

MAGICJACK VOCALTEC LTD  
Form PRER14A  
February 09, 2017

**PRELIMINARY PROXY STATEMENT – SUBJECT TO COMPLETION, DATED FEBRUARY 9, 2017**

**UNITED STATES SECURITIES AND EXCHANGE COMMISSION**

**Washington, D.C. 20549**

**SCHEDULE 14A**

**(Amendment No. 3)**

**INFORMATION REQUIRED IN PROXY STATEMENT**

**SCHEDULE 14A INFORMATION**

Proxy Statement Pursuant to Section 14(a) of the  
Securities Exchange Act of 1934

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

- Preliminary Proxy Statement
- Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))
- Definitive Proxy Statement
- Definitive Additional Materials
- Soliciting Material under Rule 14a-12

**MAGICJACK VOCALTEC LTD.**

(Name of Registrant as Specified in its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

No fee required

Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

(1) Title of each class of securities to which transaction applies:

(2) Aggregate number of securities to which transaction applies:

(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

(4) Proposed maximum aggregate value of transaction:

(5) Total fee paid:

Fee paid previously with preliminary materials

Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

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(1) Amount Previously Paid: \_\_\_\_\_

(2) Form, Schedule or Registration Statement No.: \_\_\_\_\_

(3) Filing Party: \_\_\_\_\_

(4) Date Filed: \_\_\_\_\_

**PRELIMINARY PROXY STATEMENT – SUBJECT TO COMPLETION, DATED FEBRUARY 9, 2017**

**MAGICJACK VOCALTEC LTD.**

12 Haomanut Street, 2<sup>nd</sup> Floor

Poleg Industrial Zone, Netanya 4250445, Israel

**NOTICE OF ANNUAL GENERAL MEETING OF SHAREHOLDERS**

**TO BE HELD ON MARCH 30, 2017**

NOTICE IS HEREBY GIVEN that the 2016 annual general meeting of shareholders (the “2016 Meeting”) of magicJack VocalTec Ltd. (the “Company”) will be held at the offices of Yigal Arnon & Co. at 1 Azrieli Center, Tel Aviv 6702101, Israel at 10:00 a.m. Israel time on Thursday March 30, 2017, or at any adjournments or postponements thereof.

The agenda for the 2016 Meeting is as follows:

1. To elect to the Board of Directors of the Company (the “Board” or the “Board of Directors”):

Proposal of the Board: To re-elect Mr. Donald A. Burns, Mr. Richard Harris, Dr. Yuen Wah Sing and Mr. Gerald Vento and to elect Mr. Don C. Bell III, Mr. Izhak Gross, and Mr. Alan B. Howe to serve as directors of the Company until the next annual general meeting of shareholders and until their successors have been duly elected and qualified;

**OR**

B. Proposal of Paul M. Posner and Carnegie Technologies, LLC (together, “Carnegie”): To elect Mr. Frank J. Bell, Mr. Nabil N. El-Hage, Mr. Richard Kimsey, Mr. Morris A. Miller, Mr. Richard W. Talarico and Mr. Alan B. Howe and to re-elect Mr. Gerald Vento to serve as directors of the Company until the next annual general meeting of

shareholders and until their successors have been duly elected and qualified.

2. To re-approve the Company's Compensation Policy.

3. To approve the grant of 7,000 shares of restricted stock of the Company to Mr. Izhak Gross, subject to his election to the Board under Proposal 1.A.

4. To approve the accelerated vesting of shares of restricted stock of the Company held by Mr. Yoseph Dauber, a former director of the Company.

5. To approve a limited extension of the Employment Agreement with Mr. Gerald Vento, the Company's President and Chief Executive Officer, until the earlier of June 30, 2017 or the date the Company hires a President and Chief Executive Officer to replace Mr. Vento, and to approve entering into a consulting agreement with Mr. Vento effective upon his separation date.

6. To approve the reappointment of BDO USA, LLP and BDO Ziv Haft, Certified Public Accountants (Isr) as the Company's independent registered public auditor for the year ending December 31, 2016 and to authorize the Company's Board of Directors, subject to the approval of the Audit Committee, to fix the compensation of the auditors in accordance with the volume and nature of their services.

7. To transact such other business as may come properly before the 2016 Meeting or any adjournments or postponements thereof.

These matters are described more fully in the attached Proxy Statement, which we urge you to read in its entirety. We are currently not aware of any other matters that will come before the 2016 Meeting other than the matters described herein. If any other matters are presented properly at the 2016 Meeting, the persons designated as proxies intend to vote upon such matters in accordance with their best judgment.

Only shareholders of record at the close of business on March 2, 2017 will be entitled to attend and vote at the 2016 Meeting. This Notice and the accompanying Proxy Statement and enclosed WHITE proxy card are being first mailed to shareholders on or about [ ], 2017. These items, along with our Annual Report on Form 10-K for the fiscal year ended December 31, 2015, are available free of charge at the “Financial Information” tab of our website at [www.vocaltec.com](http://www.vocaltec.com). Our Annual Report on Form 10-K for the fiscal year ended December 31, 2016 will be filed with the SEC and made available on our website free of charge no less than two weeks prior to the date of the 2016 Meeting. We encourage all shareholders to review our Annual Report for the fiscal year ended December 31, 2016 prior to voting their proxies in connection with the 2016 Meeting.

**THE BOARD UNANIMOUSLY RECOMMENDS THAT SHAREHOLDERS**

**VOTE “FOR” PROPOSALS 1.A, 2, 3, 4, 5 and 6 AND DISREGARD PROPOSAL 1.B.**

**YOUR VOTE IS VERY IMPORTANT.** Whether or not you attend the 2016 Meeting in person, please take the time to vote your shares by completing, signing and promptly mailing the enclosed WHITE proxy card to us in the enclosed, postage-paid envelope. If your shares are held in “street name,” that is, held for your account by a broker, bank or other nominee, you will receive instructions from the shareholder of record that you must follow in order to instruct how your shares are voted at the 2016 Meeting. If you are a shareholder of record, you may attend the 2016 Meeting and you may vote in person, whether or not you have already executed and returned your WHITE proxy card. You may revoke your proxy at any time before the 2016 Meeting by (i) timely completing and returning a later-dated WHITE proxy card, (ii) delivering a written notice of revocation to the Company’s Secretary prior to the 2016 Meeting, or (iii) attending the 2016 Meeting and voting in person. Only a shareholder’s last proxy submitted prior to the 2016 Meeting will be counted. A shareholder’s attendance at the 2016 Meeting does not automatically revoke such shareholder’s proxy, unless such shareholder votes at the 2016 Meeting or specifically requests in writing that his or her proxy be revoked.

Please note that Carnegie has nominated a slate of director nominees for election to the Board at the 2016 Meeting. The Board of Directors does not endorse the slate of nominees put forth by Carnegie. You may receive solicitation materials from Carnegie, including a proxy statement and a proxy card. We are not responsible for the accuracy of any information provided by or related to Carnegie or their respective nominees contained in any proxy solicitation materials filed or disseminated by Carnegie, or any statements Carnegie may otherwise make. Information related to Carnegie and Carnegie’s nominees to the Board contained in this Proxy Statement are based on information provided by Carnegie and included in Carnegie’s declarations to the Company and disclosures in the Notice of Submission of Nominees on Schedule 14N filed by Carnegie with the United States Securities and Exchange Commission (the “SEC”),

and the Company is not responsible for the accuracy of such information.

This Proxy Statement and the enclosed WHITE proxy card are first being mailed to shareholders on or about [ ], 2017

By order of the Board of Directors,

By: /s/ Gerald Vento  
Gerald Vento  
Chief Executive Officer & President

[ ], 2017

*If you have any questions or need assistance voting the **WHITE** proxy card, please call the firm assisting us:*

**Saratoga Proxy Consulting LLC**

520 8th Avenue, 14th Floor

New York, NY 10018

(212) 257-1311

magicJack shareholders call (212) 257-1311 or toll free at (888) 368-0379

Email: [info@saratogaproxy.com](mailto:info@saratogaproxy.com)

**PRELIMINARY PROXY STATEMENT – SUBJECT TO COMPLETION, DATED FEBRUARY 9, 2017**

**MAGICJACK VOCALTEC LTD.**

12 Haomanut Street, 2<sup>nd</sup> Floor

Poleg Industrial Zone, Netanya, Israel 4250445

**PROXY STATEMENT**

**FOR**

**ANNUAL GENERAL MEETING OF SHAREHOLDERS**

**TO BE HELD ON MARCH 30, 2017**

**General Information**

This proxy statement (the “Proxy Statement”) is being furnished by the Board of Directors (the “Board” or the “Board of Directors”) of magicJack VocalTec Ltd., a company organized under the laws of the State of Israel (referred to as “we,” “us” or the “Company”) to the holders of ordinary shares, no par value, of the Company, in connection with the solicitation by the Board of proxies for use at the Company’s 2016 annual general meeting of shareholders or any adjournment thereof (the “2016 Meeting”). The 2016 Meeting will be held at the offices of Yigal Arnon & Co. at 1 Azrieli Center, Tel Aviv 6702101, Israel at 10:00 a.m. Israel time on Thursday March 30, 2017, or at any adjournments or postponements thereof. This Proxy Statement and the enclosed WHITE proxy card are first being mailed to shareholders on or about [ ], 2017.

**Matters to be Voted Upon at the 2016 Meeting**

At the 2016 Meeting, you will be requested to vote on the following proposals (the “Proposals”):



1. To elect to the Board of Directors of the Company:

- Proposal of the Board: To re-elect Mr. Donald A. Burns, Mr. Richard Harris, Dr. Yuen Wah Sing and Mr. Gerald Vento and to elect Mr. Don C. Bell III, Mr. Izhak Gross, and Mr. Alan B. Howe to serve as directors of the Company until the next annual general meeting of shareholders and until their successors have been duly elected and qualified;
- A.

**OR**

B.

Proposal of Paul M. Posner and Carnegie Technologies, LLC (together, "Carnegie"): To elect Mr. Frank J. Bell, Mr. Nabil N. El-Hage, Mr. Richard Kimsey, Mr. Morris A. Miller, Mr. Richard W. Talarico and Mr. Alan B. Howe and to re-elect Mr. Gerald Vento to serve as directors of the Company until the next annual general meeting of shareholders and until their successors have been duly elected and qualified.

2. To re-approve the Company's Compensation Policy.

3. To approve the grant of 7,000 shares of restricted stock to Mr. Izhak Gross, subject to his election to the Board under Proposal 1.A.

4. To approve the accelerated vesting of shares of restricted stock of the Company held by Mr. Yoseph Dauber, a former director of the Company.

5. To approve a limited extension of the Employment Agreement with Mr. Gerald Vento, the Company's President and Chief Executive Officer, until the earlier of June 30, 2017 or the date the Company hires a President and Chief Executive Officer to replace Mr. Vento, and to approve entering into a consulting agreement with Mr. Vento effective upon his separation date.

6. To approve the reappointment of BDO USA, LLP and BDO Ziv Haft, Certified Public Accountants (Isr) as the Company's independent registered public auditor for the year ending December 31, 2016 and to authorize the Company's Board of Directors, subject to the approval of the Audit Committee, to fix the compensation of the auditors in accordance with the volume and nature of their services.

7. To transact such other business as may come properly before the 2016 Meeting or any adjournments or postponements thereof.

We are currently not aware of any other matters that will come before the 2016 Meeting. If any other matters are presented properly at the 2016 Meeting, the persons designated as proxies intend to vote upon such matters in accordance with their best judgment.

### **Recommendation of the Board**

**THE BOARD UNANIMOUSLY RECOMMENDS SHAREHOLDERS**

**VOTE “FOR” PROPOSALS 1.A, 2, 3, 4, 5 and 6 AND DISREGARD PROPOSAL 1.B.**

### **Carnegie Proxy Contest**

Your Board has nominated the following seven candidates for re-election and election to the Board of Directors at the 2016 Meeting under Proposal 1.A: Mr. Donald A. Burns, Mr. Richard Harris, Dr. Yuen Wah Sing, Mr. Gerald Vento, Mr. Don C. Bell III, Mr. Izhak Gross, and Mr. Alan B. Howe (collectively, the “Company Nominees,” but with respect to Mr. Howe and Mr. Vento, only in their capacities as nominees of the Board).

On January 5, 2017, Carnegie submitted a proposal to nominate a competing slate of the following seven candidates for election to the Board of Directors at the 2016 Meeting: Mr. Frank J. Bell, Mr. Nabil N. El-Hage, Mr. Richard Kimsey, Mr. Morris A. Miller, Mr. Alan B. Howe and Mr. Gerald Vento (collectively, the “Carnegie Nominees,” but with respect to Mr. Howe and Mr. Vento, only in their capacities as nominees of Carnegie). On January 18, 2017, Carnegie filed a Notice of Submission of Nominees in Accordance with Procedures Set Forth Under Applicable State or Foreign Law, or the Registrant’s Governing Documents on Schedule 14N (the “Carnegie Schedule 14N”) with the SEC submitting these nominees for inclusion in the Company’s Proxy Statement for the 2016 Meeting. For additional information on the Carnegie Proxy Contest, please see the “Background to the Solicitation” section of this Proxy Statement.

You may receive proxy solicitation materials from Carnegie, including a proxy statement and proxy card. We are not responsible for the accuracy of any information provided by Carnegie or the Carnegie Nominees contained in any proxy solicitation materials filed or disseminated by Carnegie or any statements Carnegie may otherwise make. Information related to Carnegie and its nominees to the Board contained in this Proxy Statement are based on the

information provided by Carnegie and included in Carnegie's declarations to the Company and its disclosures on the Carnegie Schedule 14N.

**Our Board of Directors recommends that you disregard any materials you may receive from or may be directed to by Carnegie, including any proxy statement or proxy card. If you have any questions or need any assistance voting, please call Saratoga Proxy Consulting LLC, our proxy solicitor, at (212) 257-1311 or toll free at (888) 368-0379.**

### **Resolution of Shareholder Nominations by Kanen**

On February 1, 2017, the Company entered into a settlement agreement (the "Settlement Agreement") with David Kanen and Kanen Wealth Management, LLC (collectively, "Kanen"). Under the Settlement Agreement, Kanen irrevocably withdrew its proposal submitted August 29, 2016 providing notice to the Company of its intent to nominate candidates for election to the Board of Directors at the 2016 Meeting. Further, until the termination date of the Settlement Agreement, Kanen will vote all ordinary shares held by them in favor of each nominee and each proposal as recommended by the Board.

The Board agreed to (i) nominate Mr. Alan B. Howe and Mr. Don C. Bell (the "Kanen Designees") for election as directors of the Board at the 2016 Meeting; (iii) recommend that the Company's shareholders vote in favor of the election of the Kanen Designees; and (iv) solicit proxies for the election of each of the Kanen Designees at the 2016 Meeting.

The Company has also agreed to reimburse Kanen for the reasonable fees and expenses of their advisors incurred in connection with the proxy contest in an amount not to exceed \$100,000.

### **Shareholders Entitled to Vote at the 2016 Meeting**

Only shareholders of record at the close of business on March 2, 2017 (the "Record Date") will be entitled to receive notice of, to attend, and to vote at the 2016 Meeting. As of the Record Date, the Company had outstanding [ ] ordinary shares, each of which is entitled to one vote upon each of the matters to be presented at the 2016 Meeting.

## **Voting Procedures**

### ***Record Holders***

If you are a record holder entitled to vote at the 2016 Meeting, meaning your shares are registered in your own name, you may vote:

**By Mail:** Complete, sign and date the enclosed WHITE proxy card and return it by mail in the enclosed, postage-paid envelope. Your shares will be voted according to your instructions.

**At the 2016 Meeting:** If you attend the 2016 Meeting, you may deliver your completed WHITE proxy card in person or you may vote by completing a ballot, which we will provide to you at the 2016 Meeting. You are encouraged to complete, sign and date the enclosed WHITE proxy card and return it by mail in the enclosed, postage-paid envelope whether or not you plan to attend the 2016 Meeting.

### ***Beneficial Owners***

If your shares are held in “street name,” meaning they are held for your account by a broker, bank or other nominee, these proxy materials are being forwarded to you by that nominee. The nominee holding your shares is considered the shareholder of record for purposes of voting at the 2016 Meeting. Generally, if shares are held in street name, the beneficial owner of the shares is entitled to give voting instructions to the nominee holding the shares. You should receive instructions from your nominee explaining how you can provide them with instructions on how to vote your shares at the 2016 Meeting. You will not be able to vote in person at the 2016 Meeting unless you have a legal proxy from your nominee issued in your name granting you the right to vote your shares in person.

If the beneficial owner does not provide voting instructions, the broker, bank or other nominee can still vote the shares with respect to matters that are considered to be “routine,” but not with respect to “non-routine” matters. In the event that a nominee indicates on a proxy that it does not have discretionary authority to vote certain shares on a non-routine proposal, then those shares will be treated as broker non-votes and will not be treated as either a vote “for” or “against” a proposal. Under the Companies Law, broker non-votes will not be counted as present for the purpose of determining the presence or absence of a quorum for the transaction of business. Only Proposal 6 (ratification of the reappointment of the independent public auditor) is considered a routine matter on which brokers will be entitled to vote without instructions from the beneficial owner. Proposals with respect to the election of directors and executive compensation are considered “non-routine” and the nominee that holds your shares does not have authority to vote your shares on these matters without your instruction. Therefore, **please promptly instruct your broker or other nominee on how**

**to vote your shares on all of the Proposals in this Proxy Statement.**

**Quorum**

Two (2) or more shareholders, present in person or by proxy and holding shares conferring in the aggregate more than thirty-three and one-third percent (33.33%) of the voting power of the Company will constitute a quorum at the 2016 Meeting. Abstentions may be specified on all Proposals. Abstentions will be counted as present for purposes of determining a quorum but will not be counted as voting on the Proposal in question. Submitted proxies which are left blank will also be counted as present for purposes of determining a quorum. If a quorum is not present within thirty (30) minutes from the time appointed for the 2016 Meeting, the 2016 Meeting will be adjourned to the same day in the following week, at the same time and place, or to such day and at such time and place as the Chairman of the 2016 Meeting may determine. At such adjourned Meeting, two (2) or more members, present in person or by proxy and holding shares conferring in the aggregate more than thirty-three and one-third percent (33.33%) of the voting power of the Company, will constitute a quorum.

**Vote Required for Approval**

**YOUR VOTE IS VERY IMPORTANT.** Each shareholder is entitled to one vote per each ordinary share held thereby. You may vote for, against, or abstain on, or you may disregard, each proposal presented at the 2016 Meeting. Subject to additional requirements with respect to Proposals 2, 3, 4 and 5 as described below, the affirmative vote of the holders of a majority of the shares represented at the 2016 Meeting in person or by proxy and voting on each proposal is necessary for the approval of each Proposal presented at the 2016 Meeting.

***Proposal 1***

Shareholders are asked to elect seven nominees under Proposal 1 to serve as directors of the Company until the next annual general meeting of shareholders. The affirmative vote of the holders of a majority of the shares represented at the 2016 Meeting in person or by proxy and voting on a nominee is necessary for the election of a nominee under Proposal 1.A and Proposal 1.B. In the event that more than seven director nominees proposed under Proposal 1.A and Proposal 1.B receive the affirmative vote of holders of a majority of the shares voting on each such nominee, the seven nominees who receive the highest number of affirmative votes in favor of their election will be elected to serve as directors of the Company.

If you abstain with respect to any nominee under either Proposal 1.A or Proposal 1.B, your shares will be counted for purposes of establishing a quorum on that specific nominee (provided that you voted only on Proposal 1.A or Proposal 1.B), but will not be considered to have voted for or against that specific nominee, and therefore will have the effect of voting against that specific nominee. Broker non-votes will not be counted for the purposes of establishing a quorum

on the nominees under Proposal 1.A or Proposal 1.B, and therefore will have no effect on the outcome of the vote for each nominee under either Proposal 1.A or Proposal 1.B.

Shareholders are asked to elect director nominees until the close of the next annual general meeting of shareholders of the Company by voting on nominees from either Proposal 1.A or Proposal 1.B, but not on nominees under both. Please note that although Mr. Howe and Mr. Vento each appear under both Proposal 1.A and Proposal 1.B, you may only vote on Mr. Howe and Mr. Vento on either Proposal 1.A or Proposal 1.B on the enclosed WHITE proxy card. **PLEASE NOTE THAT IF YOU VOTE ON ANY NUMBER OF NOMINEES UNDER PROPOSAL 1.A AND ALSO ON ANY NUMBER OF NOMINEES UNDER PROPOSAL 1.B, YOUR VOTES WILL NOT BE COUNTED AS PRESENT AND VOTING UNDER PROPOSAL 1 OR IN DETERMINING ELECTION OF NOMINEES UNDER EITHER PROPOSAL 1.A OR 1.B.**

If a shareholder votes on any nominees under Proposal 1.A and gives no instructions as to Proposal 1.B, such shareholder will be deemed to have DISREGARDED Proposal 1.B. If a shareholder votes on any nominees under Proposal 1.B and gives no instructions as to Proposal 1.A, such shareholder will be deemed to have DISREGARDED Proposal 1.A.

#### *Proposals 2, 4 and 5*

The affirmative vote of the holders of a majority of the shares represented at the 2016 Meeting in person or by proxy and voting on each of Proposals 2, 4 and 5 is necessary for the approval of each such Proposal. If you abstain with respect to Proposals 2, 4 and 5, your shares will be counted for purposes of establishing a quorum on that Proposal, but will not be considered to have voted for or against the Proposal, and therefore will have the effect of voting against the Proposal. Broker non-votes will not be counted for the purposes of establishing a quorum on Proposals 2, 4 and 5 and therefore will have no effect on the outcome of the vote on Proposals 2, 4 and 5.

The approval of each of Proposals 2, 4 and 5 is also subject to the approval of a “Special Majority” which requires that either: (i) the Proposal must be approved by a majority of the shares voted on such Proposal by shareholders who are not controlling shareholders and who do not have a Personal Interest (as defined below) in the Proposal, or (ii) the total number of shares held by such shareholders described above and voted against the Proposal does not exceed two percent of the aggregate voting rights in the Company. Abstentions shall not be taken into account.

Under the Israeli Companies Law, 5759-1999, as currently amended, and the regulations promulgated thereunder (collectively, the “Companies Law”), and as used in this Proxy Statement, a “Personal Interest” means an interest of a person in an act or transaction of a company, including: (i) a personal interest of that person’s relative (which includes for these purposes a person’s spouse, siblings, parents, grandparents, descendants, and a spouse’s descendants, siblings, and parents, and the spouse of any of the foregoing); (ii) a personal interest of another entity in which that person or his or her relative holds five percent (5%) or more of such entity’s issued shares or voting rights, has the right to appoint a director or the chief executive officer of such entity, or serves as director or chief executive officer of such entity; or (iii) the personal interest of a person voting pursuant to a proxy whether or not the proxy grantor has a

personal interest, as well as the vote of a proxy holder if the proxy grantor has a personal interest, irrespective of whether the proxy holder has voting discretion or not. A personal interest resulting merely from holding the Company's shares will not be deemed a Personal Interest.

**For each of Proposals 2, 4 and 5, if you do not confirm that you do not have a Personal Interest in the approval of the relevant Proposal, you will be considered as having a Personal Interest in the Proposal, and your shares will not be counted in the Special Majority vote required for that Proposal.**

*Proposal 3*

The approval of Proposal 3 is subject first to the election of Mr. Gross to the Board under Proposal 1.A.

If Mr. Gross is elected under Proposal 1.A and if the Company's Compensation Policy is re-approved under Proposal 2, then the affirmative vote of the holders of a simple majority of the voting power represented at the 2016 Meeting in person or by proxy and voting on Proposal 3 is necessary for the approval of Proposal 3. If you abstain with respect to Proposal 3, your shares will be counted for purposes of establishing a quorum on that Proposal, but will not be considered to have voted for or against the Proposal, and therefore will have the effect of voting against the Proposal. Broker non-votes will not be counted for the purposes of establishing a quorum on Proposal 3, and therefore will have no effect on the outcome of the vote on Proposals 3.



If, however, Mr. Gross is elected under Proposal 1.A but the Company's Compensation Policy is not re-approved under Proposal 2, then approval of Proposal 3 is also subject to the approval of a "Special Majority" which requires that either: (i) the Proposal must be approved by a majority of the shares voted on such Proposal by shareholders who are not controlling shareholders and who do not have a Personal Interest in the Proposal, or (ii) the total number of shares held by such shareholders described above and voted against the Proposal does not exceed two percent of the aggregate voting rights in the Company. Abstentions shall not be taken into account.

**If Proposal 2 is not approved and a Special Majority vote is required, and if you do not confirm that you do not have a Personal Interest in the approval of Proposal 3, you will be considered as having a Personal Interest in the Proposal, and your shares will not be counted in the Special Majority vote required for that Proposal.**

### *Proposal 6*

The affirmative vote of the holders of a majority of the shares represented at the 2016 Meeting in person or by proxy and voting on Proposal 6 is necessary for the approval of Proposal 6. If you abstain with respect to Proposal 6, your shares will be counted for purposes of establishing a quorum on that Proposal, but will not be considered to have voted for or against the Proposal, and therefore will have the effect of voting against the Proposal. Broker non-votes will not be counted for the purposes of establishing a quorum on Proposal 6, and therefore will have no effect on the outcome of the vote on Proposal 6.

### **Voting of Proxies**

Upon the receipt of a properly executed WHITE proxy card in the form enclosed, the persons named as proxies in the WHITE proxy card will vote the ordinary shares covered by the proxy in accordance with the directions of the shareholder executing the proxy. Subject to applicable law and the rules of the Nasdaq Global Market ("Nasdaq"), if no instructions are indicated in such proxies with respect to a specific Proposal or all Proposals, the ordinary shares represented by the properly executed and received WHITE proxy cards will be voted "FOR" Proposals 1.A, 3 and 6, and will DISREGARD Proposal 1.B. Proposals 2, 4 and 5 will not be voted if you do not confirm that you do not have a Personal Interest in such Proposals, as you must confirm that you do not have a Personal Interest in order to be counted in the Special Majority required for approval on these Proposals.

Any shareholder that holds, as of the record date set for determining the shareholders entitled to notice of and to vote at the 2016 Meeting, either (i) five percent (5%) or more of the total voting rights in the Company or (ii) five percent (5%) or more of the total voting rights in the Company held by all shareholders that are not control persons, may, directly or through a representative after the 2016 Meeting is held, review, at the Company's registered office, all

proxies received by the Company with respect to the 2016 Meeting.

### **Solicitation of Proxies by the Company**

This solicitation is being made by the Board of Directors of the Company. Proxies are being mailed to shareholders by the Company on or about [ ], 2017 and will be solicited by the Company mainly by mail; however, certain officers, directors, director nominees, employees and agents of the Company, none of whom will receive additional compensation, may solicit proxies by telephone, fax or other personal contact. We will furnish copies of solicitation materials to brokerage firms, nominees, fiduciaries and other custodians for forwarding to their respective principals. We will bear the cost of soliciting proxies, including, among other things, preparing, assembling, mailing, printing and handling, and will reimburse the reasonable expenses of brokerage firms, banks and others for forwarding materials to beneficial owners of ordinary shares. We may also solicit proxies by email from shareholders who previously requested to receive proxy materials electronically. Please see “Proposal 1.A – Additional Information about the Company Solicitation” for more information related to the Company Nominees and certain of our officers and employees who are “participants” in our solicitation under the rules and regulations of the SEC.

The Company has retained Saratoga Proxy Consulting LLC (“Saratoga”) to solicit proxies. Under our agreement with Saratoga, Saratoga will receive a fee of up to \$[ ] plus the reimbursement of reasonable expenses. Saratoga expects that approximately [ ] of its employees will assist in the solicitation. Saratoga will solicit proxies by mail, telephone, facsimile or email. Our aggregate expenses, including those of Saratoga, relating to our solicitation of proxies, excluding salaries and wages of our regular employees, are expected to be approximately \$[ ], of which approximately \$[ ] has been incurred as of the date of this Proxy Statement. Our aggregate expenses, including those of Saratoga, related to our solicitation of proxies, excluding salaries and wages of our regular employees and expenses that we would ordinarily incur in connection with an uncontested annual meeting, are approximately [ ].

Please see “Proposal 1.B – Additional Information on the Carnegie Solicitation” for information on the solicitation of proxies by Carnegie and the Carnegie Nominees.

## **Revocation of Proxies**

A shareholder of record who has executed and delivered a proxy card may revoke such proxy at any time before the 2016 Meeting by (i) timely completing and returning a later-dated proxy card, (ii) voting on a later date by using the Internet or by telephone, (iii) delivering a written notice of revocation to the Company's Secretary prior to the 2016 Meeting, or (iv) attending the 2016 Meeting and voting in person. Only a shareholder's last proxy submitted prior to the 2016 Meeting will be counted. A shareholder's attendance at the 2016 Meeting does not automatically revoke such shareholder's proxy, unless such shareholder votes at the 2016 Meeting or specifically requests in writing that his or her proxy be revoked.

## **Shareholder Proposals**

Shareholders may present proper proposals for inclusion in our proxy statement and for consideration at the next annual general meeting of shareholders by submitting their proposals in writing to our Secretary in a timely manner. Such request must comply with the requirements of our Amended and Restated Articles of Association, which establish an advance notice procedure for shareholders holding at least one percent (1%) of the voting rights in the issued share capital of the Company who wish to include a subject in the agenda of an annual general meeting of shareholders in the future. Any such request must be in writing, must include all information related to the subject matter and the reason that such subject is proposed to be brought before the annual general meeting and must be signed by the shareholder or shareholders making such request. Each such request shall also set forth: (a) the name and address of the shareholder making the request; (b) a representation that the shareholder is a holder of record of shares of the Company entitled to vote at such meeting and intends to appear in person or by proxy at the meeting; (c) a description of all arrangements or understandings between the shareholder and any other person or persons (naming such person or persons) in connection with the subject which is requested to be included in the agenda; and (d) a declaration that all the information that is required under the Companies Law and any other applicable law to be provided to the Company in connection with such subject, if any, has been provided. Furthermore, the Board may, in its discretion and to the extent it deems necessary, request that the shareholders making the request provide additional information necessary so as to include a subject in the agenda of an annual general meeting.

Under Section 66(b) of the Companies Law, a shareholder who meets the conditions of Section 66(b) of the Companies Law may submit its request to include an agenda item within seven days following the Company's notice of convening a shareholders' meeting at which directors are to be elected and certain other proposals are to be considered. In addition, shareholder proposals must otherwise comply with the requirements of Rule 14a-8 under the Securities Exchange Act of 1934, as amended (the "Exchange Act"). Under Rule 14a-8 of the Exchange Act, to be eligible for inclusion in the Company's proxy materials for the 2017 annual meeting of shareholders, expected to be held on or around [ ], shareholder proposals must be received by the Secretary not later than [ ]. Proposals should be addressed to: magicJack VocalTec Ltd., 12 Haomanut Street, 2<sup>nd</sup> Floor, Poleg Industrial Zone, Netanya, Israel 4250445.

## **Nomination of Director Candidates**

You may also propose director candidates for consideration by our Board if you hold at least one percent (1%) of the outstanding voting power in the Company. For additional information regarding shareholder recommendations for director candidates, see “Meetings and Committees of the Board Nominating Committee and Director Nominating Process.”

## **Change of Control**

If the Carnegie Nominees are elected, a change of control will occur under certain of the Company’s employment agreements with management as described in this Proxy Statement under the heading “Employment Agreements and Potential Payments Upon Termination or Change of Control.”

## **Other Matters and Additional Information**

**This Proxy Statement and the Company’s Annual Report on Form 10-K for the year ended December 31, 2015, our other reports on Forms 10-K, 10-Q, 8-K and other publicly available information are available at [www.vocaltec.com](http://www.vocaltec.com). In addition, our Annual Report on Form 10-K for the year ended December 31, 2016 will be filed with the SEC and made available on our website no less than two weeks prior to the date of the 2016 Meeting and mailed to shareholders shortly thereafter.**

This Proxy Statement provides you with detailed information about the matters on which you are requested to vote your shares. In addition, you may obtain information about the Company from documents filed with the SEC. We encourage you to read the entire Proxy Statement carefully.

If you would like to obtain directions to be able to attend the 2016 Meeting in person, please call Jose Gordo, the Company’s Chief Financial Officer, at 561-749-2255.

*If you have any questions or need assistance voting the **WHITE** proxy card, please call the firm assisting us:*

**Saratoga Proxy Consulting LLC**

520 8th Avenue, 14th Floor

New York, NY 10018

(212) 257-1311

magicJack shareholders call (212) 257-1311 or toll free at (888) 368-0379

Email: [info@saratogaproxy.com](mailto:info@saratogaproxy.com)

## **BACKGROUND TO THE SOLICITATION**

In April 2015, the Board engaged Merrill Lynch, Pierce, Fenner & Smith Incorporated (“BofA Merrill Lynch”) to act as financial advisor to the Company in connection with a solicitation of offers to acquire the Company.

Between April 2015 and July 2015, at the direction of the Board, BofA Merrill Lynch contacted 35 potential strategic and financial buyers regarding a possible sale of the Company. Confidentiality agreements were executed with 10 potential buyers and management presentations were provided to 9 interested parties.

On July 15, 2015, the Company received formal indications of interest from two potential bidders. The highest bid was \$8.00 per ordinary share. The Board reviewed the highest bid and determined that this price did not reflect the Board’s view regarding the value of the Company. The Board resolved that the Company should instead move forward with the Board’s s