

5 May 2010



DMC MINING LIMITED

ACN 121 513 620

ENTRY INTO TAKEOVER BID IMPLEMENTATION DEED WITH MEIJIN ENERGY GROUP LIMITED

The Board of DMC Mining Limited ("**DMC**" or the "**Company**") (ASX code: **DMM**) is pleased to announce that it has entered into a conditional Takeover Bid Implementation Deed ("**TBID**") with Meijin Energy Group Limited ("**Meijin**"), for Meijin to acquire all the ordinary shares in DMC for \$0.50 per share in cash through an off-market takeover offer ("**Meijin Offer**"). A copy of the TBID is attached to this announcement.

The Meijin Offer, if made on satisfaction of certain preconditions, will value DMC at approximately A\$43.4 million¹ and will provide a premium of 66.7% to the closing price for DMC shares on the ASX on 22 March 2010 of A\$0.30, the last trading day prior to the announcement of the unsolicited takeover offer from Cape Lambert Resources Limited ("**Cape Lambert**") of \$0.46 per DMC share ("**Cape Lambert Offer**").

DMC's Managing Director, David Sumich noted, "the Meijin Offer, if made, is a compelling offer for DMC shareholders, given it is priced at a premium of 8.7% to the Cape Lambert Offer".

The obligation to make the Meijin Offer is subject to the following preconditions:

- completion of due diligence by Meijin on DMC;
- the entering into a pre-bid acceptance agreement with an entity associated with DMC's Managing Director, David Sumich; and
- no "prescribed occurrences" occurring before the date of satisfaction of the preconditions noted above.

The preconditions need to be satisfied or waived by 5.00pm Perth time on 7 May 2010. If the preconditions are satisfied or waived, Meijin will make the off-market takeover bid. If the preconditions are not satisfied or waived, the Meijin Offer will not be made.

DMC will update the market in due course as to the status of the satisfaction of the preconditions.

The Meijin Offer will be subject to a number of conditions, being a minimum acceptance condition of 48,700,000 shares and no prescribed occurrences, details of which are set out in full in schedule 1 of the attached TBID.

A mutual break fee of A\$150,000 is payable in certain circumstances as set out in clause 7 of the attached TBID.

DMC's directors have agreed they will unanimously recommend that DMC shareholders accept the Meijin Offer if made, in the absence of a superior proposal and subject to the proposed price for each

¹ Based on DMC's shares on issue of 86,867,867

DMC share under the proposed Meijin Offer being within or above the valuation range for a DMC share ("**Valuation Range**") as assessed by an Independent Expert.

DMC's directors have also indicated that they intend to accept the Meijin Offer, if made, in respect of their own shareholdings, in the absence of a superior proposal and subject to the consideration under the Meijin Offer being within or above the Valuation Range.

BDO Corporate Finance (WA) Pty Ltd has been appointed as the Independent Expert to determine and advise whether the Cape Lambert Offer is fair and reasonable to DMC Shareholders not associated with Cape Lambert.

As announced on 27 April 2010, the DMC Board recommends that, until such time as you receive the target's statement (which will be issued on or before 10 May 2010) in respect of the Cape Lambert Offer, you should take no action with respect to the Cape Lambert Offer.

David Sumich noted, "Shareholders will be aware of the status of the preconditions to the Meijin Offer well before the closing date of the Cape Lambert Offer, of 25 May 2010. As such, we recommend that shareholders take no action at this time with respect to the Cape Lambert Offer."

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Background Information – Meijin Energy Group Limited

Meijin was founded in 1981 as a family business, and the company is incorporated in Shanxi Province, China. Meijin was named one of the "Top 500 Enterprises" in China in 2008.

The group is the largest commercial coke producer and supplier in China. Meijin has reported coking coal resources of over 2 billion tonnes, with 3 operating mines in Shanxi. In the next 5 years, Meijin's coal production is anticipated to reach up to 20 million tonnes per annum.

Meijin operates a new 180 MW thermal power station and has built up a 2 Mtpa steel mill. Meijin has met the standards of the ISO 9001 quality control system and the ISO 14001 international environmental control system.

Current annual production capacity:

- A. 7.4 million tonnes of coal washing;
- B. 5.3 million tonnes of coke;
- C. 150,000 tonnes of coal tar;
- D. 50,000 tonnes of raw benzene;
- E. 55,000 tonnes of ammonium sulphate production;
- F. 730 million cubic metres of coal gas (being 2 million cubic metres of coal gas per day) to supply Taiyuan city; and
- G. 2 mtpa raw steel.

The group employs more than 10,000 staff (including over 3,000 professional staff).

MEIJIN ENERGY GROUP LIMITED

DMC MINING LIMITED

TAKEOVER BID IMPLEMENTATION DEED

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TAKEOVER BID IMPLEMENTATION DEED

THIS AGREEMENT is dated 4 May 2010.

BETWEEN:

MEIJIN ENERGY GROUP LIMITED of Level 19, Tianlongcang Plaza, 92 Fuxi St., Taiyuan, Shanxi Province, China ("**Meijin**");

AND

DMC MINING LIMITED ACN 121 513 620 of Level 1, 2 Ord Street, West Perth in the State of Western Australia, Australia ("**DMC**").

RECITALS:

- A.** Meijin is proposing to make a Takeover Bid to acquire DMC Shares.
- B.** The DMC Directors are proposing to recommend the Takeover Bid, in the absence of a Superior Proposal, and subject to the Offer Price being within or above the Valuation Range.
- C.** The DMC Directors may withdraw the recommendation referred to in Recital B if a Superior Proposal arises or the Offer Price is not within or above the Valuation Range.
- D.** It is a pre-requisite to Meijin making the Takeover Bid and the DMC Directors making the recommendation that the parties enter into this Deed.

AGREED as follows:

1. DEFINED TERMS AND INTERPRETATION

1.1 Defined terms

In this Deed, the following definitions apply unless the context requires otherwise:

"**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;

"**Agreed Bid Terms**" means the terms and conditions set out in Schedule 1;

"**Announcement Date**" means the date on which Meijin releases the announcement referred to in clause 2.3(a) to the ASX;

"ASIC" means the Australian Securities & Investments Commission;

"ASX" means the Australian Securities Exchange;

"Bidder's Statement" means the bidder's statement and acceptance form under sections 636 and 637 of the Corporations Act, and which includes the Offer;

"Business Day" means a day on which the banks are open for business in Perth, Australia, excluding a Saturday, Sunday or public holiday;

"Competing Proposal" means a proposal pursuant to which a person (other than Meijin or another entity in the Meijin Group) would, if the proposal were implemented:

- (a) directly or indirectly, acquire an interest, a relevant interest in or become the holder of:
 - (i) more than 20% of the DMC Shares; or
 - (ii) an economic interest in 25% or more of the Mayoko Project or a substantial part or a material part of the business or property of DMC; or
- (b) acquire control of DMC, within the meaning of section 50AA of the Corporations Act; or
- (c) otherwise acquire or merge with DMC (including by way of a scheme of arrangement, reverse takeover bid or dual listed companies structure);

"Communications" means all forms of communications, whether written, oral, in electronic format or otherwise, and whether direct or indirect via agents or Representatives;

"Corporations Act" means the *Corporations Act 2001* (Cth);

"DMC Board" means the board of directors of DMC;

"DMC Break Fee" has the meaning given in clause 7.1;

"DMC Director" means a director of DMC;

"DMC Group" means DMC and its Related Bodies Corporate;

"DMC Option" means an option to subscribe for a DMC Share;

"DMC Share" means a fully paid ordinary share in the issued capital of DMC;

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

"**Ekul**" means Ekul Nominees Pty Ltd ACN 122 657 452;

"**Facilitation Agreement**" means the Facilitation Agreement made 7 December 2007 between DMC, Tanaka Mining Projects (Proprietary) Limited and Project Management International Limited;

"**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 in any part of the world. It includes ASIC and ASX (and any other stock exchange);

"**Independent Expert**" means BDO Corporate Finance (WA) Pty Ltd, appointed by DMC to prepare a report in relation to the off-market takeover offer by Cape Lambert Resources Limited for all of DMC's Shares that it does not own that was announced on 23 March 2010;

"**Meijin Break Fee**" has the meaning given in clause 7.2;

"**Meijin Group**" means Meijin and its Related Bodies Corporate;

"**Offer**" means each offer to acquire DMC Shares as made by Meijin in accordance with clause 2.2 to DMC Shareholders in connection with the Takeover Bid;

"**Offer Conditions**" means the conditions to the offer set out in paragraph 4 of Schedule 1;

"**Offer Period**" means the period during which the Offer is open for acceptance;

"**Offer Price**" means the consideration offered by Meijin for each DMC Share under the Offer as set out in the Agreed Bid Terms;

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

"**Related Body Corporate**" has the meaning given in the Corporations Act;

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

- (a) a Related Body Corporate of the party;
- (b) an Officer of the party or any of the party's Related Bodies Corporate; or
- (c) an Adviser to the party or any of the party's Related Bodies Corporate;

"Shareholder Pre-Bid Acceptance Deed" means the pre-bid acceptance deed between Meijin and Ekul pursuant to which Ekul agrees to accept the Offer, in the absence of a Superior Proposal and subject to the Offer Price being within or above the Valuation Range, on terms reasonably satisfactory to Meijin and Ekul;

"Superior Proposal" means a bona fide Competing Proposal which the DMC Directors have determined, in good faith, is:

- (a) reasonably capable of being valued, taking into account all aspects of the Competing Proposal and the person making it;
- (b) reasonably capable of being completed on a timely basis; and
- (c) is more favourable to DMC Shareholders than the Offer, taking into account all the terms and conditions of the Competing Proposal;

"Takeover Bid" means a takeover bid for DMC by Meijin that satisfies the requirements in clause 2.1;

"Target's Statement" means the target's statement under section 638 of the Corporations Act in relation to the Offer; and

"Valuation Range" means the range of values for each DMC Share (expressed in Australian dollars) as stated in the report of the Independent Expert (as amended from time to time).

1.2 Interpretation

In this Deed, headings are for convenience only and do not affect the interpretation of this Deed and, unless the context otherwise requires:

- (a) words importing the singular include the plural and vice versa;
- (b) words importing a gender include any gender;
- (c) an expression importing a natural person includes any company, partnership, joint venture, association, corporation or other body corporate and any Government Agency;
- (d) a reference to any thing (including, but not limited to, any right) includes a part of that thing but nothing in this clause 1.2(d) implies that performance of part of an obligation constitutes performance of the obligation;
- (e) a reference to a clause, party, annexure, exhibit or schedule is a reference to a clause of, and a party, annexure, exhibit and schedule to, this Deed and a reference to this Deed includes any annexure, exhibit and schedule;

- (f) a reference to a statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws amending, consolidating or replacing it, whether passed by the same or another Government Agency with legal power to do so, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;
- (g) a reference to a document includes:
 - (i) all amendments or supplements to, or replacements or novations of, that document; and
 - (ii) any agreement in writing, or any certificate, notice, instrument or other document of any kind whether stored or provided in paper or electronic form;
- (h) a reference to a party to a document includes that party's successors and permitted assigns;
- (i) no provision of this Deed will be construed adversely to a party solely on the ground that the party was responsible for the preparation of this Deed or that provision;
- (j) a reference to an agreement other than this Deed includes an undertaking, deed, agreement or legally enforceable arrangement or understanding whether or not in writing;
- (k) a reference to an asset includes all property of any nature, including, but not limited to, a business, and all rights, revenues and benefits;
- (l) a reference to a body, other than a party to this Deed (including, without limitation, an institute, association or authority), whether statutory or not:
 - (i) which ceases to exist; or
 - (ii) whose powers or functions are transferred to another body,is a reference to the body which replaces it or which substantially succeeds to its powers or functions;
- (m) (without limiting the ways in which information can be provided or disclosed) information will be deemed to have been provided or disclosed by one party to the other if the party provides the other party or its agents or advisers with a document and the relevant piece of information is disclosed in the document;
- (n) where 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;

- (o) the word "includes" in any form is not a word of limitation;
- (p) a reference to "\$" or "dollar" is to Australian currency; and
- (q) a reference to any time is a reference to that time in Perth, Australia.

1.3 **Consents and 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, such consent or approval may be given or such discretion may be exercised conditionally or unconditionally or withheld by the party in its absolute discretion (unless this Deed specifies otherwise).

1.4 **Business Day**

Except where otherwise expressly provided, where under this Deed the day on which any act, matter or thing is to be done is a day other than a Business Day, such act, matter or thing will be done on the next Business Day.

2. THE TAKEOVER BID

2.1 **Conditions precedent to making of the Takeover Bid**

The obligations of Meijin under this Deed to:

- (a) make offers pursuant to an off-market takeover under clause 2.2 of this Deed;
- (b) make the announcement under clause 2.3(a) of this Deed,

are subject to and conditional upon:

- (c) completion of due diligence by Meijin on DMC, DMC's Related Bodies Corporate and their respective businesses to the satisfaction of Meijin by 5.00pm Perth time on 7 May 2010;
- (d) the Shareholder Pre-Bid Acceptance Deed being entered into by 5.00pm Perth time on 7 May 2010; and
- (e) none of the occurrences listed in paragraph 4(c) of Schedule 1 of this Deed happening prior to the date of satisfaction of the last of the conditions precedent in clauses 2.1(c) and 2.1(d),

and for the avoidance of doubt, the condition precedent in clause 2.1(e) will be deemed to be satisfied on the date of satisfaction of the last of the conditions precedent in clauses 2.1(c) and 2.1(d) unless Meijin gives written notice to DMC of such occurrence prior to that date.

2.2 Making of the Takeover Bid

Meijin must make offers pursuant to an off-market takeover bid under Chapter 6 of the Corporations Act to acquire DMC Shares on terms no less favourable than the Agreed Bid Terms.

2.3 Announcement of Takeover Bid

- (a) On the day that Meijin notifies DMC of the satisfaction or waiver of the last of condition precedents in clauses 2.12.1(c) and 2.12.1(d), Meijin must publicly release to the ASX an announcement stating Meijin will make the Takeover Bid.
- (b) As soon as practicable after Meijin has publicly released its announcement in accordance with clause 2.3(a) and subject to DMC not having received a Superior Proposal, DMC must publicly release to the ASX an announcement which will, among other things, state:
 - (i) the DMC Board unanimously recommends that DMC Shareholders accept the Offer, in the absence of a Superior Proposal and subject to the Offer Price being within or above the Valuation Range; and
 - (ii) each DMC Director will accept the Offer in respect of DMC Shares which he owns or controls, in the absence of a Superior Proposal and subject to the Offer Price being within or above the Valuation Range.

2.4 Meijin may use members of Meijin Group

Meijin may satisfy its obligations under clauses 2.2 and 2.3(a) by causing another entity in the Meijin Group to perform the obligations referred to in those clauses, subject to Meijin guaranteeing the obligations of that entity, in which case references to:

- (a) the Takeover Bid are references to the takeover bid by that entity; and
- (b) Meijin making the Takeover Bid are references to Meijin causing that entity to make the Takeover Bid.

3. FACILITATION OF OFFER

3.1 Bidder's Statement and Target's Statement

- (a) Meijin must prepare a Bidder's Statement.
- (b) Meijin will give DMC a reasonable opportunity to review one or more drafts of the Bidder's Statement, and will consult in good faith with DMC with respect to any comments DMC may have.

- (c) DMC must prepare a Target's Statement.
- (d) DMC will give Meijin a reasonable opportunity to review one or more drafts of the Target's Statement and will consult in good faith with Meijin with respect to any comments Meijin may have.
- (e) Subject to any obligations of confidentiality to third parties, DMC must provide any assistance and information reasonably requested by Meijin to enable Meijin to prepare and finalise the Bidder's Statement.
- (f) Meijin must provide any assistance and information reasonably requested by DMC to enable DMC to prepare and finalise the Target's Statement.
- (g) If Meijin receives inside information in relation to DMC while conducting its due diligence, DMC consents to the disclosure of that inside information in the Bidder's Statement.

3.2 Early despatch of Offers

- (a) DMC agrees that the Offers and accompanying documents to be sent by Meijin under the Takeover Bid under Item 6 of section 633(1) of the Corporations Act may be sent on a date nominated by Meijin that is earlier than the date for sending under Item 6 of section 633(1) of the Corporations Act provided DMC is satisfied, acting reasonably, that Meijin has addressed any comments DMC may have in relation to the Bidder's Statement under clause 3.1(b).
- (b) Subject to DMC granting its consent as contemplated by clause 3.2(a), Meijin agrees to use its best endeavours to send the Offers and accompanying documents under the Takeover Bid to DMC Shareholders within 1 week of the Announcement Date, but must do so no later than 1 month after the Announcement Date.

3.3 Promote the Takeover Bid

- (a) Subject to clause 3.3(b), during the Offer Period DMC will use its best endeavours to procure that all of the DMC Directors maintain (including by statements in the Target's Statement):
 - (i) their unanimous recommendation that DMC Shareholders accept the Offer, in the absence of a Superior Proposal, and subject to the Offer Price being within or above the Valuation Range; and
 - (ii) their stated intention to accept the Offer in respect of DMC Shares that they own or control, in the absence of a Superior Proposal, and subject to the Offer Price being within or above the Valuation Range.

- (b) During the Offer Period, the DMC Directors may withdraw their recommendation and their statement of intention to accept the Offer in respect of the DMC Shares which they control if a Superior Proposal is received or if the Offer Price is not within or above the Valuation Range.
- (c) During the Offer Period, DMC will procure that the managing director will participate in efforts reasonably required by Meijin, at Meijin's expense (other than in respect of the time of the DMC managing director), to promote the merits of the Takeover Bid, including (at Meijin's reasonable request):
 - (i) meeting with key DMC Shareholders; and
 - (ii) communicating with DMC's employees and any other persons,subject only to a qualification that there is no Superior Proposal and the Offer Price being within or above the Valuation Range.
- (d) DMC will direct its share registry to co-operate with Meijin in implementing and promoting the Offer at Meijin's expense.

3.4 Offer Conditions

- (a) DMC agrees not to knowingly do (or knowingly omit to do) anything which will, or is likely to, result in any of the Offer Conditions being breached.
- (b) To avoid any doubt in this Deed, a reference to an Offer Condition being breached includes a reference to an Offer Condition not being, or not being capable of being, satisfied.
- (c) If any event occurs or becomes apparent which would cause any of the Offer Conditions to be breached or prevent them from being able to be satisfied, DMC or Meijin must, to the extent such information is within the relevant party's actual knowledge, immediately notify the other party of the event.
- (d) Nothing in this clause 3.4 prevents DMC or the DMC Directors from taking or refusing to take any action provided that the DMC Directors have determined, in good faith after having consulted with their external legal and financial advisers, that failing to take, or failing to refuse to take, such action would or would be likely to constitute a breach of the DMC Directors' fiduciary or statutory obligations.

4. TAKEOVER BID – VARIATION AND WAIVER

4.1 Variation

Meijin may vary the terms and conditions of the Takeover Bid in any manner which is permitted by the Corporations Act.

4.2 Waiver of Offer Conditions and extension

Subject to the Corporations Act, Meijin may declare the Takeover Bid to be free from any Offer Condition or to extend the Takeover Bid at any time.

5. PUBLIC ANNOUNCEMENTS AND COMMUNICATIONS

5.1 Announcements

- (a) Subject to clause 5.1(b), each party must use its best endeavours to consult with the other party prior to making any public announcements in connection with the Offer or the Takeover Bid.
- (b) Where a party is required by applicable law or stock exchange rules to make any announcement or make any disclosure relating to matters the subject of the Offer or the Takeover Bid (including any supplementary Bidder's Statement or Target's Statement), it may do so only after it has to the maximum extent possible in the circumstances:
 - (i) given the other party as much notice as is reasonably practicable in the context of any deadlines imposed by law or a Government Agency; and
 - (ii) has consulted with the other party as to the content of that announcement or disclosure.

5.2 Announcement of entry into this Deed

Meijin acknowledges that DMC will, as soon as practicable after the execution of this Deed, make an announcement to the ASX in the form of Schedule 2.

5.3 Communications

Except in relation to Communications regulated by clause 2.3 or 5.1 and to the extent permitted by applicable law:

- (a) the parties must in good faith consult with each other in advance on the proposals or plans for any Communications in relation to the Offer or Takeover Bid with:

- (i) DMC Shareholders (including scripts for telephone call centres established or maintained in connection with the Offer);
 - (ii) any Government Agency; and
 - (iii) any rating agency or any other third party, including the media; and
- (b) each party must provide copies to each other of any written Communications sent to or received from a person referred to in sub-clauses (i), (ii) or (iii) of clause 5.3(a) as soon as practicable following despatch or receipt (as the case may be), provided that such copies may mask any confidential and sensitive information; and
- (c) if a party has not responded to reasonable requests for consultation within 48 hours of such a request, the requesting party may proceed with its Communications as sees fit.

6. WARRANTIES

Each party represents and warrants to the other that, at the date of this Deed:

- (a) it is duly incorporated under the laws of the place of its incorporation;
- (b) it has the power and authority to sign this Deed and perform and observe all its terms;
- (c) this Deed has been duly executed and is a legal, valid and binding agreement, enforceable against it in accordance with its terms;
- (d) it is not bound by any contract which may restrict its right or ability to enter into or perform this Deed; and
- (e) it is not aware of any act, omission, event or fact that would result in the happening of one or more of the prescribed occurrences set out in paragraph 4(c) of Schedule 1, except as disclosed by a party to the other party in writing to the date of this Deed.

7. BREAK FEE

7.1 Undertaking by DMC to pay the DMC Break Fee

DMC undertakes to pay Meijin a compensating amount of A\$150,000 (inclusive of any GST) (the "**DMC Break Fee**") if:

- (a) DMC breaches any of the terms of clauses 3.1(c) and 3.3 of this Deed; or

- (b) before the end of the Offer Period each of the following occur:
 - (i) any DMC Director does not recommend, or indicates that he will not recommend, the Offer; and
 - (ii) the DMC Board has not received a Superior Proposal; and
 - (iii) the Offer Price is within or above the Valuation Range.

7.2 **Undertaking by Meijin to pay the Meijin Break Fee**

Meijin undertakes to pay DMC a compensating amount of A\$150,000 (inclusive of any GST) (the "**Meijin Break Fee**") if Meijin breaches any of the terms of clauses 2.1, 2.3(a), 3.1(a), and 3.2(b) of this Deed.

7.3 **Repayment**

If, notwithstanding the occurrence of any of the events referred to in clause 7.1, Meijin ultimately declares the Offer unconditional (whether after the satisfaction or waiver of the Offer Conditions) and acquires relevant interests in at least 50.1% of the DMC Shares:

- (a) Meijin must repay to DMC any amount received by it under clause 7.1 which has not already been refunded under 7.7; and
- (b) DMC must repay to Meijin any amount received by it under clause 7.2 which has not already been refunded under 7.7,

as applicable.

7.4 **Meijin warranty**

Meijin warrants to DMC as at the date of this Deed that the entry into this Deed is necessary to procure Meijin to make the Takeover Bid.

7.5 **DMC Break Fee and Meijin Break Fee acknowledgements**

Each of Meijin and DMC acknowledge that:

- (a) the amount of the DMC Break Fee and the Meijin Break Fee is reasonable in the context of the Takeover Bid;
- (b) significant benefits will flow to DMC and DMC Shareholders from Meijin making the Takeover Bid; and
- (c) DMC's entering into the obligations set out in this clause 7 is necessary to induce Meijin to make the Takeover Bid.

7.6 Demand for payment

Any demand by Meijin or DMC (as applicable) for payment of the DMC Break Fee or the Meijin Break Fee (as applicable) must be in writing and contain the reasons for the demand. DMC or Meijin (as applicable) must pay that amount to Meijin or DMC (as applicable) within 5 Business Days of receipt of the demand.

7.7 Compliance with law

If:

- (a) it is found by the Takeovers Panel or a Court that all or any part of the DMC Break Fee or the Meijin Break Fee is unlawful, involves a breach of director's duties or constitutes unacceptable circumstances within the meaning of section 657A of the Corporations Act and the period for lodging an application for review or a notice of appeal (as applicable) has expired without such an application or notice having been lodged; or
- (b) an application for review or a notice of appeal having been lodged with the Takeovers Panel or a Court within the prescribed period, it is found by the relevant review panel or appeal Court that all or any part of the DMC Break Fee or the Meijin Break Fee is unlawful, involves a breach of director's duties or constitutes unacceptable circumstances within the meaning of section 657A of the Corporations Act,

then:

- (c) the undertaking under clause 7.1 does not apply in respect of that part of the payment which is found to be unlawful, involving a breach of director's duties or constituting unacceptable circumstances; and
- (d) the party receiving the DMC Break Fee or the Meijin Break Fee (as applicable) must refund to the other party that part of the payment paid to Meijin or DMC (as applicable) under this Deed.

8. TERMINATION

8.1 Termination for material breach

A party (the "**Terminating Party**") may terminate this Deed at any time, by notice to the other party, if:

- (a) the other party is in breach of any clause of this Deed, which breach is material in the context of the Offer;

- (b) the Terminating Party has given notice to the other party setting out the material breach and stating an intention to terminate this Deed; and
- (c) the material breach has continued to exist for 5 Business Days from the time such notice is given.

8.2 Termination for failure to complete due diligence

DMC may terminate this Deed by notice to Meijin if Meijin fails to notify DMC that the condition precedent in clause 2.1(c) is not satisfied or waived by 5.00pm Perth time on 7 May 2010.

8.3 Other termination rights

A party may terminate this Deed at any time, by notice to the other, if:

- (a) Meijin withdraws the Offer for any reason including non-satisfaction of an Offer Condition as permitted by the Corporations Act; or
- (b) on the date 4 months from the date of this Deed the Offer has not been freed from all Offer Conditions; or
- (c) the DMC Directors recommend a Superior Proposal; or
- (d) the Independent Expert releases its report, and the Offer Price is less than the Valuation Range.

8.4 Effect of termination

If this Deed is terminated under clause 8.1 or 8.2, this Deed will have no further force or effect and the parties will have no further obligations under this Deed, other than in respect of any accrued rights or remedies including in respect of any liability for an antecedent breach of this Deed and provided that this clause 8, and clauses 6 and 9 survive termination.

9. MISCELLANEOUS

9.1 Notices

- (a) Any notice given under this Deed:

must be in writing addressed to the intended recipient at the address shown below or the address last notified by the intended recipient to the sender:

Meijin

Address: c/- Mr Wanfu Huang
Lexjy Pty Ltd
Suite 3, Level One

12 Riverview Tce
Indooroopilly, QLD 4068
Attention: Mr Wanfu Huang
Fax: +61 7 3378 7606

DMC
Address: Level 1
2 Ord Street,
West Perth, WA 6005
Attention: Mr David Sumich
Fax: +61 8 9486 1718

- (b) must be signed by a person duly authorised by the sender; and
- (c) will be taken to have been given when delivered, received or left at the above address. If delivery or receipt occurs on a day when business is not generally carried on in the place to which the notice is sent, or is later than 5.00 pm (local time), it will be taken to have been duly given at the commencement of business on the next day when business is generally carried on in that place.

9.2 **Entire agreement**

This Deed contains the entire agreement between the parties with respect to its subject matter. It sets out the only conduct relied on by the parties and supersedes all earlier conduct and prior agreements and understandings between the parties in connection with its subject matter.

9.3 **Amendment**

This Deed may be amended only by another agreement executed by both parties.

9.4 **Assignment**

The rights and obligations of each party under this Deed are personal. They cannot be assigned, charged or otherwise dealt with, and no party shall attempt or purport to do so, without the prior written consent of all the parties.

9.5 **Severance**

Any provision of this Deed which is prohibited or unenforceable in any jurisdiction will be ineffective in that jurisdiction to the extent of the prohibition or unenforceability. That will not invalidate the remaining provisions of this Deed nor affect the validity or enforceability of that provision in any other jurisdiction.

9.6 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.

9.7 Further assurances

Each party must do anything necessary (including executing agreements and documents) to give full effect to this Deed and the transactions contemplated by it.

9.8 No merger

The rights and obligations of the parties will not merge on completion of any transaction under this Deed. They will survive the execution and delivery of any assignment or other document entered into for the purpose of implementing any transaction.

9.9 Costs and expenses

Each party will pay its own costs and expenses in connection with:

- (a) the negotiation, preparation, execution, and performance of this Deed;
- (b) the proposed, attempted or actual implementation of this Deed; and
- (c) the Offer generally.

9.10 GST

- (a) Unless otherwise expressly stated, all amounts payable under this Deed are expressed to be exclusive of GST. If GST is payable on a Taxable Supply made under or in connection with this Deed, the recipient of the supply must pay the supplier, an additional amount equal to the GST payable on that supply provided that the supplier first issues a tax invoice for that supply.
- (b) Without limiting clause 10.10(a), if an amount payable under this Deed is calculated by reference to a liability incurred by a party, then the amount of the liability must be reduced by the amount of any Input Tax Credit to which that party is entitled in respect of the acquisition of the supply to which that liability relates. A party will be assumed to be entitled to a full Input Tax Credit unless it demonstrates that its entitlement is otherwise prior to the date on which payment must be made.

- (c) Words and expressions used in this clause 10.10 have the same meaning as in *A New Tax System (Goods and Services) Tax Act 1999 (Cth)*.

9.11 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.

9.12 Counterparts

This Deed may be executed in any number of counterparts. All counterparts taken together will be taken to constitute one agreement. The parties agree that a facsimile copy of a counterpart received from a party shall be regarded as an original copy of the counterpart received from that party.

EXECUTED as a deed

EXECUTED by MEIJIN)	
ENERGY GROUP LIMITED by)	
its authorised representative, in the)	
presence of:)	
)	
Signed: _____)	_____
)	Signature
)	
Name: _____)	_____
)	Name
)	
Address: _____)	_____
)	Position
_____)	

EXECUTED by)	_____	_____
DMC MINING LIMITED)	Director	Secretary/Director
by authority of its Directors in)		
accordance with section 127 of)		
the Corporations Act)	_____	_____
)	Print name	Print name

SCHEDULE 1

AGREED BID TERMS

1. Takeover Offer

Meijin will make an off-market takeover offer to acquire all of the DMC Shares which are not already held by Meijin. The offer will extend to DMC Shares which are issued during the period from the date set by Meijin under section 633(2) (the Register Date) of the Corporations Act to the end of the Offer Period due to a conversion or exercise of rights attached to securities which exist, or will exist, as at the Register Date.

2. Offer Price

A\$0.50 (cash) per DMC Share.

3. Offer Period

The Offer will remain open for a minimum period of 1 month (unless withdrawn during that period under section 652B of the Corporations Act).

4. Offer Conditions

The Offer is subject to the fulfilment of the following conditions:

(b) Minimum acceptance

At or before the end of the Offer Period, Meijin has a relevant interest in at least 48,700,000 DMC Shares.

(c) No prescribed occurrences

During the period from the date of the Bidder's Statement to 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) DMC converts all or any of its shares into a larger or smaller number of shares under section 254H of the Corporations Act;
- (ii) DMC or a subsidiary of DMC resolves to reduce its share capital in any way;
- (iii) DMC or a subsidiary of DMC 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) DMC or a subsidiary of DMC issues shares (other than as a result of the exercise of DMC Options, or pursuant to the Facilitation

- Agreement) or grants an option over its shares, or agrees to make such an issue or grant such an option;
- (v) DMC or a subsidiary of DMC issues, or agrees to issue, convertible notes;
 - (vi) DMC or a subsidiary of DMC disposes, or agrees to dispose, of the whole, or a substantial part, of its business or property;
 - (vii) DMC or a subsidiary of DMC charges, or agrees to charge, the whole, or a substantial part, of its business or property;
 - (viii) DMC or a subsidiary of DMC resolves to be wound up;
 - (ix) a liquidator or provisional liquidator of DMC or of a subsidiary of DMC is appointed;
 - (x) a court makes an order for the winding up of DMC or of a subsidiary of DMC;
 - (xi) an administrator of DMC or of a subsidiary of DMC is appointed under section 436A, 436B or 436C of the Corporations Act;
 - (xii) DMC or a subsidiary of DMC 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 DMC or a subsidiary of DMC.