

# Merlin Diamonds Limited

ABN 86 009 153 119

## Prospectus

For

A non-renounceable pro rata offer of New Shares and attaching Options at an issue price of \$0.013 per New Share on the basis of one (1) New Share and attaching  $\frac{1}{2}$  Option for every two (2) Shares held on the Record Date.

**This document is important and requires your immediate attention.** It should be read in its entirety. If you do not understand its content or are in doubt as to the course you should follow, you should consult your stockbroker or professional adviser without delay.

**This Offer opens on 9 March 2017 and closes at 5:00pm AEDT on 20 March 2017**

**Valid acceptances must be received before that time**

These opening and closing dates are indicative only. Subject to the Listing Rules and any applicable law, the Directors reserve the right to vary these dates, including the Closing Date, at their discretion.

**Please read the instructions in this document and on the accompanying Entitlement and Acceptance Form regarding the acceptance of your entitlement.**

### **Underwriting**

This offer is fully underwritten by Triple C Consulting Pty Ltd ABN 45 141 412 106.

## Important Information

This Replacement Prospectus is dated 28 February 2017 and was lodged with ASIC on that date. This Replacement Prospectus replaces the original prospectus dated 14 February 2017 that was issued by the Company and lodged with ASIC on that date. For the purpose of this document, this Replacement Prospectus will be referred to as either the "Replacement Prospectus" or "Prospectus". This Replacement Prospectus includes, among other things:

- Additional disclosure of the value of shares and options that maybe issued to the Underwriter as a success fee.
- Additional disclosure of the potential dilutive impact of the Offer (in particular as attaching options are 'in the money') and the potential interest that will be held by the Underwriter following the fundraising.
- Additional disclosure on the involvement of the Underwriter in the allocation of shortfall shares.

Neither ASIC nor the ASX takes responsibility for the contents of this Prospectus or the merits of the investment to which the Prospectus relates. No Shares or Options will be issued on the basis of this Prospectus later than 13 months after the date of this Prospectus.

Application for admission of the New Shares and the attaching Options offered by this Prospectus to quotation by ASX will be made within seven days after the date of this Prospectus.

Applicants should read this document in its entirety and, if in any doubt, consult with their professional advisers before deciding whether to apply for New Shares and attaching Options. There are risks associated with an investment in Merlin Diamonds Limited, and the New Shares and attaching Options offered under this Prospectus must be regarded as a speculative investment. In particular, you should consider the risk factors that could affect the value of an investment in the Company, some of which are outlined in Section 3 of the Prospectus. The New Shares and attaching Options offered under this Prospectus carry no guarantee with respect to return on capital investment, payment of dividends or the future value of the New Shares and attaching Options.

Applications for Shares offered pursuant to this Prospectus can only be submitted on an original Entitlement and Acceptance Form or Shortfall Application Form or making payment of Acceptance Monies in BPAY® in accordance with the instructions set out in this Prospectus and on the Entitlement and Acceptance Form. See section 2 and in particular section 2.7(b).

This Prospectus is a "transaction specific prospectus" for an offer of "continuously quoted securities" prepared in accordance with Section 713 of the Corporations Act. It does not contain the same level of disclosure as an initial public offering prospectus. In preparing this Prospectus regard has been made to the fact that the Company is a disclosing entity for the purposes of the Corporations Act and certain matters may reasonably be expected to be known to investors and their professional advisers. ASX maintains a database of publicly available information issued by the Company as a disclosing entity.

No person is authorised to give any information or to make any representation in connection with the Entitlements Offer which is not contained in this Prospectus. Any information or representation not contained in this Prospectus may not be relied on as having been authorised by the Company in connection with the Entitlements Offer.

The information provided in this Prospectus is not investment advice and has been prepared without taking into account your investment objectives, financial situation or particular needs (including financial and taxation issues). It is important that you read and consider the information in this Prospectus in full before deciding to invest in New Shares and attaching Options, consider the risks that could affect the performance of the Company and seek professional advice from your accountant, tax adviser, stockbroker, lawyer or other professional adviser before deciding to invest.

No person (whether named in this Prospectus or otherwise) guarantees the performance of Merlin Diamonds Limited, the repayment of capital or the payment of a return on the Shares.

The Offer contained in this Prospectus to Eligible Shareholders with registered addresses in New Zealand is made in reliance on the Securities Act (Overseas Companies) Exemption Notice 2013 (New Zealand). This Prospectus is not an investment statement or prospectus under New Zealand law, and may not contain all the information that an investment statement or prospectus under New Zealand law is required to contain.

The distribution of this Prospectus in jurisdictions outside Australia and New Zealand may be restricted by law and therefore persons who come into possession of this Prospectus should seek advice on and observe any such restrictions. Any failure to comply with these restrictions may constitute a violation of those laws. This Prospectus does not constitute an offer of New Shares and attaching Options in any jurisdiction where, or to any person to whom, it would be unlawful to make such an offer. Certain terms and abbreviations used in this Prospectus have defined meanings, which are explained in Section 6 of this Prospectus.

### **Forward-looking statements**

This Prospectus contains forward-looking statements which are identified by words such as 'may', 'could', 'believes', 'estimates', 'targets', 'expects', or 'intends' and other similar words that involve risks and uncertainties.

These statements are based on an assessment of present economic and operating conditions, and on a number of assumptions regarding future events and actions that, as at the date of this Prospectus, are expected to take place.

Such forward-looking statements are not guarantees of future performance and involve known and unknown risks, uncertainties, assumptions and other important factors, many of which are beyond the control of our Company, the Directors and our management.

We cannot and do not give any assurance that the results, performance or achievements expressed or implied by the forward-looking statements contained in this Prospectus will actually occur and investors are cautioned not to place undue reliance on these forward-looking statements.

We have no intention to update or revise forward-looking statements, or to publish prospective financial information in the future, regardless of whether new information, future events or any other factors affect the information contained in this Prospectus, except where required by law.

These forward looking statements are subject to various risk factors that could cause our actual results to differ materially from the results expressed or anticipated in these statements. These risk factors are set out in section 3 of this Prospectus.

### **Electronic Prospectus**

Eligible Shareholders can obtain a copy of this Prospectus during the Offer Period on the Company's website at <http://www.merlindiamonds.com.au>. If you access an electronic copy of this Prospectus, you should read the entire Prospectus.

The electronic copy of this Prospectus will not include a personalised Entitlement and Acceptance Form. Eligible Shareholders will only be able to accept the Offer by completing the personalised Entitlement and Acceptance Form which accompanies this Prospectus or by making payment using BPAY® (refer to Section 2 and in particular section 2.9(b) for further information).

### **Financial amounts**

Money as expressed in this Prospectus is in Australian dollars.

### **Privacy**

Please read the privacy information set out in Section 1.21. By submitting an Entitlement and Acceptance Form, you consent to the matters outlined in that section.

## **CORPORATE DIRECTORY**

### **Directors**

Mordechai Gutnick  
David Tyrwhitt  
Henry Herzog

### **Company Secretary**

Peter Lee

### **Registered Office and Domicile**

Level 1A, 42 Moray Street  
Southbank Victoria 3006  
Australia  
Telephone: +61 3 8532 2838  
Facsimile: +61 3 8532 2805  
E-mail: [info@merlindiamonds.com.au](mailto:info@merlindiamonds.com.au)  
Internet:  
<http://www.merlindiamonds.com.au>

### **Legal Form**

A public company limited by shares

### **Country of Incorporation**

Australia

### **Share Registry**

Link Market Services Limited  
Tower 4, 727 Collins Street  
Melbourne Victoria 3008  
Australia  
Telephone: 1300 554 474 or + 61 3 9615 9999  
Facsimile: +61 3 8614 2903

### **Auditors**

Grant Thornton Australia  
Level 30, 525 Collins Street  
Melbourne Victoria 3000  
Australia

### **Australian Securities Exchange Listing Code**

MED

## **Chairman's Letter**

Dear Shareholder,

On behalf of the Board of Directors of Merlin Diamonds Limited (ASX: MED), I am pleased to offer you the opportunity to increase your investment in the Company.

### **Entitlements Offer**

The Entitlements Offer (the Offer which is subject of this Prospectus) is being fully underwritten by Triple C Consulting Pty Ltd.

The Entitlements Offer is non-renounceable, made on a one New Share and attaching  $\frac{1}{2}$  Option for every two (2) shares on issue at the Record Date, will raise approximately \$5,535,000 (before expenses the Offer) and is being offered at \$0.013 per New Share and attaching  $\frac{1}{2}$  Option. This offer price of \$0.013 represents a 23% discount to the market price over the 30 day VWAP for the 3 months ended 9 February 2017.

Shareholders who subscribe for their full Entitlement may apply for Additional Shares and attaching Options in addition to their full Entitlement under the Offer.

Any shortfall under the Offer will first be satisfied by allocations made by the Board to Shareholders who have applied for Additional Shares and attaching Options under the terms and conditions of the Offer, subject to compliance with Chapter 6 of the Corporations Act and the ASX Listing Rules. The Directors may place any further shortfall to persons who may or may not be Shareholders and who may be clients of the Underwriter, in consultation with the Underwriter. The allocation process is described in more detail in section 1.21 below.

Additional Shares and attaching Options will only be issued if the New Shares offered under the Entitlements Offer are not taken up in full. If the Company receives applications for Additional Shares and attaching Options that would result in the Entitlements Offer being oversubscribed, the Company will scale back applications received for Additional Shares and attaching Options on a pro-rata basis having regard to the number of Additional Shares applied for by each Eligible Shareholder.

In the event of an application for Additional Shares and attaching Options not being accepted, including because of a scale back, the application monies received for an unsuccessful application for Additional Shares and attaching Options (or the applicable portion if the application is partly successful) will be refunded to the applicant, without interest, as soon as practicable.

No Additional Shares and attaching Options will be issued to an applicant if to do so would, to the extent of the knowledge of the Company, result in a breach of the ASX Listing Rules or the restrictions on obtaining or increasing relevant interests of greater than 20% of the Company's issued voting shares under Chapter 6 of the Corporations Act or would otherwise be contrary to the Corporations Act or the ASX Listing Rules.

The Offer is being conducted to raise funds for operations at the Merlin diamond mine, exploration and working capital.

### **Directors' consideration of the Offer**

The Directors believe this Offer is advantageous, with the following benefits:

- the Company requires funding to continue its mining operations and to undertake exploration activities on its tenement interests and for working capital purposes. Given the size of the Company and the industry that it operates in, the Directors consider that an equity raising is the best alternative;
- the alternatives considered were debt funding, which would have been expensive (if achievable, which would have been difficult) or a placement with shareholder approval which would have been dilutive. A pro-rata entitlements offer gives all shareholders the ability to subscribe for shares equal to their existing percentage holding in the Company thus not diluting their position in the Company;
- the audit report for the year ended 30 June 2016 included an emphasis of matter comment in relation to the going concern and the draft unaudited Statement of Financial Performance at 31 December 2016 discloses a negative net assets position. The Company is required to raise further funds to continue its operations and maintain its tenements and as noted above, a pro-rata entitlements offer gives all eligible shareholders the

ability to participate. If the Entitlements Offer does not proceed, the Company will be required to seek shareholder approval to a placement of securities; and

- the offer price of \$0.013 is at a 23% discount to the VWAP for the 3 months ended 9 February 2017.

However, the Entitlements Offer has some disadvantages:

- the Offer will dilute positions held by Shareholders who do not apply for their full entitlement;
- options to be issued under the Entitlements Offer are currently in the money (i.e. the current market price is greater than the exercise price of the options) and accordingly parties acquiring options may immediately exercise their options which will have a further dilutive effect on Shareholders who either do not participate in the Entitlements Offer, only partially participate or who do not exercise their options. Furthermore, the Company also has unlisted options on issue that are also in the money and the exercise of those options may also have a dilutive impact on shareholders. The fact that the New Options are in the money means that the potential for dilution of Shareholders who either do not participate in the Entitlements Offer, or only partially participate, is increased ; and
- there are approximately \$418,000 in cash costs associated with the Offer plus the issue of 20,000,000 shares and 10,000,000 Options to the Underwriter as a success fee (the value of these shares and options is estimated as \$470,000 – see section 1.4 below).

In recommending the Offer, your Directors believe that the advantages of the Entitlements Offer outweigh any disadvantages.

#### **Further information**

This Prospectus contains further details of the Offer, including a discussion of the advantages, disadvantages and risks of the Entitlements Offer. Please read the Prospectus carefully before deciding how to respond to the Offer.

If you have any questions about the Offer under the Entitlements Offer, please consult your independent financial or legal adviser.

#### **The Company**

Merlin Diamonds wholly owns the Merlin diamond mine located near Borroloola, Northern Territory, Australia. There are 13 known diamond-bearing kimberlite pipe vents on the Merlin mine lease (MLN 1154). Nine of the kimberlite pipe vents have been previously mined by Ashton Mining Ltd ("Ashton") and Rio Tinto Ltd ("Rio") via nine open pits.

The Company re-commenced operations at the Merlin diamond mine in October 2016 with the processing plant being refurbished and production commencing with steady ramping up of the production process. Through the successful commencing of operations, Merlin preserved its \$44.6m royalty credits by satisfying the requirement of the Northern Territory Department of Treasury and Finance.

Merlin previously produced Australia's largest diamond at 104 carats. Since the re-commencement of operations a 35.3 carat diamond has been recovered which reflects Merlin's history of recovering large diamonds. Furthermore, the recovery of a blue diamond demonstrates the potential for valuable coloured diamonds at Merlin.

A successful mining campaign delivered circa 70,000 tonnes of ore for wet season treatment through the plant using the services of a Northern Territory based contractor that successfully commenced mining in Kaye pit.

Merlin has assembled an exceptionally experienced diamond mining executive team. This team also includes high level experienced security surrounding the finished product of rough diamonds.

The initial processing phase up-scaled with the commissioning of the scrubber in January 2017 significantly improves the preparation of the ore and throughput.

MORDECHAI GUTNICK  
Chairman & Managing Director

## Section 1 DETAILS OF THE OFFER

### 1.1 The Offer

The Company is making a non-renounceable pro rata offer of New Shares and attaching Options at an issue price of \$0.013 each on the basis of one (1) New Share and attaching ½ Option for every two (2) Shares held on the Record Date (the **Offer**).

Merlin's share price has traded at a high price of \$0.024 and a low price of \$0.014 over the last three months ended 9 February 2017. The VWAP for that period of time was \$0.017 and the offer price of \$0.013 is a 23% discount to the VWAP for the 3 months ended 9 February 2017.

The Company intends to apply the funds raised from the Offer towards operations at the Merlin diamond mine, exploration activities and working capital.

As at the date of this Prospectus, the Company has on issue 851,794,736 Shares, 2,755,866 unlisted convertible notes, 1,952,773 unlisted notes and 373,747,486 unlisted options. The Company expects that 425,897,368 New Shares and 212,948,684 Options will be issued under the Offer, and 20,000,000 Shares and 10,000,000 Options will be issued to the Underwriter being the success fee (refer section 1.8) immediately after the completion of the Entitlements Offer such that 1,285,256,200 Shares, 2,755,866 unlisted convertible notes, 1,952,773 unlisted notes, 222,948,684 quoted Options (the Company intends to apply to ASX for quotation of the Options immediately after the issue and is not aware of any reason why ASX will not grant quotation to the options) and 373,747,486 unlisted options will be on issue following the Offer after taking into account the shares and options to be issued to the Underwriter. It is the intention of the Directors to convene a general meeting of shareholders to seek approval to change the notes to convertible notes.

The Entitlements Offer is expected to raise approximately \$5,535,000 (before expenses of the Offer which are estimated to be approximately \$418,000 plus the issue of 20,000,000 shares and 10,000,000 options which have an estimated value of \$470,000 – see section 1.4 below).

Shareholders who apply for 100% of their entitlement are able to apply for Additional Shares and attaching Options to be issued from any shortfall at the Issue Price subject to the Corporations Act. Any Shortfall Shares will be allocated to Shareholders who apply for New Shares and attaching Options in addition to their Entitlement. The Directors may place any further shortfall to persons who may or may not be Shareholders and who may be clients of the Underwriter, in consultation with the Underwriter. The allocation process is described in more detail in section 1.21 below.

Additional Shares and attaching Options will only be issued if the New Shares and attaching Options offered under the Entitlements Offer are not taken up in full. If the Company receives applications for Additional Shares and attaching Options that would result in the Entitlements Offer being oversubscribed, the Company will scale back applications received for Additional Shares and attaching Options on a pro-rata basis having regard to the number of Additional Shares and attaching Options applied for by each Eligible Shareholder.

In the event of an application for Additional Shares and attaching Options not being accepted, including because of a scale back, the application monies received for an unsuccessful application for Additional Shares and attaching Options (or the applicable portion if the application is partly successful) will be refunded to the applicant, without interest, as soon as practicable.

No Additional Shares and attaching Options will be issued to an applicant if to do so would, to the extent of the knowledge of the Company, result in a breach of the ASX Listing Rules or the restrictions on obtaining or increasing relevant interests of greater than 20% of the Company's issued voting shares under Chapter 6 of the Corporations Act or would otherwise be contrary to the Corporations Act or the ASX Listing Rules.

Where the determination of the entitlement of any Eligible Shareholder results in a fraction of New Shares and attaching Options, such fraction will be rounded down to the nearest whole number of Shares and Options.

### 1.2 Indicative Timetable

Event	Date
Prospectus lodgement date	28 February 2017

Dispatch of notices to Eligible Shareholders informing them of the Offer and details of Appendix 3B	2 March 2017
Shares trade "Ex"	3 March 2017
Record Date (date for determining entitlements of Eligible Shareholders to participate in the Offer) (7pm AEDT)	6 March 2017
Offer opens – Prospectus dispatched to Eligible Shareholders (expected date of dispatch of Prospectus and Entitlement and Acceptance Forms)	9 March 2017
Last day to extend Offer closing date	15 March 2017
Closing Date (5pm AEDT)	20 March 2017
Shares quoted on a deferred settlement basis	21 March 2017
Merlin notifies ASX of under subscriptions	23 March 2017
Issue of New Shares and attaching Options	23 March 2017
Dispatch of Holding Statements & Deferred Settlement ends. Last day for advising ASX of all information required by Appendix 3B	24 March 2017
Trading of New Shares and attaching Options to commence on ASX	24 March 2017

*These dates are indicative only. Subject to the Listing Rules and any applicable law, the Directors reserve the right to vary these dates, including the Closing Date, at their discretion. Should this occur, the extension will have a consequential effect on the above timetable.*

### 1.3 Entitlements and acceptance

The Offer is being made as a non-renounceable entitlement issue of one New Share and attaching  $\frac{1}{2}$  Option for every two Shares held by Eligible Shareholders registered at the Record Date, at an Offer Price of \$0.013 per Share and attaching  $\frac{1}{2}$  Option.

Your entitlement is shown on the Entitlement and Acceptance Form accompanying this Prospectus.

Shareholders who apply for 100% of their entitlement are able to apply for Additional Shares and Options to be issued from any shortfall at the Issue Price, subject the Corporations Act.

Additional Shares and attaching Options will only be issued if the New Shares and attaching Options offered under the Entitlements Offer are not taken up in full. If the Company receives applications for Additional Shares and attaching Options that would result in the Entitlements Offer being oversubscribed, the Company will scale back applications received for Additional Shares and attaching Options on a pro-rata basis having regard to the number of Additional Shares and attaching Options applied for by each Eligible Shareholder.

In the event of an application for Additional Shares and attaching Options not being accepted, including because of a scale back, the application monies received for an unsuccessful application for Additional Shares and attaching Options (or the applicable portion if the application is partly successful) will be refunded to the applicant, without interest, as soon as practicable.

No Additional Shares and attaching Options will be issued to an applicant if to do so would, to the extent of the knowledge of the Company, result in a breach of the ASX Listing Rules or the restrictions on obtaining or increasing relevant interests of greater than 20% of the Company's issued voting shares under Chapter 6 of the Corporations Act or would otherwise be contrary to the Corporations Act or the ASX Listing Rules.

Holding statements in relation to the New Shares and attaching Options will be dispatched to Eligible Shareholders as soon as practicable after allotment. It is the responsibility of Eligible Shareholders to confirm the number of New Shares and attaching Options allotted to them prior to trading on the ASX. Eligible Shareholders who sell their New Shares and attaching Options before they receive their holding statements do so at their own risk.



#### 1.4 Purpose of the Offer and use of Funds

The Offer is expected to raise approximately \$5,535,000 (before expenses).

The purpose of the Offer is to raise funds which the Company intends to apply towards mine operations, mine capital, corporate costs and general working capital and to pay the cash costs of the Offer. In summary:

Use of cash funds	
Merlin diamond mine operations	\$2,600,000
Mine capital	\$1,517,000
Corporate costs and working capital	\$1,000,000
Cash cost of Offer	\$418,000
Total	\$5,535,000

Costs of the Offer include the underwriting fee, ASX quotation cost of the shares, preparation costs of the Prospectus, printing and mailing costs, legal fees and share registry costs. In addition to the cash costs of the Offer, the Company has agreed to issue to the Underwriter as a success fee, 20,000,000 Shares and 10,000,000 Options (refer Section 1.7). Based on a share price of 1.8 cents on 21 February 2017, the shares have a value of \$360,000. The Company has valued the Options using a binomial valuation method with key inputs being a VWAP price for the 90 days to 9 February 2017 of 1.7 cents, an exercise price of 1.3 cents, a volatility rate of 80%, a life of four years and a risk free interest rate of 1.98% which gives rise to a value of .0102 cents per option and a total value of \$110,000 for the options.

The total cost of the offer, including both cash and non-cash costs is \$888,000.

#### 1.5 Rights trading

The rights to New Shares and attaching Options under the Offer are non-renounceable.

#### 1.6 Rights and Liabilities attaching to New Shares

A summary of the rights which relate to Shares is set out below. This summary does not purport to be exhaustive or constitute a definitive statement of the rights and liabilities of the Shareholders.

**Voting:** At a general meeting of the Company on a show of hands, every member present in person, or by proxy, attorney or representative has one vote and upon a poll, every member present in person, or by proxy, attorney or representative has one vote for every Share held by them.

**Dividends:** The Shares offered under this Prospectus, will rank equally with all other issued shares in the capital of the Company and will participate in dividends out of profits earned by the Company from time to time. Subject to the rights of holders of securities having special preferential or qualified rights attaching thereto, the profits of the Company are divisible amongst the holders of Shares in proportion to Shares held by them. The Directors may from time to time pay to the Shareholders such interim dividends as in their judgement the position of the Company justifies.

**Winding Up:** The Shares will be issued fully paid. Upon paying the Application Monies, the Shareholders will have no further liability to make payments to the Company in the event of the Company being wound up pursuant to the provisions of the Corporations Act.

**Transfer of Securities:** Generally, Shares are freely transferable, subject to satisfying the usual requirements of security transfers on the ASX. The Directors may decline to register any transfer Shares but only where permitted to do so under its Constitution or ASX Listing Rules.

For more particular details of the rights attaching to Shares, investors should refer to the Constitution of the Company.

#### 1.7 Rights and Liabilities attaching to Options

Each Option entitles the holder to subscribe for and be issued one Share on the following terms:

1. Each Option is exercisable at any time after the date of issue until and including their expiry date, namely four years from the issue date (**Expiry Date**). Any Options not exercised by the Expiry Date will automatically lapse on the Expiry Date;
1. A Option may be exercised by the Option Holder giving written notice (**Notice of Exercise**) to the Company at its registered office prior to the Expiry Date;
2. The exercise price for each Option (which is payable immediately on exercise) is AUD\$0.013 per Share (**Exercise Price**);
3. On receipt by the Company of the Notice of Exercise and payment of the Exercise Price, the Company must, within two Business Days and if Shares are listed on the Australian Stock Exchange (ASX) within the time period prescribed by the Listing Rules of the ASX (ASX Listing Rules):
  - (a) allot to the Option Holder one Share for each Option exercised by the Option Holder;
  - (b) cause to be dispatched to the Option Holder the relevant acknowledgement of issue, a holding statement or share certificate (as applicable) as soon as is reasonably practicable detailing the issue of the relevant Share/s; and
  - (c) issue (if applicable) a new holding statement (or Option Certificate) for the balance of the Options that remain unexercised;
4. Shares allotted on the exercise of Options will rank equally in all respects with the then existing issued ordinary fully paid shares in the capital of the Company (except in respect to any dividends which shall have been declared but not yet distributed before the actual exercise of an Option) and will be subject to the provisions of the Constitution of the Company;
5. The Options are transferable by an Option Holder on written notice to the Company, and where the Options are quoted, in accordance with the ASX Listing Rules. The transferor of an Option remains the holder of that Option until the name of the transferee is recorded in the Option Register as the holder of that Option;
6. In the event of a pro rata issue of Ordinary Shares by the Company, the Exercise Price for each Option will be adjusted in accordance with Listing Rule 6.22.2 of the ASX Listing Rules (which adjustment formula will apply even where the Company is not admitted to the ASX Official List);
7. If any reorganisation (including consolidation, subdivision, reduction, return or cancellation) of the issued capital of the Company occurs before the expiry of any Options, the number of Options to which each Option Holder is entitled or the Exercise Price of his or her Options or both must be reorganised in accordance with the ASX Listing Rules applying to a reorganisation at the time of the reorganisation (which adjustment formula will apply even where the Company is not admitted to the ASX Official List);
8. An Option does not confer the right to participate in new issues of capital offered to holders of Ordinary Shares (Rights Entitlement) during the currency of the Options without exercising the Options. However, the Company will ensure that for the purpose of determining Rights Entitlements to any such issue, the Option Holder is to receive written notice from the Company of the pending closing or Record Date and sufficient time for the Option Holder to exercise the Options prior to that closing or Record Date in order to qualify for the participation in the Rights Entitlement;
9. If the Ordinary Shares are listed for quotation on the ASX, the Company will apply to the ASX for, and will use its best endeavours to obtain, quotation or listing of all Ordinary Shares allotted on the exercise of any Options within 10 Business Days (as defined in the Listing Rules of the ASX) of allotment;
10. In the event of the liquidation of the Company, all unexercised Options will lapse upon the occurrence of that liquidation.

## 1.8 Underwriting

The Company has entered into an underwriting agreement (**Underwriting Agreement**) with Triple C Consulting Pty Ltd (**Underwriter**) pursuant to which the Offer has, subject to certain terms and conditions, been fully underwritten. The Underwriter will charge a management fee of 1% (which equates to \$55,367 on the estimated raising), an equity raising fee of 5% (which equates to \$276,833 on the estimated raising) of funds raised under the Offer and a success fee of 20,000,000 Shares and 10,000,000 Options. Based on a share price of 1.8 cents on 21 February 2017, the shares have a value of \$360,000. The Company has valued the Options using a binomial valuation method with

key inputs being a VWAP price for the 90 days to 9 February 2017 of 1.7 cents, an exercise price of 1.3 cents, a volatility rate of 80%, a life of four years and a risk free Interest rate of 1.98% which gives rise to a value of .0102 cents per option and a total value of \$110,000 for the options.

The Underwriter has the right to terminate the Underwriting Agreement on the occurrence of certain events (**Termination Events**). These Termination Events include the following specific events:

- a) **(ASIC Stop Order)**: The ASIC gives notice of intention to hold a hearing in relation to the Prospectus or indicates an intention to issue an order or makes an order under the Corporations Act;
- b) **(Prospectus defect)**: There is an omission from, or a statement which is, or has become, false or misleading in the Prospectus and such omission or statement is, or is likely to be materially adverse from the point of view of an investor;
- c) **(Replacement Prospectus and Repayments)**: The Company chooses to or comes under an obligation, including in accordance with the Corporations Act 2001, to issue a supplementary or replacement Prospectus or to repay any moneys received by the Company from any applicant, where the Underwriter is of the opinion that the extension has, or could reasonably be expected to have, a material adverse effect on the willingness of persons to apply for Securities at the Issue Price;
- d) **(ASIC Hearing and Investigation)**: The ASIC gives notice of intention to hold a hearing examination, inspection, investigation, or it requires information to be disclosed, in connection with the Company, the Prospectus or the Issue;
- e) **(New circumstance)**: If a new circumstance has arisen since the Prospectus was lodged with ASX and would have been required under Chapter 6D of the Corporations Act to be included in the Prospectus if it had arisen before the Prospectus was lodged and is, or is likely to be, materially adverse from the point of view of an investor.
- f) **(Fails to comply)**: The Company or any of its Related Bodies Corporate fail to comply with:
  - i. clause of its Constitution;
  - ii. any policy or guideline of the ASIC or any other requirement, order or request made by or on behalf of the ASIC or any governmental agency;
  - iii. the Listing Rules;
  - iv. where such failure will have a material adverse effect on the Issue.
- g) **(No quotation)**: The Exchange does not, or states that it will not, permit official quotation of the Securities comprised in the Issue.
- h) **(Timetable)**: Any event specified in the Timetable is delayed for more than five Business Days.
- i) **(All Industrials Index)**: The All Industrials Index of the Exchange falls for five consecutive trading days to a level which is more than 10% below the All Industrials Index as at close of business of the Exchange on the Business Day immediately before the date of the Underwriting Agreement.
- j) **(Sector Index)**: The ASX Technology Index of the Exchange falls for five consecutive trading days to a level which is more than 10% below the ASX Technology Index as at close of business of the Exchange on the Business Day immediately before the date of the Underwriting Agreement.
- k) **(Certificate)**: Any No Default Certificate is not delivered to the Underwriter in accordance with clause 5.5(i).
- l) **(Breach)**: The Company materially defaults under any provision of the Underwriting Agreement including any representation warranty or undertaking.
- m) **(Consent withdrawal)**: If any person, other than the Underwriter, who has previously consented to being named in the Prospectus, withdraws that consent whether publicly or not and is, or is likely to be, materially adverse from the point of view of an investor.

- n) **(Charge):** The Company or any of its Related Bodies Corporate, charges or agrees to charge (or grant any other form of security) over the whole or a substantial part of its business or property to any third party.
- o) **(Contracts):** If a material contract is, without the prior written consent of the Underwriter:
- 1) breached by the Company or any of its Related Bodies Corporate;
  - 2) terminated (whether by breach or otherwise);
  - 3) altered or amended in any way; or
  - 4) found to be void or voidable.
- p) **(General):** Subject to the materiality clause in the Underwriting Agreement, any of the following occurs:
- 1) After the date of the Underwriting Agreement there is any:
    - A. material adverse change; or
    - B. any act, omission or thing which could reasonably be expected to result in a material adverse change  
in the financial position (including profitability) of the Company.
  - 2)
    - A. **(Legislation):** There is introduced into the parliament of the Commonwealth of Australia or of an Australian State or Territory a law intended to come into effect within 12 months;
    - B. the Reserve Bank of Australia adopts a policy; or
    - C. there is any official announcement on behalf of the Government of the Commonwealth of Australia or of the Government of an Australian State or Territory, the Reserve Bank of Australia or any Commonwealth financial authority that a law will be introduced or policy adopted (as the case may be) with effect from the date of the announcement or within three months afterwards,  
  
which has altered adversely or could reasonably be expected to alter adversely:
    - D. any condition or circumstance relating to the rights attaching to Securities, the Issue or the Prospectus existing at the time of execution of this Agreement; or
    - E. the income tax position of the Company including, without limitation, the distributable income of the Company or the tax position of shareholders in the Company.
  - (3) **(ASIC Prosecution):** The ASIC gives notice of an intention to prosecute the Company or any director or general manager of the Company.
  - (4) **(Court Order):** An order is made in connection with the Prospectus or the Issue including under Sections 1324 and 1325 of the Corporations Act.
  - (5) **(Criminal Offence Act):** Any director or general manager of the Company is prosecuted for an indictable criminal offence related to dishonest conduct.
  - (6) **(Prejudicial Publication):** The Company or any Related Body Corporate of the Company without the written prior approval of the Underwriter makes any statement or publishes or issues by any means any notice, circular or advertisements relating to the Company or any Related Body Corporate of the Company or its activities or the Issue which is prejudicial in any manner whatever to the prospects of the Issue being fully subscribed by persons other than the Underwriter.
  - (7) **(Withdrawal):** The Prospectus is withdrawn by the Company at any time prior to all the Shares having been allotted.

- (8) **(Capital Structure):** The Company or a Related Body Corporate of the Company; alters its capital structure without the prior written consent of the Underwriter (except for an alteration referred to in the Prospectus) or issues or agrees to issue any shares, Options or equity securities (as that term is defined in the Listing Rules) since the date of the Underwriting Agreement other than as set out in the Underwriting Agreement and other than for the issue of directors options approved by the shareholders of the Company for the purposes of director remuneration and the issue of any Shares by the Company under the operation of the Convertible Loan or other security or instrument convertible into Shares on issue as at the date of the Underwriting agreement .
- (9) **(Directors):** There are any changes to the Board of Directors of the Company after the date of the Underwriting Agreement, except in the event of death or a trauma event, without the prior written consent of the Underwriter (not to be unreasonably withheld).
- (10) **(Due Diligence):** The Due Diligence Investigations reveal information that is not satisfactory to the Underwriter acting reasonably.
- (11) **(Acquisition):** The Company or any of its Related Bodies Corporate acquires any major asset or enters into any major expenditure outside of the normal course of business.
- (12) **(Insolvency):** The Company or any of its Related Bodies Corporate:
- (A) suspends payment of its debts generally; or
  - (B) suffers an Insolvency Event.
- (13) **(Business):** The Company or any of its Related Bodies Corporate:
- (A) disposes or agree to dispose of the whole or a substantial part of its business or property;
  - (B) ceases or threatens to cease to carry on business; or
  - (C) changes or agrees to change the whole or a substantial part of its business or property,
- without the prior written consent of the Underwriter.
- (14) **(Prospectus delivery):** The Company does not deliver five Prospectuses (in total) to the Underwriter by the Opening Date.

## 1.9 Effects of Offer on Share Capital

Share Capital	Number
Ordinary shares on issue at the date of this Prospectus	851,794,736
Shares pursuant to the Offer	425,897,368
Success fee shares to Underwriter	<u>20,000,000</u>
Shares on issue after the Offer	<u>1,285,256,200</u>

The following table provides information on the effect on the ordinary shares of the Company if options, notes and convertible notes are exercised/converted.

If all options on issue after the issue contemplated by this Prospectus are exercised into shares	<u>1,505,095,908</u>
If all unlisted convertible notes on issue after the issue contemplated by this Prospectus are exercised into shares	<u>1,497,245,892</u>
If all unlisted notes on issue after the issue contemplated by this Prospectus are exercised into shares	<u>1,435,469,507</u>
If all unlisted options on issue after the issue contemplated	<u>1,659,003,686</u>

by this Prospectus are exercised into shares

#### **1.10 Opening and Closing Dates**

The Offer opens on the Opening Date, namely 9 March 2017, and the Closing Date for acceptance of entitlements is 20 March 2017. The Company will accept Entitlement and Acceptance Forms until 5pm AEDT on the Closing Date or such other date as the Directors in their absolute discretion shall determine, subject to applicable laws.

#### **1.11 Issue and Dispatch**

The expected dates for issue of New Shares and attaching Options offered by this Prospectus and dispatch of holding statements are expected to occur on the dates specified in the Timetable set out in Section 1.2.

It is the responsibility of Applicants to determine their allocation prior to trading in the New Shares and attaching Options. Applicants who sell New Shares and attaching Options before they receive their holding statements will do so at their own risk.

#### **1.12 ASX listing**

Application will be made to the ASX for the official quotation of the New Shares and attaching Options within seven days of the date of this Prospectus. If the ASX does not grant quotation to the New Shares and attaching Options within three months after the date of the prospectus (or any longer period permitted by law), the Offer will be withdrawn and the Company will repay, as soon as practicable, without interest, all application monies received pursuant to the Offer.

#### **1.13 CHESS**

The Company participates in the Clearing House Electronic Subregister System, known as CHESS. ASX Settlement and Transfer Corporation Pty Ltd ACN 008 504 532 (ASTC), a wholly-owned subsidiary of the ASX, operates CHESS in accordance with the Listing Rules and Securities Clearing House Business Rules.

Under CHESS, Applicants will not receive a certificate but will receive a statement of their holding of New Shares and attaching Options.

If you are registered in the Issuer Sponsored subregister, your statement will be dispatched by Link Market Services and will contain the number of New Shares and attaching Options issued to you under this Prospectus and your security holder reference number.

A CHESS statement or Issuer Sponsored statement will routinely be sent to Shareholders at the end of any calendar month during which the balance of their holding changes. Shareholders may request a statement at any other time, however there may be a charge associated with the provision of this service.

#### **1.14 Overseas Shareholders**

No Offer will be made to Shareholders outside Australia and New Zealand. The Company has determined that making the Offer to Shareholders with a registered address outside Australia or New Zealand is not reasonable in the circumstances, taking into account the small number of Shareholders resident outside Australia and New Zealand and the number and value of New Shares and attaching Options that would have been offered to those Shareholders.

**This Prospectus and accompanying Entitlement and Acceptance Form do not, nor are they intended to, constitute an offer in any place in which, or to any person to whom, it would not be lawful to make such an offer.**

#### **1.15 Taxation implications**

The Directors do not consider it appropriate to give Shareholders advice regarding the taxation consequences of subscribing for New Shares and attaching Options under this Prospectus. The Company, its agents, advisers and officers do not accept any responsibility or liability for any such taxation consequences to Shareholders.

Shareholders should consult a professional tax adviser in connection with subscribing for New Shares and attaching Options under this Prospectus.

#### **1.16 Risk factors**

An investment in New Shares and attaching Options should be regarded as speculative. In addition to the general

risks applicable to all investments in listed securities, there are specific risks associated with an investment in the Company. Some of the general applicable risks are described in Section 3.

### 1.17 Financial Information

The Company informs investors and their professional advisers that they are able to obtain, free of charge, a copy of the 2016 Financial Report by contacting the Company at its registered office during normal business hours during the Offer Period or by visiting the Company's website at: [www.merlindiamonds.com.au](http://www.merlindiamonds.com.au).

Set out below are the Company's statement of financial position as at 31 December 2016 and its proforma statement of financial position at 31 December 2016, incorporating transactions as set out below. This information has not been reviewed or audited.

The proforma statement of financial position shows the financial position on the assumption that \$5,535,000 will be raised under the Offer. The accounting policies adopted in preparation of the proforma statement of financial position are consistent with the policies adopted for the year ended 30 June 2016 and the Company does not expect to change the accounting policies for the half year ended 31 December 2016. The proforma statement of financial position as at 31 December 2016 reflects the completion of the issue of Shares under the Offer (approximately 425,897,368 Shares at \$0.013 for \$5,535,000 and includes estimated cash expenses of the Entitlements Offer of \$418,000 the issue of 20,000,000 shares and 10,000,000 Options to the Underwriter which have an estimated value of \$470,000) as though it had taken place on 31 December 2016, the date of the last balance sheet. The Statement of Financial Position at 31 December 2016 and the proforma Statement of Financial Position has not been subject to an audit or review.

	31 December 2016 \$	Adjustments	31 December 2016 Proforma \$
<b>Assets</b>			
<i>Current Assets</i>			
Cash and cash equivalents	206,870	5,117,000	5,323,870
Trade and other receivables	620,748	-	620,748
Inventories	431,217	-	431,217
<b>Total current assets</b>	<b>1,258,835</b>	<b>5,117,000</b>	<b>6,375,835</b>
<i>Non-Current Assets</i>			
Other receivables	789,771	-	789,771
Plant and equipment	1,476,634	-	1,476,634
Development expenditure	4,049,918	-	4,049,918
<b>Total non-current assets</b>	<b>6,316,323</b>	<b>-</b>	<b>6,316,323</b>
<b>Total Assets</b>	<b>7,575,158</b>	<b>5,117,000</b>	<b>12,668,158</b>
<b>Liabilities</b>			
<i>Current Liabilities</i>			
Trade and other payables	4,605,145	-	4,605,145

Derivative liability - convertible note	2,706,964	-	2,706,964
Provisions	58,604	-	58,604
<b>Total current liabilities</b>	<b>7,370,713</b>	<b>-</b>	<b>7,370,713</b>
<i>Non-Current Liabilities</i>			
Convertible notes at fair value through profit or loss	1,172,695	-	1,172,695
Notes	1,342,672	-	1,342,672
Loans and borrowings	-	-	
Provisions	1,609,164	-	1,609,164
<b>Total non-current liabilities</b>	<b>4,124,531</b>	<b>-</b>	<b>4,124,531</b>
<b>Total Liabilities</b>	<b>11,495,244</b>	<b>-</b>	<b>11,495,244</b>
<b>Net Assets</b>	<b>(3,920,086)</b>	<b>5,117,000</b>	<b>1,196,914</b>
<b>Equity</b>			
Contributed equity <sup>1</sup>	149,428,031	5,159,000	154,587,031
Reserves	622,160		622,160
Accumulated losses	(153,970,277)	(42,000)	(154,012,277)
<b>Total equity</b>	<b>(3,920,086)</b>	<b>5,117,000</b>	<b>1,196,914</b>

<sup>1</sup> The success fee payable to the Underwriter being the issue of 20,000,000 shares and 10,000,000 Options to the Underwriter which have an estimated value of \$470,000 and the value of the issue of the shares and options are treated as an increase to Contributed Equity and are also treated as a cost of the raising which is treated as a decrease to Contributed Equity. The net effect to Contributed equity is \$nil and accordingly there is no amount shown against the line item "Contributed equity" in the proforma Statement of Financial Performance.

#### 1.19 Continuous Disclosure and Documents Available for Disclosure

The Company is listed on ASX and its Shares are quoted on ASX. The Company is a "disclosing entity" for the purposes of the Corporations Act. As such, it is subject to regular reporting and disclosure obligations, which require it to disclose to ASX any information of which it is or becomes aware of concerning the Company and which a reasonable person would expect to have a material effect on the price or value of securities of the Company (unless an exception applies). Copies of documents lodged with ASIC in relation to the Company may be obtained from, or inspected at, an office of ASIC.

The Company will provide a copy of each of the following documents, free of charge, to any person who asks for it, during the application period for this Prospectus:

- (a) the annual financial report for the financial year of the Company ended 30 June 2016 (being the last annual financial report lodged with ASIC in relation to the Company before the issue of this Prospectus); and
- (b) all continuous disclosure notices given by the Company after the lodgement of the annual financial report referred to in paragraph (a) above and before the lodgement of this Prospectus with ASIC being:

Date	Detail
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10/02/2017	Appendix 3B
09/02/2017	Appendix 3B
09/02/2017	Appendix 3B
03/02/2017	Rights issue update
31/01/2017	Quarterly Activities and Cashflow Report
30/01/2017	Response to price query
24/01/2017	Appendix 3B
05/01/2017	Non-renounceable issue
05/01/2017	Merlin diamond mine update
23/12/2016	Listing rule 3.10.5A Information
22/12/2016	Response to ASX Awareness Letter
21/12/2016	Appendix 3B
21/12/2016	Everblu Research Report
19/12/2016	Takeovers Panel
15/12/2016	Appendix 3B
15/12/2016	Blue diamond recovered at merlin diamond mine
14/12/2016	Placement
13/12/2016	MED Orders
31/11/2016	TOV:MED Declaration of Unacceptable Circumstances
30/11/2016	Results of Meeting
30/11/2016	Merlin diamond mine update
22/11/2016	Appendix 3B
18/11/2016	Appendix 3B
17/11/2016	Appendix 3B
16/11/2016	Progress Report
10/11/2016	Ceasing to be a substantial shareholder
09/11/2016	Appendix 3B
08/11/2016	TOV:MED Panel makes Interim Orders
03/11/2016	Appendix 3B
01/11/2016	TOV:Panel Receives Application
28/10/2016	Quarterly Activities and Cashflow Report
28/10/2016	Notice of Annual General Meeting/Proxy Form
14/10/2016	Progress report for the Merlin diamond mine
06/10/2016	Recommencement of operations at Merlin diamond mine

## 1.20 Interests of Directors

At the date of this Prospectus, no Director has a relevant interest in the Shares of the Company other than Mr M Z Gutnick who has a relevant interest in 3,153,846 shares and 1,500,000 options, Mr H Herzog who has a relevant interest in 500,000 options and Dr DS Tyrwhitt who has an interest in 500,000 options.

The Directors' remuneration paid for the financial year ended 30 June 2016 is contained in the Company's annual report released to the ASX on 30 September 2016.

## 1.21 Potential acquisition of Shares and Options by the Underwriter

Under the Underwriting Agreement the Underwriter is obliged to subscribe for Shares and Options not taken up by Eligible Shareholders or applied for under the Shortfall Offer. Although unlikely, it is possible that the Underwriter could acquire a material shareholding in the Company as a result of fulfilling its obligations under the Underwriting Agreement. By way of example, possible scenarios are:

Scenario	Underwriter's holding of Shares	% of shares on issue	Underwriters holding of Options	% of shares on issue if all options exercised and all convertible notes and notes converted
No Eligible	425,897,368	33.33%	212,948,684	19.13%

Shareholder applies for any Shares				
Eligible Shareholders apply for 50% of the available Shares (no applications are made under the Shortfall Offer)	212,948,684	16.67%	106,474,342	9.56%
Eligible Shareholders apply for 75% of the available Shares (no applications are made under the Shortfall Offer)	106,474,342	8.33%	53,237,171	4.78%

If there is still a shortfall after all applications made under the Shortfall Offer are allocated, the Directors reserve the right to place the further shortfall to any persons, including but not limited to any existing Shareholder or client of the Underwriter. The Underwriting Agreement gives the Underwriter the right to nominate the subscribers for shortfall and the Underwriter and the Company proposes to place any further shortfall to the persons nominated by the Underwriter.

The Company is not aware of the identity of any person who may take up an allocation under the shortfall allocation described above. The Company is not aware at this time if any person who may take up such an allocation is or may become a substantial Shareholder or one of the Company's top 20 Shareholders.

No Shares will be allocated by the Directors under the shortfall allocation described above or the Shortfall Offer, and no Shares will be issued to the Underwriter, if issuing shares in such circumstances would breach section 606 of the Corporations Act. The Company will not in issuing shares in those circumstances rely on any exemption under section 611 of the Corporations Act to the prohibition in section 606 of the Corporations Act.

## 1.22 Potential dilution of Shareholders – impact of “in the money” options

Shareholders who do not participate in a pro rata entitlements offer are always at risk of dilution. The risk of dilution is increased in this case because the New Options to be issued under the Entitlements Offer are currently in the money (i.e. the current market price is greater than the exercise price of the options) and accordingly parties acquiring options may immediately exercise their options which will have a further dilutive effect on Shareholders who either do not participate in the Entitlements Offer, or only partially participate. Furthermore, the Company also has unlisted options on issue that are also in the money and the exercise of those options may also have a dilutive impact on shareholders. The fact that the New Options are in the money means that the potential for dilution of Shareholders who either do not participate in the Entitlements Offer, or only partially participate, is increased.

The following table provides information on the dilution of a shareholders holding in the Company's shares under the various scenarios listed. The second column ignores the increased risk of dilution from in the money options as explained above and the third column assumes all new Options issued under the Offer are immediately exercised on completion:

Scenario	Anticipated dilution (assuming no options are exercised)	Anticipated dilution (assuming all new Options are exercised)
Shareholder does not take up any of their entitlement	33.00%	67.01%
Shareholder takes up 25% of their entitlement	25.00%	42.86%
Shareholder takes up 50% of their entitlement	16.67%	25.71%

Shareholder takes up 75% of their entitlement	8.33%	11.69%
Shareholder takes up all of their entitlement	0.00%	0.00%

### 1.23 Privacy Disclosure

By filling out an Entitlement and Acceptance Form to apply for New Shares and attaching Options, you are providing personal information to the Company through the Registry, which is contracted by the Company to manage Applications. The Company, and the Registry on its behalf, may collect, hold and use that personal information in order to process your Application, service your needs as a Shareholder, provide facilities and services that you request and carry out appropriate administration.

Your personal information may also be used from time to time to inform you about other products and services offered by the Company, which it considers may be of interest to you.

Your personal information may also be provided to the Company's members, agents and service providers on the basis that they deal with such information appropriately. The types of agents and service providers that may be provided with your personal information and the circumstances in which your personal information may be shared are:

- the Registry for ongoing administration of the Shareholder register;
- printers and other companies for the purpose of preparation and distribution of statements and for handling mail;
- market research companies for the purpose of analysing the Shareholder base and for product development and planning; and
- legal and accounting firms, auditors, contractors, consultants and other advisers for the purpose of administering, and advising on, the Shares and for associated actions.

The Corporations Act requires the Company to include information about the Shareholder (including name, address and details of the Shares held) in its public register of members. If you do not provide all the information requested, your Entitlement and Acceptance Form may not be able to be processed.

The information contained in the Company's register of members must remain there even if that person ceases to be a Shareholder. Information contained in the register of members is also used to facilitate corporate communications (including the Company's financial results, annual reports and other information that the Company may wish to communicate to its Shareholders) and compliance by the Company with legal and regulatory requirements.

You may request access to your personal information held by or on behalf of the Company. A fee may be charged for access. You can request access to your personal information by writing or telephoning the Registry.

### 1.24 Enquiries concerning Prospectus

Enquiries concerning the Entitlement and Acceptance Form can be obtained by contacting Link Market Services by telephone on 1300 857 499. Enquiries relating to this Prospectus should be directed to the Company Secretary by telephone on (03) 8532 2858.

### 1.25 Withdrawal of the Offer

The Company reserves the right not to proceed with the Offer and may withdraw the Offer at any time before settlement of the Offer. If the Offer does not proceed, Application Monies will be refunded. No interest will be paid on any Application Monies refunded.

## **Section 2 ACTION REQUIRED BY SHAREHOLDERS**

### **2.1 The Offer**

The Offer is being made as a non-renounceable entitlement issue of one (1) New Share with attaching  $\frac{1}{2}$  Option for every two (2) Shares held by Shareholders registered at the Record Date at an issue price of \$0.013 per Share. Fractional entitlements will be rounded down to the nearest whole number.

Based on the capital structure of the Company as at the date of this Prospectus and assuming all Entitlements are accepted, a maximum of 425,897,368 New Shares and 212,948,684 Options will be issued pursuant to this Offer to raise \$5,535,000 before costs of the issue.

All of the New Shares offered under this Prospectus will rank equally with the Shares on issue at the date of this Prospectus. Please refer to Section 1.6 for further information regarding the rights and liabilities attaching to the Shares.

The purpose of the Offer and the intended use of funds raised are set out in section 1.4 of this Prospectus.

Shareholders who are entered on the Register at 7pm on the Record Date (6 March 2017) and who have a registered address in Australia or New Zealand are eligible to participate in the Offer.

The Offer is not being extended to any Shareholder with a registered address outside Australia or New Zealand. The Company has determined that making the Offer to Shareholders with a registered address outside Australia or New Zealand is not reasonable in the circumstances, taking into account the small number of Shareholders resident outside Australia and New Zealand and the number and value of New Shares and attaching Options that would have been offered to those Shareholders.

### **2.2 What Eligible Shareholders may do?**

The number of New Shares and attaching Options to which Eligible Shareholders are entitled is shown on the accompanying personalised Entitlement and Acceptance Form. Eligible Shareholders may:

- (a) take up all of their Entitlement (refer to section 2.3);
- (b) take up all of their Entitlement and apply for Additional Shares under the Shortfall Offer (refer to Section 2.10);
- (c) take up a proportion of their Entitlement and allow the balance to lapse (refer to section 2.4); or
- (g) allow all or part of their Entitlement to lapse (refer to section 2.5).

### **2.3 Acceptance of your maximum entitlement under this Prospectus**

To take up all of your entitlement to New Shares and attaching Options, you will need to ensure your Application and Application Money for the Entitlements you wish to take up is received by the Registry by no later than 5:00pm (AEDT) on 20 March 2017.

### **2.4 Acceptance of part of your maximum entitlement under this Prospectus and allow the balance to lapse**

You may wish to subscribe for only part of your entitlement to New Shares and attaching Options in which case you will need to ensure your Application and Application Money for the Entitlements you wish to take up is received by 5:00pm (AEDT) on 20 March 2017.

If you wish to allow the balance of your entitlement to New Shares and attaching Options to lapse, you do not need to do anything further.

### **2.5 Allow all of your entitlement to lapse**

If you do not wish to accept any part of your entitlement, do not take any further action and your entitlement will lapse. By not taking any action and not taking up your entitlement your shareholding in the Company will be diluted.

### **2.6 Implications of an acceptance**

Returning a completed Entitlement and Acceptance Form or paying any Application Monies by BPAY® will be taken to constitute a representation by you that:

- (a) you have received a copy of this Prospectus and the accompanying Entitlement and Acceptance Form, and read them both in their entirety;
- (b) you acknowledge that once the Entitlement and Acceptance Form is returned, or a BPAY® payment instruction is given in relation to any Application Monies, the application may not be varied or withdrawn except as required by law and will form a binding offer to acquire New Shares and attaching Options on the terms and conditions set out in this Prospectus.

Applicants for New Shares and attaching Options agree to be bound by the Constitution.

If the Entitlement and Acceptance Form is not completed correctly it may still be treated as a valid Application for New Shares and attaching Options. The Directors' decision whether to treat an acceptance as valid and how to construe, amend or complete the Entitlement and Acceptance Form is final.

By completing and returning your personalised Entitlement and Acceptance Form with the requisite Application Monies or making a payment by BPAY®, you will also be deemed to have acknowledged, represented and warranted on behalf of each person on whose account you are acting that you are an Eligible Shareholder.

## **2.7 Payment methods**

### **2.7(a) Payment by cheque**

Please complete the Entitlement and Acceptance Form for all or the part of your Entitlement you wish to subscribe for, according to the instructions on the form by filling in the details in the spaces provided. Attach a cheque for the application monies indicated on the Entitlement and Acceptance Form.

Completed Entitlement and Acceptance Forms must be accompanied by a cheque drawn on an Australian bank or bank draft made payable in Australian currency, crossed "Not Negotiable" and made payable to "Merlin Diamonds Limited Entitlements Offer" and received at any time after the Opening Date and on or before the Closing Date at the Company's share registry (by delivery or by post) at:

**By delivery:** Merlin Diamonds Limited  
C/- Link Market Services  
1A Homebush Bay Drive  
Rhodes NSW 2138

**By Post:** Merlin Diamonds Limited  
C/-Link Market Services  
Locked Bag A14  
Sydney South NSW 1235

Your completed Entitlement and Acceptance Form and payment must be received by the Registry no later than 5:00pm (AEDT) on the Closing Date.

Cash payments will not be accepted and receipts for payments will not be provided.

### **2.7(b) Payment by BPAY®**

For payment by BPAY®, please follow the instructions on the Entitlement and Acceptance Form. You can only make a payment via BPAY® if you are the holder of an account with an Australian financial institution that supports BPAY® transactions. Please note that should you choose to pay by BPAY®:

- a) you do not need to submit the Entitlement and Acceptance Form but are taken to have made the declarations on that Entitlement and Acceptance Form; and

- b) if you do not pay for your Entitlement in full, you are deemed to have taken up your Entitlement in respect of such whole number of Shares which is covered in full by your application monies.

Make sure that you use the specific Biller Code and unique Customer Reference Number (CRN) on your personalized Entitlement and Acceptance Form.

If you have more than one shareholding of Shares and consequently receive more than one Entitlement and Acceptance Form, when taking up your Entitlement in respect of one of those Shareholdings only use the CRN specific to that Shareholding as set out in the applicable Entitlement and Acceptance Form. Do not use the same CRN for more than one of your Shareholdings. This can result in your Application Monies being applied to your Entitlement in respect of only one of your Shareholdings (with the result that any application in respect of your remaining Shareholdings will not be valid).

It is your responsibility to ensure that your BPAY® payment is received by the share registry by no later than 5:00pm (AEDT) on the Closing Date. You should be aware that your financial institution may implement either cut-off times with regards to electronic payment and you should therefore take this into consideration when making payment.

Any application monies received for more than your final allocation of Shares (only here the amount is \$1.00 or greater) will be refunded. No interest will be paid on any application monies received or refunded.

## **2.8 Shortfall Offer**

Shareholders who subscribe for their full Entitlement may apply for Additional Shares and attaching Options in excess of their Entitlement, at the Offer Price. Shareholders wishing to do so must complete a Shortfall Application Form, which must be received together with payment in accordance with section 2.9 by the Registry no later than 5.00pm (AEDT) on the Closing Date.

The offer of the Shortfall is a separate offer pursuant to this Prospectus. Shares not taken up by Eligible Shareholders will form part of the Shortfall Offer. The issue price of any Additional Shares and attaching Options offered pursuant to the Shortfall Offer will be \$0.013 each, which is the issue price at which the Offer has been made to Eligible Shareholders. Shareholders who apply for 100% of their entitlement are able to apply for Additional Shares with attaching Options to be issued from any shortfall at the Issue Price subject to their holding not exceeding 20% of the number of shares on issue after the completion of the Offer.

Any shortfall under the Offer will first be satisfied by allocations made by the Board to Shareholders who subscribe for Additional Shares and attaching Options in excess of their Entitlement, and then under the underwriting arrangements.

The allocation of Additional Shares and attaching Options will be subject to availability and any scale back will be applied by the Company at its discretion.

Additional Shares and attaching Options will only be issued if the New Shares and attaching Options under the Entitlements Offer are not taken up in full. If the Company receives applications for Additional Shares and attaching Options that would result in the Entitlements Offer being oversubscribed, the Company will scale back applications received for Additional Shares and attaching Options on a pro-rata basis having regard to the number of Additional Shares and attaching Options applied for by each Eligible Shareholder.

In the event of an application for Additional Shares and attaching Options not being accepted, including because of a scale back, the application monies received for an unsuccessful application for Additional Shares and attaching Options (or the applicable portion if the application is partly successful) will be refunded to the applicant, without interest, as soon as practicable.

No Additional Shares and attaching Options will be issued to an applicant if to do so would, to the extent of the knowledge of the Company, result in a breach of the ASX Listing Rules or the restrictions on obtaining or increasing relevant interests of greater than 20% of the Company's issued voting shares under Chapter 6 of the Corporations Act or would otherwise be contrary to the Corporations Act or the ASX Listing Rules.

If a Shareholder subscribes for Additional Shares and attaching Options in excess of their Entitlement and the application is not allocated in full, the excess Application Money received will be refunded, without interest.

## **2.9 Brokerage and stamp duty**

No brokerage or stamp duty is payable to accept your entitlement.

**The New Shares and attaching Options offered under this Prospectus are considered speculative.**

The Directors strongly recommend Eligible Shareholders examine the contents of this Prospectus and consult their professional advisers before deciding whether to apply for the New Shares and attaching Options pursuant to this Offer. In addition, Eligible Shareholders should be aware that there are risks associated with an investment in the Company. There are certain risks which relate directly to the Company's business and are largely beyond the control of the Company and its Directors because of the nature of the business of the Company. The Company gives no assurances or guarantees of future performance or profitability, or payment of dividends.

Additionally, the Company gives no assurances or guarantees that the risks set out in this document will not change. There may be other material risks which are not disclosed in this document because they are not known by the Company or were not considered to be material at the date of this Prospectus.

This section does not take into account the investment objectives, financial circumstances or particular needs of shareholders. It is important that shareholders carefully read this Prospectus in its entirety (particularly the risks set out in this Section, consider their personal circumstances (including financial and taxation issues) and seek independent professional advice before deciding whether to subscribe for shares.

The following summary, which is by no means exhaustive, represents some of the risk factors that are applicable to the Company:

- **Mining Company**

The Company is a mining company. Investment in a mining company is high risk. The success of the Company is dependent upon the successful exploitation of our mining activities. The Company can give no guarantees the mining operations will be successful.

- **Operating Risks**

The current and future operations of the Company, including exploration, project appraisal and possible production activities may be affected by various factors which can limit or prevent such activities. Such factors may include failure to locate or identify mineral deposits, failure to achieve predicted grades in exploration and mining, operational and technical difficulties encountered in surveying, drilling, other exploration activities and/or production activities, difficulties in commissioning and operating plant and equipment, electrical or mechanical failure or plant break, unanticipated metallurgical problems which may affect extraction costs, adverse weather conditions, industrial and environmental accidents, industrial disputes and unexpected shortages or increases in the costs of skilled labour, consumables, spare parts, plant and equipment.

- **Resource Estimates**

Resource estimates are expressions of judgement based on knowledge, experience and industry practice. Estimates which were valid when originally calculated may alter significantly when new information or techniques become available. In addition, by their very nature, resource estimates are imprecise and depend to some extent on interpretations which may prove to be inaccurate. As further information becomes available through additional fieldwork and analysis the estimates are likely to change. This may result in alterations to development and mining plans which may, in turn, adversely affect the Company's operations and the value of the Share.

- **Commercial Risk**

The mining industry is competitive and there is no assurance that, even if commercial quantities of minerals are discovered by the Company on its current projects or future projects it may acquire an interest in, a profitable market will exist for sales of such minerals. There can be no assurance that the quality of any such minerals will be such that they can be mined economically.

- **Commodity Price Volatility and Exchange Rate Risks**



If the Company achieves success leading to mineral production, the revenue it will derive through the sale of Diamonds or any other minerals it may discover exposes the potential income of the Company to commodity price and exchange rate risks. Commodity prices fluctuate and are affected by many factors beyond the control of the Company. Such factors include supply and demand fluctuations, technological advancements, forward selling activities and other macro-economic factors such as inflation expectations, interest rates and general global economic conditions.

Furthermore, international prices of various commodities are denominated in United States dollars whereas the income and expenditure of the Company are and will be taken into account in Australian currency. This exposes the Company to the fluctuations and volatility of the rate of exchange between the United States dollar and the Australian dollar as determined in international markets.

If the price of commodities declines this could have an adverse effect on the Company's exploration, development and possible production activities, and its ability to fund these activities, which may no longer be profitable.

- **Insurance Risks**

Mining involves hazards and risks that could result in the Company incurring losses or liabilities that could arise from its operations. If the Company incurs losses or liabilities which are not covered by its insurance policies, the funds available for exploration and development will be reduced and the value and/or title to the Company's assets may be at risk.

- **Tenement assets**

The Company has a very large land position covered by mining and exploration licences. The continued success of the Company is tied to maintaining those tenements through continued committed mining, exploration spending and land administration. This requires available funds and sound systems and processes to operate as planned.

- **Future Capital requirements**

The available funds of the Company may not be sufficient to cover expenditure that may be required to execute the projects or planned operations of the Company or to expand its operations or projects or for other capital expenditure, further exploration or feasibility studies or otherwise in the Company's operations. The Company may need to raise additional equity or debt funds in the future to finance these activities and requirements. There is no assurance that the Company will be able to obtain additional financing when required in the future, or that the terms and time frames associated with such funding will be acceptable to the Company, particularly having regard to the current uncertain economic environment and the effect that metal prices may have on future production and earnings performance. This may have an adverse effect on the Company's ability to achieve its strategic goals and have a negative effect on its financial results.

- **Native title**

The Company's mineral tenements and other entitlements to property and minerals may be affected by native title claims, unregistered agreements, transfers or unknown defects in title. Native title claims and Aboriginal heritage issues may have a material adverse impact on the Company's activities and may hinder or prevent its exploration and future mining activities or increase the cost of those activities.

- **Health and safety**

The businesses of the Company are subject to strict health safety and safety laws and regulations. The Company may become liable for past and current conduct of which violates such laws and regulations. Penalties for breaching health and safety laws can be significant and include criminal penalties.

Victims of workplace accidents may also commence civil proceedings against the Company. These events might not be insured by the Company or may be uninsurable. In addition, any changes in health and safety laws and regulations may increase compliance costs for the Company. Such an event would negatively impact

the financial results of the Company.

- **Regulatory and legislative**

Any changes in the laws and regulations under which the Company operates may adversely impact the Company's activities, planned projects and financial results. These laws and regulations include mining and exploration-related laws, laws requiring permits and licences, environmental regulations and health and safety laws and regulations. In the Company's experience changes in legislation have generally produced more regulatory requirements resulting in increased compliance costs for the Company.

- **Environment**

Mining and exploration activities are strictly regulated by environmental legislation and government authorities. There is a risk that environmental regulation may prevent or impede the Company's activities. It is possible that environmental approvals for the Company's projects are not granted or are delayed. If this occurred it may materially affect the Company's ability to develop its projects and therefore its investment outlook.

- **Changes in legislation and Government regulation**

Changes to legislation or government policy in Australia and in other major economic countries may affect future earnings and the relative attractiveness of investing in the Company.

- **Economic Conditions**

Economic conditions in Australia and globally, may affect the performance of the Company. Factors such as currency fluctuations, inflation, interest rates, supply and demand and industrial disruption may have an impact on operating costs and share market prices. The Company's future securities price may be affected by these factors, all of which are beyond the control of the Company or its Directors.

Neither the Company nor the Directors warrant the future performance of the Company or any return on an investment in the Company. In addition, the Company's ability to raise additional capital, should it be required, may be affected.

- **General**

The future viability of the Company is also dependent on a number of other factors affecting performance of all industries and not just the mining and resources industry, including, but not limited to, the following:

- the strength of the equity and share markets in Australia and throughout the world;
- general economic conditions in Australia and its major trading partners and, in particular, inflation rates, interest rates and industrial disruptions;
- insolvency or other managerial failure by any of the contractors used by the Company in its activities; and
- changes in government, monetary policies, taxation and other laws can have a significant influence on the outlook for companies and the returns to investors.

#### **Risks associated with the Entitlements Offer**

- **Dilution**

The Entitlements Offer will result in the issue of New Shares and attaching Options. If you do not participate in the Entitlements Offer or you do not take up your full Entitlement, your percentage holding in the Company (held at the Record Date) may be reduced, by the take up of New Shares and attaching Options by other shareholders and investors. The extent of dilution will depend upon the extent to which the Offer is taken up, resulting in an increase in the Company's issued share capital.

- **Share price**

Post this Entitlements Offer, there is no certainty that the Company will achieve an improvement of its share price. Due to the occurrence of adverse changes in the business or unforeseen circumstances, or general market conditions, the Company's Shares may depreciate in value.

- **Unforeseen Expenditure Risk**

Expenditure may need to be incurred that has not been considered in this Prospectus. Although the Company is not aware of any such additional expenditure requirements, if such expenditure is subsequently incurred this may adversely affect the expenditure proposals and activities of the Company, as the Company may be required to reduce the scope of its operations and scale back its exploration programmes. This could have a material adverse effect on the Company's activities and the value of the Share.

## **Section 4            CONSENTS AND INTERESTS**

### **4.1            Consents**

Each of the following has consented in writing to being named in this Prospectus in the form and context in which it is named and has not withdrawn such consent prior to the lodgement of this Prospectus with ASIC:

- (a) Triple C Consulting Pty Ltd as underwriter of the offer;
- (b) Link Market Services Pty Limited as the Share Registry to the Company;
- (c) Cornwall Stodart as the Legal Advisers to the issue; and
- (b) Grant Thornton Audit Pty Ltd as the Company's Auditors.

Each of the parties referred to in this Section:

- (a) does not make, or purport to make, any statement in this Prospectus or any statement on which a statement made in this Prospectus is based, other than as specified in this Section;
- (b) has had no involvement in the preparation of this Prospectus (unless expressly stated to the contrary in this Section);
- (c) has not authorised or caused the issue of this Prospectus;
- (d) does not make any offer of Shares; and
- (e) to the maximum extent permitted by law, expressly disclaims and takes no responsibility for any part of this Prospectus other than a reference to its name and a statement included in this Prospectus with the consent of that party as specified in this Section.

### **4.2            Interests**

Except as disclosed above or elsewhere in this Prospectus, no:

- Director or proposed Director;
- person who is named in this Prospectus and who has performed a function in a professional, advisory or other capacity in connection with the preparation or distribution of this Prospectus;
- promoter of the Company; or
- underwriter of the Offer,

holds at the time of lodgement of the Prospectus with ASIC, or has held in the two years before lodgement of this Prospectus with ASIC, an interest in:

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

and no amount (whether in cash, Shares or otherwise) has been paid or agreed to be paid, nor has any benefit been given or agreed to be given to any such persons for services in connection with the formation or promotion of the Company or the Offer or to any Director or proposed Director to induce them to become, or qualify as, a Director.

### **4.3            Determination by ASIC**

ASIC has not made a determination under Section 713(6) of the Corporations Act which would prevent the Company from issuing a prospectus under section 713 of the Corporations Act.

#### **4.4      Litigation and Claims**

As far as the Directors are aware, there are no current or threatened civil litigation, arbitration proceedings or administrative actions or appeals, or criminal or governmental prosecutions of a material nature in which the Company is directly or indirectly concerned which are likely to have a material adverse effect on the business or financial position of the Company.

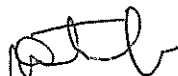
#### **4.5      Governing Law**

This Prospectus and the contracts that arise from the acceptance of Applications are governed by the law applicable in Victoria and each Applicant submits to the non-exclusive jurisdiction of the courts of Victoria.

**Section 5      AUTHORITY OF DIRECTORS**

Each of the Directors of Merlin Diamonds Limited has consented to the issue of this Prospectus and to its lodgement with ASIC and has not withdrawn that consent in accordance with the Corporations Act.

Dated 28 February 2017

A handwritten signature in black ink, appearing to be 'M. Gutnick', written over a horizontal line.

Signed for and on behalf of Merlin Diamonds Limited  
by Mordechai Gutnick.

## Section 6            DEFINED TERMS

**Additional Shares** means Shares issued under the Shortfall Offer (refer to Section 2.10).

**AEDT** means Australian Eastern Standard Time.

**Applicant** refers to a person who submits an Entitlement and Acceptance Form.

**Application** refers to the submission of an Entitlement and Acceptance Form.

**Application Moneys** means the amount payable with an Application.

**ASIC** means Australian Securities and Investment Commission.

**ASX** means ASX Limited (ACN 008 624 691) or, where the context permits, the Australian Securities Exchange operated by ASX Limited.

**Closing Date** means 5.00pm AEDT 20 March 2017.

**Company** and **Merlin Diamonds** means Merlin Diamonds Limited ACN 009 153 119 and where appropriate its subsidiaries.

**Directors** means the directors of the Company.

**\$ or ¢** means the lawful currency of Australia.

**Eligible Shareholder**" means a Shareholder whose details appear on the Company's register of Shareholders as at the Record Date who is not a Non-qualifying Shareholder.

**Entitlement** means an Eligible Shareholder's entitlement to subscribe for one New Shares and attaching Options for every one Share held on the Record Date.

**Entitlement and Acceptance Form**" means the Entitlement and Acceptance Form accompanying this Prospectus.

**Issuer Sponsored** means the facility for registration of shares managed by the share registry on behalf of the Company.

**Listing Rules** means the Listing Rules of the ASX.

**New Shares and attaching Options** means a New Shares and attaching Options proposed to be issued pursuant to this Offer.

**Non-qualifying Shareholder** means a Shareholder as at the Record Date whose registered address is not situated in Australia or New Zealand.

**Offer and Entitlements Offer** means the non-renounceable pro rata offer of New Shares and attaching Options at an issue price of \$0.013 each on the basis of one New Shares and attaching Options for every Share held on the Record Date pursuant to this Prospectus.

**Option** means an option to acquire a Share.

**Prospectus** means this Replacement Prospectus.

**Opening Date** means 9 March 2017.

**Record Date** means 6 March 2017.

**Registry** means Link Market Services Limited

**Section** means a section of this Prospectus.

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

**Shareholder** means a holder of Shares.

**Shortfall Application Form** means the Shortfall Application Form accompanying this Prospectus.

**Shortfall Offer** means the offer of Additional Shares (refer to section 2.10).

**Underwriter** means Triple C Consulting Pty Ltd

**VWAP** means the volume weighted average price.