



**GUILDFORD**  
COAL

Guildford Coal Limited  
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[www.guildfordcoal.com.au](http://www.guildfordcoal.com.au)

28 September 2015

## ASX Announcement

### Notice of Extraordinary General Meeting (EGM)

**Guildford Coal Limited (Guildford or the Company) (ASX:GUF)** is pleased to present a Notice of Extraordinary General Meeting (EGM) to be held on 30 October, 2015 at 1.00PM AEST.

The venue for the meeting is the Melton Hill Room, Holiday Inn, 334 Flinders Street, Townsville, Queensland, 4810.

The business to be considered at the EGM is:

- the approval for ASX Listing Rule 7.1, and for all other purposes, of adjustments to Convertible Notes and Amortising Notes previously issued by the Company to OCP Asia and the issue of new and replacement detachable warrants;
- the approval for ASX Listing Rule 6.23.2, and for all other purposes, of the cancellation of the existing Detachable Warrants previously issued by the Company to OCP Asia as set out in the Explanatory Memorandum; and
- the approval for section 157 of the Corporations Act 2001 (Cth) of the change of the Company's name to TerraCom Limited and approval for section 136(2) of the Corporations Act 2001 (Cth) to amend the Company's Constitution to reflect the change of name.

The Notice and the accompanying Explanatory Memorandum will be sent to all shareholders of the Company shortly.

For further information please contact Tony Mooney, Company Secretary, +61 423 841 259.

**ABOUT GUILDFORD COAL** [www.guildfordcoal.com.au](http://www.guildfordcoal.com.au)

Guildford Coal has recently transitioned from being an explorer to miner. Production at the Baruun Noyon Uul (BNU) coking coal mine in the South Gobi Mongolia successfully restarted in late 2014. The Company's goal is to become one of the largest and highest quality coking coal producers in Mongolia, providing exceptional value for its steel-producing customers. Guildford Coal is also focused on developing two priority projects in Queensland, Australia: the large thermal coal Northern Galilee Project and the high energy prime thermal coal Springsure Project.

***Please contact Tony Mooney, +61 423 841 259 for further information.***



**Hon Craig Wallace**  
Group Managing Director

*To sign up for Guildford's news please e-mail: [JenyaM@GuildfordCoal.com.au](mailto:JenyaM@GuildfordCoal.com.au)*

**Guildford Coal Limited**

**ACN 143 533 537**

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**Notice of Extraordinary General Meeting  
to be held on  
30 October 2015  
Explanatory Memorandum  
for the Notice of  
Extraordinary General Meeting**

**and**

**Proxy Form**

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**NOTICE OF THE EXTRAORDINARY GENERAL MEETING**

**TO BE HELD AT**

**Melton Hill Room, Holiday Inn, 334 Flinders Street, Townsville,  
Queensland, 4810**

**AT**

**1:00 P.M. (AEST) ON 30 October 2015**

**THIS DOCUMENT IS IMPORTANT AND REQUIRES YOUR IMMEDIATE ATTENTION. IF YOU  
ARE IN ANY DOUBT ABOUT THE ACTION YOU SHOULD TAKE PLEASE CONSULT YOUR  
STOCKBROKER, SOLICITOR, ACCOUNTANT OR OTHER PROFESSIONAL ADVISER.**

**TO BE VALID, FORMS OF PROXY FOR USE AT THE EXTRAORDINARY GENERAL MEETING  
MUST BE COMPLETED AND RETURNED TO THE COMPANY NO LATER THAN 1.00pm  
(AEST) ON 28 October 2015**

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## Section A – Chairman's Letter

24 September 2015

Dear Shareholder,

On behalf of the Board, I would like to invite you to an Extraordinary General Meeting (**EGM**) of the shareholders of Guildford Coal Limited ACN 143 533 537 (**Company**) which will be held at the Melton Hill Room, Holiday Inn, 334 Flinders Street, Townsville, Queensland, 4810 at 1:00 P.M. (AEST) on 30 October 2015.

The Company remains focused and on track to deliver all aspects of the 2015 strategic review, both on a corporate level and on an operational level, and in particular, by continuing to pursue and explore alternative fund raising options to restructure its finances and reduce its debt burden. During this period the Company continues to maintain a strong working relationship with existing financial backers.

The first three resolutions are an important step for the Company in delivering on this key element in its strategic plan to restructure the current debt on the balance sheet. The Company has negotiated, subject to Shareholder Approval and Noteholder approval, an extension of time for making certain payments under the Convertible Notes and the Amortising Notes previously due on 8 July 2015 to no later than 31 October 2015, as well as an extension of the Maturity Date of the Convertible Notes to 8 December 2015. These extensions have provided the Company with additional time to consider the restructure of its debt and alternative financing options.

As part of this refinancing package, the Company has agreed to issue New Warrants, both to replace the existing Detachable Warrants on issue (which are currently significantly out of the money) and to offer additional New Warrants as part of the consideration for the relevant Noteholders to commercially agree to the above extensions of time. The Company is continuing to explore a variety of medium to long term funding arrangements to meet payment obligations on 31 October 2015 and its debt obligations on 8 December 2015. RHB Securities Singapore Pte Limited has been appointed as an advisor on this debt restructuring. The Company will make the necessary announcements when there are further developments and sufficiently definite arrangements in place to enable disclosure.

The Board's clear strategic direction is to transition the Company over the next 12 months, to a dynamic mid-tier, globally diverse resource and energy mining Company which generates strong positive cashflows.

During this year, one of the key achievements towards this goal has been the commissioning of the Mongolian Baruun Noyon Uul (**BNU**) coking coal mine which has enabled the Company to transition from explorer to miner status. The Board plans to use this as a foundation for growth not only organically in Mongolia, but also through the potential acquisition of strong cash flow positive operating projects across the Asia Pacific.

As previously advised to the market on 27 February, 28 April and 3 August 2015, the Company continues to investigate the merits and mechanisms for a potential listing (dual and/or sole) on an Asian stock exchange. This was another crucial recommendation of the Company's 2015 strategic review.

Shareholders are advised that there is no certainty or assurance that the potential listing will proceed or be completed. The Company will make the necessary announcements when there are

further developments. A regional office has been established in Singapore, a strategic move to bring the management team closer to its operations, customers, financiers and key shareholders.

The fourth resolution is the re-brand of the Company to TerraCom Limited which the Board believes better reflects its strategic direction and focus to transition to a dynamic energy and resources Company.

I am pleased to advise that the 4 resolutions contained in this Notice have been unanimously supported by the directors of the Company.

If any of Resolutions 1, 2 or 3 are not passed, this will trigger an immediate Event of Default under the Note Trust Deed and the Company will then be in default. Whilst the Company is not aware of what action the Note Trustee or Noteholders would take in this circumstance, the Note Trustee may, at its discretion, (or, if instructed by the holders of 25% of the Convertible Notes and Amortising Notes in aggregate, must) notify the Company that the Convertible Notes and Amortising Notes are immediately due and redeemable at the Convertible Note Redemption Amount and Amortising Note Redemption Amount, respectively. At present the Company does not have funding arrangements in place to meet the Convertible Note Redemption Amount and the Amortising Note Redemption Amount if the Note Trustee takes that course of action. If an Event of Default occurs and is subsisting the Security may be enforced immediately.

The Notice of Meeting and Explanatory Memorandum is enclosed. Please read these documents carefully.

### **Business of the EGM**

The business to be considered at the EGM is:

- the approval for ASX Listing Rule 7.1, and for all other purposes, of adjustments to Convertible Notes and Amortising Notes previously issued by the Company to OCP Asia and the issue of new and replacement detachable warrants;
- the approval for ASX Listing Rule 6.23.2, and for all other purposes, of the cancellation of the existing Detachable Warrants previously issued by the Company to OCP Asia as set out in the Explanatory Memorandum; and
- the approval for section 157 of the Corporations Act 2001 (Cth) of the change of the Company's name to TerraCom Limited and approval for section 136(2) of the Corporations Act 2001 (Cth) to amend the Company's Constitution to reflect the change of name.

Shareholders are encouraged to read the enclosed Explanatory Memorandum in its entirety, and to attend the EGM and vote on the Resolutions. A proxy form is enclosed to enable any Shareholder who is unable to attend the EGM to vote at the meeting.

Should you wish to discuss the Notice of Meeting you can contact the Company Secretary, Mr Anthony Mooney AM, on email [tonym@guildfordcoal.com.au](mailto:tonym@guildfordcoal.com.au) or +61 423 841 259.

Yours faithfully,

**The Hon Craig Wallace**  
**Interim Chairman**

## Section B – Glossary

### 1. Definitions

The following definitions are used in the Notice of Meeting and the Explanatory Memorandum:

**15% Capacity** means 15% of the number of issued securities of the Company held at the beginning of any 12 month period calculated in accordance with ASX Listing Rule 7.1.

**2013 EGM** means the extraordinary general meeting held by the Company on 30 December 2013.

**Adjusted Amortising Note Redemption Amount** means the USD amount equal to a 15% internal rate of return (including coupons already paid at the point of redemption but disregarding any fees payable in consideration of deferring any payment due on an Interest Payment Date) on the outstanding principal amount of the Amortising Notes up to the date on which the Amortising Notes are redeemed.

**Adjusted Convertible Note Redemption Amount** means the USD amount equal to a 15% internal rate of return (including coupons already paid at the point of redemption and disregarding any fees payable in consideration of deferring any payment due on an Interest Payment Date) on the outstanding principal amount of the Convertible Notes up to the date on which the Convertible Notes are redeemed or converted.

**Adjustment Events** means the adjustment events described in Section D – Explanatory Memorandum of the 2013 EGM materials.

**Adjusted Maturity Date** means, in respect of the Convertible Notes, 8 December 2015.

**Amended Conversion Price** means the USD equivalent of the lower of (i) A\$0.037 calculated on the USD/AUD spot rate of exchange quoted on Bloomberg at 12:00pm Sydney time on the date the conversion notice is deemed to have been received by the Company (subject to any amendments to this price to be made as a result of the occurrence of any Adjustment Events) and (ii) the average volume weighted average prices of a Share for thirty (30) consecutive Dealing Days immediately before the conversion date, calculated at the prevailing USD/AUD spot rate of exchange on the conversion date.

**Amortisation Schedule** means the scheduled redemption of the Amortising Notes pursuant to the AN Conditions.

**Amortising Notes** means the amortising notes issued by the Company to OCP Asia with a Face Value of USD 55,000,000 on 8 January 2014 pursuant to a Subscription and Implementation Deed dated on or around 20 December 2013.

**Amortising Note Redemption Amount** means the Notes Redemption Amount described in Section D – Explanatory Memorandum of the 2013 EGM materials.

**AN Conditions** means the terms and conditions of the Amortising Notes.

**AN July Interest Payment** means accrued interest in respect of each Amortising Note due on the 8 July 2015 Interest Payment Date.

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**AN July Principal Payment** means the payment of 20% of the Face Value of each Amortising Note on the first payment instalment date under the AN Conditions due on 8 July 2015.

**AN Redemption Date** means the date on which the Amortising Notes are redeemed in accordance with the AN Conditions.

**AEST** means Australian Eastern Standard Time.

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

**Associate** has the meaning given to that term in the Corporations Act.

**ASX** means ASX Limited ACN 008 624 691.

**ASX Listing Rules** means the Listing Rules of the ASX as amended from time to time.

**Board** means the board of Directors of the Company.

**CN Conditions** means the terms and conditions of the Convertible Notes.

**CN July Interest Payment** means accrued interest in respect of each Convertible Note due on the 8 July 2015 Interest Payment Date.

**CN Redemption Date** means the date on which the Convertible Notes are redeemed in accordance with the CN Conditions.

**Company** means Guildford Coal Limited ACN 143 533 537.

**Constitution** means the constitution of the Company, as amended from time to time.

**Convertible Note Redemption** means the redemption price of the Convertible Notes which have not otherwise been redeemed, cancelled or converted in full on the Maturity Date, by payment of the Convertible Note Redemption Amount in full on all Convertible Notes.

**Convertible Note Redemption Amount** means the 'Convertible Note Redemption Amount' described in Section D – Explanatory Memorandum of the 2013 EGM materials.

**Convertible Notes** means the convertible notes issued by the Company to OCP Asia with a Face Value of USD 10,000,000 on 8 January 2014 pursuant to a Subscription and Implementation Deed dated on or around 20 December 2013.

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

**Cross Listing Date** means the date of completion of the Cross Listing Process.

**Cross Listing Price** means the price offered by the Company for each Share to be issued pursuant to the Cross Listing Process, or if no offer, the opening price of Shares on the relevant stock exchange, in each case as converted into Australian dollars using the rate shown on the relevant page on Bloomberg at 12:00pm Sydney time on the date any exercise notice is delivered in accordance with the Warrant Conditions.

**Cross Listing Process** means the admission of the Company on and quotation of ordinary shares of the Company on an Asian stock exchange.

**Dealing Day** means a day on which the relevant stock exchange or securities market is open for business, other than a day on which the relevant stock exchange or securities market is scheduled to or does close prior to its regular weekday closing time.



**Deferral Fee** means 2% of the Face Value of the Convertible Notes and the Amortising Notes owned by each deferring Noteholder in consideration for agreeing to the deferral of the payment of the Deferred Interest Payments to 8 July 2015.

**Deferred Interest Payments** means accrued interest in respect of each Convertible Note and each Amortising Note originally due and payable by the Company to the Noteholders on 8 January 2015.

**Deferred Payments** means each of the Deferred Interest Payments, Deferral Fee, CN July Interest Payment, AN July Interest Payment, AN July Principal Payment and the Convertible Note Redemption Amount.

**Deferred Payment Date** means the date that all of the Deferred Payments are made or satisfied in full.

**Detachable Warrants** means the detachable warrants associated with the Amortising Notes, for an amount equal to 18.5% of the Face Value of the Amortising Notes calculated in Australian dollars at the USD/AUD spot rate of exchange quoted on Bloomberg at 12:00pm Sydney time on the date of issue of the Amortising Notes and offered by the Company with an exercise price of A\$0.17 (subject to adjustment) pursuant to a prospectus dated 2 January 2014.

**Director** means a director of the Company.

**Effective Date** means the earlier of the Cross Listing Date and the date that the Company discharges all of the Deferred Payments (other than the Convertible Note Redemption) in full in accordance with the terms of the Waiver Letter and the Note Trust Deed (which must be no later than 31 October 2015).

**Explanatory Memorandum** means the explanatory memorandum set out in Section D of this document.

**Extraordinary General Meeting** means the extraordinary general meeting of the Company to be held on 30 October 2015 pursuant to the Notice of Meeting.

**Face Value** means in respect of the Amortising Notes in aggregate USD 55,000,000 and in respect of the Convertible Notes in aggregate USD 10,000,000 and in respect of each Note, USD 10,000.

**Initial Noteholder** means an Initial Convertible Noteholder and Initial Amortising Noteholder as those terms are defined in the Subscription and Implementation Deed dated on or around 20 December 2013.

**Interest Payment Date** means the last day of each successive period of 6 months following the Issue Date.

**Issue Date** means 8 January 2014.

**Market Price** means:

- (a) if the Cross Listing Process has completed, the average of the VWAP of the Shares for each dealing day commencing on the date falling thirty Dealing Days prior to the Deferred Payment Date and ending on the Deferred Payment Date (inclusive); and
- (b) in all other cases, the average VWAP of the Shares for each dealing day commencing on the date falling thirty Dealing Days prior to 31 October 2015 and ending on 31 October 2015 (inclusive).

**Marketable Security** means any security including, without limitation, Shares, or options, warrants or other rights to subscribe for or purchase or acquire Shares.

**Maturity Date** means:

- (a) in respect of the Convertible Notes, 8 July 2015; and
- (b) in respect of the Amortising Notes, 8 January 2017.

**New Initial Conversion Price** means the USD equivalent of A\$0.037 (calculated on the USD/AUD spot rate of exchange quoted on Bloomberg at 12:00pm Sydney time on the date the conversion notice is deemed to have been received by the Company) per Share subject to any amendments to be made as the result of the occurrence of any Adjustment Events.

**New Warrants** the 126,308,306 detachable warrants associated with the Amortising Notes offered by the Company at the New Warrants Exercise Price as described in Section D of the Notice of Meeting.

**New Warrant Exercise Price** means the lower of the Cross Listing Price and the Market Price.

**New Warrant Issue Date** means the date on which the New Warrants are issued by the Company, subject to Shareholder Approval, expected to be on or around 15 November 2015.

**Note** means a Convertible Note or an Amortising Note.

**Note Trust Deed** means the note trust deed between the Company and the Note Trustee dated 20 December 2013.

**Note Trustee** means Madison Pacific Trust Limited.

**Noteholder** means a person in whose name a Convertible Note or an Amortising Note is registered in the Convertible Note Register and Amortising Note Register, respectively, and includes an Initial Noteholder and any transferee of any interest of an Initial Noteholder and any Noteholder.

**Notice of Meeting** or **Notice** means the notice of extraordinary general meeting set out in Section C of this document.

**OCP Asia** means OCP Asia (Hong Kong) Limited or any associated body corporate and any fund managed or advised by any of them.

**Outstanding Amount** means the Face Value of the Convertible Note plus any capitalised interest less any prepayments and outstanding principal that has been converted in accordance with the CN Conditions in USD.

**PIK Interest** means 6% per annum payable capitalised on each Interest Payment Date by increasing the outstanding principal amount of each Note.

**Resolution** means a resolution referred to in the Notice of Meeting.

**Security** has the meaning given in Section D – Explanatory Memorandum of the 2013 EGM materials.

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

**Shareholder** means a holder of a Share.

**Shareholder Approval** means the approval by the requisite number of Shareholders of either an ordinary resolution or a special resolution (as the case may be).

**USD** means the lawful currency of the United States of America.

**VWAP** means in respect of a Marketable Security on any Dealing Day, the volume-weighted average price of such Marketable Security published by or derived:

- (a) in the case of a Share, from Bloomberg page AQR;
- (b) in any other case, from the principal stock exchange or securities market on which such Marketable Security is then listed or quoted or dealt in, if any; or
- (c) in any case, such other source as shall be determined to be appropriate by the Company on such Dealing Day,

provided that on any Dealing Day on which such price is not available or cannot otherwise be determined as provided above, the VWAP of the Marketable Security is deemed to be the VWAP, determined as provided above, on the immediately preceding Dealing Day on which the same can be so determined.

**Waiver Letter** means the letter dated 8 September 2015 and issued by the Company, FTB (QLD) Pty Ltd, Orion Mining Pty Ltd, Sierra Coal Pty Ltd and Terra Energy Pty Ltd to the Note Trustee relating to various waivers of obligations under and adjustments to the Convertible Notes, Amortising Notes and associated Detachable Warrants.

**Warrant Conditions** means the terms and conditions of the New Warrants.

## 2. Interpretation

For the purposes of interpreting the Explanatory Memorandum and the Notice of Meeting:

- (a) the singular includes the plural and vice versa;
- (b) words importing any gender include the other genders;
- (c) reference to any statute, ordinance, regulation, rule or other law includes all regulations and other instruments and all considerations, amendments, re-enactments or replacements for the time being in force;
- (d) all headings, bold typing and italics (if any) have been inserted for convenience of reference only and do not define, limit or affect the meaning or interpretation of the Explanatory Memorandum and the Notice of Meeting;
- (e) reference to persons includes bodies corporate and government authorities and in each and every case, includes a reference to the person's executors, administrators, successors and substitutes (including without limitation persons taking by novation and assignment); and
- (f) reference to \$, A\$, Australian Dollars or dollars is a reference to the lawful tender for the time being and from time to time of the Commonwealth of Australia.

## Section C – Notice of Extraordinary General Meeting

NOTICE IS HEREBY GIVEN that an Extraordinary General Meeting of Shareholders of Guildford Coal Limited ACN 143 533 537 will be held at Melton Hill Room, Holiday Inn, 334 Flinders Street, Townsville, Queensland, 4810 at 1:00 P.M. (AEST) on 30 October 2015.

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### BUSINESS

**1. Resolution 1: Approval of the adjustment of the terms of Convertible Notes and Amortising Notes**

Shareholders approved the issue of the Convertible Notes and Amortising Notes to OCP Asia at an Extraordinary General Meeting held on 30 December 2013 (**2013 EGM**). The Convertible Notes and Amortising Notes were issued to OCP Asia on 8 January 2014. Shareholders are asked to consider, and if thought fit, to pass the following ordinary resolution:

*“That for the purposes of ASX Listing Rule 7.1 and for all other purposes, and conditional on the passing of Resolutions 2 and 3, Shareholders approve the adjustments to the CN Conditions to the Convertible Notes and the AN Conditions to the Amortising Notes, on the terms and conditions set out in the Explanatory Memorandum accompanying this Notice of Meeting.”*

**2. Resolution 2: Approval of the issue of New Warrants**

Shareholders are asked to consider, and if thought fit, to pass the following ordinary resolution:

*“That for the purposes of ASX Listing Rule 7.1 and for all other purposes, and conditional on the passing of Resolutions 1 and 3, Shareholders approve the issue of 126,308,306 New Warrants on the terms and conditions set out in the Explanatory Memorandum accompanying this Notice of Meeting.”*

**3. Resolution 3: Approval of the cancellation of existing Detachable Warrants**

Shareholders are asked to consider, and if thought fit, to pass the following ordinary resolution:

*“That for the purposes of ASX Listing Rule 6.23.2, and for all other purposes, and conditional on the passing of Resolutions 1 and 2, Shareholders approve the cancellation by the Company of the existing Detachable Warrants upon issue of the New Warrants.”*

**4. Resolution 4: Approval of change of company name**

Shareholders are asked to consider, and if thought fit, to pass the following special resolution:

*“That, in accordance with section 157 of the Corporations Act, the name of the Company be changed from Guildford Coal Limited to TerraCom Limited and, in accordance with section 136(2) of the Corporations Act, the Constitution be amended to reflect the change of name of the Company to TerraCom Limited by changing all references to Guildford Coal Limited in the Constitution to TerraCom Limited.”*

**By order of the Board**

**Anthony Mooney AM  
Company Secretary**

**Dated: 24 September 2015**

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## NOTES

### 1. Determination of membership and voting entitlement

For the purpose of determining a person's entitlement to vote at the Extraordinary General Meeting, a person will be recognised as a member of the Company and the holder of Shares if that person is registered as a holder of those Shares at 7pm (Sydney time) on 28 October 2015.

### 2. Votes of members

On a show of hands, each member present in person or by proxy or, in the case of a body corporate, by a corporate representative at the meeting shall have one vote.

On a poll, every member present in person or by attorney or by proxy or, in the case of a body corporate, by a representative shall have one vote for each Share held by him, her or it provided that all Shares are fully paid.

### 3. Proxies

Please note that:

- (a) a member entitled to attend and vote at the meeting is entitled to appoint no more than two proxies;
- (b) an instrument appointing a proxy must be in the form of the proxy form attached to this Notice of Meeting;
- (c) where more than one proxy is appointed, each proxy must be appointed to represent a specified proportion of the member's voting rights. If a member appoints two proxies, and the appointment does not specify the proportion of the member's voting rights, each proxy may exercise one-half of the voting rights;
- (d) a proxy need not be a member of the Company;
- (e) a proxy form may specify the manner in which the proxy is to vote in respect of a particular Resolution and, where the proxy form so provides, the proxy is not entitled to vote on the Resolution except as specified in the proxy form;
- (f) a proxy has the authority to vote on the member's behalf as he or she thinks fit, on any motion to adjourn the meeting, or any other procedural motion, unless the member gives a direction to the contrary;
- (g) a valid proxy form will be deemed to confer authority to demand or join in demanding a poll;
- (h) to be valid, a proxy form must be signed by the member or the member's attorney or, if the member is a corporation, executed in accordance with the corporation's constitution and the Corporations Act (and may be signed on behalf of the corporation by its attorney); and
- (i) to be valid, a proxy form and the power of attorney or other authority (if any) under which it is signed (or an attested copy of it) must be received by no later than 1.00pm(AEST) on 28 October 2015:

by the Company:

- in person: Guildford Coal Limited  
C/- Link Market Services Limited  
1A Homebush Bay Drive  
RHODES NSW 2000  
Australia

- by mail: Guildford Coal Limited  
C/- Link Market Services Limited  
Locked Bag A14  
Sydney South NSW 1235  
Australia

- by facsimile: + 61 2 9287 0309

- online: [www.linkmarketservices.com.au](http://www.linkmarketservices.com.au)

A form of proxy accompanies this Notice of Meeting.

## Section D - Explanatory Memorandum

### 1. Introduction

This Explanatory Memorandum has been prepared to assist Shareholders in understanding the resolutions to be voted on at the Extraordinary General Meeting on 30 October 2015.

Shareholders should carefully read the whole of this Explanatory Memorandum.

### 2. Background

#### 2.1 Background to the Resolutions 1, 2 and 3

Shareholders approved the issue of the Convertible Notes, Amortising Notes and Detachable Warrants to OCP Asia at an Extraordinary General Meeting held on 30 December 2013 (**2013 EGM**). As set out in the meeting materials of the 2013 EGM, the Convertible Notes, Amortising Notes and Detachable Warrants were issued to OCP Asia as part of the consideration for OCP Asia agreeing to provide financial accommodation to repay then existing indebtedness to OCP Asia and for working capital purposes in relation to the Company's Mongolian assets.

The maturity date for the Convertible Notes was 18 months from the Issue Date. The Convertible Notes were issued on 8 January 2014 and pursuant to the terms of the original CN Conditions would have matured on 8 July 2015 (the **Maturity Date**).

The Company was due to make the following payments in respect of the Convertible Notes and Amortising Notes on 8 July 2015:

- (a) accrued interest in respect of each Convertible Note and each Amortising Note originally due on 8 January 2015 (**Deferred Interest Payments**);
- (b) a deferral fee of 2% of the Face Value of the Convertible Notes and the Amortising Notes owned by each deferring Noteholder in consideration for agreeing to the deferral of the Deferred Interest Payments to 8 July 2015 (**Deferral Fee**);
- (c) accrued interest in respect of each Convertible Note due on the 8 July 2015 Interest Payment Date (**CN July Interest Payment**);
- (d) accrued interest in respect of each Amortising Note due on the 8 July 2015 Interest Payment Date (**AN July Interest Payment**);
- (e) 20% of the Face Value of each Amortising Note on the first payment instalment date under the AN Conditions, being 8 July 2015 (**AN July Principal Payment**); and
- (f) the redemption price of the Convertible Notes which have not otherwise been redeemed, cancelled or converted in full on the Maturity Date, by payment of the Convertible Note Redemption Amount in full on all Convertible Notes (**Convertible Note Redemption**).

However, the Company and the Note Trustee have agreed (amongst other matters and subject to Shareholder Approval and Noteholder approval) to defer payment by the Company of the Deferred Interest Payments, Deferral Fee, CN July Interest Payment, AN July Interest Payment, AN July Principal Payment and the Convertible Note Redemption (together, the **Deferred Payments**) in consideration for adjusting certain terms of the Convertible Notes and Amortising Notes, issuing the New Warrants and cancelling the existing Detachable Warrants.



The Note Trustee has requested requisite Noteholder consent to sign the Waiver Letter, agree to the deferral of Deferred Payments and adjustments to the CN Conditions and the AN Conditions as described in this Explanatory Memorandum. The Company has received written confirmation from the Note Trustee that approximately 50% of Noteholders who hold Convertible Notes, and 55% of the Noteholders who hold Amortising Notes, are supportive of the Waiver Letter and intend to vote in favour of the Note Trustee signing the Waiver Letter. The Company has also been informed that the remaining Noteholders intend to vote in favour of the Note Trustee signing the Waiver Letter. The Company will make the necessary announcement when it has received confirmation from the Note Trustee that the Noteholders have voted in favour of, and it has signed, the Waiver Letter.

Subject to obtaining Shareholder Approval at the Extraordinary General Meeting, the following adjustments are proposed to be made to the original CN Conditions:

- (a) maturity date of the Convertible Notes;
- (b) terms of payment of the coupon;
- (c) conversion price to convert the Convertible Notes into Shares; and
- (d) Convertible Note Redemption Amount.

The details of the proposed adjustments to the CN Conditions are set out in Section 2.3 of this Explanatory Memorandum.

Subject to obtaining Shareholder Approval at the Extraordinary General Meeting, the following adjustments are proposed to be made to the original AN Conditions:

- (a) terms of payment of the coupon;
- (b) Amortising Schedule of the Amortising Notes; and
- (c) Amortising Note Redemption Amount.

The details of the proposed adjustments to the AN Conditions are set out in Section 2.4 of this Explanatory Memorandum.

## **2.2 Background to Resolution 4 - Change of Company name**

The Company is proposing to change its name to TerraCom Limited. The Board believes that this new name and branding better reflects its strategic direction and its focus to transition to a dynamic mid-tier mining company on implementation of its overall strategy. This change of name will not affect the legal status of the Company or any of its assets or liabilities.

## **2.3 Adjusted terms of the Convertible Notes**

The original CN Conditions were set out in Section D – Explanatory Memorandum of the notice of meeting for the 2013 EGM. A summary of the CN Conditions which have been agreed to be amended are set out below. Other than those specifically referred to below, all other CN Conditions remain the same.

### **(d) Adjustment to the Maturity Date of the Convertible Notes**

The Convertible Notes were due to mature on the Maturity Date (8 July 2015). On the Maturity Date, all outstanding Convertible Notes were to be redeemed by the Company at the Convertible Note Redemption Amount.

Pursuant to the Waiver Letter, and subject to Shareholder Approval, the Company and the Note Trustee have agreed to extend the Maturity Date of the Convertible Notes to 8 December 2015 (**Adjusted Maturity Date**). On the Adjusted Maturity Date, all outstanding Convertible Notes must be redeemed by the Company for the Adjusted Convertible Note Redemption Amount (see paragraph 2.3(c) below).

**(e) Adjustment to the Convertible Notes coupon**

The original CN Conditions required the Company to pay the Noteholders interest of 12% per annum on each Interest Payment Date.

Pursuant to the Waiver Letter and subject to Shareholder Approval, the Company and the Note Trustee have agreed to amend the CN Conditions with effect on and from the Effective Date, so that the coupon will be:

- (i) 6% per annum payable on each Interest Payment Date in cash; and
- (ii) 6% per annum, which will be capitalised on each Interest Payment Date by increasing the outstanding principal amount of each Convertible Note (**PIK Interest**).

Pursuant to the Waiver Letter and subject to Shareholder Approval, the Company and the Note Trustee have agreed to amend the CN Conditions so that the Noteholders may elect to be issued fully paid Shares in lieu of cash in relation to the CN July Interest Payment and for the purpose of such conversion, each Share will be valued at the Amended Conversion Price.

**(f) Adjustment to the Convertible Note Redemption Amount**

The Convertible Note Redemption Amount is amended to clarify that the 15% internal rate of return applicable on the outstanding principal amount of the Convertible Notes will include coupons already paid at the point of redemption but will not include any fees payable in consideration of the Noteholders agreeing to any deferral of interest payment, including the Deferral Fee.

The Company agreed to pay Noteholders the Deferral Fee in consideration for agreeing to defer interest payable under the Convertible Notes on 8 January 2015 to 8 July 2015. The Deferral Fee amounts to \$200,000 in respect of the Convertible Notes and will not be included in the calculation of the 15% internal rate of return applicable to the Adjusted Convertible Note Redemption Amount.

The outstanding principal amount of each Convertible Note will also include any capitalised PIK Interest applicable following amendment of the coupon as noted above.

**(g) Adjustment to the Conversion Price**

The initial conversion price was set at the USD equivalent (as at the Issue Date) of A\$0.30 per Share subject to adjustment as a result of the occurrence of any Adjustment Events.

Subject to Shareholder Approval, the Company and the Note Trustee have agreed to amend the Conversion Price to the USD equivalent (calculated on the USD/AUD spot rate of exchange quoted on Bloomberg at 12:00pm Sydney time on the date the conversion notice is deemed to have been received by the Company) of the lower of A\$0.037 (**New Initial Conversion Price**) subject to any amendments to this price to be made as a result of the occurrence of any Adjustment Events and the average volume weighted average prices of a Share for thirty (30) consecutive Dealing Days

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immediately before the conversion date (**Amended Conversion Price**). The Adjustment Events remain the same as those set out in the original CN Conditions.

## 2.4 Adjusted terms of the Amortising Notes

The original AN Conditions were set out in Section D - Explanatory Memorandum of the notice of meeting for the 2013 EGM. A summary of the AN Conditions which have been agreed to be amended are set out below. Other than those specifically referred to below, all other AN Conditions remain the same.

### (a) Adjustment to Amortising Notes coupon

The original AN Conditions required the Company to pay the Noteholders interest of 12% per annum on each Interest Payment Date.

Pursuant to the Waiver Letter and subject to Shareholder Approval, the Company and the Note Trustee have agreed to amend the AN Conditions with effect on and from the Effective Date, so that the coupon will be:

- (i) 6% per annum payable on each Interest Payment Date in cash; and
- (ii) 6% per annum, which will be capitalised on each Interest Payment Date by increasing the outstanding principal amount of each Amortising Note (**PIK Interest**).

### (b) Adjustment to the Amortising Note Redemption Amount

The Amortising Note Redemption Amount is amended to clarify that the 15% internal rate of return applicable on the outstanding principle amount of the Amortising Notes will include coupons already paid at the point of redemption but will not include any fees payable in consideration of the Noteholders agreeing to any deferral of interest payment, including the Deferral Fee.

The Company agreed to pay Noteholders the Deferral Fee in consideration for agreeing to defer interest payable under the Amortising Notes on 8 January 2015 to 8 July 2015. The Deferral Fee amounts to \$1,100,000 in respect of the Amortising Notes and will not be included in the calculation of the 15% internal rate of return applicable to the Adjusted Amortising Note Redemption Amount.

The outstanding principal amount of each Amortising Note will also include any capitalised PIK Interest applicable following amendment of the coupon as noted above.

### (c) Adjustment to the Amortisation Schedule of the Amortising Notes

The Company agreed to amend the Amortisation Schedule for the Amortising Notes as follows:

- (i) 20% of the Face Value of the Amortising Notes to be repaid on the earlier of the Cross Listing Date, completion of any capital raising by the Company (or any special purpose vehicle incorporated for the purposes of a capital raising) and 31 October 2015;
- (ii) 40% of the Face Value of the Amortising Notes to be repaid on the date falling 30 months after the Issue Date; and

- (iii) 40% of the Face Value of the Notes to be repaid on the Maturity Date, together with the amount of the Adjusted Amortising Note Redemption Amount.

## 2.5 Issue of New Warrants

Pursuant to the Waiver Letter and subject to Shareholder Approval, the Company agreed to issue 126,308,306 new detachable warrants on the terms set out below (**New Warrants**). The New Warrants will be issued to the current holders of the existing Detachable Warrants and the Amortising Notes in the following proportions:

- 42,288,677 to Precision Castparts Corp Master Trust;
- 11,482,573 to JP Morgan Plc;
- 57,412,868 to OL Master Ltd;
- 2,296,514 to Orchard Makira Master Ltd;
- 3,641,616 to Makira SP6 Ltd; and
- 9,186,058 to Makira SP7 Ltd.

The Company has agreed to issue the New Warrants as part of the consideration commercially agreed with the relevant Noteholders for extending the due date for payment of the Deferred Fees and the maturity date of the Convertible Notes to the Adjusted Maturity Date. The Company has been advised by the Note Trustee that as at the date of this Explanatory Memorandum:

- the current holders of the Convertible Notes are JP Morgan Plc (USD 5,000,000) and OL Master Ltd (USD 5,000,000);
- the current holders of the Amortising Notes are Precision Castparts Corp Master Trust (USD 20,000,000), JP Morgan Plc (USD 5,000,000), OL Master Ltd (USD 25,000,000), Orchard Makira Master Ltd (USD 1,000,000) and Makira SP7 Ltd (USD 4,000,000); and
- the current holders of the Detachable Warrants are OL Master Limited (30,346,801 Detachable Warrants), Orchard Makira Master Limited (1,213,872 Detachable Warrants), Makira SP6 Limited (24,277,441 Detachable Warrants), Makira SP7 Limited (4,855,488 Detachable Warrants) and JP Morgan Plc (6,069,360 Detachable Warrants).

Subject to Shareholders approving the issue of the New Warrants (and passing Resolution 3), upon issue of the New Warrants, the Company will terminate and cancel the existing Detachable Warrant Deed along with the existing Detachable Warrants.

## 3. Resolutions

Resolutions 1, 2 and 3 are inter-conditional. This means that none of the Resolutions will take effect unless all three Resolutions are passed by Shareholders as ordinary resolutions at the Extraordinary General Meeting.

**Resolution 1: Approval of the adjustment of the terms of the CN Conditions and the AN Conditions**

ASX Listing Rule 7.1 provides that a listed company may not issue or agree to issue equity securities in any 12 month period which exceeds 15% of the number of issued securities of the company at the beginning of the 12 month period (**15% Capacity**), except with the prior approval of shareholders of the company in general meeting, unless another exception to ASX Listing Rule 7.1 applies.

The Convertible Notes were issued on the Issue Date with Shareholder Approval. As the proposed adjustments to the original CN Conditions includes an extension to the Maturity Date and allows for capitalisation of the PIK Interest and therefore the potential issue of additional Shares to those previously approved, this resolution seeks Shareholder Approval for the purposes of ASX Listing Rule 7.1 to:

- (a) extend the Maturity Date of the Convertible Notes to the Adjusted Maturity Date;
- (b) adjust the coupon provided for in each of the CN Conditions and AN Conditions to allow for the issue of Shares pursuant to the PIK Interest; and
- (c) if the Noteholder elects, issue Shares in lieu of cash in relation to the CN July Interest Payment and for the purpose of such conversion, each Share will be valued at the Amended Conversion Price.

The effect of Resolution 1, if passed (and conditional on Resolution 2 and Resolution 3 also being passed), will be that:

- the amendment of the Convertible Notes and Amortising Notes will not reduce or otherwise exceed (as the case may be) the Company's 15% Capacity under ASX Listing Rule 7.1; and
- the issue of Shares on conversion of the Convertible Notes (as adjusted), will not reduce or otherwise exceed (as the case may be) the Company's 15% Capacity under ASX Listing Rule 7.1 by operation of Exception 4 of ASX Listing Rule 7.2 (which provides that ASX Listing Rules 7.1 and 7.1A do not apply to an issue on conversion of convertible securities).

This will enable the Company to issue Shares in accordance with the CN Conditions and provide flexibility over the next 12 months for the Company to issue further Shares if it chooses to do so.

For the purposes of ASX Listing Rule 7.3, the Company provides the following information to Shareholders.

The maximum number of Shares that will be issued by the Company to holders of the Convertible Notes will vary depending on the applicable Amended Conversion Price on the date of Conversion. At the date of this Explanatory Memorandum, assuming an exchange rate of 0.7033, and an Amended Conversion Price of USD 0.02602 the maximum number of Shares that could be issued by the Company to holders of the Convertible Notes would be 409,746,552.

The Shares will have the same terms as the Company's existing fully paid ordinary shares, ranking equally with the Company's existing Shares. The Company will apply for the Shares to be quoted on the ASX.

Subject to Shareholders approving Resolutions 2 and 3, the issue date of the Shares under the Convertible Notes will be no later than 8 December 2015 or such other date as agreed between the Company and the holders of the Convertible Notes.

## **Resolution 2: Approval of the issue of New Warrants**

ASX Listing Rule 7.1 provides that a listed company may not issue or agree to issue equity securities in any 12 month period which exceeds 15% of the number of issued securities of the company at the beginning of the 12 month period, except with the prior approval of shareholders of the company in a general meeting unless another exception to ASX Listing Rule 7.1 applies.

This resolution seeks Shareholder Approval for the purposes of ASX Listing Rule 7.1 to issue 126,308,306 New Warrants (convertible into Shares at an exercise price of the lower of the Cross Listing Price and the Market Price per Share).

The Market Price is:

- (d) if the Cross Listing Process has completed, the average of the VWAP of the Shares for each dealing day commencing on the date falling thirty Dealing Days prior to the Deferred Payment Date and ending on the Deferred Payment Date (inclusive); and
- (e) in all other cases, the average VWAP of the Shares for each dealing day commencing on the date falling thirty Dealing Days prior to 31 October 2015 and ending on 31 October 2015 (inclusive).

The Cross Listing Price is the price offered by the Company for each Share to be issued pursuant to the Cross Listing Process, or if no offer, the opening price of Shares on the relevant stock exchange, in each case as converted into Australian dollars using the rate shown on the relevant page on Bloomberg at 12:00pm Sydney time on the date any exercise notice is delivered in accordance with the Warrant Conditions.

It is possible that the Cross Listing Price could be lower than the Market Price.

Key terms of the New Warrants are set out in section 6 below.

The effect of Resolution 2, if passed (and conditional also on Resolution 1 and Resolution 3 being passed), will be that:

- the issue of the New Warrants will not reduce or otherwise exceed (as the case may be) the Company's 15% Capacity under ASX Listing Rule 7.1; and
- the issue of Shares pursuant to any exercise of the New Warrants will not reduce or otherwise exceed (as the case may be) the Company's 15% Capacity under ASX Listing Rule 7.1. by operation of Exception 4 of ASX Listing Rule 7.2 (which provides that ASX Listing Rules 7.1 and 7.1A do not apply to an issue on conversion of convertible securities).

This will enable the Company to issue Shares pursuant to the Warrant Conditions and provide flexibility over the next 12 months for the Company to issue further Shares if it chooses to do so.

For the purposes of ASX Listing Rule 7.3, the Company provides the following information to Shareholders.

The maximum number of Shares that will be issued by the Company to the holders of the New Warrants (as described in Section 2.5 above) will be 126,308,306 which, as at the date of this Explanatory Memorandum, represents approximately 10.33% of the issued share capital of the Company on a fully diluted basis.

On issuance of the existing Detachable Warrants in January 2014, the maximum number of Shares that could have been issued by the Company to the holders of those existing Detachable Warrants was 66,762,962, which as at the date of the Prospectus (2 January

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2014) represented approximately 9.25% of the issued share capital of the Company on a fully diluted basis.

The maximum number of Shares that could be issued by the Company to holders of the existing Detachable Warrants, where Shareholder Approval for cancellation is not obtained and Shareholder Approval for the issuance of the New Warrants is obtained, would be 193,071,268 (being the sum of the existing 66,762,962 Detachable Warrants and 126,308,306 New Warrants proposed to be issued to the holders of the existing Detachable Warrants) which, as at the date of this Explanatory Memorandum, represents approximately 14.98% of the issued share capital of the Company on a fully diluted basis.

On the assumption that the Shareholders approve the issuance of the New Warrants in accordance with Resolution 2 and the cancellation of the existing Detachable Warrants in accordance with Resolution 3, the issuance of the New Warrants represents an approximate increase of 1.08% of issued share capital in comparison to the dilutory effect of the issuance of the existing Detachable Warrants in January 2014. The Shares will have the same terms as the Company's existing fully paid ordinary shares, ranking equally with the Company's existing Shares. The Company will apply for the Shares to be quoted on the ASX.

Subject to Shareholders approving Resolutions 1 and 3:

- the issue date of the New Warrants will be no later than 3 months after the date of the Extraordinary General Meeting.
- the maturity date of the New Warrants will be approximately 5 years after the date on which the New Warrants are issued, being 31 October 2020.

### **Resolution 3: Approval of the cancellation of existing Detachable Warrants**

ASX Listing Rule 6.23.2 provides that a change affecting an option, which the Detachable Warrants are for the purposes of the ASX Listing Rules, which has the effect of cancelling an option for consideration can only be made if holders of ordinary securities approve the change. A change which has the effect of cancelling an option in consideration of the issue of a new option may, in addition to requiring approval under ASX Listing Rule 6.23.2, also be a change which is prohibited by ASX Listing Rule 6.23.3. ASX Listing Rule 6.23.3 states that a change which has the effect of reducing the exercise price, increasing the period for exercise or increasing the number of securities received on exercise cannot be made. ASX Listing Rule 6.23.3 does not provide for Shareholder Approval to be obtained to permit a change which would otherwise be prohibited by the rule.

The Company considers that it is in the best interests of the Company that the existing Detachable Warrants be cancelled if the New Warrants are issued. In particular:

- the existing Detachable Warrants are held by financiers who have previously supported the Company's fundraising efforts;
- the existing Detachable Warrants are unquoted and significantly out of the money. If the existing Detachable Warrants are not cancelled, there is a risk that at some point in the future they would come back into the money and may be exercised at that later date. This would result in the warrant holders having an unintended benefit of both the existing Detachable Warrants and the New Warrants which would be disadvantageous to Shareholders. The maximum number of Shares that could be issued by the Company to holders of the existing Detachable Warrants, where Shareholder Approval for cancellation is not obtained, would be 66,762,962 which, as at the date of this Explanatory Memorandum, represents approximately 5.74% of the issued share capital of the Company on a fully diluted basis; and

- the issue of the New Warrants and cancellation of the Detachable Warrants forms an integral part of the restructure of the Company's overall financing arrangements with OCP Asia and in circumstances where the issue of the New Warrants is approved, if the existing Detachable Warrants are not cancelled there would be a risk that both the existing Detachable Warrants and the New Warrants could be exercised by the relevant warrant holder at some point in the future.

The Company has obtained a waiver from the ASX in relation to ASX Listing Rule 6.23.3 in order to permit it to seek the approval of Shareholders for the cancellation of the existing Detachable Warrants. The effect of Resolution 3, if passed (and conditional also on Resolution 1 and 2 being passed), will be that the existing Detachable Warrants will be cancelled as soon as practical following the issue of the New Warrants by the Company to the holders of the New Warrants (as described in Section 2.5 above).

#### **Resolution 4: Approval of change of company name**

This resolution seeks Shareholder Approval to change the name of the Company from Guildford Coal Limited to TerraCom Limited and make consequential amendments to the Constitution. Section 157 of the Corporations Act 2001 (Cth) requires that in order to change its name, a company must pass a special resolution adopting the new name and then lodge an application in the prescribed form with ASIC. Section 136(2) of the Corporations Act 2001 (Cth) provides that a company may modify its constitution by passing a special resolution and then lodging a copy of the special resolution and the modification with ASIC.

This resolution is a special resolution and can only be passed if at least 75% of the votes cast, in person or by proxy, by members who are entitled to vote on the resolution, are voted in favour.

The Company is proposing to change its name to TerraCom Limited. The Board believes that this new name and branding better reflects its strategic direction and its focus to transition to a dynamic mid-tier mining company on implementation of its overall strategy.

The Company has reserved the name TerraCom Limited with ASIC and "TER" as an ASX listing code with the ASX.

The Company will make an application to ASIC for the change of its name to "TerraCom Limited" once this resolution is approved. The change of name will take effect from the date that ASIC alters the details of the Company's registration and a new certificate of registration is issued. Upon changing its name to TerraCom Limited, the Company also proposes changing its ASX listing code to "TER".

#### **4. Terms of the Convertible Notes**

- (a) **Status:** unlisted and convertible into Shares.
- (b) **Face value:** USD 10,000,000.
- (c) **Maturity:** 8 December 2015, being the Adjusted Maturity Date.
- (d) **Coupon:**

Up to the Effective Date: 12% per annum payable on each Interest Payment Date in cash.

On and from the Effective Date:

- (i) 6% per annum payable on each Interest Payment Date in cash; and



- (ii) 6% per annum, which will be capitalised on each Interest Payment Date by increasing the outstanding principal amount on each Convertible Note.
- (e) **Adjusted Convertible Note Redemption Amount:** an amount equal to a 15% internal rate of return (including coupons already paid at the point of redemption and disregarding any fees payable in consideration of deferring any payment due on an Interest Payment Date) on the outstanding principal amount of the Convertible Notes up to the date on which the Convertible Notes are redeemed (**CN Redemption Date**), provided that, if the CN Redemption Date falls during the 6 month period immediately following the Issue Date, the Adjusted Convertible Note Redemption Amount will be calculated as if the CN Redemption Date occurred on the date falling 6 months after the Issue Date.
- (f) **Conversion:** convertible into Shares at the holder's option at any time up to 7 business days before the Adjusted Maturity Date, for the Amended Conversion Price per Share.
- (g) **Number of Shares on conversion:** The number of Shares issued on conversion of each Convertible Note will be calculated by dividing the Outstanding Amount of a Convertible Note by the Amended Conversion Price of the Convertible Note. The Amended Conversion Price is the lower of A\$0.037 calculated on the USD/AUD spot rate of exchange quoted on Bloomberg at 12:00pm Sydney time on the date the conversion notice is deemed to have been received by the Company (and subject to the Adjustment Events) and the average volume weighted average prices of a Share for thirty (30) consecutive Dealing Days converted into USD at the AUD/USD exchange rate on the date of conversion. Accordingly, the Amended Conversion Price applied at the time of conversion may in fact be lower than the USD equivalent of A\$0.037.
- (h) **Events of Default:** customary events of default (including, but not limited to, insolvency of the Company or any of its subsidiaries, the ASX suspending trading in the Company's Shares for 10 consecutive trading days, and material breaches of the law, the ASX Listing Rules, or the terms and conditions of the Convertible Notes). The holders of the Convertible Notes may accelerate and redeem the Convertible Notes at any time while an Event of Default is continuing, following which the Adjusted Convertible Note Redemption Amount will be immediately due and payable and the Security may be enforced.
- (i) **Other terms:** all other terms will remain the same as the original CN Conditions as set out in the 2013 EGM.

## 5. Terms of the Amortising Notes

- (a) **Status:** unlisted.
- (b) **Face value:** USD 55,000,000.
- (c) **Coupon rate:**

Up to the Effective Date: 12% per annum payable on each Interest Payment Date in cash.

On and from the Effective Date:

- (i) 6% per annum each Interest Payment Date in cash; and
- (ii) 6% per annum, which will be capitalised on each Interest Payment Date by increasing the outstanding principal amount on each Amortising Note.

(d) **Amortisation Schedule:**

- (i) 20% of the Face Value of the Amortising Notes to be repaid on the earlier of 31 October 2015, Cross Listing Date or the date of completion of any other capital raising by the Company;
- (ii) 40% of the Face Value of the Amortising Notes to be repaid on the date falling 30 months after the Issue Date; and
- (iii) 40% of the Face Value of the Amortising Notes to be repaid on the Maturity Date of the Amortising Notes together with the Redemption Amount in relation to all Amortising Notes.

(e) **Adjusted Amortising Note Redemption Amount:** an amount equal to a 15% internal rate of return (including coupons already paid at the point of redemption and any scheduled amortisation but disregarding any fees payable in consideration of deferring any payment due on an Interest Payment Date) on the outstanding principal amount of the Notes up to the date on which the Notes are redeemed (**AN Redemption Date**), provided that if the AN Redemption Date falls during the 6 month period immediately following the Issue Date, the Adjusted Amortising Note Redemption Amount will be calculated as if the AN Redemption Date occurred on the date falling 6 months after the Issue Date.

(f) **Events of Default:** customary events of default (including, but not limited to, insolvency of the Company or any of its subsidiaries, the ASX suspending trading in the Company's Shares for 10 consecutive trading days, and material breaches of the law, the ASX Listing Rules, or the terms and conditions of the Amortising Notes). The holders of the Amortising Notes may accelerate and redeem the Amortising Notes at any time while an Event of Default is continuing, following which the Adjusted Amortising Note Redemption Amount will be immediately due and payable and the Security may be enforced.

(g) **Other terms:** all other terms will remain the same as the original AN Conditions as set out in the 2013 EGM.

## 6. Terms of the New Warrants

The New Warrants will have the following key terms:

- (a) **Status:** unlisted and convertible into Shares.
- (b) **Detachable Warrants:** The Company will issue 126,308,306 detachable and freely tradeable warrants. Each New Warrant will entitle the holder to 1 Share at the New Warrant Exercise Price.
- (c) **Transfer:** the New Warrants are fully transferable (either in whole or in part) to another sophisticated or professional investor (as those terms are defined in the Corporations Act).
- (d) **New Warrant Maturity Date:** 5 years from the earlier of 31 October 2015, the Cross Listing Date and the date of completion of any other capital raising by the Company or any special purpose vehicle incorporated for the purposes of a capital raising.
- (e) **Exercise:** exercisable at holder's option in exchange for Shares in the Company.
- (f) **New Warrant Exercise Price:** the lower of the Cross Listing Price and the Market Price.

The Market Price is:

- (i) if the Cross Listing Process has completed, the average of the VWAP of the Shares for each dealing day commencing on the date falling thirty Dealing Days prior to the Deferred Payment Date and ending on the Deferred Payment Date (inclusive); and
- (ii) in all other cases, the average VWAP of the Shares for each dealing day commencing on the date falling thirty Dealing Days prior to 31 October 2015 and ending on 31 October 2015 (inclusive).

The Cross Listing Price is the price offered by the Company for each Share to be issued pursuant to the Cross Listing Process, or if no offer, the opening price of Shares on the relevant stock exchange, in each case as converted into Australian dollars using the rate shown on the relevant page on Bloomberg at 12:00pm Sydney time on the date any exercise notice is delivered in accordance with the Warrant Conditions.

It is possible that the Cross Listing Price could be lower than the Market Price.

- (g) **Restrictions:** the Company will be subject to the following restrictions:
  - (i) if the Company wants to issue new Shares at a price which is discounted by more than more than 10% of the volume weighted average price for Shares for the 1 month immediately preceding the proposed date of issuance, then the Company must obtain prior consent from the holders of the New Warrants; and
  - (ii) the Company is only permitted to grant convertible securities (including options) in an aggregate amount up to 10% of the fully diluted capital of the Company which is on issue immediately following the New Warrant Issue Date (together, the **Restrictions**).
- (h) **Restrictions Commencement Date:** the Restrictions will apply from the New Warrant Issue Date of the New Warrants.
- (i) **Restrictions Termination Date:** the Restrictions will cease to apply on the date which falls 18 months after the Restrictions Commencement Date.
- (j) **Cash Settlement:** if the Company is subject to the Restrictions and takes any action which does not comply with the Restrictions, upon receipt of an exercise notice from the holders of the New Warrants, the Company must:
  - (i) determine the number of Shares to which the warrant holders are entitled to on the proposed exercise date based on the initial New Warrant Exercise Price;
  - (ii) determine the number of additional Shares to which the warrant holders would have been entitled on the proposed exercise date if the initial New Warrant Exercise Price was adjusted to take into account the Adjustment Events from the New Warrant Issue Date to the exercise date (**Additional Shares**); and
  - (iii) if the warrant holders would have been entitled to any Additional Shares, the Company must at its sole election either issue such Additional Shares or, if the Company is restricted from issuing such Additional Shares, then the Company must make a cash settlement payment to the warrant holders. The cash settlement payment is determined by multiplying the number of

Additional Shares by the New Warrant Exercise Price as adjusted (a **Cash Settlement Payment**). If the Company elects to make a Cash Settlement Payment, the amount of the Cash Settlement Payment will be set off against the New Warrant Exercise Price payable by the warrant holders at the time that the New Warrants are exercised. For the avoidance of doubt, the Company will in no circumstances be required to make an actual cash payment to a warrant holder to satisfy the Cash Settlement Payment obligation.

- (k) **Payment of New Warrant Exercise Price:** the warrant holder can elect to pay the New Warrant Exercise Price either:
- (i) by paying the New Warrant Exercise Price multiplied by the number of New Warrants being exercised in cash to the Company; or
  - (ii) if there are any Amortising Notes outstanding issued in favour of the warrant holder, the warrant holder can elect to 'pay' the New Warrant Exercise Price by surrendering to the Company the amount of outstanding Amortising Notes whose value is equal to the New Warrant Exercise Price multiplied by the number of New Warrants being exercised. The amount of Notes to be surrendered will be calculated on the USD/AUD spot rate of exchange quoted on Bloomberg at 12:00pm Sydney time on the date that the New Warrants are exercised.

## 7. Recommendation of the Board

The Board recommends that Shareholders vote in favour of Resolutions 1, 2, 3, and 4. If Resolutions 1, 2 or 3 are not passed, this will trigger an immediate Event of Default under the Note Trust Deed and the Company will then be in default. Whilst the Company is not aware of what action the Note Trustee or Noteholders would take in this circumstance, the Note Trustee may, at its discretion, (or, if instructed by the holders of 25% of the Convertible Notes and Amortising Notes in aggregate, must) notify the Company that the Convertible Notes and Amortising Notes are immediately due and redeemable at the Convertible Note Redemption Amount and Amortising Note Redemption Amount, respectively. At present the Company does not have funding arrangements in place to meet the Convertible Note Redemption Amount and the Amortising Note Redemption Amount if the Note Trustee takes that course of action.

If an Event of Default occurs and is subsisting the Security may be enforced immediately.

In addition, if an Event of Default occurs it may trigger cross defaults under the Company's other financing arrangements.

## 8. Voting Exclusion

Pursuant to ASX Listing Rule 7.3.8 the Company will disregard any votes cast on Resolutions 1 or 2 by:

- (a) OCP Asia;
- (b) any person who might obtain a benefit, except a benefit solely in the capacity of a holder of ordinary securities, if the resolution is passed; and
- (c) an Associate of OCP Asia or any person described in (b) above.

However, the Company need not disregard a vote if:

- (a) it is cast by a person as a proxy for a person who is entitled to vote, in accordance with the directions on the proxy form; or
- (b) it is cast by the person chairing the meeting as proxy for a person who is entitled to vote, in accordance with a direction on the proxy form to vote as the proxy decides.



**GUILDFORD**  
**COAL**

**GUILDFORD COAL LIMITED**

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**LODGE YOUR VOTE**

 **ONLINE**  
[www.linkmarketservices.com.au](http://www.linkmarketservices.com.au)

 **BY MAIL**  
Guildford Coal Limited  
C/- Link Market Services Limited  
Locked Bag A14  
Sydney South NSW 1235 Australia

 **BY FAX**  
+61 2 9287 0309

 **BY HAND**  
Link Market Services Limited  
1A Homebush Bay Drive, Rhodes NSW 2138

 **ALL ENQUIRIES TO**  
Telephone: +61 1300 554 474

**PROXY FORM**

I/We being a member(s) of Guildford Coal Limited and entitled to attend and vote hereby appoint:

**APPOINT A PROXY**

☐ **the Chairman of the Meeting (mark box)**

**OR** if you are **NOT** appointing the Chairman of the Meeting as your proxy, please write the name of the person or body corporate you are appointing as your proxy

or failing the person or body corporate named, or if no person or body corporate is named, the Chairman of the Meeting, as my/our proxy to act on my/our behalf (including to vote in accordance with the following directions or, if no directions have been given and to the extent permitted by the law, as the proxy sees fit) at the Extraordinary General Meeting of the Company to be held at **1:00pm (AEST) on Friday, 30 October 2015 at Melton Hill Room, Holiday Inn, 334 Flinders Street, Townsville, Queensland, 4810** (the **Meeting**) and at any postponement or adjournment of the Meeting.

**The Chairman of the Meeting intends to vote undirected proxies in favour of each item of business.**

**VOTING DIRECTIONS**

**Proxies will only be valid and accepted by the Company if they are signed and received no later than 48 hours before the Meeting. Please read the voting instructions overleaf before marking any boxes with an ☒.**

**Resolutions**

	For	Against	Abstain*
1 Approval of the adjustment of the terms of Convertible Notes and Amortising Notes	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2 Approval of the issue of New Warrants	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3 Approval of the cancellation of existing Detachable Warrants	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4 Approval of change of company name	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



\* If you mark the Abstain box for a particular Item, you are directing your proxy not to vote on your behalf on a show of hands or on a poll and your votes will not be counted in computing the required majority on a poll.

**SIGNATURE OF SHAREHOLDERS – THIS MUST BE COMPLETED**

Shareholder 1 (Individual)

Joint Shareholder 2 (Individual)

Joint Shareholder 3 (Individual)

Sole Director and Sole Company Secretary

Director/Company Secretary (Delete one)

Director

This form should be signed by the shareholder. If a joint holding, either shareholder may sign. If signed by the shareholder's attorney, the power of attorney must have been previously noted by the registry or a certified copy attached to this form. If executed by a company, the form must be executed in accordance with the company's constitution and the *Corporations Act 2001* (Cth).

**GUF PRX501A**

## HOW TO COMPLETE THIS SHAREHOLDER PROXY FORM

### YOUR NAME AND ADDRESS

This is your name and address as it appears on the Company's share register. If this information is incorrect, please make the correction on the form. Shareholders sponsored by a broker should advise their broker of any changes. **Please note: you cannot change ownership of your shares using this form.**

### APPOINTMENT OF PROXY

If you wish to appoint the Chairman of the Meeting as your proxy, mark the box in Step 1. If you wish to appoint someone other than the Chairman of the Meeting as your proxy, please write the name of that individual or body corporate in Step 1. A proxy need not be a shareholder of the Company.

### DEFAULT TO CHAIRMAN OF THE MEETING

Any directed proxies that are not voted on a poll at the Meeting will default to the Chairman of the Meeting, who is required to vote those proxies as directed. Any undirected proxies that default to the Chairman of the Meeting will be voted according to the instructions set out in this Proxy Form.

### VOTES ON ITEMS OF BUSINESS – PROXY APPOINTMENT

You may direct your proxy how to vote by placing a mark in one of the boxes opposite each item of business. All your shares will be voted in accordance with such a direction unless you indicate only a portion of voting rights are to be voted on any item by inserting the percentage or number of shares you wish to vote in the appropriate box or boxes. If you do not mark any of the boxes on the items of business, your proxy may vote as he or she chooses. If you mark more than one box on an item your vote on that item will be invalid.

### APPOINTMENT OF A SECOND PROXY

You are entitled to appoint up to two persons as proxies to attend the Meeting and vote on a poll. If you wish to appoint a second proxy, an additional Proxy Form may be obtained by telephoning the Company's share registry or you may copy this form and return them both together.

To appoint a second proxy you must:

- on each of the first Proxy Form and the second Proxy Form state the percentage of your voting rights or number of shares applicable to that form. If the appointments do not specify the percentage or number of votes that each proxy may exercise, each proxy may exercise half your votes. Fractions of votes will be disregarded; and
- return both forms together.

### SIGNING INSTRUCTIONS

You must sign this form as follows in the spaces provided:

**Individual:** where the holding is in one name, the holder must sign.

**Joint Holding:** where the holding is in more than one name, either shareholder may sign.

**Power of Attorney:** to sign under Power of Attorney, you must lodge the Power of Attorney with the registry. If you have not previously lodged this document for notation, please attach a certified photocopy of the Power of Attorney to this form when you return it.

**Companies:** where the company has a Sole Director who is also the Sole Company Secretary, this form must be signed by that person. If the company (pursuant to section 204A of the *Corporations Act 2001*) does not have a Company Secretary, a Sole Director can also sign alone. Otherwise this form must be signed by a Director jointly with either another Director or a Company Secretary. Please indicate the office held by signing in the appropriate place.

### CORPORATE REPRESENTATIVES

If a representative of the corporation is to attend the Meeting the appropriate "Certificate of Appointment of Corporate Representative" should be produced prior to admission in accordance with the Notice of Meeting. A form of the certificate may be obtained from the Company's share registry or online at [www.linkmarketservices.com.au](http://www.linkmarketservices.com.au).

### LODGEMENT OF A PROXY FORM

This Proxy Form (and any Power of Attorney under which it is signed) must be received at an address given below by **1:00pm (AEST) on Wednesday, 28 October 2015**, being not later than 48 hours before the commencement of the Meeting. Any Proxy Form received after that time will not be valid for the scheduled Meeting.

Proxy Forms may be lodged using the reply paid envelope or:



#### ONLINE

[www.linkmarketservices.com.au](http://www.linkmarketservices.com.au)

Login to the Link website using the holding details as shown on the Proxy Form. Select 'Voting' and follow the prompts to lodge your vote. To use the online lodgement facility, shareholders will need their "Holder Identifier" (Securityholder Reference Number (SRN) or Holder Identification Number (HIN) as shown on the front of the Proxy Form).



#### BY MOBILE DEVICE

Our voting website is designed specifically for voting online. You can now lodge your proxy by scanning the QR code adjacent or enter the voting link [www.linkmarketservices.com.au](http://www.linkmarketservices.com.au) into your mobile device. Log in using the Holder Identifier and postcode for your shareholding.

#### QR Code



To scan the code you will need a QR code reader application which can be downloaded for free on your mobile device.



#### BY MAIL

Guildford Coal Limited  
C/- Link Market Services Limited  
Locked Bag A14  
Sydney South NSW 1235  
Australia



#### BY FAX

+61 2 9287 0309



#### BY HAND

delivering it to Link Market Services Limited\*  
1A Homebush Bay Drive  
Rhodes NSW 2138

\* During business hours (Monday to Friday, 9:00am–5:00pm)

**IF YOU WOULD LIKE TO ATTEND AND VOTE AT THE EXTRAORDINARY GENERAL MEETING, PLEASE BRING THIS FORM WITH YOU.  
THIS WILL ASSIST IN REGISTERING YOUR ATTENDANCE.**