

**NOTICE OF ANNUAL GENERAL MEETING**

NOTICE IS HEREBY GIVEN that the Annual General Meeting of Merlin Diamonds Limited (the "Company") will be held at Pullman Albert Park, 65 Queens Road, Melbourne, Victoria 3004, Australia, on Wednesday 30 November 2016, commencing at 9.00 am for the following purposes:

**AGENDA**

**ORDINARY BUSINESS**

**ORDINARY RESOLUTIONS**

**1. Financial Statements and Reports**

To receive and consider the Financial Statements of the Company and the Reports of the Directors and of the Auditor for the financial year ended 30 June 2016.

**2. Election of Director**

To consider and, if thought fit, to pass the following resolution as an ordinary resolution:

"That Dr David Tyrwhitt who holds office until the close of the meeting in accordance with clause 14.4(a) of the Company's Constitution, and, being eligible, be re-elected as a director of the Company."

**3. Ratify Issue Of Shares**

To consider and, if thought fit, to pass the following resolution as an ordinary resolution:

"That, for the purpose of ASX Listing Rule 7.4 and for all other purposes, shareholders ratify and approve the issue and allotment of 79,109,294 Shares to the each of the persons, on the terms and conditions and in the manner set out in the Explanatory Memorandum."

**4. Approval of 10% Placement Capacity – Shares**

To consider and, if thought fit, to pass the following resolution as a special resolution:

"That for the purposes of ASX Listing Rule 7.1A and for all other purposes, approval is given for the issue of Equity Securities totalling up to 10% of the issued capital of the Company (at the time of the issue) calculated in accordance with the formula prescribed in ASX Listing Rule 7.1A2 and on the terms and conditions set out in the Explanatory Memorandum."

**5. Approve an issue of up to 1,507,537 Convertible Notes and 100,502,969 Options over Ordinary Shares.**

To consider and, if thought fit, to pass the following resolution as an ordinary resolution:

"To approve the Company, in accordance with ASX Listing Rule 7.1 and for all other purposes, issuing up to 1,507,537 convertible notes at a price of \$1 per convertible note and 100,502,969 Options over Ordinary Shares to Regals Fund LP and on the terms and conditions as set out in the Explanatory Statement to the Notice of Meeting dated 26 October 2016."

**6. Approve an issue of up to 22,500,000 Ordinary Shares and 20,000,000 Options over Ordinary Shares.**

To consider and, if thought fit, to pass the following resolution as an ordinary resolution:

"To approve the Company, in accordance with ASX Listing Rule 7.1 and for all other purposes, issuing up to 22,500,000 shares and 20,000,000 Options over Ordinary Shares and on the terms and conditions as set out in the Explanatory Statement to the Notice of Meeting dated 26 October 2016."

**7. Approve an issue of up to 10,000,000 Ordinary Shares.**

To consider and, if thought fit, to pass the following resolution as an ordinary resolution:

“To approve the Company, in accordance with ASX Listing Rule 10.11 and for all other purposes, issuing up to 10,000,000 shares on the terms and conditions as set out in the Explanatory Statement to the Notice of Meeting dated 26 October 2016.”

**8. Approval of Merlin Diamonds Limited 2013 Incentive Option Scheme**

To consider and, if thought fit, to pass the following resolution as an ordinary resolution:

“For the purpose of ASX Listing Rule 7.2 Exception 9 (b), to approve the issue of options over fully paid ordinary shares of the Company under the Merlin Diamonds Limited 2013 Incentive Option Scheme”.

**9. Appointment of Auditors**

To consider and, if thought fit, to pass the following resolution as an ordinary resolution:

“That, for the purpose of Section 327 of the Corporations Act and for all other purposes, shareholders approve the appointment of Grant Thornton Audit Pty Ltd as auditors of the Company.”

**NON-BINDING ORDINARY RESOLUTION**

**10. Remuneration Report**

To consider and, if thought fit, to pass the following resolution as an ordinary resolution:

“That the Remuneration Report of the Company (which forms part of the Directors’ Report) for the financial year ended 30 June 2016 be adopted.”

*Note: The vote on this resolution is advisory only and does not bind the Directors or the Company.*

By Order of the Board and dated this 26nd day of October 2016.



PETER LEE  
Company Secretary

**2016 ANNUAL REPORT**

A copy of the 2016 Annual Report is available on our website at [www.merlindiamonds.com.au](http://www.merlindiamonds.com.au)

## VOTING EXCLUSION STATEMENT

### Resolution 3

The Company will disregard any votes cast on Resolution 3 by (a) any person who participated in the issue; any person who may obtain a benefit; and (b) and associate of that person.

However, the Company need not disregard a vote on the resolution if (a) it is cast by a person as 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.

### Resolution 4

The Company will disregard any votes cast on Resolution 4 by a person who may participate in the issue of equity Securities under the resolution and a person who may obtain a benefit, except a benefit solely in the capacity of a holder of ordinary shares, if the Resolution is passed and any associates of those persons. However, the Company need not disregard a vote if 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, it is cast by the Chair 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.

### Resolution 5

The Company will disregard any votes cast on Resolution 5 by (a) any person who may participate in the issue; any person who may obtain a benefit; and (b) and associate of that person.

However, the Company need not disregard a vote on the resolution if (a) it is cast by a person as 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.

### Resolution 6

The Company will disregard any votes cast on Resolution 6 by a person who may participate in the issue of equity Securities under the resolution and a person who may obtain a benefit, except a benefit solely in the capacity of a holder of ordinary shares, if the Resolution is passed and any associates of those persons. However, the Company need not disregard a vote if 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, it is cast by the Chair 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.

### Resolution 7

The Company will disregard any votes cast on Resolution 7 by (a) any person who is to receive securities in relation to the entity; and (b) and associate of that person.

However, the Company need not disregard a vote on the resolution if (a) it is cast by a person as 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.

### Resolution 8

The Company will disregard any votes cast on Resolution 8 by (a) a director of the entity (except one who is ineligible to participate in any employee incentive scheme in relation to the entity) and (b) and associate of that person.

However, the Company need not disregard a vote on the resolution if (a) it is cast by a person as 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

### Resolution 10

The Company will disregard any votes cast on Resolution 10 by (a) key management personnel of the Company; and (b) closely related parties of the key management personnel.

The key management personnel (**KMP**) of the Company are set out in the Remuneration Report.

However, the Company need not disregard a vote on Resolution 10 if:

- (a) it is cast by a person other than a person who is a key management person as proxy for a person who is entitled to vote in accordance with the directions on the proxy form; or
- (b) it is cast by a person who is a key management person as a proxy for a person who is entitled to vote and the proxy is a directed proxy (that is, the proxy specifies how the proxy is to vote on the proposed resolution); or

- (c) it is cast by the person chairing the meeting as proxy for a person who is entitled to vote, the chair has been given an open proxy and the proxy appointment expressly authorises the chair to exercise the proxy vote even if the resolution is connected directly or indirectly with the remuneration of a member of the KMP. For the purpose of this resolution, if the chair is appointed as set out in this clause and you do not complete any of the boxes on the proxy form opposite resolution 10, you will be directing the chairman to vote in favour of resolution 10.

#### **OPEN VOTES HELD BY CHAIRMAN**

The Chairman intends to vote all open proxies held by the Chairman in favour of all resolutions.

#### **NOTES TO THE NOTICE OF ANNUAL GENERAL MEETING**

1. A Member entitled to attend and vote at the aforementioned meeting is entitled to appoint not more than two other persons as his/her proxy or proxies to attend and vote, in certain circumstances, instead of the Member at the meeting.
2. If a Member appoints one proxy, that proxy may vote on a show of hands.
3. If a Member appoints two proxies neither may vote on a show of hands. However, if you appoint two proxies to represent you at the Meeting, you must show in the space provided either the percentage of your Shareholding or the number of votes (you are entitled to one vote for each Share you own upon a poll being declared) those proxies are to represent. If you do not complete this section then each proxy may, on a poll, vote half of your Shareholding. A separate proxy form must be submitted for each proxy you appoint.
4. A proxy need not be a Member of the Company.
5. If you appoint a proxy to represent you and vote on your behalf at the Meeting and that person is also a Member or has already been appointed as a proxy for another Member, your vote may not be counted on a show of hands. This is because, on a show of hands, your proxy's vote is only counted once irrespective of the number of Members that that person represents. However, if a poll is taken and your proxy votes, your vote will be counted in full in reaching a decision.
6. The Proxy Form together with the Power of Attorney (if any) or a certified copy of the Power of Attorney (if any) under which it is signed must be lodged at either Level 12, 680 George Street, Sydney, NSW 2000, mailed to Locked Bag A14, Sydney South, NSW 1235 or the Registered Office of the Company or by being sent by fax to (+61) 02 9287 0309, not less than forty-eight (48) hours before the time of the commencement of the meeting.
7. Signing Proxies
  - (i) Joint Holding - All holders must sign.
  - (ii) Shares in Company Names - Companies must execute this form in the way provided by Law.
  - (iii) Individual - Must be signed by the Member or their attorney.
8. For the purpose of the Meeting, Shares will be taken to be held by the persons who are registered holders at 7pm, on 28 November 2016. Accordingly, share transfers registered after that time will be disregarded in determining entitlements to attend and vote at the Meeting.

#### **COMPANY REPRESENTATIVE**

If Shares are held in a company name and it is intended that a representative of the company attend the Meeting rather than lodge a proxy prior to the Meeting, the person attending the Meeting must present authority from the company director/s signed in the way provided by law.

## EXPLANATORY MEMORANDUM TO SHAREHOLDERS

This Explanatory Statement provides shareholders of the Company with information in respect of the resolutions to be considered at the Annual General Meeting of the Company to be held Pullman Albert Park, 65 Queens Road, Melbourne 3004 on 30 November 2016 at 9.00 am. Shareholders should carefully review this Explanatory Statement and the associated Notice of General Meeting (**Notice**) to which this Explanatory Statement is attached.

**If you have difficulty in properly understanding this documentation, you should consult your financial or legal adviser.**

### 1. RECEIVE AND CONSIDER THE REPORTS FOR THE YEAR ENDED 30 JUNE 2016

This item is intended to provide an opportunity for Shareholders to raise questions on the reports themselves and on the performance of the Company generally.

The Company's Annual Report 2016 has been made available to Shareholders. There will be an opportunity for Shareholders at the meeting to comment on and ask questions about the Company's management, operations, financial position, business strategies and prospects.

### 2. ELECTION OF DIRECTORS

Article 14.4(a) of the Company's Constitution requires that one-third of the Directors (excluding the Managing Director) must retire by rotation at the conclusion of the annual general meeting of the Company. Accordingly, Dr David Tyrwhitt retires and being eligible offers himself for re-election.

A profile about Dr Tyrwhitt follows:

Dr Tyrwhitt has been a Director of the Company since 2011. He is a geologist and has more than 50 years' experience in the mining industry. He is currently a Director of Top End Minerals Ltd, Northern Capital Resources Corp and Hawthorn Resources Limited. He worked for over 20 years with Newmont Mining Corporation in Australia, South East Asia and the United States. During this time, he was responsible for the discovery of the Telfer Gold Mine in Western Australia. He was Chief Executive Officer of Newmont Australia Limited between 1984 and 1988 and Chief Executive Officer of Ashton Mining Limited between 1988 and 1991 and a Director of Astro Diamond Mines N.L. from November 1996 to May 2008. He established his own consultancy in 1991 and worked with Normandy Mining Limited on a number of mining projects in South East Asia. Age 77.

#### Directors' Recommendation

The Board of Directors supports the nomination of Dr Tyrwhitt.

### 3. RATIFY THE ISSUE OF SHARES

The Company issued 10,692,204 shares on 10 May 2016 for consulting and promotional services; 50,000,000 shares from the conversion of convertible notes and 6,317,090 for corporate promotional work and technical services on 1 September 2016; and 12,100,000 for business development services on 2 September 2016. The ratification of the issue and allotment of the shares issued pursuant to those placements is sought under Resolution 3 in accordance with the requirements of ASX Listing Rule 7.4.

#### ASX Listing Rule 7.4

ASX Listing Rule 7.1 prohibits a listed company from issuing, or agreeing to issue, equity securities (which includes shares) that exceed 15% of the total number of fully paid ordinary securities on issue in any 12 month period, unless approval is obtained from the holders of the company's ordinary securities. ASX Listing Rule 7.4 provides that the approval of holders of the company's ordinary securities may be obtained after the issue of equity securities. The effect of such ratification is to restore the company's discretionary power to issue further securities up to 15% of the number of fully paid ordinary securities on issue at the beginning of the relevant 12 month period without obtaining shareholder approval.

#### ASX Listing Rule Disclosure Requirements

The following information is provided in accordance with ASX Listing Rule 7.5:

(a) *Number of securities allotted*

79,109,294 fully paid ordinary shares.

(b) *Price at which the securities were issued*

- 10,692,204 shares at 2.2 cents
- 4,317,090 shares at 2 cents
- 64,100,000 shares at 1.5 cents

(c) *Terms of the securities*

The Shares issued are fully paid ordinary shares ranking equally in all respects with all other Shares on issue and are or will be listed on ASX.

(d) *The names of the allottees or the basis upon which the allottees were determined*

The allottees were Andrew Mortimer, Les Szancer, Australian Trade Access Pty Ltd, ValueAdmin.Com Pty Ltd, Neil Kaner, Regals Fund LP and Ledger Holdings Pty Ltd and were not related parties of the Company or their associates.

(e) *Use (or intended use) of the funds raised*

The net funds raised were used for:

- exploration and development of the Merlin diamond mine; and
- working capital requirements of the Company.

**Directors' Recommendation**

The Board unanimously recommends that Shareholders vote in favour of Resolution 3, as it allows the Company to retain the flexibility to issue further securities representing up to 15% of the total number of Shares on issue in any 12 month period during the next 12 months without Shareholder approval.

**4. APPROVAL OF 10% PLACEMENT CAPACITY – SHARES**

The purpose of this special resolution is to authorise the Directors to seek Shareholder approval to allow it to issue a further 10% of the Company's issued share capital under Listing Rule 7.1A during the 10% Placement Period in addition to and without using the Company's 15% placement capacity under Listing Rule 7.1.

This effectively gives the Directors a 25% placement capacity less that part of its placement capacity not available under Listing Rule 7.1

Listing Rule 7.1A came into effect on 1 August 2012 and enables "eligible entities" to issue Equity Securities up to 10% of its issued share capital through placements over a 12 month period after the annual general meeting if the Equity Securities are in an existing quoted class of the Company's securities ("10% Placement Facility"). The 10% Placement Facility is in addition to the Company's 15% placement annual capacity under Listing Rule 7.1. An "eligible entity" for the purposes of Listing Rule 7.1A is an entity that is not included in the S&P/ASX 300 Index and has a market capitalisation of \$300 million or less. The Company is an eligible entity. The Company is seeking Shareholder approval by way of a special resolution to have the ability to issue Equity Securities under the 10% Placement Facility during the period up to 12 months after the Meeting. As Resolution 5 is a special resolution 75% of votes cast by Shareholders present and eligible to vote at the Meeting must be in favour of Resolution 5 for it to be passed.

If Shareholders approve Resolution 4 the exact number of Equity Securities that may be issued under the 10% Placement Facility will be determined in accordance with the formula prescribed in Listing Rule 7.1A.2 (refer below). The Company will comply with the disclosure obligations under Listing Rules 7.1A.4 and 3.10.5A upon the issue of any Equity Securities under the 10% Placement Facility.

**Description of Listing Rule 7.1A**

***Shareholder approval***

The ability to issue Equity Securities under the 10% Placement Facility is subject to shareholder approval by way of a special resolution at an annual general meeting, which is in addition to its 15% annual placement capacity.

***Equity Securities***

Any Equity Securities issued under the 10% Placement Facility must be in the same class as an existing quoted class of Equity Securities of the Company. The Company, as at the date of the Notice, has on issue one class of Equity Securities, namely Shares.

***Formula for Calculating Additional 10% Placement Facility.***

Listing rule 7.1A.2 provides that eligible entities which have obtained shareholder approval at an annual general meeting may issue or agree to issue, during the 12 month period after the date of the annual general meeting, a number of Equity Securities calculated in accordance with the following formula:

(a x d) – e

**a** is the number of shares on issue 12 months before the date of issue or agreement:

- (i) plus the number of fully paid shares issued in the 12 months under an exception in Listing Rule 7.2;
- (ii) plus the number of partly paid shares that became fully paid in the 12 months;
- (iii) plus the number of fully paid shares issued in the 12 months with approval of holders of shares under Listing Rule 7.1 and 7.4. This does not include an issue of fully paid shares under the entity's 15% annual placement capacity without shareholder approval;
- (iv) less the number of fully paid shares cancelled in the 12 months.

Note that "a" has the same meaning in Listing Rule 7.1 when calculating an entity's 15% annual placement capacity.

**d** is 10%

**e** is the number of Equity Securities issued or agreed to be issued under Listing Rule 7.1A.2 in the 12 months before the date of issue or agreement to issue that are not issued with the approval of shareholders under Listing Rule 7.1 or 7.4.

#### **Listing Rule 7.1 and Listing Rule 7.1A.**

The ability of an entity to issue Equity Securities under Listing Rule 7.1A is in addition to the entity's 15% placement capacity under Listing Rule 7.1.

At the date of this Notice, the Company has on issue 543,811,742 Shares and therefore has a capacity to issue:

- (i) 15% or 81,571,761 Equity Securities under Listing Rule 7.1; and
- (ii) 10% or 54,381,174 Equity Securities subject to Shareholder approval being sought under this Resolution 3 under Listing Rule 7.1A.

The actual number of Equity Securities that the Company will have capacity to issue under Listing Rule 7.1A will be calculated at the date of issue of the Equity Securities, or the agreement date, in accordance with the formula prescribed in Listing Rule 7.1A.2 (refer above).

#### **Information required by Listing Rule 7.3A**

Pursuant to and in accordance with Listing Rule 7.3A, the below information is provided in relation to the approval of the 10% Placement Facility:

##### ***Minimum Price.***

The issue price of the new Equity Securities will be no lower than 75% of the VWAP for the relevant class of securities calculated over the 15 Trading Days immediately before:

- the date on which the price at which the Equity Securities are to be issued is agreed; or
- if the Equity Securities are not issued within 5 Trading Days of the date above, the date on which the Equity Securities are issued.

##### ***Date of Issue***

The Equity Securities may be issued under the 10% Placement Facility commencing on the date of the Meeting and expires on the earlier to occur of:

- the date that is 12 months after the date of this Meeting; or
- the date of the approval by Shareholders of a transaction under Listing Rules 11.1.2 (a significant change to the nature or scale of activities) or 11.2 (disposal of main undertaking).

### ***Risk of economic and voting dilution***

If Resolution 4 is approved by Shareholders and the Company issues Equity Securities under the 10% Placement Facility, the existing Shareholders' voting power in the Company will be diluted as shown in the table below.

Shareholders should note that there is a risk that:

- the market price for the Equity Securities to be issued may be significantly lower on the date of the issue of the Equity Securities than on the date of the Meeting; and
  - the Equity Securities may be issued at a price that is at a discount to the market price for those Equity Securities on the issue date.
- a) Any issue of Equity Securities under the 10% Placement Facility will dilute the interests of Shareholders who do not receive any Shares under the issue. If Resolution 4 is approved by Shareholders and the Company issues the maximum number of Equity Securities available under the 10% Placement Facility, the economic and voting dilution of existing Shares would be as shown in the table below.
- b) The table below shows the dilution of existing Shareholders on the basis of the current market price of Shares and the current number of ordinary securities for variable "A" calculated in accordance with the formula in Listing Rule 7.1A.2 as at the date of this Notice, assuming the full 10% dilution.
- c) The table also shows the voting dilution impact where the number of Shares on issue (Variable A in the formula) changes and the economic dilution where there are changes in the issue price of Shares issued under the 10% Placement Facility.

Variable "A" in Listing Rule 7.1 A2		Dilution		
		\$ .012 50% decrease in Issue Price	\$ .024 Issue Price	\$ .036 50% increase in Issue Price
Current Variable A 54,381,174 Shares	Shares issued	54,381,174	54,381,174	54,381,174
	Funds raised	\$652,574	\$1,305,148	\$1,957,722
50% increase* in current Variable A 81,571,761 Shares	Shares issued	81,571,761	81,571,761	81,571,761
	Funds raised	\$978,861	\$1,957,722	\$2,936,583
100% increase* in current Variable A 108,762,348 Shares	Shares issue	108,762,348	108,762,348	108,762,348
	Funds raised	\$1,305,148	\$2,610,296	\$3,915,444

- \* The number of shares on issue (Variable A in the formula) could increase as a result of the issue of Shares that do not require Shareholder approval (such as under a pro-rata rights issue or scrip issued under a takeover offer) or that are issued under Listing Rule 7.1.

The table has been prepared on the following assumptions:

- The current Shares on issue are the Shares on issue at 17 October 2016.
- The issue price set out above is the closing price of the Shares on the ASX on 17 October 2015.
- The Company issues the maximum number of Equity Securities available under the 10% Placement Facility hence the voting dilution is shown in each example as 10%.
- The calculations above do not show the dilution that any one particular Shareholder will be subject to. All Shareholders should consider the dilution caused to their own shareholding depending on their specific circumstances, and if necessary seek advice from their professional advisers.
- No unlisted options of the Company are exercised into Shares before the date of issue of the Equity Securities.



- The table shows only the effect of issues of Equity Securities under ASX Listing Rule 7.1A, and not dilution under the 15% placement capacity under ASX Listing Rule 7.1, under ASX Listing Rule 7.2, or Shareholder approvals under ASX Listing Rule 7.1.
- The issue of Equity Securities under the 10% Placement Facility consists only of Shares

#### ***Purpose of issue under 10% Placement Facility***

The Company may seek to issue the Equity Securities for the following purposes:

- as cash consideration, in which case the Company intends to use the funds raised towards operations at the Merlin diamond mine and its other projects, and general working capital; or
- as non-cash consideration for the acquisition of new resources assets and other investments. In such circumstances the Company will provide a valuation of the non-cash consideration as required by Listing Rule 7.1A

#### ***Allocation under the 10% Placement Facility***

The Company's allocation policy is dependent on the prevailing market conditions at the time of any proposed issue pursuant to the 10% Placement Facility. The identity of the allottees of Equity Securities will be determined on a case-by-case basis having regard to the factors including but not limited to the following:

- the purpose of the issue;
- the alternative methods of raising funds that are available to the Company, including but not limited to, an entitlement issue or other issue in which existing security holders can participate;
- the effect of the issue of the Equity Securities on the control of the Company;
- the circumstances of the Company, including but not limited to the financial situation and solvency of the Company;
- prevailing market conditions; and
- advice from corporate, financial and broking advisers (if applicable).

The allottees under the 10% Placement Facility have not been determined as at the date of this Notice but may include existing Shareholders and/or new Shareholders, who are not related parties of the Company or their associates.

#### ***Previous Approval under Listing Rule 7.1A***

The total number of equity securities issued in the 12 months preceeding the date of the meeting is 105,246,227 and the percentage they represent of the total number of equity securities on issue at the commencement of that 12 month period is 24%.

On 10 May 2016, the Company issued 10,692,204 ordinary shares which ranked pari passu with existing ordinary shares on issue at that date, the shares were issued to Andrew Mortimer, Les Szancer, Australian Trade Access Pty Ltd and ValueAdmin.Com Pty Ltd, the shares were issued for promotional and consulting services at a price equivalent to 2.2 cents per share which was a discount of 0% to the closing market price on the date of issue.

On 1 September 2016, the Company issued 50,000,000 ordinary shares upon the conversion of convertible notes, the shares ranked pari passu with existing ordinary shares on issue at that date, the shares were issued to Regals Fund LP, the shares were issued at a price of 1.5 cents which was a discount of 0% to the closing market price on the date of issue, the total consideration was \$750,000 which has been spent on costs relating to the re-commencement of operations at the Merlin diamond mine and working capital and there are no funds remaining from that placement; 4,317,090 ordinary shares were issued for promotional work to ValueAdmin.Com Pty Ltd, the shares ranked pari passu with existing ordinary shares on issue at that date, the shares were issued at a price of 2 cents which was a discount of 0% to the closing market price on the date of issue; 26,136,933 ordinary shares were issued on the conversion of convertible notes to The Green Super Fund, the shares ranked pari passu with existing ordinary shares on issue at that date, the shares were issued at a price of 1.5 cents which was a discount of 0% to the closing market price on the date of issue and all of the funds have been spent on costs relating to the re-commencement of operations at the merlin diamond mine and working capital; and 2,000,000 ordinary shares were issued for technical services to Neil Kaner, the shares ranked pari passu with existing ordinary shares on issue at that date, the shares were issued at a price of 1.5 cents which was a discount of 0% to the closing market price on the date of issue .

On 2 September 2016, the Company issued 12,100,000 ordinary shares, which ranked pari passu with existing ordinary shares on issue at that date, the shares were issued to Ledger Holdings Pty Ltd for business development services, the shares were issued at a price of 1.5 cents which was a discount of 0% to the closing market price on the date of issue.

#### **Voting Exclusion**

A voting exclusion statement is included in the Notice. At the date of the Notice, the Company has not invited any particular existing Shareholder or security holder or an identifiable class of existing security holder to participate in an issue of Equity Securities under ASX Listing Rule 7.1A. No existing Shareholder's votes will therefore be excluded under the voting exclusion in the Notice.

#### **Directors' Recommendation**

The Board unanimously recommends that Shareholders vote in favour of Resolution 4.

### **5. APPROVE ISSUE OF CONVERTIBLE NOTE AND OPTIONS TO REGALS FUND LP.**

#### ***Preamble***

The Company has entered into a secured note deed (Deed) with Regals Fund LP (Regal). Under the terms of the Deed, Regal has provided \$1,507,537 to the Company to be used for development, exploration and working capital purposes. The Company has issued 1,507,537 notes to Regal. Regal have converted 750,000 notes into ordinary shares (under the Company's 15% rule capacity) leaving a balance of 757,537 notes outstanding. Following shareholder approval, the notes automatically convert into convertible notes. The notes (or convertible notes) as the case may be will accrue interest at 10% per annum which will be paid half yearly in arrears. The convertible notes will be for a period of 3 years and can be converted at any time at a conversion price of 1.5 cents per note; or the 5 day VWAP up to the day prior to conversion, whichever is lower by the holder. The Deed has a requirement that the conversion of the convertible notes cannot result in Regal holding more than 19.9% of the issued shares of the Company at the time of conversion, unless shareholder approval is obtained. The Deed also has a requirement that the notes (or convertible notes) as the case may be are reconstructed in accordance with the requirements of the Listing Rules in the case of a reorganisation of the Company ordinary shares on issue. The notes (or convertible notes) as the case may be are secured by a charge over the assets of the Company. Attaching to each note (or convertible notes) as the case may be are 66.667 options which are convertible into ordinary shares at a price of 1.5 cents per option. This equates to 1,507,537 notes times 66.667 which equals 100,502,969 options. The terms and condition of the options are set out in Appendix 1.

ASX Listing Rule 7.1 provides that a company must not, without shareholder approval (but subject to certain exceptions), issue during any 12 month period any equity securities or other securities with rights of conversion to equity (such as an option) if the number of those securities exceeds 15% of the number of fully paid ordinary securities on issue at the commencement of that 12 month period. In order to ensure that the Company has the capacity to issue the ordinary shares upon conversion of the convertible notes, which may occur anytime within the term of the convertible note, the Company has decided to seek shareholder approval to the issue of the convertible notes immediately.

For the purposes of Australian Stock Exchange ("ASX") Listing Rules 7.3, the Company also advises:

The number of securities to be allotted is 757,357 notes (or convertible notes) as the case may be at a price of \$1 per convertible note (which if converted at 1.5 cents equals 50,502,466 ordinary shares) and 100,502,969 options. The convertible notes and options may be converted into ordinary shares at a price of 1.5 cents or the 5 day VWAP up to the day prior to conversion, whichever is lower.

Should Regal convert the convertible notes and options, the Regal holding of ordinary shares will be as follows:

	Regal holding	Issued capital	Regal %
Current holding	75,163,000	543,811,742	13.82
Upon conversion of 100% of convertible notes	125,665,466	594,314,208	21.14
Upon exercise of 100% of options *	226,168,435	694,817,177	32.55

Note –

- This assumes that no further ordinary shares are issued or none of the existing convertible notes and options on issue are converted/exercised.
- Furthermore, Resolutions 6 and 7 to this notice of general meeting seeks approval for the issue of further securities.
- If any of the existing convertible notes and options on issue are converted/exercised; or the securities in point b above are issued, the percentage holding of Regal will change.

The conversion price of the convertible notes into ordinary shares will be 1.5 cents per note or the 5 day VWAP up to the day prior to conversion, whichever is lower and the exercise price of the options is 1.5 cents or the 5 day VWAP up to the day prior to conversion, whichever is lower.

The notes (or convertible notes) as the case may be and options will be issued to Regal, or its nominee or any assignee.

The notes (or convertible notes) as the case may be and the options will not be issued to a related party.

The date by which the Company will issue the notes (or convertible notes) as the case may be and the options is no later than 3 months after the date of approval by shareholders.

The ordinary shares to be issued upon conversion of the convertible notes and/or the exercise of the options will be fully paid and rank pari passu with existing ordinary shares on issue, from the date of issue upon exercise of the convertible notes or options.

The Company anticipates that it will allot the ordinary shares in one tranche however it may allot in several tranches.

The funds raised by the note issue will be utilised for development, exploration and working capital for the Company however the conversion of the convertible notes into ordinary shares will not raise any funds. Further funds will be received if the options are exercised and it is anticipated that the funds raised upon exercise of the options will also be utilised for development, exploration and working capital for the Company

#### **Directors Recommendation**

The Board unanimously recommends that Shareholders vote in favour of the resolution as it allows the Company to raise necessary finance for the development of its operations.

## **6 APPROVE ISSUE OF SHARES AND OPTIONS.**

### **Preamble**

ASX Listing Rule 7.1 provides that a company must not, without shareholder approval (but subject to certain exceptions), issue during any 12 month period any equity securities or other securities with rights of conversion to equity (such as an option or convertible note) if the number of those securities exceeds 15% of the number of fully paid ordinary securities on issue at the commencement of that 12 month period.

The Company has arrangements with a number of parties who are assisting the Company with promotional activities, corporate activities and capital raising activities. The Company has agreed to issue a total of 22,500,000 ordinary shares and 20,000,000 options exercisable at 1.5 cents, expiring in 4 years to those parties.

For the purposes of Australian Stock Exchange ("ASX") Listing Rules 7.3, the Company also advises:

- I. The number of securities to be allotted is up to 22,500,000 ordinary shares and 20,000,000 options.
- II. The issue price of the shares will be the value of the shares on the date of issue (which will be at least 80% of the average market price for the ordinary shares. The average market price is calculated over the last 5 days on which sales in the ordinary shares were recorded before the day on which the issue was made or, if there is a prospectus, product disclosure statement or offer information statement relating to the issue, over the last 5 days on which sales in the ordinary shares were recorded before the date the prospectus, product disclosure statement or offer information statement was signed) multiplied by the number of shares being issued. There will be no issue price for the options and the exercise price will be 1.5 cents.

- III. The shares will rank pari passu with ordinary shares on issue from the date of issue. The options will rank pari passu with ordinary shares on issue from the date of exercise of the options. The options they will expire in 4 years if not previously exercised and will be unlisted.
- IV. The options will have no issue price and can be exercised by the payment of 1.5 cents per option.
- V. The shares and options will be issued to David Roseman, Irwin Biotech Nominees Pty Ltd and Everblu or their nominees
- VI. The securities will not be issued to a related party.
- VII. The date by which the Company will issue the securities is no later than 3 months after the date of approval by shareholders.
- VIII. The Company anticipates that it will allot the securities in one tranche however it may allot in several tranches.
- IX. The funds will be utilised for development, exploration and working capital for the Company.

#### **Directors Recommendation**

The Board unanimously recommends that Shareholders vote in favour of the resolution as it allows the Company to raise necessary finance for the development of its operations.

## **7 APPROVE ISSUE OF SHARES.**

#### **Preamble**

ASX Listing Rule 7.1 provides that a company must not, without shareholder approval (but subject to certain exceptions), issue during any 12 month period any equity securities or other securities with rights of conversion to equity (such as an option or convertible note) if the number of those securities exceeds 15% of the number of fully paid ordinary securities on issue at the commencement of that 12 month period.

Jonathon Herzog has assisted the Company with promotional activities, corporate activities and capital raising activities. The Company has agreed to issue a total of 10,000,000 ordinary shares for services rendered.

Jonathon Herzog is the son of Henry Herzog, a Director of the Company and accordingly is a related party.

Shareholder approval of the grant of the shares the subject of this resolution is sought for the purposes of:

1. Part 2E.1 of the Corporations Act, which governs the giving of financial benefits to directors and other “related parties” of a company; and
2. ASX Listing Rule 10.11, which provides that, subject to certain exceptions (none of which are relevant here), a company must not issue or grant securities to a director, an associate of a Director or a person whose relationship with the Company is such that shareholder approval should be obtained.

The object of the resolution is to pay Jonathon Herzog for the assistance he has provided whilst conserving the cash resources of the Company.

If Shareholder approval is obtained for the resolution, the shares will be granted within one month of the receipt of Shareholder approval.

#### **Terms of shares and options**

The shares will rank pari passu with ordinary shares on issue from the date of issue. Holders of options cannot participate in new issues without exercising the options.

#### **Part 2E.1 of the Corporations Act**

Part 2E.1 of the Corporations Act prohibits the Company from giving a financial benefit to a “related party” of the Company (such as a Director) unless either:

1. the giving of the financial benefit falls within one of the nominated exceptions to the relevant provisions of the Corporations Act; or
2. prior Shareholder approval is obtained to the giving of the benefit.

For the purposes of Part 2E.1, Mr Herzog (and/or their nominee(s)) is considered to be a related party of the Company as he is related to a Director, therefore, the proposed grant of shares to him (and/or his nominee) requires prior shareholder approval.

The estimated value of the shares to Mr Herzog as at 17 October 2016 is \$240,000.

Jonathon Herzog's beneficial interest in the securities of the Company:

In accordance with the requirements of Part 2E.1 and, in particular, sections 219 and 221 of the Corporations Act and ASX Listing Rule 10.13, the following information is provided to Shareholders to allow them to assess the proposed grant of the shares:

1. Jonathon Herzog, being the son of a Director, is a related party of the Company to whom the financial benefit would be given by virtue of section 228(2)(a) of the Corporations Act (or in the case of his respective nominee(s), section 228(4) of the Corporations Act);
2. the nature of the financial benefit to be given is the grant of 10,000,000 shares;
3. the shares will be issued within one months of the date of the Meeting;
4. the shares are to be granted for nil consideration and therefore no funds will be raised from their issue;
5. an estimate of the value of the shares is \$240,000.
6. neither the Directors nor the Company are aware of any other information that would be reasonably required by Shareholders to make a decision as to whether it is in the best interests of the Company to pass the resolutions other than as follows:
  - (a) if the shares the subject of the resolution are granted, then the Company's fully paid share capital (based on the existing number of Shares) will be diluted by 0.02% based on an issued number of shares as at the date of this notice of meeting of 543,811,742; and
  - (b) the Directors consider that the issue of the shares in lieu of the payment of cash is in the best interests of the Company as it preserves the cash facilities of the Company.

#### **Directors Recommendation**

Mr Henry Herzog declines to make a recommendation to Shareholders in relation to this resolution due to his material personal interest in the outcome of the resolution. The other Directors (excluding Mr Henry Herzog) recommend that, for the reasons set out above, Shareholders vote in favour of the resolution.

### **8. APPROVAL OF MERLIN DIAMONDS LIMITED 2013 INCENTIVE OPTION SCHEME**

#### **Background**

In September 2013 the Company adopted an employee share option plan ("Plan") to provide Directors, senior executives, employees and consultants ("Plan Participants") with an opportunity to participate in the Company's future growth and gives them an incentive to contribute to that growth.

The Directors consider the Plan will enable the Company to retain and attract skilled and experienced directors, senior executives, employees and consultants and provide them with the motivation to make the Company more successful. The Plan enables the Company to allocate Plan Options and Plan Shares to Plan Participants to subscribe for Shares in the Company (via the Plan Trust, which is described below).

A copy of the Plan rules will be made available for inspection at the Company's registered office before the Annual General Meeting and at the Annual General Meeting. A summary of the Plan is contained in Annexure A. Those terms include the ability of the Company to provide financial assistance to purchase and exercise Plan Options and Plan Shares and, at the Board's discretion, allow Options to be exercised after a Plan Participant ceases to be employed by the Company. For the reasons set out below, Shareholder approval is required under the Corporations Act for these terms.

The main terms of the Plan Options that may be granted under the Plan are summarised in Annexure B.

#### **Plan Trust**

The Company has established the Merlin Diamonds Limited 2013 Incentive Option Scheme ("Plan Trust" or "Trust"), the trustee of which is Trinity Management Pty Limited, a specialist employee share trust manager ("Trustee"). Plan Options and Plan Shares are allocated to the Trustee for the benefit of Plan Participants. Beneficial interests in the Plan Trust are divided into Share Units, which are allocated to Plan Participants.

The key reasons for the establishment of the Plan Trust are:

- (a) Merlin has found that a traditional employee option plan on its own does not facilitate retention of shares by employees after exercise of their options. The reason is that many employees find it necessary to immediately sell their shares in order to fund the exercise of their options. The trust structure enables the exercise of Plan Options to be funded from the Trust. This will enable Shares to be retained in the Plan Trust for the benefit of Plan Participants following the exercise of Plan Options.
- (b) Facilitating the retention of shares for the benefit of employees after the exercise of options will also assist with the retention of key employees.
- (c) A traditional employee option plan on its own creates complex taxation issues for employees. The taxation issues for Plan Participants arising from the Plan Trust are simpler because the Plan Participants hold Share Units in the Plan Trust and they do not directly hold Options in the Company.

Under the terms of the Plan, each Participant will be provided with a non-recourse loan equal to the value of the Plan Options in order to enable the Participants to subscribe for Share Units in the Plan Trust. See Annexure A for details.

The Company, in providing either cash advances to the Plan Trustee in relation to the issue of Plan Options or any further advance to the Plan Trustee in relation to the exercise of Options (see Annexure A for details), will not suffer any net cash outflow, because any payment by the Company to the Plan Trustee will be matched by a payment for either subscription for the Plan Options or payment of the exercise price by the Plan Trustee respectively.

At the time of exercise of Plan Options under the Plan, there are a number of different funding mechanisms available for the payment to the Company for the exercise price. In order to allow Participants under the Plan the opportunity to retain equity in the Company, the Company may consider a contribution to the Plan equivalent to the exercise price, which allows the Plan Trustee to use those funds to pay the exercise price, hence suffering no net cash outflow but providing the Trustee the opportunity to exercise the Plan Options without needing to sell Plan Shares to fund the exercise of Plan Options. If the Company provides any such advance, the equivalent amount of funds will be repayable by the Participant to the Company either on realisation of the Plan Shares or by a salary sacrificing mechanism. If such a mechanism is implemented in respect of a Director, the Company would be providing a financial benefit to the relevant Director, for which Shareholder approval is required.

The Company will disclose beneficial interests in securities held by the Trustee in its annual report as required by the Listing Rules and Corporations Act.

#### **Regulatory requirements**

Under the Corporations Act, shareholder approval is required where a company provides financial assistance under an employee share scheme or a person receives a benefit in connection with retiring from office or ceasing employment with a company. The Plan potentially allows for financial assistance to acquire the Company's securities and for a benefit upon a person's retirement from office. The purpose of Resolution 7 is to obtain this approval.

Section 200B of the Corporations Act provides that a company may only give a person a 'benefit' in connection with their ceasing to hold a managerial or executive office position in the company if it is approved by shareholders or an exemption applies. Managerial or executive officers includes directors and senior executives.

Section 260C of the Corporations Act provides that a company may under an employee share scheme approved by shareholders, provide financial assistance for the acquisition of its own shares.

Listing Rule 7.1 provides that prior approval of a company's shareholders is required for an issue of securities if the securities will when aggregated with the securities issued by the company during the previous 12 months, exceed 15% of the number of ordinary securities on issue at the commencement of that 12 month period.

Pursuant to Listing Rule 7.2 Exception 9(b), approval under Listing Rule 7.1 is not required for an issue of securities under an employee incentive scheme if shareholders have approved the Company issuing securities under the scheme as an exception to Listing Rule 7.1 within the 3 year period before the proposed date of issue.

Accordingly, Shareholder approval is sought pursuant to Resolution 7 so that the Company may allocate Plan Options to the Plan Trust (held on behalf of Plan Participants) from time to time and issue Plan Shares upon the exercise of those Plan Options, without limiting its ability to issue securities representing up to 15% of the Company's share capital under Listing Rule 7.1.

There is no longer any requirement under the ASX Listing Rules for shareholders to approve the establishment or operation of an employee incentive scheme. Accordingly, if Resolution 7 is not passed, the Plan will be maintained, however any securities issued under the Plan will count towards the 15% restriction under Listing Rule 7.1. Furthermore, the Board's discretion to provide post-retirement benefits or for the Company to fund the

issue and exercise of securities under the Plan may be limited so that purpose of the Plan, namely to attract and retain key senior executives, may not be achieved.

The Company will seek Shareholder approval in accordance with the Listing Rules prior to issuing any Plan Options under the Plan for the benefit of Directors or their associates.

#### **Plan Options allocated to-date**

To date, the Company has granted the following Plan Options for the benefit of Eligible Participants under the Plan:

<b>Plan Participant</b>	<b>Plan Options</b>	<b>Exercise price</b>
Granted	28,975,000	\$0.15
Exercised	-	\$0.15
Forfeited	(5,875,000)	\$0.15
Balance	23,100,000	\$0.15

4,100,000 options expire 17 September 2018

19,000,000 options expire 4 December 2019

#### **Recommendation**

The Board recommends that Shareholders approve the Plan. It will allow the Company to issue securities for the benefit of Plan Participants whilst preserving the Company's 15% limit of issuing securities and provide flexibility in the manner in which the Plan is managed.

### **9. APPOINTMENT OF AUDITORS**

The Company's auditors, BDO East Coast partnership have advised the directors that it will retire at the 2016 annual general meeting.

The Directors recommend that Grant Thornton Audit Pty Ltd be appointed auditors of the Company.

#### **Directors' Recommendation**

The Board unanimously recommends that Shareholders vote in favour of Resolution 9.

### **10. ADOPT THE REMUNERATION REPORT FOR THE YEAR ENDED 30 JUNE 2016**

There will be an opportunity for Shareholders at the meeting to comment on and ask questions about the Remuneration Report which is contained in the Company's Annual Report 2016.

The vote on the proposed resolution in agenda Item 8 is advisory only and will not bind the Directors or the Company, however, the Board will take the outcome of the vote into consideration when reviewing remuneration practices and policies.

The Remuneration Report is set out in the Director's Report of the Company's Annual Report 2016. The Report:

- explains the Board's policies in relation to the nature and level of remuneration paid to Directors and key management personnel within the Company;
- discusses the link between the Board's policies and the Company's performance;
- sets out remuneration details for each Director and for each member of the Company's senior executive management team.

#### **Directors' Recommendation**

The Board unanimously recommends that Shareholders vote in favour of Resolution 8.

By Order of the Board and dated this 26<sup>nd</sup> day of October 2016



PETER LEE  
Company Secretary

**ANNEXURE "A"**  
**Terms and Conditions of Plan**

The Merlin Diamonds Limited 2013 Incentive Option Scheme (Plan) is constituted by the Plan Rules, Trust Deed, Option Plan and Trust Handbook, and invitations made under the Plan. Following is a summary of the terms and conditions of the Plan:

1. Purpose - The purpose of the Plan is to assist in the recruitment, reward, retention and motivation of Plan Participants of the Company.
2. Eligibility - The Board may from time to time in its absolute discretion invite Plan Participants of the Company to participate in the Plan through the issue of Options and/or Shares on such terms as it sees fit.
3. Offers - Invitations to invited Plan Participants must set out the number of Plan Options, vesting terms, amounts payable upon issue of Plan Options, applicable performance conditions (if any), restrictions on dealings with securities under the Plan and any other conditions. Plan Options will be issued at their arms-length value determined in accordance with accounting standard AASB2 using the Binomial method of valuation.

Offers will not be made where the issue would result in the Company exceeding the limit that applies under ASIC Class Order 03/184 in respect of new issues of securities under employee share schemes.

4. Plan Trust - The Company has established the Trust for the purpose of administering the Plan and holding Plan Options and Plan Shares offered under the Plan. The Company will make a payment to the Trust equal to the value of the Plan Options and Plan Shares. The Trustee grants Share Units to Plan Participants which are referable to Options and Shares held by the Trust. Share Units are not transferable.

Plan Participants may at any time (subject to vesting conditions) request that the Trustee transfer legal and beneficial title to Plan Shares the subject of Share Units to the Plan Participant. Bonus Share Units are issued by the Trust to the Plan Participant when the Plan Participant redeems Share Units equal to the value of the loan advanced by the Trust to the employee for the initial acquisition of Share Units (being the issue price of Plan Options). The effect of this is that at the time Plan Shares are sold the Plan Participant will receive the value of the purchase price of the Plan Options.

Plan Participants are entitled to any dividends paid on their Plan Shares which are held by the Trust.

5. Loan - The Trustee will lend Plan Participants, on a non-recourse basis, amounts to enable them to accept offers for Plan Options and Plan Shares under the Plan and to exercise Plan Options. Interest may be charged at the Trustee's discretion in consultation with the Company. The loan is repayable upon the Share Units being cancelled or the underlying Plan Options or Plan Shares lapsing, sold or being transferred to the Plan Participant, and occurs through the redemption of Share Units. The effect of this is that full consideration is provided by the Plan Participant for the issue and exercise of securities under the Plan.

If following the exercise of Plan Options, the Plan Shares are sold, the Plan Participant's Share Units are redeemed and the Employee receives an amount equivalent to the net consideration from the sale of the Plan Shares (less repayment of any outstanding loans and other amounts owing by the Plan Participant used to fund the exercise of Plan Options) so that the Company is fully reimbursed for amounts loaned for the exercise of Plan Options under the Plan. Other than this no funds will be repaid to the Company under loans.

6. Dealings with Options - Options granted under the Plan may only be transferred with the prior consent of the Board or by force of law following the death or bankruptcy of a Plan Participant.
7. Vesting, exercise and lapse - Plan Options will only vest when any performance conditions specified at the time of grant have been satisfied. Plan Options lapse on the earlier of (amongst other things):
  - (a) any date specified by the Board; or
  - (b) 60 days after the holder ceasing employment or contractual relations with the Company unless the Board determines otherwise.

Once any vesting conditions are satisfied a Plan Participant can direct the Trustee to exercise Plan Options. If the Trustee requires additional funds to exercise the options, Merlin may advance the funds to the Trust.

Plan Participants ceasing employment or contractual obligations before Plan Options are vested will have their Share Units redeemed for their issue price and the loan (used to fund the exercise of the Plan Options) repaid. Plan Participants ceasing employment after Plan Options have vested will have their Plan Options exercised and Plan Shares sold, so that they can receive the net proceeds after any outstanding loans to exercise Plan Options have been repaid.

8. Takeovers, schemes of arrangement and winding-up - In the event of a takeover bid being made for Shares in the Company, the Board recommending that Shareholders accept any takeover bid, or a takeover bid becoming



unconditional, the Board may, having regard to the performance conditions relating to Plan Options, determine that unvested Plan Options vest on a pro rata basis and can be exercised within a specific period, failing which they lapse.

9. Withholding - The Company is entitled, if required, to reimbursement by a Plan Participant for any income or employment taxes resulting from the issue of Plan Options or Plan Shares.
10. Amendments - The Board can make such amendments to the Plan or Plan Option terms as it sees fit, subject to the ASX Listing Rules. The Board may also make amendments to performance conditions attaching to Plan Options if it is determined that the original performance condition is no longer appropriate or necessary, provided that the interests of the relevant Plan Participant are not, in the opinion of the Board, materially prejudiced or advantaged relative to the position reasonably anticipated at the time of grant.

Amendments to Plan Option terms are subject to the Listing Rules and may not reduce the rights of a Plan Participant in respect of granted Plan Options or Plan Shares other than amendments introduced primarily for the purpose of complying with present or future laws, correcting manifest errors or changes in tax laws.

11. Overseas Plan Participants - The Board may decide that Plan Options held by Plan Participants who suffer a tax disadvantage or restrictions on their ability to deal with their Plan Options or Plan Shares transferred overseas vest prior to the transfer.

Plan Options granted to overseas residents are subject to such alterations or conditions as the Board considers necessary having regard to relevant local laws.

12. Terms of Plan Shares - Shares issued under the Plan are fully paid ordinary shares in the capital of the Company, and (subject to repayment of any loan) are freely transferable by the Plan Participant.
13. Operation - The operation of the Plan is subject to the Listing Rules and Corporations Act.

**ANNEXURE "B"**  
**Terms and Conditions of Plan Options**

1. The Options shall be issued for consideration equal to their arm's length value determined in accordance with accounting standard AASB2.
2. The expiry date and vesting conditions (if any) for Options will be determined at the time of issue.
3. Each Option shall confer the right to subscribe for one fully paid ordinary share, ranking pari passu with the fully paid ordinary Shares of the Company on issue at the date of allotment of such Shares.
4. The Options will not be listed for Official Quotation on ASX Limited and may be transferred to a related entity at any time in whole or part in accordance with the rules of the Plan.
5. A certificate will be issued for the Options ("Option Certificate"). On the reverse side of the Option Certificate there will be endorsed a statement of the rights of the optionholder and a notice that is to be completed when exercising the Options ("Exercise Notice"). If there is more than one Option comprised in this certificate and prior to the Expiry Date those Options are exercised in part, the Company will issue another certificate for the balance of the Options held and not yet exercised.
6. The Options shall be exercisable by completing and lodging the Exercise Notice set out in the Option Certificate at any time on or before the Expiry Date.
7. An Option may only be exercised after that Option has vested, after any conditions associated with the exercise of the Option are satisfied and before its expiry date.
8. If the Company enters into a scheme of arrangement, a takeover bid is made for the Company's Shares, or a party acquires a sufficient interest in the Company to enable them to replace the Board (or the Board forms the view that one of those events is likely to occur) then the Board may declare an Option to be free of any conditions of exercise. Options which are so declared may be exercised at any time on or before they expire, or lapse.
9. There are no participating rights or entitlements inherent in the Options and holders will not be entitled to participate in new issues of capital offered to Shareholders during the currency of the Options. However, the Company will ensure that the record date for determining entitlements to any such issue will be at least 6 ASX Business Days after the issue is announced.
10. If the Company makes an issue of Shares to Shareholders by way of capitalisation of profits or reserves ("Bonus Issue"), each option holder holding any Options which have not expired at the time of the record date for determining entitlements to the Bonus Issue shall be entitled to have issued to him upon exercise of any of those Options the number of Shares which would have been issued under the Bonus Issue ("Bonus Shares") to a person registered as holding the same number of Shares as that number of Shares to which the option holder may subscribe pursuant to the exercise of those Options immediately before the record date determining entitlements under the Bonus Issue (in addition to the Shares which he or she is otherwise entitled to have issued to him or her upon such exercise).
11. In the event that the Director no longer remains as the Director of the Company, the Director retains the right to the Options and the right to exercise the Options at any time on or before that lapse.
12. In the event of any re-organisation (including a consolidation, subdivision, reduction or return) of the issued capital of the Company prior to the expiry of any Options, all rights of the Option holder will be changed to the extent necessary to comply with the Listing Rules applying to the re-organisation of capital at the time of the re-organisation in accordance with the Listing Rules.
13. In the event that a pro rata issue (except a bonus issue) is made to the holders of the underlying securities in the Company, the exercise price of Options may be reduced according to the following formula:

$$O' = O - \frac{E[P - (S + D)]}{N + 1}$$

Where:

- |    |   |   |
|----|---|---|
| O' | = | the new exercise price of the Option.   |
| O  | = | the old exercise price of the Option.   |
| E  | = | the number of underlying securities in the Company into which one option is exercisable.  |
| P  | = | the average market price per security (weighted by reference to volume) of the underlying securities in the Company during the five (5) trading days ending on the day before the ex-rights date or ex entitlements date. |
| S  | = | the subscription price for a security under the pro rata issue.   |
| D  | = | the dividend due but not yet paid on the existing underlying securities (except those to be issued under the pro rata issue).   |

N = the number of securities with rights or entitlements that must be held to receive a right to one new security in the Company.

14. The option lapses:

- (a) if the Option has not been exercised at the Expiry Date;
- (b) three (3) months after the Plan Participant ceases to be an employee of the Company or three (3) months after formal cessation of the Contractors contract with the Company;
- (c) if the Board becomes aware of circumstances which, in the reasonable opinion of the Board indicate that the Plan Participant has acted fraudulently, dishonestly or in a manner which is in breach of his or her obligations or contractual responsibilities to the Company, and the Board (in its absolute discretion) determines that the Option lapses; or
- (d) if the Company commences to be wound up.



ABN 86 009 153 119

## LODGE YOUR VOTE



### ONLINE

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



### BY MAIL

Merlin Diamonds 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; or  
Level 12, 680 George Street, Sydney NSW 2000



### ALL ENQUIRIES TO

Telephone: +61 1300 554 474

## LODGE A PROXY FORM

This Proxy Form (and any Power of Attorney under which it is signed) must be received at an address given above by **9:00am on Monday, 28 November 2016**, 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 reverse of this Proxy Form).

## 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, including where the Resolution is connected directly or indirectly with the remuneration of KMP.

### 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, all shareholders must 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).

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

NAME SURNAME  
ADDRESS LINE 1  
ADDRESS LINE 2  
ADDRESS LINE 3  
ADDRESS LINE 4  
ADDRESS LINE 5  
ADDRESS LINE 6



X99999999999

## PROXY FORM

I/We being a member(s) of Merlin Diamonds 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 Annual General Meeting of the Company to be held at **9:00am on Wednesday, 30 November 2016 at Pullman Albert Park, 65 Queens Road, Melbourne, Victoria 3004** (the Meeting) and at any postponement or adjournment of the Meeting.

**Important for Resolution 10:** If the Chairman of the Meeting is your proxy, either by appointment or by default, and you have not indicated your voting intention below, you expressly authorise the Chairman of the Meeting to exercise the proxy in respect of Resolution 10, even though the Resolution is connected directly or indirectly with the remuneration of a member of the Company's Key Management Personnel (KMP).

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*		For	Against	Abstain*
2 Re-election of Dr David Tyrwhitt as a Director	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	10 Remuneration Report	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3 Ratify Issue of Shares	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
4 Approval of 10% Placement Capacity – Shares	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
5 Approve an issue of Convertible Notes and Options over Ordinary Shares to Regals Fund LP	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
6 Approve an issue of up to 22,500,000 Ordinary Shares and 20,000,000 Options over Ordinary Shares	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
7 Approve an issue of up to 10,000,000 Ordinary Shares	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
8 Approval of Merlin Diamonds Limited 2013 Incentive Option Scheme	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
9 Appointment of Auditors	<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)

Sole Director and Sole Company Secretary

Joint Shareholder 2 (Individual)

Director/Company Secretary (Delete one)

Joint Shareholder 3 (Individual)

Director

This form should be signed by the shareholder. If a joint holding, all shareholders must 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).

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