

26 February 2020



COMMENCEMENT OF LEGAL PROCEEDINGS

Universal Coal Plc (“**Universal**” or the “**Company**”) (ASX: UNV) has, in light of the unsolicited offer (the “**Unsolicited Bid**”) made by a wholly owned subsidiary of TerraCom Limited (“**TerraCom**”), TCIG Resources Pte Ltd (“**TerraCom Bidco**”), for the shares in the Company it did not, at the date of the Unsolicited Bid, already own, commenced proceedings in the High Court of Justice of England and Wales (the “**Litigation**”) seeking a determination that certain conditions in article 18.1(b) (“**Conditions**”) of the articles of association of the Company (the “**Articles**”) have been satisfied.

The committee of the board of directors of the Company (the “**Board**”) overseeing the Unsolicited Bid (the “**Bid Committee**”) has considered the options that are available to the Company to ensure that all Universal shareholders are given an equal opportunity to realise the full value of their investment in the Company. The Bid Committee’s preference would be for a change of control transaction to be proposed which achieves improved outcomes for all shareholders. However, in the circumstances presented by the Unsolicited Bid, and for the reasons set out below, the Bid Committee has determined that the interests of the body of shareholders as a whole are best served through commencing and prosecuting the Litigation. The Litigation has been commenced for the purposes of putting the Bid Committee in the position where it is able to enforce the sanctions set out in Article 18.1(b)(iii) (the “**Sanctions**”), which are described further below.

The Litigation is required because of the operation of the waiver granted by ASX Limited on 5 November 2015 in favour of the Company (the “**ASX Waiver**”) which, in effect, means that the Company can only enforce the Sanctions if a Court rules that Article 18.1(b) applies to the circumstance presented by the Unsolicited Bid.

If, as a consequence of the Litigation, a Court declares that the Conditions are satisfied (as the Litigation seeks), the Bid Committee will be in a position where it can enforce the following Sanctions against TerraCom Bidco:

- suspending with immediate effect all voting rights attributable to all shares in which TerraCom Bidco has an interest; and / or
- directing TerraCom Bidco to divest its interest in all shares in the Company it has acquired or will acquire pursuant to the Unsolicited Bid in accordance with the procedure set out in the Articles.

The Bid Committee maintains its recommendation that Universal shareholders **TAKE NO ACTION** in respect of the Unsolicited Bid, pending receipt and distribution of the independent expert’s report that is being prepared by Deloitte Corporate Finance Pty Ltd (as foreshadowed in previous announcements).

Background to legal proceedings

As set out in the offer document published by TerraCom on 12 February 2020 in connection with the Unsolicited Bid (the “**Offer Document**”), the Company is not subject to the UK City Code on Takeovers and Mergers (the “**City Code**”) or the takeover provisions of Chapter 6 of the Australian Corporations Act. As such, the Company and its shareholders are not afforded the protections that those takeover regimes would offer if Universal was subject to either of them.

However, the Articles confer upon shareholders protection from what would otherwise constitute certain unpermitted behaviour under the City Code. That protection is set out in Article 18.1(b).

In summary, Article 18.1(b) provides that if:

- any person (together with any persons in the opinion of the Board acting with them) acquires any interest in shares in Universal and as a result they (whether or not with the other persons) would (in the opinion of the Board) have been obliged under the City Code (as adjusted for these purposes) to extend an offer to the holders of any other securities in the Company had the City Code applied to it (as adjusted for these purposes) (the “**Mandatory Offer**” and such person or persons being a “**Mandatory Offeror**”) (the “**First Condition**”); and
- the Mandatory Offeror fails to make a Mandatory Offer on terms no less favourable (in the opinion of the Board) to the other holders of securities than he would have been obliged to offer under the provisions of the City Code, had it applied, within 21 days following the date on which the obligation would have arisen (the “**Second Condition**”),

the Board shall be entitled (but not obliged) to impose the Sanctions.

To apply these Sanctions pursuant to the terms of the ASX Waiver, the Company is first required to obtain a ruling from a competent court, being a court of England and Wales, that TerraCom Bidco is a person to whom the Second Condition applies.

Basis of claim

It is the view of the Bid Committee that the First Condition and the Second Condition have been satisfied.

First Condition

On 19 February 2020, TerraCom announced that acceptances to the Unsolicited Bid had been received which, when aggregated with TerraCom Bidco’s existing holding in the Company, resulted in TerraCom (through TerraCom Bidco) having the right to exercise 51 per cent. of the voting rights attaching to shares in the Company. The First Condition has therefore been satisfied.

Second Condition

As announced by the Company on 17 February 2020, the Bid Committee, having received and considered legal advice, has formed the view that the Unsolicited Bid is less favourable for shareholders than an offer made in compliance with the City Code such that the Second Condition is presently satisfied and the Bid Committee infers

will remain satisfied until the end of the 21-day period referred to in the Second Condition. This is based on a number of factors, including:

- if Rule 11 of the City Code applied to the Company, in light of TerraCom Bidco's acquisition of 104,467,056 securities in the Company from Coal Development Holding B.V. as first announced on 30 October 2019 (the "**CDH Acquisition**"), the Bid Committee believes that the UK Panel on Takeovers and Mergers (the "**Panel**") would have required TerraCom Bidco to make the Unsolicited Bid wholly for cash for the same value as the value of the CDH Acquisition. If the Panel had allowed the Unsolicited Bid to comprise a mixture of cash and new TerraCom shares, it would have required the mixture of cash and new TerraCom shares to be in the same proportion as that which was offered pursuant to the CDH Acquisition, together with a full cash alternative (requirements with which the Unsolicited Bid has not complied);
- it appears that the Offer Document was despatched to shareholders 10 days after TerraCom first announced an intention to submit the Unsolicited Bid on 3 February 2020, an action that Rule 24.1 of the City Code would only permit where consented to by an offeree company's board (the Board did not provide such consent);
- under Rule 31 of the City Code, an offer must initially be open for acceptance for at least 21 days following the date on which the offer document is published, and (unless it is unconditional at the outset) must remain open for acceptance for a further 14 days if it is unconditional as to acceptances on or before that date, giving shareholders at least 35 days to decide whether to accept an offer. The expected deadline for shareholders in the Company who hold:
 - uncertified shares to rematerialise such shares in order to accept the Unsolicited Bid is 2 March 2020 (i.e. 19 days after the date of the Offer Document);
 - CHESS Depository Interests ("**CDIs**") to accept the Unsolicited Bid is 12 March 2020 (i.e. 29 days after the date of the Offer Document), and
 - all other shareholders must accept the Unsolicited Bid by 16 March 2020 (i.e. 33 days after the date of the Offer Document);
- TerraCom Bidco has failed to provide confirmation by an appropriate third party (such as TerraCom Bidco's financial adviser) that resources are available sufficient to satisfy full acceptance of the Unsolicited Bid – such confirmation is required pursuant to General Principle 5 and Rules 2.7(d) and 24.8 of the City Code in order to give shareholders in target companies certainty that offerors can satisfy any cash consideration in full; and
- the terms of the Unsolicited Bid provided that it was conditional on valid acceptances being received in respect of Universal shares amounting to not less than 47.3 per cent. of Universal's shares, despite Rule 10 of the City Code providing that an acceptance condition must, other than in exceptional circumstances and with the consent of the Panel, be over 50 per cent.

The Bid Committee is of the opinion that for each of the aforementioned reasons, the Unsolicited Bid is on terms less favourable than if the City Code applied and that, accordingly, the Second Condition is satisfied (and that consequently, once it has obtained a court declaration, it may impose the Sanctions on TerraCom Bidco).

Requisition meeting

As announced on 18 February 2020, TerraCom Bidco has issued requisition notices that seek to remove three of the five directors of Universal that have not been nominated to the Board by TerraCom Bidco (the “Independent Directors”). The Bid Committee considers that this action by TerraCom Bidco can only be construed as an attempt to frustrate the ability of the Bid Committee and the Independent Directors to act in relation to the Unsolicited Bid in a way which is considered to be in the best interests of Universal shareholders taken as a whole.

Further updates

The Company remains focused on delivering on the Universal business plan seeking to deliver growth and value to all of its shareholders and holders of its CDIs, which includes those who have not accepted the Unsolicited Bid.

The Bid Committee will keep Universal shareholders and holders of CDIs informed of all material developments relating to the Unsolicited Bid and the Litigation.

The Bid Committee
26 February 2020

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About the Company:

Universal Coal Plc (incorporated and domiciled in the United Kingdom) is an ASX listed mid-tier +10Mtpa coal mining company (ASX:UNV) which operates three thermal coal mines in South Africa; the 4.0Mtpa opencut Kangala Colliery, the 3.7Mtpa opencut and underground New Clydesdale Colliery and the 3.4Mtpa opencut North Block Complex. Universal's fourth colliery is currently under construction and is set to deliver coal product at the rate of 1.2Mtpa from November 2019.

Universal's mines include both opencut and bord and pillar underground operations that are delivering product into the South African and international coal markets. They have an executive team possessing a proven track record of developing and managing profitable operations with experienced in-house technical and commercial competencies and good relationships with service providers, traders and end users.

Universal is delivering strong positive cash flow from its operations and is committed to building a sustainable mid-tier coal mining company providing investors with exposure to profitable coal mines.

Further information on Universal can be found at www.universalcoal.com

Important information

This announcement (including information incorporated by reference in this announcement), and other information published by Universal may contain statements that are or may be deemed to be forward looking statements. All statements other than statements of historical facts included in this announcement may be forward-looking statements. Without limitation, any statements preceded or followed by or that include the words "targets", "plans", "believes", "expects", "aims", "intends", "may", "anticipates", "estimates", "projects" or words or terms of similar substance or the negative thereof, are forward looking statements. For the avoidance of doubt, forward-looking statements include, but are not limited to, statements relating to the following: (i) future capital expenditures, expenses, revenues, earnings, synergies, economic performance, indebtedness, financial condition, dividend policy, losses and future prospects; (ii) business and management strategies and the expansion and growth of the Universal group of companies or its operations; and (iii) the effects of government regulation on the Universal group of companies or its business.

The forward-looking statements are not guarantees of future performance. Such forward-looking statements involve known and unknown risks and uncertainties that could significantly affect expected results and are based on certain key assumptions. Many factors could cause actual results to differ materially from those projected or implied in any forward-looking statements. These factors include, but are not limited to, changes in political and economic conditions, changes in the level of capital investment, retention of key employees, changes in customer preferences, success of business and operating initiatives and restructuring objectives, impact of any acquisitions or similar transactions, changes in customers' strategies and stability, competitive product and pricing measures, changes in the regulatory environment, fluctuations of interest and exchange rates, and the outcome of any litigation.

Due to such uncertainties and risks, readers are cautioned not to place undue reliance on such forward-looking statements, which speak only as of the date of this announcement. All subsequent oral or written forward-looking statements attributable to any member of the Universal group of companies or any of their respective directors,

officers or employees or any persons acting on their behalf are expressly qualified in their entirety by the cautionary statement above. Universal disclaims any obligation to update any forward-looking or other statements contained in this announcement, except as required by applicable law.

No statement in this announcement is intended as a profit forecast or estimate for any period and no statement in this announcement should be interpreted to mean that earnings or earnings per share for Universal for the current or future financial years would necessarily match or exceed the historical published earnings or earnings per share for Universal.

Certain figures in this announcement have been subjected to rounding adjustments.

Universal has relied on publicly available information and statements issued by TerraCom in this announcement for which TerraCom is responsible.