



ASX Release

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**Monday 12 September  
2011**

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LIMITED**  
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**Directors / Officers:**  
Matthew Wood  
George Tumur  
Timothy Flavel  
Daniel Crennan

**Issued Capital:**  
246.1 million shares

**ASX Symbol:** HUN

## **HUNNU COAL ANNOUNCES UNANIMOUSLY RECOMMENDED ALL CASH OFFERS FROM BANPU**

The Board of Hunnu Coal Limited (“Hunnu”) is extremely pleased to announce that it has entered into a Bid Implementation Deed (“BID”) with Banpu Minerals (Singapore) Pte Ltd (“Banpu”), a 100% owned subsidiary of Banpu Public Company Limited (“Banpu PCL”), pursuant to which Banpu has agreed to make cash offers for:

- all of the shares in Hunnu that Banpu does not already own (the “Share Offer”) at \$1.80 cash per share (the “Share Offer Price”); and
- subject to Banpu obtaining required regulatory modifications and consents, all the options to subscribe for Hunnu shares that are currently on issue (the “Option Offer”).

### **HIGHLIGHTS**

- **Highly compelling all cash off market takeover offer of \$1.80 per share for Hunnu Coal Limited.**
- **Offer represents a significant premium to Hunnu’s recent trading prices**
  - **30% to Hunnu’s last closing price of \$1.385 per share on 8 September 2011.**
  - **53% to Hunnu’s one month volume weighted average price (“VWAP”) of \$1.18 per share.**
  - **41% to Hunnu’s three month VWAP of \$1.28 per share.**
- **The Board of Directors of Hunnu unanimously recommends that Hunnu shareholders accept Banpu’s Offers in the absence of a superior proposal.**
- **A takeover offer for all Hunnu options will also be made subject to obtaining regulatory modifications and consents. The Board of Directors of Hunnu unanimously recommends that Hunnu option holders accept Banpu’s Option Offer in the absence of a superior proposal.**

The Board of Directors of Hunnu has carefully considered the Offers and unanimously recommends that:

- Hunnu shareholders accept Banpu's Share Offer, in the absence of a superior proposal; and
- if Banpu makes the Option Offer, Hunnu optionholders accept Banpu's Option Offer in the absence of a superior proposal.

All Hunnu Directors intend to accept the Banpu's Share Offer in respect of any Hunnu shares held by them, or on their behalf, in the absence of a superior proposal. If Banpu makes the Option Offer, all Hunnu Directors also intend to accept Banpu's Option Offer in respect of any Hunnu options held by them, or on their behalf, in the absence of a superior proposal.

Banpu's Offers will be conditional upon certain requirements, including Banpu obtaining required regulatory approvals, Banpu having a relevant interest in at least 90% of Hunnu shares and options by the end of the Share Offer and Option Offer period, ASIC and ASX granting the modifications and waivers necessary to permit the Option Offer, and other conditions set out in full in the Annexure.

Hunnu's Executive Chairman, Mr. Matthew Wood, said: "Banpu's Share Offer is at a significant premium to recent trading levels and has regard to the strong prospects of Hunnu's coking and thermal coal deposits. Furthermore, the cash nature of the Offers will enable Hunnu shareholders and option holders to realise a premium value for their shares and options in a volatile and uncertain market."

"Banpu is strongly supportive of the Hunnu management team and its current strategy, and is excited to potentially increase its exposure to the Mongolian coal sector."

## **Bid Implementation Deed**

Banpu and Hunnu have entered into a BID pursuant to which the parties have given certain undertakings to each other in order to facilitate the implementation of the Share Offer and the Option Offer (if made). The BID contains certain terms usual for a transaction of this nature including customary deal protection mechanisms such as "no shop", "no talk" and "no due diligence" restrictions as well as a right for Banpu to match a competing proposal. A break fee may also be payable by Hunnu to Banpu in certain circumstances. Deal protection mechanisms and break fee arrangements are set out in full in the Annexure. Under the BID, Banpu will not be required to make the Option Offer unless it obtains the required regulatory modifications and consents from ASIC.

## **Transaction timing**

Banpu's Bidder's Statement will be dispatched to Hunnu shareholders and option holders (if applicable) in late September / early October 2011. Hunnu will dispatch its Target's Statements to Hunnu shareholders shortly thereafter.

Hunnu shareholders and optionholders are not required to any action at this stage. The Banpu Bidder's Statements and Hunnu Target's Statements will provide detailed information on the Share Offer and Option Offer (if made), the Hunnu Directors recommendation and advantages and risks associated with the Offers

## **About Banpu PCL**

Banpu PCL (SET: BANPU) is a Thai stock exchange listed company which owns operating coal mines and power generating assets across Asia and in Australia, with a long (25-year) track record of exceptional growth and operational performance.

Banpu PCL has successfully adopted a best practice management philosophy and culture built on international principles of corporate governance, transparency and social responsibility. It also has a deep commitment to the safety and well being of its employees, as well as environmental conservation.

Banpu PCL's strategy is to grow coal sector investments and operations in the pan-Asian region, in a sustainable fashion, through organic growth, acquisitions and joint venture partnerships. For further information, please see Banpu PCL's website at <http://www.banpu.com/en/index.php>.

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## **Annexure: Exclusivity, Break fee and Conditions**

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### **7. EXCLUSIVITY**

#### **7.1 No shop; no talk restriction**

Subject to clause 7.6, during the term of this Deed, Hunnu must ensure that neither it nor any of its Representatives:

- (a) directly or indirectly solicits, initiates or encourages any inquiries, expressions of interest, offers, proposals or discussions regarding, or that may reasonably be expected to lead to, any Competing Proposal or any other transaction that may reduce the likelihood of success of the Takeover Bids (whether from a person with whom Hunnu has previously been in discussions or not);
- (b) directly or indirectly negotiates or enters into, continues or participates in negotiations or discussions with any other person regarding, or that may reasonably be expected to lead to, a Competing Proposal, even if:
  - (i) that person's Competing Proposal was not directly or indirectly solicited, initiated, or encouraged by Hunnu or any of its Representatives; or
  - (ii) that person has publicly announced their Competing Proposal;
- (c) accepts or enters into, or offers to accept or enter into, any agreement, arrangement or understanding regarding a Competing Proposal or any other transaction that may reduce the likelihood of success of the Takeover Bids;
- (d) approves or recommends a Competing Proposal or any other transaction that may reduce the likelihood of success of the Takeover Bids or announce an intention to do so;
- (e) discloses any information about the businesses or affairs of Hunnu to a third party with a view to obtaining a Competing Proposal; or
- (f) communicates to any third party any intention or agreement to do any of the things referred to above in this Clause 7.1 (a) - (e).

#### **7.2 Cease existing discussions**

- (a) Hunnu must cease any existing discussions or negotiations relating to:
  - (i) any Competing Proposal; or
  - (ii) any transaction that may reduce the likelihood of the success of the Takeover Bids.

- (b) If Hunnu has, in the 12 months before the date of this Deed, provided any confidential information to a person (other than a member of the Banpu Group) in relation to a possible Competing Proposal, Hunnu must (if it has not already done so) promptly request in writing the immediate return or destruction by that person of such confidential information, and must promptly exercise its legal rights to ensure compliance with such a request.

### 7.3 No due diligence

Without limiting the general nature of clause 7.1 but subject to clause 7.6, during the term of this Deed, Hunnu must not (and must ensure that its Representatives do not) without Banpu's prior written consent, make available to any person (other than to Banpu or its Representatives), permit any such person to receive any non-public information relating to any member of the Hunnu Group, or directly or indirectly solicit, facilitate or encourage any such person to undertake a due diligence investigation on any member of the Hunnu Group or any joint venture to which a member of the Hunnu Group is a party.

### 7.4 Notification

- (a) Subject to clause 7.6, during the term of this Deed, Hunnu must immediately inform Banpu if it, or any of its Representatives, is approached by any person to (or if it or any of its Representatives proposes to) engage in any activity that would breach its obligations in clause 7.1 or 7.3 (or would breach its obligations in clause 7.1 or 7.3 if it were not for clause 7.6), or in connection with anything referred to in clauses 7.1 or 7.3.
- (b) If Hunnu or any of its Representatives receives a Competing Proposal (or an approach which falls short of being, but could become, a Competing Proposal), Hunnu must, as soon as practicable (and in any event within 5 Business Days of receiving the Competing Proposal), notify Banpu of the terms of the Competing Proposal (including the proposed price or implied value, details of proposed consideration if not simply cash consideration and any break fee, but not the name of the person who has made the applicable Competing Proposal).
- (c) In the period from when the Competing Proposal is received until the day that is 3 Business Days after the information under clause 7.4(b) is provided to Banpu (**Matching Period**):
  - (i) Hunnu must not enter into, or agree to enter into, any binding documentation to effect or implement the Competing Proposal;
  - (ii) the Hunnu Directors must not make any public statement recommending the Competing Proposal to Hunnu Shareholders Optionholders; and
  - (iii) Banpu will have the right (but not the obligation) to make a revised offer to Hunnu or Hunnu Shareholders and Hunnu Optionholders (a **Banpu Counter Proposal**) that Banpu

reasonably considers would provide an equivalent or a superior outcome for Hunnu or Hunnu Shareholders and Hunnu Optionholders when compared to the Competing Proposal.

- (d) Hunnu must use its best endeavours to procure that the Hunnu Directors consider any such Banpu Counter Proposal during the Matching Period in good faith, and, if the Hunnu Directors acting in good faith determine that the terms and conditions of Banpu Counter Proposal taken as a whole are no less favourable than those in the applicable Competing Proposal, then Hunnu and Banpu must use their reasonable endeavours to agree and enter into such documentation as is necessary to give effect to and implement the Banpu Counter Proposal as soon as reasonably practicable, and Hunnu must use its best endeavours to procure that each Hunnu Director makes a public statement to Hunnu Shareholders and Hunnu Optionholders recommending the Banpu Counter Proposal to Hunnu Shareholders and Hunnu Optionholders.
- (e) Any material modification to, or development of, any Competing Proposal (which will include any modification relating to the price or value of any Competing Proposal or an incomplete or non-binding proposal or expression of interest becoming complete, capable of acceptance, or binding) will be taken to make that proposal a new Competing Proposal in respect of which Hunnu must comply with its obligations under this clause 7.4.

## **7.5 Equal access to information**

Where Hunnu or any of its Representatives provides pursuant to clause 7.6, any information relating to Hunnu or any of its Related Bodies Corporate, or any of their businesses or operations, to any person in connection with or for the purposes of a current or future Competing Proposal, it must simultaneously provide to Banpu a copy of that information.

## **7.6 Exceptions**

The obligations in clauses 7.1(b) to (e) and 7.3 do not apply to the extent that they:

- (a) restrict Hunnu or the Hunnu Board from taking any action in respect of a bona fide Competing Proposal which was not encouraged, solicited, invited, facilitated or initiated by Hunnu or any of its Representatives; or
- (b) require Hunnu to provide the notification referred to in clause 7.4 (b),

provided in each case that the Hunnu Board has determined in good faith and after obtaining written advice from Hunnu's external legal advisers and, if appropriate, Hunnu's external financial advisers, that the Competing Proposal is a Superior Proposal (or may reasonably be expected to lead to a Superior Proposal) and failing to respond to that Competing Proposal or providing the notification referred to in clause 7.4 (as applicable) would be likely to constitute a breach of the Hunnu Directors' fiduciary or statutory obligations.

## **7.7 Standstill arrangements with other parties**

During the term of this Deed, except with the prior written consent of Banpu, Hunnu must not amend or waive the terms of any standstill agreement or arrangement between Hunnu and any person other than a member of the Banpu Group.

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## **8. REIMBURSEMENT AMOUNT**

### **8.1 Acknowledgement and reimbursement**

Hunnu acknowledges and agrees that:

- (a) if Hunnu and Banpu enter into this Deed, and the Takeover Bids do not succeed, Banpu and its Related Bodies Corporate will have incurred significant costs and expenses, including significant opportunity costs;
- (b) the costs and expenses actually incurred by Banpu and its Related Bodies Corporate will be of such nature that they cannot accurately be ascertained, but that the Reimbursement Amount is a genuine and reasonable estimate of the costs and expenses that have been or will be actually incurred by Banpu and its Related Bodies Corporate in such circumstances and has been calculated to reimburse the Banpu Group for such costs and expenses;
- (c) Banpu has requested that provision be made for the payment of the Reimbursement Amount to Banpu in the circumstances described in clause 8.2, without which Banpu would not have entered this Deed; and
- (d) the Hunnu Directors have received external legal advice in relation to this clause 8 and has concluded that it is reasonable and appropriate for Hunnu to agree to payment of the Reimbursement Amount in the circumstances described in clause 8.2 to secure Banpu's entry into this Deed.

### **8.2 Reimbursement Amount**

Subject to the other provisions of this clause 8, Hunnu must pay to Banpu the Reimbursement Amount if, at any time before the end of the Offer Period, any of the following occurs:

- (a) any Hunnu Director fails to make the recommendations and statements referred to in clause 3.3(a), or changes or withdraws that recommendation or statement once made, or makes a public statement to the effect that they no longer recommend the Takeover Bids, that is inconsistent with support of the Takeover Bids, or that they support a Competing Proposal;
- (b) a Competing Proposal is announced and, either before or within 12 months after the end of the Offer Period the person making the Competing Proposal (whether alone or together with one or more of its associates), acquires a Relevant Interest in more than 15% of all Hunnu Shares;

- (c) a person other than a member of the Banpu Group:
  - (i) acquires, or agrees (conditionally or otherwise) to acquire the whole or a substantial part of Hunnu Group's business or assets;
  - (ii) acquires or agrees (conditionally or otherwise) to acquire control of Hunnu, within the meaning of section 50AA of the Corporations Act, or
  - (iii) otherwise acquires or merges or agrees (conditionally or otherwise) to acquire or merge with Hunnu (including by reverse takeover bid or scheme, or by establishing a dual listed company structure or stapled security structure, or any economic merger);
- (d) any Hunnu Director endorses or otherwise supports a proposal or offer made by a person other than a member of the Banpu Group to:
  - (i) acquire a Relevant Interest in 15% or more of the Hunnu Shares on issue (including by way of issue of new Hunnu Shares); or
  - (ii) to do any of the things referred to in clause 8.2(c); or
- (e) where an Offer Condition, or an aspect of an Offer Condition, is within Hunnu's control and Hunnu fails to use reasonable endeavours to prevent the breach of that Offer Condition or to prevent that Offer Condition becoming incapable of being fulfilled, in either case due to an act or omission of Hunnu or any of its Representatives, provided that in any such case Banpu publicly announces that it will, as a result of such act or omission, allow the Offers to lapse without waiving the relevant Offer Condition.

### **8.3 Prior termination by Hunnu**

Hunnu is not liable to pay any amount to Banpu under clause 8.2 if Hunnu terminates this agreement under clause 9.1 before that amount becomes payable.

### **8.4 Payment**

The Reimbursement Amount provided for in clause 8.2 must be paid without withholding or set-off within 5 Business Days after the receipt by Hunnu of a written demand for payment from Banpu after the occurrence of an event referred to in clause 8.2. The Reimbursement Amount is only payable once.

### **8.5 Modifications following regulatory intervention**

If any of the following occurs:

- (a) A Court finds that all or any part of the payment required to be made under clause 8.2 is unenforceable by Banpu against Hunnu; or
- (b) a result of an application to the Takeovers Panel by a party other than Hunnu or its Representatives, the Takeovers Panel indicates that,



in the absence of a written undertaking pursuant to section 201A of the Australian Securities and Investments Commission Act 2001 (Cth) to modify the amount of the Reimbursement Amount or the circumstances in which it is to be paid, it will make a declaration of unacceptable circumstances,

then, subject to clause 8.6:

- (c) the parties must amend this clause 8 to the extent required to give effect to the requirements of the Court or the Takeovers Panel (as the case may be) and (in the circumstances referred to in clause 8.5(b)) must give the required undertaking(s); and
- (d) neither the occurrence of any of the events referred to in clauses 8.5(a) or 8.5(b), nor the amendment of this clause 8 will be taken to be a breach of, or permit any party to terminate, this agreement.

#### **8.6 No requirement to act unless decision is final**

The parties are only required to take steps under 8.5(c) in relation to any requirement of the Court or the Takeovers Panel if:

- (a) no appeal or review proceeding is available from the decision to impose that requirement or the period for lodging an appeal or commencing review proceedings has expired without an appeal having been lodged or review proceedings commenced; or
- (b) Banpu and Hunnu agree in writing not to appeal or seek review of the decision to impose that requirement.

#### **8.7 Appeals and review of regulatory decisions**

If Banpu wishes to appeal or seek review of any decision of the Court or the Takeovers Panel referred to in clauses 8.5(a) and 8.5(b) and if, in the opinion of independent Senior Counsel, practising in New South Wales in the area of corporate law, obtained by Banpu within 10 Business Days after the relevant decision has been made, the appeal or review would have reasonable prospects of success, Hunnu must make submissions in the course of those proceedings supporting the appeal or review application made by Banpu.

#### **8.8 Determination by court**

If a Court determines that payment of all or any part of the Reimbursement Amount is unlawful or involves a breach of the fiduciary or statutory duties of the Hunnu Directors (**Impugned Amount**) and either no appeal from that determination is available or the period for lodging an appeal has expired without an appeal having been lodged then:

- (a) Hunnu's obligation to pay the Reimbursement Amount does not apply to the extent of the Impugned Amount; and
- (b) if Banpu has received any part of the Impugned Amount, it must refund it within 5 Business Days after that determination is made or the time period for lodging an appeal has expired, whichever is the later.

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## CONDITIONS

(a) **Minimum acceptance**

At or before the end of the Offer Period, Banpu has a Relevant Interest in such number of:

- (i) Hunnu Shares which represents at least 90% of the aggregate of all the Hunnu Shares on issue and becomes entitled to compulsorily acquire all outstanding Hunnu Shares under Part 6A.1 of the Corporations Act; and
- (ii) Hunnu Options which represents at least 90% of the aggregate of all the Hunnu Options on issue and becomes entitled to compulsorily acquire all outstanding Hunnu Options under Part 6A.1 of the Corporations Act.

(b) **FIRB approval**

Before the end of the Offer Period, the Treasurer of the Commonwealth of Australia (**Treasurer**) either:

- (i) ceases to be empowered to make an order under the Foreign Acquisitions and Takeovers Act 1975 (Cth) in relation to the proposed acquisition by Banpu of up to all of the Hunnu Shares and Hunnu Options it does not already hold; or
- (ii) gives written advice of a decision by or on behalf of the Treasurer stating (either unconditionally or on the basis of conditions which are reasonably acceptable to Banpu) that there is no objection to the proposed acquisition by Banpu of up to all of the Hunnu Shares and Hunnu Options it does not already hold.

(c) **No prescribed occurrences**

During the period from the date of the Bidder's Statements to the day that is 3 Business Days after the end of the Offer Period (each inclusive), none of the following occurrences (being the prescribed occurrences listed in section 652C of the Corporations Act) happens:

- (i) Hunnu converts all or any of its shares into a larger or smaller number of shares under section 254H of the Corporations Act;
- (ii) Hunnu or a subsidiary of Hunnu resolves to reduce its share capital in any way;
- (iii) Hunnu or a subsidiary of Hunnu enters into a buy-back agreement or resolves to approve the terms of a buy-back agreement under section 257C(1) or 257D(1) of the Corporations Act;
- (iv) Hunnu or a subsidiary of Hunnu issues shares (other than as a result of the exercise of Hunnu Options) or grants an option

over its shares, or agrees to make such an issue or grant such an option;

- (v) Hunnu or a subsidiary of Hunnu issues, or agrees to issue, convertible notes;
- (vi) Hunnu or a subsidiary of Hunnu disposes, or agrees to dispose, of the whole, or a substantial part, of its business or property;
- (vii) Hunnu or a subsidiary of Hunnu charges, or agrees to charge, the whole, or a substantial part, of its business or property;
- (viii) Hunnu or a subsidiary of Hunnu resolves to be wound up;
- (ix) a liquidator or provisional liquidator of Hunnu or of a subsidiary of Hunnu is appointed;
- (x) a court makes an order for the winding up of Hunnu or of a subsidiary of Hunnu;
- (xi) an administrator of Hunnu or of a subsidiary of Hunnu is appointed under section 436A, 436B or 436C of the Corporations Act;
- (xii) Hunnu or a subsidiary of Hunnu executes a deed of company arrangement; or
- (xiii) a receiver, or a receiver and manager, is appointed in relation to the whole, or a substantial part, of the property of Hunnu or a subsidiary of Hunnu.

(d) **No prescribed occurrences between Announcement Date and service**

None of the events listed in sub-sections (i) to (xiii) of paragraph (c) happens during the period beginning on the Announcement Date and ending at the end of the day before the Bidder's Statements are given to Hunnu.

(e) **No action by Government Agency adversely affecting the Takeover Bids**

During the period from the date of the Bidder's Statements to the end of the Offer Period:

- (i) there is not in effect any preliminary or final decision, order or decree issued by a Government Agency;
- (ii) no action or investigation is instituted, or threatened by any Government Agency with respect to Hunnu or any subsidiary of Hunnu; or
- (iii) no application is made to any Government Agency (other than an application by Banpu or any company within the Banpu Group, an application under section 657G of the

Corporations Act, or an application commenced by a person specified in section 659B(1) of the Corporations Act in relation to either of the Takeover Bids,

in consequence of, or in connection with, the Takeover Bids, which restrains or prohibits or threatens to restrain or prohibit, or may otherwise materially adversely impact upon, the making of the Takeover Bids or the completion of any transaction contemplated by the Bidder's Statements (including implementing the intentions expressed therein) or seeks to require the divestiture by Banpu of any Hunnu Shares, or the divestiture of any assets by Hunnu or by any subsidiary of Hunnu or by any company within the Banpu Group.

(f) **Approvals by Government Agencies**

During the Offer Period, Banpu receives all approvals which are required by law or by any Government Agency:

- (i) to permit the Offers to be made to and accepted by Hunnu Shareholders and Hunnu Optionholders and to permit Banpu to acquire any or all of the Hunnu Shares it does not already hold; or
- (ii) as a result of the Offers, or the successful acquisition of the Hunnu Shares and Hunnu Options (or cancellation of the Hunnu Options), and which are necessary for the continued operation of the business of Hunnu and its subsidiaries or of Banpu and its subsidiaries,

and those Approvals are on an unconditional basis and remain in force in all respects and there is no notice or indication of intention to revoke, suspend, restrict, modify or not renew those Approvals.

(g) **Conduct of business**

Except for any proposed transaction publicly announced by Hunnu before the Announcement Date, none of the following events occur during the period from that date to the end of the Offer Period:

- (i) Hunnu, or any subsidiary of Hunnu, acquires, offers to acquire or agrees to acquire one or more companies, businesses, trusts or assets (or an interest in one or more companies, businesses, trusts or assets) for an amount in aggregate greater than \$500,000 or makes an announcement about such an acquisition, other than the proposed acquisition of mining equipment disclosed to Banpu prior to the date of this Deed;
- (ii) Hunnu, or any subsidiary of Hunnu, disposes, offers to dispose or agrees to dispose of, or creates, or offers to create an equity interest in one or more companies, trusts or assets (or an interest in one or more companies, trusts or assets) for an amount in aggregate greater than \$500,000 or makes an announcement about such a disposal;

- (iii) Hunnu, or any subsidiary of Hunnu, enters into, offers to enter into or announces that it proposes to enter into any joint venture or partnership involving a commitment of (or foregoing of revenue of) greater than \$500,000 or dual listed company structure, or makes an announcement about such a commitment;
- (iv) Hunnu, or any subsidiary of Hunnu, incurs or commits to, or grants to another person a right the exercise of which would involve Hunnu or any subsidiary of Hunnu incurring or committing to any capital expenditure or liability for one or more related items of greater than \$1,000,000 or makes an announcement about such a commitment; or
- (v) Hunnu, or any subsidiary of Hunnu, declares, pays or distributes any dividend, bonus or other share of its profits or assets.

(h) **No material failings in filings**

Banpu does not become aware, during the Offer Period, that any document filed by or on behalf of Hunnu with ASX or ASIC contains a statement which is incorrect or misleading in any material respect or from which there is a material omission.

(i) **Non-existence of certain rights**

No person has any right (whether subject to conditions or not) as a result of Banpu acquiring Hunnu Shares to:

- (i) acquire, or require Hunnu or a subsidiary of Hunnu to dispose of, or offer to dispose of, or alter the terms of its holding of, any material asset of Hunnu or a subsidiary of Hunnu;
- (ii) terminate or vary any material agreement with Hunnu or a subsidiary of Hunnu; or
- (iii) accelerate or adversely modify the performance of any obligations of Hunnu or any of its subsidiaries in a material respect under any material agreements, contracts or other legal arrangements.

(j) **No force majeure event**

During the Offer Period:

- (i) no outbreak of hostilities (whether war is declared or not) or terrorism, mobilisation of armed forces, civil or political unrest or labour disturbance, fire or natural disaster, material increase in the intensity of any of the above events or other event beyond the control of Hunnu or the relevant subsidiary occurs which affects or is likely to affect the assets, liabilities, financial position, performance, profitability or prospects of Hunnu or any of its subsidiaries and;

- (ii) there is no amendment made (or proposed to be made) to any law, regulation or similar applying to Hunnu or any of its subsidiaries that is reasonably likely to have an adverse affect on the assets, liabilities, financial position, performance, profitability or prospects of the Hunnu Group; and
- (iii) there is no widespread disruption to global financial markets, or the financial markets of Australia or Thailand.

(k) **No material adverse change to Hunnu**

Between the Announcement Date and the end of the Offer Period, no matter, event, change, condition, circumstance, information or thing (**Change(s)**) occurs, is announced, becomes likely to occur or becomes known to Banpu (in any such case, individually or when aggregated with all such Change(s) and whether or not becoming public) that discloses (or could reasonably be inferred from the disclosure that), would result in and/or would reasonably be likely to result in:

- (i) the value of the consolidated net assets of the Hunnu Group being reduced by at least A\$5 million against what they would reasonably have been expected to have been but for the Change(s) (as the case may be); or
- (ii) a material adverse effect on the business, assets, liabilities, financial position or performance, profitability or prospects of the Hunnu Group taken as a whole, or the status or terms of any of the exploration or mining tenements owned by the Hunnu Group.

(l) **Renewal of Mining Interests**

Between the Announcement Date and the end of the Offer Period (each inclusive), no mining or exploration agreement, tenement, permit, license, lease, concession, grant, permission, authorisation, renewal or right of any kind held by any member of the Hunnu Group at the Announcement Date (**Mining Interests**), or any interest in any Mining Interest, is revoked, terminated or expires (excluding for the avoidance of doubt relinquishment of parts of tenements in the ordinary course of business) without there being a reasonable likelihood of such Mining Interest being promptly renewed or extended on terms which are no less favourable to the relevant member of the Hunnu Group.

(m) **No direct or indirect disposal of, or Encumbrance over, Mining Interests**

Between the Announcement Date and the end of the Offer Period (each inclusive), no member of the Hunnu Group enters into, announces an intention or proposal to enter into, discloses the existence of, or becomes subject to, any obligation or arrangement, whether conditional or otherwise, to:

- (i) dispose of all or any of, or any interest in, any Mining Interest; or
  - (ii) grant, permit, or agree to grant or permit, any Encumbrance over all or any part of any interest in a Mining Interest.
- (n) **No litigation**

Between the Announcement Date and the end of the Offer Period (each inclusive), no litigation against any member of the Hunnu Group which may reasonably result in a judgment or \$5 million or more is commenced, threatened in writing to be commenced, announced, or is made known to Hunnu or Banpu (whether or not becoming public).
- (o) **Index fall**

During the period from the Announcement Date to the end of the Offer Period, the S&P/ASX 200 Index does not fall below 3,500 at any time on any ASX trading day.
- (p) **Amendment of the Personal Property Securities Regulations 2010 (Cth)**

The *Personal Property Securities Regulations 2010* (Cth) are amended to the effect that section 32(1)(a) of the *Personal Property Securities Act 2009* (Cth) does not apply to the compulsory acquisition of securities under Part 6A.1 or 6A.2 of the Corporations Act, or as at the end of the Offer Period, the commencement date of the new PPSA regime under that Act is after the date on which compulsory acquisition of all securities in Hunnu is reasonably likely to be completed.
- (q) **ASIC option relief**

ASIC granting, on the basis of conditions which are reasonably acceptable to Banpu, modifications to:

  - (i) section 605(2) of the Corporations Act, to allow Banpu to treat the different classes of Hunnu Options as one class for the purpose of the Option Offer;
  - (ii) section 619(2) of the Corporations Act, to allow Banpu to offer different consideration for each class of Hunnu Option under the Option Offer; and
  - (iii) section 618(1) and Chapter 6A of the Corporations Act, to allow Banpu to cancel non-transferable Hunnu Options under the Option Offer and as part of the compulsory acquisition process.
- (r) **Restricted Hunnu Shares and Hunnu Options**

ASX and Hunnu grant waivers of all escrow and other restrictions on the transfer of all Hunnu Options and restricted Hunnu Shares.

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## DEFINITIONS

**Adviser** means, in relation to an entity, a financier, financial adviser, corporate adviser, legal adviser, or technical or other expert adviser or consultant who provides advisory services in a professional capacity to the market in general and who has been engaged by that entity.

**Announcement Date** means the date of this announcement.

**Approval** means a licence, authority, consent, approval, order, exemption, waiver, ruling, decision or similar.

**ASIC** means the Australian Securities & Investments Commission.

**ASX** means the Australian Securities Exchange.

**Banpu** means Banpu Minerals (Singapore) Pte Ltd.

**Banpu Group** means Banpu and its Related Bodies Corporate.

**Bidder's Statements** means the Share Bidder's Statement and, if applicable, the Option Bidders Statement.

**Business Day** means a day on which the banks are open for business in Perth, Australia, Thailand and Singapore, excluding a Saturday, Sunday or public holiday.

**Competing Proposal** means any expression of interest, offer or proposal pursuant to which a person (other than Banpu or another entity in the Banpu Group), whether alone or together with one or more associates, would, if the proposal were implemented substantially in accordance with its terms:

- (s) directly or indirectly, acquire an interest in all or a substantial part of the assets of Hunnu or the Hunnu Group;
- (t) directly or indirectly, acquire or hold a legal, equitable or economic interest in, a Relevant Interest in, or become the holder of, more than 15% of the Hunnu Shares (including by way of issue of new Hunnu Shares);
- (u) acquire control of Hunnu, within the meaning of section 50AA of the Corporations Act; or
- (v) otherwise acquire or merge with Hunnu (including by way of a scheme of arrangement, reverse takeover bid, stapled security structure, dual listed companies structure or other economic merger).

**Corporations Act** means the *Corporations Act 2001* (Cth).

**Encumbrance** means:

- (a) a mortgage, charge, pledge, lien, hypothecation or a title retention arrangement;



- (b) a notice under section 255 of the Income Tax Assessment Act 1936 (Cth), subdivision 260-A in schedule 1 to the Taxation Administration Act 1953 (Cth) or any similar legislation;
- (c) any other interest in or right or power over property (including a right to set off or withhold payment of a deposit or other money);
- (d) any other thing that prevents, restricts or delays the exercise of a right over property, the use of property, the continued ownership or interest in the property, or the registration of an interest in or dealing with property; or
- (e) an agreement to create anything referred to above or to allow any of them to exist.

**Government Agency** means any government or representative of a government or any governmental, semi-governmental, administrative, fiscal, regulatory or judicial body, department, commission, authority, tribunal, agency, competition authority or entity whether foreign, federal, state, territorial or local in any part of the world in which a party is domiciled or holds any of its assets. It includes ASIC and ASX (and any other stock exchange), and the Bank of Thailand.

**Hunnu** means Hunnu Coal Limited.

**Hunnu Board** means the board of directors of Hunnu.

**Hunnu Director** means a director of Hunnu.

**Hunnu Group** means Hunnu and its Related Bodies Corporate.

**Hunnu Option** means an option to subscribe for a Hunnu Share.

**Hunnu Optionholder** means a person who holds Hunnu Options.

**Hunnu Share** means a fully paid ordinary share issued in the capital of Hunnu.

**Hunnu Shareholder** means a person who is recorded in Hunnu's register of members as the holder of one or more Hunnu Shares.

**Offers** means the Share Offer and the Option Offer and **Offer** means either one.

**Offer Period** means the period with respect to either the Share Offer or the Option Offer during which the relevant Offer is open for acceptance.

**Officer** means, in relation to an entity, its directors, officers and employees.

**Option Bidder's Statement** means the bidder's statement for the Hunnu Options to be prepared by Banpu under sections 636 and 637 of the Corporations Act, and which includes the Option Offer.

**Option Offer** means the offer by Bidder or a wholly owned subsidiary to acquire or enter into cancellation deed polls in respect of each Hunnu Option in connection with the Takeover Bids.

**Related Body Corporate** has the meaning given in the Corporations Act.

**Relevant Interest** has the meaning given in the Corporations Act.

**Reimbursement Amount** means \$4,200,000 (plus GST, if applicable).

**Representative** means, in relation to a party:

- (f) a Related Body Corporate of the party;
- (g) an Officer of the party or any of the party's Related Bodies Corporate; or
- (h) an Adviser to the party or any of the party's Related Bodies Corporate.

**Share Offer** means each offer to acquire Hunnu Shares to be made by Banpu in connection with the Takeover Bids.

**Share Bidder's Statement** means the bidder's statement for the Hunnu Shares to be prepared by Banpu under sections 636 and 637 of the Corporations Act, and which includes the Share Offer.

**Superior Proposal** means a written bona fide Competing Proposal which the Hunnu Directors have determined, acting in good faith and after having first obtained written advice from Hunnu's external legal advisers and, if appropriate, Hunnu's external financial advisers, is:

- (i) reasonably capable of being valued, taking into account all aspects of the Competing Proposal and the person making it;
- (j) reasonably capable of being completed on a timely basis; and
- (k) is more favourable to Hunnu Shareholders and Hunnu Optionholders than the Offers, taking into account all the terms and conditions of the Competing Proposal.

**Takeover Bids** means off-market takeover bids by Banpu to acquire the Hunnu Shares and, if applicable, to acquire or cancel the Hunnu Options.

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