



# North Australian Diamonds Limited

ABN 86 009 153 119

## Prospectus



For the Offer of 750,000,000 Shares  
at an issue price of

**\$0.008 per Share to raise \$6,000,000  
before expenses**

Fully underwritten by Yahalom  
International Resources Corp  
ARBN 122 230 236

If, after reading this Prospectus, you have any questions about the Shares being offered under this Prospectus, or any other matter relating to an investment in the Company, you should consult your professional adviser.

## TABLE OF CONTENTS

IMPORTANT NOTICE.....	1
1. CORPORATE DIRECTORY.....	3
2. SUMMARY OF THE OFFER.....	4
3. DETAILS OF THE OFFER.....	6
4. KEY PERSONNEL AT NORTH AUSTRALIAN DIAMONDS LTD.....	10
5. PURPOSE AND EFFECT OF THE OFFER.....	11
6. RISK FACTORS.....	17
7. ADDITIONAL INFORMATION.....	21
8. DIRECTORS' AUTHORISATION AND CONSENT.....	33
9. GLOSSARY.....	34

## **IMPORTANT NOTICE**

This Prospectus is dated 22 December 2008 and was lodged with ASIC on that date. Neither ASIC, ASX nor any of their respective officers take any responsibility for the contents of this Prospectus or the merits of the investment to which this Prospectus relates.

No securities will be allotted or issued on the basis of this Prospectus later than 13 months after the date of this Prospectus. Application will be made to ASX within 7 days after the date of this Prospectus for the quotation of the Shares the subject of this Prospectus. The fact that ASX may grant official quotation of the Shares is not to be taken in any way as an indication of the merits of NADL or the Offer.

### **This is an important document**

It is important that you carefully read this Prospectus in its entirety before deciding to invest in NADL and, in particular, that you consider the risk factors that could affect the financial performance of NADL and the value of the Shares. In addition to the general risks applicable to all investments in listed companies, there are specific risks associated with an investment in the Company. These risks are discussed in section 6 of this Prospectus. You should carefully consider these risks in light of your personal circumstances (including financial and taxation issues) and seek professional advice from your accountant, stockbroker, lawyer or other professional adviser before deciding whether to invest.

The Company is a diamond explorer and the risks in investing are therefore increased. The Shares offered under this Prospectus should be considered speculative.

### **Disclaimer**

No person is authorised to give any information or to make any representations in connection with this Offer that is not contained in this Prospectus. Any information or representation that is not contained in this Prospectus may not be relied upon as having been authorised by the Company or its Directors. Neither the Company nor any other person warrants the future performance of the Company or any return on any investment made under this Prospectus, except as required by law and then only to the extent so required.

### **Electronic Prospectus**

The Prospectus is available in electronic form via the Company's website [www.nadl.com.au](http://www.nadl.com.au). Any person accessing the electronic version of the Prospectus must be an Australian resident and only access the Prospectus from within Australia.

The Corporations Act prohibits any person passing onto another person an application form unless it is attached to a hard copy of the Prospectus or accompanied by the complete and unaltered version of the Prospectus. Prospective applicants should read this Prospectus in its entirety before completing an application form. Any person may obtain a copy of this Prospectus free of charge by contacting the Company.

### **Foreign jurisdictions and restrictions on the distribution of this Prospectus**

This Prospectus has been prepared to comply with the requirements of the securities laws of Australia.

This Prospectus and accompanying Application Form do not, and are not intended to, constitute an offer of Shares in any place outside Australia and New Zealand. The distribution of this Prospectus and the accompanying Application Form outside of Australia and New Zealand may be restricted by law and any person who comes into possession of this Prospectus and the accompanying Application Form should seek advice on and observe those restrictions. Any failure to comply with those restrictions may constitute a

violation of applicable securities laws. Without limitation, neither this Prospectus nor the accompanying Application Form may be sent or passed to persons outside Australia or New Zealand or otherwise distributed outside Australia or New Zealand.

In particular, the Offer has not been, and will not be, registered under the US Securities Act or the securities laws of any state of the United States and is not being made in the United States or to any person resident in the United States. Without limitation, neither this Prospectus nor the accompanying Application Form may be sent to investors in the United States or otherwise distributed in the United States.

This Prospectus complies with Australian disclosure requirements. These disclosure requirements may be different from those applicable in other jurisdictions. The financial information included in this Prospectus was prepared with a view towards compliance with Australian practice and not that of any other jurisdiction.

### **Defined terms and abbreviations**

Terms and abbreviations used in this Prospectus are defined in section 9 of this Prospectus.

## 1. CORPORATE DIRECTORY

### BOARD OF DIRECTORS

Mr Joseph Gutnick (Executive Chairman)  
Mr Ian Hastings (Non-Executive Director)  
Mr Chris Orchard (Non-Executive Director)

### CHIEF EXECUTIVE OFFICER

Mr Tom Reddicliffe

### COMPANY SECRETARY

Ms Shannon Caporn

### REGISTERED AND BUSINESS OFFICE

Level 1  
30 Terrace Road  
East Perth WA 6004  
Tel: (08) 9221 3355  
Fax: (08) 9221 1730  
Email: [info@nadi.com.au](mailto:info@nadi.com.au)

### WEBSITE

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

### ASX CODE

NAD

### CORPORATE ADVISOR

Grange Consulting Group Pty Ltd  
945 Wellington Street  
West Perth WA 6005

### BROKER TO THE OFFER

Ascot Securities Pty Ltd  
Level 5  
530 Little Collins Street  
Melbourne VIC 3000

### UNDERWRITER

Yahalom International Resources Corp  
ARBN 122 230 326  
Level 8  
580 St Kilda Road  
Melbourne VIC 3004

### SOLICITORS

Deacons  
Level 39  
Bankwest Tower  
108 St Georges Terrace  
PERTH WA 6000

### SHARE REGISTRY

Security Transfer Registrars Pty Ltd  
Alexandrea House, Suite 1  
770 Canning Highway  
Applecross WA 6153  
Tel: (08) 9315 2333  
Fax: (08) 9315 2233

### Mail Application Forms to:

Security Transfer Registrars Pty Ltd  
PO Box 535  
Applecross WA 6953  
Tel: (08) 9315 2333  
Fax: (08) 9315 2233

## 2. SUMMARY OF THE OFFER

### The Offer

Table 1: Summary of the Offer

	<b>Subscription</b>
Shares to be allotted under the Offer	750,000,000
Offer price per Share	\$0.008
Amount to be raised	\$6,000,000
Issued Shares on completion of the Offer	1,980,488,282
Market capitalisation at \$0.008 per Share on completion of the Offer	\$15,843,906

The Shares to be allotted under the Offer include the Priority Entitlement and the Public Offer. Any Share not subscribed for under the Priority Entitlement by the Priority Entitlement Closing Date will form part of the Public Offer.

The Company currently has no options on issue. 80,000,000 Broker Options will be issued on successful completion of the Offer to the Broker for services described in the summary of the Mandate Letter in section 7.2.

### Investment Risks

Section 6 outlines the principal risks involved in investing in North Australian Diamonds Ltd and you should consider this section in detail. These include the following key risks:

- a) Specific Risks:
  - Litigation.
  
- b) Industry Risks:
  - Operation and development risks;
  - Title;
  - Native Title and Land Access;
  - Aboriginal Sites of Significance;
  - Securities investments;
  - Product, commodity price and exchange rate risks;
  - Environmental risks;
  - Joint venture parties, agents and contractors; and
  - Future capital requirements.
  
- c) General Risks:
  - Economic conditions;
  - Geo-political factors;
  - Australian and foreign government policies & legislation; and
  - Other.

## Important Dates

The following dates are indicative only and may be subject to change without notice.

Lodgement of Prospectus with ASIC	22 December 2008
Opening Date	22 December 2008
Priority Entitlement Record Date	31 December 2008
Priority Entitlement Closing Date	23 January 2009
Closing Date	30 January 2009
Allotment and issue of Shares under the Offer	4 February 2009
Dispatch of holding statements	5 February 2009
Expected Official Quotation of Shares on ASX under this Offer	6 February 2009

The dates shown in the table may be varied. Subject to the Corporations Act and the ASX Listing Rules, the Company, in consultation with the Broker, reserves the right to close the Offer early, or extend the Closing Date without prior notice. Accordingly, Applicants are encouraged to submit their Applications as soon as possible after the Opening Date.

### 3. DETAILS OF THE OFFER

#### 3.1 The Offer

The Company is seeking to raise \$6,000,000 (before expenses of the Offer) through the issue of 750,000,000 Shares at an issue price of \$0.008 per Share.

The Offer comprises a Priority Entitlement to Eligible Shareholders and a Public Offer to the public as outlined below. All of the Shares issued under this Prospectus will be issued as fully paid ordinary shares and rank equally in all respects with Shares already on issue.

The Broker has agreed to manage the Offer on the terms of the Mandate Letter. Mr Ian Hastings is a director of both the Broker and the Company. Details of the material terms of the Mandate Letter are set out in section 7.2. The Company will pay the Broker's fees and expenses from the proceeds of the Offer and on successful completion of the Offer the Broker will be entitled to 80,000,000 Broker Options in accordance with the terms of the Mandate Letter.

The Underwriter has agreed to underwrite the Offer on the terms of the Underwriting Agreement. This means that the Underwriter will, subject to the terms of the Underwriting Agreement, subscribe for all Shares not taken up under the Priority Entitlement or the Public Offer. Mr Joseph Gutnick is a director of both the Underwriter and the Company. Details of the material terms of the Underwriting Agreement are set out in section 7.2. The Company will pay the Underwriter's expenses from the proceeds of the Offer on the terms of the Underwriting Agreement, however there is no underwriting fee payable to the Underwriter. The Underwriting Agreement is subject to a number of termination provisions as detailed in section 7.2.

#### Priority Entitlement

A preferential entitlement of approximately 55% of the Offer (412,500,000 Shares) will be available to Eligible Shareholders (Priority Entitlement Shares).

Eligible Shareholders are permitted to apply for any number of Priority Entitlement Shares up to:

- a) 5% of all the Priority Entitlement Shares being offered; and
- b) the number of Priority Entitlement Shares that the holder would be entitled to under a pro-rata issue to Shareholders of the Priority Entitlement Shares,

whichever is the higher (**Maximum Entitlement Subscription**), provided that Applications under the Priority Entitlement must be for a minimum of 62,500 Shares for a total of \$500 and Applications made for additional Shares must be in multiples of 12,500 Shares for \$100.

No Shareholder (other than Yahalom in its capacity Underwriter) will be issued a greater number of Priority Entitlement Shares than the Maximum Entitlement Subscription as this is a requirement of ASX Listing Rule 7.3.8.

Eligible Shareholders will be sent a copy of the Prospectus together with a Priority Entitlement Application Form. Applications under the Priority Entitlement can only be made on the personalised Priority Entitlement Application Form, which must be received on or before the Priority Entitlement Closing Date, subject to the right of the Company to close the Priority Entitlement early. Eligible Shareholders are therefore encouraged to submit their Priority Entitlement Application Form as soon as possible after the Opening Date.

## **Public Offer**

The Public Offer will be for:

- any Shares offered under the Priority Entitlement that are not subscribed for by Eligible Shareholders by the Priority Entitlement Closing Date; and
- an additional 337,500,000 Shares.

If the Priority Entitlement is fully subscribed, 337,500,000 Shares will be offered under the Public Offer. However, if no Shares are subscribed for under the Priority Entitlement by the Priority Entitlement Closing Date, 750,000,000 Shares will be available for subscription under the Public Offer.

### **3.2 Allocation Policy – Public Offer**

All investors under the Public Offer should note that the Directors, in consultation with the Broker, retain an overriding right to accept any Application in full, accept any lesser number of Shares or decline any Application.

Applicants must not assume that the Shares they apply for, or any number of Shares, will be issued to them in response to their Application. Before dealing in any Shares, Applicants must satisfy themselves as to their actual holding of Shares.

If any Application is rejected, in whole or in part, the relevant Application Monies will be refunded without interest.

### **3.3 Minimum Subscription**

The minimum subscription under this Prospectus is \$6,000,000, which is the underwritten amount.

### **3.4 Oversubscriptions**

Oversubscriptions will not be accepted.

### **3.5 Application for Shares**

#### **If you are an Eligible Shareholder**

If you are an Eligible Shareholder and you wish to apply for Shares under the Priority Entitlement, you should complete your Priority Entitlement Application Form enclosed with this Prospectus.

Completed Priority Entitlement Application Forms must be received before 5pm WDST on the Priority Entitlement Closing Date. Any Priority Entitlement Application Forms received after this date will be considered by the Company as part of the Public Offer only. Applications under the Priority Entitlement must be for a minimum of 62,500 Shares for a total of \$500. Applications may be made for additional Shares in multiples of 12,500 Shares for \$100.

#### **If you are not an Eligible Shareholder**

Applications may only be made by completing and lodging the Public Offer Application Form accompanying this Prospectus.

Applications under the Public Offer must be for a minimum of 250,000 Shares for a total of \$2,000. Applications may be made for additional Shares in multiples of 12,500 Shares for \$100. Completed Public Offer Application Forms must be received before 5pm WDST on the Closing Date.

### Applications Generally

The Public Offer Application Form and Priority Entitlement Application Form each contain detailed instructions on how they are to be completed. Completed Application Forms and accompanying cheques must be mailed or delivered to:

Post:	Delivery:
Security Transfer Registrars PO Box 535 Applecross WA 6953	Security Transfer Registrars 770 Canning Highway Applecross WA 6153

Cheques should be made payable to "North Australian Diamonds Ltd – Share Issue Account" and crossed "Not Negotiable". Completed Application Forms must reach the Share Registry by no later than the Closing Date.

### 3.6 Market prices of Shares

The highest and lowest market price of the Company's quoted Shares on ASX during the 3 months immediately preceding the date of lodgement of this Prospectus with ASIC and the respective dates of those sales and the last closing sale prior to lodgement of this Prospectus with ASIC were:

	Price	Date
Highest	\$0.025	2, 7 & 8 January 2008
Lowest	\$0.006	26 & 27 August 2008
Latest	\$0.014	19 December 2008

### 3.7 Allotment and Official Quotation by the ASX

Application for Official Quotation by ASX of the Shares will be made by the Company within 7 days after the date of this Prospectus.

If the Shares issued by this Prospectus are not admitted to Official Quotation by ASX before the expiration of 3 months after the date of this Prospectus (or such longer period as is varied by ASIC), the Company will not issue the Shares and will repay the Application Monies within the time prescribed under the Corporations Act, without interest.

The fact that ASX may grant Official Quotation to the Shares to be issued by this Prospectus is not to be taken in any way as an indication of the merits of the Company or the Shares offered for subscription.

Subject to the ASX granting Official Quotation of the Shares, allotment of Shares offered by this Prospectus will take place as soon as practicable after the Closing Date. Prior to allotment, all Application Monies shall be held by the Company on trust. The Company, irrespective of whether the allotment of Shares takes place, will retain any interest earned on the Application Monies.

The Company is included in the Official List of ASX and the ASX Listing Rules apply to the Shares issued by the Company.

### **3.8 Rights and liabilities attaching to the Shares**

A summary of the rights attaching to Shares is set out in section 7.1 of this Prospectus.

### **3.9 Enquiries**

Any questions concerning the Offer should be directed to the Company Secretary, Ms Shannon Caporn, on (08) 9322 7600.

## 4. KEY PERSONNEL AT NORTH AUSTRALIAN DIAMONDS LTD

### **Mr Joseph Gutnick – Managing Director, Executive Chairman** Age: 56

Mr Joseph Gutnick is a leading mining industry entrepreneur. He is also the President and Chief Executive Officer of Legend International Holdings, Inc. and a number of other listed public companies in the mining and exploration sector in both Australia and North America. Mr Gutnick was responsible for overseeing the discovery, development and operation of the world class Plutonic, Bronzewing and Jundee gold mines in Australia. Mr Gutnick is a Fellow of the Australasian Institute of Mining and Metallurgy, a Fellow of the Australian Institute of Management, a Member of the Institute of Company Directors in Australia and was a Director of the World Gold Council. Mr Gutnick was awarded the prestigious Diggers award at the 1997 Diggers and Dealers Industry Awards. Mr Gutnick is currently also a director of Legend International Holdings, Inc (OTCBB – LGDI), Golden River Resources Corporation (OTCBB: GORV), Northern Capital Resources Corporation, Quantum Resources Limited (ASX: QUR), Top End Uranium Ltd (ASX: TEU), Yahalom International Resources Corporation and Calvert River Resources Corporation.

### **Mr Thomas H. Reddicliffe – Chief Executive Officer** (BSc (Hons) Geology, MSc, FAusIMM) Age: 57

Mr Thomas Reddicliffe was appointed to the position of Technical Director of the Company on 6 May 2004. He was the Australian exploration manager for Ashton Mining Limited and was directly responsible for the discovery of the Merlin Diamond Mine in the Northern Territory. Mr Reddicliffe has over 30 years of experience in the diamond industry. Mr Reddicliffe joined the Company in February 2001 and was the Company's General Manager of Exploration and Evaluation prior to his appointment as Technical Director. He currently undertakes the role of CEO which he assumed in early 2007 following the resignation of Mr Alan Campbell on 8 February 2007 and was an Executive Director of the Company until 27 October 2008.

### **Mr Ian Hastings – Non-Executive Director** (B.Comm, LLB, Master Stockbroker) Age: 49

Mr Ian Hastings is a qualified lawyer and accountant and is Managing Director of Ascot Securities Pty Ltd. He has been involved in numerous capital raisings, initial public offerings and corporate reconstructions and has previously held senior positions in stock broking at ASX and ASIC. Mr Hastings is also a director of Accent Resources NL and Top End Uranium Ltd.

### **Mr Chris Orchard – Non-Executive Director** (BSC Hons Mining) Age: 55

Mr Chris Orchard has over 20 years experience in resources specialist stockbroking and has been an investment director in private wealth management for the last 8 years. Mr Orchard is a member of the Securities Institute, London and is also the chief investment officer of Anglo Pacific Group PLC.

## 5. PURPOSE AND EFFECT OF THE OFFER

### 5.1 Background

North Australian Diamonds Ltd is a diamond exploration company whose activities are focused in Northern Australia. The Company has embarked on a strategic repositioning designed to capture the potential of its 100% owned diamond deposit in the Northern Territory (**Merlin Project**) and the Company's extensive exploration holdings in the north of Australia.

The Merlin Project comprises a tenement package of approximately 5,000km<sup>2</sup> that includes 14 kimberlite pipes, of which 9 were subject to open-pit mining over a 5 year period commencing in 1998. The mining operations ceased in 2003, having produced 507,000 carats of diamonds. During its short operational life the Merlin Project was renowned for the production of top quality white diamond and large specials, the largest being 104.73 carats. The Company acquired 100% of Mining Lease 1154 (covering the former Merlin Diamond Mine operations in the Northern Territory) from Ashton Mining Limited (a wholly owned subsidiary of the Rio Tinto Group) in 2004. The Merlin Project has significant near-term production potential and high priority exploration targets surrounding the former diamond mine.

The Company intends to continue to focus on developing the Merlin Project and aims to complete a feasibility study in the near term.

### 5.2 Purpose of Offer and Use of Funds

The purpose of the Offer is to raise \$6,000,000 (before expenses of the Offer).

The Company intends to use the funds raised from the Offer broadly as follows:

Use of funds	Subscription
Cash costs of the Offer	\$465,000
Working capital	\$785,000
Exploration of Tenements (other than Merlin Project)	\$400,000
Repayment of Loan Facility	\$250,000 <sup>1</sup>
Partial completion of the Merlin Project Feasibility Study <sup>2</sup>	\$4,100,000
<b>Total funds</b>	<b>\$6,000,000</b>

1. As at the date of this Prospectus, the Company has drawn down an amount of \$250,000 against the Loan Facility. However, it is noted that the Company may make a further drawdown prior to the Closing Date and the Company intends to repay the Loan Facility in full out of the proceeds of the funds raised. If the drawdown amount is greater than \$250,000 when the Loan Facility is repaid in full, funds allocated to working capital will be reduced accordingly.
2. The initial phase of the feasibility work will include further resource drilling, bulk testing, assays and geotechnical and metallurgical test work. The successful completion of the initial phase will allow the Company to advance the detailed feasibility study which will include project development engineering and mining studies.

Given the inherent uncertainties associated with exploration, programs and budgets may be refined or altered to accommodate the results of exploration activities as they come to hand. The expenditure shown above may be subject to change and will be contingent upon circumstances, results and other opportunities. Expenditure may be reallocated amongst existing or new projects or to general working capital.

The costs of the Offer assume no placement or commission fee will be paid to a licensed securities dealer or an Australian financial services licensee other than the commission payable to the Broker.

### 5.3 Effect of the Offer

The principal effects of the Offer will be:

- a) to receive \$6 million from the issue of Shares under this Prospectus. The estimated cash costs of the Offer of \$465,000 will be deducted from these proceeds resulting in net funds raised under the Offer of approximately \$5,535,000; and
- b) to issue 750,000,000 Shares in the Company.

### 5.4 Securities on issue on completion of the Offer

The effect of the Offer will be to increase the number of Shares on issue from 1,230,488,282 Shares to 1,980,488,282 Shares.

Assuming the issue of all of the Shares offered under this Prospectus, the capital structure of the Company will be as follows:

	Existing Securities	Number	Total
Ordinary Shares	1,230,488,282	750,000,000	1,980,488,282
Unlisted Options	Nil	Nil	Nil
Broker Options*	Nil	80,000,000	80,000,000

\* 80,000,000 Broker Options will be issued on successful completion of the Offer, as described in the summary of the Mandate Letter in section 7.2.

### 5.5 Transaction costs

Transaction costs are accounted for as a deduction from equity such that shareholders' funds are increased by the amount of the net proceeds of the capital raising. Total transaction costs of the Offer are currently estimated at \$465,000 (this does not include the issue of the Broker Options valued at approximately \$278,408, being non-cash costs of the Offer).

## 5.6 Pro-forma Balance Sheet

Set out below is a pro-forma consolidated balance sheet of the Company on successful completion of the Offer. It is based on the Company's unaudited consolidated balance sheet as at 31 October 2008 and has been prepared in accordance with the accounting policies and assumptions disclosed in the Company's 30 June 2008 annual report.

	Unaudited		Pro-forma unaudited 31 October 2008	
	31 October 2008 \$	Notes	Effect of Offer \$	Pro-forma \$
<b>ASSETS</b>				
<b>CURRENT ASSETS</b>				
Cash and cash equivalents	55,823	(a)	5,535,000	5,590,823
Trade and other receivables	72,170		-	72,170
Prepayments	102,493		-	102,493
Inventories	27,299		-	27,299
<b>TOTAL CURRENT ASSETS</b>	<b>257,785</b>		<b>5,535,000</b>	<b>5,792,785</b>
<b>NON-CURRENT ASSETS</b>				
Trade and other receivables	316,740		-	316,740
Exploration and evaluation	13,228,973		-	13,228,973
Property, plant & equipment	362,000		-	362,000
Investments	2,819,678		-	2,819,678
<b>TOTAL NON-CURRENT ASSETS</b>	<b>16,727,391</b>		<b>-</b>	<b>16,727,391</b>
<b>TOTAL ASSETS</b>	<b>16,985,176</b>		<b>5,535,000</b>	<b>22,520,176</b>
<b>LIABILITIES</b>				
<b>CURRENT LIABILITIES</b>				
Trade and other payables	132,720		-	132,720
Employee benefits	190,117		-	190,117
<b>TOTAL CURRENT LIABILITIES</b>	<b>322,837</b>		<b>-</b>	<b>322,837</b>
<b>NON-CURRENT LIABILITIES</b>				
Provisions	313,947		-	313,947
<b>TOTAL NON-CURRENT LIABILITIES</b>	<b>313,947</b>		<b>-</b>	<b>313,947</b>
<b>TOTAL LIABILITIES</b>	<b>636,784</b>		<b>-</b>	<b>636,784</b>
<b>NET ASSETS</b>	<b>16,348,392</b>		<b>5,535,000</b>	<b>21,883,392</b>
<b>EQUITY</b>				
Issued capital	86,433,936	(b)	5,700,000	92,133,936
Reserves	-	(c)	278,408	278,408
Accumulated losses	(70,085,544)	(d)	(443,408)	(70,528,952)
<b>TOTAL EQUITY</b>	<b>16,348,392</b>		<b>5,535,000</b>	<b>21,883,392</b>

The pro forma balance sheet represents the balance sheet of NADL immediately after the following events, assuming they occurred on 31 October 2008:

- a) effect of the Offer on “Cash and Cash Equivalents” are calculated as follows:

Gross Proceeds	6,000,000
Less cash costs	(465,000)
Plus Loan Facility from Yahalom drawn as at date of Prospectus	250,000
Less repayment of Loan Facility	(250,000)
	<u>\$5,535,000</u>

- b) gross proceeds of the capital raising of \$6,000,000 less the Broker fee of \$300,000;
- c) expenses relating to Broker options of \$278,408 increasing the Option reserve; and
- d) other cash issue costs of \$165,000 and the value of the Broker Options of \$278,408 increasing the Accumulated losses.

## 5.7 Historical financial information

The complete annual report for the year ended 30 June 2008, including the Income Statements, Balance Sheets, Statements of Cash flows, Directors’ Report, Auditor’s Independence Declaration, notes to the financial statements including accounting policies adopted, Directors’ Declaration and Independent Auditor’s Report, is available on NADL’s website ([www.nadl.com.au](http://www.nadl.com.au)). Investors can obtain a free paper copy of the complete annual report for the year ended 30 June 2008 from NADL’s Company Secretary, Ms Shannon Caporn, during the Offer Period on (08) 9322 7600.

## 5.8 Effect of the Offer and the Underwriting on the control of the Company

The following information was provided in the Company’s notice of meeting dated 7 November 2008, for the general meeting held on 18 December 2008, in connection with seeking approval for the issue of Shares under the Offer. Shareholders approved the Offer and the Underwriting at a general meeting on 18 December 2008.

The Offer is fully underwritten by Yahalom (a company of which Mr. Joseph Gutnick is also a director). The Directors consider that, having regard to all available alternatives, entering into the Underwriting Agreement with Yahalom provides the Company with the highest degree of certainty that the Offer will be successful, in the time available and in what has been, and continues to be, a volatile and difficult share market and general finance market.

According to a substantial holder notice lodged with ASX, as at the date of this Prospectus, Yahalom held a relevant interest in 18.12% of the Company. Accordingly, as an Eligible Shareholder, Yahalom is entitled to participate in the Priority Entitlement and be issued Priority Entitlement Shares. Yahalom has confirmed to the Company that it presently intends to subscribe for its maximum Priority Entitlement under the Offer.

Further, as Underwriter, Yahalom may be entitled to up to 675,255,000 Shortfall Shares under the Offer. Accordingly, the maximum increase in Yahalom’s relevant interest by reason of its entitlement to subscribe for Priority Entitlement Shares and Shortfall Shares under the Underwriting Agreement will be 41.82% (bringing its relevant interest to approximately 49.13% on a fully diluted basis).

However, it is unlikely that no investors will participate in the Offer. As a result, the greater the level of participation by investors in the Offer, the smaller the Shortfall Shares Yahalom will be entitled to be issued. As shown in Table 2 below, the final relevant interest of Yahalom following completion of the Offer and Underwriting decreases as participation of investor’s increases.

Given the potential change in Yahalom's relevant interest in the Company as a result of its underwriting of the Offer, the Directors wish to fully disclose the effect on the control of the Company that may result from the Offer and the underwriting of the Offer.

An analysis of the changes in control of the Company has been undertaken to indicate the effect on Yahalom's relevant interests in the Company. The results are detailed below.

**Table 2**

	Shares held by Yahalom	% of Total Shares
Existing holding prior to Offer	222,956,288	18.12%
If Yahalom takes up its Priority Entitlement and there is a 0% Shortfall	297,701,288	15.03%
If Yahalom takes up its Priority Entitlement and there is a 25% Shortfall	466,515,038	23.56%
If Yahalom takes up its Priority Entitlement and there is a 50% Shortfall	635,328,788	32.08%
If Yahalom takes up its Priority Entitlement and there is a 100% Shortfall*	972,956,288	49.13%
Note: * Other than the Shares subscribed for by Yahalom under its Priority Entitlement.		

Section 606 of the Corporations Act provides that a person must not acquire a relevant interest in more than 20% of the voting power in a listed company, unless an exception applies. As shown in Table 2 above, upon completion of the Offer, Yahalom may (depending on the number of Shortfall Shares) acquire a relevant interest in more than 20% of the Company's shares.

The underwriting of a fundraising is an exception to the general prohibition in section 606 of the Corporations Act for an acquisition that results from an issue under a disclosure document of securities in the company in which the acquisition is made if:

- a) the issue is to a person as underwriter to the issue; and
- b) the disclosure document disclosed the effect that the acquisition would have on the person's voting power in the company.

#### **Yahalom's intentions for the Company**

Given the potential increase in Yahalom's voting power in the Company as a result of its entitlement to be issued Priority Entitlement Shares under the Offer and Shortfall Shares under the underwriting of the Offer, the Directors provide the following details of Yahalom's current intentions for the Company in the event that it gains effective control of the Company.

Yahalom has informed the Company that if it were to gain effective control of the Company by virtue of its shareholding, including Priority Entitlement Shares issued under the Offer and the Shortfall Shares issued under the Underwriting, the current intentions of Yahalom are as follows:

- a) procure that the Company will:
  - i. generally continue the business of the Company;
  - ii. not make any major changes to the business of the Company, nor deploy any of the fixed assets of the Company; and
  - iii. continue the employment of the Company's present employees; and
- b) retain the current Board with the existing nominee of Yahalom, Mr Gutnick.

Yahalom has no current intention to seek the appointment of any additional nominees to the Board, other than Mr Gutnick, who is already a Director.

The intentions and statements of future conduct set out above must also be read as being subject to the legal obligation of the Directors at the time, including any nominees of Yahalom, to act in good faith in the best interests of the Company and for proper purposes and to have regard to the interests of the Shareholders.

The implementation of Yahalom's current intentions of its ownership of the Company will be subject to the law (including the Corporations Act), the ASX Listing Rules and the Company's constitution.

In particular, the requirements of the Corporations Act and the ASX Listing Rules in relation to conflicts of interest and "related party" transactions will apply given that Yahalom may be a related party of the Company.

Yahalom has indicated that it would only make a decision on its courses of action in light of material facts and circumstances at the relevant time and after it receives appropriate legal and financial advice on such matters, where required, including in relation to any requirements for Shareholder approval.

The statements above are of current intention only which may change as new information becomes available or circumstances change. The statements should be read in this context.

## **6. RISK FACTORS**

The Shares offered under this Prospectus should be considered highly speculative because of the nature of the business activities of the Company and its subsidiaries. Potential investors should consider whether the Shares offered are a suitable investment having regard to their own personal investment objectives and financial circumstances and the risk factors set out below. The risk factors are not exhaustive and potential investors should read this Prospectus in its entirety and consult their professional adviser before deciding whether to participate in the Offer.

There are a number of risk factors which could adversely impact the Company's performance and the value of the Shares. Applicants should consider these risk factors before deciding whether to subscribe for Shares under the Offer. These risk factors include, but are not limited to, those described below.

### **6.1 Specific Risks**

#### **Litigation**

The Company is currently awaiting the outcome of an appeal in the Supreme Court of Appeal of Western Australia *North Australian Diamonds Ltd v Australian Goldfields NL (In Liquidation)*, as described in section 7.3.

### **6.2 Industry Risks**

There are a number of specific risks relating to the industry in which the Company operates of which potential investors should be aware. The following is not an exhaustive summary, but points to some of the risks that are peculiar to a diamond exploration company. Any one or a combination of such risks could affect Company adversely and therefore the value of any investment in Company. The Board is unable to speculate as to the extent of such adversity, and therefore an investment in Company should be regarded as speculative.

#### **Operation and development risks**

By its nature, success of the business of a diamond exploration company depends on the successful exploration and/or acquisition of recoverable and economic reserves, design and construction of efficient processing facilities, competent operation and proficient marketing of the product.

Many of the Company's assets are in a pre-production phase. As a result, the Company will be subject to all the risks inherent in the establishment of new operations. No assurances can be given as to the level of viability that the Company's operations may achieve.

The operations of the Company may be disrupted by a variety of risks and hazards which are beyond the control of the Company, including environmental hazards, industrial accidents, technical failures, labour disputes, unusual or unexpected rock formations, formation damage, flooding and extended interruptions due to inclement or hazardous weather conditions, fire and explosions.

These risks and hazards could also result in damage to, or destruction of, production facilities, personal injury, environmental damage, business interruption, monetary losses and possible legal liability. While the Company currently intends to maintain insurance within ranges of coverage consistent with industry practice, no assurance can be given that the Company will be able to obtain such insurance coverage at reasonable rates (or at all), or that any coverage it obtains will be adequate and available to cover any such claims.

Whether or not income will result from projects undergoing exploration, development and production programs depends on successful establishment of exploration operations. Factors including costs, equipment availability and diamond prices affect successful project development, as does the design and construction of efficient exploration facilities, competent operation and management and prudent financial administration, including the availability and reliability of appropriately skilled and experienced consultants.

### **Title**

The future viability and profitability of the Company as a diamond exploration company will depend on obtaining the grant of any mining tenements that are applications, or the renewal of tenements upon expiry of their current term.

The renewal of the term of each permit or right of the Company is at the discretion of various authorities and governments and mineral right owners within countries in which the Company conducts exploration activities.

If a permit is not renewed, the Company may suffer significant damage through loss of the opportunity to develop and discover diamond deposits on that tenement.

### **Native Title and Land Access**

The Company's activities in Australia are subject to the Native Title Act. Native title and aboriginal land rights may affect the Company's ability to gain access to prospective exploration areas to obtain mining titles and may generally affect the Company's plans. Compensatory obligations may be necessary in relation to settling native title claims lodged over any of the Tenements in which the Company has an interest. The level of impact of these matters will depend, in part, upon the location and status of the Tenements that the Company currently or in the future may have an interest.

The Company's activities in the Northern Territory may be subject to *The Aboriginal Land Rights (Northern Territory) Act 1976* (Cth). The ALRA requires the consent of the Aboriginal Land Council and the Northern Territory Minister before certain mining tenements may be granted over land subject to the ALRA, and prescribes procedures which must be followed in attaining the necessary consent. As with native title, the level of impact of these matters will depend, in part, upon the location and status of the Tenements that the Company currently or in the future may have an interest.

Within Australia, Commonwealth and State legislation also allows for the protection of sites of significance to Aboriginal custom and tradition. The Company is aware of its obligations in this respect and proposes to carry out 'clearance surveys' before conducting any exploration work that would disturb the surface of the land. The Company's Tenements are likely to contain some such sites of significance, which would need to be avoided during field programs. It is possible that areas containing mineralisation or an economic resource may also contain sacred sites, in which case they may not be open to mining.

### **Securities Investments**

Applicants should be aware that there are risks associated with any securities investment. Securities listed on the stock market, and in particular securities of diamond exploration and development companies have experienced extreme price and volume fluctuations that have often been unrelated to the operating performances of such companies. These factors may materially affect the market price of the securities regardless of the Company's performance.

Recent turmoil in global credit markets has negatively affected economies across the globe and led to increased volatility in stock markets, including ASX. Continued volatility in global markets could negatively impact the value of the Company's Shares.

#### **Product, commodity price and exchange rate risks**

The general economic climate in which the Company operates may adversely affect the financial performance of the Company. Factors which may contribute to that general economic climate include the level of direct and indirect competition against the Company, industrial disruption, the rate of global growth, interest rates and the rates of inflation.

Future earnings are likely to be closely related to the price of diamonds and the terms of any sale agreements which the Company or its joint venturers enters into.

Diamond prices may fluctuate and are affected by numerous factors beyond the control of the Company. These factors include world demand, forward selling by producers, production cost levels in other producing regions and global conflict.

Diamond prices are also affected by macroeconomic factors such as expectations regarding inflation, interest rates, currency and exchange rate fluctuations, and global and regional demand for, and supply of, diamonds as well as general global economic conditions. These factors may have an adverse effect on the Company's exploration, development and production activities, as well as on its ability to fund those activities.

#### **Environmental risks**

The Company's diamond activities are subject to laws and regulations regarding environmental matters and the discharge of hazardous wastes and materials. As with all diamond projects, a variety of environmental impacts exist. The Company intends to conduct its activities in an environmentally responsible manner and in accordance with applicable laws in each country in which it has operations.

#### **Joint venture parties, agents and contractors**

The Directors are unable to predict the risk of financial failure or default by a participant in any joint venture to which the Company is or may become a party or the insolvency or managerial failure by any of the contractors used by the Company in any of its activities or the insolvency or other managerial failure by any of the other service providers used by the Company for any activity.

#### **Future capital requirements**

The Company believes that on completion of this Offer it will have sufficient working capital to continue its current operations and to partially complete a detailed feasibility study on the Merlin Project. The funding of any further ongoing capital requirements beyond the requirements as set out in this Prospectus will depend upon a number of factors including the extent of the Company's ability to generate income.

Should the Company require additional funding there can be no assurance that additional financing will be available on acceptable terms, or at all.

Any inability to obtain additional finance, if required, would have an adverse material effect on the Company's business, its financial condition and performance and its ability to continue as a going concern.

## **6.3 General Risks**

### **Economic conditions**

The performance of the Company may be significantly affected by changes in economic conditions, and particularly conditions which affect the resources industry. Profitability of the business may be affected by factors such as market conditions, interest rates, inflation and consumer demand.

### **Geo-political factors**

The Company may be affected by the impact that geo-political factors have on the various world economies or the Australian economy or on financial markets and investments generally or specifically.

### **Australian and foreign government policies & legislation**

The Company may be affected by changes to government policies and legislation, including those relating to the resources industry, property, the environment, taxation and the regulation of trade practices and competition, government grants and incentive schemes.

### **Other**

Other risk factors include those normally found in conducting business, including litigation resulting from the breach of agreements or in relation to employees (through personal injuries, industrial matters or otherwise) or any other cause, strikes, lockouts, loss of service of key management or operational personnel, non-insurable risks, delay in resumption of activities after reinstatement following the occurrence of an insurable risk and other matters that may interfere with the business or trade of the Company.

The above risks should not be taken as exhaustive of the risks associated with an investment in Shares.

## **7. ADDITIONAL INFORMATION**

### **7.1 Rights and liabilities attaching to Shares**

#### **Rights Attaching to Shares**

All Shares issued under this Prospectus will, from the time they are issued, rank equally in all respects with the Company's existing Shares.

The rights and liabilities attaching to Shares in the Company are:

- a) set out in the Constitution, a copy of which can be inspected, free of charge, at the registered office of the Company during normal business hours; and
- b) in certain circumstances, regulated by the Corporations Act, the ASX Listing Rules and the general law.

The following is a summary of the more significant rights and liabilities attaching to the Shares. This summary is not exhaustive and does not constitute a definitive statement of the rights and liabilities of Shareholders. To obtain such a statement, persons should seek independent legal advice.

#### **Voting Rights**

Subject to any restriction on voting imposed by the ASX Listing Rules or any restriction agreement entered into between the Company and a Shareholder, every Shareholder present in person or by proxy, attorney or representative at a meeting of Shareholders has one vote on a show of hands and one vote on a poll for every Share held. A poll may be demanded by the Chairman of the meeting, a Shareholder or Shareholders who together hold at least 5 percent of the votes that may be cast on the resolution on a poll, or who together hold voting shares paid up to a value of not less than 5 percent of the total sum paid up on all voting Shares. A person who holds a share which is not fully paid is entitled to a fraction of a vote equal to the amount paid up divided by the issue price of the share.

#### **General Meetings**

Each Shareholder will be entitled to receive notice of, and except in certain circumstances to attend and vote at, general meetings for the Company and to receive all notices, accounts and other documents required to be furnished to members under the Constitution, the Corporations Act and ASX Listing Rules.

#### **Dividends**

Where dividends are payable out of the Company's profits they must be declared by the Board. Dividends declared will (subject to any special rights or restrictions attaching to a class of shares in the Company created under any arrangement as to dividend) be payable on Shares in accordance with the Corporations Act.

#### **Issue of further Shares and Options**

The Directors may (subject to the restrictions imposed by the Constitution, or the Corporations Act) issue further shares or options to acquire shares on such terms and conditions as they see fit.

## **Transfer of Shares**

A Shareholder may transfer Shares by a proper transfer effected in accordance with any computerised or electronic system established or recognised by the ASX or the Corporations Act for the purpose of facilitating transfers in shares or by an instrument in writing in a form approved by the ASX or in any other usual form or in any form approved by the Board. The Board may refuse to register a transfer of Shares where the refusal to register the transfer is permitted under the Constitution and the ASX Listing Rules.

## **Rights on Winding Up**

Subject to any special or preferential rights attaching to any class or classes of shares in the Company, on a winding up of the Company a liquidator may, with the authority of a special resolution of the Shareholders, divide among the Shareholders in kind the whole or any part of the property of the Company in proportion to the Shares held by them respectively. The liquidator may for that purpose set the value he or she considers fair upon any property to be so divided, and may determine how the division is to be carried out as between the Shareholders. The liquidator may, with the sanction of a special resolution of the Shareholders, vest the whole or any part of the assets in trust for the benefit of Shareholders as the liquidator thinks fit, but so that no Shareholder is compelled to accept any Shares or other securities in respect of which there is any liability.

## **Directors**

The Board may decide the number of Directors but that number must be at least 3 Directors and not more than 5 Directors.

A Director need not be a member of the Company. Neither the auditor of the Company nor any partner or employee of the auditor is eligible to act as a Director of the Company.

## **Alteration of Constitution**

The Constitution can only be amended by a special resolution passed by 75% of the votes cast by Shareholders entitled to vote on the resolution at the general meeting of the Company.

## **ASX Listing Rules**

Notwithstanding anything in the Constitution, if the ASX Listing Rules prohibit an act being done, the act must not be done. Nothing in the Constitution prevents an act being done that the ASX Listing Rules require to be done. If the ASX Listing Rules require an act to be done or not to be done, authority is given for that act to be done or not to be done (as the case may be). If the ASX Listing Rules require the Constitution to contain a provision and it does not contain such a provision, the Constitution is deemed to contain that provision. If the ASX Listing Rules require the Constitution not to contain a provision and it contains such a provision, the Constitution is deemed not to contain that provision. If a provision of the Constitution is inconsistent with the ASX Listing Rules, the Constitution is deemed not to contain that provision to the extent of the inconsistency.

## **7.2 Material Contracts**

### **Mandate Letter**

On 13 August 2008, the Company executed the Mandate Letter appointing the Broker as the lead manager of the Offer, as amended on 23 October 2008. Under the Mandate Letter the Company will pay and will indemnify and keep indemnified the Broker against and in relation to, all reasonable costs and expenses of and incidental to the Offer. On successful completion of the Offer, the Broker

will receive a fee of 5% (plus GST) of all funds raised under the Offer and will be issued 80,000,000 Broker Options as approved by Shareholders on 18 December 2008. 40,000,000 of the Broker Options will be subject to a voluntary escrow period of 6 months and the remaining 40,000,000 Broker Options will be subject to a voluntary escrow period of 12 months.

The issue of the Broker Options was approved by the Company in general meeting on 18 December 2008.

### **Loan Facility**

On 27 October 2008, the Company entered into a loan facility with Yahalom for up to \$600,000 at an interest rate of 10% per annum to provide interim finance for the Company's ongoing operations. The Company has currently drawn down \$250,000 as at the date of this Prospectus and intends to repay the loan facility in full out of the proceeds of the Offer.

### **Underwriting Agreement**

The Company and the Underwriter entered into an Underwriting Agreement dated 27 October 2008 whereby the Underwriter agreed to underwrite the entire Offer. Under the Underwriting Agreement the Company will pay and will indemnify and keep indemnified the Underwriter against and in relation to, all reasonable costs and expenses of and incidental to the Offer. The Underwriter will not receive an underwriting fee.

The Company has given warranties and covenants to the Underwriter which are usual in an agreement of this nature.

#### *Definitions of Underwriting Agreement*

For the purposes of the Underwriting Agreement, the following terms have been given the meanings set out below.

- a) **Event of Insolvency** means:
- i. a receiver, manager, receiver and manager, trustee, administrator, controller or similar officer is appointed in respect of a person or any asset of a person;
  - ii. a liquidator or provisional liquidator is appointed in respect of a corporation;
  - iii. any application (not being an application withdrawn or dismissed within 7 days) is made to a court for an order, or an order is made, or a meeting is convened, or a resolution is passed, for the purpose of:
    - A. appointing a person referred to in paragraphs (i) or (ii);
    - B. winding up a corporation; or
    - C. proposing or implementing a scheme of arrangement;
  - iv. any event or conduct occurs which would enable a court to grant a petition, or an order is made, for the bankruptcy of an individual or his estate under any insolvency provision;
  - v. a moratorium of any debts of a person, or an official assignment, or a composition, or an arrangement (formal or informal) with a person's creditors, or any similar proceeding or arrangement by which the assets of a person are subjected conditionally or

- unconditionally to the control of that person's creditors or a trustee, is ordered, declared, or agreed to, or is applied for and the application is not withdrawn or dismissed within 7 days;
- vi. a person becomes, or admits in writing that it is, is declared to be, or is deemed under any applicable law to be, insolvent or unable to pay its debts; or
  - vii. any writ of execution, garnishee order, mareva injunction or similar order, attachment, distress or other process is made, levied or issued against or in relation to any asset of a person.
- b) **Force Majeure** means any act of God, war, revolution, or any other unlawful act against public order or authority, an industrial dispute, a governmental restraint, or any other event which is not within the control of the parties.
- c) **Material Adverse Effect** means:
- i. a material adverse effect on the Offer or on the subsequent market for the Offer Shares (including, without limitation, a material adverse effect on a decision of an investor to invest in Offer Shares); or
  - ii. a material adverse effect on the condition, trading or financial position and performance, profits and losses, results, prospects, business or operations of the Company and its Subsidiaries taken as a whole.
- d) **Prescribed Occurrence** means:
- i. a Relevant Company converting all or any of its shares into a larger or smaller number of shares;
  - ii. a Relevant Company resolving to reduce its share capital in any way;
  - iii. a Relevant Company:
    - A. entering into a buy back agreement; or
    - B. resolving to approve the terms of a buy back agreement under section 257D or 257E of the Corporations Act;
  - iv. a Relevant Company making an issue of, or granting an option to subscribe for, any of its shares or any other securities, or agreeing to make such an issue or grant such an option, other than the agreed Offer or an issue or agreement to issue in accordance with the Offer or the terms of this Agreement without the prior written consent of the Underwriter;
  - v. a Relevant Company issuing, or agreeing to issue, convertible notes;
  - vi. a Relevant Company disposing, or agreeing to dispose, of the whole, or a substantial part, of its business or property;
  - vii. a Relevant Company charging, or agreeing to charge, the whole, or a substantial part, of its business or property;
  - viii. a Relevant Company resolving that it be wound up;

- ix. the appointment of a liquidator or provisional liquidator of a Relevant Company;
  - x. the making of an order by a court for the winding up of a Relevant Company;
  - xi. an administrator of a Relevant Company, being appointed under section 436A, 436B or 436C of the Corporations Act;
  - xii. a Relevant Company executing a deed of company arrangement; or
  - xiii. the appointment of a receiver, or a receiver and manager, in relation to the whole, or a substantial part, of the property of a Relevant Company.
- e) **Relevant Company** means the Company and each Subsidiary.
- f) **Subsidiary** means each company which is now, or before the issue of all the Offer Shares becomes, a subsidiary of the Company as that term is defined in the Corporations Act.

#### *Termination of Underwriting Agreement*

The Underwriting Agreement provides that the Underwriter may terminate the Underwriting Agreement and its obligations under the Underwriting Agreement, if:

- a) (Restriction on allotment): the Company is prevented from allotting the Offer Shares within the time required by the Underwriting Agreement, the Corporations Act, the ASX Listing Rules, any statute, regulation or order of a court of competent jurisdiction by ASIC, ASX or any court of competent jurisdiction or any governmental or semi governmental agency or authority;
- b) (Indictable offence): a director or senior manager of a Relevant Company is charged with an indictable offence; or
- c) (Default): default or breach by the Company under the Underwriting Agreement of any terms, condition, covenant or undertaking;
- d) (Incorrect or untrue representation): any representation, warranty or undertaking given by the Company in the Underwriting Agreement is or becomes untrue or incorrect;
- e) (Contravention of constitution or Act): a contravention by a Relevant Company of any provision of its constitution, the Corporations Act, the ASX Listing Rules or any other applicable legislation or any policy or requirement of ASIC or ASX;
- f) (Adverse change): an event occurs which gives rise to a Material Adverse Effect or any adverse change or any development including a prospective adverse change after the date of the Underwriting Agreement in the assets, liabilities, financial position, trading results, profits, forecasts, losses, prospects, business or operations of any Relevant Company including, without limitation, if any forecast of any Relevant Company becomes incapable of being met or in the Underwriter's reasonable opinion, unlikely to be met in the projected time;
- g) (Public statements): without the prior approval of the Underwriter, a public statement is made by the Company in relation to the Offer;
- h) (Misleading information): any information supplied at any time by the Company or any person on its behalf to the Underwriter in respect of any aspect of the Offer or the affairs of any Relevant Company is or becomes misleading or deceptive or likely to mislead or deceive;

- i) (Official Quotation qualified): the official quotation of the Offer Shares is qualified or conditional other than as set out in the Underwriting Agreement;
- j) (Change in Act or policy): there is introduced, or there is a public announcement of a proposal to introduce, into the Parliament of Australia or any of its States or Territories any Act or prospective Act or budget or the Reserve Bank of Australia or any Commonwealth or State authority adopts or announces a proposal to adopt any new, or any major change in, existing, monetary, taxation, exchange or fiscal policy;
- k) (Prescribed Occurrence): a Prescribed Occurrence occurs;
- l) (Suspension of debt payments): the Company suspends payment of its debts generally;
- m) (Event of Insolvency): an Event of Insolvency occurs in respect of a Relevant Company;
- n) (Judgment against a Relevant Company): a judgment in an amount exceeding \$500,000 is obtained against a Relevant Company and is not set aside or satisfied within 7 days;
- o) (Litigation): litigation, arbitration, administrative or industrial proceedings are after the date of the Underwriting Agreement commenced against any Relevant Company;
- p) (Change in shareholdings): there is a material change in the major or controlling shareholdings of a Relevant Company or a takeover offer or scheme of arrangement under Chapter 5 or 6 of the Corporations Act is publicly announced in relation to a Relevant Company;
- q) (Force Majeure): a Force Majeure affecting the Company's business or any obligation under the Underwriting Agreement lasting in excess of 7 days occurs;
- r) (Certain resolutions passed): a Relevant Company passes or takes any steps to pass a resolution under Section 254N, Section 257A or Section 260B of the Corporations Act or a resolution to amend its constitution without the prior written consent of the Underwriter;
- s) (Investigation): any person is appointed under any legislation in respect of companies to investigate the affairs of a Related Company; or
- t) (Market Conditions): a suspension or material limitation in trading generally on ASX occurs or any material adverse change or disruption occurs in the existing financial markets, political or economic conditions of Australia, Japan, the United Kingdom or the United States of America.

Clause 10.3 of the Underwriting Agreement provides that the Underwriter may not exercise its rights to terminate the Underwriting Agreement under paragraphs (b) to (t) above unless, in the reasonable opinion of the Underwriter reached in good faith, it has or is likely to have, or those events together have, or could reasonably be expected to have, a Material Adverse Effect or could reasonably be expected to give rise to a liability of the Underwriter under the Corporations Act.

### **7.3 Litigation**

In the Supreme Court of Appeal of Western Australia matter, North Australian Diamonds Ltd v Australian Goldfields NL (In Liquidation) (AFN) the Company was successful at trial but the Liquidator of AFN has lodged an appeal. The liquidator has provided security for costs of \$75,000 as announced by the Company in its recent Quarterly Report on 31 October 2008.

The Company has prepared and lodged a reply to AFN's argument and the appeal was subsequently heard on 10 and 11 December, 2008. The outcome of this appeal is expected to be handed down in the first half of 2009.

In the event that the Company wins the appeal, the Company will be owed \$1 million plus interest and the costs of the appeal. However it is noted that AFN is in liquidation and the Company would become an unsecured creditor and is unlikely to recover the full amount of any judgement. In the event that the Company loses the appeal and is also unsuccessful in the cross appeal, then the Company's exposure is \$2.3 million plus interest and the costs of the trial and the appeal.

#### **7.4 Privacy**

The Company collects information about each Applicant provided on the Application Form for the purpose of processing the Application Forms, and to administer the Applicant's security holding in the Company.

By submitting an Application Form, each Applicant agrees that the Company may use the information provided on an Application Form for the purposes set out in this privacy disclosure statement and may disclose it for those purposes to the Share Registry, related bodies corporate, agents, contractors and third party service providers, including mailing houses and professional advisers, and to the ASX and other regulatory authorities.

The Corporations Act requires the Company to include information about the security holder (including name, address and details of the securities held) in its public register. The information contained in the Company's public registers must remain there even if that person ceases to be a security holder of the Company. Information contained in the Company's register is also used to facilitate distribution payments and corporate communications (including the Company's financial results, annual reports and other information that the Company may wish to communicate to its security holders) and compliance by the Company with legal and regulatory requirements.

If the information required on an Application Form is not provided, the Company may not be able to accept or process the Application Form.

An Applicant has a right to gain access to the information that the Company holds about that person subject to certain exemptions under law. A fee may be charged for access. Access requests must be made in writing to the Company's registered office.

#### **7.5 Disclaimer**

The information contained in this Prospectus does not represent any forecast or projection as to the future revenue or profitability of the Company. See section 6 regarding risk factors generally in respect of your decision on whether to apply for Shares under the Offer.

#### **7.6 CHES**

The Company participates in CHES. All trading on the ASX in Shares is settled through CHES. ASTC, a wholly-owned subsidiary of the ASX, operates CHES in accordance with the ASX Listing Rules and the ASTC Settlement Rules. The Registry operates an electronic issuer-sponsored sub-register and an electronic CHES sub-register. Both these sub-registers constitute the Company's principal register of Shareholders.

Holders of Shares will not receive a certificate but will receive a statement of their holding. If an Applicant is sponsored by a broker or other participant in CHES, that person will receive a CHES

statement which will set out the number of Shares issued to them under this Prospectus, provide details of their HIN (Holder Identification Number), and provide the participant identification number of the sponsor.

If Applicants are registered on the issuer-sponsored sub-register, their holding statement will contain the number of Shares issued to them under this Prospectus and their SRN (Security-holder Reference Number).

A CHES statement or issuer-sponsored statement will be sent to holders of Shares at the end of any calendar month during which the balance of their holding changes. Holders of Shares may request a statement at any other time, however, a charge may be made for additional statements.

## 7.7 Interests of Directors

Other than as set out below or elsewhere in this Prospectus, no Director or proposed Director holds at the date of this Prospectus, or held at any time during the last 2 years before the date of lodgement of this Prospectus with ASIC, any interest in:

- a) the formation or promotion of the Company; or
- b) any property acquired or proposed to be acquired by the Company in connection with its formation or promotion of the Company or the Offer; or
- c) the Offer,

and no amounts have been paid or agreed to be paid by any person and no benefits have been given or agreed to be given by any person:

- d) to a Director or proposed Director to induce him or her to become, or to qualify as, a Director; or
- e) for services provided by a Director or proposed Director in connection with the formation or promotion of the Company or the Offer.

### Holdings of Directors

Directors	Relevant Interest in Shares	Relevant Interest in Options
Mr Joseph Gutnick <sup>1</sup>	222,956,288	Nil
Mr Chris Orchard	Nil	Nil
Mr Ian Hastings <sup>23</sup>	Nil	Nil

1. Mr Gutnick also has an interest in the Underwriter and accordingly will have an interest in any Shares issued to the Underwriter.
2. Mr Hastings also has an interest in the Broker and accordingly will have an interest in any Shares held by and issued to the Broker. The Broker will receive 80,000,000 Broker Options as set out in the Mandate Letter.
3. Mr Hastings intends to acquire up to 20,625,000 Shares under the Public Offer (Shareholder approval was obtained on 18 December 2008).

The Company is currently finalising the terms of Mr Gutnick's remuneration as Executive Chairman and Managing Director. In the meantime, Mr Gutnick will be paid the same amount as the non-executive directors, being \$36,000 per annum base salary inclusive of director's fees plus

statutory superannuation currently at 9% per annum. Since Mr Gutnick's appointment as a director on 27 October 2008 to the date of this Prospectus, Mr Gutnick has not received any remuneration.

Mr Orchard is paid \$36,000 per annum by way of non-executive director's fees including statutory superannuation currently at 9% per annum. Since Mr Orchard's appointment as a director on 26 September 2008 to the date of this Prospectus, Mr Orchard has not received any remuneration.

Mr Hastings is paid \$36,000 per annum by way of non-executive director's fees including statutory superannuation currently at 9% per annum. It is noted that Mr Hastings will also have an interest in fees received by the Broker, as described in section 7.8(b). Since Mr Hastings' appointment as a director on 26 September 2008 to the date of this Prospectus Mr Hastings has received a total remuneration of approximately \$8,750.

Directors are also entitled to be reimbursed for reasonable expenses incurred by them in providing their services to the Company.

The Directors are not required to hold any Shares in the Company under the Constitution.

## 7.8 Interests of Experts and Advisors

The Company has paid or agreed to pay the following amounts to the following persons in connection with the Offer:

- a) **Corporate Advisor:** As corporate advisor to the Offer, Grange Consulting Group Pty Ltd will receive approximately \$50,000 (exclusive of GST) in respect of corporate advisory services provided in relation to the Offer. Grange Consulting Group Pty Ltd have or will be paid fees of approximately \$234,000 in the 2 years prior to the date of this Prospectus for other corporate advisory, company secretarial and financial management services.
- b) **Broker:** As Broker to the Offer, Ascot Securities Pty Ltd will receive a commission of 5% of all funds raised under the Offer, being a total of \$300,000 (exclusive of GST), and on successful completion of the Offer will be entitled to 80,000,000 Broker Options. The Broker has or will be paid fees of approximately \$58,500 in the 2 years prior to the date of this Prospectus for other broking services and reimbursement of legal fees incurred.
- c) **Underwriter:** As Underwriter to the Offer, Yahalom International Resources Corp will not receive an underwriting fee.
- d) **Deacons:** Fees for professional services undertaken as legal advisers to the Company in connection with the Offer of approximately \$40,000 (exclusive of GST) as at the date of this Prospectus. Deacons have or will be paid fees of approximately \$410,000 in the 2 years prior to the date of this Prospectus for other legal services including fees paid in respect of the spin-off and initial public offering of Top End Uranium Ltd ACN 124 943 728.
- e) **Various suppliers:** Fees for other services provided including the Share Registry, printing and mailing, ASIC fees, and ASX fees of approximately \$78,000 in total.

Other than as set out above or elsewhere in this Prospectus, no person named in this Prospectus as performing a function in a professional, advisory or other capacity in connection with the preparation or distribution of this Prospectus, and no promoter of the Company involved in the Offer holds, or held at any time during the last 2 years before the date of this Prospectus, any interest in the formation or promotion of the Company, any property acquired or proposed to be acquired by the Company in connection with its formation or promotion or in connection with the Offer, and no amounts have been paid or agreed to be paid and no benefit has been given or agreed to be given to

any of these persons for services rendered by them in connection with the formation or promotion of the Company or in connection with the Offer.

## **7.9 Costs and expenses of the Offer**

The total costs and expenses of the Offer including legal fees, corporate advisory fees, ASX and ASIC fees and other miscellaneous expenses are estimated to be approximately \$465,000 (this does not include the issue of the Broker Options valued at approximately \$278,408 being non-cash costs of the Offer).

## **7.10 Consents and Disclaimers**

Each of the following persons have given and not withdrawn their consent to be named, or to the inclusion of statements by the person (or to the inclusion of statements said in this Prospectus to be based on statements by the person), in this Prospectus (including any electronic version) in the form and context in which they are named or the statements are included:

- a) Grange Consulting Group Pty Ltd (as corporate advisor to the Offer);
- b) Ascot Securities Pty Ltd (as Broker to the Offer);
- c) Yahalom International Resources Corp (as Underwriter to the Offer);
- d) Deacons (legal advisers to the Company in relation to the Offer); and
- e) Security Transfer Registrars Pty Ltd (Registry).

Each of the persons named in this section 7.10 makes no express or implied representation or warranty in relation to the Company, this Prospectus or the Offer and does not make any statement in this Prospectus, nor is any statement in it based on any statement made by that person. To the extent permitted by law, each person expressly disclaims and takes no responsibility for any material in, or omission from, this Prospectus other than the reference to its name.

## **7.11 Continuous Disclosure Obligations**

This Prospectus is a document to which the special content rules under section 713 of the Corporations Act apply. That section allows for the issue of a more concise document in relation to the offer of securities and financial products in classes of securities which have been continuously quoted by ASX for the three months prior to the date of the Prospectus.

The information in this Prospectus principally concerns the terms and conditions of the Offer necessary to make and informed assessment of the:

- a) effect of the Offer on the Company; and
- b) rights and liabilities attaching to the Offer Shares.

This Prospectus contains information only to the extent to which it is reasonable for investors and their professional advisers to expect to find the information in it. It does not include all of the information that would be included in a prospectus for an initial public offering of shares.

The Company has, since listing, provided the ASX with a substantial amount of information regarding its activities. That information is publicly available. Shareholders and other investors should read

this Prospectus in conjunction with that publicly available information before making an investment decision.

The Company is a "disclosing entity" (as defined in section 111AC of the Corporations Act) for the purposes of section 713 of the Corporations Act and, as such, is subject to regular reporting and disclosure obligations. Specifically, like all listed companies, the Company is required to continuously disclose any information it has to the market which a reasonable person would expect to have a material effect on the price or the value of the Company's Shares. The Shares that will be issued under this Prospectus will be in the same class of Shares that have been granted official quotation by ASX during the three months prior to the issue of this Prospectus.

Having taken such precautions and having made such enquiries as are reasonable, the Company believes that it has complied with the general and specific requirements of the ASX as applicable from time to time throughout the three months before the issue of this Prospectus which required the Company to notify the ASX of information about specified events or matters as they arise for the purpose of the ASX making that information available to the securities market conducted by the ASX.

Information that is already in the public domain has not been reported in this Prospectus other than that which is considered necessary to make this Prospectus complete.

The Company, as a disclosing entity under the Corporations Act, states that:

- a) it is subject to regular reporting and disclosure obligations;
- b) copies of documents lodged with ASIC in relation to the Company (not being documents referred to in section 1274(2)(a) of the Corporations Act) may be obtained from, or inspected at, the offices of ASIC; and
- c) it will provide a copy of each of the following documents, free of charge, to any person on request between the date of issue of this Prospectus and the Closing Date:
  - i. the annual financial report most recently lodged by the Company with ASIC;
  - ii. any half year financial report lodged with ASIC by the Company after lodgement of the annual financial report referred to in paragraph (i) and before lodgement of this Prospectus with ASIC; and
  - iii. any continuous disclosure notices given by the Company after the lodgement of the annual financial report and before the lodgement of the copy of the Prospectus with ASIC.

The Company lodged its latest annual financial report with ASX on 7 October 2008. The following documents have been lodged with ASX since the date of lodgement of the Company's latest annual financial report:

<b>Date</b>	<b>Description of Announcement</b>
18/12/2008	Resignation of Mr Ian Richer as a Director & Appendix 3Z
18/12/2008	Results of EGM
08/12/2008	Change of Director's Interest Notice
04/12/2008	Change in Substantial Holding
04/12/2008	Change of Director's Interest Notice
04/12/2008	Change of Director's Interest Notice
02/12/2008	Change of Director's Interest Notice
27/11/2008	ASX Waiver
20/11/2008	Shareholder Update
20/11/2008	Change of Director's Interest Notice
19/11/2008	Notice of General Meeting / Proxy Form
11/11/2008	Amended Company Presentation
07/11/2008	Results of Meeting
07/11/2008	Company Presentation
07/11/2008	Shareholder Update
05/11/2008	Change of Director's Interest Notice
31/10/2008	Shareholder Update – Appointment of Managing Director
31/10/2008	Quarterly Report
30/10/2008	Change of Director's Interest Notice
30/10/2008	Appendix 3Z
30/10/2008	Change in Substantial Holding
27/10/2008	Board Restructure and Capital Raising
14/10/2008	Change in Substantial Holding
13/10/2008	Change in Substantial Holding

## 8. DIRECTORS' AUTHORISATION AND CONSENT

This Prospectus is signed on 22 December 2008 by Joseph Gutnick on behalf of the Director, each of whom has consented to the signature, lodgement and issue of this Prospectus.

Each Director has consented to lodgement of this Prospectus with ASIC in accordance with the terms of section 720 of the Corporations Act and has not withdrawn that consent.



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By Joseph Gutnick  
Executive Chairman

## 9. GLOSSARY

Where the following terms are used in this Prospectus they have the following meanings:

**ALRA** means the *Aboriginal Land Rights (Northern Territory) Act 1976 (Cth)*.

**Applicant** means a person(s) who submits a valid Application Form under this Prospectus.

**Application** means a valid application made by an Applicant on an Application Form to subscribe for Shares under this Prospectus.

**Application Form** means a Priority Entitlement Application Form or Public Application Form attached to or accompanying this Prospectus.

**Application Monies** means the Issue Price multiplied by the number of Shares applied for.

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

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

**ASX Listing Rules** means the official listing rules of the ASX.

**Board** means the Board of Directors.

**Broker** means Ascot Securities Pty Ltd ABN 45 075 902 206 being the holder AFSL 246 718.

**Broker Option** means an option to acquire a Share. Each Broker Option is exercisable at \$0.008 within 3 years from the date of issue, subject to the Company's Share price exceeding \$0.02 per Share, during any 5 day period.

**Business Day** means an Australian business day that is not a Saturday, Sunday, or any other day which is a public holiday or bank holiday in the place where an act is to be performed or a payment is to be made.

**Closing Date** means the closing date of the Public Offer outlined in the Summary of the Offer under section 2 of this Prospectus, or an amended date as set by the Board.

**Company** or **NADL** means North Australian Diamonds Ltd ABN 86 009 153 119.

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

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

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

**Eligible Shareholder** means a Shareholder who is registered with an Australian address at the Priority Entitlement Record Date.

**Issue Price** means \$0.008, being payable for each Share.

**Loan Facility** means the loan facility described in section 7.2.

**Mandate Letter** means the mandate letter described in section 7.2.

**Maximum Entitlement Subscription** means the maximum number of Priority Entitlement Shares that an Eligible Shareholder can apply for as set out in section 3.1.

**Merlin Project** means the diamond project described in section 5.1.

**Native Title Act** means the *Native Title Act 1993* (Cth).

**Offer** means the Priority Entitlement and the Public Offer or either of them, as the context requires, under this Prospectus.

**Official List** means the official list of ASX.

**Official Quotation** means official quotation by ASX in accordance with the ASX Listing Rules.

**Opening Date** means the date on which the Offer opens.

**Priority Entitlement** means the entitlement of Eligible Shareholders registered as at the date of the General Meeting to subscribe for the higher of 5% of all the Priority Entitlement Shares being offered and the number of Priority Entitlement Shares that the holder would be entitled to under a pro-rata issue to Shareholders of the Priority Entitlement Shares being offered.

**Priority Entitlement Application Form** means the personalised application form attached to or accompanying this Prospectus and which relates to the Priority Entitlement.

**Priority Entitlement Closing Date** means the closing date of the Priority Entitlement outlined in the Summary of the Offer in this Prospectus.

**Priority Entitlement Record Date** means the record date to qualify as an Eligible Shareholder outlined in the Summary of the Offer under section 2 of this Prospectus.

**Priority Entitlement Shares** means 55% of the Shares under the Offer available to Eligible Shareholders.

**Prospectus** means this Prospectus dated 22 December 2008 and any supplementary or replacement prospectuses, including this Prospectus in electronic format or a printed copy of the electronic Prospectus.

**Public Offer** means the offer to the public of any Shares under the Priority Entitlement not subscribed by Eligible Shareholders by the Priority Entitlement Closing Date and up to an additional 337,500,000 Shares.

**Public Offer Application Form** means the application form attached to or accompanying this Prospectus which relates to the Public Offer.

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

**Shareholder** means the registered holder of Shares in the Company.

**Share Registry** means Security Transfer Registrars Pty Ltd ACN 008 894 488.

**Shortfall Shares** means the total number of shares being offered under this Offer less the Underwriter's Priority Entitlement.

**Tenements** mean the tenements that the Company has an interest in as disclosed in the Annual Report 2008.

**Underwriter** or **Yahalom** means Yahalom International Resources Corp ARBN 122 230 236.

**Underwriting Agreement** means the underwriting agreement described in section 7.2.

**WDST** means Western Daylight Saving Time, Perth, Western Australia.

**\$** or **Dollars** means Australian dollars unless otherwise stated.



## NOTES

1. Enter the number of Shares you wish to apply for.
2. Enter the total amount of application monies payable. To calculate this amount, multiply the number of Shares you are applying for by the issue price (i.e. \$0.008 per Share).
3. Enter the full name(s) of all legal entities that are to be recorded as the registered holder(s).
4. Enter the postal address for all communications from the Company.
5. Enter the name and telephone number of the person who should be contacted if there are any questions with respect to this application.
6. If you are CHESSE sponsored, enter your Holder Identification Number (**HIN**) in the CHESSE HIN box, otherwise leave this box blank and a Shareholder Reference Number (**SRN**) will be allocated to you on issue.
7. Enter the tax file number(s) of the applicant(s) – this is not mandatory.
8. Unless otherwise agreed by the Company, payment must be made to **“NORTH AUSTRALIAN DIAMONDS LTD – SHARE ISSUE ACCOUNT”** by cheque drawn or payable on a bank within Australia, crossed **“Not Negotiable”** and be in Australian dollars. Receipt of payment will not be acknowledged.
9. This application form does not need to be signed. Return of this application form with the required application monies will constitute acceptance of that number of Shares stated on this application form.
10. Please note that if an application form is not completed correctly, or if the accompanying payment is for the wrong amount, it may still be accepted. Any decision of the directors as to whether to accept an application form, and how to construe, amend or complete it, shall be final. An application form will not be treated as having offered to subscribe for more Shares than is indicated by the amount of the accompanying cheque.
11. Please deliver the completed application form (accompanied by your cheque) at any time prior to 5.00pm WDST on the **Closing Date, being 30 JANUARY 2009**, to the Company’s Share Registry,

### Security Transfer Registrars Pty Ltd:

#### Delivery:

Alexandrea House, Suite 1  
770 Canning Highway  
Applecross WA 6153

#### Post:

**PO Box 535  
Applecross WA 6953**

Please telephone the Company’s Share Registry on (08) 9315 2333 if you have any questions with respect to this application form.

## CORRECT FORMS OF REGISTRABLE TITLE

Note that only legal entities are allowed to hold securities. Application forms must be in the name(s) of a natural person(s), companies or other legal entities acceptable to the Company. At least one full name and the surname is required for each natural person. Application forms cannot be completed by persons under 18 years of age. Examples of the correct form of registrable title are set out below:

Type of Investor	Correct Form of Registrable Title	<del>Incorrect Form of Registrable Title</del>
Trusts	Mr John David Brown <John David Brown A/C>	<del>John Brown Family Trust</del>
Deceased Estates	Mr John David Brown < Est. John David Brown A/C>	<del>John Brown &lt;Deceased&gt;</del>
Partnerships	Mr John David Brown and Mr Michael James Brown	<del>John Brown &amp; Son</del>
Clubs/ Unincorporated Bodies	Mr John David Brown <ABC Tennis Association A/C>	<del>Brown Investment Club or ABC Tennis Association</del>
Super Funds	John Brown Pty Ltd <Super Fund A/C>	<del>John Brown Superannuation Fund</del>

