracts to sell or purchase specified amounts of foreign currencies in the future at stipulated exchange rates. The objective of entering into the forward foreign exchange contracts is to reduce the foreign exchange rate related volatility of revenue stream and capital expenditure and thereby assist in risk management for the Group. The outstanding sell United States dollars contracts are hedging highly probable forecasted sales of coal. Cash flows and any impact to profit or loss arising from all the foreign exchange contracts are expected to occur within one year from the balance sheet date.

As at December 31, 2011, the outstanding notional amount to sell United States dollars (sell United States dollars and buy Australian dollars) was approximately RMB3,279 million (2010: RMB4,169 million) and RMB1,553 million, all maturing within one year (2010: within one year) with forward rates ranging from 0.9182 to 1.0642 (2010: ranging from 0.8369 and 0.9887 respectively) and floor price and ceiling price of 0.9230 and 1.080 (2010: nil).

As at 31 December 2011, the Company has not entered into any contracts to buy United States dollars (buy United States dollars and sell Australian dollars) and buy Yen (buy Yen and sell Australian dollars) (2010: the outstanding notional amount to buy United States dollars (buy United States dollars and sell Australian dollars) and buy Yen (buy Yen and sell Australian dollars) were RMB79 million and RMB9 million respectively; all maturing within one year with forward rate of approximately 0.8811 and floor price and ceiling price of 63.5 and 65 respectively).

As at 31 December 2011, the Group's Australian subsidiaries has not entered into contracts with banks to hedge a proportion of borrowings issued at variable interest rates through the use of floating-to-fixed interest rate swap contracts. (2010: outstanding notional amount RMB1,503 million; contract period of three years at a hedge period of 3 months with floating rate and fixed rate of approximately 5.09 % and 5.8312% respectively).

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**37. DERIVATIVE FINANCIAL INSTRUMENTS—Continued**

The Company also entered into contracts with three banks to hedge a proportion of borrowings issued at variable interest rates through the use of floating-to-fixed interest rate swap contracts. As at December 31, 2011, the outstanding notional amount was approximately RMB9,451 million (USD 1,500 million) (2010: RMB9,934 million), contract period of four years (2010: four years) at a hedge period of 3 months with floating rate as LIBOR + 0.75% (2010: LIBOR + 0.75%) and fixed rate of approximately 2.75%, 2.42% and 2.41% for the three contracts respectively (2010: approximately 2.75%, 2.42% and 2.41% respectively). The non-current portion of the derivatives is not material and is included in current portion. Cash flows and any impact to profit or loss arising from the above use of floating-to-fixed interest rate swap contracts are expected to occur within each hedge period of 3 months over the contract period.

For the year ended December 31, 2011, the ineffective hedging portion of the changes in fair values of the forward foreign exchange contracts of approximately RMB1.9 million was recognized as selling, general and administrative expenses in the consolidated income statement (2010: RMB10 million). The effective hedging portion was recognized as current portion of derivative financial instruments in the consolidated balance sheet.

The fair values of the forward foreign exchange contracts are estimated based on the discounted cash flows between the contract forward rate and spot forward rate. The fair values of the interest rate swap contracts are estimated based on the discounted cash flows between the contract floating rate and the contract fixed rate.

**38. LONG-TERM PAYABLE**

	At December 31,	
	2011	2010
	RMB'000	RMB'000
<b>Current liabilities</b>		
- Deferred income of sale and leaseback	—	3,179
- Deferred payment for acquisition of interests in Minerva (i)	3,205	3,357
	3,205	6,536
<b>Non-current liabilities</b>		
- Deferred income of sale and leaseback	—	7,946
- Deferred payment for acquisition of interests in Minerva (i)	8,159	12,991
- Others	6,869	7,980
	15,028	28,917
Total	18,233	35,453

- (i) The carrying value of the deferred payment for acquisition of interests in Minerva is based on cash flows discounted using a rate of 7.5%.
- (ii) Yancoal Resources incurred the deferred income of sale and leaseback and deferred payment for acquisition of interests in Minerva prior to its acquisition by the Group.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**39. DEFERRED TAXATION**

	Available-for-sale investment RMB'000	Accelerated tax depreciation RMB'000	Fair value adjustment on mining rights (coal reserves) RMB'000	Temporary differences on income and expenses recognized RMB'000	Tax losses RMB'000	Cash flow hedge reserve RMB'000	Total RMB'000
Balance at January 1, 2010	(50,623)	(301,226)	(633,033)	(331,950)	563,671	(4,267)	(757,428)
Exchange re-alignment	—	(3,897)	(40,040)	(30,255)	53,752	—	(20,440)
Disposal of a joint venture and subsidiaries	—	—	2,229	(5,653)	—	—	(3,424)
Credit (charge) to other comprehensive income	21,818	—	—	—	—	(24,350)	(2,532)
Credit (charge) to the consolidated income statement (note 12)	—	(230)	(32,738)	(406,304)	(253,945)	—	(693,217)
Balance at January 1, 2011	(28,805)	(305,353)	(703,582)	(774,162)	363,478	(28,617)	(1,477,041)
Exchange re-alignment	—	3,846	87,322	25,090	(8,008)	—	108,250
Acquisition of additional interests in joint venture	—	—	(49,246)	—	—	—	(49,246)
Acquisition of Syntech	—	—	(81,370)	55,728	—	—	(25,642)
Acquisition of Premier Coal and Premier Char	—	—	(69,154)	51,305	—	—	(17,849)
Acquisition of Xintai	—	—	(817,296)	—	—	—	(817,296)
Credit to other comprehensive income	5,190	—	—	—	—	62,073	67,263
Credit (charge) to the consolidated income statement (note 12)	—	70,100	(550,430)	487,222	(355,470)	—	(348,578)
Balance at December 31, 2011	<u>(23,615)</u>	<u>(231,407)</u>	<u>(2,183,756)</u>	<u>(154,817)</u>	<u>—</u>	<u>33,456</u>	<u>(2,560,139)</u>

The temporary differences on income and expenses recognized mainly arose in respect of unpaid provision of salaries and wages, provisions of compensation fees for mining rights and land subsidence, restoration, rehabilitation and environmental costs and also included payments on certain expenses such as exploration costs and certain income in Australia.

The following is the analysis of the deferred tax balances for financial reporting purposes:

	At December 31,	
	2011 RMB'000	2010 RMB'000
Deferred tax assets	1,335,165	1,124,166
Deferred tax liabilities	(3,895,304)	(2,601,207)
	<u>(2,560,139)</u>	<u>(1,477,041)</u>

At the balance sheet date, the Group has unused tax losses of RMB1,560 million (2010: RMB2,778 million) contributed by the subsidiaries available for offset against future profits. No deferred tax asset has been recognized (2010: RMB1,212 million) of such losses. No deferred tax asset has been recognized in respect of the RMB1,560 million (2010: RMB1,566 million) due to the unpredictability of future profit streams. Included in unrecognized tax losses are losses of RMB298 million that will expire in 2013 and losses of RMB357 million that will expire in 2014 (2010: losses of RMB106 million that will expire in 2012, losses of RMB298 million that will expire in 2013 and losses of RMB357 million that will expire in 2014). Other losses may be carried forward indefinitely.

By reference to financial budgets, management believes that there will be sufficient future profits for the realization of deferred tax assets which have been recognized in respect of tax losses.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**40. SHAREHOLDERS' EQUITY**

*Share capital*

The Company's share capital structure at the balance sheet date is as follows:

	<u>Domestic invested shares</u>		Foreign invested shares H shares (including H shares represented by ADS)	<u>Total</u>
	State legal person shares (held by the Parent Company)	<u>A shares</u>		
<b>Number of shares</b>				
At January 1, 2010, January 1, 2011 and December 31, 2011	<u>2,600,000,000</u>	<u>360,000,000</u>	<u>1,958,400,000</u>	<u>4,918,400,000</u>
	<u>Domestic invested shares</u>		Foreign invested shares H shares (including H shares represented by ADS)	<u>Total</u>
	State legal person shares (held by the Parent Company)	<u>A shares</u>		<u>RMB'000</u>
	RMB'000	RMB'000	RMB'000	RMB'000
<b>Registered, issued and fully paid</b>				
At January 1, 2010, January 1, 2011 and December 31, 2011	<u>2,600,000</u>	<u>360,000</u>	<u>1,958,400</u>	<u>4,918,400</u>

Each share has a par value of RMB1.

The Company has completed the implementation of the share reform plan on April 3, 2006 and the non-tradable legal person shares held by the Parent Company become tradable shares. The Parent Company guaranteed that it would not trade these shares in the market within 48 months from that day. As part of the share reform plan, the Parent Company agreed that the Group can participate in the investment and joint development in the oil production project of the Parent Company. During the year, the Parent Company has fulfilled all the requirements. Up to the issue of these financial statements, there is no application for the right of shares trading in the market by the Parent Company and hence the shares held by the Parent Company are still not yet tradable.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**40. SHAREHOLDERS' EQUITY—Continued**

*Reserves*

*Future Development Fund*

Pursuant to regulation in the PRC, the Company, Shanxi Tianchi and Heze are required to transfer an annual amount to a future development fund at RMB6 per tone of raw coal mined (Xintai and Ordos: RMB6.5 per tone of raw coal mined). The fund can only be used for the future development of the coal mining business and is not available for distribution to shareholders.

From 2008 onwards, Shanxi Tianchi is required to transfer an additional amount at RMB5 per tonne of raw coal mined as coal mine transformation fund.

Pursuant to the regulations of the Shandong Province Finance Bureau, State-owned Assets Supervision and Administration Commission of Shandong Province and the Shandong Province Coal Mining Industrial Bureau, the Company is required to transfer an additional amount at RMB5 per tonne of raw coal mined from July 1, 2004 to the reform specific development fund for the future improvement of the mining facilities and is not distributable to shareholders. No further transfer to the reform specific development fund is required from January 1, 2008.

In accordance with the regulations of the State Administration of Work Safety, the Company has a commitment to incur RMB8 (Shanxi Tianchi: increased from RMB15 to RMB50 from July 2011 onwards, Xintai and Ordos: RMB7) for each tonne of raw coal mined from May 1, 2004 which will be used for enhancement of safety production environment and improvement of facilities ("Work Safety Cost"). In prior years, the work safety expenditures are recognized only when acquiring the fixed assets or incurring other work safety expenditures. The Company, Heze, Shanxi Tianchi, Xintai and Ordos make appropriation to the future development fund in respect of unutilized Work Safety Cost from 2008 onwards.

In accordance with the regulations of the State Administration of Work Safety, the Company's subsidiaries, Hua Ju Energy, Shanxi Tianhao and Yulin, have a commitment to incur Work Safety Cost at the rate of: 4% of the sales income for the year below RMB10 million; 2% of the actual sales income for the year between RMB10 million and RMB100 million (included); 0.5% of the actual sales income for the year between RMB100 million and RMB1 billion (included); 0.2% of the actual sales income for the year above RMB1 billion. The unutilized Work Safety Cost at December 31, 2011 was RMB665,102,000.

*Statutory Common Reserve Fund*

The Company and its subsidiaries in the PRC have to set aside 10% of its profit for the statutory common reserve fund (except where the fund has reached 50% of its registered capital). The statutory common reserve fund can be used for the following purposes:

- to make good losses of the previous years; or
- to convert into capital, provided such conversion is approved by a resolution at a shareholders' general meeting and the balance of the statutory common reserve fund does not fall below 25% of the registered capital.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**40. SHAREHOLDERS' EQUITY—Continued**

*Reserves—Continued*

*Retained earnings*

In accordance with the Company's Articles of Association, the profit for the purpose of appropriation will be deemed to be the lesser of the amounts determined in accordance with (i) PRC accounting standards and regulations and (ii) IFRS or the accounting standards of the places in which its shares are listed.

The Company can also create a discretionary reserve in accordance with its Articles of Association or pursuant to resolutions which may be adopted at a meeting of shareholders.

The Company's distributable reserve as at December 31, 2011 is the retained earnings computed under PRC GAAP which amounted to approximately RMB22,913,403,000 (At December 31, 2010: RMB19,727,074,000).

**41. CAPITAL RISK MANAGEMENT**

The Group manages its capital to ensure that entities in the Group will be able to continue as a going concern while maximizing the return to shareholders through the optimization of the debt and equity balance. The Group's overall strategy remains unchanged from prior year.

The capital structure of the Group consists of debt, which includes the borrowings disclosed in note 36 and equity attributable to equity holders of the Company, comprising issued share capital, reserves and retained earnings, and amounted to RMB77,092,310,000 (2010: RMB60,347,644,000) as at December 31, 2011.

The directors of the Company review the capital structure regularly. As part of this review, the directors of the Company assess the annual budget prepared by the accounting and treasury department and consider and evaluate the cost of capital and the risks associated with each class of capital. The Group will balance its capital structure through the payment of dividends, issue of new shares and new debts or the repayment of existing debts.



**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**42. FINANCIAL INSTRUMENT**

*42a. Categories of financial instruments*

	At December 31,	
	2011	2010
	RMB'000	RMB'000
<b>Financial assets</b>		
Loans and receivables (including cash and cash equivalents)	26,863,250	21,468,083
Available-for-sale financial assets	372,800	224,442
Derivative financial instruments (financial instruments at fair value)	104,910	239,476
<b>Financial liabilities</b>		
Amortized cost	41,606,999	26,757,425
Derivative financial instruments (financial instruments at fair value)	<u>222,089</u>	<u>166,178</u>

*42b. Financial risk management objectives and policies*

The Group's major financial instruments include available-for-sale equity instruments, bills and accounts receivable, other current assets such as other receivables, bank balances and cash, term deposits, restricted cash, long term receivables, derivative financial instruments, bills and accounts payable, other payables, borrowings and amount due to Parent Company and its subsidiary companies. Details of these financial instruments are disclosed in respective notes. The risks associated with these financial instruments and the policies on how to mitigate these risks are set out below. The management manages and monitors these exposures to ensure appropriate measures are implemented on a timely and effective manner. There has been no significant change to the Group's exposure to market risk or the manner in which it manages and measures the risk.

*Credit risk*

Credit risk refers to the risk that counterparty will default on its contractual obligations resulting in financial loss to the Group.

At December 31, 2011 and 2010, the Group's maximum exposure to credit risk which will cause a financial loss to the Group arising from the failure to perform their obligations in relation to each class of recognized financial assets is the carrying amount of those assets as stated in the consolidated balance sheet.

In order to minimise the credit risk, the management of the Group has delegated a team responsible for determination of credit limits, credit approvals and other monitoring procedures to ensure that follow-up action is taken to recover overdue debts. In addition, the Group reviews the recoverable amount of each individual trade debt at each balance sheet date to ensure that adequate impairment losses are made for irrecoverable amounts. In this regard, the directors of the Company consider that the Group's credit risk is significantly reduced.

The Group maintains its cash and cash equivalents with reputable banks and Yankuang Group Finance Group Company Limited (see note 28). Therefore, the directors consider that the credit risk for such is minimal.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**42. FINANCIAL INSTRUMENT—Continued**

*42b. Financial risk management objectives and policies—Continued*

*Credit risk—Continued*

The Group generally grants the customers with long-relationship credit terms not exceeding 180 days, depending on the situations of the individual customers. For small to medium sized new customers, the Group generally requires them to pay for the products before delivery.

Most of the Group's domestic sales are sales to electric power plants, metallurgical companies, construction material producers and railway companies. The Group generally has established long-term and stable relationships with these companies. The Group also sells its coal to provincial and city fuel trading companies.

As the Group does not currently have direct export rights, all of its export sales must be made through National Coal Corporation, Shanxi Coal Corporation or Minmetals Trading. The qualities, prices and final customer destinations of the Group's export sales are determined by the Group, National Coal Corporation, Shanxi Coal Corporation or Minmetals Trading.

For the years ended December 31, 2011, 2010 and 2009, net sales to the Group's five largest customers accounted for approximately 19.4%, 24.7% and 28.7%, respectively, of the Group's total net sales. Net sales to the Group's largest customer accounted for 8.5%, 13.0% and 15.4% of the Group's net sales for the years ended December 31, 2011, 2010 and 2009, respectively. The Group's largest customer was Huadian Power International Corporation Limited ("Huadian") for the years ended December 31, 2011, 2010 and 2009.

Details of the accounts receivable from the five customers with the largest receivable balances at December 31, 2011 and 2010 are as follows:

	<b>Percentage of accounts receivable</b>	
	<b>At December 31,</b>	
	<b>2011</b>	<b>2010</b>
Five largest receivable balances	60.47%	58.43%

The management considers the strong financial background and good creditability of these customers, and there is no significant uncovered credit risk.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**42. FINANCIAL INSTRUMENT—Continued**

*42b. Financial risk management objectives and policies—Continued*

*Credit risk—Continued*

The table below shows the credit limit and balance of 5 major counterparties at the balance sheet date:

Counterparty	Location	31.12.2011		31.12.2010	
		Credit limit RMB'000 (note)	Carrying amount RMB'000	Credit limit RMB'000 (note)	Carrying amount RMB'000
Company A	Australia	Not applicable	181,164	Not applicable	53,450
Company B	Australia	Not applicable	94,248	Not applicable	—
Company C	Hong Kong	Not applicable	80,156	Not applicable	—
Company D	Korea	Not applicable	69,566	Not applicable	58,773
Company E	Hong Kong	Not applicable	69,482	Not applicable	—
Company F	Australia	Not applicable	—	Not applicable	64,170
Company G	Korea	Not applicable	—	Not applicable	59,133
Company H	Japan	Not applicable	—	Not applicable	52,600
			494,616		288,126

Note: Customers of Australian subsidiaries have not been granted the credit limit. Australian subsidiaries generally make annual sales arrangements with customers.

The Group's geographical concentration of credit risk is mainly in East Asia (excluding the PRC) and Australia. As at December 31, 2011 and 2010, over 86% and 85% of the Group's total trade receivables were from Australia and from East Asia (excluding the PRC) respectively.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**42. FINANCIAL INSTRUMENT—Continued**

*42b. Financial risk management objectives and policies—Continued*

*Market risk*

*(i) Currency risk*

The Group's sales are denominated mainly in the functional currency of the relevant group entity making the sale, whilst costs are mainly denominated in the group entity's functional currency. Accordingly, there is no significant exposure to foreign currency risk.

The carrying amounts of the Group's foreign currency denominated monetary assets and monetary liabilities in currencies other than the functional currencies of the relevant group entities at the balance sheet date are as follows:

	Liabilities		Assets	
	2011	2010	2011	2010
	RMB'000	RMB'000	RMB'000	RMB'000
United States Dollar ("USD")	19,309,802	20,516,314	1,025,746	902,402
Euro ("EUR")	—	—	205	222
Hong Kong Dollar ("HKD")	—	—	452	6,062
Notional amounts of sell USD foreign exchange contracts used for hedging	1,996,267	—	2,836,035	4,169,000
Notional amounts of buy USD foreign exchange contracts used for hedging	—	79,000	—	—
Notional amounts of buy Yen foreign exchange contracts used for hedging	—	9,000	—	—

The sales of the Group's subsidiaries in Australia are mainly export sales and some of their fixed assets are imported from overseas. Their foreign exchange hedging policy is disclosed in note 37. The Group's operations in the PRC do not adopt any foreign exchange hedging policy.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**42. FINANCIAL INSTRUMENT—Continued**

*42b. Financial risk management objectives and policies—Continued*

*Market risk—Continued*

*(i) Currency risk—Continued*

*Sensitivity analysis*

The Group is mainly exposed to the fluctuation against the currency of United States Dollar and Hong Kong Dollar.

The following table details the Group's sensitivity to a 5% increase and decrease in RMB against relevant foreign currencies. 5% represents management's assessment of reasonably possible changes in foreign exchange rates over the period until the next annual balance sheet date. The sensitivity analysis includes only outstanding foreign currency denominated monetary items and adjusts their translation at the year end for a 5% change in foreign currency rates and also assumes all other risk variables remained constant. The sensitivity analysis includes loans to foreign operations within the Group where the denomination of the loan is in a currency other than the functional currency of the lender or the borrower.

	<b>USD Impact (note i)</b>		<b>HKD Impact (note i)</b>	
	<b>2011</b>	<b>2010</b>	<b>2011</b>	<b>2010</b>
	<b>RMB'000</b>	<b>RMB'000</b>	<b>RMB'000</b>	<b>RMB'000</b>
Increase (Decrease) to profit and loss				
- if RMB weakens against respective foreign currency	14,311	35,312	17	227
- if RMB strengthens against respective foreign currency	<u>(14,311)</u>	<u>(35,312)</u>	<u>(17)</u>	<u>(227)</u>

	<b>USD Impact (note ii)</b>	
	<b>2011</b>	<b>2010</b>
	<b>RMB'000</b>	<b>RMB'000</b>
Increase (Decrease) to profit and loss		
- if AUD weakens against respective foreign currency	(873,588)	(718,045)
- if AUD strengthens against respective foreign currency	873,588	718,045
Increase (Decrease) to shareholders' equity		
- if AUD weakens against respective foreign currency	(680,643)	(725,998)
- if AUD strengthens against respective foreign currency	<u>680,643</u>	<u>725,998</u>

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**42. FINANCIAL INSTRUMENT—Continued**

**42b. Financial risk management objectives and policies—Continued**

*Market risk—Continued*

*(i) Currency risk—Continued*

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Notes:

- (i) This is mainly attributable to the exposure outstanding on the bank deposit and loans to foreign operations within the Group of USD and HKD at year end in the Group.
- (ii) This is mainly attributable to the exposure outstanding on the loans to foreign operations within the Group, foreign currency bank borrowings and derivative financial instruments where the denomination of the loan is in a currency other than the functional currency of the borrower (i.e. AUD).

In management's opinion, the sensitivity analysis is unrepresentative of the inherent foreign exchange risk as the year end exposure does not reflect the exposure during the year.

*(ii) Interest rate risk*

The Group is exposed to cash flow interest rate risk in relation to variable-rate bank balances, term deposits, restricted cash (see note 17 for details of these bank balances) and bank borrowings (see note 36 for details of these borrowings).

The interest rate hedging policy of the Group is disclosed in note 37.

The Group's exposures to interest rate risk on financial assets and financial liabilities are detailed in the liquidity risk section of this note. The Group's cash flow interest rate risk is mainly concentrated on the fluctuation of the PBOC arising from the Group's RMB borrowings and the LIBOR arising from the Group's USD borrowings.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**42. FINANCIAL INSTRUMENT—Continued**

*42b. Financial risk management objectives and policies—Continued*

*Market risk—Continued*

*(ii) Interest rate risk—Continued*

*Sensitivity Analysis*

The following table details the Group's sensitivity to a change of 100 basis points in the interest rate, assuming the financial instruments outstanding at the end of the reporting period were outstanding for the whole year and all the variables were held constant. It includes the interest rate fluctuation of the abovementioned PBOC rate and LIBOR.

	<u>2011</u> RMB'000	<u>2010</u> RMB'000
Increase (Decrease) to profit and loss		
-If increases by 100 basis points	(114,257)	(71,946)
-If decreases by 100 basis points	114,257	71,946
Increase (Decrease) to shareholders' equity		
-If increases by 100 basis points	(78,815)	(34,692)
-If decreases by 100 basis points	<u>78,815</u>	<u>34,692</u>

*(iii) Other price risk*

In addition to the above risks relating to financial instruments, the Group is exposed to equity price risk through investment in listed equity securities and also to price risk in non financial instruments such as steel and metals (the Group's major raw materials). The Group currently does not have any arrangement to hedge the price risk exposure of its investment in equity securities and its purchase of raw materials. The Group's exposure to equity price risk through investment in listed equity securities and also the result of the sensitivity analysis is not significant.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**42. FINANCIAL INSTRUMENT—Continued**

*42b. Financial risk management objectives and policies—Continued*

*Liquidity risk*

In the management of the liquidity risk, the Group monitors and maintains a level of cash and cash equivalents deemed adequate by the management to finance the Group's operations and mitigate the effects of fluctuations in cash flows. The management monitors the utilization of bank borrowings and ensures compliance with loan covenants.

The following table details the Group's remaining contractual maturity for its financial liabilities. For non-derivative financial liabilities, the table has been drawn up based on the undiscounted cash flows of financial liabilities based on the earliest date on which the Group can be required to pay. The table includes both interest and principal cash flows.

*Liquidity and interest risk tables*

	Weighted average effective interest rate %	Less than 3 months RMB'000	3-6 months RMB'000	6 months to 1 year RMB'000	1-5 years RMB'000	5+ years RMB'000	Total undiscounted cash flow RMB'000	Carrying amount at 12.31 RMB'000
<b>2011</b>								
<b>Non-derivative financial liabilities</b>								
Bills and accounts payables	N/A	2,205,968	34,876	—	—	—	2,240,844	2,240,844
Other payables	N/A	4,514,097	—	—	—	—	4,514,097	4,514,097
Amount due to Parent Company and its subsidiary companies	N/A	352,625	—	—	—	—	352,625	352,625
Bank borrowings - variable rate	2.76%-6.90%	7,845,689	2,344,366	10,279,014	15,970,348	34,020	36,473,437	34,488,069
Long-term payable	N/A	1,535	—	1,474	9,807	—	12,816	11,364
		<u>14,919,914</u>	<u>2,379,242</u>	<u>10,280,488</u>	<u>15,980,155</u>	<u>34,020</u>	<u>43,593,819</u>	<u>41,606,999</u>
<b>Financial guarantees issued</b>								
Maximum amount guaranteed (note)	N/A	—	—	—	—	1,392,566	1,392,566	—
<b>Derivative financial instruments – gross settlement</b>								
Forward foreign exchange contracts - Outflow	N/A	180,014	695,818	1,118,038	—	—	1,993,870	1,996,267
<b>Derivative financial instruments – net settlement</b>								
Interest rate swap contracts	N/A	30,552	30,552	62,802	55,712	—	179,618	179,618

Note: the amount presented is the maximum contractual presented under guarantees issued.



**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**42. FINANCIAL INSTRUMENT—Continued**

*42b. Financial risk management objectives and policies—Continued*

*Liquidity risk—Continued*

	Weighted average effective interest rate %	Less than 3 months RMB'000	3-6 months RMB'000	6 months to 1 year RMB'000	1-5 years RMB'000	5+ years RMB'000	Total undiscounted cash flow RMB'000	Carrying amount at 12.31 RMB'000
<b>2010</b>								
<b>Non-derivative financial liabilities</b>								
Bills and accounts payables	N/A	1,539,098	15,346	—	—	—	1,554,444	1,554,444
Other payables	N/A	1,732,092	—	—	—	—	1,732,092	1,732,092
Amount due to Parent								
Company and its subsidiary companies	N/A	438,783	—	—	—	—	438,783	438,783
Finance leases	6.9%-12.47%	38,185	38,185	76,370	898,025	—	1,050,765	822,004
Bank borrowings - variable rate	1.05%-7.6%	144,597	449,854	284,383	22,674,270	50,722	23,603,826	22,193,754
Long-term payable	N/A	1,626	—	1,576	10,968	2,337	16,507	16,348
		<u>3,894,381</u>	<u>503,385</u>	<u>362,329</u>	<u>23,583,263</u>	<u>53,059</u>	<u>28,396,417</u>	<u>26,757,425</u>
<b>Financial guarantees issued</b>								
Maximum amount guaranteed (note)	N/A	—	—	—	—	532,607	532,607	—
<b>Derivative financial instruments – gross settlement</b>								
Forward foreign exchange contracts - Outflow	N/A	14,747	41,098	32,155	—	—	88,000	88,000
<b>Derivative financial instruments – net settlement</b>								
Interest rate swap contracts	N/A	38,297	37,103	67,529	10,980	—	153,909	153,909

Note: the amount presented is the maximum contractual presented under guarantees issued.

*42c. Fair values*

The fair value of available-for-sales investment is determined with reference to quoted market price. The fair values of the forward foreign exchange contracts are estimated based on the discounted cash flows between the contract forward rate and spot forward rate. The fair values of interest rate swap contracts are estimated based on the discounted cash flows between the contract floating rate and contract fixed rate. The fair value of other financial assets and financial liabilities are determined in accordance with generally accepted pricing models based on discounted cash flow analysis.

The directors consider that the carrying amounts of financial assets and financial liabilities recorded at amortized cost in the consolidated financial statements approximate their fair values.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**42. FINANCIAL INSTRUMENT—Continued**

*42c. Fair values—Continued*

Fair values of financial assets and financial liabilities are determined as follows:

The following table presents the carrying value of financial instruments measured at fair value across the three levels of the fair value hierarchy defined in IFRS 7 (Amendment). The levels of fair value are defined as follows:

- Level 1: fair value measurements are those derived from quoted prices (unadjusted) in active markets for identical assets and liabilities;
- Level 2: fair value measurements are those derived from inputs other than quoted prices included within Level 1 that are observable for the asset or liability either directly (i.e. as prices) or indirectly (i.e. derived from prices); and
- Level 3: fair value measurements are those derived from valuation techniques that include inputs for the assets or liability that are not based on observable market data (unobservable inputs).

	<u>Level 1</u> <u>RMB'000</u>	<u>Level 2</u> <u>RMB'000</u>	<u>Level 3</u> <u>RMB'000</u>	<u>At December 31</u> <u>Total</u> <u>RMB'000</u>
<b>2011</b>				
<b>Assets</b>				
Available-for-sale investments				
- Investments in securities listed on the SSE				
Derivative financial instruments	173,495	—	—	173,495
- Forward foreign exchange contracts	—	104,910	—	104,910
	<u>173,495</u>	<u>104,910</u>	<u>—</u>	<u>278,405</u>
<b>Liabilities</b>				
Derivative financial instruments				
- Forward foreign exchange contracts	—	42,471	—	42,471
- Interest rate swap contracts	—	179,618	—	179,618
	<u>—</u>	<u>222,089</u>	<u>—</u>	<u>222,089</u>
<b>2010</b>				
<b>Assets</b>				
Available-for-sale investments				
- Investments in securities listed on the SSE	194,258	—	—	194,258
Derivative financial instruments				
- Forward foreign exchange contracts	—	239,476	—	239,476
	<u>194,258</u>	<u>239,476</u>	<u>—</u>	<u>433,734</u>
<b>Liabilities</b>				
Derivative financial instruments				
- Forward foreign exchange contracts	—	12,269	—	12,269
- Interest rate swap contracts	—	153,909	—	153,909
	<u>—</u>	<u>166,178</u>	<u>—</u>	<u>166,178</u>

There were no transfers between Levels 1 and 2 during the years ended December 31, 2011 and 2010.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**43. ACQUISITION OF HUA JU ENERGY**

On October 24, 2008, the Company entered into an acquisition agreement with the Parent Company to acquire 74% equity interest in Hua Ju Energy. On February 18, 2009, the acquisition was completed and the consideration of RMB593,243,000 was fully paid to the Parent Company to acquire 74% equity interest of Hua Ju Energy. The net assets acquired were included in the methanol, electricity and heat supply segment.

In July 2009, the Company paid RMB173,007,000 to three former shareholders of Hua Ju Energy to acquire additional 21.14% equity interest in Hua Ju Energy which gives rise to goodwill of RMB38,187,000.

This acquisition has been accounted for using the purchase method.

The net assets of Hua Ju Energy acquired, and the goodwill arising, are as follows:

	<u>Fair value</u> <u>RMB'000</u>
Bank balances and cash	4,567
Bills and accounts receivable	2,129
Inventories	3,611
Prepayments and other receivables	79,563
Other currents assets	25,246
Property, plant and equipment	755,213
Prepaid lease payment	74,652
Available-for-sale financial assets	30,182
Deferred tax assets	2,017
Accounts payable	(64,760)
Customers' deposits and other payables	(263,297)
Other current liabilities	<u>(120,000)</u>
Net assets acquired	529,123
Non-controlling interests	(137,572)
Goodwill arising on acquisition	<u>201,692</u>
	<u>593,243</u>
Total consideration satisfied by:	
Cash consideration paid on acquisition	<u>593,243</u>
Net cash outflow arising on acquisition:	
Cash paid on acquisition	(593,243)
Bank balances and cash acquired	4,567
	<u>(588,676)</u>

There is no significant difference between the carrying value and the fair value of net assets of Hua Ju Energy.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**43. ACQUISITION OF HUA JU ENERGY—Continued**

Goodwill arising from acquisition of Hua Ju Energy is mainly because this acquisition can establish an electricity management platform for the Group and is beneficial to the future development of coal resources of the Group. It also ensures stable supply of electricity to the Group, reduce operating costs, and enhance profitability and operating results. It further ensures environmental disposal of waste products such as coal gangue produced from the Group's mining operations.

During the period from the acquisition date/the beginning period date to December 31, 2009, this transaction does not have any material impact on the revenue and operating results of the Group.

**44. ACQUISITION OF YANCOAL RESOURCES**

On August 13, 2009, the Group entered into a binding scheme implementation agreement with Felix to acquire 100% equity interest in Felix. On December 23, 2009, the acquisition was completed and the Group paid the consideration of AUD3,333 million to all the shareholders of Felix. On December 30, 2009, Felix was delisted from the Australian Securities Exchange and all legal procedures of acquiring all of the Felix shares have been completed. The net assets acquired were included in the mining segment.

This acquisition has been accounted for using the purchase method.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**44. ACQUISITION OF YANCOAL RESOURCES—Continued**

The net assets of Felix acquired, and the goodwill arising, are as follows:

	<u>Carrying amounts</u> RMB'000	<u>Fair value adjustments</u> RMB'000	<u>Fair values</u> RMB'000
Bank balances and cash	872,435	—	872,435
Term deposits	91,941	—	91,941
Bills and accounts receivable	292,008	—	292,008
Inventories	306,444	(39,349)	267,095
Prepayments and other receivables	214,501	—	214,501
Derivative financial instrument assets	27,928	—	27,928
Tax recoverable	46,777	—	46,777
Other currents assets	350,676	—	350,676
Property, plant and equipment, net	2,842,046	704,861	3,546,907
Available-for-sale financial assets	1	—	1
Interests in jointly controlled entities	1,257	—	1,257
Intangible assets	1,312,393	16,535,630	17,848,023
Accounts payable	(390,927)	—	(390,927)
Receipts in advance and other payables	(700,833)	—	(700,833)
Borrowings	(1,573,956)	—	(1,573,956)
Derivative financial instrument liabilities	(28,333)	—	(28,333)
Deferred taxation	(376,526)	(596,585)	(973,111)
Provision for land subsidence, restoration, rehabilitation and environmental costs	(48,170)	—	(48,170)
Other long-term payables	(28,367)	—	(28,367)
Net assets acquired			19,815,852
Non-controlling interests			(23,542)
Goodwill arising on acquisition			766,816
			<u>20,559,126</u>
Total consideration satisfied by:			
Cash consideration paid on acquisition			20,428,030
Direct acquisition costs paid			2,949
Direct acquisition costs not yet settled			128,147
			<u>20,559,126</u>
Net cash outflow arising on acquisition:			
Cash paid on acquisition			(20,430,979)
Bank balances and cash acquired			872,435
			<u>(19,558,544)</u>

During the period from the acquisition date to December 31, 2009, Felix did not have any material impact on the revenue and operating results the Group.

If the acquisition had been completed on January 1, 2009, the Group's revenue for the year would have been RMB23,894 million, and the Group's profit for the year would have been RMB4,914 million. The pro forma information is for illustrative purposes only and is not necessarily an indication of revenue and results of operations of the Group that actually would have been achieved had the acquisition been completed on January 1, 2009, nor is it intended to be a projection of future results.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**44. ACQUISITION OF YANCOAL RESOURCES—Continued**

The goodwill arising from the acquisition is attributable to the extension of coal reserves and diversification of operations by the Group, and operational synergies and strategic benefits.

**45. ACQUISITION OF THREE SUBSIDIARIES**

In 2009, the Group signed a co-operation agreement with an independent third party for the acquisition of 100% equity of Yize. The acquisition was completed on April 30, 2010 with a consideration of RMB179.7 million being paid to the shareholders of Yize.

In 2010, the Group has also completed the acquisition of 100% equity of Inner Mongolia Rongxin Chemical Co., Ltd (“Rongxin Chemicals”) and Inner Mongolia Daxin Industrial Gas Co., Ltd (“Daxin Industrial”) with cash consideration of RMB4.4 million and RMB6 million respectively.

Yize, Rongxin Chemicals and Daxin Industrial have not engaged in any operating activities at the acquisition date and the acquisitions were reflected as purchases of assets and liabilities of which no goodwill was recognized.

Net book values of the acquired net assets at acquisition dates are as follow:

	<u>Carrying amounts</u> <u>RMB'000</u>
Inventories	7
Prepayments and other receivables	15,600
Property, plant and equipment, net	4,751
Prepaid lease payments	55,418
Intangible assets	131,985
Other payables	(17,666)
Net assets acquired	<u>190,095</u>
Considerations:	
Cash paid on acquisition	133,000
Deposit paid for acquisition of investment in prior year	57,095
	<u>190,095</u>
Net cash outflow arising on acquisition	<u>(133,000)</u>

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**46. ACQUISITION OF AN YUAN COAL MINE**

In 2010, Ordos signed a co-operation agreement with an independent third party for the acquisition of An Yuan Coal Mine at a consideration of RMB1,435 million. The acquisition was completed during the year.

The acquisition of An Yuan Coal Mine was classified as purchase of assets and liabilities of which no goodwill was recognized.

Net book values of the acquired net assets at acquisition date are as follow:

	<u>Carrying amounts</u> <u>RMB'000</u>
Property, plant and equipment, net	176,067
Intangible assets	1,258,433
Other current assets	500
Net assets acquired	<u>1,435,000</u>
<b>Considerations:</b>	
Cash paid on acquisition	355,000
Deposit paid for acquisition of investment in prior year	<u>1,080,000</u>
	<u>1,435,000</u>
Net cash outflow arising on acquisition	<u>(355,000)</u>

**47. ACQUISITION OF ADDITIONAL INTERESTS IN JOINT VENTURE**

The Australia subsidiaries of the Group originally held 60% equity interests in Ashton joint venture. During the year, the Group acquired additional 30% equity interests in Ashton joint venture from another venturer at a consideration of USD250 million. This included the acquisition of 30% equity interests in the jointly controlled entities, Ashton Coal Mines Limited and Australian Coal Processing Holdings Pty Ltd. Upon completion of the acquisition, the Group held 90% equity interest in Ashton joint venture.

Under the shareholders agreement, the 90% equity interest held in Ashton remained classified as a joint venture.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**48. ACQUISITION OF SYNTECH**

On May 13, 2011, a wholly-owned subsidiary of the Company acquired 100% equity interests in Syntech and its subsidiaries for a cash consideration of AUD208,480,000. The equity transfer was completed on August 1, 2011. The principal business of Syntech and its subsidiaries include exploration, production, sorting and processing of coal, the major product of which is thermal coal. The net assets acquired were included in the mining segment.

This acquisition has been accounted for using the acquisition method.

The net assets of Syntech acquired, and the goodwill arising, are as follows:

	<u>Carrying amounts</u> RMB'000	<u>Fair value adjustments</u> RMB'000	<u>Fair values</u> RMB'000
Bank balances and cash	51,828	—	51,828
Account receivables and other receivables	118,042	—	118,042
Inventories	85,190	28,539	113,729
Property, plant and equipment, net	1,227,053	(301,522)	925,531
Intangible assets	121,140	271,234	392,374
Accounts and other payables	(219,243)	—	(219,243)
Deferred tax	—	(25,642)	(25,642)
Provision for land subsidence, restoration, rehabilitation and environmental costs	(14,259)	—	(14,259)
<b>Net assets acquired</b>			<b>1,342,360</b>
Goodwill arising on acquisition			25,642
			<u><b>1,368,002</b></u>
Total consideration satisfied by:			
Cash consideration paid on acquisition			<u><b>1,368,002</b></u>
Net cash outflow arising on acquisition:			
Cash paid on acquisition			(1,368,002)
Bank balances and cash acquired			51,828
			<u><b>(1,316,174)</b></u>

The goodwill arising from the acquisition is attributable to the extension of coal reserves in Australia and diversification of operation by the Group, and operational synergies and strategic benefits.

During the period from the acquisition date / the beginning period date to December 31, 2011, Syntech and its subsidiaries did not have any material impact on the revenue and operating results of the Group.



**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**49. ACQUISITION OF PREMIER COAL AND PREMIER CHAR**

On September 27, 2011, a wholly-owned subsidiary of the Company acquired 100% equity interests of both Premier Coal and Premier Char as a package for a cash consideration of AUD 313,533,000. The equity transfer was completed on December 30, 2011. For Premier Coal, the principal businesses are exploration, production and processing of coal; for Premier Char, the principal businesses are the research and development of the technology and procedures in relation to processing coal char from low rank coals. The net assets acquired were included in the mining segment.

This acquisition has been accounted for using the acquisition method.

The net assets of Premier Coal and Premier Char acquired, and the goodwill arising, are as follows:

	<u>Carrying amounts</u> RMB'000	<u>Fair value adjustments</u> RMB'000	<u>Fair values</u> RMB'000
Accounts and other receivable	91,416	—	91,416
Inventories	68,956	4,666	73,622
Property, plant and equipment, net	1,484,398	264,216	1,748,614
Intangible assets	—	511,186	511,186
Accounts and other payables	(198,715)	—	(198,715)
Deferred tax	(123,377)	105,528	(17,849)
Provision for land subsidence, restoration, rehabilitation and environmental costs	(168,847)	—	(168,847)
Net assets acquired			2,039,427
Goodwill arising on acquisition			17,849
			<u>2,057,276</u>
<b>Total consideration satisfied by:</b>			
Cash consideration paid on acquisition			<u>2,057,276</u>
<b>Net cash outflow arising on acquisition:</b>			
Cash paid on acquisition			<u>(2,057,276)</u>

The goodwill arising from the acquisition is attributable to the extension of coal reserves in Australia and diversification of operation by the Group, and operational synergies and strategic benefits.

During the period from the acquisition date / the beginning period date to December 31, 2011, Premier Coal and Premier Char did not have any material impact on the revenue and operating results of the Group.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**50. ACQUISITION OF XINTAI**

During the year, the Company entered into an agreement with independent third party to acquire 80% equity interests in Xintai at a cash consideration of RMB2,801,557,000. The acquisition was completed during the year. Xintai owns and operates Wenyu Coal Mine located in Inner Mongolia. The principle businesses are coal mining and sales. The net assets acquired were included in the mining segment.

This acquisition has been accounted for using the acquisition method.

The net assets of Xintai acquired and the goodwill arising, are as follows:

	<u>Carrying amounts</u> RMB'000	<u>Fair value adjustments</u> RMB'000	<u>Fair values</u> RMB'000
Property, plant and equipment, net	182,403	(14,427)	167,976
Intangible assets	50,362	3,283,608	3,333,970
Deferred tax	—	(817,296)	(817,296)
Net assets acquired			2,684,650
Non-controlling interests			(536,930)
Goodwill arising on acquisition			653,837
			<u>2,801,557</u>
Considerations:			
Cash paid on acquisition			2,751,557
Outstanding consideration payable			50,000
			<u>2,801,557</u>
Net cash outflow arising on acquisition			
Cash paid on acquisition			<u>(2,751,557)</u>

The goodwill arising from the acquisition is attributable to the extension of coal reserves and diversification of operation by the Group, and operational synergies and strategic benefits.

During the period from the acquisition date / the beginning period date to December 31, 2011, Xintai did not have any material impact on the revenue and operating results of the Group.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**51. DISPOSAL OF A JOINT VENTURE**

During the year ended December 31, 2010, the Group disposed of its 51% interest in Minerva joint venture to an independent third party at a consideration of AUD191,860,000 (RMB1,235,840,000).

Net assets of joint venture dispose of are as follows:

	<u>Carrying amounts</u> RMB'000
Total assets	1,401,548
Total liabilities	(283,636)
	<u>1,117,912</u>
Gain on disposal of a joint venture	117,928
Total consideration	<u>1,235,840</u>
Cash inflow (outflow) of the disposal	
Cash consideration	1,235,840
Disposal of cash and bank balance	<u>(88,019)</u>
Net cash inflow from the disposal of Minerva	<u>1,147,821</u>

During 2010, the Group has also disposed of its interests in Minerva Mining Pty Ltd, Minerva Coal Pty Ltd and Felix Coal Sales Pty Ltd, subsidiaries related to the operations of Minerva joint venture. The subsidiaries are not material to the Group and their assets, liabilities and related profit or loss on disposal have been included in the above disposal of a joint venture.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**52. RELATED PARTY BALANCES AND TRANSACTIONS**

Transactions between the Company and its subsidiaries, which are related parties of the Company, have been eliminated on consolidation and are not disclosed. Details of balances and transactions between the Group and other related parties are disclosed below.

***Related party balances***

The amounts due to the Parent Company and its subsidiary companies are non-interest bearing and unsecured.

The amounts due to the Parent Company and its subsidiary companies as at December 31, 2010 included the present value of the outstanding balance that arose from the funding of the acquisition of the mining rights of Jining III as of January 1, 2001 discounted using the market rate of bank borrowings.

The consideration for the cost of the mining rights of approximately RMB132,479,000 is to be settled over the 10 years, commencing from 2001.

Except the amounts disclosed above, the amount due to the Parent Company and/or its subsidiary companies are repayable on demand.

During the years, the Group had the following significant transactions with the Parent Company and/or its subsidiary companies:

	Year ended December 31,		
	2011	2010	2009
	RMB'000	RMB'000	RMB'000
<b><i>Income</i></b>			
Sales of coal	2,088,794	2,672,424	2,086,542
Sales of auxiliary materials	485,676	454,254	317,479
Sales of heat and electricity	180,808	235,002	204,061
<b><i>Expenditure</i></b>			
Utilities and facilities	31,646	34,006	39,069
Purchases of supply materials and equipment	696,802	421,606	598,498
Repair and maintenance services	323,550	262,478	388,917
Social welfare and support services	848,121	794,621	769,561
Technical support and training	26,000	26,000	26,000
Road transportation services	73,638	64,945	79,560
Construction services	718,155	655,311	242,593

Certain expenditure for social welfare and support services (excluding medical and child care expenses) of RMB269,182,000, RMB259,575,000 and RMB165,900,000 for the years ended December 31, 2011, 2010 and 2009, respectively, and for technical support and training of RMB26,000,000, RMB26,000,000 and RMB26,000,000 have been charged by the Parent Company at a new negotiated amount per annum, subject to changes every year.

During the year ended December 31, 2009, the Company acquired 74% equity interest in Hua Ju Energy from the Parent Company. Details of this acquisition are set out in note 43.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**52. RELATED PARTY BALANCES AND TRANSACTIONS—Continued**

*Related party balances—Continued*

As at 31 December, 2011, the Company has deposited RMB1,820,000,000 (2010: RMB1,400,000,000) to the Company's associate, Yan Kuang Group Finance Company Limited. The interest income received and finance cost paid during the year amounted to RMB7,665,000 (2010: RMB680,000) and RMB10,119,000 (2010: nil) respectively.

In addition to the above, the Company participates in a retirement benefit scheme of the Parent Company in respect of retirement benefits (note 54).

*Transactions/balances with other state-controlled entities in the PRC*

The Group operates in an economic environment currently predominated by entities directly or indirectly owned or controlled by the PRC government ("state-controlled entities"). In addition, the Group itself is part of a larger group of companies under the Parent Company which is controlled by the PRC government. Apart from the transactions with the Parent Company and its subsidiaries disclosed above, the Group also conducts business with other state-controlled entities. The directors consider those state-controlled entities are independent third parties so far as the Group's business transactions with them are concerned.

Material transactions with other state- controlled entities are as follows:

	<u>Year ended December 31,</u>		
	<u>2011</u>	<u>2010</u>	<u>2009</u>
	<u>RMB'000</u>	<u>RMB'000</u>	<u>RMB'000</u>
Trade sales	8,487,421	9,823,814	6,970,855
Trade purchases	<u>2,597,741</u>	<u>1,581,427</u>	<u>1,191,783</u>

Material balances with other state-controlled entities are as follows:

	<u>At December 31,</u>	
	<u>2011</u>	<u>2010</u>
	<u>RMB'000</u>	<u>RMB'000</u>
Amounts due to other state-controlled entities	580,726	443,403
Amounts due from other state-controlled entities	<u>681,413</u>	<u>1,320,801</u>

Amounts due to and from state-controlled entities are trade nature of which terms are not different from other customers (notes 18 and 33).

In addition, the Group has entered into various transactions, including deposits placements, borrowings and other general banking facilities, with certain banks and financial institutions which are state-controlled entities in its ordinary course of business. In view of the nature of those banking transactions, the directors are of the opinion that separate disclosure would not be meaningful.

Except as disclosed above, the directors are of the opinion that transactions with other state- controlled entities are not significant to the Group's operations.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**52. RELATED PARTY BALANCES AND TRANSACTIONS—Continued**

*Balances and transactions with jointly controlled entities*

Due from a jointly controlled entity:

	Year ended December 31,	
	2011	2010
	RMB'000	RMB'000
Due from a jointly controlled entity (note 20)	198,780	115,480

The amount due from a jointly controlled entity is unsecured and interest-free.

As at December 31, 2011, the trade balances between the Group and a jointly controlled entity are disclosed in notes 18 and 33. During the year, sales to the jointly controlled entity by the Group's Australian subsidiaries amounted to RMB1,363,241,000 (2010: RMB1,202,255,000).

*Compensation of key management personnel*

The remuneration of directors and other members of key management were as follows:

	Year ended December 31,		
	2011	2010	2009
	RMB'000	RMB'000	RMB'000
Directors' fee	484	452	436
Salaries, allowance and other benefits in kind	4,864	4,548	3,292
Retirement benefit scheme contributions	834	778	550
	6,182	5,778	4,278

The remuneration of directors and key executives is determined by the remuneration committee having regard to the performance of individuals and market trends.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**53. COMMITMENTS**

	<u>At December 31,</u>	
	<u>2011</u>	<u>2010</u>
	<u>RMB'000</u>	<u>RMB'000</u>
Capital expenditure contracted for but not provided in the consolidated financial statements		
Acquisition of property, plant and equipment		
- the Group	2,022,362	814,800
- share of joint ventures	179,166	207,111
Acquisition of intangible assets		
- the Group	1,947	—
- share of joint ventures	158	—
	<u>2,203,633</u>	<u>1,021,911</u>

During 2006, the Company entered into a co-operative agreement with two independent third parties to establish a company for acquiring a coal mine in Shaanxi province for operations. In addition to the deposit referred to in note 30, the Company is committed to invest a further RMB78.8 million as at December 31, 2011 and 2010.

Pursuant to the regulations issued by the Shandong Province Finance Bureau, the Group has to pay a deposit of RMB2,636 million (2010: RMB1,980 million) to the relevant government authority, which secured for the environmental protection work done by the Company. As at December 31, 2011, deposit of RMB732 million (2010: RMB222 million) were made and the Company is committed to further make security deposit of RMB1,904 million (2010: RMB1,758 million).

Compensation fees for mining rights are required to be pay annually and details are set out in note 23.

In 2010, the Company entered into a co-operative agreement with three independent companies to acquire 51% equity interest of Inner Mongolia Haosheng Coal Mining Limited (“Hao Sheng”) at a consideration of RMB6,649 million and to obtain the mining rights of the Shilawusu Coal Field in name of Hao Sheng. During the year, the Company entered into a co-operative agreement with two independent companies to acquire additional 10% shareholding of Hao Sheng at a consideration of RMB1,313,760,000. The Company also agreed to increase the registered capital of Hao Sheng by RMB51 million. Up to the date of these financial statements, the Company has invested RMB2,439,881,000 in relation to this acquisition (2010: RMB2,045,750,000).

On January 24, 2011, the Company, the Parent Company, and Shaanxi Yanchang Petroleum (Group) Corp. Ltd (“Yanchang Petroleum”) entered into an agreement for the formation of Shaanxi Future Energy Chemical Corp. Ltd. Upon completion of the agreement, the Parent Company, the Company and Yanchang Petroleum will contribute RMB2.7 billion, RMB1.35 billion and RMB1.35 billion as capital contribution and will hold 50%, 25% and 25% equity interest in the investee company respectively. Up to the date of these financial statements, Shaanxi Future Energy Chemical Corp. Ltd. has been incorporated and the Company has invested RMB540,000,000 as capital contribution.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**54. RETIREMENT BENEFITS**

Qualifying employees of the Company are entitled to a pension, medical and other welfare benefits. The Company participates in a scheme of the Parent Company and pays a monthly contribution to the Parent Company in respect of retirement benefits at an agreed contribution rate based on the monthly basic salaries and wages of the qualified employees. The Parent Company is responsible for the payment of all retirement benefits to the retired employees of the Company.

Pursuant to the Provision of Insurance Fund Administrative Services Agreement entered into by the Company and the Parent Company on November 7, 2008, the monthly contribution rate is set at 20% (2010: 20%; 2009: 20%) of the total monthly basic salaries and wages of the Company's employees for the period from January 1, 2009 to December 31, 2011. Other welfare benefits will be provided by the Parent Company, which will be reimbursed by the Company.

The amount of contributions paid to the Parent Company were RMB760,906,000, RMB640,933,000 and RMB520,273,000 for the years ended December 31, 2011, 2010, and 2009, respectively.

The Company's subsidiaries are participants in a state-managed retirement scheme pursuant to which the subsidiaries pay a fixed percentage of its qualifying staff's wages as a contribution to the scheme. The subsidiaries' financial obligations under this scheme are limited to the payment of the employer's contribution. During the year, contributions paid and payable by the subsidiaries pursuant to this arrangement were insignificant to the Group. The Group's overseas subsidiaries pay fixed contribution as pensions under the laws and regulations of the relevant countries.

During the year and at the balance sheet date, there were no forfeited contributions which arose upon employees leaving the above schemes available to reduce the contributions payable in future years.

**55. HOUSING SCHEME**

The Parent Company is responsible for providing accommodation to its employees and the domestic employees of the Company. The Company and the Parent Company share the incidental expenses relating to the accommodation at a negotiated amount for each of the three years ended December 31, 2011, 2010 and 2009. Such expenses, amounting to RMB140,000,000, RMB140,000,000 and RMB140,000,000 for each of the three years ended December 31, 2011, 2010 and 2009 respectively, have been included as part of the social welfare and support services expenses summarized in note 52.

The Company currently makes a fixed monthly contribution for each of its qualifying employees to a housing fund which is equally matched by a contribution from the employees. The contributions are paid to the Parent Company which utilizes the funds, along with the proceeds from the sales of accommodation and, if the need arises, from loans arranged by the Parent Company, to construct new accommodation.



**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**56. POST BALANCE SHEET EVENT**

**(1) MERGER OF YANCOAL AUSTRALIA LIMITED AND GLOUCESTER COAL LTD BY WAY OF A SCHEME OF ARRANGEMENT**

On December 22, 2011, the Company's wholly-owned subsidiary, Yancoal Australia Limited ("Yancoal Australia"), the Company and Gloucester Coal Limited ("Gloucester"), a corporation incorporated in Australia whose shares are listed on ASX, entered into the Merger Proposal Deed in respect of a proposal for the merger of Yancoal Australia and Gloucester.

On March 5, 2012, Yancoal Australia, the Company and Gloucester entered into an amending deed to the Merger Proposal Deed for the merger of Yancoal Australia and Gloucester. The Company's board of directors approved the proposal in relation to the merger of Yancoal Australia and Gloucester and signed the amending deed to the Merger Proposal Deed on the same date. The amending deed, pursuant to which, among other things, upon the completion of the merger, the Company will hold 78% equity interests in Yancoal Australia while the existing shareholders of Gloucester will hold 22% equity interests in Yancoal Australia. Up to the date of these financial statements, the relevant procedures are still in progress and the relevant financial impact has not been estimated.

**(2) ISSUING NOT MORE THAN RMB15 BILLION CORPORATE BONDS**

In the Extraordinary General Meeting held on February 8, 2012, it was resolved that the Company was approved to issue not more than RMB 15 billion corporate bonds (the "Offering") depending upon the market conditions at the time of the Offering. Up to the date of these financial statements, these bonds have not yet been issued.

**(3) ISSUING NOT MORE THAN USD1 BILLION CORPORATE BONDS**

On March 5, 2012, the board of directors of the Company approved the issue of USD bonds of a principal amount not expected to exceed US\$1.0 billion (including US\$1.0 billion) by the Company through a wholly-owned offshore subsidiary and submission of the proposal for consideration and approval at a general meeting. Up to the date of these financial statements, the extraordinary general meeting of shareholders has not yet been held.

**(4) Australian Minerals Resource Rent Tax ("MRRT")**

On March 19, 2012, the Australian Minerals Resource Rent Tax ("MRRT") was passed through the Australian upper house. The MRRT is a tax on 30 per cent of the "super profits" on the mining activities including coal mining. The MRRT is to be effective from July 1, 2012 and the legislation is considered "substantively enacted" and the Group will be required to account for the related deferred tax consequences from March 19, 2012. However, given the complexity of the MRRT, the effect of MRRT to the Company's Australian subsidiaries has not yet been quantified.

**(5) Acquisition of Coal Mines From Parent Company**

On April 23, 2012, Parent Company and its wholly owned subsidiary and the Company entered into an Assets Transfer Agreement, pursuant to which the Company will purchase from Parent Company and its wholly owned subsidiary all of the assets and liabilities of Beisu and Yangcun coal mines at a consideration of RMB 824,142,000. The assets the Company will purchase include mining rights, building ownership certificates, mining and related equipment and other fixed assets, as well as certain equity investments of Beisu and Yangcun. Up to the date of these financial statements, the acquisition has not yet been completed.

**YANZHOU COAL MINING COMPANY LIMITED**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**

**57. MAJOR NON-CASH TRANSACTION**

During the year ended December 31, 2011, the Group acquired certain property, plant and equipment, of which RMB2,733,713,000 (2010: RMB324,136,000) have not yet been paid.

During the year ended December 31, 2011, the Group had no property, plant and equipment was acquired under finance leases (2010: RMB261,566,000).

**58. OPERATING LEASE COMMITMENTS**

	At December 31,	
	2011	2010
	RMB'000	RMB'000
Within one year	7,178	6,043
More than one year, but not more than five years	3,210	4,922
	10,388	10,965

Operating leases have average remaining lease terms of 1 to 5 years. Items that are subject to operating leases include mining equipment, office space and small items of office equipment.

**59. CONTINGENT LIABILITIES**

	At December 31,	
	2011	2010
	RMB'000	RMB'000
<b>Guarantees</b>		
<b>(a) The Group</b>		
Performance guarantees provided for daily operations	1,099,755	292,733
Guarantees provided in respect of the cost of restoration of certain mining leases, given to government departments as required by statute	263,603	201,167
<b>(b) Joint ventures</b>		
Performance guarantees provided for daily operations	731	967
Guarantees provided in respect of the cost of restoration of certain mining leases, given to government departments as required by statute	28,477	37,740
	1,392,566	532,607

**ARTICLES OF ASSOCIATION**  
**OF**  
**YANZHOU COAL MINING COMPANY LIMITED**  
(As approved by the 2012 Second Extraordinary General Meeting  
of the Company held on 23 April 2012)

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OF YANZHOU COAL MINING COMPANY LIMITED

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ARTICLES OF ASSOCIATION OF  
YANZHOU COAL MINING COMPANY LIMITED

CHAPTER 1: GENERAL PROVISIONS

- Article 1. These Articles of Association are drawn up in accordance with the “Company Law of the People’s Republic of China” (the “Company Law”), the “Securities Law of the People’s Republic of China”, the “Mandatory Provisions for the Articles of Association of the Company to be Listed Overseas” (“Mandatory Provisions”) and other relevant laws and regulations with the aims of protecting the legitimate interests of Yanzhou Coal Mining Company Limited (the “Company”) and its shareholders and creditors, and regulating the organization and conducts of the Company. Guide 1
- Article 2. The Company is a joint stock limited company established in accordance with the Company Law, “State Council’s Special Regulations Regarding the Issue of Shares Overseas and the Listing of Shares Overseas by Companies Limited by Share” (the “Special Regulations”) and other relevant laws and regulations of the State. MP1
- The Company was established by way of promotion with the approval of the People’s Republic of China’s State Commission for Restructuring the Economic System on 24 September 1997, as evidenced by approval document *Ti Gai Sheng [1997]* no. 154 of 1997. It is registered with and has obtained a business licence from China’s State Administration Bureau of Industry and Commerce on 25 September 1997. The Company’s business licence number is: 370000400001016.
- The promoter of the Company is: Yankuang (Group) Corporation Ltd.
- Article 3. The Company’s registered Chinese name: 兗州煤業股份有限公司 MP2  
The Company’s registered English name: Yanzhou Coal Mining Company Limited
- Article 4. The Company’s : 298 South Fushan Road MP3  
address Zoucheng  
Shandong Province  
China  
Telephone number : 0537-5383310  
Facsimile number : 0537-5383311  
Postal code : 273500
- Article 5. The Company’s legal representative is the Chairman of the board of directors of the Company. MP4

Article 6.	The Company is a joint stock limited company which has perpetual existence.	MP5
Article 7.	<p>The Company's Articles of Association shall take effect from the date of incorporation of the Company.</p> <p>From the date on which these Articles of Association come into effect, this Articles of Association shall constitute a legally binding document regulating the Company's organisation and activities, and the rights and obligations between the Company and each shareholder and among the shareholders inter se.</p>	MP6
Article 8.	<p>These Articles of Association are binding on the Company and its shareholders, directors, supervisors, general manager, deputy general managers and other senior officers of the Company; all of whom are entitled, according to these Articles of Association, to make suggestions in respect of rights concerning the affairs of the Company.</p> <p>A shareholder may take action against the Company pursuant to these Articles of Association and vice versa. A shareholder may also take action against another shareholder, the directors, supervisors, general manager, deputy general managers and other senior officers of the Company pursuant to these Articles of Association.</p> <p>The actions referred to in the preceding paragraph include court proceedings and arbitration proceedings.</p>	MP7
Article 9.	<p>All assets of the Company are divided into shares of equal value. The shareholders are liable for the Company up to the amount of shares they subscribed and all the Company's assets are made liable for its debts.</p> <p>The Company may invest in other limited liability companies or limited stock companies. The Company is liable for an invested company up to the amount of capital it contributes to the invested company.</p>	MP8
Article 10	Senior officers of the Company refer to the Company's general manager, deputy general manager, financial controller, chief engineer and secretary to the board of directors.	Guide 11

**CHAPTER 2: THE COMPANY'S OBJECTIVES AND SCOPE OF BUSINESS**

Article 11.	<p>The Company's objectives are:</p> <p>(a) To comply with the laws and regulations in the market;</p>	MP9
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- (b) To continue to explore business opportunities which are suitable for the Company;
- (c) To fully utilise every resource of the Company;
- (d) To place emphasis on the training of its employees and technological development;
- (e) To provide the society with products which are competitive; and
- (f) To use its best endeavours to maximise its profits.

Article 12. The Company's scope of business shall be consistent with and subject to the scope of business approved by the authority responsible for the registration of the Company. MP10

The business scope of the company includes: selection and sale of coal (among others, the export of coal should be made through companies with coal export right according to the existing state regulations); transportation of goods through self-owned railway within the mining area; transportation of goods through highway; operation of ports; manufacture, sale, lease and repair of relevant mining equipments; production and sale of other mining materials; sale and lease of electronic equipments and sale of parts; sale of metallic materials, electronic products, construction materials, timber, rubber products and methanol; composition of mining, science and technological services; property development within the mining areas, property leasing and provision of services such as dining and accommodation; production and sale of coal residual stones as construction materials; sale of coking coal and iron ore; import and export of goods and technology; warehousing; automotive repairs.

Subject to compliance with applicable laws and administrative regulations of the People's Republic of China ("PRC") the Company has the power to raise and borrow money which power includes (without limitation) the issue of debentures, the charging or mortgaging of part or whole of the Company's business or properties and to provide guarantees or mortgages for the debts of third parties (including, without limitation, the subsidiaries or associated companies of the Company) in all types of circumstances.

### CHAPTER 3: SHARES AND REGISTERED CAPITAL

Article 13. There must, at all times, be ordinary shares in the Company. Subject to the approval of the companies approving department authorised by the State Council, the Company may, according to its requirements, create different classes of shares. MP11

Article 14.	Shares of the Company are in the form of share certificates.	Guide 14
Article 15.	The issue of shares by the Company shall adhere to the principles of openness, fairness and equitable. Every share of the same class shall rank pari passu to every other share of the same class.  Shares of the same class issued at the same time shall have the same terms and price. The same amount of money is payable by a unit or an individual subscribing the share.	Guide 15
Article 16.	The shares issued by the Company shall each have a par value of Renminbi one yuan. “Renminbi” means the legal currency of the PRC.	MP12
Article 17.	Subject to the approval of the State Council Securities Policy Committee, the Company may issue shares to Domestic Investors and Foreign Investors.  “Foreign Investors” mean those investors who subscribe for the Company’s shares and who are located in foreign countries and in the regions of Hong Kong, Macau and Taiwan. “Domestic Investors” mean those investors who subscribe for the Company’s shares and who are located within the territory of the PRC.	MP13
Article 18.	Shares which the Company issues to Domestic Investors for subscription in Renminbi shall be referred to as “Domestic-Invested Shares”. Shares which the Company issues to Foreign Investors for subscription in foreign currencies shall be referred to as “Foreign-Invested Shares”. Foreign-Invested Shares which are listed overseas are called “Overseas-Listed Foreign-Invested Shares”. “Foreign currencies” mean the legal currencies of countries or districts outside the PRC which are recognised by the foreign exchange authority of the State and which can be used to pay the share price to the Company.  Domestic-Invested Shares issued by the Company shall be referred to as “A Shares”. Overseas-Listed Foreign-Invested Shares issued by the Company and which are listed in Hong Kong shall be referred to as “H Shares”. H Shares as shares which have been admitted for listing on The Stock Exchange of Hong Kong Limited (the “Stock Exchange”), the par value of which is denominated in Renminbi and which are subscribed for and traded in Hong Kong dollars. H Shares can also be listed on a stock exchange in the United States in the form of American Depository Receipts.	MP14, App.3 9
Article 19.	Subject to the approval of the companies approving department authorised by the State Council, the Company has issued a total of 4,918,400,000 ordinary shares, of which 1,670,000,000 ordinary shares were issued to the promoters at the time of establishment.	MP15, App.3 9





(5) by any other means which is permitted by law and administrative regulation.

After the Company's increase of share capital by means of the issuance of new shares has been approved in accordance with the provisions of these Articles of Association, the issuance thereof should be made in accordance with the procedures set out in the relevant laws and administrative regulations.

Article 25.	Unless otherwise stipulated in the relevant laws or administrative regulations, shares in the Company shall be freely transferable and are not subject to any lien.	MP21, App.3 1(2)
Article 26	The Directors, Supervisors and Senior Officers of the Company shall declare to the Company their holdings in the Company's shares and inform the same if there are any changes in their holdings subsequently. During their terms of office, shares being transferred every year must not exceed 25% of their holdings in the Company's shares. No transfer of their holdings shall be made within one year after the Company's shares were listed. No transfer of their holdings in the Company's shares shall be made within six months after they cease to hold their respective offices.	Guide 28
Article 27	<p>When Directors, Supervisors or Senior Officers of the Company or shareholders holding more than 5% of the shares of the Company sell their shares within six months after they are acquired or purchase shares within six months after they are disposed of, the board of directors shall repatriate any profits derived from such dealings and the profits derived shall belong to the Company. However, for securities companies which have acquired shares underwritten and become shareholders having more than 5% of the shares of the Company shall not be restricted by the six-month restriction mentioned above when they sell their shares.</p> <p>If the board of directors fails to enforce the provisions as set out above, the shareholders are entitled to request the board of directors to enforce them within thirty days. If the board of directors still fails to enforce within the said timeline, the shareholders are entitled to commence legal proceeding at the People's Court directly in their own names in the interests of the company.</p> <p>If the board of directors fails to enforce the first clause, the directors responsible shall be liable pursuant to the laws."</p>	Guide 29
Article 28	The Company shall not accept the Company's shares as the object of a pledge.	

CHAPTER 4: REDUCTION OF CAPITAL AND  
REPURCHASE OF SHARES

- Article 29. The Company may reduce its registered share capital. In so doing, it shall act according to the Company Law, other relevant provisions and these Articles of Association. Guide 22
- Article 30. The Company must prepare a balance sheet and an inventory of assets when it reduces its registered capital. MP23, App.3 7(1)
- The Company shall notify its creditors within ten (10) days of the date of the Company's resolution for reduction of capital and shall publish an announcement in a newspaper at least three (3) times within thirty (30) days of the date of such resolution. A creditor has the right within thirty (30) days of receipt of the notice from the Company or, in the case of a creditor who does not receive such notice, within forty-five (45) days of the date of the first public announcement, to require the Company to repay its debts or to provide a corresponding guarantee for such debt.
- The Company's registered capital may not, after the reduction in capital, be less than the minimum amount prescribed by law.
- Article 31. The Company may, in accordance with the procedures set out in these Articles of Association and with the approval of the relevant governing authority of the State, repurchase its issued shares under the following circumstances: MP24
- (1) cancellation of shares for the purposes of reducing its capital;
  - (2) merging with another company that holds shares in the Company;
  - (3) to grant the shares as incentives to the Company's staff; Guide 23
  - (4) shareholders who disagree with the resolutions for the merger and separation of the Company made in a general meeting may demand the Company to purchase their shares."
  - (5) other circumstances permitted by laws and administrative regulations.
- Apart from the above, the Company is not allowed to engage in trading of its own shares.
- Article 32. The Company may repurchase shares in one of the following ways, with the approval of the relevant governing authority of the State: MP25
- (1) by making a general offer for the repurchase of shares to all its shareholders on a pro rata basis;

- (2) by repurchasing shares through public dealing on a stock exchange;
- (3) by repurchasing shares outside of the stock exchange by means of an off-market agreement;
- (4) other means as authorized by the competent securities authorities under the State Council. Guide 24

Article 33. The Company must obtain the prior approval of the shareholders in a general meeting (in the manner stipulated in these Articles of Association) before it can repurchase shares outside of the stock exchange by means of an off-market agreement. The Company may, by obtaining the prior approval of the shareholders in a general meeting (in the same manner), release, vary or waive its rights under an agreement which has been so entered into. MP26

An agreement for the repurchase of shares referred to in the preceding paragraph includes (without limitation) an agreement to become liable to repurchase shares or an agreement to have the right to repurchase shares.

The Company may not assign an agreement for the repurchase of its shares or any right contained in such an agreement.

Article 34. The Company must obtain the prior approval of the shareholders in a general meeting before it can repurchase shares pursuant to the reasons set out in these Articles of Association 31 (1) to (3). Following shares being repurchased by the Company pursuant to the provisions in Article 31, in the case of (1), the shares repurchased shall be cancelled within 10 days of the completion of the repurchase. In the case of (2) and (4), the shares repurchased shall be transferred or cancelled within six months of the completion of the repurchase. MP27  
Guide 25

The aggregate par value of the cancelled shares shall be deducted from the Company's registered share capital.

The shares the Company repurchases in accordance with the provisions in Article 31(3) shall not be more than 5% of the total issued shares of the Company. The funding for the repurchase shall be provided from the profit after tax. The shares repurchased shall be transferred to the staff within one year.

Article 35. Unless the Company is in the course of liquidation, it must comply with the following provisions in relation to repurchase of its issued shares: MP28

- (1) where the Company repurchases shares at par value, payment shall be made out of book surplus distributable profits of the Company or out of proceeds of a new issue of shares made for that purpose;

- (2) where the Company repurchases shares of the Company at a premium to its par value, payment up to the par value may be made out of the book surplus distributable profits of the Company or out of the proceeds of a new issue of shares made for that purpose. Payment of the portion in excess of the par value shall be effected as follows:
- (i) if the shares being repurchased were issued at par value, payment shall be made out of the book surplus distributable profits of the Company;
  - (ii) if the shares being repurchased were issued at a premium to its par value, payment shall be made out of the book surplus distributable profits of the Company or out of the proceeds of a new issue of shares made for that purpose, provided that the amount paid out of the proceeds of the new issue shall not exceed the aggregate amount of premiums received by the Company on the issue of the shares repurchased nor shall it exceed the book value of the Company's capital common reserve fund account (including the premiums on the new issue) at the time of the repurchase;
- (3) the Company shall make the following payments out of the Company's distributable profits:
- (i) payment for the acquisition of the right to repurchase its own shares;
  - (ii) payment for variation of any contract for the repurchase of its shares;
  - (iii) payment for the release of its obligation(s) under any contract for the repurchase of shares;
- (4) after the Company's registered capital has been reduced by the aggregate par value of the cancelled shares in accordance with the relevant provisions, the amount deducted from the distributable profits of the Company for payment of the par value of shares which have been repurchased shall be transferred to the Company's capital common reserve fund account.

CHAPTER 5: FINANCIAL ASSISTANCE FOR  
ACQUISITION OF SHARES

Article 36. The Company and its subsidiaries shall not, at any time, provide any form of financial assistance to a person who is acquiring or is proposing to acquire shares in the Company. This includes any person who directly or indirectly incurs any obligations as a result of the acquisition of shares in the Company (the “Obligor”). MP29

The Company and its subsidiaries shall not, at any time, provide any form of financial assistance to the Obligor for the purposes of reducing or discharging the obligations assumed by such person.

This Article shall not apply to the circumstances specified in Article 38 of this Chapter.

Article 37. For the purposes of this Chapter, “financial assistance” includes (without limitation) the following: MP30

- (1) gift;
- (2) guarantee (including the assumption of liability by the guarantor or the provision of assets by the guarantor to secure the performance of obligations by the Obligor), compensation (other than compensation in respect of the Company’s own default) or release or waiver of any rights;
- (3) provision of loan or any other agreement under which the obligations of the Company are to be fulfilled before the obligations of another party, or the change in parties to, or the assignment of rights under, such loan or agreement;
- (4) any other form of financial assistance given by the Company when the Company is insolvent or has no net assets or when its net assets would thereby be reduced to a material extent.

For the purposes of this Chapter, “assumption of obligations” includes the assumption of obligations by way of contract or by way of arrangement (irrespective of whether such contract or arrangement is enforceable or not and irrespective of whether such obligation is to be borne solely by the Obligor or jointly with other persons) or by any other means which results in a change in his financial position.

Article 38. The following actions shall not be deemed to be activities prohibited by Article 36 of this Chapter: MP31

- (1) the provision of financial assistance by the Company where the financial assistance is given in good faith in the interests of the Company, and the principal purpose of which is not for the acquisition of shares in the Company, or the giving of the financial assistance is an incidental part of some larger purpose of the Company;

- (2) the lawful distribution of the Company's assets by way of dividend;
- (3) the allotment of bonus shares as dividends;
- (4) a reduction of registered capital, a repurchase of shares of the Company or a reorganisation of the share capital structure of the Company effected in accordance with these Articles of Association;
- (5) the lending of money by the Company within its scope of business and in the ordinary course of its business, where the lending of money is part of the scope of business of the Company (provided that the net assets of the Company are not thereby reduced or that, to the extent that the assets are thereby reduced, the financial assistance is provided out of distributable profits);
- (6) contributions made by the Company to the employee share ownership schemes (provided that the net assets of the Company are not thereby reduced or that, to the extent that the assets are thereby reduced, the financial assistance is provided out of distributable profits).

CHAPTER 6: SHARE CERTIFICATES AND  
REGISTER OF SHAREHOLDERS

Article 39.	Share certificates of the Company shall be in registered form.  The share certificate of the Company shall, aside from matters required by the Company Law and the Special Regulations, also contain other matters required to be stated therein by the stock exchange(s) on which the Company's shares are listed.	MP32
Article 40.	Share certificates of the Company shall be signed by the Chairman of the Company's board of directors. Where the stock exchange(s) on which the Company's shares are listed require other senior officer(s) of the Company to sign on the share certificates, the share certificates shall also be signed by such senior officer(s). The share certificates shall take effect after being sealed or imprinted with the seal of the Company. The share certificate shall only be sealed with the Company's seal under the authorisation of the board of directors. The signatures of the Chairman of the board of directors or other senior officer(s) of the Company may be printed in mechanical form.	MP33, C.1 Zheng Jian Hai Han [1995] No. 1 App.3 2(1)

- Article 41. The Company shall keep a register of shareholders based on the evidence provided by the share registration institution which shall contain the following particulars: MP34  
Guide 30
- (1) the name (title) and address (residence), the occupation or nature of each shareholder;
  - (2) the class and quantity of shares held by each shareholder;
  - (3) the amount paid-up on or agreed to be paid-up on the shares held by each shareholder;
  - (4) the share certificate number(s) of the shares held by each shareholder;
  - (5) the date on which each person was entered in the register as a shareholder;
  - (6) the date on which any shareholder ceased to be a shareholder.
- Unless there is evidence to the contrary, the register of shareholders shall be sufficient evidence of the shareholders' shareholdings in the Company.
- Article 42. The Company may, in accordance with the mutual understanding and agreements made between the State Council Securities Policy Committee and overseas securities regulatory organisations, maintain the register of shareholders of Overseas-Listed Foreign-Invested Shares overseas and appoint overseas agent(s) to manage such register of shareholders. The original register of shareholders for holders of H Shares shall be maintained in Hong Kong. MP35,  
C.2 Zheng  
Jian Hai  
Han [1997]  
No. 1  
App.13  
Pt.D  
1(b)
- A duplicate register of shareholders for the holders of Overseas-Listed Foreign-Invested Shares shall be maintained at the Company's residence. The appointed overseas agent(s) shall ensure consistency between the original and the duplicate register of shareholders at all times.
- If there is any inconsistency between the original and the duplicate register of shareholders for the holders of Overseas-Listed Foreign-Invested Shares, the original register of shareholders shall prevail.
- Article 43. The Company shall have a complete register of shareholders which shall comprise the following parts: MP36
- (1) the register of shareholders which is maintained at the Company's residence (other than those share registers which are described in sub-paragraphs (2) and (3) of this Article);



- (2) the register of shareholders in respect of the holders of Overseas-Listed Foreign-Invested Shares of the Company which is maintained in the same place as the overseas stock exchange on which the shares are listed; and
- (3) the register of shareholders which are maintained in such other place as the board of directors may consider necessary for the purposes of the listing of the Company's shares.

Article 44. Different parts of the register of shareholders shall not overlap. No transfer of any shares registered in any part of the register shall, during the continuance of that registration, be registered in any other part of the register. MP37

Amendments or rectification of the register of shareholders shall be made in accordance with the laws of the place where the register of shareholders is maintained.

Article 45. All Overseas-Listed Foreign-Invested Shares listed in Hong Kong which have been fully paid-up may be freely transferred in accordance with these Articles of Association. However, unless such transfer complies with the following requirements, the board of directors may refuse to recognise any instrument of transfer and would not need to provide any reason therefor: C.12  
*Zheng Jian Hai Han [1995] No. 1*

- (1) a fee of HK\$2.50 per instrument of transfer or such higher amount as may be agreed by the Stock Exchange has been paid to the Company for registration of the instrument of transfer and other documents relating to or which will affect the right of ownership of the shares; App.3 1(1)
- (2) the instrument of transfer only relates to Foreign-Listed Foreign-Invested Shares listed in Hong Kong;
- (3) the stamp duty which is chargeable on the instrument of transfer has already been paid;
- (4) the relevant share certificate(s) and any other evidence which the board of directors may reasonably require to show that the transferor has the right to transfer the shares have been provided;
- (5) if it is intended that the shares be transferred to joint owners, the maximum number of joint owners shall not be more than four (4); App.3 1(3)
- (6) the Company does not have any lien on the relevant shares. App.3 1(2)

If the Company refuses to register any transfer of shares, the Company shall within two (2) months of formal application for the transfer provide the transferor and transferee with a notice of refusal to register such transfer.

Article 46.	No change may be made in the register of shareholders as a result of a transfer of shares within thirty (30) days prior to the date of a shareholders' general meeting or within five (5) days before the record date for the Company's distribution of dividends.	MP38 Guide 28, 29
Article 47.	The board of directors or the convenor of the general meeting shall decide on a date for the determination of rights attaching to shares in the Company when the Company convenes a shareholders' meeting, distributes dividend, liquidates or engages in activities that required the determination of rights attaching to shares in the Company. The shareholders of the Company shall be such persons who appear in the register of shareholders at the close of such determination date.	MP39 Guide 31
Article 48.	Any person aggrieved and claiming to be entitled to have his name (title) entered in or removed from the register of shareholders may apply to a court of competent jurisdiction for rectification of the register.	MP40
Article 49.	Any person who is a registered shareholder or who claims to be entitled to have his name (title) entered in the register of shareholders in respect of shares in the Company may, if his share certificate (the "original certificate") relating to the shares is lost, apply to the Company for a replacement share certificate in respect of such shares (the "Relevant Shares").	MP41, App.3 7 (1)
	Application by a holder of Domestic-Invested Shares, who has lost his share certificate, for a replacement share certificate shall be dealt with in accordance with Article 144 of the Company Law."	Amendments in the Company Law
	Application by a holder of Overseas-Listed Foreign Shares, who has lost his share certificate, for a replacement share certificate may be dealt with in accordance with the law of the place where the original register of shareholders of holders of Overseas-Listed Foreign-Invested Shares is maintained, the rules of the stock exchange or other relevant regulations.	
	The issue of a replacement share certificate to a holder of H Shares, who has lost his share certificate, shall comply with the following requirements:	
	(1) The applicant shall submit an application to the Company in a prescribed form accompanied by a notarial certificate or a statutory declaration (i) stating the grounds upon which the application is made and the circumstances and evidence of the loss; and (ii) declaring that no other person is entitled to have his name entered in the register of shareholders in respect of the Relevant Shares.	

- (2) The Company has not received any declaration made by any person other than the applicant declaring that his name shall be entered into the register of shareholders in respect of such shares before it decides to issue a replacement share certificate to the applicant.
- (3) The Company shall, if it intends to issue a replacement share certificate, publish a notice of its intention to do so at least once every thirty (30) days within a period of ninety (90) consecutive days in such newspapers as may be prescribed by the board of directors.
- (4) The Company shall, prior to publication of its intention to issue a replacement share certificate, deliver to the stock exchange on which its shares are listed, a copy of the notice to be published and may publish the notice upon receipt of confirmation from such stock exchange that the notice has been exhibited in the premises of the stock exchange. Such notice shall be exhibited in the premises of the stock exchange for a period of ninety (90) days.

In the case of an application which is made without the consent of the registered holder of the Relevant Shares, the Company shall deliver by mail to such registered shareholder a copy of the notice to be published.

- (5) If, by the expiration of the 90 day period referred to in paragraphs (3) and (4) of this Article, the Company has not have received any challenge from any person in respect of the issuance of the replacement share certificate, it may issue a replacement share certificate to the applicant pursuant to his application.
- (6) Where the Company issues a replacement share certificate pursuant to this Article, it shall forthwith cancel the original share certificate and document the cancellation of the original share certificate and issuance of a replacement share certificate in the register of shareholders accordingly.
- (7) All expenses relating to the cancellation of an original share certificate and the issuance of a replacement share certificate shall be borne by the applicant and the Company is entitled to refuse to take any action until reasonable security is provided by the applicant therefor.

Article 50. Where the Company issues a replacement share certificate pursuant to these Articles of Association and a bona fide purchaser acquires or becomes the registered owner of such shares, his name (title) shall not be removed from the register of shareholders. MP42

Article 51. The Company shall not be liable for any damages sustained by any person by reason of the cancellation of the original share certificate or the issuance of the replacement share certificate unless the claimant is able to prove that the Company has acted in a deceitful manner. MP43

#### CHAPTER 7: SHAREHOLDERS' RIGHTS AND OBLIGATIONS

Article 52. A shareholder of the Company is a person who lawfully holds shares in the Company and whose name (title) is entered in the register of shareholders. MP44, App.3 9

A shareholder shall enjoy rights and assume obligations according to the class and amount of shares held by him; shareholders who hold shares of the same class shall enjoy the same rights and assume the same obligations.

Article 53. The ordinary shareholders of the Company shall enjoy the following rights: MP45

- (1) the right to receive dividends and other distributions in proportion to the number of shares held;
- (2) the right to attend or appoint a proxy to attend shareholders' meeting and to vote thereat;
- (3) the right of supervisory management over the Company's business operations and the right to present proposals or to raise queries;
- (4) the right to transfer, grant or pledge shares so held in accordance with laws, administrative regulations and provisions of these Articles of Association; Guide 35(5)
- (5) the right to obtain relevant information in accordance with these Articles of Association, including:
  - (i) the right to obtain a copy of these Articles of Association, subject to payment of costs;
  - (ii) the right to inspect and copy, subject to payment of a reasonable fee:
    - (a) all parts of the register of shareholders;
    - (b) personal particulars of each of the Company's directors, supervisors and other senior officers, including:
      - (aa) present and former name and alias;

- (bb) principal address (place of residence);
  - (cc) nationality;
  - (dd) primary and all other part-time occupations and duties;
  - (ee) identification documents and the numbers thereof;
  - (c) report on the state of the Company's share capital;
  - (d) reports showing the aggregate par value, quantity, highest and lowest price paid in respect of each class of shares repurchased by the Company since the end of the last accounting year and the aggregate amount paid by the Company for this purpose;
  - (e) minutes of shareholders' general meetings;
  - (f) the copies of the Company's debentures, resolutions of the meetings of the board of directors, resolutions of the meetings of the Supervisory Committee, financial and accounting reports Guide 32
- (6) in the event of the termination or liquidation of the Company, the right to participate in the distribution of surplus assets of the Company in accordance with the number of shares held;
- (7) shareholders who disagree with the resolutions for the merger and separation of the Company made in a general meeting may demand the Company to purchase their shares. Guide 32
- (8) other rights conferred by laws, administrative regulations and these Articles of Association.
- Article 54 Shareholders proposing to inspect the relevant information as set out in the previous Articles or collect information shall produce the relevant proofs of the type and quantity of shares that they are holding to the Company. The Company shall provide the shareholders such information as required after verification of the identities of the shareholders. Guide 33

Article 55	<p>In the event that the resolution of a shareholders' meeting or a board meeting is against the law or administrative rules and has infringed the legitimate interest of a shareholder, the shareholder shall have the right to submit to the People's Court to declare the resolution invalid.</p> <p>In the event the procedures for convening the shareholders' meeting and the board of directors meeting and voting thereat violate the law, administrative regulations or the provisions of these Articles, or the content resolved being in contrary to these Articles, the shareholder shall have the right to submit to the People's Court to rescind the resolution within 60 days after the resolution is made.</p>	Guide 34
Article 56	<p>In the event the directors and senior officers violate the law, administrative regulations or the provisions of these Articles in performing the Company's duties, and incur a loss to the Company, shareholder(s), either individually or jointly holding more than 1% of the Company's shares for more than 180 consecutive days shall have the right to submit a written request to the Supervisory Committee for commencing legal proceedings in the People's Court. In the event the Supervisory Committee violates the law, administrative regulations or the provisions of these Articles in performing the Company's duties, and incur a loss to the Company, the shareholders shall have the right to submit a written request to the board of directors for commencing legal proceedings in the People's Court.</p> <p>In the event the Supervisory Committee or the board of directors refuses to commence legal proceedings after receiving the written request from the shareholders as provided in the paragraph above, or has not commenced legal proceedings 30 days after receiving the written request, or in case of emergency, without commencing legal proceedings forthwith will result in damages in the interests of the Company considerably difficult to rectify, the shareholders as provided in the paragraph above shall have the right to commence legal proceedings directly in the People's Court in their own names for the interests of the Company.</p> <p>In the event the legal interests of the Company are being violated by other parties and incur a loss to the Company, the shareholders as provided in the first paragraph of this Article shall commence legal proceedings in the People's Court in accordance with the provisions in the earlier two paragraphs.</p>	Guide 35
Article 57	<p>In the event the directors and senior officers violate the law, administrative regulations or the provisions of these Articles, and the rights of shareholders are prejudicially affected, the shareholders shall have the right to commence legal proceeding in the People's Court.</p>	Guide 36
Article 58.	<p>The ordinary shareholders of the Company shall assume the following obligations:</p> <p>(1) to comply with these Articles of Association;</p>	MP46

- (2) to pay subscription monies according to the number of shares subscribed and the method of subscription;
- (3) no return of capital is allowed apart from those as provided in the laws and regulations; Guide 37
- (4) The right of the shareholder shall not be abused to infringe the interests of the Company or other shareholders. The independent status of corporate legal person and the limited liabilities of the shareholder shall not be abused to infringe the interests of the Company's creditors;
 

The Company's shareholder who abuses his rights and result in losses to the Company or its other shareholders shall assume indemnity liabilities pursuant to the laws.

The Company's shareholder who abuses the independent status of corporate legal person and the limited liabilities of the shareholder to avoid debts and seriously infringe the interests of the Company's creditors shall assume incidental liabilities to the Company's debts.
- (5) other obligations imposed by laws, administrative regulations and these Articles of Association.

Shareholders are not liable to make any further contribution to the share capital other than according to the terms which were agreed by the subscriber of the relevant shares at the time of subscription.

Article 59. Shareholder holding more than 5% of the shares with voting right in the Company shall submit a written report to the Company when creating a pledge over its shares on the date the same is effected. Guide 38

Article 60. In addition to the obligations imposed by laws and administrative regulations or required by the listing rules of the stock exchange on which the Company's shares are listed, a controlling shareholder (as such term is defined in the following Article) shall not exercise his voting rights in respect of the following matters in a manner prejudicial to the interests of all or part of the shareholders of the Company: MP47

- (1) to relieve a director or supervisor of his duty to act honestly in the best interests of the Company;

- (2) to approve the expropriation by a director or supervisor (for his own benefit or for the benefit of another person) of the Company's assets in any way, including (without limitation) opportunities which are beneficial to the Company;
- (3) to approve the expropriation by a director or supervisor (for his own benefit or for the benefit of another person) of the individual rights of other shareholders, including (without limitation) rights to distributions and voting rights (save pursuant to a restructuring which has been submitted for approval by the shareholders in a general meeting in accordance with these Articles of Association).

Article 61. For the purpose of the foregoing Article, a "controlling shareholder" means a person who satisfies any one of the following conditions: MP48

- (1) a person who, acting alone or in concert with others, has the power to elect more than half of the board of directors;
- (2) a person who, acting alone or in concert with others, has the power to exercise or to control the exercise of 30 % or more of the voting rights in the Company;
- (3) a person who, acting alone or in concert with others, holds 30 % or more of the issued and outstanding shares of the Company;
- (4) a person who, acting alone or in concert with others, has de facto control of the Company in any other way.

Article 62. The controlling shareholders of the Company and persons in actual control of the Company shall not damage the lawful rights of the Company and the public shareholders by means of connected transaction. Guide 39

Those who violate the provisions in the paragraph above resulting in loss on the Company shall assume indemnity liabilities.

The controlling shareholders of the Company and persons in actual control of the Company have fiduciary duties towards the Company and the public shareholders. The controlling shareholders shall exercise his rights as investors strictly in accordance with the laws. The controlling shareholders shall not damage the lawful rights of the Company and the public shareholders by means of profit distribution, assets restructuring, external investment, use of capital and loan guarantee etc and shall not take advantage of its controlling position to damage the interest of the Company and the public shareholders.

Article 63. In operational fund transactions between the controlling shareholder of the Company and its related parties, appropriation of funds of the Company shall be strictly restricted. The controlling shareholder of the Company and its related parties shall not require the Company to pay advance fees such as salary, benefits, insurance, advertising, and they shall not undertake costs and other expenses on each other's behalf.



Article 64. The Company shall establish a special system to prevent the appropriation of assets of the Company by the controlling shareholder of the Company and its related parties. The Company shall conduct periodic self-inspections as to whether the controlling shareholder of the Company and its related parties have engaged in non-operational appropriations of funds of the Company and report such matters to the relevant regulatory authorities within 10 business days before publication of its quarterly- reports, interim reports and annual reports.

If there are non-operational appropriations of funds of the Company conducted by the controlling shareholder of the Company and the Company fails to prevent such appropriations of funds or fails to recover such funds so appropriated in a timely manner, the Board shall be entitled to realize the repayment of such by, among others, applying to a court for an injunction and auction of equities of the Company held by its controlling shareholder.

Article 65. A sound investor relationship management working system shall be established, and the communication and interaction with the shareholders especially the public shareholders shall be initiated and strengthened through various ways.

## CHAPTER 8: SHAREHOLDERS' GENERAL MEETINGS

### Section 1 General Rules for Shareholders' General Meetings

Article 66. The shareholders' general meeting is the organ of authority of the Company and shall exercise its functions and powers in accordance with law. MP49

Article 67. The shareholders' general meeting shall have the following functions and powers: MP50

- (1) to decide on the Company's operational policies and investment plans;
- (2) to elect and replace directors who are not staff representatives and to decide on matters relating to the remuneration of directors; Guide 40
- (3) to elect and replace supervisors who represent the shareholders and to decide on matters relating to the remuneration of supervisors;
- (4) to examine and approve the board of directors' reports;

- (5) to examine and approve the supervisory committee's reports;
- (6) to examine and approve the Company's proposed annual preliminary and final financial budgets;
- (7) to examine and approve the Company's profit distribution plans and loss recovery plans;
- (8) to decide on the increase or reduction of the Company's registered capital;
- (9) to decide on matters such as merger, division, dissolution, liquidation or amendment to the method of operation of the Company; Guide 40
- (10) to decide on the issue of debentures by the Company;
- (11) to decide on the appointment, dismissal and non-reappointment of the accountants of the Company;
- (12) to amend these Articles of Association;
- (13) to consider and approve issues of guarantee as provided in Article 66; Guide 40
- (14) to consider issues on acquisitions and disposals of assets during a year which exceeds 30% of the latest audited total assets of the Company;
- (15) to consider and approve issues on the change in use of proceeds;
- (16) to consider share incentive schemes;
- (17) other matters to be decided in shareholders' general meeting as provided by the laws, administrative regulations, departmental rules or these Articles of Association

Article 68. The provision of guarantees by the Company to its shareholders, persons in actual control of the Company and their associates shall be considered and approved by the shareholders in a general meeting. Guide 41

The provision of guarantee by the Company to its subsidiaries shall be subject to consideration and approval by the shareholders in a general meeting if:

- (1) the provision of any guarantee where the amount of the external guarantee by the Company and its subsidiaries reaches or exceeds 50% of the latest audited net assets;

- (2) the provision of any guarantee where the amount of the external guarantee by the Company reaches or exceeds more than 30% of the latest audited net assets;
- (3) the provision of any single guarantee in which the amount exceeds 10% of the latest audited net assets.
- (4) Provision of guarantee to any guaranteed party with an assets to liabilities ratio exceeding 70%.

The Company shall not provide guarantee to any natural person, legal person, institutions and other entities not referred to in (1) and (2) above.

Article 69.

Shareholders' general meetings are divided into annual general meetings and extraordinary general meetings. Annual general meetings are held once every year and within six months from the end of the preceding financial year. Guide 46, 47, 48 MP52

The Company shall convene an extraordinary general meeting within two (2) months of the occurrence of any one of the following events: Guide 43

- (1) where the number of directors is less than the number stipulated in the Company Law or two-thirds of the number specified in the Company's articles of association or is less than eight (8);
- (1) where the number of directors is less than the number stipulated in the Company Law or two-thirds of the number specified in the Company's Articles of Association; Guide 44 IDGO5(1)
- (2) where the unrecovered losses of the Company amount to one-third of the total amount of its paid-up share capital;
- (3) where shareholder(s) singly or jointly holding 10 % or more of the Company's issued and outstanding voting shares request(s) in writing for the convening of an extraordinary general meeting; Guide 46
- (4) whenever the board of directors deems necessary or the supervisory committee so requests;
- (5) other cases as provided in laws, administrative regulations and these Articles of Association.

More than half of the independent directors shall have the right to request the board of directors to convene the extraordinary general meeting.

Article 70. The shareholders' general meeting will be held at a location for meeting with the presence of those who are entitled to attend. The location where the Company convenes its shareholders' general meeting will be the registered address of the Company or other places as set out in the notice convening the meeting. Guide 44

Article 71. At a shareholders' general meeting, the Company shall retain legal advisers and obtain legal advice in relation to the following issues which shall be incorporated into the shareholders' resolutions for announcement purpose: Guide 45

- (1) Whether the procedures for convening and holding a general meeting comply with the requirements of the laws, administrative regulations and these Articles of Association;
- (2) Whether attendees or the convenor of a general meeting meet the requisite legal requirements;
- (3) Whether the voting procedures for and the voting results of the general meeting are lawful and valid; and
- (4) Issuance of legal opinions on other relevant issues at the request of the Company.

Article 72. The Company shall formulate rules of the shareholders' general meeting, which shall be drawn up by the board of directors and be considered as well as approved in the shareholders' general meeting.

#### Section 2 Calling for Shareholders' General Meetings

Article 73. The board of directors, Supervisory Committee and qualified shareholders as provided in these Articles of Association shall have the right to convene the shareholders' general meeting in accordance with the relevant laws, regulations and the provisions of these Articles of Association. Guide 46-48

The board of directors shall timely convene the shareholders' general meeting within the timeframe as provided in Article 67 of these Articles of Association.

Article 74. Pursuant to the stipulation under the laws, administrative rules and these Articles of Association, the board of directors shall give a written feedback on whether to approve or disapprove of the convening of the extraordinary general meeting within 10 days after the receipt of the independent directors' proposal. Guide 46

If the board of directors agrees to convene the extraordinary general meeting, a notice for convening the shareholders' general meeting shall be issued within 5 days after the resolution of convening the extraordinary general meeting has been made by the board of directors; an announcement with relevant explanation shall be made if the board of directors does not agree to convene the extraordinary general meeting.

Article 75.	<p>The supervisory committee may propose to the board of directors in writing for convening the extraordinary general meeting. Pursuant to the stipulation under the laws, administrative regulations and these Articles of Association, the board of directors shall give a written feedback on whether to approve or disapprove of the convening of the extraordinary general meeting within 10 days after the receipt of the supervisory committee's proposal.</p> <p>If the board of directors agrees to convene the extraordinary general meeting, a notice for convening the extraordinary general meeting shall be issued within 5 days after the decision has been made by the board of directors. Consent of the supervisory committee has to be obtained for making any alternation on the original proposed resolution in the notice.</p> <p>If the board of directors does not agree to convene the extraordinary general meeting, or no feedback is given within 10 days after receiving the request, it will be deemed that the board of directors is unable to fulfill or fails to fulfill its responsibilities to convene the shareholders' general meeting. The Supervisory Committee hereby can convene and preside the meeting by itself.</p>	Guide 47
Article 76.	<p>The necessary costs for convening the shareholders' general meeting by the supervisory committee shall be borne by the Company.</p>	Guide 51
Article 77.	<p>Shareholders who request for the convening of an extraordinary general meeting or a class meeting shall comply with the following procedures:</p> <ol style="list-style-type: none"> <li style="margin-bottom: 10px;">(1) Shareholders who together hold 10% or more of the shares carrying the right to vote in the meeting are entitled to propose to convene an extraordinary general meeting or a class meeting to the board of directors in writing and state the motions and resolutions proposed. Within 10 days of receiving such proposal, the board of directors shall provide its written decision as to whether it agrees to convene such general meeting in accordance with the laws, administrative regulations and the Articles of Association.</li> <li>(2) If the board of directors agrees to convene an extraordinary general meeting or a class meeting, it shall issue a notice of meeting within 5 days of its decision, and any changes to the proposal shall be made only with the consent of the proposing shareholders.</li> </ol>	MP72 Guide 54

- (3) If the board of directors decides against convening the proposed extraordinary general meeting or class meeting, or if it fails to provide its written decision within 10 days of receipt of the proposal, shareholders individually or in aggregate holding 10% or more of the shares of the Company are entitled to propose to convene general meeting to the supervisory committee in writing.
- (4) If the supervisory committee agrees to convene the proposed extraordinary meeting or class meeting, it shall issue the notice of meeting within 5 days of receipt of the proposal, and any changes to the original proposal shall be made only with the consent of the shareholders.
- (5) If the supervisory committee fails to issue a notice of meeting within the prescribed period, the supervisory committee shall be deemed not to convene and chair the meeting. Shareholders individually or in aggregate holding 10% or more of the shares of the Company for 90 consecutive days may convene and chair the meeting on their own.

All reasonable expenses incurred for such meeting convened by the Supervisory Committee or shareholders as a result of the failure of the board of directors to convene a meeting as required by the above request(s) shall be borne by the Company.

Any reasonable expenses incurred by the requisitionists by reason of failure by the board of directors to duly convene a meeting shall be repaid to the requisitionists by the Company and any sum so repaid shall be set-off against sums owed by the Company to the defaulting directors.

Article 78. If the Supervisory Committee or the shareholders decides/decide to convene the shareholders' general meeting by itself/themselves, a written notice shall be given to the board of directors and in the meantime report shall be made to the local representative office of the competent securities authorities under the State Council and the stock exchange for record. Guide 49

The convening shareholder(s) shall submit the relevant documents to the local representative office of the competent securities authorities under the State Council and the stock exchange before issuing the notice for convening of the shareholders' general meeting and the announcement on resolution proposed to the shareholders' general meeting.

Article 79. The Board and the secretary to the board of directors should accommodate to the shareholders' general meeting convened by the Supervisory Committee or the shareholders. The board of directors shall provide the list of shareholders on the record day. Guide 50

### Section 3 Proposing Resolutions for and Notices of Shareholders' General Meetings

- Article 80. When the Company convenes a shareholders' general meeting, the board of directors, the supervisory committee and shareholder(s) individually and jointly holding more than 5% of the Company's shares have the right to propose resolutions to the Company. Guide 53
- Shareholder(s) individually and jointly holding more than 5% of the Company's shares may propose special resolutions in writing to the convenor 20 days before the shareholders' general meeting is convened. The convenor shall issue a supplementary notice of the general meeting within two days after receiving the resolutions to announce the contents of the resolutions.
- Apart from the above, no amendment to the resolutions as set out in the notice of general meeting or proposal of new resolutions shall be made after the convenor has issued the notice of general meeting
- The resolutions not set out in the notice of general meeting or failing to comply with Article 79 of these Articles of Association shall be not voted and resolved in the shareholders' general meeting.
- Article 81. The contents of the resolutions shall fall within the scope of authority of the shareholders' general meeting, with questions defined and specific issues to be resolved, and shall also comply with the laws, regulations, administrative regulations and relevant provisions of these Articles of Association. Guide 52
- Article 82. At the annual shareholders' general meeting, the board of directors and the supervisory committee shall report on their work for the previous year. Guide 69
- Article 83. The board of directors must explain to the shareholders in the shareholders' general meeting when a registered accountancy firm issues a qualified audit opinion in respect of the Company's financial statements. Guide 108
- Article 84. The candidates for the directors and supervisors shall submit to the shareholders' general meeting for voting by way of resolutions. Guide 82
- Article 85. Unless otherwise provided by the relevant laws and regulations, the listing rules issued at the listing place of the Company and the Articles of Association in respect of the means of receipt of corporate communication, when the Company convenes a shareholders' general meeting, written notice of the meeting shall be given forty-five (45) days before the date of the meeting (when calculating the 45 days' period, the date on which the meeting is held shall not be included) to notify all of the shareholders whose names appear in the share register of the matters to be considered and the date and place of the meeting. A shareholder who intends to attend the meeting shall deliver to the Company his written reply concerning his attendance at such meeting twenty (20) days before the date of the meeting. MP53

Article 86. A notice of a meeting of the shareholders of the Company shall satisfy the following criterion: MP56

- (1) Unless otherwise provided by the relevant laws and regulations, the listing rules issued at the listing place of the Company and the Articles of Association in respect of the means of receipt of corporate communication, be in writing;
- (2) specify the place, date and time of the meeting;
- (3) state the matters to be discussed at the meeting;
- (4) provide such information and explanation as are necessary for the shareholders to make an informed decision on the proposals put before them. Without limiting the generality of the foregoing, where a proposal is made to amalgamate the Company with another, to repurchase the shares of the Company, to reorganise its share capital, or to restructure the Company in any other way, the terms of the proposed transaction must be provided in detail together with copies of the proposed agreement, if any, and the cause and effect of such proposal must be properly explained;
- (5) contain a disclosure of the nature and extent, if any, of the material interests of any director, supervisor and senior officer in the proposed transaction and the effect which the proposed transaction will have on them in their capacity as shareholders in so far as it is different from the effect on the interests of shareholders of the same class;
- (6) contain the full text of any special resolution to be proposed at the meeting;
- (7) contain a conspicuous statement that a shareholder entitled to attend and vote at such meeting is entitled to appoint one (1) or more proxies to attend and vote at such meeting on his behalf and that a proxy need not be a shareholder;
- (8) specify the time and place for lodging proxy forms for the relevant meeting;
- (9) state the registration date of the shares of shareholders who are entitled to attend the general meeting Guide 48
- (10) State the name and telephone number of the contact person for the meeting.



In the event the opinion of independent directors is required for the issues to be discussed, such opinion and the reasons for such opinion shall be disclosed in the notice or supplementary notice of the general meeting being issued.

Article 87. Unless otherwise provided by the relevant laws and regulations, the listing rules issued at the listing place of the Company and the Articles of Association in respect of the means of receipt of corporate communication, notice of shareholders' general meetings shall be served on each shareholder (whether or not such shareholder is entitled to vote at the meeting), by personal delivery or prepaid airmail to the address of the shareholder as shown in the register of shareholders. For the holders of Domestic-Invested Shares, notice of the meetings may also be issued by way of public announcement. MP57, App.3 7 (1) & 7 (3)

The public announcement referred to in the preceding paragraph shall be published in one (1) or more national newspapers designated by the State Council Securities Policy Committee within the interval of forty-five (45) days to fifty (50) days before the date of the meeting; after the publication of such announcement, the holders of Domestic-Invested Shares shall be deemed to have received the notice of the relevant shareholders' general meeting.

Article 88. If matters relating to election of directors and supervisors are proposed to be discussed at a shareholders' general meeting, detailed information concerning the candidates shall be fully disclosed in the notice of the general meeting, which shall at least include the following: Guide 56

- (1) Personal information relating to the candidates, including educational background, work experience and all other positions undertaken on a part-time basis;
- (2) Whether the candidates are connected with the Company, its controlling shareholders or de facto controllers;
- (3) The candidates' shareholding in the Company;
- (4) Whether the candidates have been subject to any punishment by the competent securities authorities under the State Council or other relevant department or to any sanction by any stock exchange.

Article 89. After the issue of the notice of general meeting, the shareholders' general meeting shall not be postponed or cancelled or the resolutions set out in the notice of general meeting shall not be cancelled without any proper reason. Guide 57

In the event that there is any delay or cancellation, the convenor shall announce the reasons for such delay or cancellation at least two business days before the date the general meeting is originally scheduled to be held.

Article 90 The Company shall, based on the written replies which it receives from the shareholders twenty (20) days before the date of the shareholders' general meeting, calculate the number of voting shares represented by the shareholders who intend to attend the meeting. If the number of voting shares represented by the shareholders who intend to attend the meeting amount to more than one-half of the Company's total voting shares, the Company may hold the meeting; if not, then the Company shall, within five (5) days, notify the shareholders by way of public announcement the matters to be considered at, and the place and date for, the meeting. The Company may then hold the meeting after publication of such announcement. MP55

#### Section 4 Qualifications of Shareholders Attending Shareholders' General Meeting

Article 91 All shareholders or their proxies who are named in the shareholders' register on the record date shall have the right to attend the shareholders' general meeting, and exercise their voting rights in accordance with the laws, regulations and these Articles of Association. Guide 59

Article 92 An individual shareholder who attends the shareholders' general meeting in person shall produce his identification documents or other valid document or certificate which can prove his identity and his stock account card. Where a proxy is appointed to attend the meeting, the proxy shall produce his own identification documents and the proxy form. Guide 60

A legal person shareholder shall attend the meeting by its authorized representative or the attorney as appointed by such authorized representative. An authorized representative who attends the shareholders' general meeting in person shall produce his identification documents, valid certificate which can prove his identity. Where an attorney is appointed to attend the meeting, the attorney shall produce his own identification documents and the relevant power of attorney executed by such authorized representative pursuant to the laws.

Article 93. Any shareholder who is entitled to attend and vote at a general meeting of the Company shall be entitled to appoint one (1) or more persons (whether such person is a shareholder or not) as his proxies to attend and vote on his behalf, and a proxy so appointed shall be entitled to exercise the following rights pursuant to the authorisation from that shareholder: MP59

- (1) the shareholders' right to speak at the meeting;

- (2) the right to demand or join in demanding a poll;
  - (3) the right to vote by hand or on a poll, but a proxy of a shareholder who has appointed more than one (1) proxy may only vote on a poll.
- Article 94. The instrument appointing a proxy shall be in writing under the hand of the appointor or his attorney duly authorised in writing, or if the appointor is a legal entity, either under seal or under the hand of a director or a duly authorised attorney. MP60
- Article 95. The proxy form appointing a proxy of a shareholder shall be in writing. Such written form shall state the following: Guide 61
- (1) The name of the proxy;
  - (2) Whether or not the proxy has any voting right;
  - (3) An indication to vote for or against each and every matter included in the agenda, (except the proxy of H Shareholders);
  - (4) The date of issue and the valid period of the proxy form;
  - (5) The signature (or seal) of the principal; if the principal is a legal person, supplemented with the seal of the legal person.
- Article 96. The proxy form shall state clearly if the proxy is entitled to vote at his discretion in the absence of specific instruction from the principal. Guide 62
- Article 97. The instrument appointing a voting proxy and, if such instrument is signed by a person under a power of attorney or other authority on behalf of the appointor, a notarially certified copy of that power of attorney or other authority shall be deposited at the residence of the Company or at such other place as is specified for that purpose in the notice convening the meeting, not less than twenty-four (24) hours before the time for holding the meeting at which the proxy propose to vote or the time appointed for the passing of the resolution. MP61
- If the appointor is a legal person, its legal representative or such person as is authorised by resolution of its board of directors or other governing body may attend any meeting of shareholders of the Company as a representative of the appointor.
- Article 98. Any form issued to a shareholder by the directors for use by such shareholder for the appointment of a proxy to attend and vote at meetings of the Company shall be such as to enable the shareholder to freely instruct the proxy to vote in favour of or against the motions, such instructions being given in respect of each individual matter to be voted on at the meeting. Such a form shall contain a statement that, in the absence of specific instructions from the shareholder, the proxy may vote as he thinks fit. MP62

The Company has the right to request a proxy who attends a shareholders' meeting to provide evidence of his or its identity.

If a shareholder which is a legal person appoints its legal representative to attend a meeting on its behalf, the Company has the right to request such legal representative to produce evidence of his or its identity and a notarially certified copy of the resolutions of such shareholder's board of directors in respect of the appointment of the proxy or the power of attorney executed by such other organisation which has the capacity to appoint the proxy.

Article 99. A vote given in accordance with the terms of a proxy shall be valid notwithstanding the death or loss of capacity of the appointor or revocation of the proxy or the authority under which the proxy was executed, or the transfer of the shares in respect of which the proxy is given, provided that the Company did not receive any written notice in respect of such matters before the commencement of the relevant meeting. MP63

#### Section 5 Convening Shareholders' General Meetings

Article 100. The board of directors of the Company together with other convenors shall adopt necessary measures to maintain the normal order of the shareholders' general meeting. Measures shall be taken to stop any act which interferes with or causes nuisance at a general meeting and any act which infringes the lawful interests of the shareholders. Timely report of these acts shall be made to the relevant authority for investigation. Guide 58

Article 101. The Company shall prepare a log book to record the parties attending the shareholders' general meeting. The log book shall set out the name of the person or unit attending the meeting, their identification document numbers, resident address, the number of voting shares they have and the name of the principals (if the parties attending the meeting is a proxy/attorney). Guide 64

Article 102. The convenor and the legal advisers retained by the Company shall jointly verify the eligibility of the shareholders to vote based on the Company's shareholder register provided by the securities registration and clearing authority and shall register the name of the shareholders together with the numbers of voting shares they have. Registration shall come to a close before the chairman of the meeting announces the number of shareholders and proxies physically present at the meeting as well as the total number of voting shares represented by the shareholders who are entitled to vote. Guide 65



## Section 6 Voting in and Resolutions of Shareholders' General Meeting

- Article 107. Resolutions of shareholders' general meetings shall be divided into ordinary resolutions and special resolutions. MP64
- An ordinary resolution must be passed by votes representing more than one-half of the voting rights represented by the shareholders (including proxies) present at the meeting.
- A special resolution must be passed by votes representing more than two-thirds of the voting rights represented by the shareholders (including proxies) present at the meeting.
- Article 108. The following matters shall be resolved by an ordinary resolution at a shareholders' general meeting: MP70
- (1) work reports of the board of directors and the supervisory committee;
  - (2) to decide on the Company's operational policies and investment plans;
  - (3) profit distribution plans and loss recovery plans formulated by the board of directors; Guide 40
  - (4) removal of members of the board of directors and members of the supervisory committee, their remuneration and manner of payment; App.3  
4 (3)
  - (5) annual preliminary and final budgets, balance sheets and profit and loss accounts and other financial statements of the Company;
  - (6) the Company's annual report; Guide 64
  - (7) matters other than those which are required by the laws and administrative regulations or by these Articles of Association to be adopted by special resolution.
- Article 109. The following matters shall be resolved by a special resolution at a shareholders' general meeting: MP71
- (1) the increase or reduction in share capital and the issue of shares of any class, warrants and other similar securities;

- (2) the issue of debentures of the Company;
- (3) the division, merger, dissolution and liquidation of the Company, as well as the alteration of the form of the Company; Company Law 104
- (4) the amendment of the Company's Articles of Association;
- (5) the repurchase of the Company's shares;
- (6) the Company's significant acquisition or disposal of material assets or provision of guarantees conducted within the period of one year with a value exceeding 30% of the latest audited total assets of the Company; Guide 77
- (7) share incentive schemes;
- (8) other matters which are provided by the laws, administrative regulations or these Articles of Association, and resolved by shareholders by ordinary resolution and are considered by the shareholders to be material to the Company and are required to be passed by special resolution."

Article 110. Unless otherwise under special emergency circumstances, and with prior approval of shareholders in the form of a special resolution obtained in a general meeting, the Company shall not enter into any contract with any person other than the directors and senior officers of the Company pursuant to which such person shall be responsible for the management and administration of the whole or any substantial part of the Company's business. Guide 81

Article 111. A shareholder (including a proxy), when voting at a shareholders' general meeting, may exercise such voting rights as are attached to the number of voting shares which he represents. Each share shall have one (1) vote. MP65

The Company's shares held by the Company do not carry any voting rights, and shall not be counted into the total number of shares carrying voting rights in the shareholders' general meeting. Guide 78

Article 112. When connected transactions are voted at the general meeting, the connected shareholders shall not participate in voting. The voting rights represented by the shares held by them shall not be counted in the total number of shares validly voted. The announcement on the resolutions passed by the general meeting should fully disclose the details of voting by unconnected shareholders.

- Article 113. Where any shareholder is, under the Hong Kong Listing Rules, required to abstain from voting on any particular resolution or restricted to voting only for or only against any particular resolution, any vote cast or on behalf of such shareholder in contravention of such requirement or restriction shall not be counted.
- Article 114. The board of directors, independent directors and shareholders qualified under the relevant regulation may also collect from other shareholders of the Company the rights to vote in a shareholders' general meeting.
- Article 115. At any shareholders' general meeting, a resolution shall be decided on a show of hands unless a poll is demanded: MP66
- (1) by the chairman of the meeting;
  - (2) by at least two (2) shareholders present in person or by proxy entitled to vote thereat;
  - (3) by one (1) or more shareholders present in person or by proxy and representing 10 % or more of all shares carrying the right to vote at the meeting,
- before or after a vote is carried out by a show of hands.
- Unless a poll is demanded, a declaration by the chairman that a resolution has been passed on a show of hands and the record of such in the minutes of the meeting shall be conclusive evidence of the fact that such resolution has been passed. There is no need to provide evidence of the number or proportion of votes in favour of or against such resolution.
- The demand for a poll may be withdrawn by the person who demands the same.
- Article 116. A poll demanded on the election of the chairman of the meeting, or on a question of adjournment of the meeting, shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairman of the meeting directs, and any business other than that upon which a poll has been demanded may be proceeded with, pending the taking of the poll. The result of the poll shall be deemed to be a resolution of the meeting at which the poll was demanded. MP67
- Article 117. On a poll taken at a meeting, a shareholder (including a proxy) entitled to two (2) or more votes need not cast all his votes in the same way. MP68
- Article 118. Election of directors of the Company (including independent directors but not staff representatives) and Supervisors (who are not staff representatives) shall take place in the form of cumulative voting system.



When electing directors at the shareholders' general meeting, the independent directors shall be elected separately with other members of the board of directors. Each share having voting rights held by a shareholder has the number of votes equal to the number of nominated directors. A shareholder may freely allocate his votes among the nominated directors, either to allocate to a number of persons, or to vote all his/her votes in favour of one person.

When electing supervisors at the shareholders' general meeting, each share having voting rights held by a shareholder has the number of votes equal to the number of nominated supervisors. A shareholder may freely allocate his votes among the nominated supervisors, either to allocate to a number of persons, or to vote all his/her votes in favour of one person.

Article 119	Except for the cumulative voting system, each of the proposed resolution shall be decided by the voting in the shareholders' general meeting in sequence. Should there be more than one resolution on the same issue, voting shall be conducted according to the chronology of the resolutions proposed. No proposed resolution should be set aside or remained undecided unless the shareholders' general meeting is terminated or resolutions cannot be made due to exceptional reasons including force majeure.	Guide 83
Article 120	No amendment shall be made to the resolutions being considered by the shareholders' general meeting. Otherwise, the relevant amendments shall be treated as a new resolution and shall not be voted in the prevailing shareholders' general meeting.	Guide 84
Article 121	Prior to voting, the chairman of the meeting shall announce the number of shareholders and proxies physically present at the meeting as well as the total number of voting shares represented by shareholders who are entitled to vote. The number of shareholders and proxies physically present at the meeting as well as the total number of voting shares represented by the shareholders who are entitled to vote shall be determined in accordance with those registered during the meeting.	Guide 71
Article 122	When considering the resolutions being submitted for voting, shareholders attending the meeting shall deliver their opinion in respect of approval or objection to such motions or abstention from voting. (Voting by H Shareholders may not include abstention from voting.)  Failure to or wrongly complete the ballot paper, or the ballot paper being illegible, and ballot paper not voted shall be deemed as the voter abstaining from voting. The votes represented by such shares shall be counted as "abstention".	Guide 89

Article 123.	In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place or at which the poll is demanded shall be have a casting vote.	MP69
Article 124	Each vote can only be exercised once either physically at a meeting, via Internet or through other permitted means. If the same vote is exercised more than once, only the first vote will be accounted for.	Guide 85
Article 125	<p>Before a resolution is decided on a motion at a shareholders' general meeting, two representatives of the shareholders shall be nominated to participate in counting the votes as well as supervising the counting process. If a shareholder is interested in the matters under consideration, the relevant shareholders and his proxies shall not participate in counting the votes or supervising the counting process.</p> <p>At the time of deciding on a motion by voting at a general meeting, legal advisers, representatives of shareholders and representatives of supervisors shall participate in counting the votes as well as supervising the counting process. They shall announce the voting results at the meeting. The voting results in connection with the resolution shall be recorded in the minutes.</p> <p>Shareholders of the Company or their proxies who cast their votes via Internet or through other permitted means shall have the right to monitor the voting results by the corresponding voting platform.</p>	Guide 87
Article 126	<p>A shareholders' general meeting shall not be declared closed for shareholders who attend in person at a time earlier than for those shareholders who attend via Internet or other permitted means. The chairman of the meeting shall announce at the meeting the voting details and results of each motion and shall declare whether or not a motion is adopted on the basis of relevant voting results.</p> <p>The Company, persons responsible for counting the votes, persons responsible for supervising the counting process, Internet service providers and other relevant parties shall have the obligation to keep matters related to voting confidential.</p>	Guide 88
Article 127	If the chairman of the meeting has any doubt as to the result of a resolution which has been put to vote at a shareholders' meeting, he may have the votes counted. If the chairman of the meeting has not counted the votes, any shareholder who is present in person or by proxy and who objects to the result announced by the chairman of the meeting may, immediately after the declaration of the result, demand that the votes be counted and the chairman of the meeting shall have the votes counted immediately.	MP75

Article 128	If votes are counted at a shareholders' general meeting, the result of the count shall be recorded in the minute book.	MP76 Guide 91
Article 129	The chairman of the meeting shall be responsible for determining whether a resolution has been passed. His decision, which shall be final and conclusive, shall be announced at the meeting and recorded in the minute book.	MP74
Article 130	Resolutions of the shareholders' general meeting shall be announced timely. The announcement shall state the number of the shareholders and proxies present at the meeting, the total number of shares carrying the right to vote held by them and the percentage of such shares out of the total number of shares carrying the right to vote of the Company, the method of voting, the voting result of each motion and details of each resolutions passed in the meeting.  When the five issues set out in paragraph 2 of Article 136 of the Articles of Association are proposed to be considered at the shareholders' general meeting of the Company, the announcement of the resolutions of the shareholders' general meeting shall set out the number of public shareholders voting, the total number of shares held by them and the proportion in the total number of shares held by them and disclose the shareholdings of the 10 largest public shareholders voting as well as the result of their votes.	
Article 131	Where a resolution of the meeting is not adopted, or a resolution passed at the previous shareholders' general meeting is changed at the current shareholders' general meeting, specific note shall be given in the announcement for the resolutions passed in the shareholders' general meeting.	Guide 92
Article 132	The motion for the new session of the board of directors and the Supervisory Committee being passed by the shareholders' general meeting shall commence office after the resolution being passed by the shareholders' general meeting.  In the event the election of the staff representative (hereinafter referred to as the "Staff director") in the new session of the board of directors and the staff representative (hereinafter referred to as the "Staff Supervisor") in the new session of the Supervisory Committee by the staff is earlier than the terms the new session of the board of directors and the Supervisory Committee commence, their offices will commence when the terms of the new session of the board of directors of director and the supervisory committee commence. If the election by staff is later than the terms of the new session of the board of directors and the Supervisory Committee commence, their offices will commence on the date when they are elected by the staff.	Guide 93

Article 133	If a motion in respect of the distribution of cash or bonus shares, or in connection with the capital increase by conversion from common reserve funds, is adopted at a shareholders' general meeting, the Company shall implement such distribution within two months of the relevant general meeting.	Guide 94
Article 134	<p>Minutes of a shareholders' general meeting shall be kept and such minutes shall be prepared by the Secretary to the board of directors. Minutes of the shareholders' general meetings should set out the following:</p> <ol style="list-style-type: none"> <li>(1) the date and venue for convening the meeting, meeting agenda and the name of the convenor;</li> <li>(2) the name of the chairman of the meeting as well as those of the directors, supervisors and senior officers who attend the meeting as attendees and participants;</li> <li>(3) the number of shareholders and proxies attending the meeting, the total number of voting shares represented by the shareholders who are entitled to vote; the proportion of the number of voting shares represented by the shareholders who are entitled to vote out of the total number of shares of the Company;</li> <li>(4) a description of the considerations taken for each motion, the main points put forward by each speaker relating thereto and the voting results thereof;</li> <li>(5) details of queries and recommendations of the shareholders and the corresponding response or explanation in relation thereto;</li> <li>(6) the names of the legal advisers and persons responsible for counting the votes and for supervising the counting process; and</li> <li>(7) other contents which should be recorded in the minutes as provided for in these Articles of Association.</li> </ol>	MP76 Guide 74 and 75

Article 135 The convenor shall ensure that the content of the minutes shall be true, accurate and complete. Guide 73  
Minutes shall be signed by attendees of the meeting, including the directors, supervisors, secretary to the board of directors, the convenor or its representative and the chairman of the meeting. Minutes shall, together with the register relating to the shareholders present at the meeting in person and the proxy form if present by proxy, or via Internet or other permitted means be kept by the Company for a period of not less than ten years.

Article 136. Copies of the minutes of proceedings of any shareholders' meeting shall, during business hours of the Company, be open for inspection by any shareholder without charge. If a shareholder requests for a copy of such minutes from the Company, the Company shall send a copy of such minutes to him within seven (7) days after receipt of reasonable fees therefor. MP77

#### Section 7 Voting platform through internet

Article 137 The Company shall, with its priority to ensure that the shareholders' general meeting is legal and effective, enlarge the proportion of public shareholders participating in the shareholders' general meeting through various manner and means including providing modern information technological means such as voting platform through internet. Attendance shall be accepted for shareholders who attend the general meeting through the above means. Guide 44

When the five issues set out in paragraph 2 of Article 136 of the Articles of Association are proposed to be considered at the shareholders' general meeting of the Company, domestic shareholders shall be given an online voting platform in addition to live meetings.

Online voting access for domestic shareholders shall be provided through internet service providers designated by China Securities Regulatory Commission and Shanghai Stock Exchange. The holders of Overseas Listed Foreign Invested Shares will not be provided with online voting access.

Upon completion of the voting process at the shareholders' general meeting, the Company shall consolidate, in respect of each proposal, the voting results of live meeting, online voting and other forms of voting in accordance with the relevant regulation before making any announcement.

Article 138. The Company shall establish and perfect the voting system for public shareholders in respect of significant issues.

The following issues or the relevant applications in relation to such issues proposed to the shareholders' general meeting shall be only carried out upon approval at the shareholders' general meeting and approval by the public shareholders representing more than half of the votes cast by the public shareholders present at the shareholders' general meeting:

- (1) Any issue of new shares by the Company to the public (including issue of Overseas Listed Foreign Invested Shares or other equity securities), issue of convertible debentures, placing of shares to existing shareholders (except those for which the controlling shareholders have undertaken to fully subscribe in cash before the shareholders' general meeting is convened);
- (2) Substantial assets restructuring of the Company where the total consideration for the assets proposed to be acquired is or higher than 20% of the audited net book value of such assets;
- (3) Repayment of debts owing to the Company by any shareholder by means of his/her equity interests in the Company;
- (4) Overseas listing of any subsidiaries of the Company which have a significant impact on the Company;
- (5) Other relevant issues which may have a significant impact on the interests of the public shareholders in respect of the development of the Company.

Article 139. Under circumstances as prescribed in the above article, after the Company making public announcement of the notice of shareholders' general meeting, the notice of the shareholders' general meeting shall be published once again within 3 days after the share registration day.

#### CHAPTER 9: SPECIAL PROCEDURES FOR VOTING BY A CLASS OF SHAREHOLDERS

- Article 140. Those shareholders who hold different classes of shares are class shareholders. MP78  
Class shareholders shall enjoy rights and assume obligations in accordance with laws, administrative regulations and these Articles of Association.
- Article 141. Rights conferred on any class of shareholders ("class rights") may not be varied or abrogated save MP79  
with the approval of a special resolution of shareholders in a general meeting and by holders of shares of that class at a separate meeting conducted in accordance with Articles 141 to 145.

Article 142. The following circumstances shall be deemed to be variation or abrogation of the rights attaching to a particular class of shares: MP80

- (1) to increase or decrease the number of shares of that class, or to increase or decrease the number of shares of a class having voting or equity rights or privileges equal or superior to those of shares of that class;
- (2) to exchange all or part of the shares of that class for shares of another class or to exchange or to create a right to exchange all or part of the shares of another class for shares of that class;
- (3) to remove or reduce rights to accrued dividends or rights to cumulative dividends attached to shares of that class;
- (4) to reduce or remove preferential rights attached to shares of that class to receive dividends or to the distribution of assets in the event that the Company is liquidated;
- (5) to add, remove or reduce conversion privileges, options, voting rights, transfer or preemptive rights, or rights to acquire securities of the Company attached to shares of that class;
- (6) to remove or reduce rights to receive payment payable by the Company in particular currencies attached to shares of that class;
- (7) to create a new class of shares having voting or equity rights or privileges equal or superior to those of the shares of that class;
- (8) to restrict the transfer or ownership of shares of that class or to increase the types of restrictions attaching thereto;
- (9) to allot and issue rights to subscribe for, or to convert the existing shares into, shares in the Company of that class or another class;
- (10) to increase the rights or privileges of shares of another class;
- (11) to restructure the Company in such a way so as to result in the disproportionate distribution of obligations between the various classes of shareholders;
- (12) to vary or abrogate the provisions of this Chapter.

Article 143. Shareholders of the affected class, whether or not otherwise having the right to vote at shareholders' general meetings, have the right to vote at class meetings in respect of matters concerning subparagraphs (2) to (8), (11) and (12) of Article 140, but interested shareholder(s) shall not be entitled to vote at such class meetings. MP81

“(An) interested shareholder(s)”, as such term is used in the preceding paragraph, means:

- (1) in the case of a repurchase of shares by way of a general offer to all shareholders of the Company or by way of public dealing on a stock exchange pursuant to Article 32, a “controlling shareholder” within the meaning of Article 61;
- (2) in the case of a repurchase of shares by an off-market agreement pursuant to Article 32, a holder of the shares to which the proposed agreement relates;
- (3) in the case of a restructuring of the Company, a shareholder who assumes a relatively lower proportion of obligation than the obligations imposed on shareholders of that class under the proposed restructuring or who has an interest in the proposed restructuring different from the general interests of the shareholders of that class.

Article 144. Resolutions of a class of shareholders shall be passed by votes representing more than two-thirds of the voting rights of shareholders of that class represented at the relevant meeting who, according to Article 141, are entitled to vote thereat. MP82

Where any shareholder is, under the Hong Kong Listing Rules, required to abstain from voting any particular resolution in a class meeting or restricted to voting only for or only against any particular resolution in a class meeting, any vote cast or on behalf of any shareholder in contravention of such requirement or restriction shall not be counted.

Article 145. Unless otherwise provided by the relevant laws and regulations, the listing rules issued at the listing place of the Company and the Articles of Association in respect of the means of receipt of corporate communication, written notice of a class meeting shall be given to all shareholders who are registered as holders of that class in the register of shareholders forty-five (45) days before the date of the class meeting. Such notice shall give such shareholders notice of the matters to be considered at such meeting, the date and the place of the class meeting. A shareholder who intends to attend the class meeting shall deliver his written reply in respect thereof to the Company twenty (20) days before the date of the class meeting. MP83

If the shareholders who intend to attend such class meeting represent more than half of the total number of shares of that class which have the right to vote at such meeting, the Company may hold the class meeting; if not, the Company shall within five (5) days give the shareholders further notice of the matters to be considered, the date and the place of the class meeting by way of public announcement. The Company may then hold the class meeting after such public announcement has been made.



Article 146.	Notice of class meetings need only be served on shareholders entitled to vote thereat.  Class meetings shall be conducted in a manner which is as similar as possible to that of shareholders' general meetings. The provisions of these Articles of Association relating to the manner for the conduct of shareholders' general meetings are also applicable to class meetings.	MP84
Article 147.	Apart from the holders of other classes of shares, the holders of the Domestic-Invested Shares and holders of Overseas-Listed Foreign-Invested Shares shall be deemed to be holders of different classes of shares.  The special procedures for approval by a class of shareholders shall not apply in the following circumstances:	App. 13 Pt. D 1(f)
	(1) where the Company issues, upon the approval by special resolution of its shareholders in a general meeting, either separately or concurrently once every twelve (12) months, not more than 20% of each of its existing issued Domestic-Invested Shares and Overseas-Listed Foreign-Invested Shares; or	MP85 C.3 Zheng Jian Hai Han [1995] No. 3
	(2) where the Company's plan to issue Domestic-Invested Shares and Overseas-Listed Foreign-Invested Shares at the time of its establishment is carried out within fifteen (15) months from the date of approval of the State Council's securities authorities.	App.13 Pt.D 1f(i)  App.13 Pt.D 1f(ii)

## CHAPTER 10: BOARD OF DIRECTORS

### Section I Directors

Article 148	Directors who are not staff representative shall be elected or removed at the shareholders' general meeting.  The staff directors shall be elected by the staff in the staff representative meeting or by other ways democratically.  Directors shall be elected for a term of three years. At the expiry of the term, it shall be renewable upon re-election. A director may not be removed by the shareholders in a general meeting without any reason before his term of office expires.	MP87, C.4 Zheng Jian Hai Han [1995] No. 1 Guide 96
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The Chairman and Vice-chairman shall be elected and removed by more than one-half of all members of the board of directors. The term of office of the Chairman and Vice-chairman shall be three (3) years respectively, which is renewable upon re-election. Guide 85

The directors shall not be required to hold qualifying shares.

If a director fails to attend the two consecutive board meetings in person or by another director appointed as his representative (an independent director shall comply with the provisions in “Section II Independent Directors”), he shall be deemed to be in default of performing his duty. The board of directors should recommend his removal to a shareholders’ general meeting.

Article 149. The tenure of a director shall commence from the date when he takes office until the end of the tenure of the existing board of directors. If an election is not conducted before the termination of the tenure of a director, the original director(s) shall continue to assume the responsibilities in accordance with the laws, administrative regulations, departmental rules and these Articles of Association before the new director(s) take office. Guide 96

Article 150. A director may submit his resignation before the expiry of his term. He should deliver a written resignation letter to the board of directors. The board of directors shall disclose such resignation within two days. Guide 86  
Guide 100

Article 151. If a director’s resignation will result in the number of directors falling below the legally prescribed minimum, his resignation shall not come into force until his vacancy is filled by another person. The original director(s) shall continue to assume the responsibilities in accordance with the laws, administrative regulations, departmental rules and these Articles of Association before the new director(s) take office. Guide 87  
Guide 100

Apart from the above, the resignation of a director shall become effective when the written resignation letter is submitted to the board of directors Guide 88

Article 152. When a director resigns or his term of office expires, his obligation of confidentiality relating to the Company’s trade secrets remains in force after the end of his office until such secrets become public information. Guide 89

Article 153. A director whose term of office has not expired shall be held responsible for the Company’s loss due to his departure without permission. Guide 67

Article 154. Under normal circumstances, the board of directors will nominate candidates for directors who are not staff representative who shall be voted on at a shareholders' general meeting. The Company's shareholders and the supervisory committee may nominate candidates for directors who are not staff representative in accordance with these Articles of Association. App.3 4(3)-4 (5)

A shareholder's written notice of the intention to nominate a person for election as a director who are not staff representative and a notice in writing by that person indicating his acceptance of such nomination shall have been given to the Company seven (7) days before the date of such shareholders' general meeting. Such written notice(s) by the shareholder(s) of the Company shall be made no earlier than the day after the despatch of the notice of the general meeting appointed for election of directors who are not staff representative and no later than 7 days prior to the date of such meeting.

Where a person is proposed for election as a director who are not staff representative by the board of directors, a written notice of the intention to nominate a person for election as a director who are not staff representative and a notice in writing by that person indicating his acceptance of such nomination by board of directors shall have been given to the Company seven (7) days prior to the date of the board meeting appointed for determining the proposed directors who are not staff representative.

Under the premises of complying with the relevant laws and administrative regulations, the general meeting of the shareholders may remove any director who are not staff representative before his term expires by way of ordinary resolution provided that the claims that may be proposed pursuant to any contract shall not be affected therefrom.

#### Section II Independent Directors

Article 155. Independent Directors are directors who do not hold any positions in the Company other than as director and do not maintain with the Company and its substantial shareholders a connection which may hamper their independent and objective judgments. IDGO 1(1)

Article 156. The independent directors should possess the following basic qualifications: IDGO 2

- (1) having the qualifications to assume the office of a director in a listed company according to the laws, administrative rules and other relevant provisions;
- (2) being independent as specified in Article 155 of these Articles of Association;
- (3) having the basic knowledge of the operation of a listed company and being familiar with relevant laws, administrative rules and regulations;

- (4) having not less than five years' working experience in the legal or economic field or other experiences required for performing the duty of an independent director;
- (5) other qualifications specified by these Articles of Association.

Article 157. An independent director should be independent. The following persons shall not act as independent directors: IDGO 3

- (1) persons working in the Company or its subsidiaries, as well as their spouses, parents, children, siblings, parents-in-law, sons or daughters-in-law, spouses of their siblings and siblings of their spouses;
- (2) natural person shareholders who directly or indirectly hold more than 1% of the issued shares of the Company or who rank in the top ten shareholders of the Company, as well as their spouses, parents and children;
- (3) persons who work in entities being shareholders who directly or indirectly hold more than 5% of the issued shares of the Company who rank in the top five shareholders of the Company, as well as their spouses, parents and children;
- (4) persons who fell within the above three categories within the past year;
- (5) persons who provide financial, legal and consulting services to the Company or its subsidiaries or persons who work in the relevant organisations;
- (6) other people specified in these Articles of Association;
- (7) other people specified by the China Securities Regulatory Commission.

Article 158. The board of directors, the supervisory committee, and the shareholders who hold more than 1% issued shares individually or jointly may nominate candidates for independent directors to be elected at the shareholders' general meeting.

More than one third of the members of the board of directors shall be independent directors, and at least one of the independent directors shall have accounting expertise.

- Article 159. The term of office of the independent directors is the same with that of the other directors of the Company. The term is renewable upon re-election after expiry, but shall not be more than six (6) years.
- Any independent director shall not be removed before the expiry of his term of office without appropriate reason. Any removal before the expiry of term shall be disclosed by the Company as a special discloseable matter.
- Article 160. Apart from the powers granted to directors by the Company Law and other relevant laws, regulations and these Articles of Association, the independent directors shall have the following special powers: IDGO 5(1) to (3)
- (1) Substantial connected transactions (determined in accordance with the standard promulgated from time to time by the regulatory organizations of the place where the Company's shares are listed), and engaging or ceasing to engage an accounting firm, shall be agreed by more than one-half of the independent directors before submitting to the board of directors for discussion.
  - (2) The independent directors may request the board of directors to convene an extraordinary general meeting, and suggest the convening of a board meeting, and publicly collect voting rights from the shareholders before the shareholders' general meeting, which shall all be agreed by more than one-half of the independent directors.
  - (3) With the consent of more than half of the members of the independent directors, the independent directors may engage external audit institutions or consultative institutions independently to provide audit and consultation for specific matters of the Company, the relevant costs of which shall be undertaken by the Company.
- If the above recommendation are not accepted or the above powers can not be exercised ordinarily, the Company shall disclose the circumstances accordingly.
- Article 161. Apart from exercising the above powers, the independent directors shall express their independent views to the board of directors or the shareholders' general meeting in respect of : IDGO 6
- (1) nomination, appointment and dismissal of directors;
  - (2) appointment or dismissal of senior management personnel;
  - (3) remuneration of the Company's directors and senior management personnel;

- (4) existing or new loans or other transactions involving funds which are substantial (determined in accordance with the standard promulgated from time to time by the regulator organizations of the place where the Company's shares are listed) between the Company and the Company's shareholders, persons in actual control of the Company and their affiliates, and whether the Company has taken effective measures to recover the moneys owed to it;
- (5) a plan of profit distribution in cash which has not yet been formulated by the board of directors of the Company;
- (6) actions which, in the opinion of the independent directors, may prejudice the interests of minority shareholders;
- (7) other matters specified by these Articles of Association.

The independent directors should express one of the following views on the above-mentioned issues: consent; reservation with the reasons thereof; objection with the reasons thereof; inability to express their opinions and the impediments thereto.

In case of matters requiring disclosure, the Company should make a public announcement of the independent directors' opinion. If the independent directors fail to reach a consensus in their opinions, the board of directors should disclose each independent director's respective opinion.

Article 162. Independent directors shall attend the meetings of the board of directors on time understand the production business and operation of the Company, and initiate investigation to gain information required for making decision.

Independent directors shall submit an annual report for at the annual general meeting of the Company providing explanation in respect of the performance of their duties.

Article 163. The independent directors shall perform their duties honestly and faithfully, and protect the Company's interests, especially paying attention to the protection of the legal rights of public shareholders.

The independent directors shall perform his duties independently, without being affected by major shareholders of the Company, persons in actual control or other entities or individuals which have conflicting interest with the Company, its major shareholders and persons in actual control.

Article 164. If an independent director fails to attend three consecutive board meeting in person, the board of directors shall recommend his removal to a shareholders' general meeting.

IDGO 4(5)

Article 165. The Company shall set up a work system for the independent directors, ensuring that they have the same right of being informed as the other directors. The Company shall promptly provide the independent directors with relevant materials and information, regularly notify them of the operation of the Company, and organise on-site visit by the independent directors if necessary.

Article 166. An independent director may tender his resignation before the expiry of his term of office. He should deliver a written resignation letter to the board of directors, which explains any circumstances that are relevant to his resignation or that he considered necessary for the shareholders and creditors to pay attention.

If an independent director's resignation results in the number of independent directors or member of the board of directors falling below the legally prescribed minimum or the minimum under these Articles of Association, before the appointment of a new independent director, the independent director shall perform his duties according to the laws, administrative regulations and requirements under this Article of Association. The board of directors shall convene a shareholders' general meeting within two months to elect a replacement. If not within two months, the independent director may not continue to perform his duties.

Article 167. Matters relating to the system of independent directors which have not been set out in this section shall be handled according to the relevant laws and regulations.

### Section III The Board of Directors

Article 168. The Company shall have a board of directors consisting of eleven (11) directors, of which is one shall be a staff representative, with one (1) chairman and one (1) vice-chairmen. MP86 Guide 96

The Board may establish special committees such as Strategic Committee, Audit Committee, Nomination Committee and Remuneration Committee as it deems appropriate. The special committees are to be comprised solely of Directors. The independent directors of the Company should take up the majority of the Audit Committee, the Nomination Committee and the Remuneration Committee and be responsible for as conveners of meetings. The members of the Audit Committee should have at least one independent director who is an accounting professional.

Article 169. The board of directors is accountable to the shareholders in general meeting and exercises the following functions and powers: MP88 Guide 94

- (1) to be responsible for the convening of the shareholders' general meeting and to report on its work to the shareholders in general meetings;

- (2) to implement the resolutions passed by the shareholders in general meetings;
- (3) to determine the Company's business plans and investment proposals;
- (4) to formulate the Company's annual preliminary and final financial budgets;
- (5) to formulate the Company's profit distribution proposal and loss recovery proposal;
- (6) to formulate proposals for the increase or reduction of the Company's registered capital and for the issuance of the Company's debentures;
- (7) to draw up plans for the substantial acquisition, repurchase of shares, merger, division or dissolution of the Company;
- (8) to decide on the Company's internal management structure;
- (9) to appoint or remove the Company's general manager and secretary of the board and to appoint or remove the deputy general manager(s) and other senior officers (including the financial controller(s) of the Company) based on the recommendations of the general manager, to decide on their remuneration and matters relating to awards and penalty;
- (10) to formulate the Company's basic management system;
- (11) to formulate proposals for any amendment of these Articles of Association;
- (12) to decide on matters relating to foreign investment, purchase or sale of assets, mortgage of assets, provision of guarantees, entrusted assets management and connected transactions by the Company within the scope of authority conferred by the general meeting;
- (13) to manage disclosure of the Company's information;
- (14) to recommend to the shareholders' general meeting the appointment or replacement of the Company's accounting firm;
- (15) to receive the working report by the Company's management and examine their performance;



- (16) to approve an aggregate amount of provision for impairment of assets not more than 10% of the latest audited consolidated net asset value of the Company, to clear an amount of provision for impairment of assets not more than 5% of the latest audited consolidated net asset value of the Company, and to execute in compliance with the relevant regulations on connected transaction if any provision and clearance of impairment of assets involves any connected transactions.
- (17) to be responsible for matters in relation to corporate governance of the Company, including (i) to develop and review the Company's policies and practices on corporate governance; (ii) to review and monitor the training and continuous professional development of directors and senior management; (iii) to review and monitor the Company's policies and practices on compliance with legal and regulatory requirements; (iv) to develop, review and monitor the code of conduct and compliance manual (if any) applicable to employees and directors; and (v) to review the Company's compliance with the code of the stock exchange on which the Company's securities are listed and disclosure in the corporate governance report.
- (18) to exercise any other powers specified by the law, administrative regulations, departmental rules, these Articles of Association and as authorised by the shareholders' general meeting.

Except as otherwise provided in these Articles of Association, other than the board of directors' resolutions in respect of the matters specified in sub-paragraphs (6), (7) and (11) of this Article which shall be passed by the affirmative vote of more than two-thirds of all the directors, the board of directors' resolutions in respect of all other matters may be passed by the affirmative vote of a simple majority of the directors.

Article 170 The board of directors shall lay down strict procedures to inspect and decide on the approval limit for foreign investment, purchase or sale of assets, mortgage of assets, provision of guarantees, entrusted assets management and connected transactions. For major investment projects, the board of directors shall organize the relevant experts and professional officers to conduct assessment for approval of the shareholders in a general meeting.

Article 171. With the approval of over two-thirds of all directors, the board of directors may make decisions on the following matters: Guide 97

- (1) transactions falling within the following limit (whichever is stricter) with respect to purchase or sale of assets, external investment (including entrusted financial management and entrusted loans, etc.), provision of financial assistance, leasing of assets as lessor or lessee, restructuring of claims or debts, giving or receiving assets as a gift, entrusted or trusted asset or business management, entering of licence agreement, transferring or accepting the transfer of research and development projects
  - 1. the aggregate assets value (where book value and assessed value are available, whichever is higher) involved in a single transaction with amount more than 10% and below 50% of the Company's latest audited total asset value prepared in accordance with the PRC GAAP; or more than 5% and less than 25% of the Company's latest published total assets value prepared in accordance with the International Financial Reporting Standards;

2. a single transaction of which the completion consideration (including liabilities and expenses) accounts for more than 10% and less than 50% of the Company's latest audited net asset value prepared in accordance with the PRC GAAP; or more than 5% and less than 25% of the total market capitalisation of the Company (which is calculated by the average closing price of the Company's shares as stated in the Hong Kong Stock Exchange's daily quotations sheets for the five business days immediately preceding the date of a transaction);
3. the latest annual income from principal operations of the subject of a single transaction accounted for more than 10% and less than 50% of the Company's latest audited income from principal operations for the latest financial year prepared in accordance with the PRC GAAP; or more than 5% and less than 25% of the Company's latest audited income from principal operations for the latest financial year prepared in accordance with the International Financial Reporting Standards;
4. the latest annual net profit of the subject of a single transaction accounted for more than 10% and less than 50% of the Company's latest audited net profit for the latest financial year prepared in accordance with the PRC GAAP; or more than 5% and less than 25% of the Company's latest audited net profit for the latest financial year prepared in accordance with the International Financial Reporting Standards.

The above transactions which involve public offer of securities that requires the approval of the China Securities Regulatory Commission shall be subject to approval of the shareholders' general meeting;

- (2) a single loan of more than 10% and less than 25% of the Company's latest audited net asset value and the debt ratio to the Company's assets remains under 80% after such financing;
- (3) mortgages or pledges of assets the cumulative outstanding amount of which is less than 30% of the Company's most recently audited net asset value;
- (4) external guarantees not within the approval limit of the shareholders' general meeting as provided in the Articles of Association;
- (5) transactions involving connected transactions, which have to be conducted in accordance with the relevant regulations of competent securities authorities and the listing rules of the stock exchanges.

The transactions referred to in (1) of the first paragraph involving the provision of financial assistance and entrusted financial management, shall be calculated on accrued basis for twelve consecutive months according to the transaction categories and applicable approval limit proportion of the board of directors. When the Company conducts other transactions apart from the provision of financial assistance and entrusted financial management, applicable approval limit proportion of the board of directors regarding each transaction which is under the same category shall be calculated on the principle of accrued basis for twelve consecutive months. Transactions already approved by the Company in accordance with the principle of accrued basis shall not be included in the scope of accrual calculation.

Provision of regulatory authorities the Company is subject to within and outside the PRC that is of a stricter standard than this Article of Association shall apply accordingly.

Article 172 The directors of the Company shall ensure that the information disclosed by the Company is true, accurate and complete.

The directors of the Company shall sign a written confirmation of opinion in connection with the regular report of the Company.

Article 173. The Company has established a strict internal control system over external guarantee. The whole board of directors shall cautiously handle and strictly control the risk of debt created by external guarantee. In connection with the losses resulting from an inappropriate external guarantee or an external guarantee given not in compliance with the relevant laws and regulations the directors who shall be held responsible shall bear joint and several liabilities.

(I) Review on guarantee and decision limitation

Before making any decision on external guarantee, the Company shall understand the creditability of the debtor and make a thorough analysis on the benefit and risk of such guarantee.

Any external guarantee given by the Company shall be approved by two-thirds of the board of directors or by the shareholders in a general meeting. Any connected director(s), shareholder(s) or shareholders controlled by de facto controllers being interested in a guarantee shall excuse himself from voting on resolution relating to such guarantee.

The approval limit of the Company for an external guarantee shall be executed in accordance with (13) in the first paragraph of Article 65, Article 66 and (6) in the first paragraph of Article 107.

Guide 41, 77

(II) Management in guarantee procedures

The external guarantee of the Company shall be made in form of written contract, and at the same time the supervisory committee, the secretary to the board of directors and the financial department shall be notified.

(III) Disclosure on provision of guarantee

The provision of external guarantee as approved by the Board or shareholders in general meetings should be disclosed in a preliminary report in a true, accurate, complete and timely manner. The obligation to disclose such matters should not be fulfilled by way of periodic reports.

The contents to be disclosed should include: (i) the respective resolutions passed by the Board or 734971-v2\HKGDMS\HKGKKG 2 general meetings; (ii) the aggregate amount of external guarantee provided by the Company and its subsidiaries as at the date of disclosure; (iii) the aggregate amount of guarantees provided by the Company to its subsidiaries.

The above disclosure obligation should apply equally to the subsidiaries of the Company when providing external guarantees.

Within ten days upon the approval of the provision of external guarantee by the Company, the Company should file the relevant resolutions of the Board or the general meeting, minutes of the relevant meeting and financial statements of the guaranteed party with Shandong Provincial Securities Regulatory Bureau of the China Securities Regulatory Commission; and within ten days upon the signing of the guarantee agreement, file the relevant agreement(s) in respect of the external guarantee stamped with the Company's chop with Shandong Provincial Securities Regulatory Bureau of the China Securities Regulatory Commission."

Article 174

The board of directors shall not, without the prior approval of shareholders in a general meeting, dispose or agree to dispose of any fixed assets of the Company where the aggregate of the amount or value of the consideration for the proposed disposition, and the amount or value of the consideration for any such disposition of any fixed assets of the Company that has been completed in the period of four (4) months immediately preceding the proposed disposition, exceeds 33 % of the value of the Company's fixed assets as shown in the latest balance sheet which was tabled at a shareholders' general meeting.

For the purposes of this Article, “disposition” includes an act involving the transfer of an interest in assets but does not include the usage of fixed assets for the provision of security.

The validity of a disposition by the Company shall not be affected by any breach of the first paragraph of this Article.

Article 175	The Chairman of the board of directors shall exercise the following powers:	Guide 113
	(1) to preside over shareholders’ general meetings and to convene and preside over meetings of the board of directors;	
	(2) to check on the implementation of resolutions passed by the board of directors at directors’ meetings;	Guide 114
	(3) to sign the securities certificates issued by the Company;	
	(4) to sign the important documents of the board and other documents which should be signed by the Company’s legal representative;	
	(5) to exercise the rights of the legal representative;	
	(6) in the event of emergency situations such as the occurrence of large-scale natural disasters, to take special steps in handling the Company’s business according to the laws and the Company’s interest; and to report to the Company’s board of directors and shareholders’ general meeting afterwards;	Guide 115
	(7) to exercise other powers conferred by the board of directors.	
Article 176	The vice chairman shall assist the chairman in his work. Where the chairman is unable to or does not perform the duty, the vice chairman shall preside the meeting. Where the vice chairman is unable to or does not perform the duty, a director nominated by more than one-half of the directors shall perform the duty.	
Article 177	Meetings of the Board shall be held at least three times every year and shall be convened by the chairman of the board of directors. All of the directors and supervisors should be notified about the meeting fourteen (14) days beforehand. An extraordinary meeting of the board of directors may be held under the following circumstances:	
	(1) when the Chairman thinks it is necessary;	
	(2) Shareholders carrying voting rights of more than 10%;	
	(3) when more than one-third directors so request;	Guide 120

- (4) when the supervisory committee so requests;
- (5) when the general manager so requests;
- (6) when more than a half of the independent directors so request.

Article 178 Notice of meetings and extraordinary meetings of the board of directors shall be delivered in person, by facsimile, by express delivery service and by registered mail. The time limits for the delivery of such notices are: for a board meeting, at least fourteen (14) days before the meeting; and for an extraordinary meeting, at least three (3) days before the meeting. Guide 118

A notice of meetings shall contain the following contents: (1) date and place of the meeting; (2) duration of the meeting; (3) business to be discussed; and (4) date of notice.

Article 179 Notice of a meeting shall be deemed to have been given to any director who attends the meeting without protesting against, before or at its commencement, any lack of notice.

Article 180 Resolution of the board of directors may be decided on a poll or show of hands. Guide 119

As long as all directors can fully express their opinions, a board meeting or an extraordinary meeting of the board of directors may be held by way of facsimile, during which resolutions may be passed and signed by participating directors. All such directors shall be deemed to be present in person at the meeting. When the number of directors who have signified their consent to a resolution reaches the number set out in Article 179, a valid resolution shall be deemed to have been passed.

Article 181 Meetings of the board of directors shall be held only if more than half of the directors (including any alternate director appointed pursuant to Article 180 of the Company's Articles of Association) are present. Guide 121

Each director shall have one (1) vote. A resolution of the board of directors must be passed by more than half of all of the directors of the Company.

Where there is an equality of votes cast both for and against a resolution, the Chairman of the board of directors shall have a casting vote.

When passing a resolution in relation to connected transaction at a board meeting, or where any director or any of its Associates (as defined under the Listing Rules of the Stock Exchange of Hong Kong) is connected with such resolution, such connected director shall excuse himself from the Board meeting, shall not have any voting rights in respect thereof, shall not exercise any voting right on behalf of other directors and shall not be counted as part of the quorum of the board meeting. Such board meeting can be convened where not less than half of the disinterested directors of the Company attend the meeting and any such resolutions shall be passed by at least half of the disinterested directors of the Company. If the number of disinterested directors present at is less than 3, the matter shall be presented to the shareholders for consideration at a general meeting.

Article 182 Directors shall attend the meetings of the board of directors in person. Where a director is unable to attend a meeting for any reason, he may by a written power of attorney appoint another director to attend the meeting on his behalf. The power of attorney shall set out the name of the attorney, issues under authorisation, scope of authorisation and valid period, which will be signed or sealed with the chop by the appointing director.

A Director appointed as a representative of another director to attend the meeting shall exercise the rights of a director within the scope of authority conferred by the appointing director. Where a director is unable to attend a meeting of the board of directors and has not appointed a representative to attend the meeting on his behalf, he shall be deemed to have waived his right to vote at the meeting

Article 183 The board of directors shall keep minutes of resolutions passed at meetings of the board of directors. The minutes shall be signed by the directors present at the meeting, the board's secretary and the person who recorded the minutes. The directors shall be liable for the resolutions of the board of directors. If a resolution of the board of directors violates the laws, administrative regulations or the Company's Articles of Association and the Company suffers serious losses as a result thereof, the directors who participated in the passing of such resolution are liable to compensate the Company therefor. However, if it can be proven that a director expressly objected to the resolution when the resolution was voted on, and that such objection was recorded in the minutes of the meeting, such director may be released from such liability.

The minutes of the board meeting shall include the following contents: (1) date and place of the meeting and name of the convener; (2) names of participating directors and proxies; (3) agenda; (4) main points of directors' speeches; (5) voting method for each matter and its result (the voting result should specify the number of votes for and against and abstentions).

Minutes of the board meeting shall be kept as the Company's record for a period of not less than ten years. Guide 122

Article 184 The board of directors shall formulate its rules of meetings to ensure its working efficiency and scientific decision.

The rules of meetings of the board of directors shall be drafted by the board of director of the Company and be considered and approved at the shareholders' general meeting.

CHAPTER 11: SECRETARY OF THE BOARD  
OF DIRECTORS

Article 185	The Company shall have one (1) secretary to the board of directors. The secretary shall be a senior officer of the Company, who is nominated by the chairman of the board of directors, appointed or removed by the board of directors and accountable to the board of directors.	MP96 Guide 113
Article 186	<p>The secretary of the Company's board of directors shall be a natural person who has the requisite professional knowledge and experience, and shall be appointed by the board of directors. His primary responsibilities are as follows:</p> <ol style="list-style-type: none"><li>(1) to prepare and deliver the board's and general meeting's reports and documents required by competent authorities in China;</li><li>(2) to prepare and organise board meetings and shareholders' general meetings; to take minutes of the meetings and to keep the meetings' documents and records;</li><li>(3) to be responsible for the Company's information disclosure and to ensure the timeliness, accuracy, legality, authenticity and completeness of the Company's disclosure;</li><li>(4) to be responsible for the Company's management for investors relation;</li><li>(5) to actively co-operate with the independent directors in performing their duties;</li><li>(6) to ensure that the Company's registers of members are properly established, and that persons entitled to receive the Company's records and documents are furnished therewith without delay;</li><li>(7) other responsibilities specified in these Articles of Association and the listing rules of the stock exchanges where the Company's shares are listed.</li></ol>	MP97 Guide 115
Article 187	A director or senior officer of the Company may also act as the secretary of the board of directors. The certified public accountancy firm which has been appointed by the Company to act as its auditors shall not act as the secretary of the board of directors.	MP98



Where the office of secretary is held concurrently by a director, and an act is required to be done by a director and a secretary separately, the person who holds the office of director and secretary may not perform the act in a dual capacity.

#### CHAPTER 12: GENERAL MANAGER AND SENIOR OFFICERS ETC

Article 188	<p>The Company shall have a general manager who shall be appointed or dismissed by the board of directors. The Company shall have six to ten deputy general managers who will assist the general manager in his work, a financial controller and a chief engineer.</p> <p>The board of directors may decide to appoint a member of the board of directors to act concurrently as the senior officers. However, the number of directors and staff director who act concurrently as the senior officers shall not exceed one half of the total number of directors. Any person serving as officers (excluding directors) at the Company's controlling shareholder and de factor controller unit shall not act as the senior officer of the Company.</p> <p>The senior officers shall serve for a term of three (3) years. The term is renewable upon re-election.</p> <p>The tenure of a senior officer shall commence from the date when he takes office until the end of the tenure. If an appointment is not made in time upon the termination of the tenure of the senior officer, the original senior officer(s) shall assume the responsibilities in accordance with the laws, administrative regulations, departmental rules and these Articles of Association before the new senior officer(s) take office.</p>	<p>MP99 Guide 118 and 120</p> <p>Guide 96, 126</p> <p>Guide 127</p>
Article 189	<p>The general manager shall be accountable to the board of directors and shall exercise the following functions and powers:</p> <ol style="list-style-type: none"><li>(1) to be in charge of the Company's production, operation and management, to organise the implementation of the resolutions of the board of directors and report to the board of directors;</li><li>(2) to organise the implementation of the Company's annual business plan and investment proposal;</li><li>(3) to draft plans for the establishment of the Company's internal management structure;</li><li>(4) to draft the Company's basic management system;</li></ol>	<p>MP100 Guide 121</p> <p>Guide 128</p>

- (5) to formulate basic rules and regulations for the Company;
- (6) to propose the appointment or dismissal of the Company's senior officers;
- (7) to appoint or dismiss management personnel other than those required to be appointed or dismissed by the board of directors;
- (8) to draw up a package of staff's salary, benefits, awards and penalty, as well as to decide the appointment and dismissal of the staff of the Company;
- (9) to request the convening of an extraordinary meeting of the board;
- (10) other powers conferred by these Articles of Association and the board of directors.

Article 190

The general manager may, by means such as through the manager's meeting of the Company, make decisions on the following operational matters:

- (1) transactions falling within the following limit (whichever is stricter) with respect to purchase or sale of assets, external investment (including entrusted financial management and entrusted loans, etc.), provision of financial assistance, leasing of assets as lessor or lessee, restructuring of claims or debts, giving or receiving assets as a gift, entrusted or trusted asset or business management, entering of licence agreement, transferring or accepting the transfer of research and development projects:
  1. the aggregate assets value (where book value and assessed value are available, whichever is higher) involved in a single transaction with amount below 10% of the Company's latest audited total asset value prepared in accordance with the PRC GAAP; or less than 5% of the Company's latest published total asset prepared in accordance with the International Financial Reporting Standards
  2. a single transaction of which the completion consideration (including liabilities and expenses) accounts for less than 10% of the Company's latest audited net asset value prepared in accordance with the PRC GAAP; or less than 5% of the total market capitalisation of the Company (which is calculated by the average closing price of the Company's shares as stated in the Hong Kong Stock Exchange's daily quotations sheets for the five business days immediately preceding the date of the transaction);

3. the latest annual income from principal operations of the subject of a single transaction accounted for less than 10% of the Company's latest audited income from principal operations for the latest financial year prepared in accordance with the PRC GAAP; or less than 5% of the Company's latest audited income from principal operations for the latest financial year prepared in accordance with the International Financial Reporting Standards;
4. the latest annual net profit of the subject of a single transaction accounted for less than 10% of the Company's latest audited net profit for the latest financial year prepared in accordance with the PRC GAAP; or less than 5% of the Company's latest audited net profit for the latest financial year prepared in accordance with the International Financial Reporting Standards.

The transactions referred to in (1) of the first paragraph involving the provision of financial assistance and entrusted financial management, shall be calculated on accrued basis for twelve consecutive months according to the transaction categories and applicable approval limit proportion of the board of directors. When the Company conducts other transactions apart from the provision of financial assistance and entrusted financial management, applicable approval limit proportion of the board of directors regarding each transaction which is under the same category shall be calculated on the principle of accrued basis for twelve consecutive months. Transactions already approved by the Company in accordance with the principle of accrued basis shall not be included in the scope of accrual calculation.

The above transactions which involve public offer of securities that requires the approval of the China Securities Regulatory Commission shall be subject to approval of the shareholders' general meeting of shareholders.

- (2) a single loan of less than 10% of the Company's latest audited net asset value and the debt ratio to the Company's assets remains under 50% after such financing
- (3) security or pledges of assets, a single amount of which is less than 5%, and a cumulative amount of which is less than 20% , of the Company's latest audited net asset value.

Where decisions on operational matters involve connected transactions, such decisions shall be implemented in accordance with the relevant requirements of connected transactions.

Provision of regulatory authorities the Company is subject to within and outside the PRC that is of a stricter standard than this Article will be applicable accordingly.

Article 191	The general manager shall attend meetings of the board of directors. The general manager, who is not a director, does not have any voting rights at board meetings.	MP101
Article 192	The general manager shall, upon requests of the board of directors or supervisory committee, report to the board of directors or the supervisory committee on the signing and implementation of the Company's material contracts, usage of capital and profit and loss. The general manager shall ensure authenticity of the reports.	Guide 123
Article 193	Before drawing up a package concerning staff's immediate interests, such as staff's salary, benefits, safe production and labour, labour insurance, and dismissal of staff, the general manager should consult the trade union and the meeting of staff representatives.	Guide 124
Article 194	The general manager shall formulate working rules of general manager and submit them to the board of directors for approval.	Guide 125
Article 195	The general manager's working rules shall include the following: (1) conditions and procedures of convening a general manager's meeting, as well as the participants; (2) specific duties and division of labour among the senior officers; (3) the Company's usage of funds and assets, limits on signing of material contracts and reporting system to the board of directors and supervisory committee; and (4) other matters which the board considers necessary.	Guide 126
Article 196	The general manager and deputy general managers, in performing their functions and powers, shall act honestly and diligently and in accordance with laws, administrative regulations and these Articles of Association.	MP102
Article 197	The senior officers of the Company shall ensure that the information disclosed by the Company is true, accurate and complete.  The senior officers of the Company shall sign a written confirmation of opinion in connection with the regular report of the Company.	
Article 198	The fiduciary duties concerning the directors in Article 215 and the duties of diligence in Article 216 (4) - (6) are also applicable to the senior officers.	
Article 199	A senior officer may submit his resignation before the expiry of his term. The specific procedures and measures for resignation by the senior officers shall be governed by the labour contract being entered into by the senior officer and the Company.	

#### CHAPTER 13: SUPERVISORY COMMITTEE

Article 200	The Company shall have a supervisory committee.	MP103
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	Each supervisor shall serve for a term of three (3) years, which term is renewable upon re-election and re-appointment.	
Article 201	<p>The supervisory committee shall have one chairman and one vice chairman.</p> <p>The election or removal of the chairman and vice chairman of the supervisory committee shall be determined by two-thirds or more of the members of the supervisory committee.</p> <p>The chairman and vice chairman shall serve for a term of three (3) years, which term is renewable upon re-election and re-appointment.</p>	<p>MP104, C.5 Zheng Jian Hai Han [1995] No. 1 App.13 Pt.D 1(d)(i), Guide 143</p>
Article 202	The tenure of a supervisor shall commence from the date when he takes office until the end of the tenure. If an appointment is not made in time upon the termination of the tenure of the senior officer so that a quorum of the supervisory committee is not met, the original senior officer(s) shall assume the responsibilities in accordance with the laws, administrative regulations, departmental rules and these Articles of Association before the new senior officer(s) take office.	Guide 138
Article 203	The supervisors of the Company shall ensure that the information disclosed by the Company is true, accurate and complete.	Guide 139
Article 204	The Supervisory Committee is to be comprised of six members. Members of the Supervisory Committee should be comprised of shareholder representative supervisors and an appropriate proportion of employee representative supervisors. The number of employee representative supervisors should not be less than one-third of the total number of the members of the Supervisory Committee. Shareholders representative supervisors are elected and removed by general meetings and employee representative supervisors are elected and removed by democratic elections of the employees.”	MP105 Guide 149
Article 205	Under normal circumstances, the Company’s supervisory committee shall submit a list of candidates for supervisors (except for staff candidates for supervisors) to the shareholders’ general meeting. The Company’s shareholders and board of directors may nominate the candidates for supervisors according to these Articles of Association.	
Article 206	The directors and senior managers shall not act concurrently as supervisors.	MP106, Guide 135
Article 207	Meetings of the supervisory committee shall be held at least once every six months, and shall be convened by the chairman of the supervisory committee. The supervisors may propose to convene the extraordinary meeting of the supervisory committee.	MP107 Guide 132, Guide 145

Where the chairman of the supervisory committee is unable to or does not perform the duty, the vice chairman of the supervisory committee shall preside the meeting. Where the vice chairman of the supervisory committee is unable to or does not perform the duty, a supervisor nominated by more than one-half of the supervisors shall perform the duty.

If a supervisor fails to attend two consecutive meetings of supervisory committee, he shall be deemed to have failed to discharge his duties. The shareholders' general meeting or staff representatives' meeting shall replace him.

Article 208

The supervisory committee shall be accountable to the shareholders in a general meeting and shall exercise the following functions and powers in accordance with law:

MP108  
Guide 102,  
Guide 143

- (1) to review the regular reports of the Company prepared by the board of directors and give its opinion of review;
- (2) to inspect the Company's financial position;
- (3) to supervise the directors and senior officers and to propose removal of a director or a senior officer who has contravened any law, administrative regulation, these Articles of Association or resolutions passed at a shareholders' general meeting;
- (4) to demand any director or senior officer who acts in a manner which is harmful to the Company's interest to rectify such behaviour;
- (5) to check the financial information such as the financial report, business report and plans for distribution of profits to be submitted by the board of directors to the shareholders' general meetings and to authorise, in the Company's name, publicly certified and practising accountants to assist in the re-examination of such information should any doubt arise in respect thereof;
- (6) to propose to convene a shareholders' extraordinary general meeting and an extraordinary board meeting. Where the board of directors fails to convene or hold the general meeting of shareholders in accordance with the provisions of the Company Law, to convene and hold the shareholders' general meeting;
- (7) to propose resolutions to the shareholders' general meeting;
- (8) to initiate proceedings against the directors and senior officers in accordance with section 152 of the Company Law;

	(9) to conduct investigation into any identified irregularities in the Company's operations;	
	(10) other functions and powers specified in these Articles of Association.	Guide 140
	Supervisors shall attend meetings of the board of directors, and make queries or recommendations to the matters resolved by the board of directors.	
Article 209	Notices of meetings and extraordinary meetings of the supervisory committee shall be delivered in person, by facsimile, by express delivery service or by registered mail. The time limits for the delivery of such notices are: for a supervisory meeting, at least five (5) days before the meeting; and for an extraordinary supervisory meeting, at least two (2) days before the meeting.	MP109, C.6 Zheng Jian Hai Han [1995] No. 1 App.13 Pt.D 1(d)(ii)
	Resolutions of the supervisory committee shall be passed by the affirmative vote of more than two-thirds of all of its members. Resolutions may be passed by a show of hands or by poll.	Guide 139 and 142, 145
	Notice of meetings shall contain the following contents: date and place of meeting; duration of meeting; business to be discussed; and date of notice.	
	Minutes shall be taken of the meetings of the supervisory committee. The participating supervisors and the person who records the minutes should sign the minutes. The supervisors shall have the right to request the record of his speech in the meeting for a particular illustrative description. The minutes of the meetings of the supervisory committee shall be kept as the Company's record for at least ten years.	Guide 147
Article 210	All reasonable fees incurred in respect of the employment of professionals (such as, lawyers, certified public accountants or practising auditors) which are required by the supervisory committee in the exercise of its functions and powers shall be borne by the Company.	MP110
Article 211	The supervisory committee shall formulate its rules of meetings to ensure its working efficiency and scientific decision.	
	The rules of meetings of the supervisory committee shall be drafted by the supervising committee of the Company and be considered and approved at the shareholders' general meeting.	

CHAPTER 14: THE QUALIFICATIONS AND DUTIES  
OF THE DIRECTORS, SUPERVISORS AND SENIOR OFFICERS OF  
THE COMPANY

Article 212

A person may not serve as a director, supervisor or senior officer of the Company if any of the following circumstances apply:

MP112  
Guide 78

- (1) a person who does not have or who has limited capacity for civil conduct;
- (2) a person who has been sentenced for corruption, bribery, infringement of property or misappropriation of property or other crimes which destroy the social economic order, where less than a term of five (5) years has lapsed since the sentence was served, or a person who has been deprived of his political rights and not more than five (5) years have lapsed since the sentence was served;
- (3) a person who is a former director, factory manager or manager of a company or enterprise which has been dissolved or put into liquidation as a result of mismanagement and who was personally liable for the winding up of such company or enterprise, where less than three (3) years have elapsed since the date of completion of the insolvent liquidation of the company or enterprise;
- (4) a person who is a former legal representative of a company or enterprise the business licence of which was revoked due to violation of law and who are personally liable therefor, where less than three (3) years have elapsed since the date of the revocation of the business licence;
- (5) a person who has a relatively large amount of debts which have become overdue;
- (6) a person who is currently under investigation by judicial organs for violation of criminal law;
- (7) a person who, according to laws and administrative regulations, cannot act as a leader of an enterprise;
- (8) a person other than a natural person;
- (9) a person who has been convicted by the competent authority for violation of relevant securities regulations and such conviction involves a finding that such person has acted fraudulently or dishonestly, where not more than five (5) years have lapsed from the date of such conviction;



	(10)	a person who has been restricted to enter the market by the China Securities Regulatory Commission and such restriction has not been lifted.	
	(11)	a person who has been declared by a Stock Exchange in less than 2 years as an unsuitable candidate.	
Article 213		The validity of an act carried out by a director and senior officer of the Company on its behalf shall, as against a bona fide third party, shall not be affected by any irregularity in his office, election or any defect in his qualification.	MP113
Article 214		In addition to the obligations imposed by laws, administrative regulations or the listing rules of the stock exchange on which shares of the Company are listed, each of the Company's directors and senior officers owes a duty to each shareholder, in the exercise of the functions and powers of the Company entrusted to him:	MP114
	(1)	to act honestly and in the best interests of the Company;	Guide 98
	(2)	not to expropriate the Company's property in any way, including (without limitation) usurpation of opportunities which benefit the Company;	
	(3)	not to expropriate the individual rights of shareholders, including (without limitation) rights to distribution and voting rights, save and except pursuant to a restructuring of the Company which has been submitted to the shareholders for approval in accordance with these Articles of Association.	
Article 215		Each of the Company's directors, and senior officers owes a duty, in the exercise of his powers and in the discharge of his duties, to exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.	MP115
Article 216		Each of the Company's directors, supervisors and senior officers shall exercise his powers or perform his duties in accordance with the fiduciary principle; and shall not put himself in a position where his duty and his interest may conflict. This principle includes (without limitation) discharging the following obligations:	MP116
	(1)	to act honestly in the best interests of the Company;	
	(2)	to act within the scope of his powers and not to exceed such powers;	
	(3)	to exercise the discretion vested in him personally and not to allow himself to act under the control of another and, unless and to the extent permitted by laws, administrative regulations or with the informed consent of shareholders given in a general meeting, not to delegate the exercise of his discretion;	

- (4) to treat shareholders of the same class equally and to treat shareholders of different classes fairly;
- (5) unless otherwise provided for in these Articles of Association or except with the informed consent of the shareholders given in a general meeting, not to enter into any contract, transaction or arrangement with the Company;
- (6) not to use the Company's property for his own benefit, without the informed consent of the shareholders given in a general meeting;
- (7) not to exploit his position to accept bribes or other illegal income or expropriate the Company's property in any way, including (without limitation) opportunities which benefit the Company;
- (8) not to accept commissions in connection with the Company's transactions, without the informed consent of the shareholders given in a general meeting;
- (9) to comply with these Articles of Association, to perform his official duties faithfully, to protect the Company's interests and not to exploit his position and power in the Company to advance his own interests;
- (10) not to release any confidential information which he has obtained during his term of office, without the informed consent of the shareholders in a general meeting; nor shall he use such information otherwise than for the Company's benefit, save that disclosure of such information to the court or other governmental authorities is permitted if:
  - (i) disclosure is made under compulsion of law;

Guide 97

- (ii) public interests so warrants;
- (iii) the interests of the relevant director, supervisor, general manager, deputy general manager or other senior officer so requires.

Article 217      The fiduciary duties to be discharged by directors in complying with the laws, administrative regulations and these Articles are as follows:      Guide 97

- (1) not to misappropriate the Company's funds;
- (2) not to use the Company's assets or funds to set up deposit accounts in his own name or in the any other name;
- (3) not to violate the provisions of these Articles and lend the Company's funds or to use the Company's assets to guarantee the debts of others with the approval of the shareholders' general meeting or the board of directors;
- (4) not to abuse his positions to obtain business opportunities for himself or others which should belong to the Company, to engage in same business of the Company by himself or for others;
- (5) not to hamper the Company's interests through its connected relationships;
- (6) to perform other fiduciary duties as required by the laws, administrative regulations, departmental rules and these Articles of Association.

The income derived by the directors in violating this Article shall belong to the Company. Any loss incurred by the Company as a result of violating this Article shall be indemnified by the directors.

Article 218      The duties of diligence to be discharged by directors in complying with the laws, administrative regulations and these Articles of Association are as follows:      Guide 98

- (1) to exercise the rights conferred upon them in a prudent, serious and diligent manner so as to ensure that the commercial activities carried out by the Company are in compliance with the laws and administrative regulations, as well as the requirements of various economic policies of the State and falls within the scope of business provided for in the business license;

- (2) to treat all shareholders equally;
- (3) to keep informed of the business operation and management of the Company in a timely manner;
- (4) to sign a written confirmation or opinion in connection with the regular reports of the Company and to ensure that the information disclosed by the Company is true, accurate and complete;
- (5) to inform the supervisory committee of the relevant circumstances and information that is in accordance with the facts, and shall not impede the supervisory committee or a supervisor from exercising their powers;
- (6) to perform other fiduciary duties as required by the laws, administrative regulations, departmental rules and these Articles of Association.

Article 219

Each director, supervisor and senior officers of the Company shall not direct the following persons or institutions (“associates”) to do which he is prohibited from so doing: MP117

- (1) the spouse or minor child of the director, supervisor or senior officer;
- (2) the trustee of the director supervisor or senior officer or of any person described in sub-paragraph (1) above;
- (3) the partner of that director, supervisor or senior officer or any person referred to in sub-paragraphs (1) and (2) of this Article;
- (4) a company in which that director, supervisor or senior officer, whether alone or jointly with one (1) or more of the persons referred to in sub-paragraphs (1), (2) and (3) of this Article and other directors, supervisors, general manager, deputy general managers and other senior officers, has de facto controlling interest;
- (5) the directors, supervisors and senior officers of a company which is being controlled in the manner set out in sub-paragraph (4) above.

Article 220	<p>Directors, supervisors and senior management of the Company shall have legal responsibilities and obligations with regard to the safe-keeping of the funds of the Company.</p> <p>The Company shall not provide, directly or indirectly, funds to the controlling shareholder of the Company and its related parties in the following manner:</p> <ol style="list-style-type: none"> <li>1. To lend funds of the Company to the controlling shareholder and its related parties, irrespective of whether it is interest-free;</li> <li>2. To provide entrusted loan to related parties through banks or other financial institutions;</li> <li>3. To entrust the controlling shareholder of the Company and its related parties with investments;</li> <li>4. To issue commercial bill of exchange not substantiated by actual transactions for the controlling shareholder of the Company and its related parties;</li> <li>5. To repay debts for the controlling shareholder of the Company and its related companies; and</li> <li>6. In other manners prescribed by the China Securities Regulatory Commission.</li> </ol>	MP117
Article 221	<p>Shall directors, senior management of the Company assist, connive the controlling shareholder of the Company and its related parties to appropriate assets of the Company, the Board shall, subject to the seriousness of such events, take internal disciplinary actions, serve monetary punishments, pursue legal responsibilities against directly responsible persons; In case of serious events, the materially responsible senior management shall be removed from office, and such materially responsible director shall be proposed to the shareholders' general meeting to be removed from office. Shall there be events in which the controlling shareholder of the Company and its related parties have appropriated funds of the Company or its subsidiaries for non-operational purposes which impose adverse impacts on the Company, the Company shall, with reference to the preceding paragraph and subject to the seriousness of such events, impose punishments on such directly responsible person(s).</p>	MP117
Article 222	<p>The fiduciary duties and duties of diligence of the directors, supervisors and senior officers may not necessarily be discharged by the resignation of the directors, supervisors, and senior officers of the Company becoming effective or expiry of the term with the procedures for handover having been duly completed. The duty of confidentiality in respect of trade secrets of the Company survives the termination of their tenure. Other duties may continue for such period as the principle of fairness may require depending on the amount of time which has lapsed between the termination and the act concerned and the circumstances and the terms under which the relationship between the relevant director, supervisor, general manager, deputy general manager and the senior officer on the one hand and the Company on the other hand was terminated.</p>	MP118, Guide 101

Article 223	Subject to Article 50, a director, supervisor or senior officer of the Company may be relieved of liability for specific breaches of his duty with the informed consent of the shareholders given at a general meeting, except in the circumstances as provided under Article 60.	MP119
Article 224	<p>Where a director , supervisor or senior officer of the Company is in any way, directly or indirectly, materially interested in a contract, transaction or arrangement or proposed contract, transaction or arrangement with the Company (other than his contract of service with the Company), he shall declare the nature and extent of his interests to the board of directors at the earliest opportunity, whether or not the contract, transaction or arrangement or proposal therefor is otherwise subject to the approval of the board of directors.</p> <p>Unless the interested director , supervisor or senior officer discloses his interests in accordance with the preceding sub-paragraph of this Article and the contract, transaction or arrangement is approved by the board of directors at a meeting in which the interested director , supervisor or senior officer is not counted as part of the quorum and refrains from voting, a contract, transaction or arrangement in which that director, supervisor, or senior officer is materially interested is voidable at the instance of the Company except as against a bona fide party thereto who does not have notice of the breach of duty by the interested director, supervisor or senior officer.</p> <p>For the purposes of this Article, a director, supervisor or senior officer of the Company is deemed to be interested in a contract, transaction or arrangement in which his associate is interested.</p>	MP120
Article 225	Where a director , supervisor or senior officer of the Company gives to the board of directors a notice in writing stating that, by reason of the facts specified in the notice, he is interested in contracts, transactions or arrangements which may subsequently be made by the Company, that notice shall be deemed for the purposes of the preceding Article to be a sufficient declaration of his interests, so far as the content stated in such notice is concerned, provided that such notice shall have been given before the date on which the question of entering into the relevant contract, transaction or arrangement is first taken into consideration by the Company.	MP121
Article 226	The Company shall not pay taxes for or on behalf of a director , supervisor or other officer in any manner.	MP122

- Article 227 The Company shall not directly or indirectly make a loan to or provide any guarantee in connection with the making of a loan to a director , supervisor or senior officer of the Company or of the Company’s holding company or any of their respective associates. MP123
- The foregoing prohibition shall not apply to the following circumstances:
- (1) the provision by the Company of a loan or a guarantee in connection with the making of a loan to its subsidiary;
  - (2) the provision by the Company of a loan or a guarantee in connection with the making of a loan or any other funds available to any of its directors supervisor and senior officers to meet expenditure incurred or to be incurred by him for the purposes of the Company or for the purpose of enabling him to perform his duties properly, in accordance with the terms of a service contract approved by the shareholders in a general meeting;
  - (3) if the ordinary course of business of the Company includes the lending of money or the giving of guarantees, the Company may make a loan to or provide a guarantee in connection with the making of a loan to any of the relevant directors , supervisor and senior officers or their respective associates in the ordinary course of its business on normal commercial terms.
- Article 228 Any person who receives funds from a loan which has been made by the Company acting in breach of the preceding Article shall, irrespective of the terms of the loan, forthwith repay such funds. MP124
- Article 229 A guarantee for the repayment of a loan which has been provided by the Company acting in breach of Article 223(1) shall not be enforceable against the Company, save in respect of the following circumstances: MP125
- (1) the guarantee was provided in connection with a loan which was made to an associate of any of the directors, supervisor and senior officers of the Company or of the Company’s holding company and the lender of such funds did not know of the relevant circumstances at the time of the making of the loan; or
  - (2) the collateral which has been provided by the Company has already been lawfully disposed of by the lender to a bona fide purchaser.
- Article 230 For the purposes of the foregoing provisions of this Chapter, a “guarantee” includes an undertaking or property provided to secure the obligor’s performance of his obligations. MP126

Article 231 In addition to any rights and remedies provided by the laws and administrative regulations, where a director, supervisor or senior officer of the Company breaches the duties which he owes to the Company, the Company has a right: MP127

- (1) to demand such director, supervisor or senior officer to compensate it for losses sustained by the Company as a result of such breach;
- (2) to rescind any contract or transaction which has been entered into between the Company and such director, supervisor or senior officer or between the Company and a third party (where such third party knows or should have known that such director, supervisor or senior officer representing the Company has breached his duties owed to the Company);
- (3) to demand such director, supervisor or senior officer to account for profits made as result of the breach of his duties;
- (4) to recover any monies which should have been received by the Company and which were received by such director, supervisor or senior officer instead, including (without limitation) commissions; and
- (5) to demand repayment of interest earned or which may have been earned by such director, supervisor or senior officer on monies that should have been paid to the Company.

Article 232 The Company shall, with the prior approval of shareholders in a general meeting, enter into a contract in writing with a director or supervisor wherein his emoluments are stipulated. The aforesaid emoluments include: MP128

- (1) emoluments in respect of his service as director, supervisor or senior officer of the Company;
- (2) emoluments in respect of his service as director, supervisor or senior officer of any subsidiary of the Company;
- (3) emoluments in respect of the provision of other services in connection with the management of the affairs of the Company and any of its subsidiaries;
- (4) payment by way of compensation for loss of office, or as consideration for or in connection with his retirement from office.

No proceedings may be brought by a director or supervisor against the Company for anything due to him in respect of the matters mentioned in this Article except pursuant to the contract mentioned above.



Article 233	<p>The contract concerning the emoluments between the Company and its directors or supervisors should provide that in the event that the Company is acquired, the Company’s directors and supervisors shall, subject to the prior approval of shareholders in a general meeting, have the right to receive compensation or other payment in respect of his loss of office or retirement. For the purposes of this paragraph, the acquisition of the Company includes any of the following:</p> <p>(1) an offer made by any person to the general body of shareholders;</p> <p>(2) an offer made by any person with a view to the offeror becoming a “controlling shareholder” within the meaning of Article 61.</p> <p>If the relevant director or supervisor does not comply with this Article, any sum so received by him shall belong to those persons who have sold their shares as a result of such offer. The expenses incurred in distributing such sum on a pro rata basis amongst such persons shall be borne by the relevant director or supervisor and shall not be paid out of such sum.</p>	MP129
Article 234	<p>Without lawful authorization of these Articles or the board of directors, a director of the Company may not act personally on behalf of the Company or the board of directors. If he acts personally, he shall declare his own position and identity in advance where the acting would cause a third party to believe reasonably that he is acting on behalf of the Company or the board of directors.</p>	Guide 102
Article 235	<p>Any loss incurred by the Company as a result of the violation of laws, administrative regulations, departmental rules and these Articles of Association by the directors, supervisors and senior officers in performing the Company’s duties shall be indemnified by the directors, supervisors and senior officers.</p>	Guide 103

CHAPTER 15: FINANCIAL AND ACCOUNTING  
SYSTEMS, PROFIT DISTRIBUTION AND INTERNAL AUDIT

Article 236	<p>The Company shall establish its financial and accounting systems in accordance with laws, administrative regulations and PRC accounting standards formulated by the finance regulatory department of the State Council.</p>	MP130
Article 237	<p>At the end of each fiscal year, the Company shall prepare a financial report which shall be examined and verified in a manner prescribed by law.</p>	MP131
Article 238	<p>Unless otherwise provided by the relevant laws and regulations, the listing rules issued at the listing place of the Company and the Articles of Association in respect of the means of receipt of corporate communication, the board of directors of the Company shall place before the shareholders at every annual general meeting such financial reports which the relevant laws, administrative regulations and directives promulgated by competent regional and central governmental authorities require the Company to prepare.</p>	MP132

Article 239	<p>The Company's financial reports shall be made available for shareholders' inspection at the Company twenty (20) days before the date of every shareholders' annual general meeting. Each shareholder shall be entitled to obtain a copy of the financial reports referred to in this Chapter.</p> <p>Unless otherwise provided by the relevant laws and regulations, the listing rules issued at the listing place of the Company and the Articles of Association in respect of the means of receipt of corporate communication, the Company shall deliver or send to each shareholder of Overseas-Listed Foreign-Invested Shares by prepaid mail at the address registered in the register of shareholders the said reports not later than twenty-one (21) days before the date of every annual general meeting of the shareholders.</p>	MP133, C.7 Zheng Jian Hai Han [1995] No. 1 App.3 5
Article 240	<p>The financial statements of the Company shall, in addition to being prepared in accordance with PRC accounting standards and regulations, be prepared in accordance with either international accounting standards, or that of the place outside the PRC where the Company's shares are listed. If there is any material difference between the financial statements prepared respectively in accordance with the two accounting standards, such difference shall be stated in the financial statements. In distributing its after-tax profits, the lower of the two amounts shown in the financial statements shall be adopted.</p>	MP134
Article 241	<p>The Company shall publish or disclose and prepare its half year status or financial report according to the Chinese, as well as the overseas, accountancy and legal principles.</p>	MP135
Article 242	<p>The Company shall submit its annual financial reports, interim financial report and quarterly financial report to the competent securities authorities under the State Council and relevant stock exchange within four months after the expiration of each fiscal year, within two months after the expiration of the first six months of each fiscal year and within one month after the expiration of the first three (3) months and the first nine (9) months of each fiscal year, respectively.</p> <p>The above financial reports shall be prepared and announced in accordance with the provisions of the law, administrative regulations and departmental rules.</p>	MP136 Guide 150
Article 243	<p>The Company shall not keep accounts other than those required by law. No assets of the Company shall be used to set up deposit accounts in any other name. assets of the Company shall be used to set up deposit accounts in any other name.</p>	MP137 Guide 151

Article 244 In the distribution of after-tax profits of a financial year, 10% of the profits shall be allocated to the statutory common reserve. No further allocation to the statutory common reserve is required where such reserve exceeds 50% of the registered capital of the Company. Guide 152

Where the statutory common reserve is insufficient to make up losses of the previous financial year, the profits of a financial year shall be applied to make up such losses before allocation to the statutory common reserve shall be made in accordance with the above provision.

Upon the approval of the shareholders in general meeting, where the Company has made allocation to the statutory common reserve from the profits after tax, the Company may make allocation to the discretionary common reserve.

Any surplus of profits after the Company has made up losses and made allocations to the statutory common reserve may be distributed as dividends to shareholders in proportion to their shareholdings.

Where the Company or the board of directors, in breach of the above provisions, distribute dividends to shareholders before the Company has made up losses and made allocations to the statutory common reserve, such dividends distributed in breach of the above provisions shall be returned to the Company.

No profits shall be distributed in respect of the shares held by the Company.

Article 245 Capital common reserve fund includes the following items: MP138

- (1) premium on shares issued at a premium price;
- (2) any other income designated for the capital common reserve fund by the regulations of the finance regulatory department of the State Council.

Article 246 The common reserve fund of the Company shall be applied for the following purposes: Guide 153

- (1) to compensate losses;
- (2) to expand the Company's production and operation;

- (3) to convert the common reserve fund into share capital in order to increase its capital. The Company may convert its common reserve fund into share capital with the approval of shareholders in a general meeting. When such conversion takes place, the Company shall either distribute new shares in proportion to the existing shareholders' number of shares, or increase the par value of each share, provided, however, that when the statutory common reserve fund is converted to share capital, the balance of the statutory common reserve fund may not fall below 25 % of the registered capital before the conversion.

Capital reserve fund shall not be used to make up losses of the Company.

Article 247 The Company's profit distribution policy shall remain consistent and stable. Final dividends shall be paid once a year. The shareholders shall by way of an ordinary resolution authorise the board of directors to declare and pay final dividends of the Company. The Company may distribute interim cash dividends upon obtaining approval from the board of directors and the shareholders at general meeting.

Article 248 The Company may distribute dividends in the form of:

MP139

- (1) cash;
- (2) shares.

Article 249 Dividends of the Company to be distributed in the form of cash shall account for approximately 35% of the Company's net profit after statutory reserve for the corresponding accounting year.

Article 250 The Company shall calculate, declare and pay dividends and other amounts which are payable to holders of Domestic-Invested Shares in Renminbi. The Company shall calculate and declare dividends and other payments which are payable to holders of Overseas-Listed Foreign-Invested Shares in Renminbi, and shall pay such amounts in the local currency of the place in which such Overseas-Listed Foreign-Invested Shares are listed (if such shares are listed in more than one place, then the currency of the principal place on which such shares are listed as determined by the board of directors).

Article 251 The Company shall pay dividends and other amounts to holders of Foreign-Invested Shares in accordance with the relevant foreign exchange control regulations of the State. If there is no applicable regulation, the applicable exchange rate shall be the average exchange reference rate of Renminbi to the relevant foreign currency announced by the Bank of China during five (5) working days prior to the announcement of payment of dividend and other amounts.

Article 252	<p>The Company shall appoint receiving agents for holders of the Overseas-Listed Foreign-Invested Shares. Such receiving agents shall receive dividends which have been declared by the Company and all other amounts which the Company should pay to holders of Overseas-Listed Foreign-Invested Shares on such shareholders' behalf.</p> <p>The receiving agents appointed by the Company shall meet the relevant requirements of the laws of the place at which the stock exchange on which the Company's shares are listed or the relevant regulations of such stock exchange.</p> <p>The receiving agents appointed for holders of Overseas-Listed Foreign- Invested Shares listed in Hong Kong shall each be a company registered as a trust company under the Trustee Ordinance of Hong Kong.</p>	MP140, C.8 <i>Zheng Jian Hai Han</i> [1995] No. 1 App.13 Pt. D 1(c)
Article 253	<p>In case of any use of the Company's capital not in compliance with the relevant laws and regulations by any shareholder, the cash dividends to be distributed to such shareholder shall be deducted by the Company in compensation for the shareholder's use of the Company's capital.</p>	
Article 254	<p>The Company implements an internal audit system. Special audit personnel will conduct internal audit supervision on the Company's income and expenditure and economic activities.</p>	Guide 152
Article 255	<p>The internal audit system and the duties of the audit personnel shall take effect upon approval by the board of directors. The person in charge of the audit shall be accountable and report to the board of directors.</p>	Guide 153

#### CHAPTER 16: APPOINTMENT OF AUDITORS

Article 256	<p>The Company shall appoint an independent firm of accountants which is qualified under the relevant regulations of the State with relevant qualifications in securities affairs to audit the Company's annual report and review the Company's other financial reports.</p> <p>The first auditors of the Company may be appointed before the first annual general meeting of the Company at the inaugural meeting. Auditors so appointed shall hold office until the conclusion of the first annual general meeting.</p> <p>If the inaugural meeting does not exercise the powers under the preceding paragraph, those powers shall be exercised by the board of directors.</p>	MP141 Guide 158
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Article 257	The auditors appointed by the Company shall hold office from the conclusion of the annual general meeting of shareholders at which they were appointed until the conclusion of the next annual general meeting of shareholders.	MP142
Article 258	<p>The auditors appointed by the Company shall enjoy the following rights:</p> <p>(1) a right to review to the books, records and vouchers of the Company at any time, the right to require the directors or senior officers of the Company to supply relevant information and explanations;</p> <p>(2) a right to require the Company to take all reasonable steps to obtain from its subsidiaries such information and explanation as are necessary for the discharge of its duties;</p> <p>(3) a right to attend shareholders' general meetings and to receive all notices of, and other communications relating to, any shareholders' general meeting which any shareholder is entitled to receive, and to speak at any shareholders' general meeting in relation to matters concerning its role as the Company's accountancy firm.</p>	MP143
Article 259	The Company shall ensure the provision of true and complete accounting evidences, accounting books, financial statements and other financial information to the accounting firm it has engaged with withheld, omission and fraud.	Guide 160
Article 260	If there is a vacancy in the position of auditor of the Company, the board of directors may appoint an accountancy firm to fill such vacancy before the convening of the shareholders' general meeting. Any other accountancy firm which has been appointed by the Company may continue to act during the period during which a vacancy arises.	MP144
Article 261	The shareholders in a general meeting may by ordinary resolution remove the Company's auditors before the expiration of its term of office, irrespective of the provisions in the contract between the Company and the Company's auditors. However, the accountancy firm's right to claim for damages which arise from its removal shall not be affected thereby.	MP145
Article 262	The remuneration of an accountancy firm or the manner in which such firm is to be remunerated shall be determined by the shareholders in a general meeting. The remuneration of an accountancy firm appointed by the board of directors shall be determined by the board of directors.	MP146

The Company's appointment, removal or non-reappointment of an accountancy firm shall be resolved by the shareholders in a general meeting. Such resolution shall be filed with the State Council. The removal or non-reappointment of an accountancy firm shall be notified to the accounting firm seven days in advance.

MP147,  
C.9 Zheng  
Jian Hai  
Han [1995]  
No. 1  
App.13  
Pt.D  
1(e)(i)  
Guide 162

Where a resolution at a general meeting of shareholders is passed to appoint as auditor a person other than an incumbent auditor, to fill a casual vacancy in the office of auditor, to reappoint as auditor a retiring auditor who was appointed by the board of directors to fill a casual vacancy or to remove an auditor before the expiration of his term of office, the following provisions shall apply:

- (1) A copy of the appointment or removal proposal shall be sent (before notice of meeting is given to the shareholders) to the firm proposed to be appointed or proposing to leave its post or the firm which has left its post in the relevant fiscal year (leaving includes leaving by removal, resignation and retirement).
- (2) If the auditor leaving its post makes representations in writing and requests the Company to give the shareholders notice of such representations, the Company shall (unless the representations have been received too late) take the following measures:
  - (a) in any notice of the resolution given to shareholders, state the fact of the representations having been made; and
  - (b) attach a copy of the representations to the notice and deliver it to the shareholders in the manner stipulated in these Articles of Association.
- (3) If the Company fails to send out the auditor's representations in the manner set out in sub-paragraph (2) above, such auditor may (in addition to his right to be heard) require that the representations be read out at the meeting.
- (4) An auditor which is leaving its post shall be entitled to attend the following shareholders' general meetings:
  - (a) the general meeting at which its term of office would otherwise have expired;
  - (b) the general meeting at which it is proposed to fill the vacancy caused by its removal; and
  - (c) the general meeting which convened as a result of its resignation,

and to receive all notices of, and other communications relating to, any such meeting, and to speak at any such meeting which it attends on any part of the business of the meeting which concerns it as former auditor of the Company.

Article 264

Prior notice should be given to the accountancy firm if the Company decides to remove such accountancy firm or not to renew the appointment thereof. Such accountancy firm shall be entitled to make representations at the shareholders' general meeting. Where the accountancy firm resigns from its position as the Company's auditors, it shall make clear to the shareholders in a general meeting whether there has been any impropriety on the part of the Company.

An accountancy firm may resign its office by depositing at the Company's legal address a resignation notice which shall become effective on the date of such deposit or on such later date as may be stipulated in such notice. Such notice shall contain the following statements:

- (1) a statement to the effect that there are no circumstances connected with its resignation which it considers should be brought to the notice of the shareholders or creditors of the Company; or
- (2) a statement of any such circumstances.

Where a notice is deposited under the preceding sub-paragraph, the Company shall within fourteen (14) days send a copy of the notice to the relevant governing authority. If the notice contains a statement under the preceding sub-paragraph (2), a copy of such statement shall be placed at the Company for shareholders' inspection. The Company should also send a copy of such statement by prepaid mail to every shareholder of Overseas- Listed Foreign Shares at the address registered in the register of shareholders.

Where the auditor's notice of resignation contains a statement in respect of the above, it may require the board of directors to convene a shareholders' extraordinary general meeting for the purpose of receiving an explanation of the circumstances connected with its resignation.

MP148,  
C.10 Zheng  
Jian Hai  
Han [1995]  
No. 1  
App.13  
Pt.D  
1(e)(ii)-  
(e)(iv)

#### CHAPTER 17: INSURANCE

Article 265

The different types or items of the Company's insurance shall be insured in accordance with the relevant insurance law in China.



CHAPTER 18: LABOUR AND PERSONNEL  
MANAGEMENT SYSTEMS

- Article 266 The Company may at its discretion employ and dismiss employees and enter into employment contracts with all employees based on the business development needs of the Company and in accordance with the requirements of the laws and administrative regulations of the State.
- Article 267 The Company may formulate its labour and payroll systems and payment methods in accordance with the relevant laws and regulations of the State and the economical benefits of the Company.
- Article 268 The Company shall endeavour to improve its employee benefits and to continually improve the working environment and living standards of its employees.
- Article 269 The Company shall provide pension, medical, educational, occupier disability and unemployment insurance for its employees and put in place a social security system, in accordance with the relevant laws and regulations of the State.

CHAPTER 19: TRADE UNIONS

- Article 270 The Company's employees may form trade unions, carry on trade union activities and protect their legal rights. The Company shall provide the necessary conditions for such activities.

CHAPTER 20: MERGER AND DIVISION OF THE  
COMPANY

- Article 271 In the event of the merger or division of the Company, a plan shall be presented by the Company's board of directors and shall be approved in accordance with the procedures stipulated in these Articles of Association. The Company shall then go through the relevant approval process. A shareholder who objects to the plan of merger or division shall have the right to demand the Company or the shareholders who consent to the plan of merger or division to acquire such dissenting shareholders' shareholding at a fair price. The contents of the resolution of merger or division of the Company shall constitute special documents which shall be available for inspection by the shareholders of the Company. MP149
- Such special documents shall be sent by means as provided in Article 295 to holders of Overseas-Listed Foreign-Invested Shares.

Article 272	<p>The merger of the Company may take the form of either merger by absorption or merger by the establishment of a new company.</p> <p>A company that absorbs other company is known as merger by absorption whereby the company being absorbed shall be dissolved. The merger of two or more companies by the establishment of a new company is known as merger by the establishment of a new company, whereby the merged companies shall be dissolved.</p> <p>In the event of a merger, the merging parties shall execute a merger agreement and prepare a balance sheet and an inventory of assets. The Company shall notify its creditors within ten (10) days of the date of the Company's merger resolution and shall publish a public notice in a newspaper at least three (3) times within thirty (30) days of the date of the Company's merger resolution. Within thirty days the creditors receive the notice, or within forty-five days the notice is announced, the creditors may demand the Company to settle its debts or to provide corresponding guarantee.</p> <p>At the time of merger, rights in relation to debtors and indebtedness of each of the merged parties shall be assumed by the company which survives the merger or the newly established company.</p>	<p>MP150, App.3 7(1)</p> <p>Guide 171</p> <p>Guide 172</p>
Article 273	<p>Where there is a division of the Company, its assets shall be divided up accordingly.</p> <p>In the event of division of the Company, the parties to such division shall execute a division agreement and prepare a balance sheet and an inventory of assets. The Company shall notify its creditors within ten (10) days of the date of the Company's division resolution and shall publish a public notice in a newspaper at least three (3) times within thirty (30) days of the date of the Company's division resolution.</p> <p>Debts of the Company prior to division shall be assumed incidentally by the companies which exist after the division, except those debts that have otherwise separately agreed by the Company with the creditors in writing for the settlement of the debts before the division.</p>	<p>MP151, App.3 7(1)</p> <p>Guide 175</p>
Article 274	<p>The Company shall, in accordance with law, apply for change in its registration with the companies registration authority where a change in any item in its registration arises as a result of any merger or division. Where the Company is dissolved, the Company shall apply for cancellation of its registration in accordance with law. Where a new company is established, the Company shall apply for registration thereof in accordance with law.</p> <p>When there is increase or reduction in the share capital of the Company, the Company shall apply for change in its registration with the company registration authority in accordance with the law.</p>	<p>MP152</p> <p>Guide 177</p>

## CHAPTER 21: DISSOLUTION AND LIQUIDATION

- Article 275 The Company shall be dissolved and liquidated upon the occurrence of any of the following events: MP153
- (1) a resolution for dissolution is passed by shareholders at a general meeting;
  - (2) dissolution is necessary due to a merger or division of the Company;
  - (3) the Company is legally declared insolvent due to its failure to repay debts as they become due; and
  - (4) the Company is ordered to close down because of its violation of laws and administrative regulations.
- Sub-paragraphs (1) and (2) of the above shall be approved by the State Council's foreign trade and economic authorities.
- (5) shareholders holding at least 10% of the shares of the Company may apply to the People's Court to dissolve the Company if the Company experiences extreme difficulties in respect of its operation and management, which cannot otherwise be resolved, such that if the Company continues to operate, its shareholders will suffer significant losses. Guide 178
- Article 276 A liquidation committee shall be set up within fifteen (15) days of the Company being dissolved pursuant to sub-paragraph (1) of the preceding Article, and the composition of the liquidation committee of the Company shall be determined by an ordinary resolution of shareholders in a general meeting. If a liquidation committee is not set up within the specified time limit, the creditors of the Company may apply to the people's court to appoint designated persons to carry out the liquidation. MP154  
Guide 180
- Where the Company is dissolved under sub-paragraph (3) of the preceding Article, the People's Court shall in accordance with the provisions of relevant laws organise the shareholders, relevant organisations and relevant professional personnel to establish a liquidation committee to carry out the liquidation.
- Where the Company is dissolved under sub-paragraph (4) of the preceding Article, the relevant governing authorities shall organise the shareholders, relevant organisations and professional personnel to establish a liquidation committee to carry out the liquidation.

Article 277	<p>Where the board of directors proposes to liquidate the Company for any reason other than the Company's declaration of its own insolvency, the board shall include a statement in its notice convening a shareholders' general meeting to consider the proposal to the effect that, after making full inquiry into the affairs of the Company, the board of directors is of the opinion that the Company will be able to pay its debts in full within twelve (12) months from the commencement of the liquidation.</p> <p>Upon the passing of the resolution by the shareholders in a general meeting for the liquidation of the Company, all functions and powers of the board of directors shall cease.</p> <p>The liquidation committee shall act in accordance with the instructions of the shareholders' general meeting to make a report at least once every year to the shareholders' general meeting on the committee's income and expenses, the business of the Company and the progress of the liquidation; and to present a final report to the shareholders' general meeting on completion of the liquidation.</p>	MP155
Article 278	<p>The liquidation committee shall, within ten (10) days of its establishment, send notices to creditors and shall, within sixty (60) days of its establishment, publish a public announcement in a newspaper at least three (3) times.</p> <p>A creditor shall, within thirty (30) days of receipt of the notice, or for creditors who have not personally received such notice, within forty five (45) days of the date of the first public announcement, report its rights to the liquidation committee. When reporting his rights, the creditor shall provide an explanation of matters which are relevant thereto and shall provide evidential material in respect thereof. The liquidation committee shall register the creditor's rights.</p> <p>No repayment shall be made by the liquidation committee during the period of reporting creditors' rights.</p>	MP156, App.3 7(1)  Guide 182
Article 279	<p>During the liquidation period, the liquidation committee shall exercise the following functions and powers:</p> <ol style="list-style-type: none"> <li>(1) to sort out the Company's assets and prepare a balance sheet and an inventory of assets respectively;</li> <li>(2) to send notify the creditors or to publish public announcements;</li> <li>(3) to dispose of and liquidate any unfinished businesses of the Company;</li> <li>(4) to pay all outstanding taxes and taxes incurred in the process of liquidation;</li> </ol>	MP157    Guide 181

- (5) to settle claims and debts;
- (6) to deal with the surplus assets remaining after the Company's debts have been repaid;
- (7) to represent the Company in any civil proceedings.

Article 280 After it has sorted out the Company's assets and after it has prepared the balance sheet and an inventory of assets, the liquidation committee shall formulate a liquidation plan and present it to a shareholders' general meeting or to the relevant governing authority or the people's court for confirmation. MP158 Guide 183

The company's assets shall be distributed in accordance with law or regulation. If there is no applicable law, such distribution shall be carried out in accordance with a fair and reasonable procedure determined by the liquidation committee.

Any surplus assets of the Company remaining after its debts have been repaid in accordance with the provisions of the preceding paragraph shall be distributed to its shareholders according to the class of shares and the proportion of shares held.

During the liquidation period, the Company subsists but shall not commence any business activities not related to liquidation. Prior to the repayment in accordance of the previous paragraphs, the Company's assets shall not be distributed to the shareholders.

Article 281 If after putting the Company's assets in order and preparing a balance sheet and an inventory of assets in connection with the liquidation of the Company, the liquidation committee discovers that the Company's assets are insufficient to repay the Company's debts in full, the liquidation committee shall immediately apply to the People's Court for a declaration of insolvency. MP159

After a Company is declared insolvent by a ruling of the People's Court, the liquidation committee shall transfer all matters arising from the liquidation to the People's Court.

Article 282 Following the completion of the liquidation, the liquidation committee shall prepare a liquidation report, a statement of income and expenses received and made during the liquidation period and a financial report, which shall be verified by a Chinese registered accountant and submitted to the shareholders' general meeting or the relevant governing authority or the people's court for confirmation. MP160 Guide 185

The liquidation committee shall, within thirty (30) days after such confirmation, submit the documents referred to in the preceding paragraph to the companies registration authority and apply for cancellation of registration of the Company, and publish a public announcement relating to the termination of the Company.

Article 283 The members of the liquidation committee shall act fiducially and perform the obligations of liquidation pursuant to the law. Guide 186

The members of the liquidation committee shall not take advantage of his office power, taking bribes or other illegal income or illegally taking possession of the assets of the Company.

The members of the liquidation committee shall indemnify the loss incurred by the Company or the creditors as a result of his willful act or serious misconduct.

Article 284 Where the Company is declared bankrupt pursuant to the law, bankruptcy liquidation shall be implemented pursuant to the relevant enterprise bankruptcy law. Guide 187

#### CHAPTER 22: PROCEDURES FOR AMENDMENT OF THE COMPANY'S ARTICLES OF ASSOCIATION

Article 285 The Company may amend its Articles of Association in accordance with the requirements of laws, administrative regulations and the Company's Articles of Association. MP161  
Guide 188

The Company shall amend these Articles of Association on the occurrence of any of the following events:

- (1) The Company Law or the relevant laws or administrative regulations are amended and these Articles are in conflict with the amended laws or administrative regulations;
- (2) There is change to the Company which makes it not consistent with these Articles of Association;
- (3) It has been approved by the shareholders in a general meeting to amend these Articles.

Article 286 The Company's Articles of Association shall be amended in the following manner: Guide 53

- (1) The board of directors, supervisory committee and shareholders who individually or jointly hold 5% or more of the Company's voting shares shall propose the manner in which the Company's Article of Association shall be amended;

- (2) Unless otherwise provided by the relevant laws and regulations, the listing rules issued at the listing place of the Company and the Articles of Association in respect of the means of receipt of corporate communication, the foregoing proposal shall be furnished to the shareholders in writing and a shareholders' meeting shall be convened;
- (3) The amendments shall be approved by votes representing more than two-thirds of the voting rights represented by the shareholders present at the meeting.

Article 287	Amendment of the Company's Articles of Association shall become effective upon receipt of approvals from the State Council's foreign trade and economic authorities. Amendment involving the contents of the Mandatory Provisions of Overseas-Listed Companies' Articles of Association shall become effective upon receipt of approvals from the State Council's securities authorities and the companies approving department authorised by the State Council. If there is any change relating to the registered particulars of the Company, application shall be made for change in registration in accordance with law.	MP162
Article 288	The board of directors shall amend these Articles of Association pursuant to the resolutions of shareholders in a general meeting for amendment of these Articles and the approval opinions of the competent authority.	Guide 190
Article 289	If the amendment to the Articles of Association is a matter which is required by the relevant laws and regulations to be disclosed, an announcement shall be made in accordance with the provisions of those laws and regulations.	Guide 191

#### CHAPTER 23: DISPUTE RESOLUTION

Article 290	The Company shall abide by the following principles for dispute resolution:	MP163
	(1) Whenever any disputes or claims arise between: holders of the Overseas-Listed Foreign-Invested Shares and the Company; holders of the Overseas-Listed Foreign-Invested Shares and the Company's directors, supervisors or senior officers; or holders of the Overseas-Listed Foreign-Invested Shares and holders of Domestic-Invested Shares, in respect of any rights or obligations arising from these Articles of Association, the Company Law or any rights or obligations conferred or imposed by the Company Law and special regulations (including other relevant laws) or any other relevant laws and administrative regulations concerning the affairs of the Company, such disputes or claims shall be referred by the relevant parties to arbitration.	

Where a dispute or claim of rights referred to in the preceding paragraph is referred to arbitration, the entire claim or dispute must be referred to arbitration, and all persons who have a cause of action based on the same facts giving rise to the dispute or claim or whose participation is necessary for the resolution of such dispute or claim, shall, where such person is the Company, the Company's shareholders, directors, supervisors or senior officers of the Company, comply with the arbitration.

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Disputes in respect of the definition of shareholders and disputes in relation to the register of shareholders need not be resolved by arbitration.

- (2) A claimant may elect for arbitration to be carried out at either the China International Economic and Trade Arbitration Commission in accordance with its Rules or the Hong Kong International Arbitration Centre in accordance with its Securities Arbitration Rules. Once a claimant refers a dispute or claim to arbitration, the other party must submit to the arbitral body elected by the claimant.

If a claimant elects for arbitration to be carried out at Hong Kong International Arbitration Centre, any party to the dispute or claim may apply for a hearing to take place in Shenzhen in accordance with the Securities Arbitration Rules of the Hong Kong International Arbitration Centre.

- (3) If any disputes or claims of rights are settled by way of arbitration in accordance with sub-paragraph (1) of this Article, the laws of the PRC shall apply, save as otherwise provided in the laws and administrative regulations.
- (4) The award of an arbitral body shall be final and conclusive and binding on all parties.

Article 291

Definitions:

Guide 192

- (1) *de facto* controller means a party that is not a shareholder of the company, but shall be capable to control the act of the Company through investment relationship, agreement or other arrangements.
- (2) Connected relationship means the relationship between the controlling shareholder of the Company, its *de facto* controller, directors, supervisors, senior officers and enterprises directly or indirectly controlled by it, as well as other relationships that may result in the transfer of the Company's interests. However, state-owned enterprises do not have connected relationship solely as a result of being controlled by the State.



CHAPTER 24: SUPPLEMENTARY

- Article 292 The rules of meetings of the shareholders' general meeting, the board of directors and the supervisory committee are attached as Appendices to these Articles. In the event that the rules of meetings of the shareholders' general meeting, the board of directors and the supervisory committee are in conflict with these Articles, these Articles shall prevail.
- Article 293 If a notice of the general meeting of shareholders, board meeting or meeting of the supervisory committee is issued by hand, the date when the recipient signed or stamped to acknowledge receipt of the same shall be regarded as the date of service of the notice. If the notice is issued by post, the seventh day from the date it is delivered to the post office shall be regarded as the date of service of the notice. If a notice of the Company is issued by public announcement, it shall be deemed received by the relevant officers once announced. Guide 168
- Article 294 If a notice of meeting is accidentally omitted to be sent to any person who is entitled to receive pursuant to Article 168 of these Articles or that person has not received such a notice of meeting, it will not cause the meeting and any resolution made therein to be void.
- Article 295 Unless otherwise provided by the relevant laws and regulations, the listing rules issued at the listing place of the Company and the Articles of Association in respect of the means of receipt of corporate communication, notices, communications or other written documents of the Company (including but not limited to annual reports, interim reports, quarterly reports, notices of meetings, listing documents, circulars, proxy forms and holding announcements) shall be sent by the following means:
- (1) by hand;
  - (2) by mail;
  - (3) by fax , email or other electronic format;
  - (4) subject to laws, administrative regulations and relevant provisions of securities regulatory authority of the place where the Company is listed, by publishing on the website designated by the Company and the stock exchange;
  - (5) by announcement on one national newspaper which has been approved by the State Council Securities Policy Committee and other designated media;
  - (6) by other means acceptable to securities regulatory authority of the place where the Company is listed.

Notwithstanding the requirements in relation to the means of sending notice, communications or other documents set out in this Articles of Association, the Company may use the means set out in sub-section (4) of this Article to replace the use of personal delivery or prepaid airmail to holders of Overseas-Listed Foreign Invested Shares, provided that the listing rules issued at the listing place of the Company is complied with.

Article 296	In these Articles of Association, references to “accountancy firm” shall have the same meaning as “auditors”.	MP165
Article 297	The Company’s Articles of Association are written in Chinese and English. Both text shall be equally valid. If there is any discrepancy between the two versions, the Chinese version of the Articles of Association most recently filed at the Shandong Administration of Industry and Commerce shall prevail.	Guide 194
Article 298	The expressions of “above”, “within” and “below” shall include the figures mentioned whilst the expression of “less than” shall not include the figures mentioned.	Guide 195
Article 299	These Articles of Association shall be interpreted by the Company’s board of directors.	

MALLESONS STEPHEN JAQUES

# Share Sale Agreement

Dated 13 MAY 2011 (11:33PM NY time)

GS Power Holdings LLC (“**Seller**”)

Austar Coal Mine Pty Ltd (“**Buyer**”)

Yancoal Australia Limited (“**Guarantor**”)

**Mallesons Stephen Jaques**

Level 61

Governor Phillip Tower

1 Farrer Place

Sydney NSW 2000

Australia

T +61 2 9296 2000

F +61 2 9296 3999

DX 113 Sydney

[www.mallesons.com](http://www.mallesons.com)

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# Share Sale Agreement

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# Share Sale Agreement

## Details

<u>Parties</u>	<u>Seller, Buyer and Guarantor</u>	
<b>Seller</b>	Name	<b>GS Power Holdings LLC</b>
	Formed in	A limited liability company formed under the laws of the State of Delaware, USA
	Address	200 West Street, New York, NY 10282 - 2198
	Fax	+1 212 256 5669
	Attention	Global Commodities Principal Investments
<b>Buyer</b>	Name	<b>Austar Coal Mine Pty Ltd</b>
	ABN	67 111 910 822
	Incorporated in	Australia
	Address	Suite 1105, Level 11 68 York Street Sydney NSW 2000
	Telephone	+61 2 8243 5330
	Fax	+61 2 8243 5399
<b>Guarantor</b>	Attention	Laura Zhang
	Name	<b>Yancoal Australia Limited</b>
	ABN	82 111 859 119
	Incorporated in	Australia
	Address	Suite 1105, Level 11 68 York Street Sydney NSW 2000
<b>Recitals</b>	Telephone	+61 2 8243 5330
	Fax	+61 2 8243 5399
	Attention	Laura Zhang
	<b>A</b>	Syntech and Syntech II are companies incorporated in Australia and have their registered office at Level 17, 80 Albert Street, Brisbane, Qld, 4001.



- B** The Syntech Group owns various coal assets located in the Surat Basin, Queensland.
- C** At the date of this agreement Syntech has issued 13,333,333 ordinary shares all of which have been credited as fully paid and Syntech II has issued 3,500,001 ordinary shares all of which have been credited as fully paid.
- D** The Seller has agreed to sell the Seller Sale Shares and to procure the sale of the AMH Shares, and the Buyer has agreed to buy the Sale Shares on the terms of this agreement. The Seller has the right to transfer the Seller Sale Shares to the Buyer and cause the AMH Shares to be transferred to the Buyer.
- E** The Guarantor has agreed to guarantee the obligations of the Buyer and acknowledges incurring obligations and giving rights under this agreement for valuable consideration received from the Buyer.

**Governing law** Queensland

**Date of agreement** See Signing page

# Share Sale Agreement

## General terms

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### 1 Interpretation

#### 1.1 Definitions

These meanings apply unless the contrary intention appears.

**Accounting Standards** means International Financial Reporting Standards.

**Action** means an action, dispute, Claim, demand, investigation, inquiry, prosecution, litigation, proceeding, arbitration, mediation or dispute resolution.

**Adjustment Amount** means the sum of the “Adjustment Amount” for each of Syntech and Syntech II as at the Completion Date, as determined in accordance with Annexure D (“Adjustment Statement”).

**Adjustment Statement** means a statement prepared under clause 6.1 in relation to each of Syntech and Syntech II, calculating the Adjustment Amount.

**Access Facilitation Deed** means the access facilitation deed between QRN and Syntech Resources dated 11 September 2009.

**Affiliate** of a person means any other person, controlled directly or indirectly by the first person, controlling directly or indirectly the first person or directly or indirectly under common control as the first person and the term “control” (including the terms “controlling”, “controlled by” and “under common control”), as used with respect to any person (other than an individual) shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such person, whether through the ownership of voting securities, by agreement or otherwise, and shall include, without limitation, the following: (i) direct or indirect ownership of more than 50% of the voting rights of such person, or (ii) the right to appoint the majority of the members of the board of directors (or similar governing body) or to manage on a discretionary basis the assets of such person.

**AMH CC** means AMH (Chinchilla Coal) Pty Ltd (ACN 124 649 216).

**AMH Parties** means the holders of the AMH Shares.

**AMH Shares** means the Sale Shares not held by the Seller.

**Approval** means any licence, consent, certificate, notification, declaration or other authorisation required for the lawful conduct of the Business.

**Assets** means the assets from time to time of Syntech, Syntech II and each of their Subsidiaries including:

- (a) all assets included in the Last Accounts except inventory since disposed of in the ordinary course of business;

- (b) the Properties; and
- (c) the Syntech Group's interests in the Mining Tenements.

**Authorised Officer** means, in respect of a party, a director or secretary of the party or a person appointed by the party to act as an Authorised Officer under this agreement.

**Authority** means any Government Agency responsible for Tax, wherever situated.

**Break Fee** means \$2,000,000.

**Business** means the exploration and development of coal mines, for the purpose of producing thermal coal in commercial quantities, as it is presently being conducted by Group Members.

**Business Day** means a day other than a Saturday, Sunday or public holiday in Brisbane, Queensland.

**Buyer Relevant Person** means a person designated as such in schedule 10 ("Relevant Persons").

**CBA** means Commonwealth Bank of Australia (ACN 123 123 124) and its Affiliates.

**Claim** means any allegation, debt, cause of action, Liability, claim, proceeding, suit or demand of any nature howsoever arising and whether present or future, fixed or unascertained, actual or contingent, whether at Law, in equity, under statute or otherwise.

**Coal Assets** means the aggregate of the proceeds of all coal sales invoiced but not paid and the coal stockpiles (which is all coal that has been extracted including ROM stockpiles (including pithead and ROM (both bypass and non- bypass)), product stockpiles (both bypass and non bypass) and port stockpiles) at Completion.

**Completion** means completion of the sale and purchase of the Sale Shares, and the repayment of the External Debt from the Repayment Amount, and the payment of the Withholding Tax in accordance with clause 5 ("Completion"), and **Complete** has a corresponding meaning.

**Completion Date** means the later to occur of 31 May 2011 and the date which is five Business Days after the satisfaction or waiver of the last Condition Precedent (other than the Condition Precedent set out in clause 3.1(f) which must be satisfied or waived immediately prior to Completion and the Condition Precedent set out in clause 3.1(h), which must be satisfied or waived not more than one Business Day prior to the Completion Date) (as deferred by the operation of clause 3.4(a)(ii)).

**Conditions Precedent** means the conditions precedent set out in clause 3 ("Conditions Precedent").

**Confidential Information** means all Information disclosed to the Buyer or any Affiliate or Representative of the Buyer, under or in connection with this agreement, including:

- (a) information which, either orally or in writing, is designated or indicated as being the proprietary or confidential information of the Seller, any Group Member or any of their Affiliates;

- (b) information derived or produced partly or wholly from the Information including any calculation, conclusion, summary or computer modelling; and
- (c) information which is capable of protection at Law or equity as confidential information,

whether the Information was disclosed:

- (i) orally, in writing or in electronic or machine readable form;
- (ii) before, on or after the date of this agreement;
- (iii) as a result of discussions between the parties concerning or arising out of the acquisition of the Business; or
- (iv) by the Seller or any of its Representatives, any of its Affiliates, any Representatives of its Affiliates or by any third person.

**Constitution** means, as the context requires, the constitution of a Group Member.

**Contamination** means the presence in, on under or emanating from or onto land or waters of a substance at a concentration above which the substance is normally present in, on or under (respectively) land or water or groundwater in the same locality being a presence that presents a significant risk of harm to human health and Contaminated has a similar meaning.

**Contribution Amount** means \$202,500,000.

**Convertible Participating Notes** means the notes issued under the terms of the Syntech Convertible Participating Note Subscription Agreement and the Syntech II Convertible Participating Note Subscription Agreement.

**Corporations Act** means the Corporations Act 2001 (Cwlth).

**Data Room** means the information contained in the Syntech Group virtual data room provided by the Seller to the Buyer and contained on a CD-ROM labelled “Syntech Virtual Data Room”, an index of which is attached in Part A of Annexure B.

**Details** means the section of this agreement headed “Details”.

**Disclosure Letter** means the letter from the Seller addressed to the Buyer and dated and delivered to it before the date of this agreement in the form agreed between the Seller and the Buyer and includes all of its schedules and annexures.

**Disclosure Material** means:

- (a) all of the information and material which was contained in the Data Room including the Requests; and
- (b) the matters disclosed in the Disclosure Letter.

**Due Diligence** means the enquiries and investigations into the Syntech Group carried out by the Buyer and its Representatives.

**Duty** means any stamp, transaction or registration duty or similar charge which is imposed by any Government Agency and includes, but is not limited to, any interest, fine, penalty, charge or other amount which is imposed in that regard.

**Employees** means all the employees set out in the letter from the Seller to the Buyer on or about the date of this agreement.

**Encumbrance** means any:

- (a) security for the payment of money or performance of obligations, including a mortgage, charge, lien, pledge, trust, power, title retention or flawed deposit arrangement; or
- (b) right, interest or arrangement which has the effect of giving another person a preference, priority or advantage over creditors including any right of set-off; or
- (c) right that a person (other than the owner) has to remove something from land (known as a profit a prendre), easement, public right of way, restrictive or positive covenant, lease, or licence to use or occupy; or
- (d) third party right or interest or any right arising as a consequence of the enforcement of a judgment, or any agreement to create any of them or allow them to exist.

**End Date** means 14 August 2011 or the date which results under the operation of clause 3.4(a)(ii), unless the parties agree otherwise.

**Environment** means all of the physical surroundings of humans including:

- (a) land, water, atmosphere, climate, sound, odour and taste;
- (b) the biological factors of animals and plants; and
- (c) the social factor of aesthetics affecting any human individually or in their social groupings.

**Environmental Law** means any Law (including the Laws of tort, negligence and nuisance) whose purpose is to protect, or prevent pollution of, the Environment.

**Escrow Account** means the bank account maintained by the Escrow Holder pursuant to the Escrow Deed.

**Escrow Deed** means the Escrow Deed dated on or after the date of this agreement between the Escrow Holder, the Buyer and the Seller, substantially in the form set out in Annexure F (with such other amendments as requested by the Escrow Holder and agreed to by the Buyer and the Seller).

**Escrow Holder** means Computershare Investor Services Pty Limited.

**Estimated Adjustment Amount** has the meaning given to that phrase in clause 5.2(a).

**Estimated Adjustment Statement** has the meaning given to that phrase in clause 5.2(a).

**Estimated Repayment Amount** means the amount of the Contribution Amount plus the Estimated Adjustment Amount, less the Estimated Withholding Tax.

**Estimated Restructure Fee** has the meaning set out in the Restructure Deed.

**Estimated Withholding Tax** has the meaning given to that phrase in clause 5.2(a).

**Excluded Information** means Confidential Information which:

- (a) is in or becomes part of the public domain other than through breach of this agreement or an obligation of confidence owed to the Seller or any Affiliate of the Seller;
- (b) the Buyer can prove by contemporaneous written documentation was already known to it at the time of disclosure by the Seller or its Affiliates or Representatives (unless such knowledge arose from disclosure of information in breach of an obligation of confidentiality); or
- (c) the Buyer acquires from a source other than the Seller or any Affiliate or Representative of the Seller where such source is entitled to disclose it.

**Exclusivity Deed** means the exclusivity deed between the Buyer, the Seller, Syntech and Syntech II dated 11 April 2011.

**Existing Facilities** means the existing facilities which are set out in schedule 11 (“Existing Facilities”).

**Existing Shareholder Agreements** means each of the shareholders agreement dated 22 March 2007 in relation to Syntech and the shareholders agreement dated 29 June 2007 in relation to Syntech II.

**External Debt** means all amounts of principal and interest owing by Syntech as at the Completion Date under the Existing Facilities and under the Reimbursement Facilities.

**External Debt Repayment** means the repayment by Syntech of the External Debt from the Repayment Amount on the Completion Date, immediately following the transfer of Sale Shares to the Buyer, in accordance with the repayment schedule set out in schedule 11 (“Existing Facilities”).

**External Financiers** means GS, the Seller and CBA.

**Feasibility Funding Facility** means the facility established by the Feasibility Funding Facility Agreement between Gladstone Ports Corporation Limited (ACN 131 965 896) and Syntech Resources dated October 2008.

**Government Agency** means any government, governmental, semi- governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity, and includes any other person authorised by law to give consents or impose requirements in connection with the Environment.

**Group Member** means, subject to clauses 2.3(a) and (b), any member of the Syntech Group.

**GS** means The Goldman Sachs Group, Inc.

**GS Encumbrances** means the Security Interests granted by a Group Member in favour of GS, the Seller or any Affiliate of either of them.

**GST** means a goods and services or similar tax imposed in Australia.

**GST Act** means the A New Tax System (Goods and Services Tax) Act 1999 (Cwlth).

**Guarantee** means the guarantee and indemnity in clause 14 (“Guarantee and indemnity”).

**Hazardous Substances** means any natural or artificial substance which is capable of causing harm or damage to human health or welfare.

**Incoming Directors** means the persons nominated by the Buyer as the directors of each Group Member as from Completion as set out in Part C of schedule 12 (“Officers”).

**Independent Accountant** means the Managing Partner of the Brisbane office of BDO Australia Limited or a person within the Brisbane office of BDO Australia Limited nominated by such Managing Partner.

**Information** means all information regardless of its Material Form relating to or developed in connection with:

- (a) the Business, technology or other affairs of the Seller or the Syntech Group; or
- (b) any systems, technology, ideas, concepts, know-how, techniques, designs, specifications, blueprints, tracings, diagrams, models, functions, capabilities and designs (including computer software, manufacturing processes or other information embodied in drawings or specifications), intellectual property or any other information which is marked “confidential” or is otherwise indicated to be subject to an obligation of confidence owned or used by or licensed to the Seller or the Syntech Group.

**Interest Rate** means the rate of interest applying to each daily balance at the rate of 4% per annum above the 60 day Bank Bill Swap Reference Rate last published on or before that day in The Australian Financial Review (or if that rate has not been published, another rate set by the Seller in good faith).

**Joint Venture Agreement** means the joint venture agreement between Chandail Pty Ltd (ACN 069 631 250), Ecarlate Pty Ltd (ACN 071 377 761) (together the Original Developers) and Australian Mining Holdings Pty Ltd (ACN 105 871 270) dated 28 December 2005.

**Last Accounts** means:

- (a) the audited consolidated balance sheet of Syntech and Syntech II as at the Last Balance Date and the audited consolidated profit and loss statement and audited consolidated statement of cash flows for the 12 months ending on the Last Balance Date; and

(b) applicable notes to each of the financial statements required by the Accounting Standards, copies of which are attached as Annexure A.

**Last Balance Date** means 30 June 2010.

**Law** includes:

- (a) any relevant law, regulation, authorisation, ruling, judgment, order or decree of any Government Agency; and
- (b) any relevant statute, regulation, proclamation, ordinance or by-law in:
  - (i) Australia; or
  - (ii) any other jurisdiction.

**Liability** means any liability or obligation (whether actual, contingent or prospective), including for any Loss irrespective of when the acts, events or things giving rise to the liability occurred.

**Loss** means all damage, loss, cost and expense (including legal costs and expenses of whatsoever nature or description).

**MAC Cure Period** has the meaning set out in clause 3.4(a)(i).

**MAC Event Cure** has the meaning set out in clause 3.4(a)(i).

**MAC Event Notice** has the meaning set out in clause 3.4(a).

**Mallesons** means Mallesons Stephen Jaques, solicitors to the Seller.

**Material Adverse Change** means Specified Events that, individually or when aggregated with all such events, have or would reasonably be expected to have a materially adverse effect on the business, financial condition or results of operations, trading or financial position, assets or liabilities of, the Syntech Group taken as a whole, which are materially adversely affected for a material period of time, but does not include:

- (a) any change in economic conditions generally, or in the industry in which the Syntech Group operates and which does not have a materially disproportionate effect on Syntech or the Syntech Group;
- (b) any change in any Laws (including Environmental Laws), or any new Laws (including Environmental Laws), being passed or coming into effect or proposed or promulgated by any Government Agency or person;
- (c) any change in the international, national, regional or local markets for the price of coal generally;
- (d) any changes in the costs of commodities, services, equipment, materials or supplies, including fuel and other consumables, or changes in the price of energy or other commodities produced utilising coal;



- (e) any matter relating to the rate at which United States dollars or Chinese currency can be exchanged for Australian dollars or vice versa;
- (f) any matter publicly disclosed on or before the date of this agreement;
- (g) any change in generally accepted accounting policies applicable to Syntech or the Syntech Group;
- (h) the failure by Syntech or the Syntech Group to meet any public projections, forecasts or estimates of earnings or revenues (it being agreed that the facts and circumstances giving rise to such failure that are not otherwise excluded from this clause may be taken into account in determining whether a material adverse change has occurred for the purpose of this clause);
- (i) any change occurring directly or indirectly as a result of any matter, event or circumstance contemplated by this agreement or the transactions contemplated by them;
- (j) any adverse change, effect, event, occurrence, state of facts or development to the extent attributable to the announcement of the transactions contemplated by this agreement (including any cancellations of or delays in customer orders, any reductions in sales, any disruption in supplier, distributor, contractor, transportation, port, partner or similar relationships or any loss of employees); or
- (k) any of the following causes provided that they are outside the reasonable control of the affected party, and could not have been prevented or avoided by that party taking all reasonable steps:
  - (i) war (declared or undeclared), invasion, act of a foreign enemy, hostilities between nations, civil insurrection or militarily usurped power; or
  - (ii) act of public enemy, sabotage, malicious damage, terrorism or civil unrest,
 provided, however that any such causes do not primarily relate only to Syntech or the Syntech Group taken as a whole compared to other companies of similar size operating in the mining industry.

**Material Contracts** means those contracts set out at schedule 9 (“Material Contracts”).

**Material Form** includes any form (whether visible or not) of storage from which reproductions can be made.

**Mineral Resources Act** means Mineral Resources Act 1989 (Qld).

**Mining Tenement** means:

- (a) Syntech Resources’ right, title and interest in Exploration Permit for Coal number 732 and Mining Lease number 50233;
- (b) Syntech II and its Subsidiaries’ right, title and interest in Exploration Permit for Coal numbers 873 and 562 and Mineral Development Licence numbers 246 and 247;

- (c) any mining lease or tenement issued:
  - (i) in renewal or substitution or replacement of the tenements referred to in paragraphs (a) or (b) or upon a consolidation, subdivision or variation of any of those tenements; or
  - (ii) over any part of the same ground as the tenements referred to in paragraphs (a) or (b); and
- (d) any other tenement, issued and held under the Mineral Resources Act in the name of any Group Member.

**NDRC** means the National Development and Reform Commission of the People's Republic of China.

**Notices** means any Claim, demand, action, suit or order concerning the Environment made by a Government Agency.

**Payables** means all amounts due in respect of the Business as at Completion, but excludes:

- (a) any termination or redundancy payment made to any employee of any Group Member as a result of the transaction contemplated by this agreement;
- (b) all amounts (including any termination fees) in relation to the Existing Facilities;
- (c) the guarantee payment in kind fee payable to the Seller in relation to the Reimbursement Facilities; and
- (d) the Bank Guarantee amounts in relation to the Feasibility Funding Facility owing to Gladstone Ports Corporation Limited (ACN 131 965 896).

**Performance Guarantees** means the guarantees issued by Syntech, CBA or by GS or any of its Affiliates on behalf of Syntech, Syntech II or any of their Subsidiaries, to various third parties as set out in schedule 8 ("Performance Guarantees").

**Personal Information** means information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a Material Form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

**Privacy Laws** means:

- (a) the Privacy Act 1988 (Cwlth);
- (b) any other requirement under Australian Law, industry code, policy or statement relating to the handling of Personal Information.

**Project** means the Cameby Downs, Sefton Park, Chinchilla and Rywung coal related projects relating to mining tenements in the Surat Basin in Queensland, Australia comprising the exploration and development of a coal mine and the construction and operation of associated infrastructure and facilities, as currently conducted by the Syntech Group.

**Project Area** means:

- (a) the areas where any Group Member is entitled to explore the feasibility of conducting mining operations in accordance with the Mining Tenements;
- (b) the areas where any Group Member is entitled to conduct mining operations in accordance with the Mining Tenements; and
- (c) any freehold, leasehold and other land in respect of which any Group Member has:
  - (i) an interest; or
  - (ii) an easement; or
  - (iii) a right of access to or entry upon,

for the purposes of the exploration, development and operation of the Mining Tenements. The Project Area does not include the Syntech Group's interests in its head office location.

**Properties** means the interests of each Group Member in real property set out in schedule 4 ("Properties").

**QRN** means QR Network Pty Ltd (ACN 132 181 116).

**Records** means originals and copies, in any Material Form, of all books, files, reports, records, correspondence, documents and other material of or used by the Syntech Group and includes:

- (a) minute books, statutory books and registers, books of account and copies of taxation and other returns;
- (b) all sales and purchasing records, contracts, designs and working papers;
- (c) all trading and financial and accounting records; and
- (d) all information with respect to the Mining Tenements including, but not limited to, all surveys, maps, mosaics, aerial photographs, electromagnetic tapes, electromagnetic or optical disks, sketches, drawings, memoranda, drill cores, logs of drill cores, geophysical, geological or drill maps, sampling and assay reports, notes and other relevant information and data in whatever form.

**Receivables** means the sum of the cash, accounts receivables and Stock in Hand of Syntech or Syntech II (as the case may be), as determined in accordance with Annexure C and D, but excluding the Bank Guarantee amounts receivable in relation to the Feasibility Funding Facility.

**Recovered Sum** means the amount recovered by the Buyer under clause 12.6 ("Recovery").

**Reimbursement Facilities** means the documents or agreements referred to in the table under the heading "Reimbursement Facilities" in schedule 11 ("Existing Facilities").

**Related Body Corporate** has the meaning it has in the Corporations Act.

**Repayment Amount** means the amount of the Contribution Amount plus the Adjustment Amount, less the Withholding Tax.

**Representative** of a party includes:

- (a) an Affiliate of the party; and
- (b) an employee, agent, officer, director, managing director, auditor, adviser, partner, associate, consultant, joint venturer or sub-contractor of that party or of an Affiliate of that party.

**Requests** means the requests for information made by the Buyer and the responses provided by the Seller in the Due Diligence process set out in the table in Part B of Annexure B.

**Restructure Deed** means the document between Syntech, Syntech II, GS and the Seller pursuant to which (amongst other things) the Convertible Participating Notes and the Warrants are cancelled and certain debts of the Syntech Group are forgiven immediately prior to Completion.

**Restructure Fee** has the meaning set out in the Restructure Deed.

**Retiring Directors** means the existing directors or company secretary of each Group Member listed in Part A of schedule 12 (“Officers”).

**Sale Shares** means all of the issued share capital in Syntech and Syntech II.

**SASAC** means the Shandong Branch of the State-owned Assets Supervision and Administration Commission of the People’s Republic of China.

**Security Interests** means the security interests set out in schedule 7 (“Security Interests”) which have been granted by the Syntech Group for the benefit of CBA, GS and the Seller or any Affiliate of either thereof.

**Seller Relevant Person** means a person designated as such in schedule 10 (“Relevant Persons”).

**Seller Sale Shares** means the Sale Shares in respect of which the Seller is the registered shareholder.

**Specified Events** means an event, occurrence or matter that:

- (a) occurs after the date of this agreement;
- (b) occurs before the date of this agreement but is only announced or publicly disclosed after the date of this agreement; or
- (c) will or is likely to occur after the date of this agreement and which has not been publicly announced prior to the date of this agreement,

but in the case of paragraphs (b) and (c) above, does not include any event, occurrence or matter that was known by the Buyer or a Buyer Relevant Person.

**Subsidiaries** means any subsidiaries of Syntech or Syntech II, as the case may be, including all of the bodies corporate described in schedule 5 (“Subsidiaries”) for Syntech or Syntech II, respectively, and **Subsidiary** means any one of those bodies corporate.

**Syntech** means Syntech Holdings Pty Ltd (ABN 21 123 782 445).

**Syntech II** means Syntech Holdings II Pty Ltd (ABN 30 126 174 847).

**Syntech Convertible Participating Note Subscription Agreement** means the Convertible Participating Note Subscription Agreement dated 22 March 2007 to which Syntech, the Seller and others are party.

**Syntech II Convertible Participating Note Subscription Agreement** means the Convertible Participating Note Subscription Agreement dated 29 June 2010 to which Syntech II, the Seller and others are party.

**Syntech AMH Shares** means the Syntech Sale Shares not held by the Seller.

**Syntech II AMH Shares** means the Syntech II Sale Shares not held by the Seller.

**Syntech Group** means, subject to clause 2.3(a) and (b), Syntech, Syntech II and each of their Subsidiaries.

**Syntech Option Deed (Additional Funding Warrants)** means the Syntech Holdings Option Deed (Funding Warrants) between Syntech and the Seller dated 11 November 2010.

**Syntech II Option Deed (Additional Funding Warrants)** means the Syntech Holdings II Option Deed (Funding Warrants) between Syntech II and the Seller dated 11 November 2010.

**Syntech Option Deed (Additional Guarantee Warrants)** means the Syntech Holdings Option Deed (Additional Guarantee Warrants) between Syntech and the Seller dated 15 September 2010.

**Syntech II Option Deed (Additional Guarantee Warrants)** means the Syntech Holdings II Option Deed (Additional Guarantee Warrants) between Syntech II and the Seller dated 15 September 2010.

**Syntech Option Deed (Funding Warrants)** means the Syntech Holdings Option Deed (Funding Warrants) between Syntech and the Seller dated 20 August 2009.

**Syntech II Option Deed (Funding Warrants)** means the Syntech Holdings II Option Deed (Funding Warrants) between Syntech II and the Seller dated 20 August 2009.

**Syntech Option Deed (Guarantee Warrants)** means the Syntech Holdings Option Deed (Guarantee Warrants) between Syntech and the Seller dated 20 August 2009.

**Syntech II Option Deed (Guarantee Warrants)** means the Syntech Holdings II Option Deed (Guarantee Holdings) between Syntech II and the Seller dated 20 August 2009.

**Syntech Purchase Price** has the meaning given to that term in clause 4.1. Syntech II Purchase Price has the meaning given to that term in clause 4.2.

**Syntech Sale Shares** means all of the issued shares in the capital of Syntech, being all of the Syntech Seller Sale Shares and the Syntech AMH Shares as set out in schedule 1 (“Sale Shares”).

**Syntech II Sale Shares** means all of the issued shares in the capital of Syntech II, being all of the Syntech II Seller Sale Shares and the Syntech II AMH Shares as set out in schedule 1 (“Sale Shares”).

**Syntech Resources** means Syntech Resources Pty Ltd (ACN 095 102 971).

**Syntech Seller Sale Shares** means the Syntech Sale Shares held by the Seller.

**Syntech II Seller Sale Shares** means the Syntech II Sale Shares held by the Seller.

**Syntech Tax Warranties** means the warranties given by the Seller in paragraph 14 of schedule 6 (“Warranties”) in respect of Syntech and its Subsidiaries only.

**Syntech II Tax Warranties** means the warranties given by the Seller in paragraph 14 of schedule 6 (“Warranties”) in respect of Syntech II and its Subsidiaries only.

**Syntech Title Warranties** means the warranties given by the Seller in paragraph 2.2 of schedule 6 (“Warranties”) in respect of Syntech and its Subsidiaries only, and **Syntech Title Warranty** has a corresponding meaning.

**Syntech II Title Warranties** means the warranties given by the Seller in paragraph 2.2 of schedule 6 (“Warranties”) in respect of Syntech II and its Subsidiaries only, and **Syntech II Title Warranty** has a corresponding meaning.

**Syntech Warranties** means the warranties and representations in this agreement including clause 11 (“Warranties and representations”) and schedule 6 (“Warranties”) which are given by the Seller in respect of Syntech and its Subsidiaries only, and **Syntech Warranty** has a corresponding meaning.

**Syntech II Warranties** means the warranties and representations in this agreement including clause 11 (“Warranties and representations”) and schedule 6 (“Warranties”) which are given by the Seller in respect of Syntech II and its Subsidiaries only, and **Syntech II Warranty** has a corresponding meaning.

**Tax** means any tax, levy, charge, impost, duty, fee, deduction, compulsory loan or withholding, which is assessed, levied, imposed or collected by any Authority and includes, but is not limited to any interest, fine, penalty, charge, fee or any other amount imposed on, or in respect of any of the above but excludes Duty.

**Tax Act** means the Income Tax Assessment Act 1936 (Cwlth) or the Income Tax Assessment Act 1997 (Cwlth), as the context requires.

**Tax Benefit** for a company includes:

- (a) the amount of an allowable rebate, credit, or refund for the Group Member or a Related Body Corporate of the Group Member; and
- (b) an amount equal to an allowable deduction (including, but not limited to, amortisation and depreciation), relief or other allowance, for any income year for the Group Member or a Related Body Corporate of the Group Member, multiplied by the income tax rate applicable to companies at the time the benefit arises.

**Tax Warranties** means the Syntech Tax Warranties and the Syntech II Tax Warranties and **Tax Warranty** has a corresponding meaning.

**Title Warranties** means the Syntech Title Warranties and the Syntech II Title Warranties and **Title Warranty** has a corresponding meaning.

**Warranties** means the Syntech Warranties and the Syntech II Warranties and **Warranty** has a corresponding meaning.

**Warrants** means the options issued under the Syntech Option Deed (Funding Warrants), Syntech II Option Deed (Funding Warrants), Syntech Option Deed (Additional Funding Warrants), Syntech II Option Deed (Additional Funding Warrants), Syntech Option Deed (Guarantee Warrants), Syntech II Option Deed (Guarantee Warrants), Syntech Option Deed (Additional Guarantee Warrants), Syntech II Option Deed (Additional Guarantee Warrants).

**Withholding Tax** means all withholding tax that is required to be withheld from any repayment in respect of the External Debt by any Group Member, and remitted to the relevant Government Agency.

## 1.2 References to certain general terms

Unless the contrary intention appears, a reference in this agreement to:

- (a) **(clauses, annexures and schedules)** a clause, annexure or schedule is a reference to a clause in or annexure or schedule to this agreement;
- (b) **(variations or replacements)** a document (including this agreement) includes any variation or replacement of it;
- (c) **(reference to statutes)** a statute, ordinance, code or other Law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (d) **(singular includes plural)** the singular includes the plural and vice versa;
- (e) **(person)** the word “person” includes an individual, a firm, a body corporate, a partnership, joint venture, an unincorporated body or association, or any Government Agency;
- (f) **(executors, administrators, successors)** a particular person includes a reference to the person’s executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
- (g) **(two or more persons)** an agreement, representation or Warranty in favour of two or more persons is for the benefit of them jointly and each of them individually;
- (h) **(US dollars)** US\$ is a reference to the lawful currency of the United States of America;
- (i) **(Australian dollars)** \$, Australian dollars or A\$ is a reference to the lawful currency of Australia;

- (j) **(calculation of time)** a period of time dating from a given day or the day of an act or event is to be calculated exclusive of that day;
- (k) **(time)** a reference to time is a reference to the time in Brisbane, Queensland, Australia;
- (l) **(reference to a day)** a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (m) **(accounting terms)** an accounting term is a reference to that term as it is used in accounting standards under the Corporations Act or, if not inconsistent with those standards, in accounting principles and practices generally accepted in Australia;
- (n) **(meaning not limited)** the words “include”, “including”, “for example” or “such as” when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind; and
- (o) **(External Debt and Withholding Tax)** a reference to “Withholding Tax” is a reference to that part of the External Debt that represents interest that is required to be withheld by the payer and paid to the Commissioner of Taxation in accordance with the Tax Act. Where the terms “External Debt” and “Withholding Tax” are used together in this agreement, the quantum of such “External Debt” should be reduced by that amount of interest that would need to be withheld and therefore constitute “Withholding Tax”.

### 1.3 Next day

If an act under this agreement to be done by a party on or by a given day is done after 5.30pm on that day, it is taken to be done on the next day.

### 1.4 Next Business Day

If an event must occur on a stipulated day which is not a Business Day then the stipulated day will be taken to be the next Business Day.

### 1.5 Headings

Headings (including those in brackets at the beginning of paragraphs) are for convenience only and do not affect the interpretation of this agreement.

### 1.6 Knowledge of Seller

All references to matters known to the Seller, or to similar effect, means that a Seller Relevant Person is actually aware of the relevant matter, including matters notified to it by Brett Purkiss or Paul Kelly.

### 1.7 Knowledge of the Buyer

All references to matters known to the Buyer, or to similar effect, means that a Buyer Relevant Person is actually aware of the relevant matter.



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## **2 Sale and purchase of Sale Shares**

### **2.1 Sale and purchase**

The Buyer and the Seller agree that on Completion:

- (a) the Buyer shall:
  - (i) buy the Sale Shares;
  - (ii) procure that the External Debt is repaid from the Repayment Amount in accordance with the repayment schedule set out in schedule 11 (“Existing Facilities”);
  - (iii) procure that any outstanding Withholding Tax is remitted to the relevant Government Agency; and
  - (iv) procure that the Restructure Fee (if any) is paid from the Repayment Amount to the Seller by Syntech and Syntech II; and
- (b) the Seller shall sell the Seller Sale Shares, and procure the sale of the AMH Shares, to the Buyer, on the terms and conditions of this agreement.

### **2.2 Free from Encumbrance**

Subject to:

- (a) the deposit by the Buyer of the sum of the Contribution Amount and the Estimated Adjustment Amount into the Escrow Account not more than one Business Day prior to the Completion Date in accordance with the terms of the Escrow Deed;
- (b) the repayment of the External Debt from the Repayment Amount in accordance with the repayment schedule set out in schedule 11 (“Existing Facilities”);
- (c) the payment of the Withholding Tax to the relevant Government Agency; and
- (d) the payment of the Restructure Fee (if any) from the Repayment Amount to the Seller,

the Seller must on the Completion Date:

- (b) transfer the Seller Sale Shares; and
- (c) procure that the AMH Shares are transferred,

to the Buyer free from any Encumbrance and with all rights, including dividend rights, attached or accruing to them on and from the Completion Date.

## 2.3 Seller

In this agreement:

- (a) **(Syntech Warranties)** for the purposes of the Syntech Warranties in schedule 6, a reference to “Syntech Group” is a reference to Syntech and its Subsidiaries and a reference to “Group Member” is a reference to any one of Syntech or its Subsidiaries; and
- (b) **(Syntech II Warranties)** for the purposes of the Syntech II Warranties in schedule 6, a reference to “Syntech Group” is a reference to Syntech II and its Subsidiaries and a reference to “Group Member” is a reference to any one of Syntech II or its Subsidiaries.

## 2.4 Exclusivity Deed

- (a) The Exclusivity Deed is terminated on execution of this agreement by the Buyer and the Seller and despite anything to the contrary in the Exclusivity Deed, no term of the Exclusivity Deed survives termination of that document.
- (b) Each party represents to each other party that, immediately prior to the execution of this agreement, it has complied with all of its obligations under the Exclusivity Deed.

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## 3 Conditions Precedent

### 3.1 Conditions precedent to Completion

Completion is conditional on the satisfaction or waiver of the following conditions precedent:

- (a) **(Restructure Deed)** as a condition for the benefit of the Buyer and the Seller, the Restructure Deed being executed by all parties to it;
- (b) **(FIRB approval)** as a condition for the benefit of the Seller, either:
  - (i) the Treasurer of the Commonwealth of Australia (or his delegate) gives written advice which is unconditional or subject only to conditions acceptable to the Buyer that there are no objections under Australia’s foreign investment policy to the proposed acquisition by the Buyer of the Sale Shares; or
  - (ii) after notice of the proposed acquisition of the Sale Shares has been given by the Buyer to the Treasurer of the Commonwealth of Australia under the Foreign Acquisitions and Takeovers Act 1975 (Cwlth), the Treasurer ceases to be empowered to make any order under Part II of that Act because of lapse of time;
- (c) **(NDRC approval)** as a condition for the benefit of the Seller, the NDRC approve the execution of this agreement and Completion of the transaction contemplated by the agreement;
- (d) **(SASAC Approval)** as a condition for the benefit of the Seller, the SASAC approve the transaction contemplated by the agreement;
- (e) **(Joint Venture Agreement)** as a condition for the benefit of the Buyer, that AMH CC has elected the Royalty as the Nominated Payment (as each of those terms are defined in the Joint Venture Agreement) under clause 6.4 of the Joint Venture Agreement;

- (f) **(no Material Adverse Change)** as a condition for the benefit of the Buyer, and subject to clause 3.4, no Material Adverse Change having occurred between the date of this agreement and Completion which is continuing as at the time immediately before Completion;
- (g) **(Performance Guarantees)** as a condition for the benefit of the Seller, the termination, cancellation or return to the Seller (either unconditionally or conditional only on Completion occurring) of all Performance Guarantees;
- (h) **(escrow)** as a condition for the benefit of the Seller, the Escrow Deed having been executed by all parties to it, and the Buyer having deposited the sum of the Contribution Amount and the Estimated Adjustment Amount into the Escrow Account of the Escrow Holder in accordance with the terms of the Escrow Deed;
- (i) **(payment of Duty)** as a condition for the benefit of the Seller, the Buyer having lodged this agreement for payment of Duty, and paid any Duty payable in respect of the transfer of the Sale Shares contemplated by this agreement, prior to Completion; and
- (j) **(other)** any other Condition Precedent agreed in writing between the parties.

### 3.2 Reasonable endeavours

- (a) Each party must use its reasonable endeavours to obtain the satisfaction of the Conditions Precedent, including procuring performance by a third party. The parties must keep each other informed of any circumstances which may result in any Condition Precedent not being satisfied in accordance with its terms.
- (b) The Buyer agrees to provide the Seller, Syntech and Syntech II with a reasonable opportunity to review any application to be made by the Buyer to give effect to the transactions contemplated by this agreement (including those referred to in clauses 3.1(b), (c) and (d) (with any redactions necessary to protect any commercially sensitive information)).

### 3.3 Waiver

- (a) The Buyer may waive the Conditions Precedent set out at clauses 3.1(e) and (f).
- (b) The Seller may waive the Conditions Precedent set out at clauses 3.1 (g), (h) and (i). A waiver of clause 3.1(g) may be conditional on GS Encumbrances remaining in place or other arrangements being entered into by GS and its Affiliates and the Buyer and any relevant Group Member which are to the satisfaction of the Seller.
- (c) The Buyer and the Seller may waive the Conditions Precedent set out at clauses 3.1(a) and (j).
- (d) No party may waive the Conditions Precedent set out at clauses 3.1 (b), (c) and (d).

### 3.4 Right to rectify

- (a) If a Material Adverse Change occurs and the Buyer gives the Seller notice in writing of the Material Adverse Change (specifying, in reasonable detail, the circumstances known to the Buyer giving rise to the Material Adverse Change) (“**MAC Event Notice**”) before the time proposed for Completion then:
  - (i) the Seller is entitled during the period from the date of receipt of the MAC Event Notice until 30 days after that date (“**MAC Cure Period**”) to effect a cure of the Material Adverse Change (“**MAC Event Cure**”); and
  - (ii) if the proposed Completion Date occurs during the MAC Cure Period, the proposed Completion Date is deferred by 30 days and if that date is after the End Date, the End Date is deferred to the last day of the next calendar month.
- (b) If the Seller effects a MAC Event Cure during the MAC Cure Period, it is to be treated as if no Material Adverse Change had taken place.

### 3.5 Termination of agreement by either party

If any of the Conditions Precedent are not satisfied by 11pm on the End Date (or any later date agreed by the Seller and the Buyer) and, where applicable, have not been waived by the relevant party entitled to waive the Condition Precedent in accordance with clause 3.3 then, if the party who wishes to terminate this agreement has complied with clause 3.2 and if the Condition Precedent that has not been satisfied is expressed to be for that party’s benefit, this agreement may be terminated at any time before Completion by notice given by that party to the other parties.

### 3.6 Break Fee

If the Seller has elected to terminate this agreement under clause 3.5 or clause 7 then, provided there is no material default in relation to clause 5.3 by the Seller, the Buyer must pay the Break Fee to the Seller within 14 days of being notified by the Seller that the agreement is terminated.

### 3.7 Effect of termination

If this agreement is terminated under clause 3.5 then, in addition to any other rights, powers or remedies provided by Law:

- (a) each party is released from its obligations under this agreement other than in relation to clauses 3.6, 15 and 18; and
- (b) the Buyer must return to the Seller all documents and other materials in any medium in its possession, power or control or in the possession, power or control of its Affiliate or any Representative of the Buyer or any of their Affiliates which contain any information relating to the Syntech Group, including all Data Room information.

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#### 4 Purchase Price

##### 4.1 Syntech Purchase Price

The price payable for the Syntech Sale Shares is \$1.00 (“**Syntech Purchase Price**”).

##### 4.2 Syntech II Purchase Price

The price payable for the Syntech II Sale Shares is \$1.00 (“**Syntech II Purchase Price**”).

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#### 5 Completion

##### 5.1 Time and place of Completion

Completion will take place at 10am on the Completion Date at the offices of Mallesons in Sydney, or any other time and place agreed between the Seller and the Buyer, but in any event no later than 11pm on the End Date.

##### 5.2 Action before Completion

- (a) At least 10 Business Days prior to Completion and in any event prior to the Buyer depositing the sum of the Contribution Amount and the Estimated Adjustment Amount into the Escrow Account in accordance with the terms of the Escrow Deed, the Seller must deliver to the Buyer:
  - (i) a written estimate of the Adjustment Amount by completing the column entitled “Estimate as at Completion Date (\$m) in Annexure C (“**Estimated Adjustment Statement**”) on the basis that this is calculated immediately prior to Completion (“**Estimated Adjustment Amount**”);
  - (ii) a written estimate of the Withholding Tax (“**Estimated Withholding Tax**”) together with reasonable supporting material to enable the Buyer to understand the calculation to be paid by Syntech and/or Syntech II on Completion; and
  - (iii) written notice of the Estimated Restructure Fee together with reasonable supporting material to enable the Buyer to understand the calculation to be paid by Syntech and/or Syntech II on Completion.
- (b) Except as expressly provided in Annexure C, the Estimated Adjustment Statement is to be prepared on a consistent basis with the January 2011 management accounts and otherwise in accordance with the Accounting Standards. The Buyer has 24 hours from receipt of the Sellers’ Estimated Adjustment Amount, Estimated Withholding Tax or Estimated Restructure Fee provided under clause 5.2(a) to advise the Seller of any changes that it considers should be made to the Estimated Adjustment Statement, Estimated Withholding Tax or Estimated Restructure Fee. If no notice is given, then the Estimated Adjustment Statement, Estimated Withholding Tax and Estimated Restructure Fee is deemed to be agreed by the parties. If notice is given, then the Seller must consider the changes to the Estimated Adjustment Statement, Estimated Withholding Tax or Estimated Restructure Fee requested by the Buyer, however if the Estimated Adjustment Statement, Estimated Withholding Tax or Estimated Restructure Fee is not agreed within 24 hours of the Buyer’s request, then the Estimated Adjustment Statement, Estimated Withholding Tax or Estimated Restructure Fee to be used is that as determined by the Seller.

### 5.3 Seller's obligations

On Completion, the Seller must:

- (a) **(transfer of Seller Sale Shares)** deliver to the Buyer duly executed transfers in favour of the Buyer (or as it may direct) of the Seller Sale Shares and the share certificates for the Seller Sale Shares;
- (b) **(transfer of AMH Shares)** procure that the following are delivered to the Buyer:
  - (i) transfer forms for the AMH Shares duly executed by the relevant shareholder, or executed under power of attorney, in favour of the Buyer (or as it may direct); and
  - (ii) the certificates for the AMH Shares, or evidence of destruction or loss of the certificates;
- (c) **(resignations)** deliver to the Buyer written resignations of the Retiring Directors of each Group Member;
- (d) **(directors' resolution of Syntech and Syntech II)** deliver to the Buyer a certified copy of a resolution of directors of Syntech and Syntech II resolving that:
  - (i) subject to the payment of stamp duty, the transfer of the Sale Shares will be registered; and
  - (ii) subject to the Constitution, each of the Incoming Directors be appointed, and the resignation of the Retiring Directors be accepted, all with effect from the payments under clause 5.5(c) being made, but so that a properly constituted board of directors is in existence at all times;
- (e) **(registration of Sale Shares)** procure that, provided stamp duty has been paid, the transfer of the Sale Shares are registered in the relevant Syntech or Syntech II share register;
- (f) **(resolution of directors of each Subsidiary)** deliver to the Buyer a certified copy of a resolution of directors of each Subsidiary of Syntech and Syntech II, resolving that, subject to the Constitution, each of the Incoming Directors be appointed, and the resignation of the Retiring Directors be accepted, all with effect from the payments under clause 5.5(c) being made, but so that a properly constituted board of directors is in existence at all times;
- (g) **(Security Interests)** deliver to the Buyer a deed of release and where relevant an ASIC form 312 executed by the relevant financier or chargee in respect of each Security Interest to be released upon the receipt by the External Financiers of the relevant External Debt Repayment amount;

- (h) **(bank authority)** deliver to the Buyer duly completed bank authorities directed to the bankers of each Group Member authorising the operation of each of its bank accounts by nominees of the Buyer;
- (i) **(release in favour of former officers)** deliver to the Buyer a release executed in favour of each of the Retiring Directors in the form set out in schedule 2 (“Form of officer’s release”);
- (j) **(waiver of change of control)** deliver to the Buyer a waiver by the Seller of any event of default under the Existing Facilities to which GS or the Seller is a party, which may arise as a result of the transfer of the Sale Shares in accordance with this agreement;
- (k) **(waiver of External Facility charges)** deliver to the Buyer a waiver by the Seller of any termination charges under the Existing Facilities to which GS or the Seller is a party which may arise as a result of the repayment of External Debt under clause 5.5(c);
- (l) **(confirmation of no External Debt)** deliver to the Buyer written confirmation that following repayment of the External Debt in accordance with clause 5.5(c), no amounts are outstanding under the Existing Facilities or Reimbursement Facilities;
- (m) **(Records)** deliver to the Buyer the Records, complete and up to date;
- (n) **(Restructure Deed)** deliver to the Buyer a certified copy of the Restructure Deed executed by all parties to that document;
- (o) **(foreign exchange gain)** deliver to the Buyer reasonably satisfactory evidence that Syntech and its lenders have converted all foreign currency denominated External Debt to Australian dollar denominated External Debt; and
- (p) **(other documents)** deliver to the Buyer any other document or thing reasonably necessary to give full effect to this agreement and which has been requested by the Buyer at least 5 Business Days prior to Completion.

#### 5.4 Deliver at Business premises

Delivery of the Records referred to in clause 5.3(m) is taken to have occurred by those items being left at the Business premises under the control of Syntech and Syntech II.

#### 5.5 Buyer’s obligations

On Completion the Buyer must:

- (a) **(registration of Sale Shares)** pay stamp duty on the transfer forms for the Sale Shares, and assist the Seller in procuring that the transfer of the Sale Shares are registered in the relevant Syntech or Syntech II share register;
- (b) **(equity subscription)** procure that Syntech and Syntech II raises funds (in aggregate) to the value of:
  - (i) the Repayment Amount; and

- (ii) the Withholding Tax for the purpose of remitting to the relevant Government Agency, through Syntech and Syntech II issuing shares to the Buyer and the Buyer subscribing for such shares. The Buyer acknowledges that no payment will be made directly to Syntech and Syntech II for the subscription of such shares as Syntech and Syntech II will direct the Buyer to pay the relevant amounts in accordance with clause 8.1.
- (c) **(repayment of External Debt and payment of Withholding Tax and Restructure Fee)** procure that Syntech and Syntech II use the funds raised by the equity subscription under clause 5.5(b) to:
  - (i) repay the External Debt from the Repayment Amount, in accordance with the repayment schedule set out in schedule 11 (“Existing Facilities”);
  - (ii) remit the Withholding Tax to the relevant Government Agency; and
  - (iii) pay the Restructure Fee (if any) from the Repayment Amount.

Payment under clause 5.5(c)(i) must be made by direct deposit of cleared funds to the credit of the bank accounts specified in writing by the External Financier to the Buyer before Completion. The Buyer acknowledges that these obligations will be satisfied by compliance with the payment and payment directions set out in clause 8.1;
- (d) **(consents to act)** deliver executed consents to act by the Incoming Directors;
- (e) **(directors’ resolution of Syntech and Syntech II)** procure that the Incoming Directors (as directors of Syntech and Syntech II) resolve to approve the matters referred to in clauses 5.5(b) and (c) and deliver to the Seller a certified copy of the resolution;
- (f) **(release under Existing Facilities)** procure that Syntech and Syntech II, and each of their Subsidiaries, as applicable, release GS and the Seller from all Claims under all Existing Facilities to which GS or the Seller is a party and under all the Reimbursement Facilities, in the form set out in schedule 13 (“Form of release”); and
- (g) **(release of GS Performance Guarantees)** subject to any agreement reached in accordance with clause 3.3(b), deliver to the Seller evidence satisfactory to the Seller that the Performance Guarantees have been released, returned or cancelled by the applicable third party and that there are no further obligations or liabilities with respect to any such Performance Guarantees.

## 5.6 Simultaneous actions at Completion

In respect of Completion:

- (a) the obligations of the parties under this agreement are interdependent;



- (b) the parties acknowledge that:
  - (i) at the time the Sale Shares are transferred to the Buyer under clause 5.3, they will still be subject to the Encumbrances and Security Interests that will be released upon payment of the amounts referred to in clause 5.5(c); and
  - (ii) upon payment of the amounts referred to in clause 5.5(c), the Sale Shares will be released from those Encumbrances and Security Interests; and
- (c) unless otherwise stated, all actions required to be performed by a party at Completion are taken to have occurred simultaneously on the Completion Date.

## **5.7 Post-Completion notices**

Each party will immediately give to the other party all payments, notices, correspondence, information or enquiries in relation to Syntech and Syntech II which it receives after Completion and which belong to the other party.

## **5.8 Indemnity for Completion and pre-Completion matters**

- (a) The Seller is responsible for and indemnifies the Buyer and each Group Member against, any Claims that arise under:
  - (i) in any way relating to, arising out of or associated with, the cancellation of the Convertible Participating Notes or the cancellation of the Warrants; or
  - (ii) in any way relating to, arising out of or associated with, the payment of Withholding Tax on the External Debt and any liability for Tax on foreign exchange gains associated with the repayment of the External Debt, including Claims in respect of Duty or Tax.
- (b) The thresholds and time limits on Claims set out in clauses 12.7 to 12.10 (inclusive) of this agreement do not apply to any Claim under the indemnity contained in this clause 5.8.
- (c) However, for any Claim under this clause 5.8, the Seller excludes all liability for indirect and consequential loss or damage (including for loss of profit (whether direct, indirect, anticipated or otherwise), loss of expected savings, opportunity costs, loss of business (including loss or reduction of goodwill), damage to reputation, and loss or corruption of data.
- (d) The parties acknowledge that where a Claim under this clause 5.8 arises as result of or in connection with a Claim by or to a third party, it is the Seller's current intention to assume the defence of that Claim pursuant to clause 12.2.

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## **6 Adjustment Statement**

### **6.1 Preparation of Adjustment Statement**

Within 30 days after Completion, the Buyer must:

- (a) prepare the Adjustment Statement in respect of Syntech and Syntech II, in the form set out in Annexure D, on a consistent basis with the January 2011 management accounts and otherwise in accordance with the Accounting Standards;
- (b) determine the final amount of the Withholding Tax and the Restructure Fee; and
- (c) calculate and deliver each Adjustment Statement to the Seller, stating the Adjustment Amount for the Syntech and Syntech II and the amount of the Withholding Tax and Restructure Fee.

### **6.2 Seller's proposed changes to Adjustment Statement**

The Seller must notify the Buyer within 14 days after receipt of each Adjustment Statement of any changes that it considers should be made to the Adjustment Statement or the amount of the Withholding Tax or Restructure Fee. If no notice is given, then the Adjustment Statement or the amount of the Withholding Tax and Restructure Fee is deemed to be agreed by the parties.

### **6.3 Independent Accountant to decide and costs**

- (a) If the Seller and the Buyer cannot agree on an Adjustment Statement and the amount of the Withholding Tax and Restructure Fee within 14 days after the Seller notifying the Buyer in accordance with clause 6.2, then:
  - (i) either party may refer the disagreement to an Independent Accountant with a request that the Independent Accountant make a decision on the disagreement within 14 days;
  - (ii) the Independent Accountant will determine the procedures for settlement of the disagreement; and
  - (iii) the Independent Accountant is appointed as an expert and not as an arbitrator.
- (b) The decision of the Independent Accountant is conclusive and binding on the parties in the absence of manifest error.
- (c) The Seller and the Buyer will each pay one half of the Independent Accountant's costs and expenses in connection with the reference.

### **6.4 Adjustment Amount**

- (a) If the Adjustment Statement or the calculation of the amount of the Withholding Tax or Restructure Fee confirms that there has been an overpayment of the Repayment Amount or the Withholding Tax by Syntech or Syntech II under clause 5.5(c), then:
  - (i) in the case of an overpayment of the Repayment Amount, the Seller must refund the amount of the overpayment to Syntech or Syntech II (as the case may be) and the Seller agrees to hold the amount of that overpayment for the benefit of Syntech or Syntech II (as the case may be) until it is repaid; and

- (ii) in the case of an overpayment of the Withholding Tax, Syntech or Syntech II (as the case may be) must assist the Seller in seeking a refund from the relevant Government Agency.

The parties acknowledge that an overpayment of the amount of Withholding Tax may impact on the correct level of the Repayment Amount, and that any refund due to Syntech or Syntech II from a relevant Government Agency in respect of Withholding Tax must be factored into determining the amount of the overpayment (if any) of the Repayment Amount.

- (b) If the Adjustment Statement or the calculation of the amount of the Withholding Tax confirms that there has been an underpayment of the Repayment Amount or the Withholding Tax by Syntech or Syntech II under clause 5.5(c), then:
  - (i) in the case of an underpayment of the Repayment Amount, Syntech or Syntech II must pay the amount of the underpayment to the Seller and Syntech or Syntech II (as the case may be) agrees to hold the amount of that underpayment for the benefit of the Seller until it is paid; and
  - (ii) in the case of an underpayment of the Withholding Tax, Syntech or Syntech II (as the case may be) must pay the amount of the underpayment to the relevant Government Agency.

The parties acknowledge that an underpayment of the amount of Withholding Tax may impact on the correct level of the Repayment Amount, and that any additional payment due to be made by Syntech or Syntech II (as the case may be) to a relevant Government Agency in respect of Withholding Tax must be factored into determining the amount of the underpayment (if any) of the Repayment Amount.

- (c) Any overpayment or underpayment must be refunded or paid within five Business Days of the finalisation of the Adjustment Statement in accordance with this clause 6.
- (d) The Buyer must procure that, from Completion, Syntech and Syntech II perform its obligations under the Restructure Deed.

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## **7 Default**

### **7.1 Failure by a party to Complete**

If all Conditions Precedent are satisfied or (where permitted) waived by the relevant party, and a party does not Complete, other than as a result of default by the other party or as a result of any action taken by any Governmental Authority preventing or delaying Completion, the non-defaulting party may give the defaulting party notice requiring it to Complete within seven days of receipt of the notice. For the purposes of this clause 7, “party” means the Seller on the one hand and the Buyer on the other.

## **7.2 Specific performance or termination**

If the defaulting party does not Complete within the period specified in clause 7.1 (“Failure by a party to Complete”) the non-defaulting party may choose either to proceed for specific performance or terminate this agreement. In either case, the non-defaulting party may seek damages for the default.

## **7.3 Effect of termination**

If this agreement is terminated under clause 7.2 (“Specific performance or termination”) then, in addition to any other rights, powers or remedies provided by Law:

- (a) each party is released from its obligations under this agreement other than in relation to clause 3.6 (“Break fee”), 15 (“Confidential Information and privacy”) and clause 18 (“Costs and stamp duty”);
- (b) each party retains the rights it has against any other party in connection with any breach or Claim that has arisen before termination; and
- (c) the Buyer must return to the Seller all documents and other materials in any medium in its possession, power or control or in the possession, power or control of its Affiliate or any Representative of the Buyer or any of their Affiliates which contain any information relating to the Syntech Group, including any Data Room information.

A termination of this agreement under this clause will not affect any other rights the parties have against one another at Law or in equity.

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## **8 Payments and directions**

### **8.1 Payments and payment directions on Completion**

On Completion:

- (a) the Buyer must pay:
  - (i) the Syntech Purchase Price to the Seller; and
  - (ii) the Syntech II Purchase Price to the Seller;
- (b) the Buyer agrees to procure that Syntech and Syntech II each irrevocably directs the Buyer, in satisfaction of the Buyer’s obligation to pay the Repayment Amount and the Withholding Tax to it as subscription proceeds under clause 5.5(b), to pay:
  - (i) from the Repayment Amount to the External Financiers the amount of the External Debt in accordance with the repayment schedule set out in schedule 11 (“Existing Facilities”);
  - (ii) the Withholding Tax to the relevant Government Agency; and
  - (iii) from the Repayment Amount, the Restructure Fee (if any) to the Seller; and

- (c) the Buyer agrees to irrevocably direct the Escrow Holder to pay out of the Escrow Account:
  - (i) from the Estimated Repayment Amount:
    - (A) the External Debt to the External Financiers in accordance with the repayment schedule set out in schedule 11 (“Existing Facilities”); and
    - (B) the Estimated Restructure Fee (if any) to the Seller; and
  - (ii) the Estimated Withholding Tax to the relevant Government Agency.

## 8.2 Method of payment

The payments referred to in clause 8.1 (“Payment on Completion”) must be made by direct deposit of cleared funds to the credit of the bank accounts specified in writing by the Seller or External Financier to the Buyer before Completion.

## 8.3 Notification of Estimated Repayment Amount

The Seller must notify the Buyer of the Estimated Repayment Amount no later than 10 Business Days prior to Completion.

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## 9 Conduct of business pending Completion

### 9.1 Conduct of business

Subject to the exercise by directors of any Group Member of their fiduciary duties, the Seller will ensure that (except as disclosed in writing by the Seller and agreed to in writing by the Buyer, acting reasonably) from the date of this agreement until the Completion Date, each Group Member:

- (a) **(operation of business)** will operate its business in accordance with its usual business practices, and to the extent relevant the Existing Shareholders Agreements, including as to proposed levels of capital expenditure, in accordance with its current capital budget a copy of which is annexed as Annexure E;
- (b) **(compliance with Laws, etc)** will comply in all material respects with the Approvals and all applicable Laws, and with their obligations under the Material Contracts and the Mining Tenements;
- (c) **(Asset disposal)** will not:
  - (i) acquire or dispose of any asset for a consideration of more than \$500,000, except:
    - (A) in accordance with the approved current business plan or budget for that Group Member; or
    - (B) as disclosed in the Disclosure Material, or
    - (C) as required or directed by the Queensland Department of Mines and Energy; or
  - (ii) acquire or dispose of, or grant or take an option over, any assets other than on commercial arms length terms;

- (d) **(contracts)** will not:
  - (i) terminate or vary the terms of any Material Contracts in any material respect; or
  - (ii) enter into any other contract or commitment which would be reasonably anticipated to have an effect on their revenue or expenditure of more than \$500,000 per annum;
- (e) **(notify Claims, etc)** will promptly notify the Buyer of any Action brought, asserted or commenced against it, its officers or directors, involving its business or assets for an amount exceeding \$500,000;
- (f) **(accounting practices)** will not make any material change in the accounting methods, principles or practices used by it at the Last Balance Date;
- (g) **(capital expenditure)** will not make any capital expenditure in excess of \$500,000 (for any one capital expenditure) or \$2,500,000 in aggregate, except:
  - (i) in accordance with the approved current business plan or budget for that Group Member; or
  - (ii) as disclosed in the Disclosure Material;
- (h) **(financings)** will not:
  - (i) unless required for the proper functioning of the Business, raise any new financial accommodation (but this does not prevent raising any new financial accommodation in accordance with the Existing Shareholders Agreements, or the use or increase of Existing Facilities, or prevent the increase of the contingent liability of the Syntech Group to the Seller (or its Related Bodies Corporate) or the Commonwealth Bank of Australia, in connection with the issuance, or increase in the stated amount, of guarantees issued by the Seller (or its Related Bodies Corporate) or the Commonwealth Bank of Australia to third parties for the benefit of the Syntech Group); or
  - (ii) provide any guarantee or other security to any third party;
- (i) **(capital restructures)** except in relation to the Convertible Participating Notes and the Warrants, will not:
  - (i) distribute or return any capital to their members or effect a buy back of any shares; or
  - (ii) issue any shares, options or securities which are convertible into shares;
- (j) **(dividends, etc)** will not declare or pay any dividend to their members or pay any management fee, or similar amount, other than as permitted under this agreement or in relation to the Performance Guarantees (including fees payable in connection with any Performance Guarantee);

- (k) **(mergers and acquisitions)** will not merge or consolidate with any other corporation or acquire all or substantially all of the shares, business or assets of any other person, firm, association, corporation or business organisation, or agree to do any of the foregoing;
- (l) **(arrangements)** will not enter into or resolve to enter into any compromise, arrangement, scheme or other form of arrangement with a receiver, receiver and manager, administrator or other controller in relation to any of their assets or undertaking;
- (m) **(Warranties)** will not do or omit to do anything as a result of which any of the Warranties, as qualified by the Disclosure Letter, would not be true in all material respects if given at any time before Completion;
- (n) **(Constitution)** will not alter or agree to alter its Constitution;
- (o) **(employment contracts)** will not enter into any employment contract, or renew or amend any existing material employment contract (including with regard to superannuation benefits) where that contract, renewal or amendment is inconsistent with information provided to the Buyer in the Disclosure Material;
- (p) **(maintain insurances)** will maintain (and where necessary use reasonable efforts to renew) each of the insurance policies currently in place and will promptly notify the Buyer if any renewal proposal is not accepted by the relevant insurer;
- (q) **(no forgiveness of debt)** will not cancel (or enter into any arrangement to cancel) any indebtedness for money owed to it, or waive any claim or right for an amount in excess of \$50,000; and
- (r) **(abnormal or unusual transactions)** will not enter into any abnormal or unusual transaction which adversely affects its business,

and, at the request of the Buyer, a representative of the Seller will, from the date of this agreement until the Completion Date, on one occasion per week, discuss developments in the business of the Syntech Group with a representative of the Buyer and will consider in good faith any suggestions or comments made by the Buyer's representative in relation to the Syntech Group business.

## 9.2 Access to Business Premises, personnel and Records

- (a) The Seller agrees to allow the Buyer and its Representatives access to the Records, Assets and personnel of the Syntech Group on reasonable notice and at all commercially reasonable times before the Completion Date, to enable the Buyer to become familiar with the affairs of the Syntech Group and to permit valuers and similar advisers access to the Business. The Buyer agrees not to copy or remove any of the Records before Completion.
- (b) Before the Completion Date, the Seller must:
  - (i) ensure that the Buyer is notified about any issues which (in the Seller's reasonable opinion) have a material effect on the Business as soon as reasonably practicable after such issues arise; and

- (ii) give to the Buyer in a timely manner copies of all written management reports or updates prepared by, or relating to, the Syntech Group or the Business.

### 9.3 Confidentiality undertaking

Before any of its Representatives obtains access under clause 9.2 (“Access to Business Premises, personnel and Records”), the Buyer must ensure that each Representative enters into a confidentiality agreement with the Seller which includes an undertaking similar to that contained in clause 15.2 (“Disclosure of Confidential Information”).

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## 10 Exclusion from liability

From Completion, the Buyer will ensure that each Group Member does not take any Action or proceeding or make any Claim or demand against:

- (a) any of the present or former directors or officers of the relevant Group Member in respect of any act or omission on the part of such director or officer before Completion, other than any matter arising from the wilful misconduct, gross negligence or fraud of that director or officer; and
- (b) any AMH Party, including Mr Erik Schafer (“**Schäfer**”), and any current or former Affiliate, employee, officer, director, managing director or auditor of any AMH Party or Schäfer or Related Body Corporate of any AMH Party or Schäfer, but excluding:
  - (i) any employee of the Syntech Group;
  - (ii) any consultant to the Syntech Group; and
  - (iii) any consultant to an AMH Party or any Related Body Corporate of an AMH Party,but only, in the case of paragraphs (i), (ii) and (iii) above, as that person acts in that capacity.

The Buyer acknowledges that the Seller holds the benefit of this clause for itself and for the benefit of the people referred to in paragraphs (a) and (b) above.

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## 11 Warranties and representations

### 11.1 Seller

The Seller represents and warrants to the Buyer that each Warranty is correct and not misleading in any material respect on the date of this agreement and will be correct in all material respects and not misleading in any material respect on the Completion Date as if made on and as at each of those dates.

### 11.2 Separate Warranties

Each Warranty is to be treated as a separate representation and warranty.



### 11.3 Matters disclosed

Each Warranty is to be read down and qualified by any information:

- (a) fully and fairly disclosed to the Buyer by the Seller in the Disclosure Material;
- (b) which is otherwise within the actual knowledge of the Buyer or its Representatives, or of which the Buyer or its Representatives ought reasonably to have been aware having regard to the Disclosure Material and the public searches referred to in accordance with paragraph (d);
- (c) fully and fairly disclosed in writing to the Buyer during the course of the Due Diligence; or
- (d) that would have been disclosed to the Buyer had the Buyer conducted searches prior to the signing of this agreement of records open to public inspection maintained by the Australian Securities and Investments Commission, the High Court, the Federal Court and the Supreme Courts in every State and Territory in Australia, the Queensland Land Court or any Government Agency, including the Queensland Department of Environment and Resource Management, Queensland Environmental Protection Agency, Commonwealth Department of Sustainability, Environment, Water, Population and Communities and the National Native Title Tribunal,

which is or may be inconsistent with that Warranty and, to the extent that any Warranty is incorrect or misleading having regard to any such information, that Warranty is deemed not to have been given. No amount will be recoverable by the Buyer in respect of any breach of a Warranty to the extent that the breach arises by reason of or in relation to any such information.

### 11.4 Buyer's acknowledgement

The Buyer acknowledges and agrees that:

- (a) in entering into this agreement and in proceeding to Completion, the Buyer does not rely on any statement, representation, warranty, condition, forecast or other conduct which may have been made by or on behalf of the Seller, except the Warranties;
- (b) it has received and understood the contents of the Disclosure Material;
- (c) it has had the opportunity to conduct a due diligence investigation and has satisfied itself in relation to matters arising from the Due Diligence;
- (d) irrespective of whether or not the Due Diligence was as full or exhaustive as the Buyer would have wished, it has nevertheless independently and without the benefit of any inducement, representation or warranty (other than the Warranties) from the Seller or their agents, determined to enter into this agreement;
- (e) the Seller is not liable for any Claim, and the Buyer must not make any Claim, to the extent that the Claim arises out of or relates to any forecast, projection or other statement relating to future events, provided that such forecast, projection or other statement had some reasonable basis at the time that it was made or given; and

- (f) subject to any Law to the contrary and except as provided in the Warranties, all terms, conditions, warranties and statements, whether express, implied, written, oral, collateral, statutory or otherwise, are excluded, and the Seller disclaims all Liability in relation to them, to the maximum extent permitted by Law.

### **11.5 Buyer's representation**

The Buyer represents that, on the basis of the Disclosure Material and the other matters listed in clause 11.3, it does not have knowledge or belief of any matter which is, or would with the passage of time become, a material breach of any Warranty.

### **11.6 Seller's acknowledgment**

The Seller acknowledges that:

- (a) the representation given by the Buyer in clause 11.5 ("Buyer's representation") does not give the Seller a cause of Action against the Buyer and may only be raised by the Sellers as a defence to any Claim by the Buyer; and
- (b) the Buyer is subscribing for shares and purchasing shares under the terms of this document and that in order to determine the Loss suffered by the Buyer, the amount of the Contribution Amount must be taken into account.

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## **12 Limitations of Liability**

### **12.1 Notice of Claims**

If the Buyer becomes aware of any matter or circumstance that may give rise to a Claim under or in relation to or arising out of this agreement, including a breach of a Warranty:

- (a) the Buyer must give notice of the Claim to the Seller as soon as reasonably practicable and in any event no later than within 30 days; and
- (b) the notice must contain:
  - (i) the facts, matters or circumstances that may give rise to the Claim;
  - (ii) if it is alleged that the facts, matters or circumstances referred to in sub-clause (i) constitute a breach of this agreement, including a breach of a Warranty, the basis for that allegation; and
  - (iii) an estimate of the amount of the Loss, if any, arising out of or resulting from the Claim or the facts, matters or circumstances that may give rise to the Claim.

### **12.2 Third party Claims**

If the matter or circumstance that may give rise to a Claim against the Seller under or in relation to or arising out of this agreement, including a breach of a Warranty, is a result of or in connection with a Claim by or liability to a third party then:

- (a) the Buyer must give notice of the Claim to the Seller as soon as reasonably practicable and in any event no later than within 30 days;

- (b) the notice must contain:
  - (i) the facts, matters or circumstances that may give rise to the Claim;
  - (ii) if it is alleged that the facts, matters or circumstances referred to in sub-clause (i) constitute a breach of this agreement including a breach of a Warranty, the basis for that allegation; and
  - (iii) an estimate of the amount of the Loss, if any, arising out of or resulting from the Claim or the facts, matters or circumstances that may give rise to the Claim;
- (c) at the expense and direction of the Seller, the Buyer must either:
  - (i) take such Action (including legal proceedings or making claims under any insurance policies) as the Seller may reasonably require to avoid, dispute, resist, defend, appeal, compromise or mitigate the Claim, provided that the Seller has first delivered to the Buyer (and to the relevant Group Member) an indemnity and security for costs in a form, and on terms, satisfactory to the Buyer (acting reasonably); or
  - (ii) offer the Seller the option to assume defence of the Claim;
- (d) the Buyer must not settle, make any admission of liability or compromise any Claim, or any matter which gives or may give rise to a Claim, without the prior consent of the Seller which must not be unreasonably withheld or delayed; and
- (e) the Buyer must give the Seller and its professional advisers reasonable access to the personnel and premises of the Buyer and each Group Member and to relevant chattels, accounts, documents and records within the power, possession or control of the Buyer and each Group Member, to enable the Seller and its professional advisers to examine such circumstances, premises, chattels, accounts, documents and records and to take copies or photographs thereof at their own expense. However:
  - (i) the parties must at all times act having regard to the extent to which legal professional privilege or similar privilege extends to any communication or document; and
  - (ii) the Seller and its professional advisers must keep all information confidential.

### **12.3 Seller to consider Claims**

The Seller must notify the Buyer within 20 Business Days of receipt of a notice of a Claim under clause 12.1 (“Notice of Claims”) or clause 12.2 (“Third party Claims”) indicating whether it admits or denies the Claim (in whole or in part) or, in the case of third party Claims, whether it exercises the option in clause 12.2(c)(ii) (“Third party Claims”).

#### **12.4 Seller to defend Claim**

If the Seller exercises the option in clause 12.2(c)(ii) (“Third party Claims”), then:

- (a) the Buyer agrees to co-operate with the Seller and do all things reasonably requested by the Seller in respect of the Claim;
- (b) the Seller must deliver to the Buyer (and to the relevant Group Member) an indemnity for the Buyer’s or relevant Group Member’s costs for complying with the Seller’s requests under paragraph (a) above in a form, and on terms, satisfactory to the Buyer (acting reasonably);
- (c) the Seller agrees, at its own expense, to defend the Claim;
- (d) the Seller may not settle or compromise the Claim without the consent of the Buyer, such consent not to be unreasonably withheld, conditioned or delayed;
- (e) the Seller agrees to consult with the Buyer in relation to the conduct of the Claim and not take or persist in any course that might reasonably be regarded as materially harmful to the goodwill, reputation, affairs or operation of the Buyer or the Syntech Group (taken as a whole), and which is outside the usual process for dealing with similar claims.

#### **12.5 Seller not liable**

The Seller is not liable to the Buyer (or any person deriving title from the Buyer) for any Claim under or in relation to or arising out of this agreement including a breach of a Warranty:

- (a) if the Buyer has failed to comply in some material respect with clause 12.1 (“Notice of Claims”), clause 12.2 (“Third party Claims”) or clause 12.4 (“Seller to defend Claim”) as the case may be;
- (b) if the Claim is as a result of or in respect of any change in legislation or regulation, or any legislation or regulation not in force at the date of this agreement (including legislation or regulation which takes effect retrospectively);
- (c) to the extent that the Claim arises or is increased as a result of any change in Accounting Standards after Completion;
- (d) if the Claim arises or is increased as a result of action taken or not taken by the Seller after consultation with and the prior written approval of the Buyer;
- (e) to the extent that the Claim arises or is increased as a result only of an increase in the rates, method of calculation or scope of taxation after Completion (including where any such change has a retroactive effect);
- (f) to the extent that express provision has been made for any fact, matter or circumstance giving rise to a Claim in the Last Accounts; or

- (g) if, without the written approval of the Sellers, the Buyer amends, procures the amendment of, or permits the self amendment by a Syntech Group Member of, any Tax Return for, or in respect of, a Syntech Group Member for any period, or part thereof, prior to the Completion Date and such action has resulted in the Claim.

## 12.6 Recovery

- (a) Where the Buyer is or may be entitled to recover from some other person any sum in respect of any matter or event which could give rise to a Claim (including under any insurance policy held by a Group Member which may allow recovery of that sum), the Buyer will:
  - (i) use its best endeavours to recover that sum before making the Claim (provided that nothing in this clause will prevent the Buyer from making a Claim so as to avoid the expiry of the timeframes set out in clause 12.7);
  - (ii) keep the Seller at all times fully and promptly informed of the conduct of such recovery; and
  - (iii) reduce the amount of the Claim by the amount of the Recovered Sum (after deducting the Buyer's costs of recovery).
- (b) If the recovery is delayed until after the Claim has been paid by the Seller to the Buyer, the Recovered Sum (up to but not exceeding the amount paid by the Seller) will be paid to the Seller provided that the Buyer will not be obliged to repay any such amount to the extent that it can demonstrate, to the Seller's satisfaction, acting reasonably, that the losses, damages, costs, expenses and disbursements suffered or incurred by the Buyer in respect of the Claim is for an amount in excess of the Recovered Sum.
- (c) The Buyer acknowledges and agrees that it is not entitled to recover more than once in respect of the same Loss or Claim, and that the Seller is not liable to the Buyer in respect of a Claim to the extent the Buyer has already recovered the Loss.

## 12.7 Time limit on Claim

- (a) The Buyer may not make any Claim under this agreement including for a breach of a Warranty unless full details of the Claim have been notified to the Seller in accordance with clause 12.1 ("Notice of Claims") or clause 12.2 ("Third party Claims"):
  - (i) in respect of a breach of a Tax Warranty within 4 years from the Completion Date; and
  - (ii) in any other case, within 18 months from the Completion Date.
- (b) A Claim will not be enforceable against the Seller and is to be taken for all purposes to have been withdrawn unless any legal proceedings in connection with the Claim are commenced within six months after written notice of the Claim is served on the Seller in accordance with clause 12.1 ("Notice of Claims") or clause 12.2 ("Third party Claims").

## **12.8 Minimum amount of Claim**

The Buyer may not make any Claim (other than a Claim for breach of a Tax Warranty):

- (a) that is a Claim for a breach of a Syntech Warranty, if the amount of the Claim is less than \$1,000,000;
- (b) that is a Claim for a breach of a Syntech II Warranty, if the amount of the Claim is less than \$500,000;
- (c) that is any other Claim under this agreement, if the amount of the Claim is less than \$500,000; and
- (d) unless and until the aggregate amount of all Claims properly made under this agreement exceeds \$2,500,000,

in which event the Buyer may claim for the full amount of the Claims (provided each Claim satisfies the relevant threshold set out in clauses 12.8(a) to 12.8(c), and subject to this clause 12), not just the amount by which the threshold in clause 12.8 (d) is exceeded by such Claim.

## **12.9 Maximum Liability**

The liability of the Seller for loss or damage of any kind not excluded by clause 12.10 however caused, in contract, tort, (including negligence), under any statute or otherwise for:

- (a) a Claim arising from a breach of a Title Warranty, is limited in aggregate for any and all such Claims to the Repayment Amount; and
- (b) any other Claim relating in any way to this agreement or its subject matter, is limited in aggregate for any and all Claims to \$50,000,000,

provided, that in all cases the maximum aggregate liability of the Seller under or in connection with this agreement does not exceed the Repayment Amount.

## **12.10 Exclusion of consequential liability**

The Seller excludes all liability in contract, tort (including negligence), under any statute or otherwise arising from or related in any way to this agreement or its subject matter, for indirect and consequential loss or damage, including for loss of expected savings, opportunity costs, loss of business (including loss or reduction of goodwill), damage to reputation, loss or corruption of data and loss of profit (but only to the extent such losses are considered to be indirect or consequential losses or damage).

## **12.11 Insured Claim or loss**

The Seller will not be liable for any Claim under or in relation to or arising out of this agreement including a breach of a Warranty unless the Buyer has first caused a Group Member to make a Claim under any insurance policy held by that Group Member which may cover that Claim and that Claim has been denied in whole or in part by the relevant insurer. If the Buyer has still incurred some damage or Loss, that remaining amount will be the amount of the Buyer's Loss for the purposes of this agreement.

### **12.12 Breach or act or omission after Completion**

The Seller's liability to the Buyer for loss or damage of any kind in contract, tort (including negligence), under any statute or in relation to or arising out of this agreement including a breach of a Warranty will be reduced to the extent that the Claim arises as a result of or in connection with any breach by the Buyer of this agreement, or any act or omission after Completion by the Buyer, or any Group Member.

### **12.13 Obligation to mitigate**

Nothing in this clause 12 ("Limitations of Liability") in any way restricts or limits the general obligation at Law of the Buyer to mitigate any Loss or damage which it may incur in consequence of any breach by the Seller of the terms of this agreement including a breach of a Warranty.

### **12.14 Tax benefit**

In calculating the Liability of the Seller for a Claim arising under, in relation to or arising out of this agreement, including a breach of any Warranty, any Tax Benefit or reduction received by the Buyer as a result of the loss or damage arising from that breach must be taken into account.

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## **13 Buyer's warranties**

The Buyer represents and warrants to the Seller that each of the following statements is correct and not misleading in any material respect on the date of this agreement and will be correct in all material respects and not misleading in any material respect as at the Completion Date as if made on each of those dates and subject to satisfaction of the Conditions Precedent in clauses 3.1(b), (c) and (d):

- (a) it has the power to enter into and perform this agreement and has obtained all necessary consents and authorisations to enable it to do so;
- (b) the entry into and performance of this agreement by it does not constitute a breach of any obligation (including any statutory, contractual or fiduciary obligation), or default under any agreement or undertaking by which it is bound;
- (c) this agreement constitutes valid and binding obligations upon it enforceable in accordance with its terms by appropriate legal remedy;
- (d) this agreement and Completion do not conflict with or result in a breach of or default under any applicable Law, any provision of its constitution or other constituent documents or any material term or provision of its constitution or any material term or provision of any agreement or deed or writ, order or injunction, judgment, Law, rule or regulation to which it is a party or is subject or by which it is bound;
- (e) no voluntary arrangement has been proposed or reached with any creditors of the Buyer;
- (f) the Buyer is able to pay its debts as and when they fall due;

- (g) the Buyer has not paid or contracted to pay any finders fee, deal fee or other similar fee (excluding fees paid in respect of due diligence assistance) in respect of this transaction; and
- (h) the Buyer has in place binding agreements in respect of all finance which it requires in order to fund the Purchase Price and the Repayment Amount.

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## **14 Guarantee and indemnity**

### **14.1 Consideration**

The Guarantor acknowledges that the Seller is acting in reliance on the Guarantor incurring obligations and giving rights under this Guarantee.

### **14.2 Guarantee**

- (a) The Guarantor unconditionally and irrevocably guarantees to the Seller the Buyer's compliance with the Buyer's obligations in connection with this agreement, including each obligation to pay money.
- (b) If the Buyer does not comply with those obligations on time and in accordance with this agreement, then the Guarantor agrees to comply with those obligations on demand from the Seller. A demand may be made whether or not the Seller has made demand on the Buyer.

### **14.3 Indemnity**

- (a) The Guarantor indemnifies the Seller against any liability or loss arising from, and any Costs it incurs, if:
  - (i) the Buyer does not, or is unable to, comply with an obligation it has (including any obligation to pay money) in connection with this agreement; or
  - (ii) an obligation the Buyer would otherwise have under this agreement (including an obligation pay money) is found to be void, voidable or unenforceable; or
  - (iii) an obligation the Guarantor would otherwise have under clause 14.2 ("Guarantee") is found to be void, voidable or enforceable; or
  - (iv) a representation or warranty by the Buyer in this agreement is found to have been incorrect or misleading when made or taken to be made.
- (b) The Guarantor agrees to pay amounts due under this clause on demand from the Seller.
- (c) The Seller need not incur expense or make payment before enforcing this right of indemnity.



#### **14.4 Extent of guarantee and indemnity**

Each of the Guarantee in clause 14.2 (“Guarantee”) and the indemnity in clause 14.3 (“Indemnity”) is a continuing obligation despite any intervening payment, settlement or other thing and extends to all of the Buyer’s obligations in connection with this agreement. The Guarantor waives any right it has of first requiring the Seller to commence proceedings or enforce any other right against the Buyer or any other person before claiming from the Guarantor under this Guarantee.

#### **14.5 Obligation to pay interest**

- (a) The Guarantor agrees to pay interest at the Interest Rate on any amount under this Guarantee which is not paid on the due date for payment and is not otherwise incurring interest.
- (b) The interest accrues daily from (and including) the due date to (but excluding) the date of actual payment and is calculated on actual days elapsed and a year of 365 days.
- (c) The Guarantor agrees to pay interest under this clause on demand from the Seller.

#### **14.6 Compounding**

Interest payable under clause 14.5 (“Obligation to pay interest”) which is not paid when due for payment may be added to the overdue amount by the Seller at intervals which the Seller reasonably determines from time to time or, if no determination is made, every month. Interest is payable on the increased overdue amount at the Interest Rate and in the manner set out in clause 14.5 (“Obligation to pay interest”).

#### **14.7 Payments**

The Guarantor agrees to make payments under this Guarantee:

- (a) in full without set-off or counterclaim, and without any deduction in respect of Taxes unless prohibited by law; and
- (b) in the currency in which the payment is due, and otherwise in Australian dollars, in immediately available funds.

#### **14.8 No merger**

- (a) This Guarantee does not merge with or adversely affect, and is not adversely affected by, any of the following:
  - (i) any other guarantee, indemnity, mortgage, charge or other encumbrance, or other right or remedy to which the Seller is entitled; or
  - (ii) a judgment which the Seller obtains against the Guarantor, the Buyer or any other person in connection with this agreement.
- (b) The Seller may still exercise its rights under this Guarantee as well as under the judgment, mortgage, charge or other encumbrance or the right or remedy.

#### **14.9 Rights of the Seller are protected**

The rights given to the Seller under this Guarantee, and the Guarantor's liabilities under it, are not affected by any act or omission or any other thing which might otherwise affect them under law or otherwise. For example, those rights and liabilities are not affected by:

- (a) any act or omission:
  - (i) varying or replacing in any way and for any reason any agreement or arrangement under which the obligations guaranteed under clause 14.2 ("Guarantee") are expressed to be owing; or
  - (ii) releasing the Buyer or giving the Buyer a concession (such as more time to pay); or
  - (iii) releasing any person who gives a guarantee or indemnity in connection with any of the Buyer's obligations; or
  - (iv) by which a person becomes a Guarantor after the date of this Guarantee; or
  - (v) by which the obligations of any person who guarantees any of the Buyer's obligations (including obligations under this Guarantee) may become unenforceable; or
  - (vi) by which any person who was intended to guarantee any of the Buyer's obligations does not do so, or does not do so effectively; or
  - (vii) by which a person who is co-surety or co-indemnifier is discharged under an agreement or by operation of law; or
- (b) a person dealing in any way with this agreement or this Guarantee; or
- (c) the death, mental or physical disability, or liquidation, administration or insolvency of any person, including the Guarantor or the Buyer; or
- (d) changes in the membership, name or business of any person; or
- (e) acquiescence or delay by the Seller or any other person.

#### **14.10 Guarantor's rights are suspended**

As long as any obligation is required, or may be required, to be complied with in connection with this Guarantee, the Guarantor may not, without the Seller's consent:

- (a) reduce its liability under this Guarantee by claiming that it or the Buyer or any other person has a right of set-off or counterclaim against the Seller; or
- (b) exercise any legal right to claim to be entitled to the benefit of another guarantee, indemnity, mortgage, charge or other encumbrance given in connection with this agreement or any other amount payable under this Guarantee; or

- (c) claim an amount from the Buyer, or another guarantor (including a person who has signed this Guarantee as a “Guarantor”), under a right of indemnity or contribution; or
- (d) claim an amount in the liquidation, administration or insolvency of the Buyer or of another guarantor of any of the Buyer’s obligations (including a person who has signed this Guarantee as a “Guarantor”).

This clause continues after this Guarantee ends.

#### **14.11 Reinstatement of rights**

- (a) Under any Law relating to insolvency, a person may claim that a transaction (including a payment) in connection with this Guarantee or this agreement is void or voidable. If such a claim is made and upheld, conceded or compromised, then:
  - (i) the Seller is immediately entitled as against the Guarantor to the rights in connection with this Guarantee or this agreement to which it was entitled immediately before the transaction; and
  - (ii) on request from the Seller, the Guarantor agrees to do anything (including signing any document) to restore to the Seller any mortgage, charge or other encumbrance (including this Guarantee) held by them from the Guarantor immediately before the transaction.
- (b) The Guarantor’s obligations under this clause are continuing obligations, independent of the Guarantor’s other obligations under this Guarantee and continue after this Guarantee ends.

#### **14.12 Costs**

The Guarantor agrees to pay or reimburse the Seller on demand for:

- (a) the Seller’s costs in making, enforcing and doing anything in connection with this Guarantee; and
- (b) all duties, fees, Taxes and charges which are payable in connection with this Guarantee or a payment or receipt or other transaction contemplated by it.

#### **14.13 Expiry of guarantee and indemnity**

Except for a Tax Claim, the obligations of the Guarantor under this clause will terminate upon the second anniversary of the Completion Date unless, at that time, there is an outstanding Claim by the Seller against the Buyer under this Agreement or the Guarantor under this clause 14, in which case the obligations of the Guarantor under this clause will terminate upon that outstanding Claim being resolved and finalised.

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## **15 Confidential Information and privacy**

### **15.1 Confidential Information**

Subject to clause 15.11, no Confidential Information may be disclosed by the Buyer to any person except:

- (a) to Affiliates of the Buyer and to Representatives of the Buyer and its Affiliates requiring the information for the purposes of this agreement;
- (b) with the consent of the Seller;
- (c) if the Buyer is required to do so by Law, rule, stock exchange or any regulatory authority; or
- (d) if the Buyer is required to do so in connection with legal proceedings relating to this agreement.

### **15.2 Disclosure of Confidential Information**

If the Buyer discloses information under clause 15.1(a) or (b) (“Confidential Information”) the Buyer must use its reasonable endeavours to ensure that recipients of the Confidential Information do not disclose the Confidential Information except in the circumstances permitted in clause 15.1 (“Confidential Information”).

### **15.3 Use of Confidential Information**

Subject to clauses 15.8 and 15.11 the Buyer must not use any Confidential Information except for the purpose of performing its obligations under this agreement.

### **15.4 Excluded Information**

Clauses 15.1 (“Confidential Information”), 15.2 (“Disclosure of Confidential Information”) and 15.3 (“Use of Confidential Information”) do not apply to Excluded Information.

### **15.5 Delivery of materials**

Subject to clauses 15.6, 15.8 and 15.11, the Buyer must, on the request of the Seller, immediately deliver to the Seller all documents or other materials containing or referring to Confidential Information of the Seller which are:

- (a) in the Buyer’s possession, power or control; or
- (b) in the possession, power or control of persons who have received Confidential Information under clause 15.1(a) or (b) (“Confidential Information”).

### **15.6 Destruction of materials**

With the consent of the Seller, rather than delivering documents or materials in accordance with clause 15.5, the Buyer may cause them to be destroyed, subject to the Buyer providing a written statement to the Seller that this has been done.

### **15.7 Enforcement by the Seller**

Subject to clause 15.8, nothing in this clause 15 (“Confidential Information and privacy”) will prevent the Seller from enforcing any confidentiality agreement entered into by potential buyers of the Sale Shares before the date of this agreement, to the extent that the confidentiality agreement was for the benefit of and is enforceable by a Group Member or the Seller.

### **15.8 Confidentiality following Completion**

- (a) On and from the date of this agreement, any confidentiality agreement entered into by the Buyer in favour of the Seller before the date of this agreement will continue up until the earlier of the End Date and Completion. On and from Completion, any such agreement terminates and ceases to be of any further force or effect.
- (b) On and from Completion, the Buyer will be entitled to use and disclose any confidential information belonging to the Syntech Group, or relating to the Syntech Group, the Assets or the Business, as the Buyer sees fit.

### **15.9 Privacy**

The Buyer agrees:

- (a) to comply with all Privacy Laws;
  - (i) by which it is bound; and
  - (ii) by which the Seller is bound and notifies the Buyer, in connection with Personal Information collected, used or disclosed in connection with this agreement; and
- (b) to notify the Seller immediately after it becomes aware that a disclosure of Personal Information may be required by Law before Completion.

### **15.10 Use of Personal Information by Seller after Completion**

If the Seller is required by this agreement or by Law to retain any Personal Information which is part of the Confidential Information, the Seller may use and disclose that Personal Information for the purpose for which it is required to be retained under this agreement or as required by that other Law or by any Privacy Laws.

### **15.11 Group Member information following Completion**

- (a) Following Completion, all information relating to Group Members ceases to be subject to this clause, subject to paragraph (b).
- (b) Paragraph (a) does not apply to the terms of this agreement, the Existing Shareholder Agreements or any document relating to the External Debts and Security Interests discharged at Completion, which shall all remain subject to this clause 15.

## **15.12 Disclosure to minority shareholder**

The Buyer agrees that the Seller may disclose to the AMH Parties all signed written agreements, arrangements and understandings between the Seller (and its Affiliates) and the Buyer (and its Affiliates) in connection with the transfer of the Sale Shares as contemplated by this agreement, including all consideration, fees, rebates and other consideration (monetary or otherwise) payable or receivable by the Seller (or any of its Affiliates) payable under such agreements, arrangements or understandings, including the terms of this agreement, the Escrow Deed, the Exclusivity Deed, the Restructure Deed, and the documents and agreements contemplated by any of them.

## **15.13 Survival of termination**

This clause 15 (“Confidential information and privacy”) will survive termination of this agreement.

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## **16 Announcements**

### **16.1 Public announcements**

No party may, before or after Completion, make or send a public announcement, communication or circular concerning the transactions referred to in this agreement unless it has first obtained the written consent of the other parties, such consent not to be unreasonably withheld or delayed.

### **16.2 Public announcements required by Law**

Clauses 15.1 (“Confidential Information”) and 16.1 (“Public announcements”) do not apply to a public announcement, communication or circular required by Law or a regulation or rule of a stock exchange, if the party required to make or send it has:

- (a) where practicable, provided the other party with sufficient notice to enable it to seek a protective order or other remedy;
- (b) consulted with the other party on the required disclosure and provided the other party with an opportunity (where practicable) to comment on the content of the disclosure; and
- (c) provided all reasonable assistance and co-operation that the other party considers necessary to prevent or minimise that disclosure.

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## **17 GST**

### **17.1 Construction**

In this clause 17:

- (a) words and expressions which are not defined in this agreement but which have a defined meaning in GST Law have the same meaning as in the GST Law; and
- (b) GST Law has the same meaning given to that expression in the GST Act.

## **17.2 Consideration GST exclusive**

Unless expressly stated, all prices or other sums payable or consideration to be provided under this agreement are exclusive of GST.

## **17.3 Payment of GST**

If GST is payable on any supply made under this agreement, for which the consideration is not expressly stated to include GST, the recipient will pay to the supplier (or as directed by the supplier) an amount equal to the GST payable on the supply.

## **17.4 Timing of GST payment**

The recipient will pay the amount referred to in clause 17.3 in addition to and at the same time that the consideration for the supply is to be provided under this agreement.

## **17.5 Tax Invoice**

The supplier must deliver a tax invoice or an adjustment note to the recipient before the supplier is entitled to payment of an amount under clause 17.3. The recipient can withhold payment of the amount until the supplier provides a tax invoice or adjustment note as appropriate.

## **17.6 Adjustment event**

If an adjustment event arises in respect of a taxable supply made by a supplier under this agreement, the amount payable by the recipient under clause 17.3 will be recalculated to reflect the adjustment event and a payment will be made by the recipient to the supplier or by the supplier to the recipient as the case requires.

## **17.7 Reimbursements**

Where a party is required under this agreement to pay or reimburse an expense or outgoing of another party, the amount to be paid or reimbursed by the first party will be the sum of:

- (a) the amount of the expense or outgoing less any input tax credits in respect of the expense or outgoing to which the other party, or to which the representative member for a GST group of which the other party is a member, is entitled; and
- (b) if the payment or reimbursement is subject to GST, an amount equal to that GST.

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## **18 Costs and stamp duty**

### **18.1 Legal costs**

The Seller and the Buyer agree to pay their own legal and other costs and expenses in connection with the negotiation, preparation, execution and completion of this agreement and other related documentation, except for stamp duty.

## 18.2 Stamp duty

- (a) The Buyer agrees to pay all stamp duty (including fines and penalties) chargeable, payable or assessed in relation to this agreement and the transfer of the Sale Shares to the Buyer.
- (b) Nothing in this clause 18.2 requires the Buyer to pay any stamp duty (including fines and penalties) chargeable, payable or assessed in relation to the cancellation of the Convertible Participating Notes or the cancellation of the Warrants (if any), which must be paid by the Seller.

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## 19 Notices and other communications

### 19.1 Form - all communications

Unless expressly stated otherwise in this agreement, all notices, certificates, consents, approvals, waivers and other communications in connection with this agreement must be:

- (a) in writing in English;
- (b) signed by the sender (if an individual) or an Authorised Officer of the sender;
- (c) marked for the attention of the person identified in the Details or, if the recipient has notified otherwise, then marked for attention in the way last notified;
- (d) copied to each of Syntech and Syntech II for their information only;
- (e) in the case of notices sent to the Seller must be copied to:

Name     **GS Power Holdings, LLC**  
Address   200 West Street, New York, NY 10282 - 2198  
Fax        +1 212 256 6147  
Attention  John R. Thomas  
            Commodities Legal

- (f) in the case of notices sent to the Buyer must be copied to:

Name     **Corrs Chambers Westgarth**  
Address   Level 36, Governor Phillip Tower, 1 Farrer  
            Place, Sydney NSW 2000  
Fax        + 61 2 9210 6611  
Attention  Andrew Lumsden



## **19.2 Delivery**

Communications must be:

- (a) left at the address set out or referred to in the Details;
- (b) sent by prepaid ordinary post (airmail if appropriate) to the address set out or referred to in the Details;
- (c) sent by fax to the fax number set out or referred to in the Details; or
- (d) where an email address has been provided by the party, to that email address.

However, if the intended recipient has notified a changed address or fax number or email address then the communication must be to that address or fax number or email address.

## **19.3 When effective**

Communications take effect from the time they are received or taken to be received under clause 19.4 (“When taken to be received”) (whichever happens first) unless a later time is specified.

## **19.4 When taken to be received**

Communications are taken to be received:

- (a) if sent by post, three days after posting (or seven days after posting if sent from one country to another);
- (b) if sent by fax, at the time shown in the transmission report as the time that the whole fax was sent, whichever happens first; or
- (c) if sent by email, 8 hours after sending provided that no delivery failure notification report is received by the sender.

## **19.5 Receipt outside business hours**

Despite clauses 19.3 (“When effective”) and 19.4 (“When taken to be received”), if communications are received or taken to be received under clause 19.4 after 5.00pm in the place of receipt or on a non-Business Day, they are taken to be received at 9.00am on the next Business Day and take effect from that time unless a later time is specified.

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## **20 No assignment**

No party may assign or otherwise deal with its rights under this agreement or allow any interest in them to arise or be varied in each case without the consent of the other party, which consent must not be unreasonably withheld or delayed.

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## **21 Miscellaneous**

### **21.1 Discretion in exercising rights**

A party may exercise a right or remedy or give or refuse its consent in any way it considers appropriate (including by imposing conditions), unless this agreement expressly states otherwise.

### **21.2 Partial exercising of rights**

If a party does not exercise a right or remedy fully or at a given time, the party may still exercise it later.

### **21.3 No liability for loss**

A party is not liable for Loss caused by the exercise or attempted exercise of, failure to exercise, or delay in exercising a right or remedy under this agreement.

### **21.4 Approvals and consents**

By giving its approval or consent a party does not make or give any warranty or representation as to any circumstance relating to the subject matter of the consent or approval.

### **21.5 Conflict of interest**

The parties' rights and remedies under this agreement may be exercised even if it involves a conflict of duty or a party has a personal interest in their exercise.

### **21.6 Remedies cumulative**

The rights and remedies provided in this agreement are in addition to other rights and remedies given by Law independently of this agreement.

### **21.7 Rights and obligations are unaffected**

Rights given to the parties under this agreement and the parties' liabilities under it are not affected by anything which might otherwise affect them by Law.

### **21.8 Variation and waiver**

A provision of this agreement or a right created under it may not be waived or varied except in writing, signed by the party or parties to be bound.

### **21.9 No merger**

The Warranties, undertakings and indemnities in this agreement including those contained in clause 13 ("Buyer's warranties") do not merge and are not extinguished on Completion and will survive after Completion.

### **21.10 Further steps**

Each party agrees, at its own expense, to do anything the other party asks (such as obtaining consents, signing and producing documents and getting documents completed and signed) as may be reasonably necessary or desirable to give full effect to the provisions of this agreement and the transactions contemplated by it.

### **21.11 Entire agreement**

This agreement constitutes the entire agreement of the parties about its subject matter and supersedes all previous agreements, understandings and negotiations on that subject matter.

### **21.12 Construction**

No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of, or seeks to rely on, this agreement or any part of it.

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## **22 Governing law and jurisdiction**

### **22.1 Governing law**

This agreement is governed by the law in force in Queensland, Australia.

### **22.2 Jurisdiction**

Each party submits to the non-exclusive jurisdiction of the courts of Queensland and courts of appeal from them. Each party waives any right it has to object to an action being brought in those courts including, without limitation, by claiming that the action has been brought in an inconvenient forum or that those courts do not have jurisdiction.

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## **23 Counterparts**

This agreement may be executed in counterparts. All counterparts when taken together are to be taken to constitute one instrument.

---

## **24 Supervening legislation**

Any present or future legislation which operates to vary the obligations of a party in connection with this agreement with the result that another party's rights, powers or remedies are adversely affected (including, by way of delay or postponement) is excluded except to the extent that its exclusion is prohibited or rendered ineffective by Law.

**EXECUTED** as an agreement.

# Share Sale Agreement

## Schedule 1 - Sale Shares

### Part A - Syntech Sale Shares

<u>Registered shareholder</u>	<u>ACN</u>	<u>Number of Syntech shares immediately prior to Completion</u>	<u>AMH Shares</u>	<u>Syntech Seller Sale Shares</u>
AMH Syntech Holdings Pty Ltd	123 783 095	1,954,800	Yes	No
Australian Finance 1 GmbH & Co KG	Incorporated in Germany	8,045,200	Yes	No
GS Power Holdings LLC	A Delaware limited liability Corporation	3,333,333	No	Yes

### Part B - Syntech II Sale Shares

<u>Registered shareholder</u>	<u>ACN</u>	<u>Number of Syntech II shares immediately prior to Completion</u>	<u>AMH Shares</u>	<u>Syntech II Seller Sale Shares</u>
AMH Syntech Holdings II Pty Ltd	126 143 744	3,500,000	Yes	No
GS Power Holdings LLC	A Delaware limited liability Corporation	1	No	Yes





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**4 Entire agreement**

This deed constitutes the entire agreement of the parties about its subject matter and supersedes all previous agreements, understandings and negotiations on that subject matter.

---

**5 General****5.1 Partial exercising of rights**

If a party does not exercise a right or remedy fully or at a given time, the party may still exercise it later.

**5.2 Remedies cumulative**

The rights and remedies provided in this deed are in addition to other rights and remedies given by law independently of this agreement.

**5.3 Rights and obligations are unaffected**

Rights given to the parties under this deed and the parties' liabilities under it are not affected by anything which might otherwise affect them by law.

**5.4 Variation and waiver**

A provision of this deed or a right created under it, may not be waived or varied except in writing, signed by the party or parties to be bound.

**5.5 Costs**

Each party will pay its reasonable legal costs and expenses in connection with the preparation, execution and completion of this deed.

**5.6 Supervening legislation**

Any present or future legislation which operates to vary the obligations of a party in connection with this deed with the result that another party's rights, powers or remedies are adversely affected (including, by way of delay or postponement) is excluded except to the extent that its exclusion is prohibited or rendered ineffective by law.

**5.7 Counterparts**

This deed may be executed in counterparts. All counterparts when taken together are to be taken to constitute one instrument.

---

## **6 Governing law**

### **6.1 Governing law**

This deed is governed by the law in force in Queensland, Australia. Each party submits to the non-exclusive jurisdiction of the courts of that place.

### **6.2 Jurisdiction**

Each party submits to the non-exclusive jurisdiction of the courts of Queensland, Australia and courts of appeal from them. Each party waives any right it has to object to an Action being brought in those courts including, without limitation, by claiming that the Action has been brought in an inconvenient forum or that those courts do not have jurisdiction.

### **6.3 Serving documents**

Without preventing any other method of service, any document in an Action may be served on a party by being delivered or left at that party's address in the Details.

---

## **7 Interpretation**

### **7.1 Definitions**

These meanings apply unless the contrary intention appears:

**Action** means an action, dispute, Claim, demand, investigation, inquiry, prosecution, litigation, proceeding, arbitration, mediation or dispute resolution.

**Claim** means any allegation, debt, cause of action, liability, claim, proceeding, suit or demand of any nature howsoever arising and whether present or future, fixed or unascertained, actual or contingent whether at law, in equity, under statute or otherwise and which either party has or may have against the other in connection with the cessation of the Officer's employment with or service as a director of the Company.

**EXECUTED** as a deed.

**DATED:** \_\_\_\_\_





# Share Sale Agreement

## Schedule 3 - Not used

# Share Sale Agreement

## Schedule 4 - Properties

<u>Property</u>	<u>Lot No</u>	<u>Company</u>	<u>Acquisition Date</u>	<u>Area</u>	<u>County of</u>	<u>Parish of</u>	<u>RP</u>
Cameby Downs	1	Mountfield Properties	15 Apr 2003	2022 ha	Bulwer	Cameby	893208
	2						
	3						
	4						
	5						
Avon Downs	64	Mountfield Properties	29 May 2007	1437.957 ha	Bulwer	Dogwood	CP BWR 154
	65						
	2				Bulwer	Dogwood	CP BWR 149
Glennie	13	Mountfield Properties	29 May 2007	40.2 ha	Bulwer	Cameby	187208
Morris	16	Mountfield Properties	29 May 2007	197.3 ha	Bulwer	Cameby	187207

# Share Sale Agreement

## Schedule 5 - Subsidiaries

The Subsidiaries of Syntech are as follows:

<u>Name of Subsidiary</u>	<u>ABN</u>	<u>Place of incorporation</u>	<u>Registered office</u>	<u>Issued capital</u>	<u>Registered shareholders</u>
Syntech Resources Pty Limited	67 095 102 971	NSW	As Syntech	10,079,363	Syntech
Mounfield Properties Pty Limited	94 095 103 012	NSW	As Syntech	100	Syntech Resources Pty Limited

The Subsidiary of Syntech II is:

<u>Name of Subsidiary</u>	<u>ABN</u>	<u>Place of incorporation</u>	<u>Registered office</u>	<u>Issued capital</u>	<u>Registered shareholders</u>
AMH (Chinchilla Coal) Pty Limited	38 124 649 216	QLD	As Syntech II	1	Syntech II

# Share Sale Agreement

## Schedule 6 - Warranties

For clarity, each of the Warranties in this schedule 6 are subject to clause 11.3 of the body of this agreement, and are read down and qualified by any information fully and fairly disclosed to the Buyer by the Seller in the Disclosure Material.

---

### **1 Incorporation and power**

#### **1.1 Incorporation**

Each Group Member is validly incorporated.

#### **1.2 Power**

Each Group Member has the power to own its Assets and to carry on its Business as it is now being conducted.

#### **1.3 Compliance with constituent documents**

The Business and affairs of each Group Member have at all times been and continue to be conducted in accordance with their respective Constitutions.

---

### **2 Sale Shares**

#### **2.1 Proportion of capital**

- (a) The Syntech Sale Shares comprise the whole of the issued capital of Syntech and are fully paid.
- (b) The Syntech II Sale Shares comprise the whole of the issued capital of Syntech II and are fully paid.

#### **2.2 Title**

- (a) The registered owners of the Syntech Sale Shares are set out in schedule 1 (“Sale Shares”).
- (b) The registered owners of the Syntech II Sale Shares are set out in schedule 1 (“Sale Shares”).

#### **2.3 No Encumbrances**

There are no Encumbrances over the Sale Shares, except such Encumbrances as shall be discharged upon Completion upon repayment of the External Debt from the Repayment Amount to the relevant External Financier in accordance with the repayment schedule set out in schedule 11 (“Existing Facilities”).

## **2.4 No restriction**

Subject to the satisfaction or waiver of the Conditions Precedent there is no restriction on the transfer of the Seller Sale Shares to the Buyer.

## **2.5 Consents**

The Seller has obtained all consents necessary to enable it to transfer the Seller Sale Shares to the Buyer.

## **2.6 AMH Shares**

The Seller has the right on Completion to require the AMH Shares to be transferred to the Buyer free from any Encumbrance, except such Encumbrances as shall be discharged upon Completion upon repayment of the External Debt from the Repayment Amount to the relevant External Financier in accordance with the repayment schedule set out in schedule 11 (“Existing Facilities”).

## **2.7 No breach**

The transfer of the Sale Shares does not breach any obligation or agreement binding on the Seller or any Group Member.

---

## **3 Power and authority**

### **3.1 Authority**

The Seller has taken all action which is necessary to authorise the entry into and performance of its obligations under this agreement.

### **3.2 Power**

The Seller has the power, without any further consent of any other person, to enter into and perform its obligations under this agreement.

### **3.3 Binding obligations**

This agreement constitutes legal, valid and binding obligations of the Seller, enforceable against it in accordance with its terms.

### **3.4 No impediment**

The execution of and performance by the Seller of its obligations under this agreement does not breach any applicable Law or any Encumbrance or document which is binding on the Seller and (to the knowledge of the Seller) does not result in any material breach or material default under any agreement to which a Group Member is a party.

---

## **4 Information**

The information concerning Syntech and Syntech II, each of their Subsidiaries, and the Business, prepared by or on behalf of the Seller and contained in the Disclosure Material is true and accurate in all material respects, and is not misleading or deceptive or likely to mislead in any material respect.

---

## **5 Documents and Records**

### **5.1 Records complete, accurate and up to date**

So far as the Seller is aware, the Records of each Group Member are complete, accurate and up-to-date and have been maintained in accordance with all applicable Laws.

### **5.2 Other documents**

So far as the Seller is aware, all other material documents (including documents of title and copies of all agreements to which each Group Member is a party) which are the property of that Group Member or ought to be in its possession, are in its possession or under its control.

### **5.3 Filings required by Law**

So far as the Seller is aware, each document or filing which is required by Law to be delivered or made to any Government Agency by a Group Member has been duly delivered or made.

---

## **6 Corporate information**

### **6.1 Share details**

Schedule 1 (“Sale Shares”) contains complete, accurate and up-to-date details of the Sale Shares.

### **6.2 Subsidiary details**

Schedule 5 (“Subsidiaries”) contains complete, accurate and up to date details of the Subsidiaries of Syntech and Syntech II.

### **6.3 Issued Sale Shares**

All of the issued Sale Shares in the capital of each Group Member are fully paid validly allotted and issued and were not allotted or issued or transferred in breach of any:

- (a) pre-emptive or similar rights of any person; or
- (b) contract which is binding on that Group Member.

---

## **7 Financial statements**

### **7.1 Last Accounts**

The Last Accounts:

- (a) were prepared in accordance with the requirements of the Corporations Act (as applicable) and any other applicable Laws and in accordance with the Accounting Standards consistently applied; and
- (b) give a true and fair view of each of the financial position and the performance of Syntech and Syntech II and their respective consolidated entities as at the Last Balance Date or for the period ending on the Last Balance Date (as applicable).

## 7.2 No Change

There has been no change in the consolidated financial position of Syntech and Syntech II and their respective consolidated entities since the Last Balance Date which is, or is reasonably likely to have, a material adverse effect on the Syntech Group.

---

## 8 Assets and Liabilities

### 8.1 Assets

Except as disclosed in the Disclosure Material, the material Assets are:

- (a) legally and beneficially owned by the relevant Group Member free from any Encumbrance, except the Security Interests to be released at Completion and those arising by operation of Law;
- (b) in the possession of Syntech Group; and
- (c) not the subject of any lease or hire purchase agreement or contract for purchase on deferred terms.

### 8.2 Liabilities

Except in relation to the External Debt, the Syntech Group does not have any borrowings, debts or other liabilities (whether actual or, so far as the Seller is aware, prospective or contingent), other than amounts which:

- (a) are owing to creditors of the Syntech Group who are not Related Bodies Corporate of a Group Member or the Seller in respect of goods or services received by the Syntech Group;
- (b) are related to the on-going operations of the Syntech Group incurred in the normal and usual course of business; and
- (c) other than as maybe set out in the Adjustment Statement, do not, in aggregate, exceed \$500,000.

---

## 9 Property

- (a) The Properties comprise all of the premises and land which are owned, occupied or otherwise used by the Syntech Group to conduct the Business.
- (b) Other than in relation to the Properties, the Syntech Group has no interest in any premises or land (whether as registered owner, lessee or holder of any other interest).
- (c) The Syntech Group has exclusive occupation and quiet enjoyment of the Properties other than any Encumbrances of third parties that do not adversely interfere with the conduct of the Business in any material respect.



- (d) So far as the Seller is aware, there is no default under any applicable instrument, agreement, law or Approval affecting any Property which would have a material adverse effect on the Business or the Syntech Group.
- (e) So far as the Seller is aware, no Property is adversely affected by a proposal of any Government Agency (for example, a proposal of a local authority involving compulsory acquisition, a change in zoning or a requirement to perform work or to pay money) in any material respect.

---

## **10 Material Contracts**

### **10.1 Disclosure**

So far as the Seller is aware, copies of the Material Contracts have been fully disclosed in the Disclosure Material.

### **10.2 Valid and binding**

Each Material Contract is valid, binding and enforceable against the relevant Group Member, and so far as the Seller is aware, valid, binding and enforceable against the counterparty to that Material Contract, in accordance with its terms.

### **10.3 No breach**

So far as the Seller is aware:

- (a) no party to a Material Contract is in breach of, or in default under, any Material Contract; and
- (b) no fact or circumstance exists which might give rise to such a breach.

---

## **11 Employment**

### **11.1 Employees**

The Disclosure Material contains a complete list of:

- (a) the period of service of each Employee and accrued annual, long service and sick leave entitlements; and
- (b) the remuneration and other benefits paid or conferred on each Employee including whether any Employee is entitled to participate in a share or option scheme,

in each case, as at 30 April 2011.

### **11.2 Re-employment**

So far as the Seller is aware, there is no person who is not currently employed by a Group Member who has a right to be employed by that Group Member.

### **11.3 Employment contracts**

All contracts of service and letters of appointment of Employees have been provided to the Buyer.

### **11.4 Claims and disciplinary action**

- (a) None of the Employees or former employee of any Group Member have pending, or so far as the Seller is aware, threatened, any Claims against any Group Member.
- (b) No material disciplinary action or grievance procedures have been taken against any Employee.

### **11.5 Payments due to Employees**

The Syntech Group has paid all amounts which are presently due and payable in respect of the Employees, directors and officers of the Syntech Group.

### **11.6 Future payments**

No Group Member is liable to pay any material allowance, annuity, benefit, lump sum, pension, premium or other payment in respect of the death, disability, retirement, resignation or dismissal of any persons other than that as may be specified in a written contract of employment or in the Disclosure Material.

### **11.7 Notice of termination**

No director or Employee of any Group Member has given or been given notice of termination of his or her employment with that Group Member or will be entitled to terminate their employment as a result of the execution and performance of this agreement and, so far as the Seller is aware, no director or Employee intends to terminate their employment with the relevant Group Member.

### **11.8 Federal awards and enterprise agreements**

No industrial awards, industrial agreement made under any state or federal law (including federal awards or enterprise agreements), or unregistered agreements apply to the Employees.

### **11.9 No independent contractors**

There are no independent contractors or employees employed on a casual basis engaged in the Business.

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## **12 Litigation**

No Group Member is:

- (a) a party to or the subject of any Action; or
- (b) the subject of any ruling, judgement, order or decree by any Government Agency or any other person, which may have a material adverse effect upon the Syntech Group, the Business, any of the Assets or any of the Mining Tenements, and so far as the Seller is aware no such Action, judgement, order or decree is pending, threatened or anticipated by the Seller.

---

## **13 Environmental matters**

### **13.1 Compliance with Environmental Laws**

So far as the Seller is aware, each Group Member:

- (a) has, in all material respects, complied with all Environmental Laws in respect of the Business;
- (b) is, in all materials respects, currently complying with all Environmental Laws in respect of the Business;
- (c) is not the subject of any outstanding Notices; and
- (d) is not aware of any existing circumstances which is reasonably likely to give rise to a Notice being issued.

### **13.2 Approvals**

- (a) So far as the Seller is aware, each Group Member currently holds, and is complying with all Approvals necessary for the lawful operation of the Business.
- (b) The Seller is not aware of any circumstances that could lead to the cancellation, termination or non-renewal or non-extension of any material Approval.

### **13.3 Properties**

- (a) So far as the Seller is aware, no Property is:
  - (i) subject to any order or current or outstanding Notice;
  - (ii) Contaminated; or
  - (iii) other than as required under Law, the subject of any charge in favour of any relevant environmental protection authority as security for clean-up or other costs under any relevant Environmental Law,in each case, in a manner or to an extent which would reasonably be expected to have a material adverse effect on the Syntech Group.
- (b) So far as the Seller is aware, there is no condition of any Property which would entitle any person to require a Group Member or the Buyer as an owner or as an occupier to remediate Contamination.
- (c) So far as the Seller is aware, no written complaints have been made by any person to Syntech or Syntech II in relation to Hazardous Substances or Contamination.

- (d) So far as the Seller is aware, there are no circumstances which have been or are likely to give rise to a material Claim in relation to Hazardous Substances or Contamination.

---

## **14 Tax and Duty**

### **14.1 Tax returns etc lodged**

All material Tax returns or any other material documents required by Law to be lodged or filed by each Group Member prior to the Completion Date, have been, or will be duly lodged or filed.

### **14.2 Returns etc accurate**

Any information, notice, computation and return which has been submitted by any Group Member to any Authority in respect of any Tax:

- (a) is complete and accurate in all material respects and discloses all material facts that must be disclosed under any Tax Law; and
- (b) is not false, misleading or deceptive in any material respect.

### **14.3 Taxes Paid**

So far as the seller is aware all Taxes, levies, assessments, contributions, fees, rates, duties, and other governmental or municipal charges or impositions (other than those which may be still paid without penalty or interest or those that are being contested in good faith by Syntech) for which the Syntech Group is liable, including any penalty or interest, have been paid to the proper Tax Authority.

### **14.4 Correct withholdings**

So far as the seller is aware all material amounts required by any Tax Law to be deducted by or on behalf of each Group Member from the salary or wages of employees or from any other amount (including, without limitation, amounts referred to in Division 11A of Part III of the Tax Act) have been duly deducted and, where appropriate, duly paid to the relevant Authority in accordance with the relevant Law.

### **14.5 No deficit**

The Syntech Group's franking account is not in deficit as at the time of Completion.

### **14.6 No tainting**

The share capital account of each Group Member is not tainted within the meaning of the Tax Act.

### **14.7 No debt forgiveness**

Other than as contemplated by this agreement or the Restructure Deed, no debt or other obligation of any Group Member has been forgiven within the meaning of Division 245 of Schedule 2C to the Tax Act nor has any arrangement for such a forgiveness been entered into in relation to any such debts or other liabilities.

#### **14.8 Adequate and correct records**

So far as the seller is aware each Group Member has created and maintained adequate and correct records to enable it to comply with its obligations to:

- (a) prepare and submit any information, notices, computations, returns and payments required in respect of any Tax Law;
- (b) prepare any accounts necessary for the compliance of any Tax Law; and
- (c) retain necessary records as required by any Tax Law.

#### **14.9 Public officer**

The office of public officer as required under any Tax Law has always been occupied.

#### **14.10 No dispute**

- (a) Neither the Seller nor any Group Member is aware that the Commissioner of Taxation or any other Authority is at present conducting, or proposes to conduct, any investigation or audit into all or any part of the business or affairs of any Group Member.
- (b) So far as the seller is aware there is no unresolved dispute between any Group Member and the Commissioner of Taxation or any other Authority.

#### **14.11 Compliance**

So far as the seller is aware each Group Member has complied in all material respects with the terms of all communications issued by Authorities and addressed to the Group Member (including rulings and communications by way of agreement).

#### **14.12 GST warranty**

There is no contract requiring the Group Member to supply anything which does not contain a provision enabling the Group Member as supplier to require the other party to the contract to pay the Group Company the amount of any GST for which the Group Member is liable on a supply under the contract, in addition to the consideration for that supply, or otherwise seek reimbursement so that the Group Member retains the amount it would have retained but for the imposition of GST.

#### **14.13 Stamping**

So far as the seller is aware all documents and transactions entered into by each Group Member which are required to be stamped have been duly stamped.

#### **14.14 No rollover relief**

Section 104-175 of the Tax Act (CGT event J1) will not operate to result in a capital gain or a capital loss to any Group Member as a result of entry into or completion of this agreement.

#### **14.15 No deemed dividends**

No Group Member has made a distribution that:

- (a) does not constitute a dividend pursuant to the definition of “dividend” in section 6(1) of the Tax Act; and
- (b) is deemed to be or is treated as a “dividend” for the purposes of the Tax Act through the operation of another provision in the Tax Act.

---

#### **15 Insurance**

- (a) At Completion, the Syntech Group has in place all insurances usual for a project of the nature of the Project.
- (b) At Completion each Group Member has in place all insurances required to be effected by it under the terms of all contractual arrangements to which it is a party.
- (c) So far as the Seller is aware, nothing has been done or omitted to be done which would make any insurance policy of any Group Member void, voidable or unenforceable.

---

#### **16 Compliance with Laws**

Each Group Member has conducted the Business in all material respects in accordance with applicable Laws. So far as the Seller is aware, no allegation has been made of any material breach of any applicable Law.

---

#### **17 Shareholdings and memberships**

##### **17.1 Shareholdings**

Except for shares held in the Subsidiaries, no Group Member is the holder or the beneficial owner of:

- (a) any shares or capital of another company; or
- (b) any other securities; or
- (c) controls (within the meaning of section 50AA of the Corporations Act) any other entity.

##### **17.2 Memberships**

Other than as set out in the Disclosure Material, no Group Member is or has agreed to become:

- (a) a member of any joint venture, consortium, partnership or unincorporated association (other than a recognised trade association); or
- (b) a party to any contract for participating with others in any business sharing commissions or other income.

---

## **18 Project**

### **18.1 Project Area**

- (a) So far as the Seller is aware, the Project Area, together with any other rights of access and other appurtenant rights granted or to be granted to a member of the Syntech Group in connection with or in relation to the Project, comprise, in all material respects, the land, licences and other such rights which are required and which are necessary for the proper and lawful carrying out of all work that has been carried out.
- (b) So far as the Seller is aware, there is no reason why the Syntech Group would not be granted all such rights required and which are necessary for future work in the operation and development of the Project.

### **18.2 Authorisations**

- (a) Each material authorisation which has been required for the conduct of the Business has been obtained for all work carried out in relation to the Project and there has been no material default in the performance of any of the material terms or conditions of those authorisations.
- (b) So far as the Seller is aware, there is no litigation or administrative proceeding, current or pending or threatened in writing, in which the validity or effectiveness of any of those authorisations is being challenged.

---

## **19 Mining Tenements**

### **19.1 Mining Tenements**

Each Mining Tenement is:

- (a) legally and beneficially held by the relevant Group Member;
- (b) in good standing; and
- (c) not liable to forfeiture or cancellation.

### **19.2 Compliance**

In relation to each Mining Tenement:

- (a) so far as the Seller is aware, each Group Member has complied with or performed in all material respects all conditions and obligations (including any reporting obligations under the Mineral Resources Act) incumbent upon it under each of the relevant Mining Tenements;
- (b) so far as the Seller is aware, there are no outstanding amounts (including rental or rates due and owing by any Syntech Group Member); and
- (c) other than this agreement, neither the Seller nor any Group Member has entered into any agreement or option or granted a right capable of becoming or giving rise to an option for the purchase of any Mining Tenement; and

- (d) other than as disclosed in the Disclosure Material, the Seller is not aware of any circumstances that could lead to the cancellation, termination or non-renewal or non-extension of a Permit the loss of which would reasonably be expected to have a material adverse effect on the Syntech Group.

---

**20 No donations**

So far as the Seller is aware, no Group Member has made any donations to any political party in Australia, in the past 12 months, in excess of \$1,000.



# Share Sale Agreement

## Schedule 7 - Security Interests

### Transaction Document

**Syntech Security Deed** dated 22 March 2007 between GS Power Holdings LLC (“Chargee”), Syntech Holdings Pty Ltd, Syntech Resources Pty Ltd, Mountfield Properties Pty Ltd, AMH Syntech Holdings Pty. Ltd. and Australian Mining Finance I GmbH & Co KG (each a “Chargor”)

<u>Security</u>	<u>Granted by</u>	<u>In favour of</u>
<b>Fixed and floating charge</b> over all of the present and future rights, property and undertaking of each Chargor and each mortgage set out in clause 3.1 of the Syntech Security Deed	Each Chargor	GS Power Holdings LLC
<b>Registered Fixed and Floating Charge (charge number 1432385)</b> dated 23 March 2007	AMH Syntech Holdings Pty Ltd	GS Power Holdings LLC
<b>Registered Real Property Mortgage (Mortgage No 710515890)</b> dated 22 March 2007 over Lot 1 (title reference 50091551), Lot 2 (title reference 50091552), Lot 3 (title reference 50091553) Lot 4 (title reference 50091554) and Lot 5 (title reference 50091555) on Registered Plan 893208	Mountfield Properties Pty Ltd	GS Power Holdings LLC

### Transaction Document

**CPNSA Syntech Security Deed** dated 22 March 2007 between GS Power Holdings LLC (“Chargee”), Syntech Holdings Pty Ltd, Syntech Resources Pty Ltd, Mountfield Properties Pty Ltd, AMH Syntech Holdings Pty. Ltd. and Australian Mining Finance I GmbH & Co KG (each a “Chargor”)

<u>Security</u>	<u>Granted by</u>	<u>In favour of</u>
<b>Fixed and floating charge</b> over all of the present and future rights, property and undertaking of each Chargor and each mortgage set out in clause 3.1 of the CPNSA Syntech Security Deed	Each Chargor	GS Power Holdings LLC
<b>Registered Fixed and Floating Charge (charge number 1432388)</b> dated 23 March 2007	AMH Syntech Holdings Pty Ltd	GS Power Holdings LLC
<b>Registered CPNSA Real Property Mortgage (Mortgage No 710515895)</b> dated 22 March 2007 over Lot 1 on Registered Plan 893208 (title reference 50091551), Lot 2 on Registered Plan 893208 (title reference 50091552), Lot 3 on Registered Plan 893208 (title reference 50091553) Lot 4 on Registered Plan 893208 (title reference 50091554) and Lot 5 on Registered Plan 893208 (title reference 50091555)	Mountfield Properties Pty Ltd	GS Power Holdings LLC

## Transaction Document

**Syntech / GS Power Security Deed** dated 20 August 2009 between GS Power Holdings LLC (“Chargee”), Syntech Holdings Pty Ltd, Syntech Resources Pty Ltd, Mountfield Properties Pty Ltd, AMH Syntech Holdings Pty. Ltd., Australian Mining Finance I GmbH & Co KG, Syntech Holdings II Pty Ltd, AMH Syntech Holdings II Pty. Ltd. and AMH (Chinchilla Coal) Pty Ltd (each a “Chargor”)

<u>Security</u>	<u>Granted by</u>	<u>In favour of</u>
<b>Fixed and floating charge</b> over all of the present and future rights, property and undertaking of each Chargor and each mortgage set out in clause 3.1 of the Syntech / GS Power Security Deed	Each Chargor	GS Power Holdings LLC
<b>Registered Fixed and Floating Charge (charge number 1845911)</b> dated 28 August 2009	Syntech Holdings Pty Ltd	GS Power Holdings LLC
<b>Registered Fixed and Floating Charge (charge number 1845912)</b> dated 28 August 2009	Syntech Resources Pty Ltd	GS Power Holdings LLC
<b>Registered Fixed and Floating Charge (charge number 1845913)</b> dated 28 August 2009	Mountfield Properties Pty Ltd	GS Power Holdings LLC
<b>Registered Fixed and Floating Charge (charge number 1845910)</b> dated 28 August 2009	AMH Syntech Holdings Pty. Ltd.	GS Power Holdings LLC
<b>Registered Fixed and Floating Charge (charge number 1845916)</b> dated 28 August 2009	Syntech Holdings II Pty Ltd	GS Power Holdings LLC
<b>Registered Fixed and Floating Charge (charge number 1845917)</b> dated 28 August 2009	AMH Syntech Holdings II Pty. Ltd.	GS Power Holdings LLC
<b>Registered Fixed and Floating Charge (charge number 1845918)</b> dated 28 August 2009	AMH (Chinchilla Coal) Pty Ltd	GS Power Holdings LLC
<b>Registered Mortgage of Mineral Development Licences 246 and 247 (dealing number 1016165 and 1016167)</b> dated 3 September 2009	AMH (Chinchilla Coal) Pty Ltd	GS Power Holdings LLC

**Registered Mortgage of Mining Lease 50233 (dealing number 1016125)** dated 2 September 2009      Syntech Resources Pty Ltd      GS Power Holdings LLC

**Registered Real Property Mortgage (Mortgage No 712691780)** over Lot 1 on Registered Plan 893208 (title reference 50091551), Lot 2 on Registered Plan 893208 (title reference 50091552), Lot 3 on Registered Plan 893208 (title reference 50091553) Lot 4 on Registered Plan 893208 (title reference 50091554) and Lot 5 on Registered Plan 893208 (title reference 50091555), Lot 16 on Registered Plan 187207 (title reference 16396204), Lots 64 and 65 on Crown Plan BWR154 (title reference 50832057 and 50832052), Lot 2 on Crown Plan BWR149 (title reference 15229006) and Lot 13 on Registered Plan 187208 (title reference 16393126)      Mountfield Properties Pty Ltd      GS Power Holdings LLC

**Transaction Document**

**Syntech / GS Power Security Deed Poll** dated 20 August 2009 between The Goldman Sachs Group, Inc (“Chargee”), Syntech Holdings Pty Ltd, Syntech Resources Pty Ltd, Mountfield Properties Pty Ltd, AM FI Syntech Holdings Pty. Ltd., Australian Mining Finance I GmbH & Co KG, Syntech Holdings II Pty Ltd, AMH Syntech Holdings II Pty. Ltd. and AMH (Chinchilla Coal) Pty Ltd (each a “Chargor”)

<u>Security</u>	<u>Granted by</u>	<u>In favour of</u>
<b>Fixed and floating charge</b> over all of the present and future rights, property and undertaking of each Chargor and each mortgage set out in clause 3.1 of the Syntech / GS Power Security Deed Poll	Each Chargor	The Goldman Sachs Group, Inc
<b>Registered Fixed and Floating Charge (charge number 1845368)</b> dated 28 August 2009	Syntech Holdings Pty Ltd	The Goldman Sachs Group, Inc
<b>Registered Fixed and Floating Charge (charge number 1845922)</b> dated 28 August 2009	Syntech Resources Pty Ltd	The Goldman Sachs Group, Inc
<b>Registered Fixed and Floating Charge (charge number 1845371)</b> dated 28 August 2009	Mountfield Properties Pty Ltd	The Goldman Sachs Group, Inc
<b>Registered Fixed and Floating Charge (charge number 1845923)</b> dated 28 August 2009	AMH Syntech Holdings Pty. Ltd.	The Goldman Sachs Group, Inc

<b>Registered Fixed and Floating Charge (charge number 1845924)</b> dated 28 August 2009	Syntech Holdings II Pty Ltd	The Goldman Sachs Group, Inc
<b>Registered Fixed and Floating Charge (charge number 1845920)</b> dated 28 August 2009	AMH Syntech Holdings II Pty. Ltd.	The Goldman Sachs Group, Inc
<b>Registered Fixed and Floating Charge (charge number 1845921)</b> dated 28 August 2009	AMH (Chinchilla Coal) Pty Ltd	The Goldman Sachs Group, Inc
<b>Registered Mortgage of Mineral Development Licences 246 and 247 (dealing number 1016164 and 1016166)</b> dated 3 September 2009	AMH (Chinchilla Coal) Pty Ltd	The Goldman Sachs Group, Inc
<b>Registered Mortgage of Mining Lease 50233 (dealing number 1016124)</b> dated 2 September 2009	Syntech Resources Pty Ltd	The Goldman Sachs Group, Inc
<b>Caveat forbidding dealing over Exploration Permit 562 (dealing number 1017864)</b> dated 3 March 2010	AMH (Chinchilla Coal) Pty Ltd	The Goldman Sachs Group, Inc
<b>Caveat forbidding dealing over Exploration Permit 873 (dealing number 1017874)</b> dated 4 March 2010	AMH (Chinchilla Coal) Pty Ltd	The Goldman Sachs Group, Inc
<b>Caveat forbidding dealing over Exploration Permit 732 (dealing number 1017870)</b> dated 4 March 2010	Syntech Resources Pty Ltd	The Goldman Sachs Group, Inc
<b>Registered Real Property Mortgage (Mortgage No 712691784)</b> over Lot 1 on Registered Plan 893208 (title reference 50091551), Lot 2 on Registered Plan 893208 (title reference 50091552), Lot 3 on Registered Plan 893208 (title reference 50091553) Lot 4 on Registered Plan 893208 (title reference 50091554) and Lot 5 on Registered Plan 893208 (title reference 50091555), Lot 16 on Registered Plan 187207 (title reference 16396204), Lots 64 and 65 on Crown Plan BWR154 (title reference 50832057 and 50832052), Lot 2 on Crown Plan BWR149 (title reference 15229006) and Lot 13 on Registered Plan 187208 (title reference 16393126)	Mountfield Properties Pty Ltd	The Goldman Sachs Group, Inc

## Other

<u>Security</u>	<u>Granted by</u>	<u>In favour of</u>
<b>Registered Caveat forbidding dealing over Exploration Permit 562 (dealing number 1017869)</b> dated 4 March 2010	AMH (Chinchilla Coal) Pty Ltd	GS Power Holdings LLC
<b>Registered Caveat forbidding dealing over Exploration Permit 873 (dealing number 1017878)</b> dated 4 March 2010	AMH (Chinchilla Coal) Pty Ltd	GS Power Holdings LLC
<b>Registered Caveat forbidding dealing over Exploration Permit 732 (dealing number 1009676 )</b> dated 29 March 2007	Syntech Resources Pty Ltd	GS Power Holdings LLC
<b>Registered Fixed and Floating Charge (charge number 1432386)</b> dated 23 March 2007	Mountfield Properties Pty Ltd	GS Power Holdings LLC
<b>Registered Fixed and Floating Charge (charge number 1432390)</b> dated 23 March 2007	Mountfield Properties Pty Ltd	GS Power Holdings LLC
<b>Registered Fixed and Floating Charge (charge number 2051400)</b> dated 24 September 2010	Mountfield Properties Pty Ltd	Commonwealth Bank of Australia
<b>Registered Fixed and Floating Charge (charge number 1432375)</b> dated 23 March 2007	Syntech Holdings Pty Ltd	GS Power Holdings LLC
<b>Registered Fixed and Floating Charge (charge number 1432387)</b> dated 23 March 2007	Syntech Holdings Pty Ltd	GS Power Holdings LLC
<b>Registered Fixed and Floating Charge (charge number 2051401)</b> dated 24 September 2010	Syntech Holdings Pty Ltd	Commonwealth Bank of Australia
<b>Registered Fixed and Floating Charge (charge number 1432384)</b> dated 23 March 2007	Syntech Resources Pty Ltd	GS Power Holdings LLC
<b>Registered Fixed and Floating Charge (charge number 1432389)</b> dated 23 March 2007	Syntech Resources Pty Ltd	GS Power Holdings LLC
<b>Registered Fixed and Floating Charge (charge number 2051402)</b> dated 24 September 2010	Syntech Resources Pty Ltd	Commonwealth Bank of Australia

**Registered Real Property Mortgage (Mortgage No 713492031)** over Lot 1 (title reference 50091551), Lot 2 (title reference 50091552), Lot 3 (title reference 50091553) Lot 4 (title reference 50091554) and Lot 5 (title reference 5001555) on Registered Plan 893208, Lot 16 on Registered Plan 187207 (title reference 16396204), Lot 65 on Crown Plan BWR154 (title reference 50832052), Lot 2 on Crown Plan BWR149 (title reference 15229006) and Lot 13 on Registered Plan 187208 (title reference 16393126)

Mountfield Properties Pty Ltd Commonwealth Bank of Australia

# Share Sale Agreement

## Schedule 8 - Performance Guarantees

<u>Guarantees issued to:</u>	<u>Amount</u>	<u>Security for</u>
<b>Guarantees on issue under CBA Guarantee Facility (1):</b>		
October Nominees Pty Ltd	A\$32,353.75	Office Lease 80 Albert Street
State of Queensland – EPA	A\$5,486,094.00	Cameby Downs Mining Lease ML 50233
State of Queensland	A\$2,500.00	EPC 873
State of Queensland	A\$2,500.00	MDL 247
State of Queensland	A\$6,500.00	EPC 562
State of Queensland	A\$17,500.00	MDL 246
State of Queensland (2)	A\$20,000.00	EPC 732
Queensland Bulk Handling Pty Ltd	A\$20,000,000.00	Brisbane Port access Take or Pay security
Gladstone Ports Corporation	(3)	Feasibility Funding Facility
Wiggins Island Coal Export Terminal Pty Ltd	A\$819,342.32	Stage 2 WICET EOI
QR Limited	A\$1,400,000.00	Coal transport services agreement
QR Network Pty Ltd (4)	A\$3,142,133.00	Banana to Gladstone Prefeasibility Study costs
Ergon Energy Queensland Pty Limited	A\$300,000.00	Electrical retail supply agreement
<b>Goldman Sachs Corporate Guarantees on Syntech behalf</b>		
Queensland Rail Ltd	A\$58,520,000.00	Access Facilitation Deed
Commonwealth Bank	A\$30,000,000.00	Loan Facility

- (1) GS counter-guarantees amounts issued under the CBA Guarantee Facility (up to A\$40,000,000, not all of which has been utilized). The guarantee issued by GS to CBA covers both the guarantee facility and the loan facility as well as guaranteeing certain potential enforcement costs relating thereto. The entire guarantee shall be release or cancelled as a condition to Completion.
- (2) As at 25 March 2011, this guarantee is cash collateralised, but is likely to be transferred to the CBA Guarantee Facility prior to 30 June 2011.
- (3) Current guarantee of A\$7,274,499.47 expected to be released upon Financial Close of Stage 1 of the Wiggins Island Coal Export Terminal project, expected to occur prior to 30 June 2011.
- (4) May be subject to increase of approximately A\$ 100,000 for interest cost prior to 30 June 2011.

# Share Sale Agreement

## Schedule 9 - Material Contracts

<u>Contract</u>	<u>Parties</u>	<u>Date</u>
<b>Rail</b>		
Access Facilitation Deed	QRN and Syntech Resources	11 September 2009
Rail Infrastructure Construction Deed	QRN and Syntech Resources	11 September 2009
Coal Transport Service Agreement	QR Limited and Syntech Resources	16 October 2008
<b>Port</b>		
Coal Port Services Agreement	Queensland Bulk Handling Pty Ltd and Syntech Resources	2 June 2009
Consortium Agreement: Wiggins Island Coal Export Terminal	Consortium Members	18 July 2008
<b>Water</b>		
Water Supply Agreement	Queensland Gas Company Limited and Syntech Resources	26 March 2008
Water Pipeline Agreement	Lindsay Allan Boyle and Ann Michelle Boyle and Syntech Resources	undated
Water Pipeline Agreement	Kenneth Edward Curtis and Patricia Curtis and Syntech Resources	undated
Water Pipeline Agreement	Bruce Leonard Rowbotham and Linda Margaret Rowbotham and Syntech Resources	undated
Water Supply Agreement	Carmel Victoria Davies and Syntech Resources	3 September 2010
<b>Power</b>		
Customer Connection Agreement	Ergon Energy Corporation Limited and Syntech Resources	31 May 2010
<b>MacMahons</b>		
Cameby Downs Mine - Mine Operations and Maintenance Contract - General Conditions	Syntech Resources and MacMahon Contractors Pty Ltd	16 March 2010
<b>Mining Lease</b>		
ML50233	Syntech Resources	



# Share Sale Agreement

## Schedule 10 - Relevant Persons

### **Seller Relevant Persons**

Darian Hielscher  
Robert Mancini  
Shameek Konar  
Karl Robijns

### **Buyer Relevant Persons**

Terry Crawford  
Boyun Xu  
Bede Cunningham  
Peter Barton

# Share Sale Agreement

## Schedule 11 - Existing Facilities

### Existing Facilities:

<u>Facility</u>	<u>Owner</u>	<u>Principal</u>	<u>Maturity</u>	<u>Reference Documents</u>
Cash Advance Facility and Term Facility	CBA	A\$30,000,000	15-Sep-2012	Amending Deed dated 15-Sep-2010, annexing the Amended and Restated Facilities Agreement
Bank Guarantee and Letter of Credit Facility	CBA	Commitment of up to A\$40,000,000		Amending Deed dated 15-Sep-2010, annexing the Amended and Restated Facilities Agreement
Senior Loan Facility	Seller	US\$40,000,000	23-Mar-2014	Senior Loan Facility Agreement dated 22-Mar-2007 (as amended and restated on 20-Aug-2009) Deed of Variation of Senior Loan Facility Agreement dated 20-Aug-2009
Senior Note	Seller	US\$65,000,000	20-Aug-2011	Note Subscription Deed dated 20-Aug-2009 (as amended and restated on 11-Nov-2010)
Senior Note	Seller	US\$30,000,000	20-Aug-2011	Note Deed Poll dated 20-Aug-2009 (as amended and restated on 11-Nov-2010) Deed of Variation of Note Deed Poll and Note Subscription Deed dated 11-Nov-10

### Reimbursement Facilities:

<u>Debt Type</u>	<u>Owner</u>	<u>Reference Documents</u>
Fees under Syntech Reimbursement Agreement	GS	Amending Agreement dated 15 September 2010, annexing the Amended and Restated Syntech Reimbursement Agreement
Fees under QR Reimbursement Agreement (1)	GS	QR Reimbursement Agreement dated 20 August 2009

- (1) For the purposes of this agreement, the payments under this reimbursement agreement are treated as being owed to GS by Syntech, instead of Syntech Resources, as (pursuant to the letter dated 20 August 2009 between Syntech and GS) Syntech will unconditionally pay on demand to GS any sum or sums owed by Syntech Resources to GS under the QR Reimbursement Agreement.

**Payments from Repayment Amount:**

<u>External Financier</u>	<u>Allocation of Repayment Amount</u>	
CBA	All amounts owing to CBA in connection with the facilities mentioned in the above table (being A\$30,000,000 plus any accrued interest and fees and any termination fees which arise)	
Seller/GS	Balance of the Repayment Amount to repay the remaining External Debt and (if applicable) the Restructure Fee	
© Mallesons Stephen Jaques 10658005_12	Share Sale Agreement	84

# Share Sale Agreement

## Schedule 12 - Officers

### Part A - Retiring Officers

<u>Syntech</u>	<u>Syntech II</u>	<u>AMH CC</u>	<u>Mountfield Properties Pty Ltd</u>	<u>Syntech Resources Pty Ltd</u>
Robert Mancini	Robert Mancini	Robert Mancini	Robert Mancini	Robert Mancini
Shameek Konar	Shameek Konar	Shameek Konar	Shameek Konar	Shameek Konar
Karl Robijns	Karl Robijns	Karl Robijns	Karl Robijns	Karl Robijns
Erik Schafer	Erik Schafer	Erik Schafer	Erik Schafer	Erik Schafer
Ravi Chidambaram	Ravi Chidambaram	Ravi Chidambaram	Ravi Chidambaram	Ravi Chidambaram

### Part B - Incoming Officers

<u>Syntech</u>	<u>Syntech II</u>	<u>AMH CC</u>	<u>Mountfield Properties Pty Ltd</u>	<u>Syntech Resources Pty Ltd</u>
Vincent O'Rourke	Vincent O'Rourke	Vincent O'Rourke	Vincent O'Rourke	Vincent O'Rourke
Terence Crawford	Terence Crawford	Terence Crawford	Terence Crawford	Terence Crawford
Murray Bailey	Murray Bailey	Murray Bailey	Murray Bailey	Murray Bailey
Peter Barton	Peter Barton	Peter Barton	Peter Barton	Peter Barton

## Schedule 13 - Form of release

<u>Parties</u>	<u>GSPH, GS and the Syntech Group Members</u>	
<b>GSPH</b>	Name	<b>GS Power Holdings LLC</b>
	Address	[•]
	Fax	[•]
	Attention	[•]
<b>GS</b>	Name	<b>The Goldman Sachs Group, Inc.</b>
	Address	[•]
	Fax	[•]
	Attention	[•]
<b>Syntech</b>	Name	<b>Syntech Holdings Pty Ltd</b>
	ABN	21 123 782 445
	Address	[•]
	Email	[•]
	Attention	[•]
<b>Syntech II</b>	Name	<b>Syntech Holdings II Pty Ltd</b>
	ABN	30 126 174 847
	Address	[•]
	Email	[•]
	Attention	[•]
<b>Syntech Resources</b>	Name	<b>Syntech Resources Pty Limited</b>
	ABN	67 095 102 971
	Address	[•]
	Telephone	[•]
	Fax	[•]
	Attention	[•]

**Mountfield Properties**

Name	<b>Mountfield Properties Pty Limited</b>
ABN	94 095 103 012
Address	[•]
Telephone	[•]
Fax	[•]
Attention	[•]

**AMH (Chinchilla Coal)**

Name	<b>AMH (Chinchilla Coal) Pty Limited</b>
ABN	38 124 649 216
Address	[•]
Telephone	[•]
Fax	[•]
Attention	[•]

**Recitals**

- A** Certain of GSPH, GS and the Syntech Group Members are party to each of the Facilities.
- B** Each member of the Syntech Group agrees to release GSPH and GS in relation to the Facilities on the terms set out in this deed.

**Date of deed**

See Signing page

# Share Sale Agreement

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## **1 Consideration**

This deed is entered into in consideration of the parties incurring obligations and giving rights under this deed and for other valuable consideration.

---

## **2 Release**

On and from the date of this deed, each Syntech Group Member:

- (e) unconditionally releases GSPH and GS from all Claims (including any claim for costs), present and future, and waives all rights and Claims the Syntech Group Member has or may have against GSPH or GS relating to the Facilities;
  - (f) agrees that GSPH and GS may plead this deed to bar any Claim (including any claim for costs) brought by any Syntech Group Member relating to the Facilities;
  - (g) agrees not to commence or maintain any Claim, or to encourage, facilitate, consult with or assist in any way any other person in respect of any Claim (including any claim for costs) against GSPH or GS relating to the Facilities; and
  - (h) agrees to ensure that any person with whom it is associated in any way does not commence or maintain any Claim (including any claim for costs) against GSPH or GS relating to the Facilities.
- 

## **3 Indemnity**

Each Syntech Group Member agrees to indemnify GSPH and GS against any Liability arising from a breach of clause 2.

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## **4 Severability**

If the whole or any part of a provision of this deed is void, unenforceable or illegal in a jurisdiction it is severed for that jurisdiction. The remainder of this deed has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected. This clause has no effect if the severance alters the basic nature of this deed or is contrary to public policy.

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## **5 Entire agreement**

This deed constitutes the entire agreement of the parties about its subject matter and supersedes all previous agreements, understandings and negotiations on that subject matter.

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## **6 General**

### **6.1 Partial exercising of rights**

If a party does not exercise a right or remedy fully or at a given time, the party may still exercise it later.

### **6.2 Remedies cumulative**

The rights and remedies provided in this deed are in addition to other rights and remedies given by law independently of this deed.

### **6.3 Rights and obligations are unaffected**

Rights given to the parties under this deed and the parties' liabilities under it are not affected by anything which might otherwise affect them by law.

### **6.4 Variation and waiver**

A provision of this deed or a right created under it, may not be waived or varied except in writing, signed by the party or parties to be bound.

### **6.5 Costs**

Each party will pay its reasonable legal costs and expenses in connection with the preparation, execution and completion of this deed.

### **6.6 Supervening legislation**

Any present or future legislation which operates to vary the obligations of a party in connection with this deed with the result that another party's rights, powers or remedies are adversely affected (including, by way of delay or postponement) is excluded except to the extent that its exclusion is prohibited or rendered ineffective by law.

### **6.7 Counterparts**

This deed may be executed in counterparts. All counterparts when taken together are to be taken to constitute one instrument.

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## **7 Governing law**

### **7.1 Governing law**

This deed is governed by the law in force in Queensland, Australia. Each party submits to the non-exclusive jurisdiction of the courts of that place.

### **7.2 Jurisdiction**

Each party submits to the non-exclusive jurisdiction of the courts of Queensland, Australia and courts of appeal from them. Each party waives any right it has to object to an Action being brought in those courts including, without limitation, by claiming that the Action has been brought in an inconvenient forum or that those courts do not have jurisdiction.



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## 8 Interpretation

### 8.1 Definitions

Unless the context requires otherwise, terms used but not defined in this deed have the meaning given to them in the Share Sale Agreement.

These meanings apply unless the contrary intention appears:

**Facilities** means

- (a) the Existing Facilities to which GSPH or GS is a party; and
- (b) the Reimbursement Facilities.

**Share Sale Agreement** means the Share Sale Agreement dated [insert] between GSPH, Yancoal Australia Limited and Austar Coal Mine Pty Ltd.

**Syntech Group Members** means Syntech, Syntech II, Syntech Resources, Mountfield Properties and AMH (Chinchilla Coal).

**EXECUTED** as a deed.

**DATED:** \_\_\_\_\_

[appropriate execution clauses to be inserted]

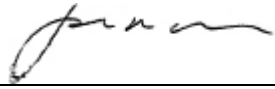
# Share Sale Agreement

## Signing page

**DATED:** 13 MAY 2011

(11:33pm NY time)

**EXECUTED** by **GS POWER HOLDINGS LLC** by its duly  
authorised representative )



Signature of witness )

*JOHN R THOMAS*

Name of witness (block letters) )

**EXECUTED** by **AUSTAR COAL MINE PTY LIMITED** )  
by authority of its directors: )

\_\_\_\_\_  
Signature of director )

\_\_\_\_\_  
Name of director (block letters) )

**EXECUTED** by **YANCOAL AUSTRALIA LIMITED** by )  
authority of its directors: )

\_\_\_\_\_  
Signature of director )

\_\_\_\_\_  
Name of director (block letters) )



Signature of representative )

*SHAMEEK KINAR*

Name of representative (block letters) )

\_\_\_\_\_  
Signature of director/company secretary\*  
\* delete whichever is not applicable )

\_\_\_\_\_  
Name of director/company secretary\*  
(block letters)  
\* delete whichever is not applicable )

\_\_\_\_\_  
Signature of director/company secretary\*  
\* delete whichever is not applicable )

\_\_\_\_\_  
Name of director/company secretary\*  
(block letters)  
\* delete whichever is not applicable )

# Share Sale Agreement

## Annexure A - Last Accounts

# **SYNTECH HOLDINGS PTY LTD**

ABN 21 123 782 445

## **FINANCIAL REPORT FOR THE YEAR ENDED 30 JUNE 2010**

**All amounts are in Australian dollars (\$), except  
as stated otherwise.**

**SYNTECH HOLDINGS PTY LTD**  
**ABN 21 123 782 445**

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**SYNTECH HOLDINGS PTY LTD**  
**ABN 21 123 782 445**

**DIRECTORS' REPORT**

The directors present their report together with the financial report of the Syntech Holdings group ("the Group"), being Syntech Holdings Pty Ltd ("the Company") and its subsidiaries, for the financial year ended 30 June 2010 and the auditor's report thereon.

The directors of the Company at any time during or since the end of the financial year are:

Darian Edward Hielscher	Appointed 6 February 2007
Erik Karl Schafer	Appointed 6 February 2007
Elmar Schafer	Resigned 24 August 2009
Ravi Chidambaram	Appointed 2 August 2007
Robert Mancini	Appointed 2 August 2007
Allan Marson	Resigned 1 September 2010
Stefan Dorfmeister	Appointed 24 August 2009
Shameek Konar	Appointed 24 September 2010

**Company particulars**

Syntech Holdings Pty Ltd was incorporated in Australia on 6 February 2007. The address of the registered office is:

Level 17  
80 Albert Street  
Brisbane QLD 4000

**Principal activities**

The principal activities of the consolidated entity during the course of the period were:

- The exploration and evaluation of coal reserves.
- Development of the Cameby Downs coal mine.

The group had 11 employees as at 30 June 2010.

**Review and results of operations**

The operating result of the Group for the year ended 30 June 2010 was a loss of \$7,284,089 (2009: profit of \$6,712,075).

During the year the group continued the development of mining tenements held by Syntech Resources Pty Ltd, and the development of the Cameby Downs mine. Construction of mine infrastructure was well advanced by 30 June 2010, with completion of construction and commissioning targeted for October 2010.

The Mining Lease Application lodged on 8 June 2007 was granted on 31 July 2008 as Mining Lease 50233 for a term of 30 years from 1 August 2008.

Further exploration continued within the area of the mining lease as well as outlying areas covered by the Group's Exploration Permit.

## **DIRECTORS' REPORT**

During the year the Company obtained additional finance facilities to enable activities to progress. The finance fee was satisfied by an issue of an option for 20% equity interest in the Company. The fair value of the 20% equity interest has been estimated at \$80m.

### **Dividends**

No dividends have been paid or declared by the Company since the end of the previous financial year.

### **Likely developments**

Information about likely developments in the operations of the Group and the expected results of those operations in the future financial years has not been included in this report because disclosure of the information would be likely to result in unreasonable prejudice to the Group.

### **Events subsequent to balance date**

Subsequent to year end the Group has entered into a financing facility with the Commonwealth Bank to provide further funding that will enable the Group to complete the construction of the mine, and provide bank guarantees to third party providers as required in the normal course of business. This facility is supported by security provided by the Group as well as a guarantee provided by the Group's major shareholder.

In addition, in November 2010 the Group entered into a further financing facility with Goldman Sachs for an additional US\$30m. This further facility is an extension to the existing facility.

Other than the above matter, there has not arisen in the interval between the end of the period and the date of this report any item, transaction or event of a material and unusual nature likely, in the opinion of the directors, to affect significantly the operations of the Group, the results of those operations, or the state of affairs of the Group, in future financial years.

### **Directors' interest and benefits**

Other than as set out below, no Director has received or become entitled to receive, during or since the end of the financial year, a benefit because of a contract made by the chief entity, controlled entity, or a related body corporate with a Director, a firm of which a Director is a member of any entity in which a Director has a substantial financial interest.

In accordance with Clause 9.3 of the Shareholders Agreement, Direct Invest AG a company controlled by Mr Erik Schafer, has provided Consultancy Services to the Company for which it has received US\$250,000 [AUD\$281,901.51] for the period to 30 June 2010.

Mr Robert Mancini, Mr Allan Marson, Mr Stefan Dorfmeister and Mr Shameek Konar are employed by affiliates of GS Power Holdings LLC which provides financing facilities to the Group for which it receives interest and equity entitlements.

**SYNTECH HOLDINGS PTY LTD**  
**ABN 21 123 782 445**

**DIRECTORS' REPORT**

**Environmental Regulation**

Environmental Authority number MIN100568007 has been granted to the Group in respect of carrying out activities as part of the mining project authorised by Mining Lease 50233. The Group is in compliance with all environmental obligations and legislative requirements imposed by this Authority.

**Indemnification and insurance of directors and officers**

The Company has agreed to indemnify all the directors to the maximum extent permitted by law for any liability of the Director connected with being a director of the Company or any subsidiary of the Company. Such indemnity applied to the extent the Director is not indemnified under the insurance policy.

Signed in accordance with a resolution of the directors of Syntech Holdings Pty Ltd



\_\_\_\_\_  
Director

17 NOV 2010

\_\_\_\_\_  
Dated



CONSOLIDATED STATEMENT OF COMPREHENSIVE INCOME  
 FOR THE YEAR ENDED 30 JUNE 2010

	<i>Note</i>	<b>Consolidated</b>	
		<b>2010</b>	<b>2009</b>
Management fees		182,400	182,400
Realised foreign currency gains		707,508	408,774
Unrealised foreign currency gains		497,809	10,336,989
		<u>1,387,717</u>	<u>10,928,163</u>
<b>Expenses</b>			
Operating costs		(4,379,311)	(3,821,132)
Depreciation and amortisation expenses		(144,855)	(123,728)
Total expenses		<u>(4,524,166)</u>	<u>(3,944,860)</u>
Results from operating activities		<u>(3,136,449)</u>	<u>6,983,303</u>
Financial income		901,200	675,882
Financial expenses		(53,156,656)	(8,028,173)
Borrowing costs capitalised		48,107,816	7,081,063
Net financial expenses		<u>(4,147,640)</u>	<u>(271,228)</u>
Profit/(loss) before income tax		<u>(7,284,089)</u>	<u>6,712,075</u>
Income tax expense		—	—
<b>Profit/(loss) for the year</b>		<u>(7,284,089)</u>	<u>6,712,075</u>
Other comprehensive income		—	—
<b>Total comprehensive income</b>		<u>(7,284,089)</u>	<u>6,712,075</u>

*The notes on pages 10 to 24 are an integral part of these consolidated financial statements.*

CONSOLIDATED STATEMENT OF CHANGES IN EQUITY  
FOR THE YEAR ENDED 30 JUNE 2010

Consolidated

	<i>Note</i>	Share Capital	Convertible Note	Option Reserve	Retained Earnings	Total Equity
Balance at 1 July 2008		21,872,119	18,164,522	12,998,087	(2,475,742)	50,558,986
<b>Total comprehensive income for the period</b>						
Profit or loss		—	—	—	6,712,075	6,712,075
<i>Other comprehensive income</i>		—	—	—	—	—
Total other comprehensive income		—	—	—	—	—
Total comprehensive income for the period		—	—	—	6,712,075	6,712,075
<b>Transactions with owners, recorded directly in equity</b>						
<i>Contributions by and distributions to owners</i>		—	—	—	—	—
Total contributions by and distributions to owners		—	—	—	—	—
Balance at 30 June 2009		21,872,119	18,164,522	12,998,087	4,236,333	57,271,061
Balance at 1 July 2009		21,872,119	18,154,522	12,998,087	4,236,333	57,271,061
<b>Total comprehensive income for the period</b>						
Profit or loss		—	—	—	(7,284,089)	(7,284,089)
<i>Other comprehensive income</i>		—	—	—	—	—
Total other comprehensive income		—	—	—	—	—
Total comprehensive income for the period		—	—	—	(7,284,089)	(7,284,089)
<b>Transactions with owners, recorded directly in equity</b>						
<i>Contributions by and distributions to owners</i>		—	—	—	—	—
Options issued re debt financing & provision of guarantees		—	—	80,000,000	—	80,000,000
Total contributions by and distributions to owners		—	—	80,000,000	—	80,000,000
Balance at 30 June 2010		21,872,119	18,164,522	92,998,087	(3,047,756)	129,986,972

The notes on pages 10 to 24 are an integral part of these consolidated financial statements.

**SYNTECH HOLDINGS PTY LTD**  
**ABN 21 123 782 445**

**CONSOLIDATED STATEMENT OF FINANCIAL POSITION**  
**AS AT 30 JUNE 2010**

	<i>Note</i>	<b>Consolidated</b>	
		<b>2010</b>	<b>2009</b>
<b>Assets</b>			
Cash	3b	17,023,662	8,490,909
Security deposit	3a	—	13,104,497
Receivables	4	10,668,420	864,050
Prepayments		206,554	157,046
Other current assets	5	322,299	—
<b>Total current assets</b>		<b>28,220,935</b>	<b>22,616,502</b>
Receivables	4	574,936	247,109
Property, plant and equipment	6	113,797,354	27,957,410
Mining tenements	7	91,152,060	57,207,477
Finance facility fees	8	61,883,356	16,205,550
<b>Total non-current assets</b>		<b>267,407,706</b>	<b>101,617,546</b>
<b>Total assets</b>		<b>295,628,642</b>	<b>124,234,048</b>
<b>Liabilities</b>			
Trade and other payables	9	12,963,899	5,416,231
Interest bearing liabilities	11	7,696,934	—
Provisions	12	142,493	100,228
<b>Total current liabilities</b>		<b>20,803,325</b>	<b>5,516,459</b>
Trade and other payables	9	2,679,658	—
Convertible note interest	10	10,057,099	9,029,083
Interest bearing liabilities	11	130,035,955	52,417,445
Provisions	12	2,065,633	—
<b>Total non-current liabilities</b>		<b>144,838,345</b>	<b>61,446,528</b>
<b>Total liabilities</b>		<b>165,641,671</b>	<b>66,962,987</b>
		<b>129,986,971</b>	<b>57,271,061</b>
<b>Net assets</b>			
<b>Equity</b>			
Issued capital	13	21,872,119	21,872,119
Convertible note	14	18,164,522	18,164,522
Option reserve	15	92,998,087	12,998,087
Retained earnings/(Accumulated losses)	16	(3,047,756)	4,236,333
<b>Total Equity</b>		<b>129,986,971</b>	<b>57,271,061</b>

*The notes on pages 10 to 24 are an integral part of these consolidated financial statements.*

CONSOLIDATED STATEMENT OF CASH FLOWS  
AS AT 30 JUNE 2010

	Note	Consolidated	
		2010	2009
<b>Cash flows from operating activities</b>			
Payments to suppliers and employees		(5,543,116)	(4,011,562)
Received for services to related parties		—	95,760
Interest received		773,865	507,029
<b>Net cash from / (used in) operating activities</b>	3b	<u>(4,769,251)</u>	<u>(3,408,773)</u>
<b>Cash flows from investing activities</b>			
Development of mining tenements		(2,703,626)	(4,144,164)
Expansion of mining lease		(3,149,380)	(623,277)
Mine development - work in progress		(56,243,538)	(13,441,414)
Purchase property, plant & equipment		(645,368)	(587,552)
Proceeds on sale of plant & equipment		124,909	10,846
Funds (applied)/released as security		13,104,497	(13,104,497)
<b>Net cash from / (used in) investing activities</b>		<u>(49,512,505)</u>	<u>(31,890,058)</u>
<b>Cash flows from financing activities</b>			
Proceeds from borrowing		64,500,806	60,304,520
Repayment of borrowings		—	(17,000,000)
Borrowing costs		(816,375)	—
Guarantee fees paid		(562,898)	—
Interest paid on borrowings		(305,972)	(1,857,799)
<b>Net cash from / (used in) financing activities</b>		<u>62,815,562</u>	<u>41,446,721</u>
Net increase / (decrease) in cash and cash equivalents		8,533,806	6,147,890
Cash and cash equivalents at beginning of year		8,490,909	2,336,511
Effect of currency movements		(1,052)	6,507
<b>Cash and cash equivalents at end of year</b>	3b	<u>17,023,662</u>	<u>8,490,909</u>

The notes on pages 10 to 24 are an integral part of these consolidated financial statements.

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED 30 JUNE 2010**

**1. STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES**

**(a) Statement of compliance**

Syntech Holdings Pty Ltd (the "Company") is a company domiciled in Australia. The address of the Company's registered office is Level 17, 80 Albert Street, Brisbane, Queensland 4000. The consolidated financial statements of the Company as at and for the year ended 30 June 2010 comprise the Company and its subsidiaries (together referred to as the "Group"). Parent entity financial information has not been provided in this financial report.

In the opinion of the directors the Group is not a reporting entity. The financial report of the Group has been drawn up as a special purpose financial report for distribution to the members.

The special purpose financial report has been prepared in accordance with the recognition and measurement aspects of all applicable Australian Accounting Standards ("AASBs") adopted by the Australian Accounting Standards Board ("AASB"),

The financial report does not include the disclosure requirements of the following pronouncements having a material effect:

- AASB 7 Financial instruments: disclosures
- AASB 8 Segment reporting
- AASB 112 Income taxes
- AASB 116 Property, plant & equipment
- AASB 118 Revenue
- AASB 123 Borrowing costs
- AASB 124 Related party disclosures
- AASB 132 Financial instruments: presentation
- AASB 137 Provisions, contingent liabilities and contingent assets

**(b) Basis of preparation**

The financial report is presented in Australian dollars.

The financial report is prepared on the historical cost basis.

The accounting policies set out below have been applied consistently to all periods presented in these consolidated financial statements, and have been applied consistently by Group entities.

**Going concern**

The financial report has been prepared on a going concern basis which contemplates the continuity of normal business activities and the realisation of assets and settlement of liabilities in the normal course of business.

The ability of the Group to continue as a going concern is dependant upon funds being provided under loan facilities supported by GS Power Holdings LLC as disclosed in notes 11 and 18 and additional finance guarantees provided by GS Power Holdings LLC, and/or as outlined in the following paragraphs, the Group obtaining alternative finance from its shareholders or third party financiers.

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED 30 JUNE 2010**

**1. STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES (CONT)**

**(b) Going concern (cont.)**

Note 11 outlines that the face value of the discounted notes with a book value of \$67,933,838 at 30 June 2010 are repayable in August 2011. The ability of the company to continue as a going concern for 12 months from the date of this report is also dependent upon the company being able to either obtain an extension of the notes past August 2011 or the company obtaining alternate finance facilities to enable the notes to be repaid from shareholders or third party financiers.

The directors consider that:

- the funding under the loan facilities disclosed as non-current in note 11 and note 18 will be available to the company, and
- that the notes with a book value of \$67,933,838 at 30 June 2010 are either extended past August 2011 or the company is able to obtain alternate finance facilities to enable the notes to be repaid.

In the event that the Group could not continue as a going concern, the Group may not be able to realise its assets and extinguish liabilities in the normal course of business and at the amounts stated in the financial statements.

**(c) Basis of Consolidation**

**(i) Subsidiaries**

Subsidiaries are entities controlled by the Company. Control exists when the Company has the power, directly or indirectly, to govern the financial and operating policies of an entity so as to obtain benefits from its activities. In assessing control, potential voting rights that presently are exercisable or convertible are taken into account. The financial statements of subsidiaries are included in the consolidated financial report from the date that control commences until the date that control ceases.

**(ii) Transactions eliminated on consolidation**

Intragroup balances, and any unrealised gains and losses or income and expenses arising from intragroup transactions, are eliminated in preparing the consolidated financial statements.

Unrealised losses are eliminated in the same way as unrealised gains, but only to the extent that there is no evidence of impairment.

**(d) Foreign currency**

**Transactions**

Transactions in foreign currencies are translated at the foreign exchange rate ruling at the date of the transaction. Monetary assets and liabilities denominated in foreign currencies at the balance sheet date are translated to Australian dollars at the foreign exchange rate ruling at that date. Foreign exchange differences arising on translation are recognised in profit or loss.

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED 30 JUNE 2010**

**1. STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES (CONT)**

**(e) Taxation**

Income tax on the profit or loss for the year comprises current and deferred tax. Income tax is recognised in profit or loss except to the extent that it relates to items recognised directly in equity, in which case it is recognised in equity.

Current tax is the expected tax payable on the taxable income for the year, using tax rates enacted or substantively enacted at the balance sheet date, and any adjustments to tax payable in respect of previous years.

Deferred tax is provided using the balance sheet liability method, providing for temporary differences between the carrying amount of assets and liabilities for financial reporting purposes and the amounts used for taxation purposes.

Deferred taxes are not recognised on temporary differences upon asset acquisitions that neither affect accounting profit or taxable income.

A deferred tax asset is recognised only to the extent that it is probable that future taxable profits will be available against which the asset can be utilized. Deferred tax assets are reduced to the extent that it is no longer probable that the related tax benefit will be realised.

**(f) Goods and services tax**

Revenues, expenses and assets are recognised net of the amount of goods and services tax (GST), except where the amount of GST incurred is not recoverable from the taxation authority. In these circumstances, the GST is recognised as part of the cost of acquisition of the asset or as part of the expense. Receivables and payables are stated with the amount of GST included. The net amount of GST recoverable from or payable to, the ATO is included as a current asset or liability in the balance sheet.

Cash flows are included in the statement of cash flows on a gross basis. The GST components of cash flows arising investing and financing activities which are recoverable from, or payable to, the ATO are classified as operating cash flows.

**(g) Cash**

Cash comprises cash balances and deposits maturing within 3 months.

**(h) Trade and other receivables**

Trade and other receivables are stated at their amortised cost using the effective interest method less any impairment losses.

**(i) Property, plant and equipment**

All assets acquired, including property plant and equipment, are initially recorded at their cost of acquisition at the date of acquisition, being the fair value of the consideration provided plus incidental costs directly attributable to the acquisition,

Expenditure is only recognised as an asset when the group controls future economic benefits as a result of the costs incurred that are probable and can be measured reliably.

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED 30 JUNE 2010**

**1. STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES (CONT)**

**(i) Property, plant and equipment (cont.)**

*Depreciation*

All assets have limited useful lives and are depreciated using both the straight line method and diminishing value method over their estimated useful lives, taking into account estimated residual values. All assets are depreciated from when each asset is available for use, that is, when it is in the location and condition necessary for it to be capable of operating in the manner intended by management.

Depreciation rates and methods are reviewed annually for appropriateness. When changes are made, adjustments are reflected prospectively in current and future periods only. Depreciation amounts are expensed.

The estimated useful lives of assets in the current and comparative periods are as follows:

Plant and equipment	7.5 years
Low value pool	2.5 years
Motor vehicles	4.5 years
Office equipment	2.5 years
Furniture, fixtures and fittings	9 years
Computer equipment	2.5 years

**(j) Impairment**

The carrying amounts of the group's assets, other than deferred tax assets, are reviewed at each balance sheet date to determine whether there is any indication of impairment. If any such indication exists, the asset's recoverable amount is estimated.

An impairment loss is recognised whenever the carrying amount of an asset or its cash generating unit exceeds its recoverable amount. The recoverable amount of an asset or a cash generating unit is the greater of its value in use and its fair value less costs to sell. In assessing value in use, the estimated future cash flows are discounted to their present value using a pre-tax discount rate that reflects current market assessments of the time value of money and the risks specific to the asset. Impairment losses are recognised in profit or loss.

**(k) Trade and other payables**

Trade and other payables are stated at their amortised cost using the effective interest method. Trade payables are non-interest bearing and are normally settled on 30-day terms.

**(l) Mining tenement - exploration and evaluation costs**

Mining tenement - exploration and evaluation costs, including the costs of acquiring assets and licences, are capitalised as exploration and evaluation assets on an area of interest basis. Mining tenements acquired by the Group are reflected at fair value upon acquisition. Costs incurred before the Group has obtained the legal rights to explore an area are recognised as an expense in profit or loss.



**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED 30 JUNE 2010**

**1. STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES (CONT)**

**(1) Mining tenement - exploration and evaluation costs (cont.)**

Mining tenement, exploration and evaluation assets are only recognised if the rights of the area of interest are current and either:

- (i) the expenditures are expected to be recouped through successful development and exploitation of the area of interest; or
- (ii) activities in the area of interest have not at the reporting date, reached a stage which permits a reasonable assessment of the existence or other wise of economically recoverable reserves and active and significant operations in, or in relation to, the area of interest are continuing.

Mining tenement, exploration and evaluation assets are assessed for impairment if sufficient data exists to determine technical feasibility and commercial viability and facts and circumstances suggest that the carrying amount exceeds the recoverable amount. For the purposes of impairment testing, exploration and evaluation assets are allocated to cash-generating units to which the exploration activity relates.

The cash generating unit shall not be larger than the area of interest.

Once the technical feasibility and commercial viability of the extraction of mineral holdings in an area of interest are demonstrable, exploration and evaluation assets attributable to that area of interest are first tested for impairment and reclassified to mining property and development assets within mining tenements.

**(m) Employee benefits**

***Wages, salaries, annual leave, sick leave and non-monetary benefits***

Liabilities for employee benefits for wages, salaries, annual leave and sick leave that are expected to be settled within 12 months of the reporting date represent present obligations resulting from employees' services provided to reporting date, are calculated at undiscounted amounts based on remuneration wages and salary rates that the entity expects to pay at reporting date including related on-costs, such as, workers compensation insurance and payroll tax.

Non-accumulating non-monetary benefits are expensed based on the net marginal cost to the entity as the benefits are taken by the employees.

***Superannuation plan***

Obligations for contributions to defined contribution superannuation funds are recognised as an expense in profit or loss as incurred.

**(n) Finance facility fee**

Finance facility fee on loan arrangements that are probable to be drawn down, which include the fair value of options issued to lenders over the Company's own equity, are capitalised and subsequently recognised as an expanded interest expense policy adjustment to the effective interest expense over the estimated period of the facility when drawn down.

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED 30 JUNE 2010**

**1. STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES (CONT)**

**(o) Convertible participating notes - converting note**

Convertible participating notes issued by the Company are accounted for as compound financial instruments, containing liability and equity components.

The liability component of the note is calculated as the present value of the expected stream of future contractual cash flows discounted at a market rate applicable to similar debt instruments without such a conversion option. The conversion feature of the note is accounted for as an equity component. The value ascribed to this feature is the residual, that is the fair value of the entire instrument less the value of the liability component determined above.

**(p) Option reserve**

The fair value of options issued in connection with the provision of funding arrangements and recorded in the option reserve is based on the fair value of the options issued by the Company. The fair value of the options issued is based on an estimate of the fair value of the Group, determined using a discounted cash flow model of certain proven and probable reserves and evidence of the market value of the Group's coal resources provided by recent sales of developing coal mines.

**(q) Issued capital**

Shares issued as consideration for the acquisition of assets, including mining tenements, by the Company are recorded based on the fair value of the assets received by the Company in exchange for issuing the shares.

**(r) Finance income and expenses**

Finance income comprises interest income on funds invested. Interest income is recognised as it accrues, using the effective interest method.

Finance expenses comprise interest expense on borrowings, amortisation of the liability component of convertible participating notes and amortisation of capitalised borrowing costs and other associated costs of borrowings. Borrowing costs incurred that are directly attributable to the acquisition, construction or production of a qualifying asset are capitalised as part of the cost of that asset. All other borrowing costs are recognised in profit or loss using the effective interest method.

**(s) Accounting estimates and judgements**

The preparation of a financial report in conformity with Australian Accounting Standards requires management to make judgements, estimates and assumptions that affect the application of policies and reported amounts of assets and liabilities, income and expenses. The estimates and associated assumptions are based on historical experience and various other factors that are believed to be reasonable under the circumstances, the results of which form the basis of making the judgements about carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates. These accounting policies have been consistently applied by the Group.

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED 30 JUNE 2010**

**1. STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES (CONT)**

**(s) Accounting estimates and judgements (cont.)**

The estimates and underlying assumptions are reviewed on an ongoing basis. Revisions to accounting estimates are recognised in the period in which the estimate is revised if the revision affects only that period or in the period of the revision and future periods if the revision affects both current and future periods.

Management have determined with the directors the development, selection and disclosure of the consolidated entity's critical accounting policies and estimates and the application of these policies and estimates. The estimates and judgements that have a significant risk of causing material adjustment to the carrying amounts are discussed below.

**Fair value of mining tenements, exploration & evaluation assets and value of issued capital**

Note 7 contains information and calculations about the basis used to measure the fair value of mining tenement exploration & evaluation assets upon acquisition by the Group.

Note 13 contains information about the basis of the issued capital, including amounts being recorded based on the fair value of the assets received by the Company, in exchange for issuing the shares.

These calculations involved making an estimation of the fair value of the Cameby Downs mining tenement asset acquired, which was based on an alternative acquirer valuation methodology through the value of a 40% equity interest acquired under the converting note (convertible participating note) for US\$20m. The stage of development of the Cameby Downs mining tenement did not enable at that time the fair value of the asset to be reliably determined under any other valuation approach, including the value in use of the asset.

**Fair value of option issued**

Note 15 contains information about the basis of the option reserve, including the fair value of options issued during the year and in prior years.

Valuation of the initial option issued to acquire 25% of the Company was based on the fair value of the Company's shares determined using an alternative acquirer valuation methodology through the value of a 40% equity interest acquired under the converting note (convertible participating note) for US\$20m.

During the year additional options were issued to acquire a further 20% interest in the Company. These options were issued in connection with agreements entered into for a US\$65m discounted note facility and AU\$92m in guarantee facilities and have been brought to account at directors' valuation. The directors' valuation is supported by a discounted cashflow of certain proven and probable reserves of the Group and evidence of the market value of the Group's coal resources provided by recent sales of developing coal mines.

**Finance facility fee**

Note 8 contains information on finance facility fees capitalised and the amortisation on the deferred costs. The amortisation expenses for the period includes an estimate of the interest expenses based on the effective interest rate over the estimated loan draw downs over the life of the finance facility.

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED 30 JUNE 2010**

**1. STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES (CONT)**

**(s) Accounting estimates and judgements (cont.)**

**Classification of convertible participating notes**

Note 14 contains information about the basis for classification of convertible participating notes. The liability component was calculated as the present value of the estimated stream of future contractual interest cash flows. The equity component was determined to be the difference between the face value less the fair value of the liability component.

**(t) Change in accounting policy - presentation of financial statements**

The Group applies revised AASB 101 *Presentation of Financial Statements* (2007), which became effective as of 1 July 2009. As a result, the Group presents in the consolidated statement of changes in equity all owner changes in equity, whereas all non-owner changes in equity are presented in the consolidated statement of comprehensive income.

Comparative information has been re-presented so that it is also in conformity with the revised standard.

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 30 JUNE 2010

2. AUDITOR'S REMUNERATION

	<u>Consolidated</u>	
	<u>2010</u>	<u>2009</u>
<i>Audit services :</i>		
Audit of the Group - KPMG Australia	34,500	30,059
	<u>34,500</u>	<u>30,059</u>

3a. SECURITY DEPOSITS

Call deposit	—	13,104,497
Security deposits	—	<u>13,104,497</u>

The security deposits relate to performance obligations of the Group and will be forfeited under certain conditions.

3b. CASH AND CASH EQUIVALENTS

Bank balances	17,023,662	8,490,909
Cash and cash equivalents in the statements of cash flows	<u>17,023,662</u>	<u>8,490,909</u>

**Reconciliation of cash flows from operating activities**

Profit/(loss) for the period	(7,284,089)	6,712,075
Adjustments for :		
Depreciation	144,855	123,728
Net finance expense	53,156,656	7,751,330
Borrowing costs capitalised	(48,107,816)	(7,081,063)
Unrealised foreign exchange (gain)/loss	(820,108)	(10,336,989)
(Profit)/loss on sale of property, plant and equipment	(7,140)	14,010
<b>Operating profit/(loss) before changes in working capital and provisions</b>	<b>(2,917,643)</b>	<b>(2,816,909)</b>
<b>Changes in operating assets and liabilities :</b>		
(Increase)/decrease in trade debtors and other receivables	(1,999,961)	(260,307)
(Increase)/decrease in prepayments	(25,066)	147,248
(Decrease)/increase in trade creditor and accruals	123,347	(503,177)
(Decrease)/increase in provisions and employee benefits	50,072	24,372
<b>Net cash from operating activities</b>	<b><u>(4,769,251)</u></b>	<b><u>(3,408,773)</u></b>

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS  
 FOR THE YEAR ENDED 30 JUNE 2010

4. RECEIVABLES

	<b>Consolidated</b>	
	<b>30 June 2010</b>	<b>30 June 2009</b>
<b>CURRENT</b>		
GST receivable	2,085,560	574,617
Loans and advances re development of Wiggins Island Coal Export Terminal (WICET)	7,696,934	—
Other debtors & receivables	885,927	136,589
	<u>10,668,420</u>	<u>711,206</u>
<b>NON-CURRENT</b>		
Long term receivable	—	152,844
Loan to related party	574,936	247,109
	<u>574,936</u>	<u>399,953</u>

5. OTHER CURRENT ASSETS

Option Premium paid for hedging program of USD drawdowns	2,533,000	—
Less transferred to profit or loss	<u>(2,210,701)</u>	<u>—</u>
	<u>322,299</u>	<u>—</u>

6. PROPERTY, PLANT AND EQUIPMENT

Land and buildings	3,979,732	3,882,349
	<u>3,979,732</u>	<u>3,882,349</u>
<b>Fixed assets</b>		
Plant and equipment	258,711	252,150
Low value pool	7,905	12,195
Motor vehicles	428,548	177,689
Furniture, fixtures & fittings	81,864	95,368
Computer equipment	30,868	23,828
WIP - mine construction	<u>109,009,727</u>	<u>23,513,831</u>
	<u>109,817,622</u>	<u>24,075,061</u>
Total Property, Plant & Equipment	<u>113,797,354</u>	<u>27,957,410</u>

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 30 JUNE 2010

7. MINING TENEMENTS

	<b>Consolidated</b>	
	<u>30 June 2010</u>	<u>30 June 2009</u>
<i>Exploration and evaluation:</i>		
EPC 732	47,539,335	33,753,297
WIP - expansion mining leases	5,830,275	686,951
<i>Mine development:</i>		
ML 50233	35,716,817	22,767,229
Rehabilitation Asset	2,065,633	—
<b>Total Mining Tenements</b>	<u>91,152,060</u>	<u>57,207,477</u>

The initial carrying value of the Cameby Downs mining tenement was based on the fair value at acquisition of the asset using an alternate acquirer valuation methodology through the value of a 40% equity interest acquired in Cameby Downs under the converting note for US\$20m issued to GS Power Holdings LLC, direct expenditure and associated costs.

The recoverability of the carrying value of the mining tenement - exploration and evaluation assets is dependent upon successful development of Cameby Downs or alternatively the sale of Cameby Downs.

8. FINANCE FACILITY FEE

Finance facility fee	100,235,713	20,235,712
Less accumulated amortisation	(38,352,356)	(4,030,162)
	<u>61,883,356</u>	<u>16,205,550</u>

The finance facility fee recognised at 30 June 2007 represented the fair value of the 25% option granted to acquire ordinary shares in the Company (refer note 13), as a condition of the finance facility. The finance facility fee is being expensed over the estimated life of the finance facility as a finance expense based on the effective interest rate of the loan provided under the finance facility.

During the year ended 30 June 2010, the Company issued options in connection with the provision of funding arrangements to the Company that entitle the holder to 20% of the share capital of the company. The fair value of these options has been estimated at \$80m, based on an estimate of the fair value of the Group, determined using a discounted cash flow model of certain proven and probable reserves of the Group and evidence of the market value of the Group's coal resources provided by recent sales of developing coal mines. This fee is being amortised over the life of the funding arrangements.

9. TRADE AND OTHER PAYABLES

<b>CURRENT</b>		
Trade creditors	3,461,777	4,091,543
Employment liabilities	57,593	49,786
Accruals	9,444,528	1,274,902
	<u>12,963,899</u>	<u>5,416,231</u>

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 30 JUNE 2010

9. TRADE AND OTHER PAYABLES (cont.)

	Consolidated	
	30 June 2010	30 June 2009
<b>NON-CURRENT</b>		
GSPH guarantee fee	2,679,658	—
	<u>2,679,658</u>	<u>—</u>

No interest is payable on creditors.

The GSPH guarantee fee is payable when guarantees provided by GSPH are released, which is not expected to occur prior to 30 June 2011.

10. CONVERTIBLE NOTE INTEREST

Deferred interest on converting note (note 14)	6,421,100	6,421,100
Accrued interest since issue	4,019,471	2,687,117
Currency movement on USD liability	(383,472)	(79,134)
	<u>10,057,099</u>	<u>9,029,083</u>

The basis of recording the deferred interest on the converting note is outlined in note 14.

11. INTEREST BEARING LIABILITIES

<b>CURRENT</b>		
Loan - Gladstone Port Corporation	7,696,934	—
	<u>7,696,934</u>	<u>—</u>
<b>NON-CURRENT</b>		
Loan - GS Power Holdings LLC	46,931,840	49,297,520
Accrued interest GS Power Holdings Loan	10,009,983	3,119,925
Discounted notes - GS Power Holdings LLC	67,933,838	—
Interest accrued discounted notes	5,160,294	—
	<u>130,035,955</u>	<u>52,417,445</u>

Non-current loans and notes bear interest at 15% per annum. The loan and associated accrued interest are repayable in March 2014 and the face value of the discounted notes is repayable in August 2011.



NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 30 JUNE 2010

12. PROVISIONS

	<u>Annual Leave</u>	<u>Rehabilitation</u>	<u>Total</u>
Balance at 1 July 2009	100,228	—	100,228
Provisions made during the period	142,493	2,065,633	2,208,126
Provisions used during the period	—	—	—
Provisions reversed during the period	(100,228)	—	(100,228)
Unwind of discount	—	—	—
Balance at 30 June 2010	<u>142,493</u>	<u>2,065,633</u>	<u>2,208,126</u>
Non-current	—	2,065,633	2,065,633
Current	<u>142,493</u>	—	<u>142,493</u>
	<u>142,493</u>	<u>2,065,633</u>	<u>2,208,126</u>

**Rehabilitation Provision**

A rehabilitation provision has been recognised based upon the discounted value of the forecast costs to complete the rehabilitation work by an external contractor on the basis of an arms-length agreement.

13. ISSUED CAPITAL

	<u>Consolidated</u>	
	<u>30 June 2010</u>	<u>30 June 2009</u>
Share capital 13,333,333 ordinary shares, fully paid (2009: 13,333,333)	<u>21,872,119</u>	<u>21,872,119</u>

The issued capital represents:-

- (a) an amount recorded for the issue of 10,000,000 ordinary shares, based on the fair value of the net assets received, including the Cameby Downs mining tenement asset, by the Company in exchange for issuing the shares. The fair value of the Cameby Downs mining tenement asset acquired was based on the value of a 40% equity interest acquired under the converting note for US\$20m issued by the Company to GS Power Holdings LLC, plus
- (b) consideration received on the exercise of an option granted to GS Power Holdings LLC as detailed in note 15.

No dividends have been paid or declared by the Company since incorporation.

***Terms and conditions***

Holders of ordinary shares are entitled to receive dividends as declared from time to time and are entitled to one vote per share at shareholders' meetings.

In the event of winding up of the group, ordinary shareholders rank after all other shareholders and creditors and are fully entitled to receive any proceeds of liquidation.

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED 30 JUNE 2010**

**14. CONVERTING NOTE**

	<b>Consolidated</b>	
	<b>30 June 2010</b>	<b>30 June 2009</b>
Converting note	18,535,227	18,535,227
Equity raising costs	(370,705)	(370,705)
	<u>18,164,522</u>	<u>18,164,522</u>

The convertible participating note has no stated maturity date and may only be redeemed in the event of liquidation of the Company or its subsidiaries. The agreement requires that interest be accrued at an interest rate of 11% p.a., payable on conversion of the note. The liability component of the note has been calculated as the present value of the estimated stream of future contractual interest cash flows discounted at a market rate applicable to similar debt instruments without such a conversion option. The liability component of the convertible note is disclosed in note 10.

Under the agreement, the Company has an obligation to issue shares upon occurrence of a conversion event. Conversion events include the allotment of shares allotted under an IPO, sale or transfer of substantially all of the assets and undertakings of the Company or its subsidiary, date of agreement of sale of 100% of issued shares to someone who is not a shareholder or reorganization that would result in current holders owning less than 50% of voting shares. The equity component relating to this obligation is accounted for as the difference between the face value of the convertible participating note less the fair value of the liability component determined above.

**15. OPTION RESERVE**

Option reserve	92,998,087	12,998,087
	<u>92,998,087</u>	<u>12,998,087</u>

Valuation of the initial option issued to acquire 25% of the Company was based on the fair value of the Company's shares determined using an alternative acquirer valuation methodology through the value of a 40% equity interest acquired under the converting note (convertible participating note) for US\$20m.

During the year additional options were issued to acquire a further 20% interest in the Company. These options were issued in connection with agreements entered into for a US\$65m discounted note facility and AU\$92m in guarantee facilities and have been brought to account at directors' valuation. The directors' valuation is supported by a discounted cashflow of certain proven and probable reserves of the Group and evidence of the market value of the Group's coal resources provided by recent sales of developing coal mines.

**16. RETAINED EARNINGS/(ACCUMULATED LOSSES)**

Opening balance	4,236,333	(2,475,742)
Profit/(Loss) for the year	(7,284,089)	6,712,075
	<u>(3,047,756)</u>	<u>4,236,333</u>

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED 30 JUNE 2010**

**17. CONTROLLED ENTITIES**

	<b>Equity Interest % Held By Consolidated Entity</b>	
	<b>30 June 2010</b>	<b>30 June 2009</b>
Investment in subsidiaries	%	%
Comprising:		
Syntech Resources Pty Ltd	100	100
Mountfield Properties Pty Ltd	100	100

**18. SUBSEQUENT EVENTS**

Subsequent to year end the Group has entered into a financing facility with the Commonwealth Bank to provide further funding that will enable the Group to complete the construction of the mine, and provide bank guarantees to third party providers as required in the normal course of business. This facility is supported by security provided by the Group as well as a guarantee provided by the Group's major shareholder.

In addition, in November 2010 the Group entered into a further financing facility with Goldman Sachs for an additional US\$30m. This further facility is an extension to the existing facility.

Other than the above matter, there has not arisen in the interval between the end of the period and the date of this report any item, transaction or event of a material and unusual nature likely, in the opinion of the Group, to affect significantly the operations of the Group, the results of those operations, or the state of affairs of the Group, in future financial years.

**SYNTECH HOLDINGS PTY LTD**  
**ABN 21 123 782 445**

**DIRECTORS' DECLARATION**

In the opinion of the directors of the Syntech Holdings Pty Ltd ('the Company'):

- (a) the Group is not a reporting entity;
- (b) the financial statements and notes, set out on pages 5 to 23:
  - (i) present fairly the financial position of the Group as at 30 June 2010 and its performance for the financial year ended on that date in accordance with the accounting policies described in Note 1; and
  - (ii) comply with Australian Accounting Standards (including the Australian Accounting Interpretations) to the extent described in Note 1; and
- (c) there are reasonable grounds to believe that the Group will be able to pay their debts as and when they become due and payable,

Signed in accordance with a resolution of the directors of Syntech Holdings Pty Ltd:

Director



Brisbane

17 NOV. 2010

**INDEPENDENT AUDIT REPORT TO THE MEMBERS OF SYNTECH HOLDINGS PTY LTD**

We have audited the accompanying financial report, being a special purpose financial report, of Syntech Holdings Pty Ltd (the “Company”) and its controlled entities (collectively the “Group”), which comprises the consolidated statement of financial position as at 30 June 2010, and the consolidated statement of comprehensive income, consolidated statement of changes in equity and consolidated statement of cash flows for the year ended on that date, a summary of significant accounting policies and other explanatory notes set out on pages 5 to 23.

*Directors’ responsibility for the financial report*

The directors of the Company are responsible for the preparation and fair presentation of the financial report and have determined that the accounting policies described in Note 1 to the financial statements, which form part of the financial report, are appropriate to meet the needs of the members. The directors’ responsibility also includes establishing and maintaining internal control relevant to the preparation and fair presentation of the financial report that is free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

*Auditor’s responsibility*

Our responsibility is to express an opinion on the financial report based on our audit. No opinion is expressed as to whether the accounting policies used, as described in Note 1, are appropriate to meet the needs of members. We conducted our audit in accordance with Australian Auditing Standards. These Auditing Standards require that we comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance whether the financial report is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial report. The procedures selected depend on the auditor’s judgement, including the assessment of the risks of material misstatement of the financial report, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity’s preparation and fair presentation of the financial report in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity’s internal control. An audit also includes evaluating the reasonableness of accounting estimates made by the directors, as well as evaluating the overall presentation of the financial report.

These procedures have been undertaken to form an opinion whether, in all material respects, the financial report is presented fairly in accordance with the basis of accounting described in Note 1 to the financial statements so as to present a view which is consistent with our understanding of the Group’s financial position, and of its performance and cash flows.

The financial report has been prepared for distribution to members. We disclaim any assumption of responsibility for any reliance on this report or on the financial report to which it relates to any person other than the members, or for any purpose other than that for which it was prepared.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

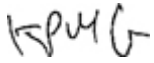
**SYNTECH HOLDINGS PTY LTD**  
**ABN 21 123 782 445**

*Independence*

In conducting our audit, we have complied with the independence requirements of the Australian professional accounting bodies.

**Auditor's opinion**

In our opinion the financial report presents fairly, in all material respects, the financial position of the Group as at 30 June 2010 and of its financial performance and its cash flows for the year then ended in accordance with the accounting policies described in Note 1 to the financial statements.



KPMG



PG Steer  
*Partner*

Brisbane

17 November 2010

# **SYNTECH HOLDINGS II PTY LTD**

ABN 30 126 174 847

**FINANCIAL REPORT  
FOR THE YEAR ENDED  
30 JUNE 2010**

**All amounts are in Australian dollars (\$), except  
as stated otherwise.**

**SYNTECH HOLDINGS II PTY LTD**  
**ABN 30 126 174 847**

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**SYNTECH HOLDINGS II PTY LTD**  
**ABN 30 126 174 847**

**DIRECTORS' REPORT**

The directors present their report together with the financial report of Syntech Holdings II group ("the Group"), being Syntech Holdings II Pty Ltd ("the Company") and its subsidiaries, for the financial year ended 30 June 2010 and the auditor's report thereon.

The directors of the Company at any time during or since the end of the financial year are:

Darian Edward Hielscher	Appointed 6 February 2007
Erik Karl Schafer	Appointed 6 February 2007
Elmar Schafer	Resigned 24 August 2009
Ravi Chidambaram	Appointed 2 August 2007
Robert Mancini	Appointed 2 August 2007
Allan Marson	Resigned 1 September 2010
Stefan Dorfmeister	Appointed 24 August 2009
Shameek Konar	Appointed 24 September 2010

**Company particulars**

Syntech Holdings II Pty Limited was incorporated in Australia on 6 February 2007. The address of the registered office is:

Level 17  
80 Albert Street  
Brisbane QLD 4000

**Principal activities**

The principal activities of the consolidated entity during the course of the period was the exploration and evaluation of coal reserves.

The Group has no employees as at 30 June 2010.

**Review and results of operations**

The operating result of the Group for the year ended 30 June 2010 was a loss of \$23,818 (2009: loss of \$926,554).

During the year the Group continued exploration work in the four mining tenements held by AMH (Chinchilla Coal) Pty Ltd, with work primarily carried out in EPC 873.

**Dividends**

No dividends have been paid or declared by the Company since the end of the previous financial year.

**Likely developments**

Information about likely developments in the operations of the Group and the expected results of those operations in the future financial years has not been included in this report because disclosure of the information would be likely to result in unreasonable prejudice to the Group.

**SYNTECH HOLDINGS II PTY LTD**

**ABN 30 126 174 847**

**DIRECTORS' REPORT**

**Events subsequent to balance date**

There has not arisen in the interval between the end of the period and the date of this report any item, transaction or event of a material and unusual nature likely, in the opinion of the directors, to affect significantly the operations of the Group, the results of those operations, or the state of affairs of the Group, in future financial years.

**Directors' interest and benefits**

Other than as set out below, no Director has received or become entitled to receive, during or since the end of the financial year, a benefit because of a contract made by the chief entity, controlled entity, or a related body corporate with a Director, a firm of which a Director is a member of any entity in which a Director has a substantial financial interest.

Mr Robert Mancini, Mr Allan Marson, Mr Stefan Dorfmeister and Mr Shameek Konar are employed by affiliates of GS Power Holdings LLC which provides financing facilities to the Group by way of converting notes for which it receives interest and equity entitlements.

**Environmental Regulation**

The Group is in compliance with all environmental obligations and legislative requirements imposed by the *Environmental Protection Act 1994 and the Mineral Resources Act 1989*.

**Indemnification and insurance of directors and officers**

The Company has agreed to indemnify all the directors to the maximum extent permitted by law for any liability of the Director connected with being a director of the Company or any subsidiary of the Company. Such indemnity applied to the extent the Director is not indemnified under the insurance policy.

Signed in accordance with a resolution of the directors of Syntech Holdings II Pty Ltd



\_\_\_\_\_  
Director

17 NOV 2010

\_\_\_\_\_  
Dated

**SYNTECH HOLDINGS II PTY LTD**  
**ABN 30 126 174 847**

**CONSOLIDATED STATEMENT OF COMPREHENSIVE INCOME**  
**FOR THE YEAR ENDED 30 JUNE 2010**

	<i>Note</i>	<b>Consolidated</b>	
		<b>2010</b>	<b>2009</b>
Unrealised foreign currency gains		243,111	(668,942)
		<u>243,111</u>	<u>(668,942)</u>
<b>Expenses</b>			
Operating costs		(266,306)	(281,944)
<b>Total expenses</b>		<u>(266,306)</u>	<u>(281,944)</u>
Results from operating activities		<u>(23,195)</u>	<u>(950,886)</u>
Financial income		5,268	24,335
Financial expenses		(8,916,895)	(983,262)
Borrowing costs capitalised		<u>8,911,004</u>	<u>983,259</u>
Net financial expenses		<u>(623)</u>	<u>24,332</u>
Profit/(loss) before income tax		<u>(23,818)</u>	<u>(926,554)</u>
Income tax expense		<u>—</u>	<u>—</u>
<b>Profit/(loss) for the year</b>		<u>(23,818)</u>	<u>(926,554)</u>
Other comprehensive income		<u>—</u>	<u>—</u>
<b>Total comprehensive income</b>		<u>(23,818)</u>	<u>(926,554)</u>

*The notes on pages 9 to 20 are an integral part of these consolidated financial statements.*

CONSOLIDATED STATEMENT OF CHANGES IN EQUITY  
FOR THE YEAR ENDED 30 JUNE 2010

Consolidated

	<i>Note</i>	<b>Share Capital</b>	<b>Convertible Note</b>	<b>Option Reserve</b>	<b>Retained Earnings</b>	<b>Total Equity</b>
Balance at 1 July 2008		6,318,490	7,606,039	—	275,224	14,199,753
<b>Total comprehensive income for the period</b>						
Profit or loss		—	—	—	(926,554)	(926,554)
<i>Other comprehensive income</i>		—	—	—	—	—
Total other comprehensive income		—	—	—	—	—
Total comprehensive income for the period		—	—	—	(926,554)	(926,554)
<b>Transactions with owners, recorded directly in equity</b>						
<i>Contributions by and distributions to owners</i>		—	—	—	—	—
Total contributions by and distributions to owners		—	—	—	—	—
Balance at 30 June 2009		6,318,490	7,606,039	—	(651,330)	13,273,199
Balance at 1 July 2009		6,318,490	7,606,039	—	(651,330)	13,273,199
<b>Total comprehensive income for the period</b>						
Profit or loss		—	—	—	(23,818)	(23,818)
<i>Other comprehensive income</i>		—	—	—	—	—
Total other comprehensive income		—	—	—	—	—
Total comprehensive income for the period		—	—	—	(23,818)	(23,818)
<b>Transactions with owners, recorded directly in equity</b>						
<i>Contributions by and distributions to owners</i>		—	—	—	—	—
Options issued re debt financing & provision of guarantees		—	—	20,000,000	—	20,000,000
Total contributions by and distributions to owners		—	—	20,000,000	—	20,000,000
Balance at 30 June 2010		6,318,490	7,606,039	20,000,000	(675,148)	33,249,381

The notes on pages 9 to 20 are an integral part of these consolidated financial statements.

**SYNTECH HOLDINGS II PTY LTD**  
**ABN 30 126 174 847**

**CONSOLIDATED STATEMENT OF FINANCIAL POSITION**  
**AS AT 30 JUNE 2010**

	<i>Note</i>	<b>Consolidated</b>	
		<b>2010</b>	<b>2009</b>
<b>Assets</b>			
Cash	3	153,127	149,552
Receivables	4	5,570	7,550
Prepayments		8,663	18,620
<b>Total current assets</b>		<b>167,360</b>	<b>175,722</b>
Mining tenements	5	28,080,551	19,169,546
Finance facility fees	6	12,086,135	61,056
<b>Total non-current assets</b>		<b>40,166,686</b>	<b>19,230,602</b>
<b>Total assets</b>		<b>40,334,046</b>	<b>19,406,324</b>
<b>Liabilities</b>			
Trade and other payables	7	28,440	350,076
<b>Total current liabilities</b>		<b>28,440</b>	<b>350,076</b>
Trade and other payables	7	574,936	—
Convertible note interest	8	6,481,289	5,783,049
<b>Total non-current liabilities</b>		<b>7,056,225</b>	<b>5,783,049</b>
<b>Total liabilities</b>		<b>7,084,665</b>	<b>6,133,125</b>
<b>Net assets</b>		<b>33,249,381</b>	<b>13,273,199</b>
<b>Equity</b>			
Issued capital	9	6,318,490	6,318,490
Convertible note	10	7,606,039	7,606,039
Option reserve	11	20,000,000	—
Retained earnings/(Accumulated losses)	12	(675,148)	(651,330)
<b>Total Equity</b>		<b>33,249,381</b>	<b>13,273,199</b>

*The notes on pages 9 to 20 are an integral part of these consolidated financial statements.*

**SYNTECH HOLDINGS II PTY LTD**  
**ABN 30 126 174 847**

**CONSOLIDATED STATEMENT OF CASH FLOWS**  
**AS AT 30 JUNE 2010**

	<i>Note</i>	<b>Consolidated</b>	
		<b>2010</b>	<b>2009</b>
<b>Cash flows from operating activities</b>			
Payments to suppliers and employees		(801)	(114,600)
Interest received		4,999	30,627
<b>Net cash from / (used in) operating activities</b>	3	<u>4,198</u>	<u>(83,973)</u>
<b>Cash flows from investing activities</b>			
Development of mining tenements		—	(788,243)
<b>Net cash from / (used in) investing activities</b>		<u>—</u>	<u>(788,243)</u>
<b>Cash flows from financing activities</b>			
Guarantee fees paid		(623)	—
<b>Net cash from / (used in) financing activities</b>		<u>(623)</u>	<u>—</u>
Net increase / (decrease) in cash and cash equivalents		3,575	(872,216)
Cash and cash equivalents at beginning of year		149,552	1,021,768
<b>Cash and cash equivalents at end of year</b>	3	<u>153,127</u>	<u>149,552</u>

*The notes on pages 9 to 20 are an integral part of these consolidated financial statements.*

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED 30 JUNE 2010**

**1. STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES**

**(a) Statement of compliance**

Syntech Holdings II Pty Ltd (the “Company”) is a company domiciled in Australia. The address of the Company’s registered office is Level 17, 80 Albert Street, Brisbane, Queensland 4000. The consolidated financial statements of the Company as at and for the year ended 30 June 2010 comprise the Company and its subsidiaries (together referred to as the “Group”). Parent entity financial information has not been provided in this financial report.

In the opinion of the directors the Group is not a reporting entity. The financial report of the Group has been drawn up as a special purpose financial report for distribution to the members.

The special purpose financial report has been prepared in accordance with the recognition and measurement aspects of all applicable Australian Accounting Standards (“AASBs”) adopted by the Australian Accounting Standards Board (“AASB”).

The financial report does not include the disclosure requirements of the following pronouncements having a material effect:

- |            |  |
|------------|--|
| • AASB 7   | Financial instruments: disclosures                       |
| • AASB 112 | Income taxes   |
| • AASB 116 | Property, plant & equipment                              |
| • AASB 118 | Revenue  |
| • AASB 123 | Borrowing costs  |
| • AASB 124 | Related party disclosures                                |
| • AASB 132 | Financial instruments: presentation                      |
| • AASB 137 | Provisions, contingent liabilities and contingent assets |

**(b) Basis of preparation**

The financial report is presented in Australian dollars.

The financial report is prepared on the historical cost basis.

The accounting policies set out below have been applied consistently to all periods presented in these consolidated financial statements, and have been applied consistently by Group entities.

**Going concern**

The financial report has been prepared on a going concern basis which contemplates the continuity of normal business activities and the realisation of assets and settlement of liabilities in the normal course of business.

The ability of the Group to continue as a going concern is dependant upon funds being provided under loan facilities supported by GS Power Holdings LLC to a related party, Syntech Holdings Pty Ltd and/or as outlined in the following paragraphs, the Group obtaining alternative finance from its shareholders or third party financiers.

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED 30 JUNE 2010**

**1. STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES (CONT)**

**(b) Basis of preparation (cont.)**

**Going concern (cont.)**

The ability of Syntech Holdings Pty Ltd to continue as a going concern is in turn dependent upon their loan facilities being available to Syntech Holdings Pty Ltd. The ability of Syntech Holdings Pty Ltd to continue as a going concern for 12 months from the date of this report is also dependent upon Syntech Holdings Pty Ltd being able to either obtain an extension of interest bearing notes (book value of \$67,933,838 at 30 June 2010 which are repayable in August 2011) past August 2011 or Syntech Holdings Pty Ltd obtaining alternate finance facilities to enable the interest bearing notes to be repaid from shareholders or third party financiers.

The directors consider that:

- the funding under the loan facilities disclosed from GS Power Holdings LLC will be provided, and
- Syntech Holdings Pty Ltd will be able to provide funds, and Syntech Holdings Pty Ltd will continue as a going concern for 12 months from the date of this report as Syntech Holdings Pty Ltd will be able to either obtain an extension of interest bearing notes (book value of \$67,933,838 at 30 June 2010 which are repayable in August 2011) past August 2011 or Syntech Holdings Pty Ltd obtaining alternate finance facilities to enable the interest bearing notes to be repaid.

In the event that the Group could not continue as a going concern, the Group may not be able to realise its assets and extinguish liabilities in the normal course of business and at the amounts stated in the financial statements.

**(c) Basis of Consolidation**

***(i) Subsidiaries***

Subsidiaries are entities controlled by the Company. Control exists when the Company has the power, directly or indirectly, to govern the financial and operating policies of an entity so as to obtain benefits from its activities. In assessing control, potential voting rights that presently are exercisable or convertible are taken into account. The financial statements of subsidiaries are included in the consolidated financial report from the date that control commences until the date that control ceases.

***(ii) Transactions eliminated on consolidation***

Intragroup balances, and any unrealised gains and losses or income and expenses arising from intragroup transactions, are eliminated in preparing the consolidated financial statements.

Unrealised losses are eliminated in the same way as unrealised gains, but only to the extent that there is no evidence of impairment.



**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED 30 JUNE 2010**

**1. STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES (CONT)**

**(d) Foreign currency**

*Transactions*

Transactions in foreign currencies are translated at the foreign exchange rate ruling at the date of the transaction. Monetary assets and liabilities denominated in foreign currencies at the balance sheet date are translated to Australian dollars at the foreign exchange rate ruling at that date. Foreign exchange differences arising on translation are recognised in profit or loss.

**(e) Taxation**

Income tax on the profit or loss for the year comprises current and deferred tax. Income tax is recognised in profit or loss except to the extent that it relates to items recognised directly in equity, in which case it is recognised in equity.

Current tax is the expected tax payable on the taxable income for the year, using tax rates enacted or substantively enacted at the balance sheet date, and any adjustments to tax payable in respect of previous years.

Deferred tax is provided using the balance sheet liability method, providing for temporary differences between the carrying amount of assets and liabilities for financial reporting purposes and the amounts used for taxation purposes.

Deferred taxes are not recognised on temporary differences upon asset acquisitions that neither affect accounting profit or taxable income.

A deferred tax asset is recognised only to the extent that it is probable that future taxable profits will be available against which the asset can be utilized. Deferred tax assets are reduced to the extent that it is no longer probable that the related tax benefit will be realised.

**(f) Goods and services tax**

Revenues, expenses and assets are recognised net of the amount of goods and services tax (GST), except where the amount of GST incurred is not recoverable from the taxation authority. In these circumstances, the GST is recognised as part of the cost of acquisition of the asset or as part of the expense. Receivables and payables are stated with the amount of GST included. The net amount of GST recoverable from or payable to, the ATO is included as a current asset or liability in the balance sheet.

Cash flows are included in the statement of cash flows on a gross basis. The GST components of cash flows arising investing and financing activities which are recoverable from, or payable to, the ATO are classified as operating cash flows.

**(g) Cash**

Cash comprises cash balances and deposits maturing within 3 months.

**(h) Trade and other receivables**

Trade and other receivables are stated at their amortised cost using the effective interest method less any impairment losses.

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED 30 JUNE 2010**

**1. STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES (CONT)**

**(i) Property, plant and equipment**

All assets acquired, including property plant and equipment, are initially recorded at their cost of acquisition at the date of acquisition, being the fair value of the consideration provided plus incidental costs directly attributable to the acquisition.

Expenditure is only recognised as an asset when the group controls future economic benefits as a result of the costs incurred that are probable and can be measured reliably.

***Depreciation***

All assets have limited useful lives and are depreciated using both the straight line method and diminishing value method over their estimated useful lives, taking into account estimated residual values. All assets are depreciated from when each asset is available for use, that is, when it is in the location and condition necessary for it to be capable of operating in the manner intended by management.

Depreciation rates and methods are reviewed annually for appropriateness. When changes are made, adjustments are reflected prospectively in current and future periods only. Depreciation amounts are expensed.

The estimated useful lives of assets in the current and comparative periods are as follows:

Plant and equipment	7.5 years
Low value pool	2.5 years
Motor vehicles	4.5 years
Office equipment	2.5 years
Furniture, fixtures and fittings	9 years
Computer equipment	2.5 years

**(j) Impairment**

The carrying amounts of the group's assets, other than deferred tax assets, are reviewed at each balance sheet date to determine whether there is any indication of impairment. If any such indication exists, the asset's recoverable amount is estimated.

An impairment loss is recognised whenever the carrying amount of an asset or its cash generating unit exceeds its recoverable amount. The recoverable amount of an asset or a cash generating unit is the greater of its value in use and its fair value less costs to sell. In assessing value in use, the estimated future cash flows are discounted to their present value using a pre-tax discount rate that reflects current market assessments of the time value of money and the risks specific to the asset. Impairment losses are recognised in profit or loss.

**(k) Trade and other payables**

Trade and other payable are stated at their amortised cost using the effective interest method. Trade payables are non-interest bearing and are normally settled on 30-day terms.

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED 30 JUNE 2010**

**1. STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES (CONT)**

**(l) Mining tenement - exploration and evaluation costs**

Mining tenement - exploration and evaluation costs, including the costs of acquiring assets and licences, are capitalised as exploration and evaluation assets on an area of interest basis. Mining tenements acquired by the Group are reflected at fair value upon acquisition. Costs incurred before the Group has obtained the legal rights to explore an area are recognised as an expense in profit or loss.

Mining tenement, exploration and evaluation assets are only recognised if the rights of the area of interest are current and either:

- (i) the expenditures are expected to be recouped through successful development and exploitation of the area of interest; or
- (ii) activities in the area of interest have not at the reporting date, reached a stage which permits a reasonable assessment of the existence or other wise of economically recoverable reserves and active and significant operations in, or in relation to, the area of interest are continuing.

Mining tenement, exploration and evaluation assets are assessed for impairment if sufficient data exists to determine technical feasibility and commercial viability and facts and circumstances suggest that the carrying amount exceeds the recoverable amount. For the purposes of impairment testing, exploration and evaluation assets are allocated to cash-generating units to which the exploration activity relates.

The cash generating unit shall not be larger than the area of interest.

Once the technical feasibility and commercial viability of the extraction of mineral holdings in an area of interest are demonstrable, exploration and evaluation assets attributable to that area of interest are first tested for impairment and reclassified to mining property and development assets within mining tenements.

**(m) Employee benefits**

***Wages, salaries, annual leave, sick leave and non-monetary benefits***

Liabilities for employee benefits for wages, salaries, annual leave and sick leave that are expected to be settled within 12 months of the reporting date represent present obligations resulting from employees' services provided to reporting date, are calculated at undiscounted amounts based on remuneration wages and salary rates that the entity expects to pay at reporting date including related on-costs, such as, workers compensation insurance and payroll tax.

Non-accumulating non-monetary benefits are expensed based on the net marginal cost to the entity as the benefits are taken by the employees.

***Superannuation plan***

Obligations for contributions to defined contribution superannuation funds are recognised as an expense in profit or loss as incurred.

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED 30 JUNE 2010**

**1. STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES (CONT)**

**(n) Convertible participating notes - converting note**

Convertible participating notes issued by the Company are accounted for as compound financial instruments, containing liability and equity components

The liability component of the note is calculated as the present value of the expected stream of future contractual cash flows discounted at a market rate applicable to similar debt instruments without such a conversion option. The conversion feature of the note is accounted for as an equity component. The value ascribed to this feature is the residual, that is the fair value of the entire instrument less the value of the liability component determined above.

**(o) Option reserve**

The fair value of options issued in connection with the provision of funding arrangements and recorded in the option reserve is based on the fair value of the options issued by the Company. The fair value of the options issued is based on an estimate of the fair value of the Group, determined using a discounted cash flow model of certain proven and probable reserves and evidence of the market value of the Group's coal resources provided by recent sales of developing coal mines.

**(p) Issued capital**

Shares issued as consideration for the acquisition of assets, including mining tenements, by the Company are recorded based on the fair value of the assets received by the Company in exchange for issuing the shares.

**(q) Finance income and expenses**

Finance income comprises interest income on funds invested. Interest income is recognised as it accrues, using the effective interest method.

Finance expenses comprise interest expense on borrowings, amortisation of the liability component of convertible participating notes and amortisation of capitalised borrowing costs and other associated costs of borrowings. Borrowing costs incurred that are directly attributable to the acquisition, construction or production of a qualifying asset are capitalised as part of the cost of that asset. All other borrowing costs are recognised in profit or loss using the effective interest method.

**(r) Accounting estimates and judgements**

The preparation of a financial report in conformity with Australian Accounting Standards requires management to make judgements, estimates and assumptions that affect the application of policies and reported amounts of assets and liabilities, income and expenses. The estimates and associated assumptions are based on historical experience and various other factors that are believed to be reasonable under the circumstances, the results of which form the basis of making the judgements about carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates. These accounting policies have been consistently applied by the Group.

The estimates and underlying assumptions are reviewed on an ongoing basis. Revisions to accounting estimates are recognised in the period in which the estimate is revised if the revision affects only that period or in the period of the revision and future periods if the revision affects both current and future periods.

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED 30 JUNE 2010**

**1. STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES (CONT)**

**(r) Accounting estimates and judgements (cont.)**

Management have determined with the directors the development, selection and disclosure of the consolidated entity's critical accounting policies and estimates and the application of these policies and estimates. The estimates and judgements that have a significant risk of causing material adjustment to the carrying amounts are discussed below.

**Fair value of mining tenements, exploration & evaluation assets and value of issued capital**

Note 5 contains information and calculations about the basis used to measure the fair value of mining tenement exploration & evaluation assets upon acquisition by the Group.

Note 9 contains information about the basis of the issued capital, including amounts being recorded based on the fair value of the assets received by the Company, in exchange for issuing the shares.

**Fair value of mining tenements, exploration & evaluation assets and value of issued capital (cont.)**

These calculations involved making an estimation of the fair value of the Cameby Downs mining tenement asset acquired, which was based on an alternative acquirer valuation methodology through the value of a 65% equity interest acquired under the converting note (convertible participating note) for US\$10m. The stage of development of the mining tenements has not enabled the fair value of the asset to be reliably determined under any other valuation approach, including the value in use of the asset.

**Fair value of option issued**

Note 11 contains information about the basis of the option reserve.

During the year options were issued to acquire a 20% interest in the Company. These options were issued in connection with the provision of funding arrangements to Syntech Holdings Pty Ltd, a related party, to enable the Group to progress the commercialisation of its mining tenements, including construction of related infrastructure, and have been brought to account at directors' valuation. The directors' valuation is supported by a discounted cashflow of certain proven and probable reserves of the Group and evidence of the market value of the Group's coal resources provided by recent sales of developing coal mines.

**Classification of convertible participating notes**

Note 10 contains information about the basis for classification of convertible participating notes. The liability component was calculated as the present value of the estimated stream of future contractual interest cash flows. The equity component was determined to be the difference between the face value less the fair value of the liability component.

**(s) Change in accounting policy – presentation of financial statements**

The Group applies revised AASB 101 *Presentation of Financial Statements* (2007), which became effective as of 1 July 2009. As a result, the Group presents in the consolidated statement of changes in equity all owner changes in equity, whereas all non-owner changes in equity are presented in the consolidated statement of comprehensive income.

Comparative information has been re-presented so that it is also in conformity with the revised standard.

NOTES TO THE FINANCIAL STATEMENTS  
 FOR THE YEAR ENDED 30 JUNE 2010

2. AUDITOR'S REMUNERATION

	Consolidated	
	2010	2009
<i>Audit services:</i>		
Audit of the Group - KPMG Australia	26,000	25,410
	<u>26,000</u>	<u>25,410</u>

3. CASH AND CASH EQUIVALENTS

Bank balances	153,127	115,004
Call deposit	—	34,548
Cash and cash equivalents in the statement of cash flows	<u>153,127</u>	<u>149,552</u>
<b>Reconciliation of cash flows from operating activities</b>		
Profit/(loss) for the period	(23,818)	(926,554)
Adjustments for:		
Net finance expense	8,916,894	983,262
Borrowing costs capitalised	(8,911,004)	(983,259)
Unrealised foreign exchange (gain)/loss	(243,111)	668,942
<b>Operating profit/(loss) before changes in working capital and provisions</b>	<b>(261,039)</b>	<b>(257,609)</b>
<b>Changes in operating assets and liabilities :</b>		
(Increase)/decrease in trade debtors and other receivables	1,886	6,293
(Increase)/decrease in prepayments	61,933	(18,620)
(Decrease)/increase in trade creditor and accruals	201,418	185,963
<b>Net cash from operating activities</b>	<u><b>4,198</b></u>	<u><b>(83,973)</b></u>

4. RECEIVABLES

<b>CURRENT</b>		
GST receivable	4,770	4,864
Other debtors & receivables	800	2,686
	<u>5,570</u>	<u>7,550</u>

**NOTES TO THE FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED 30 JUNE 2010**

**5. MINING TENEMENTS**

	<b>Consolidated</b>	
	<b>2010</b>	<b>2009</b>
EPC 562	2,001,367	1,366,259
EPC 873	19,674,281	13,430,898
MDL 246	744,505	508,246
MDL 247	5,660,398	3,864,143
<b>Total Mining Tenements</b>	<b>28,080,551</b>	<b>19,169,546</b>

The initial carrying value of the mining tenements was based on the fair value at acquisition of the asset using an alternate acquirer valuation methodology through the value of a 65% equity interest acquired in the tenements under the converting note issued to GS Power Holdings LLC for US\$10m, direct expenditure and associated costs.

The recoverability of the carrying value of the mining tenement - exploration and evaluation assets is dependent upon successful development of the tenements or alternatively the sale of the tenements.

**6. FINANCE FACILITY FEE**

Finance facility fee	20,079,461	79,462
Less accumulated amortisation	(7,993,326)	(18,406)
	<b>12,086,135</b>	<b>61,056</b>

The finance facility fee recognised at 30 June 2009 represented an allocation of the establishment fees paid on issue of the convertible note and options proportionate to the debt element brought to account in relation to the convertible note.

During the year ended 30 June 2010, the Company issued options in connection with the provision of funding arrangements to Syntech Holdings Pty Ltd, a related party, to enable the Group to progress the commercialisation of its mining tenements, including construction of related infrastructure.

The options entitle the holder to 20% of the share capital of the Company and have an estimated fair value of \$20m. The fair value has been estimated based on the fair value of the Group, determined using a discounted cash flow model of certain proven and probable reserves and evidence of the market value of the Group's coal resources provided by recent sales of developing coal mines.

**7. TRADE AND OTHER PAYABLES**

<b>CURRENT</b>		
Trade creditors	—	50,967
Accruals	28,440	52,000
Loan from related party	—	247,109
	<b>28,440</b>	<b>350,076</b>

**SYNTECH HOLDINGS II PTY LTD**  
**ABN 30 126 174 847**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED 30 JUNE 2010**

**7. TRADE AND OTHER PAYABLES (CONT.)**

	<b>Consolidated</b>	
	<b>2010</b>	<b>2009</b>
<b>NON-CURRENT</b>		
Loan from related party	574,936	—
	<u>574,936</u>	<u>—</u>

No interest is payable on creditors.

**8. CONVERTIBLE NOTE INTEREST**

Deferred interest on converting note	3,973,072	3,973,072
Accrued interest since issue	2,508,682	1,610,197
Currency movement on USD liability	(465)	199,780
	<u>7,633,171</u>	<u>5,785,058</u>

The basis of recording the deferred interest on the converting note is outlined in note 10.

**9. ISSUED CAPITAL**

Share capital		
3,500,001 ordinary shares, fully paid (2009: 3,500,001)	<u>6,318,490</u>	<u>6,318,490</u>

The issued capital represents an amount recorded for the issue of 3,500,000 ordinary shares, based on the fair value of the net assets received, including shares in AMH (Chinchilla Coal) Pty Ltd, by the Company in exchange for issuing the shares. The fair value of the AMH (Chinchilla Coal) Pty Ltd shares acquired was based on the value of a 65% equity interest acquired under the Converting note for US\$10m issued by the Company to GS Power Holdings LLC, plus 1 ordinary share issued for \$1.00.

No dividends have been paid or declared by the Company since incorporation.

***Terms and conditions***

Holders of ordinary shares are entitled to receive dividends as declared from time to time and are entitled to one vote per share at shareholders' meetings.

In the event of winding up of the Group, ordinary shareholders rank after all other shareholders and creditors and are fully entitled to receive any proceeds of liquidation.



**NOTES TO THE FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED 30 JUNE 2010**

**10. CONVERTING NOTE**

	<b>Consolidated</b>	
	<b>2010</b>	<b>2009</b>
Converting note	7,761,264	7,761,264
Equity raising costs	(155,225)	(155,225)
	<u>7,606,039</u>	<u>7,606,039</u>

The convertible participating note has no stated maturity date and may only be redeemed in the event of liquidation of the Company or its subsidiaries. The agreement requires that interest be accrued at an interest rate of 11% p.a., payable on conversion of the note. The liability component of the note has been calculated as the present value of the estimated stream of future contractual interest cash flows discounted at a market rate applicable to similar debt instruments without such a conversion option. The liability component of the convertible note is disclosed in note 8.

Under the agreement, the Company has an obligation to issue shares upon occurrence of a conversion event. Conversion events include the allotment of shares allotted under an IPO, sale or transfer of substantially all of the assets and undertakings of the Company or its subsidiary, date of agreement of sale of 100% of issued shares to someone who is not a shareholder or reorganisation that would result in current holders owning less than 50% of voting shares. The equity component relating to this obligation is accounted for as the difference between the face value of the convertible participating note less the fair value of the liability component determined above.

**11. OPTION RESERVE**

	<b>Consolidated</b>	
	<b>30 June 2010</b>	<b>30 June 2009</b>
Option reserve	20,000,000	—
	<u>20,000,000</u>	<u>—</u>

During the year options were issued to acquire a 20% interest in the Company. These options were issued in connection with the provision of funding arrangements to Syntech Holdings Pty Ltd, a related party, to enable the Group to progress the commercialisation of its mining tenements, including construction of related infrastructure, and have been brought to account at directors' valuation. The directors' valuation is supported by a discounted cashflow of certain proven and probable reserves of the Group and evidence of the market value of the Group's coal resources provided by recent sales of developing coal mines.

**12. RETAINED EARNINGS/(ACCUMULATED LOSSES)**

Opening balance	(651,330)	275,224
Profit/(Loss) for the year	(23,818)	(926,554)
	<u>(675,148)</u>	<u>(651,330)</u>

**SYNTECH HOLDINGS II PTY LTD**

**ABN 30 126 174 847**

**NOTES TO THE FINANCIAL STATEMENTS**

**FOR THE YEAR ENDED 30 JUNE 2010**

**13. CONTROLLED ENTITIES**

	<b>Equity Interest % Held By Consolidated Entity</b>	
	<b>30 June 2010</b>	<b>30 June 2009</b>
Investment in subsidiaries	%	%
Comprising:		
AMH (Chinchilla Coal) Pty Ltd	100	100

**SYNTECH HOLDINGS II PTY LTD**  
**ABN 30 126 174 847**

**DIRECTORS' DECLARATION**

In the opinion of the directors of the Syntech Holdings II Pty Ltd ('the Company'):

- (a) the Group is not a reporting entity;
- (b) the financial statements and notes, set out on pages 5 to 20:
  - (i) present fairly the financial position of the Group as at 30 June 2010 and of its performance for the financial year ended on that date in accordance with the accounting policies described in Note 1; and
  - (ii) comply with Australian Accounting Standards (including the Australian Accounting Interpretations) to the extent described in Note 1; and
- (c) there are reasonable grounds to believe that the Group will be able to pay its debts as and when they become due and payable.

Signed in accordance with a resolution of the directors of Syntech Holdings II Pty Ltd:

Director



Brisbane  
17 NOV 2010

**INDEPENDENT AUDIT REPORT TO THE MEMBERS OF SYNTECH HOLDINGS II PTY LTD**

We have audited the accompanying financial report, being a special purpose financial report, of Syntech Holdings II Pty Ltd (the “Company”) and its controlled entities (collectively the “Group”), which comprises the consolidated statement of financial position as at 30 June 2010, and the consolidated statement of comprehensive income, consolidated statement of changes in equity and consolidated statement of cash flows for the year ended on that date, a summary of significant accounting policies and other explanatory notes set out on pages 5 to 20.

*Directors’ responsibility for the financial report*

The directors of the Company are responsible for the preparation and fair presentation of the financial report and have determined that the accounting policies described in Note 1 to the financial statements, which form part of the financial report, are appropriate to meet the needs of the members. The directors’ responsibility also includes establishing and maintaining internal control relevant to the preparation and fair presentation of the financial report that is free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

*Auditor’s responsibility*

Our responsibility is to express an opinion on the financial report based on our audit. No opinion is expressed as to whether the accounting policies used, as described in Note 1, are appropriate to meet the needs of members. We conducted our audit in accordance with Australian Auditing Standards. These Auditing Standards require that we comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance whether the financial report is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial report. The procedures selected depend on the auditor’s judgement, including the assessment of the risks of material misstatement of the financial report, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity’s preparation and fair presentation of the financial report in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity’s internal control. An audit also includes evaluating the reasonableness of accounting estimates made by the directors, as well as evaluating the overall presentation of the financial report.

These procedures have been undertaken to form an opinion whether, in all material respects, the financial report is presented fairly in accordance with the basis of accounting described in Note 1 to the financial statements so as to present a view which is consistent with our understanding of the Group’s financial position, and of its performance and cash flows.

The financial report has been prepared for distribution to members. We disclaim any assumption of responsibility for any reliance on this report or on the financial report to which it relates to any person other than the members, or for any purpose other than that for which it was prepared.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

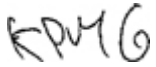
**SYNTECH HOLDINGS II PTY LTD**  
**ABN 30 126 174 847**

*Independence*

In conducting our audit, we have complied with the independence requirements of the Australian professional accounting bodies.

**Auditor's opinion**

In our opinion the financial report presents fairly, in all material respects, the financial position of the Group as at 30 June 2010 and of its financial performance and its cash flows for the year then ended in accordance with the accounting policies described in Note 1 to the financial statements.



KPMG



PG Steer  
*Partner*

Brisbane  
17 November 2010

**Share Sale Agreement**

Annexure B—Data Room

Part A—Data Room Index

Part B—Requests

Part A - Data Room Index

Date from: 13-May-11

<b>Document name</b>	<b>Uploaded / Modified</b>
Syntech MatterWeb Rules and Procedures	09/02/2011
<b>00. Site Index</b>	
Site Index	04/06/2008
<b>01. Asset Overview and Financial Model</b>	
1633 - Syntech Overview - April 2009	08/05/2009
1787 - Syntech Financial Model - updated August 2010	23/08/2010
1787.01 - Syntech Financial Model - updated August 2010 (Bri only)	23/08/2010
2492 - Tax depreciation schedule at 30 June 2010	25/02/2011
2493 - Syntech Coal Sales Quality v2	25/02/2011
<b>01. Additional Details</b>	
2468 - Data Room Queries February 2010	24/02/2011
2488 - COGS Jan 11	24/02/2011
2489 - Accounts Payable Aged Report as at 31 January 2011	24/02/2011
2490 - Provision for Rehabilitation	24/02/2011
<b>02. Syntech Holdings</b>	
<b>01. Corporate</b>	
<b>1.01- Syntech Holdings</b>	
0185 - Company Certificate for Syntech Holdco	20/02/2008
0990 - Syntech Holdings Pty Ltd group structure Mar08	01/04/2008
1040 - Constitution Syntech Holdings	07/05/2008
1528 -SH ASIC Extract	25/11/2009
2269 - SH Amendment to Shareholders Agreement	07/09/2010
2276 - Share registers - Syntech Holdings	09/09/2010
2473 - SHI Register of Options	24/02/2011
<b>1.02 - Syntech Resources</b>	
0187 - Enviromental Policy	20/02/2008
0189 - Safety and Health Policy	20/02/2008
0191 - Syntech Certificate of Registration and Change of Name	20/02/2008
1041 - Constitution Syntech Resources	07/05/2008
1532 - SR ASIC Details September 2009	25/11/2009
2277 - Share registers - Syntech Resources	09/09/2010
<b>1.03- Mountfield Properties</b>	
0193 - Mountfiled Certificate of Registration	20/02/2008

1042 - Constitution Mountfield Properties	07/05/2008
1521 - MF ASIC Extract	25/11/2009
2275 - Share registers - Mountfield	09/09/2010
<b>1.04 - Management CVs</b>	
1054 - Brett Purkiss Resume	12/05/2008
1056 - D Hielscher Detailed CV April 2008	12/05/2008
1591 - Paul Kelly CV 0708	24/11/2008
<b>1.05 - Board Meetings</b>	
<b>1.05.01 - 070628 28 June 2007</b>	
0194 - Agenda for a Meeting of Directors Jun07	20/02/2008
0195 - Directors Minutes 28 June 2007	20/02/2008
<b>1.05.02 - 070802 2 August 2007</b>	
0196 - Agenda for a Meeting of Directors 2 Aug07	20/02/2008
0197 - Directors Minutes 2 August 2007	20/02/2008
0198 - Cash Reconciliation Jun07	20/02/2008
0199 - Draft 30 June Stats	20/02/2008
0200 - Letter re WICT Expressions of Interest	20/02/2008
0201 - Board Summary Port Access to Gladstone	20/02/2008
0202 - Board Summary Rail Access to Brisbane	20/02/2008
<b>1.05.03 - 070913 13 September 2007</b>	
0203 - Agenda for a Meeting of Directors 13 Sep07	20/02/2008
0204 - Directors Minutes 13 September 2007	20/02/2008
0205 - Cash Reconciliation Aug07	20/02/2008
<b>1.05.04 - 071129 29 November 2007</b>	
0207 - Agenda for a Meeting of Directors 29 Nov 07	20/02/2008
0208 - Directors Minutes 29 November 2007	20/02/2008
0209 - Cash Reconciliation Oct07	20/02/2008
0210 - Board Summary EPC 1165 Cooperation Deed	20/02/2008
0211 - Board Summary Syntech Additional Exploration	20/02/2008
0212 - Proposed 2008 Board Meeting Schedule	20/02/2008
<b>1.05.05 - 080124 24 January 2008</b>	
0213 - Agenda for a Meeting of Directors 24 Jan 08	20/02/2008
0214 - Directors Minutes 24 January 2008	18/04/2008
<b>1.05.06 - 080221 21 February 2008</b>	
0998 - Agenda for a Meeting of Directors 21 Feb 08	18/04/2008
0999 - Directors Minutes 21 February2008	18/04/2008



<b>1.05.07 - 080403 3 April 2008</b>		
1417 - Agenda for a Meeting of Directors 3 Apr 08		13/06/2008
1418 - Directors Minutes 3 April 2008		13/06/2008
<b>1.05.08 - 080606 6 June 2008</b>		
1430 - Directors Minutes 6 June 2008		19/06/2008
1431 - Agenda for a Meeting of Directors 6 Jun 08		19/06/2008
1432 - Summary of Coal Transport Service Agreement		19/06/2008
1433 - Summary of Access Facilitation Deed		19/06/2008
1434 - Cash Reconciliation May 08 v revised business plan Sep 07		19/06/2008
<b>1.05.09 - 080813 13 August 2008</b>		
1554 - Agenda for a Meeting of Directors 13 Aug 08		24/11/2008
1556 - Cash Reconciliation Jun 08 v revised business plan Sep 07		24/11/2008
1557 - Directors Minutes 13 Aug 2008		24/11/2008
1558 - Draft 30 June 08 Stats v 3 070808		24/11/2008
1613 - Agenda for a Meeting of Directors 13 Aug 08		24/11/2008
1614 - Cash Reconciliation Jun 08 v revised business plan Sep 07		24/11/2008
1616 - Draft 30 June 08 Stats v 3 070808		24/11/2008
<b>1.05.10 - 081113 13 November 2008</b>		
1646 - Agenda for a Meeting of Directors SH 13 Nov 08		09/06/2009
1647 - SHI Directors Minutes 13 Nov 2008		09/06/2009
<b>1.05.11 - 090525 25 May 2009</b>		
1702 - Agenda for a Meeting of SH Directors 25 May 2009		23/11/2009
1703 - SHI Directors Minutes 25 May 2009		23/11/2009
<b>1.05.12 - 090819 19 August 2009</b>		
2364 - Syntech Holdings Pty Ltd - Board Minutes - 19 August 2009		08/11/2010
<b>1.05.13 - 100225 25 February 2010</b>		
2365 - Agenda for a Meeting of Directors SH - 25 February 2010		08/11/2010
2366 - SHI Directors Minutes - 25 February 2010		08/11/2010
<b>1.05.14 - 100610 10 June 2010</b>		
2367 - Agenda for a Meeting of Directors - 10 June 2010		08/11/2010
2368 - SHI Directors Minutes - 10 June 2010		08/11/2010
<b>1.05.15 - 100812 12 August 2010</b>		
2369 - Agenda for a Meeting of Directors - 12 August 2010		08/11/2010
2389 - SHI Directors Minutes 12 August 2010 final		09/02/2011
<b>1.05.16 - 100907 7 September 2010</b>		
2388 - SHI Directors Minutes 7 September 2010 final		09/02/2011

<b>1.05.17 - 101117 17 November 2010</b>	
2390 - SHI Directors Minutes 17 November 2010	09/02/2011
<b>1.05.18 - 110203 3 February 2011</b>	
2387 - Agenda for a Meeting of Directors 3 February 2011	09/02/2011
<b>1.06 - Shareholders Agreement</b>	
0011 -08_SH_Agrmt_22032007	20/02/2008
<b>1.07 - Organisational Structure</b>	
1708 - Project Management Organs Chart	25/01/2010
2337 - Syntech Organisational Chart	08/11/2010
<b>02. Project Reports</b>	
<b>2.01 - 2.2009.01 Project Reports</b>	
1669 - Syntech January 09 Monthly Report Final	09/06/2009
<b>2.02 - 2.2009.02 Project Reports</b>	
1670 - Syntech February 09 Monthly Report Final	09/06/2009
<b>2.03 - 2.2009.03 Project Reports</b>	
1671 - Syntech March 09 Monthly Report Final	09/06/2009
<b>2.04 - 2.2009.04 Project Reports</b>	
1672 - Syntech April 09 Monthly Report Final	09/06/2009
<b>2.05 - 2.2009.05 Project Reports</b>	
1674 - Syntech May 09 Monthly Report Final	16/07/2009
<b>2.06 - 2.2009.06 Project Reports</b>	
1675 - Syntech June 09 Monthly Report Final	16/07/2009
<b>2.07 - 2.2009.07 Project Reports</b>	
1676 - Syntech July 09 Monthly Report Final	26/10/2009
<b>2.08 - 2.2009.08 Project Reports</b>	
1677 - Syntech August 09 Monthly Report Final	26/10/2009
<b>2.09 - 2.2009.09 Project Reports</b>	
1678 - Syntech September 09 Monthly Report Final	26/10/2009
1679 - Cameby Downs Project Monthly Report - September 2009	26/10/2009
<b>2.10 - 2.2009.10 Project Reports</b>	
1710 - Syntech October 2009 Monthly Report Final	25/01/2010
1711 - Cameby Downs Project Monthly Report- October 2009	25/01/2010
<b>2.11 - 2.2009.11 Project Reports</b>	
1712 - Syntech November 2009 Monthly Report Final	25/01/2010
1713 - Cameby Downs Project Monthly Report - November 2009	25/01/2010

<b>2.12 - 2.2009.12 Project Reports</b>		
1714 - Syntech December 2009 Monthly Report Final		25/01/2010
1715 - Combined Financial Management Report December 2009		25/01/2010
<b>2.13 - 2.2010.01 Project Reports</b>		
1784 - Combined Syntech Holdings and Syntech Holdings II Pty Ltd -Summary of Financial Position January 2010		22/02/2010
1785 - Syntech Resources Pty ltd (Including AMH Chinchilla Coal) January 2010 Progress Report		22/02/2010
<b>2.14 - 2.2010.02 Project Reports</b>		
2239 - Combined Financial Management Report February 2010		27/08/2010
2240 - Syntech February 2010 Monthly Report Final REDACTED		25/02/2011
<b>2.15 - 2.2010.03 Project Reports</b>		
2241 - Combined Financial Management Report March 2010		27/08/2010
2242 - Syntech March 2010 Monthly Report Final REDACTED		25/02/2011
<b>2.16 - 2.2010.04 Project Reports</b>		
2243 - Combined Financial Management Report April 2010		27/08/2010
2244 - Syntech April 2010 Monthly Report Final REDACTED		25/02/2011
<b>2.17 - 2.2010.05 Project Reports</b>		
2245 - Combined Financial Management Report May 2010		27/08/2010
2246 - Syntech May 2010 Monthly Report Final REDACTED		25/02/2011
<b>2.18 - 2.2010.06 Project Reports</b>		
2247 - Combined Financial Management Report June 2010		27/08/2010
2248 - Syntech June 2010 Monthly Report Final REDACTED		25/02/2011
2452 - Syntech FY2010 KPMG Board Report		21/02/2011
2469 - Combined Management Accounts Final version		24/02/2011
<b>2.19 - 2.2010.07 Project Reports</b>		
2305 - Syntech July 10 Monthly Report Final REDACTED		25/02/2011
<b>2.20 - 2.2010.08 Project Reports</b>		
2359 - Syntech August 10 Monthly Report Final REDACTED		25/02/2011
2360 - Syntech Combined Management Financials August 2010		08/11/2010
<b>2.21 - 2.2010.09 Project Reports</b>		
2361 - Combined management financials September 2010		08/11/2010
2362 - Syntech September 2010 Monthly Report Final REDACTED		25/02/2011
<b>2.22 - 2.2010.10 Project Reports</b>		
2400 - Combined Financial Report October 2010		09/02/2011
2402 - Syntech October 2010 Monthly Report Final REDACTED		25/02/2011

**2.23 - 2.2010.11 Project Reports**

2401 - Combined Financial Report November 2010	09/02/2011
2403 - Syntech November 2010 Monthly Report FINAL REDACTED	25/02/2011

**2.24 - 2.2010.12 Project Reports**

2434 - Discharge Report for Golden Spring REDACTED	25/02/2011
2450 - Combined Financial Management Report December 2010	23/02/2011

**2.25 - 2.2011.01 Project Reports**

2463 - Combined Financial Report January 2011	23/02/2011
2464 - Syntech December 2010 January 2011 Monthly Report Final	23/02/2011

**2.26 - 2.2011.02 Project Reports**

2680 - Combined Financial Report February 2011	29/03/2011
2681 - Syntech February 2011 Monthly Report Final	30/03/2011

**2.27 - 2.2011.03 Project Reports**

2697 - Syntech March 2011 Monthly Report Final	09/05/2011
2698 - Combined Financial Report March 2011	09/05/2011

**03. Insurance**

1650 - ISR Summary 2009_10	09/06/2009
1651 - Schedule 2009_10 SH D&O	09/06/2009
1652 - Schedule 2009_10 SHII D&O	09/06/2009
1653 - SH MV 2009_10	09/06/2009
1654 - Summary Construction PL	09/06/2009
1655 - Summary Construction Risk	09/06/2009
1656 - Summary PL 2009_10	09/06/2009
1657 - Syntech Apr 09 Insurance Sch	09/06/2009
2283 - Syntech Contract Works Material Damage COC 2010	09/09/2010
2284 - Syntech Construction Liability COC 2010	09/09/2010
2285 - Syntech MV COC 2010	09/09/2010
2286 - Syntech Public Liability COC 2010	09/09/2010
2287 - Syntech ISR COC 2010	09/09/2010
2375 - Certificate of Currency-Workcover 2010-11	23/11/2010
2393 - BI Work up paper	09/02/2011
2394 - Insurance Renewal Report December 2010	09/02/2011
2395 - ISR and Liability invoices	09/02/2011
2396 - ISR Policy Wording	09/02/2011
2397 - Liability Policy wording	09/02/2011
2398 - Machinery Breakdown work up	09/02/2011

2471 - Syntech ISR COC 2011	24/02/2011
2472 - Syntech Public Liability COC 2011	24/02/2011
2491 - Contractor Insurance	24/02/2011
<b>04. Income Tax</b>	
0632 - Tax Sharing Agreement	21/02/2008
1013 - Syntech Holdings 2007 ITR with tax rec	21/04/2008
1014 - 0408 ACA letter Syntech Holdings	21/04/2008
1015 - Return Issues note Mar07+Jun07	21/04/2008
1648 - Final Tax Calcs Jun08	09/06/2009
1649 -SH Tax return - 2008	09/06/2009
1726 - EY advice on AMH CC Transaction	23/02/2011
1727 - EY advice on stamp duty implications on restructure of Syntech Resources	23/02/2011
1728 - Memorandum of Issues Letter-SHII-2008	23/02/2011
2254 - syn 0410 Syntech Holdings 2009 SOTI per EY	06/09/2010
2255 - SynL 0810 Lodged Syntech I 2009 ITR	06/09/2010
2256 - synL 0810 Memo of issues	06/09/2010
2257 - synL 0810 Transmittal letter	06/09/2010
2272 - Tax advice from EY on Proposed Merger in Draft	09/09/2010
2377 - Mallesons opinion on CPN clauses	25/11/2010
2378 - Memorandum of Issues Letter-SH-2008	25/11/2010
2379 - Syntech Holdings CPN clauses	25/11/2010
2380 - 2010 Tax calc SH	25/11/2010
2465 - MF Tax Return 23 Mar 2007	23/02/2011
2466 - SR Tax Return 23 Mar 2007	23/02/2011
2477 - SH Letter of confirmation of income tax consolidation	24/02/2011
2478 - SH notification of formation of an income tax consolidated group	24/02/2011
<b>BAS</b>	
0635 - Mountfield BAS 010103 to 311206	21/02/2008
0636 - MF BAS Mar07	21/02/2008
0637 - MF BAS Apr07	21/02/2008
0638 - MF BAS May07	21/02/2008
0639 - MF BAS Jun 07	21/02/2008
0640 - MF BAS Jul 07	21/02/2008
0641 - MF BAS Aug07	21/02/2008
0642 - MF BAS Sep07	21/02/2008
0643 - MF BAS Oct07	21/02/2008
0644 - MF BAS Nov07	21/02/2008

0645 - MF BAS Dec07	21/02/2008
0646 - Syntech Resources BAS 010103 to 311206	21/02/2008
0647 - SR BAS Mar 07	21/02/2008
0648 - SR BAS Apr07	21/02/2008
0649 - SR BAS May07	21/02/2008
0650 - SR BAS Jun 07	21/02/2008
0651 - SR BAS Jul 07	21/02/2008
0652 - SR BAS Aug07	21/02/2008
0653 - SR BAS Sep07	21/02/2008
0654 - SR BAS Oct07	21/02/2008
0655 - SR BAS Nov07	21/02/2008
0656 - SR BAS Dec07	21/02/2008
0657 - SH BAS Apr07	21/02/2008
0658 - April Group BAS review	21/02/2008
0659 - SH BAS May07	21/02/2008
0660 - SH BAS Jun 07	21/02/2008
0661 - SH BAS Jul 07	21/02/2008
0662 - SH BAS Aug07	21/02/2008
0663 - SH BAS Sep07	21/02/2008
0664 - SH BAS Oct07	21/02/2008
0665 - SH BAS Nov07	21/02/2008
0666 - SH BAS Dec07	21/02/2008
1582 - MF BAS Jan08	24/11/2008
1583 - MF BAS Feb08	24/11/2008
1584 - MF BAS Mar08	24/11/2008
1585 - MF BAS Apr08	24/11/2008
1586 - MF BAS May08	24/11/2008
1587 - MF BAS Jun08	24/11/2008
1588 - MF BAS Jul 08	24/11/2008
1589 - MF BAS Aug08	24/11/2008
1590 - MF BAS Sep08	24/11/2008
1592 - SH BAS Jan08	24/11/2008
1593 - SH BAS Feb08	24/11/2008
1594 - SH BAS Mar08	24/11/2008
1595 - SH BAS Apr08	24/11/2008
1596 - SH BAS May08	24/11/2008

1597 - SH BAS Jun08	24/11/2008
1598 - SH BAS Jul08	24/11/2008
1599 - SH BAS Aug08	24/11/2008
1600 - SH BAS Sep 08	24/11/2008
1601 - SH Qrtly Jun08	24/11/2008
1602 - SH ITR Qrt Inst	24/11/2008
1603 - SR BAS Jan08	24/11/2008
1604 - SR BAS Feb08	24/11/2008
1605 - SR BAS Mar08	24/11/2008
1606 - SR BAS Apr08	24/11/2008
1607 - SR BAS May08	24/11/2008
1608 - SR BAS Jun08	24/11/2008
1609 - SR BAS Jul 08	24/11/2008
1610 - SR BAS Aug08	24/11/2008
1611 - SR BAS Sep08	24/11/2008
1666 - Mountfield Properties Pty Ltd - IASs Oct 08 to Apr 09	09/06/2009
1667 - Syntech Holdings Pty Ltd - BASs Oct 08 to Apr 09	09/06/2009
1668 - Syntech Resources Pty Ltd - IASs Oct 08 to Apr 09	09/06/2009

## 05. Financial

### 5.01 Banking

1567 - Albert St Guarantee	24/11/2008
1580 - GPC FFFA Initial Gtee	24/11/2008
1658 - CBA Bank Guarantee 11 Feb 09 - GPC	09/06/2009
1659 - CBA Bank Guarantee GPC May 2009	09/06/2009
1661 - QBH Gtee A\$2m May 2009	09/06/2009
1674 - CBA Bank Guarantee Number 339429 -15 October 2009	27/10/2009
1675 - CBA Banker's Undertaking in Respect of Provision in lieu of cash deposit obligations associated with Mining Lease ML50233 and associated Environmental Authority MIN100568007	27/10/2009
2293 - CBA Guarantee Est for A\$3142133 re Bannana_Glad	14/09/2010
2294 - Establishment docs with CBA GPC 1,683,704	14/09/2010
2295 - Executed Bank Guarantee and LC Facility Agreement	14/09/2010
2309 - Syntech Reimbursement Agreement executed 16 June 2010	14/09/2010
2329 - QR Letter of Guarantee 7 July 2010	29/09/2010
2344 - CBA Guarantee Ergon retail \$300k	08/11/2010
2383 - QBH Gtee A\$18m - November 2010	29/11/2010
2384 - QR Bank Guarantee \$1.4m - 19 November 2010	29/11/2010
2399 - Bank Guarantee WICET Stage 2	09/02/2011

2682 - 10.08.09 ML50233 Financial Assurance Option	01/04/2011
2683 - 12-08-02-08-04-001 Letter re Financial Assurance Option	01/04/2011
2684 - Additional QR Network Guarantee-A\$58.52m-25-Mar-2011	01/04/2011
2688 - Schedule of Security Deposit held EPC732	01/04/2011
2689 - GPC Gtee \$1261270 as replacement	21/04/2011
2695 - CBA Consent-Additional Financial Debt-April 2011	04/05/2011
<b>5.02 Financial Statements</b>	
1563 - 2007 Annual Financial Report	24/11/2008
1564 - 2008 Annual Financial Report	24/11/2008
1700 - 2009 SH Annual Financial Report	03/09/2010
1716 - Syntech Holdings Pty Ltd-Financial Reports December 2009	29/01/2010
2404 - SH June 2010 Statutory Accounts Signed	09/02/2011
<b>5.03 Loan Agreements</b>	
0004 - 01_SLF_Agreement	20/02/2008
0005 - 02_CPNS_Agrmt	20/02/2008
0013 - 10_LoanAgreement_ 22032007	20/02/2008
0014 - 11_LoanAgreement_ 22032007	20/02/2008
1692 - Deed of Variation of Senior Loan Facility Agreement dated 20 August 2009 (with annexures)	03/11/2009
1693 - Note Deed Poll dated 20 August 2009	03/11/2009
1694 - Note Subscription Deed dated 20 August 2009	03/11/2009
2308 - SH Reimbursement Agreement to GS	14/09/2010
2316 - SH Guarantee to GS	21/09/2010
2318 - GS Syntech Option Deed Additional Guarantee War	27/09/2010
2319 - 10469980 5 GS Syntech II Options Deed Additional Guarantee	27/09/2010
2320 - Amending Deed Execution version	27/09/2010
2321 - Annexure-Syntech Subordination Deed (2010 replacement)	27/09/2010
2322 - Annexure B-Amended and Restated Facilities Agreement	27/09/2010
2323 - Deed of Charge-Execution version	27/09/2010
2324 - Final Amended and Restated Reimbursement Agmnt	27/09/2010
2325 - Final Amending Agmnt-Reimbursement Agreement	27/09/2010
2326 - Final Amending Deed-Subordination Deed	27/09/2010
2327 - Guarantee and Indemnity Deed (Limited) - Execution version	27/09/2010
2328 - Syntech Deed of Priority-Execution Version	27/09/2010
2382 - Deed of Variation of Note Deed Poll and Note Subscription Deed - 11 November 2010	29/11/2010
2386 - Syntech Holdings Option Deed	29/11/2010
2406 - Deed Variation Note Deed Poll & Subscription Agreement	09/02/2011



2407 - Syntech Holdings II Option Deed	09/02/2011
2408 - Syntech Holdings Option Deed	09/02/2011
2440 - SH Option Deed (Additional Guarantee Warrants)	18/02/2011
2441 - SH II Option Deed (Additional Guarantee Warrants)	18/02/2011
2442 - SHI Additional Guarantee Warrants (Oct-10)	18/02/2011
2443 - SHII Additional Guarantee Warrants (Oct-10)	18/02/2011
2448 - SHI Convertible Participating Note Certificate	21/02/2011
2677 - FIRB Approval for Additional 2% Funding Warrants	09/03/2011
2679 - Syntech - Additional Funding Warrant Option Certificate	29/03/2011
<b>06. Land</b>	
0692 - Purchase Contract Cameby Downs	21/02/2008
0693 - Land Titles on Cameby Downs	21/02/2008
0694 - Purchase Contract Avon Downs	21/02/2008
0696 - Purchase Contract from Glennie	21/02/2008
0697 - Purchase Contact from Morris	21/02/2008
0699 - Map of Mine and Properties	21/02/2008
2260 - Strategic Cropping Lands Plan 31 Aug 2010	06/09/2010
2297 - Goldman Sachs Group Mortgage	14/09/2010
2298 - GS Power Mortgage	14/09/2010
<b>07. Mining Tenements and JORC Report</b>	
2252 - Cooperation Deed re EPC 813 with Cockatoo Coal	02/09/2010
2262 - EPC 732 GS Group caveat	06/09/2010
2332 - AMHCC Tenement Register - Updated 4 November 2010	08/11/2010
<b>7.01 - EPC 732</b>	
0712 - 071025 EPC 732 Instrument of Permit	02/11/2009
0713 - 071130 EPC 1165 Cooperation Deed Metrocoal	21/02/2008
0714 - 071217 EPC 732 renewal	21/02/2008
2253 - Environmental Authority No. M5433	03/09/2010
2410 - Exploration Permit No. EPC732 Amended June 2010	09/02/2011
2413 - 10.12.03 EPC732 Renewal - Work Program & Expenditure Request	09/02/2011
2414 - 10.12.03 EPC732 Renewal Relinquishment Request	09/02/2011
2415 - 101201 Copy of EPC 732 Renewal Application	09/02/2011
2416 - EPC 732 Expenditure Commitment	09/02/2011
<b>7.02 - Statutory Reports</b>	
1664 - EPC732 REPORT_12 Months ended 1st May09	09/06/2009
2288 - EPC 732 Eighth Annual Report for the Period ended 1st May 2010	14/09/2010

<b>7.03 - JORC Report</b>	
1625 - EPC732 Jan2009 JORC REPORT Text & Figures	02/02/2009
1786 - Cameby Downs Expansion Project Reserves Statement - Competent Person's Report - February 2010	25/02/2010
<b>7.04 - CSG Co-development Agreement</b>	
0735 - Final Form of Codevelopment agreement incl attachments	21/02/2008
0736 - ACBM letter to minister consent to ML	21/02/2008
<b>08. Mining Lease</b>	
1513 - EA No MIN100568007	18/11/2008
1523 - Mining Lease Letter	18/11/2008
1524 - Mining Lease Plan	18/11/2008
1525 - Mining Lease Report	18/11/2008
1546 - Plan of Operations FINAL - 3 April 2009	18/11/2008
1635 - Environmental Authority - 11 February 2009	26/02/2009
1641 - Cameby EM Plan - Amended 22 December 2008	26/05/2009
1720 - Cameby Downs expansion Project final TOR	08/11/2010
1750 - Project Pulsar - Native Title Clearance Report - Final	08/11/2010
2251 - New EA for ML 50233	02/09/2010
2270 - Letter of consent to MLA from MetroCoal	09/09/2010
2271 - Confirmation of applications for ML 50258 to 50269	09/09/2010
2299 - Mortgage GSPower ML50233	14/09/2010
2300 - Mortgage GSG ML50233	14/09/2010
2313 - Plan of Operations 22 July 2010 including appendices	20/09/2010
2314 - Letter of acceptance re amendment to Plan of Operation dated 29 July 2010	20/09/2010
2331 - Deed of Access Defence and Syntech	22/10/2010
2357 - Consent to the Grant of Proposed Applications for Mining Lease	08/11/2010
2374 - Cameby Audit Report 20 August 2010	16/11/2010
2504 - ML 50233	02/03/2011
2505 - Approvals for Prospecting Permit Numbers 50768-50809	02/03/2011
<b>8.01 - EM Plan</b>	
0752 - 8.12.01 EM Plan Cover Letter	21/02/2008
0753 - 8.12.02 Cameby EM Plan	21/02/2008
0754 - 8.12.03 EM Plan Figures	21/02/2008
0755 - 8.12.04 Appendix A - Soil and Land Assessment Study	21/02/2008
0756 - 8.12.05 Appendix B - Cameby & Avon Downs Terrestrial Flora & Fauna Report	21/02/2008
0757 - 8.12.06 Appendix C - Surface Water and Stream Sample Analysis Pt A	21/02/2008

0758 - 8.12.07 Appendix C - Surface Water and Stream Sample Analysis Pt B	21/02/2008
0759 - 8.12.08 Appendix C - Watershed Tables	21/02/2008
0760 - 8.12.09 Appendix D - Groundwater Report	21/02/2008
0761 - 8.12.10 Appendix E - Cameby Downs Traffic Report	21/02/2008
0762 - 8.12.11 Appendix F - Nosie	21/02/2008
0763 - 8.12.12 Appendix G - Air Quality Assessment of a Proposed Coal Mine	21/02/2008
0764 - 8.12.13 Appendix H - Indigenous Heritage Study-part 1	21/02/2008
0765 - 8.12.14 Appendix H - Indigenous Heritage Study-part 2	21/02/2008
0766 - 8.12.15 Appendix H - Indigenous Heritage Study-Appendix 1 part 1	21/02/2008
0767 - 8.12.16 Appendix H - Indigenous Heritage Study-Appendix 1 part 2	21/02/2008
0768 - 8.12.17 Appendix H - Indigenous Heritage Study-Appendix 1 part 3	13/03/2008
0769 - 8.12.18 Appendix I - Blasting	21/02/2008
0770 - 8.12.19 Appendix J - Geotechnical Characterisation	21/02/2008
0771 - 8.12.20 Appendix K - Community Consultation Report	21/02/2008
2356 - Cameby EM Plan Amendment May 2010 Vol 1	08/11/2010

## **8.02 - Mining Lease Applications**

### **01. MLA Material Submitted 16.11.2009**

2575 - Cameby Downs Expansion - Index to Mining Lease Applications as at 16 November 2009	08/03/2011
2576 - Application to amend an environmental authority (mining activities) s240_091109	08/03/2011
2577 - Cameby Downs Expansion Background Land Tenure to mining lease applications	08/03/2011
2578 - Cameby Downs Expansion IAS-September 2009	08/03/2011
2579 - Coal Mining Tenements and MLAs Plan 11 Nov09	08/03/2011
2580 - CSG Statement - Syntech -Cameby Downs Expansion	08/03/2011
2581 - Development Plan for Cameby Downs Expansion Project -12 November 2009 - Syntech	08/03/2011
2582 - Petroleum Mining Tenements and MLAs Plan 11 Nov09	08/03/2011
2583 - Syntech Holdings Pty Ltd Financial Report for YE 30.06.2009	08/03/2011
2584 - Syntech Resources Pty Ltd - Attachment D to Application for Mining Lease	08/03/2011
2585 - Syntech Resources Pty Ltd - Attachment E to Application for Mining Lease	08/03/2011
2586 - Syntech Resources Pty Ltd - Attachment F to Application for Mining Lease	08/03/2011
2587 - Syntech Resources Pty Ltd - Attachment G to Application for Mining Lease	08/03/2011
2588 - Syntech Resources Pty Ltd - Attachment H to Application for Mining Lease	08/03/2011

2589 - Syntech Resources Pty Ltd - Attachment I to Application for Mining Lease	08/03/2011
2590 - Syntech Resources Pty Ltd - Attachment J to Application for Mining Lease	08/03/2011
2591 - Syntech Resources Pty Ltd Certificate of Registration	08/03/2011

**01. Mining Lease Application Descriptions and Sketches**

2592 - Infrastructure MLA4 Columboola Creek Crossingx	08/03/2011
2593 - Columboola Creek Crossing	08/03/2011
2594 - MLA1 Cameby Downs Westx	08/03/2011
2595 - Cameby Downs West	08/03/2011
2596 - MLA2 Cameby Downs Northx	08/03/2011
2597 - Cameby Downs North	08/03/2011
2598 - MLA3 Cameby Downs Eastx	08/03/2011
2599 - Cameby Downs East	08/03/2011
2600 - MLA4 Rywungx	08/03/2011
2601 - Rywung	08/03/2011
2602 - MLA5 Rywung North Eastx	08/03/2011
2603 - Rywung North East	08/03/2011
2604 - MLA6 Rywung Eastx	08/03/2011
2605 - Rywung East	08/03/2011
2606 - MLA7 Rywung Southx	08/03/2011
2607 - Rywung South	08/03/2011
2608 - MLA8 Rywung North Westx	08/03/2011
2609 - Rywung North West	08/03/2011
2610 - MLA9 Rywung Centralx	08/03/2011
2611 - Rywung Central	08/03/2011
2612 - MLA10 Rywung Westx	08/03/2011
2613 - Rywung West	08/03/2011
2614 - MLA11 Rywung Northx	08/03/2011
2615 - Rywung North	08/03/2011

**02. Real Property Searches as at 10.11.2009**

**01. CROWN PLAN BWR72**

2616 - LOT 1 CROWN PLAN BWR72	08/03/2011
2632 - LOT 11 CROWN PLAN BWR72	08/03/2011
2659 - LOT 31 CROWN PLAN BWR72	08/03/2011

**02. REGISTERED PLAN 206728**

2617 - LOT 1 REGISTERED PLAN 206728	08/03/2011
2619 - LOT 2 REGISTERED PLAN 206728	08/03/2011

**03. CROWN PLAN BWR149**

2618 - LOT 2 CROWN PLAN BWR149	08/03/2011
2623 - LOT 4 CROWN PLAN BWR149	08/03/2011
2625 - LOT 5 CROWN PLAN BWR149	08/03/2011
2635 - LOT 13 CROWN PLAN BWR149	08/03/2011
2660 - LOT 33 CROWN PLAN BWR149	08/03/2011

**04. REGISTERED PLAN 54114**

2620 - LOT 2 REGISTERED PLAN 54114	08/03/2011
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**05. REGISTERED PLAN 54870**

2621 - LOT 2 REGISTERED PLAN 54870	08/03/2011
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**06. REGISTERED PLAN 69707**

2622 - LOT 2 REGISTERED PLAN 69707	08/03/2011
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**07. REGISTERED PLAN 187208**

2624 - LOT 4 REGISTERED PLAN 187208	08/03/2011
2630 - LOT 9 REGISTERED PLAN 187208	08/03/2011
2631 - LOT 10 REGISTERED PLAN 187208	08/03/2011
2633 - LOT 11 REGISTERED PLAN 187208	08/03/2011
2634 - LOT 12 REGISTERED PLAN 187208	08/03/2011

**08. CROWN PLAN BWR74**

2626 - LOT 5 CROWN PLAN BWR74	08/03/2011
2629 - LOT 8 CROWN PLAN BWR74	08/03/2011
2645 - LOT 15 CROWN PLAN BWR74	08/03/2011
2653 - LOT 21 CROWN PLAN BWR74	08/03/2011
2658 - LOT 25 CROWN PLAN BWR74	08/03/2011
2664 - LOT 40 CROWN PLAN BWR74	08/03/2011
2671 - LOT 94 CROWN PLAN BWR74	08/03/2011

**09. CROWN PLAN BWR160**

2627 - LOT 6 CROWN PLAN BWR160	08/03/2011
2628 - LOT 7 CROWN PLAN BWR160	08/03/2011

**10. CROWN PLAN BWR588**

2636 - LOT 13 CROWN PLAN BWR588 1	08/03/2011
2637 - LOT 13 CROWN PLAN BWR588 2	08/03/2011
2638 - LOT 13 CROWN PLAN BWR588 3	08/03/2011
2639 - LOT 13 CROWN PLAN BWR588 4	08/03/2011
2640 - LOT 13 CROWN PLAN BWR588 5	08/03/2011
2641 - LOT 13 CROWN PLAN BWR588 6	08/03/2011

2642 - LOT 13 CROWN PLAN BWR588	08/03/2011
<b>11. CROWN PLAN BWR178</b>	
2643 - LOT 14 CROWN PLAN BWR178	08/03/2011
<b>12. REGISTERED PLAN 187207</b>	
2644 - LOT 14 REGISTERED PLAN 187207	08/03/2011
2646 - LOT 15 REGISTERED PLAN 187207	08/03/2011
2647 - LOT 16 REGISTERED PLAN 187207	08/03/2011
2648 - LOT 17 REGISTERED PLAN 187207	08/03/2011
2649 - LOT 18 REGISTERED PLAN 187207	08/03/2011
2651 - LOT 19 REGISTERED PLAN 187207	08/03/2011
2652 - LOT 20 REGISTERED PLAN 187207	08/03/2011
2654 - LOT 21 REGISTERED PLAN 187207	08/03/2011
2655 - LOT 22 REGISTERED PLAN 187207	08/03/2011
2656 - LOT 23 REGISTERED PLAN 187207	08/03/2011
2657 - LOT 24 REGISTERED PLAN 187207	08/03/2011
<b>13. CROWN PLAN BWR459</b>	
2650 - LOT 19 CROWN PLAN BWR459	08/03/2011
<b>14. CROWN PLAN BWR663</b>	
2661 - LOT 35 CROWN PLAN BWR663	08/03/2011
<b>15. CROWN PLAN BWR796</b>	
2662 - LOT 36 CROWN PLAN BWR796	08/03/2011
<b>16. CROWN PLAN BWR574</b>	
2663 - LOT 37 CROWN PLAN BWR574	08/03/2011
<b>17. ROWN PLAN BWR154</b>	
2665 - LOT 64 CROWN PLAN BWR 154	08/03/2011
2666 - LOT 65 CROWN PLAN BWR154	08/03/2011
<b>18. CROWN PLAN BWR159</b>	
2667 - LOT 72 CROWN PLAN BWR159	08/03/2011
<b>19. CROWN PLAN BWR294</b>	
2668 - LOT 73 CROWN PLAN BWR294	08/03/2011
2669 - LOT 87 CROWN PLAN BWR294	08/03/2011
2670 - LOT 88 CROWN PLAN BWR294	08/03/2011
<b>20. CROWN PLAN LY205</b>	
2672 - LOT 119 CROWN PLAN LY205	08/03/2011
<b>21. SURVEY PLAN 116772</b>	
2673 - LOT 121 SURVEY PLAN 116772	08/03/2011

2674 - LOT 122 SURVEY PLAN 116772	08/03/2011
<b>22. SURVEY PLAN 116411</b>	
2675 - LOT 321 SURVEY PLAN 116411	08/03/2011
<b>23. SURVEY PLAN 116412</b>	
2676 - LOT 351 SURVEY PLAN 116412	08/03/2011
<b>03. ML 1</b>	
2531 - Mining Lease Application - ML 1	08/03/2011
2532 - Attachment A for Application for Mining Lease 1	08/03/2011
2533 - Attachment B to Application for Mining Lease 1	08/03/2011
2534 - Attachment C to Application for Mining Lease 1	08/03/2011
<b>04. ML 2</b>	
2535 - Mining Lease Application - ML 2	08/03/2011
2536 - Attachment A to Application for Mining Lease 2	08/03/2011
2537 - Attachment B to Application for Mining Lease 2	08/03/2011
2538 - Attachment C to Application for Mining Lease 2	08/03/2011
<b>05. ML 3</b>	
2539 - Mining Lease Application - ML 3	08/03/2011
2540 - Attachment A to Application for Mining Lease 3	08/03/2011
2541 - Attachment B to Application for Mining Lease 3	08/03/2011
2542 - Attachment C to Application for Mining Lease 3	08/03/2011
<b>06. ML 4</b>	
2543 - Mining Lease Application - ML 4	08/03/2011
2544 - Attachment A to Application for Mining Lease 4	08/03/2011
2545 - Attachment B to Application for Mining Lease 4	08/03/2011
2546 - Attachment C to Application for Mining Lease 4	08/03/2011
<b>07. ML 5</b>	
2547 - Mining Lease Application - ML 5	08/03/2011
2548 - Attachment A to Application for Mining Lease 5	08/03/2011
2549 - Attachment B to Application for Mining Lease 5	08/03/2011
2550 - Attachment C to Application for Mining Lease 5	08/03/2011
<b>08. ML 6</b>	
2551 - Mining Lease Application - ML 6	08/03/2011
2552 - Attachment A to Application for Mining Lease 6	08/03/2011
2553 - Attachment B to Application for Mining Lease 6	08/03/2011
2554 - Attachment C to Application for Mining Lease 6	08/03/2011

<b>09. ML 7</b>		
2555 - Mining Lease Application - ML 7		08/03/2011
2556 - Attachment A to Application for Mining Lease 7		08/03/2011
2557 - Attachment B to Application for Mining Lease 7		08/03/2011
2558 - Attachment C to Application for Mining Lease 7		08/03/2011
<b>10. ML 8</b>		
2559 - Mining Lease Application - ML 8		08/03/2011
2560 - Attachment A to Application for Mining Lease 8		08/03/2011
2561 - Attachment B to Application for Mining Lease 8		08/03/2011
2562 - Attachment C to Application for Mining Lease 8		08/03/2011
<b>11. ML 9</b>		
2563 - Mining Lease Application - ML 9		08/03/2011
2564 - Attachment A to Application for Mining Lease 9		08/03/2011
2565 - Attachment B to Application or Mining Lease 9		08/03/2011
2566 - Attachment C to Application for Mining Lease 9		08/03/2011
<b>12. ML 10</b>		
2567 - Mining Lease Application - ML 10		08/03/2011
2568 - Attachment A to Application for Mining Lease 10		08/03/2011
2569 - Attachment B to Application for Mining Lease 10		08/03/2011
2570 - Attachment C to Application for Mining Lease 10		08/03/2011
<b>13. ML 11</b>		
2571 - Mining Lease Application - ML 11		08/03/2011
2572 - Attachment A to Application for Mining Lease 11		08/03/2011
2573 - Attachment B to Application for Mining Lease 11		08/03/2011
2574 - Attachment C to Application for Mining Lease 11		08/03/2011
<b>14. IML 4</b>		
2527 - Mining Lease Application - Proposed IML 4		08/03/2011
2528 - Attachment A to Application - Proposed IML 4		08/03/2011
2529 - Attachment B to Application - Proposed IML 4		08/03/2011
2530 - Attachment C to Application for IML 4		08/03/2011
<b>09. Rail</b>		
<b>9.01 - Railing to Brisbane</b>		
0952 - Submission to Queensland Rail for Resumption of Rail Corridor		22/02/2008
Land		
1506 - 1324 AFD Columboola		05/10/2009
1507 - 1324 RICD Columboola		05/10/2009
1531 - Signed 1mtpa CTSA		18/11/2008



1634 - Signed additional 0.4mtpa CTSA variation	12/02/2009	
1638 - Letter from QRN 26-3-09 extension CP	02/04/2009	
1779 - Rail Infrastructure Construction Deed (RICD) Clause 2.1 - Condition Precedent	19/02/2010	
2307 - 10.07.23 Ltr to QLD Rail re Lease from Mountfield Properties Pty Ltd-Cameby Downs Project	14/09/2010	
2317 - Letter from WDRC re Development Approval for Constr	27/09/2010	
2330 - 101015 Signed letter amendment to CTSA?	22/10/2010	
2363 - 20100730-0122 waiver of CP clause 2.1	08/11/2010	
2456 - 100927 QR Ltr confirming Rolling Stock	22/02/2011	
2483 - 110105 Access Charge from 110101	24/02/2011	
2494 - QR Letter - FM Declaration	25/02/2011	
2690 - Letter - Syntech - QR - AFD Acceleration Query - 8 March 2011	02/05/2011	
2691 - Letter - QR AFD Acceleration Query Response - 22 March 2011	02/05/2011	
2696 - Syntech AFD First Invoice Apr 2011	09/05/2011	
2699 - QR National deferral letter - Signed	11/05/2011	
<b>9.02 - Surat Basin Rail to Gladstone</b>		
0810 - Surat Rail corridor	21/02/2008	
0987 - Letter of Intent for Surat Basin Rail	18/03/2008	
1425 - SBR_QR_GPC_common planning info	13/06/2008	
1737 - SBR EOI Letter to Syntech	08/02/2010	
2481 - QR Letter - Miles-Wandoan Upgrade	24/02/2011	
2702 - SBR Joint Venture Materials and Draft Response - 4 May 2011	13/05/2011	<new>
<b>10. Port</b>		
<b>10.01 - Fishermans Island</b>		
1551 - 081116 CPSA-Syntech	16/07/2009	
1621 - Appendix One	02/02/2009	
1622 - Appendix Two	02/02/2009	
1623 - Appendix Three	02/02/2009	
1624 - Appendix Four	02/02/2009	
2358 - QBH Letter Confirming Approvals for Expansion - 24 September 2010	08/11/2010	
<b>10.02 - Gladstone</b>		
1508 - 204815787_1 Consortium Agreement Wiggins Island Coal Export Terminal - signed (18.07.08)	18/11/2008	
1509 - 2055387421 Amending Agreement - signed by Syntech Resources	18/11/2008	
1516 - WICET Final Submission 1 August Part 1	18/11/2008	
1517 - Final Submission 1 August Part 2	18/11/2008	

1540 - wicet acceptance treasury terms	18/11/2008
1541 - WICET Syntech Accession Deed	18/11/2008
1552 - 9385197_32 Master Terms Deed - v 32 - fo	18/11/2008
1741 - WICET Finance Committee 100204	08/02/2010
1746 - 207099694_13 Amending Agreement No. 2 - (Final draft) -14 December 2009	08/02/2010
1747 - 208317508_3 Amended & Restated Consortium Agmt attach to ACA#2	08/02/2010
1753 - Feasibility Funding Facility Agreement-signed-081222	30/03/2011
2701 - WICET update 6 May 2011	13/05/2011 <new>
<b>10.02.01 - Draft WICET Documents</b>	
1742 - 091204 - Wiggins Island Framework Deed (clean) v2	08/02/2010
1743 - 205158794_16 Pro-forma E Class ToP Agreement (WICET) v_16 (January 2010)	24/02/2010
1744 - 208154169-10 WICET Access Policy Draft 13 January 2010	19/02/2010
1745 - 208727288_1 WSComparison versions 14 &15 Capacity Commitment Deed 100113	19/02/2010
2376 - Draft WICET Terminal Operating Agreement	23/11/2010
<b>10.02.02 - WICET Expression of Interest</b>	
1738 - WICET EOI Process Letter 091203	08/02/2010
1739 - EOI Package 091203	08/02/2010
1740 - Syntech EOI WICET form	08/02/2010
1748 - 12-10-03-01-001 Covering Letter to WICET on EOI	09/02/2010
2306 - WICET Supplementary EOI Process documents Lodged 30 August 2010	14/09/2010
2409 - 110105 FFD Final Allocation WICET Expansion	09/02/2011
<b>11. Mine Information and Technical Data</b>	
1549 - Project Execution Plan_Cameby Downs PEP 0	18/11/2008
<b>11.01 - Coal Quality</b>	
0516 - CD 2002-11 100mm Coal Quality	21/02/2008
0517 - walloon_coal utilisation report	21/02/2008
0518 - walloon_performance in power stations	21/02/2008
0519 - CD 2004-04 LD Coal Quality	21/02/2008
0520 - CD 2004-04 LD Dilution Quality	21/02/2008
0521 - CD 2007 Twin 100mm Coal Quality	21/02/2008
0522 - CD 2007 Twin 100mm Dilut Quality	21/02/2008
0523 - Moisture Energy Density Assump	21/02/2008
0525 - Spec CAMEBY Aug 07	21/02/2008
0526 - Cameby Downs QUALITY DATA 070510	21/02/2008
1075 - CD Product Moisture 080121_gcs	22/05/2008

1076 - CD Raw Moisture 080121_gcs	22/05/2008
1409 - Ascii_qual_2006	06/06/2008
1550 - CD Lab Results 111108	18/11/2008
2434 - Discharge Report for Golden Spring	11/02/2011
2503 - Total Moistures FINAL 20110228	01/03/2011
<b>11.02 - Reports</b>	
0336 - Report 1340 Vr2 - Cameby Downs Factual Geotechnical Report 13 Nov 07	21/02/2008
0337 - Draft Geotechnical Investigation Report With Appendices	21/02/2008
1002 - Cameby Excavatability Getoech Report 14 April 2008 Mining One 1425	18/04/2008
1078 - Water corrosivity factors	22/05/2008
1079 - PROTECTIVE COATING RECOMMENDATIONS	22/05/2008
1709 - Plant Control System	25/01/2010
2475 - 110217_info_mining_combinedV7	24/02/2011
2476 - Minserve Comments on Cameby Production and Reconciliation Data 24 Feb 2011	24/02/2011
<b>11.03 - Figures</b>	
0334 - Fig 3 - Working Section Schematic	21/02/2008
0335 - Fig 4 - Loss and Dilution Schematic	21/02/2008
<b>11.04 - Washability</b>	
0365 - CD 2002-11 100mm Washability	21/02/2008
0366 - CD 2004-04 LD Dilut Washability	21/02/2008
0367 - CD 2004-04 LD Washability	21/02/2008
0368 - CD 2007-05 Twin 100mm Washability	21/02/2008
1083 - CD LIMN Yield vs Raw Ash Data to RH 071128	23/05/2008
<b>11.05 - Yield</b>	
0369 - CD 2007 Cores LIMN Yield Summary	21/02/2008
0370 - CD LD & SC Simprep TopSize_38mm_Ind Yields.	21/02/2008
<b>11.06 - Geology</b>	
1020 - CD 2007-05 100mm Raw Coal Results 071003_gcs_To VULCAN	24/04/2008
1021 - CD Raw Coal Data CD152C - CD171C 080131_gcs_To VULCAN	24/04/2008
1022 - EPC732_Lithology at Nov07_new	24/04/2008
1023 - EPC732_THERMAL COMPOSITES 100mm CORE	24/04/2008
1024 - EPC732_THERMAL COMPOSITES 200mm CORE	24/04/2008
1025 - EPC732_ORIGINAL RAW PLY DATABASE_at 31Aug06	24/04/2008
1062 - CD 2004 LD KG Composite Petros IP025820_ACIRL	19/05/2008

1063 - CD 2004 LD KG+MA1+MA2 Composite Petros IP025818_ACIRL	19/05/2008
1064 - CD 2004 LD MA1 Composite Petros IP025821_ACIRL	19/05/2008
1065 - CD 2004 LD MA2 Composite Petros IP025819_ACIRL	19/05/2008
1066 - CD 2007 CD119-CD125C (AB) WS07_WS26 MA2T Petros_ACIRL	19/05/2008
1067 - CD 2007 CD119-CD125C (AB) WS08_WS32 Seam MA2B Petros_ACIRL	19/05/2008
1068 - CD 2007 CD119C-AB WS02 KG3_KG4 Thermal Composite Petros IP029133_ACIRL	19/05/2008
1069 - CD 2007 CD120C_125C (AB) WS13_WS34 MA3-MA4 Thermal Blend 6 Composite Petros_ACIRL	19/05/2008
1070 - CD 2007 CD125C-AB WS29 Seam MA1 Thermal Coal Composite Petros IP104700_ACIRL	19/05/2008
1071 - CD 2007 CD125C-AB WS30 Seam MA2T Thermal Coal Composite Petros IP104701_ACIRL	19/05/2008
1090 - MA2B_ASH	30/05/2008
1091 - MA2B_AS_EPC	30/05/2008
1092 - MA2B_TK	30/05/2008
1093 - MA2B_TK_EPC	30/05/2008
1094 - CD 2008 Cores Client Results4	30/05/2008
1403 - EPC732_Lithology_14Jan08 to 30May08	04/06/2008
1406 - Ascii_grids_2006	05/06/2008
1419 - Selected LAS files	12/06/2008
1420 - KG_FLOOR	13/06/2008
1421 - KG_ROOF	13/06/2008
1422 - MA_FLOOR	13/06/2008
1423 - MA_ROOF	13/06/2008
1424 - TOPO_BOW	13/06/2008
1426 - inferred_limits.dxf	13/06/2008
1427 - Cameby_THERMAL COMPOSITES 200mm CORE	13/06/2008
1428 - indicated_limits.dxf	13/06/2008
1429 - Rywung_Drilling13062008	13/06/2008
1438 - Cameby Core Results 200608	20/06/2008
1441 - Cameby Core Results 240608	24/06/2008
1454 - CD 2008 Cores Client Results 260608	26/06/2008

## 12. Cultural Heritage

0541 - CamebyCultural Heritage Report	21/02/2008
0542 - Cultural Heritage Agreement - Barunggam People - Syntech Exploration Areas	21/02/2008
0543 - Cultural Heritage Management Plan - Barunggam People -Syntech Resources - Cameby Downs	21/02/2008
0544 - Cultural Heritage Activities 160108	21/02/2008

0549 - DNRWW CHMP Approval Letter 110907	21/02/2008
2250 - Cultural Heritage Management Plan with Western Wakka Wakka	02/09/2010
2261 - Native Title Clearance Report	06/09/2010
<b>13. Long Term Resource Planning</b>	
0553 - Review of Coal Resources held by Syntech Holdings - HRM 18Feb08	21/02/2008
<b>14. Water and Power</b>	
0992 - QGC080326-Syntech Final WSA-Executed	02/04/2008
1527 - QGC waiver of conditions precedent	18/11/2008
1537 - Syntech Resources agreement to waiver water agreement conditions precedent	18/11/2008
1706 - Offer Network Connection	01/12/2009
1754 - Boyle Water Pipeline Agreement-signed-FINAL	08/11/2010
1755 - Confirmation Statement - Boyle	08/11/2010
1756 - Curtis Water Pipeline Agreement-signed-FINAL	08/11/2010
1757 - Form 9 Easement (Curtis)-signed-FINAL	08/11/2010
1758 - Rowbotham Water Pipeline Agreement-signed-FINAL	08/11/2010
1759 - Form 9 Easement (Rowbotham)-signed-FINAL	08/11/2010
1760 - Western Downs Re pipeline corridor	08/11/2010
1777 - Deed of Amendment signed 16 June 2009	18/02/2010
2268 - Davies Water Agreement	07/09/2010
2310 - Beneficial Use Cover Page ENBU00979109	15/09/2010
2311 - FINAL SOC Pages 1 to 10 ENBU00979109	15/09/2010
2312 - Notice of DECISION ENBU00979109	15/09/2010
2315 - Ergon Energy Customer Connection Agreement	20/09/2010
2373 - Signed side letter with QGC - 29 October 2010	08/11/2010
2435 - Form 9 Easement - Boyle	18/02/2011
2436 - Form 9 Easement - Curtis	18/02/2011
2437 - Form 9 Easement - Rowbotham	18/02/2011
2438 - Letter - Beneficial Reuse Permit - Condition 16	18/02/2011
2453 - 10.11.10 Cover Letter-Future Electricity Network Requirement Surat Basin North West Area	22/02/2011
2454 - 10.11.10 Maintaing a Reliable Electricity Supply to the Surat Basin North West Area-Final Report	22/02/2011
2455 - 12-50-17-002 Future Supply Requirements Surat Basin North West Area Response to Application	22/02/2011
2458 - IA Notification 210111	22/02/2011
2467 - Proposed Davies Dam Pipeline Rev B 24 Nov 2010 Model (1)	23/02/2011
2470- Proposed Davies Dam Pipeline Rev B 24 Nov 2010 Model (1)	24/02/2011
2482 - Confirmation Statement - Boyle	24/02/2011

2484 - Beneficial Use Cover Page ENBU00979109	24/02/2011
2485 - FINAL SOC Pages 1 to 10 ENBU00979109	24/02/2011
2486 - 11.01.24 ATP676 Executed Conduct & Compensation Agreement	24/02/2011
2498 - Derm Registration	28/02/2011
2692 - Letter - QGC Land Rehab - 2008 09 22	02/05/2011
2693 - Letter - QGC Land Rehab - Response - 2008 11 10	02/05/2011
2694 - 2008 07 10 - QGC Well Est - Syntech Resources - LH Map SAT	02/05/2011
2703 - Capex update - Davies Pipeline and Ryalls Road Upgrade -13 May 2011	13/05/2011

<new>

### 15. Project Costs

2451 - Balance Sheet Account details -Dec 10	21/02/2011
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## 03. Syntech Holdings II

### 01. Corporate

#### 1.01 - Syntech Holdings II

0811 - Certificate of registration - SH II	21/02/2008
0820 - Syntech Holdings II Pty Ltd ownership chart	28/02/2008
1049 - Constitution SHII	07/05/2008
1544 - SHII ASIC Extract	25/11/2009
2274 - Share registers - SHII	09/09/2010
2474 - SHII Register of Options	24/02/2011

#### 1.02 - AMH (Chinchilla Coal)

0821 - Certificate of Registration - AMH (Chinchilla Coal) Pty Ltd	21/02/2008
1050 - Consitution AMHCC	07/05/2008
1545 - AMHCC ASIC Extract	25/11/2009
2273 - Share registers - AMHCC	09/09/2010

#### 1.03 - Board Meetings

##### 1.03.01 - 070802 2 August 2007

0823 - Agenda for a Meeting of SHII Directors 2 Aug 07	21/02/2008
0824 - ProForma Accounts SHII	21/02/2008
0825 - SHII Directors Minutes 2 August 2007	21/02/2008

##### 1.03.02 - 070913 13 September 2007

0826 - Agenda for a Meeting of SHII Directors 13 Sep 07	21/02/2008
0827 - SHII Directors Minutes 13 September 2007	21/02/2008

##### 1.03.03 - 071129 29 November 2007

0828 - Agenda for a SHII Meeting of Directors 29 Nov 07	21/02/2008
0829 - Board Summary Chinchilla Additional Exploration	21/02/2008

0830 - Proposed 2008 Board Meeting Schedule	21/02/2008
0831 - SHII Directors Minutes 29 November 2007	21/02/2008
<b>1.03.04 - 080124 24 January 2008</b>	
0832 - Agenda for a SHII Meeting of Directors 24 Jan 08	21/02/2008
0833 - SHII Directors Minutes 24 January 2008	21/02/2008
<b>1.03.05 - 080221 21 February 2008</b>	
0996 - Agenda for a SHII Meeting of Directors 21 Feb 08	18/04/2008
0997 - SHII Directors Minutes 21 February 2008	18/04/2008
<b>1.03.06 - 080403 3 April 2008</b>	
1415 - Agenda for a SHII Meeting of Directors 3 Apr 08	12/06/2008
1416 - SHII Directors Minutes 3 April 2008	12/06/2008
<b>1.03.07 - 080606 6 June 2008</b>	
1436 - Agenda for a SHII Meeting of Directors 6 Jun 08	19/06/2008
1437 - SHII Directors Minutes 6 June 2008	19/06/2008
<b>1.03.08 - 080813 13 August 2008</b>	
1555 - Agenda for a SHII Meeting of Directors 13 Aug 08	24/11/2008
1559 - Draft SHII 30 June 08 v 3 070808	24/11/2008
1561 - SHII Directors Minutes 13 Aug 2008	24/11/2008
1617 - Agenda for a SHII Meeting of Directors 13 Aug 08	24/11/2008
1618 - Draft SHII 30 June 08 v 3 070808	24/11/2008
1619 - SHII Directors Minutes 13 Aug 2008	24/11/2008
<b>1.03.09 - 081113 13 November 2008</b>	
1642 - Agenda for a Meeting of Directors SHII 13 Nov 08	09/06/2009
1643 - SHII Directors Minutes 13 Nov 2008	09/06/2009
<b>1.03.10 - 090525 25 May 2009</b>	
1704 - Agenda for a Meeting of Directors SHII 25 May 2009	23/11/2009
1705 - SHII Directors Minutes 25 May 2009	23/11/2009
<b>1.03.11 - 090819 19 August 2009</b>	
2370 - Syntech Holdings II Pty Ltd - Board Minutes - 19 August 2009	08/11/2010
<b>1.03.12 - 100225 25 February 2010</b>	
2371 - SHII Directors Minutes - 25 February 2010	08/11/2010
<b>1.03.13 - 100610 10 June 2010</b>	
2372 - SHII Directors Minutes - 10 June 2010	08/11/2010
<b>1.03.14 - 100812 12 August 2010</b>	
2391 - SHII Directors Minutes 12 August 2010	09/02/2011

<b>1.03.15 - 101117 17 November 2010</b>		
	2392 - SHII Directors Minutes 17 November 2010	09/02/2011
<b>1.04 - Shareholders Agreement</b>		
	0110 - 14 Syntech Holdings II Shareholders Agreement	20/02/2008
	2439 - SHII Amendment to Shareholders Agreement - 18-Mar-10 - Executed	18/02/2011
<b>02. Insurance</b>		
	1447 - SHII D&O 2009	25/06/2008
	1530 - SHII Director Officer policy	18/11/2008
<b>03. Tax</b>		
	0864 - Tax Sharing Agreement	21/02/2008
	1644 - SHII Tax return - 2008	09/06/2009
	1645 - Tax Calcs SHII 2008	09/06/2009
	2258 - SynL 0810 Lodged Syntech II 2009 ITR	06/09/2010
	2259 - synS 0209 Syntech Holdings II 2009 SOTI per EY	06/09/2010
	2381 - 2010 Tax calc SHII	25/11/2010
	2479 - SH II notification of formation of an income tax consolidated group	24/02/2011
	2480 - SH II Letter of confirmation of income tax consolidation	24/02/2011
<b>BAS</b>		
	0852 - AMHCC BAS Jun07Qrt	21/02/2008
	0853 - AMHCC BAS Jul07	21/02/2008
	0854 - AMHCC BAS Aug07	21/02/2008
	0855 - AMHCC BAS Sep07	21/02/2008
	0856 - AMHCC BAS Oct07	21/02/2008
	0857 - AMHCC BAS Nov07	21/02/2008
	0858 - AMHCC BAS Dec07	21/02/2008
	1568 - AMHCC BAS Jan08	24/11/2008
	1569 - AMHCC BAS Feb08	24/11/2008
	1570 - AMHCC BAS Mar08	24/11/2008
	1571 - AMHCC BAS Apr08	24/11/2008
	1572 - AMHCC BAS May08	24/11/2008
	1573 - AMHCC BAS Jun08	24/11/2008
	1574 - AMHCC BAS Jul08	24/11/2008
	1575 - AMHCC BAS Aug08	24/11/2008
	1576 - AMHCC BAS Sep 08	24/11/2008
	1577 - AMHCC Oct 08 BAS	24/11/2008
	1665 - AMH (Chinchilla Coal) Pty Ltd - BASs Oct 08 to Apr 09	09/06/2009



## 04. Financial

### 4.01 Banking

0939 - BankGtee EPC 562	21/02/2008
0942 - BankGtee EPC 873	21/02/2008
0943 - BankGtee MDL 246	21/02/2008
0944 - BankGtee MDL 247	21/02/2008

### 4.02 Financial Statements

1565 - 2008 SHII Annual Financial Report	24/11/2008
1701 - 2009 SHII Annual Financial Report	03/09/2010
1717 - Syntech Holdings II Pty Ltd - Financial Reports December 2009	29/01/2010
2405 - SHII June 2010 Statutory Accounts Signed	09/02/2011

### 4.03 Loan Agreements

0109 - 13 Convertible Participating Note Subscription Agreement	20/02/2008
0140 - 44 Loan Agmt AMH & SHII - executed	20/02/2008
2385 - Syntech Holdings II Option Deed	29/11/2010
2449 - SHII Convertible Participating Note Certificate	21/02/2011
2678 - Syntech II - Additional Funding Warrant Option Certificate	29/03/2011

## 05. Mining Tenements and JORC Report

2267 - Removal AMH Caveat	06/09/2010
2345 - Syntech Resources Tenement Register - Updated 4 October 2010	08/11/2010
2457 - EPC562_Surrender	22/02/2011

### 5.01 - EPC 873

#### 5.01.1 - Statutory Reports

1515 - EPC 873 Annual Report 2008	18/11/2008
2351 - Clients EPC873 Annual Report for period ended 6 September - 29 October 2009	08/11/2010
2355 - EPC873 Report 12 Months ended 6 September 2010	08/11/2010

#### 5.01.2 - Tenement

0887 - EPC873 Environmental Authority	21/02/2008
0889 - EPC873_Instrument of Permit	02/11/2009
0890 - EPC 873 assignment	21/02/2008
1543 - Renewal EPC873 September 08	18/11/2008
1662 - Letter from DME varied relinquishment EPC 873 Jun09	09/06/2009
2265 - EPC 873 GS Group caveat	06/09/2010
2266 - EPC 873 GS Power caveat	06/09/2010
2296 - 10.04.22 Exploration Permit for Coal EPC873 - 7 Sep 2009 to 6 Sep 2014	14/09/2010

2353 - DEEDI Acceptance Variation of Conditions EPC873 - 29 October 2010	08/11/2010
2411 - 10.10.29 EPC873 - Endorsement of 68 sub blocks	09/02/2011
2412 - Exploration Permit for Coal EPC873 7 September 2009 to 6 September 2014 - 10.10.29	09/02/2011
<b>5.01.3 - Expenditure Reports</b>	
1514 - EPC 873 Annual Expenditure 2008	18/11/2008
2352 - EPC 873 Expenditure Statement revised - 2 November 2009	08/11/2010
2354 - SoE for EPC 873 period ending 6 September 2010 - 10 September 2010	08/11/2010
<b>5.01.4 - Geology</b>	
1028 - EPC873 (ZIP FILE)	24/04/2008
<b>5.02 - EPC 562</b>	
<b>5.02.1 - Statutory Reports</b>	
0899 - EXPLORATION REPORT EPC 562 2007	21/02/2008
2349 - EPC562 Report 12 Months ended 3 November 200	08/11/2010
2350 - EPC562 Report 12 Months ended 3 November 2009	08/11/2010
2418 - EPC562 Report 12 Months ended 3rd November 2010	09/02/2011
<b>5.02.2 - Tenement</b>	
0902 - Environmental Authority M4594 - EPC 562	21/02/2008
0904 - EPC 562 assignment to AMHCC	21/02/2008
0905 - EPC 562 Variation to Conditions	21/02/2008
1082 - Instrument of Permit EPC 562	02/11/2009
1477 - EPC 562 Renewal	11/07/2008
2263 - EPC 562 GS Group caveat	06/09/2010
2264 - EPC 562 GS Power caveat	06/09/2010
2289 - EPC 562 Annual Report for the Period ended 3rd Nov 2008	14/09/2010
2290 - EPC 562 Annual Report for the Period ended 3rd Nov 2009	14/09/2010
2420 - 11.01.20 EPC562 Relinquishment Report Request DEED	09/02/2011
2421 - 11.01.31 Notice of Decision Partial Surrender Application	09/02/2011
2422 - EPC 562 partial relinquishment	09/02/2011
<b>5.02.3 - Expenditure Reports</b>	
0909 - EPC562 Annual Expenditure 2007	21/02/2008
2346 - Letter DME EPC 562 Expenditure Statement 2008 - 22 October 2008	08/11/2010
2347 - Variation to Expenditure Commitment - 27 September 2010	08/11/2010
2348 - EPC562 Expenditure Statement	08/11/2010
2417 - EPC562 Expenditure Statement 2010	09/02/2011

2419 - Letter to DEEDI-EPC 562 Expenditure Commitment for Year 16 04.11.09 - 04.11.10	09/02/2011
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### **5.03 - MDL 246**

#### **5.03.1 - Statutory Reports**

0914 - MDL246 Annual Report 2007	21/02/2008
2339 - MDL 246 Annual Report 2008 - 6 November 2008	08/11/2010
2340 - MDL246 Annual Report 2010	08/11/2010

#### **5.03.2 - Tenement**

0915 - 071025 MDL 246 Instrument of Permit	02/11/2009
0918 - Environmental Authority M4505 - MDL 246	21/02/2008
1504 - MDL 246 renewal	14/08/2008
2291 - MDL 246 Annual Report for the Period ended 31st August 2009	14/09/2010
2301 - Mortgage GSG MDL 246	14/09/2010
2302 - Mortgage GSPower MDL 246	14/09/2010
2338 - Letter DME MDL 246 Expenditure Statement 2008 - 22 October 2008	08/11/2010

#### **5.03.3 - Expenditure Reports**

1518 - MDL 246 Annual Expenditure 2008	18/11/2008
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#### **5.03.4 - JORC Report**

0923 - Sefton JORC Report	21/02/2008
0924 - C2013.App7_8	21/02/2008
0925 - C2013.LabResRep	21/02/2008
0926 - C2013.MainRep	21/02/2008
0927 - C2013.TableA2-1	21/02/2008
0959 - Block Reserves	26/02/2008
0966 - Appendix 1	26/02/2008

#### **5.03.5 - Geology**

1026 - SEFTON (ZIP FILE)	24/04/2008
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### **5.04 - MDL 247**

#### **5.04.1 - Statutory Reports**

1520 - MDL 247 Annual Report 2008	18/11/2008
2342 - MDL247 Annual Report Period ended 31st August 2009 Final - 30 September 2009	08/11/2010
2343 - MDL247 Report 12 Months ended 31st August 2010	08/11/2010

#### **5.04.2 - Tenement**

0934 - 071025 MDL 247 Instrument of Permit	02/11/2009
0935 - Environmental Authority M4506 - MDL 247	21/02/2008

2292 - MDL 247 Annual Report for the Period ended 31st August 2010	14/09/2010
2303 - Mortgage GSG MDL 247	14/09/2010
2304 - Mortgage GSPower MDL 247	14/09/2010
2423 - 101207 letter to QME enclosing renewal application MDL 247	09/02/2011
<b>5.04.3 - Expenditure Reports</b>	
1519 - MDL 247 Annual Expenditure 2008	18/11/2008
2341 - Letter M&E MDL 247 Expenditure Statement period ended 31 August 2009 - 30 September 2009	08/11/2010
<b>5.04.4 - JORC Report</b>	
1640 - MDL247&EPC873 JORC REPORT Text, Figures & Appendices 28-04-09	29/04/2009
<b>5.04.5 - Geology</b>	
1017 - AMH Chinchilla 2007 Cores Quality 080418_gcs	22/04/2008
1018 - G16049 Chinchilla Final Report 080421	22/04/2008
1027 - RYWUNG (ZIP FILE)	24/04/2008
1429 - Rywung_Drilling13062008	20/06/2008
<b>04. Syntech Transactions</b>	
<b>01. 2007 Syntech Holdings Transaction</b>	
0006 - 03_OptionDeed	20/02/2008
0007 - 04_Syntech Security Deed (2)	20/02/2008
0008 - 05_CPNSA Syntech Security Deed	20/02/2008
0009 - 06_Mortgage_22032007	20/02/2008
0010 - 07_CPNSA_Mortgage_22032007	20/02/2008
0016 - 13_AMF_SH_Share_Sub_Agrmnt	20/02/2008
0017 - 14_ShareSaleAgreement_22032007	20/02/2008
0018 - 15_DeedofRelease22032007	20/02/2008
0021 - 18_Deed_of_Release	20/02/2008
0043 - 39_Caveat_EPC_732_22032007	20/02/2008
0044 - 40_Caveat_EPC_732_22032007	20/02/2008
0095 - 91_Mortgaged_Rights_Notice_22032007	20/02/2008
0096 - 92_Mortgaged_Rights_Notice_22032007	20/02/2008
1490 - Notice of Exercise Opt	04/08/2008
1491 - GSPH Share Certificate Mar08	04/08/2008
<b>02. AMHCC Purchase and JV Agreements</b>	
0097 - 01 Joint Venture Agreement	20/02/2008
0098 - 02 Accession Deed	20/02/2008
0099 - 03 AMH documents - Amendment Agreement (No.1) (from corres 1)	20/02/2008

0100 - 04 AMH documents - Amendment Agreement (No.2) (from corres 1)	20/02/2008
0101 - 05 AMH documents - Amendment Agreement (No.3) (from corres 5)	20/02/2008
0102 - 06 Amendment Agreement 4	20/02/2008
0103 - 07 Sale & Purchase Agreement	20/02/2008
0106 -10 Share Sale Agreement - AMH & SHII	20/02/2008
0127-31 Deeds of Releases TSA - AMHCC	20/02/2008
0156 - AMH documents - Amendment Agreement (No.3) (from corres 4)	20/02/2008
0157 - AMH documents - Amendment Agreement with duty stamp (No.1) (from corres 1)	20/02/2008
0160 - Amendment Agreement (No.3)	20/02/2008
0161 - BDW Cover Letter	20/02/2008
<b>03. 2009 Financing</b>	
1680 - Priority Deed dated 20 August 2009	03/11/2009
1681 - Syntech Holdings Option Deed (Guarantee Warrants) dated 20 August 2009	03/11/2009
1682 - Syntech Holdings II Option Deed (Guarantee Warrants) dated 20 August 2009	03/11/2009
1683 - Syntech Holdings Option Deed (Funding Warrants) dated 20 August 2009	03/11/2009
1684 - Syntech Holdings II Option Deed (Funding Warrants) dated 20 August 2009	03/11/2009
1685 - Syntech/GS Power Security Deed dated 20 August 2009 (including evidence of registration of securities)	03/11/2009
1686 - Syntech/GS Group Security Deed Poll dated 20 August 2009 (including evidence of registration of securities)	03/11/2009
1687 - Mortgage Form 2 and Form 20 (GSP and Mountfield) dated 20 August 2009.	03/11/2009
1688 - 12 Mortgage Form 2 and Form 20 (GSG and Mountfield) dated 20 August 2009	03/11/2009
1689 - QR Reimbursement Agreement dated 20 August 2009	03/11/2009
1690 - Holdings Letter of Guarantee (QR) dated 20 August 2009	03/11/2009
1691 -15 GSG Letter of Guarantee (QR) dated 20 August 2009	03/11/2009
2444 - SHI Funding Warrants	18/02/2011
2445 - SHII Funding Warrants	18/02/2011
2446 - SHI Guarantee Warrants	18/02/2011
2447 - SHII Guarantee Warrants	18/02/2011
<b>05. Syntech Employee Agreements</b>	
0173 - Brett Purkiss Employment Agreement doc	04/11/2009
0174 - Darian Hielscher Employment Agreement	04/11/2009
0176 - Empl Agt Alan Newton	20/02/2008
0178 - Frank Smith Employment Ag	20/02/2008

1084 - Purkiss Executive Agreement signing page	27/05/2008
1085 - Hielscher Executive Agreement signing page	27/05/2008
1578 - Employment Agreement - Gaby Saunders	24/11/2008
1579 - Employment Agreement - Paul Kelly	24/11/2008
1630 - First Amendment to Services Agreement AG - SR 29 August 2008	03/02/2009
1631 - Second Amendment to Services Agreement AG - SR 30 September 2008	04/11/2009
1632 - Signed Services Agreement AG - SR April 2007	03/02/2009
1695 - Brett Purkiss Amending Deed	04/11/2009
1696 - Darian Hielscher Amending Deed	04/11/2009
1697- Paul Kelly Amending Deed	04/11/2009
1698 - Stuart Green Employment Agreement October 09	04/11/2009
1699 - Syntech and Erik Schaefer, LTIP	04/11/2009
2334 - Employment Agreement - Jane Kichen	08/11/2010
2335 - Employment Agreement - Leita Johnson	08/11/2010
2336 - Gaby Saunders promotion - September 2009	08/11/2010
2424 - 2010 Salary adjustment Brett Purkiss	09/02/2011
2425 - 2010 Salary adjustment Darian Hielscher	09/02/2011
2426 - 2010 Salary adjustment Paul Kelly	09/02/2011
2427- Alan Newton salary review July 2010	09/02/2011
2428 - Debbie Paterson salary review July 2010	09/02/2011
2429 - Frank Smith salary review July 2010	09/02/2011
2430 - Gaby Saunders salary review July 2010	09/02/2011
2431 - Jane Kirchin salary review July 2010	09/02/2011
2432 - Logisics officer - Debbie Paterson	09/02/2011
2433 - Stuart Green salary review July 2010	09/02/2011
2685 - Chandler Mcleod Terms of Business 07-Jan-2011	01/04/2011
2686 - Employment Agreement Debbie Paterson	01/04/2011
2687 - Employment Agreement Deborah Jennings	01/04/2011
<b>Restricted Documents</b>	
2700 - Syntech - Employee Entitlments as at 30 April 2011	12/05/2011
<b>06. Mine Operations</b>	
2495 - Steelwork Inspection - Coal Preparation Plant	25/02/2011
2496 - Steelwork Inspection - Loadout Facility	25/02/2011
2497 - Environmental Incident Report December 2010/January 2011	28/02/2011
2502 - Letter from DERM re noise complaints	01/03/2011

<b>01. Mine Operations and Maintenance Contract</b>		
1788 - 0 Table of Contents Rev 0		12/04/2010
1789 - Appendices Cover Sheets		12/04/2010
1790 - Schedules Cover Sheets		12/04/2010
2249 - Scanned copy of mine contract signature pages, showing as signed		02/09/2010
2460 - 101130 Notice of Appointment of an Operator for a Coal Mine- Macmahon		23/02/2011
2462 - ADM.10.02.03_002 N Roberts 2010.10.21		23/02/2011
2487 - QLD - Contractors 2010 - 2011 COC		24/02/2011
<b>06.01. 02 Contract - Final</b>		
1791 - General Conditions Rev 0		12/04/2010
1792 - Schedule 1 - Contract Particulars Rev 0		12/04/2010
1793 -Schedule 2 - Security Rev 0		12/04/2010
1794 - Schedule 3 - Insurance Rev 0		12/04/2010
1795 - Schedule 4 - Risk Allocation Matrix Rev 0		12/04/2010
1796 - Schedule 5 - Contract Specification Rev 0		12/04/2010
1797 - Schedule 6 - KPI Rev 0		12/04/2010
1798 - Schedule 7 - Contractor Pricing Schedules Rev 0		12/04/2010
1799 - Schedule 8 - Major Maintenance Cost Estimate Rev 0x		12/04/2010
1800 - Schedule 9 - Rise & Fall Rev 0		12/04/2010
<b>06.02. 03 Appendices</b>		
<b>06.02.01. Appendix A. Geology</b>		
<b>JORC Resources Report</b>		
1801 - EPC732 JORC REPORT Text & Figures		12/04/2010
<b>Vulcan Raw Coal Quality Grid Files (January 2009)</b>		
1802 -Model NOTE-READ		12/04/2010
1803 - Vulcan Raw Coal Quality Grid Files (January 2009)		12/04/2010
<b>Vulcan Structural Grid Files (January 2009)</b>		
1804 - Vulcan Structural Grid Files (January 2009)		12/04/2010
<b>06.02.02. Appendix B. Mining Lease Application Documents</b>		
<b>EMP</b>		
<b>Final EM Plan 22 Dec 08</b>		
<b>Appendix A</b>		
1805 - Soil and Land Assessment Study - Figures Inserted		12/04/2010
<b>Appendix B</b>		

1806 - Cameby & Avon Downs Terrestrial Flora & Fauna Report 14 12	12/04/2010
<b>Appendix C</b>	
1807 - APP - C EB0704517 COANA	12/04/2010
1808 - APP - CE B0704517 SUB	12/04/2010
1809 - Watershed Tables Appendix C	12/04/2010
<b>Appendix D</b>	
1810 - Groundwater Report	12/04/2010
<b>Appendix E</b>	
1811 - Cameby Downs Traffic Report - Final n- App E	12/04/2010
<b>Appendix F</b>	
1812-Nosie	12/04/2010
<b>Appendix G</b>	
1813 - Air Quality Assessment of a Proposed Coal Mine	12/04/2010
<b>Appendix H</b>	
1814 - Indigenous Heritage Study - Appendix 1 part 1	12/04/2010
1815 - Indigenous Heritage Study - Appendix 1 part 2	12/04/2010
1816 - Indigenous Heritage Study - Appendix 1 part 3	12/04/2010
1817 - Indigenous Heritage Study - part 1	12/04/2010
1818 - Indigenous Heritage Study - part 2	12/04/2010
<b>Appendix I</b>	
1819 - Blasting	12/04/2010
<b>Appendix J</b>	
1820 - Geotechnical Characterisation	12/04/2010
<b>Appendix K</b>	
1821 - Community Consultation Report	12/04/2010
<b>EM Plan</b>	
1822 - Cameby EM Plan AMENDED 221208	12/04/2010
<b>Environmental Authority</b>	
1823 - Environmental Authority 11 02 09	12/04/2010
<b>Mining Lease Conditions</b>	
1824 - Mining Lease Letter	12/04/2010
1825 - Mining Lease Plan	12/04/2010
1826 - Mining Lease Report	12/04/2010
<b>Plan of Operations</b>	
1827 - Plan of Operations FINAL 030409	12/04/2010



<b>06.02.03. Appendix C. Geotechnical Information Pack</b>		
1828 - Cameby Excavatability Getoech Report 14 April 2008 Mining On		12/04/2010
1829 - Report 1340 Vr2 - Cameby Downs Factual Geotechnical Report 1		12/04/2010
<b>06.02.04. Appendix D. Water Quality</b>		
1830 - Appendix D. Water Analysis		12/04/2010
<b>06.02.05. Appendix E. Mine Layout (PDF)</b>		
1831 - Fig 1 - Mine Layout Plan		12/04/2010
1832 - Fig 2 - Mine Layout Plan - OrthoPhoto Aug09		12/04/2010
1833 - Fig 3 - Typical Stratigraphic Section and Mine Area Working		12/04/2010
1834 - Fig 4 - Loss and Dilution Schematic		12/04/2010
<b>06.02.06. Appendix F. Cartography Survey Vulcan Data</b>		
<b>Mine Layout - Orthophoto</b>		
1835 - Mine Layout - Orthophoto		12/04/2010
<b>Mine Layout - Topographic</b>		
1836 - Mine Layout - Topographic		12/04/2010
<b>Mine Layout - Vulcan</b>		
1837 - tender basal layout Aug09		12/04/2010
1838 - tender basal layout Aug09		12/04/2010
1839 - tender shell Aug09		12/04/2010
1840 - tender shell Aug09		12/04/2010
1841 - tender shell Aug092		12/04/2010
1842 - tender shell Aug09		12/04/2010
<b>06.02.07. Appendix G. Cultural Heritage Management Plan</b>		
1843 - Cultural Heritage Management Plan - Barunggam People - Synte		12/04/2010
1844 - Cultural Heritage Plan 12July07		12/04/2010
<b>06.02.08. Appendix H. Block Quantity and Quality Data</b>		
1845 - Appendix H.Block Quantity & Quality Data Rev B v2 23.12.2009		12/04/2010
<b>06.02.09. Appendix I. CHPP Infrastructure Drawings</b>		
<b>Area 10</b>		
<b>Civil</b>		
1846 - SRS0801-CVL10-001 ROM HANDLING CONCRETE ARRANGEMENT SHEET 1 & 2 REV 2		12/04/2010
<b>General Arrangements</b>		
1847 - SRS0801-GEN10-001 ROM HANDLING ROM-DUMP STATION GENERAL ARRANGEMENT SHEET 10F1 REV 0		12/04/2010

**Mechanical and Platework**

1848 - SRA6DA-1	12/04/2010
1849 - SRS0801-MCH10-011- ROM HANDLING DUMP STATION 10-BN-101 ROM HOPPER SHEET 1 OF 1 REV 1	12/04/2010
1850 - SRS0801-MCH10-102-ROM HANDLING 10-BN-101 HOPPER BODY RH FABRICATION SHEET 1 - 3 REV 1	12/04/2010
1851 - SRS0801-MCH10-106 ROM HANDLING DUMP STATION WING WALLS ASSEMBLE SHEET 1 OF 1 REV 0	12/04/2010

**Piping**

1852 - SRS0801-PIP10-120 ROM HANDLING-DUMP STATION DUST SUPPRESSION SPRAY MODULE ASSEMBLY SHEET 1 & 2 REV 0	12/04/2010
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**Area 20****Civil**

1853 - SRS0801- CVL20-110 RAW HANDLING SIZING STATION CONCRETE ARRANGEMENT SHEET 1&2 REV 5	12/04/2010
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**General Arrangements**

1854 -SRS080-2	12/04/2010
1855 - SRS0801-GEN20-003 RAW HANDLING SIZING STATION GENERAL ARRANGEMENT SHEET 1 - 3 REV 0	12/04/2010
1856 - SRS0801-GEN20-004 RAW HANDLING CPP PIPE BRIDGE ARRANGEMENT SHEET 1 OF 1 REV 0	12/04/2010

**Mechanical and Platework**

1857 - SR91AA-1	12/04/2010
1858 - SRC00B-1	12/04/2010
1859 -SREFE2-1	12/04/2010
1860-SRFE1E-1	12/04/2010
1861 - SRS0801-MCH20-011 RAW HANDLING SIZING STATION 20-FE-101 CRUSHER SHEET 1-3 REV 0	12/04/2010
1862 - SRS0801-MCH20-100 RAW HANDLING 20-CV-101 RAW COAL CONVEYOR SHEET 1 OF 1 REV 0	12/04/2010
1863 - SRS0801-MCH20-120 RAW HANDLING 20-CV-101 RAW COAL CONVEYOR SHEET 1 - 3 REV 0	12/04/2010
1864 - SRS0801-MCH20-160 RAW HANDLING SIZING STATION 20-BN-102 SURGE BIN SHEET 1 OF 1 REV 0	12/04/2010
1865 - SRS0801-MCH20-163 RAW HANDLING 20-FE-101 CRUSHER FEEDER 20-CH-128 SHEET 1 & 2 REV 0	12/04/2010
1866 - SRS0801-MCH20-165 RAW HANDLING SIZING STATION 20-CH-106 TERTIARY SHEET 1 & 2 REV 1	12/04/2010
1867 - SRS0801-MCH20-166 RAW HANDLING SIZING STATION 20-BN-102 SURGE BIN SHEET 1 OF 1 REV 0	12/04/2010
1868 - SRS0801-MCH20-167 RAW HANDLING SIZING STATION 20-BN-102 SURGE BIN SHEET 1 - 3 REV 1	12/04/2010
1869 - SRS0801-MCH20-168 RAW HANDLING SIZING STATION 20-CH-106 TERTIARY SHEET 1 & 2 REV 2	12/04/2010

**Piping**

1870 - SR4BD0-1	12/04/2010
1871 - SRS0801-PIP20-101 RAW HANDLING SIZING STATION PIPING ARRANGEMENT SHEET 1 & 2 REV 1	12/04/2010

**Area 30****Civil**

1872 - SRS0801-CVL30-001 COAL PREPARATION PLANT CONCRETE ARRANGEMENT SHEET 1 & 2 REV 1	12/04/2010
1873 - SRS0801-CVL30-006 COAL PREPARATION PLAN CONCRETE MAGNETITE PIT CONCRETE DETAILS SHT 1 & 2 REV 0	12/04/2010

**General Arrangements**

1874 - SRS0801-GEN30-001 COAL PREPARATION PLANT AREA 30 - GA ISOMETRIC SHEET 1-15 REV 1	12/04/2010
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**Mechanical and Platework**

1875 - SRS0801-MCH30-010 COAL PREPARATION PLANT DMC MODULE MECHANICAL SHEET 1 - 3 REV 0	12/04/2010
1876 - SRS0801-MCH30-011 COAL PREPARATION PLANT DESLIM MODULE MECHANICAL SHEET 1 - 3 REV 0	12/04/2010
1877 - SRS0801-MCH30-012 COAL PREPARATION PLANT SPIRAL MODULE MECHANICAL SHEET 1 OF 1 REV 0	12/04/2010
1878 - SRS0801-MCH30-013 COAL PREPARATION PLANT FINES MODULE MECHANICAL SHEET 1 - 3 REV 0	12/04/2010
1879 - SRS0801-MCH30-600 COAL PREPARATION PLANT DESLIME MODULE 30-BX-101 SHEET 1 & 2 REV 0	12/04/2010
1880 - SRS0801-MCH30-603 COAL PREPARATION PLANT SPIRAL MODULE 30-BX-104 SHEET 1 OF 1 REV 0	12/04/2010
1881 - SRS0801-MCH30-604 COAL PREPARATION PLANT FINES MODULE 30-BX-105 SHEET 1 OF 1 REV 0	12/04/2010
1882 - SRS0801-MCH30-605 COAL PREPARATION PLANT DMC MODULE 30-BX-106 DENSE REV 1 & 2 REV 0	12/04/2010
1883 - SRS0801-MCH30-615 COAL PREPARATION PLANT DESLIMING MODULE 30-CH-108 SHT 1 - 2 REV 0	12/04/2010
1884 - SRS0801-MCH30-616 COAL PREPARATION PLANT DESLIME MODULE 30-CH-109 SHT 1 - 2 REV 0	12/04/2010
1885 - SRS0801-MCH30-617 COAL PREPARATION PLANT FINES MODULE 30-CH-121 SHT 10F 1 REV 0	12/04/2010
1886 - SRS0801-MCH30-618 COAL PREPARATION PLANT DMC MODULE 30-CH-113 SHT 1 - 2 REV 0	12/04/2010
1887 - SRS0801-MCH30-619 COAL PREPARATION PLANT DMC MODULE 30-CH-114 SHT1 - 2 REV 0	12/04/2010
1888 - SRS0801-MCH30-620 COAL PREPARATION PLANT DMC MODULE 30-CH-115 SHT 1 & 2 REV 0	12/04/2010
1889 - SRS0801-MCH30-621 COAL PREPARATION PLANT DMC MODULE 30-CH-116 SHT 1&2 REV 0	12/04/2010
1890 - SRS0801-MCH30-622 COAL PREPARATION PLANT DMC MODULE 30-CH-117 SHT1&2 REV 0	12/04/2010
1891 - SRS0801-MCH30-624 COAL PREPARATION PLANT FINES MODULE 30-CH-119 SHT 1&2 REV 0	12/04/2010

1892 - SRS0801-MCH30-625 COAL PREPARATION PLANT FINES MODULE 30-CH-120 SHT 1OF1 REV 0	12/04/2010
1893 - SRS0801-MCH30-628 COAL PREPARATION PLANT DESLIME MODULE 30-DS-103 SHT 1 & 2 REV 0	12/04/2010
1894 - SRS0801-MCH30-629 COAL PREPARATION PLANT DMC MODULE 30-DS-102 SHT 1OF1 REV 0	12/04/2010
1895 - SRS0801-MCH30-630 COAL PREPARATION PLANT DMC MODULE 30-CH-115 SHT 1 & 2 REV 0	12/04/2010
1896 - SRS0801-MCH30-631 COAL PREPARATION PLANT DMC MODULE 30-CV-115 SHT 1OF1 REV 0	12/04/2010
1897 - SRS0801-MCH30-632 COAL PREPARATION PLANT DMC MODULE 30-CH-115 SHEET 1OF1 REV 0	12/04/2010
1898 - SRS0801-MCH30-700 COAL PREPARATION PLANT SUMPS & PUMPS 30-SU-103 SHEET 1 OF 1 REV 0	12/04/2010
1899 - SRS0801-MCH30-701 COAL PREPARATION PLANT SUMPS & PUMPS 30-SU-105 SHEET 1 OF 1 REV 0	12/04/2010
1900 - SRS0801-MCH30-702 COAL PREPARATION PLANT DESLIME MODULE 30-SU-106 SHEET 1 & 2 REV 0	12/04/2010
1901 - SRS0801-MCH30-703 COAL PREPARATION PLANT SUMPS & PUMPS 30-SU-107 SHEET 1 OF 1 REV 0	12/04/2010
1902 - SRS0801-MCH30-704 COAL PREPARATION PLANT SUMPS & PUMPS 30-SU-108 SHEET 1 OF 1 REV 0	12/04/2010
1903 - SRS0801-MCH30-705 COAL PREPARATION PLANT SUMPS & PUMPS 30-SU-109 SHEET 1 OF 1 REV 0	12/04/2010
1904 - SRS0801-MCH30-707 COAL PREPARATION PLANT SUMPS & PUMPS ARRANGEMENT SHT 1OF1 REV 0	12/04/2010
1905 - SRS0801-MCH30-710 COAL PREPARATION PLANT SUMPS & PUMPS SCREEN BOX SHT 1OF1 REV 0	12/04/2010
1906 - SRS0801-MCH30-711 COAL PREPARATION PLANT SUMPS & PUMPS SCREEN BOX SHT 1OF1 REV 0	12/04/2010
1907 - SRS0801-MCH30-715 COAL PREPARATION PLANT SUMPS & PUMPS HDP SUMP SHEET 1 OF 1 REV 0	12/04/2010
1908 - SRS0801-MCH30-716 COAL PREPARATION PLANT SUMPS & PUMPS HDPE SUMP SHEET 1 OF 1 REV 0	12/04/2010

**Piping**

1909 - SRS0801-PIP30-002 COAL PREPARATION PLANT PIPING-CARBON STEEL PIPE ARRANGEMENT SHEET 1- 3 REV 0	12/04/2010
1910 - SRS0801-PIP30-004 COAL PREPARATION PLANT PIPING - BASALT LINED PIPE ARRANGMENT SHT 1 - 2 REV 0	12/04/2010
1911 - SRS0801-PIP30-005 COAL PREPARATION PLANT PIPING- POLYETHYLENE (PE) PIPE ARRANGEMENT SHEET 1 - 3 REV 0	12/04/2010

**Area 40**

**General Arrangements**

1912 - SRS0801-GEN40-001 PRODUCT AND REJECT HANDLING GENERAL ARRANGEMENT SHEET 1 OF 1 REV 0	12/04/2010
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**Mechanical and Platework**

1913 - SR1AB2-1	12/04/2010
1914 - SR3FD3-1	12/04/2010

1915 - SR53BC-1	12/04/2010
1916-SR5FAC-1	12/04/2010
1917 - SR7A0F-1	12/04/2010
1918-SR7A7D-1	12/04/2010
1919-SRD2B2-1	12/04/2010
1920 -SRDBF2-1	12/04/2010
1921 - SRDE7D-1	12/04/2010
1922 - SRS0801-MCH40-003 PROD & REJECT HANDLING 40- CV-103 REJECTS CONVEYORT SHEET 10F1 REV 0	12/04/2010
1923 - SRS0801-MCH40-004 PROJECT & REJECT HANDLING CO- DISPOSAL MECHANICAL SHEET 1 - 3 REV 0	12/04/2010
1924 - SRS0801-MCH40-015 PRODUCT & REJECT HANDLING 40- CV-102 PRODUCT SHEET 1 OF 1 REV 0	12/04/2010
1925 - SRS0801-MCH40-100 PRODUCT & REJECT HANDLING 40- CV-012 PRODUCT SHEET 1 OF 1 REV 1	12/04/2010
1926 - SRS0801-MCH40-105 PROD & REJECT HANDLING 40- CV-103 REJECTS SHEET 1 OF 1 REV 0	12/04/2010
1927 - SRS0801-MCH40-155 PRODUCT & REJECT HANDLING 40- BN-103 REJECTS BIN SHEET 1 OF 2 REV 0	12/04/2010
1928 - SRS0801-MCH40-157 PROD & REJECT HANDLING CO- DISPOSAL MECHANICAL SHT 1 OF 1 REV 0	12/04/2010
1929 - SRS0801-MCH40-160 PRODUCT & REJECT HANDLING 40- BN-103 REJECTS SHEET 1 OF 1 REV 0	12/04/2010
1930 - SRS0801-MCH40-211 PROD & REJECT HANDLING 40- CV-103 REJECTS CONVEYOR SHEET 10F1 REV 0	12/04/2010

**Piping**

1931 - SRS0801-PIP40-101 CO-DISPOSAL PUMPING STATION PIPING ARRANGEMENT SHEET 1 -F 2 REV 0	12/04/2010
1932 - SRS0801-PIP40-1057 CO-DISPOSAL PUMPING STATION PIPING ARRANGEMENT SHEET 1 - 2 REV 0	12/04/2010
1933 - SRS0801-PIP40-1091 CO-DISPOSAL PUMPING STATION PIPING ARRANGEMENT SHEET 1 OF 1 REV 0	12/04/2010
1934 - SRS0801-PIP40-1146 CO-DISPOSAL PUMPING STATION PIPING ARRANGEMENT SHEET 1 OF 1 REV 0	12/04/2010
1935 - SRS0801-PIP40-1224 CO-DISPOSAL PUMPING STATION PIPING ARRANGEMENT SHEET 1 OF 1 REV 0	12/04/2010
1936 - SRS0801-PIP40-1340 CO-DISPOSAL PUMPING STATION PIPING ARRANGEMENT SHEET 1 OF 1 REV 0	12/04/2010

**Area 50**

**Civil**

1937 - SRS0801-CVL50-002 LOADOUT FACILITY TRAIN LOADING STATION CONCRETE SHEET 1 - 2 REV 1	12/04/2010
1938 - SRS0801-CVL50-003 LOADOUT FACILITY RECLAIM HOPPER-FEEDER CONCRETE SHEET 1 OF 1 REV 1	12/04/2010
1939 - SRS0801-CVL50-010 LOADOUT FACILITY 50-CV-104 LOADOUT CONVEYOR SAMPLE STATION SHEET 1 & 2 REV 0	12/04/2010

1940 - SRS0801-CVL50-109 LOADOUT FACILITY RECLAIM HOPPER-FEEDER MAIL SLAB CONCRETE SHEET 1 - 3 REV 0	12/04/2010
1941 - SRS0801-CVL50-110 LOADOUT FACILITY TRAIN LOADING STATION CONCRETE SPILLAGE PIT SHEET 1 - 2 REV 0	12/04/2010
<b>General Arrangements</b>	
1942 - SRS0801-GEN50-001 LOADOUT FACILITY GENERAL ARRANGEMENT SHEET 1 OF 1 REV 1	12/04/2010
1943 - SRS0801-GEN50-002 LOADOUT FACILITY 50-CV-104 LOADOUT CONVEYOR GA SHEET 1 OF 1 REV 0	12/04/2010
1944 - SRS0801-GEN50-004 LOADOUT FACILITY TRAIN LOADING STATION GA SHEET 1 - 2 REV 0	12/04/2010
<b>Mechanical and Platework</b>	
1945 - SR8CED-1	12/04/2010
1946 - SRS0801-MCH50-002 LOADOUT FACILITY 50-CV-104 LOADOUT CONVEYOR SHEET 1 OF 1 REV 0	12/04/2010
1947 - SRS0801-MCH50-004 LOAD OUT FACILITY TRAIN LOADING STATION BASE SHEET 1 OF 1 REV 0	12/04/2010
1948 - SRS0801-MCH50-010 LOADOUT FACILITY 50-CV-104 TRAIN LOADOUT SHEET 1 OF 1 REV 3	12/04/2010
1949 - SRS0801-MCH50-100 LOADOUT FACILITY 50-CV-104 LOADOUT SHEET 1 OF 1 REV 0	12/04/2010
1950 - SRS0801-MCH50-106 LOADOUT FACILITY 50-CV-104 LOADOUT SHT 1 OF 1 REV 0	12/04/2010
1951 - SRS0801-MCH50-110 LOADOUT FACILITY 50-CV-104 LOADOUT SHEET 1 OF 1 REV 0	12/04/2010
1952 - SRS0801-MCH50-115 LOADOUT FACILITY 50-CV-104 LOADOUT SHT 1 OF 1 REV 0	12/04/2010
1953 - SRS0801-MCH50-120 LOADOUT FACILITY 50-CV-104 LOADOUT CONVEYOR SHEET 1 - 3 REV 0	12/04/2010
1954 - SRS0801-MCH50-130 LOADOUT FACILITY 50-CV-104 LOADOUT CONVEYOR SHEET 1 OF 1 REV 0	12/04/2010
1955 - SRS0801-MCH50-132 LOADOUT FACILITY 50-CV-104 LOADOUT CONVEYOR SHEET 1 OF 1 REV 0	12/04/2010
1956 - SRS0801-MCH50-135 LOADOUT FACILITY 50-CV-104 LOADOUT CONVEYOR SHEET 1 OF 1 REV 0	12/04/2010
1957 - SRS0801-MCH50-140 LOADOUT FACILITY 50-CV-104 LOADOUT CONVEYOR SHEET 1 OF 1 REV 0	12/04/2010
1958 - SRS0801-MCH50-141 LOADOUT FACILITY 50-CV-104 LOADOUT CONVEYOR SHEET 1 OF 1 REV 0	12/04/2010
1959 - SRS0801-MCH50-150 LOADOUT FACILITY TRAIN LOADING STATION SHEET 1 - 2 REV 0	12/04/2010
1960 - SRS0801-MCH50-160 LOADOUT FACILITY 50-FE-103 RECLAIM HOPPER-FEEDER SHT 1 OF 1 REV 0	12/04/2010
1961 - SRS0801-MCH50-200 LOADOUT FACILITY 50-CV-104 LOADOUT CONVEYOR SHEET 1 - 3 REV 0	12/04/2010
<b>Civil</b>	
1962 - 07015 002 MINE SITE INFRASTRUCTURE STAGE 1 - CIVIL SITE PLAN REV D	12/04/2010
1963 - 07015 003 MINE SITE INFRASTRUCTURE STAGE 1 - CIVIL	12/04/2010

OVERALL LAYOUT PLAN REV D	
1964 - 07015 004 MINE SITE INFRASTRUCTURE STAGE 1 - CIVIL DETAIL LAYOUT PLAN SHEET 1 OF 2 REV D	12/04/2010
1965 - 07015 005 MINE SITE INFRASTRUCTURE STAGE 1 - CIVIL DETAIL LAYOUT PLAN SHEET 2 OF 2 REV D	12/04/2010
1966 - 07015 008 MINE SITE INFRASTRUCTURE STAGE 1 - CIVIL ROADWORKS AND DRAINAGE LAYOUT - PLAN 1 OF 14 REV D	12/04/2010
1967 - 07015 009 MINE SITE INFRASTRUCTURE STAGE 1 - CIVIL ROADWORKS AND DRAINAGE LAYOUT - PLAN 2 OF 14 REV D	12/04/2010
1968 - 07015 012 MINE SITE INFRASTRUCTURE STAGE 1 - CIVIL ROADWORKS AND DRAINAGE LAYOUT - PLAN 5 OF 14 REV D	12/04/2010
1969 - 07015 013 MINE SITE INFRASTRUCTURE STAGE 1 - CIVIL ROADWORKS AND DRAINAGE LAYOUT - PLAN 6 OF 14 REV D	12/04/2010
1970 - 07015 014 MINE SITE INFRASTRUCTURE STAGE 1 - CIVIL ROADWORKS AND DRAINAGE LAYOUT - PLAN 7 OF 14 REV D	12/04/2010
1971 - 07015 015 MINE SITE INFRASTRUCTURE STAGE 1 - CIVIL ROADWORKS AND DRAINAGE LAYOUT - PLAN 8 OF 14 REV D	12/04/2010
1972 - 07015 016 MINE SITE INFRASTRUCTURE STAGE 1 - CIVIL ROADWORKS AND DRAINAGE LAYOUT - PLAN 9 OF 14 REV D	12/04/2010
1973 - 07015 018 MINE SITE INFRASTRUCTURE STAGE 1 - CIVIL ROADWORKS AND DRAINAGE LAYOUT - PLAN 11 OF 14 REV D	12/04/2010
1974 - 07015 019 MINE SITE INFRASTRUCTURE STAGE 1 - CIVIL ROADWORKS AND DRAINAGE LAYOUT - PLAN 12 OF 14 REV D	12/04/2010
1975 - 07015 020 MINE SITE INFRASTRUCTURE STAGE 1 - CIVIL ROADWORKS AND DRAINAGE LAYOUT - PLAN 13 OF 14 REV D	12/04/2010
1976 - 07015 039 MINE SITE INFRASTRUCTURE STAGE 1 - CIVIL OFFICE AND CARPARK LAYOUT PLAN REV D	12/04/2010
1977 - 07015 040 MINE SITE INFRASTRUCTURE STAGE 1 - CIVIL RUN OF MINE LAYOUT PLAN REV D	12/04/2010
1978 - 07015 041 MINE SITE INFRASTRUCTURE STAGE 1 - CIVIL CHPP LAYOUT PLAN AND DETAILS REV D	12/04/2010
1979 - 07015 042 MINE SITE INFRASTRUCTURE STAGE 1 - CIVIL CONTRACTORS BYPASS AREA LAYOUT PLAN AND DETAILS REV D	12/04/2010
1980 - 07015 043 MINE SITE INFRASTRUCTURE STAGE 1 - CIVIL RAIL LOADOUT LAYOUT PLAN REV D	12/04/2010
1981 - 07015 045 MINE SITE INFRASTRUCTURE STAGE 1 - CIVIL RAW WATER DAM LAYOUT PLAN REV D	12/04/2010
1982 - 07015 049 MINE SITE INFRASTRUCTURE STAGE 1 - CIVIL DIRTY WATER DAM No.2 LAYOUT PLAN REV D	12/04/2010
1983 - 07015 051 MINE SITE INFRASTRUCTURE STAGE 1 - CIVIL REJECTS DAM No.1 LAYOUT PLAN REV D	12/04/2010
1984 - 07015 052 MINE SITE INFRASTRUCTURE STAGE 1 - CIVIL REJECTS DAM No.1 SECTIONS AND DETAILS REV D	12/04/2010
1985 - 07015 053 MINE SITE INFRASTRUCTURE STAGE 1 - CIVIL SERVICES LAYOUT PLAN SHEET 1 OF 2 REV D	12/04/2010
1986 - 07015 054 MINE SITE INFRASTRUCTURE STAGE 1 - CIVIL SERVICES LAYOUT PLAN SHEET 2 OF 2 REV D	12/04/2010
1987 - 07015 055 MINE SITE INFRASTRUCTURE STAGE 1 - CIVIL SEWERAGE LAYOUT PLAN SHEET 1 OF 2 REV D	12/04/2010
1988 - 07015 056 MINE SITE INFRASTRUCTURE STAGE 1 - CIVIL SEWERAGE LAYOUT PLAN SHEET 2 OF 2 REV D	12/04/2010

1989 - 07015 057 MINE SITE INFRASTRUCUTRE STAGE 1 - CIVIL WATER LAYOUT PLAN REV D	12/04/2010
1990 - 07015 058 MINE SITE INFRASTRUCUTRE STAGE 1 - CIVIL RAW WATER DETAIL PLAN SHEET 1 OF 2 REV D	12/04/2010
1991 - 07015 059 MINE SITE INFRASTRUCUTRE STAGE 1 - CIVIL RAW WATER DETAIL PLAN SHEET 2 OF 2 REV D	12/04/2010
1992 - 07015 060 MINE SITE INFRASTRUCUTRE STAGE 1 - CIVIL STORM WATER DRAINAGE CATCHMENT PLAN REV D	12/04/2010
1993 - 07015 M1 STAGE 1 - CIVIL PUMP CONTROL-DAM LEVEL CONTROL-MONI	12/04/2010
1994 - 07015-C-SK01 PROPOSED CIVIL WORKS MINE SITE INFRASTRUCTURE P	12/04/2010
1995 - 07015-C-SK02 PROPOSED CIVIL WORKS MINE SITE INFRASTRUCTURE P	12/04/2010
1996 - 07015-C-SK11 PROPOSED CIVIL WORKS MINE SITE INFRASTRUCTURE P	12/04/2010
<b>Electrical</b>	
1997 - 0801-DRG-ELC00-001 COAL PREPARATION PLANT HV POWER DISTRIBUTION SINGLE LINE DIAGRAM SHEET 1 REV G	12/04/2010
1998 - 0801-DRG-ELC00-002 COAL PREPARATION PLANT HV POWER DISTRIBUTION SINGLE LINE DIAGRAM SHEET 2 REV 1	12/04/2010
1999 - 0801-DRG-ELC00-800 CHPP PROJECT ELECTRICAL & INSTRUMENT GA TYPICAL LEGENDS REV A	12/04/2010
2000 - 0801-DRG-ELC00-801 CHPP PROJECT SITE LAYOUT GENERAL ARRANGEMENT REV A	12/04/2010
2001 - 0801-DRG-ELC00-802 CHPP PROJECT 10,20,30,40 & 50 ROM, CHPP & TLO GA REV A	12/04/2010
2002 - 0801-DRG-ELC00-803 CHPP PROJECT AREA 72 SERVICES AREA GENERAL ARRANGEMENT REV A	12/04/2010
2003 - 0801-DRG-ELC00-804 CHPP PROJECT AREA 71 RETURN WATER GENERAL ARRANGMENT REV A	12/04/2010
2004 - 0801-DRG-INS00-401 CHPP PROJECT CHPP CONTROL SYSTEM BLOCK DIAGRAM REV E	12/04/2010
2005 - 0801-DRG-INS00-403 CHPP PROJECT TELEPHONE SYSTEM BLOCK DIAGRAM REV D	12/04/2010
2006 - 0801-DRG-INS00-404 CHPP PROJECT FIRE ALARM SYSTEM BLOCK DIAGRAM REV A	12/04/2010
<b>Equipment Drawings</b>	
<b>001 - Feeder Breaker</b>	
2007 - SR2172-1	12/04/2010
2008 - SR29E4-1	12/04/2010
2009 - SR45DB-1	12/04/2010
2010 - SR7CEA-1	12/04/2010
2011 - SRDFF3-1	12/04/2010
2012 - SRS080-3	12/04/2010
2013-SRS080-4	12/04/2010
<b>002 - Feeder Reclaim Feeder</b>	



2014 - SRS080-2	12/04/2010
2015 - SRS080-3	12/04/2010
2016 - SRS0801-V002-080618-008 GENERAL ARRANGEMENT RF60-51 Rev 0	12/04/2010
<b>003 - Crushers</b>	
2017 - SRS0801-V003-6160HSS-08137 GENERAL ARRANGEMENT SHEET 1 & 2 REV 2	12/04/2010
2018 - SRS0801-V003-7160HSC-08137 GENERAL ARRANGEMENT SHEET 1 & 2 REV 2	12/04/2010
<b>004 - Belt Weighers</b>	
2019 - SR0060-1	12/04/2010
2020-SR1C63-1	12/04/2010
2021 - SR4D49-1	12/04/2010
2022 -SR5C81-1	12/04/2010
2023 - SR6C6A-1	12/04/2010
2024 - SR80EC-1	12/04/2010
2025 - SR88CB-1	12/04/2010
2026 -SRCDDA-1	12/04/2010
2027 - SRD2FD-1	12/04/2010
2028 - SRDE54-1	12/04/2010
2029 - SRF53F-1	12/04/2010
2030 - SRFEB9-1	12/04/2010
2031 - SRS080-1	12/04/2010
2032 - SRS080-2	12/04/2010
2033 - SRS080-3	12/04/2010
2034 - SRS080-4	12/04/2010
2035 - SRS0801-V004-42610015 METAL DETECTOR MODEL MDX1 GENERAL ARRANGEMENT REV 0	12/04/2010
2036 - SRS0801-V004-42610018 CONTROL PANEL NAME PLATE COMPONENT DETAILS REV 0	12/04/2010
<b>006 - Conveyor Mechanical Components</b>	
2037 - SR06FA-1	12/04/2010
2038 - SR2CE7-1	12/04/2010
2039 - SR33A9-1	12/04/2010
2040 - SR356F-1	12/04/2010
2041 - SR366B-1	12/04/2010
2042 - SR3EAE-1	12/04/2010
2043 - SR3F39-1	12/04/2010
2044 - SR437B-1	12/04/2010
2045 - SR43B5-1	12/04/2010

2046 - SR4A43-1	12/04/2010
2047 - SR55C2-1	12/04/2010
2048 - SR737E-1	12/04/2010
2049 - SR806E-1	12/04/2010
2050 - SR8C16-1	12/04/2010
2051 - SR8DE1-1	12/04/2010
2052 - SR8F8E-1	12/04/2010
2053 - SR9616-1	12/04/2010
2054 - SR9DE9-1	12/04/2010
2055 - SRA7DC-1	12/04/2010
2056 - SRB86D-1	12/04/2010
2057 - SRCOA0-1	12/04/2010
2058 - SRC64D-1	12/04/2010
2059 - SRC807-1	12/04/2010
2060 - SRD214-1	12/04/2010
2061 - SRD3BE-1	12/04/2010
2062 - SRDE4A-1	12/04/2010
2063 - SRE217-1	12/04/2010
2064 - SRE302-1	12/04/2010
2065 - SREE5B-1	12/04/2010
2066 - SRFBC8-1	12/04/2010
2067 - SRS080-1	12/04/2010
2068 - SRS080-2	12/04/2010
2069 - SRS080-3	12/04/2010
2070 - SRS080-4	12/04/2010
2071 - SRS0801-V006-208159 CONVEYOR 40-CV-102 HEAD P1 PULLEY REV 0	12/04/2010
2072 - SRS0801-V006-208173 CONVEYOR 20-FE-101 TAIL P2 PULLEY REV 0	12/04/2010
2073 - SRS0801-V006-B-S-T-CUTOUT PIT BOSS CUT OUT DIMENSIONS REV 1	12/04/2010
2074 - SRS0801-V006-PB41530D THM530 LST-FS-FSQ.	12/04/2010
<b>008 - Conveyor Drives</b>	
2075 - SR7C1F-1	12/04/2010
2076 - SRA798-1	12/04/2010
2077 - SRS080-2	12/04/2010
2078 - SRS080-3	12/04/2010
2079 - SRS080-4	12/04/2010
2080 - SRS0801-V008-FK-165 155 170B RIGID FLANGE COUPLING	12/04/2010

**009 - Product Conveyor Sampler**

2081 - SRS0801-V009-080914-010-01 PLAN REV E	12/04/2010
2082 - SRS0801-V009-080914-010-02 REV E	12/04/2010
2083 - SRS0801-V009-080914-010-03 REV E	12/04/2010
2084 - SRS0801-V009-080914-010-04 REV E	12/04/2010
2085 - SRS0801-V009-080914-010-05 REV F	12/04/2010
2086 - SRS0801-V009-080914-011 REV 0	12/04/2010
2087 - SRS0801-V009-080914-020-01 REV E	12/04/2010
2088 - SRS0801-V009-080914-020-02 REV E	12/04/2010
2089 - SRS0801-V009-080914-020-03 REV E	12/04/2010
2090 - SRS0801-V009-080914-020-04 REV E	12/04/2010
2091 - SRS0801-V009-080914-020-05 REV F	12/04/2010
2092 - SRS0801-V009-080914-021 REV 0	12/04/2010

**010 - Vibrating Screens**

2093 - SR4671-1	12/04/2010
2094 - SR52A7-1	12/04/2010
2095 - SRS080-2	12/04/2010
2096 - SRS080-3	12/04/2010
2097 - SRS080-4	12/04/2010
2098 - SRS0801-V010-KEE-6-4B	12/04/2010

**011 - Cyclones**

2099 - SR22A2-1	12/04/2010
2100 - SR3209-1	12/04/2010
2101 - SR71D4-1	12/04/2010
2102 - SR8E38-1	12/04/2010
2103 - SRA5A7-1	12/04/2010
2104 - SRA9AD-1	12/04/2010
2105 - SRF36E-1	12/04/2010
2106 - SRS0801-V011-CD1-2639 BOTTOM FEED D2-60 2 INCLINED HA600-15-1 120 OD SPIGOT REV 2	12/04/2010
2107 - SRS0801-V011-CY1P2200	12/04/2010
2108 - SRS0801-V011-CY1P2201	12/04/2010
2109 - SRS0801-V011-CY2P1779	12/04/2010
2110 - SRS0801-V011-CY2P1786	12/04/2010
2111 - SRS0801-V011-CY3P3501	12/04/2010
2112 - SRS0801-V011-CY3P3514	12/04/2010
2113 - SRS0801-V011-FL-FMAX800200-LH FASTENER LIST FMAX800200 LEFT HAND REV 1	12/04/2010

2114 - SRS0801-V011-FMAX800200-RH FASTENER LIST FMAX800200 RIGHT HAND REV 1	12/04/2010
2115 - SRS0801-V011-MAX800200-LH GEN ARRANGEMENT MAX 800-20-0 LEFT HAND REV 2	12/04/2010
2116 - SRS0801-V011-PL-PMAX800200-LH PARTS LIST PMAX800200 LEFT HAND REV 2	12/04/2010
2117 - SRS0801-V011-PMAX800200-RH PARTS LIST PMAX800200 RIGHT HAND REV 1	12/04/2010
<b>012 - Magnetic Separator</b>	
2118 - SRS080-1	12/04/2010
2119 - SRS080-2	12/04/2010
<b>013 - Coarse Coal Centrifuge</b>	
2120 - SRS080-1	12/04/2010
2121 - SRS0801-V013-Centrifuge Control Philosophy & Block Diagrams Model	12/04/2010
2122 - SRS0801-V013-Centrifuge Control Philosophy & Block Diagrams Model-1	12/04/2010
<b>014 - Fine Coal Centrifuge</b>	
2123 - SRS0801-V014-1-2740-GENERAL ARRANGEMENT H1000 CENTRIFUGE REV 1	12/04/2010
2124 - SRS0801-V014-1-2790 GENERAL ARRAGEMENTCENTRIFUGE H1000 REV 4	12/04/2010
2125 - SRS0801-V014-2-3094-WIRING DIAGRAM CENTRIFUGE H1000 REV 2	12/04/2010
2126 - SRS0801-V014-2-3511 -WIRING DIAGRAM FINE COAL CENTRIFUGE H1000 REV 1	12/04/2010
<b>015A - Slurry and Sump Pumps A</b>	
2127 - SR1EF0-1	12/04/2010
2128 - SR2AF5-1	12/04/2010
2129 - SR6AC8-1	12/04/2010
2130 - SR9ABE-1	12/04/2010
2131 - SRC4B9-1	12/04/2010
2132 - SRC9B5-1	12/04/2010
2133 - SRDCE0-1	12/04/2010
2134 - SRE4B9-1	12/04/2010
2135 - SRF188-1	12/04/2010
2136 - SRFD4F-1	12/04/2010
2137 - SRS080-2	12/04/2010
2138 - SRS080-3	12/04/2010
2139 - SRS080-4	12/04/2010
2140 - SRS0801-V015A-ELECTRIC MOTOR LIST	12/04/2010

**017 - Spiral Bank**

2141 - Drawings with Explanation	12/04/2010
2142 - SR9408-1	12/04/2010
2143 - SRDE85-1	12/04/2010
2144 - SRS0801-V017-CY9-0094 BOX EXTRA HEAVY DUTY MAX LOAD 1500 kg REV 5	12/04/2010
2145 - SRS0801-V017-CY9-0095 BOX HEAVY DUTY MAX LOAD 1000 kg REV 5	12/04/2010
2146 - SRS0801-V017-CY9-0096 BOX MEDIUM DUTY MAX LOAD 700 kg REV 5	12/04/2010
2147 - SRS0801-V017-CY9-0097 BOX LIGHT DUTY MAX LOAD 400 kg REV 6	12/04/2010
2148 - SRS0801-V017-SPIRAL DATA SHEET-B	12/04/2010

**018 - Thickener**

2149 - SRS0801-V018-P0987-T10-0001	12/04/2010
2150 - SRS0801-V018-P0987-T10-0030	12/04/2010
2151 - SRS0801-V018-P0987-T10-0050	12/04/2010
2152 - SRS0801-V018-P0987-T10-0060	12/04/2010
2153 - SRS0801-V018-P0987-T10-0070	12/04/2010
2154 - SRS0801-V018-P0987-T10-0080	12/04/2010
2155 - SRS0801-V018-P0987-T10-0100	12/04/2010
2156 - SRS0801-V018-P0987-T10-0200	12/04/2010
2157 - SRS0801-V018-P0987-T10-0230	12/04/2010
2158 - SRS0801-V018-P0987-T10-0240	12/04/2010
2159 - SRS0801-V018-P0987-T10-0250	12/04/2010

**020 - Train Loadout System**

2160 - SRS0801-V020-SRL-1898-400	12/04/2010
2161 - SRS0801-V020-SRL-1898-401	12/04/2010
2162 - SRS0801-V020-SRL-1898-402	12/04/2010
2163 - SRS0801-V020-SRL-1898-404	12/04/2010
2164 - SRS0801-V020-SRL-1898-408	12/04/2010
2165 - SRS0801-V020-SRL-1898-410	12/04/2010
2166 - SRS0801-V020-SRL-1898-419	12/04/2010
2167 - SRS0801-V020-SRL-1898-420	12/04/2010
2168 - SRS0801-V020-SRL-1898-421	12/04/2010
2169 - SRS0801-V020-SRL-1898-450	12/04/2010
2170 - SRS0801-V020-SRL-1898-499	12/04/2010
2171 - SRS0801-V020-SRL-1898-500	12/04/2010
2172 - SRS0801-V020-SRL-1898-501	12/04/2010

**Piping and Instrument Diagrams (P and IDs)**

2173 - SRS0801-PID30-101 CHPP COAL PREPARATION PLANT DESLIMING CIRCUIT P & I REV 3	12/04/2010
2174 - SRS0801-PID30-102 CHPP COAL PREPARATION PLANT COARSE COAL CIRCUIT P & I REV 1	12/04/2010
2175 - SRS0801-PID30-103 CHPP COAL PREPARATION PLANT COARSE COAL CIRCUIT P & I REV 3	12/04/2010
2176 - SRS0801-PID30-104 CHPP COAL PREPARATION PLANT FINE COAL CIRCUIT P & I REV 3	12/04/2010
2177 - SRS0801-PID30-105 CHPP THICKENER AREA TAILINGS AREA P & I DIAGRAM REV 3	12/04/2010
2178 - SRS0801-PID30-106 CHPP RAW AND FIRE WATER RAW AND WATER SERVICE P & I REV 2	12/04/2010
2179 - SRS0801-PID30-108 CHPP THICKENER AREA FLOCCULANT PLANT P & I DIAGRAM REV 0	12/04/2010
2180 - SRS0801-PID40-101 CHPP PRODUCT HANDLIND PRODUCT CONVEYOR P & I DIAGRAM REV 3	12/04/2010
2181 - SRS0801-PID40-130 CHPP REJECTS HANDLING REJECT CONVEYOR P & I DIAGRAM REV 1	12/04/2010
2182 - SRS0801-PID40-131 CHPP REJECTS HANDLING CO- DISPOSAL P & I DIAGRAM REV 3	12/04/2010

**Process Flow Diagrams**

2183 - SRS0801-PFD20-001 CHPP RAW COAL HANDLING REV 0	12/04/2010
2184 - SRS0801-PFD30-001 CHPP COAL PREPARTION PLANT REV 0	12/04/2010
2185 - SRS0801-PFD30-002 CHPP COAL PREPARATION PLANT REV 0	12/04/2010
2186 - SRS0801-PFD40-001 CHPP PRODUCT AND REJECT HANDLING REV 0	12/04/2010
2187 - SRS0801-PFD40-002 CHPP CO-DISPOSAL REV 0	12/04/2010
2188 - SRS0801-PFD50-001 CHPP TRAIN LOAD OUT FACILITY REV 0	12/04/2010

**Superceded**

2189 - 07015 002C - Site Plan	12/04/2010
2190 - 07015 004C - Detail Layout Plan (1 of 2)	12/04/2010
2191 - 07015 005C -Detailed layout Plan (2 of 2)	12/04/2010
2192 - 07015 039C - Principal Office & Carpark	12/04/2010
2193 - 07015 040C - ROM	12/04/2010
2194 - 07015 041C - CHPP	12/04/2010
2195 - 07015 042C - Bypass	12/04/2010
2196 - 07015 043C - Rail Loadout	12/04/2010
2197 - 07015 049C - Dirty Water Dam No.2	12/04/2010
2198 - 07015 051C - Rejects Dam No.1	12/04/2010
2199 -07015 053C - Services (1 of 2)	12/04/2010
2200 - 07015 054C - Services (2 of 2)	12/04/2010

2201 - 07015 055C - Sewerage (1 of 2)	12/04/2010
2202 - 07015 056C - Sewerage (2 of 2)	12/04/2010
2203 - 07015 057C - Water Layout Plan	12/04/2010
2204 - 07015 058C - Raw Water Detail (1 of 2)	12/04/2010
2205 - 07015 059C - Raw Water Detail (2 of 2)	12/04/2010
2206 - Glen Eden Cameby Pipeline Schematic Aerial Approx With Cross	12/04/2010
<b>06.02.10. Appendix J. CHPP Lists</b>	
2214 - srs0801-sch-mch00-001-2 equip list rev2	12/04/2010
<b>Electrical Equipment List</b>	
2207 - srs0801-das-elc00-210-2 Local Control Stations & Marshalling Boxes	12/04/2010
2208 - SRS0801-SCH-ELC00-002-A Electrical Equipment List	12/04/2010
2209 - SRS0801-SCH-ELC00-005-A Lighting Model Details	12/04/2010
2210 - SRS0801-SCH-ELC00-006-A Lighting Quantities List	12/04/2010
<b>Instrument List</b>	
2211 -srs0801-SCH-ELC00-004-A Instrument List	12/04/2010
<b>Mechanical Equipment List</b>	
2212 - srs0801-sch-mch00-001-2 equip list rev 2	12/04/2010
<b>Pipeline List</b>	
2213 - SRS0801-SCH-PIP00-001-2 Line List rev 2	12/04/2010
<b>Superseded</b>	
2215 - srs0801-sch-mch00-001-2 equip list rev2	12/04/2010
<b>06.02.11. Appendix K. CHPP Specifications</b>	
<b>CHPP Functional Specification</b>	
2216 - srs0801-spc-elc00-100-1 Plant Control System Functional Specification	12/04/2010
<b>Painting Specification</b>	
2217 - srs0801-spc-str00-001-4 Surface Protection	12/04/2010
<b>Pipe Specification</b>	
2218 - srs0801-spc-pip00-001-2	12/04/2010
<b>Principals Project Requirements</b>	
2219 - Appendix 1 - Site Layout	12/04/2010
2220 - Appendix 10 - Concrete & Structural Steel Design Criteria	12/04/2010
2221 - Appendix 11 - Mechanical Design Criteria	12/04/2010
2222 - Appendix 12 - Piping Design Criteria	12/04/2010
2223 - Appendix 13 - E&I Design Criteria	12/04/2010

2224 - Appendix 14 Environmental Authority	12/04/2010
2225 - Appendix 2 Cameby Process Flowsheet Selection R5 200507	12/04/2010
2226 - Appendix 3 Water Quality & Surface Protection	12/04/2010
2227 - Appendix 4 Bulk Solids Characterisation	12/04/2010
2228 - Appendix 5 Slurry Rheology Testwork & Pumping Criteria	12/04/2010
2229 - Appendix 6 - Flocculation Testwork	12/04/2010
2230 - Appendix 7 - Thickening Testwork	12/04/2010
2231 - Appendix 8 - Geotechnical Investigation minus App A & C	12/04/2010
2232 - Appendix 8 - Geotechnical Investigation	12/04/2010
2233 - Appendix 9 - Civil Design Criteria	12/04/2010
2234 - srs0801-spc-gen00-001 Cameby PPR V2 - RC 081218	12/04/2010
<b>Wear Resistant Lining Specification</b>	
2235 - srs0801-spc-mch00-002-0 Wear Resistant Linings	12/04/2010
<b>02. Mining Contractor Insurance</b>	
2459 - Macmahon Insurance Policy Certificates	22/02/2011
<b>03. Safety</b>	
2499 - ADM 10 02 03_002 N Roberts 2010 10 21 (2)	28/02/2011
2500 - Org chart	28/02/2011
2501 - Advisory Council Competencies 11 October 2010	28/02/2011
2506 - 10.03.31 Directive 35111 - Review of Drug & Alcohol Policy- Change Management	03/03/2011
2507 - 10.05.07 Directive - Guarding of Drill Rotation	03/03/2011
2508 - 10.05.31 Substandard Systems, Conditions and Practices Identified & Directives Issued - Signed	03/03/2011
2509 - 10.06.07 Response - Guarding of Drill Rotation - Substandard Condition or Practice	03/03/2011
2510 - Macmahon MRE	03/03/2011
2511 - Response to MRE 35111	03/03/2011
2512 - Access Procedures Rev 2	04/03/2011
2513 - Attachment A - Visio-Cameby Downs-Org Chart-01.06.2010	04/03/2011
2514 - Attachment B - 10572-C01-A	04/03/2011
2515 - Attachment B - 10572-C02-A	04/03/2011
2516 - Attachment B - 10572-C03-A	04/03/2011
2517 - Attachment B - 10572-C04-A	04/03/2011
2518 - Attachment B - Cameby Site Facility Program	04/03/2011
2519 - Attachment B - Master Layout Version 3	04/03/2011
2520 - Attachment C - C&G PHASE 1	04/03/2011



2521 - Attachment C - ORICA - 41230_0	04/03/2011
2522 - Attachment C - ORICA - Specification - Procurement - Fencing and Gates Rev1	04/03/2011
2523 - Attachment C - ORICA -40763_0	04/03/2011
2524 - Attachment C - Topo V3	04/03/2011
2525 - Attachment C - Waste Dump Review V1	04/03/2011
2526 - Attachment D - CD Roster 2010.06.10 (minimised)	04/03/2011
<b>Black team question and answer documents and reports</b>	
Q&A Report as at 1 March 2011	01/03/2011
Q&A Report as at 18 February 2011	18/02/2011
Q&A Report as at 21 February 2011	21/02/2011
Q&A Report as at 22 February 2011	22/02/2011
O&A Report as at 23 February 2011	23/02/2011
Q&A Report as at 24 February 2011	24/02/2011
Q&A Report as at 25 February 2011	25/02/2011
Q&A Report as at 28 February 2011	28/02/2011
Q&A Report as at 4 March 2011	04/03/2011
Q&A Report as at 9 March 2011	09/03/2011

## Part B – Requests

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BLACK-001	High	Answered	Corrs Chambers Westgarth	11/02/2011 17:04	The data room does not contain a copy of the design and/or construction contract(s) for the CHPP and associated mine infrastructure. Please confirm the status of these items and whether (and when) the agreement(s) will be made available in the data room?	With regard to design documents, the mining contract includes a number of appendices with design drawings and specifications, which can be found in the data room under section 06.02. Specifically the following folders should be helpful:  06.02.05. Appendix E. Mine Layout (PDF) 06.02.09. Appendix I. CHPP Infrastructure Drawings 06.02.10. Appendix J. CHPP Lists 06.02.11. Appendix K. CHPP Specifications  With regard to a construction contract, Syntech itself acted as lead contractor for the project, so there is no design and construct contract. The facility is finished and is currently operating. Any other remaining work is intended to be completed by Jun-11 before closing.	18/02/2011 9:20
BLACK-002	High	Answered	Corrs Chambers Westgarth	15/02/2011 10:37	The Syntech Holdings P/L shareholders agreement (SHA)(data room reference 0011) was amended by a Deed of Variation (data room ref 2269). Please confirm whether there have been any other amendments to the SHA? If so, please provide a copy of any deed of amendment/variation or other document evidencing the amendment or variation.	Yes, the Deed of Variation dated 18-Mar-2010 is the only amendment to the SHA.	18/02/2011 9:22
BLACK-003	Medium	Answered	Corrs Chambers Westgarth	15/02/2011 10:38	Please confirm that no other securities have been issued in Syntech Resources P/L other than 10079363 fully paid ordinary shares. If this is not the case please provide a copy of the relevant company register or other document including any certificate evidencing the issue of the securities.	Yes, no other shares have been issued.	18/02/2011 9:30
BLACK-004	Medium	Answered	Corrs Chambers Westgarth	15/02/2011 10:38	Please confirm that no other securities have been issued in Mountfield Properties other than 100 fully paid ordinary shares. If this is not the case please provide a copy of the relevant company register or other document including any certificate evidencing the issue of the securities.	Yes, no other shares have been Issued.	18/02/2011 9:31
BLACK-005	Medium	Answered	Corrs Chambers Westgarth	15/02/2011 10:39	Please confirm that no other securities have been issued in AMH Chincilla Coal P/L other than 1 fully paid ordinary share. If this is not the case please provide a copy of the relevant company register or other document including any certificate evidencing the issue of the securities.	Yes, no other shares have been issued.	18/02/2011 9:33
BLACK-006	High	Answered	Corrs Chambers Westgarth	15/02/2011 10:40	Please confirm that the proposed restructuring of Syntech Holdings P/L and Syntech Holdings II P/L discussed in the tax advice (data room reference 2272) did not take place.	Yes, the proposed restructuring of Syntech Holdings P/L and Syntech Holdings II P/L has not yet taken place.	18/02/2011 9:36
BLACK-007	High	Answered	Corrs Chambers Westgarth	15/02/2011 10:41	Please provide a copy of the Register of Noteholders of Syntech Holdings P/L as required by clause 6 of the Convertible Participating Note Subscription Agreement (data room reference 0005).	GS is the only noteholder.	21/02/2011 17:26
BLACK-008	High	Answered	Corrs Chambers Westgarth	15/02/2011 10:42	Please provide a copy of the Convertible Note Certificate for GS Power Holdings issued under the Convertible Participating Note Subscription Agreement for Syntech Holdings P/L (data room reference 0005).	This document has been uploaded to the data room in folder Document Home >> 02. Syntech Holdings >> 05. Financial >> 5.03 Loan Agreements entitled: 2448 - SHI Convertible Participating Note Certificate.	21/02/2011 10:01
BLACK-009	Low	Answered	Corrs Chambers Westgarth	15/02/2011 10:43	Please provide a copy of the change of name certificate for AMH Chincilla Coal P/L. It's previous name was AMH Chincilla P/L.	Please clarify which documents have referenced AMH Chinchilla P/L.	18/02/2011 9:36
BLACK-010	High	Answered	Corrs Chambers	15/02/2011 10:44	Please confirm whether the shareholders agreement for Syntech Holdings II dated 29 June 2007 (data room reference 0010) has	This agreement was amended via a Deed of Variation dated 18-Mar-2010. This document has been uploaded to the data	18/02/2011 10:43

			Westgarth		been amended or varied. If so, please provide a copy of any deed of amendment/variation or other document evidencing the amendment or variation.	room in folder Document Home >> 03. Syntech Holdings II >> 01. Corporate >> 1.04 - Shareholders Agreement entitled: 2439 - SHII Amendment to Shareholders Agreement - 18-Mar-10 -Executed	
BLACK-011	Medium	Answered	Corrs Chambers Westgarth	15/02/2011 10:44	Please confirm whether each of the Purchaser's Post Completion Obligations set out in Schedule 6 of the Share Sale Agreement (data room reference 0017) has been fulfilled, if not, please list the obligations that remain outstanding.	Yes, conditions have been fulfilled.	18/02/2011 9:37

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BLACK-012	Medium	Answered	Corrs Chambers Westgarth	15/02/2011 10:45	Please confirm whether each of the Purchase's Post Completion Obligations set out in clause 6 of the Sale and Purchase Agreement (data room reference 0103) has been fulfilled, if not, please list the obligations that remain outstanding.	Yes, conditions have been fulfilled.	18/02/2011 9:38
BLACK-013	High	Answered	Corrs Chambers Westgarth	15/02/2011 10:45	Please provide a copy of the Register of Noteholders of Syntech Holdings II P/L required to be maintained under clause 6 of the Convertible Participating Note Subscription Agreement (data room reference 0109).	GS is the only noteholder.	21/02/2011 17:27
BLACK-014	High	Answered	Corrs Chambers Westgarth	15/02/2011 10:46	Please provide a copy of the Convertible Note certificate for GS Power Holdings issued under the Convertible Participating Note Subscription Agreement for Syntech Holdings II P/L (data room reference 0109).	This document has been uploaded to the data room in folder Document Home >> 03. Syntech Holdings II >> 04. Financial >> 4.03 Loan Agreements entitled: 2449 - SHII Convertible Participating Note Certificate.	21/02/2011 10:02
BLACK-015	Medium	Answered	Corrs Chambers Westgarth	15/02/2011 12:16	Please advise when the Connection Date under the Customer Connection Agreement occurred and provide all relevant documents. [Document number 2315]	All construction and commissioning work was completed in July 2010, and the site was energised in August 2010.	21/02/2011 17:28
BLACK-016	Medium	Answered	Corrs Chambers Westgarth	15/02/2011 12:17	Please provide the indicative Annual Network Charge at 2010/2011 rates (see Schedule 1, Item 14). [Document number 2315]	Since entering into the Connection Agreement with Ergon we elected to commence operations on a franchise tariff (Tariff 43), whereby our shared network charges are included in the franchise tariff rate. Our consultants have estimated that for a full year's operation at 2010/11 rates our electricity charge would be A\$1,891,517.	25/02/2011 17:42
BLACK-017	Medium	Answered	Corrs Chambers Westgarth	15/02/2011 12:20	Please provide a copy of any electricity supply contract entered into for the supply of electricity to the Cameby Downs Mine. [Document number 2315]	Ergon is the sole energy supplier	18/02/2011 9:38
BLACK-018	Medium	Answered	Corrs Chambers Westgarth	15/02/2011 12:21	Please provide details of any request Ergon has made to Syntech Resources pursuant to clause 18.6 of the Connection Agreement to provide a new or substitute Security (including copies of any new or substitute Security provided to Ergon Energy and the Security Amount). [Document number 2315]	Please refer to 2344 - CBA Guarantee Ergon retail \$300k in 02._Syntech_Holdings\05._Financial\5.01_Banking\ which states the A\$300,000 that has been put up as guarantee. No other request made.	18/02/2011 9:39
BLACK-019	Medium	Answered	Corrs Chambers Westgarth	15/02/2011 12:22	Please provide a copy of the registered Form 9 Easements referred to in the Water Pipeline Agreement between Syntech Resources and each of Boyle and Boyle, Curtis and Curtis and Rowbotham and Rowbotham. [Document reference: 1754, 1755, 1756, 1757, 1758, 1759]	The easements have been uploaded to the data room in folder Document Home >> 02. Syntech Holdings >> 14. Water and Power entitled: * 2435 - Form 9 Easement - Boyle * 2436 - Form 9 Easement - Curtis * 2437 - Form 9 Easement - Rowbotham	18/02/2011 10:26
BLACK-020	Medium	Answered	Corrs Chambers Westgarth	15/02/2011 12:23	Please confirm the date of the Water Pipeline Agreements and/or the date of execution of the Water Pipeline Agreements between Syntech Resources and each of Boyle & Boyle, Curtis & Curtis and Rowbotham & Rowbotham. [Document references 1754, 1756 and 1758]	Boyle - 16/6/2009. Curtis - 16/6/2009. Rowbotham - 16/6/2009.	18/02/2011 9:35
BLACK-021	Medium	Answered	Corrs Chambers Westgarth	15/02/2011 12:24	Please provide a copy of Schedule 2 of each Water Pipeline Agreement. [Document references: 1754, 1756, 1758]	Schedule 2 refers to the easements which were provided in response to BLACK-019.	18/02/2011 9:36
BLACK-022	Medium	Answered	Corrs Chambers Westgarth	15/02/2011 12:25	What volume of water is expected to be produced from the Dedicated Water Production Area per day over the term of the Water Supply Agreement? (See clause 18) [Document reference 0992]	Details are confidential to QGC and will not be disclosed by QGC.	18/02/2011 9:36
BLACK-023	Medium	Answered	Corrs Chambers Westgarth	15/02/2011 12:26	Please provide the details of any Firm Municipal Water Supply Agreements that exist with QGC in relation to ATP610, ATP632 and ATP620 and any other agreements to sell or supply water affecting Syntech's priority which Syntech may have consented to under clause 11. [Document reference 0992]	Details are confidential to QGC and will not be disclosed by QGC.	18/02/2011 9:36

BLACK-024	Medium	Answered	Corrs Chambers Westgarth	15/02/2011 12:27	Please confirm that clause 1.1 of the Deed of Amendment is intended to refer to the Water Supply Agreement dated 28 March 2008 between QGC and Syntech and/or provide a copy of the Water Supply Agreement dated 29 March 2008. [Document reference 1777]	Clause 1.1 of the Deed of Amendment is intended to refer to the Water Supply Agreement dated 26 March 2008.	18/02/2011 9:36
BLACK-025	Medium	Answered	Corrs Chambers Westgarth	15/02/2011 12:27	Please provide the date that the pump was installed by Syntech Resources at the Delivery Point, commissioned and operational (see clause item 2). [Document reference 2373]	Pump installation and commissioning completed and pumping of water commenced on 4-Nov-10.	18/02/2011 9:37

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BLACK-026	Medium	Answered	Corrs Chambers Westgarth	15/02/2011 12:29	Has the Interim Term referred to in item 3 of the Agreement between QGC and Syntech Resources dated 27 January 2010 been extended and if so, please provide the expiry date of the Interim Term. [Document reference 2373]	Interim Term has been extended until 28-Feb-2010.	18/02/2011 9:37
BLACK-027	Medium	Answered	Corrs Chambers Westgarth	15/02/2011 12:30	Please provide a copy of the written confirmation that Syntech Resources provided to the Department of Environment and Resource Management pursuant to condition A16(f) of the Beneficial Reuse Approval (see clause 10). [Document reference: 2373]	This document has been uploaded to the data room in folder Document Home >> 02. Syntech Holdings >> 14. Water and Power entitled: 2438 - Letter -Beneficial Reuse Permit - Condition 16.	18/02/2011 10:28
BLACK-028	Medium	Answered	Corrs Chambers Westgarth	15/02/2011 12:30	Please confirm whether the Water Supply Agreement has commenced? (See definition of “Commencement Date”) [Document reference: 2268]	Davles Water Supply Agreement has commenced on 3-Sep-2010,	18/02/2011 9:37
BLACK-029	Medium	Answered	Corrs Chambers Westgarth	15/02/2011 12:31	Please provide an update on the progress of the construction of the Water Pipeline from the Supplier’s property to the Cameby Downs Mine. (Document reference: 2268)	Construction has not commenced.	18/02/2011 9:38
BLACK-030	Medium	Answered	Corrs Chambers Westgarth	15/02/2011 12:32	Please confirm whether the Supplier is a registered Water Supplier, as per clause 3(a). [Document reference: 2268]	Carmel Davies has been registered as a Water Service Provider and this was confirmed by Syntech prior to signing the Davies Water Agreement.	18/02/2011 9:38
BLACK-031	Medium	Answered	Corrs Chambers Westgarth	15/02/2011 12:32	Please provide a list of the Water Approvals held or required to be held by each of Syntech and the Supplier pursuant to clause 3 (b) and confirm whether such approvals have been obtained. [Document reference: 2268]	Development Application for the construction of the pipe line has been lodged with the Western Downs Regional Council.	18/02/2011 9:38
BLACK-032	High	Answered	Corrs Chambers Westgarth	16/02/2011 9:31	Please confirm whether the Call Option or Put Option in clause 8 of the Joint Venture Agreement (data room reference 0097) has been exercised. If the Call Option or Put Option has been exercised please confirm whether an election in relation to the Payment Method was made in accordance with clause 6.4 of the Joint Venture Agreement and what that election was. Please provide documentary evidence of any payments made to the Original Developers in relation to the exercise of the Call Option or the Put Option.	Neither the Call Option nor the Put Option have been exercised.	18/02/2011 9:38
BLACK-033	High	Answered	Corrs Chambers Westgarth	16/02/2011 9:32	Please confirm whether the Joint Venture in the Joint Venture Agreement (data room reference 0097) has been terminated and If so under which provision of the Joint Venture Agreement.	The Joint Venture Agreement has not been terminated; AMH’s Interest In the JV Agreement was assigned to AMH Chinchilla which is a subsidiary of Syntech Holdings II P/L.	18/02/2011 9:39
BLACK-034	High	Answered	Corrs Chambers Westgarth	16/02/2011 9:33	Please confirm whether AMH or AMH subsidiary made any buy out of the Royalty under clause 12 of the Joint Venture Agreement (data room reference 0097) and If so please provide documentary evidence of the payment(s).	No such buy out has occurred.	18/02/2011 9:39
BLACK-035	High	Answered	Corrs Chambers Westgarth	16/02/2011 9:34	Please confirm if AMH or AMH Subsidiary have or are currently making any Royalty payments to the Original Developers under the Joint Venture Agreement (data room reference 0097). If so please provide documentary evidence of the amount paid to date and the amount to be paid in the future (other than the Joint Venture Agreement itself).	No Royalty payments have been or are currently being made to the Original Developers, as no production has been sourced from this area.	18/02/2011 9:39
BLACK-036	Medium	Answered	Corrs Chambers Westgarth	16/02/2011 12:15	Please provide a copy of the annual returns for each of the environmental authorities identified in the data room (ie. EA No M5433, EA MIN 100568007 for ML 50233, EA MIN 500217003 for EPC 873, EA M4594 for EPC 562, EA M4506 for MDL 247 and EA M4505 for MDL 246) for the last three years. [Document references: 2253, 1513, 0887, 0902, 0935, 0918]	There are no separate returns for the environmental authority, All returns are in the dataroom.	21/02/2011 17:29

BLACK-037	Medium	Answered	Corrs Chambers Westgarth	16/02/2011 12:16	Please provide a copy of any external audit reports dealing with compliance with EA conditions or Environmental Management Plan conditions for the last three years.	Pls refer to document 2374 - Cameby Audit Report 20 August 2010 in 02._Syntech_Holdings\08._Mining_Lease\.	18/02/2011 9:39
BLACK-038	Medium	Answered	Corrs Chambers Westgarth	16/02/2011 12:16	Please provide a copy of any correspondence with regulators (EPA/DERM) in relation to environmental compliance/EA issues over the last three years.	No major environmental issues have been reported. Any environmental related updates will be mentioned in the monthly reports.	18/02/2011 9:40
BLACK-039	Medium	Answered	Corrs Chambers Westgarth	16/02/2011 12:17	Please provide a copy of any notices received from the regulator (EPA/DERM) for the last three years in the nature of, environmental protection orders, notices to conduct environmental investigations or evaluations.	No major environmental issues have been reported. Any environmental related updates will be mentioned in the monthly reports.	18/02/2011 9:40
BLACK-040	Medium	Answered	Corrs Chambers Westgarth	16/02/2011 12:17	Please provide a copy of any documents relating to internal and external reporting of environmental incidents or non-compliance with EA or EM Plan conditions and requirements for the last three years.	No major environmental issues have been reported. Any environmental related updates will be mentioned in the monthly reports.	18/02/2011 9:40

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BLACK-041	Medium	Answered	Corrs Chambers Westgarth	16/02/2011 12:18	Are any of the coal assets currently affected by floodwaters (e.g., is there a need to dispose of excess water from any site)?	No coal assets were affected. All excess water has been disposed on site.	18/02/2011 9:40
BLACK-042	Medium	Answered	Corrs Chambers Westgarth	16/02/2011 12:20	Is the vendor aware of any environmental incidents that have or should have been reported over the last three years?	No environmental issues have been reported other than those disclosed in the monthly reports.	18/02/2011 9:41
BLACK-043	Medium	Answered	Corrs Chambers Westgarth	16/02/2011 12:21	What is the current level of Financial Assurance provided for each of the EA's?	All other financial assurance is listed in the monthly reports.	18/02/2011 9:41
BLACK-044	Medium	Answered	Corrs Chambers Westgarth	16/02/2011 12:21	Have regulators (DERM/EPA) have visited the site(s) over the last two years?	Yes.	18/02/2011 9:41
BLACK-045	Medium	Answered	Corrs Chambers Westgarth	16/02/2011 12:22	If regulators (DERM/EPA) have visited the site(s) over the last two years, please describe the purpose of the visit.	Yes, routine inspections have been conducted.	18/02/2011 9:41
BLACK-046	Medium	Answered	Corrs Chambers Westgarth	16/02/2011 12:22	If regulators (DERM/EPA) have visited the site(s) over the last two years, please describe the the outcome of the visit.	<p>Representatives of the Department of Environment and Resource Management (DERM) have visited site on 4 occasions:</p> <p>1) Sarah Horton (Project Manager for central region) visited in late August 2010 for the purpose of becoming familiar with the site layout.</p> <p>2) Sarah also visited in early October 2010, primarily to catch up on changes to site layout and to visit local residents' properties to assist her in determining what action may need to be taken (If any) to mitigate ongoing noise issues for some of those complainants).</p> <p>An outcome of this visit was agreement between DERM/Syntech/Macmahon to conduct noise monitoring of residents properties in the area to gain the data necessary to identify issues and resolve the complaints. Please see "2502 - Letter from DERM re noise complaints" under folder 06_Mine_Operations\. This monitoring was undertaken by Ask, independent noise consultants.</p> <p>3) Sarah again visited the site in December 2010, primarily to further discussions with Syntech/Macmahon on resolving issues surrounding noise complaints.</p> <p>The Ask noise report, whilst showing that the noise levels from the mine are within statutory limits for most properties from which complaints have been received, there are two properties that are being affected by noise levels in excess of statutory limits. Further requirements for noise mitigation at the mine site were discussed, as well as potential for mitigation at the land owners property (e.g compensation for the installation of double glazing). We await final comment from DERM as to what is recommended to resolve the outstanding noise complaints.</p> <p>4) Ryan Wagner has now replaced Sarah Horton as Project Manager for central region. Ryan has been to site once in 2011, after the flooding in January, to check up what actions were taken to manage water on site. Ryan is now also in charge of the noise negotiations that will eventually take place between DERM and some local residents.</p>	1/03/2011 17:21



BLACK-047	Medium	Answered	Corrs Chambers Westgarth	16/02/2011 12:23	If regulators (DERM/EPA) have visited the site(s) over the last two years, please provide any written record from the regulator (DERM) relating to the visit.	Please refer to BLACK-046.	1/03/2011 17:22
BLACK-048	Medium	Answered	Corrs Chambers Westgarth	16/02/2011 12:23	If regulators (DERM/EPA) have visited the site(s) over the last two years, please describe any corrective action taken by the vendor as a result of any such visit.	Please refer to BLACK-046.	1/03/2011 17:22
BLACK-049	Medium	Answered	Corrs Chambers Westgarth	16/02/2011 12:24	Do vendors or associated companies have any Transitional Environmental Programmes under the Environmental Protection Act 2004 in place for any of the assets or matter related to them.	No.	18/02/2011 9:42
BLACK-050	Medium	Answered	Corrs Chambers Westgarth	16/02/2011 12:24	Has the vendor or associated companies entered into any agreements with Native Title Groups (such as Indigenous Land Use Agreements) in relation to mining activities or other "future acts".	There are no Indigenous Land Use Agreements. All Cultural Management plans are disclosed in dataroom in 02._Syntech_Holdings\12._Cultural_Heritage\.	18/02/2011 9:42
BLACK-051	Medium	Answered	Corrs Chambers Westgarth	16/02/2011 12:35	Is the vendor or associated companies currently engaged in any negotiations with Traditional Owners in relation to Aboriginal Cultural Heritage matters or Native Title matters including, in particular, in relation to the 12 MLAs involved in the Cameby Downs Expansion Project? If so, please provide details.	Yes, a cultural management heritage plan has been signed with the Western Wakka Wakka and is disclosed in dataroom in 02._Syntech_Holdings\12._CulturalHeritage\. Another agreement with the Barunggam people is still under negotiation.	18/02/2011 9:42

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BLACK-052	Medium	Answered	Corrs Chambers Westgarth	16/02/2011 12:37	Is there an expected lodgement date for the Cameby Downs Expansion EIS? If so, please provide details.	No, this is still work in progress.	18/02/2011 9:42
BLACK-053	High	Answered	Corrs Chambers Westgarth	16/02/2011 16:06	Please confirm that the Convertible Notes referred to in the second paragraph of the 'Finance' section of the board minutes of Syntech Holdings P/L (data room reference 0204) are the Convertible Notes issued under the Syntech Holdings P/L Convertible Participating Note Subscription Agreement dated 22 March 2007 (data room reference 0005)	The Convertible notes refer to both (i) Convertible Notes issued under the Syntech Holdings P/L Convertible Participating Note Subscription Agreement dated 22 March 2007 (data room reference 0005) and (ii) Convertible Notes issued under the Syntech Holdings II P/L Convertible Participating Note Subscription Agreement (data room reference 0109).	18/02/2011 9:43
BLACK-054	High	Answered	Corrs Chambers Westgarth	16/02/2011 16:06	Please provide a copy of the Syntech Executive Share Option Plan Rules referred to in the 'Matters Arising from the Minutes' section of the board minutes of Syntech Holdings P/L (data room reference 0204)	Not disclosing employee arrangements at this stage.	18/02/2011 9:43
BLACK-055	High	Answered	Corrs Chambers Westgarth	16/02/2011 16:08	Please provide a copy of the Syntech Executive Share Option Plan referred to in the 'Matters Arising from the Minutes' section of the board minutes of Syntech Holdings P/L (data room reference 0214)	Not disclosing employee arrangements at this stage.	18/02/2011 9:43
BLACK-056	High	Answered	Corrs Chambers Westgarth	16/02/2011 16:09	Page 2 and 3 of the board minutes of Syntech Holdings P/L (data room reference 0214) are redacted. Please confirm the basis on which the redaction is made and a summary of the issues that the redacted material relates to.	Redacted items were related to preparation for a sale process.	18/02/2011 9:43
BLACK-057	High	Answered	Corrs Chambers Westgarth	16/02/2011 16:10	Page 1, 2 and 3 of the board minutes of Syntech Holdings P/L (data room reference 0999) are redacted. Please confirm the basis on which the redaction is made and a summary of the issues that the redacted material relates to.	Redacted items were related to preparation for a sale process.	18/02/2011 9:44
BLACK-058	High	Answered	Corrs Chambers Westgarth	16/02/2011 16:10	Page 1 of the board minutes of Syntech Holdings P/L (data room reference 1417) is redacted, can you please provide an overview of those matters discussed and provide a summary of the issues they relate to.	Redacted items were related to preparation for a sale process.	18/02/2011 9:44
BLACK-059	High	Answered	Corrs Chambers Westgarth	16/02/2011 16:10	Page 2 and 3 of the board minutes of Syntech Holdings P/L (data room reference 1418) are redacted, can you please provide an overview of those matters discussed and provide a summary of the issues they relate to.	Redacted items were related to preparation for a sale process.	18/02/2011 9:44
BLACK-060	High	Answered	Corrs Chambers Westgarth	16/02/2011 16:11	The board minutes of Syntech Holdings P/L (data room reference 1430) states that following discussions of the Option Plan for management, alternative arrangements to provide for equivalent benefits have been incorporated within revised employment agreements. Please advise what these alternative arrangements are and provide a copy of the employment agreements which contain this alternative arrangement.	Not disclosing employee arrangements at this stage.	18/02/2011 9:44
BLACK-061	Low	Answered	Corrs Chambers Westgarth	16/02/2011 16:11	The document referred to in data room reference 1615 is exactly the same as the document with data room reference 1557- please confirm that they are supposed to be the same document	Yes, data room reference 1557 and data room reference 1615 are the same documents. Data room reference 1615 will be removed.	18/02/2011 9:45
BLACK-062	High	Answered	Corrs Chambers Westgarth	16/02/2011 16:11	Please provide a copy of the Group Long Term Incentive Plan referred to in the board minutes of Syntech Holdings P/L (data room reference 2364). Please confirm who (if any) has been issued with any securities under the plan and documentary evidence of the same.	Not disclosing employee arrangements at this stage.	18/02/2011 9:45
BLACK-063	High	Answered	Corrs Chambers	16/02/2011 16:11	The board minutes of Syntech Holdings II P/L (2371) state that a Deed of Variation of the Syntech Holdings II Shareholders	Please see answer to BLACK -010.	18/02/2011 9:50

BLACK-064	High	Answered	Westgarth Corrs Chambers Westgarth	16/02/2011 16:12	was executed. Please provide a copy of that Deed of Variation. The document with data room reference (2387) is an agenda for the board meeting of Syntech Holdings P/L to be held on 3 February 2011, please provide a copy of the minutes of that board meeting	Minutes will be approved at the next board meeting and uploaded to the dataroom in due course.	18/02/2011 9:45
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BLACK-065	High	Answered	Corrs Chambers Westgarth	16/02/2011 16:48	Under the 'Status of Development' section of the board minutes or Syntech Holdings P/L dated 2 August 2007 (data room reference 0197), it states that there had been one safety incident concerning an outburst from a pressurised drill hole striking the site geologist. Please confirm whether any claims (including but not limited to worker's compensation claims) were made against Syntech Holdings P/L in relation to this incident. If any claims were made, please confirm whether those claims have been settled and if if not please list any outstanding claims, liabilities or obligations that Syntech Holdings P/L has in relation to the Incident.	No claims have been lodged.	18/02/2011 9:46
BLACK-066	Medium	Answered	Corrs Chambers Westgarth	16/02/2011 20:51	Please provide a copy of the Coal Sale Agreement entered into with Ho-Ping and advise of the status of negotiations with other customers (see page 5). [Document reference: 2403]	Please refer to BLACK-245.	25/02/2011 16:02
BLACK-067	Medium	Answered	Corrs Chambers Westgarth	16/02/2011 20:52	Please provide an update in relation to the negotiations between Syntech and the "local farmer" in relation to the water pipeline, including a copy of the agreement reached with the local farmer (see page 8). [Document reference: 2403]	Please refer to 2268 - Davies Water Agreement in 02._Syntech_Holdings\14._Water_and_Power\.	18/02/2011 9:47
BLACK-068	Medium	Answered	Corrs Chambers Westgarth	16/02/2011 20:53	Please provide an update on the negotiation of Co-Development Agreements with each of APLNG and ACBM (see page 12). [Document reference: 2403]	Updates are disclosed in the monthly reports. There are no signers to date.	18/02/2011 9:49
BLACK-069	Medium	Answered	Corrs Chambers Westgarth	16/02/2011 20:54	Please provide a copy of the request submitted to Powerlink for a "Connection Agreement" including any response received from Powerlink (see page 11). [Document reference: 2362]	Requests are covered in the monthly reports on an ongoing basis and are disclosed on the Powerlink website.	18/02/2011 9:49
BLACK-070	Medium	Answered	Corrs Chambers Westgarth	16/02/2011 20:55	Please provide a copy of the agreement with the Australian Defence Force and their representatives (see page 22). [Document reference: 2246]	Please refer to 2331 - Deed of Access Defence and Syntech in 02._Syntech_Holdings\08._Mining_Lease\.	18/02/2011 9:34
BLACK-071	Medium	Answered	UBS	17/02/2011 11:57	(PwC) Are Syntech monthly reports available for the months December 2010 and January 2011 (similar to document 2403 for November 2010)? Is so, can you provide?	Please refer to the documents uploaded to the data room in folders 02._Syntech_Holdings\02._Project_Reports\2.24 - 2.2010.12 Project Report and 02._Syntech_Holdings\02._Project_Reports\2.25_-_2.2011.01_Project_Reports\.	23/02/2011 19:31
BLACK-072	Medium	Answered	UBS	17/02/2011 11:58	(PwC) Are combined financial reports available for the months of December 2010 and January 2011 (similar to document 2401 for November 2010)? Is so, can you provide?	Please refer to the documents uploaded to the data room in folders 02._Syntech_Holdings\02._Project_Reports\2.24 - 2.2010.12 Project Report and 02._Syntech_Holdings\02._Project_Reports\2.25_-_2.2011.01_Project_Reports\.	23/02/2011 19:31
BLACK-073	Medium	Answered	UBS	17/02/2011 11:58	(PwC) Capital expenditure detailed reconciliation was provided in the 30 June 2010 combined financial report (document 2247 - pages 5 and 6). Are these reports available for November 2010, December 2010 and January 2011? (or alternatively in the format provided in the September 2010 progress report - document 2362 pages 27 to 29)?	No. Project capital expenditures are in the process of being finalized. Please refer to BLACK-075.	24/02/2011 22:40
BLACK-074	Medium	Answered	UBS	17/02/2011 11:58	(PwC) Reconciliation provided in 30 June 2010 financial report (2247 - pages 5 and 6) was reconciled to balance sheet headings 'Cameby Downs Stage 1' and Cameby Downs Expansion Project'. These balance sheet lines were subsequently amended in the following months and in statutory accounts? Can you provide an updated reconciliation (showing changes for capitalised interest etc.)?	Differences are due to accounting adjustments as discussed between Syntech CFO and PwC. Please refer to the document uploaded to the data room in folder 01._Asset_Overview_and_Financial_Model\01._Additional_Details entitled: 2468 - Data Room Queries February 2010.	24/02/2011 22:48
BLACK-075	Medium	Answered	UBS	17/02/2011	(PwC) Are breakdowns available to support the balance sheet	Please refer to the document uploaded to the data room in folder	24/02/2011

				11:58	headings for 'Mining tenement - EPCs and MDLs' and 'Mining tenement ML50233' for the months of June 2010, November 2010, December 2010 and January 2011? If so, can you provide?	01._Asset_Overview_and_Financial_Model\01._Additional_Details entitled: 2468 - Data Room Queries February 2010.	22:52
BLACK-076	Medium	Answered	UBS	17/02/2011 11:58	(PwC) Are mining costs being capitalised through November 2010, December 2010 and January 2011? If so, can you provide details of all these costs capitalised (if not provided further to question 3 above)?	Please refer to the document uploaded to the data room in folder Document Home >> 02. Syntech Holdings >> 15. Project Costs entitled: 2451 - Balance Sheet Account details -Dec10.	21/02/2011 18:09
BLACK-077	Medium	Answered	UBS	17/02/2011 11:59	(PwC) What is current anticipated date for final commissioning of the mine (including CHPP) and commencement of expensing of all mining costs? (January 2011 noted as expected completion date in 30 November progress report)	Most of the project work related costs have been completed as of Jan-11. Expensing of mine-related costs started in Dec-10 with the first sale of product coal.	21/02/2011 17:31
BLACK-078	Medium	Answered	UBS	17/02/2011 11:59	(PwC) How have recent floods impacted the commissioning and production at the mine, including access issues for contractors, production, ability to rail coal from the mine? What measures have been put in place to mitigate issues arising?	Mine site remained intact. Excess water has been removed from the pit and pumped out on site. Outside of the mine site, the rail operator, QR National, is currently repairing certain portions of the rail loop to Brisbane that have been damaged.	21/02/2011 17:32

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BLACK-079	Medium	Answered	UBS	17/02/2011 11:59	(PwC) What damage or losses (business interruption etc.), have been incurred by the group companies arising from the floods? Has the company estimated costs arising there from (impairment of assets, potential damages arising from inability to meet rail/port/sales contracts)? What insurance arrangements are in place to cover losses?	No asset write-downs have occurred as a result of the flood. Main loss has been business interruption due to lack of rail access. Although Syntech has business interruption insurance coverage, this event was not covered due to standard exclusions in such policies that relate to general flooding and logistical disruption.	22/02/2011 18:46
BLACK-080	Medium	Answered	UBS	17/02/2011 11:59	(PwC) Can you provide a reconciliation of the combined net income before tax and EBIT of Syntech and Syntech II (document 2247 - page 3) to the statutory accounts of Syntech Holdings and Syntech Holdings II?	Please refer to the document uploaded to the data room in folder 02._Syntech_Holdings\02._Project_Reports\2.18_-_2.2010.06_Project_Reports\entitled: 2469 - Combined Management Accounts Final version. Combined net income before tax and EBIT is a simple sum of Syntech and Syntech II.	24/02/2011 22:55
BLACK-081	Medium	Answered	UBS	17/02/2011 11:59	(PwC) Can you provide a breakdown of the receivables balance at 30 Nov 2011 of \$12,195,230 (document 2401)?	Please refer to the document uploaded to the data room in folder 01._Asset_Overview_and_Financial_Model\01._Additional_Details entitled: 2468 - Data Room Queries February 2010.	24/02/2011 22:54
BLACK-082	Medium	Answered	UBS	17/02/2011 11:59	(PwC) Can you provide a breakdown of the trade and other payables balance of \$22,163,484 as at 30 Nov 2010 (document 2401)? Where there are significant accruals, can you provide a further breakdown of these amounts (together with comparative for 30 June 2010)?	Please refer to the document uploaded to the data room in folder 01._Asset_Overview_and_Financial_Model\01._Additional_Details entitled: 2468 - Data Room Queries February 2010.	24/02/2011 22:59
BLACK-083	Medium	Answered	UBS	17/02/2011 12:00	(PwC) Can you provide supporting calculations for the stock on hand figure at 30 November 2010 of \$9,131,245 (document 2401)?	Please refer to BLACK-222 and BLACK-225.	24/02/2011 20:52
BLACK-084	Medium	Answered	UBS	17/02/2011 12:00	(PwC) If balance sheets are available for 31 December 2010 and 31 January 2011, can you provide details as requested in 11 to 13 above for those month end balances?	Please refer to the document uploaded to the data room in folder 01._Asset_Overview_and_Financial_Model\01._Additional_Details entitled: 2468 - Data Room Queries February 2010.	24/02/2011 22:59
BLACK-085	Medium	Answered	UBS	17/02/2011 12:00	(PwC) The 30 November 2010 progress report notes that project completion costs are expected to total \$119m (document 2403 - page 4). Is there a revised projected cost of completion available and can you provide support for forecast changes, if any?	Project costs are tracking to be within the expected A\$119m.	21/02/2011 17:34
BLACK-086	Medium	Answered	UBS	17/02/2011 12:00	(PwC) The 30 November 2010 progress report notes that there is an expected insurance claim which is to be lodged with ATW. Has this occurred and what is expected recovery of losses incurred?	Settlement amounts and recovery timing is difficult to estimate; we would aim to address value of any outstanding claims at the time of closing.	23/02/2011 10:57
BLACK-087	Medium	Answered	UBS	17/02/2011 12:00	(PwC) Has QGC met their commitment to supply water at 4.0ML/day from 1 January 2011? Did supply at the lesser value of 1.0ML/Day impact the ability of the plant to operate at expected capacity or did the mine incur additional costs to source additional water up to 31 December 2010?	Interim agreement to supply water at the rate of 1.0ML/day was extended to 28-Feb-2011. There has been no additional cost to production during this period.	21/02/2011 17:35
BLACK-088	Medium	Answered	UBS	17/02/2011 12:00	(PwC) What is the current status of the review of the mining contract with Macmahon (moving from a 3 year contract to a 5 year contract and change of rates)? Can you provide details of the proposed rates reductions which were presented to Macmahon?	Extension of mining contract still under negotiation. Nil to report to date.	21/02/2011 17:36
BLACK-089	Medium	Answered	UBS	17/02/2011 12:00	(PwC) Have any sales off-take agreements been secured with customers to secure 2011 shipments?	Please refer to BLACK-245.	25/02/2011 16:02
BLACK-090	Medium	Answered	UBS	17/02/2011 12:00	(PwC) Syntech has decided to reduce its tonnage request for Stage 2 of WICET to 5 mtpa from 10 mtpa. Has this change been factored into the forecast modelling for the CDEP project?	Reduction has not been factored into the indicative Stage II forecast modeling provided in the data room. There may be potential for an increase from 5 to 10 Mtpa as secondary markets for port capacity develop, especially in light of the number of participants with capacity, but without any production.;	21/02/2011 17:37
BLACK-091	Medium	Answered	UBS	17/02/2011 12:00	(PwC) Has the inability of Syntech to qualify for Stage 1 of WICET been factored into the future forecast modelling of the CDEP project? Has Syntech incurred any costs under Stage 1 feasibility which were previously capitalised and need to be written off?	No, CDEP model is based on 10mtpa coal shipments in 2nd half of Cal 2016, timing in line with the expected completion of Stage 2 WICET. GPC guarantees and interest are expected to be received on closing for Stage 1. We do not expect any other costs to need to be written off.	21/02/2011 17:37
BLACK-092	Medium	Answered	UBS	17/02/2011 12:01	(PwC) Has Syntech completed any forecast cost analysis for the Miles to Wandoan upgrade, based on QR's advice that they would not consider funding the development themselves?	No updates to estimate in financial model. There may be additional players/users in the process, which would reduce cost to Syntech.	21/02/2011 17:38

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BLACK-093	Medium	Answered	UBS	17/02/2011 12:01	(PwC) Has the review by Minserve of Macmahon's ability to produce timely and accurate production information been completed? Can you provide their report, if available?	Syntech has not received the final review. Will provide when completed.	21/02/2011 17:39
BLACK-094	Medium	Answered	UBS	17/02/2011 12:02	(PwC) What is the Davies pipeline referred to on page 8 of document 2403? Does this relate to water being supplied by QGC? What is the cost impact of using a different route?	<p>Pls refer to 2268 - Davies Water Agreement in 02._Syntech_Holdings\14._Water_and_Power\.</p> <p>Please also refer to the document uploaded to the data room in folder 02._Syntech_Holdings\14._Water_and_Power\ entitled: 2470 - Proposed Davies Dam Pipeline Rev B 24 Nov 2010 Model (1).</p> <p>The Davies pipe line project is to source a secondary supply of water to provide emergency back-up to the supply from QGC. A contract for supply of a minimum of 300Ml /annum has been agreed with Mr Davies. Document in Data room. A copy of the registration of Carmel Davies as a registered water service provider will be forwarded when it is received.</p> <p>Initially, a direct route from the Davies property to the mine site for the delivery pipe line was preferred, requiring agreement with another local farmer, Mr Ryan, to cross his land. We have been unable to reach a commercial agreement with Mr Ryan and recently decided to construct the pipe line on a slightly less direct route. This route has the pipe line leaving the Davies property and traversing local council roads, before entering Syntech property, thereby not requiring the involvement of any other land holder.</p> <p>The Development Application for the new route is now being progressed with the local council.</p> <p>The revised total cost for the installation of the Davies pipeline, which will be owned by Syntech Resources, is now A\$550k, and this amount is included in our current budget.</p>	24/02/2011 22:58
BLACK-095	Medium	Answered	UBS	17/02/2011 12:02	(PwC) What is the estimated cost of removing UXO ordinance on the Cameby Downs site (page 19, document 2403)? Is this required only for the expansion project? Has the company committed to any expenditure at this time?	The Company has not committed any expenditure, as UXO ordinance removal and associated costs are handled by the Australian Army. Removal of UXO is required for the expansion project as part of additional mining areas.	21/02/2011 17:40
BLACK-096	Medium	Answered	UBS	17/02/2011 12:02	(PwC) Are there any hedging arrangements in place (commodity or foreign exchange) at 30 November 2010, 31 December 2010 or 31 January 2011 (in relation to loan draw downs or other risk management strategies)? If so, can you provide details? Are any such arrangement expected to be closed out prior to the proposed sale of the companies?	No hedging arrangements were in place at Syntech as of those dates, nor are there any currently in place.	21/02/2011 17:40
BLACK-097	Medium	Answered	UBS	17/02/2011 12:02	(PwC) Can you provide a list of any material contracted commitments and contingencies (litigation etc.) which are in place or known as at today's date?	All material contracted commitments and contingencies are disclosed and available in the dataroom.	21/02/2011 17:41
BLACK-098	Medium	Answered	UBS	17/02/2011 12:02	(PwC) Can you provide further details of the fx gains/losses realised/unrealised in the 30 November 2010, 30 June 2009 and 30 June 2010 YTD management accounts (loan or trading related)?	FX gains/losses are related to cash funding and interest on GS loans, which are denominated in USD.	21/02/2011 17:41
BLACK-099	Medium	Answered	UBS	17/02/2011 12:02	(PwC) A number of changes were made to the original 30 June 2010 management accounts balance sheet (document 2257) in subsequent management accounts presented (where they are shown as a comparative). Can you provide details of these changes/reclassifications (arising from late changes, audit adjustments etc.)?	Please refer to BLACK-074.	24/02/2011 20:52
BLACK-100	Medium	Answered	UBS	17/02/2011 12:02	(PwC) Is it possible to obtain a copy of the FY10 KPMG report issued to the Board at the Board meeting held on 17 November 2010 or access to KPMG management letter for FY10	Please refer to the document uploaded to the data room in folder 02._Syntech_Holdings\02._Project_Reports\2.18_-_2.2010.06_Project_Reports\ entitled: 2452 - Syntech FY2010 KPMG Board Report.	21/02/2011 18:11

## Part B – Requests

<u>MatterWeb ID</u>	<u>Priority</u>	<u>Question Status</u>	<u>Organisation Asked By</u>	<u>Date Question Submitted</u>	<u>Question</u>	<u>Answer</u>	<u>Answer Date</u>
BLACK-101	High	Answered	UBS	17/02/2011 12:26	The loss and dilution factors for the Cameby Downs project are stated in the IMC report as:  “Coal roof and floor loss and dilution 0.025m”  Need to know if this is 0.025 loss and dilution at the top of seam and an additional 0.025m loss and dilution at the base of the seam?	Coal roof and floor loss and dilution are detailed in mining operations contract. Syntech confirms 0.025m loss and dilution at both the top of seam and base of seam.	21/02/2011 17:42
BLACK-102	High	Answered	Corrs Chambers Westgarth	17/02/2011 12:56	Please confirm the calendar date of the Commencement Date - Operating Works under the Mining Contract (which triggers commencement of the 3 year mining term). Did this occur on 1 October 2010 or some later date? [Document reference: 1791-1800]	Mining Commencement Date occurred on 1-Dec-10.	21/02/2011 17:42
BLACK-103	High	Answered	Corrs Chambers Westgarth	17/02/2011 12:58	Please provide copies of all construction contracts between the Principal (or, if not the Principal, the entity contracting as Principal under those contracts) and the various constructors/designers involved in the construction of the mine infrastructure.  Please provide an anticipated timeframe for making these documents available in the data room. [Document reference: 1791-1800]	There exists a large number of construction contracts. Not sure of relevance of this question; Shameek Konar will discuss with Terry on 23-Feb-2011 (Wed).	21/02/2011 17:43
BLACK-104	High	Answered	Corrs Chambers Westgarth	17/02/2011 13:00	In the November 2010 Progress Report, reference is made to the Principal having made an offer to the Mining Contractor (Macmahon Contractors Pty Ltd) to extend the Mining Contract (from a 3 year) to a 5 year term. Please provide details of the current status (and any outcome) of this offer and any discussions between the Principal and the Mining Contractor in this regard. [Document reference: 2403]	Extension of mining contract still under negotiation. Nil to report to date	21/02/2011 17:44
BLACK-105	High	Answered	Corrs Chambers Westgarth	17/02/2011 13:02	Please confirm that the Mining Contractor has provided the security (\$1 million unconditional undertaking) required by clause 8 of the General Conditions of Contract and provide a copy of this undertaking in the data room. [Document reference: 1791-1800]	Security will be in the form of an insurance bond; draft form has been agreed with Macmahon and this is expected to be finalized soon.	21/02/2011 17:44
BLACK-106	High	Answered	Corrs Chambers Westgarth	17/02/2011 13:03	Please provide documentary evidence that the Mining Contractor has taken out each of the insurances required pursuant to items 1.1, 1.2, 1.3 and 1.4 of Schedule 3 (Insurance Schedule). [Document reference 1791-1800]	Please refer to the document uploaded to the data room in folder 06._Mine_Operations\02._Mining_Contractor_Insurance entitled: 2459 - Macmahon Insurance Policy Certificates.	22/02/2011 19:16
BLACK-107	High	Answered	Corrs Chambers Westgarth	17/02/2011 13:04	Please provide documentary evidence that the Principal has taken out the insurances required by item 2.1 of Schedule 3 (Insurance Schedule). [Document reference: 1791-1800]	Please refer to the documents uploaded to the data room in folder 02._Syntech_Holdings\03._Insurance\	24/02/2011 22:27
BLACK-108	High	Answered	Corrs Chambers Westgarth	17/02/2011 13:05	Please provide documentary evidence that the Mining Contractor has been appointed as “operator” of the mine under the Coal Mining Safety and Health Act. [Document reference: 1791-1800]	Please refer to the document uploaded to the data room in folder 06._Mine_Operations\01._Mine_Operations_and_Maintenance_Contract entitled: 2460 - 101130 Notice of Appointment of an Operator for a Coal Mine-Macmahon.	23/02/2011 11:02
BLACK-109	High	Answered	Corrs Chambers Westgarth	17/02/2011 13:06	Please provide documentary evidence of the appointment by the Mining Contractor of an SSE for the mine under the Coal Mining Safety and Health Act. [Document reference: 1791-1800]	Please refer to the document uploaded to the data room in folder 06._Mine_Operations\01._Mine_Operations_and_Maintenance_Contract\ entitled: 2462 - ADM.10.02.03_002 N Roberts 2010.10.21.	23/02/2011 11:04
BLACK-110	Medium	Answered	UBS	17/02/2011 14:58	(PwC) Please provide any stamp duty advice obtained in relation to any acquisition of businesses, assets or shares by the Target Group in the last 4 years.	No business acquisitions have taken place subsequent to the GS purchase.	21/02/2011 17:45
BLACK-111	Medium	Answered	UBS	17/02/2011 14:58	(PwC) Please provide details of any corporate reconstructions involving the transfer of any Australian assets or companies	No restructuring other than acquisition of Syntech Resources group in March 2007 as detailed in data room documents.	21/02/2011 17:45



that have occurred within the last 4 years. Please provide details (and supporting documents) of any stamp duty exemptions obtained.

BLACK-112 Medium Answered UBS

17/02/2011 14:59 (PwC) Please provide a breakdown, on a jurisdiction by jurisdiction basis, of the market value of any Australian land or interests in land (e.g. leases, buildings, fixtures, etc.) held directly or indirectly by the Target.

We have applied a value of A\$27,642,326 to the NSW assets being the carrying book value of shares in subsidiaries in Syntech Holdings. All other assets are Queensland jurisdiction.

1/03/2011 17:22

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BLACK-113	Medium	Answered	UBS	17/02/2011 14:59	(PwC) Please provide details of any Australian asset/business transfers between Target Group entities in the last 4 years, and provide details of any stamp duty paid (or exemption granted) in relation to these.	There is a loan between the two groups of approximately \$500,000. There is another approximate \$500,000 of expenditure on SHII tenements carried by SHI in anticipation of merger of the two groups. There are no stamp duty implications. The merger of SHI and SHII has not happened.	21/02/2011 17:46
BLACK-114	Medium	Answered	UBS	17/02/2011 15:02	(PwC) Please provide any correspondence from any revenue authorities in the last 4 years.	There has been no correspondence with the Taxation Office other than normal compliance lodgements as required.	21/02/2011 17:46
BLACK-115	High	Answered	Corrs Chambers Westgarth	18/02/2011 9:54	Please provide a copy of the register of option holders for Syntech Holdings P/L which Syntech Holdings P/L is required to maintain in accordance with section 168(l)(b) of the Corporations Act.	Please refer to the document uploaded to the data room in folder 02._Syntech_Holdings\01._Corporate\1.01_-_Syntech_Holdings\ entitled: 2473 - SHI Register of Options.	24/02/2011 22:28
BLACK-116	High	Answered	Corrs Chambers Westgarth	18/02/2011 9:54	Please provide a copy of the register of option holders for Syntech Holdings II P/L which Syntech Holdings II P/L is required to maintain in accordance with section 168(l)(b) of the Corporations Act.	Please refer to the document uploaded to the data room in folder 03._Syntech_Holdings_II\01._Corporate\1.01_-_Syntech_Holdings_II\ entitled: 2474 - SHII Register of Options.	24/02/2011 22:29
BLACK-117	Low	Answered	Corrs Chambers Westgarth	18/02/2011 9:54	The document with data room reference 2408 is exactly the same as the document with data room reference 2386, please confirm that they are suppose to be the same document.	Yes, both documents are intended to be the same.	21/02/2011 17:47
BLACK-118	Low	Answered	Corrs Chambers Westgarth	18/02/2011 9:54	The document with data room reference 2385 is exactly the same as the document with data room reference 2407, please confirm that they are suppose to be the same document.	Yes, both documents are intended to be the same.	21/02/2011 17:48
BLACK-119	High	Answered	Corrs Chambers Westgarth	18/02/2011 9:55	Please provide a copy of the option certificate required to be issued to GS Power Holdings under the Syntech Option Deed (Additional Funding Warrants) (data room reference 2408)	Please refer to “2677 - FIRB Approval for Additional 2% Funding Warrants” under 02._Syntech_Holdings\05._Financial\5.03_Loan_Agreements\.	9/03/2011 19:05
BLACK-120	High	Answered	Corrs Chambers Westgarth	18/02/2011 9:55	Please provide a copy of the option certificate required to be issued to GS Power Holdings P/L under the Syntech II Option Deed (Additional Funding Warrants) (data room reference 2407)	Please refer to “2677 - FIRB Approval for Additional 2% Funding Warrants” under 02._Syntech_Holdings\05._Financial\5.03_Loan_Agreements\.	9/03/2011 19:06
BLACK-121	High	Answered	Corrs Chambers Westgarth	18/02/2011 9:55	The Syntech Option Deed (Additional Guarantee Warrants) (data room reference 2318) is undated and not executed. Please provide a dated and executed copy of that document.	This document has been uploaded to the data room in folder 02._Syntech_Holdings\05._Financial\5.03_Loan_Agreements\ entitled: 2440 - SH Option Deed (Additional Guarantee Warrants).	18/02/2011 17:45
BLACK-122	High	Answered	Corrs Chambers Westgarth	18/02/2011 9:55	The Syntech II Option Deed (Additional Guarantee Warrants) (data room reference 2319) is undated and not executed. Please provide a dated and executed copy of that document.	This document has been uploaded to the data room in folder 02._Syntech_Holdings\05._Financial\5.03_Loan_Agreements entitled: 2441 - SH II Option Deed (Additional Guarantee Warrants).	18/02/2011 17:46
BLACK-123	High	Answered	Corrs Chambers Westgarth	18/02/2011 9:55	Please provide a copy of the option certificate required to be issued to GS Power Holdings P/L under the Syntech Option Deed (Additional Guarantee Warrants) (data room reference 2318)	This document has been uploaded to the data room in folder 02._Syntech_Holdings\05._Financial\5.03_Loan_Agreements entitled: 2442 - SHI Additional Guarantee Warrants (Oct-10).	18/02/2011 17:46
BLACK-124	High	Answered	Corrs Chambers Westgarth	18/02/2011 9:55	Please provide a copy of the option certificate required to be issued to GS Power Holdings P/L under the Syntech II Option Deed (Additional Guarantee Warrants) (data room reference 2319)	This document has been uploaded to the data room in folder 02._Syntech_Holdings\05._Financial\5.03_Loan_Agreements entitled: 2443 - SHII Additional Guarantee Warrants (Oct-10).	18/02/2011 17:47
BLACK-125	High	Answered	Corrs Chambers Westgarth	18/02/2011 9:56	Please provide a copy of the option certificate required to be issued to GS Power Holdings under the Syntech Option Deed (Funding Warrants) (data room reference 1683)	This document has been uploaded to the data room in folder 04._Syntech_Transactions\03._2009_Financing entitled: 2444 - SHI Funding Warrants.	18/02/2011 17:47

BLACK-126	High	Answered	Corrs Chambers Westgarth	18/02/2011 9:56	Please provide a copy of the option certificate required to be issued to GS Power Holdings under the Syntech II Option Deed (Funding Warrants) (data room reference 1684)	This document has been uploaded to the data room in folder 04._Syntech_Transactions\03._2009_Financing entitled:[2445 - SHII Funding Warrants.	18/02/2011 17:47
BLACK-127	High	Answered	Corrs Chambers Westgarth	18/02/2011 9:56	Please provide a copy of the option certificate required to be issued to GS Power Holdings P/L under the Syntech Option Deed (Guarantee Warrants) (data room reference 1681)	This document has been uploaded to the data room in folder 04._Syntech_Transactions\03._2009_Financing entitled: 2446 - SHI Guarantee Warrants.	18/02/2011 17:47
BLACK-128	High	Answered	Corrs Chambers Westgarth	18/02/2011 9:56	Please provide a copy of the option certificate required to be issued to GS Power Holdings under the Syntech II Option Deed (Guarantee Warrants) (data room reference 1682)	This document has been uploaded to the data room in folder 04._Syntech_Transactions\03._2009_Financing entitled: 2447 - SHII Guarantee Warrants.	18/02/2011 17:47

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BLACK-129	High	Answered	Corrs Chambers Westgarth	18/02/2011 9:56	Please confirm which of the first, second and third tranche funding options have been issued to GS Power Holdings in accordance with the Syntech Option Deed (Funding Warrants) (data room reference 1683) and provide documents to evidence the issue of each tranche of funding options.	All 3 funding option tranches have been issued to GS.	18/02/2011 17:24
BLACK-130	High	Answered	Corrs Chambers Westgarth	18/02/2011 9:56	Please confirm which of the first, second and third tranche funding options have been issued to GS Power Holdings in accordance with the Syntech II Option Deed (Funding Warrants) (data room reference 1684) ad provide documents evidencing the issue of each tranche of the options.	All 3 funding option tranches have been issued to GS,	18/02/2011 17:25
BLACK-131	Medium	Answered	UBS	18/02/2011 16:59	Please provide any correspondences with State Revenue Authorities and any advice obtained in relation to the acquisition of Syntech Resources Pty Ltd and AMH (Chinchilla Coal) Pty Ltd by Syntech Holdings Pty Ltd and Syntech Holdings II Pty Ltd respectively.	No correspondence with the State Revenue Authorities.	21/02/2011 17:52
BLACK-132	High	Answered	UBS	18/02/2011 17:00	Please provide any correspondences with State Revenue Authorities and any advice obtained in relation to the acquisition of the tenements acquired by AMH (Chinchilla Coal) Pty Ltd from Ecarlate Pty Ltd and Chandail Pty Ltd. (Doc reference number 0103).	No correspondence with the State Revenue Authorities.	21/02/2011 17:52
BLACK-133	High	Answered	UBS	18/02/2011 17:16	<p>Below is an email sent to Nick Dowsley from Kevan Shah that had attachments. This question is a reference to that email to allow for follow up.</p> <p>* * *</p> <p>Hi Nick,</p> <p>Per our call, here are the files and required information.</p> <p>&lt;&lt; 110217_info_mining.xlsx &gt;&gt; &lt;&lt; 110218__request forms01.pdf &gt;&gt;</p> <p>We'd like to request additional information re mining assessment. This information is not in the dataroom yet. Specifically:</p> <p>Strip reserve reconciliation - forms and spreadsheet shown on attached files Calendar of operation 2010 and 2011 (plan and actual) - forms and spreadsheet shown on attached files Production Statistics by month - Year 2010 and 2011 - forms and spreadsheet shown on attached files Budget and actual Reports for 2010 and 2011 Production Schedules and Plan/s - Stage -1 ( 2010 - 2016)</p> <p>Could you please arrange to provide this information?</p> <p>Regards, Kevan * * *</p>	<p>Please refer to the document uploaded to the data room in folder 02._Syntech_Holdings\11._Mine_Information_and_Technical_Data\1.02_-_Reports\entitled: 2475 - 110217_info_mining_combinedV7.</p> <p>Please also refer to the letter entitled 2476 - Minserve Comments on Cameby Production and Reconciliation Data 24 Feb 2011 uploaded to the same folder, which explains the reasons for being unable to complete the strip reserve reconciliation schedule as requested, and providing the context for the production figures supplied in the Calendar and the Production Statistics files.</p>	24/02/2011 22:18
BLACK-134	Medium	Answered	UBS	18/02/2011 17:28	Please provide the following documents:	Please refer to the documents uploaded to the data room in folder 02._Syntech_Holdings\04._Income_Tax\. Additional documents have also been included in this folder as a result of the telephone call between PWC and Syntech CFO, Brett Purkiss, on 23 February 2011, 1 p.m. (Sydney).	23/02/2011 19:31

return.

BLACK-135	Medium	Answered	UBS	18/02/2011 17:28	Please provide Business Activity Statements from March, June and October for all Syntech Holdings and Syntech Holdings II entities for the past 3 years	Please refer to the documents uploaded in response to BLACK-182. More statements will be posted in due course.	24/02/2011 20:21
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BLACK-136	Medium	Answered	UBS	18/02/2011 17:28	For each significant sale or purchase of capital assets or businesses since January 2007 (eg. the transfer of shares in Syntech Resources to Syntech Holdings and AMH (Chinchilla Coal) to Syntech Holdings II), please provide details of the date of the transaction, amount of consideration, and Goods and Services Tax treatment. Please also provide a copy of the contract (particularly any Goods and Services Tax clause, warranties and indemnities).	Please refer to 04._Syntech_Transactions\01._2007_Syntech_Holdings_Transaciton\and 04._Syntech_Transactions\02._AMHCC_Purchase_and_JV_Agreements\for details on major Syntech related transactions. Specifically, the following documents would be helpful:  0017 - 14_ShareSaleAgreement_22032007 under 04._Syntech_Transactions\01._2007_Syntech_Holdings_Transaction 0103 - 07 Sale & Purchase Agreement under 04._Syntech_Transactions\02._AMHCC_Purchase_and_JV_Agreements 0106 - 10 Share Sale Agreement - AMH & SHII under 04._Syntech_Transactions\02._AMHCC_Purchase_and_JV_Agreements\	7/03/2011 16:12
BLACK-137	Medium	Answered	UBS	18/02/2011 17:28	Please provide copies of the elections to consolidate prepared by the head companies of the Syntech Holdings and Syntech Holdings II consolidated groups	Please refer to the documents uploaded to the data room in folder 02._Syntech_Holdings\04 ._Income_Tax\	24/02/2011 22:30
BLACK-138	Medium	Answered	UBS	18/02/2011 17:29	Please provide any consolidation advice or calculations that were prepared in relation to the Syntech Holdings II group.	Shortly after SHI, similar structural arrangements for SHI were used for SHII.	24/02/2011 20:21
BLACK-139	Medium	Answered	UBS	18/02/2011 17:29	Please advise of the basis for exploration deductions claimed. Has the claim relied on the accounts or has a detailed review of exploration expenditure been conducted to determine the amount that is Immediately deductible for tax purposes?	Exploration deductions are separately assessed and reviewed at the time of preparation of each return.	21/02/2011 17:53
BLACK-140	Medium	Answered	UBS	18/02/2011 17:29	Please provide a copy of the tax fixed asset register, including any details of business related costs that have been deducted under \$40-880	Please refer to the document uploaded to the data room in folder 01._Asset_Overview_and_Financial_Model\01._Additional_Details entitled: 2492_Tax depreciation schedule at 30 June 2010.	25/02/2011 16:05
BLACK-141	Medium	Answered	UBS	18/02/2011 17:29	Please advise whether any Syntech Holdings or Syntech Holdings II entities have received rulings from the ATO. If so, please provide details	None.	21/02/2011 17:54
BLACK-142	Medium	Answered	UBS	18/02/2011 17:29	Please advise whether Syntech Holdings or Syntech Holdings II have any outstanding disputes with the ATO	None.	21/02/2011 17:55
BLACK-143	Medium	Answered	UBS	18/02/2011 17:29	Please provide any transfer pricing advice that has been received in relation to the interest paid on any of the debt facilities (including convertible notes)	None. Convertible notes interest is non-deductible.	21/02/2011 17:55
BLACK-144	Medium	Answered	UBS	18/02/2011 17:30	In respect of the interest paid on any debt facilities, has interest withholding tax been remitted to the ATO? If not, what advice do you have to suggest withholding tax is not applicable?	All interest payments made have had withholding tax deducted.	21/02/2011 17:56
BLACK-145	High	Answered	Corrs Chambers Westgarth	18/02/2011 20:27	Please confirm that no other securities (which includes convertible notes, options, warrants or any other convertible securities) have been issued in Mountfield Properties other than 100 fully paid ordinary shares.	Please refer to the answer provided for BLACK-004. Yes, no other securities have been issued.	22/02/2011 18:47
BLACK-146	High	Answered	Corrs Chambers Westgarth	18/02/2011 20:27	Please confirm that no other securities (which includes convertible notes, options, warrants or any other convertible securities) have been issued in Syntech Resources P/L other than 10079363 fully paid ordinary shares.	Please refer to the answer provided for BLACK-005. Yes, no other securities have been issued.	22/02/2011 18:47
BLACK-147	High	Answered	Corrs Chambers Westgarth	18/02/2011 20:27	Please confirm that no other securities (which includes convertible notes, options, warrants or any other convertible securities) have been issued in AMH Chinchilla Coal P/L other than 1 fully paid ordinary shares.	Please refer to the answer provided for BLACK-005. Yes, no other securities have been issued.	22/02/2011 18:47
BLACK-148	High	Answered	Corrs Chambers Westgarth	18/02/2011 20:27	From the corporate structure sent to us by Nicholas Anthony (GS Power) on 31/1/11, the name of the subsidiary of Suntech II Holdings P/L is AMH Chinchilla P/L. However the documents all show the name as being AMH Chinchilla Coal P/L. Please advise if there was a change of name and If so provide a copy of the change of name certificate.	There is an error in the corporate structure document. There is no change of name and the subsidiary remains AMH Chinchilla Coal P/L.	22/02/2011 18:48

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BLACK-149	High	Answered	Corrs Chambers Westgarth	18/02/2011 20:27	Please confirm whether AMH Chinchilla Coal P/L has nominated the payment method (by lump sum or by royalty) for the exercise of the Put or Call Option. We understand that neither the Put and Call option has been exercised but note that the Joint Venture Agreement (data room reference 0097) provides that an election of payment may be made before the exercise of the Put or CALL oPTION.	No payment method has been nominated.	22/02/2011 18:48
BLACK-150	High	Answered	UBS	19/02/2011 15:32	Can you upload this document in the same manner as all other documents - i.e. can be printed? File says it is encrypted and does not print at all or only prints a small section.  Relates to document: 1741 - WICET Finance Committee 100204	These documents were uploaded without encryption, so they should be able to be opened and printed in the same manner as the other documents in the data room.  Please contact Vikki A'Vard on +61 9643 5184 during business hours (or email vikki.avard@mallesons.com) if you are still having technical issues opening these documents.	23/02/2011 11:54
BLACK-151	High	Answered	UBS	19/02/2011 15:35	Can you upload documents 1746 and 1747 re: ports in the same manner as all other documents - i.e. can be printed? Files appear to be encrypted and cannot print at all.	These documents were uploaded without encryption, so they should be able to be opened and printed in the same manner as the other documents in the data room.  Please contact Vikki A'Vard on +61 9643 5184 during business hours (or email vikki.avard@mallesons.com) if you are still having technical issues opening these documents.	23/02/2011 11:54
BLACK-152	Medium	Answered	Corrs Chambers Westgarth	21/02/2011 10:47	Has any part of the project, including infrastructure and essential services for the project, been affected by flooding / the cyclone? If so, what is the impact on the project / services and what is the expected recovery time (if applicable)?	Please refer to the answers provided for BLACK-041, BLACK-078 and BLACK-079. Mine site is relatively unaffected. Main disruption is to the rail line, which QRNational is in the process of repairing. QRNational has estimated potential completion of all repairs by early-mid April.	22/02/2011 18:55
BLACK-153	Medium	Answered	Corrs Chambers Westgarth	21/02/2011 12:19	Please provide an update in relation to the claim against the administrator (see page 22). [Document reference 1676]	No claim was lodged against the administrator.	22/02/2011 18:55
BLACK-154	Medium	Answered	Corrs Chambers Westgarth	21/02/2011 12:22	Please provide an update in relation to the potential compensation claim against the US Army in relation to the live ordnances found on site (see page 17 of May 2009 Progress Report, page 16 of June 2009 Progress Report, page 17 of July 2009 Progress Report and page 19 of September 2009 Progress Report) [Document references 1674, 1675, 1676, 1678]	Syntech bore some costs in locating / identifying the ordnances, but did not lodge any claim against the US Army. The Australian Defense Force (ADF) is handling all costs going forward related to ordinance disposal.	22/02/2011 18:56
BLACK-155	Medium	Answered	Corrs Chambers Westgarth	21/02/2011 12:23	Please provide a status update in relation to the acquisition of land required for the expansion of Cameby Downs Mine.	No land has been purchased or any agreements signed.	22/02/2011 18:56
BLACK-156	Medium	Answered	Corrs Chambers Westgarth	21/02/2011 12:24	Please provide documentary evidence of inventories or supply arrangements entered into by Syntech Resources for the provision of critical spares and Major Service Parts (listed in Schedule 8 of the Mining Contract). [Document reference 1791-1800]	Payment for & storage of spares is the responsibility of Macmahons under the mining contract.	22/02/2011 18:56
BLACK-157	Medium	Answered	Corrs Chambers Westgarth	21/02/2011 12:26	The November 2010 Progress Report (p. 11) states that a notification and review process is underway for the MLA over the water reserve at Rywung. Syntech expected to receive native title clearance for this area by 29 December 2010. Please provide an update on the status of the native title clearance. [Document reference 2403]	Syntech's understanding is that the native clearance has been approved, but Syntech has not yet received official notification.	22/02/2011 18:56
BLACK-158	Medium	Answered	Corrs Chambers	21/02/2011 12:27	Could you please provide the document evidencing Syntech Resources Pty Ltd assigning access rights sufficient for	Please refer to the document uploaded to the data room in folder 02_Syntech_Holdings\09_Rai\9.01_-	22/02/2011 19:25

			Westgarth		QRNational to transport 1.388mtpa? [Document reference 1634]	_Railing_to_Brisbane\ entitled: 2456 -100927 QR Ltr confirming Rolling Stock.	
BLACK-159	Medium	Answered	Corrs Chambers Westgarth	21/02/2011 12:28	Could you please provide the document evidencing QRNational's confirmation it has sufficient access rights (and rollingstock and crew available) to transport 1.388mtpa from Columboola to Fisherman Islands? [Document reference 1634]	Please refer to the document uploaded to the data room in folder 02._Syntech_Holdings\09._Rail\9.01_-_Railing_to_Brisbane\ entitled: 2456 -100927 QR Ltr confirming Rolling Stock.	22/02/2011 19:26
BLACK-160	Medium	Answered	Corrs Chambers Westgarth	21/02/2011 12:29	Could you please provide the document evidencing QRNational is satisfied the rail infrastructure from Columboola to Fisherman Islands (including Cameby Downs spur and ballon loop) has been commissioned to QRNational's satisfaction? [Document reference 2230]	Please refer to the document uploaded to the data room in folder 02._Syntech_Holdings\09._Rail\9.01_-_Railing_to_Brisbane\ entitled: 2461 -110202 CommencementDate_confirmationLetter.	23/02/2011 11:13
BLACK-161	Medium	Answered	Corrs Chambers Westgarth	21/02/2011 12:30	Please confirm whether Syntech responded to this letter advising of its interest in participating in the Customer EOI process and, if so, please provide a copy of the response and information provided. [Document reference 1737]	Syntech did not respond to the Surat Basin Rail ("SBR") letter, as the proposal is out of alignment with current timing on WICET. Syntech is waiting for SBR to respond with a modified proposal.	22/02/2011 18:57

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BLACK-162	Medium	Answered	Corrs Chambers Westgarth	21/02/2011 12:31	Please provide a copy of QR's formal advice in relation to the proposed QR rail network upgrade for Moura/Gladstone and Wandoan/Miles (see section 6.6 of the Report), and a copy of all other related correspondence with QR. [Document reference 2403]	The advice only applies to Wandoan/Miles section, not Moura/Gladstone section. Please refer to the document uploaded to the data room in folder 02._Syntech_Holdings\09_Rail\9.O2_-_Surat_Basin_Rail_to_Gladstone\ entitled: 2481 - QR Letter - Miles -Wandoan Upgrade.	24/02/2011 22:32
BLACK-163	Medium	Answered	Corrs Chambers Westgarth	21/02/2011 12:32	Please provide a copy of the related Transfer Facilities Lease. [Document reference 1506, 1507]	Still being negotiated.	22/02/2011 18:57
BLACK-164	Medium	Answered	Corrs Chambers Westgarth	21/02/2011 12:33	Please advise If QR Network required amendment to the Preliminary Costing and Program in the Project Plan, and/or the \$ amounts specified in clause 4.2 of the RICD, following its agreement to extend the condition precedent date from 1 February 2010 to 30 June 2010. [Document reference 1779]	QR has provided an updated project cost estimate of A\$53.2 million (before GST).	22/02/2011 18:57
BLACK-165	Medium	Answered	Corrs Chambers Westgarth	21/02/2011 12:34	Please provide a copy of the form of lease stated to be agreed by QR and Mountfield Pty Ltd. [Document reference 2307, 2363]	Lease still being negotiated with government.	22/02/2011 18:57
BLACK-166	Medium	Answered	Corrs Chambers Westgarth	21/02/2011 12:34	Please provide a copy of the DTMR consents referred to in section 6.2 of the Report. [Document reference 2403]	Lease still being negotiated with government.	22/02/2011 18:57
BLACK-167	Medium	Answered	Corrs Chambers Westgarth	21/02/2011 12:35	Please provide evidence of the current amount of the Goldman Sachs bank guarantee provided as security under the AFD. [Document reference 1506]	Current amount of guarantee is A\$48 million; this will likely be increased in the coming weeks to A\$58.5 million (including GST), to match updated project cost estimate provided by QR.	22/02/2011 18:58
BLACK-168	Medium	Answered	Corrs Chambers Westgarth	21/02/2011 12:36	Could you please provide confirmation that QR National is satisfied or has waived the condition precedent in clause 2(1) of the Coal Transport Service Agreement. [Document reference 1531]	Please refer to documents uploaded in response to BLACK-158 to BLACK-160. There is no separate express waiver/expression of satisfaction of CP in clause 2(1), but commencement of the Agreement is implicit in other correspondence.	24/02/2011 20:22
BLACK-169	Medium	Answered	Corrs Chambers Westgarth	21/02/2011 12:38	Please confirm the Access Date (as that term is defined in the AFD). [Document reference 1506]	Access Date was 1-Dec-10.	22/02/2011 18:58
BLACK-170	Medium	Answered	Corrs Chambers Westgarth	21/02/2011 12:40	The Water Pipeline Agreements are in the name of Syntech Resources. However, according to our searches the registered easements are in favour of Mountfield Properties. Please confirm whether Syntech Resources has transferred its interest in the Water Pipeline Agreements to Mountfield Properties and provide documentary evidence of the transfer. [Document reference 1754, 1756, 1758]	No transfer has occurred between Syntech and Mountfield. The Water Pipeline needs to pass through land registered under Mountfield and therefore the easements are registered in favour of Mountfield.	22/02/2011 18:58
BLACK-171	Medium	Answered	Corrs Chambers Westgarth	21/02/2011 12:41	We note the Ergon Customer Connection Agreement (2315) has been provided in the data room. However, this is not an agreement for the sale of electricity - it is an agreement for connection services. Please provide a copy of the agreement entered into with Ergon for the sale of electricity. [Document reference 2315]	Syntech is a retail customer and therefore there is no need for a separate sale of electricity agreement.	24/02/2011 20:22
BLACK-172	Medium	Answered	Corrs Chambers Westgarth	21/02/2011 12:42	Please provide a map of the proposed Davies water pipeline route including title reference details for the properties which will be impacted by the proposed route. [Document reference 2268, 2403]	Please refer to the document uploaded to the data room in folder 02._Syntech_Holdings\14._Water_and_Power\ entitled: 2467 - Proposed Davies Dam Pipeline Rev B 24 Nov 2010 Model (1).	23/02/2011 19:31
BLACK-173	Medium	Answered	Corrs Chambers	21/02/2011 12:45	What volume of water does QGC expect to supply pursuant to the Water Supply Agreement over the next 12 months? Please	From 1-Mar-11, Syntech & QGC anticipate 4.0ML/day to be available.	23/02/2011 11:14

			Westgarth		provide the monthly rates. [Document reference 0992]		
BLACK-174	Medium	Answered	Corrs Chambers Westgarth	21/02/2011 12:47	Please provide a copy of the Development Application for the Davies water pipeline. [Document reference: 2268]	Syntech initially submitted an application while negotiating surface rights; company is currently dealing with a difficult landowner and is in the process of updating the application to reflect a change in the path of the pipeline. As the mine is getting adequate water supply from QGC, this is no longer viewed as a critical path issue.	22/02/2011 18:58
BLACK-175	Medium	Answered	Corrs Chambers Westgarth	21/02/2011 12:48	Has Syntech Resources Pty Ltd approved of any agreements which affect (or may affect) its priority under clause 11.1 of the Water Supply Agreement? [Document reference: 0992]	No.	22/02/2011 18:58
BLACK-176	Medium	Answered	Corrs Chambers Westgarth	21/02/2011 12:49	Please provide evidence that the National Australia Bank Limited, as a registered mortgagee of Lot 33 on CP BWR106, consented to the registration of the easement granted by Lindsay Boyle and Ann Boyle in favour of Mounfield Properties Pty Ltd. [Document reference 1755, 2435]	Please refer to the document uploaded to the data room in folder 2._Syntech_Holdings\14._Water_and_Power\entitled: 2482 - Confirmation Statement - Boyle.	24/02/2011 23:01
BLACK-177	Medium	Answered	Corrs Chambers Westgarth	21/02/2011 12:50	Please provide an explanation for the extension of the Interim Term to 28 February 2010. [Document reference 2373]	Floods affected QGC operations which resulted in QGC extending the interim terms. Please refer to the answer to BLACK-178.	22/02/2011 18:59

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BLACK-178	Medium	Answered	Corrs Chambers Westgarth	21/02/2011 12:51	Please provide documentary evidence that QGC and Syntech Resources Pty Ltd agreed to the extension of the Interim Term to 28 February 2010. [Document reference 2373]	Please refer to the document uploaded to the data room in folder 02._Syntech_Holdings\14._Water_and_Power\ entitled: 2458 - IA Notification 210111.	22/02/2011 19:32
BLACK-179	Medium	Answered	Corrs Chambers Westgarth	21/02/2011 12:59	Please provide a status update on negotiations with landowners affected by the proposed Davies water pipeline route. [Document reference 2403]	Negotiations with landowners have been difficult and new application is being prepared to reflect an alternate route; this is no longer viewed as a critical path issue due to adequate water supply being obtained from QGC.	22/02/2011 18:59
BLACK-180	Medium	Answered	Corrs Chambers Westgarth	21/02/2011 12:51	Please provide details of Syntech's request for connection (see page 11). [Document reference 2362]	Please refer to the documents uploaded to the data room in folder 02._Syntech_Holdings\14._Water_and_Power\ entitled: - 2453 - 10.11.10 Cover Letter-Future Electricity Network Requirement Surat Basin North West Area - 2454 - 10.11.10 Maintaing a Reliable Electricity Supply to the Surat Basin North West Area-Final Report - 2455 - 12-50-17-002 Future Supply Requirements Surat Basin North West Area Response to Application	22/02/2011 19:34
BLACK-181	Medium	Answered	Corrs Chambers Westgarth	21/02/2011 13:14	The Progress Report contains a reference to two co-development agreements being negotiated with ACBM and APLNG. Please provide copies of the draft agreements and an update on the status of these negotiations. [Document reference 2403]	Documents are still being negotiated; drafts are not in very detailed form at this point.	22/02/2011 18:59
BLACK-182	Medium	Answered	UBS	21/02/2011 20:45	GST— In addition to the request for Business Activity Statements (BAS's) (per MatterWeb ID BLACK-135), could you please also provide copies of BAS workpapers (i.e. any workpapers prepared in relation to lodgement of the respective BAS's) for these periods	Please refer to the documents uploaded to the data room in folders 02._Syntech_Holdings\04._Income_Tax\BAS and 03._Syntech_Holdings_II\03._Tax\BAS.	23/02/2011 19:31
BLACK-183	Medium	Answered	UBS	21/02/2011 20:45	GST— Please provide any GST advice received by the Syntech entities in the last 4 years	No GST advice have been received other than at time of acquisition.	22/02/2011 19:00
BLACK-184	Medium	Answered	UBS	21/02/2011 20:45	GST-Please advise whether the Syntech entities have GST manuals or procedure documents, and if so, provide copies of these documents	No manuals have been created.	22/02/2011 19:00
BLACK-185	High	Answered	UBS	22/02/2011 9:08	Can you please upload tenure maps detailing the 2 blocks we have surrendered in EPC 562, and the 5 blocks we intend to surrender in EPC 732?	Please refer to the document uploaded to the data room in folder 03._Syntech_Holdings_II\05._Mining_Tenements_and_JORC_Report\ entitled: 2457 - EPC562_Surrender.	22/02/2011 19:36
BLACK-186	High	Answered	UBS	22/02/2011 9:10	Only summaries of the Access Facilitation Deed and Port Agreement have been uploaded. Please upload copies of the Access Facilitation Deed and Port agreement.	Access Facilitation Deed - please refer to the document currently in the data room in folder 02._Syntech_Holdings\09._Rail\9.01_-_Railing_to_Brisbane\ entitled: "1506 - 1324 AFD Columboola. Port Agreement - please refer to the document currently in the data room in folder 02._Syntech_Holdings\10._Port\10.01_-_Fishermans_Island\ entitled: 1551 - 081116 CPSA - Syntech.	24/02/2011 20:22
BLACK-187	High	Answered	UBS	22/02/2011 9:11	We note that a dispute occurred with a welding contractor in respect to the quality of his work. We presume that this related to the CHPP or train load out station. Please provide a copy of the structural integrity reports for both items of plant.	Please refer to the documents uploaded to the data room in folder 06._Mine_Operations\ entitled: 2495 - Steelwork Inspection - Coal Preparation Plant and 2496 - Steelwork Inspection - Loadout Facility.	25/02/2011 18:12
BLACK-188	High	Answered	Corrs Chambers Westgarth	22/02/2011 11:30	Please provide a status update in relation to the negotiations between Syntech and the "local farmer" who wanted Syntech to buy his property outright in relation to the Davies water pipeline route (November 2010 Progress Report, p. 8). Please also provide: 1. details of the negotiation with the local farmer (including details of any price asked for / being negotiated); and 2. details of the alternative available (including details of any additional costs involved) if the pipeline has to be re-routed. (Document reference: 2403)	Please refer to responses to BLACK-094, BLACK-174 and BLACK-179.	24/02/2011 20:53

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BLACK-189	High	Answered	Corrs Chambers Westgarth	22/02/2011 14:47	Please confirm that there are no securities or convertible securities (including but not limited to shares, options, warrants and convertible notes) in Syntech Holdings P/L other than: 1. 8,045,200 fully paid ordinary shares issued to Australian Mining Finance I GMBH & CO UK; 2. 1,954,800 ordinary fully paid shares issued to AMH Syntech Holdings P/L; 3. 3,333,333 ordinary fully paid shares issued to GS; 4. 15,238,095 options issued to GS under the Syntech Convertible Participating Note Subscription Agreement; 5. 4,761,906 options issued to GS under the Syntech Option Deed (Guarantee Warrants); 6. 33,333,333 options issued to GS under the Syntech Option Deed (Funding Warrants); 7. 13,333,335 options issued to GS under the Syntech Option Deed (Additional Guarantee Warrants); and 8. X options to be issued to GS under the Syntech Option Deed (Additional Funding Warrant).	Confirmed that there are no other securities.	24/02/2011 20:23
BLACK-190	High	Answered	Corrs Chambers Westgarth	22/02/2011 14:48	Please confirm that there are no securities or convertible securities (including but not limited to shares, options, warrants and convertible notes) in Syntech Holdings II P/L other than: 1. 3,500,000 ordinary fully paid shares issued to AMH Syntech Holdings P/L; 2. 1 ordinary fully paid shares issued to GS; 3. 6,500,001 options issued to GS under the Syntech II Convertible Participating Note Subscription Agreement; 4. 1,666,667 options issued to GS under the Syntech II Option Deed (Guarantee Warrants); 5. 11,666,653 options issued to GS under the Syntech II Option Deed (Funding Warrants); 6. 4,666,680 options issued to GS under the Syntech II Option Deed (Additional Guarantee Warrants); and 7. X options to be issued to GS under the Syntech II Option Deed (Additional Funding Warrant).	Amended answer Confirmed that there are no other securities	18/03/2011 16:15
BLACK-191	Medium	Answered	Corrs Chambers Westgarth	22/02/2011 18:18	The Cooperation Deed between Metrocoal and Syntech refers to a Royalty Deed to be entered into within 3 months of ML 50233 being granted. Please confirm whether the Royalty Deed has been entered into and provide a copy of the Deed. (Doc 0713)	The cooperation deed does not refer to ML50233 but to a mining lease being granted over the cooperation area of EPC1165. ML50233 does not overlap with the cooperation area. There is an MLA over this area as part of stage 2 and as this has not been granted yet there is no royalty deed in place.	24/02/2011 20:23
BLACK-192	Medium	Answered	Corrs Chambers Westgarth	22/02/2011 18:57	Please confirm if there is an executive share option plan or a similar employee incentive plan for employees of Syntech Holdings II P/L	Not disclosing employee arrangements at this stage	2/03/2011 10:25
BLACK-193	Low	Answered	Corrs Chambers Westgarth	21/02/2011 13:11	A recent title search shows the registered owner of Lot 64 on CP BWR154 as the State of Queensland (represented by the Department of Environment and Resource Management). Was this lot sold recently? If so, please provide relevant documentation. [Document reference 0694]	Lot 64 is being amalgamated with former government-owned land needed for connection of rail loop to main line. The assignment of Lot 64 to the State of Queensland reflects a temporary arrangement whereby the State of Queensland has taken possession of Lot 64 for amalgamation before re-assigning land back to Syntech. This is still in process.	24/02/2011 20:53
BLACK-194	High	Answered	UBS	23/02/2011 9:40	The QR National Coal Transport Agreement enables it to charge the customer the access charge it incurs from QR Network for rail access.  Please provide details of:  1. Access rights/train paths available/committed to Syntech  2. The access charge and  3. Access Agreement QR National has with QR Network for and on behalf of Syntech	1. Please refer to documents uploaded in response to BLACK-158 to BLACK-160, in which QR National states they have sufficient access rights to transport 1.388 Mt. 2. Please refer to the document uploaded to the data room in folder 02_Syntech_Holdings\09_Rail\9.01_-_Railing_to_Brisbane\ entitled; 2483 -110105 Access Charge from 110101 3. This agreement is between QR and QR National and is commercial in confidence to them.	24/02/2011 22:38

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BLACK-195	High	Answered	UBS	23/02/2011 10:11	Please advise the status of negotiations with the one farmer whose property is needed to secure the optimal route for water pipeline access	Please refer to BLACK -094.	24/02/2011 20:53
BLACK-196	High	Answered	UBS	23/02/2011 10:12	With regards to WICET Stage 2, is Syntech able to increase its allocation beyond 5Mtpa should it wish to?	Please refer to BLACK-090.	24/02/2011 20:24
BLACK-197	High	Answered	UBS	23/02/2011 10:43	[Urgent]  Please upload the mine plans supporting the financial models (documents 1787.01 and 178710).  Specifically with reference to:  - strip reserves database - major mining equipment and calendar - production schedules, and - plan(s)	We suggest that Yancoal's technical personnel / advisors discuss this directly with Syntech.	24/02/2011 20:54
BLACK-198	Medium	Answered	Corrs Chambers Westgarth	23/02/2011 18:24	The November 2010 Progress Report (p. 4) noted that the QGC power station remained shut down for maintenance. Please confirm whether this maintenance was routine maintenance. If not, please provide further information in relation to the shut-down and maintenance. [Document reference 2403]	We are not aware of the status of the QGC power station, as this is owned by QGC and has no contractual relationship to Syntech.	24/02/2011 20:24
BLACK-199	Medium	Answered	Corrs Chambers Westgarth	23/02/2011 18:25	Please provide a map of the proposed ACBM water pipeline route including title reference details for the properties which will be impacted by the proposed route, the proposed owner of the pipeline, and the status of negotiation with relevant landowners (including copies of any agreements for access or easements). [Document reference 2268]	There is no ACBM pipeline; this doc refers to the Davies water agreement. Please refer to BLACK-094.	24/02/2011 20:54
BLACK-200	Medium	Answered	Corrs Chambers Westgarth	23/02/2011 18:26	Please provide a copy of "Water Approvals" held by the Supplier including a copy of the Supplier's registration as a "Water Service Provider". [Document reference 2268]	Please refer to the document uploaded to the data room in folder 02_Syntech_Holdings\14_Water_and_Power\entitled: 2498 - Derm Registration.	28/02/2011 16:33
BLACK-201	Medium	Answered	Corrs Chambers Westgarth	23/02/2011 18:28	Please provide a copy of approvals held by ACBM to supply water produced from its petroleum activities to Syntech Resources. [Document reference 2403]	QGC holds a beneficial reuse permit from the relevant government department. Please refer to the documents uploaded in the dataroom in folder 02_Syntech_Holdings\14_Water_and_Power\.	24/02/2011 22:40
BLACK-202	Medium	Answered	Corrs Chambers Westgarth	23/02/2011 18:28	Please provide details of the source of the water to be provided under the Water Supply Agreement with Carmel Davies. [Document reference 2268]	Water would be sourced from a dam located on Carmel Davies' property.	24/02/2011 20:25
BLACK-203	Medium	Answered	Corrs Chambers Westgarth	23/02/2011 18:29	Please confirm whether the reference to "3 March 2010" in relation to the referral of the agreement with the Barunggam people to the Land Court should instead be "3 March 2011" (see p. 12 of the November 2010 Progress Report). [Document reference 2403]	This is correct in reading 3 March 2010, as that was the date on which the Land Court option became available. Please refer to December 2010 / January 2011 Progress Report for the latest progress on this subject [in folder 02. Syntech Holdings » 02. Project Reports » 2.25 - 2.2011.01 Project Reports, document entitled: 2464 - Syntech December 2010 January 2011 Monthly Report Final].	24/02/2011 20:25
BLACK-204	Medium	Answered	Corrs Chambers Westgarth	23/02/2011 18:29	Please advise the current state of negotiations with the Barunggam people in relation to cultural heritage. [Document reference 2403]	Please refer to p. 17 of December 2010 / January 2011 Progress Report [in folder 02. Syntech Holdings » 02. Project Reports » 2.25 - 2.2011.01 Project Reports, document entitled 2464 - Syntech December 2010 January 2011 Monthly Report Final].	24/02/2011 20:30
BLACK-205	Medium	Answered	Corrs Chambers Westgarth	23/02/2011 18:30	Please provide a copy of the compensation agreement with QGC in relation to the location of the temporary exploration well on Avon Downs (see p. 16 of December 2010/January 2011 Progress Report).	Please refer to the document uploaded to the data room in folder 2486 - 11.01.24 ATP676 Executed Conduct & Compensation Agreement entitled: 02_Syntech_Holdings\14_Water_and_Power.	24/02/2011 23:02

BLACK-206	Medium	Answered	Corrs Chambers Westgarth	23/02/2011 18:31	Please provide an update on discussions with QGC regarding the positioning of a second exploration well on Cameby Downs (see p. 17 of the December 2010/January 2011 Progress Report).	The December 2010 / January 2011 Progress Report [in folder 02. Syntech Holdings » 02. Project Reports » 2.25 - 2.2011.01 Project Reports, document entitled 2464 - Syntech December 2010 January 2011 Monthly Report Final] reflects the latest status.	24/02/2011 20:29
BLACK-207	Medium	Answered	Corrs Chambers Westgarth	23/02/2011 18:32	Please provide further details of the claim by Reeds against Syntech for \$761,017.35 (see p. 23 of the December 2010/January 2011 Progress Report).	Please refer to BLACK-219.	24/02/2011 20:54

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BLACK-208	Medium	Answered	Corrs Chambers Westgarth	23/02/2011 18:33	Please provide an update in relation to the progress of claims against McLanahan, Outotec, UPA and Concept Control (see p. 23 of the December 2010/ January 2011 progress Report).	The December 2010 / January 2011 Progress Report [Document reference 2464] reflects the latest status.	24/02/2011 20:32
BLACK-209	High	Answered	Corrs Chambers Westgarth	23/02/2011 18:40	In question 106, we requested documentary evidence that the Mining Contractor has taken out each of the insurances required pursuant to items 1.1, 1.2, 1.3 and 1.4 of Schedule 3 (Insurance Schedule). In response to this question (dated 22.2.11) no evidence was provided in respect of items 1.3 (Motor Vehicle & Plant Insurance) and 1.4 (CTP insurance). Please provide evidence of these insurances as requested. [Document reference 1791-1800]	Please refer to the document uploaded to the data room in folder 06_Mine_Operations\02_Mining_Contractor_Insurance entitled: 2491 - Contractor Insurance.	25/02/2011 16:05
BLACK-210	High	Answered	Corrs Chambers Westgarth	23/02/2011 18:41	In question 106, we requested documentary evidence that the Mining Contractor has taken out each of the insurances required pursuant to items 1.1, 1.2, 1.3 and 1.4 of Schedule 3 (Insurance Schedule). In response to this question (dated 22.2.11) evidence was provided in respect of item 1.1 (Public Liability Insurance) and 1.2 (Workers Compensation Insurance). The Workers Compensation Insurance policy referred to is relevant to WA (not Queensland). Please provide evidence that the Mining Contractor holds a WorkCover policy as required by Queensland legislation. [Document reference: 1791-1800]	Please refer to the document uploaded to the data room in folder 06_Mine_Operations\01_Mine_Operations_and_Maintenance_Contract\ entitled: 2487 - QLD - Contractors 2010 - 2011 COC.	24/02/2011 23:02
BLACK-211	Medium	Answered	UBS	23/02/2011 19:52	Could you please provide further details on the Water Supply Agreement with Carmel Davies of "Brooklyn" - location of source, purpose of supply, maximum quantities, progress with registration as a water service provider?	Please refer to BLACK-172, BLACK-174, BLACK-179 and BLACK-202.	24/02/2011 20:55
BLACK-212	Medium	Answered	UBS	23/02/2011 19:55	What is the progress on reaching agreement with Baruggam people on the Cultural Heritage Management plan	Please refer to p. 17 of December 2010 / January 2011 Progress Report [Document reference 2464].	24/02/2011 20:32
BLACK-213	Medium	Answered	UBS	23/02/2011 19:55	What land areas are covered by the Barunggam people and that of the West Wakka Wakka people?	The land areas covered by the Barunggam people and that of the West Wakka Wakka people are the same area as they both claim to be the original inhabitants of the region.	24/02/2011 20:34
BLACK-214	Medium	Answered	UBS	23/02/2011 19:55	Apart from Australian CBM Pty Ltd, has there been any other discussions in relation to co-development agreement with holders of EPP Or PL's?	Please refer to p. 16 of December 2010 / January 2011 Progress Report [Document reference 2464]	24/02/2011 20:33
BLACK-215	Medium	Answered	UBS	23/02/2011 19:56	December 2010/January 2011 progress report notes that there is a combined monthly financial report (section 5.9) attached to this report. Can you provide in the dataroom?	Please refer to document 2463.	24/02/2011 20:48
BLACK-216	Medium	Answered	UBS	23/02/2011 19:56	An excavator was involved in a high potential incident in January 2011. Was this equipment owned by Macmahons? Is there any cost arising from the incident for Syntech?	This equipment was owned by Macmahons; there is no cost to Syntech.	24/02/2011 20:48
BLACK-217	Medium	Answered	UBS	23/02/2011 19:56	Are the outstanding claims (\$3.1m for December and other claims \$0.7m) payable to Macmahon (but not certified) included in either trade creditors or accruals in the December financial report?	\$3.1m December claim has been included; \$0.7m other claims have not been.	24/02/2011 20:49
BLACK-218	Medium	Answered	UBS	23/02/2011 19:56	Are the loans and advances of \$7.7m owing from WICET (as disclosed in the 30 June 2010 report) still outstanding as at 31 January 2011? If so, what is the expected date for recovery of these amounts and what conditions need to be met to allow these amounts to be recovered?	These were still outstanding as at 31 January 2011, and are recoverable upon Financial Close of Stage 1 of WICET. As discussed on p. 18 of December 2010 / January 2011 Progress Report, parties included in Stage 1 are continuing to work toward Financial Close. Insurance Brokers and Financial Arrangers (ANZ) have been appointed and have signalled strong interest from the financial markets in support of the debt raising. WICET has made a submission to the State Government to extend their mandate	24/02/2011 20:49

indicating a proposed financial dose date on or before April 2011 and this has now been approved.

BLACK-219	Medium	Answered	UBS	23/02/2011 19:56	Can you provide further details of the claims received from Reeds, the major civil contractor as noted in section 5.6 of the December 2010/January 2011 progress report? Have these amounts been provided for in the management accounts?	Reeds related claims were reviewed and rejected twice before as the claims cannot be substantiated. As such, Reeds claims have not been provided for.	24/02/2011 20:49
BLACK-220	Medium	Answered	UBS	23/02/2011 19:56	Can you provide further details on the negative 'previously rejected claim' against Syntech of \$0.8m as included in the table under 5.6 of the December 2010/January 2011 progress report? Have these been provided for in the management accounts?	Please refer to BLACK-219.	24/02/2011 20:49

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## Part B – Requests

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BLACK-221	Medium	Answered	UBS	23/02/2011 19:56	Can any of the claims under the two previous questions impact the expected forecast completion costs of \$119m, should they become payable?	Yes, if Reeds claims under BLACK-219 and BLACK-220 were ever to be paid, the claim value would increase the cost of completion.	24/02/2011 20:49
BLACK-222	Medium	Answered	UBS	23/02/2011 19:57	Section 5.9 of the December 2010/January 2011 progress report states that lower budgeted production rates since mining commenced have resulted in elevated costs per tonne? Have the stock valuations appropriately considered any write downs of stock to ensure they are not stated in excess of net realisable value?	Yes; this is held at lower of cost or net realisable value. Please refer to December 2010 / January 2011 Progress Report (p. 24) and the document uploaded to the data room in folder 01._Asset_Overview_and_Financial_Model\01._Additional_Details entitled: 2488 - COGS Jan 11.	24/02/2011 22:42
BLACK-223	Medium	Answered	UBS	23/02/2011 19:57	Can you provide the most recent aged creditors listing and current terms of trading with the major creditors? Can you highlight any capital creditors which are outstanding on this creditors listing?	Please refer to the document uploaded to the data room in folder 01._Asset_Overview_and_Financial_Model\01._Additional_Details entitled: 2489 - Accounts Payable Aged Report as at 31 January 2011.	24/02/2011 22:46
BLACK-224	Medium	Answered	UBS	23/02/2011 19:57	Can you provide the most recent debtors listing and current terms of trading with any customers with whom we have negotiated sales with to date?	Terms of trade usually within 14 days receivable. Please refer to document in BLACK-084.	24/02/2011 20:49
BLACK-225	Medium	Answered	UBS	23/02/2011 19:57	Can we discuss the methodology used to determine the mine operating costs, port costs and rail costs which have been expensed in the 31 December 2010 accounts (and 31 January 2011 accounts if available)?	Methodology has been discussed between Syntech CFO and PWC. Please also refer to the document uploaded to the data room in folder 01._Asset_Overview_and_Financial_Model\01._Additional_Details entitled: 2488 - COGS Jan 11.	24/02/2011 22:44
BLACK-226	Medium	Answered	UBS	23/02/2011 19:57	Can you elaborate with details on the Joint Venture Agreement between Australian Mining Holdings and Chandail and Ecarlate? Are there options still to be issued under this agreement?	Please refer to BLACK-032-035.	24/02/2011 20:50
BLACK-227	Medium	Answered	UBS	23/02/2011 19:57	Can you provide the supporting calculations for the rehabilitation provision as at 31 January 2011 (or 31 December 2010 if Jan balances are not available)? Can you confirm if this calculation has been updated since June 2010? If not, can you provide details of any significant assumptions which would have changed since the 30 June 2010 calculation (hectares to be rehabilitated etc.)?	Rehabilitation provisions have not been updated since Jun-10 - please refer to June 2010 statutory accounts. Management can discuss with PWC directly if there are further questions. Please also refer to the document uploaded to the data room in folder 01._Asset_Overview_and_Financial_Model\01._Additional_Details entitled: 2490 - Provision for Rehabilitation.	24/02/2011 22:47
BLACK-228	Medium	Answered	UBS	23/02/2011 19:57	Can you provide details and support for the closing provision balance as at 31 December 2010 (\$246,899)? Have all employee provision balances (annual leave, long service leave) been updated and provided for as at this date?	Provisions have been updated. Management can discuss with PWC directly if there are further questions, as this provision includes some sensitive information regarding employee compensation.	24/02/2011 20:50
BLACK-229	High	Answered	UBS	24/02/2011 12:43	Can you please upload the appointment notice for the Site Senior Executive (SSE)	Please refer to response for BLACK-109.	25/02/2011 16:02
BLACK-230	Medium	Answered	UBS	24/02/2011 12:43	Can you please upload SSE's BOE Notice of examination and RIIRIS601A (otherwise known as 43 competency)	Please refer to page 8 of the letter of appointment for Noel Roberts for the BOE Notice, uploaded to the data room in folder 06._Mine_Operations\03._Safety entitled: 2499 - ADM 10 02 03_002 N Roberts 2010 10 21 (2).  Please also refer to page 9 of the letter of appointment for Noel Roberts for the Risk Management Qualification.  Noel holds qualification in Minerals Industry Risk Management &#8211; MMME 7033, which is equivalent to G3 and is accepted by the Coal Mining Safety and Health Advisory committee.	28/02/2011 17:38
BLACK-231	Medium	Answered	UBS	24/02/2011 12:44	Can you please provide details on the status of the SHMS	The mine now operates under the Macmahon SHMS, which has been developed and implemented in line with their corporate requirements and the Queensland Coal Mining Safety and Health Act.  Syntech has plans to audit their SHMS in April 2011.	1/03/2011 17:22
BLACK-232	Medium	Answered	UBS	24/02/2011 12:44	Can you please provide a copy of management structure as required under section 55 of the CSMH Act	Please refer to the document uploaded to the data room in folder 06._Mine_Operations\03._Safety entitled: 2500 - Org chart.	28/02/2011 17:41

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BLACK-233	Medium	Answered	UBS	24/02/2011 12:44	Can you please provide d Details on the senior management person holding the RIIOHS601 competency (otherwise referred to as G7)	Three senior Macmahon staff members are attending a attending RIIOHS601A (please note we believe there is a typo in the question, as it is the RIIOHS601A course that is required under the legislation, refer “2501 - Advisory Council Competencies 11 October 2010” uploaded to the folder 06._Mine_Operations\03._Safety) course in April 2011.  The SSE has until the 30th June 2011 to ensure that he, or a person named in a senior position under s55 of the Coal Mining Safety and Health Act 1999, must obtain the competency unit RIIOHS601A (previously MNCG1107A).	28/02/2011 17:38
BLACK-234	Medium	Answered	UBS	24/02/2011 12:45	Can you please provide any audit and review of the SHMS conducted by McMahon as the coal mine operator	No audit has been conducted by Macmahon to date. Under Section 41 of the Queensland Coal Mining Safety and Health Act it would be expected that Macmahon conduct such an audit within the first 12 months of operations, and we expect they will do so by June 2011. In the meantime, Syntech has planned to conduct its own audit in April 2011.	1/03/2011 17:19
BLACK-235	Medium	Answered	UBS	24/02/2011 12:45	Can you please provide any instructions or approvals issued by Syntech in regard to the SHMS	No instructions or approvals have been issued to Macmahon by Syntech in regard to the SHMS to date.	28/02/2011 17:39
BLACK-236	Medium	Answered	UBS	24/02/2011 12:45	Can you please provide copies of any directives or SCP’s issued to the mine by the inspectorate	Please see directives/SCP&#8217;s received by the mine from the Inspectorate uploaded to the dataroom in folder 06._Mine_Operations\03._Safety.  All of the SCP&#8217;s in the directives have been carried out to the inspector&#8217;s satisfaction, except SCP #5 in the directive issued to Macmahon on 20/12/2010.  SCP#5 raised issues with the Installation of the bypass crusher. Macmahon have attempted to deal with the issue by conducting two risk assessments, one by themselves and one by the equipment manufacturer. However, the inspector has now rejected this approach, and in consultation with the inspector Macmahon are in the process of organising a full HAZOP review by an external consultant, to be conducted in March 2011.	3/03/2011 19:13
BLACK-237	High	Answered	Corrs Chambers Westgarth	24/02/2011 15:08	Referring to the answer for BLACK - 119, while the option certificate to be issued to GS Power under the Syntech Option Deed (Additional Funding Warrant) is pending FIRB approval, please confirm the number of shares in Syntech that the option would entitle GS power to.	Please refer to Annexure C, Scenario 11 and 12 of 2386 - Syntech Holdings Option Deed under 02._Syntech__Holdings\05._Financial\5.03_Loan_Agreements\.	25/02/2011 16:03
BLACK-238	High	Answered	Corrs Chambers Westgarth	24/02/2011 15:09	Referring to the answer for BLACK - 120, while the option certificate to be issued to GS Power under the Syntech II Option Deed (Additional Funding Warrant) is pending FIRB approval, please confirm the number of shares in Syntech II that the option would entitle GS Power to.	Please refer to Annexure C, Scenario 11 and 12 of 2385 - Syntech Holdings II Option Deed under 03._Syntech_Holdings_II\04._Financial\4.03_Loan_Agreements.	25/02/2011 16:03
BLACK-239	High	Answered	Corrs Chambers Westgarth	24/02/2011 15:14	Referring to the answer for BLACK - 119, please advise whether a FIRB Application has been lodged and when FIRB Approval is expected to be obtained	Please refer to “2677 - FIRB Approval for Additional 2% Funding Warrants” under 02._Syntech_Holdings\05._Flnancial\5.03_Loan_Agreements\.	9/03/2011 19:04
BLACK-240	High	Answered	Corrs Chambers Westgarth	24/02/2011 15:15	Referring to the answer for BLACK 120, please advise whether a FIRB Application has been lodged and when FIRB Approval is expected to be obtained	Please refer to “2677 - FIRB Approval for Additional 2% Funding Warrants” under 02._Syntech_Holdings\05._Flnancial\5.03_Loan_Agreements\.	9/03/2011 19:03
BLACK-241	Medium	Answered	Corrs Chambers Westgarth	24/02/2011 18:35	Please confirm that the water pipeline easements are for the purpose of the QGC water pipeline. Please provide the details of any other water pipelines which require the benefit of these easements. [Document reference: 0992, 2435, 2436, 2437]	We confirm the water pipe line easements are for the purpose of the QGC water pipe line. No other easements are required for any other water pipe line.	25/02/2011 16:03

BLACK-242	Medium	Answered	Corrs Chambers Westgarth	24/02/2011 18:36	Please provide further information in relation to the claim by Reeds against Syntech including the context/basis for the claim and the basis for resubmission of the claim (given that it has already been rejected)(see p. 23 of the December 2010/January 2011 Progress Report).	Please refer to BLACK 219-221.	25/02/2011 16:04
BLACK-243	High	Answered	Corrs Chambers Westgarth	24/02/2011 18:36	Please provide further details and documentary evidence in relation to how QR declared force majeure (page 4 of the December 2010/January 2011 Progress Report).	Please refer to the document uploaded to the data room in folder 02._Syntech_Holdings\09._Rail\9.01_-_Railing_to_Brisbane entitled: 2494 - QR Letter - FM Declaration.	25/02/2011 16:05

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BLACK-244	Medium	Answered	Corrs Chambers Westgarth	24/02/2011 18:37	Please provide a copy of the “four environmental damage reports” referred to in the December 2010/January 2011 Progress Report.	Please refer to document 2497 - Environmental Incident Report December 2010/January 2011 under 06._Mine_Operations. None of these environmental damage incidents were of a nature that required external reporting to DERM, including the minor failure to the wall of the sediment dam, which is not classified as a Hazardous Dam.	28/02/2011 16:17
BLACK-245	Medium	Answered	Corrs Chambers Westgarth	24/02/2011 18:37	Please provide a copy of all sales contracts in relation to the sale of coal produced from the Cameby Downs Project.	<p>As sale contracts are subject to confidentiality restrictions with customers, we are unable to provide them at this point without getting specific waivers from our customers. We have instead provided a spreadsheet with a summary of key terms and quality metrics for the two sales that have been completed and the one forward sale that has been committed, as per 2493 - Syntech Coal Sales Quality v2 under folder 01._Asset_Overview_and_Financial_Model\01._Additional_Details. Please note that typical specs will continue to be reviewed as more production data becomes available.</p> <p>Syntech currently does not have any long term sales agreements with customers, however we have been working with various Japanese, Korean, Taiwanese and Chinese plants / utilities to test burn the coal.</p> <p>Syntech completed its first sale of 73,864 mt in December, at a realized price of \$79.85 (reflecting a Contract Price of \$84.46 basis 6,000 gar) and second sale of 37,891 mt was completed in January, at a realized price of \$101.23 / mt (reflecting a Contract Price of \$111.65 basis 6,000 nar). The actual realized prices were adjusted for CV and moisture (which was higher than then anticipated due to the extreme rains in January / December). In addition, the second sale was for the quantity available at the port as the rail link had been destroyed by the flooding at this time.</p> <p>The company has fixed one sale for May, at a Base Price equal to monthly NEWC SCoTA Index less \$4.50 basis 6000 nar. Other than this, no other forward commitments have been made.</p> <p>Syntechs coal has been trialed by a Japanese utility and a Taiwanese utility with a further sale pending to another Japanese utility.</p>	25/02/2011 16:04
BLACK-246	Medium	Answered	Corrs Chambers Westgarth	25/02/2011 10:21	The Mining Lease Letter (Doc 1824) contains the grant of ML 50233 however there is not a copy of the original instrument of grant. Please provide a copy of the original instrument of grant for ML 50233.	Syntech does not have a copy of the formal instrument of lease and has requested one from the relevant government. This may take a few months to issue. The documentation available to Syntech and the public records (see document in folder 02._Syntec-Holdings\08._Mining_Lease entitled : 2504 - ML 50233) show that Syntech is the holder of ML 50233	2/03/2011 14:34
BLACK-247	Medium	Answered	Corrs Chambers Westgarth	25/02/2011 10:21	The Certificates of Application for MLAs 50258 - 50269 (Doc 2271) have been provided however the original applications for the MLAs have not been provided. Please provide copies of the original applications.	Please refer to the documents uploaded to folder 02._Syntech_Holdings\08._Mining_Lease\8.02_-_Mining_Lease_Applications.	9/03/2011 17:57
BLACK-248	Medium	Answered	Corrs Chambers Westgarth	1/03/2011 10:27	The December 2010/January 2011 progress Report indicates that SBR will provide “detailed information of the new processes in Q12011” (see p. 18). Please provide a copy of any such information, including any information in relation to the SBR joint venture processes.	Please refer to response from BLACK-161. No updates have been received from SBR thus far.	1/03/2011 17:23
BLACK-249	High	Answered	Corrs Chambers Westgarth	1/03/2011 10:28	Please provide a copy of the draft Environmental Impact Statement documents (see page 11). [Document reference: 2403]	A draft EIS document has not been finalised to date as this is still work in progress.	1/03/2011 17:23
BLACK-250	High	Answered	Corrs Chambers Westgarth	1/03/2011 10:29	Please provide information in relation to any regulatory action taken in respect of the draft Environmental Impact Statement documents (see page 11). [Document reference: 2403]	No regulatory action has been taken.	1/03/2011 17:23

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BLACK-251	High	Answered	Corrs Chambers Westgarth	1/03/2011 10:29	The December 2010/January 2011 Progress Report refers to 15 “action items” arising from the annual compliance audit. Please provide details of any outstanding remedial actions required to rectify non-compliances and address the “action items” (see page 12).	There are 4 outstanding action items:  1) Access to allow completion of the sediment dam (not completed at time of audit) had been restricted due to on-going wet weather in 2010. Work is presently being undertaken by civil contractors to complete the rock lined dam by-wash and to apply seeded topsoil to the dam walls to minimize potential for erosion.  During the recent rain events there was a small (3m x 3m) failure in the wall of the sediment dam which collects the rain water run-off that is channeled around the north eastern area of the open mine pit and out-of-pit spoil dumps. This dam is not classed as a hazardous dam and no environmental reporting requirement was triggered. To date access to the area has been restricted due to the wet weather. However, the minor repairs required will be effected as soon as it is safe to enter and work in the area. 2) The remaining three action items relate to noise complaints from local residents received since mining commenced. The action items involved developing a monitoring programme to review noise levels in the mine area and provide a report to DERM for their review, which has been done, and we await recommendations on further action from DERM concerning two identified affected properties. DERM may recommend both further mitigation strategies in the mine area, and/or negotiations with the owners of the affected properties to provide compensation payments for noise mitigation at the owners’ residences e.g. double glazing/noise insulation. In the meantime, we are working with Macmahon to continue developing noise mitigation strategies in and around site, e.g. moving the shift equipment to a deeper within the mine area	2/03/2011 10:24
BLACK-252	Medium	Answered	Corrs Chambers Westgarth	1/03/2011 10:30	Please provide a copy of the draft Indigenous Land Use Agreement which is being negotiated with the Barunggam people.	There is no ILUA been negotiated with the Barunggam people. A CHMP (cultural heritage management plan) is been negotiated for stage 2 areas with the Barunggam and is still in draft form and not suitable for distribution. It is intended to negotiate an ILUA for the area required for the rail turnout for stage 2 with all interested aboriginal parties but this is still work in progress.	1/03/2011 17:23
BLACK-253	High	Answered	Corrs Chambers Westgarth	2/03/2011 15:26	Please provide copies of the instruments for all prospecting permits used as pre-requisite tenements for mining lease applications 50258 - 50269.	Please refer to the document uploaded to the data room in folder 02_Syntech_Holdings\08_Mining_Lease entitled: 2505 - Approvals for Prospecting Permit Numbers 50768-50809.	2/03/2011 18:27
BLACK-254	High	Answered	Corrs Chambers Westgarth	3/03/2011 8:57	Please provide a status update in relation to all Mining Lease Applications lodged by the Syntech Group Including estimated timeframes for grant and any indication of the likely terms and conditions.	The mining lease applications are on hold pending the submission of the EIS. This is the normal process so there are no estimated times for grant or likely terms and conditions available at this stage.	3/03/2011 19:14
BLACK-255	Medium	Answered	Corrs Chambers Westgarth	3/03/2011 13:06	What steps has Syntech taken to ensure it complied with its obligations under section 40 of the Coal Mining Safety and Health Act in that (without limitation) : a) Did Syntech inform McMahon Contractors of all relevant information that Syntech had available to it to ensure that McMahon Contractors was able to develop and implement the mine’s safety and health management system and hazard management plans? b) Did Syntech enter into a contract appointing McMahon	a) In requesting Macmahon fulfill the roles of both Mine Operator and SSE, Syntech provided all relevant information to Macmahon to allow the designated SEE to develop and implement a safety and health management system for the mine and to prepare and implement principal hazard management plans for the mine.  b) Refer to Section 18.2 of the General Conditions of contract.	4/03/2011 18:54

BLACK-256	Medium	Answered	Corrs Chambers Westgarth	3/03/2011 13:07	Contractors as coal mining operator which included an obligation to establish a safety and health management system for the mine?  What steps has Syntech taken to ensure that McMahon Contractors is complying with its obligations under section 41 of the Coal Mining Safety and Health Act?	The Syntech Site Manager attends weekly meetings with Macmahon of which safety and SHMS development and implementation are reviewed. The Syntech Site Manager makes regular inspections of the mine to ensure Macmahon are implementing safety procedures on a day-to-day basis.	4/03/2011 18:54
BLACK-257	Medium	Answered	Corrs Chambers Westgarth	3/03/2011 13:07	What steps has Syntech taken to ensure that McMahon Contractors has the ability to safely manage the coal mine?	During the tender submission process Syntech reviewed the safety performance of Macmahon at other operations where coal mining is undertaken. The organisation chart submitted and accepted by Syntech includes two safety professionals which in Syntechs opinion is sufficient to provide support to line management in an operation of this size.	4/03/2011 18:54

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BLACK-258	Medium	Answered	Corrs Chambers Westgarth	3/03/2011 13:07	What steps has Syntech taken to ensure that McMahon Contractors' employees have the necessary qualifications required by the Coal Mining Safety and Health Act and Regulations?	During the transition phase from construction to mine operations all competencies of Macmahon employees who performed work on or about the construction site (including statutory positions) were reviewed by the Syntech site senior executive. These competencies will be reviewed further during April's SHMS implementation audit.	4/03/2011 18:55
BLACK-259	Medium	Answered	Corrs Chambers Westgarth	3/03/2011 13:07	The Q&As state that Syntech plans to audit McMahon Contractors' safety and health management system in April 2011. What steps has Syntech taken to date to ensure that McMahon Contractors' safety and health management system for the mine is adequate and no-one is exposed to an unacceptable level of risk?	The Syntech Site Manager attends weekly meetings with Macmahon during which safety and SHMS development and implementation are reviewed. Weekly inspections of the mining excavation are undertaken by the Syntech Coal Quality Superintendent to ensure geological hazards are adequately controlled.	4/03/2011 18:55
BLACK-260	Medium	Answered	Corrs Chambers Westgarth	3/03/2011 13:08	Please provide details of any documents Syntech reviewed when considering McMahon Contractors' Site Access Procedures in accordance with clause 6.1 of the contract, whether the Site Access Procedures were approved or rejected and the reasons for such approval or rejection, and the current status of the Site Access Procedures?	Macmahon provided a site access procedures document of which a draft electronic copy is attached (a final hard copy version is available on site) under 06_Mine_Operations\03_Safety (documents 2512 to 2526). This document is specific to the mobilisation and construction activities for Macmahon personnel while developing the contractor's infrastructure, as well as a staged handover of the mine site from Syntech to Macmahon.	4/03/2011 18:55
BLACK-261	Medium	Answered	Corrs Chambers Westgarth	3/03/2011 13:08	Were the regulatory authorities notified in respect of the safety incident referred to in the board minutes of 2 August 2007?	The safety incident in 2007 related to an exploration activity and occurred while the statutory Mine Operator and SSE roles were fulfilled by a drilling contractor. It is our understanding that the incident was reported to the inspectorate. No claims relating to the incident have been received or are expected.	4/03/2011 18:55
BLACK-262	Medium	Answered	Corrs Chambers Westgarth	3/03/2011 13:09	Please confirm whether any other safety incidents have occurred and, if so, whether the regulatory authorities were notified of such incidents, whether any claims have been made in respect of such safety incidents and what the status of those claims is.	Other than the incident in 2007 above, there have been 4 incidents at the mine requiring reporting to the regulator in the period that Syntech has fulfilled the roles of Mine Operator and SSE. There was also an incident in 2009 whereby a contractor committed suicide on the mine site, for reasons unrelated to his employment and the authorities involved have requested that details related to this incident are kept private. All these 5 incidents were reported to the regulator. No claims relating to these incidents have been received.  Since Macmahon took over the roles of Mine Operator and SSE, there have been 4 incidents at the mine requiring reporting to the regulator. All these incidents were reported to the regulator. No claims relating to these incidents have been received.	4/03/2011 18:56
BLACK-263	High	Pending Answer	Corrs Chambers Westgarth	7/03/2011 20:51	Please provide the employment contracts for all employees of Syntech, Syntech II, Syntech Resources, AMH Chinchilla Coal and Mountfield Properties		

# Share Sale Agreement

## Annexure C – Estimated Adjustment Statement

A separate Estimated Adjustment Statement is to be prepared for each of Syntech and Syntech II.

		<u>Estimated Tonnes</u>	<u>Estimate as at Completion Date (\$m)</u>
Cash	A	—	
Accounts Receivable	B	—	
Stock on Hand <sup>1</sup>	C		
<b>Total Receivables</b>	<b>D=A+B+C</b>	—	
Trade and other payables <sup>2</sup>	E	—	
<b>Total Payables</b>	<b>E</b>	—	
<b>Estimated Adjustment Amount</b>	<b>F=D-E</b>	—	

<sup>1</sup> Stock on Hand is to be valued using cost methodology consistent with that used by Syntech previously including in the preparation of the January 2011 management accounts. Stock on Hand is to include ROM Non-Bypass, ROM Bypass, Product Non-Bypass, Product Bypass, and Port stocks, each valued at the lower of cost and net realisable value, and. Total Stock on Hand is to be no more than 120,000 tonnes.

<sup>2</sup> Payables incorporates an adjustment for an amount in accordance with clause 6.2 to reflect any foreign exchange gain or loss for tax purposes that arises from the repayment of the External Debts



# Share Sale Agreement

## Annexure D – Adjustment Statement

A separate Adjustment Statement is to be prepared for each of Syntech and Syntech II.

		<u>Estimated Tonnes<sup>3</sup></u>	<u>Estimate as at Completion Date (\$m)<sup>4</sup></u>	<u>Actual Tonnes</u>	<u>Actual as at Completion date (\$m)</u>
Cash	A	—		—	
Accounts Receivable	B	—		—	
Stock on Hand <sup>5</sup>	C				
<b>Total Receivables</b>	<b>D=A+B+C</b>	—		—	
Trade and other payables <sup>6</sup>	E	—		—	
<b>Total Payables</b>	<b>E</b>	—		—	
<b>Adjustment Amount</b>	<b>F=D-E</b>	—		—	

<sup>3</sup> From Annexure C

<sup>4</sup> From Annexure C

<sup>5</sup> Stock on Hand is to be valued using cost methodology consistent with that used by Syntech previously including in the preparation of the January 2011 management accounts. Stock on Hand is to include ROM Non-Bypass, ROM Bypass, Product Non-Bypass, Product Bypass, and Port stocks, each valued at the lower of cost and net realisable value. Total Stock on Hand is to be no more than 120,000 tonnes.

<sup>6</sup> Payables include an amount in respect of income tax arising in respect of repayment of External Debts, in accordance with clause 6.2.

# Share Sale Agreement

## Annexure E - Current Budget

### Syntech Group Capital Budget

	<u>May-11</u>	<u>Jun-11</u>	<u>Jul-11</u>	<u>Aug-11</u>	<u>Sep-11</u>	<u>Oct-11</u>	<u>Nov-11</u>	<u>Dec-11</u>	<u>Total</u>
Haul Road Dams	—	—	75,000	—	—	—	—	—	75,000
Davies Pipeline	—	—	—	—	650,000	—	—	—	650,000
Generator & Tank @ QGC Dam	—	—	—	—	75,000	—	—	—	75,000
Civils - Ryalls Road Upgrade	—	—	—	—	650,000	—	—	—	650,000
Exploration/Tenement Maintenance	—	—	—	70,000	70,000	70,000	—	—	210,000
Critical Spares	—	—	50,000	50,000	50,000	—	—	—	150,000
Stage 2 costs	59,000	70,000	70,000	70,000	70,000	70,000	70,000	70,000	549,000
<b>Total Capex</b>	<b>59,000</b>	<b>70,000</b>	<b>195,000</b>	<b>190,000</b>	<b>1,565,000</b>	<b>140,000</b>	<b>70,000</b>	<b>70,000</b>	<b>2,359,000</b>

# Share Sale Agreement

## Annexure F- Form of Escrow Deed

# **ESCROW DEED**

**COMPUTERSHARE INVESTOR SERVICES PTY LIMITED**

**ABN 48 078 279 277**

**Austar Coal Mine Pty Ltd**

**ABN 67 111 910 822**

**GS Power Holdings LLC**

**A limited liability company formed under the laws of the State of Delaware, USA**

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**DEED**                      **Dated**                      **2011**

**BETWEEN**              **Computershare Investor Services Pty Limited** ACN 078 279 277 of 452 Johnston Street, Abbotsford, Victoria 3067 (**Computershare**)

**AND**                      **Austar Coal Mine Pty Ltd** ACN 111 910 822 of Suite 1105, Level 11, 68 York Street, Sydney NSW 2000 (**Buyer**)

**AND**                      **GS Power Holdings LLC** A limited liability company formed under the laws of the State of Delaware, USA of 200 West Street, New York, NY 10282 - 2198 (**Seller**)

## **RECITALS**

The parties have agreed that Computershare will provide escrow services to the Escrow Parties on the terms of this Deed and in accordance with the Timetable.

## **1 Interpretation**

### **1.1 Definitions**

In this Deed:

**Authorised Signatory** means a Buyer Authorised Signatory or a Seller Authorised Signatory (as the case may be).

**Business Day** means:

- (a) for receiving a notice under **clause 9**, a day that is not a Saturday, Sunday, public holiday or bank holiday in the place where the notice is received; and
- (b) for all other purposes, a day that is not a Saturday, Sunday, public holiday or bank holiday in Melbourne, Australia or Perth, Australia.

**Buyer Authorised Signatory** means any one of the persons whose name and specimen signature is set out in Part 1 of Schedule 2 on behalf of the Buyer, as amended by Buyer from time to time by giving each other party to this Deed written notice.

**Commencement Date** means the date of this Deed.

**Completion Date** means the date on which completion occurs under the Share Sale Agreement.

**Completion Release Notice** means the Release Notice given by the Seller only to Computershare after notice is given by the Buyer and the Seller of the date on which completion occurs under the Share Sale Agreement, in accordance with **clause 2.1 (d)**.

**Deed** means this document including any schedule or annexure to it.

**Escrow Account** means a corporate trust account held with National Australia Bank Limited in the joint name of the Buyer and the Seller, details of which have been notified to the Escrow Parties pursuant to **clause 2.1(a)(ii)**.

**Escrow Amount** means the Initial Escrow Amount, less:

- (a) any amount paid to the Escrow Parties in accordance with **clauses 0**; and
- (b) any authorised charges and expenses payable from the Escrow Account under **clause 5.5**, from time to time.

**Escrow Parties** means the Buyer and the Seller.

**Establishment Fee** means A\$3,500.

**Initial Escrow Amount** means A\$202,500,000, as adjusted in accordance with the Share Sale Agreement.

**Interest** means interest on the Escrow Amount calculated at the rate of interest that is equal to the Reserve Bank of Australia Cash Rate from time to time less 85 basis points credited to the Escrow Account from time to time.

**Loss** means any loss (including loss of profit and loss of expected profit), claim, action, liability, damage, cost, charge, expense, outgoing, payment, diminution in value or deficiency of any kind or character which Computershare pays, suffers or incurs or is liable for including, but not limited to:

- (c) liabilities on account of Tax;
- (d) interest and other amounts payable to third parties; and
- (e) legal (on a full indemnity basis) and other expenses incurred in connection with investigating or defending any claim or action, whether or not resulting in any liability and all amounts paid in settlement of any claim or action.

**Released Amount** means the amount to be released from the Escrow Account, as specified in a Release Notice.

**Release Notice** means a notice delivered to Computershare under **clause 3.1** of this Deed, including the Completion Release Notice.

**Seller Authorised Signatory** means any one of the persons whose name and specimen signature is set out in Part 2 of Schedule 2 on behalf of the Seller, as amended by the Seller from time to time by giving each other party to this Deed written notice.

**Share Sale Agreement** means the Share Sale Agreement between the Seller, the Buyer and Yancoal Australia Limited dated on or before the date of this Deed.

**Tax** includes:

- (f) all taxes levied, imposed or assessed under the Tax Act or any other statute, ordinance or law in Australia or elsewhere; and
- (g) taxes in the nature of sales tax, consumption tax, value added tax, payroll tax, group tax, PAYG, undistributed profits, fringe benefits tax, recoupment tax, withholding tax, land tax, water rates, municipal rates, stamp duties, gift duties or other state, territorial, Commonwealth or municipal charges or impositions levied, imposed or collected by any governmental body,

together with any additional tax, interest, penalty, charge, fee or other amount of any kind assessed, charged or imposed in relation to the late or short payment of the same or the failure to file any return.

**Tax Act** means the *Income Tax Assessment Act 1936* and the *Income Tax Assessment Act 1997*.

**Timetable** means the timetable for the establishment and operation of the Escrow Account as set out in this Deed and summarised in Schedule 3.

## 1.2 Construction

Unless expressed to the contrary, in this Deed:

- (a) words in the singular include the plural and vice versa;
- (b) any gender includes the other genders;
- (c) if a word or phrase is defined its other grammatical forms have corresponding meanings;
- (d) “includes” means includes without limitation;
- (e) no rule of construction will apply to a clause to the disadvantage of a party merely because that party put forward the clause or would otherwise benefit from it;
- (f) a reference to:
  - (i) a person includes a partnership, joint venture, unincorporated association, corporation and a government or statutory body or authority;

- (ii) a person includes the person's legal personal representatives, successors, assigns and persons substituted by novation;
  - (iii) a right includes a benefit, remedy, discretion or power;
  - (iv) time is to local time in Melbourne, Victoria;
  - (v) "\$" or "dollars" is a reference to Australian currency;
  - (vi) this or any other Deed includes the Deed as novated, varied or replaced and despite any change in the identity of the parties;
  - (vii) writing includes any mode of representing or reproducing words in tangible and permanently visible form, and includes fax transmissions;
  - (viii) this Deed includes all schedules and annexures to it; and
  - (ix) a clause, schedule or annexure is a reference to a clause, schedule or annexure, as the case may be, of this Deed;
- (g) if the date on or by which any act must be done under this Deed is not a Business Day, the act must be done on or by the next Business Day; and
  - (h) where time is to be calculated by reference to a day or event, that day or the day of that event is excluded.

### **1.3 Headings**

Headings do not affect the interpretation of this Deed.

## **2 Escrow Account**

### **2.1 Establishment of Escrow Account**

- (a) On the Commencement Date, Computershare will:
  - (i) open the Escrow Account; and
  - (ii) notify each Escrow Party of the details of the Escrow Account.
- (b) The Buyer must pay into the Escrow Account the Initial Escrow Amount, in immediately available cleared funds, no later than three Business Days before the Completion Date.
- (c) The Buyer and the Seller must give Computershare at least three Business Days' notice of the Completion Date.
- (d) The Buyer and the Seller must notify Computershare of the actual Completion Date on the date on which completion occurs under the Share Sale Agreement.

### **2.2 Computershare to hold Escrow Amount**

Computershare must deal with the Escrow Amount in accordance with this Deed.

### **2.3 Escrow Account signatory**

Only Computershare and the Authorised Signatories can effect transactions in relation to the Escrow Account.

### **2.4 Buyer Account nomination**

The Buyer must provide the notification to Computershare no later than one Business Day before the Completion Date of the account details to pay the Interest to in the form of the "Buyer Notification" set out in Schedule 1 signed by a Buyer Authorised Signatory.

## **3 Release of Escrow Amount**

### **3.1 Completion Release Notice**

The Completion Release Notice relating to the Escrow Account must be given in the form set out in Schedule 1 of this Deed which must be completed and signed by the Seller Authorised Signatory only.



### **3.2 Released Amounts and Interest**

On receipt of the Completion Release Notice Computershare must:

- (a) withdraw the initial Escrow Amount and pay that amount in immediately available cleared funds in accordance with the instructions in the Completion Release Notice; and
- (b) withdraw the Interest and pay that amount in immediately available cleared fund to the Buyer (in accordance with the instructions provided to Computershare under **clause 2.4**).

## **4 Termination of this Deed**

### **4.1 Termination after Final Release Notice**

This Deed will terminate on payment of the Released Amount and Interest in accordance with **clause 3.2**.

### **4.2 Survival of clauses**

**Clauses 5.4, 5.5, 5.7, 5.8 and 5.9** survive termination of this Deed.

## **5 Provisions relating to Computershare**

### **5.1 Computershare as stakeholder**

- (a) Computershare holds the Escrow Amount and the Interest as a stakeholder.
- (b) This Deed is not intended to create a partnership, joint venture or agency relationship between the parties.

### **5.2 Duties and obligations**

Computershare's only duties and obligations are those set out in this Deed.

### **5.3 Substitution of Computershare**

- (a) Computershare may resign upon giving 90 days prior written notice to the Escrow Parties.
- (b) Computershare may be immediately removed and replaced following the delivery of a written notice to Computershare signed by the Escrow Parties jointly.
- (c) If either of the events set out in **clause 5.3(a)** or **clause 5.3(b)** occur, the duties of Computershare terminate immediately following:
  - (i) receipt of a notice given under **clause 5.3(a)** or **clause 5.3(b)** as applicable (or any earlier date that may be agreed between all of the parties); and
  - (ii) the delivery by Computershare of the Escrow Amount to a successor escrow service provider appointed by the Escrow Parties and whose identity is notified to Computershare in writing.
- (d) If the Escrow Parties are unable to agree upon a successor escrow service provider, or have failed to appoint a successor escrow service provider prior to the receipt of the notice given under **clause 5.3(a)** or **clause 5.3(b)**, Computershare may at the cost of the Escrow Parties petition the Supreme Court of Victoria for the appointment of a successor escrow service provider or for other appropriate relief, and any resulting appointment is binding upon all of the parties to this Deed.
- (e) Upon acknowledgment by any successor escrow service provider of the receipt of the Escrow Amount, Computershare is fully released and relieved of all duties, responsibilities, and obligations under this Deed.
- (f) Computershare ceasing to act and being released from the terms of this Deed under this **clause 5.3** does not affect the indemnities in **clause 5.7**.

### **5.4 Computershare not liable**

Computershare is not liable for:

- (a) any loss occasioned by any depositing of the Escrow Amount in accordance with this Deed and the party entitled to the Escrow Amount or any portion of it bears the risk of such loss of the Escrow Amount except where the loss is caused by the negligence, fraud or dishonesty of Computershare
- (b) investigating the authenticity, accuracy or content of a Release Notice or the capacity of any person who signs or purports to sign a Release Notice as an Authorised Signatory;
- (c) any payment made in accordance with **clauses 0** which appears on its face to be a Release Notice, if it appears on the face of that document to be signed by persons described in it as Authorised Signatories;
- (d) confirming the identity, authority or rights of any person signing or delivering or purporting to sign or deliver this Deed; or
- (e) any other act it may do or omit to do except where that act or omission is negligent, fraudulent or dishonest.

#### **5.5 Computershare's charges and expenses**

- (a) The Buyer must pay the Establishment Fee, which must be paid to Computershare on the Commencement Date by direct deposit into the Escrow Account.
- (b) The Escrow Parties must pay Computershare's charges and expenses (other than the Establishment Fee) in equal shares, being disbursements and out-of-pocket expenses reasonably incurred in connection with this Deed.
- (c) The Escrow Parties authorise Computershare to deduct from the Escrow Amount the Establishment Fee, charges and expense described in **clause 5.5(b)**.

#### **5.6 Interest**

The Buyer is entitled to all of the Interest (less any deductions made by Computershare in accordance with this Deed) payable in accordance with **clause 3.2**.

#### **5.7 Indemnity**

The Seller (as to 50%) and the Buyer (as to 50%) indemnify Computershare against all Loss arising directly or indirectly be imposed on or incurred by Computershare in the course of Computershare acting as Computershare under this Deed or otherwise endeavouring to carry out its duties under this Deed, including any litigation arising from this Deed or involving the subject matter of this Deed except to the extent that the relevant Loss is caused by the negligence, fraud or dishonesty of Computershare.

#### **5.8 Independence of indemnities**

- (a) Each indemnity in this Deed is a continuing obligation, separate and independent from the other obligations of the Escrow Parties and survives the termination of this Deed or the substitution of Computershare in accordance with **clause 5.3**.
- (b) It is not necessary for Computershare to incur an expense or make a payment before enforcing any indemnity conferred by this Deed.

#### **5.9 Computershare's lien**

The Computershare has a lien on the Escrow Amount and the Interest to the extent of any money owing to it.

### **6 Legal and other costs and expenses**

Each Escrow Party must pay:

- (a) its own legal and other costs and expenses of negotiating, preparing, executing and performing its obligations under this Deed and any other expenses relating directly or indirectly to this Deed; and

- (b) its share of the costs and expenses in connection with the substitution of Computershare as contemplated by **clause 5.3(d)**.

## **7 GST**

### **7.1 Interpretation**

#### **(a) Definitions**

- (i) In this Deed, “price” has its ordinary meaning and not the special meaning given to it in the GST Act.
- (ii) In this clause:

**GST** means GST within the meaning of the GST Act and includes penalties and interest.

**GST Act** means the *A New Tax System (Goods and Services Tax) Act 1999* (as amended).

#### **(b) Construction**

Expressions used in this clause and in the GST Act have the same meanings as when used in the GST Act.

### **7.2 Recipient of supply to pay GST**

- (a) Except where this Deed specifies otherwise, an amount payable by a party under this Deed in respect of a taxable supply by the other party represents the value of the supply or the net amount under **clause 7.3**.
- (b) The recipient of the supply must, in addition to that amount and at the same time, pay to the supplier the amount of GST payable in respect of the supply.

### **7.3 Reimbursement of expenses**

If this Deed requires a party to pay for, reimburse or indemnify against any expense or liability (**reimbursable expense**) incurred by the other party (**payee**) to a third party, the amount to be paid, reimbursed or indemnified is the amount of the reimbursable expense net of any input tax credit to which the payee is entitled in respect of the reimbursable expense (**net amount**).

### **7.4 Supplier to provide tax invoice**

A party is not obliged, under **clause 7.2**, to pay an amount for GST in respect of a taxable supply to it, until given a valid tax invoice for the supply.

## **8 General**

### **8.1 Amendment**

This Deed may only be varied or replaced by a Deed executed by the parties.

### **8.2 Waiver**

The failure of a party at any time to require performance of any obligation under this Deed is not a waiver of that party’s right:

- (a) to insist on performance of, or claim damages for breach of, that obligation unless that party acknowledges in writing that the failure is a waiver; and
- (b) at any other time to require performance of that or any other obligation under this Deed.

### **8.3 Severance**

The parties agree that:

- (a) in any construction of this Deed by any person with authority to do so (including a court), a construction of this Deed that results in all provisions of this Deed being legal and enforceable is to be applied; and

- (b) if, despite a construction in accordance with **clause 8.3(a)**, a provision is illegal or unenforceable then:
  - (i) if the provision would not be illegal or unenforceable if a word or words were omitted, that word or those words are severed; or
  - (ii) in any other case, the provision is severed,

and the rest of this Deed continues to be legal and enforceable.

#### **8.4 Further steps**

Each party must promptly do whatever any other party reasonably requires of it to give effect to this Deed and to perform its obligations under it.

#### **8.5 Governing law and jurisdiction**

- (a) This Deed is governed by and is to be construed in accordance with the laws applicable in Victoria.
- (b) Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in Victoria and any courts which have jurisdiction to hear appeals from any of those courts and waives any right to object to any proceedings being brought in those courts.

#### **8.6 Assignment**

The parties may only assign this Deed or any rights under this Deed with the prior written consent of all the other parties, which consent must not be withheld unreasonably.

#### **8.7 Counterparts**

This Deed and any Release Notice executed in accordance with this Deed may consist of a number of counterparts and, if so, the relevant counterparts taken together constitute one document.

#### **8.8 Authorised Signatories**

Each Escrow Party appoints each of its Authorised Signatories as its agent with authority to sign on its behalf each notice and other deed (including any notices under **clauses 3.1** and **5.3(b)**) signed by the relevant Escrow Party under or in connection with this Deed.

### **9 Notices**

#### **9.1 General**

- (a) A notice, demand, consent, approval or communication under this Deed (**Notice**) must be:
  - (i) in writing in English and signed by a person duly authorised by the sender;
  - (ii) directed to the recipient's address set out in this Deed or as varied by written notice;
  - (iii) sent by pre-paid registered post, hand delivery, or facsimile to that address,
- (b) A Notice will be deemed to be duly given:
  - (i) in the case of hand delivery, on the day of delivery;
  - (ii) two Business Days after the date of posting by pre-paid registered post; or
  - (iii) if sent by facsimile, when the sender's facsimile system generates a message confirming successful transmission of the entire Notice, unless within eight business hours after the transmission, the recipient informs the sender that it has not received the entire Notice,

but if the delivery, receipt or transmission is not on a Business Day or is after 5:00pm in the place of receipt, the notice is taken to be received at 9:00am on the next Business Day.

## 9.2 Particulars for delivery of notices

(a) The particulars for delivery of notices are initially:

### Buyer

Address: Suite 1105, Level 11  
68 York Street  
Sydney NSW 2000

Fax: +61 2 8243 5399

Email: [lling@yancoal.com.au](mailto:lling@yancoal.com.au)

Attention: Laura Zhang

Copy to: Andrew Lumsden, Corrs Chambers Westgarth  
[andrew.lumsden@corrs.com.au](mailto:andrew.lumsden@corrs.com.au)  
Fax: (02) 9210 6611

### Seller

Address: GS Power Holdings, LLC  
200 West Street  
New York NY 10282-2198  
USA

Fax: +1 212 256 5669

Email: [shameek.konar@gs.com](mailto:shameek.konar@gs.com)  
[john.thomas@gs.com](mailto:john.thomas@gs.com)

Attention: Shameek Konar and John Thomas  
Global Commodities Principal Investments

### Computershare

Address: Yarra Falls, 452 Johnston Street, Abbotsford, VIC 3067

Fax: + 61 3 9473 2434

Attention: Mr Greg Bertram

(b) Each party may change its particulars for delivery of notices by notice to each other party.

**SCHEDULE 1**

**COMPLETION RELEASE NOTICE**

To: Computershare Investor Services Pty Ltd  
Yarra Falls, 452 Johnston Street,  
Abbotsford, VIC 3067

Fax: [ ]

Date

Dear Sir/Madam

**[insert] Escrow Account: Completion Release Notice**

We refer to the [insert] Escrow Account established in our name pursuant to the Escrow Deed dated [insert] between Computershare Investor Services Pty Ltd, Austar Coal Mine Pty Ltd and GS Power Holdings LLC (**Escrow Deed**). Terms not otherwise defined in this document have the meaning set out in the Escrow Deed.

This document is the Completion Release Notice as defined in the Escrow Deed, delivered to you in accordance with clause 3.1 of the Escrow Deed.

We irrevocably instruct you to transfer from the [insert] Escrow Account the amount of \$[ ], being the Initial Escrow Amount (**Released Amount**) as follows:

<b><u>Payee</u></b>	<b><u>Bank account details</u></b>	<b><u>Allocation of Released Amount</u></b>
Commonwealth Bank of Australia	[to be inserted]	[All amounts owing to CBA in connection with the facilities mentioned in schedule 11 of the Share Sale Agreement (being A\$30,000,000), plus any accrued interest and fees and any termination fees which arise].]
Australian Taxation Office	[to be inserted]	[ The Estimated Withholding Tax as notified under the Share Sale Agreement]
Goldman Sachs Power Holdings LLC ( <b>Seller</b> )	[to be inserted]	Balance of the Released Amount

For clarity, this Completion Release Notice is only required to be signed by the Seller.

Yours faithfully

---

for and on behalf of the Seller

---

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**BUYER NOTIFICATION**

To: Computershare Investor Services Pty Ltd  
Yarra Falls, 452 Johnston Street,  
Abbotsford, VIC 3067

Fax: [ ]

Date

Dear Sir/Madam

**[insert] Escrow Account: Interest Payment**

We refer to the [insert] Escrow Account established in our name pursuant to the Escrow Deed dated [insert] between Computershare Investor Services Pty Ltd, Austar Coal Mine Pty Ltd and GS Power Holdings LLC (**Escrow Deed**). Terms not otherwise defined in this document have the meaning set out in the Escrow Deed.

This document is a Buyer Notification in accordance with clause 2.4 of the Escrow Deed. This document is not the Completion Release Notice.

We irrevocably instruct you to transfer from the [insert] Escrow Account on the Completion Date the Interest accrued on it as follows:

[insert details of recipients, bank account details and amounts]

For clarity, this Buyer Notification is only required to be signed by the Buyer.

Yours faithfully

---

for and on behalf of the Seller

**SCHEDULE 2**

**PART 1: BUYER AUTHORISED SIGNATORIES**

**Authorised Signatory**

Terence Crawford  
Murray Bailey  
Vincent O'Rourke

**Signature Specimen**

**PART 2: SELLER AUTHORISED SIGNATORIES**

**Authorised Signatory**

Greg Agran  
Robert Mancini  
Shameek Konar

**Signature Specimen**

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### SCHEDULE 3

#### Timetable

<u>Event</u>	<u>Date</u>
Establish Escrow Account	Commencement Date
Seller to notify Buyer of: <ul style="list-style-type: none"><li>• Estimated Adjustment Statement;</li><li>• Estimated Withholding Tax;</li><li>• Estimated Restructure Fee; and</li><li>• Estimated Repayment Amount</li></ul> (as defined in the Share Sale Agreement)	Ten Business Days before the Completion Date
Buyer pay Initial Escrow Amount	Three Business Days before the Completion Date
Buyer and Seller notify Computershare of the Completion Date	Three Business Days before the Completion Date
Buyer to notify Computershare of Account details for payment of Interest	One Business Day before the Completion Date
Buyer and Seller notify Computershare of the actual date on which completion occurs under the Share Sale Agreement	Completion Date
Completion Release Notice	Completion Date
Pay Released Amount in accordance with instructions in Completion Release Notice	Completion Date
Pay Interest to Buyer in accordance with instructions given in the Buyer Notification	Completion Date

**Executed** as a deed and delivered on the date shown on the first page.

**Executed by Computershare** )  
**Investor Services Pty Limited** )

\_\_\_\_\_  
Company Secretary/Director

\_\_\_\_\_  
Director

\_\_\_\_\_  
Name of Company Secretary/Director  
(print)

\_\_\_\_\_  
Name of Director (print)

**Executed by Austar Coal Mine Pty** )  
**Ltd** )

\_\_\_\_\_  
Secretary/Director

\_\_\_\_\_  
Director

\_\_\_\_\_  
Name of Secretary/Director (print)

\_\_\_\_\_  
Name of Director (print)

**Signed, sealed and delivered by GS** )  
**Power Holdings LLC** by its duly )  
authorised representative

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Authorised representative

\_\_\_\_\_  
Name of witness (print)

\_\_\_\_\_  
Name of authorised representative  
(print)

**Share Sale Agreement**

Signing page

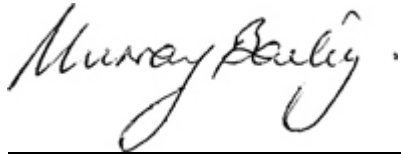
**DATED: 13/5/11**

**EXECUTED** by **GS POWER HOLDINGS LLC** by its duly authorised representative

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Name of witness (block letters)

**EXECUTED** by **AUSTAR COAL MINE PTY LIMITED** by authority of its directors:



\_\_\_\_\_  
Signature of director

*MURRAY LEWIS BAILEY*

\_\_\_\_\_  
Name of director (block letters)

**EXECUTED** by **YANCOAL AUSTRALIA LIMITED** by authority of its directors:



\_\_\_\_\_  
Signature of director

*MURRAY LEWIS BAILEY*

\_\_\_\_\_  
Name of director (block letters)

\_\_\_\_\_  
Signature of representative

\_\_\_\_\_  
Name of representative (block letters)



\_\_\_\_\_  
Signature of director/company secretary\*

\*delete whichever is not applicable

*TERENCE KEVIN CRAWFORD*

\_\_\_\_\_  
Name of director/company secretary\* (block letters)

\*delete whichever is not applicable



\_\_\_\_\_  
Signature of director/company secretary\*

\*delete whichever is not applicable

*TERENCE KEVIN CRAWFORD*

\_\_\_\_\_  
Name of director/company secretary\* (block letters)

\*delete whichever is not applicable

**EQUITY TRANSFER AGREEMENT ENTERED INTO BETWEEN**  
**WANG JUN, HE NING**  
**AND**  
**YANZHOU COAL MINING ORDOS NENG HUA COMPANY LIMITED**  
**IN RELATION TO**  
**THE REORGANIZATION OF INNER MONGOLIA XINTAI COAL MINING COMPANY LIMITED**  
**July 2011**

This equity transfer agreement (the “Agreement”) was signed by the following parties at Dongsheng District of Ordos, the Inner Mongolia Autonomous Region on 11 July 2011:

**Transferor A:** Wang Jun; identity card no.: 152701196101100913

**Transferor B:** He Ning; identity card no.: 61272419780209005X

**Transferee:** Yanzhou Coal Mining Ordos Neng Hua Company Limited (“Ordos Neng Hua”)

Location: North of Weiqi Road, Kangbashi District, Erdos

Authorized representative: Wang Xin

**Target Company:** Inner Mongolia Xintai Coal Mining Company Limited (“Xintai Company”)

Location: Dongsheng District of Ordos, the Inner Mongolia

Authorized representative: Wang Jun

**GIVEN THAT:**

1. Xintai Company, a company of limited liability incorporated by the Inner Mongolia Autonomous Region Commerce and Industry Bureau, owned and operated the Wenyu coal mine (“Wenyu Coal Mine”) of Inner Mongolia Xintai Coal Mining Company Limited. Wenyu Coal Mine has consolidated the original Wenyu coal mine of Xintai Company and the original Manlailiang coal mine of Ordos Qianqiu Mining Development Co., Limited. The Department of Land and Resources of the Inner Mongolia Autonomous Region issued document nei guo tu zi cai hua zi no. [2010]017 for the approval and review of the planned mining area of Wenyu Coal Mine after the consolidation. The design production capacity of Wenyu Coal Mine was 3 million tonnes per year with coal field area of 9.359km<sup>2</sup>. Currently, the 3-million-tonne consolidation and expansion project of Wenyu Coal Mine was in trial production (except for business license, other licenses such as safety production license and coal production license are still under process.

2. Wang Jun and He Ning are the shareholders of Xintai Company, of which Wang Jun and He Ning hold 70% and 30% equity interests, respectively. Each of Wang Jun and He Ning legally and validly owns the equity interests of Xintai Company, which are free of pledges and third-party rights.
  3. Ordos Neng Hua, a company of limited liability incorporated by the Bureau of Industries and Commerce Administration, Ordos, the Inner Mongolia Autonomous Region, is a wholly-owned subsidiary of Yanzhou Coal Mining Company Limited.
  4. Wang Jun and He Ning is proposed to cooperate with Ordos Neng Hua to reorganize Xintai Company (the “Reorganization”) by transferring the 80% equity interests in Xintai Company held by them to Ordos Neng Hua.
  5. For the purpose of the Agreement, Transferors shall refer collectively to transferor A and transferor B unless otherwise specified herein and shall undertake the incidental responsibilities of their obligations and responsibilities to the Transferee under this Agreement. The direct credit of the Equity Transfer Price to the designated account of transferor A by the Transferee pursuant to the Agreement shall be deemed as the fulfillment of its payment obligations of the Equity Transfer Price to Transferors A and B.
- In this regard, all parties have reached consensus to sign the reorganization agreement.

#### **Article 1 Definitions**

In this Agreement, unless the context requires otherwise, the following expressions have the following meaning:

“Target Company”	Inner Mongolia Xintai Coal Mining Company Limited
“Wenyu Coal Mine”	the new Wenyu coal mine of Inner Mongolia Xintai Coal Mining Company Limited by the consolidation of the original Wenyu coal mine of Inner Mongolia Xintai Coal Mining Company Limited and the original Manlailiang coal mine of Ordos Qianqiu Mining Development Co., Limited

“Transferors”	the shareholders of the Target Company, namely Wang Jun and He Ning
“Transferee”	Yanzhou Coal Mining Ordos Neng Hua Company Limited
“Target Interest”	the 50% and 30% equity interests in the Target Company held by transferors A and B respectively, as of the date of the execution of this Agreement, totaling 80% equity interests in the Target Company
“Equity Transfer”	the Transferors sell and Ordos Neng Hua acquires the Target Interest in accordance with the Agreement
“Effective Date”	the date on which the precedent conditions as stipulated under article 12.2 of this Agreement has been fully satisfied or exempted as agreed and confirmed by both parties
“Equity Transfer Price”	the equity transfer price in an aggregate amount of RMB2,801,556,420 payable by the Transferee to each of the Transferors as determined by the valuation of the Target Interest
“Valuation Report”	the valuation report issued by the appraisal institution with the relevant qualification appointed by the Transferee in relation to the market value of the Target Interest under the Equity Transfer as of the Valuation Date
“Valuation Date”	31 May 2011
“Target Interest Valuation”	the valuation of the Target Interest as of the Valuation Date determined by the appraisal institution with the relevant qualification appointed by the Transferee of the Target Interest
“Target Interest Transfer”	the application for amendments to the industry and commerce registration of the Target Interest under the name of the Transferee

## **Article 2 Target Company**

Company name: Inner Mongolia Xintai Coal Mining Company Limited

Location: Dongsheng District of Ordos, the Inner Mongolia

Authorized representative: Wang Jun

Registered capital: RMB5 million

Business scope: technical upgrades to coal mines, only for technical upgrade and no production and operation are permitted (except for branches) (no production and operation are permitted unless approved by laws, administrative regulations or requirements as stipulated by the State Council)

Shareholding structure: 70% and 30% equity interests are held by Wang Jun and He Ning, respectively

(See appendix I set out herein for the breakdown of the fixed assets of the Target Company.)

## **Article 3 Specific Cooperation Arrangement**

- 3.1 For the purpose of this Reorganization, the Transferors agreed to transfer the Target Interest to the Transferee and the Transferee agreed to accept the transfer.
- 3.2 All parties agreed the Equity Transfer Price to be RMB2,801,556,420 (including net payable to the Transferors after tax of RMB2,520,000,000 and the income tax and stamp duty deductible on behalf of the Transferors of RMB281,556,420. All tax expenses arising from the Equity Transfer shall be incurred by the Transferee and shall not be borne by the Transferors). The Transferee of the Target Interest shall be assessed by appraisal institutions with legal qualifications, and the appraisal results shall be submitted to the relevant state-owned assets administrative authority or competent authorities for approval/filing.



3.3 The Transferors and the Transferee agreed to transact the relevant matters of the Equity Transfer in accordance with the following conditions:

- (1) Payment of the first installment of the transfer price. Upon the Agreement became effective pursuant to article 12.2, the Transferee credited RMB2,470,000,000 to the designated account of transferor A as the first installment of the Equity Transfer Price on 17 July 2011.
- (2) Take-over by the Transferee. On 20 July 2011 (the “Completion Date”), the Transferee took over the Target Company and Wenyu Coal Mine, and the Transferors shall cooperate accordingly. The specific take-over procedure was effected in accordance with article 6.1 of the Agreement.
- (3) Target Interest Transfer. The Transferors shall be responsible for the commerce registration of the Target Interest by the Bureau of Industries and Commerce Administration, the Inner Mongolia Autonomous Region under the name of the Transferee within 15 days after the payment of the above first installment of the transfer price by the Transferee. The registration period shall be extended for reasons other than delays caused by the Transferors.
- (4) Settlement of debts and liabilities. Within 10 days after the payment of the above first installment of the transfer price, the Transferors shall fully settle the debts and liabilities of the Target Company, and pay the consideration for the remaining mining right of Wenyu Coal Mine in full and to provide the Transferee with the relevant legal payment evidence.
- (5) Application for the relevant licenses. After payment of the above first installment of the transfer price by the Transferee, Hu Liangen is delegated by the Transferors to be in charge of the resettlement of the villages within the coal field (upper Manlailiang village) (excluding residences on the sides of the road) of Wenyu Coal Mine, the examination of the 3 million tonnes per year expansion project, which has obtained the approvals and valid licenses of all competent authorities, and renewal of coal mine permits for daily operation of Wenyu Coal Mine (mining license, safety production license and coal production license). All procedures shall be completed by the Transferors as soon as possible and no later than 31 December 2011. All expenses shall be borne by the Transferors. The Transferee and the Target Company taken over by it shall assume no liability. The examination period shall be extended for reasons including the change in authorized representative or new policies promulgated by the State and otherwise not caused by the Transferors which affect the examination of the consolidation and expansion project of Wenyu Coal Mine. The Target Company taken over by the Transferee shall be liable for additional items, machinery and equipment required under the new policies promulgated by the State during the examination period of the consolidation and expansion project of Wenyu Coal Mine and the examination period shall be extended for any resulting delays in examination.

- (6) Payment of the second installment of the transfer price. Within five days after the completion of all works set out in item (5) above, the Transferee shall credit the remaining transfer price of RMB50,000,000 to the designated account of transferor A.

#### **Article 4 Representations and Warranties of the Transferors**

- 4.1 In relation to the legitimate capacity, the Transferors represent and warrant the followings to the Transferee that as of the Effective Date of the Agreement:
- (1) they shall be the natural persons entitling to all rights and to do all acts;
  - (2) they are entitled to enter into the Agreement and perform their obligations thereunder;
  - (3) they have conferred the right of signing the Agreement to their authorized representatives;
  - (4) their execution of the Agreement and the performance of the obligations thereunder:
    - (i) have complied with the necessary approval procedure (if required);
    - (ii) do not violate any provisions under the business license, incorporation agreement, articles of association or similar constitutional documents; and
    - (iii) neither violate any other contracts and agreements as the principal (or to which there is a binding effect), nor breach any of such contracts or agreements.
  - (5) there are no pending litigation, arbitration or other judicial or administrative proceedings that would affect their fulfillment of the obligations under the Agreement, and to their knowledge, none of the above actions is threatened to be taken.

4.2 In respect of the documents and materials provided for the reorganization, the Transferors guarantee that:

- (1) the documents, information and files provided to the Transferee by them and the Target Company are accurate, true, complete and not misleading.
- (2) the assets, debts and liabilities of the Target Company as of the execution date of the Agreement provided to the Transferee by them and the Target Company are accurate, comprehensive and complete. All liabilities and contingent liabilities of the Target Company have been disclosed to the Transferee and the its appointed intermediaries by them and the Target Company.

4.3 In respect of the Target Interest, the Transferors guarantee that:

- (1) they legally and validly own the equity interests of the Target Company, and completely and validly have the right of disposal of the Target Interest without the requirement of third-party consent as of the Effective Date of the Agreement. The Target Interest does not attach with pledges or any other form of guarantee and is free from any litigation, arbitrary procedures and any third-party claims.
- (2) upon the Effective Date of the Agreement, other than transfer of the Target Interest to the Transferee pursuant to the Agreement, the Transferors shall not dispose of the Target Interest in any other manner, including but not limited to the transfer, donation or pledge of the Target Interest or create any other third-party rights.

4.4 In respect of the Target Company, the Transferors guarantee that:

- (1) as of the Effective Date of the Agreement, the assets of the Target Company and the acquisition of which are legitimate and valid. All unpaid consideration or cost payables have been disclosed to the Transferee, and all necessary registration, filing and licenses have been applied in accordance with laws. The assets of the Target Company are not subject to any constraints of charge, pledge, freezing and seizure.
- (2) the Target Company is free of any debts, guarantees and other contingent liabilities 11 days after the settlement of the first installment of the transfer price.

- (3) the Target Company is not engaged in any existing or potential litigation, arbitration or administrative investigation procedures, nor are there any existing or potential breach of laws and regulations or any government authority or other third-party claims as of the Effective Date of the Agreement.
  - (4) the Target Company does not owe any liability obligation to its employees in respect of any outstanding wages as of the Effective Date of the Agreement.
  - (5) the Target Company has submitted accurate and complete tax return information to the competent tax authority in accordance with laws as of the Effective Date of the Agreement. There is no outstanding tax payable by the Target Company, nor are there any tax disputes or any doubts, investigations and fines against it by the competent tax authority.
  - (6) the Target Company is not engaged in any violation or breaching of any environmental protection laws, nor is it subject to any investigations, fines or other proceedings of the environmental protection authorities as of the Effective Date of the Agreement.
- 4.5 The Transferors guarantee that they shall fully and adequately perform and fulfill the obligations incurred and warranties undertaken by each of them under the Agreement, issue or sign the relevant documents to be issued or signed by them and the Target Company to effect the Reorganization.
- 4.6 Every representation and warranty of the Transferors shall be construed as their individual representation and warranty, which are not subject to restriction or limitation of other representations and warranties or any provisions herein.

#### **Article 5 Representations and Warranties of the Transferee**

- 5.1 The Transferee represents and warrants the followings to the Transferors that as of the Effective Date of the Agreement:
- (1) it shall be the separate legal person for valid subsistence;
  - (2) it is entitled to enter into the Agreement and perform the obligations thereunder;
  - (3) it has conferred the right of signing the Agreement to its authorized representatives;
  - (4) its execution of the Agreement and the performance of the obligations thereunder:
    - (i) have complied with the necessary approval procedure (if required);

- (ii) do not violate any provisions under the business license, incorporation agreement, articles of association or similar constitutional documents; and
  - (iii) neither violate any other contracts and agreements as the principal (or to which there is a binding effect), nor breach any of such contracts or agreements.
- (5) there are no pending litigation, arbitration or other judicial or administrative proceedings that would affect its fulfillment of the obligations under the Agreement, and to its knowledge, none of the above actions is threatened to be taken.
- 5.2 The Transferee undertakes to make timely payment of the Equity Transfer Price in full to the Transferors pursuant to article 3.3 and other relevant provisions of the Agreement.
- 5.3 The Transferee guarantees that it shall fully and adequately perform and fulfill the obligations incurred and warranties undertaken by it under the Agreement, issue or sign the relevant documents to be issued or signed by it to effect the Reorganization.
- 5.4 Every representation and warranty of the Transferee shall be construed as its individual representation and warranty, which are not subject to restriction or limitation of other representations and warranties or any provisions herein.

#### **Article 6 Specific Clauses**

- 6.1 All parties agreed to transfer the Target Company and Wenyu Coal Mine in accordance with the following arrangements:
- (1) handover of financial reports, files, company seal and chop. The Transferors and the Target Company shall handover the financial reports up to the latest month, detailed accounts of fixed assets, company seal and chop as well as register of property and equipment of the Target Company and Wenyu Coal Mine to the Transferee on site on the Completion Date. All files and documents shall also be transferred to the Transferee, including but not limited to business contracts, mine construction information (including all reports and approvals from government authorities), land requisition agreements, land use contracts and purchasing contracts.

- (2) Handover of licenses and certificates. The Transferors and the Target Company shall handover all licenses and certificates of the Target Company and Wenyu Coal Mine to the Transferee on the Completion Date, including but not limited to business license, enterprise code certificate, tax registration certificate and land use certificate.
  - (3) handover of financial, security, sales and management duties. The Transferors and the Target Company shall handover the management, financial, security and sales duties, materials and office supplies of the Target Company and Wenyu Coal Mine to the Transferee on the Completion Date at the request of the Transferee.
  - (4) handover of tangible assets. The Transferors and the Target Company shall scrutinize and handover each of the fixed asset items specified in appendix I of the Agreement to the Transferee on the Completion Date.
- 6.2 All parties agreed to comply with the proposed handover plan in relation to the aforementioned handover based on the above principles and arrangements. The list of items is to be drafted by the Transferors and the Target Company. All items shall be dealt with separately and signed by all parties for acknowledgement.
  - 6.3 All accounting documents such as financial statements, accounting evidence, books of account of the Target Company and Wenyu Coal Mine shall be maintained by the Transferors.
  - 6.4 All parties agreed that with effect from the Completion Date, all revenue generated by the Target Company and Wenyu Coal Mine shall be attributable to the Target Company that was taken over by the Transferee, and the Transferee and transferor A will be entitled to the equity interests and profit sharing based on the proportion of 80% and 20% respectively. Save as the above, both parties shall not be eligible for fund utilization, profit sharing or asset disposal of the Target Company that was taken over by the Transferee.
  - 6.5 All parties agreed that the contracts/agreements set out in appendix II herein shall continue to have binding effect on the Target Company that was taken over by the Transferee. After the handover, new requirements proposed by local villagers shall be resolved by the Target Company that was taken over by the Transferee in accordance with laws. The Target Company that was taken over by the Transferee and the contractors shall be liable for all machinery and equipment of non-underground and underground contractors in accordance with the original contractor agreement.

- 6.6 All parties agreed that after the take-over of the Target Company and Wenyu Coal Mine by the Transferee, the existing employees of the Target Company shall be retained or dismissed in accordance with laws on a voluntary basis. Employees who continue their employment with the Target Company shall be administrated by the Labour Law and the relevant system of the Target Company.
- 6.7 All parties agreed that transferor A shall pledge its remaining 20% equity interests in the Target Company to the Transferee by the time the Target Interest was transferred to the Transferee to ensure the smooth progress of the Reorganization. The pledge shall be discharged after the fulfillment of items 3.3 (2)-(5) of the Agreement by both parties.
- 6.8 All parties agreed that the Target Company that was taken over by the Transferee shall return the deposits of resources, environmental protection, and compensation fund paid to the relevant competent government authorities pertaining to Wenyu Coal Mine to the Transferors upon the provision of valid evidence of the official receipts by the Transferors.
- 6.9 All parties agreed that the Target Company that was taken over by the Transferee shall return the maintenance and inspection fees charged by Yi Banner Coal Bureau for the sales of coal by the Target Company prior to the take-over by the Transferee and Wenyu Coal Mine to the Transferors upon the rebate of such fees to the Target Company that was taken over by the Transferee by the relevant authorities.

#### **Article 7 Taxes**

- 7.1 To clarify the tax return of the Target Company before the Reorganization, all parties agreed that after the settlement of the first installment of the transfer price by the Transferee, the Transferors shall coordinate with the national and local competent tax authorities for the tax return of the Target Company, which is to be completed within two months after the execution of the Agreement, and provide a tax clearance document for tax return of the national and local competent tax authorities to the Transferee. Where no tax return is required by the competent tax authorities, the Transferors shall provide the Transferee with the tax clearance document issued by the competent tax authorities.

- 7.2 All parties agreed that in accordance with the relevant tax payment under the laws, of the tax expenses in sum of RMB2,801,556,420 to be payable by the Transferors in relation to the Equity Transfer, RMB281,556,420 shall be deducted and paid by the Transferee on behalf of the Transferors in accordance with laws. All tax expenses arising from the Equity Transfer shall be incurred by the Transferee and shall not be borne by the Transferors, but the Transferors shall actively cooperate with the Transferors to give full effect to the procedure of tax returns and payment.

#### **Article 8 Confidentiality**

Each party shall have confidentiality obligations for information, documents provided by other parties and any negotiation content. Save as required to be provided and disclosed pursuant to any applicable PRC laws, rules and regulations and normative documents or under the listing regulatory requirements or relevant mandatory requirements of the government, without the written consent of the other parties in advance, any parties shall not disclose any content of the Agreement, any reorganization or arrangement discussed by each of the parties, any information, document and content related to the reorganization in any manner, otherwise, it shall constitute a default and the defaulting party shall be liable for any loss incurred therefrom by other parties to the Agreement.

#### **Article 9 Liability for Breach of Contract**

- 9.1 Save as otherwise specified in the Agreement, where the obligations under the Agreement are not performed by a party (the "Defaulting Party"), the other parties (the "Aggrieved Party") are entitled to require the Defaulting Party to perform its obligations as soon as possible. The Aggrieved Party is entitled to terminate the Agreement for non-performance of obligations within reasonable time, and to require the Defaulting Party to compensate the Aggrieved Party for any loss arising therefrom ten working days after the occurrence of the default.
- 9.2 Each party shall undertake that in the event that other parties incurred loss owing to any inaccurate or misleading representations or warranties made by another party herein, such party shall compensate the loss incurred by the aggrieved parties. In particular, where the Target Company that was taken over by Transferee is subject to claims, fines or other claims of right that subsist before the handover, the Transferors shall compensate all loss suffered by the Transferee and the Target Company, including but not limited to compensation, fines, costs and reimbursable costs.



- 9.3 In the case that the Transferors have not completed the Target Interest Transfer or settle all debts and liabilities in accordance with article 3.3 (3) and article 3.3 (4) set forth herein, a default payment equivalent to 0.0001% of the Equity Transfer Price per day shall be payable to the Transferee.
- 9.4 Where the condition set out in article 3.3 (6) herein has not been completed by the Transferors by 31 December 2011, a default payment equivalent to 0.0001% of the Equity Transfer Price per day shall be payable to the Transferee.
- 9.5 The Transferors agreed that the default payment to be incurred by them under the Agreement can be deducted from the second installment of the transfer price by the Transferee.
- 9.6 In the case that the Transferee fails to settle the Equity Transfer Price pursuant to article 3.3 set forth herein, a default payment equivalent to 0.0001% of the Equity Transfer Price per day shall be payable to the Transferors.

#### **Article 10 Resolutions of Disputes**

- 10.1 In respect of any dispute, controversy or claim arising from the entering, validity, interpretation and undertaking of or related to the Agreement (the "Dispute"), all parties shall settle the Disputes through friendly negotiation.
- 10.2 Where a Dispute has not been settled through friendly negotiation 30 days after the written proposal for negotiation made by a party, any parties shall refer the Dispute to the China International Economic and Trade Arbitration Commission for arbitration in Beijing pursuant to the arbitration rules of the commission. The ruling of the arbitration shall be final and binding on all parties. The arbitration fee shall be borne by the losing party unless otherwise determined by the arbitrary court.
- 10.3 During the course of the arbitration, all parties shall continue the exercise or performance of other rights and obligations under the Agreement, save as those related to the Dispute.

**Article 11 Force majeure**

The non-compliance of the Agreement, partially or wholly, by any parties owing to events of force majeure shall not be deemed as default, but shall promptly notify the other party and adopt all reasonable and practicable remedial measures to minimize the loss caused by force majeure and shall provide authoritative evidence of the force majeure five working days after the disappearance of the force majeure.

**Article 12 Validity and termination of the agreement**

12.1 The Agreement shall be established on the date on which it was signed by all parties and the Target Company.

12.2 The Agreement shall be with effect from the date on which it was signed by the authorized representatives or the proxies of both parties and the Target Company.

**Article 13 Miscellaneous**

13.1 Any written amendment to the Agreement shall be subject to the approval by both parties thereunder, and other articles not subject to amendment shall remain in force.

13.2 Anything that has not been included in this Agreement can be covered by both parties by way of a supplementary agreement, which shall have the same legal effect with the Agreement.

13.3 The Agreement has seven copies, one copy of which is held by each of the Transferors, three are held by the Transferee, one is held by the administration for industry and commerce and one is maintained by the Target Company.

(see below signature page)

(No text is set out on this page, being the signature page for the equity transfer agreement entered into by Wang Jun, He Ning and Yanzhou Coal Mining Ordos Neng Hua Company Limited in relation to the reorganization of Inner Mongolia Xintai Coal Mining Company Limited)

Transferor A: \_\_\_\_\_  
(signature)

Transferee: Yanzhou Coal Mining Ordos Neng Hua Company  
Limited  
(company chop)

Transferor B: \_\_\_\_\_  
(signature)

Authorized representatives or proxies: \_\_\_\_\_  
(signature)

Target Company: Inner Mongolia Xintai Coal Mining Company Limited  
(company chop)

Authorized representatives or proxies: \_\_\_\_\_  
(signature)

CLAYTON UTZ

## Share Sale Agreement

**Wesfarmers Coal Resources Pty Ltd ABN 33 009 030 139**

Wesfarmers Coal

**Wesfarmers Chemicals, Energy & Fertilisers Limited ABN 48 008797 402**

Wesfarmers Chemicals

**Wesfarmers Resources Limited ABN 76 096 857 126**

Wesfarmers Resources

**Austar Coal Mine Pty Ltd ABN 67 111 910 822**

Buyer

Clayton Utz

Lawyers

Level 27 QV.1 250 St Georges Terrace Perth WA 6000 Australia

GPO Box P1214 Perth WA 6844

T +61 I 9426 8000 F +61 I 9481 3095

**[www.claytonutz.com](http://www.claytonutz.com)**

Our reference 60001/60067/80110503

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# Share Sale Agreement

This Share Sale Agreement dated

is made between the following

**Parties:**

**Wesfarmers Coal Resources Pty Ltd** ABN 33 009 030 139 of Level 11, 40 The Esplanade, PERTH, Western Australia, 6000 (**Wesfarmers Coal**)

**Wesfarmers Chemicals, Energy & Fertilisers Limited** ABN 48 008 797 402 of Level 11, 40 The Esplanade, PERTH Western Australia, 6000 (**Wesfarmers Chemicals**)

(together the **Sellers**)

**Wesfarmers Resources Limited** ABN 76 096 857 126 of Level 11, 40 The Esplanade, PERTH, Western Australia, 6000 (**Wesfarmers Resources**)

**Austar Coal Mine Pty Ltd** ABN 67 111 910 822 of Level 11, 68 York Street Sydney New South Wales, 2000 (**Buyer**).

## Background

- A. The Sellers collectively own the Shares, being all of the issued shares of the Companies.
- B. Each Seller wishes to sell the Shares it owns and the Buyer wishes to buy the Shares on the terms and conditions of this agreement.
- C. Wesfarmers Resources is willing to provide indemnities to the Buyer in connection with certain Company assets which have been, or will have been prior to Completion, divested to Wesfarmers Resources.

## Operative provisions

The Parties agree as follows:

### 1. Definitions and interpretation

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#### 1.1 Definitions

In this agreement:

**Accounting Standards** means, at any time:

- (a) the requirements of the Corporations Act relating to preparation and contents of financial reports;
- (b) the accounting standards approved under the Corporations Act; and
- (c) generally accepted accounting principles, policies, practices and procedures in Australia to the extent not inconsistent with the accounting standards described in paragraph (b),

at that time.

**ACDC** means the Australian Commercial Disputes Centre.

**Adjustment Payment Date** means the date which is 5 Business Days after the date on which the Completion Balance Sheet is finalised in accordance with clause 9 or any other date agreed between the Sellers and the Buyer in writing.

**ASIC** means the Australian Securities and Investments Commission.

**Asset** means each asset owned or held by the Companies or exclusively used in the Business, including any assets held under any financing or operating lease and the assets listed in the Asset Register.

**Asset Register** means the list in Schedule 13.

**Assumption Deeds** in relation to:

- (a) Verve, means the agreement dated 17 August 2005 between Verve, Premier Coal and Wesfarmers; and
- (b) Vinalco, means the agreement dated 20 August 2010 between Premier Coal, Verve, Vinalco and Wesfarmers, and where the context permits, means either one of the deeds.

**Auditor** means Ernst & Young as the auditor of the Companies.

**Authorisation** means any licence, consent, approval, permit, registration, accreditation, certification or other authorisation given or issued by any Regulatory Authority or any other person.

**Base Balance Sheet** means the statement of financial position of each of the Companies and its controlled entities attached to this agreement as Attachment 1.

**Base Working Capital Amount** means the sum of the account items extracted from the Base Balance Sheet as set out in the column headed "Base Working Capital Amount" in Schedule 11.

**Business** means the business of exploring for, mining and selling thermal coal and the manufacture and sale of charcoal conducted in the Collie Coal Basin of Western Australia by the Companies.

**Business Day** means a day on which banks are open for business generally in Perth, Western Australia and that is not a Saturday, Sunday or public holiday.

**Buyer Group Member** means the Buyer and each Related Entity of the Buyer and after Completion includes each Company.

**Buyer Warranties** means the warranties set out in Schedule 9.

**Capital Expenditure Program** means the program of anticipated capital expenditure in the Interim Period set out in Schedule 12.

**Claim** means any claim, demand or cause of action whether arising in contract, tort, under statute or otherwise in relation to:

- (a) any provision of this agreement;
- (b) the Shares or their sale, including the sale process; or
- (c) any other matter connected with any Company,

other than a Tax Claim.

**Claim Notice** has the meaning given in clause 15.2.

**Collective Bargaining Agreement** means the agreement known as the “Wesfarmers Premier Coal Limited Collective Agreement 2008-2011”.

**Companies** means Premier Coal and Wesfarmers Char.

**Company IP Rights** means the Intellectual Property Rights registered in the name of each Company specified in part 1 of Schedule 5.

**Company Records** means Records owned by each Company and including all:

- (a) statutory books and registers, minute books, books of account, trading and financial records, employee records, tax returns and related correspondence;
- (b) customer lists, supplier lists, price lists, pricing models and sales and marketing materials;
- (c) title deeds and other documents of title; and
- (d) originals and copies of all contracts and Authorisations,

but excluding the Scaddan Records and the Mokey Records.

**Completion** means the completion of the sale and purchase of the Shares in accordance with clause 8.

**Completion Balance Sheet** means the statement of financial position prepared and finalised in accordance with clause 9.

**Completion Capital Expenditure Amount** means the Companies’ cash expenditure on property, plant and equipment between 31 December 2017 and the Completion Date as permitted by clause 6, to the extent of amounts able to be carried forward in accordance with the Accounting Standards and capitalised to the “Property, plant and equipment” balance in the Completion Balance Sheet.

**Completion Date** means the date on which Completion occurs.

**Completion Payment** means the Initial Purchase Price as adjusted under clause 4.2.

**Completion Working Capital Amount** means the sum of the account items which are described in the column headed “HFM Account Code and Description” in Schedule 11 and which are to be extracted from the Completion Balance Sheet.

**Condition** means each condition specified in clause 2.1.

**Confidential Information** means:

- (a) all information relating to the operations or affairs of each Company including all financial or accounting information, all customer names and lists, terms and conditions of supply, sales records, marketing analysis and research and reports and other marketing information and all trade secrets, know how, operating procedures and technical information; and

- (b) all other information treated by each Company as confidential or capable of being protected at law or equity as confidential information or the disclosure of which might cause loss or damage to or otherwise adversely affect any Company,

in whatever form and in each case including information that has been disclosed by the Sellers or the Companies or their respective Representatives under the terms of a confidentiality agreement.

**Consolidated Group** has the meaning given in the Tax Act.

**Corporations Act** means the Corporations Act 2001 (Cth).

**Deed of Cross Guarantee** means the deed of cross, guarantee dated 27 June 2008 as amended between (inter alia) each Seller, Wesfarmers and Premier Coal.

**Defaulting Party** has the meaning given in clause 8.10.

**Disclosure Letter** means the letter from the Sellers to the Buyer dated the same date as this agreement in the form of the letter attached as Attachment 2.

**Disputed Item** has the meaning given in clause 9.3(b)(i).

**Domain Names** means each of the domain names specified in part 2 of Schedule 5.

**Draft Completion Balance Sheet** has the meaning given in clause 9.2.

**Due Diligence Materials** means:

- (a) the written information and documents provided to the Buyer and their Representatives by the Sellers, the Companies and their respective Representatives before the date of this agreement (including in the data room, an index of which is attached as Part A of Attachment 3);
- (b) the written questions raised by the Buyer and their Representatives in the due diligence process and the written responses given to those questions by the Sellers, the Companies and their respective Representatives before the date of this agreement, copies of which are attached as Attachment 4;
- (c) prepared presentations given by the Sellers' and the Companies' management personnel, an index of which is attached as Part B of Attachment 3;
- (d) matters shown to the Buyer and its Representatives on the Site visit conducted by the Sellers for the benefit of the Buyer on Tuesday 21 June 2011 and the program of which is set out in Schedule 14; and
- (e) the information memorandum issued by the Sellers dated 7 April 2011.

**Encumbrance** means a mortgage, charge, pledge, lien, encumbrance, security interest, title retention, preferential right, trust arrangement, contractual right of set-off, or any other security agreement or arrangement in favour of any person, whether registered or unregistered.

**End Date** means the date that is 4 months after the date of this agreement or such other date agreed in writing between the Sellers and the Buyer.

**Enterprise Agreement** has the meaning given in section 12 of the Fair Work Act 2009 (Cth).

**Environment** means the physical, biological and social aspects and conditions of a particular area, including:

- (a) land, water, air, atmosphere, climate, living organisms and other matter, things made or altered by humans, ecosystems and social groupings;
- (b) the social, economic and cultural aspects of a thing specified in paragraph (a); and
- (c) the interaction of any 2 or more things specified in paragraphs (a) and (b).

**Environment Agency** means:

- (a) a Regulatory Authority which is responsible for the administration or enforcement of any law relating to the Environment; and
- (b) a court or tribunal having jurisdiction with respect to any law relating to the Environment.

**Exit Payment** means the payment to be made by each Company to permit that Company to leave the Seller Consolidated Group on Completion clear of any Group Liability pursuant to section 721-35 of the Tax Act calculated or estimated in accordance with the principles set out in the Tax Sharing and Tax Funding Deed.

**Excluded Tenements** means the Western Australian mining tenements described in Attachment 6.

**Expert** means an independent and suitably qualified and experienced expert, being the expert referred to in clause 7.6 or clause 9.5(c), as the case requires.

**FIRB Condition** means the Treasurer of the Commonwealth of Australia:

- (a) providing written notice which is unconditional or subject only to conditions acceptable to the Buyer, acting reasonably, that there is no objection under the Foreign Acquisitions and Takeovers Act 1975 (Cth) to the proposed acquisition by the Buyer of the Shares; or
- (b) becoming precluded from exercising any power to make an order under the Foreign Acquisitions and Takeovers Act 1975 (Cth) in relation to the proposed acquisition by the Buyer of the Shares.

**Firm of Accountants** means the Australian offices of PricewaterhouseCoopers, Deloitte and KPMG.

**Force Majeure Event** is any event or circumstance which inflicts physical damage on any Asset of Premier Coal, or on any:

- (a) coal-fired power station of Verve, or related infrastructure or facilities, relevant to its demand for (or its obligation to pay for) coal under the Verve Contract;
- (b) coal-fired power station of Vinalco, or related infrastructure or facilities, relevant to its demand for (or its obligation to pay for) coal under the Vinalco Contract; or
- (c) facilities of Worsley relevant to its demand for (or its obligation to pay for) coal under the Worsley Contract,

including any of the following events or circumstances of that description:

- (d) acts of God, including storms, cyclones, action of the elements, landslides, earthquakes, floods and natural disaster;
- (e) fire and explosion; and



(f) catastrophic failure.

**Freehold Properties** means each of the Properties described in part 1 of Schedule 4.

**Government Agency** means any government or governmental, semi-governmental, administrative, fiscal or judicial body, responsible Minister, department, office, commission, delegate, authority, instrumentality, tribunal, board, agency, entity or organ of government, whether Commonwealth, State, territorial or local, statutory or otherwise.

**Group Liability** has the meaning given in section 721-10 of the Tax Act.

**GST** has the meaning given in the GST Act.

**GST Act** means the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

**Guarantee** means any guarantee, bond, security deposit, letter of credit or suretyship or any other obligation to pay, purchase or provide funds (whether by the advance of money, the purchase of or subscription for shares or other securities, the purchase of assets or services, or otherwise) for the payment or discharge of, to indemnify against the consequences of default in the payment of, or otherwise be responsible for, any indebtedness of, obligation of, liability of or the insolvency of any other person.

**Head Company** has the meaning given in section 995-1 of the Tax Act.

**Indemnified Losses** means, in relation to any fact, matter or circumstance, all losses, costs, damages, expenses and other liabilities arising out of or in connection with that fact, matter or circumstance including all legal and other professional expenses on a solicitor-client basis incurred in connection with investigating, disputing, defending or settling any claim, action, demand or proceeding relating to that fact, matter or circumstance (including any claim, action, demand or proceeding based on the terms of this agreement).

**Initial Purchase Price** has the meaning given in clause 4.1 .

**Intellectual Property Rights** means:

- (a) patents, designs, trade marks and service marks (whether registered or unregistered) and any applications for, or rights to apply for, registration of any patent, design, trade mark or service mark;
- (b) copyright (including copyright in software, websites, databases and advertising and other promotional materials) ;
- (c) all rights to have information (including trade secrets, know-how, operating procedures and technical information) kept confidential; and
- (d) all other rights or protections having similar effect anywhere in the world.

**Interim Period** means the period between the date of this agreement and the Completion Date.

**Inventory** means all stockpiled coal, warehouse stores, spares, tyres and all stocks of fuel and lubricants held or owned by the Companies.

**Joint Boundary Mining Agreement** means the agreement dated 4 October 2007 between Premier Coal and the Griffin Coal Mining Company Pty Ltd as amended by deed of variation dated 11 January 2011 and, deed of amended and restated Joint Boundary Agreement dated 6 June 2011 and, executed by Premier Coal on 13 June 2011.

**Leasehold Properties** means each of the Properties described in part 2 of Schedule 4.

**Material Adverse Change** has the meaning given in clause 7.1(c).

**Material Adverse Change Notice** has the meaning given in clause 7.2(a).

**Material Contract** means the agreements described in Schedule 2.

**Modern Award** has the meaning given in section 12 of the Fair Work Act 2009 (Cth).

**Mokey** means Mokey Pty Ltd ACN 008 885 710.

**Mokey Claim** means the claim by Mokey against Premier Coal in respect of the lapse of mining tenements the subject of the Mokey JV, and includes Supreme Court of Western Australia No. CIV 1899 of 2011.

**Mokey Deed of Covenant** has the meaning given to it in clause 11.4(a).

**Mokey JV** means the joint venture between Mokey and Premier Coal formed by the Mokey Joint Venture Agreement.

**Mokey Joint Venture Agreement** means an agreement between Mokey and Premier Coal (Premier Coal then being called Western Collieries Ltd) dated 6 July 1981 .

**Mokey Records** means any Records relating to the Mokey JV or the Mokey Claim.

**Non-Defaulting Party** has the meaning given in clause 8.10.

**Notional Buyer** has the meaning given in clause 7.1(c).

**Officer** has the meaning given to that term in the Corporations Act.

**Operating Contracts** means those contracts listed in Part 3 of Schedule 2.

**Permitted Encumbrances** means:

- (a) a charge or lien arising in favour of a Regulatory Authority by operation of statute (unless there is default in payment of money or performance of obligations secured by that charge or lien); and
- (b) the conditions applicable to the Tenements.

**Premier Coal** means Wesfarmers Premier Coal Limited ACN 008 672 599, details of which are set out in Schedule 1.

**Premier Coal Shares** means 7,771,358 fully paid ordinary shares in the capital of Premier Coal, plus any shares that may be issued to satisfy the Sellers' obligations under clause 10.2.

**Premier Power Sales** means Premier Power Sales Pty Ltd ABN 33 065 618 019 being, at the date of this agreement, a wholly owned subsidiary of Premier Coal.

**Properties** means the property and premises described in Schedule 4.

**Provisional Capital Expenditure Amount** means the Sellers' estimate of the Completion Capital Expenditure Amount, taking into account expenditure on property, plant and equipment recorded in the most recent management accounts available prior to the Completion Date and a best estimate of expenditure on property, plant and equipment between the date of the most recent management accounts and the Completion Date.

**Provisional Working Capital Amount** means the sum of the account items which are described in the column headed “HFM Account Code and Description” in Schedule 11 and which are to be extracted from the most recent management accounts available prior to the Completion Date.

**Purchase Price** means the Initial Purchase Price as adjusted in accordance with this agreement.

**Records** means all originals and copies of all books, records, reports, correspondence, files, manuals and other documents and information, whether in printed, electronic or any other form.

**Regulatory Authority** means:

- (a) any Government Agency; and
- (b) any other authority, agency, commission or similar entity having powers or jurisdiction under any law or regulation or the listing rules of any recognised stock or securities exchange.

**Related Entity** of a corporation means:

- (a) a related body corporate of that corporation within the meaning of section 50 of the Corporations Act; and
- (b) a trustee of any unit trust in relation to which that corporation, or a corporation referred to in paragraph (a), directly or indirectly:
  - (i) controls the right to appoint the trustee;
  - (ii) is in a position to control the casting of more than one half of the maximum number of votes that might be cast at a meeting of holders of units in the trust; or
  - (iii) holds or is in a position to control the disposal of more than one half of the issued units of the trust.

**Representatives** means, in relation to a party, all Officers, employees, professional advisers, agents and attorneys of the party or of its Related Entities.

**Scaddan Deed of Novation** means a deed of novation between Scaddan Energy, Blackham Resources Limited ACN I 19 887 606, Premier Coal and Wesfarmers Resources dated 24 March 2011.

**Scaddan Energy** means Scaddan Energy Pty Ltd ACN 128 388 634.

**Scaddan Energy JV** means the joint venture between Scaddan Energy and Premier Coal formed by the Scaddan Energy Joint Venture Agreement.

**Scaddan Energy Joint Venture Agreement** means an agreement between Scaddan Energy and Premier Coal (to which Blackham Resources Limited ACN 119 887 606 is also a party) dated 16 January 2008.

**Scaddan Interest** means the entire right, title and interest in and to:

- (a) the Scaddan Energy Joint Venture Agreement;

- (b) the Joint Venture Property (as that term is defined in the Scaddan Energy Joint Venture Agreement), including the Excluded Tenements; and
- (c) the Terms Sheet dated 16 January 2008 between Premier Coal and Blackham Resources Limited ACN 119 887 606, that was held by Premier Coal prior to entering into the Scaddan Deed of Novation.

**Scaddan Records** means any Records relating to the Scaddan Interest.

**Seller Consolidated Group** means the Consolidated Group of which Wesfarmers is the Head Company.

**Seller Group Guarantee** means any Guarantee provided by any Seller Group Member in relation to the obligations of any Company, as specified in Schedule 6.

**Seller Group Member** means the Sellers and each Related Entity of the Sellers other than each Company.

**Shares** means the Premier Coal Shares and the Wesfarmers Char Shares.

**Standard Rate** in relation to interest payable on any payment due under this agreement means the rate which is the 90 day Bank Bill Swap Reference Rate (Average Bid) as published in the Australian Financial Review on the first date on which interest accrues on that payment (or if that rate or publication is not published, the rate determined by the Sellers, acting reasonably, to be the nearest equivalent rate having regard to prevailing market conditions) plus (in either case) a margin of 2% per annum.

**State Agreement** means the agreement ratified by the Collie Coal (Western Collieries) State Agreement 1979 (as amended).

**Stocktake** means the processes for verifying system generated Inventory quantities and includes:

- (a) land surveys for all coal stockpiles;
- (b) electronic measurement of fuel and lubricant tanks;
- (c) physical counts of all items over \$5,000; and
- (d) a sample of 50 physical counts of all other items.

**Tax** means any tax, levy, excise, duty, charge, surcharge, contribution, withholding tax, impost or withholding obligation of whatever nature, whether direct or indirect, by whatever method collected or recovered, together with any fees, penalties, fines, interest or statutory charges.

**Tax Act** means the Income Tax Assessment Act 1936 (Cth) and the Income Tax Assessment Act 1997 (Cth) or either of them.

**Tax Assessment** means any notice, demand, assessment, amended assessment, determination, return or other document issued by a Tax Authority or lodged with a Tax Authority under a system of self-assessment as a result of which any Company may be required to make a payment of Tax.

**Tax Authority** means any Regulatory Authority responsible for the assessment, collection, withholding or administration of Tax in any country or jurisdiction.

**Tax Benefit** means the economic value of a tax deduction or credit or reduction to taxable income received by the Buyer. For the avoidance of doubt, the value of any Tax Benefit is measured in the Buyer's hands only.

**Tax Claim** means any claim against the Sellers under clause 17.2.

**Tax Sharing and Tax Funding Deed** means the tax sharing and tax funding deed dated 1 September 2007 between the members of the Seller Consolidated Group and Wesfarmers as the Head Company in relation to, among other things, the obligations of Wesfarmers as the Head Company to pay a Group Liability.

**Tax Funding Liabilities** means any liability to make payments or to fund a Head Company in respect of a Group Liability.

**Tax Release Deed** means a deed of release between Wesfarmers and each Company in the form set out in Attachment 5.

**Tax Warranties** means the Warranties set out in paragraph 13 in Schedule 8.

**Tenements** means the Western Australian mining tenements or tenement applications described in Schedule 3 and, for the avoidance of doubt, excludes the Excluded Tenements.

**Third Party Claim** means any claim or potential claim by any person other than any Buyer Group Member or any Seller Group Member against any Company.

**Transitional Instrument** has the meaning given in the Fair Work (Transitional Provisions and Consequential Amendments) Act 2009 (Cth).

**Transition Agreement** has the meaning given in clause 6.6(a).

**Transition Principles** has the meaning given in Schedule 7.

**Value Diminution** has the meaning given in clause 7.2(a).

**Value Diminution Determination Date** has the meaning given in clause 7.5.

**Verve** means the Electricity Generation Corporation ABN 58 673 830106 trading as Verve Energy.

**Verve Contract** means the contract for coal supply between Premier Coal and Verve dated 17 August 2005, as amended.

**Vinalco** means Vinalco Energy Pty Ltd ACN 137 532 300.

**Vinalco Contract** means the contract referred to in item 1.4 of Schedule 2.

**Warranties** means the warranties set out in Schedule 8.

**Warranty Claim** means any Claim by the Buyer arising out of a breach of a Warranty.

**Wesfarmers** means Wesfarmers Limited ACN 008 984 049.

**Wesfarmers Char** means Wesfarmers Char Pty Ltd ACN 009 379 597, details of which are set out in Schedule 1.

**Wesfarmers Char Shares** means 1,000,000 fully paid ordinary shares in the capital of Wesfarmers Char, plus any shares that may be issued to satisfy the Sellers' obligations under clause 10.2.

**Worsley** means BHP Billiton Alumina Pty Ltd CAN 008 905 155.

**Worsley Contract** means the contract referred to in item 1.5 of Schedule 2.

## **1.2 Liability of Sellers**

The obligations imposed on Wesfarmers Coal and Wesfarmers Chemicals under this agreement are imposed on each of Wesfarmers Coal and Wesfarmers Chemicals jointly and severally, and evidence of breach against one Seller is evidence of breach against both.

## **1.3 Knowledge and awareness of the Sellers**

If any Warranty is qualified by a Seller's awareness or knowledge, the facts of which a Seller is aware or that are within a Seller's awareness or knowledge are taken to be and are limited to all facts of which any of:

- (a) the General Manager and Registered Manager, Premier Coal;
- (b) the General Manager Marketing and Development (WA), Wesfarmers Resources;
- (c) the Manager Human Resources, Premier Coal;
- (d) the Manager Health, Safety and Environment, Premier Coal; or
- (e) the Senior Geologist, Premier Coal,

are actually aware at the date of this agreement.

## **1.4 Business days**

If the day on which any act to be done under this agreement is a day other than a Business Day, that act must be done on the immediately preceding Business Day except where this agreement expressly specifies otherwise.

## **1.5 General rules of interpretation**

In this agreement headings are for convenience only and do not affect interpretation and, unless the contrary intention appears:

- (a) a word importing the singular includes the plural and vice versa, and a word of any gender includes the corresponding words of each other gender;
- (b) the word **including** or any other form of that word is not a word of limitation;
- (c) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (d) a reference to a **person** includes an individual, the estate of an individual, a corporation, an authority, an association or parties in a joint venture, a partnership and a trust;
- (e) a reference to a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes any substituted or additional trustee;
- (f) a reference to a document (including this agreement) is to that document as varied, novated, ratified or replaced from time to time;

- (g) a reference to a party, clause, schedule, exhibit, attachment, or annexure is a reference to a party, clause, schedule, exhibit, attachment, or annexure to or of this agreement, and a reference to this agreement includes all schedules, exhibits, attachments, and annexures to it;
- (h) a reference to an agency or body if that agency or body ceases to exist or is reconstituted, renamed or replaced or has its powers or function removed (**obsolete body**), means the agency or body which performs most closely the functions of the obsolete body;
- (i) a reference to a statute includes any regulations or other instruments made under it (**delegated legislation**) and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments and replacements;
- (j) a reference to \$ or **dollar** is to Australian currency; and
- (k) this agreement must not be construed adversely to a party just because that party prepared it or caused it to be prepared.

## 2. Conditions precedent

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### 2.1 Conditions

Clauses 3,4 and 8 do not become binding on the parties and have no force or effect, and Completion cannot take place, unless each of the conditions listed in the first column of the following table has been either satisfied or waived in accordance with clause 2.4:

<u>Condition</u>	<u>Right to waive</u>
(a) The Sellers receive all consents, to the satisfaction of the Buyer, acting reasonably, required from the counterparty to the Joint Boundary Mining Agreement in relation to the change in control of Premier Coal contemplated by this agreement.	Buyer
(b) The FIRB Condition being satisfied.	Buyer and Sellers
(c) The Buyer obtaining any relevant Chinese Government approvals in relation to any Chinese parent company of the Buyer on conditions satisfactory to the Buyer, acting reasonably.	Buyer

### 2.2 Reasonable endeavours to satisfy Conditions

Each party must use all reasonable endeavours to ensure that each Condition is satisfied as soon as practicable after the date of this agreement, and in any event before the End Date, and in particular:

- (a) each party must otherwise co-operate with, and comply with all reasonable requests of each other party for the purposes of procuring the satisfaction of any Condition . and must not take any action that will or is likely to hinder or prevent the satisfaction of any Condition; and

- (b) each party must keep each other party informed of any fact, matter or circumstance of which it becomes aware that may result in a Condition not being satisfied in accordance with its terms.

### **2.3 Notice in relation to satisfaction of Conditions**

Each party must within 1 Business Day after becoming aware of the satisfaction of any Condition notify each other party of the satisfaction of that Condition and provide reasonable evidence that the Condition has been satisfied.

### **2.4 Waiver of Conditions**

A Condition may be waived and may only be waived:

- (a) if one party is specified in the second column of the table in clause 2.1 opposite that Condition, by that party by notice to each other party; or
- (b) if more than one party is specified in the second column of the table in clause 2.1 Opposite that Condition, by written agreement between all of parties.

A party entitled to waive or to agree to waive a Condition under this clause 2.4 may do so in its absolute discretion. A party that waives or agrees to waive a Condition is not prevented from bringing a Claim against any other party in respect of any breach of this agreement that caused that Condition not to be satisfied.

### **2.5 Failure of Conditions**

A party is entitled to terminate this agreement by notice to each other party at any time before Completion:

- (a) if any Condition has become incapable of satisfaction and that Condition has not been waived in accordance with clause 2.4 within 5 Business Days after the occurrence of the fact, matter or circumstance which caused that Condition to become incapable of satisfaction;
- (b) if any Condition has not been satisfied or waived in accordance with clause 2.4 before the End Date; or
- (c) if any Condition, having been satisfied on or before the End Date ceases to be satisfied before Completion,

except where the relevant Condition has become incapable of satisfaction, has not been satisfied, or ceases to be satisfied, as a direct result of a failure by the party seeking to terminate to comply with its obligations under clause 2.2.

## **3. Sale and purchase of Shares**

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### **3.1 Sale and purchase**

On Completion the Sellers must sell and the Buyer must buy the Shares for the Purchase Price free from all Encumbrances.

### **3.2 Shares to be sold by each Seller**

Wesfarmers Coal is only obliged to sell to the Buyer the Premier Coal Shares and Wesfarmers Chemicals is only obliged to sell to the Buyer the Wesfarmers Char Shares.



### **3.3 Purchase obligations interdependent**

The obligation of the Buyer to buy any Shares under this clause 3 is conditional and interdependent on the completion by the Buyer of the purchase of all other Shares and the Buyer is not obliged to complete the purchase of any Shares unless it completes the purchase of all Shares simultaneously.

## **4. Purchase Price**

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### **4.1 Initial Purchase Price**

The initial purchase price payable for the Shares is \$296,800,000 (**Initial Purchase Price**). The Initial Purchase Price is allocated:

- (a) as to \$800,000, to the Wesfarmers Char Shares; and
- (b) as to the balance, to the Premier Coal Shares.

### **4.2 Provisional adjustments to Initial Purchase Price**

- (a) Once the Seller has determined the Provisional Working Capital Amount and the Provisional Capital Expenditure Amount, the Initial Purchase Price is subject to the following adjustments :
  - (i) if the Provisional Working Capital Amount exceeds the Base Working Capital Amount, the Initial Purchase Price is increased by the amount by which the Provisional Working Capital Amount exceeds the Base Working Capital Amount;
  - (ii) if the Provisional Working Capital Amount is less than the Base Working Capital Amount, the Initial Purchase Price is decreased by the amount by which the Provisional Working Capital Amount is less than the Base Working Capital Amount; and
  - (iii) the Initial Purchase Price is increased by the amount of the Provisional Capital Expenditure Amount.
- (b) By the 21st of each calendar month during the Interim Period, the Seller will provide the Buyer with a copy of the most recent management accounts.
- (c) The Seller will inform the Buyer of the Provisional Working Capital Amount and Provisional Capital Expenditure Amount as soon as practicable before Completion.

### **4.3 Final adjustments to Initial Purchase Price**

Once the Completion Balance Sheet has been finalised in accordance with clause 9, the Initial Purchase Price is subject to the following further adjustments:

- (a) if the Completion Working Capital Amount exceeds the Provisional Working Capital Amount, the Initial Purchase Price is increased by the amount by which the Completion Working Capital Amount exceeds the Provisional Working Capital Amount; and
- (b) if the Completion Working Capital Amount is less than the Provisional Working Capital Amount, the Initial Purchase Price is decreased by the amount by which the Completion Working Capital Amount is less than the Provisional Working Capital Amount;

- (c) if the Completion Capital Expenditure Amount exceeds the Provisional Capital Expenditure Amount, the Initial Purchase Price is increased by the amount by which the Completion Capital Expenditure Amount exceeds the Provisional Capital Expenditure Amount;
- (d) if the Completion Capital Expenditure Amount is less than the Provisional Capital Expenditure Amount, the Initial Purchase Price is decreased by the amount by which the Completion Capital Expenditure Amount is less than the Provisional Capital Expenditure Amount; and
- (e) any adjustments required by clause 6.2(a).

#### **4.4 Payment of Purchase Price**

The Purchase Price must be paid as follows:

- (a) on Completion, the Buyer must pay the Completion Payment to the Sellers in accordance with clause 8.8 and clause 22;
- (b) if the Initial Purchase Price is adjusted under clause 4.3(a), on the Adjustment Payment Date the Buyer must pay to the Sellers the amount of the increase in the Initial Purchase Price;
- (c) if the Initial Purchase Price is adjusted under clause 4.3(b), on the Adjustment Payment Date the Sellers must pay to the Buyer the amount of the decrease in the Initial Purchase Price; and
- (d) if the Initial Purchase Price is adjusted under clause 4.3(c), on the Adjustment Payment Date the Buyer must pay to the Sellers the amount of the increase in the Initial Purchase Price; and
- (e) if the Initial Purchase Price is adjusted under clause 4.3(d) or clause 4.3(e), on the Adjustment Payment Date the Sellers must pay to the Buyer the amount of the decrease in the Initial Purchase Price.

#### **4.5 Adjustment for certain payments**

Any payment made:

- (a) by a Seller to a Buyer Group Member for a Warranty Claim or under clause 17 or pursuant to any indemnity under this agreement, will be treated as a pro-rata reduction in the purchase price of each Share; or
- (b) by the Buyer to the Sellers under clause 15.9, clause 17.5 or pursuant to any indemnity under this agreement, will be treated as a pro-rata increase in the purchase price of each Share.

### **5. Verve Contract**

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- (a) The Sellers undertake, for the duration of the Interim Period, not to participate in any negotiations with Verve or any Government Agency for any amendments to the Verve Contract without the express prior consent of the Buyer.
- (b) The Sellers undertake, for the duration of the Interim Period, to procure that Premier Coal and each Seller Group Member does not participate in any negotiations with Verve or any Government Agency for any amendments to the Verve Contract without the express prior consent of the Buyer.

- (c) Clauses 5(a) and 5(b) are fundamental terms of this agreement, the breach of which entitles the Buyer to regard this agreement as having been repudiated by the Sellers. If the Buyer properly elects to treat this agreement as having been so repudiated by the Sellers, this agreement is terminated and the Sellers are liable to the Buyer in liquidated damages for the breach of clause 5(a) or 5(b), as the case requires, in the sum of \$5 million.
- (d) The liquidated damages payable by the Sellers to the Buyer under clause 5(c) are the sole and exclusive remedy for a breach of clause 5(a) or 5(b). The parties acknowledge that the amount of liquidated damages so specified is a genuine pre-estimate of the actual losses expected to be incurred by the Buyer as a result of the relevant breach.

## **6. Period before Completion**

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### **6.1 Buyer access**

For the purposes of assisting the Buyer and its Representatives to understand the Business and to prepare for the transition to the Buyer's normal working procedures, the Sellers must procure that, during the Interim Period, the Buyer and its Representatives are given reasonable access on reasonable notice to:

- (a) the Assets, Properties and Company Records; and
- (b) all Officers and senior employees of any Company during normal business hours,

provided that the Sellers are not obliged to comply with this clause 6.1 to the extent that giving such access would cause material disruption to or have a material adverse effect on, the day to day conduct of the Business or constitute a breach by a Seller or any Company of any law or of the terms of any agreement to which it is party.

### **6.2 Conduct of Business**

- (a) Subject to the succeeding provisions of this clause 6.2, each seller must use reasonable endeavours to procure that, during the Interim Period, except with the prior written consent of the Buyer, each Company conducts the Business in the ordinary and usual course of business and does not make any significant change to the nature or scale of any activity comprised in the Business. Without limiting the generality of the foregoing, the Sellers must procure that the capital expenditure in the period from the date of this agreement to 31 December 2011 on the items described in the Capital Expenditure Program is not less than 90% of the total amount referable to that period in the Capital Expenditure Program. If that does not occur by 31 December 2011, or if Completion occurs prior to 31 December 2011, then the amount by which the amount so spent falls short of the amount referable to the relevant period in the Capital Expenditure Program is to be deducted from the Purchase Price as an adjustment under clause 4.3.
- (b) In the period from 31 December 2011 until Completion:
  - (i) Premier Coal is permitted to incur capital expenditure in accordance with the Capital Expenditure Program, plus an allowance of:
    - A. five percent (5%) of the total amount of the "Mine development" category;
    - B. five percent (5%) of the total amount of the "Mobile equipment" category; and

- C. ten percent (10%) of the total amount of the “Other” category, as set out in the Capital Expenditure Program;
  - (ii) if Premier Coal wishes to incur capital expenditure of a category specified in the Capital Expenditure Program in excess of the allowance in clause 6.2(b)(i), it must first obtain the consent of the Buyer, whose consent must not be withheld unreasonably; and
  - (iii) Premier Coal must provide a monthly capital expenditure report to the Buyer reporting actual expenditure and a comparison of that expenditure against each category of proposed expenditure in the Capital Expenditure Program.
- (c) In the Interim Period, the Sellers must notify the Buyer, as soon as practicable after they become aware of any fact, matter or circumstance that would have the effect or be likely to have the effect of a Warranty being breached, assuming that Warranty was given as of the date of occurrence of the fact, matter or circumstance and provide the Buyer with such relevant information as to the impact of the fact, matter or circumstance and what measures it intends to take, if any, to ensure that the Sellers are in compliance with the Warranty at Completion on a basis that it is then accurate and not misleading or deceptive.
- (d) Notwithstanding clause 6.2(b), in the period from 31 December 2011 until Completion Premier Coal may, in the usual and ordinary course of business, incur capital expenditure for items not identified in the Capital Expenditure Program or effect the disposal of plant and equipment, on the following basis:
- (i) the consent of the Buyer is not required for any such item of capital expenditure of less than \$100,000 or the disposal of any item of plant and equipment having a written down value on the books of account of Premier Coal of less than \$100,000; and
  - (ii) the consent of the Buyer (whose consent must not be withheld unreasonably) is required for any such item of capital expenditure of \$100,000 or more or the disposal of any item of plant and equipment having a written down value on the books of account of Premier Coal of in excess of \$100,000; and
  - (iii) in the case of any emergency where injury to any person or damage to or the loss of any plant or equipment occurs or is likely to occur, or in any other case where unforeseen repairs or replacements are urgently required to capital equipment to maintain production to meet contractual commitments, provided that where any such capital expenditure is incurred, the Sellers must notify it to the Buyer as soon as reasonably practicable after the emergency has occurred, and as soon as reasonably practicable after the expenditure is incurred.
- (e) Any capital expenditure incurred by Premier Coal otherwise than strictly in accordance with this clause 6.2 is not to be accounted for in the adjustments to the Initial Purchase Price under clauses 4.2 and 4.3.

### 6.3 Restricted conduct

Each Seller must use reasonable endeavours to procure that, during the Interim Period, except as provided in this Agreement or with the prior written consent of the Buyer, each Company does not:

- (a) issue or allot any share capital or options, securities or other rights convertible into share capital, except to the extent that the issue of shares is to satisfy the Sellers' obligations under clause 10.2;
- (b) buy back or redeem any shares or otherwise reduce its share capital or provide financial assistance for the acquisition of its own shares or shares in its holding company;
- (c) alter the provisions of its constitution;
- (d) (without limiting the effect of clause 5) agree to or seek any amendment to any Material Contract without the prior written consent of the Buyer;
- (e) except as permitted by clause 6.2, remove, divest or otherwise transfer any Asset (except the Excluded Tenements) out of that Company, except to ensure that the Company is cash free and debt free at Completion;
- (f) dispose of or create any Encumbrance, other than a Permitted Encumbrance, over, or declare itself the trustee of, any material Asset; or
- (g) authorise, or agree conditionally or otherwise to do, any of the things referred to in this clause 6.3,

provided that, subject to the Sellers' complying with clause 6.2, nothing in this clause 6.3 prevents Premier Coal from complying with its existing contractual commitments or, in the ordinary and usual course of business, from disposing of plant or equipment that is surplus to requirements if the written down value of any such item of plant or equipment is no more than \$100,000.

### 6.4 Operating Contracts

During the Interim Period, the Sellers must notify the Buyer as soon as practicable of any amendment to any Operating Contract.

### 6.5 Provision of Forecasts

The Seller will provide to the Buyer copies of any forecasts of tonnage requirements received by Premier Coal from its customers in accordance with the requirements of the relevant Material Contracts that are coal supply agreements, promptly following receipt of those forecasts.

### 6.6 Transition Agreement

- (a) As soon as practicable after the date of this agreement, the parties must constitute and each appoint appropriate members to a transition committee to develop an agreement to be observed by the parties in the Interim Period and after Completion (the **Transition Agreement**) to facilitate the orderly transfer of control of the Companies and the Business. The parties' intention is to execute the Transition Agreement before or at Completion.
- (b) The Transition Agreement is intended to provide for transition arrangements and transition management in relation to the matters set out in Schedule 7 which sets out the terms on which the parties to that Transition Agreement undertake the orderly transition of the running of the Business from the Sellers to the Buyer after Completion.
- (c) Notwithstanding any failure of the parties to execute the Transition Agreement by Completion, the parties will remain bound by the Transition Principles and will not take any action or fail to take any action which would contravene, or not be consistent with, the Transition Principles.

## 6.7 Premier Power Sales remains Seller Group Member

The Buyer acknowledges that, on and from Completion, Premier Power Sales is to remain a Seller Group Member. The Buyer consents to the Sellers doing, and the Sellers must do, all things necessary before Completion to procure that, on or before Completion, all of the issued shares of Premier Power Sales are transferred to a Seller Group Member, and at or before Completion provide satisfactory written evidence to the Buyer of the completion of that transfer.

## 6.8 St Georges Terrace Lease

The Sellers must use their reasonable endeavours to procure before or on Completion the consent of Australian City Properties Pty Ltd as the lessor of the premises leased by Premier Coal at Level 4, 182 St Georges Terrace, Perth to the change of control of Premier Coal which results from Completion. If that consent is not obtained before or on Completion, the Sellers must continue to use reasonable endeavours to procure that consent as soon as practicable after Completion. The Sellers must keep the Buyer regularly informed of the progress of the procurement of such consent.

## 6.9 Mokey and Scaddan Records

In the Interim Period, the Sellers must use reasonable endeavours clearly to identify and separate from the other records of the Companies the Mokey Records and the Scaddan Records to minimise any inconvenience or cost to Premier Coal arising from the exercise by the Sellers of their rights under clauses 11.3 and 11.6.

## 7. Material Adverse Change

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### 7.1 Onus and value

- (a) In the Interim Period, the Sellers must inform the Buyer as soon as practicable after the occurrence of any Force Majeure Event and, as soon as reasonably practicable thereafter, provide full details of the effect of the Force Majeure Event on the Business and the probable cost and time to ameliorate that effect, and such further relevant information in connection with that Force Majeure Event as the Buyer reasonably requires and of which the Sellers are aware after making due enquiry.
- (b) Despite clause 7.1(a), the onus is upon the Buyer to establish the existence and extent of any Material Adverse Change.
- (c) A **Material Adverse Change** occurs where, as a result of the occurrence of a Force Majeure Event a buyer who is bound to purchase the Shares in Premier Coal at arm's length on the terms and conditions set out in this agreement (a **Notional Buyer**) would reasonably form the view that the value of the Shares in Premier Coal had, by reason of that Force Majeure Event, been reduced by more than \$30 million, after recognising the value of and accounting for:
  - (i) and assessing the probability of recovery under all insurances available to Premier Coal in respect of the Force Majeure Event and its consequences; and
  - (ii) all binding commitments (including as to timing and responsibility for reinstatement) given by the Sellers to the Buyer to repair, reinstate or remediate the effects of that Force Majeure Event.

## 7.2 Occurrence of a Material Adverse Change

If a Material Adverse Change occurs:

- (a) if it wishes to exercise its rights under this clause 7 consequent upon a Material Adverse Change, the Buyer must, as soon as practicable in all the circumstances, submit a formal notice of a Material Adverse Change (the **Material Adverse Change Notice**) to the Sellers, which must include information which is relevant to calculating the amount by which a Notional Buyer would regard the Purchase Price as having been reduced by the Material Adverse Change (the **Value Diminution**); and
- (b) the Material Adverse Change Notice may also identify and list options for addressing the consequences of the Value Diminution for the transaction evidenced by this agreement, including the variation of the Purchase Price and the time for Completion, on which the Buyer is prepared to negotiate.

## 7.3 Meeting of Parties

Once any Material Adverse Change Notice has been given, the Parties must review and endeavour in good faith to agree on the amount of the Value Diminution. For this purpose, as soon as practicable after the Material Adverse Change Notice has been given, the parties must confer (in person or by video or telephone conference, as may be convenient) to review the detailed information and options set out in the Material Adverse Change Notice and attempt in good faith to agree on the amount of the Value Diminution. These meetings may include meetings between the respective senior officers of the Buyer and the Sellers.

## 7.4 Failure to agree

If the parties cannot agree under clause 7.3 on whether the amount of the Value Diminution is more or less than \$30 million, the question of the amount of the Value Diminution must be referred by the parties to Expert appointed by agreement between the parties or, failing agreement, in accordance with clause 7.6, for determination. The Expert must be instructed to make a determination as soon as reasonably practicable and no later than 28 days after the date of the Expert's appointment of the amount of the Value Diminution (and not simply whether it is more or less than \$30 million) that is, as far as practicable in the circumstances, fair to both the Buyer and the Sellers. Clause 9.6 applies to any such determination by an Expert, with such modifications as the context requires. The costs of the Expert are to be borne by the Buyer and Sellers equally.

## 7.5 Exclusive remedy

If the Value Diminution is agreed by the parties, or is determined by an expert under clause 7.6, to be not less than \$30 million (the date of that agreement or determination being the **Value Diminution Determination Date**):

- (a) the parties must, if either of them so requests, meet as soon as practicable after the Value Diminution Determination Date, to endeavour in good faith to agree to vary the Purchase Price having regard for the Value Diminution and the time for Completion, and other consequential changes to this agreement;
- (b) if no agreement is reached under clause 7.5(a) within 20 Business Days of the Value Diminution Determination Date, the Buyer may terminate this agreement by notice to the Sellers accordingly; and
- (c) if this agreement is terminated under clause 7.5(b), it is taken to have been rescinded *ab initio*.

## 7.6 Expert Determination

- (a) If a dispute arises under:
  - (i) clause 7.1(c) as to whether the amount of the Value Diminution is more or less than \$30 million; or
  - (ii) clause 7.4 as to the amount of the Value Diminution,the dispute must be settled by the Expert and expert determination administered by the ACDC.
- (b) The expert determination is to be conducted in Perth, Western Australia in accordance with the ACDC Rules for Expert Determination operating at the time the dispute is referred to ACDC. The Rules set out the procedures to be adopted, the process of selection of the expert and the costs involved. The terms of the Rules are hereby deemed incorporated into this agreement.
- (c) This clause 7.6 survives termination of this agreement.

## 7.7 Delay to Completion

Nothing in this clause 7 relieves a party from any of its obligations in the Interim Period, but if the Value Diminution has not been agreed or determined by the time at which Completion would otherwise occur, Completion is to be deferred until the date agreed by the parties under clause 7.5(a) or the Buyer properly terminates this agreement under clause 7.5.

## 8. Completion

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### 8.1 Time and place for Completion

Completion must take place:

- (a) at the Sellers' offices at Level 11, Wesfarmers House, 40 The Esplanade, Perth, Western Australia at 11 am on the date which is the last day of the month (that date being, in this clause 8.1(a), called the **Scheduled Completion Date**) in which the last of the Conditions to be satisfied or waived is satisfied or waived in accordance with clause 2.4 (that date being, in this clause 8.1(a), called the **Condition Satisfaction Date**), provided that if the Scheduled Completion Date is less than 2 Business Days after the Condition Satisfaction Date, Completion may be deferred at the request of either the Sellers or the Buyer until that day which is 2 Business Days after the Condition Satisfaction Date, but in that case will be effected with such adjustments as are necessary to ensure that the economic effect of Completion, as between the Sellers and the Buyer, is the same as it would have been had Completion occurred on the Scheduled Completion Date; or
- (b) at such other place, date or time as the Sellers and the Buyer agree in writing.

### 8.2 Provision of information before Completion

The Buyer must provide to the Sellers as soon as practicable after the date of this agreement and in any event prior to Completion:

- (a) the names of any director, secretary and public officer of each Company that the Buyer does not require to resign on Completion;



- (b) the names of each person that the Buyer requires to be appointed as a director, secretary or public officer of any Company together with a signed consent to act in that capacity;
- (c) the change of name which is to apply to each Company following Completion. For the avoidance of doubt, the name of the Company must be changed to remove any reference to “Wesfarmers” or any other Seller Group Name in accordance with the Buyer’s obligations under clause 13.2; and
- (d) the address of any new registered office that the Buyer requires any Company to adopt.

### **8.3 Preparation for Completion**

The parties must cooperate with each other in their preparations for Completion (including by the provision of draft documentation for checking and comment and exchanging calculations of the possible Completion Payment amount) to ensure, as far as is reasonably practicable, that Completion is able to be finalised on the date specified under clause 8.1 without difficulty or delay.

### **8.4 Sellers’ delivery obligations**

At Completion, the Sellers must deliver to the Buyer:

- (a) completed transfers of the Shares in favour of the Buyer as transferee duly executed by the registered holder as transferor and share certificates, or duly executed indemnities for lost share certificates, in respect of all Shares;
- (b) all statutory registers, minute books and other record books, financial records, including asset registers, management accounts, budgets, ledgers, journals, books of account and other Company Records and the common seal, if any, of each Company;
- (c) details of the ASIC corporate key of each Company, being an 8-digit number uniquely associated with a company’s ACN;
- (d) possession of each Property, all keys to each Property and all title documents and other documents held by each Company in connection with the ownership of each Property;
- (e) copies of all Due Diligence Material which is relevant to insurance policies and certificates of currency in relation to all insurances held by each Company applicable to the period ending at Completion (but the Buyer acknowledges that the insurances in respect of which the Companies have an interest, being insurances taken out by the corporate group of which the Companies are members on a group-wide basis, will terminate so far as the Companies are concerned upon their ceasing to be members of that corporate group at the time of Completion);
- (f) the written resignation of each director, secretary and public officer of each Company, together with written undertaking from each such person that the person has no Claim against the Company, except for any director, secretary or public officer notified by the Buyer under clause 8.2(a) and who has agreed to remain in office;

- (g) documentation required by the Buyer, acting reasonably, to evidence:
  - (i) the repayment of all indebtedness owing from any Seller Group Member to any Company procured in accordance with clause 10.1;
  - (ii) the repayment of all indebtedness owing from any Company to any Seller Group Member procured in accordance with clause 10.2;
  - (iii) the disposal of the issued shares in Premier Power Sales as referred to in clause 6.7; and
  - (iv) the procuring of the consent of Australian City Properties Pty Ltd, if available at Completion, as referred to in clause 6.8;
- (h) duly signed minutes of each meeting convened under clause 8.6 and documentation evidencing to the satisfaction of the Buyer, acting reasonably, the passing of the resolutions specified in clause 8.7;
- (i) a copy of the duly executed certificate relating to the Deed of Cross Guarantee specified in clause 12.2(a); and
- (j) an original counterpart of the Tax Release Deed duly executed by Wesfarmers and each Company and documentation evidencing to the satisfaction of the Buyer, acting reasonably the payment by each Company of the amount determined in accordance with clause 17.1.

## **8.5 Delivery method**

The documents and other items specified in:

- (a) clauses 8.4(b) and 8.4(e) and title documents, may be delivered to the Buyer by leaving that document or other item in a safe and appropriate place at the premises of Premier Coal at Level 4, 182 St Georges Terrace, Perth, Western Australia, save for those to form part of Completion under clause 8.6, 8.7 and 8.8, which will be delivered at Completion; and
- (b) clause 8.4(d), save for title documents, may be delivered to the Buyer by leaving that document or other item in a safe and appropriate place at the administration centre of Premier Coal at I Premier Road, Collie, Western Australia.

At Completion the Sellers must provide the Buyer with a list indicating the physical location of each class of documents listed in clause 8.4, and to the extent relevant, clauses 8.6, 8.7 and 8.8.

## **8.6 Board meetings**

The Seller must procure that on or before Completion a meeting of the directors of each Company is convened and the directors resolve, subject to Completion occurring:

- (a) if required, to declare and pay a dividend equal to the amount of cash held by the Companies but only in circumstances where each such dividend is declared and paid to effect the sale and purchase of the Companies on a cash free and debt free basis, subject always to the provisions of the Corporations Act;
- (b) in the case of the Companies to approve the registration of the Buyer as the holder of the Shares subject to payment of any duty payable on the transfer of the Shares;
- (c) to record the resignation of each director, secretary and public officer of each Company whose resignation effective from Completion is to be delivered under clause 8.4(f);

- (d) to appoint as directors, secretaries and public officers of each Company each person notified under clause 8.2(b);
- (e) to change the registered office of each Company to the address notified under clause 8.2(d);
- (f) to revoke each existing authority to operate any bank account of each Company and approve such new authority as may be provided by the Buyer to the Seller before the relevant board meeting;
- (g) to revoke any existing powers of attorney granted by each Company (other than the power of attorney granted under clause 11.9(c));
- (h) to cancel all current share certificates of each Company and approve the issue of new share certificates to the Buyer;
- (i) to authorise each relevant company secretary to update each Company register and notify ASIC in relation to any changes resulting from resolutions actioned in accordance with this clause 8.6; and
- (j) to record the resignation of any auditors of each Company.

#### **8.7 Shareholder resolutions**

The Sellers must:

- (a) procure that on Completion a resolution of the shareholders of each Company is passed at a general meeting of each Company or in accordance with section 249B of the Corporations Act approving the change of the name of each Company to the relevant name which is notified under clause 8.2(c); and
- (b) deliver to the Buyer on Completion a copy of the resolution referred to in clause 8.7(a).

#### **8.8 Buyer payment and delivery obligations**

At Completion the Buyer must pay the Completion Payment to the Sellers and must deliver to the Sellers documentation evidencing to the satisfaction of the Sellers, acting reasonably, the release of each Seller Group Guarantee procured in accordance with clause 12.1.

#### **8.9 Interdependence of obligations at Completion**

The obligations of the parties under clauses 8.4, 8.6, 8.7 and 8.8 are interdependent and must be performed, as nearly as possible, simultaneously. If any obligation specified in clauses 8.4, 8.6, 8.7 or 8.8 is not performed on or before Completion then, without limiting any other rights of the parties, Completion is taken not to have occurred and any document delivered, or payment made, under clause 8.4 or clause 8.8 must be returned to the party that delivered it or paid it.

#### **8.10 Notice to complete**

If Completion does not occur in accordance with this clause 8 because of the failure of any party (the **Defaulting Party**) to satisfy any of its obligations under this clause 8 then:

- (a) the Buyer (where the Defaulting Party is a Seller); or
- (b) the Sellers (where the Defaulting Party is the Buyer),

(in either case the **Non-Defaulting Party**) may give the Defaulting Party a notice requiring the Defaulting Party to satisfy those obligations within a period of 5 Business Days after the date of the notice and specifying that time is of the essence in relation to that notice.

#### **8.11 Remedies for failure to comply with notice**

If the Defaulting Party fails to comply with a notice given under clause 8.10, the Non-Defaulting Party may without limiting its other rights or remedies available under this agreement or at law:

- (a) immediately terminate this agreement, in which case the Non-Defaulting Party may seek damages for breach of this agreement; or
- (b) seek specific performance of this agreement, in which case:
  - (i) if specific performance is obtained the Non-Defaulting Party may also seek damages for breach of this agreement; and
  - (ii) if specific performance is not obtained the Non-Defaulting Party may then terminate this agreement in which case the Non-Defaulting Party may seek damages for breach of this agreement.

#### **8.12 Measure of damages**

If the Non-Defaulting Party terminates this agreement under clause 8.11, without limiting the Non-Defaulting Party's other rights or remedies available under this agreement or at law, and notwithstanding clause 15.11, the damages recoverable by the Non-Defaulting Party for breach of this agreement include all Indemnified Losses.

#### **8.13 Title and risk**

Beneficial ownership of and risk in the Shares will pass from the Sellers to the Buyer on Completion.

### **9. Adjustment to Purchase Price**

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#### **9.1 Stocktake**

For the purposes of preparing the Completion Balance Sheet, the parties must procure that a Stocktake of all Inventory of the Companies is carried out as at 07:00 hours Perth local time on the date of Completion by employees of the Companies. The following provisions apply in relation to the Stocktake:

- (a) the Stocktake may be attended by up to 2 Representatives of the Buyer and up to 2 Representatives of the Sellers;
- (b) all Inventory counts must be recorded in stock sheets which must be signed by the person carrying out the Stocktake and the person who checks the Stocktake; and
- (c) the Inventory recorded in the stock sheets must be valued in accordance with the principles and policies referred to in clause 9.2 for the purposes of preparing the Completion Balance Sheet.

#### **9.2 Preparation and delivery of Completion Balance Sheet and Draft Completion Capital Expenditure Amount**

The Buyers must, by no later than 40 Business Days after Completion, prepare and deliver to the Sellers:

- (a) a draft of a combined statement of financial position of the Companies as at Completion (the **Draft Completion Balance Sheet**) prepared in accordance with:
  - (i) the specific principles and policies set out in Schedule 10;
  - (ii) to the extent that the treatment of any item is not dealt with in the principles and policies set out in Schedule 10, the accounting principles and policies adopted by the Companies in the preparation of the Base Balance Sheet; and
  - (iii) to the extent that the treatment of any item is not dealt with in the principles and policies referred to in clauses 9.2(a)(i) and 9.2(a)(ii), the Accounting Standards in force as at Completion; and
- (b) a draft calculation of the Completion Capital Expenditure Amount (the **Draft Completion Capital Expenditure Amount**) in accordance with the requirements of clauses 6.2(b), 6.2(d) and 6.2(e).

### **9.3 Sellers response to Draft Completion Balance Sheet and Draft Completion Capital Expenditure Amount**

The Sellers must, within 20 Business Days after the date on which it receives the Draft Completion Balance Sheet and Draft Completion Capital Expenditure Amount, give notice to the Buyer either:

- (a) stating that the Sellers agree with the Draft Completion Balance Sheet and Draft Completion Capital Expenditure Amount; or
- (b) stating that the Sellers do not agree with either or both of the Draft Completion Balance Sheet and Draft Completion Capital Expenditure Amount in one or more of the respects specified in clause 9.3(b)(i) and specifying:
  - (i) the account item of the Draft Completion Working Capital Amount or the component of the Draft Completion Capital Expenditure Amount that it disputes (each a **Disputed Item**);
  - (ii) the grounds on which it disputes each such Disputed Item; and
  - (iii) the proposed adjustment to each Disputed Item,

provided that no adjustment may be proposed by the Sellers unless the amount of that adjustment exceeds \$100,000, and the aggregate amount of all adjustments proposed by the Sellers exceeds \$500,000.

If the Sellers gives notice under clause 9.3(a) that it agrees with the Draft Completion Balance Sheet and Draft Completion Capital Expenditure Amount or if, at the conclusion of the 20 Business Day period referred to in this clause 9.3, the Sellers have not provided to the Buyer a notice complying with either clause 9.3(a) or 9.3(b), then the Draft Completion Balance Sheet and Draft Completion Capital Expenditure Amount constitute the Completion Balance Sheet and Completion Capital Expenditure Amount for the purposes of this agreement.

### **9.4 Assistance from the Buyer**

The Buyer must procure that each Company provides all assistance reasonably required to enable the Sellers to review the Draft Completion Balance Sheet and Draft Completion Capital Expenditure Amount, including by providing access to the Sellers to the Company Records, the employees of any Company and the Properties at reasonable times and on reasonable notice, provided such access does not adversely interrupt the operations of the Business.

## **9.5 Resolution of disputes and finalisation of Completion Balance Sheet and Completion Capital Expenditure Amount**

If, within the 20 Business Day period referred to in clause 9.3, the Sellers give notice under clause 9.3(b) (a **Dispute Notice**) that they dispute a Disputed Item then:

- (a) the Draft Completion Balance Sheet and Draft Completion Capital Expenditure Amount are final and conclusive of all matters specified in it which are not specified in the Dispute Notice;
- (b) the Buyer and the Sellers must confer and use all reasonable endeavours to resolve each Disputed Item within 20 Business Days after the Dispute Notice is given to the Buyer;
- (c) if any Disputed Item is not resolved between the Buyer and the Sellers within the 20 Business Day period referred to in clause 9.5(b), then the Disputed Items must be referred to one of the Firm of Accountants as an Expert as agreed by the Buyer and the Sellers in writing or, failing such agreement within 10 Business Days, appointed by the ACDC) on the application of either the Buyer or the Sellers, for resolution in accordance with clause 9.6;
- (d) the Draft Completion Balance Sheet and Draft Completion Capital Expenditure Amount must be adjusted to reflect the resolution of all Disputed Items resolved in accordance with clause 9.5(b) and the determination of all Disputed Items determined in accordance with clause 9.5(c) and clause 9.6; and,
- (e) the Draft Completion Balance Sheet and Draft Completion Capital Expenditure Amount as adjusted under clause 9.5 (d) will constitute the Completion Balance Sheet and Completion Capital Expenditure Amount for the purposes of this agreement.

## **9.6 Determination by the Expert**

The Buyer and the Sellers must procure that the Expert determines the Disputed Items referred to the Expert under clause 9.5 (c) in accordance with the following provisions:

- (a) the Buyer and the Sellers must instruct the Expert to:
  - (i) decide the Disputed Items in accordance with the terms of this agreement and within the shortest possible time but, in any event, within 20 Business Days after the Disputed Items are referred to the Expert; and
  - (ii) provide a report to the Buyer and the Sellers stating the determination of the Expert in relation to each Disputed Item referred to the Expert;
- (b) subject to clauses 9.6(d) to 9.6(f), the Expert must decide the procedure to be followed to determine the Disputed Items referred to the Expert;
- (c) the Buyer and the Sellers must provide the Expert with any information and assistance reasonably required by the Expert to determine the Disputed Items referred to the Expert;
- (d) all correspondence between a party and the Expert must be in writing and copied to the other parties, including any submissions, or comments on a submission, made by a party to the Expert;

- (e) the Expert must provide a draft report to the parties prior to making his or her final decision;
- (f) each party has the right to:
  - (i) provide written comment on the other party's submissions to the Expert; and
  - (ii) review and provide written comment to the Expert on the Expert's draft report;
- (g) the Expert acts as an independent expert and not as an arbitrator and the decision of the Expert is final and binding on the Buyer and the Sellers in the absence of manifest error; and
- (h) the Seller must pay the costs of the Expert.

## **10. Repayment of indebtedness**

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### **10.1 Indebtedness owed to the Companies**

The Sellers must procure that, on or before Completion, all indebtedness owed from any Seller Group Member to any Company is repaid in full together with all interest accrued up to Completion or otherwise discharged and extinguished in full.

### **10.2 Indebtedness owed to any Seller Group Member**

The Sellers must procure that, on or before Completion, all indebtedness owed from any Company to any Seller Group Member is repaid in full together with all interest accrued up to Completion or otherwise discharged and extinguished in full. The Sellers must advise the Buyer in writing as soon as practicable when this has been done.

### **10.3 Actions to extinguish**

The actions referred to in clauses 10.1 and 10.2 may include:

- (a) repaying or forgiving any amounts owed by the Seller Group Member to the Company or owed by the Company to the Seller Group Member, as the case may be, other than trade creditors;
- (b) setting off any amounts owed by the Seller Group Member to the Company against amounts owed by the Company to the Seller Group Member, and vice versa; or
- (c) causing the Company to issue additional Shares to a Seller and applying the subscription monies for those Shares to discharge and extinguish indebtedness owed by the Company to any Seller Group Member.

## **11. Scaddan JV and Mokey JV**

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### **11.1 Novation of Scaddan Interest**

The Buyer acknowledges that:

- (a) on 24 March 2011 Premier Coal entered into the Scaddan Deed of Novation pursuant to which the Scaddan Interest was assigned or novated to Wesfarmers Resources and, as from that date, Premier Coal ceased to have any right, title or interest in the Scaddan Interest; and

- (b) under the terms of the Scaddan Deed of Novation, Premier Coal was released from all liabilities and obligations in respect of the Scaddan Interest.

### **11.2 Vesting of Scaddan Interest**

Following Completion, the Buyer must procure that Premier Coal promptly does all further acts and executes and delivers all further documents required by law or reasonably requested by Wesfarmers Resources to give effect to the terms of the Scaddan Deed of Novation.

### **11.3 Scaddan Records**

The Buyer acknowledges and agrees that Wesfarmers Resources is entitled to, and will retain, the Scaddan Records on Completion. If Premier Coal retains possession of any of the Scaddan Records following Completion, then Premier Coal holds those records on behalf of Wesfarmers Resources and the Buyer must procure that Premier Coal makes those records available to Wesfarmers Resources on request such that Wesfarmers Resources may at its discretion, retain those records or view and copy them. Premier Coal is entitled to be reimbursed by Wesfarmers Resources for its reasonable costs incurred in complying with this clause 11.3.

### **11.4 Assignment of Mokey JV**

- (a) If not already entered into before the date of this Agreement, the Buyer acknowledges that Premier Coal and Wesfarmers Resources may enter into a deed of covenant (**Mokey Deed of Covenant**):
  - (i) whereby the right and benefit of Premier Coal under the Mokey Joint Venture Agreement is assigned by Premier Coal to Wesfarmers Resources; and
  - (ii) binding Wesfarmers Resources, as the assignee of Premier Coal's Interest (as that term is defined in the Mokey Joint Venture Agreement), to perform and observe the obligations of Premier Coal under the Mokey Joint Venture Agreement to the intent that Wesfarmers Resources shall thereafter be treated as if an original party to the Mokey Joint Venture Agreement but without releasing Premier Coal from liability in respect of such obligations provided however that performance by Wesfarmers Resources of those obligations under the Mokey Joint Venture Agreement shall pro tanto discharge Premier Coal from liability in respect of such obligations.
- (b) If the Mokey Deed of Covenant has not been entered into before Completion, the Buyer must procure that Premier Coal upon a request by Wesfarmers Resources promptly executes and delivers to Wesfarmers Resources the Mokey Deed of Covenant.

### **11.5 Vesting of Mokey Interest**

Following Completion, the Buyer must procure that Premier Coal promptly does all further acts and executes and delivers all further documents required by law or reasonably requested by Wesfarmers Resources to give effect the Mokey Deed of Covenant.

### **11.6 Mokey Records**

The Buyer acknowledges and agrees that Wesfarmers Resources is entitled to, and will retain, the Mokey Records on Completion. If Premier Coal retains possession of any of the Mokey Records following Completion, then Premier Coal holds those Records on behalf of Wesfarmers Resources and the Buyer must procure that Premier Coal makes those Records available to Wesfarmers Resources on request, such that Wesfarmers Resources may at its discretion, retain those Records or view and copy them. Premier Coal is entitled to be reimbursed by Wesfarmers Resources for its reasonable costs incurred in complying with this clause 11.6.



## **11.7 Indemnity**

- (a) Subject to the provisions of this clause 11, Wesfarmers Resources indemnifies and agrees to defend Premier Coal and hold it harmless from and against all and any liability incurred by Premier Coal in relation to the Mokey Claim or any act or omission by Premier Coal under or in connection with the Mokey JV, whenever arising and whether or not the Mokey Deed of Covenant is entered by Premier Coal.
- (b) Subject to the provisions of this clause 11, Wesfarmers Resources indemnifies and agrees to defend Premier Coal and hold it harmless from and against all and any liability incurred by Premier Coal in relation to the Scaddan Interest arising after the effective date of the Scaddan Deed of Novation.
- (c) Wesfarmers Resources indemnifies and agrees to defend Premier Coal and hold it harmless from and against all and any liability incurred by Premier Coal in relation to Premier Power Sales arising as a result of or in connection to the divestment of Premier Power.
- (d) The liability of Wesfarmers Resources under this clause 11.7 is not limited by any express or implied limitation on the liability of the Sellers under any other provision of this Agreement.

## **11.8 No admissions**

Following Completion, Premier Coal must not admit, compromise, settle or pay the Mokey Claim or take any other step which may in any way prejudice the defence or challenge of the Mokey Claim, except with the prior written consent of Wesfarmers Resources or as required by law.

## **11.9 Conduct of proceedings**

- (a) As between Wesfarmers Resources and Premier Coal, Wesfarmers Resources is entitled exclusively to initiate, conduct and defend all legal proceedings brought by or against Premier Coal in connection with the Mokey Claim or the Mokey JV (if it exists) and to settle or compromise any such legal proceedings as it sees fit, and give effectual receipts or discharges in respect of all matters relating to them in all respects.
- (b) Wesfarmers Resources must keep Premier Coal fully informed of the progress of, and consult with Premier Coal as it may reasonably request in relation to any such proceedings.
- (c) Prior to Completion, the Sellers may procure that Premier Coal irrevocably appoints Wesfarmers Resources as its agent and attorney for the purposes of clause 11.9(a).
- (d) Following Completion, the Buyer must procure that Premier Coal complies with all and any reasonable directions by Wesfarmers Resources in respect of:
  - (i) the conduct and management of, and response to, any legal proceedings including the Mokey Claim;
  - (ii) the settlement of any legal proceedings, including the Mokey Claim; and

- (iii) the Mokey JV (if it exists) or the Mokey Joint Venture Agreement, including, without limiting clause 11.9(c), procuring that Premier Coal promptly executes and delivers all documents required by Wesfarmers Resources in relation to the Mokey Claim.

#### **11.10 General obligations**

- (a) Following completion, the Buyer must promptly forward to Wesfarmers Resources copies of any correspondence, documents or information received by premier coal from Mokey or its Representatives or otherwise in respect of any legal proceedings, including the Mokey Claim.
- (b) Without limiting clause 11.6, the Buyer must ensure that Wesfarmers Resources and its Representatives are given access to such documents, records and personnel of Premier coal as may be required by Wesfarmers Resources in relation to any action taken or proposed to be taken by Wesfarmers Resources under clause 11.9. This would include taking copies of any such documents and records. premier coal is entitled to be reimbursed by Wesfarmers Resources for its reasonable costs incurred in complying with this clause 11.10(b),

### **12. Release of Guarantees**

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#### **12.1 Seller Group Guarantees**

The Buyer must procure the release, with effect from Completion, of each Seller Group Member from any actual, contingent or accrued liabilities under each Seller Group Guarantee, including by providing to the beneficiary under each Seller Group Guarantee an equivalent Guarantee and any information or document reasonably required by that beneficiary as a condition of releasing that Seller Group Guarantee.

#### **12.2 Deed of Cross Guarantee**

Without limiting clause 12.1, the parties must take all steps necessary to ensure that the Deed of cross Guarantee ceases to apply to Premier coal in the manner contemplated by clause 4.2(c) of the Deed of Cross Guarantee by Completion. Further, and in particular:

- (a) at Completion the Seller must lodge with ASIC and give to the Buyer a copy of a certificate executed by the directors of Wesfarmers in the form PF25 prescribed by ASIC certifying that the sale of the Shares is a bona fide sale and that the consideration for the sale is fair and reasonable;
- (b) the Buyer must procure that on the next Business Day following the Completion Date each of the Companies lodges with ASIC a notice of disposal in the form PF25 prescribed by ASIC and a copy of the certificate provided by Wesfarmers under clause 12.2(a); and
- (c) the Seller must procure an executed deed of release from the trustee of the Deed of Cross Guarantee in the form PF26 prescribed by ASIC whereby Premier Coal is released in accordance with clause 4.4 of the Deed of cross Guarantee.

## **13. Other obligations following Completion**

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### **13.1 Access to Records**

In addition to any other rights of access under this agreement, the Buyer must procure that for a period of 18 months after Completion (or for any longer period required by law) each Company retains all Company Records and makes available to the Sellers and their Representatives, to view and to copy as required, on reasonable notice and at the expense of the Sellers any Records or personnel of any Buyer Group Member which are reasonably required by a Seller:

- (a) to enable any Seller Group Member to prepare accounts, tax returns and other statutory returns or fulfil any other obligation relating wholly or partly to any period before Completion; or
- (b) in connection with the prosecution or defence of any claim by or against any Seller Group Member.

provided that the Buyer is not required to comply with any request under this clause 13.1 to the extent that doing so is reasonably likely to result in a waiver of privilege in relation to any document or breach any obligation of confidentiality owed by any Company. The Buyer must use, and must procure that each Company uses, all reasonable endeavours to obtain any consents required to provide access to any requested Records which are the subject of any obligations of confidentiality owed by any Company.

### **13.2 Seller Group Names**

The Buyer acknowledges that the relevant Seller Group Member remains the owner of all trade marks, brand names and business names containing the names “Wesfarmers”, including the mark or brand  (Seller Group Names), and the Buyer must not and must procure that each Company does not use any trade mark, brand name, business name, domain name or corporate name that contains or includes a Seller Group Name or is deceptively similar to a Seller Group Name, except as provided in the Transition Agreement.

### **13.3 Notification of Premier Coal’s exit from Seller Group**

As soon as practical after Completion, the Seller must, in accordance with the terms of the relevant Assumption Deed, provide notice to Verve and Vinalco that Premier Coal has ceased to be a wholly owned subsidiary of Wesfarmers.

### **13.4 Benefits to Sellers after Completion**

If the Sellers receive any material benefit after Completion relating to the Shares which should properly accrue to the Companies or either of them, including any misdirected payments, then the Sellers must account to the Buyer for such benefit within 10 Business Days of the Sellers receiving such benefit.

## **14. Warranties**

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### **14.1 Warranties**

The Sellers warrant to the Buyer that each warranty is true and correct as at:

- (a) the date of execution of this agreement; and
- (b) the time immediately prior to Completion,

unless the Warranty is expressed to be given only at a particular time in which case it is given as at that time.

### **14.2 Warranties separate**

Each Warranty is to be treated as a separate warranty and is not limited by reference to any other warranty or any other provision of this agreement.

### **14.3 Buyer's acknowledgments**

The Buyer acknowledges and agrees that:

- (a) the Buyer has made and has relied on its own searches, investigations and enquiries in respect of the Companies, the Business and the Assets and its own evaluation of any material provided by the Sellers to the Buyer or its Representatives before the date of this agreement including the Due Diligence Materials;
- (b) as part of its due diligence investigations and enquiries in respect of each Company, the Business and the Assets, the Buyer or its Representatives have had access to all relevant documents and information they have requested from the Sellers or their Representatives;
- (c) the Buyer has extensive knowledge and experience of the coal mining industry and has had the benefit of independent legal, financial and technical advice relating to its proposed purchase of the Shares and the terms of this agreement;
- (d) no Seller Group Member has made and no Representative of any Seller Group Member has made any warranty as to the accuracy of any forecast, budget, estimate, projection, statement of opinion or statement of intention provided to the Buyer or its Representatives before the date of this agreement;
- (e) the Buyer is not entering into this agreement in reliance on, and it may not rely on, any forecast, budget, estimate, projection, statement of opinion, statement of intention or any other warranty, representation or other statement made or purporting to be made by or on behalf of any Seller Group Member, or its Representatives, other than the Warranties;
- (f) the disclosure of any matter in or by virtue of the Disclosure Letter does not constitute or imply any warranty, representation, statement, covenant, agreement, indemnity or undertaking not expressly given by the Sellers in this agreement and the contents of the Disclosure Letter do not have the effect of extending the scope of any of the Warranties or the other provisions of this agreement; and
- (g) any Claim by any Buyer Group Member must be based solely on and limited to the express provisions of this agreement and that, to the maximum extent permitted by law, all terms and conditions that may be implied by law in any jurisdiction and which are not expressly set out in this agreement are excluded (and to the extent that any such terms and conditions cannot be excluded then the Buyer irrevocably waives all rights and remedies that it may have in relation to, and releases the Sellers and each of their Representatives from any liability in respect of, such terms and conditions).

### **14.4 Sellers' acknowledgments**

The Sellers acknowledge that the Companies (and any officeholders and employees of the Companies) do not give any representation or warranty as to the accuracy of any information given by the Companies and that the Sellers waive any Claim or Tax Claim either or both may have against the Companies.

### **14.5 Warranties by the Buyer**

The Buyer warrants to the Sellers:

- (a) that each Buyer Warranty is true and correct as at the date of execution of this agreement and as at the time immediately prior to Completion; and

- (b) that as at the date of this agreement it has no knowledge of any breach of any Warranty.

## **15. Limitations of liability**

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### **15.1 Disclosure and knowledge**

The Sellers are not liable in respect of a Warranty Claim if the fact, matter or circumstance giving rise to the Warranty Claim:

- (a) is fairly disclosed in the Due Diligence Materials or the Disclosure Letter;
- (b) would have been disclosed to the Buyer had the Buyer conducted searches 2 Business Days before the date of this agreement of the following public records, being the announcements of Wesfarmers on the Australian Securities Exchange, the public records (where and to the extent that the results of those searches are available immediately on-line) maintained by ASIC, the Federal Court of Australia, the IP Australia the public registers of the Western Australian Department of Mines and Petroleum (other than in respect of Mining Lease M262SA), Landgate, the National Native Title Tribunal and the Registrar of Aboriginal Sites;
- (c) was known to the Buyer or its Representatives before the date of this agreement including as a result of their due diligence inquiries; or
- (d) was something that the Buyer could reasonably be expected to know having regard to the expertise expected of an experienced participant in the coal mining industry and its Representatives.

### **15.2 Time limits for Claims**

The Sellers are not liable in respect of any Claim unless:

- (a) the Buyer gives the Sellers written notice describing in reasonable detail each fact, matter or circumstance giving rise to the Claim and stating why such fact, matter or circumstance gives rise to a Claim and including an estimate of the amount of the Claim (**Claim Notice**) promptly after the Buyer first becomes aware of that fact, matter or circumstance and has had a reasonable opportunity to evaluate and quantify its estimate of the amount of the Claim;
- (b) the Claim Notice is received by the Sellers no later than:
  - (i) (without limiting clauses 17.3 and 17.4) 5 years after Completion in respect of a Claim arising out of a breach of a Tax Warranty; and
  - (ii) 18 months after Completion in respect of any other Claim;
- (c) within 6 months after the Claim Notice is received by the Sellers either the Claim has been satisfied or settled or the Buyer has commenced legal proceedings against the Sellers in respect of the Claim; and
- (d) the relevant Company to which the fact, matter or circumstance giving rise to the Claim relates is a Related Entity of the Buyer on the date the Claim Notice is received by the Sellers.

### **15.3 Access to information**

The Sellers are not liable in respect of a Claim unless promptly after the Buyer gives a Claim Notice the Buyer gives the Sellers, at the Sellers' cost, access to all Records relating to the Claim the subject of that Claim Notice and allows the Sellers a period of 20 Business Days to investigate the facts, matters or circumstances that may give rise to the Claim.

#### **15.4 Minimum amount for Warranty Claims**

The Sellers are not liable in respect of a Warranty Claim unless the amount that the Buyer would be entitled to recover in relation to that Warranty Claim is at least \$1,500,000.

#### **15.5 Insurance coverage**

The Sellers are not liable in respect of a Claim to the extent that any Buyer Group Member recovers under any contract of insurance maintained for the benefit of the Companies immediately before Completion in respect of any fact, matter or circumstance giving rise to the Claim.

#### **15.6 Other limitations**

The Sellers are not liable in respect of any Claim to the extent that:

- (a) the fact, matter or circumstance giving rise to the Claim is provided for or otherwise taken into account in the Completion Balance Sheet;
- (b) the loss or damage giving rise to the Claim is recovered by any Buyer Group Member under another Claim or a Tax Claim or is made good or otherwise compensated for without cost to any Buyer Group Member;
- (c) the fact, matter or circumstance giving rise to the Claim gives rise to any Tax Benefit to any Buyer Group Member;
- (d) the circumstances giving rise to the Claim are remedied by the Sellers to the satisfaction of the Buyer, acting reasonably, within 30 Business Days after receiving the Claim Notice from the Buyer;
- (e) the Claim arises out of anything done or omitted to be done in accordance with the terms of this agreement or with the prior written approval of the Buyer;
- (f) the Claim arises directly out of any voluntary act, omission or transaction carried out after Completion by or on behalf of any Buyer Group Member;
- (g) the Claim arises from any matter referred to in clause 17.4(f) or clause 17.4(g);
- (h) the amount of the Claim is increased as a result of the failure of the Buyer to comply with its obligations under clause 16 in respect of that Claim; or
- (i) the Claim arises from a change in any legislation or regulation, any judicial or administrative interpretation of the law or any practice or policy of a Regulatory Authority after the date of this agreement (whether or not retrospective in effect),

but for the avoidance of doubt the Seller remains liable for the balance of any Claim.

#### **15.7 Maximum recovery**

- (a) The maximum aggregate amount recoverable by the Buyer from the Sellers in relation to all Claims, other than a Claim that the Sellers have failed to pass unencumbered legal title to and beneficial ownership of the Shares to the Buyer on Completion, is that amount equal to 30% of the Purchase Price.

- (b) The maximum aggregate amount recoverable by the Buyer from the Sellers in relation to a Claim that the Sellers have failed to pass unencumbered legal title to and beneficial ownership of the Shares to the Buyer on Completion is an amount equal to the Purchase Price less the aggregate amount of all other Claims paid or payable to the Buyer, plus all legal and other professional expenses on a solicitor-client basis incurred in connection with investigating, disputing, defending or settling any such Claim.

### **15.8 Rights against third parties**

If a Seller has made a payment to the Buyer in relation to any Claim and any Buyer Group Member has or subsequently obtains a right to recover an amount from any person other than a Seller in connection with the fact, matter or circumstance that gave rise to the Claim, the Buyer must:

- (a) promptly notify the Sellers of that right of recovery and provide such information in relation to the circumstances giving rise to that right as the Sellers may reasonably require; and
- (b) take or procure that the relevant Buyer Group Member takes all steps that it could reasonably be expected to take to enforce that right of recovery, having regard for its legitimate interest in protecting its ongoing relationships with its customers and those of the Companies.

### **15.9 Reimbursement of benefits subsequently received**

If a Seller has made a payment to the Buyer in respect of a Claim (**Claim Amount**) and after such payment is made any Buyer Group Member receives any payment, benefit or credit (including any Tax Benefit) by reason of the fact, matter or circumstance to which the Claim relates (**Recovery Amount**), then the Buyer must as soon as reasonably practicable repay to the Sellers an amount equal to the lesser of the Claim Amount and the Recovery Amount less:

- (a) all costs incurred by any Buyer Group Member in recovering the Recovery Amount; and
- (b) any Tax payable by any Buyer Group Member as a result of receiving the Recovery Amount.

### **15.10 Mitigation**

Nothing in this agreement relieves any person from any duty at law to mitigate any loss or damage that it may suffer or incur as a result of any breach of this agreement (including a breach of any Warranty).

### **15.11 Exclusion of certain losses**

No party is liable to any other party for any loss or damage resulting from a breach of this agreement (including a breach of any Warranty) except where and to the extent that:

- (a) the loss or damage flows naturally or in the usual course of things from the breach; and
- (b) the breach causes:
  - (i) in the case of a breach by the Sellers, a diminution in the value of the Shares as at Completion; or

- (ii) in the case of a breach by the Buyer, a diminution in the proceeds, or a delay in receipt, of the sale of the Shares available to the Sellers from Completion,

and except where and to the extent that this agreement specifically provides that some other type or category of loss or damage is recoverable.

#### **15.12 No action against officers and employees**

The Buyer waives and must procure that each other Buyer Group Member waives all rights and claims that it may have personally against the Officers and employees of any Seller Group Member in relation to any matter arising directly or indirectly in connection with the This agreement or the sale of the Shares. The parties acknowledge and agree that:

- (a) the Sellers have sought and obtained this waiver as agent for and on behalf of each Seller Group Member's respective Officers and employees and hold the benefit of this clause 15.12 as trustee for them; and
- (b) the provisions of this clause 15 .12 may be enforced by the Sellers on behalf of and for the benefit of each Seller Group Member's respective Officers and employees and those persons may plead this clause 15 .12 in answer to any claim made by a Buyer Group Member against them.

#### **15.13 Indemnity**

Nothing in this clause 15 applies to any liability of Wesfarmers Resources under clause 11.7.

### **16. Third Party Claims**

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#### **16.1 Notice**

Without limiting any other rights of the Sellers under this agreement, if after Completion the Buyer becomes aware of any Third Party Claim which may give rise to a Warranty Claim, the Buyer must promptly after becoming aware of the Third Party Claim, and evaluating and quantifying its estimate of the amount of the Third Party Claim give the Sellers notice of the Third Party Claim (including reasonable details of the facts, matters or circumstances giving rise to the Third Party Claim, the basis of the Third Party Claim and an estimate of the amount of the Third Party Claim).

#### **16.2 Obligations after notice given**

If the Buyer gives notice under clause 16.1 then until the Third Party Claim has been finally resolved or the Sellers gives notice under clause 16.3:

- (a) the Buyer must act and must procure that each relevant Company acts in good faith and with due diligence in relation to the Third Party Claim;
- (b) each party must give to the other parties such information and assistance as the other parties may reasonably require in relation to the Third Party Claim and must regularly consult with the other parties in relation to the conduct of any proceedings or negotiations in relation to the Third Party Claim; and
- (c) a party must not do anything, or permit a party (including a Company) to do anything that would admit, compromise, settle, pay, agree or prejudice the right to defend or challenge the Third Party Claim without the prior written consent of the other parties.



### **16.3 Assumption of conduct by Sellers**

The Sellers may at any time before a Third Party Claim notified under clause 16.1 is finally resolved give notice to the Buyer assuming the conduct of the defense of the Third Party Claim.

## **17. Taxation**

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### **17.1 Exit from Seller Consolidated Group**

The Sellers must:

- (a) procure that until the Completion Date each Company remains a subsidiary member of the Seller Consolidated Group;
- (b) no later than 2 Business Days before Completion procure that Wesfarmers gives to each Company a calculation of the Exit Payment for that Company; and
- (c) no later than one Business Day before Completion procure that each Company pays to Wesfarmers the Exit Payment for that Company and provide to the Buyer written evidence of such payment having been made.

### **17.2 Tax indemnity**

The Sellers must pay to the Buyer in accordance with this clause 17 the amount of any Tax that the Companies or either of them is liable to pay in respect of or by reference to any matter or event occurring or which is taken to have occurred on or before the Completion Date.

### **17.3 Time limit for Tax Claims resulting from ATO Assessments**

Without limiting clause 15.2(b)(i), the Sellers are not liable in respect of any amount asserted by the Australian Taxation Office in a Tax Claim unless notice of the Tax Assessment giving rise to the Tax Claim is given to the Sellers under clause 18 no later than 5 years after Completion.

### **17.4 Other limitations**

The Sellers are not liable in respect of any Tax Claim to the extent that:

- (a) provision for the Tax which is the subject of the Tax Claim has been included in the Completion Balance Sheet;
- (b) the amount otherwise payable in respect of the Tax Claim has been recovered by the Buyer under a Warranty Claim;
- (c) the fact, matter or circumstance giving rise to the Tax Claim gives rise to any Tax Benefit to any Buyer Group Member;
- (d) the Tax Claim arises out of anything done or omitted to be done in accordance with the terms of this agreement or with the prior written approval of the Buyer;
- (e) the Tax Claim arises directly out of any voluntary act, omission or transaction carried out by or on behalf of any Buyer Group Member after Completion;
- (f) the Tax Claim arises from the failure of any Buyer Group Member after Completion to make any valid claim or election in relation to Tax or to lodge in a timely manner any return, notice or other document relating to Tax;

- (g) the Tax Claim arises from a change by any Buyer Group Member after Completion in any claim or election in relation to Tax made before Completion or the amendment after Completion of any Tax return of any Buyer Group Member relating to a period ending on or before Completion (except where that amendment is required by law or is approved by the Sellers in writing before it is made);
- (h) the amount of the Tax Claim is increased as a result of the failure of the Buyer to comply with the provisions of clause 18;
- (i) the Tax Claim arises from a change in any legislation or regulation relating to Tax, any judicial or administrative interpretation of such legislation or regulation or any practice or policy or public or private ruling of any Tax Authority after the date of this agreement (whether or not retrospective in effect); or
- (j) the Tax which is the subject of the Tax Claim is GST which is recoverable from the recipient of a supply or for which an input tax credit is available,

but for the avoidance of doubt the Seller remains liable for the balance of any Tax Claim.

## **17.5 Refunds**

If a Seller has made a payment to the Buyer under this clause 17 (**Tax Payment Amount**) and any Buyer Group Member receives any refund in respect of the fact, matter or circumstance in respect of which that payment was made (**Tax Refund Amount**) then the Buyer must as soon as reasonably practicable after receipt pay to the Sellers an amount equal to the lesser of the Tax Payment Amount and the Tax Refund Amount less:

- (a) all costs incurred by any Buyer Group Member in obtaining such refund; and
- (b) if a refund includes interest on overpaid Tax, the amount of Tax payable on that interest by the recipient of the refund.

## **18. Tax Assessments**

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### **18.1 Notice**

If after Completion the Buyer or any Company receives or proposes to lodge any Tax Assessment which is reasonably likely to give rise to a Tax Claim the Buyer must as soon as reasonably practicable give the Sellers notice of the Tax Assessment (including a copy of each document received or proposed to be lodged in connection with the Tax Assessment).

### **18.2 Obligations after notice given**

If the Buyer gives notice under clause 18.1 :

- (a) the Buyer must give and must procure that each relevant Company gives to the Sellers all information and assistance that the Sellers may reasonably require in relation to the Tax Assessment;
- (b) the Buyer must not and must procure that each relevant Company does not:
  - (i) in the case of a Tax Assessment received from a Tax Authority, engage in any discussion or negotiation with or confer with any Tax Authority concerning the Tax Assessment or make any admission of liability, agreement, settlement or compromise with any Tax Authority in respect of the Tax Assessment; or

- (ii) in the case of a Tax Assessment proposed to be lodged with any Tax Authority, lodge that Tax Assessment, without the prior written consent of the Sellers, which consent must not be unreasonably withheld or delayed; and
- (c) in the conduct of any dispute or negotiation with any Tax Authority in relation to the matter the subject of the notice, the Sellers and the Buyer must consult and keep each other fully informed and, where the Sellers propose any settlement or compromise of the dispute or negotiation, they must obtain the prior written consent of the Buyer to that settlement or compromise, which consent must not be withheld or delayed unreasonably.

### **18.3 Sellers' response to notice**

The Sellers may, within 40 Business Days after notice is given under clause 18.1 in relation to a Tax Assessment, give notice to the Buyer requiring the Buyer to comply with the terms of clause 18.4 in relation to the Tax Assessment.

### **18.4 Effect of Sellers' notice**

If the Sellers gives notice under clause 18.3 in relation to a Tax Assessment then:

- (a) the Buyer must allow and must procure that each Company allows the Sellers to take over the conduct of all proceedings and negotiations in relation to the Tax Assessment and to settle or compromise the Tax Assessment with the prior written consent of the Buyer, which consent must not be unreasonably withheld or delayed and the Buyer must procure that each Company appoints the Sellers as their representative for this purpose;
- (b) the Buyer must procure that each relevant Company:
  - (i) responds to the Tax Assessment in such manner as the Sellers may request including by giving notice of objection to the Tax Assessment;
  - (ii) provides the Sellers and their professional advisers with such access to the employees and records of each relevant Company as the Sellers may reasonably require in connection with the Tax Assessment and permits the Sellers to take copies of such records;
  - (iii) uses all reasonable endeavours (including the reimbursement of all out of pocket expenses) to procure that employees of each Company provide such witness statements and other evidence as the Sellers may reasonably require to avoid, dispute, settle or compromise the Tax Assessment; and
  - (iv) takes all other action that the Sellers may request to avoid, dispute, settle or compromise the Tax Assessment including instituting legal proceedings or seeking any administrative law remedy;
- (c) the Sellers must keep the Buyer properly informed of all matters relating to the Tax Assessment, must provide to the Buyer copies of all correspondence and other documents relating to the Tax Assessment in a timely manner and must permit the Buyer or its Representatives to attend all meetings with any Tax Authority relating to the Tax Assessment; and

- (d) the Sellers must pay to the Buyer on demand the amount of any reasonable cost or expense incurred by the Buyer or any Company arising out of or in connection with any action taken by the Buyer or any Company under this clause 18.4.

### **18.5 Buyer's rights to settle**

If the Sellers do not give notice under clause 18.3 then without limiting the Buyer's other rights under this agreement, the Buyer and each relevant Company are entitled to settle, compromise or pay the Tax Assessment on any reasonable terms.

## **19. Tax returns and tax audits**

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### **19.1 Tax returns relating to periods ending before Completion**

The Sellers are responsible for preparing and lodging with the appropriate Tax Authority all returns required to be lodged in relation to the Tax affairs of any Company in relation to any period ending on or before Completion that have not been prepared and lodged on or before Completion and the Sellers must prepare and lodge all such returns, including income tax returns, fringe benefits tax returns, superannuation guarantee returns and payroll tax returns, as soon as reasonably practicable after Completion.

### **19.2 Assistance from Buyer**

The Buyer must provide to the Sellers at the Sellers' own cost all information and assistance reasonably required by the Sellers (including reasonable access to employees and records of the Companies) in connection with the preparation of the returns referred to in clause 19.1.

### **19.3 Tax returns relating to periods ending after Completion**

The Buyer is responsible for preparing and lodging with the appropriate Tax Authority all returns required to be lodged in relation to the Tax affairs of any Company in relation to any period ending after Completion. Without limiting the provisions of clause 18, the Buyer must, in respect of all returns in relation to the period in which Completion occurs:

- (a) prepare all such returns with due care, skill and diligence and as soon as reasonably practicable after the end of the relevant period;
- (b) where the estimated liability attributable to the period prior to Completion is greater than the amount provided for in the Completion Balance Sheet, give to the Sellers drafts of all such returns and any other documents to be provided to any Tax Authority in relation to such returns before submission to the relevant Tax Authority and permit the Sellers a reasonable opportunity to comment on those documents;
- (c) lodge all such returns and other documents with the relevant Tax Authority as soon as practicable after receipt of the Sellers' comments (and in any event within any time period required by law) and, where the estimated liability attributable to the period prior to Completion is greater than the amount provided for in the Completion Balance Sheet, provide a copy of the lodged documents to the Sellers' and
- (d) where the estimated liability attributable to the period prior to Completion is greater than the amount provided for in the Completion Balance Sheet, provide the Sellers with copies of all relevant correspondence with any Tax Authority in relation to such returns after lodgement.

#### **19.4 Assistance from Sellers**

The Sellers must provide to the Buyer at the Buyer's own cost all information and assistance reasonably required by the Buyer (including reasonable access to employees and records of any Seller Group Member) in connection with the preparation of any returns referred to in clause 19.3 where any part of the period in relation to which the return is required is before Completion.

#### **19.5 Tax audits**

If after Completion any audit in relation to the Tax affairs of any Company is commenced that relates in whole or in part to the period before Completion then the Buyer and the Sellers must give each other all reasonable assistance in relation to that audit. The Sellers must bear the reasonable costs of providing that assistance, including advisers' costs.

### **20. Confidentiality**

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#### **20.1 No announcement or other disclosure of transaction**

Except as permitted by clause 20.2:

- (a) the Sellers must keep confidential, and must:
  - (i) procure that each Seller Group Member and each of their respective Representatives, keeps confidential; and
  - (ii) until Completion procure that each Company and each of their respective Representatives, keeps confidential, the existence of and the terms of this agreement and all negotiations between the parties in relation to the subject matter of this agreement; and
- (b) the Buyer must keep confidential, and must procure that each Buyer Group Member and each of their respective Representatives keeps confidential, the existence of and the terms of this agreement, all negotiations between the parties in relation to the subject matter of this agreement and all other information given to it under this agreement, including the Due Diligence Materials and any information that is the property of any Seller Group Member.

#### **20.2 Permitted disclosure**

Nothing in this agreement prevents a person from disclosing matters referred to in clause 20.1:

- (a) if disclosure is required to be made by law or the rules of a recognised stock or securities exchange and the party whose obligation it is to keep matters confidential or procure that those matters are kept confidential:
  - (i) has not through any voluntary act or omission (other than the execution of this agreement) caused the disclosure obligation to arise; and
  - (ii) has before disclosure is made notified each other party of the requirement to disclose and, where the relevant law or rules permit and where practicable to do so, given each other party a reasonable opportunity to comment on the requirement for and proposed contents of the proposed disclosure;
- (b) if disclosure is made by way of a written announcement, the terms of which have been agreed in writing by the parties prior to the making of the announcement;

- (c) if disclosure is reasonably required to enable a party to perform its obligations under this agreement;
- (d) to any professional adviser of a party who has been retained to advise in relation to the transactions contemplated by this agreement or to the auditor of a party;
- (e) to any financier who has made a bona fide proposal to provide finance to a party in relation to the transactions contemplated by this agreement;
- (a) if that person is the Buyer, and the Buyer obtains written consent from the Sellers to disclose those confidential matters outlined in clause 20.1;
- (f) if that person is the Sellers, and the Sellers obtain written consent from the Buyer to disclose those confidential matters outlined in clause 20.1;
- (g) where the matter has come into the public domain otherwise than as a result of a breach by any party of this agreement.

### **20.3 No use or disclosure of Confidential Information**

The Sellers must not at any time after Completion use or disclose to any person other than the Buyer and its Representatives any Confidential Information except if disclosure is required to be made by law or with the prior written approval of the Buyer.

## **21. Termination**

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### **21.1 Termination by Buyer**

The Buyer may terminate this agreement at any time before Completion:

- (a) in accordance with clause 2.5, 7.5(b) or 8.11 (and it may elect to treat this agreement as having been repudiated by the Sellers in accordance with clause 5(c)); or
- (b) by notice to the other parties if there is a breach of the Warranty set out in paragraph 1.3 of Schedule 8 or the Warranty set out in paragraph 3.3 of Schedule 8,

but is not entitled to terminate or rescind this agreement for any other reason (including if there is a breach of any other Warranty before Completion).

### **21.2 Termination by Sellers**

The Sellers may terminate this agreement at any time before Completion:

- (a) in accordance with clause 2.5 or 8.11 ; or
- (b) by notice to the other parties if there is a breach by the Buyer of the Buyer Warranty set out in paragraph 1.3 of Schedule 8,

but is not entitled to terminate or rescind this agreement for any other reason.

### **21.3 Effect of termination**

If this agreement is terminated then:

- (a) the provisions of this agreement shall cease to have effect, except for the provisions of clauses 1, 5, 8.12 and 20, this clause 21 and clauses 23 to 27 which survive termination;

- (b) each party retains the rights it has against the others in respect of any breach of this agreement occurring before termination; and
- (c) the Buyer must return to the Sellers all Confidential Information in its possession.

## **22. Payments**

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### **22.1 Direction**

Any reference in this agreement to a payment to any party includes payment to another person at the direction of that party.

### **22.2 Method of payment**

Payment of any amount due under this agreement by any party must be made by the paying party to the recipient party by:

- (a) real time gross settlement electronic funds transfer to an account with an Australian bank specified by the recipient party to the paying party at least [3] Business Days before the due date for payment and confirmed by the paying party to the recipient party by notice; or
- (b) other immediately available funds.

### **22.3 No deduction**

Any payment to be made under this agreement must be made free and clear of any deduction or withholding, except where that deduction or withholding is required or compelled by law.

### **22.4 Gross-up for withholdings**

Any person who is required or compelled by law to make any deduction or withholding from any amount payable under this agreement must, to the extent permitted by law, pay to the payee an additional amount sufficient to ensure that the amount received by the payee equals the full amount that would have been received by the payee, if that deduction or withholding had not been required or compelled.

### **22.5 Default interest**

If any party (the **Payor**) fails to make a payment to any other party (the **Payee**) under this agreement on or before the due date for payment, then, without limiting any other remedy of the Payee, the Payor must pay to the Payee upon demand interest on the due amount calculated at the Standard Rate, with interest to accrue from the due date to the day immediately before the actual date of payment, calculated daily on the basis of a 365 day year and capitalised monthly.

## **23. Goods and Services Tax**

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### **23.1 Interpretation**

The parties agree that:

- (a) except where the context suggests otherwise, terms used in this clause 23 have the meanings given to those terms by the GST Act (as amended from time to time);
- (b) any part of a supply that is treated as a separate supply for GST purposes (including attributing GST payable to tax periods) will be treated as a separate supply for the purposes of this clause 23; and

- (c) any consideration that is specified to be inclusive of GST must not be taken into account in calculating the GST payable in relation to a supply for the purpose of this clause 23.

### **23.2 Reimbursements and similar payments**

Any payment or reimbursement required to be made under this agreement that is calculated by reference to a cost, expense, or other amount paid or incurred will be limited to the total cost, expense or amount less the amount of any input tax credit to which an entity is entitled for the acquisition to which the cost, expense or amount relates.

### **23.3 GST payable**

If GST is payable in relation to a supply made under or in connection with this agreement then any party (**Recipient**) that is required to provide consideration to another party (**Supplier**) for that supply must pay an additional amount to the Supplier equal to the amount of that GST at the same time as other consideration is to be provided for that supply or, if later, within 5 Business Days of the Supplier providing a valid tax invoice to the Recipient.

### **23.4 GST exclusive amounts**

All payment amounts specified in this agreement are GST exclusive unless stated otherwise.

### **23.5 Variation to GST payable**

- (a) If the GST payable in relation to a supply made under or in connection with this agreement varies from the additional amount paid by the Recipient under clause 23.3 then the Supplier will provide a corresponding refund or credit to, or will be entitled to receive the amount of that variation from, the Recipient. Any ruling, advice, document or other information received by the Recipient from the Australian Taxation Office in relation to any supply made under this agreement shall be conclusive as to the GST payable in relation to that supply. Any payment, credit or refund under this paragraph is deemed to be a payment, credit or refund of the additional amount payable under clause 23.3.
- (b) If there is an adjustment event in relation to a supply which results in the amount of GST on a supply being different from the amount in respect of GST already recovered by the Supplier, as appropriate, the Supplier:
  - (i) may recover from the Recipient the amount by which the amount of GST on the supply exceeds the amount already recovered; or
  - (ii) must refund to the Recipient the amount by which the amount already recovered exceeds the amount of GST of the supply; and
  - (iii) must issue an Adjustment Note in relation to the supply to the Recipient within 28 days of the adjustment event.

## **24. Notices**

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### **24.1 How notice to be given**

Each communication (including each notice, consent, approval, request and demand) under or in connection with this agreement:

- (a) may be given by personal service, post or facsimile;



- (b) must be in writing and in English (or accompanied by a certified translation into English);
- (c) must be addressed as follows (or as otherwise notified by that party to each other party from time to time):
  - (i) if to the Sellers:  
Attention: Company Secretary  
Address: 11<sup>th</sup> Floor, 40 The Esplanade  
PERTH WA 6000  
Fax number: 61 8 9327 4290
  - (ii) if to the Buyer:  
Attention: Company Secretary  
Address: Level 11  
68 York Street  
Sydney NSW 2000  
Fax number: 61 2 8243 5399
- (d) (in the case of personal service, post or facsimile) must be signed by the party making it or (on that party's behalf) by the solicitor for, or any attorney, director, secretary or authorised agent of, that party; and
- (e) must be delivered by hand or posted by prepaid post to the address or sent by fax to the number of the addressee, in accordance with clause 24.1(c).

#### **24.2 When notice taken to be received**

Each communication (including each notice, consent, approval, request and demand) under or in connection with this agreement is taken to be received by the addressee:

- (a) (in the case of prepaid post sent to an address in the same country) on the third day after the date of posting;
- (b) (in the case of prepaid post sent to an address in another country) on the fifth day after the date of posting by airmail;
- (c) (in the case of fax) at the time in the place to which it is sent equivalent to the time shown on the transmission confirmation report produced by the fax machine from which it was sent; and
- (d) (in the case of delivery by hand) on delivery,

but if the communication would otherwise be taken to be received on a day that is not a working day or after 5.00 pm, it is taken to be received at 9.00 am on the next working day ("working day" meaning a day that is not a Saturday, Sunday or public holiday and on which banks are open for business generally, in the place to which the communication is posted, sent or delivered).

## **25. Entire agreement**

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The This agreement constitute the entire agreement between the parties in relation to their subject matter including the sale and purchase of the Shares and supersede all previous agreements and understandings between the parties in relation to their subject matter.

## **26. General**

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### **26.1 Amendments**

This agreement may only be varied by a document signed by or on behalf of each party.

### **26.2 Assignment**

A party cannot assign or otherwise transfer any of its rights under this agreement without the prior consent of each other party.

### **26.3 No novation**

Nothing in this agreement constitutes an agreement to or a pre-authorisation of any novation of this agreement by any person.

### **26.4 Consents**

Unless this agreement expressly provides otherwise, a consent under this agreement may be given or withheld in the absolute discretion of the party entitled to give the consent and to be effective must be given in writing.

### **26.5 Costs**

Except as otherwise provided in this agreement, each party must pay its own costs and expenses and the Sellers must pay any costs and expenses of each Company in connection with negotiating, preparing, executing and performing this agreement.

### **26.6 Counterparts**

This agreement may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes an original of this agreement, and all together constitute one agreement. Sufficient counterparts are to be executed and exchanged to enable the Buyer to hold two counterparts executed by the Sellers and the Sellers to hold two counterparts executed by the Buyer, and each party must execute the copies so provided to it.

### **26.7 Further acts and documents**

Each party must promptly do all further acts and execute and deliver all further documents (in form and content satisfactory to that party, acting reasonably) required by law or reasonably requested by another party to give effect to this agreement.

### **26.8 No merger**

A party's rights and obligations do not merge on completion of any transaction under this agreement.

### **26.9 Severance**

If any provision or part of a provision of this agreement is held or found to be void, invalid or otherwise unenforceable (whether in respect of a particular party or generally), it will be deemed to be severed to the extent that it is void or to the extent of violability, invalidity or unenforceability, but the remainder of that provision will remain in full force and effect.

## **26.10 Duties**

The Buyer:

- (a) must pay all duties under the Duties Act 2008 (WA) and any related fines and penalties in respect of this agreement, the performance of this agreement and each transaction effected by or made under this agreement;
- (b) must pay to the Sellers on demand the amount of any Indemnified Loss suffered or incurred by the Sellers arising out of or in connection with any failure to comply with clause 26.10(a); and
- (c) is authorised to apply for and retain the proceeds of any refund due in respect of stamp duty paid under this clause 26.10; and
- (d) will not be responsible to pay any duties under the Duties Act 2008 (WA) which become liable to be paid as a result of any pre-Completion restructures undertaken by the Sellers in relation to the Companies.

## **26.11 Waivers**

Without limiting any other provision of this agreement, the parties agree that:

- (a) failure to exercise or enforce, or a delay in exercising or enforcing, or the partial exercise or enforcement of, a right, power or remedy provided by law or under this agreement by a party does not preclude, or operate as a waiver of, the exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under this agreement;
- (b) a waiver given by a party under this agreement is only effective and binding on that party if it is given or confirmed in writing by that party; and
- (c) no waiver of a breach of a term of this agreement operates as a waiver of another breach of that term or of a breach of any other term of this agreement.

## **27. Governing law and jurisdiction**

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### **27.1 Governing Law**

This agreement and the transactions contemplated by this agreement are governed by the law in force in Western Australia.

### **27.2 Submission to Jurisdiction**

- (a) Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Western Australia, the Federal Court of Australia in Western Australia and courts of appeal from them for determining any dispute concerning this Agreement or the transactions contemplated by this agreement.
- (b) Except to the extent inconsistent with an express provision of this agreement to submit matters to an alternative forum for dispute resolution or mediation, each party waives any right it has to object to an action being brought in those courts including claiming that the action has been brought in an inconvenient forum or that those courts do not have jurisdiction.

### **27.3 Service of Process**

Without preventing any other mode of service, any document in an action (including any writ of summons or other originating process or any third or other party notice) may be served on any party by being delivered to or left for that party at its address for service of communications in accordance with clause 24.1(c).

### Schedule 1—Details of the Companies

<b>Name</b>	Wesfarmers Premier Coal Limited
<b>ABN</b>	21 008 672599
<b>Issued capital</b>	7,771,358 ordinary shares (see Note 1)
<b>Registered shareholders</b>	Wesfarmers Coal Resources Pty Ltd ABN 33 009 030 139
<b>Place of registration</b>	Western Australia
<b>Directors</b>	Stewart Anthony Butel Richard James Barr Goyder Patrick Duncan Warrant Robert Brenchley William John Masson Moody Michael Garth Ball Terence James Bowen Michael William Dixon William Roderick Ash
<b>Secretary</b>	Linda Jayne Kenyon
<b>Auditor</b>	Ernst & Young
<b>Registered Office</b>	Level 11 Wesfarmers House 40 The Esplanade Perth WA 6000

Note 1: This excludes any shares that may be issued to satisfy the Sellers' obligations under clause 10.2.

<b>Name</b>	Wesfarmers Char Pty Ltd
<b>ABN</b>	77 009 379 597
<b>Issued capital</b>	1,000,000 ordinary shares (see Note 1)
<b>Registered shareholders</b>	Wesfarmers Chemicals, Energy & Fertilisers Limited ABN 48 008 797 402
<b>Place of registration</b>	Western Australia
<b>Directors</b>	Robert Brenchley Stewart Anthony Butel

Patrick Duncan Warrand  
William John Masson Moody  
Michael Garth Ball  
Michael William Dixon  
William Roderick Ash

**Secretary**

Linda jayne Kenyon

**Auditor**

Ernst & Young

**Registered Office**

Level 11 Wesfarmers House  
40 The Esplanade  
Perth WA 6000

Note 1: This excludes and shares that may be issued to satisfy the Sellers' obligations under clause 10.2

## Schedule 2—Material Contracts

### Part I—Material Contracts

- 1.1 The State Agreement.
- 1.2 The Joint Boundary Mining Agreement.
- 1.3 The Verve Coal Supply Agreement, being the agreement dated 17 August 2005 between Premier Coal and Verve for the supply of coal,
- 1.4 The Vinalco Coal Supply Agreement, being the:
  - (a) agreement dated 20 August 2010 between Premier Coal and Vinalco for the supply of coal; and
  - (b) side deed dated 20 August 2010 between Premier Coal, Vinalco, Verve and Wesfarmers.
- 1.5 Worsley Coal Supply Agreement, being the agreement dated 7 June 2011 between Premier Coal and Worsley for the supply of coal.
- 1.6 Iluka Special Supply Contract, being the agreement dated 15 September 2011 between Premier Coal and Iluka Resources Limited.

### Part 2—Material Contracts subject to change of control provisions

The Joint Boundary Mining Agreement.

### Part 3—Operating Contracts

- 1.1 Tiwest Coal Supply Agreement, being the agreement dated 1 September 2009 between Premier Coal and Tiwest Pty Ltd.
- 1.2 Cable Sands Coal Supply Terms Sheet Agreement, being the agreement dated 8 August 2011 between Premier Coal and Cable Sands (WA) Pty Ltd.
- 1.3 Equipment Construction/Lease/Operations and Maintenance Deed, being the undated agreement between Premier Coal and Lime Systems – Bulk Storage Solutions Pty Ltd.
- 1.4 The Letter of Intent dated 11 August 2011 from Premier Coal to Liebherr Australia Pty Ltd regarding 2013 Supply of Liebherr R996B and R9350 Hydraulic Excavators and the associated purchase order.
- 1.5 The Letter of Intent dated 11 August 2011 from Premier Coal to Westrac Pty Ltd regarding 2013 Supply of Seven (7) Caterpillar 793F Off Highway Haul Trucks and the associated purchase order.
- 1.6 Electricity Supply Agreement, being the agreement between Premier Coal and Premier Power Sales Pty Ltd dated 11 June 2007.
- 1.7 Service Support and Earthmover Tyre Supply Agreement, being the agreement dated 16 December 2010 between Premier Coal and Bridgestone Earthmover Pyres Pty Ltd.
- 1.8 Equipment Hire Agreement – EX2500 Hitachi Hydraulic Excavator Contract, being the undated agreement between Premier Coal and Piacentini & Son Pty Ltd as varied from time to time.

- 1.9** Supply of Liebherr Litronic R9968 in Backhoe Configuration Contract, being the agreement dated 23 September 2010 between Premier Coal and Liebherr Australia Pty Ltd.
- 1.10** Supply of Liebherr Backhoe Attachment Contract, being the agreement dated, 23 November 2010 between Premier Coal and Liebherr Australia Pty Ltd.
- 1.11** Curtailment Capacity Supply Agreement, being the agreement dated 28 July 2010 between Premier Coal and Premier Power Sales Pty Ltd.
- 1.12** Australian Coal Association Research Program Deed of Agreement, being the deed dated 23 November 2009 between Premier Coal and Australian Coal Research Limited (ACR).
- 1.13** Contribution Deed relating to the ACALET Program, being the deed dated 29 June 2007 between Premier Coal and ACA Low Emissions Technologies Limited (ACALET).
- 1.14** ARG Interface Co-Ordination Plan for the definition and management of the Loading of Coal at Premier, being the agreement dated 28 June 2007 between Premier Coal and Australia Western Railroad Pty Ltd.
- 1.15** Form of Unconditional Financial Undertaking, being the deed dated 6 May 1998 between Wesfarmers Federation Insurance Limited and the Commissioner of Main Roads.
- 1.16** Agreement made in May 1949 between Kathleen Griggs, Wilfred James Griggs (Owners) and Francis Edward Walsh and Samson Simpson (Applicants).
- 1.17** Corridor Access and Conveyor Operating Deed, being the deed dated 2 September 1998 between Wesfarmers Coal Limited and Western Power Corporation.
- 1.18** Agreement for Relocation of Collie-Lake King Main Road, being the undated agreement between Premier Coal (at the time, Wesfarmers Coal Limited), the Griffin Coal Mining Company Pty Limited, the Shire of Collie and the Commissioner of Main Roads.
- 1.19** Letter Agreements for the re-location of the Collie-Lake King Road, being the letter from the Griffin Coal Mining Company Pty Limited to Wesfarmers Coal Limited dated 23 April 1998 and the letter from Wesfarmers Coal Limited to Griffin Coal dated 7 May 1998 and signed 13 May 1998.
- 1.20** Heavy Vehicle Access Road Agreement, being the agreement dated 30 April 1998 between Wesfarmers Coal Limited and The Griffin Coal Mining Company Pty Limited.
- 1.21** Siding Connection Licence, being the undated agreement between WestNet Rail Pty Ltd and Premier Coal.
- 1.22** Stage 3 Dewatering Program Pit 1 Deep and Pit 3 Contract, being the agreement dated 17 March 2010 between Premier Coal, Sanders Investment (Bunbury) Pty Ltd as trustee for the M.A. and K.J. Sanders Family Trust (trading as “Think Water Bunbury”).

### Schedule 3—Tenements

#### Part 1—Granted Tenements

Tenement	Status	Registered holder	Area	Grant	Expiry
P12/13	Live	Premier Coal (100%)	73ha	19/08/2008	18/08/2012
M262SA	Live	Premier Coal (100%)	13,380 ha	25/06/1987	24/06/2028
M12/8	Live	Premier Coal (100%)	82 ha	25/02/1994	24/02/2015
M12/13	Live	Premier Coal (100%)	12ha	22/01/1992	21/01/2013
M12/14	Live	Premier Coal (100%)	8ha	22/08/1995	21/08/2016
M12/27	Live	Premier Coal (100%)	3ha	28/06/2000	27/06/2021
R70/25	Live	Premier Coal (100%)	624ha	29/06/2001	28/06/2016
P70/932	Live	Premier Coal (100%)	182ha	08/01/1993	07/01/1995
P70/933	Live	Premier Coal (100%)	197 ha	08/01/1993	07/01/1995
P70/1515	Live	Premier Coal (100%)	103 ha	22/12/2008	21/12/2012
M70/781	Live	Premier Coal (100%)	483 ha	13/10/1994	12/10/2015
M70/930	Live	Premier Coal (100%)	680 ha	17/03/1999	16/03/2020
M70/931	Live	Premier Coal (100%)	905 ha	17/03/1999	16/03/2020

#### Part 2—Applications

Tenement	Status	Registered applicant	Area	Grant	Expiry
M12/12	Pending	Premier Coal (100%)	126ha	—	—
M12/22	Pending	Premier Coal (100%)	17 ha	—	—
M12/23	Pending	Premier Coal (100%)	49ha	—	—
M12/28	Pending	Premier Coal (100%)	877 ha	—	—
E12/4	Pending	Premier Coal (100%)	4B1	—	—
M70/973	Pending	Premier Coal (100%)	379ha	—	—



## Schedule 4—Real Property

### Part 1 - Freehold property

#### Real Property Master List as at 19 May 2011

Land description	Vol/Folio	Registered proprietor	Date of registration
Lot 51 on Deposited Plan 222273	1535/81	Premier Coal (Western Collieries) <sup>1</sup>	23-Dec-88
Lot 100 on Deposited Plan 45820	2600/724	Premier Coal (Western Collieries)	13-Sep-05
Lot 3119 on Deposited Plan 143018	1376/778	Premier Coal (Western Collieries)	1-Apr-97
Lot 3604 on Deposited Plan 143549	1453/4	Premier Coal (former name Western Collieries)	17-Oct-80
Lot 3645 on Deposited Plan 143576	1629/589	Premier Coal (former name Western Collieries)	28-Aug-96
Lot 3646 on Deposited Plan 143576	1629/590	Premier Coal (Western Collieries)	14-Mar-97
Lot 3647 on Deposited Plan 143576	1629/588	Premier Coal (Western Collieries)	22-Jul-96
Lot 3648 on Deposited Plan 143576	1603/827	Premier Coal (Western Collieries)	31-Jan-96
Lot 3651 on Deposited Plan 143576	1603/828	Premier Coal (Western Collieries)	2-May-95
Lot 4361 on Deposited Plan 156490	1461/878	Premier Coal (Western Collieries)	10-Jan-97
Lot 4762 on Deposited Plan 166321	1662/859	Premier Coal (Western Collieries)	1-Apr-98
Lot 4357 on Deposited Plan 156502	1245/897	Premier Coal (Western Collieries)	29-Jan-76
Lot 1 on Diagram 33153	20/310A	Premier Coal (Western Collieries)	12-Mar-93
Lot 2 on Diagram 42758	604/114A	Premier Coal (Western Collieries)	12-Jul-89
Lot 4408 on Deposited Plan 156813	1215/750	Premier Coal (Western Collieries)	21-Mar-88
Lot 1 on Diagram 42732	1332/260	Premier Coal (Western Collieries)	12-Jul-89
Lot 1458 on Deposited Plan 160904	1342/327	Premier Coal (Western Collieries)	8-Jul-93
Lot 166 on Diagram 62832	1619/668	Premier Coal (Western Collieries)	4-Jan-89
Lot 2133 on Deposited Plan 127536	1955/568	Premier Coal (Western Collieries)	12-Mar-93
Lot 2163 on DP 127765, Lot 4088 on DP 149579	1955/572	Premier Coal (Western Collieries)	12-Mar-93
Lot 289 on Deposited Plan 222275	2101/111	Premier Coal (Western Collieries)	25-Mar-97
Lot 302 on DP 35482, Lot 4250 on DP 115837	2223/627	Premier Coal (Western Collieries)	12-Nov-02
Lot 4349 on Deposited Plan 156423	1188/809	Premier Coal	22-Sep-03
Lot 4148 on Deposited Plan 149941	1215/537	Premier Coal	22-Sep-03
Lot 2299 on Deposited Plan 128152	1582/495	Premier Coal	22-Sep-03
Lot 2300 on Deposited Plan 128153	1582/496	Premier Coal	22-Sep-03
Lot 3654 on Deposited Plan 143576	1624/799	Premier Coal (Wesfarmers Coal)	30-Mar-98
Lot 2 on Diagram 19252	1658/39	Premier Coal (Wesfarmers Coal)	12-Feb-99
Lot 2337 on Deposited Plan 128726	1896/546	Premier Coal (Wesfarmers Coal)	22-Dec-99
Lot 303 on Diagram 95745	2146/152	Premier Coal (Wesfarmers Coal)	22-Oct-98

<sup>1</sup> Note: The bracketed name is the company name which appears on the relevant certificate of title and which is a former name for Premier Coal, that is, either Western Collieries Ltd or Premier Coal Ltd.

Lot 301 on Diagram 95745	2146/150 Premier Coal (Wesfarmers Coal)	22-oct-98
Lot 4 on Plan 19720	2009/646 Premier Coal (Wesfarmers Coal)	22-Dec-99
Lot 101 on Deposited Plan 45821	2600/723 Premier Coal (Wesfarmers Coal)	13-Sep-05

**Part 2 - Leasehold property**

<b>Property</b>	<b>Lessee</b>	<b>Lessor</b>	<b>Title identifier</b>	<b>Date of lease</b>
Sublease: Mining Lease 262SA	Wesfarmers Char	Premier Coal	Sublease: Mining Lease 262SA	18.04.07
Part of Level 4, 182 St Georges Terrace, Perth	Premier Coal	Australian City Properties Pty Ltd	CT Volume 2227 Folio 925	29.06.09

## Schedule 5—Intellectual Property and Domain Names

### Part 1—Registered Intellectual Property Rights

#### *Patents and Trade Marks*

<u>Description</u>	<u>Registered proprietor</u>	<u>Registration/ application number</u>	<u>Country</u>	<u>Status</u>	<u>Issue date</u>
Patent	Premier Coal	AU2003243816	Australia	Granted	03.07.2002
Patent	Premier Coal	MY-135406-A	Malaysia	Granted	30.04.2008
Patent	Premier Coal	1342334	Taiwan	Granted	21.05.2011
Trade Mark	Premier Coal	1305568	Australia	Granted	22.06.2009

### Part 2—Domain Names

<u>Domain Name</u>	<u>Registrant</u>	<u>Registrar</u>	<u>Last Updated</u>
www.premiercoal.com.au	Wesfarmers Premier Coal Limited ACN 008 672 599	Melbourne IT	22 July 2009

## Schedule 6—Seller Group Guarantees

### Insurance Bond—Collie—Lake King Road relocation

An unconditional financial undertaking dated 6 May 1998 (Undertaking) initially provided by Wesfarmers Federation Insurance Limited (now Wesfarmers Federation Insurance Pty Ltd ABN 18 009 027 221) (**WFI**) in favour of Wesfarmers Coal Limited ACN 008 672 599 (now Premier Coal) as security under an agreement between Premier Coal and the Commissioner of Main Roads for the relocation of the Collie—Lake King main road to pay on demand to the Commissioner any sum or sums which may be demanded by the Commissioner to an amount not exceeding AU\$4,000,000 in aggregate.

Note that, by virtue of an Order of the Federal Court of Australia dated 18 March 2009, all of the insurance business, assets and liabilities of WFI were statutorily vested in Wesfarmers General Insurance Limited ABN 24 000 036 279 with effect on 31 March 2009 pursuant to a scheme effected under Part III Division 3A of the Insurance Act 1973 (Cth). As a result, the unconditional financial undertaking is now provided by that company.

## Schedule 7—Transition

The parties agree that:

- A. the principles set out in this schedule are the key transition arrangements to be incorporated into the Transition Agreement (**Transition Principles**);
- B. the parties will meet as soon as practicable during the Interim Period to negotiate, in good faith, the contents and final form of the Transition Agreement (which for the avoidance of doubt will include, but is not limited to, the Transition Principles); and
- C. the parties will provide all assistance and resources and do all things reasonably required to enable the Transition Agreement to be agreed, finalised and executed.

### 1. Services

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- (a) The Transition Agreement which include transitional arrangements relating to the:
  - (i) *Oracle Services* which include the provision of Oracle brand information technology systems server and network infrastructure, systems administration and data base administration services, and applications support services on a continuity of service basis, including provision of existing disaster recovery and back-up services, that are used by the Company as the one source of information to manage and assist in forecasting key financial data including; payroll & HR, general ledger, fixed assets recording and depreciation, accounts payable, accounts receivable, procurement, inventory (warehouse), contract management, enterprise asset management (maintenance), financial reporting, Oracle scorecard and links from mine activity to costs;
  - (ii) *FPe Services* which include the provision of access to the FPe system, systems administration and upkeep of existing FPe reports for the following functions; registering, tracking and management of safety and environmental incidents, sharing of information, links to procedures and registering and work flow reminders for upcoming tasks for leases and licences (e.g. annual return dues, rentals dues etc); and
  - (iii) *Publication Services* which include the provision of access to various online publications relating to legislative and standards research and updates and Publications Services for the following functions; RMT - ChemaAlert chemicals information database, SAI Global – access to Australian Standards, SAI Global – Lawlex legislative alerts and Enviro Essentials – WA and National updates on OHS and Environmental legislative updates;together the Services.
- (b) Wesfarmers Resources will supply or procure the supply of each Service for a period of time to be agreed by the parties post Completion (Period), which period will be 6 months from the date of Completion, unless otherwise agreed between the parties.
- (c) During the Period, the Buyer will use all reasonable endeavours to secure, or procure that the Company secures an agreement with a preferred provider for the provision of the Services.

## **2. Entitlements**

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The Transition Agreement will include transitional arrangements relating to the Key Employee entitlements (including but not limited to Mr Bill Moody and Mr Patrick Wanand).

## **3. Retention Incentives**

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- (a) The Transition Agreement will include transitional arrangements relating to the payment of retention incentives to the relevant employees of Premier Coal and whether such retention incentives are to be paid before or after Completion.
- (b) For the avoidance of doubt, only those retention incentives put in place by the Sellers prior to Completion remain the responsibility of the Sellers.

## **4. Issues surrounding timing and terms for the Collective Bargaining Agreement**

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The parties will consult on and develop a strategy for addressing the renegotiation and, or, the extension of the Collective Bargaining Agreement.

## **5. Insurance**

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The Buyer is responsible for all insurances from the time of Completion. There will be no transition insurances for the Business.

## **6. Removal of Wesfarmers Group Names**

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The Company will be afforded a period of time after Completion being not less than 6 months in total after Completion to undertake a staged program to remove the Wesfarmers Group Name from use by the Company.

## **7. Wesfarmers Group procurement contracts**

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The Transition Agreement will include relevant mechanisms to deal with transitional arrangements, separation arrangements and alternative arrangements for Wesfarmers Group procurement contracts under which Premier Coal currently acquires goods and/or services.

## **8. Separation**

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- (a) The Transition Agreement will include any additional separation arrangements and activities necessary for the Companies to operate independently of the Wesfarmers Group (**Separation**).
- (b) It is the intention of the parties that the Separation take place as far as practicable prior to Completion.

## **9. Other transitional arrangements and plan**

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- (a) The Transition Agreement will include a mechanism to deal with any other transitional arrangements that arise during the Interim Period or the period immediately following Completion which are not itemised expressly above, including supply of water, electricity, gas, plant and equipment servicing, to the extent relevant. The arrangements for the supply of fuel and lubricants will be discussed. The treatment of entitlements of the relevant employees of the Companies under any applicable Wesfarmers employee share plans will be discussed.

- (b) The Transition Agreement will include a mechanism by which Mr Patrick Warrand and Mr Bill Moody will be seconded to Premier Coal from Wesfarmers Resources to perform roles consistent with their roles prior to the date of this agreement on the following basis:
- (i) secondment period – 6 months from Completion; and
  - (ii) costs of secondment – to be borne by Premier Coal on a full charge-back basis (including all salary and superannuation for the secondment period and those short and long term incentives that accrue during the secondment period (other than retention incentives put in place by the Sellers prior to Completion) (but for avoidance of doubt does not include any leave or long service leave entitlements accrued prior to the commencement of the secondment period).
- Premier Coal will be permitted to make an offer of employment to each of Mr Warrand and Mr Moody during the secondment period and hold discussions with them in relation to any such offer.
- (c) The Transition Agreement will include a plan which sets out the details, including timing and the apportionment of responsibilities and costs, of the separation arrangements in accordance with these Transition Principles.

## Schedule 8—Warranties

### 1. The Sellers

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#### 1.1 Capacity and authorisation

Each Seller is a company properly incorporated and validly existing under the laws of Australia, and has taken all corporate actions necessary to enable it to execute, deliver and perform its obligations under this agreement.

#### 1.2 Valid obligations

This agreement constitutes (or will when executed constitute) valid legal and binding obligations of each Seller and is enforceable against each Seller in accordance with its terms.

#### 1.3 Solvency

None of the following events has occurred in relation to a Seller:

- (a) a receiver, receiver and manager, liquidator, provisional liquidator, administrator or trustee is appointed in respect of a Seller or any of its assets or anyone else is appointed who (whether or not as agent for a Seller) is in possession, or has control, of any of a Seller's assets for the purpose of enforcing a charge;
- (b) an application is made to court or a resolution is passed or an order is made for the winding up or dissolution of a Seller; or
- (c) a Seller proposes or takes any steps to implement a scheme of arrangement or other compromise or arrangement with its creditors or any class of them.

### 2. Shares and share capital

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#### 2.1 Ownership of the Shares

There is no Encumbrance or other third party right over any of the Shares and:

- (a) Wesfarmers Coal is the legal and beneficial owner of the Premier Coal Shares; and
- (b) Wesfarmers Chemicals is the legal and beneficial owner of the Wesfarmers Char Shares.

#### 2.2 Share capital

The Shares constitute the whole of the issued share capital of each Company and are fully paid up and no person has any right to require the issue of any shares or other securities in any Company.

### 3. Corporate matters

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#### 3.1 Incorporation

Each Company is a company properly incorporated and validly existing under the laws of Australia.

#### 3.2 Constitutions

A true and complete copy of the constitution of each Company has been disclosed to the Buyer before the date of this agreement.



### **3.3 Solvency**

None of the following events has occurred in relation to any Company:

- (a) a receiver, receiver and manager, liquidator, provisional liquidator, administrator or trustee is appointed in respect of that Company or any of its assets or anyone else is appointed who (whether or not as agent for that Company) is in possession, or has control, of any of that Company's assets for the purpose of enforcing a charge;
- (b) an application is made to court or a resolution is passed or an order is made for the winding up or dissolution of that Company; or
- (c) that Company proposes or takes any steps to implement a scheme of arrangement or other compromise or arrangement with its creditors or any class of them.

### **3.4 Company Records**

The Company Records of each Company:

- (a) are in the possession or control of the relevant Company; and
- (b) have been properly kept in accordance with the requirements of the Corporations Act.

### **3.5 No Guarantees**

Other than the Deed of Cross Guarantee (subject to clauses 8.4(i) and 12.2 of this agreement), no guarantees exist under which:

- (a) a Company guarantees the obligations of Wesfarmers Resources or any other member of the Consolidated Group; or
- (b) the obligations of a Company are guaranteed by Wesfarmers or any other member of the Consolidated Group.

## **4. Conduct of business**

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### **4.1 Compliance**

No Company has received any notice in writing alleging that it is in breach of any applicable law (including superannuation laws) or regulation or any order, judgment or award of any court, tribunal or Regulatory Authority which would have a material adverse effect on the financial position of the Companies taken as a whole.

### **4.2 Licences and consents**

- (a) Each Company has obtained all material Authorisations necessary to enable it to conduct the Business in the locations and in the manner in which it is conducted.
- (b) As far as the Sellers are aware:
  - (i) no Company has received any notice in writing alleging that it is in breach of the terms of any such Authorisation and no charges or notices have been brought against or served on Premier Coal in respect of its Business by any Regulatory Authority or any other person in respect of any such Authorisation which have not been withdrawn or otherwise resolved;

- (ii) there are no current proposals to amend, vary or revoke any Authorisation granted to Premier Coal in relation to its Business;
- (iii) there are no factors or circumstances that may prejudice the continuance or renewal of any such Authorisation; and
- (iv) each Company has complied with its obligations under and the conditions of any such Authorisation.

## **5. Accounts**

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### **5.1 Historical Financial Information (data room documents 04.01.02 to 04.01.04)**

The Historical Financial Information (being data room documents 04.01.02 to 04.01.04) was prepared on a basis consistent in all material respects with the basis employed in Wesfarmers' audited accounts for the preceding financial period at group level and in accordance with the Accounting Standards, as they apply to the Wesfarmers Group for consolidated reporting. This adopts, for example, the levels of materiality applicable at the group level, impairment and onerous contract testing based on the Wesfarmers group's internal plans and forecasts for the Business (noting that the Buyer will need to prepare its own plans and forecasts), treatment of exploration expenditure and recognition of share-based payments as they apply at group level, but is not itself audited. Subject to that, the Historical Financial Information:

- (a) was prepared in good faith and with due care and attention, and shows a view which is accurate in all material respects of the state of affairs and each of the financial position and the financial performance of the Companies as at the date of the Historical Financial Information or for the period to which the Historical Financial Information relates;
- (b) is not affected by any unusual, abnormal, extraordinary, exceptional or non-recurring items or any other factor that might make the financial position or operational results of the Companies misleading or deceptive, except as disclosed in the Due Diligence Materials; and
- (c) particulars of all unquantifiable actual or contingent liabilities known to the Sellers have been disclosed in the Due Diligence Materials.

### **5.2 Base Balance Sheet**

The Base Balance Sheet has been prepared in accordance with the principles and policies set out in Schedule 10.

### **5.3 Position since date of Base Balance Sheet**

Since the date of the Base Balance Sheet each Company has in all material respects carried on the Business in the ordinary course.

### **5.4 Restructuring**

That as at Completion:

- (a) the subsidiaries of Premier Coal which do not form part of the transaction have been divested and neither Company is part of any partnership, joint venture or has interests in other companies except as expressly disclosed in the Due Diligence Materials; and

- (b) Premier Coal will have no ongoing liabilities associated with the divestment assets except:
  - (i) as expressly stated in this agreement; or
  - (ii) which are the subject of an express indemnity given by a Seller Group Member in favour of Premier Coal, and all obligations of Premier Coal under any agreement or deed to effect such divestment have been met (and, if required, any such agreement or deed has been lodged for stamping by the Office of State Revenue and for registration under the Mining Act 1978 (WA) transferring Premier Coal's relevant participating interest).

## **6. Assets**

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### **6.1 Assets**

As far as the Sellers are aware:

- (a) all Assets at the date of this agreement are owned by a Company or used by a Company under an equipment lease, operating lease, hire purchase agreement, licence or similar arrangement to which that Company is party; and
- (b) each Company has complied with all of its respective obligations under the applicable equipment lease, operating lease, hire purchase agreement, licence or similar arrangement and has not received a notice of default by any other party to the arrangement in respect of any default.

### **6.2 Assets unencumbered**

Except for Permitted Encumbrances, no Asset is Encumbered.

## **7. Contracts**

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### **7.1 Breach or default**

Each Company has complied with all of its respective material obligations under each Material Contract and has not received any notice alleging that it is in breach of a Material Contract.

### **7.2 Termination**

No Company has received from or given to any party to a Material Contract any notice in writing terminating or purporting to or advising of an intention to terminate that contract.

### **7.4 Coal Supply Agreements**

In relation to any Material Contract that is a coal supply agreement to which Premier Coal is a party;

- (a) as far as the Sellers are aware, the forecasts of tonnage requirements that have been disclosed in the Due Diligence Materials are those provided to Premier Coal by its customers in accordance with the requirements of the relevant Material Contracts, and are the most recent such forecasts available to the Sellers as at the date of this agreement and are true and accurate copies;
- (b) in the Interim Period, Premier Coal will entertain no written requests for price renegotiation (outside the express terms of the relevant contract), nor will Premier Coal make any requests for price renegotiation (outside the express terms of the relevant contract) in relation to any Material Contract; and

- (c) as far as the Sellers are aware, as at the date of this agreement there are no circumstances which are likely to result in a material decrease in estimated tonnage requirements in the next three financial years under any Material Contract.

## **8. Tenements and State Agreement**

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### **8.1 Granted Tenements**

Premier Coal is the registered and beneficial owner of the interests in the granted Tenements as indicated in part I of Schedule 3, free and clear of any Encumbrance other than the Permitted Encumbrances and has complied with all material terms and conditions applicable to the Tenements.

### **8.2 Applications**

For those Tenements which are applications as listed in part 2 of Schedule 3:

- (a) Premier Coal is the registered applicant for the interest as indicated in part 2 of Schedule 3; and
- (b) the Tenements were duly applied for, and all required notices have been given, in accordance with all applicable laws and regulations.

### **8.3 Orders and notices**

- (a) As far as the Sellers are aware no Company has:
  - (i) received any order or notice or objection in writing from any Regulatory Authority or any other party affecting any granted Tenement which might materially adversely affect the use of that Tenement by any Company that has not been complied with in all material respects; or
  - (ii) any outstanding defaults or terminations of any condition of any granted Tenement.
- (b) As far as the Sellers are aware, as at the date of this agreement no Company has received any order or notice or objection in writing from any Regulatory Authority or any other party affecting any of the applications as listed in part 2 of Schedule 3 which might materially adversely affect those applications and nor is it aware of any event or circumstance which might lead to any such order or notice or objection being given.
- (c) As far as the Sellers are aware, there are no Authorisations, agreements or arrangements with any other third party (whether a private land owner or in relation to townsites, reserves, third party tenements, mining exempt areas, royalties, levies or otherwise) outstanding in relation to any granted Tenement.

### **8.4 Mining Operations on Tenements**

The Companies (and any member of the Wesfarmers Group to the extent relevant to the Business) has complied with its obligations under the Mine Safety and Inspection Act 1994 (WA) and the Coal Miners Welfare Act 1947 (WA).

### **8.5 Resources and Reserves – Historical Information**

The report of geological resources and reserves included in Wesfarmers' most recent annual report has been, and the equivalent report to be included in Wesfarmers' annual report for 2011 will be, prepared by a competent person as prescribed by the Australasian Joint Ore Reserves Committee (JORC) Code.

## **9. Real property**

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### **9.1 Freehold Properties**

- (a) Each Company specified in the second column of part 1 of Schedule 4 as the registered proprietor of a Freehold Property is the sole legal and beneficial owner of that Freehold Property and has in its possession or control all documents of title to that Freehold Property.
- (b) In respect of the Leasehold Property or any other land owned by others which is held by each Company under a lease, licence, permit or other instrument or as grantee of an easement, each Company has:
  - (i) complied with its material obligations under the applicable lease, licence, easement or other instrument;
  - (ii) not been given any notice of default by any other party to that lease, licence, easement or other instrument; and
  - (iii) not received from or given to any party to any issued lease, sub-lease, licence, permit or other instrument affecting any Property (Instrument) any notice in writing terminating or purporting to or advising of an intention to terminate that Instrument.

### **9.2 Encumbrances**

All right, title and interest of each Company in any of the Properties is held free and clear of any Encumbrance other than the Permitted Encumbrances.

### **9.3 Orders and notices**

As far as the Sellers are aware no Company has received any order or notice in writing from any Regulatory Authority affecting any Property which might materially adversely affect the use of that Property by any Company that has not been complied with in all material respects.

## **10. Intellectual property**

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### **10.1 Registered Intellectual Property Rights**

- (a) A Company is the sole legal and beneficial owner of each of the Company IP Rights; and
- (b) no person other than the owner of the Company IP Rights or another Company has any right to use the Company IP Rights and there has been no unauthorised use by any other person of the Company IP Rights.

### **10.2 Infringement**

As far as the Sellers are aware no Company has received any notice in writing alleging that the activities of any Company infringe any Intellectual Property Rights of any third party.

## **11. Employees**

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### **11.1 Disputes**

No Company is involved in any material industrial dispute with any group of its employees or any trade union which would have a material adverse effect on the financial position of the Companies taken as a whole. This Warranty does not apply to any dispute that arises during the Interim Period in relation to the renegotiation or extension of the Collective Bargaining Agreement, provided that the measures to respond to or manage that dispute have been determined following consultation with the Buyer.

### **11.2 Superannuation**

Each Company has made all superannuation contributions required to avoid any liability for a superannuation guarantee charge under the Superannuation Guarantee (Administration) Act 1992 and the Superannuation Guarantee Charge Act 1992.

### **11.3 Employment Agreements**

Each employment contract entered into between each respective Company and each of its employees, including key management employees, has been entered in compliance with the Fair Work Act 2009 or is otherwise lawful under relevant legislation.

### **11.4 Goal Mining Industry (Long Service Leave) Payroll Levy Act**

The percentage of wages and salaries levied for the last three years in relation to employees of each Company are in compliance with the Coal Mining Industry (Long Service Leave) Payroll Levy Act 1992.

## **12. Legal proceedings**

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### **12.1 Litigation**

- (a) No Company is a claimant or defendant in any litigation, arbitration or mediation proceedings or other dispute where the amount claimed exceeds \$100,000, or otherwise has a material adverse impact on the conduct of the Business in the ordinary course of business.
- (b) As far as the Sellers are aware, that there are no pending Third Party Claims where the amount likely to be claimed exceeds \$100,000, or otherwise has a material adverse impact on the Business in the ordinary course of business.

### **12.2 Investigations and prosecutions**

As far as the Sellers are aware no Company has received any notice in writing relating to any investigation or prosecution of any Company commenced by any Regulatory Authority.

## **13. Taxation**

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### **13.1 Membership of Consolidated Group**

Each Company is a member of the Seller Consolidated Group.

### **13.2 Payments**

All Tax and Tax Funding Liabilities that have become due and payable by each Company have been paid on or before the due date for such payment.

### **13.3 Withholding**

All amounts required by any law or regulation relating to Tax to be withheld by any Company at source have been correctly withheld and accounted for to the proper Tax Authority.

### **13.4 Returns and assessments**

Each Company has lodged by the due date all returns and other documents relating to Tax required to be lodged with any Tax Authority.

### **13.5 Records**

Each Company has retained copies of all returns and other documents lodged with any Tax Authority.

## **14. Disclosure**

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### **14.1 Schedules to this agreement**

All information relating to the Companies contained in Schedule 1 of this agreement is accurate in all material respects.

### **14.2 Due Diligence Materials**

- (a) The Due Diligence Materials and Disclosure Letter have been prepared in good faith for the purpose of informing prospective purchasers of the Shares about the Shares and the Business. As at the date of this agreement, the information contained in the Due Diligence Materials and Disclosure Letter is not misleading or deceptive and, as far as the Sellers are aware, is true and accurate in all material respects. For the purposes of this Warranty 14.2, the Due Diligence Materials do not include:
  - (i) any information, document, representation, statement, view or opinion to the extent that it contains or expresses a forecast, prediction or projection or is otherwise forward looking after the date of this agreement; and
  - (ii) consultant's reports prepared for the purposes of inclusion in the Due Diligence Materials and any other information, document, representation, statement, view or opinion, save for those prepared, made or expressed by a Seller Group Member or a Company. Notwithstanding this, any information, document, representation, statement, view or opinion provided or supplied by a party other than a Seller Group Member or a Company, does not, so far as the Sellers are aware, contain information that is misleading or deceptive.
- (b) The consultant's reports prepared for the purposes of inclusion in the Due Diligence Materials are unabridged and unedited (except where express notice of editing or abridgement has been given to the Buyer in writing or is indicated expressly in the Due Diligence Materials).

## **15. Aboriginal Heritage, Environmental and Contamination issues**

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- (a) No Company has received any notice or order in writing alleging, that it is in breach of the terms of any Aboriginal heritage, Environmental or water legislation, the implementation of which (whether by force of law or voluntarily) might adversely affect any of the Tenements or impose a liability in relation any of them.

- (b) As at the date of this agreement, Premier Coal is in compliance in all material respects with its obligations under its agreement with the Western Australian Department of Environment and Conservation dated 25 May 2010 dealing with the abandonment of its Western 5B Minesite including its obligations relating to rehabilitation and, as far as the Sellers are aware, Premier Coal has satisfied all obligations which have fallen due for performance.

## **16. Computer systems and software**

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All software used by the Companies is lawfully held and used and does not infringe the Intellectual Property Rights of any person and all copies held have been lawfully made.

## **17. Insurance**

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- (a) All relevant details of the insurance policies in respect of which the Companies have an interest have been disclosed by the Sellers.
- (b) There are no individual or related claims outstanding or open under the policies referred to in Warranty 17(a) for an amount that will have a material adverse impact on the Business.
- (c) All premiums in respect of the insurances referred to in Warranty 17(a) will have been paid in respect of the period up to the time of Completion before the Completion Date.
- (d) Nothing has been done or omitted to be done which would make any insurance contract void or voidable or which would permit an insurer to cancel the insurance contract or refuse or reduce a claim, increase the premium or alter any of the other provisions of the insurance contract in any such case prior to the time of Completion.
- (e) Under the insurance policies in which either Company has an interest:
  - (i) all of the property and assets of the relevant Company of an insurable nature are insured (with external insurers or by way of self-insurance) in amounts representing their full replacement or reinstatement value against fire and other risks normally insured against with effect up to the time of Completion; and
  - (ii) the relevant Company is adequately insured for such amounts as would be maintained in accordance with prudent business practice in respect of all risks, whether in relation to damage to property, personal injury, public liability, product liability, workers' compensation, business interruption insurance or otherwise.



## Schedule 9—Buyer Warranties

### 1. The Buyer

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#### 1.1 Capacity and authorisation

The Buyer is a company properly incorporated and validly existing under the laws of Australia, and has taken all corporate actions necessary to enable it to execute, deliver and perform its obligations under this agreement.

#### 1.2 Valid obligations

This agreement constitutes (or will when executed constitute) valid legal and binding obligations of the Buyer and is enforceable against the Buyer in accordance with its terms.

#### 1.3 Solvency

None of the following events has occurred in relation to the Buyer:

- (a) a receiver, receiver and manager, liquidator, provisional liquidator, administrator or trustee is appointed in respect of the Buyer or any of its assets or anyone else is appointed who (whether or not as agent for the Buyer) is in possession, or has control, of any of the Buyer's assets for the purpose of enforcing a charge;
- (b) an application is made to court or a resolution is passed or an order is made for the winding up or dissolution of the Buyer; or
- (c) the Buyer proposes or takes any steps to implement a scheme of arrangement or other compromise or arrangement with its creditors or any class of them.

## Schedule 10—Accounting principles and policies

### 1. Accounting principles and policies to be applied in preparation of the Base Balance Sheet and the Completion Balance Sheet

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#### 1.1 Basis of preparation

The balance sheet comprises the combined position of wholly owned subsidiaries of Wesfarmers: Premier Coal; and Wesfarmers Char and has been prepared on a historical cost basis, except as noted below.

In preparing the balance sheet, the financial information of the subsidiaries has been aggregated.

The Companies are being sold on a cash, debt and intercompany free basis, however, in presenting this balance sheet, no adjustments have been made to eliminate these balances for the Companies. The intercompany balances resulting from intra-company transactions have also not been eliminated in full.

In addition, the Companies are members of the Wesfarmers tax consolidated group and subject to the group's Tax Sharing and Tax Funding Deed (TSA). Under the TSA, the Companies will be released from liability in respect of income tax liabilities, calculated up to completion that are due after completion, where the entities make a clean exit payment in accordance with the law. Taxation balances have been presented within the balance sheet.

Lastly, a provision of \$10 million which has been presented in the balance sheet will be retained by Wesfarmers upon divestment of the Companies.

The balance sheet is presented in Australian dollars and all values are rounded to the nearest thousand dollars (\$000).

The directors have determined that in order for the financial position to be presented fairly, the recognition and measurement criteria of assets and liabilities will be as outlined below.

#### 1.2 Cash and cash equivalents

Cash and short-term deposits in the balance sheet comprise cash at bank and on hand and short-term deposits with an original maturity of three months or less.

#### 1.3 Trade and other receivables

Trade receivables generally have terms up to 30 days, are recognised initially at fair value and subsequently measured at amortised cost using the effective interest method, less an allowance for impairment.

Collectability and impairment of trade and other receivables are assessed on an ongoing basis at a Companies level. Individual debts that are known to be uncollectable are written off when identified. An impairment allowance is recognised when there is objective evidence that the Companies will not be able to collect the debts. Financial difficulties of the debtor, probability that the debtor will enter bankruptcy or financial reorganisation, and default or delinquency in payments are considered objective evidence of impairment. The amount of the impairment loss is the receivable carrying amount compared to the present value of estimated future cash flows, discounted at the original effective interest rate. Cash flows relating to short-term receivables are not discounted if the effect of discounting is immaterial.

When a trade receivable for which an impairment allowance had been recognised becomes uncollectable in a subsequent period, it is written off against the allowance account. The amount of the impairment loss is recognised in the income statement within other expenses. Subsequent recoveries of amounts previously written off are credited against other expenses in the income statement.

Long service leave is paid when leave is taken, with a subsequent reimbursement received from the Coal Mining Industry Long Services Leave Trust Fund. The reimbursement for long service leave is recognised in other receivables and is measured as the present value of expected future reimbursements to be received in respect of services provided by employees up to the reporting date using the projected unit credit valuation method. Expected future reimbursements are discounted using market yields at the reporting date on national government bonds with terms to maturity and currencies that match, as closely as possible, the estimated future cash inflows.

#### **1.4 Inventories**

Inventories, including warehouse stores, are valued at the lower of cost and net realisable value.

Coal stock inventory is valued on a weighted average cost of production basis over a rolling 12 month basis. Run of mine inventory includes mining cost less rehandling (picking up and delivering to crusher) costs. Finished goods stock is a combination of mining and coal handling costs. Inventory is recognised as it is loaded onto the stockpile and includes both cash costs and depreciation.

Warehouse stores are valued at their weighted average cost and are subject to regular stock takes (six times annually), and also an annual review of obsolete stock and long term spares. Obsolete stock items are written off to the income statement and long term spares are transferred to property, plant and equipment, and depreciated over their estimated useful lives.

Net realisable value is the estimated selling price in the ordinary course of business, less estimated costs of completion and the estimated costs necessary to make the sale.

The key assumptions, which require the use of management judgement, are the variables affecting estimated costs to sell and the expected selling price. These key assumptions are reviewed annually.

#### **1.5 Other assets**

A prepayment asset, where material, is recognised on the balance sheet for expenditure incurred in advance for the rendering of goods or services at or over some time in the future.

All amounts are recognised exclusive of any GST that may be applicable to the underlying good or service.

A prepayment asset is not recognised on expenditure incurred in acquiring inventories, property, plant and equipment, or intangible assets.

#### **1.6 Income tax**

Current tax assets and liabilities for the current and prior reporting periods are measured at the amount expected to be recovered from or paid to the taxation authorities. The tax rates and tax laws used to compute the amount are those that are enacted or substantively enacted by the balance sheet date.

Deferred income tax is provided on all temporary differences at the balance sheet date between the tax bases of assets and liabilities and their carrying amounts for financial reporting purposes.

Deferred income tax liabilities are recognised for all taxable temporary differences, except where the deferred income tax liability arises from the initial recognition of goodwill or of an asset or liability in a transaction that is not a business combination and, at the time of the transaction, affects neither the accounting profit nor taxable profit or loss.

In respect of taxable temporary differences associated with investments in subsidiaries deferred tax liabilities are recognised, other than where the timing of the reversal of the temporary differences can be controlled and it is probable that the temporary differences will not reverse in the foreseeable future.

Deferred income tax assets are recognised for all deductible temporary differences, carry-forward of unused tax assets and unused tax losses, to the extent that it is probable that taxable profit will be available against which the deductible temporary differences, and the carry-forward of unused tax assets and unused tax losses can be utilised, except:

- (a) where the deferred income tax asset relating to the deductible temporary difference arises from the initial recognition of an asset or liability in a transaction that is not a business combination and, at the time of the transaction, affects neither the accounting profit nor taxable profit or loss; and
- (b) in respect of deductible temporary differences associated with investments in subsidiaries, associates and interests in joint ventures, deferred tax assets are only recognised to the extent that it is probable that the temporary differences will reverse in the foreseeable future and taxable profit will be available against which the temporary differences can be utilised.

The carrying amount of deferred income tax assets is reviewed at each balance sheet date and reduced to the extent that it is no longer probable that sufficient taxable profit will be available to allow all or part of the deferred income tax asset to be utilised.

Deferred income tax assets and liabilities are measured at the tax rates that are expected to apply to the year when the asset is realised or the liability is settled, based on tax rates (and tax laws) that have been enacted or substantively enacted at the balance sheet date.

Income taxes relating to items recognised directly in equity are recognised in equity and not in the income statement.

Deferred tax assets and deferred tax liabilities are offset only if a legally enforceable right exists to set off current tax assets against current tax liabilities and the deferred tax assets and liabilities relate to the same taxable entity and the same taxation authority.

## **1.7 Other taxes**

Assets are recognised net of the amount of goods and services tax ('GST'), except:

- (a) where the GST incurred on a purchase of goods and services is not recoverable from the taxation authority, in which case the GST is recognised as part of the cost of acquisition of the asset or as part of the expense item as applicable; and
- (b) receivables and payables which are stated with the amount of GST included.

The net amount of GST recoverable from, or payable to, the taxation authority is included as part of receivables or payables in the balance sheet.

## **1.8 Property, plant and equipment**

Property, plant and equipment is stated at cost less accumulated depreciation and any accumulated impairment losses.

Such costs include the cost of replacing parts that are eligible for capitalisation when the cost of replacing the parts is incurred. Similarly, when each major inspection is performed, its cost is recognised in the carrying amount of the plant and equipment as a replacement only if it is eligible for capitalisation.

Land and buildings are measured at cost less accumulated depreciation on buildings.

Mine infrastructure (including civil works, buildings, water and electricity supply, hard standing areas, etc.) is depreciated over the individual expected useful life of each asset but not to exceed the life of the mine.

Most mobile equipment is depreciated over an estimated life of the machine expressed in operating hours. Where appropriate, consideration is given to the application of a units of production depreciation method to best reflect the expected pattern of consumption. The smaller items (for example, light vehicles, lighting plant, and pumps) are depreciated via the straight line method over a total estimated life in years.

Other fixed assets (for example, tooling, furniture, miscellaneous equipment) are to be depreciated via the straight line method over a total estimated life in years, but not to exceed the life of the mine.

Useful lives and residual value of property, plant and equipment are reviewed annually. Judgement is applied in determining the useful lives of property, plant and equipment. These judgements are supported by consultation with internal technical experts. Any reassessment of useful lives and residual value in a particular year will affect depreciation and amortisation expense (either increasing or decreasing) from the date of reassessment through to the end of the reassessed useful life for both the current and future years.

Adjustments to the carrying amount of property plant and equipment are only recognised where impairment relates to a separately identifiable asset on the fixed asset register (i.e. individual asset damage).

An item of property, plant and equipment is derecognised upon disposal or when no future economic benefits are expected to arise from the continued use of the asset.

Any gain or loss arising on de-recognition of the asset (calculated as the difference between the net disposal proceeds and the carrying amount of the item) is included in the income statement in the period the item is derecognised.

The director's coal reserve valuation is amortised over the recoverable coal reserves. Where recoverable coal reserves are revised (other than through the mining of coal), the rate at which the director's reserve valuation is amortised is revised so that the remaining valuation is written-off over the remaining reserves.

Similarly, mine development costs are amortised over the recoverable coal reserves that the costs were incurred to develop. Where recoverable coal reserves in an area are revised (other than through the mining of coal), the rate at which the development costs are amortised is revised so that the costs are written-off over the remaining reserves. Changes in depreciation estimates resulting from the revision of reserves are accounted for in the income statement prospectively.

Exploration and evaluation expenditure incurred by or on behalf of the Companies is accumulated separately for each area of interest. Such expenditure comprises net direct costs and an appropriate portion of related overhead expenditure, but does not include general overheads or administrative expenditure not having a specific nexus with a particular area of interest.

Exploration expenditure for each area of interest is expensed as incurred, except that it may be carried forward provided that one of the following conditions is met:

- (a) such costs are expected to be recouped through successful development and exploitation of the area of interest or, alternatively, by its sale; or
- (b) exploration activities in the area of interest have not, at balance date reached a stage which permits a reasonable assessment of the existence or otherwise of economically recoverable reserves.

Exploration expenditure which no longer satisfies the above policy is written off. When an area of interest is abandoned, any expenditure carried forward in respect of that area of interest is written off in the year in which the decision to abandon is made.

Expenditure is not carried forward in respect of any area of interest unless the Companies right of tenure to that area of interest are current. Amortisation is not charged on areas under development, pending commencement of production.

## **1.9 Trade and other payables**

Trade payables and other payables are carried at amortised cost and represent liabilities for goods and services provided to the Companies prior to the end of the financial year that are unpaid and arise when the Companies becomes obliged to make future payments in respect of the purchase of these goods and services. Trade payable are non-interest bearing and are normally settled on terms up to 60 days.

## **1.10 Internal Funds Management System (IFMS)**

Wesfarmers operates an IFMS, where there is one consolidated bank account for Wesfarmers and each entity within the group makes payments and deposits through this system utilising Wesfarmers' bank account. Each entity's net IFMS balance effectively represents an intercompany receivable or payable for transactions processed through this system. It will therefore be necessary for the Buyer to arrange new banking facilities.

## **1.11 Provisions**

Provisions are recognised when the Companies have a present obligation (legal or constructive) as a result of a past event, it is probable that an outflow of resources embodying economic benefits will be required to settle the obligation and a reliable estimate can be made of the amount of the obligation.

If the effect of the time value of money is material, provisions are determined by discounting the expected future cash flows at a pre-tax rate that reflects current market assessments of the time value of money and the risks specific to the liability to the extent they are not already reflected in the cash flows.

Where discounting is used, the increase in the provision due to the passage of time is recognised as a finance cost.

## **1.12 Mine and plant rehabilitation**

Provision is made for the Companies' estimated liability under specific legislative requirements and the conditions of its licences and leases for future costs (at discounted amounts) expected to be incurred rehabilitating areas of operation. The liability includes the cost of reclamation of the site using existing technology, including plant removal and landfill costs. This provision is recognised immediately at the time of disturbance or when development of the asset occurs.

### **1.13 Employee leave benefits**

**(a) Wages, salaries and annual leave**

Liabilities for wages and salaries, including non-monetary benefits and annual leave expected to be settled within 12 months of the reporting date, are recognised in provisions and other payables in respect of employees' services up to the reporting date. They are measured at the amounts expected to be paid when the liabilities are settled.

**(b) Long service leave**

The liability for long service leave is recognised in the provision for employee benefits and measured as the present value of expected future payments to be made in respect of services provided by employees up to the reporting date using the projected unit credit valuation method. Consideration is given to expected future wage and salary levels, experience of employee departures, and periods of service. Expected future payments are discounted using market yields at the reporting date on national government bonds with terms to maturity and currencies that match, as closely as possible, the estimated future cash outflows.

Expenses which are consequential to the employment of the employees (for example, payroll tax associated with employee entitlements) are also recognised as a liability and included in the amount for employee entitlements.

**(c) Sick leave**

The liability for vesting sick leave is recognised in the provision for employee benefits and includes associated payroll on-costs (e.g. payroll tax) that are expected to be paid in respect of services provided by employees up to the reporting date. Consideration is given to the entitlement under the Collective Agreement, expected future wage levels and experience of employee departures. Expected future payments are discounted using market yields at the reporting date on national government bonds. Non vesting sick leave is recognised in the income statement as and when an employee takes leave and it is measured at the rates paid or payable.

### **1.14 Other matters**

- (a) No provision for transaction costs or restructuring costs should be included.
- (b) Any adjustments that the Buyer is required to make to the carrying values of the assets and liabilities under AASB 3 (i.e. fair value adjustments) must not be taken into account or otherwise reflected.
- (c) No revaluations or reversals of impairments are to be carried out prior to Completion.
- (d) No onerous contract testing in accordance with AASB 137 will be carried out.
- (e) All employee leave benefits of each employee of each Company must be included.
- (f) Any retention incentive in respect of each relevant Company employee which is payable by a Company at Completion must be included in the Completion Balance Sheet and form part of the Completion Working Capital Amount.

### Schedule II—Working Capital Amount

The working capital amounts are made up of the following accounts as extracted from the Base Balance Sheet, the most recent management accounts available at the completion Date and the completion Balance sheet:

<u>HFM Account Code and Description</u>	<u>Entity</u>	<u>Base Working Capital Amount \$'000</u>	<u>Provisional Working Capital Amount \$'000</u>	<u>Completion Working Capital Amount \$'000</u>
A112110—Trade receivables—third party gross	WPCL	3,796		
4112510—Other receivables	WPCL	570		
A121420—Other receivables	WPCL	5,132		
4113110—Raw materials—at cost	WPCL	7,848		
4113310—Finished goods—at cost	WPCL	5,298		
A117200—Prepayments	WPCL	72		
4211100—Trade creditors and accruals third party	WPCL	(11,808)		
4211100—Trade creditors and accruals third party	Char	(3)		
A214100—Current provn employee benefits	WPCL	(16,947)		
A224100—Non current provn employee entitlements	WPCL	(1,331)		
<b>Working Capital Amount</b>		<b>(7,3731)</b>		



## Schedule 12—Capital Expenditure Program

### Capital Expenditure Program

\$000s	Actual Jul-11	Actual Aug- 11	Forecast SEP-11	Forecast OCT-11	Forecast Nov-11	Forecast DEC-11	Forecast JAN-12	Forecast FEB-12
Boxcuts	—	—	115	975	1,603	1,283	1,416	2,231
Mine development/ infrastructure	19	0	150	150	236	307	215	172
Mine development/ infrastructure—Wilga Pre Feasibility Study	—	—	—	50	50	50	—	—
Pit 1 & Pit 3 Dewatering	77	41	202	212	202	202	202	—
<b>Mine development</b>	<b>96</b>	<b>41</b>	<b>467</b>	<b>1,387</b>	<b>2,091</b>	<b>1,842</b>	<b>1,832</b>	<b>2,403</b>
Excavators	11,984	53	44	—	—	—	—	—
Haul Trucks	9,582	52	2,386	100	—	—	—	—
Cat lube truck	529	19	—	411	30	—	—	—
Backhoe attachment for Shovel 18	—	—	960	93	—	—	—	—
Slot deposits—Caterpillar and Liebherr	—	—	245	—	—	—	—	—
Light Vehicle	120	119	543	91	139	—	138	—
<b>Mobile Equipment</b>	<b>22,215</b>	<b>242</b>	<b>4,178</b>	<b>695</b>	<b>169</b>	<b>—</b>	<b>138</b>	<b>—</b>
CHPP	7	—	60	164	50	—	120	—
CHPP—Nut Plant	—	—	—	300	—	—	—	—
CHPP—Hydraulic Rock Breaker	—	—	—	—	—	—	—	300
Water Treatment Plant	(21)	—	—	—	—	—	—	—
Rehab asset adjustment (non-cash)	—	—	(29)	—	—	—	—	—
IT equipment and systems	10	0	94	140	155	89	40	5
Maintenance	56	4	98	333	68	—	23	25
Maintenance—Wash Pad	—	—	—	—	—	300	—	—
Other	—	4	—	100	20	15	15	—
Other—Corporate Plan Model	—	—	—	—	—	80	45	45
Other – Lighting Plant	—	—	—	150	100	—	—	—
<b>Other</b>	<b>51</b>	<b>8</b>	<b>223</b>	<b>1,187</b>	<b>393</b>	<b>484</b>	<b>243</b>	<b>375</b>
<b>Total</b>	<b>22,362</b>	<b>291</b>	<b>4,867</b>	<b>3,268</b>	<b>2,653</b>	<b>2,326</b>	<b>2,213</b>	<b>2,778</b>

**Schedule 13—Asset Register**

See attached CD—filename is *Schedule 13—Asset Register.xls*

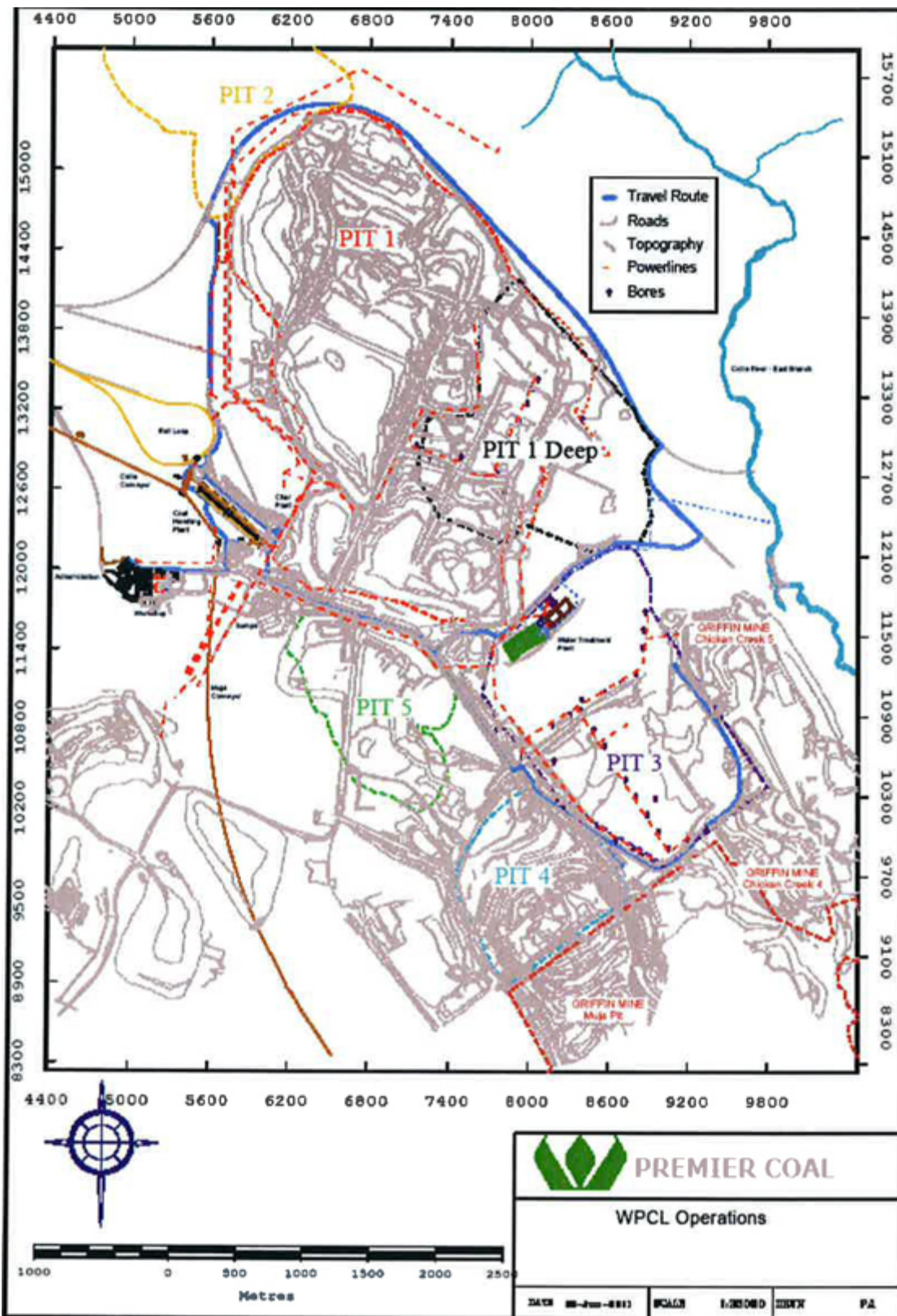
## Schedule 14—Site Visit Program



### Premier Coal Mine Tour

- 1 **Administration building** (commence tour)
- 2 Workshop
- 3 **Control Room / Pit Control**
- 4 **Coal Handling Plant and Char Plant**
  - Crushers
  - Reclaimer
  - Stacker
  - Train and truck loadouts
  - Char Plant
- 5 Rehabilitated area
- 6 **Operations at Pit 4**
- 7 Pit 3, dewatering area
- 8 **Water Treatment Plant**
- 9 Rehabilitated area and rail loop

Note: Bolded items are where the bus will stop during the tour



**Executed** as an agreement

**Executed by Wesfarmers Coal Resources Pty Ltd ABN 33 009 030 139** in accordance with section 127 of the Corporations Act 2001 (Cth):

\_\_\_\_\_  
/s/ Richard Goyder  
Signature of director

\_\_\_\_\_  
Richard Goyder  
Managing Director  
Full name of director

**Executed by Wesfarmers Chemicals, Energy & Fertilisers Limited ABN 48 008 797 402** in accordance with section 127 of the Corporations Act 2001 (Cth):

\_\_\_\_\_  
/s/ Richard Goyder  
Signature of director

\_\_\_\_\_  
Richard Goyder  
Managing Director  
Full name of director

**Executed by Wesfarmers Resources Limited ABN 76 096 857 126** in accordance with section 127 of the Corporations Act 2001 (Cth):

\_\_\_\_\_  
/s/ Richard Goyder  
Signature of director

\_\_\_\_\_  
Richard Goyder  
Managing Director  
Full name of director

**Executed by Austar Coal Mine Pty Ltd ABN 67 111 910 822** in accordance with section 127 of the Corporation Act 2001 (Cth):

\_\_\_\_\_  
/s/ Cunliang Lai  
Signature of director

\_\_\_\_\_  
Cunliang Lai  
Full name of director

\_\_\_\_\_  
/s/ Terence J Brown  
Signature of director

\_\_\_\_\_  
Terence J Brown  
Full name of director

\_\_\_\_\_  
/s/ Terence J Brown  
Signature of director

\_\_\_\_\_  
Terence J Brown  
Full name of director

\_\_\_\_\_  
/s/ Terence J Brown  
Signature of director

\_\_\_\_\_  
Terence J Brown  
Full name of director

\_\_\_\_\_  
/s/ Yuxiang Wu  
Signature of company secretary/director

\_\_\_\_\_  
Yuxiang Wu  
Full name of company secretary/director

**Attachment 1—Base Balance Sheet**

\$'000 as at 30 June 2011	Wesfarmers Premier Coal Limited	Wesfarmer s Char Pty Ltd	Elimination	TOTAL
A111000—Cash and cash equivalents	2	—	—	2
A112000—Trade and other receivables	3,952	—	(138)	3,813
A112500—Current other receivables	570	—	—	570
A13000—Inventories	13,146	—	—	13,146
A117000 — Other	428	—	—	428
<b>A110000—Total Current Assets</b>	<b>18,098</b>	<b>—</b>	<b>(138)</b>	<b>17,960</b>
A121000—Non-Current receivables	5,132	—	—	5,132
A124000—Deferred tax assets	14,327	763	—	15,090
A126000—Property plant and equipment	204,469	94	—	204,562
<b>A120000—Total Non-current Assets</b>	<b>223,928</b>	<b>857</b>	<b>—</b>	<b>224,784</b>
<b>A100000—Total Assets</b>	<b>242,026</b>	<b>857</b>	<b>(138)</b>	<b>242,744</b>
A211000—Trade and other payables	11,887	141	(138)	11,890
A212000—Interest-bearing loans and borrowings	249,974	12,253	—	262,228
A213100—Current tax liabilities	(13,042)	(507)	—	(13,549)
A214000—Provisions	27,846	—	—	27,846
<b>A210000—Total Current Liabilities</b>	<b>276,665</b>	<b>11,887</b>	<b>(138)</b>	<b>288,414</b>
A221000—Non-Current payables	—	—	—	—
A223000—Deferred tax liabilities	31,734	—	—	31,734
A224000—Non-Current Provisions	23,074	—	—	23,074
<b>A220000—Total Non-current Liabilities</b>	<b>54,808</b>	<b>—</b>	<b>—</b>	<b>54,808</b>
<b>A200000—Total Liabilities</b>	<b>331,473</b>	<b>11,887</b>	<b>(138)</b>	<b>343,222</b>
<b>NET ASSETS</b>	<b>(89,4471)</b>	<b>(11,031)</b>	<b>—</b>	<b>(100,478)</b>

## Attachment 2—Form of Disclosure Letter

### Draft [Letterhead of Sellers]

[Date]

The Directors  
Austar Coal Mine Pty Ltd  
Suite 1105, Level 11  
68 York Street  
Sydney NSW 2000

Dear Sirs

#### **Disclosure letter—Project White**

We refer to the share sale agreement between Austar Coal Mine Pty Ltd (**Buyer**) and **Wesfarmers Coal Resources Pty Ltd, Wesfarmers Chemicals, Energy & Fertilisers Limited** (collectively **Sellers**) and Wesfarmers Resources Limited dated on or around the date of this letter (**Agreement**) relating to the acquisition of all of the issued share capital in Wesfarmers Premier Coal Limited and Wesfarmers Char Pty Ltd (collectively the **Companies**).

This letter together with the Attachment to it is the Disclosure Letter referred to in the Agreement.

Words and expressions defined in the Agreement have the same meaning when used in this letter. The general rules of interpretation set out in clause 1.5 of the Agreement also apply to this letter. References in this letter to clause numbers or schedule numbers are references to the relevant clauses or schedules of the Agreement.

#### **Scope of this letter**

This letter constitutes formal disclosure to you of documents, information, facts, matters and circumstances which are, or may be, inconsistent with any of the Warranties and the Warranties in the Agreement are given subject to the terms of this letter.

Certain specific disclosures are set out against particular Warranties. This is for convenience only and does not in any way limit those disclosures to the particular Warranties against which they are set out. The specific disclosures in the Attachment constitute disclosure for the purposes of any Warranty to which they may be relevant.

Where brief particulars of a matter are set out in this letter, all other particulars of that matter that have been made available to you or your Representatives in the Due Diligence Materials are taken to be disclosed as if set out in full in this letter. Where a document is referred to in this letter but not attached to it and that document has been made available to you or your Representatives in the Due Diligence Materials, the full contents of that document are taken to be disclosed as if attached to this letter.

If there is any inconsistency between the contents of any document contained within the Due Diligence Materials and any reference to it or summary of it in this letter, the provisions of the relevant document are to be taken as being modified by the information in this letter and the Sellers will not be liable to the Buyer in respect of the inconsistency.

The disclosure of any matter in or by virtue of this letter does not constitute or imply any warranty, representation, statement, covenant, agreement, indemnity or undertaking not expressly given by the Sellers in the Agreement, and the contents of this letter are not to be taken as or having the effect of adding to or extending the scope of any of the Warranties or other provisions of the Agreement.

**Specific matters**

The specific matters set out in the Attachment are disclosed. Where applicable, warranty references are references to paragraph numbers in Schedule 8 to the Agreement. A document number in brackets is the number of the document listed in the index of the Due Diligence Materials.

This letter is governed by the law applying in Western Australia.

Please acknowledge receipt of this Disclosure Letter by signing and returning to us the enclosed copy of this letter.

Yours faithfully

\_\_\_\_\_  
[Insert name]

For and on behalf of

**Wesfarmers Coal Resources Pty Ltd** ABN 33 009 030 139  
**and Wesfarmers Chemicals, Energy & Fertilisers Limited** ABN 48 008 797 402

We acknowledge receipt of your letter dated • of  
which the above is copy.

/s/ Yuxiang Wu

\_\_\_\_\_  
For and on behalf of **Austar Coal Mine Pty Ltd**

ABN 67 111 910 822

Print name : Yuxiang Wu

Dated: 27/09/2011



**Attachment — Specific disclosures**

Warranty reference

Disclosure

**Attachment 3—Index of Due Diligence Materials**

See attached CD—filename is *Attachment 3—Index of Due Diligence Materials.xlsx*.

**Attachment 4—Due diligence questions and answers**

See attached CD—filename is *Attachment 4—Due Diligence Questions and Answers.xlsx*

## Attachment 5—Form of Tax Release Deed

### Deed of Release

**Date** 2011

#### Parties

**Wesfarmers Limited** (ABN 28 008 984 049) of 11th Floor, Wesfarmers House, 40 The Esplanade, Perth, Western Australia (the **Head Company**)

[Name of entity leaving the Consolidated Group] (ABN) of 11th Floor, Wesfarmers House, 40 The Esplanade, Perth, Western Australia (the **Former Contributing Member**)

The Parties to the Tax Sharing and Tax Funding Deed as at the Leaving Time other than the Former Contributing Member (the **Remaining Contributing Members**)

#### Recitals

- A The Head Company, the Former Contributing Member and the Remaining Contributing Members are parties to the Tax Sharing and Tax Funding Deed.
- B The Former Contributing Member will cease to be a Subsidiary Member of the Consolidated Group on [date 2011 (the **Leaving Time**)].
- C The Head Company and the Remaining Contributing Members agree to release the Former Contributing Member from all obligations and liabilities under the Tax Sharing and Tax Funding Deed in respect of Tax Periods commencing on or after the Leaving Time and certain Tax Periods commencing before the Leaving Time in accordance with the terms set out in this Deed.
- D This Deed is supplemental to the Tax Sharing and Tax Funding Deed.

This Deed of Release is made between the Parties for the purpose of achieving the objectives described in the Recitals and witnesses as follows:

### 1. Definitions and Interpretation

---

- (a) The following definitions apply unless the context requires otherwise.

**Tax Sharing and Tax Funding Deed** means the Tax Sharing and Tax Funding Deed entered into by the Head Company on 1 September 2007 and the entities listed in Schedule I to that Deed at the Leaving Time, together with any Deed of Accession or Deed of Release executed prior to the Leaving Time.
- (b) Words that are defined in the Tax Sharing and Tax Funding Deed, and not in clause 1(a) and that are used in this Deed have the same meaning in this Deed as in the Tax Sharing and Tax Funding Deed, unless the context requires otherwise.
- (c) The provisions of clause 2 of the Tax Sharing and Tax Funding Deed form part of this Deed as if set out in full in this Deed.

## 2. Release

---

With effect from the Leaving Time, to the maximum extent permitted by law, the Former Contributing Member will be released from all liability under the Tax Sharing and Tax Funding Deed except to the extent specified in clause 12.5 of the Tax Sharing and Tax Funding Deed.

## 3. Covenant

---

The Head Company and each Remaining Contributing Member covenants that it will not bring or pursue, procure that a third party bring or pursue, provide financial support for or other otherwise support (except to the extent required by law) any claim, action, dispute, demand or proceeding in any court or tribunal in respect of any matter which is the subject of the release given by it under clause 2.

## 4. Representations and Warranties

---

Each party represents and warrants to each other party that each of the following statements is true and correct in all material respects:

- (a) **(power)** it has full legal capacity and power to:
  - (i) own its property and to carry on its business; and
  - (ii) enter into this Deed and to carry out the transactions that it contemplates;
- (b) **(corporate authority)** it has taken all corporate action that is necessary or desirable to authorise its entry into this Deed and its carrying out the transactions that it contemplates;
- (c) **(Authorisations)** it holds each Authorisation that is necessary or desirable to:
  - (i) enable it to properly execute this Deed and to carry out the transactions that it contemplates;
  - (ii) ensure that this Deed is legal, valid, binding and admissible in evidence; or
  - (iii) enable it to properly carry on its business,and is complying with any conditions to which any of these Authorisations is subject;
- (d) **(documents effective)** this Deed constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms (except to the extent limited by equitable principles and laws affecting creditors' rights generally) subject to any necessary stamping or registration;
- (e) **(no contravention)** neither its execution of this Deed nor the carrying out by it of the transactions that it contemplates, does or will:
  - (i) contravene any law of any jurisdiction to which it or any of its property is subject or any order of any government agency that is binding on it or any of its property;
  - (ii) contravene any undertaking or instrument binding on it or any of its property; or

- (iii) contravene its constituent documents.

## **5. Further Assurances**

---

Each party must take all steps, execute all documents and do everything reasonably required by the other party to give effect to the release contemplated by this Deed.

## **6. Confidentiality**

---

- (a) Subject to paragraph (b), each party must keep the terms of this Deed confidential.
- (b) A party may make any disclosure of the terms of this Deed that it thinks necessary to:
  - (i) the Commissioner;
  - (ii) any professional advisers, auditors, bankers, financial advisers, financiers, prospective purchasers of a Group Member or prospective Group Members on receipt of an undertaking from that person to keep the terms confidential; or
  - (iii) comply with any law or requirement of any regulatory body (including any relevant stock exchange).

## **7. Absolute Bar**

---

This Deed may be pleaded and tendered by a Former Contributing Member as an absolute bar and defence to any proceedings brought or made by the Head Company or a Remaining Contributing Member in breach of the terms of this Deed.

## **8. Enurement**

---

The provisions of this Deed will ensure for the benefit of and be binding on the parties and their respective successors and permitted substitutes and assigns.

## **9. Assignment**

---

The rights and obligations of each party under this Deed are personal. They cannot be assigned, encumbered or otherwise dealt with and no party may attempt, or purport, to do so without the prior written consent of all parties.

## **10. GST**

---

- (a) This clause 10 shall not apply to the extent that parties to this Deed are members of a GST Group.
- (b) If GST is payable on a Taxable Supply made under, by reference to or in connection with this Deed, the party providing the Consideration for that Taxable Supply must also pay the GST Amount as additional Consideration.
- (c) No payment of any amount pursuant to paragraph (b) is required until the supplier has provided a Tax Invoice or Adjustment Note as the case may be to the recipient.

**11. Stamp Duty and Costs**

---

Each party bears its own costs arising out of the preparation of this Deed but the Former Contributing Member bears any stamp duty (including fines and penalties) chargeable on this Deed, or any instruments entered into under this Deed and any transaction evidenced by it.

**12. Governing Law**

---

This Deed is governed by the laws of Western Australia. The parties submit to the non-exclusive jurisdiction of courts exercising jurisdiction there.

**13. Counterparts**

---

This Deed may be executed in any number of counterparts. All counterparts together will be taken to constitute one instrument.

**14. Head Company to Execute Deed as Agent**

---

In addition to executing this Deed on its own behalf the Head Company is expressly authorised by the Remaining Contributing Members to execute this Deed on behalf of, and as agent for, each of them.

**Executed** and delivered as a Deed in Western Australia.

**Executed** as a Deed by **Wesfarmers Limited** (ABN 28 008 984 049) pursuant to section 127 of the Corporations Act:

\_\_\_\_\_  
Director

\_\_\_\_\_  
Secretary

**Executed** as a Deed by **[former Contributing Member]** (ABN ) pursuant to section 127 of the Corporations Act:

\_\_\_\_\_  
Director

\_\_\_\_\_  
Secretary

**Attachment 6—Excluded Tenements**

<u>No.</u>	<u>Tenement Number</u>	<u>Registered Holder</u>
1	E63/521	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
2	E63/1145	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
3	E63/1146	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
4	E63/1202	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
5	E63/1203	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
6	E63/1298	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
7	M63/192	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
8	M63/193	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
9	M63/194	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
10	M63/197	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
11	P63/1595	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
12	P63/1596	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
13	P63/1597	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
14	P63/1598	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
15	P63/1605	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
16	P63/1606	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
17	P63/1607	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
18	P63/1608	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
19	P63/1609	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
20	P63/1610	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
21	P63/1611	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
22	P63/1612	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
23	P63/1615	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
24	P63/1616	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
25	P63/1617	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd



26	P63/1619	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
27	P63/1620	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
28	P63/1621	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
29	P63/1622	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
30	P63/1623	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
31	P63/1624	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
32	P63/1625	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
33	P63/1626	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
34	P63/1627	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
35	P63/1628	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
36	P63/1629	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
37	P63/1630	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
38	P63/1631	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
39	P63/1632	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
40	P63/1633	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
41	P63/1634	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
42	P63/1635	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
43	P63/1676	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
44	P63/1677	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
45	P63/1678	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
46	P63/1679	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
47	P63/1680	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
48	P63/1681	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
49	P63/1682	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
50	P63/1683	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
51	P63/1684	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
52	P63/1665	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
53	P63/1666	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
54	P63/1667	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd

55	P63/1668	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
56	P63/1669	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
57	P63/1670	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd
58	P63/1700	Scaddan Energy Pty Ltd/Wesfarmers Premier Coal Ltd

**DEVONIAN PURCHASE AGREEMENT**

**THIS AGREEMENT** made as of July 18, 2011

**BETWEEN:**

**DEVONIAN POTASH INC.**, a corporation incorporated under the laws of Saskatchewan and having its head office at 374 Third Avenue South, Saskatoon, SK S7K 1M5  
(the “**Vendor**”)

**OF THE FIRST PART**

- and -

**YANZHOU COAL MINING COMPANY LIMITED**, a corporation existing under the laws of the People’s Republic of China and having its head office at 298 Fushan South Road, Zoucheng, Shandong Province PRC, 273500  
(“**YC**”)

**OF THE SECOND PART**

**WHEREAS** the Vendor is the legal and beneficial owner of a 100% undivided interest in 11 subsurface minerals exploration permits comprising approximately 668,246.93 acres, all located in the Province of Saskatchewan, Canada, as more particularly described in Schedule “A” attached hereto (any such exploration permit is referred to herein as a “**Property**” and one or more of such exploration permits, is collectively referred to as the “**Properties**”), free and clear of any and all Liens (as hereinafter defined);

**AND WHEREAS** YC desires to directly or indirectly purchase from the Vendor and the Vendor has agreed to sell to YC, all of the Vendor’s right, title and interest in and to the Information (as hereinafter defined) and the Properties, and the Vendor and YC therefore seek to enter into this Agreement, all on and subject to the terms and conditions herein contained;

**AND WHEREAS** prior to the Closing Date (as hereinafter defined), if, as and when YC obtains all of the regulatory approvals set forth in item “1” of Schedule “B”, this Agreement shall be assigned, on the terms contemplated hereby, by YC to the Buyer (as hereinafter defined), which the Vendor hereby consents to, pursuant to an agreement whereby YC shall convey, assign and transfer to the Buyer and the Buyer shall assume all of YC’s rights and obligations under this Agreement;

**NOW THEREFORE** in consideration of the premises and mutual covenants and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the parties hereto do hereby agree as follows:

## **1. INTERPRETATION**

### **1.1 Definitions. In this Agreement:**

“**Acron**” means Open Joint Stock Company Acron;

“**Applicable Law**” means, with respect to any Person, property, transaction, event or other matter, any foreign or domestic constitution, treaty, law, statute, rules, regulation, code, ordinance, principle of common law, rule, stock exchange listing rules, municipal by-law, Order or other requirement (including a requirement arising at common law) having the force of law (collectively, the “**Law**”) relating or applicable to such Person, property, transaction, event or other matter;

“**Bank of China**” means the Bank of China (Canada);

“**Business Day**” means any day except Saturday, Sunday or any day on which banks are generally not open for business in Moscow, Russia, Beijing, China or Toronto, Ontario;

“**Buyer**” means the indirect wholly-owned subsidiary of YC to be incorporated under the laws of Canada or any province therein, following receipt of the regulatory approvals set forth in item 1 of Schedule “B”, in order to, among other things, purchase and hold the Properties and the Information;

“**Buyer Regulatory Approvals**” means those Regulatory Approvals set forth in Schedule “B” attached hereto;

“**CA**” means the confidentiality agreement dated as of June 6, 2011 between Acron and YK;

“**Closing**” means the successful completion of the Transaction at the Time of Closing on the Closing Date;

“**Closing Date**” means the Business Day which is 25 Business Days after the Execution Requirement Date, being August 31, 2011, or if YC has exercised the provisions of section 2.5(a) and has requested a first extension of the Expiry Date, the Business Day which is 45 Business Days after the Execution Requirement Date, being September 30, 2011, or if YC has exercised the provisions of section 2.5(b) and has requested a second extension of the Expiry Date, the Business Day which is 55 Business Days after the Execution Requirement Date, being October 18, 2011, or such earlier or later date which the Parties may agree shall constitute the Closing Date, provided that the Closing Date shall not in any event occur before August 12, 2011;

**“Closing Documents”** has the meaning set forth in section 6.1(l) and also includes, for greater certainty and without limitation, those documents set forth in sections 2.3(a) and (b);

**“Closing Escrow Agreement”** means the escrow agreement, in a form to be mutually agreed upon, which shall provide for the release of all escrowed funds immediately upon the receipt of the Buyer Regulatory Approvals set forth in item “2” of Schedule “B”, as contemplated by section 2.3, such agreement to be executed and delivered on Closing, among the Vendor, YC and Saskatchewan counsel to YC (the **“Closing Escrow Agent”**);

**“Competition Act”** means the Competition Act, R.S.C. 1985, c. C-34, as amended, and includes the regulations promulgated thereunder;

**“Consent”** means any consent, approval, permit (other than the Properties), waiver, ruling, exemption or acknowledgement from any Person which is provided for or required under any Applicable Law in connection with the Transaction on the terms contemplated in this Agreement or which is otherwise necessary to permit the Parties to perform their obligations under this Agreement, but does not include a Regulatory Approval;

**“Contracts”** means all pending and executory contracts, agreements, leases and arrangements (whether oral or written) to which the Vendor is subject in connection with any part of the Properties or the Information;

**“Contemporaneous Agreement”** means the agreement executed and delivered as of even date, between NAP and YC, pursuant to which NAP has agreed to sell to YC, eight exploration permits comprising approximately 657,141.24 acres all located in the Province of Saskatchewan, Canada;

**“Defending Party”** has the meaning set forth in section 9.5;

**“Deposit”** means the sum of US\$7,500,000, represented by the Payment Undertaking, to be dealt with as provided in sections 2.2 and 2.5(a) hereof;

**“Environmental Law”** means Applicable Law in respect of the natural environment, public or occupational health or safety and the manufacture, importation, handling, transportation, storage, disposal and treatment of Hazardous Substances;

**“Environmental Permit”** means any Licence issued or required pursuant to any Environmental Law;

**“Escrow Agent”** means the mutually acceptable escrow agent that is appointed by the Parties to act in accordance with the terms and conditions of the Representation and Warranty Escrow Agreement;

**“Execution Requirement Date”** means July 26, 2011;

**“Expiry Date”** means the Business Day which is 25 Business Days after the Execution Requirement Date, being August 31, 2011, or if YC has exercised the provisions of section 2.5(a) and has requested a first extension of the Expiry Date, the Business Day which is 45 Business Days after the Execution Requirement Date, being September 30, 2011, or if YC has exercised the provisions of section 2.5(b) and has requested a second extension of the Expiry Date, the Business Day which is 55 Business Days after the Execution Requirement Date, being October 18, 2011;

**“First Option Payment”** has the meaning set forth in section 2.5(a);

**“Governmental Authority”** means:

- (a) any domestic or foreign government, whether national, federal, provincial, state, territorial, municipal or local (whether administrative, legislative, executive or otherwise);
- (b) any agency, authority, ministry, department, regulatory body, court, central bank, bureau, board or other instrumentality having legislative, judicial, taxing, regulatory, prosecutorial or administrative powers or functions of, or pertaining to, government;
- (c) any court, commission, individual, arbitrator, arbitration panel or other body having adjudicative, regulatory, judicial, quasi-judicial, administrative or similar functions; and
- (d) any other body or entity created under the authority of or otherwise subject to the jurisdiction of any of the foregoing, including any stock or other securities exchange.

**“GST”** means the goods and services tax imposed under Part IX of the *Excise Tax Act* (Canada);

**“Hazardous Substance”** means any solid, liquid, gas, odour, heat, sound, vibration, radiation or combination of them that may impair the natural environment, injure or damage property or plant or animal life or harm or impair the health of any individual and includes any contaminant, waste, substance or material defined by Environmental Law as hazardous, toxic or dangerous or any other substance or material prohibited, regulated or reportable pursuant to any Environmental Law;

**“Information”** means all information and all know-how owned, leased or licensed by, or on behalf of the Vendor or in which the Vendor has a right, title or interest, and which is directly related to the Properties, including, without limitation:

- (a) information of a scientific, technical or business nature, whether in written, graphic, machine readable, electronic or physical form including prior exploration and development results, proposed work programs and budgets, pre-feasibility or feasibility studies and reports, valuations, reserve estimates and the like;

- (b) maps, plans, designs, research data, research plans, development plans, drill core samples, environmental reports, reports on reserves and resources, trade secrets, processes, formulas, drawings, technology, computer software and related manuals, unpatented blueprints, flow sheets, equipment and parts lists, instructions, manuals, records and procedures; and
- (c) all information provided by the Vendor or the Vendor's representatives to YC or YK, as and by way of technical due diligence materials;

**"Investment Canada Act"** means the Investment Canada Act (Canada) R.S.C. 1985, c. 28, as amended;

**"Interim Period"** means the period from the date hereof to the time at which the Transaction is to be completed on the Closing Date;

**"ITA"** means the *Income Tax Act* (Canada);

**"Law"** has the meaning set out in the definition of **"Applicable Law"**;

**"Legal Proceeding"** means any litigation, action, application, suit, investigation, hearing, claim, deemed complaint, grievance, civil, administrative, regulatory or criminal, arbitration proceeding or other similar proceeding, before or by any court or other tribunal and includes any appeal or review thereof and any application for leave for appeal or review;

**"Liability"** means, with respect to any Person, any liability or obligation of such Person of any kind, character or description, whether known or unknown, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, executory, determined, determinable or otherwise and whether or not the same is required to be accrued on any financial statements;

**"Licence"** means any licence, permit (other than the Properties), authorization, approval or other evidence of authority issued or granted to, conferred upon, or otherwise created for the Properties or any part of the Properties by any Governmental Authority;

**"Lien"** means any lien, security interest, mortgage, charge, encumbrance or other similar right of a third Person, whether registered or unregistered, and whether arising by agreement, statute or otherwise, but excluding applicable royalties or other rights in favour of any Governmental Authority in the Province of Saskatchewan;

**"LOP"** means the letter of intent dated as of June 17, 2011, and accepted on June 20, 2011, between the Vendor and YK with respect to the purchase and sale of the Properties and the Information;

**“Losses”** means any loss, cost, Liability, claim, interest, fine, penalty, assessment, damage (including incidental, consequential, special, aggravated, exemplary or punitive damages awarded in any Order in respect of a Third Party Claim) or expense (whether or not involving a Third Party Claim) including reasonable costs, fees and expenses of legal counsel on a full indemnity basis (without reduction for tariff rates or similar reductions) and reasonable costs, fees and expenses of investigation;

**“Mann and Medge Litigation”** means, collectively, the claim filed by 101119529 Saskatchewan Ltd. and Agrikalium Mining Corporation dated January 14, 2011, against 101109711 Saskatchewan Ltd., NAP (formerly 101109718 Saskatchewan Ltd.), the Vendor, Joint Stock Company Acron, Moshe Viatcheslav Kantor, Vyatcheslav Kantor, Subero Associates Inc., Trustservice Limited Liability Company and Viasat Services Limited, in respect of alleged wrongful interference with economic interests;

**“Material Adverse Change”** means a change in the Properties, taken as a whole, which constitutes a Material Adverse Effect;

**“Material Adverse Effect”** means an event or circumstance or events or circumstances which, in the aggregate, materially adversely affects the ownership of the Properties by YC on substantially the same basis as the Properties are currently owned by the Vendor;

**“Material Adverse Variance”** means anything not known to the Vendor or its professional advisors on or before the Execution Requirement Date and which relates to: (i) the Vendor’s legal or beneficial ownership of the Properties or its ability to sell the same to YC free of any Liens; or (ii) taxation and other liabilities attaching to the Properties; and either of which is materially adverse to the Properties;

**“NAP”** means North Atlantic Potash Inc;

**“Notice Period”** has the meaning set forth in section 9.4;

**“Order”** means any order, directive, judgment, decree, injunction, decision, ruling, award or writ of any Governmental Authority;

**“Parties”** means the Vendor and YC, collectively, and “Party” means either one of them;

**“Payment Undertaking”** means the payment undertaking dated as of June 22, 2011, among YC, YK, the Bank of China and the Vendor, pursuant to which the Bank of China has agreed to pay the maximum sum of US\$7.5 million to the Vendor or to release the payment undertaking, upon the receipt of certain joint certificates, as more particularly set forth in section 2.5(c) and all as more particularly set out in such Payment Undertaking;



**“Person”** is to be broadly interpreted and includes an individual, a corporation, a partnership, a trust, an unincorporated organization, a Governmental Authority and the executors, administrators or other legal representatives of an individual in such capacity;

**“Place of Closing”** means the offices of McKercher LLP, Saskatchewan, counsel to the Vendor;

**“Prime Rate”** means, at any particular time, the reference rate of interest, expressed as a rate per annum, that the Royal Bank of Canada establishes as its prime rate of interest that it will charge to its most credit worthy customers in Canada;

**“Property”** and **“Properties”** have the respective meanings ascribed thereto in the recitals to this Agreement;

**“Properties Allocation”** and **“Property’s Allocation”** have the meanings set forth in section 2.4;

**“Purchase Price”** means the sum of US\$150,500,000, which is exclusive of any applicable GST and other sales taxes;

**“Regulations”** means *The Subsurface Mineral Regulations, 1960* (Saskatchewan);

**“Regulatory Approval”** means any approval, consent, ruling, authorization, notice, permit (other than the Properties) or acknowledgement that may be required from any Person pursuant to Applicable Law or under the terms of any Licence or the conditions of any Order in connection with the sale of the Properties and the Information by the Vendor to YC and the completion of the Transaction;

**“Release”** includes an actual or potential discharge, deposit, spill, leak, pumping, pouring, emission, emptying, injection, escape, leaching, seepage or disposal of a Hazardous Substance which is or may be in breach of any Environmental Law;

**“Representation and Warranty Escrow Agreement”** means the representation and warranty escrow agreement, in a form to be mutually agreed upon, to be executed and delivered on Closing, among the Escrow Agent, YC and the Vendor;

**“Second Option Payment”** has the meaning set forth in section 2.5(a);

**“SER”** means the Saskatchewan Ministry of Energy and Resources;

**“Surface Lands”** means the surface lands that overlay the mineral lands that are subject to the Properties;

**“Survival Period”** has the meaning set forth in section 9.2;

“**Taxes**” means all taxes, charges, fees, levies, imposts and other assessments, including all income, sales, use, goods and services, harmonized sales, value added, capital, capital gains, alternative, net worth, transfer, profits, withholding, payroll, employer health, excise, franchise, real property and personal property taxes, and any other taxes, customs duties, fees, assessments or similar charges in the nature of a tax including Canada Pension Plan and provincial pension plan contributions, unemployment insurance payments and workers compensation premiums, together with any instalments with respect thereto, and any interest, fines and penalties, imposed by any governmental authority (including federal, state, provincial, municipal and foreign governmental authorities), and whether disputed or not;

“**Third Party Claim**” means Losses arising as a result of a claim by a Person against YC, relating to the Mann and Medge Litigation or any other Legal Proceeding in respect of the Properties, the Information, this Agreement or the Transaction in existence as at the Closing Date;

“**Time of Closing**” means 10:00 a.m. (Saskatchewan time) on the Closing Date;

“**Transaction**” means the transaction of purchase and sale of the Properties and the Information as contemplated by this Agreement;

“**Treaty Land Entitlement Agreements**” means (i) the Saskatchewan Treaty Land Entitlement Framework Agreement dated September 22, 1992 and entered into by Canada, Saskatchewan and certain Indian bands with respect to the settlement of the outstanding treaty land entitlement claims of the Indian bands; and (ii) any agreement entered into by Canada, Saskatchewan and an Indian band with respect to the settlement of the outstanding treaty land entitlement claim of that band on the same or substantially the same terms as the agreement in subclause (i);

“**Vendor**” has the meaning ascribed thereto in the opening paragraph of this Agreement;

“**Vendor Regulatory Approval**” means the Regulatory Approval set forth in Schedule “C” attached hereto;

“**YC**” has the meaning ascribed thereto in the opening paragraph of this Agreement; and

“**YK**” means Yankuang Group Corporation Limited.

**1.2 General Interpretation.** For the purposes of this Agreement, except as otherwise expressly provided:

(a) all references in this Agreement to a designated Article, section, subsection, paragraph or other subdivision or to a Schedule is to the designated Article, section, subsection, paragraph or other subdivision of, or Schedule to, this Agreement unless otherwise specifically stated;

(b) the words “**herein**”, “**hereof**” and “**hereunder**” and other words of similar import refer to this Agreement as a whole and not to any particular Article, section, clause, subclause or other subdivision or Schedule;

(c) the singular of any term includes the plural and vice versa and the use of any term is equally applicable to any gender and where applicable a body corporate;

(d) the word “**or**” is not exclusive and the word “**including**” is not limiting (whether or not non-limiting language, such as “**without limitation**” or “**but not limited to**” or other words of similar import are used with reference thereto);

(e) the headings to the sections and clauses of this Agreement are inserted for convenience of reference only and do not form a part of this Agreement and are not intended to interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof;

(f) any reference to a corporate entity includes and is also a reference to any corporate entity that is a successor to such entity;

(g) the Schedules that are attached to this Agreement and form a part hereof are as follows:

Schedule “A”	Description of the Properties
Schedule “B”	Buyer Regulatory Approvals
Schedule “C”	Vendor Regulatory Approval

(h) unless otherwise indicated, all references in this Agreement to any statute include the regulations thereunder, in each case as amended, re-enacted, consolidated or replaced from time to time and in the case of any such amendment, re-enactment, consolidation or replacement, reference herein to a particular provision shall be read as referring to such amended, re-enacted, consolidated or replaced provision and also include, unless the context otherwise requires, all applicable guidelines, bulletins or policies made in connection therewith and which are legally binding;

(i) all references herein to any agreement (including this Agreement), document or instrument mean such agreement, document or instrument as amended, supplemented, modified, varied, restated or replaced from time to time in accordance with the terms thereof and, unless otherwise specified therein, includes all schedules and exhibits attached thereto;

(j) whenever in this Agreement reference is made to a Legal Proceeding or other matter that is “**threatened**” it shall mean that a demand or statement (oral or written) has been made or a notice (oral or written) has been given that a Legal Proceeding or other matter is to be asserted, commenced, taken or otherwise pursued in the future; and

(k) unless otherwise defined herein, words or abbreviations which have well-known trade meanings are used herein with those meanings.

**1.3 Actions on Non-Business Days.** If any payment is required to be made or other action (including the giving of notice) is required to be taken pursuant to this Agreement on a day which is not a Business Day, then such payment or action shall be considered to have been made or taken in compliance with this Agreement if made or taken on the next succeeding Business Day.

**1.4 Currency and Payment Obligations.** Except as otherwise expressly provided in this Agreement:

(a) all dollar amounts referred to in this Agreement are stated in United States Dollars;

(b) any payment contemplated by this Agreement shall be made by cash, certified cheque, wire transfer or any other method that provides immediately available funds; and

(c) except in the case of any payment due on the Closing Date, any payment due on a particular day must be received by and be available to the payee not later than 2:00 p.m. (Saskatchewan time) on the due date at the payee's address for notice under Article 10 or such other place as the payee may have specified in writing to the payor in respect of a particular payment and any payment made after that time shall be deemed to have been made and received on the next Business Day.

**1.5 Calculation of Interest.** In calculating interest payable under this Agreement for any period of time, the first day of such period shall be included and the last day of such period shall be excluded.

**1.6 Calculation of Time.** In this Agreement, a period of days shall be deemed to begin on the first day after the event which began the period and to end at 5:00 p.m. (Saskatchewan time) on the last day of the period. If any period of time is to expire hereunder on any day that is not a Business Day, the period shall be deemed to expire at 5:00 p.m. (Saskatchewan time) on the next succeeding Business Day.

**1.7 Knowledge.** Where any representation, warranty or other statement in this Agreement is expressed to be made by a Party to their knowledge or is otherwise expressed to be limited in scope to facts or matters known to the Party, it shall mean such knowledge as is actually known to the persons who are officers, directors and/or shareholders, in the case of the Vendor, or the controlling shareholder, in the case of YC, of the Party.

**1.8 Tender.** Any tender of money hereunder may be made upon the Parties or their respective counsel and money shall be tendered in the manner contemplated by sections 1.4, 2.2 and 2.5.

**1.9 Escrow Provisions.** Any document, instrument or thing which is to be delivered by either of the Parties on the Closing Date shall be tabled by the Party which is to deliver such document, instrument or thing and any document, instrument or thing so tabled by a Party shall be:

- (a) deemed to have been delivered by such Party for the purposes of this Agreement;
- (b) held in escrow by the solicitor for the Party to be dealt with in accordance with subsections (c) and (d);
- (c) delivered to the Party to which it is to be delivered pursuant to the terms hereof, if all documents, instruments and things which are to be delivered on the Closing Date are tabled in accordance with this section; and
- (d) delivered to, or in accordance with the directions of, the Party which tabled it, if subsection (c) does not apply.

**1.10 Recitals.** The Parties acknowledge and declare that the recitals in this Agreement are true and correct.

**1.11 Governing Law; Attornment.** This Agreement shall be construed, interpreted and enforced in accordance with, and the rights of the Parties shall be governed by, the laws of the Province of Ontario and the federal laws of Canada applicable therein (excluding any conflict of law rule or principle of such laws that might refer such interpretation or enforcement to the laws of another jurisdiction). Each Party agrees that any disputes in relation to this Agreement, which the Parties to this Agreement are unable to resolve by mutual agreement within two months from the commencement of such dispute, shall be exclusively and finally resolved by arbitration in accordance with, in the case of a dispute commenced prior to completion of Closing and payment of the Purchase Price on the Closing Date, the Hong Kong International Arbitration Centre Administered Arbitration Rules/UNCITRAL Arbitration Rules in force, and in the case of a dispute commenced following completion of Closing and payment of the Purchase Price on the Closing Date, the rules of arbitration of the *Arbitration Act* (Ontario) in force. The place of the arbitration shall be, in the case of a dispute commenced prior to completion of Closing and payment of the Purchase Price on the Closing Date, Hong Kong, and in the case of a dispute commenced following completion of Closing and payment of the Purchase Price on the Closing Date, Ontario. The arbitral proceedings shall be conducted in the English language. The number of arbitrators shall be three, one appointed by each Party and the third shall be chosen by the arbitrators already appointed. The fees of the arbitrator shall be borne by the unsuccessful party or parties in the arbitration, or, if success is divided, then in the manner that the arbitrator may determine.

**1.12 Entire Agreement; Amendment.** This Agreement constitutes the entire agreement between the Parties with respect to the Transaction and cancels and supersedes any prior understandings, agreements, negotiations and discussions, written or oral, between the Parties, and the Vendor and YK, as applicable, with respect thereto including without limitation, the LOI (but not the Payment Undertaking or the CA). There are no representations, warranties, terms, conditions, undertakings or collateral agreements or understandings, express or implied, between the Parties other than those expressly set forth in this Agreement, the Payment Undertaking, the Representation and Warranty Escrow Agreement and any Closing Document. This Agreement may not be amended, supplemented or otherwise modified in any respect except by written instrument executed by the Parties.

**1.13 Waiver of Rights.** Any waiver of, or consent to depart from, the requirements of any provision of this Agreement shall be effective only if it is in writing and signed by the Party giving it, and only in the specific instance and for the specific purpose for which it has been given. No failure on the part of either Party to exercise, and no delay in exercising, any right under this Agreement shall operate as a waiver of such right. No single or partial exercise of any such right shall preclude any other or further exercise of such right or the exercise of any other right.

**1.14 Severability.** Any provision in this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

**1.15 Conflict.** In the event of any conflict or inconsistency between the terms and conditions in the body of this Agreement and those in any Schedule (including any agreement entered into pursuant to this Agreement), the terms and conditions in the body of this Agreement shall govern and take precedence and the Parties shall take such steps as may be required or desirable to conform the conflicting or inconsistent provisions thereof to this Agreement.

**1.16 Consents and Approvals.** Unless otherwise specified, where the consent or approval of a Party is contemplated or required by the terms of this Agreement, that Party shall not unreasonably delay or withhold the giving of such consent or approval after a request therefor has been made by the other Party.

**1.17 Remedies Cumulative.** The rights, remedies, powers and privileges herein provided to a Party are cumulative and in addition to and not exclusive of or in substitution for any rights, remedies, powers and privileges otherwise available to that Party. Additionally, the Parties agree that damages may not be an adequate remedy for breach of this Agreement, including, without limitation, the exclusivity provisions herein contained and the obligations to complete the Closing, subject to the fulfillment of the terms and conditions herein contained, and that irreparable damage would occur in the event that any provision of this Agreement was not performed in accordance with its specific terms or was otherwise breached. Accordingly, the Parties acknowledge and hereby agree that in the event of any threatened or actual breach by either Party of any covenant or obligation of such Party set forth in this Agreement, the other Party shall be entitled to, in addition to damages, the remedies of injunction, specific performance and other equitable relief for a threatened or actual breach by the other Party, without proof of specific damage, to, without limitation, prevent or restrain any threatened or actual breaches of this Agreement and to specifically enforce the terms and provisions of this Agreement, to prevent or restrain threatened or actual breaches, or to enforce compliance with the covenants and obligations of each Party under this Agreement, in addition to any other remedy that may be available at law or in equity.

**1.18 Time of the Essence.** Time shall be of the essence of this Agreement.

**1.19 Costs and Expenses.** Each Party shall be responsible for all costs and expenses (including the fees and disbursements of legal counsel, bankers, investment bankers, accountants, brokers and other advisors) incurred by it in connection with this Agreement and the Transaction.

**1.20 Good Faith.** Each Party shall at all times during the currency of this Agreement and after Closing, if applicable, act in good faith with respect to the other Party and shall do or cause to be done all things within their respective powers which may be necessary or desirable to give full effect to the provisions hereof.

**1.21 Hindrance of the Transaction.** In the event that any Person seeks to prevent, delay or hinder implementation of the Transaction, or seeks to invalidate all or any portion of this Agreement, each of the Parties shall vigorously and diligently resist such proceedings and not consent to any Order that would have such effect.

## **2. PURCHASE AND SALE AND OTHER COVENANTS**

**2.1 Purchase and Sale.** Subject to the terms and conditions set forth herein, the Vendor hereby agrees to sell, transfer, assign and convey to YC and YC agrees to purchase for the Purchase Price, on the Closing Date all of the Vendor's right, title and interest, both legal and beneficial, in and to the Properties and the Information, free and clear of all Liens. Prior to the Closing Date, if, as and when YC obtains all of the regulatory approvals set forth in item 1 of Schedule "B", this Agreement shall be assigned by YC to the Buyer, which the Vendor hereby consents to, pursuant to an agreement whereby YC shall convey, assign and transfer to the Buyer and the Buyer shall assume all of YC's rights and obligations under this Agreement. For greater certainty, upon the assignment of this Agreement from YC to the Buyer, YC's representations and warranties contained in this Agreement shall be replaced with the same representations and warranties made by the Buyer. Notwithstanding anything contained herein and notwithstanding the assignment of this Agreement from YC to the Buyer, YC shall remain liable, until completion of the Closing and payment of the Purchase Price on the Closing Date, for all of its obligations contained herein in connection with the Payment Undertaking, the Closing conditions and completion of the Transaction.

**2.2 Payment of Purchase Price.** As consideration for the purchase of the Properties and the Information, at the Time of Closing on the Closing Date, YC agrees to pay US\$100,500,000 of the Purchase Price to the Vendor less the amount of the sum released by the Bank of China pursuant to the Payment Undertaking in cash and to deposit US\$50,000,000 of the Purchase Price with the Escrow Agent under the Representation and Warranty Escrow Agreement for the benefit of the Vendor and the Buyer. The Vendor agrees to deposit US\$100,500,000 of the Purchase Price with the Closing Escrow Agent under the Closing Escrow Agreement.

**2.3 Transfer of Properties and Information.** On the Closing Date, the Vendor shall deliver to the Buyer, in addition to those items contemplated by section 6.1 or as specifically provided elsewhere in this Agreement, the following:

- (a) registerable transfer documentation to transfer a 100% undivided, beneficial and legal interest in and to the Properties to the Buyer or as directed by the Buyer, in form and substance satisfactory to the Buyer, acting reasonably; and
- (b) the Information.

For greater certainty and without limitation, the Purchase Price (including the funds to be released to the Vendor pursuant to the Payment Undertaking as set out in section 2.5(b)) and the amount of reimbursement of expenditures as set out in section 2.7 shall be delivered on the Closing Date to and held in trust together with all other closing deliverables by the Closing Escrow Agent pursuant to the Closing Escrow Agreement (at which point the Transaction shall be deemed to be closed in escrow and no longer affected by the Expiry Date), to be released to the appropriate Parties only and immediately at such time as the Closing Escrow Agent has received confirmation that the said conveyance or transfer of the Properties has been duly recorded or registered with the SER as well as a duly updated disposition search abstract from the SER (delivered by the Vendor), evidencing such recordation or registration.

**2.4 Allocation of Purchase Price Regarding the Properties.** The Parties agree that the one-eleventh of the difference between the Purchase Price and US\$1.00 shall be allocated to each one of the Properties as being the value thereof and that any and all filings to be made by the Parties shall reflect such allocation (collectively, the “**Properties Allocation**” and individually, a “**Property’s Allocation**”). The Parties agree that US\$1.00 shall be allocated to the Information.

**2.5 Dealings with Payment Undertaking and Extension of Expiry Date.**

(a) The Parties hereto do hereby agree that effective as of the Execution Requirement Date, US\$3,500,000 of the Deposit shall be designated as the “**First Option Payment**” (the “**First Option Payment**”) (with the payment undertaking provisions thereof to be differentiated from the payment undertaking provisions of the Deposit as provided in this section) and the Deposit shall be deemed to be the Deposit less the First Option Payment. YC shall have the right, upon the written, irrevocable designation of an additional US\$3,500,000 of the Deposit as the “**Second Option Payment**” (the “**Second Option Payment**”), to extend the Expiry Date by an additional 20 Business Days, in which case the Expiry Date shall be 45 Business Days after the Execution Requirement Date and the payment undertaking provisions of the First Option Payment and the Second Option Payment shall be different from each other and from the Deposit as provided in this section, and the Deposit shall be deemed to be the Deposit less the First Option Payment and the Second Option Payment.



(b) If YC has made the additional designation of the Second Option Payment and extends the Expiry Date to 45 Business Days after the Execution Requirement Date, and has obtained all approvals of (i) the State-owned Assets Supervision and Administration Commission of the Peoples' Republic of China (the "PRC"), (ii) the Ministry of Commerce of the PRC, (iii) the National Development and Reform Commission of the PRC or (iv) the State Administration of Foreign Exchange of the PRC required of YK, YC, and/or its affiliates, as applicable, required in connection with this Agreement and the Contemporaneous Agreement, YC shall have the further right to extend the Expiry Date by an additional 10 Business Days, in which case the Expiry Date shall be 55 Business Days after the Execution Requirement Date, by paying to the Vendor US\$1,750,000, which amount shall be deducted from the Purchase Price payable by YC at Closing. If YC does not complete the Transaction by reason of its failure to obtain any of the Buyer Regulatory Approvals set forth in item "2" of Schedule "B", provided that YC has used its reasonable efforts to procure such Buyer Regulatory Approvals (although YC shall not be deemed to be in derogation of its obligations to use its reasonable efforts by reason of acts or omissions of the Vendor in connection with the procurement of such Buyer Regulatory Approvals), the Vendor shall return the US\$1,750,000 payment to YC as soon as commercially practicable, but in any event within 5 Business Days of termination of this Agreement. If YC does not complete the Transaction for any other reason, the US\$1,750,000 payment shall be retained by the Vendor and shall not be refundable to YC. For greater certainty, if YC elects to exercise its right to further extend the Expiry Date pursuant to this section 2.5(b), the First Option Payment and the Second Option Payment shall continue to be held in escrow pursuant to the Payment Undertaking and in no way shall become due and payable in cash.

(c) The Parties do hereby agree that the payment undertaking provisions relating to the Deposit, the First Option Payment and the Second Option Payment, as applicable, are set forth below. These items specifically relate to the Payment Undertaking, and the manner in which the Parties are to act with respect thereto so as to instruct the Bank of China as at and from the applicable time.

- (i) The Parties will jointly direct the Bank of China to cancel the Payment Undertaking, if YC shall terminate this Agreement as set forth in Article 8.
- (ii) On Closing, the Parties will jointly direct the Bank of China to pay the First Option Payment and the Deposit or the First Option Payment, the Second Option Payment and the Deposit, if YC has exercised its right to extend the Expiry Date as provided in section 2.5(a), plus all interest earned thereon to the Vendor and such amounts will be applied toward satisfaction of the Purchase Price.
- (iii) On the Expiry Date, the Parties will jointly direct the Bank of China to pay the First Option Payment or the First Option Payment and the Second Option Payment, if YC has exercised its right to extend the Expiry Date as provided in section 2.5 (a), to the Vendor plus all interest accrued thereon if YC does not complete the Transaction by reason of its failure to obtain any of the Buyer Regulatory Approvals set forth in item 1 of Schedule "B". However, if a Material Adverse Variance has occurred in relation to the Transaction or if the Vendor shall otherwise be in breach of its Closing obligations contained in this Agreement, on the Expiry Date, the Parties will jointly direct the Bank of China to cancel the Payment Undertaking.

- (iv) On the Expiry Date, the Parties will jointly direct the Bank of China to cancel the Payment Undertaking if YC does not complete the Transaction by reason of its failure to obtain any of the Buyer Regulatory Approvals set forth in item “2” of Schedule “B”, provided that YC has used its reasonable efforts to procure such Buyer Regulatory Approvals (although YC shall not be deemed to be in derogation of its obligations to use its reasonable efforts by reason of acts or omissions of the Vendor in connection with the procurement of such Buyer Regulatory Approvals).
  - (v) On the Expiry Date, the Parties will jointly direct the Bank of China to pay the First Option Payment and the Deposit or the First Option Payment, the Second Option Payment and the Deposit, if YC has exercised its right to extend the Expiry Date as provided in section 2.5(a), plus all interest earned thereon to the Vendor if YC does not complete the Transaction for reasons other than those set forth in sections 2.5(c)(iii) and (iv); however, if a Material Adverse Variance has occurred in relation to the Transaction or if the Vendor shall otherwise be in breach of its Closing obligations contained in this Agreement, on the Expiry Date, the Parties will jointly direct the Bank of China to cancel the Payment Undertaking.
- (d) The Parties covenant and agree to provide appropriate written demands to the Bank of China in relation to the Payment Undertaking, in the circumstances described above and in accordance with the terms of the Payment Undertaking.
- (e) Notwithstanding anything contained in this section, if the Mann and Medge Litigation or any other Legal Proceeding in respect of the Properties, the Information, this Agreement or the Transaction existing as at the Closing Date adversely affects YC as at the Closing Date or enjoins, restricts or prohibits, or asserts a claim or seeks a remedy that would have the effect of enjoining, restricting or prohibiting the completion of the Transaction, the Vendor shall not be entitled to the Deposit and any part of the Deposit already paid to the Vendor shall be returned to YC by the Vendor as soon as commercially practicable. If YC has elected to exercise its right to further extend the Expiry Date pursuant to section 2.5(b), the Vendor shall also return the US\$1,750,000 payment to YC as soon as commercially practicable. In addition, all reasonable expenses of YC incurred in respect of the Transaction shall be reimbursed by the Vendor.
- 2.6 Exclusive Dealings.** From and after the date hereof, the Vendor shall not take any action, directly or indirectly, to encourage, initiate or engage in discussions or negotiations with, or provide any information to, any Person, other than YC concerning any sale, transfer, license or assignment of the Properties or the Information or any merger, amalgamation or other transaction involving the Properties or the Information.

**2.7 Reimbursements of Expenditures.** On the Closing Date, YC shall pay to the Vendor C\$800,000, representing the amount of deposits made by the Vendor to the SER as payment in lieu of meeting exploration expenditures in respect of the Properties. In the event that the SER reimburses the Vendor, in spite of the direction provided by the Vendor in section 6.1(c), for such deposit amount, or portion thereof, the Vendor shall, as soon as commercially practicable, pay said amount to YC without set-off or deduction.

### **3. REPRESENTATIONS AND WARRANTIES OF THE VENDOR**

The Vendor represents and warrants to YC as set out in this section and acknowledges that YC is relying on such representations and warranties in connection with the Transaction and that such representations and warranties shall be true as of the Closing Date as if made on and as of such date:

**3.1 Incorporation of the Vendor.** The Vendor is a corporation duly incorporated, organized and subsisting under the laws of the Province of Saskatchewan and has the corporate power, authority and capacity to execute and deliver this Agreement, to own the Properties and the Information, to sell the Properties and the Information to YC as herein contemplated and to perform its other obligations hereunder and under the Payment Undertaking and the Representation and Warranty Escrow Agreement. No proceedings have been taken or authorized by the Vendor or by any other Person with respect to the bankruptcy, insolvency, liquidation, dissolution or winding up of the Vendor or with respect to any amalgamation, merger, consolidation, arrangement or reorganization of, or relating to, the Vendor nor, to the knowledge of the Vendor, have any such proceedings been threatened by any other Person.

**3.2 Authorization of Transaction by the Vendor.** The execution and delivery of this Agreement and the Payment Undertaking and the completion of the Transaction have been duly and validly authorized by all necessary corporate action on behalf of the Vendor and each of this Agreement and the Payment Undertaking has been duly and validly executed and delivered by the Vendor and is a valid and binding obligation of the Vendor enforceable against the Vendor in accordance with its respective terms. On Closing, the execution and delivery of the Representation and Warranty Escrow Agreement and the Closing Documents will be duly and validly authorized by all necessary corporate action on behalf of the Vendor and each of the Representation and Warranty Escrow Agreement and the Closing Documents will be validly executed and delivered by the Vendor and valid and binding obligations of the Vendor enforceable against the Vendor in accordance with their respective terms. As at the date hereof, there is no Legal Proceeding in progress, pending, or, to the knowledge of the Vendor, threatened against or affecting the Vendor, other than the Mann and Medge Litigation, or affecting the title of the Vendor to any parts of the Properties or the Information at law or in equity or before or by any tribunal and, to the knowledge of the Vendor, there are no grounds on which any such Legal Proceeding might be commenced with any reasonable likelihood of success nor is there any Order outstanding against or affecting the Vendor which, in any such case, affects adversely or might affect adversely the ability of the Vendor to enter into this Agreement, the Payment Undertaking or the Representation and Warranty Escrow Agreement or to perform its obligations hereunder or thereunder.

**3.3 Qualification of the Vendor.** The Vendor has the necessary corporate power, authority and capacity to own and use the Properties and the Information.

**3.4 Conflicting Instruments.** Neither the entering into of this Agreement or the Payment Undertaking by the Parties, nor the entering into of any agreement or other instrument contemplated hereby including without limitation, the Representation and Warranty Escrow Agreement nor the completion of the Transaction nor the performance by the Vendor of its obligations hereunder or under the Payment Undertaking or the Representation and Warranty Escrow Agreement will: (a) conflict with, or result in the breach or violation of or default under, or cause the acceleration of any obligations of the Vendor under, any of the terms and provisions of (i) any Applicable Law, (ii) the Articles of the Vendor or its by-laws or any resolution of the directors or shareholders of the Vendor; or (iii) subject to obtaining any Consent or Vendor Regulatory Approval which may be required thereunder in connection with the completion of the Transaction, any Licence, Order or agreement, contract or commitment, written or oral to which the Vendor is a party or by which the Vendor is bound, or (c) result in the creation of any Lien on any part of the Properties or the Information.

**3.5 Regulatory Approvals.** Except as set forth in Schedule "C", no Regulatory Approval or filing with, notice to, or waiver from any Governmental Authority or other Person is required to be obtained or made by the Vendor in connection with the execution, delivery and performance by the Vendor of its obligations under this Agreement, the Payment Undertaking, the Representation and Warranty Escrow Agreement or the Closing Documents or the consummation of the Transaction. The Vendor has no reason to believe that it will not be able to obtain on or before Closing, the Vendor Regulatory Approval.

**3.6 Title to Properties.** The Vendor has complied in all respects with the Regulations. The Properties are in good standing under the laws of the Province of Saskatchewan, all assessment work required to maintain the Properties in good standing has been performed and all fees of Governmental Authorities have been paid and all filings required to maintain the Properties in good standing have been properly and timely recorded or filed with appropriate Governmental Authorities and the Vendor has no knowledge of any conflicting mineral rights. The Properties are properly and accurately described in Schedule "A" hereto.

The Vendor is the owner of a 100% registered and beneficial right, title and interest in and to all parts of the Properties and the Information with good and marketable title thereto and each part of the Properties and the Information is free and clear of all Liens and there is no adverse claim or challenge to ownership of any part of the Properties or the Information and there are no outstanding rights or options to acquire or purchase any part of the Properties or the Information or any third party royalties, net profits interests or similar interests relating to any parts of the Properties or the Information.

The Vendor has not consented to the sale of any Crown minerals that are the subject of the Properties under applicable Treaty Land Entitlement Agreements.

The Vendor does not own any real property related to the Properties (whether or not the same overlay the Properties). The Vendor has no knowledge that the owners of the Surface Lands will fail to grant access to any owner of the Properties in, over and along the Surface Lands as and when the Properties are to be converted to leases or that such owners will create impediments to the acquisition of the Surface Lands or that the Government of Saskatchewan will intervene in the process relative to the acquisition of the Surface Lands by an owner of the Properties in a manner which is adverse to the interests of any such owner.

The Vendor has not received notice from the Government of Saskatchewan that, upon application, the Government of Saskatchewan will fail to convert the Properties to leases and that the same will therefore be subject to termination notwithstanding the fact that the owner shall be in full compliance with the terms thereof and Applicable Law.

The Vendor has not received notice from the Government of Saskatchewan that the boundaries of the Properties overlap with rights of third Persons and are therefore subject to change. No part of the Properties have been taken or expropriated by any tribunal or other body having power of expropriation, nor has any Legal Proceeding or notice in respect of any such expropriation been commenced, given or threatened.

Neither the Vendor nor, to the Vendor's knowledge, the Government of Saskatchewan is in breach of any of the provisions of the Properties and (subject to obtaining any Consents and Vendor Regulatory Approval to the completion of the Transaction), the completion of the Transaction will not afford the Government of Saskatchewan the right to terminate the Properties nor will the completion of the Transaction result in any additional or more onerous obligation on YC with respect to the Properties.

The Vendor has not sublet, assigned, licensed or otherwise conveyed any rights in and to any parts of the Properties or the Information to any other Person. The Properties have never suffered any Material Adverse Effect.

Notwithstanding any other provision in this Agreement, YC acknowledges and agrees that the Vendor in no way represents and warrants as to Her Majesty the Queen in Right of Saskatchewan's title to the "subsurface minerals" (as defined in the Regulations) listed in the Properties and the right to explore and prospect for "subsurface minerals" (as defined in the Regulations) conveyed by the Properties is subject to any and all defects in, and Liens against, Her Majesty the Queen in Right of Saskatchewan's ownership share in the "subsurface minerals" (as defined in the Regulations). The Vendor has no knowledge of and has not received notice from any Governmental Authority in respect of any such defects in or Liens against Her Majesty the Queen in Right of Saskatchewan's ownership share in the "subsurface minerals" (as defined in the Regulations).

As of the date hereof, the Vendor has paid to the SER (in lieu of meeting exploration expenditure requirements) in respect of the Properties, the aggregate amount of C\$800,000.

**3.7 Information.** The Vendor has made available to YC all of the Information that is in its possession or is under its power or control.

**3.8 Licences.** The Vendor does not own any licences.

**3.9 Liabilities.** The Vendor has no Liabilities (whether accrued, absolute, contingent or otherwise, matured or unmatured) in connection with the Properties or the Information to which YC will become subject after completion of the Transaction.

**3.10 Contracts.** The Vendor is not a party to or bound by or subject to any Contracts with respect to the Properties or the Information save and except for this Agreement and the Payment Undertaking.

**3.11 Insurance.** The Vendor maintains extended risk and casualty coverage insurance with respect to the Properties with reputable and sound insurers in such amounts and against such losses and claims as are generally maintained for comparable properties and assets.

**3.12 Environmental Matters.** The Vendor maintains the Properties in compliance with all Environmental Laws and to the knowledge of the Vendor, there are no facts that could give rise to a notice of non-compliance by the Vendor with any Environmental Law and all parts of the Properties are currently in material compliance with all Environmental Laws. To the knowledge of the Vendor, no Hazardous Substance has been placed, held, located, used or disposed of, on, under or at the Surface Lands by the Vendor. To the knowledge of the Vendor, no claim has ever been asserted and there are no present circumstances which could reasonably form the basis for the assertion of any claim against the Vendor for Losses of any kind as a direct or indirect result of the presence on or under or the escape, seepage, leakage, spillage, discharge, emission or release from the Surface Lands of any Hazardous Substance.

The Vendor has not used any of the Surface Lands to refine, treat, dispose, produce or process Hazardous Substances except in compliance with all Environmental Laws and Environmental Permits held by the Vendor.

Neither the Vendor nor any other person responsible under Environmental Laws for acts of the Vendor has been convicted of an offence or been subjected to any Legal Proceeding relating to Environmental Laws or been subject to any Order or other sanction requiring investigation or remediation of any real property or been fined or otherwise sentenced for non-compliance with any Environmental Laws and has not settled any prosecution or other proceeding short of conviction in connection therewith.

The Vendor has not caused or permitted the Release of any Hazardous Substance at, on or under the Surface Lands or the Release of any Hazardous Substance from the Surface Lands.

The Vendor has not received written notice nor does the Vendor have knowledge of any facts that could give rise to any notice, that the Vendor is potentially responsible for any remedial or other corrective action or any work, repairs, construction or capital expenditures to be made under any Environmental Law with respect to the Properties.

The Vendor has provided YC with copies of all analyses and monitoring data for soil, groundwater and surface water and all reports pertaining to any environmental assessments or audits relating to the Properties that were obtained by the Vendor.

To the knowledge of the Vendor, no underground or above-ground storage tanks are or have been located on any of the Surface Lands.

The Vendor has no knowledge of any Hazardous Substance originating from any adjoining or neighbouring properties to the Surface Lands which has or is suspected to be migrating onto, into or under the Surface Lands.

**3.13 Mining Work.** The Vendor has never performed any prospecting work, geological work, processes, undertaking or other operations in respect of the Properties and does not currently own any other assets or property rights relating to the Properties.

**3.14 Work Orders.** There are no outstanding work orders or actions required or reasonably anticipated to be required to be taken in respect of the rehabilitation or restoration of the Properties or relating to environmental matters in respect of the Properties, nor has the Vendor received notice of same.

**3.15 No Notice.** Except as disclosed to YC in relation to applications relating to Treaty Land Entitlement Agreements, the Vendor has not received notice and the Vendor has no knowledge of any proposal to terminate or vary the terms of or rights attaching to the Properties from any government or other Regulatory Authority or of any challenge to the Vendor's right, title or interest in the Properties.

**3.16 Residence of Vendor.** The Vendor is not a "non-resident" of Canada within the meaning of the ITA.

**3.17 Disclosure.** The Vendor has made available to YC all material information in its possession or control relating to the Properties and the Information.

**3.18 Competition Act and Investment Canada Act.** The Vendor represents and warrants that it is not an "operating business" as that term is defined under subsection 108(i) of the Competition Act or a "Canadian business" as that term is defined under section 3 of the Investment Canada Act.

**3.19 Vendors' Representations and Warranties.** The representations and warranties of the Vendor contained in this Agreement and in any agreement, certificate, affidavit, statutory declaration or other document delivered or given pursuant to this Agreement are true and correct and do not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements contained in such representations and warranties not misleading to a prospective buyer of the Properties and the Information.

**3.20 No Brokers.** All negotiations relating to this Agreement and the Transaction have been carried on by the Vendor directly with YC without the intervention of any other Person on behalf of the Vendor in such manner as to give rise to any valid claim against YC for a brokerage commission, finder's fee or other like payment and the Vendor will indemnify and save harmless YC of and from any such claim.

**3.21 Taxes.** The Vendor has paid all Taxes due and owing by it (whether or not such Taxes are shown or required to be shown on a tax return) and has withheld or collected and timely remitted to the appropriate taxing authority all Taxes which it is required to withhold or collect from amounts paid, payable or owing to or by any employee, shareholder, creditor, non-resident, customer, purchaser or other third party or which would result in a Lien on any part of the Properties.

#### **4. REPRESENTATIONS AND WARRANTIES OF YC**

YC represents and warrants to the Vendor as set out in this section and acknowledges that the Vendor is relying on such representations and warranties in connection with the Transaction. In connection with the assignment of this Agreement from YC to the Buyer prior to the Closing Date, the following representations and warranties shall be made by the Buyer and shall be true as of the Closing Date as if made on and as of such date:

**4.1 Incorporation of YC.** YC is a corporation duly incorporated, organized and subsisting under the laws of the jurisdiction of incorporation and has the corporate power, authority and capacity to execute and deliver this Agreement and the Payment Undertaking, to own the Properties and the Information, to purchase the Properties and the Information from the Vendor as herein contemplated and to perform its other obligations hereunder. No proceedings have been taken or authorized by YC or by any other Person with respect to the bankruptcy, insolvency, liquidation, dissolution or winding up of YC or with respect to any amalgamation, merger, consolidation, arrangement or reorganization of, or relating to, YC nor, to the knowledge of YC, have any such proceedings been threatened by any other Person.

**4.2 Authorization of Purchase by YC.** The execution and delivery of this Agreement and the Payment Undertaking and the completion of the Transaction have been duly and validly authorized by all necessary corporate action on behalf of YC and each of this Agreement and the Payment Undertaking has been duly and validly executed and delivered by YC and is a valid and binding obligation of YC enforceable against YC in accordance with its respective terms. On Closing, the execution and delivery of the Representation and Warranty Escrow Agreement will be duly and validly authorized by all necessary corporate action on behalf of YC and the Representation and Warranty Escrow Agreement will be validly executed and delivered by YC and a valid and binding obligation of YC enforceable against YC in accordance with its terms. There is no Legal Proceeding in progress, pending, or, to the knowledge of YC, threatened against or affecting YC or affecting the title of YC to any of its properties at law or in equity or before or by any tribunal and, to the knowledge of YC, there are no grounds on which any such Legal Proceeding might be commenced with any reasonable likelihood of success nor is there any Order outstanding against or affecting YC which, in any such case, affects adversely or might affect adversely the ability of YC to enter into this Agreement, the Payment Undertaking or the Representation and Warranty Escrow Agreement or to perform its obligations hereunder or thereunder.



**4.3 Qualification of YC.** YC has the necessary corporate power, authority and capacity to own and use the Properties and the Information.

**4.4 Conflicting Instruments.** Neither the entering into of this Agreement by the Parties or the Payment Undertaking, nor the entering into of any agreement or other instrument contemplated hereby including without limitation, the Representation and Warranty Escrow Agreement, nor the completion of the Transaction nor the performance by YC of its obligations hereunder or thereunder will:

(a) conflict with, or result in the breach or violation of or default under, or cause the acceleration of any obligations of YC under, any of the terms and provisions of (i) any Applicable Law, (ii) the constating documents of YC, including any articles or by-laws, if applicable, any resolution of the directors or shareholders of YC, or any equivalent documents under the laws of jurisdiction of incorporation; or (iii) subject to obtaining any Consent or Buyer Regulatory Approval which may be required thereunder in connection with the completion of the Transaction, any Licence, Order or agreement, contract or commitment, written or oral to which YC is a party or by which YC is bound.

**4.5 Buyer Regulatory Approvals.** Except as set forth in Schedule "B", no Regulatory Approval or filing with, notice to, or waiver from any Governmental Authority or other person is required to be obtained or made by YC, or to its knowledge, its affiliates, in connection with the execution, delivery and performance by YC of its obligations under this Agreement, the Payment Undertaking or the Representation and Warranty Escrow Agreement or the consummation of the Transaction. YC has no reason to believe that it will not be able to obtain on or before Closing, the Buyer Regulatory Approvals.

**4.6 No Brokers.** All negotiations relating to this Agreement and the Transaction have been carried on by YC with the Vendor without the intervention of any other Person on behalf of YC in such manner as to give rise to any valid claim against the Vendor for a brokerage commission, finder's fee or other like payment and YC will indemnify and save harmless the Vendor of and from any such claim.

## 5. COVENANTS OF THE PARTIES

**5.1 Vendor's Action During Interim Period.** During the Interim Period, the Vendor shall not take any action, or fail to take any action, that would cause any of the Vendor's representations and warranties to become untrue on the Closing Date. For greater certainty and without limitation, the Vendor shall continue to maintain the Properties in good standing, in accordance with past practice and using sound business judgement.

**5.2 YC's Action During Interim Period.** During the Interim Period, YC shall not take any action that would cause any of YC's representations and warranties to become untrue on the Closing Date.

**5.3 Continuing Access.** During the Interim Period, YC shall be entitled to continue to access the Properties and the Information and the Vendor shall continue to make available to YC and its professional advisors all information relating to the Properties and the Information, as well as access to the Vendor's professional advisors. In addition, the Vendor undertakes to use its commercially reasonable efforts to obtain the 2D and 3D seismic data in respect of the Properties from the applicable third parties, and to provide such information to YC immediately upon receipt thereof. For greater certainty, and without limitation, the continuing access and Vendor's undertaking to obtain the 2D and 3D seismic data shall not give rise to any rights of termination in and to YC on the basis of a "due diligence out".

**5.4 Vendor Fulfillment of Conditions.** The Vendor shall take all such actions, steps and proceedings as are reasonably within its control as may be necessary to ensure that the conditions set out in this Agreement which are for the benefit of YC are fulfilled on or before the Closing Date.

**5.5 YC Fulfillment of Conditions.** YC shall take all such actions, steps and proceedings as are reasonably within its control as may be necessary to ensure that the conditions set out in this Agreement which are for the benefit of the Vendor are fulfilled on or before the Closing Date.

**5.6 Mutual Cooperation.** The Parties agree that they will use commercially reasonable efforts to satisfy (or cause the satisfaction of) all conditions precedent to the Transaction, including, but not limited to:

- (a) obtaining the Regulatory Approvals and the transfer of the Licences and the Properties and the Information required to complete the Transaction;
- (b) effecting all necessary or advisable registrations, filings and submissions required in connection with the Regulatory Approvals or transfer of the Licences;
- (c) cooperating with the other party in connection with the performance by it of its obligations under this Agreement, including refraining from taking, or causing to be taken, any action which would reasonably be expected to prevent or materially delay the consummation of the Transaction;
- (d) providing such information as either YC or Vendor may reasonably request for the purpose of determining whether any filings or notices required in connection with the Regulatory Approvals or transfer of the Licences is required to effect the Transaction;

(e) furnishing such information, documents and assistance that YC or Vendor may request in connection with preparing any required or advisable filings or notices referred to in subparagraph (d) or related requests for information made by any Governmental Authority; and

(f) no Party shall attend a meeting (whether by phone or in person) with any Governmental Authority in Canada in relation to the Transaction in which the other Party has not been provided with a reasonable opportunity to participate, other than a meeting relating to non-substantive factual matters in respect of Closing or the transfer of recorded/registered title of the Properties.

**5.7 Consent on Use of the Information.** If the consent of a third Person is required for the use of or reference to any report or document which forms part of the Information by the Buyer, YC or YK (in their respective ordinary course of business or in performing disclosure requirements pursuant to Applicable Laws), the Vendor shall use its reasonable commercial efforts to assist the Buyer, YC or YK in obtaining such consent.

## **6. CONDITIONS FOR THE BENEFIT OF YC**

**6.1 YC's Conditions.** YC shall not be obligated to complete the Transaction unless, on or before the Closing Date, each of the conditions listed below in this section has been satisfied, it being understood that the said conditions are included for the exclusive benefit of YC:

(a) The representations and warranties of the Vendor in this Agreement shall be true and correct on the Closing Date.

(b) The Vendor shall have performed and complied with all of the terms and conditions in this Agreement and the Payment Undertaking on its part to be performed or complied with on or before the Closing Date.

(c) The Vendor provides the SER and YC with an executed irrevocable written direction, satisfactory in form and substance to the SER and YC, acting reasonably, directing the SER to refund the deposits made by the Vendor, as set out in section 2.7, to YC rather than to the Vendor.

(d) The Vendor provides such satisfactory evidence as requested by YC, acting reasonably, of the amount of deposits made by the Vendor to the SER as payment in lieu of meeting exploration expenditures in respect of the Properties, as set out in section 2.7.

(e) As evidence of the satisfaction of the conditions in sections 6.1(a) and (b), the Vendor shall deliver to YC at the Closing Time a certificate of the Vendor confirming the matters in sections 6.1(a) and (b) and to the effect that as of the Closing Time all other conditions set forth in this section have been satisfied. The certificate shall be signed by two senior executive officers of the Vendor acceptable to YC, acting reasonably. Notwithstanding the foregoing, the receipt of such certificate and the completion of the Transaction shall not constitute a waiver (in whole or in part) of, or have the effect of modifying or qualifying in any way, any of the representations and warranties of the Vendor made in or pursuant to this Agreement, each of which shall survive the Closing and remain in full force and effect for the benefit of YC as provided in Article 9.

(f) On Closing the Vendor shall deliver to YC a legal opinion from counsel acceptable to YC, acting reasonably, and in form and content satisfactory to YC, subject to reasonable qualifications, as to the due incorporation and organization of the Vendor, the corporate power and authority of the Vendor, the receipt of all necessary approvals by the Vendor, the enforceability of this Agreement, the Payment Undertaking and the Representation and Warranty Escrow Agreement as against the Vendor and the non-conflict of this Agreement, the Payment Undertaking and the Representation and Warranty Escrow Agreement with respect to the constating documents of the Vendor and any Applicable Laws.

(g) During the Interim Period, YC, YK, or the Buyer shall have received no variance in information relating to the Properties which would lead a purchaser, acting reasonably, to consider that such variance would have a material adverse effect on the Properties.

(h) The Buyer Regulatory Approvals shall have been granted, obtained and received unconditionally or on terms satisfactory to YC, YK, or the Buyer, as applicable. For greater certainty, and as set out in section 2.3, the regulatory approval set forth in item 2 of Schedule “B” shall be applied for and will be granted, obtained and received after the Transaction has been deemed to be closed in escrow and no longer affected by the Expiry Date.

(i) No Order shall have been made and no Legal Proceeding shall have been commenced or shall be pending or threatened against the other Party or its affiliates or any parts of the Properties which would adversely affect YC or which enjoins, restricts or prohibits, or which asserts a claim or seeks a remedy that would have the effect of enjoining, restricting or prohibiting the completion of the Transaction.

(j) The Contemporaneous Agreement shall have been executed and delivered and the transactions contemplated thereunder shall be completed simultaneously with this Transaction.

(k) The Vendor shall have been granted, obtained and received the Vendor Regulatory Approval which shall have been granted, obtained and received unconditionally or on terms satisfactory to YC, acting reasonably.

(l) YC shall have received, as and by way of the “**Closing Documents**” (the “**Closing Documents**”) such other agreements, certificates, affidavits, statutory declarations, instruments of transfer and other documentation reasonably required by YC to implement the Transaction, all of which shall be satisfactory in form and substance to counsel for YC, acting reasonably.

(m) YC, the Vendor and the Escrow Agent shall have executed and delivered the Representation and Warranty Escrow Agreement and YC shall have deposited US\$50,000,000 (for the benefit of the Vendor and the Buyer) into escrow with the Escrow Agent pursuant to such agreement. For greater certainty, any Order obtained pursuant to the Mann and Medge Litigation or any other Legal Proceeding existing as at the date hereof will not attach to the US\$50,000,000 placed into escrow pursuant to the Representation and Warranty Escrow Agreement.

If any condition in this section has not been fulfilled on or before the Closing Date or if any such condition is or becomes impossible to satisfy, other than as a result of the failure of YC to comply with its obligations under this Agreement, then YC in its sole discretion may, without limiting any rights or remedies available to YC at law or in equity, either terminate this Agreement by written notice to the Vendor, in which case, the provisions of sections 2.5(c)(i), (iv) or (v) shall be applicable or waive compliance with any such condition without prejudice to its right of termination in the event of non-fulfilment of any other condition.

## **7. CONDITIONS FOR THE BENEFIT OF THE VENDOR**

**7.1 Vendor's Conditions.** The Vendor shall not be obligated to complete the Transaction unless, at or before the Closing Time, each of the conditions listed below in this section has been satisfied, it being understood that the said conditions are included for the exclusive benefit of the Vendor:

(a) The representations and warranties of YC in this Agreement shall be true and correct on the Closing Date.

(b) YC shall have performed and complied with all of the terms and conditions in this Agreement and the Payment Undertaking on its part to be performed or complied with on or before the Closing Date.

(c) As evidence of the satisfaction of the conditions in sections 7.1(a) and (b), YC shall deliver to the Vendor at the Closing Time a certificate of YC confirming the matters in sections 7.1(a) and (b) and to the effect that as of the Closing Time all other conditions set forth in this section have been satisfied. The certificate shall be signed by two senior executive officers of YC acceptable to the Vendor, acting reasonably. Notwithstanding the foregoing, the receipt of such certificate and the completion of the Transaction shall not constitute a waiver (in whole or in part) of, or have the effect of modifying or qualifying in any way, any of the representations and warranties of YC made in or pursuant to this Agreement, each of which shall survive the Closing and remain in full force and effect for the benefit of the Vendor as provided in Article 9.

(d) YC and the Buyer shall have delivered to the Vendor a legal opinion from counsel acceptable to the Vendor, acting reasonably, and in form and content satisfactory to the Vendor subject to reasonable qualifications, as to the due incorporation and organization of YC and the Buyer, the corporate power and authority of YC and the Buyer, the receipt of all necessary approvals by YC and the Buyer and the enforceability of this Agreement, the Payment Undertaking and the Representation and Warranty Escrow Agreement as against YC and the Buyer and the non-conflict of this Agreement, the Payment Undertaking and the Representation and Warranty Escrow Agreement with respect to the constating documents of YC and the Buyer and any Applicable Laws.

(e) The Vendor Regulatory Approval shall have been granted, obtained and received unconditionally or on terms satisfactory to the Vendor, acting reasonably.

(f) No Order shall have been made and no Legal Proceeding shall have been commenced or shall be pending or threatened against the other Party or its affiliates or which enjoins, restricts or prohibits, or which asserts a claim or seeks a remedy that would have the effect of enjoining, restricting or prohibiting the completion of the Transaction.

(g) YC, the Vendor and the Escrow Agent shall have executed and delivered the Representation and Warranty Escrow Agreement and YC shall have deposited US\$50,000,000 (for the benefit of the Vendor and the Buyer) into escrow with the Escrow Agent pursuant to such agreement. For greater certainty, any Order obtained pursuant to the Mann and Medge Litigation or any other Legal Proceeding existing as at the date hereof will not attach to the US\$50,000,000 placed into escrow pursuant to the Representation and Warranty Escrow Agreement.

If any condition in this section has not been fulfilled on or before the Closing Date or if any such condition is or becomes impossible to satisfy, other than as a result of the failure of the Vendor to comply with its obligations under this Agreement, then the Vendor in its sole discretion may, without limiting any rights or remedies available to the Vendor at law or in equity, either terminate this Agreement by written notice to YC, in which case the provisions of sections 2.5(c)(iii), (iv) or (v) shall be applicable, or waive compliance with any such condition without prejudice to its right of termination in the event of non-fulfilment of any other condition.

## **8. DAMAGE OR EXPROPRIATION**

**8.1 Damage or Expropriation.** If, prior to the Closing Time, all or any substantial portion of the Properties shall be expropriated or seized by any Governmental Authority or any other Person in accordance with Applicable Law, or if notice of any such expropriation or seizure shall have been given in accordance with Applicable Law, the Vendor shall forthwith advise YC of such appropriation or seizure or receipt of notice thereof, and shall provide applicable details of such appropriation or seizure, and YC shall have the option, exercisable by notice to the Vendor given prior to the Closing Date to terminate this Agreement and not complete the Transaction, in which case YC shall be released from all obligations hereunder as of and from the giving of such notice or the option to complete the Transaction with a reduction of the Purchase Price by the net amount equal to the replacement cost of the Properties so expropriated or seized (based on the Properties Allocation). In the event that YC shall exercise its option to terminate this Agreement set forth in this Article 8, the Parties shall sign a joint direction to the Bank of China forthwith and authorize the Bank of China to cancel the Payment Undertaking.

## **9. INDEMNIFICATION AND LIMITATIONS**

**9.1 Indemnification by the Vendor.** The Vendor shall indemnify, defend and save harmless YC from and against any and all Losses suffered or incurred by YC, as a direct or indirect result of, or arising in connection with or related in any manner whatever to a Third Party Claim.

**9.2 Survival of Representations and Warranties.** The covenants, representations and warranties, and indemnities of the Vendor and YC set forth in this Agreement shall survive the Closing for a period of 18 months, other than in respect of liability for Losses in connection with the Mann and Medge Litigation or any other Legal Proceeding in respect of the Properties, the Information, this Agreement or the Transaction existing as at the Closing Date, which shall survive until the end of the applicable appeal period or the claim is settled or dismissed, after which time the Vendor and YC shall be released from all obligations in respect of such covenants, representations and warranties, and indemnities, except with respect to any claim in respect of any Losses of which a Party gives notice in writing to the other Party (setting out in reasonable detail the nature of such claim and the approximate amount of the Losses arising as a result thereof) before the expiration of such period. As set forth in the Representation and Warranty Escrow Agreement, funds deposited thereunder shall be used to satisfy any claim for Losses of YC pursuant to this Article 9. For greater certainty and notwithstanding anything contained herein, YC may bring a claim for Losses in respect of a breach by the Vendor of its representations and warranties contained in this Agreement and the funds deposited under the Representation and Warranty Escrow Agreement shall be used to satisfy any claim for Losses of YC pursuant thereto.

**9.3 Notice of Third Party Claims.** If YC receives notice of the commencement or assertion of any Third Party Claim, YC shall give the Vendor reasonably prompt notice thereof, but in any event no later than 30 days after receipt of notice of such Third Party Claim. The notice to the Vendor shall describe the Third Party Claim in reasonable detail and shall indicate, if reasonably practicable, the estimated amount of the Losses that have been or may be sustained by YC.

**9.4 Defence of Third Party Claims.** The Vendor may participate in or assume the defence of any Third Party Claim by giving notice to that effect to YC not later than 30 days after receiving notice of the Third Party Claim (the “**Notice Period**”). The Vendor’s right to do so shall be subject to the rights of any insurer or other party who has potential liability in respect of that Third Party Claim. The Vendor shall pay all of its own expenses of participating in or assuming such defence. YC shall co-operate in good faith in the defence of each Third Party Claim, even if the defence has been assumed by the Vendor and may participate in such defence assisted by counsel of its own choice at its own expense. If YC has not received notice within the Notice Period that the Indemnifying Party has elected to assume the defence of such Third Party Claim, YC may, at its option, elect to settle or compromise the Third Party Claim or assume such defence, assisted by counsel of its own choosing and the Indemnifying Party shall be liable for all reasonable costs and expenses paid or incurred in connection therewith and any Losses suffered or incurred by YC with respect to such Third Party Claim. If the Vendor elects to assume the defence of a Third Party Claim under this section, the Vendor shall not have the right thereafter to contest its liability for such claim.

**9.5 Assistance for Third Party Claims.** The Vendor and YC will use all reasonable efforts to make available to the Party which is undertaking and controlling the defence of any Third Party Claim (the “**Defending Party**”), those employees and other persons whose assistance, testimony or presence is necessary to assist the Defending Party in evaluating and in defending any Third Party Claim and all documents, records and other materials in the possession of such Party reasonably required by the Defending Party for its use in defending any Third Party Claim and all documents, records and other materials in the possession of such Party reasonably required by the Defending Party for its use in defending any Third Party Claim and shall otherwise cooperate with the Defending Party. The Vendor shall be responsible for all reasonable expenses associated with making such documents, records and materials available and for all reasonable expenses of any employees or other persons made available by YC to the Vendor hereunder, which expense shall not exceed the actual cost to YC associated with such employees and other persons.

**9.6 Settlement of Third Party Claims.** If the Vendor elects to assume the defence of any Third Party Claim as provided in section 9.4, the Vendor shall not be liable for any legal expenses subsequently incurred by YC in connection with the defence of such Third Party Claim following the receipt by YC of notice of such assumption. However, if the Indemnifying Party fails to take reasonable steps necessary to defend diligently such Third Party Claim within 30 days after receiving notice from YC that YC believes on reasonable grounds that the Indemnifying Party has failed to take such steps, YC may, at its option, elect to assume the defence of and to negotiate, settle or compromise the Third Party Claim assisted by counsel of its own choosing and the Vendor shall also be liable for all reasonable costs and expenses paid or incurred in connection therewith. The Vendor shall not, without the prior written consent of YC, enter into any compromise or settlement of a Third Party Claim, which would lead to liability or create any other obligation, financial or otherwise, on YC.

**9.7 Failure to Give Timely Notice.** A failure to give timely notice as provided in this Article shall not affect the rights or obligations of any Party except and only to the extent that, as a result of such failure, any Party which was entitled to receive such notice was deprived of its right to recover any payment under its applicable insurance coverage or was otherwise directly and materially damaged as a result of such failure.



**9.8 Reductions and Subrogation.** If the amount of any Losses at any time subsequent to the making of an indemnity payment in respect of those Losses is reduced by any recovery, settlement or otherwise under or pursuant to any insurance coverage, or pursuant to any claim, recovery, settlement or payment by or against any other Person, the amount of such reduction (less any costs, expenses (including taxes) or premiums incurred in connection therewith), shall promptly be repaid by YC to the Vendor. Upon making a full indemnity payment, the Vendor shall, to the extent of such indemnity payment, be subrogated to all rights of YC against any third party that is not an affiliate of YC in respect of the Losses to which the Indemnity Payment relates. Until YC recovers full payment of its Losses, any and all claims of the Vendor against any such third Person on account of such Indemnity Payment shall be postponed and subordinated in right of payment to YC's rights against such third Person. Without limiting the generality or effect of any other provision hereof, YC and the Vendor shall duly execute upon request all instruments reasonably necessary to evidence and perfect such postponement and subordination.

**9.9 Tax Effect.** If any payment for indemnification received by YC would constitute taxable income to YC, the Vendor shall pay to YC at the same time and on the same terms, as to interest and otherwise, as the indemnity payment an additional amount sufficient to place YC in the same after-tax position as it would have been if the indemnity payment had been received tax-free.

**9.10 Payment and Interest.** All Losses in respect of a Third Party Claim shall bear interest at a rate per annum equal to the Prime Rate, calculated and payable monthly, both before and after judgment, with interest on overdue interest at the same rate, from the date that YC disbursed funds, suffered damages or losses or incurred a loss, liability or expense in respect of the applicable Losses in respect of a Third Party Claim, to the date of payment by the Vendor to YC.

**9.11 Additional Rules and Procedures.** If any Third Party Claim is of a nature such that YC is required by Applicable Law to make a payment to any Person with respect to such Third Party Claim before the completion of settlement negotiations or related legal proceedings, YC may make such payment and the Vendor shall, forthwith after demand by YC, reimburse YC for any such payment. If the amount of any liability under the Third Party Claim in respect of which such a payment was made, as finally determined, is less than the amount which was paid by the Vendor to YC, YC shall, forthwith after receipt of the difference from the third Person, pay such difference to the Vendor. YC and the Vendor shall co-operate fully with each other with respect to Third Party Claims, shall keep each other fully advised with respect thereto (including supplying copies of all relevant documentation promptly as it becomes available) and shall each designate a senior officer who will keep himself informed about and be prepared to discuss the Third Party Claim with his counterpart and with legal counsel at all reasonable times.

**9.12 Limitations.** Notwithstanding anything else in this Agreement, the maximum aggregate liability of the Vendor on the one hand and YC on the other hand, in respect of all claims for Losses under this Agreement (including, without limitation, indemnification under section 9.1 and Losses resulting from breaches of the representations and warranties, and covenants contained in this Agreement) shall not exceed the amount of the Purchase Price, in the aggregate. Additionally, the liability of the Vendor shall be allocated on a Property by Property basis, pursuant to the Properties Allocation, such that its liability in respect of each Property shall be capped at that Property's Allocation. In the event that the Vendor pays a claim for Losses to YC for the full amount of any Property, including without limitation, the Information with respect thereto, which payment is irreversible and non-refundable, the relevant Property, including without limitation, the Information with respect thereto, shall be transferred by YC to the Vendor or as it may otherwise direct, without any further or other consideration.

**9.13 GST Gross Up.** If any payment made by the Vendor or YC pursuant to this Article 9 is deemed by the Excise Tax Act (Canada) to include GST, or is deemed by any applicable provincial or territorial legislation to include a similar value added or multi-staged tax, the amount of such payment shall be increased accordingly.

## **10. MISCELLANEOUS**

**10.1 Further Assurances.** Each Party shall from time to time execute and deliver or cause to be executed and delivered all such further documents and instruments and do or cause to be done all further acts and things as the other Party may, before or after the Closing Time, reasonably require as being necessary or desirable in order to effectively carry out or better evidence or perfect the full intent and meaning of this Agreement or any provision hereof.

**10.2 Public Announcements.** Except to the extent required by Applicable Law, each Party agrees that no disclosure or public announcement regarding this Agreement or the Transaction shall be made by either Party without the prior written consent of the other Party (which consent may not be unreasonably withheld or delayed and may be given either generally or in a specific case or cases and may be subject to conditions). For the avoidance of doubt, both Parties agree that YC is permitted to make public announcement(s) and other disclosure regarding this Agreement or the Transaction as may be required under applicable listing rules of the stock exchanges on which the shares of YC is listed.

**10.3 Notices.** Any notice, direction or other communication (in this section, a “notice”) required or permitted to be given to a Party pursuant to this Agreement shall be in writing and shall be sufficiently given if delivered personally, mailed or transmitted by facsimile or pdf as follows:

In the case of the Vendor, at:

Devonian Potash Inc.  
374 Third Avenue South  
Saskatoon, SK S7K 1M5

Attention: Lyubov Kantor  
Facsimile Number: 9 72 39509095  
Email address: lkantor@gmail.com

Attention: Arie Zuckerman

Facsimile Number: 9 72 26443429  
Email address: ariezuc@gmail.com

Attention: Alexander Dynkin  
Facsimile Number: 7 499 245 79 53  
Email address: Dynkin@acron.ru

Attention: Anton Zhukov  
Facsimile Number: 7 499 245 79 53  
Email address: Zhukov@acron.ru

With a copy to (which shall not constitute notice to the Vendor):

Blake Cassels & Graydon LLP  
23 College Hill  
5th Floor  
London EC4R 2RP

Attention: David Glennie  
Facsimile Number: 44 (0) 207 429 3560  
Email address: david.glennie@blakes.com

In the case of YC, at

Yanzhou Coal Mining Company Limited  
298 Fushan South Road  
Zoucheng Shandong Province  
PRC, 273500

Attention: Huang Xiaolong  
Facsimile Number: (86 537) 5383311  
Email address: hx12003@sohu.com

With a copy to (which shall not constitute notice to YC):

Cassels Brock & Blackwell LLP  
2100 Scotia Plaza, 40 King Street West  
Toronto, Ontario  
Canada M5H 3C2

Attention: Cam Mingay  
Facsimile Number: (416) 640 3163  
Email address: cmingay@casselsbrock.com

Any notice delivered personally, shall be deemed to have been given and received on the day on which it was delivered, if delivered prior to 5:00 p.m. (recipient's time) on a Business Day; otherwise on the first Business Day thereafter. Any notice mailed shall be deemed to have been given and received on the third Business Day after it was mailed, provided that if the Party giving the notice knows or ought reasonably to know of disruptions in the postal system that might affect the delivery of mail, such notice shall not be mailed but shall be given by personal delivery or pdf or facsimile transmission. Any notice transmitted by pdf or facsimile shall be deemed to have been given and received on the day of its pdf or facsimile transmission, if, in the case of facsimile transmission, the machine from which it was sent receives the answerback code of the Party to whom it was sent prior to 5:00 p.m. (recipient's time) on such day, otherwise on the first Business Day thereafter. Either Party may change its address for service from time to time by notice given to each of the other Party in accordance with the foregoing provisions.

**10.4 Effect of Closing.** All provisions of this Agreement shall remain in full force and effect notwithstanding the Closing, subject only to the limitation periods specified in sections 9.2 and the limitations specified in section 9.12.

**10.5 Counterparts.** This Agreement may be executed in counterparts, by original, telefacsimile or pdf signature, each of which shall be deemed to be an original and both of which together shall constitute one and the same instrument.

**10.6 Assignment.** This Agreement may not be assigned by either Party without the consent of the other Party.

**10.7 Parties in Interest.** This Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

**10.8 Third Parties.** Except as specifically set forth or referred to herein, nothing herein is intended or shall be construed to confer upon or give to any Person, other than the Parties and their respective successors and permitted assigns, any rights or remedies under or by reason of this Agreement.

**10.9 English Language.** The parties confirm that it is their wish that this Agreement and any other documents delivered or given pursuant to this Agreement, including notices, have been and shall be in the English language only.

**10.10 Transfer Taxes.** YC shall pay any applicable GST, value added, sales, use or other transfer taxes (the "Transfer Taxes") relating to the transfer of the Properties and Information. YC shall indemnify and hold the Vendor harmless from and against, and will reimburse the Vendor for, any Transfer Taxes, penalties and interest assessed solely against or payable solely by the Vendor, required under Applicable Law, to the extent such Transfer Taxes are payable in connection with the sale and purchase of the Properties and Information, and this indemnity shall survive until 90 days after the relevant Governmental Authority shall no longer be entitled to assess or reassess Transfer Taxes against the Vendor.

SIGNATURE BLOCKS APPEAR ON NEXT PAGE

IN WITNESS WHEREOF THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO. THE PARTIES HERETO INTENDING TO BE LEGALLY BOUND HAVE EXECUTED THIS AGREEMENT AS OF THE DATE AND YEAR FIRST WRITTEN ABOVE.

**DEVONIAN POTASH INC.**

Per: /s/ Kantor  
Name: Kantor C.S.  
I have authority to bind Devonian Potash Inc.

**YANZHOU COAL MINING COMPANY LIMITED**

Per: /s/ Zhang Ming Lin  
Name: Zhang Ming Lin C.S.  
I have authority to bind Yanzhou Coal Mining Company Limited.

**SCHEDULE "A"**

**DESCRIPTION OF THE PROPERTIES**

KP 361

KP 362

KP 363

KP 365

KP 366

KP 367

KP 368

KP 369

KP 370

KP 482

KP 483

## **SCHEDULE “B”**

### **BUYER REGULATORY APPROVALS**

1. The approvals required of YK, YC, and/or its affiliates, as applicable, under Chinese law and regulations in connection with this Agreement and the Contemporaneous Agreement, being the approvals of the State-owned Assets Supervision and Administration Commission of the Peoples’ Republic of China (the “**PRC**”), the Ministry of Commerce of the PRC, the National Development and Reform Commission of the PRC and the State Administration of Foreign Exchange of the PRC.
2. The approval required by the SER to permit the transfer of recorded/registered title of the Properties from the Vendor to the Buyer.

**SCHEDULE "C"**

**VENDOR REGULATORY APPROVAL**

1. Approval required by the SER to permit the transfer of recorded/registered title of the Properties from the Vendor to the Buyer.



**NAP PURCHASE AGREEMENT**

**THIS AGREEMENT** made as of July 18, 2011

**BETWEEN:**

**NORTH ATLANTIC POTASH INC.**, a corporation incorporated under the laws of Saskatchewan and having its head office at 374 Third Avenue South, Saskatoon, SK S7K 1M5

(the “**Vendor**”)

**OF THE FIRST PART**

- and -

**YANZHOU COAL MINING COMPANY LIMITED**, a corporation existing under the laws of the People’s Republic of China and having its head office at 298 Fushan South Road, Zoucheng, Shandong Province PRC, 273500

(“**YC**”)

**OF THE SECOND PART**

**WHEREAS** the Vendor is the legal and beneficial owner of a 100% undivided interest in 8 subsurface minerals exploration permits comprising approximately 657,141.24 acres, all located in the Province of Saskatchewan, Canada, as more particularly described in Schedule “A” attached hereto (any such exploration permit is referred to herein as a “Property” and one or more of such exploration permits, is collectively referred to as the “Properties”), free and clear of any and all Liens (as hereinafter defined);

**AND WHEREAS** YC desires to directly or indirectly purchase from the Vendor and the Vendor has agreed to sell to YC, all of the Vendor’s right, title and interest in and to the Information (as hereinafter defined) and the Properties, and the Vendor and YC therefore seek to enter into this Agreement, all on and subject to the terms and conditions herein contained;

**AND WHEREAS** prior to the Closing Date (as hereinafter defined), if, as and when YC obtains all of the regulatory approvals set forth in item “1” of Schedule “B”, this Agreement shall be assigned, on the terms contemplated hereby, by YC to the Buyer (as hereinafter defined), which the Vendor hereby consents to, pursuant to an agreement whereby YC shall convey, assign and transfer to the Buyer and the Buyer shall assume all of YC’s rights and obligations under this Agreement;

**NOW THEREFORE** in consideration of the premises and mutual covenants and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the parties hereto do hereby agree as follows:

## **1. INTERPRETATION**

**1.1 Definitions.** In this Agreement:

“**Acron**” means Open Joint Stock Company Acron;

“**Applicable Law**” means, with respect to any Person, property, transaction, event or other matter, any foreign or domestic constitution, treaty, law, statute, rules, regulation, code, ordinance, principle of common law, rule, stock exchange listing rules, municipal by-law, Order or other requirement (including a requirement arising at common law) having the force of law (collectively, the “**Law**”) relating or applicable to such Person, property, transaction, event or other matter;

“**Bank of China**” means the Bank of China (Canada);

“**Business Day**” means any day except Saturday, Sunday or any day on which banks are generally not open for business in Moscow, Russia, Beijing, China or Toronto, Ontario;

“**Buyer**” means the indirect wholly-owned subsidiary of YC to be incorporated under the laws of Canada or any province therein, following receipt of the regulatory approvals set forth in item 1 of Schedule “B”, in order to, among other things, purchase and hold the Properties and the Information;

“**Buyer Regulatory Approvals**” means those Regulatory Approvals set forth in Schedule “B” attached hereto;

“**CA**” means the confidentiality agreement dated as of June 6, 2011 between Acron and YK;

“**Closing**” means the successful completion of the Transaction at the Time of Closing on the Closing Date;

“**Closing Date**” means the Business Day which is 25 Business Days after the Execution Requirement Date, being August 31, 2011, or if YC has exercised the provisions of section 2.5(a) and has requested a first extension of the Expiry Date, the Business Day which is 45 Business Days after the Execution Requirement Date, being September 30, 2011, or if YC has exercised the provisions of section 2.5(b) and has requested a second extension of the Expiry Date, the Business Day which is 55 Business Days after the Execution Requirement Date, being October 18, 2011, or such earlier or later date which the Parties may agree shall constitute the Closing Date, provided that the Closing Date shall not in any event occur before August 12, 2011;

**“Closing Documents”** has the meaning set forth in section 6.1(l) and also includes, for greater certainty and without limitation, those documents set forth in sections 2.3(a) and (b);

**“Closing Escrow Agreement”** means the escrow agreement, in a form to be mutually agreed upon, which shall provide for the release of all escrowed funds immediately upon the receipt of the Buyer Regulatory Approvals set forth in item “2” of Schedule “B”, as contemplated by section 2.3, such agreement to be executed and delivered on Closing, among the Vendor, YC and Saskatchewan counsel to YC (the **“Closing Escrow Agent”**);

**“Competition Act”** means the Competition Act, R.S.C. 1985, c. C-34, as amended, and includes the regulations promulgated thereunder;

**“Consent”** means any consent, approval, permit (other than the Properties), waiver, ruling, exemption or acknowledgement from any Person which is provided for or required under any Applicable Law in connection with the Transaction on the terms contemplated in this Agreement or which is otherwise necessary to permit the Parties to perform their obligations under this Agreement, but does not include a Regulatory Approval;

**“Contracts”** means all pending and executory contracts, agreements, leases and arrangements (whether oral or written) to which the Vendor is subject in connection with any part of the Properties or the Information;

**“Contemporaneous Agreement”** means the agreement executed and delivered as of even date, between Devonian and YC, pursuant to which Devonian has agreed to sell to YC, 11 exploration permits comprising approximately 668,246.93 acres all located in the Province of Saskatchewan, Canada;

**“Covenant Escrow Agreement”** means the covenant escrow agreement, in a form to be mutually agreed upon, to be executed and delivered on Closing, among the Escrow Agent, YC and the Vendor;

**“Defending Party”** has the meaning set forth in section 9.5;

**“Deposit”** means the sum of US\$7,500,000, represented by the Payment Undertaking, to be dealt with as provided in sections 2.2 and 2.5(a) hereof;

**“Devonian”** means Devonian Potash Inc.;

**“Environmental Law”** means Applicable Law in respect of the natural environment, public or occupational health or safety and the manufacture, importation, handling, transportation, storage, disposal and treatment of Hazardous Substances;

**“Environmental Permit”** means any Licence issued or required pursuant to any Environmental Law;

**“Escrow Agent”** means the mutually acceptable escrow agent that is appointed by the Parties to act in accordance with the terms and conditions of the Covenant Escrow Agreement;

**“Execution Requirement Date”** means July 26, 2011;

**“Expiry Date”** means the Business Day which is 25 Business Days after the Execution Requirement Date, being August 31, 2011, or if YC has exercised the provisions of section 2.5(a) and has requested a first extension of the Expiry Date, the Business Day which is 45 Business Days after the Execution Requirement Date, being September 30, 2011, or if YC has exercised the provisions of section 2.5(b) and has requested a second extension of the Expiry Date, the Business Day which is 55 Business Days after the Execution Requirement Date, being October 18, 2011;

**“First Option Payment”** has the meaning set forth in section 2.5(a);

**“Governmental Authority”** means:

- (a) any domestic or foreign government, whether national, federal, provincial, state, territorial, municipal or local (whether administrative, legislative, executive or otherwise);
- (b) any agency, authority, ministry, department, regulatory body, court, central bank, bureau, board or other instrumentality having legislative, judicial, taxing, regulatory, prosecutorial or administrative powers or functions of, or pertaining to, government;
- (c) any court, commission, individual, arbitrator, arbitration panel or other body having adjudicative, regulatory, judicial, quasi-judicial, administrative or similar functions; and
- (d) any other body or entity created under the authority of or otherwise subject to the jurisdiction of any of the foregoing, including any stock or other securities exchange.

**“GST”** means the goods and services tax imposed under Part IX of the *Excise Tax Act* (Canada);

**“Hazardous Substance”** means any solid, liquid, gas, odour, heat, sound, vibration, radiation or combination of them that may impair the natural environment, injure or damage property or plant or animal life or harm or impair the health of any individual and includes any contaminant, waste, substance or material defined by Environmental Law as hazardous, toxic or dangerous or any other substance or material prohibited, regulated or reportable pursuant to any Environmental Law;

**“Information”** means all information and all know-how owned, leased or licensed by, or on behalf of the Vendor or in which the Vendor has a right, title or interest, and which is directly related to the Properties, including, without limitation:

- (a) information of a scientific, technical or business nature, whether in written, graphic, machine readable, electronic or physical form including prior exploration and development results, proposed work programs and budgets, pre-feasibility or feasibility studies and reports, valuations, reserve estimates and the like;
- (b) maps, plans, designs, research data, research plans, development plans, drill core samples, environmental reports, reports on reserves and resources, trade secrets, processes, formulas, drawings, technology, computer software and related manuals, unpatented blueprints, flow sheets, equipment and parts lists, instructions, manuals, records and procedures; and
- (c) all information provided by the Vendor or the Vendor’s representatives to YC or YK, as and by way of technical due diligence materials;

**“Investment Canada Act”** means the Investment Canada Act (Canada) R.S.C. 1985, c. 28, as amended;

**“Interim Period”** means the period from the date hereof to the time at which the Transaction is to be completed on the Closing Date;

**“ITA”** means the *Income Tax Act* (Canada);

**“Law”** has the meaning set out in the definition of **“Applicable Law”**;

**“Legal Proceeding”** means any litigation, action, application, suit, investigation, hearing, claim, deemed complaint, grievance, civil, administrative, regulatory or criminal, arbitration proceeding or other similar proceeding, before or by any court or other tribunal and includes any appeal or review thereof and any application for leave for appeal or review;

**“Liability”** means, with respect to any Person, any liability or obligation of such Person of any kind, character or description, whether known or unknown, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, executory, determined, determinable or otherwise and whether or not the same is required to be accrued on any financial statements;

**“Licence”** means any licence, permit (other than the Properties), authorization, approval or other evidence of authority issued or granted to, conferred upon, or otherwise created for the Properties or any part of the Properties by any Governmental Authority;

**“Lien”** means any lien, security interest, mortgage, charge, encumbrance or other similar right of a third Person, whether registered or unregistered, and whether arising by agreement, statute or otherwise, but excluding applicable royalties or other rights in favour of any Governmental Authority in the Province of Saskatchewan;

**“LOP”** means the letter of intent dated as of June 17, 2011, and accepted on June 20, 2011, between the Vendor and YK with respect to the purchase and sale of the Properties and the Information;

**“Losses”** means any loss, cost, Liability, claim, interest, fine, penalty, assessment, damage (including incidental, consequential, special, aggravated, exemplary or punitive damages awarded in any Order in respect of a Third Party Claim) or expense (whether or not involving a Third Party Claim) including reasonable costs, fees and expenses of legal counsel on a full indemnity basis (without reduction for tariff rates or similar reductions) and reasonable costs, fees and expenses of investigation;

**“Mann and Medge Litigation”** means, collectively, the claim filed by 101119529 Saskatchewan Ltd. and Agrikalium Mining Corporation dated January 14, 2011, against 101109711 Saskatchewan Ltd., the Vendor (formerly 101109718 Saskatchewan Ltd.), Devonian, Joint Stock Company Acron, Moshe Viatcheslav Kantor, Vyatcheslav Kantor, Subero Associates Inc., Trustservice Limited Liability Company and Viasat Services Limited, in respect of alleged wrongful interference with economic interests;

**“Material Adverse Change”** means a change in the Properties, taken as a whole, which constitutes a Material Adverse Effect;

**“Material Adverse Effect”** means an event or circumstance or events or circumstances which, in the aggregate, materially adversely affects the ownership of the Properties by YC on substantially the same basis as the Properties are currently owned by the Vendor;

**“Material Adverse Variance”** means anything not known to the Vendor or its professional advisors on or before the Execution Requirement Date and which relates to: (i) the Vendor’s legal or beneficial ownership of the Properties or its ability to sell the same to YC free of any Liens; or (ii) taxation and other liabilities attaching to the Properties; and either of which is materially adverse to the Properties;

**“Notice Period”** has the meaning set forth in section 9.4;

**“Order”** means any order, directive, judgment, decree, injunction, decision, ruling, award or writ of any Governmental Authority;

**“Parties”** means the Vendor and YC, collectively, and **“Party”** means either one of them;

**“Payment Undertaking”** means the payment undertaking dated as of June 22, 2011, among YC, YK, the Bank of China and the Vendor, pursuant to which the Bank of China has agreed to pay the maximum sum of US\$7.5 million to the Vendor or to release the payment undertaking, upon the receipt of certain joint certificates, as more particularly set forth in section 2.5(c) and all as more particularly set out in such Payment Undertaking;

**“Person”** is to be broadly interpreted and includes an individual, a corporation, a partnership, a trust, an unincorporated organization, a Governmental Authority and the executors, administrators or other legal representatives of an individual in such capacity;

**“Place of Closing”** means the offices of McKercher LLP, Saskatchewan, counsel to the Vendor;

**“Prime Rate”** means, at any particular time, the reference rate of interest, expressed as a rate per annum, that the Royal Bank of Canada establishes as its prime rate of interest that it will charge to its most credit worthy customers in Canada;

**“Property”** and **“Properties”** have the respective meanings ascribed thereto in the recitals to this Agreement;

**“Properties Allocation”** and **“Property’s Allocation”** have the meanings set forth in section 2.4;

**“Purchase Price”** means the sum of US\$109,500,000, which is exclusive of any applicable GST and other sales taxes;

**“Regulations”** means *The Subsurface Mineral Regulations, 1960* (Saskatchewan);

**“Regulatory Approval”** means any approval, consent, ruling, authorization, notice, permit (other than the Properties) or acknowledgement that may be required from any Person pursuant to Applicable Law or under the terms of any Licence or the conditions of any Order in connection with the sale of the Properties and the Information by the Vendor to YC and the completion of the Transaction;

**“Release”** includes an actual or potential discharge, deposit, spill, leak, pumping, pouring, emission, emptying, injection, escape, leaching, seepage or disposal of a Hazardous Substance which is or may be in breach of any Environmental Law;

**“Second Option Payment”** has the meaning set forth in section 2.5(a);

**“SER”** means the Saskatchewan Ministry of Energy and Resources;

**“Surface Lands”** means the surface lands that overlay the mineral lands that are subject to the Properties;

**“Survival Period”** has the meaning set forth in section 9.2;

“**Taxes**” means all taxes, charges, fees, levies, imposts and other assessments, including all income, sales, use, goods and services, harmonized sales, value added, capital, capital gains, alternative, net worth, transfer, profits, withholding, payroll, employer health, excise, franchise, real property and personal property taxes, and any other taxes, customs duties, fees, assessments or similar charges in the nature of a tax including Canada Pension Plan and provincial pension plan contributions, unemployment insurance payments and workers compensation premiums, together with any instalments with respect thereto, and any interest, fines and penalties, imposed by any governmental authority (including federal, state, provincial, municipal and foreign governmental authorities), and whether disputed or not;

“**Third Party Claim**” means Losses arising as a result of a claim by a Person against YC, relating to the Mann and Medge Litigation or any other Legal Proceeding in respect of the Properties, the Information, this Agreement or the Transaction in existence as at the Closing Date;

“**Time of Closing**” means 10:00 a.m. (Saskatchewan time) on the Closing Date;

“**Transaction**” means the transaction of purchase and sale of the Properties and the Information as contemplated by this Agreement;

“**Treaty Land Entitlement Agreements**” means (i) the Saskatchewan Treaty Land Entitlement Framework Agreement dated September 22, 1992 and entered into by Canada, Saskatchewan and certain Indian bands with respect to the settlement of the outstanding treaty land entitlement claims of the Indian bands; and (ii) any agreement entered into by Canada, Saskatchewan and an Indian band with respect to the settlement of the outstanding treaty land entitlement claim of that band on the same or substantially the same terms as the agreement in subclause (i);

“**Vendor**” has the meaning ascribed thereto in the opening paragraph of this Agreement;

“**Vendor Regulatory Approval**” means the Regulatory Approval set forth in Schedule “C” attached hereto;

“**YC**” has the meaning ascribed thereto in the opening paragraph of this Agreement; and

“**YK**” means Yankuang Group Corporation Limited.

**1.2 General Interpretation.** For the purposes of this Agreement, except as otherwise expressly provided:

(a) all references in this Agreement to a designated Article, section, subsection, paragraph or other subdivision or to a Schedule is to the designated Article, section, subsection, paragraph or other subdivision of, or Schedule to, this Agreement unless otherwise specifically stated;



(b) the words “**herein**”, “**hereof**” and “**hereunder**” and other words of similar import refer to this Agreement as a whole and not to any particular Article, section, clause, subclause or other subdivision or Schedule;

(c) the singular of any term includes the plural and vice versa and the use of any term is equally applicable to any gender and where applicable a body corporate;

(d) the word “**or**” is not exclusive and the word “**including**” is not limiting (whether or not non-limiting language, such as “**without limitation**” or “**but not limited to**” or other words of similar import are used with reference thereto);

(e) the headings to the sections and clauses of this Agreement are inserted for convenience of reference only and do not form a part of this Agreement and are not intended to interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof;

(f) any reference to a corporate entity includes and is also a reference to any corporate entity that is a successor to such entity;

(g) the Schedules that are attached to this Agreement and form a part hereof are as follows:

Schedule “A”	Description of the Properties
Schedule “B”	Buyer Regulatory Approvals
Schedule “C”	Vendor Regulatory Approval

(h) unless otherwise indicated, all references in this Agreement to any statute include the regulations thereunder, in each case as amended, re-enacted, consolidated or replaced from time to time and in the case of any such amendment, re-enactment, consolidation or replacement, reference herein to a particular provision shall be read as referring to such amended, re-enacted, consolidated or replaced provision and also include, unless the context otherwise requires, all applicable guidelines, bulletins or policies made in connection therewith and which are legally binding;

(i) all references herein to any agreement (including this Agreement), document or instrument mean such agreement, document or instrument as amended, supplemented, modified, varied, restated or replaced from time to time in accordance with the terms thereof and, unless otherwise specified therein, includes all schedules and exhibits attached thereto;

(j) whenever in this Agreement reference is made to a Legal Proceeding or other matter that is “**threatened**” it shall mean that a demand or statement (oral or written) has been made or a notice (oral or written) has been given that a Legal Proceeding or other matter is to be asserted, commenced, taken or otherwise pursued in the future; and

(k) unless otherwise defined herein, words or abbreviations which have well-known trade meanings are used herein with those meanings.

**1.3 Actions on Non-Business Days.** If any payment is required to be made or other action (including the giving of notice) is required to be taken pursuant to this Agreement on a day which is not a Business Day, then such payment or action shall be considered to have been made or taken in compliance with this Agreement if made or taken on the next succeeding Business Day.

**1.4 Currency and Payment Obligations.** Except as otherwise expressly provided in this Agreement:

(a) all dollar amounts referred to in this Agreement are stated in United States Dollars;

(b) any payment contemplated by this Agreement shall be made by cash, certified cheque, wire transfer or any other method that provides immediately available funds; and

(c) except in the case of any payment due on the Closing Date, any payment due on a particular day must be received by and be available to the payee not later than 2:00 p.m. (Saskatchewan time) on the due date at the payee's address for notice under Article 10 or such other place as the payee may have specified in writing to the payor in respect of a particular payment and any payment made after that time shall be deemed to have been made and received on the next Business Day.

**1.5 Calculation of Interest.** In calculating interest payable under this Agreement for any period of time, the first day of such period shall be included and the last day of such period shall be excluded.

**1.6 Calculation of Time.** In this Agreement, a period of days shall be deemed to begin on the first day after the event which began the period and to end at 5:00 p.m. (Saskatchewan time) on the last day of the period. If any period of time is to expire hereunder on any day that is not a Business Day, the period shall be deemed to expire at 5:00 p.m. (Saskatchewan time) on the next succeeding Business Day.

**1.7 Knowledge.** Where any representation, warranty or other statement in this Agreement is expressed to be made by a Party to their knowledge or is otherwise expressed to be limited in scope to facts or matters known to the Party, it shall mean such knowledge as is actually known to the persons who are officers, directors and/or shareholders, in the case of the Vendor, or the controlling shareholder, in the case of YC, of the Party.

**1.8 Tender.** Any tender of money hereunder may be made upon the Parties or their respective counsel and money shall be tendered in the manner contemplated by sections 1.4, 2.2 and 2.5.

**1.9 Escrow Provisions.** Any document, instrument or thing which is to be delivered by either of the Parties on the Closing Date shall be tabled by the Party which is to deliver such document, instrument or thing and any document, instrument or thing so tabled by a Party shall be:

- (a) deemed to have been delivered by such Party for the purposes of this Agreement;
- (b) held in escrow by the solicitor for the Party to be dealt with in accordance with subsections (c) and (d);
- (c) delivered to the Party to which it is to be delivered pursuant to the terms hereof, if all documents, instruments and things which are to be delivered on the Closing Date are tabled in accordance with this section; and
- (d) delivered to, or in accordance with the directions of, the Party which tabled it, if subsection (c) does not apply.

**1.10 Recitals.** The Parties acknowledge and declare that the recitals in this Agreement are true and correct.

**1.11 Governing Law; Attornment.** This Agreement shall be construed, interpreted and enforced in accordance with, and the rights of the Parties shall be governed by, the laws of the Province of Ontario and the federal laws of Canada applicable therein (excluding any conflict of law rule or principle of such laws that might refer such interpretation or enforcement to the laws of another jurisdiction). Each Party agrees that any disputes in relation to this Agreement, which the Parties to this Agreement are unable to resolve by mutual agreement within two months from the commencement of such dispute, shall be exclusively and finally resolved by arbitration in accordance with, in the case of a dispute commenced prior to completion of Closing and payment of the Purchase Price on the Closing Date, the Hong Kong International Arbitration Centre Administered Arbitration Rules/UNCITRAL Arbitration Rules in force, and in the case of a dispute commenced following completion of Closing and payment of the Purchase Price on the Closing Date, the rules of arbitration of the *Arbitration Act* (Ontario) in force. The place of the arbitration shall be, in the case of a dispute commenced prior to completion of Closing and payment of the Purchase Price on the Closing Date, Hong Kong, and in the case of a dispute commenced following completion of Closing and payment of the Purchase Price on the Closing Date, Ontario. The arbitral proceedings shall be conducted in the English language. The number of arbitrators shall be three, one appointed by each Party and the third shall be chosen by the arbitrators already appointed. The fees of the arbitrator shall be borne by the unsuccessful party or parties in the arbitration, or, if success is divided, then in the manner that the arbitrator may determine.

**1.12 Entire Agreement; Amendment.** This Agreement constitutes the entire agreement between the Parties with respect to the Transaction and cancels and supersedes any prior understandings, agreements, negotiations and discussions, written or oral, between the Parties, and the Vendor and YK, as applicable, with respect thereto including without limitation, the LOI (but not the Payment Undertaking or the CA). There are no representations, warranties, terms, conditions, undertakings or collateral agreements or understandings, express or implied, between the Parties other than those expressly set forth in this Agreement, the Payment Undertaking, the Covenant Escrow Agreement and any Closing Document. This Agreement may not be amended, supplemented or otherwise modified in any respect except by written instrument executed by the Parties.

**1.13 Waiver of Rights.** Any waiver of, or consent to depart from, the requirements of any provision of this Agreement shall be effective only if it is in writing and signed by the Party giving it, and only in the specific instance and for the specific purpose for which it has been given. No failure on the part of either Party to exercise, and no delay in exercising, any right under this Agreement shall operate as a waiver of such right. No single or partial exercise of any such right shall preclude any other or further exercise of such right or the exercise of any other right.

**1.14 Severability.** Any provision in this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

**1.15 Conflict.** In the event of any conflict or inconsistency between the terms and conditions in the body of this Agreement and those in any Schedule (including any agreement entered into pursuant to this Agreement), the terms and conditions in the body of this Agreement shall govern and take precedence and the Parties shall take such steps as may be required or desirable to conform the conflicting or inconsistent provisions thereof to this Agreement.

**1.16 Consents and Approvals.** Unless otherwise specified, where the consent or approval of a Party is contemplated or required by the terms of this Agreement, that Party shall not unreasonably delay or withhold the giving of such consent or approval after a request therefor has been made by the other Party.

**1.17 Remedies Cumulative.** The rights, remedies, powers and privileges herein provided to a Party are cumulative and in addition to and not exclusive of or in substitution for any rights, remedies, powers and privileges otherwise available to that Party. Additionally, the Parties agree that damages may not be an adequate remedy for breach of this Agreement, including, without limitation, the exclusivity provisions herein contained and the obligations to complete the Closing, subject to the fulfillment of the terms and conditions herein contained, and that irreparable damage would occur in the event that any provision of this Agreement was not performed in accordance with its specific terms or was otherwise breached. Accordingly, the Parties acknowledge and hereby agree that in the event of any threatened or actual breach by either Party of any covenant or obligation of such Party set forth in this Agreement, the other Party shall be entitled to, in addition to damages, the remedies of injunction, specific performance and other equitable relief for a threatened or actual breach by the other Party, without proof of specific damage, to, without limitation, prevent or restrain any threatened or actual breaches of this Agreement and to specifically enforce the terms and provisions of this Agreement, to prevent or restrain threatened or actual breaches, or to enforce compliance with the covenants and obligations of each Party under this Agreement, in addition to any other remedy that may be available at law or in equity.

**1.18 Time of the Essence.** Time shall be of the essence of this Agreement.

**1.19 Costs and Expenses.** Each Party shall be responsible for all costs and expenses (including the fees and disbursements of legal counsel, bankers, investment bankers, accountants, brokers and other advisors) incurred by it in connection with this Agreement and the Transaction.

**1.20 Good Faith.** Each Party shall at all times during the currency of this Agreement and after Closing, if applicable, act in good faith with respect to the other Party and shall do or cause to be done all things within their respective powers which may be necessary or desirable to give full effect to the provisions hereof.

**1.21 Hindrance of the Transaction.** In the event that any Person seeks to prevent, delay or hinder implementation of the Transaction, or seeks to invalidate all or any portion of this Agreement, each of the Parties shall vigorously and diligently resist such proceedings and not consent to any Order that would have such effect.

## **2. PURCHASE AND SALE AND OTHER COVENANTS**

**2.1 Purchase and Sale.** Subject to the terms and conditions set forth herein, the Vendor hereby agrees to sell, transfer, assign and convey to YC and YC agrees to purchase for the Purchase Price, on the Closing Date all of the Vendor's right, title and interest, both legal and beneficial, in and to the Properties and the Information, free and clear of all Liens. Prior to the Closing Date, if, as and when YC obtains all of the regulatory approvals set forth in item 1 of Schedule "B", this Agreement shall be assigned by YC to the Buyer, which the Vendor hereby consents to, pursuant to an agreement whereby YC shall convey, assign and transfer to the Buyer and the Buyer shall assume all of YC's rights and obligations under this Agreement. For greater certainty, upon the assignment of this Agreement from YC to the Buyer, YC's representations and warranties contained in this Agreement shall be replaced with the same representations and warranties made by the Buyer. Notwithstanding anything contained herein and notwithstanding the assignment of this Agreement from YC to the Buyer, YC shall remain liable, until completion of the Closing and payment of the Purchase Price on the Closing Date, for all of its obligations contained herein in connection with the Payment Undertaking, the Closing conditions and completion of the Transaction.

**2.2 Payment of Purchase Price.** As consideration for the purchase of the Properties and the Information, at the Time of Closing on the Closing Date, YC agrees to pay the Purchase Price to the Vendor less the amount of the sum released by the Bank of China pursuant to the Payment Undertaking to the Vendor on Closing and the Vendor agrees to deposit the same with the Closing Escrow Agent under the Closing Escrow Agreement.

**2.3 Transfer of Properties and Information.** On the Closing Date, the Vendor shall deliver to the Buyer, in addition to those items contemplated by section 6.1 or as specifically provided elsewhere in this Agreement, the following:

- (a) registerable transfer documentation to transfer a 100% undivided, beneficial and legal interest in and to the Properties to the Buyer or as directed by the Buyer, in form and substance satisfactory to the Buyer, acting reasonably; and
- (b) the Information.

For greater certainty and without limitation, the Purchase Price (including the funds to be released to the Vendor pursuant to the Payment Undertaking as set out in section 2.5(b)) and the amount of reimbursement of expenditures as set out in section 2.7 shall be delivered on the Closing Date to and held in trust together with all other closing deliverables by the Closing Escrow Agent pursuant to the Closing Escrow Agreement (at which point the Transaction shall be deemed to be closed in escrow and no longer affected by the Expiry Date), to be released to the appropriate Parties only and immediately at such time as the Closing Escrow Agent has received confirmation that the said conveyance or transfer of the Properties has been duly recorded or registered with the SER as well as a duly updated disposition search abstract from the SER (delivered by the Vendor), evidencing such recordation or registration.

**2.4 Allocation of Purchase Price Regarding the Properties.** The Parties agree that the one-eighth of the difference between the Purchase Price and US\$1.00 shall be allocated to each one of the Properties as being the value thereof and that any and all filings to be made by the Parties shall reflect such allocation (collectively, the “**Properties Allocation**” and individually, a “**Property’s Allocation**”). The Parties agree that US\$1.00 shall be allocated to the Information.

**2.5 Dealings with Payment Undertaking and Extension of Expiry Date.**

(a) The Parties hereto do hereby agree that effective as of the Execution Requirement Date, US\$3,500,000 of the Deposit shall be designated as the “**First Option Payment**” (the “**First Option Payment**”) (with the payment undertaking provisions thereof to be differentiated from the payment undertaking provisions of the Deposit as provided in this section) and the Deposit shall be deemed to be the Deposit less the First Option Payment. YC shall have the right, upon the written, irrevocable designation of an additional US\$3,500,000 of the Deposit as the “**Second Option Payment**” (the “**Second Option Payment**”), to extend the Expiry Date by an additional 20 Business Days, in which case the Expiry Date shall be 45 Business Days after the Execution Requirement Date and the payment undertaking provisions of the First Option Payment and the Second Option Payment shall be different from each other and from the Deposit as provided in this section, and the Deposit shall be deemed to be the Deposit less the First Option Payment and the Second Option Payment.

(b) If YC has made the additional designation of the Second Option Payment and extends the Expiry Date to 45 Business Days after the Execution Requirement Date, and has obtained all approvals of (i) the State-owned Assets Supervision and Administration Commission of the Peoples' Republic of China (the "PRC"), (ii) the Ministry of Commerce of the PRC, (iii) the National Development and Reform Commission of the PRC or (iv) the State Administration of Foreign Exchange of the PRC required of YK, YC, and/or its affiliates, as applicable, required in connection with this Agreement and the Contemporaneous Agreement, YC shall have the further right to extend the Expiry Date by an additional 10 Business Days, in which case the Expiry Date shall be 55 Business Days after the Execution Requirement Date, by paying to the Vendor US\$1,750,000, which amount shall be deducted from the Purchase Price payable by YC at Closing. If YC does not complete the Transaction by reason of its failure to obtain any of the Buyer Regulatory Approvals set forth in item "2" of Schedule "B", provided that YC has used its reasonable efforts to procure such Buyer Regulatory Approvals (although YC shall not be deemed to be in derogation of its obligations to use its reasonable efforts by reason of acts or omissions of the Vendor in connection with the procurement of such Buyer Regulatory Approvals), the Vendor shall return the US\$1,750,000 payment to YC as soon as commercially practicable, but in any event within 5 Business Days of termination of this Agreement. If YC does not complete the Transaction for any other reason, the US\$1,750,000 payment shall be retained by the Vendor and shall not be refundable to YC. For greater certainty, if YC elects to exercise its right to further extend the Expiry Date pursuant to this section 2.5(b), the First Option Payment and the Second Option Payment shall continue to be held in escrow pursuant to the Payment Undertaking and in no way shall become due and payable in cash.

(c) The Parties do hereby agree that the payment undertaking provisions relating to the Deposit, the First Option Payment and the Second Option Payment, as applicable, are set forth below. These items specifically relate to the Payment Undertaking, and the manner in which the Parties are to act with respect thereto so as to instruct the Bank of China as at and from the applicable time.

- (i) The Parties will jointly direct the Bank of China to cancel the Payment Undertaking, if YC shall terminate this Agreement as set forth in Article 8.
- (ii) On Closing, the Parties will jointly direct the Bank of China to pay the First Option Payment and the Deposit or the First Option Payment, the Second Option Payment and the Deposit, if YC has exercised its right to extend the Expiry Date as provided in section 2.5(a), plus all interest earned thereon to the Vendor and such amounts will be applied toward satisfaction of the Purchase Price.
- (iii) On the Expiry Date, the Parties will jointly direct the Bank of China to pay the First Option Payment or the First Option Payment and the Second Option Payment, if YC has exercised its right to extend the Expiry Date as provided in section 2.5(a), to the Vendor plus all interest accrued thereon if YC does not complete the Transaction by reason of its failure to obtain any of the Buyer Regulatory Approvals set forth in item 1 of Schedule "B". However, if a Material Adverse Variance has occurred in relation to the Transaction or if the Vendor shall otherwise be in breach of its Closing obligations contained in this Agreement, on the Expiry Date, the Parties will jointly direct the Bank of China to cancel the Payment Undertaking.

- (iv) On the Expiry Date, the Parties will jointly direct the Bank of China to cancel the Payment Undertaking if YC does not complete the Transaction by reason of its failure to obtain any of the Buyer Regulatory Approvals set forth in item “2” of Schedule “B”, provided that YC has used its reasonable efforts to procure such Buyer Regulatory Approvals (although YC shall not be deemed to be in derogation of its obligations to use its reasonable efforts by reason of acts or omissions of the Vendor in connection with the procurement of such Buyer Regulatory Approvals).
  - (v) On the Expiry Date, the Parties will jointly direct the Bank of China to pay the First Option Payment and the Deposit or the First Option Payment, the Second Option Payment and the Deposit, if YC has exercised its right to extend the Expiry Date as provided in section 2.5(a), plus all interest earned thereon to the Vendor if YC does not complete the Transaction for reasons other than those set forth in sections 2.5(c)(iii) and (iv); however, if a Material Adverse Variance has occurred in relation to the Transaction or if the Vendor shall otherwise be in breach of its Closing obligations contained in this Agreement, on the Expiry Date, the Parties will jointly direct the Bank of China to cancel the Payment Undertaking.
- (d) The Parties covenant and agree to provide appropriate written demands to the Bank of China in relation to the Payment Undertaking, in the circumstances described above and in accordance with the terms of the Payment Undertaking.
- (e) Notwithstanding anything contained in this section, if the Mann and Medge Litigation or any other Legal Proceeding in respect of the Properties, the Information, this Agreement or the Transaction existing as at the Closing Date adversely affects YC as at the Closing Date or enjoins, restricts or prohibits, or asserts a claim or seeks a remedy that would have the effect of enjoining, restricting or prohibiting the completion of the Transaction, the Vendor shall not be entitled to the Deposit and any part of the Deposit already paid to the Vendor shall be returned to YC by the Vendor as soon as commercially practicable. If YC has elected to exercise its right to further extend the Expiry Date pursuant to section 2.5(b), the Vendor shall also return the US\$1,750,000 payment to YC as soon as commercially practicable. In addition, all reasonable expenses of YC incurred in respect of the Transaction shall be reimbursed by the Vendor.
- 2.6 Exclusive Dealings.** From and after the date hereof, the Vendor shall not take any action, directly or indirectly, to encourage, initiate or engage in discussions or negotiations with, or provide any information to, any Person, other than YC concerning any sale, transfer, license or assignment of the Properties or the Information or any merger, amalgamation or other transaction involving the Properties or the Information.



**2.7 Reimbursements of Expenditures.** On the Closing Date, YC shall pay to the Vendor C\$640,000, representing the amount of deposits made by the Vendor to the SER as payment in lieu of meeting exploration expenditures in respect of the Properties. In the event that the SER reimburses the Vendor, in spite of the direction provided by the Vendor in section 6.1(c), for such deposit amount, or portion thereof, the Vendor shall, as soon as commercially practicable, pay said amount to YC without set-off or deduction.

### **3. REPRESENTATIONS AND WARRANTIES OF THE VENDOR**

The Vendor represents and warrants to YC as set out in this section and acknowledges that YC is relying on such representations and warranties in connection with the Transaction and that such representations and warranties shall be true as of the Closing Date as if made on and as of such date:

**3.1 Incorporation of the Vendor.** The Vendor is a corporation duly incorporated, organized and subsisting under the laws of the Province of Saskatchewan and has the corporate power, authority and capacity to execute and deliver this Agreement, to own the Properties and the Information, to sell the Properties and the Information to YC as herein contemplated and to perform its other obligations hereunder and under the Payment Undertaking and the Covenant Escrow Agreement. No proceedings have been taken or authorized by the Vendor or by any other Person with respect to the bankruptcy, insolvency, liquidation, dissolution or winding up of the Vendor or with respect to any amalgamation, merger, consolidation, arrangement or reorganization of, or relating to, the Vendor nor, to the knowledge of the Vendor, have any such proceedings been threatened by any other Person.

**3.2 Authorization of Transaction by the Vendor.** The execution and delivery of this Agreement and the Payment Undertaking and the completion of the Transaction have been duly and validly authorized by all necessary corporate action on behalf of the Vendor and each of this Agreement and the Payment Undertaking has been duly and validly executed and delivered by the Vendor and is a valid and binding obligation of the Vendor enforceable against the Vendor in accordance with its respective terms. On Closing, the execution and delivery of the Covenant Escrow Agreement and the Closing Documents will be duly and validly authorized by all necessary corporate action on behalf of the Vendor and each of the Covenant Escrow Agreement and the Closing Documents will be validly executed and delivered by the Vendor and valid and binding obligations of the Vendor enforceable against the Vendor in accordance with their respective terms. As at the date hereof, there is no Legal Proceeding in progress, pending, or, to the knowledge of the Vendor, threatened against or affecting the Vendor, other than the Mann and Medge Litigation, or affecting the title of the Vendor to any parts of the Properties or the Information at law or in equity or before or by any tribunal and, to the knowledge of the Vendor, there are no grounds on which any such Legal Proceeding might be commenced with any reasonable likelihood of success nor is there any Order outstanding against or affecting the Vendor which, in any such case, affects adversely or might affect adversely the ability of the Vendor to enter into this Agreement, the Payment Undertaking or the Covenant Escrow Agreement or to perform its obligations hereunder or thereunder.

**3.3 Qualification of the Vendor.** The Vendor has the necessary corporate power, authority and capacity to own and use the Properties and the Information.

**3.4 Conflicting Instruments.** Neither the entering into of this Agreement or the Payment Undertaking by the Parties, nor the entering into of any agreement or other instrument contemplated hereby including without limitation, the Covenant Escrow Agreement nor the completion of the Transaction nor the performance by the Vendor of its obligations hereunder or under the Payment Undertaking or the Covenant Escrow Agreement will: (a) conflict with, or result in the breach or violation of or default under, or cause the acceleration of any obligations of the Vendor under, any of the terms and provisions of (i) any Applicable Law, (ii) the Articles of the Vendor or its by-laws or any resolution of the directors or shareholders of the Vendor; or (iii) subject to obtaining any Consent or Vendor Regulatory Approval which may be required thereunder in connection with the completion of the Transaction, any Licence, Order or agreement, contract or commitment, written or oral to which the Vendor is a party or by which the Vendor is bound, or (c) result in the creation of any Lien on any part of the Properties or the Information.

**3.5 Regulatory Approvals.** Except as set forth in Schedule "C", no Regulatory Approval or filing with, notice to, or waiver from any Governmental Authority or other Person is required to be obtained or made by the Vendor in connection with the execution, delivery and performance by the Vendor of its obligations under this Agreement, the Payment Undertaking, the Covenant Escrow Agreement or the Closing Documents or the consummation of the Transaction. The Vendor has no reason to believe that it will not be able to obtain on or before Closing, the Vendor Regulatory Approval.

**3.6 Title to Properties.** The Vendor has complied in all respects with the Regulations. The Properties are in good standing under the laws of the Province of Saskatchewan, all assessment work required to maintain the Properties in good standing has been performed and all fees of Governmental Authorities have been paid and all filings required to maintain the Properties in good standing have been properly and timely recorded or filed with appropriate Governmental Authorities and the Vendor has no knowledge of any conflicting mineral rights. The Properties are properly and accurately described in Schedule "A" hereto.

The Vendor is the owner of a 100% registered and beneficial right, title and interest in and to all parts of the Properties and the Information with good and marketable title thereto and each part of the Properties and the Information is free and clear of all Liens and there is no adverse claim or challenge to ownership of any part of the Properties or the Information and there are no outstanding rights or options to acquire or purchase any part of the Properties or the Information or any third party royalties, net profits interests or similar interests relating to any parts of the Properties or the Information.

The Vendor has not consented to the sale of any Crown minerals that are the subject of the Properties under applicable Treaty Land Entitlement Agreements.

The Vendor does not own any real property related to the Properties (whether or not the same overlay the Properties). The Vendor has no knowledge that the owners of the Surface Lands will fail to grant access to any owner of the Properties in, over and along the Surface Lands as and when the Properties are to be converted to leases or that such owners will create impediments to the acquisition of the Surface Lands or that the Government of Saskatchewan will intervene in the process relative to the acquisition of the Surface Lands by an owner of the Properties in a manner which is adverse to the interests of any such owner.

The Vendor has not received notice from the Government of Saskatchewan that, upon application, the Government of Saskatchewan will fail to convert the Properties to leases and that the same will therefore be subject to termination notwithstanding the fact that the owner shall be in full compliance with the terms thereof and Applicable Law.

The Vendor has not received notice from the Government of Saskatchewan that the boundaries of the Properties overlap with rights of third Persons and are therefore subject to change. No part of the Properties have been taken or expropriated by any tribunal or other body having power of expropriation, nor has any Legal Proceeding or notice in respect of any such expropriation been commenced, given or threatened.

Neither the Vendor nor, to the Vendor's knowledge, the Government of Saskatchewan is in breach of any of the provisions of the Properties and (subject to obtaining any Consents and Vendor Regulatory Approval to the completion of the Transaction), the completion of the Transaction will not afford the Government of Saskatchewan the right to terminate the Properties nor will the completion of the Transaction result in any additional or more onerous obligation on YC with respect to the Properties.

The Vendor has not sublet, assigned, licensed or otherwise conveyed any rights in and to any parts of the Properties or the Information to any other Person. The Properties have never suffered any Material Adverse Effect.

Notwithstanding any other provision in this Agreement, YC acknowledges and agrees that the Vendor in no way represents and warrants as to Her Majesty the Queen in Right of Saskatchewan's title to the "subsurface minerals" (as defined in the Regulations) listed in the Properties and the right to explore and prospect for "subsurface minerals" (as defined in the Regulations) conveyed by the Properties is subject to any and all defects in, and Liens against, Her Majesty the Queen in Right of Saskatchewan's ownership share in the "subsurface minerals" (as defined in the Regulations). The Vendor has no knowledge of and has not received notice from any Governmental Authority in respect of any such defects in or Liens against Her Majesty the Queen in Right of Saskatchewan's ownership share in the "subsurface minerals" (as defined in the Regulations).

As of the date hereof, the Vendor has paid to the SER (in lieu of meeting exploration expenditure requirements) in respect of the Properties, the aggregate amount of C\$640,000.

**3.7 Information.** The Vendor has made available to YC all of the Information that is in its possession or is under its power or control.

**3.8 Licences.** The Vendor does not own any licences.

**3.9 Liabilities.** The Vendor has no Liabilities (whether accrued, absolute, contingent or otherwise, matured or unmatured) in connection with the Properties or the Information to which YC will become subject after completion of the Transaction.

**3.10 Contracts.** The Vendor is not a party to or bound by or subject to any Contracts with respect to the Properties or the Information save and except for this Agreement and the Payment Undertaking.

**3.11 Insurance.** The Vendor maintains extended risk and casualty coverage insurance with respect to the Properties with reputable and sound insurers in such amounts and against such losses and claims as are generally maintained for comparable properties and assets.

**3.12 Environmental Matters.** The Vendor maintains the Properties in compliance with all Environmental Laws and to the knowledge of the Vendor, there are no facts that could give rise to a notice of non-compliance by the Vendor with any Environmental Law and all parts of the Properties are currently in material compliance with all Environmental Laws. To the knowledge of the Vendor, no Hazardous Substance has been placed, held, located, used or disposed of, on, under or at the Surface Lands by the Vendor. To the knowledge of the Vendor, no claim has ever been asserted and there are no present circumstances which could reasonably form the basis for the assertion of any claim against the Vendor for Losses of any kind as a direct or indirect result of the presence on or under or the escape, seepage, leakage, spillage, discharge, emission or release from the Surface Lands of any Hazardous Substance.

The Vendor has not used any of the Surface Lands to refine, treat, dispose, produce or process Hazardous Substances except in compliance with all Environmental Laws and Environmental Permits held by the Vendor.

Neither the Vendor nor any other person responsible under Environmental Laws for acts of the Vendor has been convicted of an offence or been subjected to any Legal Proceeding relating to Environmental Laws or been subject to any Order or other sanction requiring investigation or remediation of any real property or been fined or otherwise sentenced for non-compliance with any Environmental Laws and has not settled any prosecution or other proceeding short of conviction in connection therewith.

The Vendor has not caused or permitted the Release of any Hazardous Substance at, on or under the Surface Lands or the Release of any Hazardous Substance from the Surface Lands.

The Vendor has not received written notice nor does the Vendor have knowledge of any facts that could give rise to any notice, that the Vendor is potentially responsible for any remedial or other corrective action or any work, repairs, construction or capital expenditures to be made under any Environmental Law with respect to the Properties.

The Vendor has provided YC with copies of all analyses and monitoring data for soil, groundwater and surface water and all reports pertaining to any environmental assessments or audits relating to the Properties that were obtained by the Vendor.

To the knowledge of the Vendor, no underground or above-ground storage tanks are or have been located on any of the Surface Lands.

The Vendor has no knowledge of any Hazardous Substance originating from any adjoining or neighbouring properties to the Surface Lands which has or is suspected to be migrating onto, into or under the Surface Lands.

**3.13 Mining Work.** The Vendor has never performed any prospecting work, geological work, processes, undertaking or other operations in respect of the Properties and does not currently own any other assets or property rights relating to the Properties.

**3.14 Work Orders.** There are no outstanding work orders or actions required or reasonably anticipated to be required to be taken in respect of the rehabilitation or restoration of the Properties or relating to environmental matters in respect of the Properties, nor has the Vendor received notice of same.

**3.15 No Notice.** Except as disclosed to YC in relation to applications relating to Treaty Land Entitlement Agreements, the Vendor has not received notice and the Vendor has no knowledge of any proposal to terminate or vary the terms of or rights attaching to the Properties from any government or other Regulatory Authority or of any challenge to the Vendor's right, title or interest in the Properties.

**3.16 Residence of Vendor.** The Vendor is not a "non-resident" of Canada within the meaning of the ITA.

**3.17 Disclosure.** The Vendor has made available to YC all material information in its possession or control relating to the Properties and the Information.

**3.18 Competition Act and Investment Canada Act.** The Vendor represents and warrants that it is not an "operating business" as that term is defined under subsection 108(i) of the Competition Act or a "Canadian business" as that term is defined under section 3 of the Investment Canada Act.

**3.19 Vendors' Representations and Warranties.** The representations and warranties of the Vendor contained in this Agreement and in any agreement, certificate, affidavit, statutory declaration or other document delivered or given pursuant to this Agreement are true and correct and do not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements contained in such representations and warranties not misleading to a prospective buyer of the Properties and the Information.

**3.20 No Brokers.** All negotiations relating to this Agreement and the Transaction have been carried on by the Vendor directly with YC without the intervention of any other Person on behalf of the Vendor in such manner as to give rise to any valid claim against YC for a brokerage commission, finder's fee or other like payment and the Vendor will indemnify and save harmless YC of and from any such claim.

**3.21 Taxes.** The Vendor has paid all Taxes due and owing by it (whether or not such Taxes are shown or required to be shown on a tax return) and has withheld or collected and timely remitted to the appropriate taxing authority all Taxes which it is required to withhold or collect from amounts paid, payable or owing to or by any employee, shareholder, creditor, non-resident, customer, purchaser or other third party or which would result in a Lien on any part of the Properties.

**3.22 Vendor Financial Status.** The Vendor is a company of substance. The Properties and the Information do not comprise the Vendor's only assets and as at the date hereof, the Vendor has other assets and other property which include 18 other subsurface mineral exploration permits in the Province of Saskatchewan, which are not subject to any Lien. The Vendor intends to actively develop at least 14 of the other subsurface mineral exploration permits either directly or indirectly, through joint ventures, and anticipates having significant long-term investment in the Province of Saskatchewan.

#### **4. REPRESENTATIONS AND WARRANTIES OF YC**

YC represents and warrants to the Vendor as set out in this section and acknowledges that the Vendor is relying on such representations and warranties in connection with the Transaction. In connection with the assignment of this Agreement from YC to the Buyer prior to the Closing Date, the following representations and warranties shall be made by the Buyer and shall be true as of the Closing Date as if made on and as of such date:

**4.1 Incorporation of YC.** YC is a corporation duly incorporated, organized and subsisting under the laws of the jurisdiction of incorporation and has the corporate power, authority and capacity to execute and deliver this Agreement and the Payment Undertaking, to own the Properties and the Information, to purchase the Properties and the Information from the Vendor as herein contemplated and to perform its other obligations hereunder. No proceedings have been taken or authorized by YC or by any other Person with respect to the bankruptcy, insolvency, liquidation, dissolution or winding up of YC or with respect to any amalgamation, merger, consolidation, arrangement or reorganization of, or relating to, YC nor, to the knowledge of YC, have any such proceedings been threatened by any other Person.

**4.2 Authorization of Purchase by YC.** The execution and delivery of this Agreement and the Payment Undertaking and the completion of the Transaction have been duly and validly authorized by all necessary corporate action on behalf of YC and each of this Agreement and the Payment Undertaking has been duly and validly executed and delivered by YC and is a valid and binding obligation of YC enforceable against YC in accordance with its respective terms. On Closing, the execution and delivery of the Covenant Escrow Agreement will be duly and validly authorized by all necessary corporate action on behalf of YC and the Covenant Escrow Agreement will be validly executed and delivered by YC and a valid and binding obligation of YC enforceable against YC in accordance with its terms. There is no Legal Proceeding in progress, pending, or, to the knowledge of YC, threatened against or affecting YC or affecting the title of YC to any of its properties at law or in equity or before or by any tribunal and, to the knowledge of YC, there are no grounds on which any such Legal Proceeding might be commenced with any reasonable likelihood of success nor is there any Order outstanding against or affecting YC which, in any such case, affects adversely or might affect adversely the ability of YC to enter into this Agreement, the Payment Undertaking or the Covenant Escrow Agreement or to perform its obligations hereunder or thereunder.

**4.3 Qualification of YC.** YC has the necessary corporate power, authority and capacity to own and use the Properties and the Information.

**4.4 Conflicting Instruments.** Neither the entering into of this Agreement by the Parties or the Payment Undertaking, nor the entering into of any agreement or other instrument contemplated hereby including without limitation, the Covenant Escrow Agreement, nor the completion of the Transaction nor the performance by YC of its obligations hereunder or thereunder will: (a) conflict with, or result in the breach or violation of or default under, or cause the acceleration of any obligations of YC under, any of the terms and provisions of (i) any Applicable Law, (ii) the constating documents of YC, including any articles or by-laws, if applicable, any resolution of the directors or shareholders of YC, or any equivalent documents under the laws of jurisdiction of incorporation; or (iii) subject to obtaining any Consent or Buyer Regulatory Approval which may be required thereunder in connection with the completion of the Transaction, any Licence, Order or agreement, contract or commitment, written or oral to which YC is a party or by which YC is bound.

**4.5 Buyer Regulatory Approvals.** Except as set forth in Schedule "B", no Regulatory Approval or filing with, notice to, or waiver from any Governmental Authority or other person is required to be obtained or made by YC, or to its knowledge, its affiliates, in connection with the execution, delivery and performance by YC of its obligations under this Agreement, the Payment Undertaking or the Covenant Escrow Agreement or the consummation of the Transaction. YC has no reason to believe that it will not be able to obtain on or before Closing, the Buyer Regulatory Approvals.

**4.6 No Brokers.** All negotiations relating to this Agreement and the Transaction have been carried on by YC with the Vendor without the intervention of any other Person on behalf of YC in such manner as to give rise to any valid claim against the Vendor for a brokerage commission, finder's fee or other like payment and YC will indemnify and save harmless the Vendor of and from any such claim.

## 5. COVENANTS OF THE PARTIES

**5.1 Vendor's Action During Interim Period.** During the Interim Period, the Vendor shall not take any action, or fail to take any action, that would cause any of the Vendor's representations and warranties to become untrue on the Closing Date. For greater certainty and without limitation, the Vendor shall continue to maintain the Properties in good standing, in accordance with past practice and using sound business judgement.

**5.2 YC's Action During Interim Period.** During the Interim Period, YC shall not take any action that would cause any of YC's representations and warranties to become untrue on the Closing Date.

**5.3 Continuing Access.** During the Interim Period, YC shall be entitled to continue to access the Properties and the Information and the Vendor shall continue to make available to YC and its professional advisors all information relating to the Properties and the Information, as well as access to the Vendor's professional advisors. In addition, the Vendor undertakes to use its commercially reasonable efforts to obtain the 2D and 3D seismic data in respect of the Properties from the applicable third parties, and to provide such information to YC immediately upon receipt thereof. For greater certainty, and without limitation, the continuing access and Vendor's undertaking to obtain the 2D and 3D seismic data shall not give rise to any rights of termination in and to YC on the basis of a "due diligence out".

**5.4 Vendor Fulfillment of Conditions.** The Vendor shall take all such actions, steps and proceedings as are reasonably within its control as may be necessary to ensure that the conditions set out in this Agreement which are for the benefit of YC are fulfilled on or before the Closing Date.

**5.5 YC Fulfillment of Conditions.** YC shall take all such actions, steps and proceedings as are reasonably within its control as may be necessary to ensure that the conditions set out in this Agreement which are for the benefit of the Vendor are fulfilled on or before the Closing Date.

**5.6 Mutual Cooperation.** The Parties agree that they will use commercially reasonable efforts to satisfy (or cause the satisfaction of) all conditions precedent to the Transaction, including, but not limited to:

(a) obtaining the Regulatory Approvals and the transfer of the Licences and the Properties and the Information required to complete the Transaction;



(b) effecting all necessary or advisable registrations, filings and submissions required in connection with the Regulatory Approvals or transfer of the Licences;

(c) cooperating with the other party in connection with the performance by it of its obligations under this Agreement, including refraining from taking, or causing to be taken, any action which would reasonably be expected to prevent or materially delay the consummation of the Transaction;

(d) providing such information as either YC or Vendor may reasonably request for the purpose of determining whether any filings or notices required in connection with the Regulatory Approvals or transfer of the Licences is required to effect the Transaction;

(e) furnishing such information, documents and assistance that YC or Vendor may request in connection with preparing any required or advisable filings or notices referred to in subparagraph (d) or related requests for information made by any Governmental Authority; and

(f) no Party shall attend a meeting (whether by phone or in person) with any Governmental Authority in Canada in relation to the Transaction in which the other Party has not been provided with a reasonable opportunity to participate, other than a meeting relating to non-substantive factual matters in respect of Closing or the transfer of recorded/registered title of the Properties.

**5.7 Consent on Use of the Information.** If the consent of a third Person is required for the use of or reference to any report or document which forms part of the Information by the Buyer, YC or YK (in their respective ordinary course of business or in performing disclosure requirements pursuant to Applicable Laws), the Vendor shall use its reasonable commercial efforts to assist the Buyer, YC or YK in obtaining such consent.

**5.8 Future Sale, Pledge or Parting with Possession of Interests.** During the period commencing on the Closing Date and terminating on the 12-month anniversary thereof, except as otherwise provided in this section 5.8, the Vendor shall maintain its remaining 18 subsurface mineral exploration permits in good standing. During the period commencing on the Closing Date and terminating on the 12-month anniversary thereof, if the Vendor shall seek to sell, pledge or part with possession of more than 3 of its remaining 18 subsurface mineral exploration permits (save and except for the transfer of up to 9 of the subsurface mineral exploration permits into a joint venture with a third party, which the Vendor may do in its sole discretion and without any notice to the Buyer), it shall first provide the Buyer with a minimum of 15 Business Days' prior written notice of the completion of such sale, pledge or parting with possession of the interest. The Vendor covenants that on the completion of such sale, pledge, or parting with possession of the interest, as set forth in the written notice, the Vendor shall forthwith direct and deposit an additional amount equal to US\$15,000,000 in escrow with the Escrow Agent pursuant to the Covenant Escrow Agreement. The term of such additional escrow will be equal to the period commencing on the date that the additional amount equal to US\$15,000,000 is deposited with the Escrow Agent pursuant to the Covenant Escrow Agreement, and terminating on the 12-month anniversary of the Closing Date.

**5.9 Vendor Financial Status.** The Vendor covenants and agrees that for a period commencing on the Closing Date and terminating on the 12-month anniversary thereof, the Vendor shall maintain assets with a minimum aggregate value of US\$50,000,000. As set forth in the Covenant Escrow Agreement, funds deposited thereunder shall be used to satisfy any claim for Losses of YC pursuant to this section 5.9.

## **6. CONDITIONS FOR THE BENEFIT OF YC**

**6.1 YC's Conditions.** YC shall not be obligated to complete the Transaction unless, on or before the Closing Date, each of the conditions listed below in this section has been satisfied, it being understood that the said conditions are included for the exclusive benefit of YC:

- (a) The representations and warranties of the Vendor in this Agreement shall be true and correct on the Closing Date.
- (b) The Vendor shall have performed and complied with all of the terms and conditions in this Agreement and the Payment Undertaking on its part to be performed or complied with on or before the Closing Date.
- (c) The Vendor provides the SER and YC with an executed irrevocable written direction, satisfactory in form and substance to the SER and YC, acting reasonably, directing the SER to refund the deposits made by the Vendor, as set out in section 2.7, to YC rather than to the Vendor.
- (d) The Vendor provides such satisfactory evidence as requested by YC, acting reasonably, of the amount of deposits made by the Vendor to the SER as payment in lieu of meeting exploration expenditures in respect of the Properties, as set out in section 2.7.
- (e) As evidence of the satisfaction of the conditions in sections 6.1 (a) and (b), the Vendor shall deliver to YC at the Closing Time a certificate of the Vendor confirming the matters in sections 6.1 (a) and (b) and to the effect that as of the Closing Time all other conditions set forth in this section have been satisfied. The certificate shall be signed by two senior executive officers of the Vendor acceptable to YC, acting reasonably. Notwithstanding the foregoing, the receipt of such certificate and the completion of the Transaction shall not constitute a waiver (in whole or in part) of, or have the effect of modifying or qualifying in any way, any of the representations and warranties of the Vendor made in or pursuant to this Agreement, each of which shall survive the Closing and remain in full force and effect for the benefit of YC as provided in Article 9.
- (f) On Closing the Vendor shall deliver to YC a legal opinion from counsel acceptable to YC, acting reasonably, and in form and content satisfactory to YC, subject to reasonable qualifications, as to the due incorporation and organization of the Vendor, the corporate power and authority of the Vendor, the receipt of all necessary approvals by the Vendor, the enforceability of this Agreement, the Payment Undertaking and the Covenant Escrow Agreement as against the Vendor and the non-conflict of this Agreement, the Payment Undertaking and the Covenant Escrow Agreement with respect to the constating documents of the Vendor and any Applicable Laws.

(g) During the Interim Period, YC, YK, or the Buyer shall have received no variance in information relating to the Properties which would lead a purchaser, acting reasonably, to consider that such variance would have a material adverse effect on the Properties.

(h) The Buyer Regulatory Approvals shall have been granted, obtained and received unconditionally or on terms satisfactory to YC, YK, or the Buyer, as applicable. For greater certainty, and as set out in section 2.3, the regulatory approval set forth in item 2 of Schedule "B" shall be applied for and will be granted, obtained and received after the Transaction has been deemed to be closed in escrow and no longer affected by the Expiry Date.

(i) No Order shall have been made and no Legal Proceeding shall have been commenced or shall be pending or threatened against the other Party or its affiliates or any parts of the Properties which would adversely affect YC or which enjoins, restricts or prohibits, or which asserts a claim or seeks a remedy that would have the effect of enjoining, restricting or prohibiting the completion of the Transaction.

(j) The Contemporaneous Agreement shall have been executed and delivered and the transactions contemplated thereunder shall be completed simultaneously with this Transaction.

(k) The Vendor shall have been granted, obtained and received the Vendor Regulatory Approval which shall have been granted, obtained and received unconditionally or on terms satisfactory to YC, acting reasonably.

(l) YC shall have received, as and by way of the "**Closing Documents**" (the "**Closing Documents**") such other agreements, certificates, affidavits, statutory declarations, instruments of transfer and other documentation reasonably required by YC to implement the Transaction, all of which shall be satisfactory in form and substance to counsel for YC, acting reasonably.

(m) YC, the Vendor and the Escrow Agent shall have executed and delivered the Covenant Escrow Agreement and the Vendor shall have deposited US\$5,000,000 (as and when received from YC) into escrow with the Escrow Agent pursuant to such agreement. For greater certainty, any Order obtained pursuant to the Mann and Medge Litigation or any other Legal Proceeding existing as at the date hereof will not attach to the US\$5,000,000 placed into escrow pursuant to the Covenant Escrow Agreement.

If any condition in this section has not been fulfilled on or before the Closing Date or if any such condition is or becomes impossible to satisfy, other than as a result of the failure of YC to comply with its obligations under this Agreement, then YC in its sole discretion may, without limiting any rights or remedies available to YC at law or in equity, either terminate this Agreement by written notice to the Vendor, in which case, the provisions of sections 2.5(c)(i), (iv) or (v) shall be applicable or waive compliance with any such condition without prejudice to its right of termination in the event of non-fulfilment of any other condition.

## **7. CONDITIONS FOR THE BENEFIT OF THE VENDOR**

**7.1 Vendor's Conditions.** The Vendor shall not be obligated to complete the Transaction unless, at or before the Closing Time, each of the conditions listed below in this section has been satisfied, it being understood that the said conditions are included for the exclusive benefit of the Vendor:

- (a) The representations and warranties of YC in this Agreement shall be true and correct on the Closing Date.
- (b) YC shall have performed and complied with all of the terms and conditions in this Agreement and the Payment Undertaking on its part to be performed or complied with on or before the Closing Date.
- (c) As evidence of the satisfaction of the conditions in sections 7.1 (a) and (b), YC shall deliver to the Vendor at the Closing Time a certificate of YC confirming the matters in sections 7.1 (a) and (b) and to the effect that as of the Closing Time all other conditions set forth in this section have been satisfied. The certificate shall be signed by two senior executive officers of YC acceptable to the Vendor, acting reasonably. Notwithstanding the foregoing, the receipt of such certificate and the completion of the Transaction shall not constitute a waiver (in whole or in part) of, or have the effect of modifying or qualifying in any way, any of the representations and warranties of YC made in or pursuant to this Agreement, each of which shall survive the Closing and remain in full force and effect for the benefit of the Vendor as provided in Article 9.
- (d) YC and the Buyer shall have delivered to the Vendor a legal opinion from counsel acceptable to the Vendor, acting reasonably, and in form and content satisfactory to the Vendor subject to reasonable qualifications, as to the due incorporation and organization of YC and the Buyer, the corporate power and authority of YC and the Buyer, the receipt of all necessary approvals by YC and the Buyer and the enforceability of this Agreement, the Payment Undertaking and the Covenant Escrow Agreement as against YC and the Buyer and the non-conflict of this Agreement, the Payment Undertaking and the Covenant Escrow Agreement with respect to the constating documents of YC and the Buyer and any Applicable Laws.
- (e) The Vendor Regulatory Approval shall have been granted, obtained and received unconditionally or on terms satisfactory to the Vendor, acting reasonably.
- (f) No Order shall have been made and no Legal Proceeding shall have been commenced or shall be pending or threatened against the other Party or its affiliates or which enjoins, restricts or prohibits, or which asserts a claim or seeks a remedy that would have the effect of enjoining, restricting or prohibiting the completion of the Transaction.

If any condition in this section has not been fulfilled on or before the Closing Date or if any such condition is or becomes impossible to satisfy, other than as a result of the failure of the Vendor to comply with its obligations under this Agreement, then the Vendor in its sole discretion may, without limiting any rights or remedies available to the Vendor at law or in equity, either terminate this Agreement by written notice to YC, in which case the provisions of sections 2.5(c)(iii), (iv) or (v) shall be applicable, or waive compliance with any such condition without prejudice to its right of termination in the event of non-fulfilment of any other condition.

## **8. DAMAGE OR EXPROPRIATION**

**8.1 Damage or Expropriation.** If, prior to the Closing Time, all or any substantial portion of the Properties shall be expropriated or seized by any Governmental Authority or any other Person in accordance with Applicable Law, or if notice of any such expropriation or seizure shall have been given in accordance with Applicable Law, the Vendor shall forthwith advise YC of such appropriation or seizure or receipt of notice thereof, and shall provide applicable details of such appropriation or seizure, and YC shall have the option, exercisable by notice to the Vendor given prior to the Closing Date to terminate this Agreement and not complete the Transaction, in which case YC shall be released from all obligations hereunder as of and from the giving of such notice or the option to complete the Transaction with a reduction of the Purchase Price by the net amount equal to the replacement cost of the Properties so expropriated or seized (based on the Properties Allocation). In the event that YC shall exercise its option to terminate this Agreement set forth in this Article 8, the Parties shall sign a joint direction to the Bank of China forthwith and authorize the Bank of China to cancel the Payment Undertaking.

## **9. INDEMNIFICATION AND LIMITATIONS**

**9.1 Indemnification by the Vendor.** The Vendor shall indemnify, defend and save harmless YC from and against any and all Losses suffered or incurred by YC, as a direct or indirect result of, or arising in connection with or related in any manner whatever to a Third Party Claim.

**9.2 Survival of Representations and Warranties.** The covenants, representations and warranties, and indemnities of the Vendor and YC set forth in this Agreement shall survive the Closing for a period of 18 months, other than in respect of liability for Losses in connection with the Mann and Medge Litigation or any other Legal Proceeding in respect of the Properties, the Information, this Agreement or the Transaction existing as at the Closing Date, which shall survive until the end of the applicable appeal period or the claim is settled or dismissed, after which time the Vendor and YC shall be released from all obligations in respect of such covenants, representations and warranties, and indemnities, except with respect to any claim in respect of any Losses of which a Party gives notice in writing to the other Party (setting out in reasonable detail the nature of such claim and the approximate amount of the Losses arising as a result thereof) before the expiration of such period. For greater certainty and notwithstanding anything contained herein, YC may bring a claim for Losses in respect of a breach by the Vendor of its representations and warranties contained in this Agreement.

**9.3 Notice of Third Party Claims.** If YC receives notice of the commencement or assertion of any Third Party Claim, YC shall give the Vendor reasonably prompt notice thereof, but in any event no later than 30 days after receipt of notice of such Third Party Claim. The notice to the Vendor shall describe the Third Party Claim in reasonable detail and shall indicate, if reasonably practicable, the estimated amount of the Losses that have been or may be sustained by YC.

**9.4 Defence of Third Party Claims.** The Vendor may participate in or assume the defence of any Third Party Claim by giving notice to that effect to YC not later than 30 days after receiving notice of the Third Party Claim (the “**Notice Period**”). The Vendor’s right to do so shall be subject to the rights of any insurer or other party who has potential liability in respect of that Third Party Claim. The Vendor shall pay all of its own expenses of participating in or assuming such defence. YC shall co-operate in good faith in the defence of each Third Party Claim, even if the defence has been assumed by the Vendor and may participate in such defence assisted by counsel of its own choice at its own expense. If YC has not received notice within the Notice Period that the Indemnifying Party has elected to assume the defence of such Third Party Claim, YC may, at its option, elect to settle or compromise the Third Party Claim or assume such defence, assisted by counsel of its own choosing and the Indemnifying Party shall be liable for all reasonable costs and expenses paid or incurred in connection therewith and any Losses suffered or incurred by YC with respect to such Third Party Claim. If the Vendor elects to assume the defence of a Third Party Claim under this section, the Vendor shall not have the right thereafter to contest its liability for such claim.

**9.5 Assistance for Third Party Claims.** The Vendor and YC will use all reasonable efforts to make available to the Party which is undertaking and controlling the defence of any Third Party Claim (the “**Defending Party**”), those employees and other persons whose assistance, testimony or presence is necessary to assist the Defending Party in evaluating and in defending any Third Party Claim and all documents, records and other materials in the possession of such Party reasonably required by the Defending Party for its use in defending any Third Party Claim and all documents, records and other materials in the possession of such Party reasonably required by the Defending Party for its use in defending any Third Party Claim and shall otherwise cooperate with the Defending Party. The Vendor shall be responsible for all reasonable expenses associated with making such documents, records and materials available and for all reasonable expenses of any employees or other persons made available by YC to the Vendor hereunder, which expense shall not exceed the actual cost to YC associated with such employees and other persons.

**9.6 Settlement of Third Party Claims.** If the Vendor elects to assume the defence of any Third Party Claim as provided in section 9.4, the Vendor shall not be liable for any legal expenses subsequently incurred by YC in connection with the defence of such Third Party Claim following the receipt by YC of notice of such assumption. However, if the Indemnifying Party fails to take reasonable steps necessary to defend diligently such Third Party Claim within 30 days after receiving notice from YC that YC believes on reasonable grounds that the Indemnifying Party has failed to take such steps, YC may, at its option, elect to assume the defence of and to negotiate, settle or compromise the Third Party Claim assisted by counsel of its own choosing and the Vendor shall also be liable for all reasonable costs and expenses paid or incurred in connection therewith. The Vendor shall not, without the prior written consent of YC, enter into any compromise or settlement of a Third Party Claim, which would lead to liability or create any other obligation, financial or otherwise, on YC.

**9.7 Failure to Give Timely Notice.** A failure to give timely notice as provided in this Article shall not affect the rights or obligations of any Party except and only to the extent that, as a result of such failure, any Party which was entitled to receive such notice was deprived of its right to recover any payment under its applicable insurance coverage or was otherwise directly and materially damaged as a result of such failure.

**9.8 Reductions and Subrogation.** If the amount of any Losses at any time subsequent to the making of an indemnity payment in respect of those Losses is reduced by any recovery, settlement or otherwise under or pursuant to any insurance coverage, or pursuant to any claim, recovery, settlement or payment by or against any other Person, the amount of such reduction (less any costs, expenses (including taxes) or premiums incurred in connection therewith), shall promptly be repaid by YC to the Vendor. Upon making a full indemnity payment, the Vendor shall, to the extent of such indemnity payment, be subrogated to all rights of YC against any third party that is not an affiliate of YC in respect of the Losses to which the Indemnity Payment relates. Until YC recovers full payment of its Losses, any and all claims of the Vendor against any such third Person on account of such Indemnity Payment shall be postponed and subordinated in right of payment to YC's rights against such third Person. Without limiting the generality or effect of any other provision hereof, YC and the Vendor shall duly execute upon request all instruments reasonably necessary to evidence and perfect such postponement and subordination.

**9.9 Tax Effect.** If any payment for indemnification received by YC would constitute taxable income to YC, the Vendor shall pay to YC at the same time and on the same terms, as to interest and otherwise, as the indemnity payment an additional amount sufficient to place YC in the same after-tax position as it would have been if the indemnity payment had been received tax-free.

**9.10 Payment and Interest.** All Losses in respect of a Third Party Claim shall bear interest at a rate per annum equal to the Prime Rate, calculated and payable monthly, both before and after judgment, with interest on overdue interest at the same rate, from the date that YC disbursed funds, suffered damages or losses or incurred a loss, liability or expense in respect of the applicable Losses in respect of a Third Party Claim, to the date of payment by the Vendor to YC.

**9.11 Additional Rules and Procedures.** If any Third Party Claim is of a nature such that YC is required by Applicable Law to make a payment to any Person with respect to such Third Party Claim before the completion of settlement negotiations or related legal proceedings, YC may make such payment and the Vendor shall, forthwith after demand by YC, reimburse YC for any such payment. If the amount of any liability under the Third Party Claim in respect of which such a payment was made, as finally determined, is less than the amount which was paid by the Vendor to YC, YC shall, forthwith after receipt of the difference from the third Person, pay such difference to the Vendor. YC and the Vendor shall co-operate fully with each other with respect to Third Party Claims, shall keep each other fully advised with respect thereto (including supplying copies of all relevant documentation promptly as it becomes available) and shall each designate a senior officer who will keep himself informed about and be prepared to discuss the Third Party Claim with his counterpart and with legal counsel at all reasonable times.

**9.12 Limitations.** Notwithstanding anything else in this Agreement, the maximum aggregate liability of the Vendor on the one hand and YC on the other hand, in respect of all claims for Losses under this Agreement (including, without limitation, indemnification under section 9.1 and Losses resulting from breaches of the representations and warranties, and covenants contained in this Agreement) shall not exceed the amount of the Purchase Price, in the aggregate. Additionally, the liability of the Vendor shall be allocated on a Property by Property basis, pursuant to the Properties Allocation, such that its liability in respect of each Property shall be capped at that Property's Allocation. In the event that the Vendor pays a claim for Losses to YC for the full amount of any Property, including without limitation, the Information with respect thereto, which payment is irreversible and non-refundable, the relevant Property, including without limitation, the Information with respect thereto, shall be transferred by YC to the Vendor or as it may otherwise direct, without any further or other consideration.

**9.13 GST Gross Up.** If any payment made by the Vendor or YC pursuant to this Article 9 is deemed by the Excise Tax Act (Canada) to include GST, or is deemed by any applicable provincial or territorial legislation to include a similar value added or multi-staged tax, the amount of such payment shall be increased accordingly.

## **10. MISCELLANEOUS**

**10.1 Further Assurances.** Each Party shall from time to time execute and deliver or cause to be executed and delivered all such further documents and instruments and do or cause to be done all further acts and things as the other Party may, before or after the Closing Time, reasonably require as being necessary or desirable in order to effectively carry out or better evidence or perfect the full intent and meaning of this Agreement or any provision hereof.

**10.2 Public Announcements.** Except to the extent required by Applicable Law, each Party agrees that no disclosure or public announcement regarding this Agreement or the Transaction shall be made by either Party without the prior written consent of the other Party (which consent may not be unreasonably withheld or delayed and may be given either generally or in a specific case or cases and may be subject to conditions). For the avoidance of doubt, both Parties agree that YC and Acron, the Vendor's parent company, are permitted to make public announcement(s) and other disclosure regarding this Agreement or the Transaction as may be required under applicable listing rules of the stock exchanges on which the shares of YC or Acron are listed.



**10.3 Notices.** Any notice, direction or other communication (in this section, a “**notice**”) required or permitted to be given to a Party pursuant to this Agreement shall be in writing and shall be sufficiently given if delivered personally, mailed or transmitted by facsimile or pdf as follows:

In the case of the Vendor, at:

North Atlantic Potash Inc.  
374 Third Avenue South  
Saskatoon, SK S7K 1M5

Attention: Arie Zuckerman  
Facsimile Number: 9 72 26443429  
Email address: ariezuc@gmail.com

Attention: Alexander Dynkin  
Facsimile Number: 7 499 245 79 53  
Email address: Dynkin@acron.ru

Attention: Anton Zhukov  
Facsimile Number: 7 499 245 79 53  
Email address: Zhukov@acron.ru

With a copy to (which shall not constitute notice to the Vendor):

Blake Cassels & Graydon LLP  
23 College Hill  
5th Floor  
London EC4R 2RP

Attention: David Glennie  
Facsimile Number: 44 (0) 207 429 3560  
Email address: david.glennie@blakes.com

In the case of YC, at

Yanzhou Coal Mining Company Limited  
298 Fushan South Road  
Zoucheng Shandong Province  
PRC, 273500

Attention: Huang Xiaolong  
Facsimile Number: (86 537) 5383311  
Email address: hxl2003@sohu.com

With a copy to (which shall not constitute notice to YC):

Cassels Brock & Blackwell LLP  
2100 Scotia Plaza, 40 King Street West  
Toronto, Ontario  
Canada M5H 3C2

Attention: Cam Mingay  
Facsimile Number: (416) 640 3163  
Email address: cmingay@casselsbrock.com

Any notice delivered personally, shall be deemed to have been given and received on the day on which it was delivered, if delivered prior to 5:00 p.m. (recipient's time) on a Business Day; otherwise on the first Business Day thereafter. Any notice mailed shall be deemed to have been given and received on the third Business Day after it was mailed, provided that if the Party giving the notice knows or ought reasonably to know of disruptions in the postal system that might affect the delivery of mail, such notice shall not be mailed but shall be given by personal delivery or pdf or facsimile transmission. Any notice transmitted by pdf or facsimile shall be deemed to have been given and received on the day of its pdf or facsimile transmission, if, in the case of facsimile transmission, the machine from which it was sent receives the answerback code of the Party to whom it was sent prior to 5:00 p.m. (recipient's time) on such day, otherwise on the first Business Day thereafter. Either Party may change its address for service from time to time by notice given to each of the other Party in accordance with the foregoing provisions.

**10.4 Effect of Closing.** All provisions of this Agreement shall remain in full force and effect notwithstanding the Closing, subject only to the limitation periods specified in sections 9.2 and the limitations specified in section 9.12.

**10.5 Counterparts.** This Agreement may be executed in counterparts, by original, telefacsimile or pdf signature, each of which shall be deemed to be an original and both of which together shall constitute one and the same instrument.

**10.6 Assignment.** This Agreement may not be assigned by either Party without the consent of the other Party.

**10.7 Parties in Interest.** This Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

**10.8 Third Parties.** Except as specifically set forth or referred to herein, nothing herein is intended or shall be construed to confer upon or give to any Person, other than the Parties and their respective successors and permitted assigns, any rights or remedies under or by reason of this Agreement.

**10.9 English Language.** The parties confirm that it is their wish that this Agreement and any other documents delivered or given pursuant to this Agreement, including notices, have been and shall be in the English language only.

**10.10 Transfer Taxes.** YC shall pay any applicable GST, value added, sales, use or other transfer taxes (the “**Transfer Taxes**”) relating to the transfer of the Properties and Information. YC shall indemnify and hold the Vendor harmless from and against, and will reimburse the Vendor for, any Transfer Taxes, penalties and interest assessed solely against or payable solely by the Vendor, required under Applicable Law, to the extent such Transfer Taxes are payable in connection with the sale and purchase of the Properties and Information, and this indemnity shall survive until 90 days after the relevant Governmental Authority shall no longer be entitled to assess or reassess Transfer Taxes against the Vendor.

SIGNATURE BLOCKS APPEAR ON NEXT PAGE

**IN WITNESS WHEREOF THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO. THE PARTIES HERETO INTENDING TO BE LEGALLY BOUND HAVE EXECUTED THIS AGREEMENT AS OF THE DATE AND YEAR FIRST WRITTEN ABOVE.**

**NORTH ATLANTIC POTASH INC.**

Per: /s/ Arie Zuckerman  
Name: Arie Zuckerman C.S.  
I have authority to bind North Atlantic Potash Inc.

**YANZHOU COAL MINING COMPANY LIMITED**

Per: /s/ Zhang Ming Lin  
Name: Zhang Ming Lin C.S.  
I have authority to bind Yanchou Coal Mining  
Company Limited.

**SCHEDULE "A"**

**DESCRIPTION OF THE PROPERTIES**

KP 374

KP 377

KP 378

KP 392

KP 399

KP 406

KP 506

KP 507

## **SCHEDULE "B"**

### **BUYER REGULATORY APPROVALS**

1. The approvals required of YK, YC, and/or its affiliates, as applicable, under Chinese law and regulations in connection with this Agreement and the Contemporaneous Agreement, being the approvals of the State-owned Assets Supervision and Administration Commission of the Peoples' Republic of China (the "**PRC**"), the Ministry of Commerce of the PRC, the National Development and Reform Commission of the PRC and the State Administration of Foreign Exchange of the PRC.
2. The approval required by the SER, to permit the transfer of recorded/registered title of the Properties: (a) from 101109718 Saskatchewan Ltd. to the Vendor; and (b) from the Vendor to the Buyer.

**SCHEDULE "C"**

**VENDOR REGULATORY APPROVAL**

1. Approval required by the SER to permit the transfer of recorded/registered title of the Properties: (a) from 101109718 Saskatchewan Ltd. to the Vendor; and (b) from the Vendor to the Buyer.

Project Bolt

**Merger Proposal Deed**

---

Yancoal Australia Limited

Yanzhou Coal Mining Company Limited

Gloucester Coal Ltd

**Freehills**

101 Collins Street Melbourne Vic 3000 Australia

GPO Box 128A Melbourne Vic 3001 Australia

Sydney Melbourne Perth Brisbane Singapore

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Minh City



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# Freehills

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# Freehills

Merger Proposal Deed

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Date ▶ 22 DECEMBER 2011

Between the parties

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**Yancoal Australia Limited**

ABN 82 111 859 119 of Level 11, 68 York Street, Sydney, NSW, Australia

**(Bidder)**

---

**Yanzhou Coal Mining Company Limited**

of 298 Fushan South Road, Zoucheng Shandong Province, Peoples' Republic of China

**(Yanzhou)**

---

**Gloucester Coal Ltd**

ABN 66 008 881 712 of Level 7,167 Macquarie Street Sydney NSW, Australia

**(Gloucester)**

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Recitals

- 1 Gloucester proposes to submit the Transactions to its shareholders for approval on and subject to the terms and conditions of this deed.
  - 2 Gloucester, Bidder and Yanzhou have agreed certain matters in connection with the Transactions as set out in this deed.
- 

This deed witnesses as follows:

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## 1 Definitions and interpretation

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### 1.1 Definitions

The meanings of the terms used in this deed are set out below.

<b>Term</b>	<b>Meaning</b>
<b>Adviser</b>	in relation to an entity: (a) a financier to the entity in connection with the Transactions; or (b) a financial, corporate, legal, technical or other expert adviser or consultant, who provides advisory or consultancy services in a professional capacity in the ordinary course of its business and has been engaged in that capacity in connection with the Transactions by the entity.
<b>AIFRS</b>	the International Financial Reporting Standards as adopted in Australia.
<b>ASIC</b>	the Australian Securities and Investments Commission.
<b>ASX</b>	ASX Limited (ABN 98 008 624 691) or, as the context requires, the financial market known as the Australian Securities Exchange operated by it.
<b>ATO</b>	the Australian Taxation Office.
<b>Athena Coal Pty Limited</b>	Athena Coal Pty Limited, ABN 68 108 510 452.
<b>Athena Joint Venture</b>	the unincorporated joint venture between Athena Coal Pty Limited (51%), Sojitz (45%) and Kores Australia Athena Coal Pty Ltd (4%) as amended from time to time in respect of the prospective underground mine development to produce coal, known as the Athena coal project and currently covered by exploration permits for coal numbers 553 (EPC 553) 1116 (EPC 1116), 1393 (EPC 1393) and 1591 (EPC 1591) including all new or existing exploration permits, mineral development licences or mining leases and applications for the foregoing for the total area covered by the external boundaries of EPC 553 EPC 1116, EPC 1393 and EPC 1591 together with all related joint venture assets.
<b>Bidder Board</b>	the board of directors of Bidder.

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Term	Meaning
<b>Bidder Conditions</b>	the conditions precedent set out in under the heading 'Bidder Conditions' in clause 3.1.
<b>Bidder Disclosure Letter</b>	the letter so entitled provided by Bidder to Gloucester on or before execution of this deed and countersigned by Gloucester.
<b>Bidder Due Diligence Material</b>	<ol style="list-style-type: none"> <li>1 all documents and information that were at any time during the period ending on and including 9 December 2011 contained in the electronic and physical data rooms established by Bidder and administered by Freehills and made available to Gloucester or its Representatives, the indices for which materials have been initialled for identification by Gloucester's solicitors on behalf of Gloucester and by Bidder's solicitors on behalf of Bidder; and</li> <li>2 all written answers given to written questions submitted by Gloucester or its Representatives as part of the question and answer process on or by the day before the date of this deed.</li> </ol>
<b>Bidder Group</b>	Bidder and each of its subsidiaries (excluding, at any time, Gloucester and its subsidiaries to the extent that Gloucester and its subsidiaries are subsidiaries of Bidder at that time). A reference to a <i>member of the Bidder Group or a Bidder Group Member</i> is a reference to Bidder or any such subsidiary. Except that, for the purpose of interpreting the definitions of and clauses, schedules or any other provision relating to Bidder Prescribed Occurrences, Bidder Material Adverse Change and Bidder Representations and Warranties, a reference to the Bidder Group, excludes the Excluded Assets.
<b>Bidder Information</b>	information about the Bidder Group provided or approved by Bidder or any of its Advisers to Gloucester in writing for inclusion in the Explanatory Booklet.
<b>Bidder Material Adverse Change</b>	<p>any event, occurrence or matter (or the disclosure or discovery of any event, occurrence or matter) that individually or when aggregated with all such events, occurrences or matters has, has had or would be reasonably likely to have the effect of:</p> <ol style="list-style-type: none"> <li>(a) a diminution in the consolidated net assets of the Bidder Group (calculated on the basis of AIFRS as at the date of this deed), of at least \$80 million compared to the consolidated net assets of the Bidder Group as shown in the document 'Monthly Report – September 2011' with reference number 05.02.01.2915 in the Bidder Due Diligence Materials; or</li> <li>(b) a diminution in the consolidated net profit before tax of the Bidder Group (calculated on the basis of AIFRS as at the date of this deed) of at least \$20 million per annum on a recurring basis over a period of at least 5 years; or</li> <li>(c) the Bidder Group being unable to carry on its business in substantially the same manner as carried on as at the date of this deed,</li> </ol>

Term	Meaning
	<p>other than changes, events, occurrences or matters:</p> <ul style="list-style-type: none"> <li>(d) required or permitted by this deed or another Transaction Document;</li> <li>(e) to the extent Fairly Disclosed on or before 9 December 2011 in the Bidder Due Diligence Material or Fairly Disclosed in the Bidder Disclosure Letter;</li> <li>(f) to the extent Fairly Disclosed in public announcements issued by Yanzhou on or by the day before the date of this deed on any of the securities exchanges where its securities are listed;</li> <li>(g) which do not relate specifically to the Bidder Group and which are beyond the control of the Bidder and which arise from: <ul style="list-style-type: none"> <li>(i) changes in coal or other commodity prices, exchange rates or interest rates; or</li> <li>(ii) general economic or business conditions;</li> </ul> </li> <li>(h) arising as a result of any changes of accounting standards or laws in Australia; or</li> <li>(i) to the extent any losses or liabilities arising from such change, event, occurrence or matter are covered by insurance which the Bidder Group's insurers have agreed to pay.</li> </ul>
<b>Bidder Parties</b>	Yanzhou, the members of the Bidder Group and their (or Yanzhou's) respective directors, officers, employees and Advisers.
<b>Bidder Prescribed Occurrence</b>	<p>any of the occurrences set out in Part B of Schedule 3, provided that none of the following will constitute a Bidder Prescribed Occurrence:</p> <ul style="list-style-type: none"> <li>(a) anything required or permitted to be done by any member of the Bidder Group by this deed or another Transaction Document;</li> <li>(b) anything approved in writing by Gloucester;</li> <li>(c) anything Fairly Disclosed on or before 9 December 2011 in the Bidder Due Diligence Material or Fairly Disclosed in the Bidder Disclosure Letter; or</li> <li>(d) anything Fairly Disclosed in public announcements issued by Yanzhou on or by the day before the date of this deed on any of the securities exchanges where its securities are listed,</li> </ul> <p>and provided further that the occurrences set out in Part 2 of Part B of Schedule 3 will not constitute Bidder Prescribed Occurrences if they occur in the ordinary course of Bidder Group's ordinary business.</p>
<b>Bidder Representation and Warranty</b>	a representation and warranty of Bidder set out in Schedule 1.
<b>Bidder Shares</b>	a fully paid ordinary share in the capital of Bidder.



<b>Term</b>	<b>Meaning</b>
<b>Bidder Sub</b>	a direct or indirect wholly owned subsidiary of Bidder, nominated in writing by Bidder to Gloucester, or if such a subsidiary is not nominated by Bidder then a reference to Bidder Sub is a reference to Bidder.
<b>Break Fee</b>	\$20,000,000 (inclusive of GST).
<b>Business Day</b>	a business day as defined in the ASX Listing Rules.
<b>Cameby Downs mine</b>	open cut mine located approximately 30km from the town of Chinchilla in the Surat Basin, Queensland in respect of the area covered by mining lease (ML 50233), exploration permits for coal numbers 562 (EPC 562), 732 (EPC 732), 873 (EPC 873), 1165 (EPC 1165), mineral development licences 246 (MDL 246) and 247 (MDL 247) including all new or existing exploration permits, mineral development licences or mining leases and applications for the foregoing for the total area covered by the external boundaries of EPC 562, EPC 732, EPC 873, EPC 1165, MDL 246, MDL 247 and ML 50233, together with all related assets and all interests in any assets owned or held by Syntech Holdings Pty Ltd or Syntech Holdings II Pty Limited and all issued shares in Syntech Holdings Pty Ltd and Syntech Holdings II Pty Limited.
<b>Capital Reduction</b>	a proposed equal reduction of the share capital of Gloucester under Part 2J.1 of the Corporations Act in the aggregate amount of the Capital Reduction Amount and not involving the cancellation of any Shares.
<b>Capital Reduction Amount</b>	subject to the Gloucester Board making the announcement referred to in clause 3.2, an amount equal to \$700 million less the sum of the Gloucester Special Dividend and the Gloucester Option Amount.
<b>Capital Reduction Record Date</b>	subject to the Gloucester Board making the announcement referred to in clause 3.2, 7.00pm on a date occurring after the Court Approval Date but at least two Business Days before the Effective Date, as determined by Gloucester acting reasonably.
<b>Capital Reduction Resolution</b>	the resolution to be considered at the General Meeting to consider and, if thought fit, approve the Capital Reduction.
<b>Capital Return</b>	subject to the Gloucester Board making the announcement referred to in clause 3.2, an amount per Gloucester Share equal to the Capital Reduction Amount divided by the number of Gloucester Shares on issue as at the Capital Reduction Record Date, and effected in accordance with clause 4.5.

Term	Meaning
<b>Claim</b>	in relation to a person, a demand, claim, action or proceeding made or brought by or against the person, however arising and whether present, unascertained, immediate, future or contingent.
<b>Competing Proposal</b>	<p>any expression of interest, proposal, offer, transaction or arrangement (including any takeover bid, scheme of arrangement, shareholder approved acquisition, share or asset sale, recapitalisation or issue of securities, capital reduction, share buy back or repurchase, joint venture, reverse takeover, dual listed company structure or other synthetic merger) under which a Third Party will or may, if the expression of interest, proposal, offer, transaction or arrangement is entered into and completed:</p> <ul style="list-style-type: none"> <li>(a) acquire control of Gloucester;</li> <li>(b) acquire (whether directly or indirectly) or become the holder of, or otherwise acquire, have a right to acquire or have an economic interest in assets with an aggregate book value representing 20% or more of the total assets of the Gloucester Group as set out in Gloucester's consolidated balance sheet as at 30 June 2011;</li> <li>(c) otherwise (whether directly or indirectly) acquire or merge or amalgamate with Gloucester;</li> <li>(d) come to have voting power in Gloucester of more than 20%; or</li> <li>(e) enter into any agreement or understanding requiring Gloucester to abandon, or otherwise fail to proceed with, the Transactions.</li> </ul>
<b>Confidentiality Agreement</b>	the confidentiality agreement between Yanzhou and Gloucester dated 21 November 2011.
<b>Consolidated Group</b>	a Consolidated Group or a MEC group as those terms are defined in section 995-1 of the ITAA 1997.
<b>Converting Share</b>	a non-cumulative non-redeemable preference share in Gloucester so called and issued on or about 15 July 2011.
<b>Corporations Act</b>	the <i>Corporations Act 2001</i> (Cth).
<b>Court</b>	the Federal Court of Australia or such other court of competent jurisdiction under the Corporations Act agreed to in writing between the parties.
<b>Court Approval Date</b>	the date the Court approves the Scheme for the purposes of section 411(4)(b) of the Corporations Act.
<b>CPS Holder</b>	the holder of one or more Converting Shares.

Term	Meaning
<b>CVR Share</b>	a fully paid non-cumulative preference share in the capital of Bidder having the rights set out in Schedule 7.
<b>Deed Poll</b>	a deed poll in favour of all Scheme Shareholders in the form of Attachment 2 (or such other form agreed in writing between the parties, acting reasonably).
<b>Disclosure Cut-off Date</b>	a date to be agreed by the parties which is approximately one week before the Due Diligence End Date, or failing agreement, the date which is the earlier of 22 February 2012 and the date one week before the date specified in the Timetable as the date on which the draft Explanatory Booklet is to be lodged with ASIC.
<b>Dispose</b>	includes sell, transfer, create a trust or option over, or alienate the right to exercise the vote attached to, or decrease any economic interest in, in any ROFR Asset.
<b>Due Debt</b>	<p>the amount of:</p> <p>(a) USD\$1,015 million, comprising:</p> <ol style="list-style-type: none"> <li>(1) USD\$970 million owed by Bidder under the USD \$2,900,000,000 Facility Agreement dated 19 October 2009 between Bidder and Bank of China Limited (as agent for a consortium of banks) (<b>USD\$2,900m Facility Agreement</b>); and</li> <li>(2) USD\$45 million owed by the Bidder under the USD\$140,000,000 Facility Agreement dated 9 December 2009 between Bidder and Bank of China Limited (<b>USD\$140m Facility Agreement</b>),</li> </ol> <p>which is repayable on 16 December 2012 (the <b>2012 Due Debt</b>); and</p> <p>(b) USD\$1,015 million comprising:</p> <ol style="list-style-type: none"> <li>(1) USD\$970 million owed by Bidder under the USD\$2,900m Facility Agreement; and</li> <li>(2) USD\$45 million under the USD\$140m Facility Agreement, which is repayable on 16 December 2013 (the <b>2013 Due Debt</b>).</li> </ol>
<b>Due Diligence End Date</b>	the earlier of the date on which a draft of the Explanatory Booklet is given to ASIC and 29 February 2012.
<b>Due Diligence Material</b>	the Bidder Due Diligence Material or the Gloucester Due Diligence Material.

<b>Term</b>	<b>Meaning</b>
<b>Effective</b>	the coming into effect under section 411(10) of the Corporations Act of the order of the Court made under section 411(4)(b) of the Corporations Act in relation to the Scheme.
<b>Effective Date</b>	the date on which the Scheme and becomes Effective.
<b>End Date</b>	31 July 2012, subject to any extension under clause 3.5.
<b>Enforcement Share</b>	has the meaning given to that term in clause 4.4.
<b>Excluded Assets</b>	<p>means the following assets of the Bidder Group as at the date of this deed:</p> <ul style="list-style-type: none"> <li>(a) all of the issued shares in, and/or all assets, liabilities, obligations or interests of, Yancoal Technology Development Pty Limited;</li> <li>(b) 100% interest in Ultra Clean Coal together with all issued shares in, and/or all assets, liabilities, obligations, or interests of, UCC Energy Pty Ltd ABN 15 003 435 836);</li> <li>(c) 100% interest in Harrybrandt Project together with all issued shares in, and/or all assets, liabilities, obligations, or interests of, Tonford Pty Ltd (ABN 48 006 880 931);</li> <li>(d) all of the issued shares in, and/or all assets, liabilities, obligations or interests of, Athena Coal Pty Limited and thereby a 51% interest in the Athena Joint Venture;</li> <li>(e) 100% interest in Wilpeena;</li> <li>(f) all of the issued shares in, and/or all assets, liabilities, obligations or interests of, each of Syntech Holdings Pty Limited and Syntech Holdings II Pty Limited and thereby a 100% interest in the Cameby Downs mine; and</li> <li>(g) all of the issued shares in Wesfarmers Premier Coal Limited ABN 21 008 672 599 and Wesfarmers Char Pty Ltd ABN 77 009 379 597 and/or all assets, liabilities, obligations, or interests of those entities (including those detailed in the Share Sale Agreement dated on or about 27 September 2011 and entered into between Wesfarmers Coal Resources Pty Ltd, Wesfarmers Chemicals, Energy &amp; Fertilisers Limited, Wesfarmers Resources Limited, and Austar Coal Mine Pty Ltd regarding the acquisition of relevant Wesfarmer entities mentioned above and any other connected assets, liabilities, obligations or interests including 100% interest in the Premier coal mine.</li> </ul>
<b>Excluded Shareholder</b>	any Gloucester Shareholder who is a member of the Bidder Group or any other Gloucester Shareholder to the extent it holds Gloucester Shares on behalf of, or for the benefit of, any member of the Bidder Group.

<b>Term</b>	<b>Meaning</b>
<b>Exclusivity Period</b>	the period from and including the date of this deed to the earlier of: <ul style="list-style-type: none"> <li>(a) the termination of this deed; and</li> <li>(a) the End Date.</li> </ul>
<b>Explanatory Booklet</b>	the explanatory booklet to be prepared by Gloucester in respect of the Transactions in accordance with the terms of this deed and to be despatched to Gloucester Shareholders.
<b>FATA</b>	the <i>Foreign Acquisitions and Takeovers Act 1975</i> (Cth).
<b>Finance Debt</b>	indebtedness (whether actual or contingent) in respect of money borrowed or raised or other financial accommodation. It includes indebtedness under or in respect of: <ul style="list-style-type: none"> <li>(a) a guarantee of Finance Debt or a guarantee given to a financier;</li> <li>(b) a finance lease;</li> <li>(c) a swap, option, hedge, forward, futures or similar transaction;</li> <li>(d) an acceptance, endorsement or discounting arrangement;</li> <li>(e) a redeemable share or redeemable stock; or</li> <li>(f) the deferred purchase price (for more than 90 days) of an asset or service, or an obligation to deliver assets or services paid for in advance by a financier or otherwise relating to a financing transaction.</li> </ul>
<b>First Court Date</b>	the first day on which an application made to the Court for orders under section 411(1) of the Corporations Act that the Scheme Meeting be convened is heard or, if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard.
<b>Foreign Scheme Shareholder</b>	a Scheme Shareholder whose address in the Gloucester Share Register is a place outside Australia and its external territories or New Zealand unless Gloucester and Bidder agree in writing that it is lawful and not unduly onerous or impracticable to issue that Scheme Shareholder with New Bidder Shares and (unless the relevant Scheme Shareholder has elected not to receive CVR Shares under the Scheme) CVR Shares under the Scheme.
<b>General Meeting</b>	a general meeting of Gloucester Shareholders to consider and, if thought fit, pass the Capital Reduction Resolution and any other resolutions required to give effect to the Transactions.
<b>Gloucester Accounts</b>	the audited individual and consolidated accounts (including the financial statements, notes forming part of or intended to be read with the financial statements, directors' report and declaration, and auditor's report) of Gloucester at and for the year ended 30 June 2011.

Term	Meaning
<b>Gloucester Board</b>	the board of directors of Gloucester.
<b>Gloucester Conditions</b>	the conditions precedent set out under the heading 'Gloucester Conditions' in clause 3.1.
<b>Gloucester Consolidated Tax Group</b>	the Consolidated Group of which Gloucester is the Head Company.
<b>Gloucester Disclosure Letter</b>	the letter so entitled provided by Gloucester to Bidder on or before execution of this deed and countersigned by Bidder.
<b>Gloucester Due Diligence Material</b>	<ol style="list-style-type: none"> <li>1 all documents and information that were at any time during the period ending on and including 9 December 2011 contained in the electronic and physical data rooms established by Gloucester and administered by Minter Ellison and made available to Bidder or its Representatives, the indices for which materials have been initialled for identification by Gloucester's solicitors on behalf of Gloucester and by Bidder's solicitors on behalf of Bidder; and</li> <li>2 all written answers given to written questions submitted by Bidder or its Representatives as part of the question and answer process on or by the day before the date of this deed.</li> </ol>
<b>Gloucester Group</b>	Gloucester and each of its subsidiaries. A reference to a <b>member of the Gloucester Group or Gloucester Group Member</b> is a reference to Gloucester or any such subsidiary.
<b>Gloucester Material Adverse Change</b>	<p>any event, occurrence or matter (or the disclosure or discovery of any event, occurrence or matter) that individually or when aggregated with all such events, occurrences or matters has, has had or would be reasonably likely to have the effect of:</p> <ol style="list-style-type: none"> <li>(a) a diminution in the consolidated net assets of the Gloucester Group (calculated on the basis of AIFRS as at the date of this deed), of at least \$66 million compared to the consolidated net assets of the Gloucester Group as shown in the Gloucester Accounts; or</li> <li>(b) a diminution in the consolidated net profit before tax of the Gloucester Group (calculated on the basis of AIFRS as at the date of this deed) of at least \$15 million per annum on a recurring basis over a period of at least 5 years; or</li> <li>(c) the Gloucester Group being unable to carry on its business in substantially the same manner as carried on as at the date of this deed,</li> </ol>

Term	Meaning
	<p>other than changes, events, occurrences or matters:</p> <ul style="list-style-type: none"> <li>(d) required or permitted by this deed or another Transaction Document;</li> <li>(e) to the extent Fairly Disclosed in the Gloucester Due Diligence Material on or before 9 December 2011 or Fairly Disclosed in the Gloucester Disclosure Letter;</li> <li>(f) to the extent Fairly Disclosed in public announcements issued by Gloucester to ASX on or by the day before the date of this deed;</li> <li>(g) which do not relate specifically to the Gloucester Group and which are beyond the control of Gloucester and which arise from: <ul style="list-style-type: none"> <li>(iii) changes in coal or other commodity prices, exchange rates or interest rates; or</li> <li>(iv) general economic or business conditions;</li> </ul> </li> <li>(h) arising as a result of any changes to accounting standards or laws in Australia; or</li> <li>(i) to the extent any losses or liabilities arising from such change, event, occurrence or matter are covered by insurance which the Gloucester Group's insurers have agreed to pay.</li> </ul>
<b>Gloucester Option</b>	an option granted by Gloucester to acquire by way of issue one or more Gloucester Shares.
<b>Gloucester Option Amount</b>	the amount (which may be a negative amount) equal to the amount paid under clause 4.6 on account of the cancellation of the Gloucester Options less the amount paid to Gloucester on account of the exercise of Gloucester Options resulting in the issue of Gloucester Shares prior to the Capital Return Record Date.
<b>Gloucester Parties</b>	the members of the Gloucester Group and their respective directors, officers, employees and Advisers.
<b>Gloucester Prescribed Occurrence</b>	<p>any of the occurrences set out in Part A of Schedule 3, provided that none of the following will constitute a Gloucester Prescribed Occurrence:</p> <ul style="list-style-type: none"> <li>(a) anything required or permitted to be done by any member of the Gloucester Group by this deed or another Transaction Document;</li> <li>(b) anything approved in writing by Bidder;</li> <li>(c) anything Fairly Disclosed on or before 9 December 2011 in the Gloucester Due Diligence Material or Fairly Disclosed in the Gloucester Disclosure Letter; or</li> <li>(d) anything Fairly Disclosed in public announcements issued by Gloucester to ASX on or before the day before the date of this deed,</li> </ul>

<b>Term</b>	<b>Meaning</b>
	and provided further that the occurrences set out in Part 2 of Part A of Schedule 3 will not constitute Gloucester Prescribed Occurrences if they occur in the ordinary course of Gloucester Group's ordinary business.
<b>Gloucester Registry</b>	Computershare Investor Services Pty Limited (ABN 48 078 279 277) or any replacement provider of share registry services to Gloucester.
<b>Gloucester Representation and Warranty</b>	a representation and warranty of Gloucester set out in Schedule 2.
<b>Gloucester Share</b>	a fully paid ordinary share in the capital of Gloucester.
<b>Gloucester Share Plan</b>	the Gloucester Long Term Incentive Plan dated 20 November 2009.
<b>Gloucester Shareholder</b>	a person who is registered as the holder of Gloucester Shares from time to time.
<b>Gloucester Share Register</b>	the register of members of Gloucester maintained in accordance with the Corporations Act.
<b>Gloucester Special Dividend</b>	a fully franked dividend of up to \$125 million in aggregate which may be paid by Gloucester (in its absolute discretion) to Gloucester Shareholders registered as such as at the Capital Reduction Record Date.
<b>Harrybrandt Project</b>	the following tenements located near the town of Nebo in the Bowen Basin, Queensland: <ul style="list-style-type: none"> <li>1 EPC 1176; and</li> <li>2 MDL 8,</li> </ul> including all new or existing exploration permits, mineral development licences or mining leases and applications for the foregoing for the total area covered by the external boundaries of EPC 1176 and MDL8.
<b>Head Company</b>	has the same meaning as that term is defined in section 995-1 of the ITAA 1997.



<b>Term</b>	<b>Meaning</b>
<b>Hong Kong Stock Exchange</b>	The Stock Exchange of Hong Kong Limited.
<b>Implementation Date</b>	the fifth Business Day after the Scheme Record Date or such other date agreed to in writing between the parties.
<b>Independent Expert</b>	the independent expert in respect of the Scheme appointed by Gloucester.
<b>Independent Expert's Report</b>	a report (including any updates to such report) of the Independent Expert stating whether or not in its opinion the Scheme is in the best interest of Gloucester Shareholders, including the report of any technical specialist annexed thereto.
<b>Insolvency Event</b>	<p>in the case of any entity:</p> <ul style="list-style-type: none"> <li>(a) it ceases, suspends, or threatens to cease or suspend the conduct of all or a substantial part of its business or disposes of or threatens to dispose of all or a substantial part of its assets;</li> <li>(b) it stops or suspends or threatens to stop or suspend payment of all or a class of its debts;</li> <li>(c) it is, or under legislation is presumed or taken to be, insolvent (other than as the result of a failure to pay a debt or Claim the subject of a good faith dispute);</li> <li>(d) it has an administrator, controller or similar officer appointed, or any step preliminary to the appointment of such an officer is taken;</li> <li>(e) an application or an order is made, proceedings are commenced, a resolution is passed or proposed in a notice of meeting, an application to a court or other steps are taken for: <ul style="list-style-type: none"> <li>(i) its winding up, dissolution or administration; or</li> <li>(ii) it entering into an arrangement, compromise or composition with or assignment for the benefit of its creditors or a class of them,</li> </ul> <p>(other than frivolous or vexatious applications, orders, proceedings, notices or steps);</p> </li> <li>(f) (i) a receiver, receiver and manager, administrative receiver or similar officer is appointed to;</li> <li>(ii) a security interest becomes enforceable or is enforced over; or</li> <li>(iii) a distress, attachment or other execution is levied or enforced or applied for over,</li> <p>all or a substantial part of its assets; or</p> <li>(g) anything analogous to anything referred to in the above paragraphs, or which has substantially similar effect, occurs with respect to it, including under any foreign law.</li> </ul>

<b>Term</b>	<b>Meaning</b>
<b>ITAA 1997</b>	the <i>Income Tax Assessment Act 1997</i> (Cth).
<b>Joint Conditions</b>	the conditions precedent set out under the heading 'Joint Conditions' in clause 3.1.
<b>Joint Information</b>	the information to be included in the Explanatory Booklet regarding the profile of the combined Gloucester Group/Bidder Group, assuming the Transactions are approved and implemented, and risk factors associated with the Transactions, being information that is to be prepared jointly by Gloucester and Bidder.
<b>Liability</b>	a debt, obligation, liability, loss, expense, cost or damage of any kind and however arising, including any penalty, fine or interest and including those which are prospective or contingent and those the amount of which for the time being is not ascertained or ascertainable.
<b>Listing Rules</b>	the official listing rules of ASX as amended from time to time.
<b>LTCC Licence Agreement</b>	the agreement to be entered into in accordance with the principles provided in clause 5.12 between Yanzhou and Bidder (or its nominee) relating to the licensing of long wall top coal caving technology to the Bidder Group.
<b>Material Agreements</b>	the agreements specified in: <ul style="list-style-type: none"> <li>(a) Part A of Schedule 4 for the purposes of the definition of Third Party Consents and Part A of Schedule 3; and</li> <li>(b) Part B of Schedule 4 (for the purposes of Part B of Schedule 3).</li> </ul>
<b>Noble</b>	Noble Group Limited.
<b>New Bidder Shares</b>	the new Bidder Shares to be issued under the terms of the Scheme as the Scheme Consideration.
<b>Promissory Note</b>	one or more promissory notes to be issued by Gloucester to the Trustee under clause 4.5 (a).
<b>Regulatory Approvals</b>	(a) any approval, consent, authorisation, registration, filing, lodgement, permit, franchise, agreement, notarisation, certificate, permission, licence, direction, declaration, authority or exemption from, by or with a Regulatory Authority; or

Term	Meaning
	(b) in relation to anything that would be fully or partly prohibited or restricted by law if a Regulatory Authority intervened or acted in any way within a specified period after lodgement, filing, registration or notification, the expiry of that period without notification.
<b>Regulatory Authority</b>	(a) any government or governmental, semi-governmental, administrative, monetary, fiscal or judicial body, tribunal, agency or entity; (b) a minister, department, office, commission, delegate, instrumentality, agency, board, authority or organisation of any government; or (c) any regulatory organisation established under statute, in any part of the world, and whether foreign, federal, state, territorial or local.
<b>Relevant Date</b>	in relation to a condition precedent, the date or time specified in this deed for its fulfilment (or where no such date or time is specified, the Business Day before the End Date), subject to extension under clause 3.5.
<b>Restructure Agreement</b>	the agreement to be entered into in accordance with the principles provided in clause 5.13 between Yanzhou and Bidder (or its nominee) relating to the restructure of the Bidder Group in preparation for the contemplated admission of Bidder to the official list of ASX and the quotation of all of its issued Bidder Shares and CVR Shares on ASX.
<b>Representative</b>	in relation to Bidder or Gloucester: (a) each other member of the Bidder Group or Gloucester Group (as applicable); (b) an officer or employee of a member of the Bidder Group or Gloucester Group (as applicable); or (c) an Adviser to a member of the Bidder Group or Gloucester Group (as applicable).
<b>ROFR Asset</b>	the Excluded Assets other than: (a) all of the issued shares in, and/or all assets, liabilities, obligations and interests of, Yanzhou Technology Development Pty Limited; and (b) 100% interest in Ultra Clean Coal together with all issued shares in, and/or all assets, liabilities, obligations, or interests of, UCC Energy Pty Ltd ABN 15 003 435 836).
<b>Scheme</b>	the scheme of arrangement under Part 5.1 of the Corporations Act between Gloucester and the Scheme Shareholders in the form of Attachment 1 (or such other form agreed to in writing between the parties).

<b>Term</b>	<b>Meaning</b>
<b>Scheme Consideration</b>	has the meaning set out in the Scheme.
<b>Scheme Meeting</b>	the meeting of Gloucester Shareholders (other than Excluded Shareholders) ordered by the Court to be convened under section 411(1) of the Corporations Act.
<b>Scheme Record Date</b>	7pm on the fifth Business Day after the Effective Date or such other time and date agreed to in writing between the parties.
<b>Scheme Share</b>	a Gloucester Share held by a Scheme Shareholder.
<b>Scheme Shareholder</b>	a Gloucester Shareholder (other than an Excluded Shareholder) at the Scheme Record Date.
<b>Second Court Date</b>	the first day on which an application made to the Court for an order under section 411(4) (b) of the Corporations Act approving the Scheme is heard or, if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard.
<b>Separation and Cooperation Agreement</b>	the Separation and Cooperation Agreement to be entered into between Yanzhou and Bidder in accordance with the principles in clause 5.11.
<b>Shanghai Stock Exchange</b>	the financial market and membership institution known as the Shanghai Stock Exchange founded on 26 November 1990 and operational as of 19 December 1990 and directly governed by the China Securities Regulatory Commission.
<b>Superior Proposal</b>	<p>a bona fide Competing Proposal received after the date of this deed (that has not been directly or indirectly solicited, invited, encouraged or initiated in breach of clauses 10.2, 10.3 or 10.4) that the Gloucester Board determines, acting in good faith in order to satisfy what the Gloucester Board considers to be its fiduciary or statutory duties (having taken advice from its external financial and legal advisers):</p> <p>(a) is reasonably capable of being valued and implemented, taking into account all aspects of the Competing Proposal, including any conditions and the likely availability of finance; and</p> <p>(b) would, if completed substantially in accordance with its terms, be likely to be more favourable to Gloucester Shareholders than the Scheme, taking into account all the terms and conditions of the Competing Proposal.</p>

<b>Term</b>	<b>Meaning</b>
<b>Syntech Holdings Pty Limited</b>	Syntech Holdings Pty Limited, ABN 21 123 782 445.
<b>Syntech Holdings II Pty Limited</b>	Syntech Holdings II Pty Limited, ABN 30 126 174 847.
<b>Tax</b>	all forms of taxes, duties, imposts, charges, withholdings, rates, levies or other governmental impositions of whatever nature and by whatever authority imposed, assessed or charged together with all costs, charges, interest, penalties, fines, expenses and other additional statutory charges, incidental or related to the imposition.
<b>Tax Audit</b>	any audit undertaken by the ATO or by any State or Territory revenue office or authority of the Gloucester Group.
<b>Tax Law</b>	any law in relation to any Tax.
<b>Tax Relief</b>	any relief, allowance, exemption, credit, exclusion set-off, deduction, loss, refund or rebate granted or available in respect of Tax under any Tax Law.
<b>Terms of Issue</b>	the terms of issue of the Converting Shares.
<b>Third Party</b>	any person or entity (including a Regulatory Authority) other than Yanzhou, a member of the Bidder Group, Yancoal or a member of the Gloucester Group.
<b>Third Party Consent</b>	the waiver or consent in writing in a form reasonably satisfactory to Bidder from the relevant counterparty to a Material Agreement (or any other agreement or arrangement to which a member of the Gloucester Group is party which Bidder considers material (acting reasonably) in the context of the Gloucester Group) and which if not provided results or could result in such agreement or arrangement being terminated or varied or any action being taken or arising thereunder in each case as a result of the implementation of the Transactions.
<b>Timetable</b>	the indicative timetable for the implementation of the Transactions set out in Attachment 3, including any amendments to that Timetable agreed by the parties in writing and acting reasonably.

<b>Term</b>	<b>Meaning</b>
<b>Transactions</b>	<ul style="list-style-type: none"> <li>(a) the proposed acquisition by Bidder Sub in accordance with the terms and conditions of this deed, of all of the Gloucester Shares (other than the Gloucester Shares held by an Excluded Shareholder) through the implementation of the Scheme;</li> <li>(b) the proposed payment of the Gloucester Special Dividend;</li> <li>(c) the proposed Capital Reduction; and</li> <li>(d) all associated transactions and steps contemplated by this deed, including the transfer of the Excluded Assets from the Bidder Group to or to another subsidiary of Yanzhou (and distribution to Yanzhou of any consideration paid for them), and entry into the LTCC Licence Agreement and the Separation and Cooperation Agreement referred to in clause 5.11.</li> </ul>
<b>Transaction Documents</b>	<ul style="list-style-type: none"> <li>(a) this deed;</li> <li>(b) the Confidentiality Agreement;</li> <li>(b) the LTCC Licence Agreement;</li> <li>(d) the Restructure Agreement;</li> <li>(e) the Separation and Cooperation Agreement; and</li> <li>(e) any other document which effects the Transactions, but only to the extent it effects the Transactions.</li> </ul>
<b>Transaction Resolutions</b>	<ul style="list-style-type: none"> <li>(a) the approval of the Scheme by Gloucester Shareholders at the Scheme Meeting by the majorities required under section 411(4)(a)(ii) of the Corporations Act; and</li> <li>(b) the Capital Reduction Resolution.</li> </ul>
<b>Trust Deed</b>	the trust deed governing the trust of the Promissory Note.
<b>Trustee</b>	the trustee appointed by Gloucester under the Trust Deed.
<b>Ultra Clean Coal</b>	ultra clean coal technology patented in 2009 and owned by Yancoal through its subsidiary UCC Energy Pty Limited (ABN 15 003 435 836) together with all assets and liabilities owned by UCC Energy Pty Limited.
<b>Updated Bidder Due Diligence Material</b>	has the same meaning as 'Bidder Due Diligence Material' except replacing the reference to '9 December 2011' in paragraph 1 of that definition with reference to the Disclosure Cut-off Date and replacing the reference to 'the day before the date of this deed' in paragraph 2 of that definition with reference to the Disclosure Cut-off Date.
<b>Updated Gloucester Due</b>	has the same meaning as 'Gloucester Due Diligence Material' except replacing the reference to '9 December 2011' in paragraph 1

Term	Meaning
<b>Diligence Materials</b>	of that definition with reference to the Disclosure Cut-off Date and replacing the reference to 'the day before the date of this deed' in paragraph 2 of that definition with reference to the Disclosure Cut-off Date.
<b>Wilpeena</b>	<p>the following tenements held by Yarrabee Coal Company Pty Limited (ABN 30 010 849 402):</p> <ol style="list-style-type: none"> <li>1 EPC 1117;</li> <li>2 EPC 1668;</li> <li>3 EPC 1177; and</li> <li>4 the following sub-blocks of EPC 1429, Sub Blocks CLER2724 Z, CLER2796 F, CLER2795 P, CLER2796 L, CLER2796 Q, CLER2796 R, CLER2796 V, CLER2868A located on the northern side of the McKenzie river; and</li> <li>5 the following sub-blocks of EPC 621, CLER2724 V, CLER2796 A, CLER2796 B, CLER2796 C, CLER2796 F, CLER2796 G, CLER2796 H, CLER2796 J, CLER2796 M, CLER2796 N located on the northern side of the McKenzie river,</li> </ol> <p>including all new or existing exploration permits, mineral development licences or mining leases and applications for the foregoing for the total area covered by the external boundaries of EPC 1117, EPC 1168, EPC 1177 and the sub-blocks of EPC 621 and EPC 1429 located on the northern side of the McKenzie river.</p>

## 1.2 Interpretation

Headings are for convenience only and do not affect interpretation. The following rules apply unless the context requires otherwise.

- (a) The singular includes the plural, and the converse also applies.
- (b) A gender includes all genders.
- (c) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to a person, corporation, trust, partnership, unincorporated body or other entity includes any of them.
- (e) A reference to a clause, schedule or attachment is a reference to a clause of, or schedule or attachment to, this deed.
- (f) A reference to an *agreement or document* (including a reference to this deed) is to the agreement or document as amended, supplemented, novated or replaced, except to the extent prohibited by this deed or that other agreement or document, and includes the recitals, schedules and attachments to that agreement or document.
- (g) A reference to a party to this deed or another agreement or document includes the party's successors, permitted substitutes and permitted assigns (and, where applicable, the party's legal personal representatives).
- (h) A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.

- (i) A reference to conduct includes an omission, statement or undertaking, whether or not in writing.
- (j) A reference to an *agreement* includes any undertaking, deed, agreement and legally enforceable arrangement, whether or not in writing, and a reference to a document includes an agreement (as so defined) in writing and any certificate, notice, instrument and document of any kind.
- (k) A reference to *dollars* and \$ is to Australian currency.
- (l) All references to time are to Sydney, Australia time.
- (m) Mentioning anything after *includes, including, for example,* or similar expressions, does not limit what else might be included.
- (n) Nothing in this deed is to be interpreted against a party solely on the ground that the party put forward this deed or a relevant part of it.
- (o) A reference to *associate, control* (by an entity of another entity), *officer, related body corporate, subsidiary, relevant interest or voting power* is to that term as it is defined in the Corporations Act.
- (p) A reference to **Fairly Disclosed** means disclosed in English to any of Bidder, Gloucester or Yanzhou, as the context requires, or any of their respective Representatives in sufficient detail so as to enable a reasonable and sophisticated recipient of the relevant information who is experienced in transactions similar to the Transactions in the coal industry to identify and understand the nature and scope of the relevant matter, event or circumstance.

### 1.3 Business Day

Where the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the next Business Day.

### 1.4 Consents or approvals

If the doing of any act, matter or thing under this deed is dependent on the consent or approval of a party or is within the discretion of a party, the consent or approval may be given or the discretion may be exercised conditionally or unconditionally or withheld by the party in its absolute discretion unless expressly provided otherwise.

### 1.5 Listing requirements included as law

A listing rule or business rule of a securities exchange will be regarded as a *law*, and a reference to such a rule is to be taken to be subject to any waiver or exemption granted to the compliance of those rules by a party.

### 1.6 Statements on the basis of knowledge

- (a) Any statement made by Gloucester on the basis of its knowledge is made on the basis that its knowledge is limited to the knowledge that any of Brendan McPherson, Tim Crossley and Will Randall has or would have if he had made all reasonable inquiries of the officers, managers, employees and other persons with responsibility for the matters to which the statement relates.
- (b) Any statement made by Bidder on the basis of its knowledge is made on the basis that its knowledge is limited to the knowledge that any of Murray Bailey, Terry Crawford, Peter Barton and Boyun Xu has or would have if he had made all reasonable inquiries of the officers, managers, employees and other persons with responsibility for the matters to which the statement relates.



**1.7 Reasonable endeavours**

Any provision of this deed which requires a party to use reasonable endeavours or best endeavours to procure that something is performed or occurs or does not occur does not include any obligation:

- (a) to pay any money or provide any financial compensation, valuable consideration or any other incentive to or for the benefit of any person except for payment of any applicable fee for the lodgement or filing of any relevant application with any Regulatory Authority; or
- (b) to commence any legal action or proceeding against any person, except where that provision expressly specifies otherwise.

2 Agreement to Proceed with Scheme

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**2.1 Gloucester to propose the Scheme**

Gloucester agrees to propose and implement the Scheme and to propose the Capital Reduction Resolution on and subject to the terms of this deed.

**2.2 Bidder to assist and procure Bidder Sub to assist**

Bidder agrees to assist Gloucester to propose and implement the Scheme and to propose the Capital Reduction Resolution, and to procure Bidder Sub to assist Gloucester to propose and implement the Scheme and to propose the Capital Reduction Resolution, on and subject to the terms of this deed.

3 Conditions Precedent and Pre-implementation Steps

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**3.1 Conditions precedent**

Subject to this clause 3, the Scheme will not become Effective, and the obligations of Bidder under clauses 4.2 and 4.3 are not binding, unless each of the following conditions precedent is satisfied or waived in accordance with clauses 3.3 and 3.4:

**Joint Conditions**

*(Conditions precedent for the benefit of all parties)*

- (a) **(ASIC or ASX consents)** before 8.00am on the Second Court Date, ASIC and ASX issue or provide such consents or approvals or have done such other acts which Gloucester and Bidder agree are reasonably necessary to implement the transactions contemplated by clause 4;
- (b) **(FIRB approval – Bidder)** before 8.00am on the Second Court Date, the Treasurer of the Commonwealth of Australia (or his delegate) either:
  - (1) gives Bidder written advice, which is unconditional or subject only to conditions that are acceptable to Bidder acting reasonably, that the Commonwealth Government does not object under FATA or its foreign investment policy to the Transactions; or
  - (2) is or, by passage of time, becomes precluded from making an order under FATA in respect of the Transactions, and remains so precluded until that time;

- (c) **(FIRB approval – Noble)** if Noble will acquire a substantial interest (as defined in FATA) in Bidder as a result of the acquisition referred to in paragraph (a) of the definition of Transactions, before 8.00am on the Second Court Date, the Treasurer of the Commonwealth of Australia (or his delegate) either:
- (1) gives Noble written advice, which is unconditional or subject only to conditions that are acceptable to Noble, that the Commonwealth Government does not object under FATA or its foreign investment policy to Noble acquiring a substantial interest (as defined in FATA) in Bidder as a result of the Transactions; or
  - (2) is or, by passage of time, becomes precluded from making an order under FATA in respect of Noble acquiring a substantial interest (as so defined) in Bidder as a result of the Transactions, and remains so precluded until that time;
- (d) **(PRC regulatory approvals)** before 8.00am on the Second Court Date:
- (1) the State-owned Assets Supervision and Administration Commission of Shangdong Provincial Government;
  - (2) the National Development and Reform Commission;
  - (3) the China Securities Regulatory Commission;
  - (4) the Ministry of Commerce of the People’s Republic of China;
  - (5) the State Administration of Foreign Exchange of China; and
  - (6) any other relevant Regulatory Authority,
- grant (and do not withdraw, cancel or revoke) all approvals required to permit implementation of the Transactions;
- (e) **(Miscellaneous)** before 8.00am on the Second Court Date:
- (1) all other approvals of a Regulatory Authority which Gloucester and Bidder agree are necessary to implement the Transactions are obtained and have not been withdrawn or revoked; and
  - (2) none of the following has been issued or made:
    - (A) a conditional or unconditional decision, determination or statement by any Regulatory Authority to the effect that it objects to the Transactions, and that decision, determination or statement would have the effect or likely effect of materially impeding the implementation of the Transactions;
    - (B) a preliminary or final decision, determination, or order issued by any Regulatory Authority preventing the Transactions; or
    - (C) a temporary restraining order, preliminary or permanent injunction or other order issued by any court of competent jurisdiction or the Takeovers Panel or other legal restraint or prohibition preventing the Transactions;
- (f) **(ASX Admission and Quotation)** before 8.00am on the Second Court Date ASX approves the admission of Bidder to the official list of ASX and grants quotation of all of its issued Bidder Shares and CVR Shares, subject only to the approval of the Scheme by the Court, the implementation of the Scheme as approved by the Court and usual and customary conditions of ASX of a procedural or administrative nature;

- (g) **(Gloucester Shareholder approvals)** before 8.00 am on the Second Court Date:
  - (1) the Scheme is approved by Gloucester Shareholders at the Scheme Meeting by the majorities required under section 411(4)(a)(ii) of the Corporations Act; and
  - (2) the Capital Reduction Resolution is approved by Gloucester Shareholders at the General Meeting in accordance with section 256C(1) of the Corporations Act;
- (h) **(Yanzhou Shareholder approval)** to the extent required by law or applicable regulatory requirements, before 8.00 am on the Second Court Date the Transactions are duly approved by Yanzhou shareholders in general meeting in accordance with all applicable requirements of the securities exchanges and the Regulatory Authorities where the securities of Yanzhou are listed;
- (i) **(Hong Kong Stock Exchange approval)** before 8.00am on the Second Court Date, the Hong Kong Stock Exchange confirms that Yanzhou may proceed with the separate listing of the Bidder on the ASX or grants a waiver to Yanzhou from strict compliance with the Hong Kong Stock Exchange's approval requirement under Practice Note 15 of the Rules Governing the Listing of Securities on the Hong Kong Stock Exchange in respect of separate listing of the Bidder on the ASX subject to any conditions the Hong Kong Stock Exchange may impose;
- (j) **(Court approval)** the Scheme is approved by the Court in accordance with section 411(4)(b) of the Corporations Act either unconditionally or on conditions that do not impose unduly onerous obligations upon either party (acting reasonably);
- (k) **(Independent Expert's Report)** the Independent Expert's Report contains an opinion of the Independent Expert to the effect that the Scheme is in the best interest of Gloucester Shareholders and the Independent Expert maintains that opinion (including by not withdrawing or changing that opinion) at all times up to 8.00am on the Second Court Date;
- (l) **(Elections not to receive CVR Shares)** Scheme Shareholders holding in aggregate at least 130 million of Gloucester Shares have elected under the Scheme to receive the form of Scheme Consideration designated as 'All Bidder Shares';

#### **Bidder Conditions**

*(Conditions precedent for the benefit of Bidder only)*

- (m) **(No Gloucester Material Adverse Change)** no Gloucester Material Adverse Change occurs between the date of this deed and 8.00am on the Second Court Date;
- (n) **(No Gloucester Prescribed Occurrence)** no Gloucester Prescribed Occurrence occurs between the date of this deed and 8.00am on the Second Court Date;
- (o) **(Gloucester Warranties)** the Gloucester Representation and Warranties being true and correct in all material respects on the date of this deed and at 8.00am on the Second Court Date;
- (p) **(Amendment of Terms of Issue)** before 8.00am on the Second Court Date, Gloucester amends the Terms of Issue so that the Converting Shares convert into Gloucester Shares, and confer no further entitlements to be provided with Additional Shares (as defined in the Terms of Issue), in each case on the basis set out in clause 4.7, and in each case with effect prior to the Capital Reduction Record Date;
- (q) **(Finance Debt cap)** before 8.00am on the Second Court Date, Gloucester provides written confirmation to Bidder, including from the relevant financiers and otherwise in a form acceptable to Bidder acting reasonably, that its aggregate Finance Debt (net of cash) does not exceed the amount of its aggregate Finance Debt (net of cash) as at the Disclosure Cut-off Date, as advised to Bidder on or before the Disclosure Cut-off Date (other than increases arising in the ordinary course of operations that do not result in a breach of its banking covenants);

**Gloucester Conditions**

*(Conditions precedent for the benefit of Gloucester only)*

- (r) **(No Bidder Material Adverse Change)** no Bidder Material Adverse Change occurs between the date of this deed and 8.00am on the Second Court Date;
- (s) **(No Bidder Prescribed Occurrence)** no Bidder Prescribed Occurrence occurs between the date of this deed and 8.00am on the Second Court Date;
- (t) **(Bidder Warranties)** the Bidder Representation and Warranties being true and correct in all material respects on the date of this deed and at 8.00am on the Second Court Date;
- (u) **(Finance Debt cap)** before 8.00am on the Second Court Date, Bidder provides written confirmation to Gloucester, including from the relevant financiers and otherwise in a form acceptable to Gloucester acting reasonably, that its aggregate Finance Debt (net of cash) does not exceed the amount of its aggregate Finance Debt (net of cash) as at the Disclosure Cut-off Date, as advised to Gloucester on or before the Disclosure Cut-off Date (other than increases arising in the ordinary course of operations that do not result in a breach of its banking covenants);
- (v) **(Extension of Due Debt)** before 8.00am on the Second Court Date Bidder provides objective written confirmation to Gloucester, including from the relevant financiers and otherwise in a form acceptable to Gloucester acting reasonably, that:
  - (1) the terms of repayment of the 2012 Due Debt have been amended such that the due date for its repayment is not earlier than 16 December 2017 (or the due date has otherwise been extended on that basis); and
  - (2) the terms of repayment of the 2013 Due Debt have been amended such that the due date for its repayment is not earlier than 16 December 2018 (or the due date has otherwise been extended on that basis); and
- (w) **(\$700 million funding)** before 8.00am on the Second Court Date Bidder provides objective written confirmation to Gloucester, including from the relevant financiers and otherwise in a form acceptable to Gloucester acting reasonably, that it has in place \$700 million of funding which will enable Gloucester to pay in full and on time the Gloucester Special Dividend on or immediately after the Capital Reduction Record Date, the Promissory Note immediately on the presentation of the Promissory Note for payment and, as and when required by clause 4.6, the Gloucester Option Amount.

**3.2 Condition to Capital Reduction**

- (a) The Capital Reduction is conditional on the Gloucester Board making an announcement to ASX by no later than two Business Days after the Court Approval Date setting the Capital Reduction Record Date.
- (b) Despite any other provision of this deed, the Effective Date must not occur earlier than two Business Days after the Capital Reduction Record Date.

**3.3 Satisfaction**

- (a) Bidder and Gloucester must use reasonable endeavours to procure that the Joint Conditions (other than those in clauses 3.1(g) and 3.1(h)) are satisfied.
- (b) Bidder must use reasonable endeavours to procure that the Gloucester Conditions (and the condition precedent in clause 3.1(h)) are satisfied.
- (c) Gloucester must use reasonable endeavours to procure that the Bidder Conditions (and the condition precedent in clause 3.1(g)) are satisfied.
- (d) Bidder and Gloucester must provide reasonable assistance in satisfying the other conditions precedent in clause 3.1, and ensure that there is no occurrence within the control of a member of the Bidder Group or Gloucester Group (as the context requires) that would prevent any condition precedent in clause 3.1 being satisfied.
- (e) Gloucester must ensure that no Gloucester Prescribed Occurrence occurs, and that no occurrence within the control of a member of the Gloucester Group takes place which would cause a Gloucester Material Adverse Change to occur, in each case on or before the End Date.
- (f) Bidder must ensure that no Bidder Prescribed Occurrence occurs, and that no occurrence within the control of a member of the Bidder Group takes place which would cause a Bidder Material Adverse Change to occur, in each case on or before the End Date.
- (g) Bidder and Gloucester must:
  - (1) consult and co-operate fully with the other party in relation to the satisfaction of the conditions precedent, including in relation to all material communications with Regulatory Authorities in relation to Regulatory Approvals;
  - (2) promptly provide to the other party all material communications with Australian and Chinese Regulatory Authorities in relation to Regulatory Approvals;
  - (3) promptly notify the other if it becomes aware that any condition precedent has been satisfied; and
  - (4) promptly notify the other of any failure to satisfy a condition precedent or of any fact or circumstance that may result in a condition precedent becoming incapable of being satisfied or that may result in a condition precedent not being satisfied in accordance with its terms (having regard to the obligations of the parties under this clause).
- (h) Without limiting this clause:
  - (1) Gloucester must provide Bidder with all information reasonably requested in connection with Bidder's applications for each Regulatory Approval referred to in clauses 3.1(a), 3.1(b), 3.1(d), and 3.1(e); and
  - (2) Bidder must consult with Gloucester, and Gloucester must consult with Bidder, as applicable, in relation to the submission of and progress of obtaining each Regulatory Approval referred to in clause 3.1.
- (i) Bidder and Gloucester must:
  - (1) give the Court on the Second Court Date a certificate confirming (in respect of matters within its knowledge) whether or not the conditions precedent in clause 3.1 (other than 3.1(j)) have been satisfied or waived; and

- (2) give the other a draft of its certificate by 5pm on the Business Day before the Second Court Date.

### 3.4 Waiver of conditions precedent

- (a) The conditions precedent in clauses 3.1(a), 3.1(b), 3.1(c), 3.1(d), 3.1(e), 3.1(g) and 3.1(j) cannot be waived.
- (b) The remaining Joint Conditions are for the benefit of Bidder and Gloucester and may only be waived by both of them in writing.
- (c) The Gloucester Conditions are for the sole benefit of Bidder and may only be waived by Bidder in writing.
- (d) The Bidder Conditions are for the sole benefit of Gloucester and may only be waived by Gloucester in writing.
- (e) A party entitled to waive a condition precedent may do so conditionally or unconditionally in its absolute discretion.
- (f) If a party waives the breach or non-fulfilment of a condition precedent, that waiver will not preclude it from suing the other party for any breach of this deed that resulted from the breach or non-fulfilment of the condition precedent that was waived or arising from the same event which gave rise to the breach or non-fulfilment of the condition precedent.
- (g) Waiver of a breach or non-fulfilment in respect of a condition precedent does not constitute:
  - (1) a waiver of the breach or non-fulfilment of any other condition precedent resulting from the same event; or
  - (2) a waiver of the breach or non-fulfilment of that condition precedent resulting from any other event.

### 3.5 If a condition precedent is not fulfilled or waived

If a condition precedent cannot be fulfilled (or has not been fulfilled or waived) by the Relevant Date, or the Scheme has not become Effective by the End Date, Gloucester and Bidder must, prior to any termination under clause 3.8, consult in good faith and act reasonably (and obtain appropriate advice) for a period of at least 10 Business Days to develop potential structures and approaches and to determine whether:

- (a) the Transactions may proceed by way of alternative means or methods and, if so, agree on the terms of such alternative means or methods (to avoid doubt, any such alternative means or methods must not involve any material additional economic cost (including increasing the amount of any Tax payable or reducing any Tax Relief available) to Bidder or Yanzhou or to Gloucester or any Gloucester Shareholder or be materially less advantageous to Bidder or Yanzhou or Gloucester Shareholders);
- (b) to extend the Relevant Date;
- (c) to adjourn or change the date of the Scheme Meeting; and/or
- (d) to extend the End Date.

Without limiting the foregoing, if a condition precedent is not satisfied by the date contemplated in the Timetable as the Second Court Date, Gloucester and Bidder agree (unless there is no reasonable prospect that the condition precedent will be satisfied) that the Second Court Date be deferred until such date (not later than the Business Day before the End Date) as reasonably required to enable more time to satisfy the condition precedent.

### 3.6 Appeal process

- (a) Without limiting clause 3.5, if the Court refuses to make any orders convening the Scheme Meeting or approving the Scheme, Gloucester must appeal the Court's decision to the fullest extent possible (except to the extent that the parties agree otherwise, or an independent barrister who is a Queens Counsel or Special Counsel with at least 15 years' experience advises in writing, a copy of which is provided to Bidder, that in their view an appeal would have no reasonable prospect of success).
- (b) Any costs incurred as a result of the operation of clause 3.6(a) are to be borne equally by Bidder and Gloucester.

### 3.7 Scheme voted down

Without limiting clause 3.5 or clause 3.6, if the Scheme is not approved by a majority in number of the Gloucester Shareholders (other than Excluded Shareholders) present and voting (in person or by proxy) at the Scheme Meeting (*headcount test*), that fact will not of itself be treated as preventing the condition precedent in clause 3.1(g) from being satisfied, and Gloucester must, if counsel for Bidder has certified that there are reasonable prospects of success on such an application, do everything it reasonably can to obtain Court approval of the Scheme in accordance with section 411(4)(b) of the Corporations Act, and an order of the Court in accordance with section 411(4)(a)(ii)(B) of the Corporations Act that the headcount test need not be satisfied, and must consult and co-operate fully with the Bidder in that regard.

### 3.8 Termination on failure of condition precedent

- (a) If:
  - (1) the Scheme has not become Effective by the End Date; or
  - (2) any event occurs which would, or in fact does, prevent a condition precedent being satisfied and that condition precedent is not waived by Gloucester or Bidder or both (as applicable) in accordance with clause 3.4,then, subject to clause 3.8(b), Bidder or Gloucester party may terminate this deed without any liability to the other party because of that termination.
- (b) A party will not be entitled to terminate this deed pursuant to clause 3.8(a) if the relevant occurrence, or the failure of the satisfaction of a condition precedent, or of the Scheme becoming Effective, arises out of, or is substantially contributed to by:
  - (1) a breach of this deed (including without limitation clause 3.2) by that party; or
  - (2) a deliberate act or omission of that party.
- (c) Subject to any rights or obligations arising under or pursuant to clauses that are expressed to survive termination of this deed, on termination of this deed no party will have any rights against or obligations to any other party under this deed except for those rights and obligations which accrued before termination.

### 3.9 Due Diligence

- (a) The parties have specified in this deed the exchange ratio, under which Gloucester security holders will be entitled to receive 23% of Bidder, and Yanzhou will retain 77% of Bidder, after Implementation of the Scheme, and proposed payment of the Special Dividend and Capital Return, based on the Relative Values of Gloucester and Bidder implied by the exchange ratio specified above and after adjustment for the proposed payment of the Special Dividend and Capital Return and having regard to the value protection which Gloucester security holders will actually receive from CVR Shares respectively held by them.

- (b) During the period from the date of this deed until the date that Gloucester receives the Independent Expert's Report, each of Bidder and Gloucester (each a **Discloser**) must promptly supply such information to the other (**Recipient**) and continue to provide access to the Discloser's Due Diligence Material as the Recipient reasonably requests together with all of the information supplied to the Independent Expert to enable it to satisfy itself as to the Discloser's Relative Value.
- (c) At any time prior to the Due Diligence End Date, either Bidder or Gloucester (**Disputing Party**) may give a notice (**Merger Ratio Dispute Notice**) to the other (**Affected Party**) if there is a Merger Ratio Dispute. For this purpose there will be taken to have been a **Merger Ratio Dispute** if the Disputing Party's view of the Relative Value of Bidder and Gloucester is different such that if the exchange ratio had been struck based on the Disputing Party's view of Relative Value (and after adjustment for the proposed payment of the Special Dividend and Capital Return and having regard to the value protection which Gloucester security holders will actually receive from CVR Shares and other relevant factors), there would be a divergence in the percentage interests in Bidder of Gloucester security holders on the one hand and Yanzhou on the other hand from the percentage interests specified in this deed, and that divergence would have involved a reduction of 1% or more in the percentage interest in Bidder of the Affected Party (or where the Affected Party is Gloucester, of its security holders) from the exchange ratio specified in this deed.
- (d) Following the giving of a Merger Ratio Dispute Notice, the Disputing Party and the Affected Party must discuss in good faith for a period of 5 Business Days the reasons for the Disputing Party issuing the Merger Ratio Dispute Notice.
- (e) If the Disputing Party and the Affected Party do not reach agreement in that period as to whether there is a valid basis for the Merger Ratio Dispute, the Affected Party may refer the dispute to the Expert to determine in accordance with the following provisions:
  - (1) The Expert must determine whether there is a valid basis for the Merger Ratio Dispute in accordance with the preceding provisions of this clause 3.9.
  - (2) The Expert must allow the parties 10 Business Days (or such longer time as the parties may agree) to make submissions on the dispute, and then must determine the dispute in writing within a further 10 Business Days (or such longer time as the parties may agree).
  - (3) The Expert's determination is, in the absence of manifest error, final for the purposes of this clause 3.9 and a party must not commence court proceedings or arbitration in relation to a dispute determined by the Expert.
  - (4) The Expert acts as an expert and not as an arbitrator. Dispute resolution proceedings under this clause 3.9 are not arbitration proceedings under the Commercial Arbitration Act 1984 (NSW) or any other relevant legislation.
  - (5) The Expert's costs and expenses in connection with dispute resolution proceedings under this clause 3.9 will be borne by the parties in a manner determined by the Expert (and any party may request that determination) and in the absence of such a determination will be borne by Bidder and Gloucester equally.
  - (6) The parties must provide such releases and indemnities as the Expert may reasonably request in connection with its engagement.



- (f) If in respect of a Merger Ratio Dispute Notice, either:
- (1) the Affected Party does not refer the Merger Ratio Dispute the subject of the Merger Ratio Dispute Notice to the Expert in accordance with paragraph (e) within 5 Business Days after receiving the Merger Ratio Dispute Notice; or
  - (2) the Expert has determined that there is a valid basis for the Merger Ratio Dispute,
- the Disputing Party and the Affected Party must consult in good faith, and act reasonably, over a further period of 10 Business Days as to whether the terms of the Transactions can be changed to address the Relative Value issues arising from the Merger Ratio Dispute.
- (g) If the Disputing Party and the Affected Party do not reach agreement on such a change to the terms in that 10 Business Day period, then either party may serve a notice on the other to the effect that agreement has not or cannot be reached, in which event the recipient of the notice may:
- (1) give a notice requiring the giver of the notice to continue to endeavour to reach agreement within a further period of 5 Business Days, in which event either party may terminate this deed with immediate effect by further notice to the other party if agreement is not reached in that further period; or
  - (2) accept the notice, in which event either party may terminate this deed with immediate effect by further notice to the other party.
- (h) To avoid doubt, nothing in this clause prevents an Affected Party also giving a Merger Ratio Dispute Notice (such that it would be the Disputing Party in respect of that Merger Ratio Dispute Notice).
- (i) In this clause 3.9:

**Expert** means a person agreed by the parties acting reasonably, or failing agreement another person nominated by the President of the Institute of Chartered Accountants in Australia.

**Relative Value** of either Bidder or Gloucester means the value of, respectively, the Bidder Group or the Gloucester Group relative to the other, calculated on a basis and with assumptions that the Expert considers appropriate, and having regard to any other factors as the Expert considers relevant, including net debt and after obtaining such input from Bidder and/or Gloucester as the Expert requires.

### 3.10 Adverse ATO ruling outcome

- (a) The parties agree that if before the Scheme Meeting the Commissioner of Taxation or his delegate states or indicates to Gloucester that the Commissioner of Taxation will not or does not intend to provide a class ruling (**Class Ruling**) given under Division 358 of Schedule 1 to the Taxation Administration Act 1953 (Cth) in form and substance satisfactory to Gloucester (acting reasonably) confirming, in relation to Gloucester Shareholders who would be entitled to participate in the Capital Reduction and the Scheme, that for the purposes of the Income Tax Assessment Act 1936 (Cth) (**1936 Act**) or Income Tax Assessment Act 1997 (Cth) (**1997 Act**):
- (1) no part of the Capital Reduction will be a dividend, or deemed dividend;
  - (2) the Commissioner will not make a determination under section 45A or section 45B of the 1936 Act that section 45C applies to any part of the Capital Reduction;
  - (3) no part of the Capital Reduction will be considered to be capital proceeds for a CGT event A1 happening, acknowledging that such confirmation may take the form of the inclusion of a statement in the class ruling or the omission from the class ruling of a statement to this effect;

- (4) scrip for scrip rollover in accordance with Subdivision 124-M of the 1997 Act is available to Gloucester shareholders to disregard any capital gain which may otherwise arise in respect of the transfer of Gloucester shares to Bidder Sub under the Scheme;
- (5) the Commissioner will not make a determination under paragraph 204-30(3)(c) of the 1997 Act to deny the whole, or any part, of the imputation benefit received in relation to the Gloucester Special Dividend;
- (6) the Commissioner will not make a determination under paragraph 177EA(5)(b) of the 1936 Act to deny the whole, or any part, of the imputation benefit received in relation to the Gloucester Special Dividend; and
- (7) the Commissioner accepts that the Capital Reduction will be paid after the Capital Reduction Record Date pursuant to section 104-135 of the 1997 Act,

Gloucester and Bidder must consult in good faith and act reasonably (and obtain appropriate expert advice) over a period of 10 Business Days to develop potential structures and approaches and to determine whether the Transactions may proceed by way of alternative means or methods and, if so, agree on the terms of such alternative means or methods that do not involve material additional economic cost (including increasing the amount of any Tax payable or reducing any Tax Relief available) to Bidder or Yanzhou or to Gloucester or any Gloucester Shareholder.

- (b) If Gloucester and Bidder do not reach agreement on such alternative means or methods in that 10 Business Day period, then either party may serve a notice on the other to the effect that agreement has not or cannot be reached, in which event the recipient of the notice may:
  - (1) give a notice requiring the giver of the notice to continue to endeavour to reach agreement within a further period of 5 Business Days, in which event either party may terminate this deed with immediate effect by further notice to the other party if agreement is not reached in that further period; or
  - (2) accept the notice, in which event either party may terminate this deed with immediate effect by further notice to the other party.

#### 4 Transaction Steps

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##### 4.1 Scheme

Gloucester must propose the Scheme under which:

- (a) all of the Scheme Shares will be transferred to Bidder Sub; and
- (b) the Scheme Shareholders will be entitled to receive the Scheme Consideration.

##### 4.2 Scheme Consideration

Bidder undertakes to Gloucester (in its own right and as trustee on behalf of the Scheme Shareholders) that, in consideration of the transfer to Bidder Sub of each Scheme Share under the terms of the Scheme, on the Implementation Date:

- (a) it will procure that Bidder Sub accepts that transfer; and

- (b) in exchange, Bidder will provide each Scheme Shareholder the Scheme Consideration.

#### 4.3 Allotment and issue of New Bidder Shares and CVR Shares

- (a) Subject to the Scheme becoming Effective, Bidder must:
  - (1) allot and issue the New Bidder Shares and the CVR Shares to Scheme Shareholders in accordance with the Scheme on terms such that each New Bidder Share will rank equally in all respects with each existing Bidder Share and each CVR Share will have the rights set out in Schedule 7;
  - (2) do everything reasonably necessary to ensure that the New Bidder Shares and CVR Shares are approved for official quotation on ASX and that trading in the New Bidder Shares and CVR Shares commences on an ordinary (T+3) settlement basis by the first Business Day after the Implementation Date; and
  - (3) ensure that on issue, each New Bidder Share and each CVR Share will be fully paid and free from any mortgage, charge, lien, encumbrance or other security interest.
- (b) To facilitate the issue of the New Bidder Shares and the CVR Shares to Scheme Shareholders, Gloucester must provide to Bidder, or procure the provision to Bidder of, a complete copy of the Gloucester Share Register as at the Scheme Record Date (which must include the name, address and registered holding of each Scheme Shareholder as at the Scheme Record Date), within two Business Days after the Scheme Record Date. The details and information to be provided under this clause must be provided in such form as Bidder, its Representatives or share registry may reasonably require.
- (c) Bidder will not issue any New Bidder Shares or CVR Shares to Foreign Scheme Shareholders, and instead will issue the New Bidder Shares and CVR Shares that would otherwise have been issued to the Foreign Scheme Shareholders to a nominee appointed by Bidder. Bidder will procure that the nominee sell those New Bidder Shares on-market and remit the proceeds from that sale (after deducting any selling costs and taxes) to Bidder. Bidder will then remit the proceeds it receives to the Foreign Scheme Shareholders in accordance with their entitlement.
- (d) Any fractional entitlement of a Scheme Shareholder to a part of a New Bidder Share or CVR Share will be rounded down to the nearest whole number of New Bidder Shares or CVR Shares, as applicable.

#### 4.4 Enforcement Share

No later than 10 Business Days after the earlier of:

- (a) the Gloucester Board recommending the Transactions; and
- (b) the convening of the Scheme Meeting,

Bidder must issue to Gloucester one non-redeemable cumulative preference share at an issue price of \$1 having attached the rights set out in Schedule 5 (**Enforcement Share**).

#### 4.5 Capital Reduction

- (a) Subject to the Capital Reduction Resolution being passed at the General Meeting and to Gloucester making the announcement to ASX referred to in clause 3.2, Gloucester will implement the Capital Reduction as follows:
- (1) On the Capital Reduction Record Date, Gloucester will issue one or more promissory notes (**Promissory Note**) for the Capital Reduction Amount to a body corporate authorised to act as a trustee under section 283C of the Corporations Act or to an authorised trustee corporation (as defined in the Corporations Act) who is nominated by Gloucester (**Trustee**);
  - (2) the Promissory Note will be payable in full by Gloucester to the Trustee on the date that is 6 months after the Implementation Date (**Payment Date**);
  - (3) the Trustee will hold the Promissory Note on trust for all persons registered as Gloucester Shareholders as at the Capital Reduction Record Date in accordance with the Trust Deed;
  - (4) on the Payment Date, the Trustee will present the Promissory Note to Gloucester for payment and Gloucester must pay the Promissory Note in full and in cleared funds to Trustee on that date; and
  - (5) following the receipt of payment of the Promissory Note by Gloucester, the Trustee will in accordance with the Trust Deed distribute the proceeds to all persons registered as Gloucester Shareholders as at the Capital Reduction Record Date, in accordance with their Capital Return entitlements.
- (b) Bidder guarantees the due and punctual performance and observance by Gloucester of all of Gloucester's obligations contained in or implied under the Promissory Note (**Guaranteed Obligations**). The Guaranteed Obligations are for the benefit of all persons registered as Gloucester Shareholders as at the Capital Reduction Record Date.
- (c) The obligations of Bidder under paragraph (b) remain unaffected despite:
- (1) an amendment to this deed;
  - (2) a rule of law or equity to the contrary;
  - (3) an insolvency event affecting a person or the death of a person;
  - (4) a change in the constitution, membership, or partnership of a person;
  - (5) the Guaranteed Obligations not being enforceable at any time (whether by reason of a legal limitation, disability or incapacity on the part of Bidder and whether this deed is void ab initio or is subsequently avoided) against Bidder;
  - (6) Gloucester granting any time or other indulgence or concession to, compounding or compromising with, or wholly or partially releasing Bidder or an obligation; or
  - (7) another thing happening that might otherwise release, discharge or affect the obligations of Bidder under this deed.
- (d) Bidder must make all payments required of it under this clause 4.5 in full, without set off and free and clear of any withholding or deduction. If Bidder is required to withhold or deduct any tax, duty, impost, charge, withholding, rate, levies or other governmental imposition of any nature together with associated costs, charges, interest, penalties, fines or expenses (**Taxes**) so that Gloucester would not actually receive on the due date the full amount then Bidder must ensure that the amount payable is increased so that, after making that deduction and deductions applicable to additional amounts payable under this paragraph, Gloucester is entitled to receive, and does receive, the amount it would have received if no deductions had been required. Bidder must ensure any deductions required are made and pay the full amount deducted to the relevant governmental body in accordance with applicable law.

- (e) Bidder's obligations under this clause 4.5 are absolute, unconditional and irrevocable. The liability of Bidder under this clause 4.5 extends to and is not affected by any circumstance, act or omission which, but for this paragraph, might otherwise affect it at law or in equity. The guarantee in this clause 4.5 is a continuing security, and remains in full force until all of the Guaranteed Obligations have been fully paid and satisfied. This clause 4.5 survives any termination or full or partial discharge of this deed.
- (f) Bidder agrees that if a payment or other transaction relating to the Guaranteed Obligations is void, voidable, unenforceable or defective for any reason or a related claim is upheld, conceded or settled (each an **Avoidance**), then even though Gloucester knew or should have known of the Avoidance:
  - (1) each right, power, discretion or remedy of Gloucester and Bidder's liability under this clause 4.5 will be what it would have been, and will continue, as if the payment or transaction the subject of the Avoidance had not occurred; and
  - (2) Bidder will immediately execute and do anything necessary or required by Gloucester to restore Gloucester to its position immediately before the Avoidance.
- (g) This clause 4.5 is:
  - (1) a principal obligation and is not to be treated as ancillary or collateral to another right or obligation; and
  - (2) independent of and not in substitution for or affected by another security interest or guarantee or other document or agreement which Gloucester or another person may hold concerning the Guaranteed Obligations.
- (h) Gloucester may enforce this clause 4.5 against Bidder without first having to resort to another guarantee or security interest or other agreement relating to the Guaranteed Obligations.

#### **4.6 Gloucester Options**

- (a) As soon as reasonably practicable after the date of this deed but in any event within 20 Business Days of that date, Gloucester must use all reasonable endeavours to obtain the written agreement of each person who is a holder of Gloucester Options to have their options cancelled, with effect from the Effective Date, for consideration to be determined in accordance with Schedule 6 (and where there are alternative forms of consideration so set out, for the form elected by Bidder) and subject to all other holders of Gloucester Options agreeing to have their Gloucester Options cancelled. The form of agreement to be used for this purpose must be acceptable to Bidder acting reasonably.
- (b) If, within 20 Business Days of the date of this deed, Gloucester has not obtained the agreement of each person who is a holder of Gloucester Options to have their options cancelled in accordance with clause 4.6(a):
  - (1) Gloucester agrees, if directed to do so by Bidder, to propose a creditors' scheme of arrangement under Part 5.1 of the Corporations Act between Gloucester and all holders of Gloucester Options (including, for the avoidance of doubt, any holder of Gloucester Options who provides a written agreement within the terms contemplated by clause 4.6(a)), the purpose of which is to cancel all of the Gloucester Options on issue for the consideration to be determined in accordance with Schedule 6;

- (2) the creditors' scheme of arrangement contemplated by clause 4.6(b)(1), if required, will be in a form to be agreed between the parties acting reasonably; and
  - (3) the approval and implementation of the Scheme will not be conditional on the approval and implementation of the creditors' scheme of arrangement contemplated by clause 4.6(b)(1), if that scheme is required.
- (c) Before Bidder gives Gloucester a direction under clause 4.6(b)(1), Bidder agrees to give due and reasonable consideration to the alternative of Bidder initiating after the Implementation Date the compulsory acquisition of any Gloucester Options that remain on issue as at that date, under Part 6A.2 (Div 2) of the Corporations Act.

#### 4.7 Converting Shares

As soon as reasonably practicable after the date of this deed but in any event within 10 Business Days of that date, Gloucester must use all reasonable endeavours to obtain the written agreement of each CPS Holder to an amendment to the Terms of Issue with effect on and from the Court Approval Date and having the effect of:

- (a) Converting each Converting Share into one Gloucester Share; and
- (b) ensuring that all Additional Shares (but to a total of no more than the number of Additional Shares calculated by the formula below) are Provided under the Terms of Issue (terms in this paragraph have the meanings given in the Terms of Issue),

no later than the Business Day before the Capital Reduction Record Date.

The formula referred to is as follows:

$$\text{Number of Additional Shares} = \$120 \text{ million} / \text{VWAP}$$

where **VWAP** means 'CCVWAP' as defined in clause 4.4(a) of the Terms of Issue.

## 5 Implementation

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### 5.1 Gloucester's obligations

Gloucester must take all necessary steps to propose and (subject to all of the conditions in clauses 3.1 and 3.2 being satisfied or waived in accordance with their terms) implement the Scheme as soon as is reasonably practicable and, without limiting the foregoing, must use reasonable endeavours to ensure that each step in the Timetable is met by the date set out beside that step (and must consult with Bidder on a regular basis about its progress in that regard), including by doing any acts it is authorised and able to do on behalf of Gloucester Shareholders and each of the following.

- (a) **(Preparation of Explanatory Booklet)** Prepare the Explanatory Booklet in accordance with clause 5.4.
- (b) **(Confirmation of Gloucester Information)** Before the Explanatory Booklet is provided to ASIC pursuant to section 411(2) of the Corporations Act, either:
  - (1) confirm in writing to Bidder that the Gloucester Information in the form and context in which it appears in the Explanatory Booklet is not misleading or deceptive in any material respect and does not contain any material omission; or

- (2) make the changes required to ensure that the Gloucester Information in the form and context in which it appears in the Explanatory Booklet is not misleading or deceptive in any material respect and does not contain any material omission.
- (c) **(Joint Information)** Promptly contribute to and assist with the preparation of the Joint Information.
- (d) **(Regulatory notifications)** In relation to the Regulatory Approvals, lodge with any Regulatory Authority within the relevant time periods all documentation and filings required by law to be so lodged by Gloucester in relation to the Transactions.
- (e) **(Independent Expert)** Appoint the Independent Expert and any technical specialist reasonably required by the Independent Expert, and provide all assistance and information reasonably requested by the Independent Expert and any technical specialist to enable the Independent Expert to prepare the Independent Expert's Report as soon as practicable (but ensuring that clause 5.1(cc) is complied with in briefing the Independent Expert and any technical specialist).
- (f) **(Consult with Bidder on ancillary documents)** Consult with Bidder as to the content and presentation of all relevant originating process, affidavits, submissions and draft minutes of Court orders and other civil procedure documents to be filed with the Court in connection with the Scheme, such consultation to include allowing Bidder a reasonable opportunity to review and make comments on drafts of those documents, consider in good faith, for the purpose of amending those drafts, comments from Bidder and its Representatives on those drafts, and provide Bidder with copies of any correspondence with ASIC and ASX in connection with the Transactions (and an opportunity to comment on drafts of any substantive written communications to ASIC or ASX).
- (g) **(approval of draft for ASIC)** As soon as reasonably practicable after the preparation of an advanced draft of the Explanatory Booklet suitable for review by ASIC, procure that a meeting of the Gloucester Board, or of a committee of the Gloucester Board appointed for the purpose, is held to consider approving that draft as being in a form appropriate for provision to ASIC for its review and approval for the purposes of section 411(2) of the Corporations Act.
- (h) **(liaison with ASIC)** As soon as reasonably practicable after the date of this deed:
  - (1) provide an advanced draft of the Explanatory Booklet, in a form approved in accordance with this deed to ASIC for its review and approval for the purposes of section 411(2) of the Corporations Act; and
  - (2) liaise with ASIC during the period of its consideration of that draft of the Explanatory Booklet and keep Bidder reasonably informed of any matters raised by ASIC in relation to the Explanatory Booklet and use reasonable endeavours, in consultation with Bidder, to resolve any such matters.
- (i) **(approval of Explanatory Booklet)** As soon as reasonably practicable after the conclusion of the review by ASIC of the Explanatory Booklet, procure that a meeting of the Gloucester Board, or of a committee of the Gloucester Board appointed for the purpose, is held to consider approving the Explanatory Booklet for despatch to the Gloucester Shareholders, subject to orders of the Court under section 411(1) of the Corporations Act.

- (j) **(Section 411(17)(b) statement)** Apply to ASIC for a statement under section 411(17)(b) of the Corporations Act that ASIC has no objection to the Scheme.
- (k) **(first Court hearing)** Apply to the Court under section 411(1) of the Corporations Act for orders directing Gloucester to convene the Scheme Meeting.
- (l) **(ASIC registration)** Request ASIC to register under section 412(6) of the Corporations Act the explanatory statement for the Scheme as contained in the Explanatory Booklet, in the form approved by the Court.
- (m) **(Scheme Meeting)** Use all reasonable endeavours necessary to comply with the orders of the Court including, as required, despatching the Explanatory Booklet to the Gloucester Shareholders and convening and holding the Scheme Meeting, and using reasonable endeavours to ensure that all Gloucester Shareholders can vote as a single class and with equal weight being given to their votes.
- (n) **(General Meeting)** Convene the General Meeting, in accordance with Gloucester's constitution and the Corporations Act, so that the General Meeting is held as soon as practicable after the conclusion or adjournment of the Scheme Meeting.
- (o) **(Proxy reports)** Cause the Gloucester Registry to report to it and Bidder on the status of proxy forms received by Gloucester Registry for the Scheme Meeting and General Meeting, at 15 Business Days before those meetings, at each subsequent Business Day up to the deadline for receipt of proxy forms and at such deadline, and provide such other information as it may receive concerning the voting intentions of Gloucester Shareholders to Bidder.
- (p) **(Court approval)** Subject to all conditions precedent in clause 3.1 (other than that in clause 3.1(i)) being satisfied or waived in accordance with this deed, apply to the Court for orders approving the Scheme, and consult with Bidder as to the content of all relevant affidavits, submissions and draft minutes of Court orders.
- (q) **(Court order)** Lodge with ASIC an office copy of any Court order approving the Scheme in accordance with the Timetable (or such later date as Bidder may agree in writing).
- (r) **(Cancellation of Gloucester Options and Gloucester Share Rights)** Procure the grant by ASX of a waiver from ASX Listing Rule 6.2 to allow for the cancellation of up to all Gloucester Options.
- (s) **(Third Party Consents)** Gloucester must consult with Bidder concerning Third Party Consents and use its best endeavours to obtain any Third Party Consents. Gloucester must involve Bidder in meetings or discussions with Third Parties relating to the obtaining of Third Party Consents and keep Bidder informed of progress in obtaining any such Third Party Consents (and must do everything it can to ensure that the relevant counterparties provide information promptly as to how they propose to exercise their rights and keep Bidder informed of all such information) and assist Bidder generally in relation to matters required for the implementation of the Transactions, and consult with Bidder in relation to the foregoing.
- (t) **(Implementation of Scheme)** If the Scheme is approved by the Court:
  - (1) subject to the Listing Rules and clause 3.2(b), lodge with ASIC an office copy of the orders approving the Scheme in accordance with section 411(10) of the Corporations Act, within the timeframe contemplated by the Timetable;



- (2) procure ASX to suspend trading in Gloucester Shares from the close of trading on the Effective Date;
  - (3) with effect from the Scheme Record Date, determine the identity of Scheme Shareholders and their entitlements to the Scheme Consideration;
  - (4) subject to Bidder satisfying its obligations under clause 4.2, convert all Scheme Shares to Issuer Sponsored Holding (as defined in the ASX Settlement Operating Rules), in accordance with the Scheme and execute proper instruments of transfer of the Scheme Shares on behalf of the Scheme Shareholders and procure the registration in the Gloucester Share Register of all transfers of Scheme Shares to Bidder Sub under those instruments on the Implementation Date;
  - (5) use its best endeavours to ensure that such termination of official quotation and removal of Gloucester from the official list of the ASX does not occur until after the Implementation Date; and
  - (6) do all other things contemplated by or necessary to give effect to the Scheme and the orders of the Court approving the Scheme.
- (u) **(Implementation of Capital Reduction and payment of Special Dividend)** pay the Gloucester Special Dividend to the Gloucester Shareholders registered as such on the Capital Reduction Record Date as soon as reasonably practical after that date and provided the Capital Reduction Resolution is approved and Gloucester makes to ASX the announcement contemplated by clauses 3.2 and 4.5, and subject to those two matters, effect the Capital Reduction and take the steps referred to in clause 4.5 to establish the Trust Deed, appoint the Trustee and issue the Promissory Note to the Trustee so that the Capital Reduction Amount is paid to the Gloucester Shareholders registered as such on or as soon as reasonably practicable after, the Capital Reduction Record Date.
- (v) **(Regulatory notifications)** In relation to the Regulatory Approvals, lodge with any Regulatory Authority within the relevant time periods all documentation and filings required by law to be so lodged by Gloucester in relation to the Transactions.
- (w) **(Bidder Information)** Without the prior written consent of Bidder, not use the Bidder Information or the Joint Information (to the extent any part of the latter is prepared or contributed solely by Bidder) for any purposes other than those expressly contemplated by the Transaction Documents or the Scheme.
- (x) **(Gloucester Share Plan)** Terminate the Gloucester Share Plan with effect from the Implementation Date.
- (y) **(Compliance with laws)** Do everything reasonably within its power to ensure that the Transactions are effected in accordance with all applicable laws and regulations.
- (z) **(Engagement with major Gloucester Shareholders)** In co-operation with Bidder, consult with major Gloucester Shareholders regarding the Transactions and, from the date (if any) that the Gloucester Board (or a majority of the Gloucester Board) recommends that Gloucester Shareholders vote in favour of the Transaction Resolutions, encourage the public support of the Transactions by major Gloucester Shareholders.
- (aa) **(No denigration)** Gloucester, from the date of this deed until the date the Independent Expert's Report is received, will adopt a neutral view in relation to the Transactions and ensure that Gloucester and its Representatives do not publicly (or otherwise to Third Parties) denigrate the Transactions or Bidder in any way (whether expressly or implied).
- (bb) **(Practical assistance)** Make its officers and employees available for any meetings with Gloucester shareholders which Bidder may seek, and permit Bidder to accompany them at such meetings and take such other steps as Bidder may require to facilitate an explanation by Bidder of the merits of the Transactions.

- (cc) **(Presentation of information to the Independent Expert)** Allow Bidder such opportunities as it reasonably requests (and equal opportunity with Gloucester) to present to the Independent Expert in relation to its business, to assist the Independent Expert's understanding of those matters, and, to the extent any parts of the Independent Expert's Report are made available for review, provide those to Bidder and convey Bidder's comments to the Independent Expert (and enable Bidder to meet with the Independent Expert), and ensure that the Independent Expert is briefed in a manner which is balanced and fair to Bidder. Gloucester must ensure that Bidder receives equal access with Gloucester in briefing the Independent Expert. Any correspondence with the Independent Expert must be copied to all parties. The foregoing principles will apply equally to any technical specialist appointed to assist the Independent Expert.
- (dd) **(Gloucester tax rulings)** seek any Tax ruling(s) which are reasonable and customary for the Transactions (including the Tax rulings referred to in clause 3.10), consult fully with Bidder in relation to such ruling(s) and/or any other ruling(s) which Gloucester proposes to seek in connection with the Transactions (together the Rulings), provide Bidder with advance drafts of any correspondence which Gloucester proposes to send in connection with the Rulings (and with copies of any correspondence received in relation to the **Rulings**), adopt any reasonable comments of Bidder on such correspondence, adopt any reasonable comments of Bidder in connection with the process of seeking the Rulings generally, and provide Bidder (or its Representatives) with the reasonable opportunity to attend any meeting conducted with the ATO in regard to the Rulings.
- (ee) **(Assistance with Bidder tax rulings)** provide any assistance reasonably requested by Bidder in connection with any Tax rulings it may seek in connection with the Transactions.

## 5.2 Bidder obligations

Bidder must take all necessary steps to facilitate the Scheme as soon as is reasonably practicable and, without limiting the foregoing, must use reasonable endeavours to ensure that each step in the Timetable is met by the date set out beside that step (and must consult with Gloucester on a regular basis about its progress in that regard), including by doing each of the following.

- (a) **(Bidder Information)** Prepare and provide to Gloucester the Bidder Information for inclusion in the Explanatory Booklet to comply with all applicable laws, including the Corporations Act, ASIC Regulatory Guide 60 and the ASX Listing Rules relevant to the Bidder Information and consult with Gloucester as to the content and presentation of the Bidder Information in the Explanatory Booklet, such consultation to include allowing Gloucester a reasonable opportunity to review and make comments on successive drafts of the Bidder Information before lodgement of the Explanatory Booklet with ASIC.
- (b) **(Joint Information)** Promptly contribute to and assist with the preparation of the Joint Information.
- (c) **(Regulatory notifications)** In relation to the Regulatory Approvals, lodge with any Regulatory Authority within the relevant time periods all documentation and filings required by law to be so lodged by Bidder in relation to the Transactions.
- (d) **(Assist Independent Expert)** Promptly provide all assistance and information reasonably requested by the Independent Expert to enable it to prepare the Independent Expert's Report as soon as practicable.

- (e) **(ASX admission and quotation)** Do everything reasonably necessary to ensure that:
  - (1) Bidder is admitted to ASX; and
  - (2) all Bidder shares, including the New Bidder Shares and CVR Shares, are approved for official quotation on ASX and that trading in the New Bidder Shares and CVR Shares commences by the first Business Day after the Implementation Date.
- (f) **(Review drafts of Explanatory Booklet)** As soon as practicable after delivery, review drafts of the Explanatory Booklet prepared by Gloucester and provide any comments on those drafts, with this review to incorporate a review of any parts of the Independent Expert's Report that have been supplied for review.
- (g) **(Confirmation of Bidder Information)** Before the Explanatory Booklet is provided to ASIC pursuant to section 411(2) of the Corporations Act, either:
  - (1) confirm in writing to Gloucester that the Bidder Information in the form and context in which it appears in the Explanatory Booklet is not misleading or deceptive in any material respect and does not contain any material omission; or
  - (2) provide to Gloucester the changes required to ensure that the Bidder Information in the form and context in which it appears in the Explanatory Booklet is not misleading or deceptive in any material respect and does not contain any material omission.
- (h) **(Deed Poll)** Before the First Court Date, enter into and procure Bidder Sub to enter into the Deed Poll and deliver it to Gloucester. If the Scheme becomes Effective, discharge its obligations under and in accordance with the Deed Poll.
- (i) **(Court representation)** If requested by Gloucester or if Bidder acting reasonably considers it necessary or appropriate, procure that it is represented by counsel at the Court hearings convened for the purpose of sections 411(1) and 411(4)(b) of the Corporations Act, at which, through its counsel or solicitors, Bidder will undertake (if requested by the Court) to do all such things and take all such steps within its power as may be reasonably necessary in order to ensure the fulfilment of its obligations under this deed, the Scheme and the Deed Poll.
- (j) **(Cancellation of Gloucester Options)** Promptly enter, and procure Bidder Sub to promptly enter, any written agreement arranged by Gloucester pursuant to clause 4.6(a) in the form agreed between Gloucester and Bidder (which will be conditional on the Scheme becoming Effective and on all holders of Gloucester Options entering into equivalent deeds before the Second Court Date).
- (k) **(Gloucester Information)** Without the prior written consent of Gloucester, not use Gloucester Information or the Joint Information (to the extent any part of the latter is prepared or contributed solely by Gloucester) for any purposes other than those expressly contemplated by this deed or the Scheme.
- (l) **(Scheme Consideration)** If the Scheme becomes Effective, provide the Scheme Consideration in the manner and amount contemplated by clause 4.2 on the Implementation Date and apply for the Bidder Shares and CVR Shares issued to Scheme Shareholders to be officially quoted on ASX.
- (m) **(Compliance with laws)** Do everything reasonably within its power to ensure that the Transactions are effected in accordance with all applicable laws and regulations.
- (n) **(No denigration)** From the date of this deed until the date the Independent Expert's Report is received, Bidder will ensure that Bidder and its Representatives do not publicly (or otherwise to Third Parties) denigrate the Transactions or Gloucester in any way (whether expressly or implied).

- (o) **(Assistance with Gloucester tax rulings)** Provide any assistance reasonably requested by Gloucester in connection with the tax ruling(s) referred to in clause 3.10.
- (p) **(Bidder Finance Debt)** prior to the date a draft of the Explanatory Booklet is given to ASIC in accordance with section 411(2) of the Corporations Act, update Gloucester and the Independent Expert on the status of the Bidder's progress in obtaining an additional \$1 billion of Finance Debt for the Bidder Group for it to utilise as and when required for its business expansion after the Implementation Date, and use all reasonable endeavours to ensure that this additional Finance Debt is available as and when required for its business expansion after the Implementation Date.

### 5.3 Yanzhou's obligations

Yanzhou must take all necessary steps to facilitate the Scheme as soon as is reasonably practicable and, without limiting the foregoing, must use reasonable endeavours to ensure that each step in the Timetable is met by the date set out beside that step (and must consult with Gloucester on a regular basis about its progress in that regard), including by doing each of the following.

- (a) **(assist Bidder)** Take all reasonable steps within its control to assist Bidder in discharging its obligations under this deed.
- (b) **(prepare shareholder disclosure document)** Prepare a disclosure document for its shareholders in relation to the Transactions in accordance with all applicable requirements of the securities exchanges and the Regulatory Authorities where the securities of Yanzhou are listed.
- (c) **(consult with Gloucester)** Consult with Gloucester as to the content and presentation of the shareholder disclosure document referred to in clause 5.3(b), such consultation to include allowing Gloucester a reasonable opportunity to review and make comments on drafts of that document, consider in good faith, for the purpose of amending those drafts, comments from Gloucester and its Representatives on those drafts.
- (d) **(convene shareholder meeting)** Despatch the disclosure document referred to in clause 5.3(b) to Yanzhou shareholders and convene and hold a meeting of Yanzhou shareholders in accordance with all applicable requirements of the securities exchanges and the Regulatory Authorities where the securities of Yanzhou are listed.
- (e) **(Shareholder support)** Promote to Yanzhou shareholders the merits of the Transactions, including soliciting proxy votes in favour of the Transaction Resolutions.
- (f) **(Proxy reports)** Cause the Yanzhou share registry to report to Yanzhou and Gloucester on the status of proxy forms received for the Yanzhou shareholder meeting, at 15 Business Days before that meeting, at each subsequent Business Day up to the deadline for receipt of proxy forms and at such deadline, and provide such other information as Yanzhou may receive concerning the voting intentions of Yanzhou shareholders to Gloucester.
- (g) **(Capital to redeem Enforcement Share and CVR Shares)** Promptly subscribe for Bidder Shares to provide Bidder with sufficient capital to enable Bidder to redeem the Enforcement Share and the CVR Shares in full, as and when required by the respective terms of issue of those shares.
- (h) **(No denigration)** From the date of this deed until the date the Independent Expert's Report is received, Yanzhou and its Representatives do not publicly (or otherwise to Third Parties) denigrate the Transactions or Gloucester in any way (whether expressly or implied).

- (i) **(Compliance with laws)** Do everything reasonably within its power to ensure that the Transactions are effected in accordance with all applicable laws and regulations.
- (i) **(Bidder Share Split)** Prior to 8.00am on the Second Court Date, pass a resolution under section 254H of the Corporations Act with effect on and from the Scheme Record Date converting all of the shares in Bidder into the larger number of shares equal to the number derived by the following formula:

Number of shares =  $[ [1/(1 - ARV)] \times (NOGS + NONGS + NOGOS) ]^* - (NOGS + NONGS + NOGOS)$ ,

where:

**ARV** means the agreed Relative Value (as defined in clause 3.9) of Bidder after the conclusion of the operation of clause 3.9, expressed as a fraction of one;

**NOGS** means the number of Gloucester Shares as at the date of this deed; and

**NONGS** means the number of Converting Shares plus the number of Additional Shares to be Provided under the Terms of Issue amended as provided in this deed.

**NOGOS** means the number of Gloucester Shares issued up to and including the Scheme Record Date as a result of exercise of Gloucester Options.

\* Rounded down to the nearest whole number of Gloucester Shares

#### 5.4 Explanatory Booklet – preparation principles

- (a) As soon as reasonably practicable after the date of this deed and substantially in accordance with the Timetable, Gloucester must prepare the Explanatory Booklet in compliance with:
  - (1) all applicable laws, in particular with the Corporations Act, RG 60 and the Listing Rules; and
  - (2) this clause 5.4.
- (b) The Explanatory Booklet will include:
  - (1) the terms of the Scheme;
  - (2) the notice of Scheme Meeting, the notice of General Meeting and any other notice of meeting in respect of any resolution that is necessary, expedient or incidental to give effect to the Scheme, together with proxy forms for the Scheme Meeting and the General Meeting;
  - (3) the Gloucester Information;
  - (4) the Bidder Information;
  - (5) the Joint Information;
  - (6) a copy of this deed (without the schedules or annexures) or a summary of it;
  - (7) a copy of the executed Deed Poll;
  - (8) a copy of the Independent's Expert Report; and
  - (9) a form allowing Gloucester Shareholders to make an election in respect of the form of their Scheme Consideration.

- (c) The Explanatory Booklet must include a statement that:
- (1) other than the Bidder Information and the Independent Expert's Report, the Explanatory Booklet has been prepared by Gloucester and is the responsibility of Gloucester, and that no Bidder Party assumes any responsibility for the accuracy or completeness of the Explanatory Booklet (other than the Bidder Information and the Joint Information);
  - (2) the Bidder Information has been provided by Bidder and is the responsibility of Bidder, and that no Gloucester Party assumes any responsibility for the accuracy or completeness of the Bidder Information; and
  - (3) the Joint Information has been provided by Bidder and Gloucester and is their joint responsibility.
- (d) The Explanatory Booklet must include information on the Gloucester Directors recommendations in connection with the Scheme in compliance with paragraph 8301 of Schedule 8 to the Corporations Regulations. For the avoidance of doubt, if the Independent Expert concludes that the Scheme is in the best interest of Gloucester Shareholders, Gloucester must seek approval of the Transaction Resolutions by Gloucester Shareholders and the Court's approval of the Scheme even if the Gloucester Board (or a majority of the Gloucester Board) does not recommend the Shareholders vote in favour of the Transaction Resolutions.
- (e) Gloucester must make available to Bidder drafts of the Explanatory Booklet (including any part of the draft of the Independent Expert's Report that has been made available to Gloucester), consult with Bidder in relation to the content of those drafts, and consider in good faith, for the purpose of amending those drafts, comments from Bidder on those drafts, such consultation to include allowing Bidder a reasonable opportunity to review and make comments on successive drafts of the Gloucester Information before lodgement of the Explanatory Booklet with ASIC. Bidder acknowledges and agrees that Gloucester has ultimate discretion with respect to the preparation, form and content of the Explanatory Booklet, other than as expressly provided in this deed with respect to the Bidder Information.
- (f) Gloucester must seek approval from Bidder for the form and context in which the Bidder Information appears in the Explanatory Booklet, which approval Bidder must not unreasonably withhold or delay, and Gloucester must not lodge the Explanatory Booklet with ASIC until such approval is obtained from Bidder.
- (g) Gloucester must take all reasonable steps to ensure that the Explanatory Booklet (other than the Bidder Information) is not misleading or deceptive in any material respect (whether by omission or otherwise) as at the date it is despatched to Gloucester Shareholders.
- (h) Bidder must take all reasonable steps to ensure that the Bidder Information is not misleading or deceptive in any material respect (whether by omission or otherwise) as at the date on which the Explanatory Booklet is despatched to Gloucester Shareholders.
- (i) Gloucester must provide to Bidder all such further or new information of which Gloucester becomes aware that arises after the Explanatory Booklet has been despatched until the date of the Scheme Meeting where this is or may be necessary to ensure that the Explanatory Booklet continues to comply with the Corporations Act, RG 60 and the Listing Rules.
- (j) Bidder must provide to Gloucester all such further or new information of which Bidder becomes aware that arises after the Explanatory Booklet has been despatched until the date of the Scheme Meeting where this is or may be necessary to ensure that the Bidder Information continues to comply with the Corporations Act, RG 60 and the Listing Rules.

- (k) Gloucester and Bidder each agree that the efficient preparation of the Explanatory Booklet and the implementation of the Scheme are in the interests of Gloucester Shareholders and Bidder and that they will use all reasonable endeavours and utilise all necessary resources (including management resources and the resources of external advisers) to comply with their respective obligations under this clause 5.4 and to implement the Scheme as soon as reasonably practicable and substantially in accordance with the Timetable.

### 5.5 Conduct of Gloucester business

- (a) Subject to clause 5.7, from the date of this deed up until and including the Implementation Date, Gloucester must ensure that Gloucester and the other members of the Gloucester Group:
  - (1) conduct their businesses in the ordinary course and substantially (subject to any applicable laws, regulations and Regulatory Approvals) in the manner in which each such business and operation has been conducted in the period before the date of this deed and in compliance in all material respects with all applicable laws, regulations and Regulatory Approvals;
  - (2) make all reasonable efforts to:
    - (A) keep available the services of their officers and employees; and
    - (B) preserve their relationships with Regulatory Authorities, ratings agencies, customers, suppliers, landlords, trade unions, licensors, licensees and others with whom they have business dealings;
  - (3) not enter any lines of business or other activities in which members of the Gloucester Group are not engaged at the date of this deed;
  - (4) respond to any reasonable request from Bidder and its Representatives (including in response to requests for information from stock exchanges and Regulatory Authorities) for information concerning the Gloucester Group and its business and operations; and
  - (5) provide Bidder and its Representatives reasonable access to officers and employees, offices and other facilities, and books and records of members of the Gloucester Group, and otherwise provide reasonable co-operation to Bidder and its Representatives, for the purpose of doing all things necessary or desirable under this deed or in connection with the Transactions (including compliance with any regulatory or stock exchange reporting requirements), any financing undertaken by Bidder in connection with the Transactions and any plans for the integration of the Gloucester Group into the Bidder Group following the Implementation Date.
- (b) From the date of this deed up until and including the Implementation Date, Gloucester must:
  - (1) keep Bidder informed of all material developments in relation to any Tax Audit which is instituted or on foot during that period, including any material matters raised by, or material arrangements proposed by, or to, the ATO, and keep Bidder informed of any other material correspondence, developments or audit involving the ATO or any other Commonwealth, State or Territory revenue office or authority;

- (2) consult with Bidder, in advance, in relation to all material communications with the ATO in relation to any such Tax Audit;
  - (3) provide Bidder with copies of all documents received from the ATO in relation to any such Tax Audit; and
  - (4) provide Bidder with a copy of all documents to be supplied to the ATO under any such Tax Audit, and prior to submitting each such document:
    - (A) allow Bidder and its Representatives a reasonable opportunity to review and comment on them, provided that any comments are received as soon as reasonably practicable and no later than 2 Business Days after provision to Bidder of the draft documents; and
    - (B) consider in good faith any comments notified to it by Bidder or its Representatives following the review of such documents by them.
- (c) Nothing in this clause 5.5 requires Gloucester to provide Bidder with any information:
- (1) in breach of an obligation of confidentiality to any person;
  - (2) of a commercially sensitive nature, except under clause 5.5(b)5.5(a); or
  - (3) concerning the consideration of the Transactions by the Gloucester Board or Gloucester management,
- or to provide access or co-operation to the extent it would result in a disruption to any material aspects of the Gloucester Group's businesses and operations.

#### 5.6 Conduct of Bidder business

- (a) Subject to clause 5.7, from the date of this deed up until and including the Implementation Date, Bidder must ensure that Bidder and the Bidder Group:
- (1) conduct their businesses in the ordinary course and substantially (subject to any applicable laws, regulations and Regulatory Approvals) in the manner in which each such business and operation has been conducted in the period before the date of this deed and in compliance in all material respects with all applicable laws, regulations and Regulatory Approvals;
  - (2) make all reasonable efforts to:
    - (A) keep available the services of their officers and employees; and
    - (B) preserve their relationships with Regulatory Authorities, ratings agencies, customers, suppliers, landlords, trade unions, licensors, licensees and others with whom they have business dealings;
  - (3) not enter any lines of business or other activities in which members of the Bidder Group are not engaged at the date of this deed;
  - (4) respond to any reasonable request from Gloucester and its Representatives (including in response to requests for information from stock exchanges and Regulatory Authorities) for information concerning the Bidder Group and its business and operations; and



- (5) provide Gloucester and its Representatives reasonable access to officers and employees, offices and other facilities, and books and records of members of the Bidder Group, and otherwise provide reasonable co-operation to Gloucester and its Representatives, for the purpose of doing all things necessary or desirable under this deed or in connection with the Transactions (including compliance with any regulatory or stock exchange reporting requirements), and any plans for the integration of the Gloucester Group into the Bidder Group following the Implementation Date.
- (b) Nothing in this clause 5.6 requires Bidder to provide Gloucester with any information:
  - (1) in breach of an obligation of confidentiality to any person;
  - (2) of a commercially sensitive nature, except under clause 5.6(a); or
  - (3) concerning the consideration of the Transactions by the Bidder board or Bidder management,or to provide access or co-operation to the extent it would result in a disruption to any material aspects of the Bidder Group's businesses and operations.

### 5.7 Permitted activities

- (a) The obligations of Gloucester or Bidder under clauses 5.5 and 5.6 respectively, do not apply in respect of any matter:
  - (1) undertaken by a member of the Gloucester Group or Bidder Group, as the case may be, in conducting its businesses in the usual and ordinary course and consistent with past practice;
  - (2) required to be done or procured by Gloucester or Bidder, as the case may be, pursuant to, or which is otherwise contemplated by, this deed or another Transaction Document, the Special Dividend, the Capital Reduction or the Scheme;
  - (3) subject to clause 5.7(b), Fairly Disclosed:
    - (A) in the case of Gloucester, either in the Gloucester Due Diligence Material on or before 9 December 2011 or in the Gloucester Disclosure Letter; and
    - (B) in the case of Bidder, either in the Bidder Due Diligence Material on or before 9 December 2011 or in the Bidder Disclosure Letter,as being actions that the Gloucester Group or the Bidder Group, as the case may be, may carry out between the date of this deed and the Implementation Date; or
  - (4) the undertaking of which:
    - (A) in the case of Gloucester, Bidder; and
    - (B) in the case of Bidder, Gloucesterhas approved in writing (which approval must not be unreasonably withheld or delayed).
- (b) Gloucester and Bidder must, in respect of any matter referred to in clause 5.7(a)(3) above that it proposes to undertake:
  - (1) if the Gloucester Due Diligence Material, Gloucester Disclosure Letter, Bidder Due Diligence Material or Bidder Disclosure Letter, as the case may be, permits the carrying out of the action only in accordance with certain conditions, ensure those conditions are met;

- (2) not undertake that matter (or commit to undertake that matter) without first consulting with:
  - (A) in the case of Gloucester, Bidder; and
  - (B) in the case of Bidder, Gloucester;
- (3) promptly provide Bidder or Gloucester, as the case may be, with any information regarding the matter reasonably requested by the other party.
- (4) For the avoidance of doubt, clause 5.7(b) does not operate to provide Bidder or Gloucester, as the case may be, with a veto right in respect of any matter referred to in clause 5.7(a)(3).

### 5.8 Intention of Gloucester Board to recommend

If:

- (a) the Independent Expert concludes that the Scheme is in the best interest of Gloucester Shareholders;
- (b) each Merger Ratio Dispute Notice (if any) that has been given under clause 3.9 has been resolved;
- (c) there is no Superior Proposal; and
- (d) the Gloucester Board determines that doing so would not be likely to constitute a breach of the Gloucester Board's fiduciary or statutory duties,

the Gloucester Board intends, within 5 Business Days of receiving the Independent Expert's Report, to recommend (including in the Explanatory Booklet) that Gloucester Shareholders vote in favour of the Transaction Resolutions.

Such recommendation may be qualified by as being made:

- (e) in the absence of a Superior Proposal; and
- (f) subject to the Independent Expert continuing to conclude that the Scheme is in the best interest of Gloucester Shareholders or not withdrawing a previous conclusion to this effect.

### 5.9 Integration Committee

- (a) From the date (if any) that the Gloucester Board makes a determination under clause 5.8, the parties agree to form an operational integration committee (**Integration Committee**) to facilitate and plan for the Transactions and integration of the businesses of the Gloucester Group with the businesses of Bidder Group following the Implementation Date. The Integration Committee will comprise members of the management each of Gloucester and Bidder and such other persons as the managing directors may agree from time to time.
- (b) The Integration Committee will meet (in person or by telephone) as and when deemed necessary from the date of this deed until the Scheme is fully implemented.
- (c) The Integration Committee will consider all matters relevant to implementing the Scheme, including the following:
  - (1) the structure and timetable for accomplishing the Scheme;
  - (2) integration planning issues;
  - (3) Bidder's financing arrangements in respect of the Transactions, including any refinancing of existing financial indebtedness of the Gloucester Group;

- (4) employee share options and superannuation funds;
  - (5) communication strategies, including with ASX, employees, shareholders and other stakeholders of each party and the media; and
  - (6) consultation with appropriate Regulatory Authority in relation to any Regulatory Approvals.
- (d) Without limiting clause 5.9(c), Gloucester must procure that its members of the Implementation Committee provide to Bidder's members of the Implementation Committee all such input and assistance as those members may reasonably require or reasonably request with respect to the development of Bidder's merger integration plan.

#### 5.10 Financing

- (a) Gloucester must provide Bidder, Bidder's Representatives and Bidder's prospective financing sources with reasonable access to members of the Gloucester executive committee and to such other personnel as are reasonably approved by the Gloucester executive committee and, subject to any confidentiality obligations owed to third parties as at the date of this deed, permit Bidder to provide Bidder's prospective financing sources with information which Bidder has obtained from Gloucester under the terms of this deed that is necessary to enter into or consummate the funding of the Scheme Consideration. If information regarding Gloucester cannot be disclosed because of existing confidentiality obligations owed to a Third Party, Gloucester must, if requested in writing by Bidder, use its reasonable endeavours to seek permission from the Third Party to disclose the information to Bidder, Bidder's Representatives and Bidder's prospective financing sources.
- (b) Gloucester must provide such cooperation as may be reasonably requested by Bidder for the purpose of providing the Scheme Consideration, including subject to receipt of reasonable notice and availability beyond duties of their roles in the ordinary or appropriate course of Gloucester Group activities, the Gloucester executive committee participating in such number of meetings, presentations, road shows, and sessions with prospective financing sources, investors and rating agencies as are reasonably necessary for the consummation of such financing.
- (c) The obligations under this clause 5.10 apply only from the date that the condition precedent in clause 3.1(k) is satisfied or waived.

#### 5.11 Separation and Cooperation Agreement

- (a) The parties acknowledge that Yanzhou and Bidder (and, if appropriate, one or more of their respective Related Bodies Corporate) will negotiate and before the Due Diligence End Date, enter into a binding Separation and Cooperation Agreement or arrangement necessary or desirable to put in place separation arrangements between Yanzhou (and the Excluded Assets) and Bidder, including arrangements regarding:
  - (1) access to information for ongoing filings and any future sell-down of Bidder Shares by Yanzhou;
  - (2) corporate and business management and support services;
  - (3) use of intellectual property rights;
  - (4) information technology sharing arrangements; and
  - (5) offtake and marketing arrangements.
- (b) Bidder will consult with Gloucester in relation to this agreement or arrangement and will finalise the agreement or arrangement before the Explanatory Booklet is finalised. Bidder agrees to prepare a summary of this agreement or arrangement for inclusion in the Explanatory Booklet and, for this purpose, Bidder acknowledges that that summary will constitute Bidder Information.

**5.12 LTCC Agreement**

- (a) The parties acknowledge that Yanzhou and Bidder (and, if appropriate, one or more of their respective Related Bodies Corporate) will negotiate and before the Due Diligence End Date, enter into the LTCC Licence Agreement.
- (b) Bidder will consult with Gloucester in relation to the LTCC Licence Agreement and will finalise the agreement or arrangement before the Explanatory Booklet is finalised. Bidder agrees to prepare a summary of this agreement or arrangement for inclusion in the Explanatory Booklet and, for this purpose, Bidder acknowledges that that summary will constitute Bidder Information.

**5.13 Restructure Agreement**

- (a) The parties acknowledge that Yanzhou and Bidder (and, if appropriate, one or more of their respective Related Bodies Corporate) will negotiate and before the Due Diligence End Date, enter into the Restructure Agreement.
- (b) The Restructure Agreement will deal with (among other matters);
  - (1) the transfer of Excluded Assets, in accordance with the principles in clause 5.14; and
  - (2) the reconstruction of its issued share capital, as contemplated by clause 5.3(j); and
  - (3) the steps required to fulfil the condition in clause 3.1(f).
- (c) Bidder will consult with Gloucester in relation to the Restructure Agreement and will finalise the agreement or arrangement before the Explanatory Booklet is finalised. Bidder agrees to prepare a summary of this agreement or arrangement for inclusion in the Explanatory Booklet and, for this purpose, Bidder acknowledges that that summary will constitute Bidder Information.

**5.14 Transfer of Excluded Assets**

- (a) Yanzhou must procure that prior to the Effective Date the Excluded Assets are transferred to one or more Related Bodies Corporate of Yanzhou that are not Bidder Group Members for consideration and distribute to Yanzhou so much of that consideration, or otherwise procure, such that the Bidder Group is in the same economic position as it would have been had the transfer and distribution not given rise to any Tax for the Bidder Group.
- (b) A reference to Tax in this clause includes income tax which would accrue to the Bidder Group as a result of the transfer of the Excluded Assets, calculated assuming that the income year ended on the Implementation Date.
- (c) To the extent that the distribution is a 'frankable distribution' for the purposes of the ITAA 1997 then the Bidder Group may frank the distribution to the extent that the franking would not result in the franking account (or exempting account as the case may be) of Bidder being in a deficit position as at the Implementation Date, assuming:
  - (1) all income tax has been paid by Bidder prior to the Implementation Date in respect of the period up to 31 December 2011 and no income refunds are due in respect of this period; and
  - (2) any income tax resulting from the transfer of the Excluded Assets is paid prior to the Implementation Date, but only to the extent that this tax can be paid in a manner which gives rise to a franking credit prior to the end of the franking year in which the distribution is paid.

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**6** Actions on and following Implementation Date

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**6.1 Reconstitution of the board of Bidder**

On the Implementation Date, subject to the receipt by Bidder of signed consents to act, Bidder must take all actions necessary (and in accordance with the constitution of Bidder, the Corporations Act and the Listing Rules) to reconstitute the board of Bidder so that it comprises:

- (a) six nominees of Yanzhou; and
- (b) five non-executive independent directors agreed between Gloucester and Yanzhou, with the Chairman of the Board of directors of Bidder to be one of the nominees of Yanzhou.

**6.2 Reconstitution of the board of each member of the Gloucester Group**

- (a) On the Implementation Date, but subject to the Scheme Consideration having been provided in full to Scheme Shareholders and receipt by Gloucester of signed consents to act, Gloucester must take all actions necessary (and in accordance with the constitution of the Gloucester Group member, the Corporations Act and the Listing Rules) to reconstitute the Gloucester Board and the Board of each Subsidiary in accordance with the directions of Yanzhou.
- (b) Without limiting clause 6.2(a), on the Implementation Date, subject to receipt by Gloucester of written notices of resignation to the effect that the outgoing directors have no claim outstanding against any member of the Gloucester Group, Gloucester must procure that:
  - (1) all outgoing Gloucester Directors resign from the Gloucester Board; and
  - (2) all outgoing directors of each Subsidiary of Gloucester resigns from their office.

**6.3 Right of first refusal – ROFR Assets**

- (a) Yanzhou must procure that, before Yanzhou or a related body corporate of Yanzhou which is not a Bidder Group Member (in this clause 6.3 Yanzhou Entity) Disposes of any ROFR Asset after the Implementation Date, that entity first offers the relevant ROFR Asset in writing to Bidder. Following such a notice, Bidder may accept the offer at any time up to a day 25 Business Days from the date of the initial notice. Each individual ROFR Asset for which Yanzhou or a Yanzhou Entity proposes to Dispose must be subject to a separate offer made to Bidder in respect of only that ROFR Asset and any such offer:
  - (1) must specify the relevant ROFR Asset to which the offer relates;
  - (2) must specify the price (which must be a cash price) sought for the relevant ROFR Asset; and

- (3) must provide for Bidder to have a reasonable opportunity (and in any event not less than 40 Business Days) to undertake due diligence investigations in respect of the relevant ROFR Asset and in accordance with clause 6.3(c);
  - (4) must be in a form capable of acceptance by Bidder such that if so accepted by Bidder, a binding contract for the sale and purchase of the relevant ROFR Asset is immediately formed, subject to the satisfaction of any conditions of the kind referred to in clause 6.3(a)(5);
  - (5) may be accepted by Bidder subject to Bidder obtaining all consents and approvals required in order to acquire the relevant ROFR Asset, including under the FATA or from any Regulatory Authority; and
  - (6) must specify any other terms or conditions relevant to the proposed Disposal.
- (b) Following such a notice, Bidder may accept the offer at any time up to a day 60 Business Days from the date of the offer, subject to the satisfaction of any conditions of the kind referred to in clause 6.3(a)(5).
  - (c) In respect of the due diligence investigations in relation to each relevant ROFR Asset the subject of an offer under clause 6.3(a), Yanzhou must procure that Bidder and its representatives and advisers are provided with all relevant documents and other information that are material for an intending prudent purchaser of each such ROFR Asset.
  - (d) If Bidder accepts an offer under clause 6.3(a), Yanzhou must procure that Yanzhou or a Yanzhou Entity (as applicable) must complete the sale and purchase of the relevant ROFR Asset in accordance with the terms of the offer.
  - (e) If Bidder does not elect to purchase a particular ROFR Asset that is offered to it pursuant to this clause 6.3 Yanzhou or the relevant Yanzhou Entity may Dispose of that particular ROFR Asset it to a Third Party within 6 months of the offer under clause 6.3(a) and on terms no less more favourable (taken as a whole) than were offered to Bidder under that clause.

**6.4 Dividend policy**

- (a) From the Implementation Date, Yanzhou and Bidder must procure that the Bidder Board adopt a distribution policy that subject to applicable laws and the statutory and common law duties of the Bidder Directors that:
  - (1) subject to clause 6.4(a)(2), not less than 40% of net profit after tax (pre-abnormal items) be distributed to Bidder Shareholders in each financial year; and
  - (2) if the Bidder Board determines that it is necessary in order to prudently manage Bidder's financial position, not less than 25% of net profit after tax (pre-abnormal items) be distributed to Bidder Shareholders in any given financial year.
- (b) Following Completion, Yanzhou and Bidder must procure that the constitution of Bidder is amended to incorporate the dividend policy set out in clause 6.4(a).

7 Representations and Warranties

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**7.1 Bidder Representations and Warranties**

- (a) Bidder represents and warrants to Gloucester (in its own right and separately as trustee or nominee for each of the other Gloucester Parties) that each Bidder Representation and Warranty is true and correct.
- (b) Each Bidder Representation and Warranty is subject to matters required or permitted to be done by this deed or another Transaction Document and matters:
  - (1) Fairly Disclosed in the Bidder Disclosure Letter;
  - (2) Fairly Disclosed on or before 9 December 2011 in the Bidder Due Diligence Materials; or
  - (3) Fairly Disclosed in announcements issued by Yanzhou on any of the securities exchanges where its securities are listed up to and including the day before the date of this deed.

**7.2 Gloucester Representations and Warranties**

- (a) Gloucester represents and warrants to Bidder (in its own right and separately as trustee or nominee for each of the other Bidder Parties) that each Gloucester Representation and Warranty is true and correct.
- (b) Each Gloucester Representation and Warranty is subject to matters required or permitted to be done by this deed or another Transaction Document and matters:
  - (1) Fairly Disclosed in the Gloucester Disclosure Letter;
  - (2) Fairly Disclosed on or before 9 December 2011 in the Gloucester Due Diligence Materials; or
  - (3) Fairly Disclosed in announcements issued by Gloucester on ASX up to and including the day before the date of this deed.

**7.3 Timing of representations and warranties**

Unless expressed to be given at a particular time (in which case it is given at that time), each Bidder Representation and Warranty and each Gloucester Representation and Warranty is given:

- (a) at the date of this deed; and
- (b) at all times up until 8am on the Second Court Date.

**7.4 Survival of representations**

Each Bidder Representation and Warranty and Gloucester Representation and Warranty:

- (a) is severable; and
- (b) survives the termination of this deed (but does not survive, and will be taken to have no further force or effect following implementation of the Scheme).

**8.1 Gloucester Parties**

- (a) Without limiting Bidder's rights under clause 13, Bidder and Yanzhou (both for themselves and as agent of every member of the Bidder Group) jointly and severally release all rights against, and jointly and severally agree with Gloucester that neither of them will make a Claim against, any Gloucester Party (other than Gloucester) in connection with:
- (1) Gloucester's execution or delivery of this deed or any other Transaction Document to which it is a party;
  - (2) any breach of any representation, covenant and warranty of Gloucester in this deed;
  - (3) the implementation of the Scheme; or
  - (4) any disclosure made by any Gloucester Party including in the Gloucester Due Diligence Material, the Updated Gloucester Due Diligence Material or the Gloucester Disclosure Letter that contains any statement which is false or misleading whether in content or by omission,
- except to the extent the relevant Gloucester Party has not acted in good faith or has engaged in wilful misconduct.
- (b) This clause is subject to any Corporations Act restriction and will (if and to the extent required) be read down accordingly. Gloucester receives and holds the benefit of this clause as trustee for each other Gloucester Party.

**8.2 Bidder Parties**

- (a) Without limiting Gloucester's rights under clause 13, Gloucester releases its rights against, and agrees with Bidder that it will not make a Claim against, any Bidder Party (other than Bidder) in connection with:
- (1) Bidder's execution or delivery of this deed or any other Transaction Document to which it is a party;
  - (2) any breach of any representation, covenant and warranty of Bidder in this deed;
  - (3) the implementation of the Scheme; or
  - (4) any disclosure made by any Bidder Party including in the Bidder Due Diligence Material, the Updated Bidder Due Diligence Material or the Bidder Disclosure Letter that contains any statement which is false or misleading whether in content or by omission,
- except to the extent that the relevant Bidder Party has not acted in good faith or has engaged in wilful misconduct.
- (b) This clause is subject to any Corporations Act restriction and will (if and to the extent required) be read down accordingly. Bidder receives and holds the benefit of this clause as trustee for each other Bidder Party.



**8.3 Directors' and officers' insurance**

Bidder acknowledges that Gloucester will:

- (a) prior to the Effective Date, arrange for the cover currently provided under its directors' and officers' insurance policy which expires on 30 June 2012 (Policy) to be extended for a further period of 12 months; and
- (b) by no later than the Implementation Date, to the extent practicable at normal commercial rates, arrange for the cover provided under the Policy to be amended so as to provide run off cover in accordance with the terms of the Policy for a 7 year period from the end of the term of the Policy, and pay all premiums required so as to ensure that insurance cover is provided under the Policy on those terms until that date.

**8.4 Obligations in relation to directors' and officers' insurance**

From the Implementation Date, Gloucester must not:

- (a) vary or cancel the Policy; or
- (b) unless required under the Policy, commit any act or omission that may prejudice any claim by a director or officer of Gloucester under the Policy as extended pursuant to clause 8.3(b) above.

Nothing in clause 8.3 or clause 8.4 shall require Bidder or Gloucester to incur any additional premium after the Implementation Date or require Gloucester to not fulfil its contractual obligations under the Policy.

**9 Public Announcements**

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**9.1 Announcement of the Transactions**

Immediately after the execution of this deed, the parties must issue public announcements in a form agreed by them prior to such execution (which forms will be consistent).

**9.2 Other public announcements**

Subject to clause 9.3, prior to making any public announcement or disclosure of or in relation to the Transactions or any other transaction the subject of this deed or the Scheme each party must use its reasonable endeavours to consult with the other party as to, and seek to agree with the other party (each party acting reasonably and in good faith), the timing, form and content of that announcement or disclosure. Subject to any applicable law or rules of a relevant stock exchange, the parties agree to make all public announcements in relation to the Transactions outside the trading hours of ASX, the Shanghai Stock Exchange and the Hong Kong Stock Exchange.

**9.3 Required announcement**

Where a party is required by applicable law, the ASX Listing Rules or any other applicable stock exchange regulation to make any announcement or to make any disclosure in connection with the Transactions or any other transaction the subject of this deed or the Scheme, it may do so but must use reasonable endeavours, to the extent practicable and lawful, to consult with the other party before making the relevant disclosure and must give the other party as much notice as reasonably practical.

**9.4 Statements on termination**

The parties must act in good faith and use all reasonable endeavours to issue agreed statements in respect of any termination of this deed and, to that end but without limitation, clauses 9.2 and 9.3 apply to any such statements or disclosures.

10 Gloucester Exclusivity

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**10.1 Termination of existing discussions**

Gloucester warrants that, as at the time of execution of this deed, it is not, and must ensure that none of its Representatives are, in any negotiations or discussions, and that it has, and its Representatives have, ceased any existing negotiations or discussions, in respect of any Competing Proposal (or which may reasonably be expected to lead to a Competing Proposal) with any person.

**10.2 No shop restriction**

During the Exclusivity Period, except with the prior written consent of Bidder, Gloucester must not, and must ensure that none of its Representatives or agents, directly or indirectly solicit, invite, encourage or initiate any Competing Proposal or any enquiries, negotiations or discussions with any Third Party in relation to, or that may reasonably be expected to lead to, a Competing Proposal, or communicate any intention to do any of those things.

**10.3 No talk restriction**

During the Exclusivity Period, Gloucester must not, and must ensure that none of its Representatives or agents, (whether directly or indirectly) enter into, continue or participate in negotiations or discussions with, or enter into any agreement or understanding with, any Third Party in relation to, or that may reasonably be expected to lead to, a Competing Proposal, even if:

- (a) the Competing Proposal was not directly or indirectly solicited, invited, encouraged or initiated by Gloucester; or
- (b) the Competing Proposal has been publicly announced,

unless:

- (c) the Gloucester Board, acting in good faith, determines (after having taken written advice from its external financial and legal advisers) that, where there is a Competing Proposal, the Competing Proposal is or may reasonably be expected to lead to a Superior Proposal having regard to the steps which the Gloucester Board proposes to take; and
- (d) the Gloucester Board, acting in good faith, determines (after having taken written advice from its external legal advisers) that failing to respond to that Competing Proposal would be likely to constitute a breach of the Gloucester Board's fiduciary or statutory duties,

but only if that Competing Proposal was not directly or indirectly solicited, invited, encouraged or initiated by Gloucester or any of its Representatives in a manner that would breach its obligations under this clause 10.3 or clauses 10.2 or 10.4.

#### 10.4 No due diligence

Without limiting the general nature of clause 10.3, during the Exclusivity Period Gloucester must not, and must ensure that its Representatives and agents do not, make available to any Third Party, or permit any Third Party, to receive any non-public information relating to any member of the Gloucester Group in connection with such Third Party formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Proposal, unless:

- (a) the Competing Proposal has not been directly or indirectly solicited, invited, encouraged or initiated in breach of this clause or clauses 10.2 or 10.3;
- (b) the Gloucester Board, acting in good faith, determines (after having taken written advice from its external financial and legal advisers) that:
  - (1) the Competing Proposal is or may reasonably be expected to lead to a Superior Proposal having regard to the steps which the Gloucester Board proposes to take; and
  - (2) failing to provide any non-public information to a Third Party would be likely to constitute a breach of the Gloucester Board's fiduciary or statutory duties; and
- (c) if Gloucester proposes that any non-public information be provided to a Third Party, before Gloucester provides such information, the Third Party has entered into a written agreement in favour of Gloucester regarding the use and disclosure of the confidential information and that restricts the Third Party's ability to solicit the employees of any member of the Gloucester Group and that information has also been provided to Bidder.

#### 10.5 Notification by Gloucester

- (a) Subject to paragraph (b) and to clause 10.7, during the Exclusivity Period, Gloucester must promptly notify Bidder if:
  - (1) Gloucester is approached, directly or indirectly, by any Third Party to take any action of a kind referred to in clauses 10.3 or 10.4; or
  - (2) Gloucester proposes to take any action of a kind referred to in clauses 10.3 or 10.4 (for the avoidance of doubt, such notice being given before the taking of the relevant action).
- (b) Paragraph (a) does not oblige Gloucester to provide any details of any approach or proposal from a Third Party, including the identity of the relevant Third Party or the term and conditions of the approach or proposal.

#### 10.6 Response to Competing Proposal

- (a) Subject to clause 10.7, Gloucester must not, and must procure that its Representatives do not enter into any legally binding agreement, arrangement or understanding to give effect to or implement a Competing Proposal unless Gloucester has provided Bidder with full details of the Competing Proposal, including, without limitation, the identity of the relevant Third Party, and at least 5 Business Days to match the terms of the Competing Proposal. Gloucester's obligations under this clause 10.6 apply in respect of each new Competing Proposal and any material variation or amendment to a Competing Proposal.
- (b) Subject to clause 10.7, if the Gloucester Board determines that Bidder matches or exceeds the terms of a Competing Proposal (**Bidder Counter Proposal**), then Gloucester and Bidder and each of their respective Representatives must use their best endeavours to agree the amendments to this deed that are reasonably necessary to reflect the Bidder Counter Proposal and to enter into an amended deed to give effect to those amendments and to implement the Bidder Counter Proposal, and Gloucester must use its best endeavours to procure that the Gloucester Board unanimously recommends the Bidder Counter Proposal to Gloucester's Shareholders and not recommend the applicable Competing Proposal.

**10.7 Fiduciary carve out to notification and matching right**

Despite anything in clause 10.5 and 10.6, each obligation of Gloucester under those clauses do not apply:

- (a) to the extent it restricts the Gloucester Board from taking or refusing to take any action with respect to a Competing Proposal which is or may reasonably be expected to lead to a Superior Proposal (which was not solicited, initiated, invited or encouraged (whether directly or indirectly) by Gloucester or any of its Representatives in contravention of clause 10.2, 10.3 or 10.4; and
- (b) to the extent that the Gloucester Board determines in good faith and after having taken written advice from its legal advisers that complying with such obligation would be likely to involve a breach of the fiduciary or statutory duties owed by any Gloucester Director.

**10.8 Normal provision of information**

Nothing in this clause prevents a party or its Representatives or agents from:

- (a) providing information to its Representatives;
- (b) providing information to any Regulatory Authority;
- (c) providing information to its auditors, customers, financiers, joint venturers and suppliers acting in that capacity in the ordinary course of business;
- (d) providing information required to be provided by law, including to satisfy its obligations of disclosure under the ASX Listing Rules or to any Regulatory Authority; or
- (e) making presentations to brokers, portfolio investors, analysts and other third parties in the ordinary course of business.

**10.9 Acknowledgement**

Each of Gloucester and Bidder has required the other to agree to the obligations set out in this clause in consideration of it proceeding with the Transactions and incurring significant costs in doing so. In the absence of obtaining these obligations from the other party, each of Gloucester and Bidder would not have entered into this deed.

11 Bidder Exclusivity

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**11.1 Definitions**

For the purpose of this clause 11, '**Competing Proposal**' and '**Superior Proposal**' have the meanings in clause 1.1 as if all references to 'Gloucester' were references to 'Bidder', and a '**Representative**' of Yanzhou means each subsidiary of Yanzhou other than members of the Bidder Group (in this clause 11.1 **Yanzhou Entity**), each officer or employee of Yanzhou or of a Yanzhou Entity and each Adviser to Yanzhou or of a Yanzhou Entity.

**11.2 Termination of existing discussions**

Bidder warrants that, as at the time of execution of this deed, it is not, and must ensure that none of its Representatives are, in any negotiations or discussions, and that they have, and its Representatives have, ceased any existing negotiations or discussions, in respect of any Competing Proposal (or which may reasonably be expected to lead to a Competing Proposal) with any person.

**11.3 No shop restriction**

During the Exclusivity Period, except with the prior written consent of Gloucester, Bidder must not, and must ensure that none of their Representatives or agents, directly or indirectly solicit, invite, encourage or initiate any Competing Proposal or any enquiries, negotiations or discussions with any Third Party in relation to, or that may reasonably be expected to lead to, a Competing Proposal, or communicate any intention to do any of those things.

**11.4 No talk restriction**

During the Exclusivity Period, Bidder must not, and must ensure that none of its Representatives or agents, (whether directly or indirectly) enter into, continue or participate in negotiations or discussions with, or enter into any agreement or understanding with, any Third Party in relation to, or that may reasonably be expected to lead to, a Competing Proposal, even if:

- (a) the Competing Proposal was not directly or indirectly solicited, invited, encouraged or initiated by Bidder; or
- (b) the Competing Proposal has been publicly announced,

unless:

- (c) the Bidder Board, acting in good faith, determines (after having taken written advice from its external financial and legal advisers) that, where there is a Competing Proposal, the Competing Proposal is or may reasonably be expected to lead to a Superior Proposal having regard to the steps which the Bidder Board proposes to take; and
- (d) the Bidder Board, acting in good faith, determines (after having taken written advice from its external legal advisers) that failing to respond to that Competing Proposal would be likely to constitute a breach of the Bidder Board's fiduciary or statutory duties,

but only if that Competing Proposal was not directly or indirectly solicited, invited, encouraged or initiated by Yanzhou or Bidder or any of their Representatives in a manner that would breach its obligations under this clause 11.4 or clauses 11.3 or 11.5.

**11.5 No due diligence**

Without limiting the general nature of clause 11.4, during the Exclusivity Period, Bidder must not, and must ensure that their Representatives and agents do not, make available to any Third Party, or permit any Third Party, to receive any non-public information relating to any member of the Bidder Group in connection with such Third Party formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Proposal, unless:

- (a) the Competing Proposal has not been directly or indirectly solicited, invited, encouraged or initiated in breach of this clause or clauses 11.3 or 11.4;
- (b) the Bidder Board, acting in good faith, determines (after having taken written advice from its external financial and legal advisers) that:
  - (1) the Competing Proposal is or may reasonably be expected to lead to a Superior Proposal having regard to the steps which the Bidder Board proposes to take; and

- (2) failing to provide any non-public information to a Third Party would be likely to constitute a breach of the Bidder Board's fiduciary or statutory duties; and
- (c) if Bidder proposes that any non-public information be provided to a Third Party, before Bidder provides such information, the Third Party has entered into a written agreement in favour of Bidder regarding the use and disclosure of the confidential information and that restricts the Third Party's ability to solicit the employees of any member of the Bidder Group and that information has also been provided to Gloucester.

#### 11.6 Notification by Yancoal

- (a) Subject to paragraph 11.6(b) and to clause 11.8, during the Exclusivity Period, Bidder must promptly notify Gloucester if:
  - (1) Bidder is approached, directly or indirectly, by any Third Party to take any action of a kind referred to in clauses 11.4 or 11.5; or
  - (2) it proposes to take any action of a kind referred to in clauses 11.4 or 11.5 (for the avoidance of doubt, such notice being given before the taking of the relevant action).
- (b) Paragraph 11.5(a) does not oblige Bidder to provide any details of any approach or proposal from a Third Party, including the identity of the relevant Third Party or the term and conditions of the approach or proposal.

#### 11.7 Response to Competing Proposal

- (a) Subject to clause 11.8, Bidder must not, and must procure that its Representatives do not enter into any legally binding agreement, arrangement or understanding to give effect to or implement a Competing Proposal unless Bidder has provided Gloucester with full details of the Competing Proposal, including, without limitation, the identity of the relevant Third Party, and at least 5 Business Days to match the terms of the Competing Proposal. Bidder's obligations under this clause 11.7 apply in respect of each new Competing Proposal and any material variation or amendment to a Competing Proposal.
- (b) Subject to clause 11.8, if the Bidder Board determines that Gloucester matches or exceeds the terms of a Competing Proposal (**Gloucester Counter Proposal**), then Bidder and Gloucester and each of their respective Representatives must use their best endeavours to agree the amendments to this deed that are reasonably necessary to reflect the Gloucester Counter Proposal and to enter into an amended deed to give effect to those amendments and to implement the Gloucester Counter Proposal, and Bidder must use its best endeavours to procure that the Bidder Board unanimously recommends the Gloucester Counter Proposal to Yanzhou and not recommend the applicable Competing Proposal.

#### 11.8 Fiduciary carve out to notification and matching right

Despite anything in clause 11.6 and 11.7, each obligation of Bidder under those clauses do not apply:

- (a) to the extent it restricts the Bidder Board from taking or refusing to take any action with respect to a Competing Proposal which is or may reasonably be expected to lead to a Superior Proposal (which was not solicited, initiated, invited or encouraged (whether directly or indirectly) by Bidder or any of its Representatives in contravention of clauses 11.3, 11.4 or 11.5; and

- (b) to the extent that the Bidder Board determines in good faith and after having taken written advice from its legal advisers that complying with such obligation would be likely to involve a breach of the fiduciary or statutory duties owed by any Bidder Director.

### 11.9 Normal provision of information

Nothing in this clause prevents a party or its Representatives or agents from:

- (a) providing information to its Representatives;
- (b) providing information to any Regulatory Authority;
- (c) providing information to its auditors, customers, financiers, joint venturers and suppliers acting in that capacity in the ordinary course of business;
- (d) providing information required to be provided by law, including to satisfy its obligations of disclosure under the ASX Listing Rules or to any Regulatory Authority; or
- (e) making presentations to brokers, portfolio investors, analysts and other third parties in the ordinary course of business.

### 11.10 Bidder not to take public steps toward IPO

- (a) Without limiting the preceding provisions of this clause 11, during the Exclusivity Period, Bidder must not:
  - (1) undertake any public marketing activities (including launching an initial public offering and conducting external investor road shows or briefings) in relation to an initial public offering of Bidder (either in its own right or through a vehicle holding substantially all of its assets); or
  - (2) enter into any legally binding agreement, arrangement or understanding to give effect to or implement a Competing Proposal that would prevent implementation of the Transactions.
- (b) However, nothing in this clause 11 prevents:
  - (1) Bidder or its Representatives from undertaking internal preparations for an initial public offering;
  - (2) Bidder or its Representatives from undertaking, soliciting, inviting, encouraging, negotiating, facilitating, preparing for or executing, a transaction that would not be inconsistent with or materially interfere with or materially detract from the commercial efficacy of the Transactions, including for this purpose any cash acquisitions of coal assets, entities or businesses by Bidder or its Representatives; or
  - (3) Yanzhou or its Representatives from undertaking, or soliciting, inviting, encouraging, negotiating, facilitating, preparing for or executing, any transaction which does not involve any member of the Bidder Group.

### 11.11 Acknowledgement

Each of Bidder and Gloucester has required the other to agree to the obligations set out in this clause in consideration of it proceeding with the Transactions and incurring significant costs in doing so. In the absence of obtaining these obligations from the other party, each of Bidder and Gloucester would not have entered into this deed.

## 12 Break Fee

**12.1 Background**

This clause has been agreed to in circumstances where:

- (a) Each of Bidder and Gloucester believes the implementation of the Scheme has the potential to provide significant benefits to it and its respective shareholders, and acknowledges that, if Bidder enters into this deed and the Scheme is subsequently not implemented, the Bidder will have incurred significant costs, including significant opportunity costs;
- (b) Bidder requested provision be made for the payment outlined in this clause, without which the Bidder would not have entered into this deed;
- (c) Gloucester's board of directors believes that it is appropriate to agree to the payment referred to in this clause to secure the Bidder's entry into this deed; and
- (d) Gloucester has received separate legal advice in relation to this deed and the operation of this clause.

Each of Bidder and Gloucester acknowledge and agree that the costs actually incurred by Bidder under paragraph (a) will be of such nature that they cannot be accurately ascertained, but that the Break Fee is a genuine and reasonable pre-estimate of the cost and loss that would actually be suffered by the other party.

**12.2 Payment of Break Fee**

Subject to clauses 12.3, 12.6 and 12.7, Gloucester must pay Bidder the Break Fee:

- (a) if:
  - (1) the Independent Expert concludes that the Scheme is in the best interest of Gloucester Shareholders and the Independent Expert has not withdrawn or changed that conclusion;
  - (2) each Merger Ratio Dispute Notice (if any) that has been given under clause 3.9 has been resolved; and
  - (3) there is no Superior Proposal,and the Gloucester Board (or a majority of the Gloucester Board) do not make a public statement recommending that Gloucester Shareholders vote in favour of the Transaction Resolutions within 10 Business Days of those conditions being satisfied, unless they have within those 10 Business Days obtained (and provided to the Bidder, subject to such arrangements for the preservation, to the extent possible, of legal professional privilege, as Gloucester may reasonably require) written advice both from a Queens Counsel or Senior Counsel practising in public company mergers and acquisitions law and from a major Australian law firm that so recommending would be likely to constitute a breach of the Gloucester Board's (or the majority of the Gloucester Board's) fiduciary or statutory duties;
- (b) if at any time after the time that the Gloucester Board (or a majority of the Gloucester Board) makes a public statement recommending that Gloucester Shareholders vote in favour of the Transaction Resolutions but on or before the earlier of the End Date and the time the Court makes, or refuses to make, an order approving the Scheme:
  - (1) the Gloucester Board (or a majority of the Gloucester Board) makes a public statement withdrawing or adversely changing or modifying its or their recommendation that Gloucester Shareholders vote in favour of the Transaction Resolutions or makes a recommendation or statement that is inconsistent with such recommendation or statement; or



- (2) without limiting the foregoing, the Gloucester Board (or a majority of the Gloucester Board) makes a public statement indicating that they no longer support the Transactions or that they support another transaction (including a Competing Proposal),

but excluding in either case where the reason for the withdrawal, change or modification of recommendation is that:

- (3) the Independent Expert has changed or withdrawn its conclusion that the Scheme is in the best interest of Gloucester Shareholders (unless that change in or withdrawal of the Independent Expert's conclusion is as a result of the existence of a Competing Proposal); or
  - (4) Gloucester has exercised a right to terminate this deed under clause 3.8 (as a result of non-satisfaction of a Gloucester Condition or Joint Condition (unless the existence of a Competing Proposal substantially contributed to the failure to satisfy that Gloucester Condition or Joint Condition)), 3.9, 3.10 or 13.1(a) or (e); or
- (c) if at any time before the termination or expiry of this deed, a Competing Proposal of any kind is announced by a Third Party and, within one year of that announcement, the Third Party or an associate of the Third Party completes in all material respects a transaction of the kind referred to in paragraph (a), (b), (c) or (d) of the definition of Competing Proposal. For this purpose, 'completes in all material respects' means that the relevant Competing Proposal is free from any defeating conditions.

### **12.3 Payment conditions**

- (a) Notwithstanding the occurrence of any event under clause 12.2, no amount is payable under the clause if the Scheme becomes Effective.
- (b) Gloucester can only ever be liable to pay the Break Fee once.

### **12.4 Timing of payment**

If the Break Fee is payable under this clause, Gloucester (as applicable) must pay that break fee without set-off or withholding within 5 Business Days of receipt of a tax invoice for payment from the other party.

### **12.5 Nature of payment**

The amount payable by Gloucester to Bidder under clause 12.2 is an amount to compensate Bidder for:

- (a) advisory costs (including costs of Advisers other than success fees);
- (b) costs of management and directors time;
- (c) out-of-pocket expenses; and
- (d) opportunity costs incurred in pursuing the Transactions or in not pursuing other alternative acquisitions or strategic initiatives which could have been developed to further business and objectives,

incurred by the other party.

**12.6 Compliance with law**

This clause 12 imposes obligations on Gloucester only to the extent that the performance of all or part of those obligations:

- (a) do not constitute unacceptable circumstances, as declared by the Australian Takeovers Panel;
- (b) do not breach the fiduciary or statutory duties of the Gloucester Board, as determined by a court; and
- (c) are not otherwise held to be unlawful or unenforceable by a court.

If and to the extent any of the above apply, Bidder must reimburse all or part of the Break Fee within five Business Days of receipt of a demand for reimbursement from Gloucester, which demand must be accompanied by reasonable evidence of any of the above applying and the extent to which it applies.

**12.7 Other claims**

- (a) Despite any other provision of this deed but subject to paragraph (b):
  - (1) if Gloucester becomes liable to pay the Break Fee to Bidder:
    - (A) Gloucester will, upon making payment, have no further Liability for any breach of this deed other than the payment of any interest that may be awarded for late payment of the Break Fee; and
    - (B) the Break Fee will be reduced by any amounts previously paid by Gloucester for any breach of this deed; and
  - (2) subject to paragraph (1), the Liability of Gloucester for any breach of this deed is limited to the payment of an amount equal to the Break Fee and any interest that may be awarded on that amount.
- (b) Nothing in paragraph (a) in any way:
  - (1) prevents a party (in its own right or as trustee for any person contemplated by this deed) from seeking orders from a court of competent jurisdiction for the specific performance by the other party of any obligations under this deed; or
  - (2) extinguishes or limits the Liability of a party for any breach of this deed arising from criminal acts or fraud by the other party or a Representative of the other party.

**13 Termination**

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**13.1 General rights**

- (a) Bidder or Gloucester may terminate this deed by written notice to the other at any time before 8am on the Second Court Date if:
  - (1) the other has materially breached any provision of this deed including any Gloucester Representation and Warranty or Bidder Representation and Warranty (as applicable);
  - (2) the party wishing to terminate has given written notice to the other in a timely manner setting out the relevant circumstances and stating an intention to terminate this deed; and

- (3) the relevant circumstances continue to exist for ten Business Days from the time the notice of intention to terminate is given (or any shorter period ending at 5pm on the Business Day before the Second Court Date).
- (b) Bidder may terminate this deed by written notice to the other party if the Gloucester Board (or a majority of the Gloucester Board) have not, by no later than the earlier of 31 March 2012 and the date 2 Business Days after the Independent Expert's Report is received by Gloucester, recommended that Gloucester Shareholders vote in favour of the Transaction Resolutions, or if, having made such a recommendation the Gloucester Board (or a majority of the Gloucester Board):
  - (1) makes a public statement withdrawing or adversely changing or modifying its or their recommendation that Gloucester Shareholders vote in favour of the Transaction Resolutions or makes a recommendation or statement that is inconsistent with such recommendation or statement; or
  - (2) without limiting the foregoing, makes a public statement indicating that they no longer support the Scheme or that they support another transaction (including, without limitation, a Competing Proposal),

provided that Bidder may not rely on this termination right if Gloucester asks it, after the termination right becomes available, whether Bidder wishes Gloucester to proceed to convene the Scheme Meeting and to call and arrange to hold the General Meeting, and Bidder requests Gloucester to do so, and following that request the Scheme Meeting has been convened and the General Meeting has been called and arranged to be held.
- (c) Bidder or Gloucester may terminate this deed by written notice to the other in the circumstances set out in, and in accordance with, clauses 3.8, 3.9 or 3.10.
- (d) Bidder may terminate this deed by written notice to Gloucester if Gloucester has breached any provision of clause 10 or permitted any Gloucester Prescribed Occurrence to occur.
- (e) Gloucester may terminate this deed by written notice to Bidder if Bidder has breached any provision of clause 11 or permitted any Bidder Prescribed Occurrence to occur.

### 13.2 Effect of termination

If this deed is validly terminated by a party in compliance with clauses 3.8, 3.9, 3.10 or 13.1, this deed will be of no force or effect, without any liability or obligation on the part of any party, other than in relation to rights and obligations that accrued before termination and the provisions of this clause and of clauses 1, 7.4, 8, 9, 12.2(b) or (c), 14, 15, 16 and 17, which will remain in force after the termination.

### 13.3 Termination by written agreement

The parties may terminate this deed by another written agreement between them.

## 14 Confidentiality

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### 14.1 Confidentiality Obligation

Subject to clause 14.2, the parties acknowledge and agree that:

- (a) they continue to be bound by the Confidentiality Agreement after the date of this deed; and

- (b) the rights and obligations of the parties under the Confidentiality Agreement survive termination of this deed.

#### 14.2 Exceptions to confidentiality

- (a) Nothing in the Confidentiality Agreement restricts any party (the *Recipient*) from disclosing any confidential information of the other party (the *Discloser*) where:
  - (b) that disclosure is required for the purpose of implementing the Transactions or any other transaction the subject of this deed or the Scheme;
  - (c) the disclosure is made, for the purposes of the Bidder's financing in connection with the Transactions, to Bidder's financiers who have agreed to be bound by confidentiality undertakings no less restrictive than those applying to Yanzhou under the relevant Confidentiality Deed, or
  - (d) disclosure of that information would otherwise be permitted under the relevant Confidentiality Deed (whether or not that information is Confidential Information within the meaning of the relevant Confidentiality Deed).

#### 15 GST

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##### 15.1 Recovery of GST

If GST is payable, or notionally payable, on a supply made under or in connection with this deed, the party providing the consideration for that supply must pay as additional consideration an amount equal to the amount of GST payable, or notionally payable, on that supply (the *GST Amount*). Subject to the prior receipt of a tax invoice, the GST Amount is payable at the same time that the other consideration for the supply is provided. This clause does not apply to the extent that the consideration for the supply is expressly stated to be GST inclusive or the supply is subject to reverse charge.

##### 15.2 Liability net of GST

Where any indemnity, reimbursement or similar payment under this deed is based on any cost, expense or other liability, it may be reduced by any input tax credit entitlement, or notional input tax credit entitlement, in relation to the relevant cost, expense or other liability.

##### 15.3 Adjustment events

If an adjustment event occurs in relation to a supply under or in connection with this deed, the GST Amount will be recalculated to reflect that adjustment and an appropriate payment will be made between the parties and the supplier shall issue an adjustment note to the recipient.

##### 15.4 Survival

This clause will continue to apply after expiration or termination of this deed.

**15.5 Definitions**

Unless the context requires otherwise, words used in this clause that have a specific meaning in the GST law (as defined in the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*) have the same meaning in this clause.

16 Notices

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Any notice, demand, consent or other communication (a *Notice*) given or made under this deed:

- (a) must be in writing and signed by a person duly authorised by the sender;
- (b) must be delivered to the intended recipient by prepaid post (if posted to an address in another country, by registered airmail) or by hand or fax to the address or fax number below or the address or fax number last notified by the intended recipient to the sender with a copy in each case sent to the email address below or the email address last notified by the intended recipient to the sender:

(1) to Bidder: Yancoal Australia Limited  
Suite 1105, Level 11  
68 York Street  
Sydney NSW 2000  
Attention: Mr Cunliang Lai  
Fax No: +61 2 8243 5388  
Email: clai@yancoal.com.au;

*with a copy to:*

Philippa Stone  
Partner  
Freehills  
MLC Centre  
19 Martin Place  
Sydney NSW 2000  
Australia

Fax no: +61 2 9322 4000

Email: Philippa.Stone@freehills.com

(2) to Yanzhou: Yanzhou Coal Mining Company Limited

No. 298 Fushan South Road  
Zoucheng, Shandong  
PR China

Attention: Mr Yuxiang Wu

Fax No: +86 (537) 538 2032

Email: wuyx3075@163.com;

*with a copy to:*

Philippa Stone  
Partner  
Freehills  
MLC Centre  
19 Martin Place

Sydney NSW 2000  
Australia  
Fax no: +61 2 9322 4000  
Email: [Philippa.Stone@freehills.com](mailto:Philippa.Stone@freehills.com)

- (3) to Gloucester: Gloucester Coal Ltd  
Level 7, 167 Macquarie Street  
Sydney NSW 2000  
Australia

Attention: Company Secretary  
Fax no: +61 2 9220 9999  
Email: [companysecretary@gcl.com.au](mailto:companysecretary@gcl.com.au)

- (c) will be conclusively taken to be duly given or made:
- (1) in the case of delivery in person, when delivered;
  - (2) in the case of delivery by post, two Business Days after the date of posting (if posted to an address in the same country) or seven Business Days after the date of posting (if posted to an address in another country); and
  - (3) in the case of fax, on receipt by the sender of a transmission control report from the despatching machine showing the relevant number of pages and the correct destination fax number or name of recipient and indicating that the transmission has been made without error,

but if the result is that a Notice would be taken to be given or made on a day that is not a business day in the place to which the Notice is sent or is later than 5pm (local time) it will be taken to have been duly given or made at the start of business on the next business day in that place.

17 General Provisions

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**17.1 Amendment**

- (a) This deed other than clause 8 may be amended only by another deed executed by all the parties.
- (b) Clause 8 may be amended only by another deed executed by all of the parties and the consent of all of the Bidder Parties and all of the Gloucester Parties.

**17.2 Assignment**

A party cannot assign, charge, encumber or otherwise deal with at law or in equity any of its rights or obligations under this deed, or attempt or purport to do so, without the prior consent of each other party.

**17.3 Costs and stamp duty**

Each party must each bear their own costs arising out of the negotiation, preparation and execution of this deed. All stamp duty (including fines, penalties and interest) payable on or in connection with this deed and any instrument executed under or any transaction evidenced by this deed must (subject to the remaining provisions of this clause) be borne by Bidder.

Nothing in clause 5.14 requires Gloucester or the Bidder Group to pay or be responsible for, and Yanzhou indemnifies and will keep indemnified, Gloucester, Bidder and any Bidder Group Member in respect of, any stamp duty (including fines, penalties and interest) which in any way relates to or otherwise arises from:

- (1) the execution of any document, the performance of any obligation or the implementation of any transaction contemplated under clause 5.14; or
- (2) the revocation and/or clawback of any stamp duty exemption or relief (including, but not limited to, any corporate reconstruction, corporate reorganisation or similar relief) where such revocation or clawback in any way relates or otherwise arises from the transfer of any Excluded Asset as contemplated under clause 5.14.

Nothing in this deed requires Bidder or Yanzhou to pay or be responsible for, and Gloucester indemnifies and will keep indemnified, Bidder and Yanzhou and any Bidder Group Member in respect of, any stamp duty (including fines, penalties and interest) which in any way relates to or otherwise arises from:

- (a) anything that pertains to a Gloucester Condition;
- (b) issue and cancellation (or redemption) of the Enforcement Share;
- (c) transfer or cancellation of any Gloucester Options;
- (d) Conversion of the Converting Shares to Gloucester Shares;
- (e) implementation of the Capital Reduction (including the Promissory Note and Trust arrangements) and Special Dividend; or
- (f) termination of Gloucester Share Plan.

#### **17.4 Counterparts**

This deed may be executed in any number of counterparts. All counterparts together will be taken to constitute one instrument.

#### **17.5 Entire agreement**

This deed and the Confidentiality Agreement contain the entire agreement between the parties with respect to their subject matter. They set out the only conduct relied on by the parties and supersede all earlier conduct and prior agreements and understandings between the parties in connection with their subject matter.

#### **17.6 Further assurances**

Each party must do anything necessary (including executing agreements and documents) to give full effect to this deed, the Transaction Documents and the transactions contemplated by those documents.

#### **17.7 Governing law and jurisdiction**

This deed is governed by the laws of New South Wales. In relation to it and related non-contractual matters each party irrevocably submits to the non-exclusive jurisdiction of courts with jurisdiction there, and waives any right to object to the venue on any ground.

#### **17.8 No merger**

The rights and obligations of the parties will not merge on the completion of any transaction contemplated by this deed or the other Transaction Documents. They will survive the execution and delivery of any assignment or other document entered into for the purpose of implementing the Transactions.

**17.9 No third party beneficiary**

This deed is binding upon and inures solely to the benefit of each party to it and each of their respective permitted successors and assigns, and nothing in this deed, express or implied, is intended to or will confer upon any other person, other than the Bidder Parties and the Gloucester Parties (to the extent set out in clauses 6 and 8), any third party beneficiary rights.

**17.10 No waiver**

A failure to exercise or a delay in exercising any right, power or remedy under this deed does not operate as a waiver. A single or partial exercise or waiver of the exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. A waiver is not valid or binding on the party granting that waiver unless made in writing.

**17.11 Process agent**

Yanzhou:

- (a) irrevocably appoints Bidder as its agent to accept service of process and other documents in any legal action or proceedings arising out of or in any way related to this deed and related non-contractual matters before courts with jurisdiction in New South Wales;
- (b) must ensure that at all times, the agent or a replacement acceptable to Gloucester remains present, authorised and able to accept service of process and other documents on its behalf and, if there is a replacement, it must immediately notify Gloucester and provide it with satisfactory evidence of the replacement's acceptance of its appointment; and
- (c) agrees that service of any process or documents on the agent (or any replacement) will be sufficient service on it.

**17.12 Severability of provisions**

Any provision of this deed that is prohibited or unenforceable in any jurisdiction is ineffective as to that jurisdiction to the extent of the prohibition or unenforceability. That does not invalidate the remaining provisions of this deed nor affect the validity or enforceability of that provision in any other jurisdiction.

**17.13 Waiver of immunity**

With respect to any legal action or proceedings arising out of or in any way related to this deed and related non-contractual matters, Bidder irrevocably and unconditionally:

- (a) waives any immunity that it or its assets may have at any time (including from suit, judgment, attachment, execution or other enforcement);
- (b) agrees that it will not raise, rely on or claim any immunity; and
- (c) consents to any relief or any process, including against any property (irrespective of its use or intended use).



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Bidder Representations and Warranties

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- 1 Bidder is a validly existing corporation registered under the laws of its place of incorporation.
- 2 The execution and delivery of this deed has been properly authorised by all necessary corporate action and Bidder has full corporate power and lawful authority to execute and deliver this deed and to perform or cause to be performed its obligations under this deed.
- 3 This deed constitutes legal, valid and binding obligations on it and this deed does not result in a breach of or default under any deed or any writ, order or injunction, rule or regulation to which Bidder is a party or is bound.
- 4 As at the date of this deed, there are 76,975,000 Bidder Shares on issue, and Bidder has not issued (and is not required to issue) any other securities or instruments which are still outstanding (or may become outstanding) and which may convert into Bidder securities by way of new issue other than under a dividend reinvestment plan (including pursuant to any underwriting of that plan) or an incentive scheme or option or performance share plans for the benefit of employees and directors only (including any security issued upon conversion, vesting or exercise of rights attaching to any security issued under an incentive scheme, option or performance share plan).
- 5 To the best of Bidder's knowledge, after making due and proper enquiry, all information Bidder has provided to Gloucester or its Representatives as at and from the Disclosure Cut-off Date is not misleading in any material respect (whether by omission or otherwise), including that there are reasonable grounds for all statements as to future matters and a reasonable basis for all statements of opinion in that information.
- 6 After making due and proper enquiry, Bidder is not aware of any material information relating to its businesses that has not been disclosed to Gloucester or its Representatives as at and from the Disclosure Cut-off Date which:
  - (a) is objectively necessary for Gloucester to make an informed decision as to whether to proceed with the Transactions; or
  - (b) might reasonably be expected to cause Gloucester not to proceed with the Transactions at all or to only proceed with the Transactions on materially different terms.
- 7 The Updated Bidder Due Diligence Materials and each disclosure in the Bidder Disclosure Letter have been disclosed in good faith and, so far as the Bidder Board and the senior management of Bidder are aware after due enquiry, Bidder has not knowingly or recklessly:
  - (a) omitted anything from such information such as to make any part of that information materially false or misleading; or
  - (b) included anything materially false or misleading in such information;
- 8 The Bidder Information provided to Gloucester for inclusion in the Explanatory Booklet will:
  - (a) be provided in good faith;
  - (b) comply in all material respects with the requirements of the Corporations Act, the Listing Rules and RG 60, including disclosure of all the information that would be required under paragraphs (c), (f), (g), (h), (i), (k), (l) and (m) of section 636(1) of the Corporations Act to be included in a bidder's statement if Bidder were offering the Scheme Consideration as consideration under a takeover bid; and

- (c) be provided on the understanding that Gloucester will rely on that information for the purposes of preparing the Explanatory Booklet and proposing and implementing the Scheme in accordance with the requirements of the Corporations Act.
- 9 All information provided by or on behalf of Bidder to the Independent Expert to enable the Independent Expert's Report to be included in the Explanatory Booklet to be prepared and completed will be provided in good faith and on the understanding that the Independent Expert will rely upon that information for the purposes of preparing the Independent Expert's Report for inclusion in the Explanatory Booklet.
  - 10 As at the date the Explanatory Booklet is despatched to Gloucester Shareholders, the Bidder Information, in the form and context in which that information appears in the version of the Explanatory Booklet registered by ASIC under section 412(6) of the Corporations Act will not be misleading or deceptive in any material respect (whether by omission or otherwise).
  - 11 Bidder will, as a continuing obligation, provide to Gloucester all such further or new information which may arise after the Explanatory Booklet has been despatched until the date of the Scheme Meeting which is necessary to ensure that the Bidder Information, in the form and context in which that information appears in the version of the Explanatory Booklet registered by ASIC under section 412(6) of the Corporations Act, is not misleading or deceptive in any material respect (whether by omission or otherwise).
  - 12 No Bidder Prescribed Occurrence has occurred.
  - 13 There are no restrictions on Bidder issuing New Bidder Shares or CVR Shares to Scheme Shareholders in accordance with the Scheme and there are no restrictions to those New Bidder Shares and CVR Shares being quoted on the financial market conducted by ASX (initially on a deferred settlement basis and thereafter on an ordinary settlement basis), other than receiving permission from ASX to have those Bidder Shares so quoted.
  - 14 With effect on the Scheme Record Date, the capital structure of Bidder will be reconstructed consistent with clause 5.3(j) of this deed

Gloucester Representations and Warranties

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- 1 Gloucester is a validly existing corporation registered under the laws of its place of incorporation.
- 2 The execution and delivery of this deed by Gloucester has been properly authorised by all necessary corporate action and Gloucester has full corporate power and lawful authority to execute and deliver this deed and to perform or cause to be performed its obligations under this deed.
- 3 This deed constitutes legal, valid and binding obligations on Gloucester and the execution of this deed of itself does not result in a breach of or default under any agreement or deed or any writ, order or injunction, rule or regulation to which Gloucester or any of its Subsidiaries is a party or to which they are bound.
- 4 The Gloucester Information contained in the Explanatory Booklet:
  - (a) will be prepared and included in the Explanatory Booklet in good faith; and
  - (b) will comply in all material respects with the requirements of the Corporations Act, Listing Rules and RG 60;
- 5 As at the date the Explanatory Booklet is despatched to Gloucester Shareholders, the Explanatory Booklet registered by ASIC under section 412(6) of the Corporations Act (excluding the Bidder Information and the Independent Expert's Report) will not be misleading or deceptive in any material respect (whether by omission or otherwise);
- 6 As at the date of this deed and as at and from the Disclosure Cut-off Date, Gloucester is not in breach of its continuous disclosure obligations under the Listing Rules and is not relying on the exclusion in Listing Rule 3.1A to withhold any information from disclosure (other than in relation to the Transactions or as disclosed in writing to Bidder on or before the relevant date) and its public disclosures to ASX (taken as a whole) are not misleading in any material respect (whether by omission or otherwise); and
- 7 No Gloucester Prescribed Occurrence has occurred.
- 8 To the best of Gloucester's knowledge, after making due and proper enquiry, all information Gloucester has provided to Yanzhou, Bidder or their Representatives as at and from the Disclosure Cut-off Date is not misleading in any material respect (whether by omission or otherwise), including that there are reasonable grounds for all statements as to future matters and a reasonable basis for all statements of opinion in that information.
- 9 After making due and proper enquiry, Gloucester is not aware of any material information relating to its businesses that has not been disclosed to Yanzhou, Bidder or their Representatives as at and from the Disclosure Cut-off Date which:
  - (a) is objectively necessary for Yanzhou and Bidder to make an informed decision as to whether to proceed with the Transactions; or
  - (b) might reasonably be expected to cause Yanzhou and Bidder not to proceed with the Transactions at all or to only proceed with the Transactions on materially different terms.

- 10 The Updated Gloucester Due Diligence Materials and each disclosure in the Gloucester Disclosure Letter have been disclosed in good faith and, so far as the Gloucester Board and the senior management of Gloucester are aware after due enquiry, Gloucester has not knowingly or recklessly:
- (c) omitted anything from such information such as to make any part of that information materially false or misleading; or
  - (d) included anything materially false or misleading in such information;
- 11 As at the date of this deed, the total issued capital of Gloucester is:
- (a) 202,905,967 Gloucester Shares;
  - (b) 1,000 Converting Shares; and
  - (c) 3,618,574 Options,
- and there are no other Gloucester options, performance rights, shares, convertible notes or other securities (or offers or agreements to issue any of the foregoing).



Prescribed Occurrences

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Part A – Gloucester Prescribed Occurrences

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Part 1

**Changes to capital structure, distributions**

1. Gloucester converts all or any of its shares into a larger or smaller number of shares other than a conversion of some or all of the 1,000 Converting Shares on issue at the date of this deed, into up to the total number of ordinary shares calculated in accordance with clause 4.7.
2. Any Gloucester Group Member (other than a direct or indirect wholly-owned subsidiary of Gloucester) resolves to reduce its share capital in any way (other than under the Capital Reduction) or reclassify, combine, split, redeem or repurchase directly or indirectly any of its shares.
3. Any Gloucester Group Member (other than a direct or indirect wholly-owned subsidiary of Gloucester):
  - 3.1 enters into a buy-back agreement; or
  - 3.2 resolves to approve the terms of a buy-back agreement under the Corporations Act.
4. Any Gloucester Group Member (other than a direct or indirect wholly-owned subsidiary of Gloucester) declares, pays or distributes any dividend, bonus or other share of its profits or assets or agrees to return any capital to its members, other than the Capital Reduction and the Special Dividend.
5. Any Gloucester Group Member issues, agrees to issue or incurs any obligation (including any contingent obligation) to issue or have transferred to any person securities in or of it or any other Gloucester Group Member, other than:
  - 5.1 to Gloucester, a direct or indirect wholly-owned subsidiary of Gloucester; or
  - 5.2 Gloucester Shares, to the holders as at the date of this deed of Gloucester options as required by their terms following a valid exercise of the Gloucester options.
6. Any Gloucester Group Member issues or grants, agrees to issue or grant or incurs any obligation (including any contingent obligation) to issue, grant or have transferred to any person:
  - 6.1 options over shares or other securities convertible into shares in or of it or any other Gloucester Group Member; or
  - 6.2 any debt securities (including any performance rights or options).

**Entering into, varying or terminating agreements**

7. A Gloucester Group Member enters into, varies in a material respect or terminates any of the following, other than in the ordinary course of business to the extent necessary prior to the Implementation Date for the proper conduct of the business of the relevant Gloucester Group Member:
  - 7.1 an agreement with respect to derivative instruments (including swaps, futures contracts, forward commitments, commodity or currency derivatives or options) or similar instruments;
  - 7.2 a joint venture, partnership or similar arrangement;
  - 7.3 an off-take, coal sales or marketing arrangement in relation to the production of any Gloucester Group Member;
  - 7.4 an agreement or understanding restraining any Gloucester Group Member from competing with any person or conducting activities in any market;
  - 7.5 an agreement or understanding in respect of Finance Debt (other than an agreement, arrangement or understanding of the type referred to in item 7.1); or
  - 7.6 a Material Agreement (other than an agreement, arrangement or understanding of the type referred to in item 7.1 to 7.5 inclusive).
8. A Gloucester Group Member enters into, varies in a material respect or terminates any agreement or arrangement (other than an agreement, arrangement or understanding of the type referred to in item 7.1 to 7.6 inclusive) where the agreement or arrangement concerned involves an amount (including any payment, incurring of expenditure or foregoing of revenue) or assets or liabilities to the value, of more than \$20 million (per annum, in any case involving recurring payments), other than in the ordinary course of business, or waives a default or accepts a compromise, where the waiver or compromise involves an amount of more than \$20 million (per annum, in any case involving recurring payments) (and for the purposes of the foregoing a number of separate transactions shall be treated as a single transaction if they are with the same or associated parties or if a reasonable person would otherwise consider them to be related).

**Borrowing or lending other than in the ordinary course**

9. A Gloucester Group Member incurs or makes available any Finance Debt other than in the ordinary course of business.

**Encumbering assets**

10. A Gloucester Group Member creates, or agrees to create, any mortgage, charge, lien or other encumbrance over the whole, or substantially all, of its business or property, other than by operation of law in the ordinary course of business.

**Insolvency Events**

11. A Gloucester Group Member suffers an Insolvency Event or (without limitation) becomes unable to pay its debts as and when due.

**Changes to the nature of business**

12. A Gloucester Group Member ceases, or threatens to cease, to carry on its business or makes a material change to the nature of its business.

**Varying or granting employee benefits**

13. Except as specifically provided for in an existing employment contract or in an existing entitlement under an employee incentive scheme, in each case in place prior to the date of this deed, details of which have been Fairly Disclosed on or before 9 December 2011 in the Gloucester Disclosure Materials, any Gloucester Group Member:
  - 13.1 paying any bonus to, or increasing the compensation of, any officer or employee of any Gloucester Group Member;



- 13.2 accelerating the rights of any officer or employee of any Gloucester Group Member to compensation or benefits of any kind (including under any Gloucester executive or employee share plan);
- 13.3 granting to any officer or employee of any Gloucester Group Member any increase in severance or termination pay or superannuation entitlements or issuing any Gloucester Shares or securities convertible to Gloucester Shares to any of those persons; or
- 13.4 establishing, adopting, entering into or amending in any material respect (including by taking any action to accelerate any rights or benefits due under) any enterprise bargaining agreement, Australian workplace agreement, employee benefit plan or superannuation scheme of Gloucester or relating to the officers or employees of any Gloucester Group Member,

where the aggregate incremental cost to the Gloucester Group of all such actions exceeds \$5,000,000, provided that paragraphs 13.1 to 13.4 above will not prevent the entry into any enterprise bargaining agreement, Australian workplace agreement or other similar agreement with a group of Gloucester Group operational employees if that occurs in the ordinary course of business as a result of the fact that existing arrangements of that kind with that group of operational employees will expire before the End Date.

**Disposing of subsidiaries etc**

14. Gloucester or a Gloucester Group member disposes, or agrees to dispose, of shares in a subsidiary for a consideration or with a value in excess of \$20 million, or any Gloucester Group Member is deregistered or dissolved.

## Part 2

**Changes to accounting methods**

15. Any Gloucester Group Member making a change in its accounting methods, principles or practices which would materially affect the reported consolidated assets, liabilities or results of operations of any Gloucester Group Member, other than as required to comply with any changes to generally accepted accounting principles, standards, guidelines or practices in the jurisdiction of the relevant entity's incorporation.

**Related party transactions**

16. A Gloucester Group Member entering into or resolving to enter into a transaction with any related party of Gloucester (other than a related party which is a Gloucester Group Member) as defined in section 228 of the Corporations Act which would require shareholder approval under Chapter 2E or under Chapter 10 of the ASX Listing Rules.

**Changes to arrangements with financial advisers**

17. A Gloucester Group Member amending in any material respect any arrangement with its financial advisor, or entering into arrangements with a new financial advisor which arrangements with any such new financial advisor may involve the payment of fees of in excess of \$500,000 (individually or in aggregate), in respect of the Transaction.

**Tax deconsolidation**

18. A Gloucester Group Member doing anything that would result in a de-consolidation of the Gloucester Consolidated Tax Group, other than acquiring or disposing of a wholly owned subsidiary (subject always to the other provisions of this deed).

**Transactions requiring consultation**

19. A Gloucester Group Member:
- 19.1 enters into, varies in a material respect or terminates any agreement or arrangement where the agreement or arrangement concerned involves an amount (including any payment, incurring of expenditure or foregoing of revenue) or assets or liabilities to the value, of more than \$10 million (per annum, in any case involving recurring payments); or
  - 19.2 waives a default or accepts a compromise, where the waiver or compromise involves an amount of more than \$10 million (per annum, in any case involving recurring payments),
- without Gloucester having consulted first with Bidder in respect of such event (and for the purposes of the foregoing a number of separate transactions shall be treated as a single transaction if they are with the same or associated parties or if a reasonable person would otherwise consider them to be related).



## Part B – Bidder Prescribed Occurrence

Other than as approved by the board of an Bidder Group Member on or before the date of this deed or necessary for the Bidder to refinance approximately \$1 billion that may become repayable under its bank facilities between the date of this deed and the Implementation Date, the occurrence of any of the following between the date of this deed and the Implementation Date:

## Part 1

**Changes to capital structure, distributions**

1. The Bidder converts all or any of its shares into a larger or smaller number of shares other than as provided in clause 5.3(j) of this deed.
2. Any Bidder Group Member (other than a direct or indirect wholly-owned subsidiary of the Bidder) resolves to reduce its share capital in any way or reclassify, combine, split, redeem or repurchase directly or indirectly any of its shares.
3. Any Bidder Group Member (other than a direct or indirect wholly-owned subsidiary of the Bidder):
  - 3.1 enters into a buy-back agreement; or
  - 3.2 resolves to approve the terms of a buy-back agreement under the Corporations Act.
4. Any Bidder Group Member (other than a direct or indirect wholly-owned subsidiary of the Bidder) declares, pays or distributes any dividend, bonus or other share of its profits or assets or agrees to return any capital to its members.
5. Any Bidder Group Member issues, agrees to issue or incurs any obligation (including any contingent obligation) to issue or have transferred to any person securities in or of it or any other Bidder Group Member, other than to the Bidder or a direct or indirect wholly-owned subsidiary of the Bidder.
6. Any Bidder Group Member issues or grants, agrees to issue or grant or incurs any obligation (including any contingent obligation) to issue, grant or have transferred to any person:
  - 6.1 options over shares or other securities convertible into shares in or of it or any other Bidder Group Member; or
  - 6.2 any debt securities (including any performance rights or options).

**Entering into, varying or terminating agreements**

7. A Bidder Group Member enters into, varies in a material respect or terminates any of the following, other than in the ordinary course of business to the extent necessary prior to the Implementation Date for the proper conduct of the business of the relevant Bidder Group Member:
  - 7.1 an agreement with respect to derivative instruments (including swaps, futures contracts, forward commitments, commodity or currency derivatives or options) or similar instruments;
  - 7.2 a joint venture, partnership or similar arrangement;
  - 7.3 an off-take, coal sales or marketing arrangement in relation to the production of any Bidder Group Member;
  - 7.4 an agreement or understanding restraining any Bidder Group Member from competing with any person or conducting activities in any market;

- 7.5 an agreement or understanding in respect of Finance Debt (other than an agreement, arrangement or understanding of the type referred to in item 7.1); or
  - 7.6 a Material Agreement (other than an agreement, arrangement or understanding of the type referred to in item 7.1 to 7.5 inclusive).
8. A Bidder Group Member enters into, varies in a material respect or terminates any agreement or arrangement (other than an agreement, arrangement or understanding of the type referred to in item 7.1 to 7.6 inclusive) where the agreement or arrangement concerned involves an amount (including any payment, incurring of expenditure or foregoing of revenue) or assets or liabilities to the value, of more than \$40 million (per annum, in any case involving recurring payments), other than in the ordinary course of business, or waives a default or accepts a compromise, where the waiver or compromise involves an amount of more than \$40 million (per annum, in any case involving recurring payments) (and for the purposes of the foregoing a number of separate transactions shall be treated as a single transaction if they are with the same or associated parties or if a reasonable person would otherwise consider them to be related).

**Borrowing or lending other than in the ordinary course**

9. A Bidder Group Member incurs or makes available any Finance Debt other than in the ordinary course of business.

**Encumbering assets**

10. A Bidder Group Member creates, or agrees to create, any mortgage, charge, lien or other encumbrance over the whole, or substantially all, of its business or property, other than by operation of law in the ordinary course of business.

**Insolvency Events**

11. A Bidder Group Member suffers an Insolvency Event or (without limitation) becomes unable to pay its debts as and when due.

**Changes to the nature of business**

12. A Bidder Group Member ceases, or threatens to cease, to carry on its business or makes a material change to the nature of its business.

**Varying or granting employee benefits**

13. Except as specifically provided for in an existing employment contract or in an existing entitlement under an employee incentive scheme, in each case in place prior to the date of this deed, details of which have been Fairly Disclosed on or before 9 December 2011 in the Bidder Disclosure Materials, any Bidder Group Member:
- 13.1 paying any bonus to, or increasing the compensation of, any officer or employee of any Bidder Group Member;
  - 13.2 accelerating the rights of any officer or employee of any Bidder Group Member to compensation or benefits of any kind (including under any executive or employee share plan);
  - 13.3 granting to any officer or employee of any Bidder Group Member any increase in severance or termination pay or superannuation entitlements or issuing any shares in the Bidder or securities convertible to shares in the Bidder to any of those persons; or
  - 13.4 establishing, adopting, entering into or amending in any material respect (including by taking any action to accelerate any rights or benefits due under) any enterprise bargaining agreement, Australian workplace agreement, employee benefit plan or superannuation scheme of the Bidder Group or relating to the officers or employees of any Bidder Group Member, where the aggregate incremental cost to the Bidder Group of all such actions exceeds \$5,000,000, provided that paragraphs 13.1 to 13.4 above will not prevent the entry into any enterprise bargaining agreement, Australian workplace agreement or other similar agreement with a group of Bidder Group operational employees if that occurs in the ordinary course of business as a result of the fact that existing arrangements of that kind with that group of operational employees will expire before the End Date.

**Disposing of subsidiaries etc**

14. A Bidder Group Member disposes, or agrees to dispose, of shares in a subsidiary for a consideration or with a value in excess of \$60 million, or any Bidder Group Member is deregistered or dissolved.

## Part 2

**Changes to accounting methods**

15. Any Bidder Group Member making a change in its accounting methods, principles or practices which would materially affect the reported consolidated assets, liabilities or results of operations of any Bidder Group Member, other than as required to comply with any changes to generally accepted accounting principles, standards, guidelines or practices in the jurisdiction of the relevant entity's incorporation.

**Changes to arrangements with financial advisers**

16. A Bidder Group Member amending in any material respect any arrangement with its financial advisor, or entering into arrangements with a new financial advisor which arrangements with any such new financial advisor may involve the payment of fees of in excess of \$500,000 (individually or in aggregate), in respect of the Transaction

**Tax deconsolidation**

17. A Bidder Group Member doing anything that would result in a de-consolidation of the Bidder Consolidated Tax Group, other than acquiring or disposing of a wholly owned subsidiary (subject always to the other provisions of this deed).

**Transactions requiring consultation**

18. A Bidder Group Member:
- 18.1 enters into, varies in a material respect or terminates any agreement or arrangement where the agreement or arrangement concerned involves an amount (including any payment, incurring of expenditure or foregoing of revenue) or assets or liabilities to the value, of more than \$20 million (per annum, in any case involving recurring payments); or
  - 18.2 waives a default or accepts a compromise, where the waiver or compromise involves an amount of more than \$20 million (per annum, in any case involving recurring payments),
- without Yanzhou having first consulted Gloucester in respect of such event (and for the purposes of the foregoing a number of separate transactions shall be treated as a single transaction if they are with the same or associated parties or if a reasonable person would otherwise consider them to be related).

Part A Gloucester Material Agreements

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Redacted under Australian Law

Redacted under Australian Law



Enforcement Share Terms

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Redacted under Australian Law

Option cancellation consideration

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Redacted under Australian Law

CVR Share terms

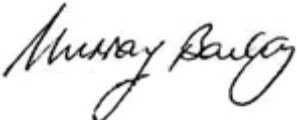
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Redacted under Australian Law

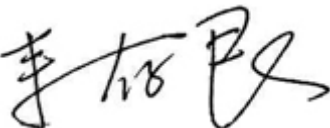
Executed as a deed

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Executed as a deed in accordance with section 127  
of the *Corporations Act 2001* by  
**Yancoal Australia Limited**

*sign here* ▶   
\_\_\_\_\_  
Director

*print name* MURRAY BAILEY

*sign here* ▶   
\_\_\_\_\_  
Director

*print name* CUN LIANG LAI

---

Executed as a deed in accordance with section 127  
of the *Corporations Act 2001* by  
**Gloucester Coal Limited**

*sign here* ▶ \_\_\_\_\_  
Company Secretary/Director

*print name* \_\_\_\_\_

*sign here* ▶ \_\_\_\_\_  
Director

*print name* \_\_\_\_\_

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Executed as a deed

---

Executed as a deed in accordance with section 127  
of the *Corporations Act 2001* by  
**Yancoal Australia Limited**

sign here ▶ \_\_\_\_\_  
Company Secretary/Director


print name \_\_\_\_\_

sign here ▶ \_\_\_\_\_  
Director

print name \_\_\_\_\_

---

Executed as a deed in accordance with section 127  
of the *Corporations Act 2001* by  
**Gloucester Coal Limited**

sign here ▶   
Company Secretary/Director

print name J.A.C. MACKENZIE

sign here ▶   
Director

print name BRENDAN MYOMERSON

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Freehills

Signed, sealed and delivered as a deed on behalf of  
**Yanzhou Coal Mining Company Limited** by



sign here ▶ \_\_\_\_\_

print name WU YU XIANG

Legal Representative / Authorised Representative



sign here ▶ \_\_\_\_\_

print name ZHANG BAO CAI

Witness

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Form of Scheme

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Scheme of Arrangement under Part 5.1 of the Corporations Act

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# Freehills

Annexure A  
Form of Scheme

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Date ►  
Between

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Gloucester

**Gloucester Coal Ltd**

ABN 66 008 881 712 of Level 7, 167 Macquarie Street Sydney NSW,  
Australia

**(Gloucester)**

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holders of ordinary shares in Gloucester at the Scheme Record Date  
(other than Excluded Shareholders)

## 1 Definitions and interpretation

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### 1.1 Definitions

The meanings of the terms used in this Scheme are set out below.

<b>Term</b>	<b>Meaning</b>
<b>ASIC</b>	the Australian Securities and Investments Commission.
<b>ASX</b>	ASX Limited (ABN 98 008 624 691) or, as the context requires, the financial market known as the Australian Securities Exchange operated by it.
<b>Bidder</b>	Yancoal Australia Limited (ABN 82 111 859 119), of Level 11, 68 York Street, Sydney, New South Wales, Australia.
<b>Bidder Share</b>	a fully paid ordinary share in the capital of Bidder.
<b>Bidder Sub</b>	a direct or indirect wholly owned subsidiary of Bidder, nominated in writing by Bidder to Gloucester, or if such a subsidiary is not nominated by Bidder then a reference to Bidder Sub is a reference to Bidder.
<b>Bidder Group</b>	Bidder and each of its subsidiaries (excluding, at any time, Gloucester and its subsidiaries to the extent that Gloucester and its subsidiaries are subsidiaries of Bidder at that time). A reference to <i>a member of the Bidder Group</i> is a reference to Bidder or any such subsidiary
<b>Business Day</b>	a business day as defined in the ASX Listing Rules.
<b>CHESS</b>	the clearing house electronic subregister system of share transfers operated by ASX Settlement Pty Limited (ABN 49 008 504 532).
<b>CHESS Holding</b>	has the meaning given in the Settlement Rules
<b>Capital Reduction</b>	The proposed equal reduction of the share capital of Gloucester under Part 2J.1 of the Corporations Act, as contemplated by the Merger Proposal Deed.
<b>Corporations Act</b>	the <i>Corporations Act 2001</i> (Cth).

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<b>Term</b>	<b>Meaning</b>
<b>Court</b>	the Federal Court of Australia or such other court of competent jurisdiction under the Corporations Act agreed to in writing between the parties.
<b>CVR Share</b>	a Contingent Value Right Redeemable Preference Share in the capital of Bidder, to be issued to Scheme Shareholders substantially on the terms summarised in Schedule 7 to the Merger Proposal Deed (or such other terms agreed to in writing between the parties).
<b>Deed Poll</b>	the deed poll dated [*] 2012 executed by Bidder under which Bidder covenants in favour of the Scheme Shareholders to perform the actions attributed to it under this Scheme and the Merger Proposal Deed.
<b>Effective</b>	the coming into effect under section 411(10) of the Corporations Act of the order of the Court made under section 411(4)(b) of the Corporations Act in relation to this Scheme.
<b>Effective Date</b>	the date on which this Scheme becomes Effective.
<b>Election Date</b>	5.00pm on the date which is two Business Days before the Scheme Meeting (or such other date and time as Gloucester and Bidder agree in writing), being the last time and date by which Scrip Election Forms may be lodged.
<b>Election Form</b>	the form made available by Gloucester to Gloucester Shareholders to make an election of the kind referred to in clause 5.2 (which Electing Small Shareholders can also use to make the election referred to in clause 5.4), or any other form which Gloucester and Bidder agree in writing to accept for that purpose.
<b>Electing Small Shareholder</b>	a Small Shareholder who validly elects to have the Bidder Shares and CVR Shares to which he or she is otherwise entitled sold in accordance with clause 5.4.
<b>End Date</b>	the 'End Date' determined in accordance with the Merger Proposal Deed.
<b>Excluded Shareholder</b>	any Gloucester Shareholder who is a member of the Bidder Group or any other Gloucester Shareholder to the extent it holds Gloucester Shares on behalf of, or for the benefit of, any member of the Bidder Group.
<b>Foreign Scheme Shareholder</b>	a Scheme Shareholder who comes within the definition of 'Foreign Scheme Shareholder' in the Merger Proposal Deed.

<b>Term</b>	<b>Meaning</b>
<b>Gloucester Registry</b>	Computershare Investor Services Pty Ltd ACN 078 279 277 or any replacement provider of share registry services to Gloucester.
<b>Gloucester Share</b>	a fully paid ordinary share in the capital of Gloucester.
<b>Gloucester Shareholder</b>	each person who is registered as the holder of Gloucester Shares from time to time.
<b>Gloucester Share Register</b>	the register of members of Gloucester maintained in accordance with the Corporations Act.
<b>Implementation Date</b>	the fifth Business Day after the Scheme Record Date or such other date agreed to in writing between Gloucester and Bidder.
<b>Issuer Sponsored Holding</b>	has the meaning given in the Settlement Rules.
<b>Merger Proposal Deed</b>	the Merger Proposal Deed dated [*] 2011 between Bidder, Yanzhou Coal Mining Company Limited and Gloucester.
<b>Registered Address</b>	in relation to a Gloucester Shareholder, the address shown in the Gloucester Share Register as at the Scheme Record Date.
<b>Regulatory Authority</b>	(a) any government or governmental, semi-governmental, administrative, monetary, fiscal or judicial body, tribunal, agency or entity; (b) a minister, department, office, commission, delegate, instrumentality, agency, board, authority or organisation of any government; or (c) any regulatory organisation established under statute, in any part of the world, and whether foreign, federal, state, territorial or local.
<b>Sale Agent</b>	a person appointed by Bidder, in consultation with Gloucester, to sell the Sale Securities pursuant to clauses 5.3(b) and 5.4.

<b>Term</b>	<b>Meaning</b>
<b>Sale Proceeds</b>	the gross proceeds of sale of the Sale Securities under clauses 5.2(b) and 5.4, less any applicable taxes and charges incurred by Bidder or the Sale Nominee in connection with the sale.
<b>Sale Securities</b>	the Bidder Shares and CVR Shares to which Foreign Scheme Shareholders and Electing Small Shareholders would have been entitled under this Scheme but for the operation of clause 5.6.
<b>Scheme Consideration</b>	<p>in respect of a Scheme Shareholder, means:</p> <p>(a) if the Scheme Shareholder <i>is not a Foreign Scheme Shareholder</i> and <i>has not made a valid election</i> on or before the Election Date as referred to in clause 5.2, a number of Bidder Shares and CVR Shares per Scheme Share equal to the number of Bidder Shares and CVR Shares which that Scheme Shareholder would have been entitled to receive had it validly elected to receive ‘Bidder Shares plus CVR Shares’;</p> <p>(b) if the Scheme Shareholder <i>is not a Foreign Scheme Shareholder</i> and <i>has made a valid election</i> on or before the Election Date as referred to in clause 5.2:</p> <p>(1) if the Scheme Shareholder has validly elected to receive ‘All Bidder Shares’ – one Bidder Share per Scheme Share;</p> <p>(2) if the Scheme Shareholder has validly elected to receive ‘Bidder Shares plus CVR Shares’:</p> <p>(A) if ‘Bidder Shares plus CVR Shares’ has been elected in respect of a number of Scheme Shares equal to or less than the total number of Scheme Shares on issue on the Scheme Record Date less 130,000,000 – one Bidder Share and one CVR Share per Scheme Share; or</p> <p>(B) if ‘Bidder Shares plus CVR Shares’ has been elected in respect of a number of Scheme Shares exceeding the total number of Scheme Shares on issue on the Scheme Record Date less 130,000,000:</p> <ul style="list-style-type: none"><li>• one Bidder Share and one CVR Share per Scheme Share, in respect of a number of Scheme Shares calculated as <math>(B/A) \times C</math>, where A = the number of Scheme Shares the subject of valid ‘Bidder Shares plus CVR Shares’ elections plus the number of Scheme Shares which were not the subject of valid elections, B = the total number of Scheme Shares on issue on the Scheme Record Date less 130,000,000 and C = the number of Scheme Shares held by the relevant Scheme Shareholder; plus</li><li>• one Bidder Share per Scheme Share, in respect of the remaining Scheme Shares held by the relevant Scheme Shareholder;</li></ul> <p><b><i>[Note to be retained in draft: The overriding principle is that the total available as Scheme Consideration for the acquisition of all of the securities in Gloucester together with the Gloucester Special Dividend and the Capital Reduction Amount will be 23% (or another percentage arising from the operation of clause 3.9 of the Merger Proposal Deed) of Bidder and \$700 million in cash plus an amount equal to the aggregate exercise price of Gloucester Options that are exercised resulting in the issue of Gloucester Shares prior to the Capital Reduction Record Date.</i></b></p>

<b>Term</b>	<b>Meaning</b>
	<p>(3) if the Scheme Shareholder <i>is an Electing Small Shareholder</i>, a part of the Sale Proceeds determined in accordance with clause 5.6;</p> <p>(c) if the Scheme Shareholder <i>is a Foreign Scheme Shareholder</i> – a part of the Sale Proceeds determined in accordance with clause 5.6,</p> <p>provided that for the purposes of the foregoing the total number of Bidder Shares and CVR Shares issued to a particular Scheme Shareholder in respect of its parcel of Scheme Shares shall be rounded down to the nearest whole Bidder Share and the nearest whole CVR and the total cash amount payable to an Electing Small Shareholder or a Foreign Scheme Shareholder in respect of its parcel of Scheme Shares shall be rounded down to the nearest whole cent.</p>
<b>Scheme</b>	this scheme of arrangement subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and agreed to in writing by Gloucester and Bidder.
<b>Scheme Meeting</b>	the meeting of Gloucester Shareholders (other than Excluded Shareholders) ordered by the Court to be convened under section 411(1) of the Corporations Act.
<b>Scheme Record Date</b>	7pm on the fifth Business Day after the Effective Date or such other time and date agreed to in writing between the Bidder and Gloucester.
<b>Scheme Share</b>	a Gloucester Share held by a Scheme Shareholder at the Scheme Record Date.
<b>Scheme Shareholders</b>	Gloucester Shareholders (other than Excluded Shareholders) at the Scheme Record Date.
<b>Scrip Election</b>	has the meaning given to that term in clause 5.2

<b>Term</b>	<b>Meaning</b>
<b>Second Court Date</b>	the first day on which an application made to the Court for an order under section 411(4) (b) of the Corporations Act approving this Scheme is heard or, if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard.
<b>Settlement Rules</b>	the ASX Settlement Operating Rules
<b>Small Shareholder</b>	a Scheme Shareholder who is shown on the Gloucester Share Register on the Scheme Record Date as holding [100] Scheme Shares or less.
<b>Trust Account</b>	an Australian dollar denominated trust account operated by Gloucester as trustee for the benefit of Scheme Shareholders.

## 1.2 Interpretation

Headings are for convenience only and do not affect interpretation. The following rules apply unless the context requires otherwise.

- (a) The singular includes the plural, and the converse also applies.
- (b) A gender includes all genders.
- (c) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to a person, corporation, trust, partnership, unincorporated body or other entity includes any of them.
- (e) A reference to a clause or schedule is a reference to a clause of or schedule to this deed.
- (f) A reference to an *agreement* or *document* (including a reference to this Scheme) is to the agreement or document as amended, supplemented, novated or replaced, except to the extent prohibited by this deed or that other agreement or document, and includes the recitals, schedules and annexures to that agreement or document.
- (g) A reference to a party to this Scheme or another agreement or document includes the party's successors, permitted substitutes and permitted assigns (and, where applicable, the party's legal personal representatives).
- (h) A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
- (i) A reference to conduct includes an omission, statement or undertaking, whether or not in writing.
- (j) A reference to an *agreement* includes any undertaking, deed, agreement and legally enforceable arrangement, whether or not in writing, and a reference to a *document* includes an agreement (as so defined) in writing and any certificate, notice, instrument and document of any kind.

## Freehills

- (k) A reference to *dollars* and \$ is to Australian currency.
- (l) All references to time are to Sydney, Australia time.
- (m) Mentioning anything after *includes, including, for example,* or similar expressions, does not limit what else might be included.
- (n) A reference to, an *officer* or *subsidiary* is to that term as it is defined in the Corporations Act.

### **1.3 Business Day**

Where the day on or by which any act, matter or thing under this Scheme is to be done is not a Business Day, that act, matter or thing must be done on or by the next Business Day.

### **1.4 Listing requirements included as law**

A listing rule or business rule of a financial market will be regarded as a *law*, and a reference to such a rule is to be taken to be subject to any waiver or exemption granted to the compliance of those rules by a party.

## 2 Preliminary

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### **2.1 Gloucester**

- (a) Gloucester is a public company limited by shares, registered in Western Australia and admitted to the official list of ASX.
- (b) Gloucester Shares are officially quoted on ASX. As at [\*] 2012:
  - (1) [\*] Gloucester Shares were on issue which are officially quoted on ASX;
  - (2) 1,000 Gloucester Converting Shares were on issue which are not quoted on any financial market; and
  - (3) [\*] Gloucester Options were on issue which are not quoted on any financial market.

### **2.2 Bidder**

Bidder is an unlisted public company limited by shares incorporated in Victoria.

### **2.3 Consequence of this Scheme becoming Effective**

If this Scheme becomes Effective:

- (a) Bidder will apply (unless it has already applied) for admission to the official list of ASX and for all Bidder Shares to be quoted on ASX;
- (b) Bidder will provide or procure the provision of the Scheme Consideration to Scheme Shareholders in accordance with this Scheme and the Deed Poll; and
- (c) all the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares, will be transferred to Bidder Sub, and Gloucester will enter Bidder Sub in the Gloucester Share Register as the holder of the Scheme Shares with the result that Gloucester will become a wholly-owned subsidiary of Bidder Sub.



## **2.4 General**

- (a) Gloucester and Bidder have agreed, by executing and undertaking the subsequent steps provided in, the Merger Proposal Deed, to implement this Scheme.
- (b) This Scheme attributes actions to Bidder but does not itself impose an obligation on it to perform those actions. Bidder has agreed, by executing the Deed Poll, to perform the actions attributed to it under this Scheme, including the providing or procuring the provision of the Scheme Consideration to the Scheme Shareholders.

## **3 Conditions**

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- (a) This Scheme is conditional on, and will have no force or effect until, the satisfaction of each of the following conditions precedent:
  - (1) all the conditions precedent in clause 3.1 of the Merger Proposal Deed (other than the condition in clause [3.1(j)]) having been satisfied or waived in accordance with the terms of the Merger Proposal Deed by 8.00am on the Second Court Date;
  - (2) neither the Merger Proposal Deed nor the Deed Poll having been terminated in accordance with their terms before 8.00am on the Second Court Date;
  - (3) approval of this Scheme by the Court under section 411(4)(b) of the Corporations Act, including with any alterations made or required by the Court under section 411(6) of the Corporations Act as are agreed to in writing by Bidder and Gloucester; and
  - (4) such other conditions imposed by the Court under section 411(6) of the Corporations Act, as are acceptable to the parties, having been satisfied.
- (b) The satisfaction of the conditions referred to in clause 3(a) is a condition precedent to the operation of clauses 4 and 5.
- (c) This Scheme will lapse and be of no further force or effect if:
  - (1) the Effective Date does not occur on or before the End Date or any later date as the Court, with the consent of the parties, may order; or
  - (2) the Merger Proposal Deed is terminated before implementation of this Scheme on the Implementation Date.

## **4 Implementation**

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### **4.1 Lodgement of Court orders**

Gloucester must lodge with ASIC office copies of any Court orders under section 411 of the Corporations Act approving this Scheme no later than by 5pm on the [tenth] Business Day after the Court approves this Scheme.

## 4.2 Transfer of Scheme Shares

On the Implementation Date:

- (a) subject to the provision of the Scheme Consideration in the manner contemplated by clause 5, the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares at the Implementation Date, will be transferred to Bidder Sub, without the need for any further act by any Scheme Shareholder (other than acts performed by Gloucester or its officers as agent and attorney of the Scheme Shareholders under clause 8.5 or otherwise) by:
  - (1) Gloucester delivering to Bidder a duly completed and executed share transfer form to transfer all the Scheme Shares to Bidder Sub; and
  - (2) Bidder Sub duly executing such transfer form and delivering it to Gloucester for registration; and
- (b) immediately after receipt of the transfer form in accordance with paragraph 4.2(a)(2), Gloucester must enter, or procure the entry of, the name of Bidder Sub in the Gloucester Share Register in respect of the Scheme Shares.

## 5 Scheme Consideration

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### 5.1 Amount of Scheme Consideration

Each Scheme Shareholder is entitled to receive the Scheme Consideration.

### 5.2 Election procedure

- (a) Each Gloucester Shareholder will be entitled to elect to receive the form of Scheme Consideration provided for under clause 5.2(b) (**Scrip Election**). All Scrip Elections will take effect in accordance with this Scheme to the extent that any Gloucester Shareholders who makes a Scrip Election qualifies as a Scheme Shareholder.
- (b) A Gloucester Shareholder may elect to receive one of the combinations of consideration referred to in paragraphs (b)(1) ('All Bidder Shares') or (2) ('Bidder Shares plus CVR Shares') of the definition of 'Scheme Consideration', by completing an Election Form and returning it to the address specified in the Election Form so that it is received on or before the Election Date.
- (c) A Gloucester Shareholder which has made a Scrip Election may vary, withdraw or revoke that election by lodging a replacement Election Form so that it is received on or before the Election Date.
- (d) A Scrip Election must be made in accordance with the terms and conditions of the Election Form and this clause 5.2, and a Scrip Election not so made will not be a valid election for the purpose of this Scheme and will not be recognised by Bidder, Bidder Sub or Gloucester for any purpose (provided that Bidder may, with the agreement of Gloucester, waive this requirement and may, with the agreement of Gloucester, settle as it thinks fit any difficulty, matter of interpretation or dispute which may arise in connection with determining the validity of any Scrip Election, and any such decision will be conclusive and binding on Bidder, Bidder Sub, Gloucester and the relevant Scheme Shareholder).
- (e) Clause 5.3 will apply to any Gloucester Shareholder who makes a Scrip Election but who qualifies as a Foreign Scheme Shareholder.
- (f) Subject to clause 5.2(g), if a Gloucester Shareholder makes a Scrip Election, that election will be deemed to apply in respect of the Gloucester Shareholder's entire registered holding of Gloucester Shares at the Scheme Record Date, regardless of whether the Gloucester Shareholder's holding of Gloucester Shares at the Scheme Record Date is greater or less than the Gloucester Shareholder's holding at the time it made its Scrip Election.

- (g) A Gloucester Shareholder who is noted on the Gloucester Share Register as holding one or more parcels of Gloucester Shares as trustee or nominee for, or otherwise on account of, another person, may make separate elections under this clause 5.2 in relation to each of those parcels of Gloucester Shares (subject to it providing to Bidder and Gloucester any substantiating information they reasonably require), and if it does so it will be treated as a separate Gloucester Shareholder in respect of each such parcel in respect of which a separate election is made (and in respect of any balance of its holding), provided that if, at the Scheme Record Date, it holds fewer Gloucester Shares than it held at the time it made the election, then, unless it has at the time of any sale of Gloucester Shares notified Gloucester whether the Gloucester Shares sold relate to any such separate election (and if so which separate election the Gloucester Shares sold relate to), it will be treated as not having made a valid election in respect of any of its Gloucester Shares (or in any other manner that Bidder and Gloucester agree is fair in the circumstances).

### **5.3 Foreign Scheme Shareholders**

- (a) Bidder will be under no obligation to issue, and must not issue, any Bidder Shares or CVR Shares under this Scheme to Foreign Scheme Shareholders.
- (b) Instead, Bidder must procure that:
  - (1) the Sale Securities are issued by Bidder to the Sale Agent on the Implementation Date (rounded down, if necessary, to the nearest whole number);
  - (2) as soon as practicable and, in any event, not more than [15 Business Days] after the Implementation Date, the Sale Agent sells the Sale Securities in such manner, at such price or prices and on such other terms as the Sale Agent determines in good faith; and
  - (3) promptly after the last sale of Sale Shares in accordance with clause 5.3(b)(2), the Sale Agent pays the Sale Proceeds into the Trust Account (for payment by Gloucester to the Foreign Scheme Shareholders and the Electing Small Shareholders in accordance with sub-clauses 5.6(c) to (g) inclusive of this Scheme).
- (c) None of Bidder, Gloucester or the Sale Agent gives any assurance as to the price that will be achieved for the sale of Sale Securities by the Sale Agent. The sale of Sale Securities by the Sale Agent will be at the risk of the Foreign Scheme Shareholders.
- (d) Each Foreign Scheme Shareholder appoints Gloucester as its agent to receive on its behalf any financial services guide or other notices (including any updates of those documents) that the Sale Agent is required to provide to Foreign Scheme Shareholders under the Corporations Act.

### **5.4 Small Shareholder Facility**

- (a) A Small Shareholder may, subject to the terms of this Scheme, elect to have the Bidder Shares that they would otherwise receive under this Scheme sold in accordance with the provisions of this clause 5.4 by completing an Election Form so that it is received before the Election Date.
- (b) The Bidder Shares to which an Electing Small Shareholder would otherwise have become entitled will be issued to the Sale Agent and Bidder will procure that the Sale Agent sells those Bidder Shares for the benefit of the Electing Small Shareholders and pay to the Electing Small Shareholder as soon as reasonably practicable the proceeds calculated in a manner consistent with and otherwise in accordance with clauses 5.3(b) to (d) inclusive and 5.6(c) to (g) inclusive, with appropriate contextual modifications.

**5.5 Joint holders**

In the case of Scheme Shares held in joint names:

- (a) any Bidder Shares and CVR Shares comprised in the Scheme Consideration are to be issued to and registered in the names of the joint holders;
- (b) any cheque required to be sent under this Scheme will be made payable to the joint holders and sent to the holder whose name appears first in the Gloucester Share Register as at the Scheme Record Date; and
- (c) any other document required to be sent under this Scheme, will be forwarded to the holder whose name appears first in the Gloucester Share Register as at the Scheme Record Date.

**5.6 Provision of Scheme Consideration**

- (a) Bidder must (pursuant to its obligations under the Deed Poll) before [5.00pm] on the Implementation Date:
  - (1) procure that the name of each Scheme Shareholder entitled to receive Bidder Shares or CVR Shares under this Scheme is entered in Bidder's register of members as the holder of those Bidder Shares or CVR Shares (in holdings having the same holding name and address and other details as the holding of the relevant Scheme Shares, and in CHESS Holdings if the relevant Scheme Shares were held in the CHESS Holdings and in Issuer Sponsored Holdings if the relevant Scheme Shares were held in Issuer Sponsored Holdings); and
  - (2) procure that the name of the Sale Agent is entered in Bidder's register of members as the holder of the Sale Securities (with such holding details as the Sale Agent notifies).
- (b) On or before the date that is five Business Days after the Implementation Date, Bidder must send or procure the sending of an allotment advice or holding statement (or equivalent document) to each Scheme Shareholder entitled to receive Bidder Shares and CVR Shares under this Scheme, reflecting the issue of such Bidder Shares and CVR Shares in accordance with clause 5.6(a)(2).
- (c) As soon as practicable following payment into the Trust Account of the Sale Proceeds, Gloucester must pay from the Trust Account to each Foreign Scheme Shareholder and each Electing Small Shareholder such amount of cash as is due to that Scheme Shareholder as Scheme Consideration in respect of their Scheme Shares, being in the case of each such person the amount they would have received had they:
  - (1) received the Bidder Shares and CVR Shares to which they would have been entitled under this Scheme but for the operation of clauses 5.3 and 5.4; and
  - (2) sold them for:
    - (A) in the case of each Bidder Share, an amount per Bidder Share equal to that part of the Sale Proceeds which is attributable to the sale of Bidder Shares divided by the total number of Bidder Shares included in the Sale Securities; and
    - (b) in the case of CVR Sharers, an amount per CVR Share equal to that part of the Sale Proceeds which is attributable to the sale of CVR Shares divided by the total number of CVR Shares included in the Sale Securities,

provided that for the purposes of the foregoing the total cash amount payable to an Electing Small Shareholder or a Foreign Scheme Shareholder in respect of its parcel of Scheme Shares shall be rounded down to the nearest whole cent.

- (d) The amount referred to in clause 5.6(c) must be paid by Gloucester doing any of the following at its election:
  - (1) sending (or procuring the Gloucester Registry to send) it to the Scheme Shareholder's Registered Address by cheque in Australian currency drawn out of the Trust Account; or
  - (2) depositing (or procuring the Gloucester Registry to deposit) it into an account with any Australian ADI (as defined in the Corporations Act) notified to Gloucester (or the Gloucester Registry) by an appropriate authority from the Scheme Shareholders.
- (e) If there is any surplus in the amount held by Gloucester in the Trust Account, that surplus must be paid by Gloucester to Bidder following the satisfaction of Gloucester's obligations under this clause. Any interest on the amounts deposited in the Trust Account (less bank fees and other charges) will be to Bidder's account.
- (f) If any amount is required under any Australian law or by any Australian Regulatory Authority to be:
  - (1) withheld from an amount payable under paragraphs (c) or (e) and paid to that entity or authority; or
  - (2) retained by Gloucester out of an amount payable under paragraphs (c) or (e),its payment or retention by Gloucester (or the Gloucester Registry) will constitute the full discharge of Gloucester's obligations under this clause 5.4 with respect to the amount so paid or retained until, in the case of paragraph (f)(2), it is no longer required to be retained.
- (g) If:
  - (1) written notice is given to Gloucester (or the Gloucester Registry) of an order made by a court of competent jurisdiction that requires payment to a third party of a sum in respect of Scheme Shares held by a particular Scheme Shareholder, which would otherwise be payable to that Scheme Shareholder by Gloucester in accordance with clause 5.6(c), then Gloucester shall be entitled to procure that payment is made in accordance with that order; or
  - (2) written notice is given to Gloucester (or the Gloucester Registry) of an order made by a court of competent jurisdiction that prevents Gloucester from making a payment by Gloucester to any particular Scheme Shareholder in accordance with clause 5.6(c), or such payment is otherwise prohibited by applicable law, Gloucester shall be entitled to retain an amount, in Australian dollars, equal to the number of Scheme Shares held by that Scheme Shareholder multiplied by the Scheme Consideration until such time as payment in accordance with clause 5.6(c) is permitted by that order or otherwise by law.

**5.7 [Fractional entitlements and splitting]**

*[Note to be retained in draft: Anti-manipulation provisions to be included if either party considers there is risk from share splitting or similar conduct.]*

## 5.8 Status of Bidder Shares and CVR Shares

Subject to this Scheme becoming Effective, Bidder must:

- (a) issue the Bidder Shares and CVR Shares required to be issued under this Scheme on terms such that each such Bidder Share will rank equally in all respects with each other Bidder Share and each such CVR Share will rank equally in all respects with each other CVR Share;
- (b) ensure that each Bidder Share and CVR Share required to be issued under this Scheme is duly issued and is fully paid and free from any mortgage, charge, lien, encumbrance or other security interest (except for any lien arising under the constitution of Bidder); and
- (c) use all reasonable endeavours to ensure that such Bidder Shares and CVR Shares are approved for listing on the ASX and that quotation of them on ASX commences as soon as practicable after the Effective Date, initially on a deferred settlement basis and thereafter on a ordinary (T+3) settlement basis.

## 6 Dealings in Gloucester Shares

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### 6.1 Determination of Scheme Shareholders

To establish the identity of the Scheme Shareholders, dealings in Gloucester Shares will only be recognised if:

- (a) in the case of dealings of the type to be effected using CHESS, the transferee is registered in the Gloucester Share Register as the holder of the relevant Gloucester Shares on or before the Scheme Record Date; and
- (b) in all other cases, registrable transmission applications or transfers in respect of those dealings are received on or before the Scheme Record Date at the place where the Gloucester Share Register is kept,

and Gloucester will not accept for registration, nor recognise for any purpose (except a transfer to Bidder pursuant to this Scheme and any subsequent transfer by Bidder or its successors in title), any transfer or transmission application or other request received after such times, or received prior to such times but not in registrable or actionable form, as appropriate.

### 6.2 Register

- (a) **(Registration of transfers)** Gloucester must register registrable transmission applications or transfers of the kind referred to in clause 6.1(b) on the Scheme Record Date (provided that for the avoidance of doubt nothing in this clause 6.2 requires Gloucester to register a transfer that would result in a Gloucester Shareholder holding a parcel of Gloucester Shares that is less than a 'marketable parcel' (as defined in the Settlement Rules).
- (b) **(No registration after Scheme Record Date)** Gloucester will not accept for registration or recognise for any purpose any transmission application or transfer in respect of Gloucester Shares received after the Scheme Record Date, other than to Bidder Sub in accordance with this Scheme.
- (c) **(Maintenance of Gloucester Share Register)** For the purpose of determining entitlements to the Scheme Consideration, Gloucester must maintain the Gloucester Share Register in accordance with the provisions of this clause until the Scheme Consideration has been delivered to the Scheme Shareholders. The Gloucester Share Register in this form will solely determine entitlements to the Scheme Consideration.

- (d) **(No disposal after Scheme Record Date)** From the Scheme Record Date until registration of Bidder Sub in respect of all Scheme Shares under clause 4, no Gloucester Shareholder may dispose or otherwise deal with Gloucester Shares in any way except as set out in this Scheme and any attempt to do so will have no effect and Gloucester shall be entitled to disregard any such disposal.
- (e) **(Statements of holding from Scheme Record Date)** All statements of holding for Gloucester Shares will cease to have effect from the Scheme Record Date as documents of title in respect of those shares (other than statements of holding in favour of any Excluded Shareholders). As from the Scheme Record Date, each entry current at that date on the Gloucester Share Register (other than entries in respect of any Excluded Shareholder) will cease to have effect except as evidence of entitlement to the Scheme Consideration in respect of the Gloucester Shares relating to that entry.
- (f) **(Provision of Scheme Shareholder details)** As soon as practicable after the Scheme Record Date and in any event at least two Business Days before the Implementation Date, Gloucester will ensure that details of the names, Registered Addresses and holdings of Gloucester Shares for each Scheme Shareholder are available to Bidder in the form Bidder reasonably requires.

### 7 Quotation of Gloucester Shares

---

- (a) Gloucester will apply to ASX to suspend trading on the ASX in Gloucester Shares with effect from the close of trading on the Effective Date.
- (b) On a date after the Implementation Date to be determined by Bidder, and only after the transfer of the Scheme Shares has been registered in accordance with clause 4.2(b), Gloucester will apply:
  - (1) for termination of the official quotation of Gloucester Shares on ASX; and
  - (2) to have itself removed from the official list of ASX.

### 8 General Scheme Provisions

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#### 8.1 Consent

If the Court proposes to approve this Scheme subject to any alterations or conditions:

- (a) Gloucester may, by its counsel or solicitors, consent on behalf of all persons concerned to those alterations or conditions to which Bidder has consented in writing.
- (b) each Scheme Shareholder agrees to any such alterations or conditions to which counsel for Gloucester has consented.

#### 8.2 Binding effect of Scheme

This Scheme binds Gloucester and all Scheme Shareholders (including those who did not attend the Scheme Meeting, those who did not vote at that meeting, or voted against this Scheme at that meeting) and, to the extent of any inconsistency, overrides the constitution of Gloucester.

**8.3 Scheme Shareholders' agreements and acknowledgment**

Each Scheme Shareholder:

- (a) agrees to the transfer of their Gloucester Shares together with all rights and entitlements attaching to those Gloucester Shares in accordance with this Scheme;
- (b) agrees to the variation, cancellation or modification of the rights attached to their Gloucester Shares constituted by or resulting from this Scheme or the Capital Reduction;
- (c) who holds their Gloucester Shares in a CHESS Holding agrees to the Conversion of those Gloucester Shares to an Issuer Sponsored Holding and irrevocably authorises Gloucester to do anything necessary or expedient (whether required by the Settlement Rules or otherwise) to effect or facilitate such Conversion;
- (d) agrees to become a shareholder in Bidder and to be bound by the constitution of Bidder; and
- (e) acknowledges that this Scheme binds Gloucester and all Scheme Shareholders (including those who do not attend the Scheme Meeting or do not vote at that meeting or vote against this Scheme at that Scheme Meeting).

**8.4 Warranties by Scheme Shareholders**

Each Scheme Shareholder is deemed to have warranted to Gloucester, in its own right and for the benefit of Bidder that:

- (a) all of its Gloucester Shares which are transferred to Bidder under this Scheme will, on the date on which they are transferred to Bidder, be free from all mortgages, charges, liens, encumbrances, pledges, security interests and interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind;
- (b) all of its Gloucester Shares which are transferred to Bidder under this Scheme will, on the date on which they are transferred to Bidder, be fully paid; and
- (c) it has full power and capacity to transfer its Gloucester Shares to Bidder together with any rights attaching to those shares

**8.5 Title to and rights in Scheme Shares**

- (a) To the extent permitted by law, the Scheme Shares transferred under this Scheme will be transferred free from all mortgages, charges, liens, encumbrances and interests of third parties of any kind, whether legal or otherwise.
- (b) On and from the Implementation Date, Bidder Sub will be beneficially entitled to the Scheme Shares transferred to it under this Scheme pending registration by Gloucester of Bidder Sub in the Gloucester Share Register as the holder of the Scheme Shares.

**8.6 Authority given to Gloucester**

- (a) Scheme Shareholders will be deemed to have authorised Gloucester to do and execute all acts, matters, things and documents on the part of each Scheme Shareholder necessary for or incidental to the implementation of this Scheme, including executing, as agent and attorney of each Scheme Shareholder, a share transfer or transfers in relation to Scheme Shares as contemplated by clause 4.2.



- (b) Each Scheme Shareholder, without the need for any further act, irrevocably appoints Gloucester and all of its directors, secretaries and officers (jointly and severally) as its attorney and agent for the purpose of executing any document necessary to give effect to this Scheme including, a proper instrument of transfer of its Scheme Shares for the purposes of section 1071B of the Corporations Act which may be a master transfer of all the Scheme Shares.

### **8.7 Appointment of sole proxy**

On and from the Implementation Date and until Gloucester registers Bidder Sub as the holder of all Gloucester Shares in the Gloucester Share Register, each Scheme Shareholder:

- (a) is deemed to have irrevocably appointed Bidder Sub as its attorney and agent (and directed Bidder Sub in such capacity) to appoint an officer or agent nominated by Bidder Sub as its sole proxy and, where applicable, corporate representative to attend shareholders meetings of Gloucester, exercise the votes attaching to the Scheme Shares registered in its name and sign any Gloucester Shareholders resolutions,
- (b) undertakes not to otherwise attend shareholders' meetings, exercise the votes attaching to Scheme Shares registered in their names or sign or vote on any resolutions (whether in person, by proxy or by corporate representative) other than as pursuant to clause 8.7(a);
- (c) must take all other actions in the capacity of a registered holder of Scheme Shares as Bidder Sub reasonably directs; and
- (d) acknowledges and agrees that in exercising the powers referred to in clause 8.7(a), Bidder and any officer or agent nominated by Bidder under clause 8.7(a) may act in the best interests of Bidder as the intended registered holder of the Scheme Shares.

### **8.8 Instructions and elections**

If not prohibited by law (and including where permitted or facilitated by relief granted by a Regulatory Authority), all instructions, notifications or elections by a Scheme Shareholder to Gloucester binding or deemed binding between the Scheme Shareholder and Gloucester relating to Gloucester or Gloucester Shares (including any email addresses, instructions relating to communications from Gloucester, whether dividends are to be paid by cheque or into a specific bank account, notices of meetings or other communications from Gloucester) will be deemed from the Implementation Date (except to the extent determined otherwise by Bidder in its sole discretion), by reason of this Scheme, to be made by the Scheme Shareholder to Bidder and to be a binding instruction, notification or election to, and accepted by, Bidder in respect of the New Bidder Shares issued to that Scheme Shareholder until that instruction, notification or election is revoked or amended in writing addressed to Bidder at its registry.

## 9 General

---

### **9.1 Stamp duty**

Bidder must (pursuant to its obligations under the Deed Poll) pay all stamp duty payable in connection with the transfer of the Scheme Shares to Bidder Sub.

**9.2 Definition of ‘sending’**

For the purposes of clause 5 the expressions ‘sending’ means, in relation to each Scheme Shareholder:

- (a) sending by ordinary pre-paid post or courier to the Registered Address of that Scheme Shareholder as at the Scheme Record Date; or
- (b) delivery to the Registered Address of that Scheme Shareholder as at the Scheme Record Date by any other means at no cost to the recipient.

**9.3 Notices**

- (a) If a notice, transfer, transmission application, direction or other communication referred to in this document is sent by post to Gloucester, it will not be taken to be received in the ordinary course of post or on a date and time other than the date and time (if any) on which it is actually received at Gloucester’s registered office or at the office of the Gloucester Registry.
- (b) The accidental omission to give notice of the Scheme Meeting or the non-receipt of such a notice by any Shareholder may not, unless so ordered by the Court, invalidate the Scheme Meeting or the proceedings of the Scheme Meeting.

**9.4 Governing law and jurisdiction**

- (a) This Scheme is governed by the laws of New South Wales.
- (b) The parties irrevocably submit to the non-exclusive jurisdiction of courts exercising jurisdiction in New South Wales and courts of appeal from them in respect of any proceedings arising out of or in connection with this Scheme.

**9.5 Further assurances**

Gloucester must do anything necessary (including executing agreements and documents) to give full effect to this Scheme and the transactions contemplated by it.

Deed Poll

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Annexure B

Deed Poll

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Date ▶

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Bidder Yancoal Australia Limited (ABN 82 111 859 119) of Level 11, 68 York Street, Sydney, New South Wales, Australia (**Bidder**)

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Recitals

- 1 On [\*] 2011, Bidder, Gloucester Coal Ltd and Yanzhou Coal Mining Company Limited entered into the Merger Proposal Deed to provide for (among other matters) the implementation of the Scheme.
- 2 The effect of the Scheme will be to transfer all Scheme Shares to Bidder in return for the Scheme Consideration.
- 3 Bidder enters this deed poll to covenant in favour of Scheme Shareholders to:
  - (a) perform the steps attributed to it under the Scheme; and
  - (b) provide the Scheme Consideration in accordance with the Scheme.

---

This deed witnesses as follows:

---

1 Definitions and interpretation

---

**1.1 Definitions**

The meanings of the terms used in this deed are set out below.

<b>Term</b>	<b>Meaning</b>
<b>Merger Proposal Deed</b>	the Merger Proposal Deed dated [*] between Bidder, Gloucester Coal Ltd and Yanzhou Coal Mining Company Limited.
<b>Gloucester</b>	Gloucester Coal Ltd as trustee for the Scheme Shareholders.

---

**1.2 Terms defined in Merger Proposal Deed**

Words and phrases defined in the Merger Proposal Deed have the same meaning in this deed poll unless the context requires otherwise.

**1.3 Incorporation by reference**

The provisions of clauses 1.2, 1.3 and 1.4 of the Merger Proposal Deed form part of this deed poll as if set out at length in this deed poll but with deed poll substituted for deed and with any reference to ‘party’ being taken to include the Scheme Shareholders.

2 Nature of this deed poll

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Bidder acknowledges that this deed poll may be relied on and enforced by any Scheme Shareholder in accordance with its terms even though the Scheme Shareholders are not a party to it.

3 Conditions

---

**3.1 Conditions**

Bidder’s obligations under clause 4 are subject to the Scheme becoming Effective.

**3.2 Termination**

Bidder’s obligations under this deed poll will automatically terminate and this deed poll will be of no further force or effect if:

- (a) the Merger Proposal Deed is terminated in accordance with its terms; or
  - (b) the Scheme is not Effective by the End Date,
- unless Gloucester and Bidder otherwise agree.

### 3.3 Consequences of termination

If this deed poll terminates under clause 3.2, in addition and without prejudice to any other rights, powers or remedies available to them:

- (a) Bidder is released from its obligations to further perform this deed poll; and
- (b) Scheme Shareholders retain the rights they have against Bidder in respect of any breach of this deed poll which occurred before it terminated.

## 4 Performance of obligations

---

### 4.1 Generally

Subject to clause 3, Bidder covenants in favour of Scheme Shareholders to perform the actions attributed to it under, and otherwise comply with, the Scheme as if Bidder were a party to the Scheme.

### 4.2 Provision of Scheme Consideration

- (a) Subject to clause 3, Bidder undertakes in favour of each Scheme Shareholder to provide or procure the provision of the Scheme Consideration to each Scheme Shareholder in accordance with the terms of the Scheme.
- (b) The obligations of Bidder under clause 4.2(a) will be satisfied if, on or before 5pm on the Implementation Date, it issues all of the Bidder Shares and CVR Shares which it is obliged to issue to Scheme Shareholders and to the Sale Agent under the Scheme, and provides Gloucester with written confirmation that it has done so.

## 5 Warranties

---

Bidder represents and warrants to each Scheme Shareholder that:

- (a) **(status)** it is a corporation duly incorporated and validly existing under the laws of the place of its incorporation;
- (b) **(power)** it has the power to enter into and perform its obligations under this deed poll and to carry out the transactions contemplated by this deed poll;
- (c) **(corporate authorisations)** it has taken all necessary corporate action to authorise the entry into and performance of this deed poll and to carry out the transactions contemplated by this deed poll;
- (d) **(documents binding)** this deed poll is its valid and binding obligation enforceable in accordance with its terms;
- (e) **(transactions permitted)** the execution and performance by it of this deed poll and each transaction contemplated by this deed poll did not and will not violate in any respect a provision of:
  - (1) a law or treaty or a judgment, ruling, order or decree of a Regulatory Authority binding on it;
  - (2) its constitution or other constituent documents; or
  - (3) any other document which is binding on it or its assets; and

- (f) (**solvency**) it is solvent and no resolutions have been passed nor has any other step been taken or legal action or proceedings commenced or threatened against it for its winding up or dissolution or for the appointment of a liquidator, receiver, administrator or similar officer over any or all of its assets.

6 Continuing Obligations

---

**6.1 Deed poll irrevocable**

This deed poll is irrevocable and, subject to clause 3, remains in full force and effect until the earlier of:

- (a) Bidder having fully performed its obligations under this deed poll; and
- (b) termination of this deed poll under clause 3.2.

**6.2 Variation**

A provision of this deed poll may not be varied unless:

- (a) before the Second Court Date, the variation is agreed to in writing by Gloucester; or
- (b) on or after the Second Court Date, the variation is agreed to in writing by Gloucester and is approved by the Court, in which event Bidder will enter into a further deed poll in favour of each Scheme Shareholder giving effect to the amendment.

7 Notices

---

Any notice, demand or other communication (a **Notice**) to Bidder in respect of this deed poll:

- (a) must be in writing and signed by the sender or a person duly authorised by it;
- (b) must be delivered to the intended recipient by prepaid post (if posted to an address in another country, by registered airmail) or by hand or fax to the address or fax number below:

to Bidder:                   [\*]  
                                  Attention: [\*]  
                                  Fax No: +[\*]; and

- (c) will be conclusively taken to be duly given or made:
  - (1) in the case of delivery in person, when delivered at the address of the addressee as provided in clause 7(b), unless that delivery is not made on a Business Day, or is made after 5.00 pm on a Business Day, in which case that Notice will be deemed to be received at 9.00 am on the next Business Day;
  - (2) in the case of delivery by post, two Business Days after the date of posting (if posted to an address in the same country) or seven Business Days after the date of posting (if posted to an address in another country); and

- (3) in the case of fax, at the local time (in the place of receipt of that fax) which then equates to the time at which that fax is sent as shown on the transmission report which is produced by the machine from which that fax is sent and which confirms transmission of that fax in its entirety, unless that local time is not a Business Day, or is after 5.00 pm on a Business Day, when that communication will be deemed to be received at 9.00 am on the next Business Day.

8 General Provisions

---

### 8.1 Assignment

- (a) The rights and obligations of Bidder and each Scheme Shareholder under this deed poll are personal. They cannot be assigned, charged, encumbered or otherwise dealt with at law or in equity without the prior written consent of Bidder and Gloucester.
- (b) Any purported dealing in contravention of clause 8.1(a) is invalid.

### 8.2 Cumulative rights

The rights, powers and remedies of Bidder and each Scheme Shareholder under this deed poll are cumulative with and do not exclude any other rights, powers or remedies provided by law independently of this deed poll.

### 8.3 No waiver

- (a) Bidder may not rely on the words or conduct of any Scheme Shareholder as a waiver of any right unless the waiver is in writing and signed by the Scheme Shareholder granting the waiver.
- (b) If a Scheme Shareholder does not exercise a right arising from a breach of this deed poll at a given time, it may, unless it has waived that right in writing, exercise the right at a later point in time.
- (c) No Scheme Shareholder may rely on words or conduct of Bidder as a waiver of any right unless the waiver is in writing and signed by Bidder, as appropriate.
- (d) The meanings of the terms used in this clause 8.4 are set out below.

**conduct** includes delay in the exercise of a right.

**right** means any right arising under or in connection with this deed poll and includes the right to rely on this clause.

**waiver** includes an election between rights and remedies, and conduct which might otherwise give rise to an estoppel.

### 8.4 Stamp duty

Bidder:

- (a) must pay or procure the payment of all stamp duty (if any) any related fines, penalties and interest in respect of the Scheme and this deed poll (including the acquisition or transfer of Scheme Shares pursuant to the Scheme), the performance of this deed poll and each transaction effected by or made under or pursuant to the Scheme and this deed poll; and



- (b) indemnifies and undertakes to keep indemnified each Scheme Shareholder against any liability arising from failure to comply with clause 8.4(a).

**8.5 Further assurances**

Bidder will, at its own expense, do all things reasonably required of it to give full effect to this deed poll.

**8.6 Governing law and jurisdiction**

This deed poll is governed by the laws of the State of New Gloucester Wales. In relation to it and related non-contractual matters Bidder irrevocably submits to the non-exclusive jurisdiction of courts with jurisdiction there, and waives any right to object to the venue on any ground.

Executed as a deed poll

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**Bidder**

Signed sealed and delivered by

**Yancoal Australia Limited** by

*sign here* ▶ \_\_\_\_\_  
Company Secretary/Director

*print name* \_\_\_\_\_

*sign here* ▶ \_\_\_\_\_  
Director

*print name* \_\_\_\_\_

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Indicative Timetable

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Redacted under Australian Law

**Amendment Deed –  
Merger Proposal Deed**

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**Yancoal Australia Limited  
Yanzhou Coal Mining Company Limited  
Gloucester Coal Ltd**

**Freehills**

**101 Collins Street Melbourne Vic 3000 Australia  
GPO Box 128A Melbourne Vic 3001 Australia**

**Sydney Melbourne Perth Brisbane Singapore**

**Telephone +61 3 9288 1234 Facsimile +61 3 9288 1567  
www.freehills.com DX 240 Melbourne**

**Correspondent offices in Hanoi Ho Chi Minh City Jakarta**

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Amendment Deed – Merger Proposal Deed

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Date

Between the parties

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**Yancoal Australia Limited**

ABN 82 111 859 119 of Level 11, 68 York Street, Sydney, NSW,  
Australia

**(Bidder)**

---

**Yanzhou Coal Mining Company Limited**

of 298 Fushan South Road, Zoucheng Shandong Province, Peoples'  
Republic of China

**(Yanzhou)**

---

**Gloucester Coal Ltd**

ABN 66 008 881 712 of Level 7, 167 Macquarie Street Sydney NSW,  
Australia

**(Gloucester)**

---

Recitals

- 1 The parties to this deed are the parties to the Merger Proposal Deed.
  - 2 The parties wish to amend the Merger Proposal Deed in the manner set out in this deed.
-

This deed witnesses as follows:

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**1 Definitions and interpretation**

---

**1.1 Definitions**

The meanings of the terms used in this deed are set out below.

<b>Term</b>	<b>Meaning</b>
Merger Proposal Deed	the Merger Proposal Deed between Bidder, Yanzhou and Gloucester dated 22 December 2011.
Amendment Date	6 March 2012.

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**1.2 Incorporation of defined terms**

Unless otherwise defined in clause 1.1, terms defined in the Merger Proposal Deed have the same meaning when used in this deed.

**2 Merger Ratio Dispute Notice**

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In the period commencing on the date of this deed and ending on and including the Due Diligence End Date, each of Bidder and Gloucester.

- (a) undertakes not to give the other a Merger Ratio Dispute Notice; and
- (b) acknowledges and agrees that any Merger Ratio Dispute Notice given by it is of no force or effect.

**3 Amendment of Merger Proposal Deed**

---

**3.1 Amendment**

On and from the Amendment Date, the Merger Proposal Deed is amended as set out in Schedule 1.

**3.2 References**

On and from the Amendment Date, any reference in any document (other than this deed) to the Merger Proposal Deed is a reference to the Merger Proposal Deed as amended pursuant to clause 3.1.

4 General

---

**4.1 Continuing liabilities and obligations**

Nothing in this deed:

- (a) prejudices or adversely affects any right, power, authority, discretion or remedy arising under the Merger Proposal Deed before the Amendment Date; or
- (b) discharges, releases or otherwise affects the liability or obligation arising under the Merger Proposal Deed before the Amendment Date.

**4.2 Prohibition and enforceability**

Any provision of, or the application of any provision of, this deed that is:

- (a) prohibited in any jurisdiction is, in that jurisdiction, ineffective only to the extent of that prohibition; and
- (b) void, illegal or unenforceable in any jurisdiction does not affect the validity, legality or enforceability of that provision in any other jurisdiction or of the remaining provisions in that or any other jurisdiction.

**4.3 Notices**

Any notice or other communication including any request, demand, consent or approval, to or by a party to this deed must be provided in accordance with clause 16 of the Merger Proposal Deed.

**4.4 Governing law and jurisdiction**

Clause 11.7 of the Merger Proposal Deed applies to this deed as if set out in full in this deed.

**4.5 Further assurances**

Each party must do all things and execute all further documents necessary to give full effect to this deed.

**4.6 Counterparts**

- (a) This deed may be executed in any number of counterparts (including counterparts created by way of facsimile).
- (b) All counterparts, taken together, constitute one instrument.
- (c) A party may execute this deed by signing any counterpart

**4.7 Amendment**

No addition to or modification or amendment of this deed will bind any party to it unless it is in writing signed by or on behalf of all parties.



Schedule

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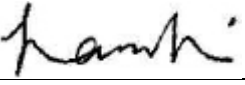
- (a) Amending clause 1.1 to
  - (1) include the following definition of 'Amendment Date':  
"6 March 2012."
  - (2) include the following definition of 'Management and Transitional Services Agreement':  
"A Management and Transitional Services Agreement in the form set out In Part B of Attachment 5"
  - (3) amend the definition of 'Separation and Cooperation Agreement' to read:  
"A Separation Agreement in the form set out in Part A of Attachment 5"
  - (4) amend the definition of 'LTCC Licence Agreement' to read:  
"A LTCC Agreement in the form set out in Part C of Attachment 5\*."
  - (5) amend the definition of 'Restructure Agreement' to read:  
"A Restructure Agreement in the form set out in Part D of Attachment 5."
- (b) Amending the definition of 'Court' in clause 1.1 to read as follows:  
"Supreme Court of Victoria or such other Court of competent jurisdiction agreed between Gloucester and Bidder."
- (c) Amending the definition of 'CVR Share' in clause 1.1 to read as follows:  
"a fully paid non-cumulative preference share in the capital of Bidder having the rights set out in Schedule 7 or such other rights as Gloucester and Bidder agree, acting reasonably (it being acknowledged that the parties propose to work together to seek to simplify the Repurchase methods that apply to the CVR Shares, although without changing their economic features)."
- (d) Deleting clause 3.1(l) and inserting the following clause 3.1(l) in its place:  
"(t) both of the following have occurred on or before 8.00am on the Second Court Date:
  - (1) Gloucester Shareholders holding in aggregate at least 130 million Gloucester Shares have elected on or before the Election Date (as defined in the Scheme) to receive the form of Scheme Consideration designated as 'All Bidder Shares'; and
  - (2) arrangements are in place to the satisfaction of Gloucester and Bidder to ensure that such elections are not rendered ineffective either by revocation or by transfer of any of the relevant Gloucester Shares on or before the Scheme Record Date"
- (e) Amending clause 3.9(a) so that '23%' is deleted and replaced with '22%' and '77%' is deleted and replaced with '78%'.
- (f) Amending clause 5.8 by:
  - (1) deleting subclause (b); and

- (2) deleting the words', within 5 Business Days of receiving the Independent Expert's Report.'
- (g) Inserting a new clause 5.8A to read:
  - "5.8A Announcement
  - On the Amendment Date, Gloucester will issue an announcement in the form set out in Attachment 4.
- (h) Inserting a new Attachment 4 containing the announcement in Attachment 1 to this deed.
- (i) Amending Schedule 6 by deleting '77%' wherever appearing and replacing it in each case with '78%' and by deleting '23%' wherever appearing and replacing it in each case with '22%'.
- (j) Amending clause 5.11 to read:
  - "Yancoal and Yanzhou will procure that the Separation Agreement, Management and Transitional Services Agreement, LTCC Licence Agreement, Restructure Agreement are executed on or before 5pm on the Business Day before the Second Court Date."
- (k) Inserting a new Attachment 5 containing the agreements in Parts A to D of Attachment 2 to this deed.
- (l) Amending clauses 5.12 and 5.13 to read "[Reserved]".
- (m) Amending Schedule 7 by (1) deleting the words '(unless extended as provided under 'Extension of End Date')' from the table row titled "End Date"; and (2) deleting the table row titled "Extension of End Date".
- (n) Amending the Scheme attached as Annexure A to the Merger Proposal Deed by:
  - (1) amending the definition of 'CVR Share' by deleting the parties' and replacing the deleted words with 'Gloucester and Bidder'
  - (2) amending the definition of 'Election Date' to read as follows:
    - "5.00pm on the day before the Second Court Date (or such other date as Gloucester and Bidder agree in writing), being the last time and date by which Scrip Election Forms may be lodged."; and
  - (3) amending the definition of 'Court' to read as follows:
    - "the Supreme Court of Victoria or such other court of competent jurisdiction under the Corporation act agreed to in writing between Gloucester and Bidder.

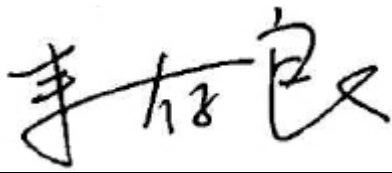
Executed as a deed

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Executed as a deed in accordance with  
section 127 of the *Corporations Act 2001*  
by **Yancoal Australia Limited**

sign here\*   
\_\_\_\_\_  
Company Secretary/Director

print name Ling ZHANG  
\_\_\_\_\_

sign here\*   
\_\_\_\_\_  
Director

print name Cunliang LAI  
\_\_\_\_\_

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Executed as a deed in accordance with  
section 127 of the *Corporations Act 2001*  
by **Gloucester Coal Limited**

sign here\* \_\_\_\_\_  
Company Secretary/Director

print name \_\_\_\_\_

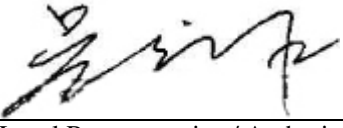
sign here\* \_\_\_\_\_  
Director

print name \_\_\_\_\_

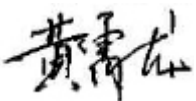
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Freehills

Signed, sealed and delivered as a deed on behalf of **Yanzhou Coal Mining Company Limited** by

sign here\*   
\_\_\_\_\_  
Legal Representative / Authorised Representative

print name Yuxiang Wu

sign here\*   
\_\_\_\_\_  
Witness

print name Xiaolong Huang

Executed as a deed

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Executed as a deed in accordance with  
section 127 of the *Corporations Act 2001*  
by **Yancoal Australia Limited**

*sign here\** \_\_\_\_\_  
Company Secretary


*print name* \_\_\_\_\_

*sign here\** \_\_\_\_\_  
Director


*print name* \_\_\_\_\_

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Executed as a deed in accordance with  
section 127 of the *Corporations Act 2001*  
by **Gloucester Coal Limited**

*sign here\**  \_\_\_\_\_  
Company Secretary

*print name* Hemang Shah

*sign here*  \_\_\_\_\_  
Director

*print name* Gregory T Fletcher

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Form of announcement

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Redacted under Australian Law

Part A – Separation Agreement

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Redacted under Australian Law

Redacted under Australian Law







## LIST OF SUBSIDIARIES OF YANZHOU COAL MINING COMPANY LIMITED

As of December 31, 2011, we owned the following subsidiaries:

<u>Name of Subsidiary</u>	<u>Country of incorporation/ registration and operation</u>
Austar Coal Mine Pty Limited	Australia
Yanmei Heze Nenghua Company Limited	PRC
Yancoal Australia Limited	Australia
Shandong Yanmei Shipping Co., Ltd.	PRC
Yanzhou Coal Yulin Nenghua Company Limited	PRC
Zhongyan Trade Co., Ltd. of Qingdao Bonded Area	PRC
Yankuang Shanxi Nenghua Co., Ltd.	PRC
Shanxi Heshun Tianchi Energy Company Limited	PRC
Shanxi Tianhao Chemicals Co., Ltd.	PRC
Shandong Hua Ju Energy Co., Limited	PRC
Yanzhou Coal Ordos Neng Hua Company Limited	PRC
Inner Mongolia Yize Mining Investment Co., ltd.	PRC
Inner Mongolia Rongxin Chemicals Co., Ltd.	PRC
Inner Mongolia Daxin Industrial Gas Co., Ltd.	PRC
Inner Mongolia Xintai Coal Mining Company Limited	PRC
Yancoal International (Holding) Co., Ltd.	Hong Kong
Yancoal International Resources Development Co., Ltd.	Hong Kong
Yancoal International Technology Development Co., Ltd.	Hong Kong
Yancoal International Trading Co., Ltd.	Hong Kong
Yancoal Resources Limited	Australia
Ashton Coal Operations Pty Limited	Australia
Athena Coal Pty Ltd.	Australia
Felix NSW Pty Ltd.	Australia
Moolarben Coal Mines Pty Limited	Australia
Moolarben Coal Operations Pty Ltd.	Australia
Moolarben Coal Sales Pty Ltd.	Australia
Proserpina Coal Pty Ltd.	Australia
Syntech Holdings Pty Ltd.	Australia
Syntech Holdings II Pty Ltd.	Australia
Tonford Pty Ltd.	Australia
UCC Energy Pty Limited	Australia
Wesfarmers Char Pty Limited	Australia
Wesfarmers Premier Coal Limited	Australia
White Mining (NSW) Pty Limited	Australia
White Mining Research Pty Ltd.	Australia
White Mining Services Pty Limited	Australia
White Mining Limited	Australia
Yancoal Canada Resources Co., Ltd.	Canada
Mountfield Properties Pty Ltd.	Australia
AMH (Chinchilla Coal) Pty Ltd.	Australia
Syntech Resources Pty Ltd.	Australia
Yancoal Luxembourg Energy Holding Co., Limited	Luxembourg
Yarrabee Coal Company Pty Ltd.	Australia



**CERTIFICATION PURSUANT TO RULE 13a-14 OR 15d-14  
OF THE SECURITIES EXCHANGE ACT OF 1934  
AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, WU Yuxiang, certify that:

1. I have reviewed this annual report on Form 20-F of Yanzhou Coal Mining Company Limited (the “Company”);
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material aspects the financial condition, results of operations and cash flows of the Company as of, and for, the periods presented in this report;
4. The company’s other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the Company and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Company, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the Company’s disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the Company’s internal control over financial reporting that occurred during the period covered by the annual report that has materially affected, or is reasonably likely to materially affect, the Company’s internal control over financial reporting; and
5. The Company’s other certifying officers and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the Company’s auditors and the Audit Committee of the Company’s board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Company’s ability to record, process, summarize and report financial information; and
  - (b) 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.

Date: April 27, 2012

By: \_\_\_\_\_ /s/ WU YUXIANG  
Name: **Wu Yuxiang**  
Title: **Chief Financial Officer**



