

**MERLIN DIAMONDS LIMITED**  
**ABN 86 009 153 119**

**NOTICE OF ANNUAL GENERAL MEETING**

NOTICE IS HEREBY GIVEN that the Annual General Meeting of Merlin Diamonds Limited (the "Company") will be held at Pullman Albert Park, 65 Queens Road, Melbourne, Victoria 3004, Australia, on 30 November 2018, commencing at 9.00 am for the following purposes:

**AGENDA**

**ORDINARY BUSINESS**

**ORDINARY RESOLUTIONS**

**1. Financial Statements and Reports**

To receive and consider the Financial Statements of the Company and the Reports of the Directors and of the Auditor for the financial year ended 30 June 2018.

**2. Election of Director**

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

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

**3. Election of Director**

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

"That Mr Joseph Gutnick who holds office until the close of the meeting in accordance with clause 14.3(b) of the Company's Constitution, and, being eligible, be re-elected as a director of the Company."

**SPECIAL RESOLUTION**

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

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

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

**ORDINARY RESOLUTIONS**

**5. Approve an issue of up to 2,000,000 Convertible Notes and Options over Ordinary Shares.**

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

"To approve the Company, in accordance with ASX Listing Rule 7.1 and for all other purposes, issuing up to 2,000,000 convertible notes and 100, 000,000 Options over Ordinary Shares to Cuart Investments PCC Ltd on the terms and conditions as set out in the Explanatory Statement."

**6. Approve an issue of Convertible Notes**

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

"To approve the Company, in accordance with ASX Listing Rule 10.11 and for all other purposes, issuing up to 2,500,000 convertible notes at a price of \$1 per convertible note to Edensor Holdings Pty Ltd ATF Prolific Enterprises Trust on the terms and conditions and in the manner set out in the Explanatory Statement".

## NON-BINDING ORDINARY RESOLUTION

### 7. Remuneration Report

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

“That the Remuneration Report of the Company (which forms part of the Directors’ Report) for the financial year ended 30 June 2018 be adopted.”

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

By Order of the Board and dated this 29th day of October 2018.



PETER LEE  
Company Secretary

## 2018 ANNUAL REPORT

A copy of the 2018 Annual Report is available on our website at [www.merlindiamonds.com.au](http://www.merlindiamonds.com.au)

## VOTING EXCLUSION STATEMENT

### Resolution 4

The Company will disregard any votes cast in favour of the resolution by a person who may participate in the issue of equity Securities under the resolution and a person who may obtain a benefit, except a benefit solely in the capacity of a holder of ordinary shares, if the Resolution is passed and any associates of those persons. However, the Company need not disregard a vote if it is cast by a person as a proxy for a person who is entitled to vote, in accordance with the directions on the Proxy Form, or, it is cast by the Chair as proxy for a person who is entitled to vote, in accordance with a direction on the Proxy Form to vote as the proxy decides.

### Resolution 5

The Company will disregard any votes cast in favour of the resolution by a person who may participate in the issue of equity Securities under the resolution and a person who may obtain a benefit, except a benefit solely in the capacity of a holder of ordinary shares, if the Resolution is passed and any associates of those persons. However, the Company need not disregard a vote if it is cast by a person as a proxy for a person who is entitled to vote, in accordance with the directions on the Proxy Form, or, it is cast by the Chair as proxy for a person who is entitled to vote, in accordance with a direction on the Proxy Form to vote as the proxy decides.

### Resolution 6

The Company will disregard any votes cast in favour of the resolution by a party to the transaction and persons who will receive securities. However, the Company need not disregard a vote on the resolution if (a) it is cast by a person as proxy for a person who is entitled to vote, in accordance with the directions on the proxy form; or (b) it is cast by the person chairing the meeting as proxy for a person who is entitled to vote, in accordance with a direction on the proxy form to vote as the proxy decides.

### Resolution 7

The Company will disregard any votes cast on Resolution 7 by (a) key management personnel of the Company; and (b) closely related parties of the key management personnel.

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

However, the Company need not disregard a vote on Resolution 7 if:

- (a) it is cast by a person other than a person who is a key management person as proxy for a person who is entitled to vote in accordance with the directions on the proxy form; or

- (b) it is cast by a person who is a key management person as a proxy for a person who is entitled to vote and the proxy is a directed proxy (that is, the proxy specifies how the proxy is to vote on the proposed resolution); or
- (c) it is cast by the person chairing the meeting as proxy for a person who is entitled to vote, the chair has been given an open proxy and the proxy appointment expressly authorises the chair to exercise the proxy vote even if the resolution is connected directly or indirectly with the remuneration of a member of the KMP. For the purpose of this resolution, if the chair is appointed as set out in this clause and you do not complete any of the boxes on the proxy form opposite resolution 7, you will be directing the chairman to vote in favour of resolution 7.

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

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

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

1. A Member entitled to attend and vote at the aforementioned meeting is entitled to appoint not more than two other persons as his/her proxy or proxies to attend and vote, in certain circumstances, instead of the Member at the meeting.
2. If a Member appoints one proxy, that proxy may vote on a show of hands.
3. If a Member appoints two proxies neither may vote on a show of hands. However, if you appoint two proxies to represent you at the Meeting, you must show in the space provided either the percentage of your Shareholding or the number of votes (you are entitled to one vote for each Share you own upon a poll being declared) those proxies are to represent. If you do not complete this section then each proxy may, on a poll, vote half of your Shareholding. A separate proxy form must be submitted for each proxy you appoint.
4. A proxy need not be a Member of the Company.
5. If you appoint a proxy to represent you and vote on your behalf at the Meeting and that person is also a Member or has already been appointed as a proxy for another Member, your vote may not be counted on a show of hands. This is because, on a show of hands, your proxy's vote is only counted once irrespective of the number of Members that that person represents. However, if a poll is taken and your proxy votes, your vote will be counted in full in reaching a decision.
6. The Proxy Form together with the Power of Attorney (if any) or a certified copy of the Power of Attorney (if any) under which it is signed must be lodged at either Level 12, 680 George Street, Sydney, NSW 2000, mailed to Locked Bag A14, Sydney South, NSW 1235 or the Registered Office of the Company or by being sent by fax to (+61) 02 9287 0309, not less than forty-eight (48) hours before the time of the commencement of the meeting.
7. Signing Proxies
  - (i) Joint Holding - All holders must sign.
  - (ii) Shares in Company Names - Companies must execute this form in the way provided by Law.
  - (iii) Individual - Must be signed by the Member or their attorney.
8. For the purpose of the Meeting, Shares will be taken to be held by the persons who are registered holders at 7pm, on 28 November 2018. Accordingly, share transfers registered after that time will be disregarded in determining entitlements to attend and vote at the Meeting.

#### **COMPANY REPRESENTATIVE**

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

## EXPLANATORY MEMORANDUM TO SHAREHOLDERS

This Explanatory Statement provides shareholders of the Company with information in respect of the resolutions to be considered at the Annual General Meeting of the Company to be held Pullman Albert Park, 65 Queens Road, Melbourne 3004 on 30 November 2018 at 9.00 am. Shareholders should carefully review this Explanatory Statement and the associated Notice of General Meeting (**Notice**) to which this Explanatory Statement is attached.

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

### 1. RECEIVE AND CONSIDER THE REPORTS FOR THE YEAR ENDED 30 JUNE 2018

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

The Company's Annual Report 2018 has been made available to Shareholders. There will be an opportunity for Shareholders at the meeting to comment on and ask questions about the Company's management, operations, financial position, business strategies and prospects.

### 2. ELECTION OF DIRECTOR

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

A profile about Dr Tyrwhitt is as follows:

Dr Tyrwhitt has been a Director of the Company since 2011. He is a geologist and has more than 50 years' experience in the mining industry. He is currently a Director of Northern Capital Resources Corp and Hawthorn Resources Limited. He worked for over 20 years with Newmont Mining Corporation in Australia, South East Asia and the United States. During this time, he was responsible for the discovery of the Telfer Gold Mine in Western Australia. He was Chief Executive Officer of Newmont Australia Limited between 1984 and 1988 and Chief Executive Officer of Ashton Mining Limited between 1988 and 1991 and a Director of Astro Diamond Mines N.L., Quantum Resources Limited, Legend International Holdings, Inc and Top End Minerals Ltd. He established his own consultancy in 1991 and worked with Normandy Mining Limited on a number of mining projects in South East Asia. Age 80.

Directors' Recommendation

The Board of Directors supports the nomination of Dr Tyrwhitt.

### 3. ELECTION OF DIRECTOR

Article 14.3(b) of the Company's Constitution requires that any Director, other than the Managing Director, appointed under clause 14.3(a) holds office only until the conclusion of the next Meeting of the Members and is eligible for re-election at that Meeting. Mr Joseph Gutnick was appointed a Director during the year. Accordingly, Mr Joseph Gutnick retires and being eligible offers himself for re-election.

A profile about Mr Gutnick is as follows:

Mr Gutnick has been Chairman of the Board, President and Chief Executive Officer of numerous listed public companies over a period of 40 years. He is a Fellow of the Australasian Institute of Mining and Metallurgy and the Australian Institute of Management, and a Member of the Australian Institute of Company Directors. He was previously a Director of the World Gold Council. He is a director of Aurum Inc and Golden River Resources Corporation and was formerly a director of Consolidated Gems Inc., Quantum Resources Limited, Legend International Holdings, Inc. and Top End Minerals Limited. Age 66.

Directors' Recommendation

The Board of Directors supports the nomination of Mr Gutnick.

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

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

Listing Rule 7.1A came into effect on 1 August 2012 and enables "eligible entities" to issue Equity Securities up to 10% of its issued share capital through placements over a 12 month period after the annual general meeting if the Equity Securities are in an existing quoted class of the Company's securities ("10% Placement Facility"). The 10%

Placement Facility is in addition to the Company's 15% placement annual capacity under Listing Rule 7.1. An "eligible entity" for the purposes of Listing Rule 7.1A is an entity that is not included in the S&P/ASX 300 Index and has a market capitalisation of \$300 million or less. The Company is an eligible entity. The Company is seeking Shareholder approval by way of a special resolution to have the ability to issue Equity Securities under the 10% Placement Facility during the period up to 12 months after the Meeting. As Resolution 3 is a special resolution 75% of votes cast by Shareholders present and eligible to vote at the Meeting must be in favour of Resolution 5 for it to be passed.

If Shareholders approve Resolution 3 the exact number of Equity Securities that may be issued under the 10% Placement Facility will be determined in accordance with the formula prescribed in Listing Rule 7.1A.2 (refer below). The Company will comply with the disclosure obligations under Listing Rules 7.1A.4 and 3.10.5A upon the issue of any Equity Securities under the 10% Placement Facility.

#### **Description of Listing Rule 7.1A**

##### ***Shareholder approval***

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

##### ***Equity Securities***

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

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

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

(a x d) – e

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

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

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

**d** is 10%

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

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

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

At the date of this Notice, the Company has on issue 3,412,079,452 Shares and therefore has a capacity to issue:

- (i) 15% or 511,811,917 Equity Securities under Listing Rule 7.1; and
- (ii) 10% or 341,207,945 Equity Securities subject to Shareholder approval being sought under this Resolution 3 under Listing Rule 7.1A.

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

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

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

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

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

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

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

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

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

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

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

Shareholders should note that there is a risk that:

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

d)

Variable "A" in Listing Rule 7.1 A2		Dilution		
		\$ .003 50% decrease in Issue Price	\$ .006 Issue Price	\$ .009 50% increase in Issue Price
Current Variable A 2,932,459,605 Shares	Shares issued	2,932,459,605	2,932,459,605	2,932,459,605
	Funds raised	\$8,797,379	\$17,594,757	\$26,392,136
50% increase* in current Variable A 4,398,689,407 Shares	Shares issued	4,398,689,407	4,398,689,407	4,398,689,407
	Funds raised	\$13,196,068	\$26,392,136	\$39,588,205
100% increase* in current Variable A 5,864,919,210 Shares	Shares issue	5,864,919,210	5,864,919,210	5,864,919,210
	Funds raised	\$17,594,757	\$35,189,515	\$52,784,273

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

The table has been prepared on the following assumptions:

- The current Shares on issue are the Shares on issue at 19 October 2018.
- The issue price set out above is the closing price of the Shares on the ASX on 28 September 2018.
- The Company issues the maximum number of Equity Securities available under the 10% Placement Facility hence the voting dilution is shown in each example as 10%.
- The calculations above do not show the dilution that any one particular Shareholder will be subject to. All Shareholders should consider the dilution caused to their own shareholding depending on their specific circumstances, and if necessary seek advice from their professional advisers.
- No convertible notes, listed or unlisted options of the Company are exercised into Shares before the date of issue of the Equity Securities.
- The table shows only the effect of issues of Equity Securities under ASX Listing Rule 7.1A, and not dilution under the 15% placement capacity under ASX Listing Rule 7.1, under ASX Listing Rule 7.2, or Shareholder approvals under ASX Listing Rule 7.1.
- The issue of Equity Securities under the 10% Placement Facility consists only of Shares.

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

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

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

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

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

- the purpose of the issue;

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

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

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

The total number of equity securities issued in the 12 months preceeding the date of the meeting is 1,591,039,584 fully paid ordinary shares and 1,218,000 convertible notes. The total cash consideration was \$5,874,451; the funds were spent on development activities at the Merlin diamond mine and working capital; and all of the funds have been spent.

Details of the issues are set out in Attachment A.

Convertible notes - 10% convertible notes, with a face value of \$1.00 each with an expiration date of 24 months from the date of issue. Interest is paid half yearly in arrears at a rate of 10% per annum based on the face value. The notes are convertible into fully paid ordinary shares of the Company at various conversion prices. The Company may by written notice prior to the maturity date, redeem the principal outstanding plus any accrued interest. The convertible notes are secured. A term of the convertible notes was that if further convertible notes were issued with terms better than the terms of earlier convertible notes, then the terms of the earlier convertible notes would be automatically amended to be consistent with the terms of the latter convertible notes.

**Voting Exclusion**

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

**Directors' Recommendation**

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

**5. APPROVE AN ISSUE OF CONVERTIBLE NOTE AND OPTIONS.**

***Preamble***

The Company has entered into a secured note deed (Deed) with Cuart Investments PCC Ltd ("Cuart") on 30 August 2018.

Under the terms of the Deed, Cuart is to provide \$2,000,000 to the Company to be used for general corporate and working capital purposes. Under the agreement, the Company has drawn down \$500,000 at execution of the agreement; can draw tranche 2 of \$500,000 20 days after the Company gives notice but not after a date which is 90 days after the execution date; and tranche 3 of \$1,000,000 20 days after the Company gives notice but not after a date which is 150 days after the execution date. The Company has issued 500,000 notes to Cuart and will issue up to 1,500,000 further notes following shareholder approval and receipt of the funds. The drawdown of funds is subject to a 7% investors discount and a 6.5% drawdown fee. The drawdown of further funds is subject to standard pre-conditions. The convertible notes have a face value of USD\$1.00 each. The maturity date is 12 months from execution date. The convertible notes have a fixed conversion price of A\$0.01 or the 5 day VWAP up to the day prior to conversion, whichever is lower. The notes and/or convertible notes do not accrue interest unless there is an event of default in which case interest accrues at the rate of 0.5% per week and interest accrues daily and compounds monthly. The agreement has standard events of default. The Company may redeem the convertible notes for 110% of the face value in the first 180 days or after that time, at 115% of the face value. Cuart has agreed not to convert any convertible securities into ordinary shares for 90 days after the execution date or an event of default, whichever is the first to occur. In addition, no conversion can occur prior to shareholder approval. The Company has also agreed to issue, subject to receiving shareholder approval, 25,000,000 quoted options (MEDOB) on drawdown of tranche 1, 25,000,000 quoted options (MEDOB) on drawdown of tranche 2 and 50,000,000 quoted options (MEDOB) on drawdown of tranche 3. The convertible notes are secured by a charge



over the assets of the Company and its subsidiary companies, Merlin Operations Pty Ltd and Striker Resources Pty Ltd.

The terms and conditions of the options are set out in Appendix 1.

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

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

1. The number of securities to be issued is up to 2,000,000 convertible notes at a price of \$1 per convertible note (face value) and up to 100,000,000 options (MEDOB). The convertible notes may be converted into ordinary shares at a price of 1 cent or the 5 day VWAP up to the day prior to conversion, whichever is lower. The options may be exercised at a price of 1.3 cents per option.
2. The conversion price of the convertible notes into ordinary shares will be 1 cent per note or the 5 day VWAP up to the day prior to conversion, whichever is lower and the exercise price of the options is 1.3 cents.
3. The convertible notes will be issued to Cuart or its associated entity.
4. The convertible notes will not be issued to a related party.
5. The first tranche of convertible notes (being the re-categorisation of the 500,000 notes to 500,000 convertible notes) will occur after shareholder approval, and the balance of the convertible notes to be issued will occur within 3 months of the date of the meeting. The first tranche of options, being 25,000,000 quoted options (MEDOB) will be issued following shareholder approval, 25,000,000 quoted options (MEDOB) on drawdown of tranche 2 and 50,000,000 quoted options (MEDOB) on drawdown of tranche 3.
6. The ordinary shares to be issued upon conversion of the convertible notes will be fully paid and rank pari passu with existing ordinary shares on issue, from the date of issue upon conversion of the convertible notes.
7. The funds raised by the convertible note issue and/or exercise of options have been/will be utilised for general corporate and working capital for the Company however the conversion of the convertible notes into ordinary shares will not raise any funds.

#### **Directors Recommendation**

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

## **6. APPROVE ISSUE OF CONVERTIBLE NOTE AND OPTIONS.**

### ***Preamble***

The Company has entered into a note deed (**Deed**) with Edensor Holdings Pty Ltd ATF Prolific Enterprises Trust (**Edensor**). Stera Gutnick is a shareholder and Mordechai Gutnick and Stera Gutnick are the directors of Edensor. Under the terms of the proposed Deed, Edensor will provide up to \$2,500,000 to the Company to be used for mine operations and working capital purposes. The Company will issue 2,500,000 notes to Edensor.

For the purpose of this narrative, notes also mean convertible notes if shareholder approval is received. The notes accrue interest at 10% per annum which will be paid half yearly in arrears or accrued, and the interest may be converted into ordinary shares. The notes will be for a period of 2 years and if shareholder approval is received, can be converted at any time at a conversion price of \$0.005 per note; or the 5 day VWAP up to the day prior to conversion, whichever is lower by the holder.

Under s. 606 of the Corporations Act, Edensor is prohibited from converting any of the convertible notes into ordinary shares in the Company if that would result in Edensor, or someone else's voting power in the Company, increasing from 20% or below to more than 20%, or from a starting point that is above 20% and below 90% subject to several exemptions set out in s. 611 of the Corporations Act and the table thereto.

Those exemptions most relevantly include shareholder approval pursuant to item 7 of s. 611 and what is usually referred to as the "3% creep" exemption as set out in item 9 of s. 611. Attached to this explanatory memorandum is a copy of s. 611 and the full table of exemptions there set out.

No shareholder approval under item 7 of s. 611 has been obtained and it is not sought at the General meeting to which this Explanatory Memorandum relates.

The exemptions in items 7 and 9 are set out above.

**ASX Listing Rule 10.11**

ASX Listing Rule 10.11 provides that an entity must not issue or agree to issue equity securities to any of the following persons without the approval of holders of ordinary securities:

- A related party
- A person whose relationship with the entity or a related party is, in ASX's opinion, such that approval should be obtained.

Joseph and Mordechai Gutnick and Stera Gutnick are the directors of Edensor and as such is a related party.

Equity securities include convertible notes.

Edensor currently hold 589,447 convertible notes, convertible at \$0.005; and 94,999,885 options exercisable at \$0.013 per option.

For the purposes of Australian Stock Exchange ("ASX") Listing Rules 7.3 and 10.13, the Company also advises:

1. The number of securities to be allotted is 2,500,000 convertible notes at a price of \$1 per convertible note. The convertible notes may be converted into ordinary shares at a price of \$ .005 cents or the 5 day VWAP up to the day prior to conversion, whichever is lower.
2. Should Edensor (subject to the prohibition and exemptions set out in, respectively, s. 606 and s. 611 of the Corporations Act referred to above), ultimately convert all the convertible notes, the Edensor holding of ordinary shares will be as follows subject to the below Note:

Table 1

	Edensor holding	Issued capital	Edensor %
Current holding	42,400,009	3,412,079,452	1.24
Upon conversion of 100% of convertible notes on issue	160,289,409	3,529,968,852	4.54
Upon conversion of 100% of convertible notes and options on issue	255,285,294	3,624,964,737	7.04
Upon conversion of 100% of convertible notes on issue and the convertible notes proposed to be issued but no options	660,289,409	4,029,968,852	16.38
Upon conversion of 100% of convertible notes and options on issue and the convertible notes proposed to be issued	755,285,294	4,124,964,737	18.31

Note –

- a) This assumes the conversion price is \$0.005.
- b) This also assumes that no further ordinary shares are issued or none of the existing convertible notes and options on issue are converted/exercised.
- c) Furthermore, resolution 5 to this notice of general meeting seeks approval for the issue of further securities.
- d) If any of the existing convertible notes and options on issue are converted/exercised; or the securities in point 4 above are issued, the percentage holding of Edensor will reduce.

The following companies and person hold shares, options and/or convertible notes in the Company. Joseph Gutnick is the husband of Stera Gutnick and Mordechai Gutnick is their son.

Table 2

Name	Holding	Shareholders	Directors
Edensor Holdings Pty Ltd	42,400,009 shares 589,447 convertible notes 94,999,885 options	Stera Gutnick	Stera Gutnick Mordechai Gutnick
Chabad Properties Pty Ltd	300,000,000 shares 120,000,000 options	Stera Gutnick Mordechai Gutnick Joseph Gutnick	Stera Gutnick
Hoydu International Enterprises Pty Ltd	25,000,000 shares	Stera Gutnick	Stera Gutnick
Mazel Fortune Pty Ltd	32,307,692 shares	Stera Gutnick Joseph Gutnick	Stera Gutnick
Great Central Gold Limited	14,615,385 shares	Stera Gutnick Joseph Gutnick	Stera Gutnick Han Cheun Soh Joseph Gutnick
Atlantic Holdings (Aust) Pty Ltd	4,307,693 shares	Mordechai Gutnick	Mordechai Gutnick
Morzev Pty Ltd	76,923 shares	Mordechai Gutnick	Mordechai Gutnick
Harapid Pty Ltd	19,450,000 shares	Naomi Gutnick	Naomi Gutnick
Joseph Gutnick	18,000,000 shares 18,000,000 incentive options exercisable at 15 cents		

Trinity Management Group Pty Ltd (TMG) is the trustee of the Merlin Diamonds Employee Share Trust under the Merlin Diamonds Employee Share Trust Deed. It is the registered holder of 18,000,000 ordinary shares in the Company.

If all of the convertible notes and options referred to in Table 1 and Table 2 were converted/exercised (subject to the prohibition and exemptions set out in, respectively, s. 606 and s. 611 of the Corporations Act referred to above), the cumulative holding would be as follows:

Table 3

	Holding	Issued capital	%
Current holding	456,157,702	3,412,079,452	13.37
Upon conversion of 100% of convertible notes on issue	574,041,102	3,529,968,852	16.26
Upon conversion of 100% of convertible notes and options on issue	807,042,987	3,762,964,737	21.45
Upon conversion of 100% of convertible notes on issue and the convertible	1,074,047,102	4,167,968,852	25.77

notes proposed to be issues but no options			
Upon conversion of 100% of convertible notes and options on issue and the convertible notes proposed to be issued	1,307,042,987	4,400,964,737	29.70

Note –

- a) This assumes that no further ordinary shares are issued or none of the existing convertible notes and options on issue are converted/exercised.
- b) Furthermore, resolution 5 to this notice of general meeting seeks approval for the issue of further securities.
- c) If any of the existing convertible notes and options on issue are converted/exercised; or the securities in resolution 5 above are issued, the percentage holding of the abovementioned entities will reduce.

3. The conversion price of the convertible notes into ordinary shares will be \$0.005 or the 5 day VWAP up to the day prior to conversion, whichever is lower. The Deed also states that if prior to the maturity date the Company agrees to issue further convertible notes comprising part of the notes (or another equity or debt facility) which in the reasonable opinion of the noteholder has terms more favourable than the terms applicable to these notes (from time to time), at the election of the noteholder the more favourable terms (as nominated by the noteholder) shall also apply to these notes and all other terms applicable to these notes at that time remain applicable. Without limiting the generality of the foregoing, the more favourable terms that the noteholder may elect to adopt include a higher coupon rate, higher interest rate, increased higher rate and a lower conversion price.

4. The convertible notes will be issued to Edensor, or its nominee or any assignee.

5. The date by which the Company will issue the convertible notes is no later than one month after the date of approval by shareholders.

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

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

8. The funds raised by the note issue will be utilised for Merlin mine operations, exploration and working capital for the Company however the conversion of the convertible notes into ordinary shares will not raise any funds.

#### **Chapter 2E of the Corporations Act**

Section 208 of the Corporations Act provides that a public company must not, subject to certain exceptions, give a financial benefit to a related party without approval of the company's members. Section 228 of the Corporations Act defines a 'related party' for the purposes of Chapter 2E to include:

- Directors of the public company (section 228(2)(a)); and
- An entity controlled by directors of the public company (section 228 (4)).

Edensor is a related party of the Company for the purposes of Chapter 2E of the Corporations Act. A 'financial benefit' is defined in section 229 of the Corporations Act and includes issuing shares or granting an option to a related party.

Section 210 of the Corporations Act provides an exception to the requirement to obtain shareholder approval for giving a financial benefit to a related party, where the financial benefit is on terms which would be reasonable in the circumstances if the public company and the related party were dealing at arm's length.

The Company considers that the proposed issue of securities the subject of Resolution 8 will be on arm's length terms as it is on the same terms as issue of convertible notes and options to Regal (Resolution 1) and the parties set out in Resolution 2. Furthermore, the issue price of the convertible notes and the exercise price of the options are the same as the recent Entitlements Offer made to investors who are not related parties of the Company. As such, the Company considers that the proposed issue falls within the exception set out in section 210 of the Corporations Act.

The nature of the financial benefit to be given to Edensor is the interest in the ordinary shares upon conversion of the convertible notes and the options which are to be issued to Edensor.

#### Directors Recommendation

Mr Joseph Gutnick and Mordechai Gutnick decline to make a recommendation on resolution 5.

The Board (other than Mr Joseph Gutnick and Mr Mordechai Gutnick) unanimously recommends that Shareholders vote in favour of the resolution as it allows the Company to raise necessary finance for the development of its operations.

#### **7. ADOPT THE REMUNERATION REPORT FOR THE YEAR ENDED 30 JUNE 2018**

There will be an opportunity for Shareholders at the meeting to comment on and ask questions about the Remuneration Report which is contained in the Company's Annual Report 2018.

The vote on the proposed resolution in agenda Item 6 is advisory only and will not bind the Directors or the Company, however, the Board will take the outcome of the vote into consideration when reviewing remuneration practices and policies.

The Remuneration Report is set out in the Director's Report of the Company's Annual Report 2018. The Report:

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

#### **Directors' Recommendation**

The Board unanimously recommends that Shareholders vote in favour of Resolution 7.

By Order of the Board and dated this 29<sup>th</sup> day of October 2018



PETER LEE  
Company Secretary

## Attachment A

Date	Name	Quantity	Price	Consideration	Market price date of issue \$	Discount to market Value on date of issue \$	Issue for cash
							Yes
<b>Shares issued in the past 12 months</b>							
1/12/2017	Pro-rata entitlements issue	313,321,253	\$ 0.005	\$ 1,566,606	0.007	40%	Yes
20/12/2017	Riveck Nominees Pty Ltd <Ruth Paneth Super A/C>	20,000,000	\$ 0.005	\$ 100,000	0.007	40%	Yes
20/12/2017	Allowside Pty Ltd	10,000,000	\$ 0.005	\$ 50,000	0.007	40%	Yes
20/12/2017	YAD Investments Pty Ltd	130,000,000	\$ 0.005	\$ 650,000	0.007	40%	Yes
20/12/2017	Mosnow Pty Ltd <The Mosnow A/C>	6,000,000	\$ 0.005	\$ 30,000	0.007	40%	Yes
20/12/2017	Cove Street Pty Ltd <The Cove Street A/C>	26,000,000	\$ 0.005	\$ 130,000	0.007	40%	Yes
20/12/2017	Mordechai Engel and Elisheva Beille ATF Mordel Family Trust	6,000,000	\$ 0.005	\$ 30,000	0.007	40%	Yes
20/12/2017	Longriver Pty Ltd	4,000,000	\$ 0.005	\$ 20,000	0.007	40%	Yes
20/12/2017	Intanto Pty Ltd	6,000,000	\$ 0.005	\$ 30,000	0.007	40%	Yes
20/12/2017	Wittie Pty Ltd	15,000,000	\$ 0.005	\$ 75,000	0.007	40%	Yes
20/12/2017	KushKush Investments Pty Ltd <Alexadora Discretionary Trust>	10,000,000	\$ 0.005	\$ 50,000	0.007	40%	Yes
20/12/2017	143 Pty Ltd	10,000,000	\$ 0.005	\$ 50,000	0.007	40%	Yes
20/12/2017	Rask Pty Ltd <Granger Family A/C>	30,000,000	\$ 0.005	\$ 150,000	0.007	40%	Yes
20/12/2017	Teragoal Pty Ltd <Gray Family A/C>	10,000,000	\$ 0.005	\$ 50,000	0.007	40%	Yes
20/12/2017	SAGA Trading Pty Ltd <SAG A/C>	20,000,000	\$ 0.005	\$ 100,000	0.007	40%	Yes
20/12/2017	Adamelis Pty Ltd <D&S Moines Super Fund A/C><	10,000,000	\$ 0.005	\$ 50,000	0.007	40%	Yes
20/12/2017	Pinbrook Pty Limited	10,000,000	\$ 0.005	\$ 50,000	0.007	40%	Yes
20/12/2017	A & E Wertheiner Superannuation Fund Pty Ltd	5,000,000	\$ 0.005	\$ 25,000	0.007	40%	Yes
20/12/2017	Chanie Naparstek	8,000,000	\$ 0.005	\$ 40,000	0.007	40%	Yes
20/12/2017	E.M. & S Green ATF The Green Superannuation Fund	4,000,000	\$ 0.005	\$ 20,000	0.007	40%	Yes
20/12/2017	Jonathon Herzog	7,500,000	\$ 0.005	\$ 37,500	0.007	40%	Yes
20/12/2017	Daniel Aharonoff & Vardit Cohen-Aharonoff	41,000,000	\$ 0.005	\$ 205,000	0.007	40%	Yes
20/12/2017	Gersh Pty Ltd ATF Gersh Super Fund	16,000,000	\$ 0.005	\$ 80,000	0.007	40%	Yes
20/12/2017	Jetan Pty Ltd	50,000,000	\$ 0.005	\$ 250,000	0.007	40%	Yes
20/12/2017	Hirsch Financial Pty Ltd	20,000,000	\$ 0.005	\$ 100,000	0.007	40%	Yes
20/12/2017	Ledger Holdings Pty Ltd	9,900,000	\$ 0.005	\$ 49,500	0.007	40%	Business development services
20/12/2017	Filmrim Pty Ltd	15,000,000	\$ 0.005	\$ 75,000	0.007	40%	Yes
20/12/2017	Claymore Ventures Limited	10,000,000	\$ 0.005	\$ 50,000	0.007	40%	Yes
5/01/2018	Vince Zangari	20,000,000	\$ 0.005	\$ 100,000	0.008	60%	Yes
5/01/2018	Riveck Nominees Pty Ltd <Ruth Paneth Super A/C>	20,000,000	\$ 0.005	\$ 100,000	0.008	60%	Yes

5/01/2018	Dimension Investments Pty Ltd	50,000,000	\$	0.005	\$	250,000	0.008	60%	Yes
5/01/2018	Glenroyale Pty Ltd <Tataka Super Fund A/C>	10,000,000	\$	0.005	\$	50,000	0.008	60%	Yes
17-Jan-18	Vince Zangari	18,468,739	\$	0.005	\$	92,344	0.008	60%	Yes
17-Jan-18	Ledger Holdings Pty Ltd	10,000,000	\$	0.005	\$	50,000	0.008	60%	Business development services
17-Jan-18	Filmrim Pty Ltd	20,268,493	\$	0.005	\$	101,342	0.008	60%	No conversion of convertible notes
17-Jan-18	Westglade Pty Ltd	6,085,479	\$	0.005	\$	30,427	0.008	60%	No conversion of convertible notes
17-Jan-18	SGI PTY LTD	5,067,123	\$	0.005	\$	25,336	0.008	60%	No conversion of convertible notes
17-Jan-18	Futurity Private Pty Ltd	5,065,753	\$	0.005	\$	25,329	0.008	60%	No conversion of convertible notes
17-Jan-18	Mr Ronald Bowen + Mrs Agnes Bowen	4,053,699	\$	0.005	\$	20,268	0.008	60%	No conversion of convertible notes
17-Jan-18	Mr Ronald Bowen + Mrs Karen Bowen	4,037,260	\$	0.005	\$	20,186	0.008	60%	No conversion of convertible notes
17-Jan-18	Mr Victor Lorusso	20,230,137	\$	0.005	\$	101,151	0.008	60%	No conversion of convertible notes
17-Jan-18	Mrs Anna Lorusso	5,054,795	\$	0.005	\$	25,274	0.008	60%	No conversion of convertible notes
17-Jan-18	Claymore Ventures Limited	10,128,767	\$	0.005	\$	50,644	0.008	60%	No conversion of convertible notes
17-Jan-18	Mr Matthew Hayne	20,219,178	\$	0.005	\$	101,096	0.008	60%	No conversion of convertible notes
17-Jan-18	Jetan Pty Ltd	30,427,397	\$	0.005	\$	152,137	0.008	60%	No conversion of convertible notes
17-Jan-18	Vince Zangari	1,531,261	\$	0.005	\$	7,656	0.008	60%	No conversion of convertible notes
15/03/2018	Regals Fund LP	185,784,679	\$	0.005	\$	928,923	0.005	0%	No conversion of convertible notes
27/04/2018	JRT Trading	20,000,000	\$	0.005	\$	100,000	0.005	0%	No conversion of convertible notes
23/07/2018	L1 Capital	62,524,657	\$	0.005	\$	312,623	0.009	80%	No conversion of convertible notes
23/07/2018	BSUT	10,000,000	\$	0.005	\$	50,000	0.009	80%	No conversion of convertible notes
23/07/2018	Roseman	25,000,000	\$	0.005	\$	125,000	0.009	80%	No conversion of convertible notes
25/07/2018	JRG Trading	20,000,000	\$	0.005	\$	100,000	0.009	80%	No conversion of convertible notes
20/08/2018	Roseman	38,198,630	\$	0.005	\$	190,993	0.008	60%	No conversion of convertible notes
20/08/2018	L1 Capital	40,311,111	\$	0.005	\$	201,556	0.008	60%	No conversion of convertible notes
20/08/2018	Options exercise	60	\$	0.013	\$	1	0.008	0%	Yes
7/10/2018	Joluk Investments Pty Ltd	20,460,200	\$	0.005	\$	102,301	0.006	20%	No conversion of convertible notes
7/10/2018	Harshall Investments Pty Ltd	20,460,200	\$	0.005	\$	102,301	0.006	20%	No conversion of convertible notes
7/10/2018	Robbie Jessie Hunt	28,634,521	\$	0.005	\$	143,173	0.006	20%	No conversion of convertible notes
7/10/2018	Robbie Hunt Super A/C	36,306,192	\$	0.005	\$	181,531	0.006	20%	No conversion of convertible notes

#### Convertible notes issued in the past 12 months

25/07/2018	L1 Capital Global Opportunities Fund	500,000	\$	1.00	\$	500,000	N/A	N/A	Yes
20/08/2018	L1 Capital Global Opportunities Fund	200,000	\$	1.00	\$	200,000	N/A	N/A	Yes
7/10/2018	Robbie Hunt	140,000	\$	1.00	\$	140,000	N/A	N/A	Yes
7/10/2018	Robbie Hunt Pty Ltd <Robbie Hunt Super A/C>	178,000	\$	1.00	\$	178,000	N/A	N/A	Yes
7/10/2018	Joluk Investments Pty Ltd	100,000	\$	1.00	\$	100,000	N/A	N/A	Yes
7/10/2018	HarshellInvestments Pty Ltd (Kaplan family a/c)	100,000	\$	1.00	\$	100,000	N/A	N/A	Yes

## Option Terms

Each Option entitles the holder (**Option Holder**) to subscribe for and be issued one fully paid ordinary share (**Ordinary Share**) in Merlin Diamonds Limited ACN 009 153 119 (**Company**) on the following terms:

1. Each Option is exercisable at any time after the date on which the Option issues (**Vesting Date**), until and including their expiry date, namely 23 March 2021 (**Expiry Date**). Any Options not exercised by the Expiry Date will automatically lapse on the Expiry Date.
1. An 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 Ordinary Share (**Exercise Price**).
3. On receipt by the Company of the Notice of Exercise and payment of the Exercise Price, the Company must, within 2 Business Days and if the Ordinary 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 in the Company 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 Ordinary Share/s; and
  - (c) issue (if applicable) a new holding statement (or Option Certificate) for the balance of the Options that remain unexercised.
4. Ordinary 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 Ordinary Shares 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.
11. The Options do not provide any entitlement to dividends paid to ordinary shareholders.
12. The Options do not entitle the Option Holder to vote at any meeting of shareholders.
13. To the extent that any of these Option Terms and Conditions are inconsistent with or contrary to the ASX Listing Rules (if any), the ASX Listing Rules provisions will prevail and these Option Terms and Conditions are deemed to incorporate the relevant ASX Listing Rules provisions as an amendment to these terms; and
14. These terms and conditions are governed by the law of Victoria. The parties submit to the non-exclusive jurisdiction of the courts of Victoria.