



MTN Zakhele Futhi (RF) Limited

(Incorporated in the Republic of South Africa)

(Registration number: 2016/268837/06)

JSE share code: MTNZF ISIN: ZAE000279402

("MTNZF" or the "Company")

PRE-LISTING STATEMENT

Relating to the listing of MTNZF Shares as Asset Backed Securities (being specialist securities under the Listings Requirements) on the BEE Segment of the main board of the JSE, and will thus be BEE securities, from the commencement of trade on Monday, 25 November 2019.

The definitions and interpretations commencing on page 4 of this Pre-Listing Statement apply to this entire Pre-Listing Statement, including the cover page, except where the context indicates a contrary intention. This Pre-Listing Statement is not an invitation to the public to subscribe for MTNZF Shares but is issued in compliance with the Listings Requirements of the JSE for the purpose of providing information to the public with regard to MTNZF.

The MTNZF Shares are subject to various restrictions as set out in the MTNZF MOI and the Relationship Agreement including, *inter alia*, that they may only be owned by Eligible Shareholders and may not be Encumbered. Subsequent to the BEE Listing and for the duration of the BEE Listing Period, the trading in, and transfer of, MTNZF Shares will be subject to the Verification Terms and Conditions.

The JSE's approval of the BEE Listing is not to be taken in any way as an indication of the merits of MTNZF or of the securities to be listed. The JSE has not verified the accuracy and truth of the contents of this Pre-Listing Statement and, to the extent permitted by law, the JSE will not be liable for any claim whatsoever. The JSE takes no responsibility for the contents of this Pre-Listing Statement, the interim or annual financial statements of MTNZF or the annual report of MTNZF (each as amended or restated from time to time) (together, "**MTNZF Documents**") or any amendments to the MTNZF Documents. The JSE makes no representation as to the accuracy or completeness of the MTNZF Documents and expressly disclaims any liability for any loss arising from or in reliance upon the whole or any part of the MTNZF Documents. Claims against the JSE Guarantee Fund may only be made in respect of trading in securities on the JSE and in accordance with the terms of the rules of the JSE Guarantee Fund and can in no way relate to a default by MTNZF of its obligations in terms of the issue of securities by MTNZF.

Prospective investors in MTNZF should ensure that they fully understand the nature of the MTNZF Shares and the extent of their exposure to risks in respect thereof, and that they consider the suitability of the MTNZF Shares as an investment in light of their own circumstances and financial positions.

The MTNZF Shares are to be listed as Asset Backed Securities (being specialist securities under the Listings Requirements) on the BEE Segment and will thus be BEE securities. Specialist securities involve a high degree of risk, including the risk of an investor losing some or a significant part of their initial investment. Potential investors should be prepared to sustain a total loss of their investment in such securities. The MTNZF Shares rank *pari passu* with one another.

Prospective purchasers of MTNZF Shares are reminded that the MTNZF Shares constitute rights as against and obligations of MTNZF only and of no other person. Therefore, potential purchasers of MTNZF Shares should understand that they are relying on the credit worthiness of MTNZF and on the assessment of, amongst other things, its assets and liabilities, including its main asset, being approximately 77 million MTN Shares.

At the date of the BEE Listing, the authorised share capital of MTNZF will comprise 300 000 000 MTNZF Shares and 3 200 000 unlisted MTNZF Pref Shares. The issued listed share capital of MTNZF will comprise 123 416 826 fully paid-up MTNZF Shares and 1 172 468 fully paid-up unlisted MTNZF Pref Shares.

The JSE has granted MTNZF a listing of 123 416 826 MTNZF Shares as Asset Backed Securities on the BEE Segment of the main board of the JSE under the full name "*MTN Zakhele Futhi*" with the abbreviated name of "*MTNZFuthi*" (the JSE alpha code will be "MTNZF" and the ISIN will be ZAE000279402). It is anticipated that the BEE Listing will be effective as from the commencement of trade on Monday, 25 November 2019.

MTNZF will list on the BEE Segment of the main board of the JSE pursuant to the use of a BEE Verification Agent as contemplated in the Listings Requirements. The MTNZF Shares will only be traded on the JSE in Dematerialised form. Currently, and prior to the BEE Listing, all MTNZF Shares are held in Dematerialised form.

MTNZF and the MTNZF Directors, whose names are set out on page 17 of this Pre-Listing Statement, collectively and individually accept full responsibility for the accuracy of the information contained in this Pre-Listing Statement and certify that to the best of their knowledge and belief there are no facts that have been omitted which would make any statement false or misleading, and that all reasonable enquiries to ascertain such facts have been made and that this Pre-Listing Statement contains all information required by the Listings Requirements.

Each of the Investment Bank, Corporate Advisor and Transaction Sponsor, Joint Corporate Advisor and JSE Sponsor, Share Scheme Administration Agent, BEE Verification Agent and Transfer Secretary, Stockbroker, Auditor, Legal Advisor and the Company Secretary have consented in writing to act in the capacity stated, and to its name being stated in this Pre-Listing Statement and has not withdrawn its consent prior to the publication of this Pre-Listing Statement.

An abridged version of this Pre-Listing Statement is only available in English and will be published on SENS on Monday, 11 November 2019 and in the press on Tuesday, 12 November 2019, and a full copy of this Pre-Listing Statement is available on the MTNZF Website (<https://www.mtnzakhelefuthi.co.za/docs>).

Date of issue: Monday, 11 November 2019

**Investment Bank, Corporate Advisor and
Transaction Sponsor**



**Share Scheme Administration Agent, BEE Verification
Agent and Transfer Secretary**



Stockbroker



Joint Corporate Advisor and JSE Sponsor



Auditor



Legal Advisor



CORPORATE INFORMATION AND ADVISORS

Registered Office of MTNZF

MTN Zakhele Futhi (RF) Limited
(Registration number 2016/268837/06)
135 Rivonia Road
Sandton, 2196
South Africa
(PO Box 1144, Johannesburg, 2000)

Place of incorporation: South Africa

Date of incorporation: 21 June 2016

Investment Bank, Corporate Advisor and Transaction Sponsor

Nedbank Limited, acting through its Corporate and Investment Banking division
(Registration number 1951/000009/06)
135 Rivonia Road
Sandton, 2196
South Africa
(PO Box 1144, Johannesburg, 2000)

Share Scheme Administration Agent, BEE Verification Agent and Transfer Secretary

Nedbank Limited, acting through its Share Scheme Administration business unit
(Registration number 1951/000009/06)
135 Rivonia Road
Sandton, 2196
South Africa
(PO Box 1144, Johannesburg, 2000)

Stockbroker

Nedbank Limited, acting through Nedgroup Private Wealth Stockbrokers (Pty) Ltd
(Registration number 1996/015589/07)
135 Rivonia Road
Sandton, 2196
South Africa
(PO Box 1144, Johannesburg, 2000)

Company Secretary

Nedbank Limited, acting through its Group Secretariat division
(Registration number 1951/000009/06)
135 Rivonia Road
Sandton, 2196
South Africa
(PO Box 1144, Johannesburg, 2000)

Joint Corporate Advisor and JSE Sponsor

Tamela Holdings Proprietary Limited
(Registration number 2008/011759/07)
Ground Floor, Golden Oak House, Ballyoaks Office Park
35 Ballyclare Drive
Bryanston, 2021
South Africa
(PO Box 379, Morningside, 2057)

Auditor

SizweNtsalubaGobodo Grant Thornton Inc.
Chartered Accountants (SA)
Registered Accountants and Auditors
(Registration number 2005/034639/21)
20 Morris Street East
Woodmead, 2191
South Africa
(PO Box 2939, Saxonwold, 2132)

Legal Advisor

Webber Wentzel Attorneys
90 Rivonia Road
Sandton, 2196
South Africa
(PO Box 61771, Marshalltown, 2107)

TABLE OF CONTENTS

	<i>Page</i>
CORPORATE INFORMATION AND ADVISORS	1
SALIENT DATES AND TIMES	3
DEFINITIONS AND INTERPRETATIONS	4
PRE-LISTING STATEMENT	17
SECTION 1: INTRODUCTION	17
1. INTRODUCTION, BACKGROUND AND RATIONALE FOR THE BEE LISTING	17
2. VERIFICATION, TRADING AND SETTLEMENT OF MTNZF SHARES DURING THE EMPOWERMENT COMPLIANCE PERIOD	19
3. INDEMNITY GRANTED BY MTNZF	21
SECTION 2: INFORMATION ON MTNZF	23
4. NATURE OF BUSINESS	23
5. UNDERLYING ASSETS	24
6. KEY RISK FACTORS AFFECTING THE VALUE OF MTNZF SHARES	24
SECTION 3: INFORMATION ON MTNZF DIRECTORS AND MANAGEMENT	28
7. THE MTNZF MANAGEMENT FUNCTIONS	28
8. INFORMATION RELATING TO THE MTNZF DIRECTORS AND THE MANAGEMENT OF MTNZF	28
SECTION 4: INFORMATION RELATING TO MTNZF SHARES	31
9. SHARE CAPITAL OF MTNZF	31
10. DIVIDEND POLICY	32
11. RESTRICTIONS ASSOCIATED WITH MTNZF SHARES	32
SECTION 5: OTHER INFORMATION	41
12. FUNDING	41
13. ISSUE OF MTN ORDINARY SHARES	41
14. REPURCHASE OF MTN SHARES	42
15. APPLICATION OF FUNDING CASH FLOWS	43
16. SOUTH AFRICAN EXCHANGE CONTROL REGULATIONS	44
17. EXPENSES OF THE BEE LISTING	45
18. RESPONSIBILITY STATEMENT	46
19. LITIGATION STATEMENT	46
20. EXPERTS' CONSENT	46
21. MATERIAL CHANGES	46
22. ENHANCEMENTS TO THE MTNZF STRUCTURE	46
23. STATEMENT AS TO NO OTHER LISTING	47
24. MATERIAL CONTRACTS	47
25. TRANSACTION SPONSOR	47
26. DOCUMENTS INCORPORATED BY REFERENCE	48
27. DOCUMENTS AVAILABLE FOR INSPECTION	48
ANNEXURE 1: EXTRACTS FROM THE MTNZF MOI	49
ANNEXURE 2: KEY PROVISIONS OF THE BFC2 PREF SHARES AND THE MTNZF PREF SHARES	70
ANNEXURE 3: THE RELATIONSHIP AGREEMENT	74
ANNEXURE 4: AMENDMENT AGREEMENT IN RESPECT OF THE MTN 2016 TRANCHE 1 SUBSCRIPTION AND CALL OPTION AGREEMENT AND THE RELATIONSHIP AGREEMENT	97
ANNEXURE 5: MATERIAL CONTRACTS	102

SALIENT DATES AND TIMES

2019

Distribution of the Pre-Listing Statement	Monday, 11 November
Abridged Pre-Listing Statement released on SENS	Monday, 11 November
Abridged Pre-Listing Statement published in the press	Tuesday, 12 November
Expected Listing Date on	Monday, 25 November

Notes:

1. All dates and times shown in this Pre-Listing Statement are South African dates and times.
2. The above dates are subject to amendment. Any such amendment will be announced on SENS and published on the MTNZF Website (<https://www.mtnzakhelefuthi.co.za/investor-relations>) and in the press.

DEFINITIONS AND INTERPRETATIONS

In this Pre-Listing Statement and the annexures hereto, unless the context indicates otherwise, the words in the first column shall have the meanings assigned to them in the second column, the singular includes the plural and *vice versa*, an expression which denotes one gender includes the other genders, a natural person includes a juristic person and *vice versa* and cognate expressions shall bear corresponding meanings.

"2010 MTN BEE Transaction"	the BEE transaction implemented by MTN in November 2010, through MTNZ, in terms of which members of the Black Public were invited to subscribe for, and were subsequently issued with, MTNZ Shares. Using a combination of new equity funding, a donation from MTN, notional vendor finance and third-party preference share funding, MTNZ, in turn, acquired approximately 77 million MTN Ordinary Shares, amounting to approximately 4% of MTN's then issued share capital. The 2010 MTN BEE Transaction was unwound in November 2016, concurrently with the implementation of the 2016 MTN BEE Transaction;
"2016 MTN BEE Transaction"	the BEE transaction implemented by MTN in November 2016, in parallel with the MTNZ Unwind Transaction, on substantially the same terms as the 2010 MTN BEE Transaction, through MTNZF, in terms of which qualifying members of the Black Public were invited to subscribe for MTNZF Shares, and in terms of which MTNZF, in turn, acquired the MTN Shares through a combination of new equity funding (including re-investment equity from MTNZ Shareholders), equity raised from MTN through its subscription for the MTNZF Underwrite Shares, a 20% transaction discount from MTN, Notional Vendor Finance and third-party preference share funding, as set out in the Transaction Documents;
"Approved Nominee"	the Custodian and/or any Nominee Holder who is permitted to hold MTNZF Shares on behalf of a Beneficial Holder thereof, pursuant to the BEE Listing Terms and Conditions;
"Asset Backed Securities"	has the meaning given to such term in the Listings Requirements from time to time;
"Auditor"	SizweNtsalubaGobodo Grant Thornton Inc., registration number 2005/034639/21, registered accountants and auditors, incorporated in accordance with the laws of South Africa;
"Authorised Dealer"	an authorised dealer of the SARB, designated as such in the Exchange Control Regulations;
"Authority"	any Government or Governmental, administrative, fiscal or judicial authority, body, court, department, commission, tribunal, registry or any state owned, controlled or legislatively constituted authority which principally performs public, governmental or regulatory functions and/or which is responsible for applying national security, foreign investment, exchange control, telecommunications, merger control or other competition or antitrust legislation or regulations, in South Africa, including without limitation, the Independent Communications Authority of South Africa, a regulatory body established in terms of section 3 of the Independent Communications Authority of South Africa Act, No. 13 of 2000, as amended;
"BEE"	black economic empowerment;
"BEE Act"	the Broad-Based Black Economic Empowerment Act, No. 53 of 2003 and any regulations and codes of good practice published thereunder (including the Codes), as amended;
"BEE Legislation"	each and all of: (i) the BEE Act; (ii) any codes of good practice and/or any transformation charters issued under sections 9 and/or 12 of the BEE Act, applicable to the MTN SA Group; (iii) any communications sector legislation (including the ECA) and any regulations published under such legislation and any Licence conditions made pursuant to such legislation from time to time, as applicable to the MTN SA Group; and (iv) any other charter, law, condition of a material Licence, regulation or (mandatory or voluntary) practice pursuant to which ownership and/or control by Black People in the MTN SA Group is measured or a requirement relating thereto is imposed on it, or its rights, interests and/or obligations are affected thereby whether directly or through its customers;

“BEE Listing”	the admission to listing of the MTNZF Shares as Asset Backed Securities (being specialist securities under the Listings Requirements) on the BEE Segment of the main board of the exchange operated by the JSE, and will thus be BEE securities, from commencement of trade on Monday, 25 November 2019;
“BEE Listing Period”	the period commencing on the date upon which the BEE Listing takes place and ending on the earlier of: <ul style="list-style-type: none"> • 23:59:59 on the last day of the Empowerment Compliance Period; and • the date on which the BEE Listing permanently terminates for any reason;
“BEE Listing Terms and Conditions”	the terms and conditions applicable to the holding and/or transfer of MTNZF Shares (and beneficial interests therein) pursuant to the BEE Listing, as are set out in the MTNZF MOI and the Relationship Agreement read with any market notice published by the JSE in respect of the BEE Listing and any other terms and conditions notified to a person by or on behalf of MTN and/or MTNZF from time to time;
“BEE securities”	has the meaning given to such term in the Listings Requirements from time to time;
“BEE Segment”	has the meaning given to such term in the Listings Requirements from time to time;
“BEE Status”	in relation to a Black Group, the Black Group’s percentage ownership and percentage economic interest by Black People (by shareholding, membership, beneficiary interest and/or other comparable interest, as the case may be having regard to the juristic nature of the relevant Black Group) and the Black Group’s percentage representation by Black People at board or trustee or other similar governing body, as measured under the BEE Legislation and, in relation to a natural person, whether or not that person qualifies as a Black Person;
“BEE Transaction Documents”	the Transaction Documents and such further agreements and documents which MTN and MTNZF agree in writing to designate as BEE Transaction Documents from time to time;
“BEE Verification”	the verification of a person by the BEE Verification Agent, which verification must conclude, <i>inter alia</i> , that: <ul style="list-style-type: none"> • the person is an Eligible Shareholder; • such Eligible Shareholder has been notified of the necessary restrictions, limitations and requirements applicable to such MTNZF Shares from time to time as set out in the MTNZF MOI and the Relationship Agreement, and has agreed to be bound by the provisions thereof; and • such Eligible Shareholder has accepted the applicable Verification Terms and Conditions and has signed all documents and contracts, and satisfied or fulfilled any additional steps, required in terms of the applicable Verification Terms and Conditions, and “BEE Verified” has a similar meaning;
“BEE Verification Agent”	during the BEE Listing Period, a person appointed from time to time by MTN and/or MTNZF (with the consent of MTN), in writing, to fulfil the functions assigned to it under the Relationship Agreement in respect of performing BEE Verification, being Nedbank SSA as at the Last Practicable Date;
“Beneficial Holder”	in relation to any Dematerialised Shares, the person who, from time to time: (i) holds the beneficial interests in such shares directly through “own name” registration in the uncertificated Register; or (ii) where such shares are registered in the uncertificated Register in the name of a Nominee Holder, the holder/s of the beneficial interests in such Dematerialised Shares;
“BFC2”	Jabisaan 04 Proprietary Limited, registration number 2014/021122/07, a private company incorporated in accordance with the laws of South Africa, all the shares of which are held by an independent, orphan trust, the special purpose vehicle to facilitate the third-party preference share funding for the 2016 MTN BEE Transaction;

“BFC2 Investors”	the subscribers of the BFC2 Pref Shares following the issue of the BFC2 Pref Shares under and in terms of the BFC2 Pref Subscription Agreement, being United Towers Proprietary Limited, Depfin Investments Proprietary Limited and Rand Merchant Bank, a division of FirstRand Bank Limited;
“BFC2 Pref Shareholders”	the holders of the BFC2 Pref Shares from time to time, as at the Last Practicable Date, being the BFC2 Investors and MMI Group Limited;
“BFC2 Pref Shares”	the Class A cumulative redeemable non-participating preference shares in the issued share capital of BFC2, carrying such terms as are provided for in the BFC2 memorandum of incorporation;
“BFC2 Pref Subscription Agreement”	the agreement entitled <i>“BFC2 Preference Share Subscription Agreement”</i> concluded between BFC2, the Preference Share Agent, United Towers Proprietary Limited, Depfin Investments Proprietary Limited and Rand Merchant Bank, a division of FirstRand Bank Limited, on 21 August 2016 in terms of which the BFC2 Investors subscribed for, and BFC2 allotted and issued to the BFC2 Investors, the BFC2 Pref Shares;
“Black Company”	a company incorporated in accordance with the laws of South Africa, and which is both a Black Majority Owned Company and a Black Majority Controlled Company, and a reference to “company” in this definition shall include a reference to a close corporation;
“Black Entity”	(i) a vesting trust; (ii) a broad-based ownership scheme; and (iii) an unincorporated entity or association, including a partnership, joint venture, syndicate or stokvel, in each case under (i) to (iii) as may be determined from time to time (generally or in relation to any particular Black Entity or category of Black Entities) by MTN in its sole discretion as an entity which qualifies under the BEE Legislation (and the Codes in particular) for recognition and measurement of ownership, economic interest and control by Black People such that the MTN SA Group may claim recognition of such ownership, economic interest and control under the BEE Legislation as all being held by a majority of Black People;
“Black Group”	a Black Company or Black Entity;
“Black Majority Controlled Company”	a “B-BBEE Controlled Company” (or comparable term) as defined from time to time under the BEE Legislation, which definition as at the Last Practicable Date is as follows: <i>“means juristic person, having shareholding or similar members interest, in which black participants enjoy a right to Exercisable Voting Rights that is at least 51% of the total such rights measured using the Flow Through Principle”</i> ; provided that where the BEE Legislation contains more than one definition of a “Black Majority Controlled Company” and such definitions are not the same, then the term “Black Majority Controlled Company” shall mean (and be restricted to) the class of persons who satisfy the relevant criteria in every such definition;
“Black Majority Owned Company”	a “B-BBEE Owned Company” (or comparable term) as defined from time to time under the BEE Legislation, which definition as at the Last Practicable Date is as follows: <i>“means juristic person, having shareholding or similar members interest, that is B-BBEE controlled, in which Black participants enjoy a right to Economic Interest that is at least 51% of the total such rights measured using the Flow Through Principle”</i> ; provided that where the BEE Legislation contains more than one definition of a “Black Majority Owned Company” and such definitions are not the same, then the term “Black Majority Owned Company” shall mean (and be restricted to) the class of persons who satisfy the relevant criteria in every such definition;
“Black Participant”	individually and collectively (as the context may dictate), Black People and Black Groups: (i) who are eligible to subscribe for and beneficially own MTNZF Shares pursuant to the MTNZF Public Offer; (ii) who were MTNZ Shareholders and who were eligible to elect MTNZF Shares pursuant to the MTNZ Unwind Transaction scheme; or (iii) who are otherwise permitted to own MTNZF Shares in terms of the Relationship Agreement (as read with the MTNZ MOI);

“Black People” or “Black Person”	<p>black people (or comparable term) as defined from time to time under the BEE Legislation, provided that where the BEE Legislation contains more than one definition of “black people” (or comparable term) and such definitions are not the same, then the term “Black People” shall mean (and be restricted to) the class of persons who satisfy the relevant criteria in every such definition. As at the date of this Pre-Listing Statement (by way of summary and without in any way being construed as an interpretation of the Codes), Black People are defined under the BEE Act read with schedule 1 of the Codes, as being African, Coloured (including Chinese) and Indian persons who are natural persons and who:</p> <ul style="list-style-type: none"> • are citizens of South Africa by birth or descent; or • are citizens of South Africa by naturalisation before the commencement date of the Constitution of the Republic of South Africa, Act No. 200 of 1993 (“Interim Constitution”); or • became citizens of South Africa after the commencement date of the Interim Constitution, but who, but for the apartheid policy that had been in place prior to that date, would have been entitled to acquire citizenship by naturalisation prior to that date;
“Black Public”	Black People and Black Groups;
“broker”	any person registered as a broking member in equities in terms of the rules of the JSE in accordance with the provisions of the FMA;
“Business Day”	any day other than a Saturday, Sunday or gazetted national public holiday in South Africa;
“Call Event”	the events and circumstances defined as such in the Relationship Agreement. (Call Events are summarised in paragraph 11.2 of section 4 of this Pre-Listing Statement.);
“Call Reference Price”	the reference price used for purposes of calculating the price payable for the Call Shares which are the subject of a Call Event, as defined in the Relationship Agreement. (The Call Reference Price is summarised in paragraph 11.6 of section 4 of this this Pre-Listing Statement.);
“Call Shares”	such number of MTNZF Shares as are subject to a Call Event as set out in the Relationship Agreement and summarised in paragraph 11.6 of section 4 of this Pre-Listing Statement;
“Certificated Shareholders”	MTNZF Shareholders who may hold, following the Listing Date, Certificated Shares;
“Certificated Shares”	MTNZF Shares which have not been Dematerialised into the Strate system, title to which is represented by physical Documents of Title;
“Chinese Walls”	a business term describing an information barrier within an organisation that was erected to prevent exchanges or communication that could lead to conflicts of interest;
“CIPC”	the Companies and Intellectual Property Commission established in terms of the Companies Act;
“Closing Date”	the “ <i>New Empowerment Transaction Closing Date</i> ” being 23 and 24 November 2016, the dates on which the 2016 MTN BEE Transaction was implemented;
“Codes”	the Codes of Good Practice on Broad-Based Black Economic Empowerment issued by the Minister of Trade and Industry in terms of section 9 of the BEE Act from time to time;
“Common Monetary Area”	South Africa, the Republic of Namibia and the Kingdoms of Lesotho and Swaziland;
“Companies Act”	the Companies Act, No. 71 of 2008, as amended;
“Company Secretary” or “Nedbank GS”	Nedbank, acting through its Group Secretariat division;
“Controlled Client”	a controlled client of a JSE Member as contemplated under the JSE Equities Rules and Directives, from time to time;

“CSDP”	a Central Securities Depository Participant, accepted as a participant in terms of the FMA;
“Custodian” or “Custody Entity”	the person designated by MTNZF from time to time to act in such capacity, the Custody Entity as at the Last Practicable Date being NPW;
“Dematerialised”	the process by which Certificated Shares are converted into an electronic form as Dematerialised Shares and recorded in the sub-register of shareholders maintained by a Market Participant, and, the word “Dematerialisation” shall have a corresponding meaning;
“Dematerialised Shares”	MTNZF Shares that have been Dematerialised and incorporated into the Strate system and which shares are no longer evidenced by physical Documents of Title;
“Determination Date”	is as defined in the Implementation Agreement, being essentially the date on which the MTN Board met to set the Final Capital Structure, which date was 18 November 2016;
“Dispose” or “Disposal”	has the meaning given to such term in the Relationship Agreement;
“Dividend Payment Share Cover Ratio”	has the meaning given to such term in the MTNZF MOI;
“Documents of Title”	valid share certificate(s), share statements, certified transfer deed(s), balance receipts or any other documents of title acceptable to MTNZF in respect of MTNZF Shares;
“EBITDA”	earnings before interest, tax, depreciation and amortisation;
“ECA”	the Electronic Communications Act, No. 36 of 2005, as amended;
“Effective Date of the MTNZF Offer”	the date on which MTNZF Shares were allotted and issued to MTNZF Shareholders under the MTNZF Public Offer, which date was 24 November 2016;
“Eligible Shareholder”	individually and collectively (as the context may dictate), any Black People, Black Public, Black Company, Black Entity or Black Group, who are eligible to hold, or have a beneficial interest in, MTNZF Shares in terms of the provisions of the MTNZF MOI and the Relationship Agreement;
“Emigrant”	any emigrant from the Common Monetary Area whose address is outside the Common Monetary Area;
“Empowerment Compliance Period”	a period of eight years commencing on the Effective Date of the MTNZF Offer and ending on the eighth anniversary of the Effective Date of the MTNZF Offer;
“Encumbrance”	in relation to any property, includes any pledge, security cession, charge, hypothecation, lien, subordination, mortgage, option over, right of retention or any other encumbrance whatsoever, or any form of hedging or similar derivative instrument of any nature whatsoever of or over or in respect of that property or class of property (or any part or proceeds thereof), or any lending of that property, and, the words “Encumber” , “Encumbered” and “Encumbering” shall have corresponding meanings;
“ESTC”	the Empowerment Share Transfer Committee, being MTN or such committee or third party or third party agent as MTN may nominate from time to time to, among others, consider and approve or decline any proposed transfer of MTNZF Shares and, accordingly, to regulate, or procure the regulation of, the registration of any such transfer of MTNZF Shares, under and in accordance with the Relationship Agreement;
“Exchange Control Regulations”	the Exchange Control Regulations of South Africa, as amended, promulgated in terms of section 9 of the Currency and Exchanges Act, No. 9 of 1933, as amended, and issued from time to time by the Financial Surveillance Department of the SARB, responsible for the administration of the Exchange Control Regulations;
“Final Capital Structure”	has the meaning given to that term in the Implementation Agreement, but is essentially the financial model which determined the various transaction tranches for the 2016 MTN BEE Transaction as finalised by the MTN Board on 18 November 2016;

“Finance Documents”	has the meaning given to such term in the MTNZF MOI;
“First Ranking Guarantee”	the first ranking guarantee between MTNZF (as guarantor), the BFC2 Pref Shareholders and Nedbank (as Preference Share Agent) pursuant to which MTNZF unconditionally and irrevocably guaranteed the payment of all amounts required and/or scheduled or intended to be paid by BFC2 to the BFC2 Pref Shareholders in respect of the BFC2 Pref Shares;
“FMA”	the Financial Markets Act, No. 19 of 2012, as amended;
“Government” or “Governmental”	the government of South Africa;
“Implementation Agreement”	the agreement entitled <i>“New Empowerment Transaction and MTN Zakhele Unwinding Implementation Agreement”</i> concluded between, amongst others, MTN, MTNZ, MTNZF, BFC2, the Preference Share Agent and the BFC2 Investors on 21 August 2016, which agreement provides, <i>inter alia</i> , for the implementation before and on the Closing Date of the transactions set out in the Implementation Agreement and the other Transaction Documents (as defined therein) and matters related thereto, including the 2016 MTN BEE Transaction and the MTNZ Unwind Transaction;
“Inception Total Share Cover Ratio”	is as set out and more fully described in the MTNZF Pref Share Terms, being the total share cover ratio calculated on the Determination Date, comprising (in summary) the market value of the MTN Shares to be held by MTNZF on the Closing Date (which market value was measured at the One-Day VWAP or the Five-Day VWAP (as each term is defined in the MTNZF Pref Share Terms) whichever is the lower, on the Business Day immediately preceding the Determination Date, divided by the difference in value between the issue price of the MTNZF Pref Shares and the MTN Subordinated Loan (Ratio Cure), if any;
“Initial NVF Balance”	an amount calculated as the difference between: (i) R128.50 per MTN Ordinary Share multiplied by the MTN Tranche 1 Subscription Shares; and (ii) the MTN Tranche 1 Subscription Price;
“Insolvency Act”	the Insolvency Act, No. 24 of 1936, as amended;
“Investment Bank” or “Corporate Advisor” or “Transaction Sponsor” or “Nedbank CIB”	Nedbank, acting through its Corporate and Investment Banking division;
“ISIN”	International Securities Identification Number;
“Joint Corporate Advisor and JSE Sponsor”	Tamela Holdings Proprietary Limited, registration number 2008/011759/07, a private company incorporated in accordance with the laws of the South Africa, which company has also been appointed as the JSE sponsor from the Listing Date;
“JSE”	JSE Limited, registration number 2005/022939/06, a public company incorporated in accordance with the laws of South Africa and licensed as an exchange under the FMA;
“JSE Equities Rules and Directives”	the rules and directives pertaining to the JSE’s equity market, created in accordance with the FMA, as amended from time to time by the JSE;
“JSE Guarantee Fund”	the fund operated by the JSE to guarantee settlement of trades on the JSE’s trading platforms;
“JSE Member”	a member of the JSE;
“Last Practicable Date”	the last practicable date prior to the finalisation of this Pre-Listing Statement, being 15 October 2019;
“Legal Advisor”	Webber Wentzel Attorneys, the legal advisor to MTNZF;

“Licence”	any licence or other form of regulatory right or permission issued or granted by or under any Authority, including telecommunications licences issued pursuant to the ECA;
“Listing Date”	the date upon which MTNZF lists its MTNZF Shares on the JSE, which is expected to be on Monday, 25 November 2019;
“Listings Requirements”	the Listings Requirements published by the JSE, as amended from time to time;
“Market Participant(s)”	a JSE Member, registered holder, CSDP and/or relevant intermediary, as the context may require;
“Market Value”	as at a Reference Date, the 30 Trading Day VWAP as at the first Business Day prior to such date; provided that if at any time such calculation is not able to be performed due to the MTN Ordinary Shares not being listed or being suspended from listing at any time during the relevant period, the Market Value shall be determined by the statutory auditors for the time being of MTN or an independent financial institution or advisory firm with an office in South Africa nominated for this purpose by MTN, in each case acting as experts and not as arbitrators, and as further calculated under and pursuant to the terms of the MTN Tranche 1 Subscription and Call Option Agreement;
“Maximum NVF Call Option Shares”	at any particular Reference Date, a number of MTN Shares (fractions rounded down) equal to the NVF Balance as at the day immediately preceding the Reference Date divided by the Market Value of the MTN Shares as at the Reference Date;
“Maximum Shareholding Limit”	is as defined in the Relationship Agreement, presently being 15% of the MTNZF Shares in issue from time to time, or such higher percentage as MTN may notify to MTNZF from time to time;
“Minimum Investment Period”	the first three years of the Empowerment Compliance Period, which commenced on 24 November 2016, and ends on 25 November 2019;
“MTN”	MTN Group Limited, registration number 1994/009584/06, a public company incorporated in accordance with the laws of South Africa, the ordinary shares of which are listed on the JSE;
“MTN 2018 Integrated Report”	the MTN integrated report for the year ended 31 December 2018, a full copy which is available at (https://www.mtn.com/investors/financial-reporting/integrated-reports/);
“MTN 2019 Interim Results”	the MTN reviewed condensed consolidated interim financial results for the six months ended 30 June 2019, a full copy which is available at (https://www.mtn.com/investors/financial-reporting/interim-results/);
“MTN Board”	the board of directors of MTN as constituted from time to time;
“MTN Group”	MTN and its subsidiaries and associates, including joint ventures where appropriate, from time to time;
“MTN Holdings”	Mobile Telephone Networks Holdings Limited, registration number 1993/001411/06, a public company incorporated in accordance with the laws of South Africa;
“MTN Ordinary Shares”	ordinary shares with a par value of R0.0001 each in the share capital of MTN;
“MTN SA Group”	each and all of: (i) MTN South Africa and its South African subsidiaries from time to time; and (ii) any other South African operating subsidiary of any of MTN, MTN Holdings and/or MTN International Proprietary Limited designated in writing by MTN to MTNZF from time to time;
“MTN Shares”	approximately 77 million MTN Ordinary Shares held by MTNZF, amounting to approximately 4% of MTN’s issued ordinary share capital as at the Last Practicable Date;
“MTN South Africa”	Mobile Telephone Networks Proprietary Limited, registration number 1993/001436/07, a private company incorporated in accordance with the laws of South Africa, a wholly-owned subsidiary of MTN;

“MTN Subordinated Loan (Ratio Cure)”	a subordinated loan/s, if any, which may be advanced by MTN (or certain permitted subsidiaries) in its discretion pursuant to the Subordination and Undertaking Agreement in order to enable MTNZF to meet the Inception Total Share Cover Ratio on the Determination Date or, thereafter, during the life of the MTNZF Pref Shares, in order to restore the Total Share Cover Ratio or Volatility Protection Share Cover Ratio to the levels required under the Finance Documents;
“MTN Tranche 1 Subscription and Call Option Agreement”	the agreement entitled “ <i>MTN 2016 Tranche 1 Subscription and Call Option Agreement</i> ” entered into between MTN and MTNZF on 21 August 2016, in terms of which, <i>inter alia</i> , MTNZF agreed to subscribe for, and MTN agreed to allot and issue to MTNZF, the MTN Tranche 1 Subscription Shares at their par value of R0.0001 each, and MTNZF granted the NVF Call Option to MTN;
“MTN Tranche 1 Subscription Price”	the aggregate subscription price paid by MTNZF to MTN for the MTN Tranche 1 Subscription Shares, being the product of the MTN Tranche 1 Subscription Shares multiplied by R0.0001 per MTN Ordinary Share (fractions of cents rounded up after aggregation);
“MTN Tranche 1 Subscription Shares”	a maximum of 25 721 165 MTN Ordinary Shares issued to MTNZF, for the MTN Tranche 1 Subscription Price, pursuant to the provisions of the MTN Tranche 1 Subscription and Call Option Agreement;
“MTNZ”	MTN Zakhele (RF) Limited, registration number 2010/004693/06, a public company incorporated in accordance with the laws of South Africa, which company has subsequently been deregistered with CIPC;
“MTNZ Listing”	the listing of the MTNZ Shares as Asset Backed Securities on the BEE Segment of the main board of the JSE on 5 November 2015, which listing was terminated on Wednesday, 14 December 2016;
“MTNZ Shareholders”	holders of MTNZ Shares;
“MTNZ Shares”	ordinary shares with a par value of R0.01 each in the share capital of MTNZ;
“MTNZ Unwind Transaction”	the transaction entered into between MTN and MTNZ in November 2016, which enabled the repayment of MTNZ’s third party preference share funding, the settlement of its notional vendor finance from MTN and the repurchase (and subsequent cancellation) by MTNZ of the MTNZ Shares in consideration for the distribution of the net value realised in MTNZ to MTNZ Shareholders, pursuant to a scheme of arrangement in terms of section 114 of the Companies Act;
“MTNZF” or the “Company”	MTN Zakhele Futhi (RF) Limited, formerly BIC B Limited, registration number 2016/268837/06, a public company incorporated in accordance with the laws of South Africa, the special purpose vehicle created to effect the MTNZF Public Offer and related aspects of the 2016 MTN BEE Transaction;
“MTNZF BEE Contract”	has the meaning given to such term in the MTNZF Independent Trading Process Verification Terms and Conditions;
“MTNZF Board” or “Directors”	the board of directors of MTNZF as constituted from time to time, as at the Last Practicable Date being comprised of the directors whose names are set out on page 17 of this Pre-Listing Statement;
“MTNZF Call Centre”	the call centre with multiple language optionality (083 900 6863), operated by Nedbank Contact Centre, a division of Nedbank, and through which the Share Scheme Administration Agent and the BEE Verification Agent provide information and assistance to MTNZF Shareholders (and respond to related queries) and attend to general queries relating to MTNZF;
“MTNZF Discharge Date”	the date on which all the MTNZF Pref Shares have been redeemed in full and all post-redemption contingent indemnity amounts, if any, as determined in accordance with the MTNZF Pref Subscription Agreement, have been paid into the relevant MTNZF bank accounts over which the BFC2 Pref Shareholders have a security interest;

“MTNZF Facilitated Trading Process”	the process of holding, buying or selling MTNZF Shares from time to time in terms of which a Verified Shareholder enters into the Trading and Custody Entity Mandate, for the purposes of effecting transfers of its MTNZF Shares through the JSE’s trading processes, as contemplated in the MTNZF Facilitated Trading Process Verification Terms and Conditions;
“MTNZF Facilitated Trading Process Verification Terms and Conditions”	the document entitled <i>“MTN Zakhele Futhi (RF) Limited Facilitated Trading Process: Verification Requirements, Terms and Conditions”</i> which may be obtained from the MTNZF Website or by phoning the MTNZF Call Centre, which document records the terms, conditions, restrictions and limitations applicable to each Verified Shareholder who elects to hold, buy or sell any MTNZF Shares in terms of the MTNZF Facilitated Trading Process, and which are acknowledged and accepted by such Verified Shareholder during the BEE Verification process;
“MTNZF Independent Trading Process”	the process of holding, buying, selling or otherwise transferring MTNZF Shares from time to time in accordance with the MTNZF BEE Contract;
“MTNZF Independent Trading Process Verification Terms and Conditions”	the document entitled <i>“MTN Zakhele Futhi (RF) Limited Independent Trading Process: Verification Requirements, Terms and Conditions”</i> which may be obtained from the MTNZF Website or by phoning the MTNZF Call Centre, which document records the terms, conditions, restrictions and limitations applicable to each Verified Shareholder who elects to hold, buy, sell or otherwise transfer any MTNZF Shares in terms of the MTNZF Independent Trading Process, and which are acknowledged and accepted by such Verified Shareholder during the BEE Verification process;
“MTNZF MOI”	the memorandum of incorporation of MTNZF, as amended from time to time;
“MTNZF Ords Subscription Agreement”	the agreement entitled <i>“BIC2 Ordinary Share Subscription Agreement”</i> concluded between MTNZF and MTN on 21 August 2016, in terms of which MTN agreed to subscribe for, and MTNZF agreed to allot and issue to MTN, the MTNZF Underwrite Shares;
“MTNZF Pref Share Terms”	the terms and conditions applicable to the MTNZF Pref Shares which are contained in the MTNZF MOI pursuant to the MTNZF Pref Subscription Agreement;
“MTNZF Pref Shareholder” or “BFC2”	Jabisaan 04 Proprietary Limited, registration number 2014/021122/07, a private company incorporated in accordance with the laws of South Africa;
“MTNZF Pref Shares”	the 1 172 468 cumulative redeemable non-participating, and unlisted preference shares in the issued share capital of MTNZF, issued to the MTNZF Pref Shareholder;
“MTNZF Pref Subscription Agreement”	the agreement entitled <i>“BIC2 Preference Share Subscription Agreement”</i> concluded between BFC2, MTNZF and the Preference Share Agent on 21 August 2016, in terms of which, <i>inter alia</i> , BFC2 agreed to subscribe for, and MTNZF agreed to allot and issue to BFC2, the MTNZF Pref Shares;
“MTNZF Public Offer”	the public offering in terms of which the Black Public were invited to subscribe for and beneficially own MTNZF Shares on and from 24 November 2016, in terms of the 2016 MTN BEE Transaction;
“MTNZF Security Account”	the bank account to be maintained by MTNZF into which certain sums are required under the Transaction Documents to be paid in respect of the MTNZF Pref Shares;
“MTNZF Shareholder”	means: <ul style="list-style-type: none"> • subject to the succeeding bullet, during the Empowerment Compliance Period, any person who is the registered holder of MTNZF Shares from time to time; • during the BEE Listing Period, any person who is the Beneficial Holder of MTNZF Shares from time to time; and • after the Empowerment Compliance Period, any person who is the beneficial and/or registered holder of MTNZF Shares from time to time;
“MTNZF Shares”	ordinary shares of no par value in the issued share capital of MTNZF;

“MTNZF Underwrite Shares”	such number of MTNZF Shares subscribed for and held by MTN pursuant to the MTNZF Ords Subscription Agreement and the MTN Board’s decision to subscribe for such MTNZF Shares in order to make up the equity shortfall following the MTNZF Public Offer, as at the Last Practicable Date being 18 277 026 MTNZF Shares;
“MTNZF Website”	the website established by MTNZF for general information on MTNZF, the Eligible Shareholder application process and the BEE Verification process and which is accessible at (https://www.mtnzakhelefuthi.co.za);
“Nedbank”	Nedbank Limited, registration number 1951/000009/06, a public company incorporated in accordance with the laws of the South Africa, and a registered bank in South Africa;
“Nedbank Contact Centre”	the Nedbank contact centre, a division of Nedbank;
“Nedbank SSA”	Nedbank, acting through its Share Scheme Administration division;
“Nominee”	a person which acts as the registered holder of MTNZF Shares and manages an interest in MTNZF Shares on behalf of other persons, and which has been approved by: <ul style="list-style-type: none"> • an exchange in terms of section 76(1)(a) of the FMA; • a central securities depository in terms of section 76(1)(b) of the FMA; or • the Registrar of Securities Services in terms of section 76(3) of the FMA;
“Nominee Holder”	in relation to any Dematerialised Shares, the person who from time to time holds such shares as a Nominee;
“Non-Controlled Client”	a non-controlled client of a JSE Member as contemplated under the JSE Equities Rules and Directives from time to time;
“Notional Vendor Finance”	the notional funding provided by MTN to MTNZF in connection with the 2016 MTN BEE Transaction, represented at the outset by the Initial NVF Balance, and which arises from the issue by MTN to MTNZF of the MTN Tranche 1 Subscription Shares at their par value of R0.0001 per MTN Share;
“NPW”	Nedbank, acting through its subsidiary Nedgroup Private Wealth Stockbrokers Proprietary Limited, registration number 1996/015589/07, a private company incorporated in accordance with the laws of South Africa. Nedgroup Private Wealth Stockbrokers Proprietary Limited is a juristic representative of Nedgroup Private Wealth Proprietary Limited, registration number 1997/009637/07;
“NVF Balance”	an amount representing the notional outstanding balance from time to time of the Notional Vendor Finance, being the Initial NVF Balance escalating at 80% of Prime, as reduced from time to time by any exercise of an NVF Call Option and as increased from time to time, if applicable, as a result of the acquisition of or subscription by MTNZF for NVF Refinancing Shares;
“NVF Call Option”	the call options granted to MTN (and/or its nominee/s and/or its cessionaries, as applicable) by MTNZF in the MTN Tranche 1 Subscription and Call Option Agreement, in terms of which MTN (and/or its nominee/s and/or its cessionaries, as applicable) has been provided with a right to acquire a variable number of MTN Shares held by MTNZF at a price of R0.0001 per MTN Share (such variable number of MTN Shares being the Maximum NVF Call Option Shares, as defined);
“NVF Call Option Trigger Date”	the later of: (A) the first Business Day after the eighth anniversary of the Closing Date or such later date and/or dates as: (a) MTN may from time to time notify MTNZF in writing prior to such eighth anniversary (or the then current NVF Call Option Trigger Date, if later than the eighth anniversary), such date notified by MTN however not being later than the later of: (i) six months from the eighth anniversary of the Closing Date; and (ii) six months after the MTNZF Discharge Date; and/or (b) MTN and MTNZF may agree in writing; and (B) the MTNZF Discharge Date (or such earlier date as MTN and the Preference Share Agent may agree in writing);

“NVF Refinancing Shares”	MTN Ordinary Shares, if any, which are subscribed for (or acquired) by MTNZF from MTN (or its subsidiaries) at R0.0001 per MTN Ordinary Share pursuant to the Tranche 1 Subscription and Call Option Agreement;
“Pre-Listing Statement”	this Pre-Listing Statement and its annexures, dated Monday, 11 November 2019, which has been prepared and issued in compliance with the Listings Requirements;
“Preference Share Agent”	the entity appointed as such from time to time as the agent of the BFC2 Pref Shareholders and the BIC2 Preference Shareholders pursuant to the terms of the Transaction Documents, as at the Last Practicable Date being Nedbank, acting through its Corporate and Investment Banking division;
“Prime”	the rate of interest (Nominal Annual Compounded Monthly) from time to time published by the relevant reference bank, initially Nedbank, as its prime overdraft lending rate (a certificate from any manager of that bank, whose appointment or authority need not be proved, as to the prime rate at any time and the usual way in which it is calculated and compounded at such time, in the absence of manifest or clerical error, shall be final and binding on the relevant parties);
“R”	the lawful currency of South Africa;
“Reference Date”	any particular date in relation to the NVF Call Option;
“Refinancing”	in relation to any financial liabilities and obligations means: (i) any extension of the scheduled maturity of such liabilities or obligations and/or any variation of the financial terms of such liabilities or obligations; and/or (ii) any financial liabilities and/or obligations incurred in replacement of and/or in order to discharge or procure the discharge of all or any part of such liabilities or obligations, including by way of the issue of preference shares or through loans or other means, but does not include the issue of MTNZF Shares;
“Refinancing Agreements”	the agreements entered into or to be entered into by MTNZF in relation to any Refinancing;
“Register”	the register of Certificated Shareholders of the Company maintained by the Transfer Secretary, and each of the sub-registers of Dematerialised Shares maintained by the relevant Market Participants in terms of the FMA;
“Registered Office”	135 Rivonia Road, Sandton, Johannesburg, 2196, the registered office of MTNZF;
“Relationship Agreement”	the agreement entitled “ <i>Relationship Agreement</i> ” concluded between MTNZF and MTN on 9 August 2016, as amended by an agreement dated 2 July 2019, and to which each MTNZF Shareholder is or becomes a party, which agreement regulates, <i>inter alia</i> , the rights and obligations of these parties relating to the holding of MTN Shares by MTNZF and the holding of MTNZF Shares by the MTNZF Shareholders;
“Reversionary Account Cession”	the reversionary cession of the rights to the MTNZF Security Account entitled “ <i>BIC2 Reversionary Account Cession</i> ” concluded between MTN, MTN Holdings and MTNZF on 21 August 2016, pursuant to which, <i>inter alia</i> , MTN and MTN Holdings were granted a reversionary security interest over certain bank accounts, ranking behind the security held by the BFC2 Pref Shareholders over such collateral, as security for the obligations that may be owing from time to time by MTNZF to MTN and MTN Holdings pursuant to the Transaction Documents;
“Reversionary Pledge and Cession”	the reversionary pledge and cession agreement entitled “ <i>BIC2 Reversionary Pledge and Cession</i> ” concluded between MTN, MTN Holdings and MTNZF on 21 August 2016, pursuant to which, <i>inter alia</i> , MTN and MTN Holdings were granted security over the MTN Shares held by MTNZF, ranking behind the security held by the BFC2 Pref Shareholders over such collateral, as security for the obligations that may be owing from time to time by MTNZF to MTN and MTN Holdings pursuant to the Transaction Documents;
“SARB”	the South African Reserve Bank established in terms of the South African Reserve Bank Act, No. 90 of 1989, as amended;

“SARS”	the South African Revenue Service, established in terms of the South African Revenue Service Act, No. 34 of 1997, as amended;
“SENS”	the Stock Exchange News Service of the JSE;
“Share Scheme Administration Agent”	the person appointed by MTNZF from time to time to perform administration services on its behalf, as at the Last Practicable Date, being Nedbank SSA;
“South Africa”	the Republic of South Africa;
“Stockbroker”	NPW;
“Strate”	Strate Proprietary Limited, registration number 1998/022242/07, a private company incorporated in accordance with the laws of South Africa, which administers the electronic settlement system for transactions that take place on the JSE and off-market trades;
“Strate Rules”	depository rules issued by Strate in accordance with the FMA;
“Subordination and Undertaking Agreement”	the agreement entitled “ <i>MTN Subordination and Undertaking Agreement</i> ” entered into between, <i>inter alia</i> , MTN, MTNZF, the BFC2 Pref Shareholders and the Preference Share Agent, on 21 August 2016, pursuant to which, <i>inter alia</i> , MTN subordinates all claims against BIC2 and BFC2 in favour of the MTNZF Pref Shares and the BFC2 Pref Shareholders and is permitted to advance subordinated loans to MTNZF in certain circumstances, all on the terms and conditions contained therein;
“Subsidiary”	has the meaning given to such term in section 1, read with section 3, of the Companies Act and/or the Listings Requirements, to the extent applicable;
“tax”	means: <ul style="list-style-type: none"> • all forms of tax, levy, impost, contribution, duty, liability and charge in the nature of taxation and all related withholdings or deductions of any nature (including, for the avoidance of doubt, employment-related contribution liabilities, dividends withholdings tax, income tax, capital gains tax and VAT in South Africa and corresponding obligations elsewhere); and • all related fines, penalties, charges and interest, imposed or collected by a taxing or other governmental (local or central) state or municipal authority (whether within or outside of South Africa) competent to impose a liability for or to collect tax, including SARS;
“Total Share Cover Ratio”	has the meaning given to such term in the MTNZF MOI;
“Trading and Custody Entity Mandate”	a trading and custody entity mandate entered into by a MTNZF Shareholder with the Trading Entity and the Custody Entity pursuant to the MTNZF Facilitated Trading Process;
“Trading Day”	any day: (i) that is an ordinary trading day on the exchange operated by the JSE (and does not include a day on which trading on the exchange operated by the JSE is scheduled to close prior to its regular weekday closing time); and (ii) on which MTN Ordinary Shares trade freely;
“Trading Entity”	the person designated by MTNZF from time to time to act in such capacity, which shall act as agent on behalf of each MTNZF Shareholder who elects to use the MTNZF Facilitated Trading Process, as at the Last Practicable Date, being NPW;
“Trading Entity Call Centre”	the call centre with multiple language optionality (083 900 6863), operated by Nedbank Contact Centre, and through which the Trading Entity provides call centre services to its clients, which can also be accessed via the MTNZF Call Centre;
“Trading Entity Website”	the Trading Entity’s website, which can also be accessed via a link from the MTNZF Website (https://onlinesharetrading.Nedbank.co.za);
“Transfer Secretary”	the person appointed by MTNZF as its transfer secretary, as at the Last Practicable Date being, Nedbank SSA;

“Transaction Documents”	has the meaning given to such term in the MTNZF MOI;
“VAT”	value-added tax levied in terms of the South African Value-Added Tax Act, No. 89 of 1991, as amended;
“Verification Terms and Conditions”	<p>the terms, conditions, restrictions and limitations applicable to each Verified Shareholder and acknowledged and accepted by such Verified Shareholder during the BEE Verification process, being as the context may require:</p> <ul style="list-style-type: none"> • the MTNZF Facilitated Trading Process Verification Terms and Conditions; or • the MTNZF Independent Trading Process Verification Terms and Conditions;
“Verified Shareholder”	during the BEE Listing Period, any Eligible Shareholder that MTNZF (or its Nominee, delegatee or agent) confirms as having successfully completed BEE Verification, and whose BEE Verification status has not expired or been withdrawn in accordance with the Verification Terms and Conditions or the Relationship Agreement;
“Volatility Protection Share Cover Ratio”	is as set out and more fully described in the MTNZF Pref Share Terms, but essentially comprising, at the time of calculation, the One-Day VWAP (as defined in the MTNZF Pref Share Terms) value of the MTN Shares held by MTNZF, divided by the redemption amount of all unredeemed MTNZF Pref Shares, minus the credit balances in certain specified BFC2 and MTNZF accounts; and
“VWAP”	volume weighted average price, in each case as calculated under the relevant Transaction Document in connection with which it is referred to.



MTN Zakhele Futhi (RF) Limited

(Incorporated in the Republic of South Africa)

(Registration number: 2016/268837/06)

JSE share code: MTNZF ISIN: ZAE000279402

PRE-LISTING STATEMENT

Independent Non-executive Directors

Sindisiwe N Mabaso-Koyana (*Chairperson*)

Sonja De Bruyn

Grant G Gelink

Company Secretary

Nedbank Limited, acting through its Group Secretariat division

SECTION 1: INTRODUCTION

1. INTRODUCTION, BACKGROUND AND RATIONALE FOR THE BEE LISTING

1.1 Introduction

MTNZF was established in June 2016 as a ring-fenced, special purpose vehicle through which qualifying members of the Black Public could indirectly invest and hold shares in MTN Group, a leading emerging markets telecommunications service provider. MTNZF holds approximately 77 million MTN Shares, amounting to approximately 4% of MTN's issued share capital. MTNZF's approximately 4% stake in MTN, along with other transformation and empowerment initiatives, supports MTN's status as a leading BEE-driven telecommunications company. MTNZF was incorporated for the specific purpose of facilitating the implementation of the 2016 MTN BEE Transaction.

The main object of MTNZF is to:

- exercise its rights and perform its obligations under the Transaction Documents and (subject to the provisions of the Transaction Documents) the Refinancing Agreements to which it is a party;
- carry on the business of holding, managing and generally dealing in MTN Shares, cash and such other property as may be received or acquired solely by virtue of or in relation to the MTN Shares, in each case in accordance with and subject to the BEE Transaction Documents to which it is a party;
- receive, retain, apply, distribute and otherwise deal with any dividends and other distributions it receives from MTN in respect of the MTN Shares, in each case in terms of the BEE Transaction Documents to which it is a party; and
- perform such other business as may, subject to the Transaction Documents to which MTNZF is a party, be approved in writing by MTN in its sole and absolute discretion from time to time.

If MTNZF is wound up, the assets remaining after payment of the liabilities of MTNZF and the costs of liquidation will be applied in accordance with the Companies Act, the Insolvency Act and the MTNZF MOI.

MTN is listed on the main board of the JSE and information relating to MTN can be obtained from its website (www.mtn.com) or publicly issued documents.

1.2 Background

- 1.2.1** In November 2010, MTN implemented the 2010 MTN BEE Transaction, through MTNZ, in terms of which qualifying members of the Black Public were invited to subscribe for, and were subsequently issued with, MTNZ Shares. Using a combination of new equity funding, a donation from MTN, notional vendor finance and third-party preference share funding, MTNZ, in turn, acquired approximately 77 million MTN Ordinary Shares, amounting to approximately 4% of MTN's then issued share capital. On 5 November 2015, the MTNZ Shares were listed as Asset Backed Securities on the BEE Segment of the main board of the JSE. Trading in MTNZ Shares was restricted between members of the Black Public, subject to a verification process.
- 1.2.2** In November 2016, in anticipation of MTNZ's third party preference share funding and its notional vendor finance from MTN maturing on 24 November 2016, MTN and MTNZ entered into the MTNZ Unwind Transaction, which enabled: (i) repayment of the preference share funding; (ii) the settlement of the notional vendor finance; and (iii) the repurchase (and subsequent cancellation) by MTNZ of the MTNZ Shares against the distribution of the net value realised in MTNZ to MTNZ Shareholders, pursuant to a scheme of arrangement in terms of section 114 of the Companies Act.
- 1.2.3** In parallel with the MTNZ Unwind Transaction, MTN implemented the 2016 MTN BEE Transaction, on substantially the same terms as the 2010 MTN BEE Transaction, through the newly established vehicle, MTNZF. In terms of this new empowerment scheme, qualifying members of the Black Public were invited to subscribe for MTNZF Shares. Using a combination of this new equity funding, a 20% transaction discount from MTN, the Notional Vendor Finance and third-party preference share funding, MTNZF, in turn, acquired c. 77 million MTN Shares, amounting to approximately 4% of MTN's then issued share capital on a fully diluted basis. Pursuant to this empowerment transaction, MTNZF has c. 89 000 registered holders of MTNZF Shares in its securities register. Similar to MTNZ, MTNZF is a ring-fenced, special purpose vehicle, the business of which is restricted to the holding of MTN Shares.
- 1.2.4** The 2016 MTN BEE Transaction is intended to endure for the Empowerment Compliance Period and during the Minimum Investment Period, MTNZF Shareholders are not entitled to Dispose of their MTNZF Shares. During the remainder of the Empowerment Compliance Period (i.e. for the period commencing on 25 November 2019 and ending on 25 November 2024), MTNZF Shareholders will be entitled to trade their MTNZF Shares only with other Eligible Shareholders.
- 1.2.5** The 2016 MTN BEE Transaction contemplated the BEE Listing on or after the expiry of the Minimum Investment Period. The BEE Listing will accordingly facilitate and enable trading in MTNZF Shares amongst Eligible Shareholders and will substantially mirror the form and content of the MTNZ Listing.

1.3 Rationale for the BEE Listing

- 1.3.1** The BEE Listing will provide MTNZF Shareholders with the following main advantages:
- 1.3.1.1** liquidity due to the wide access to buyers and sellers on the JSE, a publicly traded platform;
 - 1.3.1.2** readily available price discovery, as JSE share prices are published in most major print and electronic financial publications; and
 - 1.3.1.3** investor protection, as a result of the JSE being a regulated market, the segregation of duties between order taking, matching, settlement and custody of securities and cash, monitoring of insider trading and price manipulation and monitoring of false and misleading reporting.
- 1.3.2** Certain key additional consequences of the BEE Listing to bear in mind include:
- 1.3.2.1** the incremental once-off and ongoing costs that will be incurred by MTNZF in respect of the implementation and maintenance of the BEE Listing (refer to paragraph 17 for the estimated costs of listing);
 - 1.3.2.2** the indemnities given by MTNZF, as per paragraph 3 below, which are required in terms of the Listings Requirements and in terms of which MTNZF indemnifies the JSE and certain Market Participants. Such indemnities apply for the duration of the BEE Listing Period;
 - 1.3.2.3** any MTNZF Shareholder who wishes to buy, sell, otherwise transfer or receive transfer of MTNZF Shares must have completed the BEE Verification process and have become a Verified Shareholder; and
 - 1.3.2.4** where Market Participants are appointed by a Verified Shareholder, they will levy charges which the Verified Shareholder will be liable for.

2. VERIFICATION, TRADING AND SETTLEMENT OF MTNZF SHARES DURING THE EMPOWERMENT COMPLIANCE PERIOD

2.1 BEE Verification

MTNZF has elected to implement the BEE Listing on the basis that it will be subject to the use of a BEE Verification Agent. Trading in MTNZF Shares is restricted to Verified Shareholders, as determined by the BEE Verification Agent pursuant to a BEE Verification process being conducted. This means all persons who wish to hold, buy, sell or otherwise transfer MTNZF Shares will first have to complete the BEE Verification Process, in terms of which:

- their eligibility (as determined in accordance with the Relationship Agreement) to participate in MTNZF will be assessed; and
- following such assessment, and if their eligibility is confirmed, they will be required to accept the relevant Verification Terms and Conditions of MTNZF and enter into such contractual and mandate arrangements as required with reference to the manner in which they have been BEE Verified (i.e. through the MTNZF Facilitated Trading Process or the MTNZF Independent Trading Process).

For purposes of the above eligibility assessment (to be performed by the Share Scheme Administration Agent) and verification process (to be performed by the BEE Verification Agent), MTNZF Shareholders and/or prospective MTNZF Shareholders will be able to use the MTNZF Website and/or the MTNZF Call Centre to access and/or link to and complete and/or download the necessary documentation and to submit all the required supporting documents.

In terms of the Listings Requirements, the JSE Equities Rules and Directives and the Strate Rules, a Market Participant may not implement a transaction in MTNZF Shares unless it has received confirmation from the BEE Verification Agent that the relevant purchaser is a Verified Shareholder. A Verified Shareholder who wishes to move his/her/its account to another Market Participant is required to complete a BEE Verification process in respect of such new Market Participant.

2.2 Trading, clearing, settlement and custody of MTNZF Shares

In order to trade in MTNZF Shares, Verified Shareholders have the choice to use:

- the MTNZF Facilitated Trading Process; or
- the MTNZF Independent Trading Process.

The nature of the BEE Verification process will depend on whether the Verified Shareholder will trade or otherwise transfer or receive transfer of MTNZF Shares using the MTNZF Facilitated Trading Process or the MTNZF Independent Trading Process.

2.2.1 BEE Verification for the MTNZF Facilitated Trading Process

The objective of the MTNZF Facilitated Trading Process is to provide an accessible and cost-effective trading option to the majority of MTNZF Shareholders who, in the absence of this facility, would not ordinarily and easily access trading in MTNZF Shares through the normal channels of trading listed shares on the JSE. To this end, the MTNZF Shareholders wishing to use the MTNZF Facilitated Trading Process will enter into the Trading and Custody Entity Mandate with NPW (in its capacity as the Trading Entity and the Custody Entity). The Trading Entity will provide trading services via the Trading Entity Website and the Trading Entity Call Centre through which, the Trading Entity, or its agents, will accept buy and sell orders from Verified Shareholders. The Trading Entity will execute these buy and sell orders on the JSE. Each order will be executed individually and there will be no bulking or aggregation of orders by the Trading Entity.

The Trading and Custody Entity Mandate concluded between a Verified Shareholder and the Trading Entity regulates, amongst other things, the process of placing sell and buy orders via the Trading Entity Website or the Trading Entity Call Centre, which the Trading Entity will effect through the MTNZF Facilitated Trading Process.

The Trading and Custody Entity Mandate concluded by Verified Shareholders will also regulate the custody and settlement mandate with the Custody Entity, who will hold their Dematerialised MTNZF Shares and cash on their behalf.

2.2.2 BEE Verification for the MTNZF Independent Trading Process

MTNZF Shareholders wishing to use the MTNZF Independent Trading Process will be required to enter into the MTNZF BEE Contract (this is a bespoke contract required in respect of the MTNZF Shares and is distinct from the agreement referred to in the Listings Requirements as a “BEE Contract”). The MTNZF BEE Contract must be signed by MTNZF, MTN, MTN Holdings, the relevant CSDP, the JSE Member (who will provide brokerage services to the MTNZF Shareholder), and each other Market Participant that will act as either an intermediary holder or an intermediary holder that also acts as registered holder in relation to such MTNZF Shareholder, and in respect of whom such Verified Shareholder has been BEE Verified.

In this regard, the JSE Member and each other applicable Market Participant in respect of an MTNZF Shareholder is required to sign a deed of adherence to become a party to the MTNZF BEE Contract. Such Market Participant will sign the deed of adherence and be a party to the MTNZF BEE Contract in respect of itself and all its nominees and in respect of all capacities in which it (and/or its nominees) will act on behalf of the relevant MTNZF Shareholder. The BEE Verification Agent will keep a list of all Market Participants that have signed deeds of adherence and who are party to each applicable MTNZF Shareholder’s MTNZF BEE Contract.

The MTNZF BEE Contract, amongst others:

- regulates the custodian relationship applicable to the relevant MTNZF Shares;
- records various obligations and responsibilities of the relevant Market Participants;
- regulates the liability of such Market Participants if they fail to comply with the MTNZF BEE Contract;
- regulates the liability of the Verified Shareholder if he/she/it fails to comply with the MTNZF BEE Contract;
- imposes obligations on the relevant Market Participants to act in accordance with MTN’s instructions in certain circumstances to transfer the MTNZF Shares to MTN or its nominee, delegatee or agent, as contemplated under the Relationship Agreement;
- prescribes minimum requirements for the mandates to be concluded between Verified Shareholders and the Market Participants, and that such mandates must be approved by MTNZF, alternatively must include the specified minimum provisions; and
- provides for the withdrawal of BEE Verification status in respect of MTNZF Shareholders, including in respect of those MTNZF Shareholders: (i) who have subsequently ceased to be Eligible Shareholders; or (ii) who no longer constitute Verified Shareholders, for whatsoever reason; or (iii) whose BEE Verification status has expired.

A copy of the MTNZF BEE Contract may be obtained from the BEE Verification Agent by contacting the MTNZF Call Centre, or on the MTNZF Website.

2.2.2.1 Controlled Clients

If an applicant for BEE Verification or a Verified Shareholder elects to trade MTNZF Shares as a Controlled Client through the MTNZF Independent Trading Process, the relevant applicant or MTNZF Shareholder will need to inform the BEE Verification Agent of the identity of the JSE Member with whom a trading account will be opened. The BEE Verification Agent will on completion of the BEE Verification process issue a confirmation to that JSE Member that BEE Verification has been successfully concluded in respect of that Verified Shareholder.

2.2.2.2 Non-Controlled Clients

If an applicant for BEE Verification or a Verified Shareholder elects to trade MTNZF Shares as a Non-Controlled Client through the MTNZF Independent Trading Process, the relevant applicant or MTNZF Shareholder will need to inform the BEE Verification Agent of the identity of the JSE Member with whom a trading account will be opened and the identity of the registered holder and/or CSDP who will hold in custody his/her/its MTNZF Shares. After the completion of a BEE Verification process, the BEE Verification Agent will issue a confirmation to that JSE Member, the registered holder and/or the CSDP that BEE Verification has been successfully concluded in respect of that Verified Shareholder.

2.2.2.3 Own name client of a CSDP without a trading account with a JSE Member

If, in respect of the MTNZF Independent Trading Process, an applicant for BEE Verification or a Verified Shareholder wishes to open an account in its own name (i.e. as registered shareholder) at a CSDP to hold his/her/its MTNZF Shares, and does not have a trading account with a JSE Member, the relevant applicant or Verified Shareholder will be required to inform the BEE Verification Agent of the identity of the CSDP with whom a mandate arrangement will be concluded. After the completion of a BEE Verification process, the BEE Verification Agent will issue a confirmation to that CSDP that BEE Verification has been successfully concluded in respect of that Verified Shareholder.

3. INDEMNITY GRANTED BY MTNZF

As MTNZF has elected to pursue the BEE Listing subject to the use of a BEE Verification Agent, MTNZF (as an issuer) is required, in terms of section 4.32B of the Listings Requirements to grant certain indemnities in favour of the JSE and relevant Market Participants in accordance with (but subject to the limitations and qualifications contained in) section 4.32B of the Listings Requirements. The giving of such indemnities is required by the JSE as a condition to the BEE Listing, and for the duration of the BEE Listing Period. MTNZF has accordingly agreed to grant the following indemnities to the JSE:

In terms of section 4.32B(a) of the Listings Requirements, MTNZF has agreed, as a condition to the BEE Listing, to indemnify the JSE against all and any legal costs incurred (including attorney and own client costs) to the extent that, as a result of a JSE Member not complying with the BEE Verification process as required in terms of the JSE Equities Rules and Directives, the JSE takes any legal action and is not able to recover its costs from the parties to the legal action pursuant to a costs order awarded in the legal action as contemplated under section 4.32B(a) of the Listings Requirements.

In terms of section 4.32B(b) of the Listings Requirements, MTNZF has further agreed, as a condition to the BEE Listing, that:

- (A) if MTNZF, or such other person as is entitled to do so pursuant to the relevant BEE scheme documents (the **"designated person"**) elects, by reason of a breach in the terms and conditions of the relevant BEE scheme documents or the BEE Verification process not having been correctly executed by the BEE Verification Agent, to enforce the terms and conditions of the relevant BEE scheme documents against the beneficial owner of BEE securities and, if applicable, other parties, by either repurchasing the BEE securities or nominating a third party to so purchase and such third party purchases, the BEE securities; and
- (B) the relevant CSDP, or its nominee, is then instructed to effect the necessary entries relating to such repurchase or purchase of the BEE securities,

and, as a consequence, litigation ensues and the registered holder and/or the CSDP or its nominee and/or any JSE Member (**"joined parties"**) is/are joined in such litigation, to indemnify such joined parties and their directors, employees, servants, agents or contractors or other persons for whom, in law, they may be liable (*stipulatio alteri*) against all and any costs (including attorney and own client costs) which may be awarded against any of them as a consequence of such litigation provided that:

- (i) the joined parties shall (unless they were joined by MTNZF or designated person) notify MTNZF, in writing, of such joinder within a reasonable time of becoming aware thereof, to enable MTNZF or designated person to take steps to act on their behalf as contemplated in paragraph (ii) below;
- (ii) subject to paragraph (iii) below, MTNZF or designated person, as applicable, shall be entitled to contest (which shall include an appeal to a court of law) the litigation in the name of the joined parties and shall be entitled to control the proceedings in regard thereto and the joined parties shall take no steps in the litigation which are not approved in writing by MTNZF or designated person;
- (iii) if MTNZF or designated person joined the joined parties, they shall merely abide by the decision of the court;
- (iv) the indemnity in this paragraph shall not apply to such joined party in circumstances where the litigation arises from: (a) a breach by such joined party of any of its obligations under the JSE Equities Rules and Directives or Strate Rules and Directives, as applicable; or (b) any breach of an applicable contract between such joined party, the applicant and/or any designated person; and
- (v) this paragraph constitutes a right in favour of the joined parties and their directors, employees, servants, agents or contractors, or other persons for whom in law they may be liable (*stipulatio alteri*), which they will be entitled to invoke, at any time, by notifying MTNZF in writing thereof.

In addition to the indemnities required to be given by MTNZF pursuant to the Listings Requirements, MTNZF may be required contractually to give other indemnities in favour of its service providers for purposes of and in connection with the BEE Listing, and to any other person for purposes of establishing, implementing and facilitating the infrastructure required for, or incidental to, the BEE Listing. Additionally, the operation of the MTNZF Independent Trading Process and the MTNZF Facilitated Trading Process (the latter being facilitated by the Trading Entity and the Custody Entity, together with the BEE Verification Agent) will entail a degree of facilitation or subsidisation by MTNZF from a costs point of view. The operation of the MTNZF Facilitated Trading Process, in particular, is aimed at ensuring an accessible entry point for the bulk of the MTNZF Shareholders within the JSE's listed trading environment.

SECTION 2: INFORMATION ON MTNZF

4. NATURE OF BUSINESS

MTNZF was set up as a ring-fenced, special purpose vehicle with the sole business and objective of:

- entering into the Transaction Documents to which it is a party;
- exercising its rights and performing its obligations under the Transaction Documents and (subject to the provisions of the Transaction Documents) the Refinancing Agreements to which it is a party;
- carrying on the business of holding and managing and generally dealing in MTN Shares, cash and such other property as may be received or acquired solely by virtue of or in relation to the MTN Shares, in each case in accordance with and subject to the BEE Transaction Documents to which it is a party;
- receiving and distributing dividends and other distributions in terms of the BEE Transaction Documents to which it is a party; and
- such other business as may, subject to the Transaction Documents to which MTNZF is a party, be approved in writing by MTN in its sole discretion from time to time.

MTNZF's capacity and authority (and that of its Directors and officers) is accordingly limited to achievement of these purposes, and by related restrictions. These limitations are set out in the MTNZF MOI.

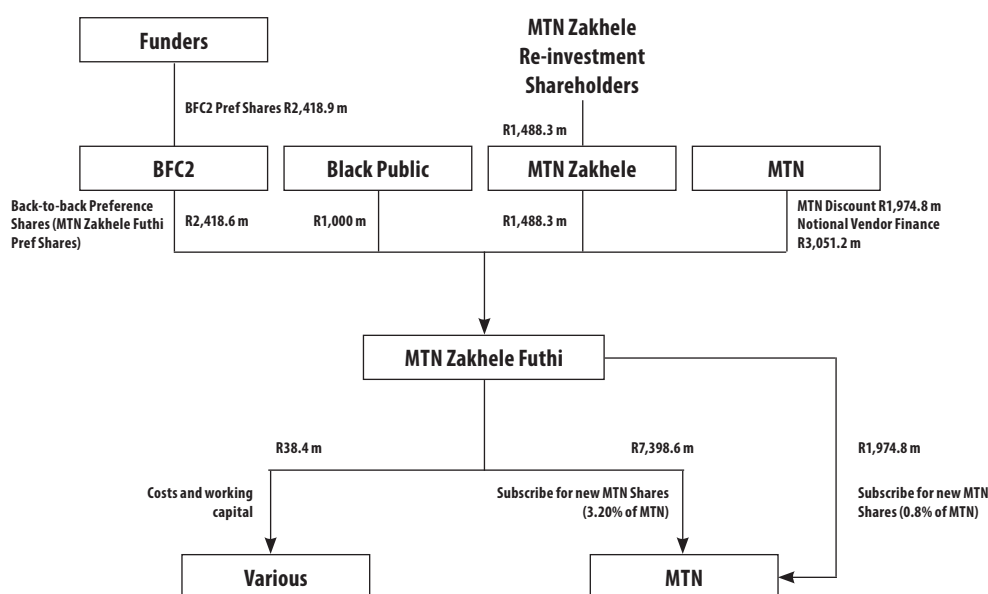
MTNZF holds 76 835 378 MTN Shares representing approximately 4% of the issued share capital of MTN.

The acquisition of such MTN Shares was funded through the combination of:

- the subscription for shares in MTNZF by qualifying members of the Black Public (which included the re-investment by MTNZ Shareholders) pursuant to the MTNZF Public Offer and equity raised from MTN through its subscription for the MTNZF Underwrite Shares;
- a 20% transaction discount from MTN;
- the Notional Vendor Finance provided by MTN; and
- third party preference share funding. The MTNZF Pref Shares were raised in the market from the BFC2 Investors. The MTNZF Pref Shares earn a semi-annual dividend equal to 75% of Prime. Key terms of the MTNZF Pref Shares are more fully summarised in **Annexure 2** to this Pre-Listing Statement.

As at the Last Practicable Date, the value of the unredeemed MTNZF Pref Shares is R1 172 million and the outstanding Notional Vendor Finance is R4 170 million. All financial information on MTNZF is available on the MTNZF Website (<https://www.mtnzakhelefuthi.co.za/Home/FinancialInformation>).

The initial shareholding and funding structure of MTNZF is illustrated below:



5. UNDERLYING ASSETS

MTNZF's only material investment consists of the MTN Shares held by it, and this will not change as a result of the BEE Listing. The underlying value of MTNZF is therefore determined with reference to the trading price of MTN Ordinary Shares on the JSE from time to time. MTN is listed on the JSE and therefore certain company information such as, *inter alia*, MTN's annual financial statements, annual reports, circulars and SENS announcements are publicly available. MTNZF will procure that, for so long as the MTN Shares are listed on the JSE, MTN's annual financial statements are available on the MTNZF Website. The MTNZF Website will either contain a link to redirect visitors to MTN's annual financial statements or otherwise provide access to such annual financial statements.

Should the listing of the MTN Shares be terminated for whatsoever reason, MTNZF will consult with the JSE to assess the situation and determine the implications of such termination, and how this should be addressed. MTNZF's holding of the MTN Shares is subject to the restrictions set out in the Relationship Agreement.

The following summary information is provided in respect of MTN:

- MTN is incorporated in South Africa and the MTN Ordinary Shares are listed on the JSE;
- the closing spot price per MTN Ordinary Share as at the Last Practicable Date amounted to R93.15 (source: Bloomberg);
- the MTN 2018 Integrated Report is available on the MTN website (<https://www.mtn.com/investors/financial-reporting/integrated-reports/>);
- the audited financial results for MTN for the financial years ended December 2016, December 2017 and December 2018 are available on the MTN website (<https://www.mtn.com/investors/financial-reporting/annual-results/>); and
- the MTN 2019 Interim Results are available on the MTN website (<https://www.mtn.com/investors/financial-reporting/interim-results/>).

The net asset value per MTNZF Share, as at 30 June 2019, is indicatively calculated as follows:

	Reviewed June 2019 (R'm)	Audited December 2018 (R'm)	Restated Audited December 2017 (R'm)	Restated Audited December 2016 (R'm)
Total assets	5 494	4 590	6 994	6 671
Non-current assets	5 456	4 549	6 982	6 635
Investment in equities	5 456	4 549	6 982	6 449
Derivative financial instrument	–	–	–	186
Current assets	38	41	12	36
Total liabilities	2 054	2 175	2 355	2 646
Non-current liabilities	2 031	2 140	2 314	2 605
Borrowings	1 266	1 442	1 751	2 148
Derivative financial instrument	737	698	36	–
Deferred tax liability	28	–	527	457
Current liabilities	23	35	41	41
Net asset value	3 440	2 415	4 639	4 025
MTNZF Shares in issue (million)	123 416	123 416	123 416	123 416
Net asset value per MTNZF Share (R)	R27.88	R19.57	R37.59	R32.61

Source: <https://www.mtnzakhelefuthi.co.za>

6. KEY RISK FACTORS AFFECTING THE VALUE OF MTNZF SHARES

Risk factors associated with an investment in listed securities are factors that influence the value of equity securities that are not under the control of the investor. MTNZF's only material investment and asset will consist of the MTN Shares. Consequently, the value of an MTNZF Share will depend primarily on the below risk factors that have been identified in respect of an investment in MTNZF Shares, however, this list cannot be relied upon to represent all the risk factors that may be associated with an investment in MTNZF Shares:

- the market price of the MTN Shares owned by MTNZF;
- the dividends received by MTNZF on the MTN Shares held by MTNZF;

- the financing costs and related liabilities of MTNZF Pref Shares and the Notional Vendor Finance and, if applicable, any subordinated loans advanced directly or indirectly by MTN to MTNZF;
- the expenses incurred by MTNZF in the day-to-day running and operation of MTNZF;
- the ability to repay or refinance the MTNZF Pref Shares at the end of their maturity, and the funding rate at which such Refinancing occurs (or, failing such Refinancing, the value of MTN Shares realised in order to raise the necessary funds to redeem all of the MTNZF Pref Shares and pay all accrued dividends on account of the MTNZF Pref Shares, in full, in accordance with the provisions of the MTNZF Pref Share Terms);
- the Refinancing obligations of the MTNZF Pref Shares under the Relationship Agreement;
- the discount or premium at which an MTNZF Share may trade at on the JSE compared to its underlying value;
- the deferred tax liability or asset recognised within the entity related to the re-measurement of “*available-for-sale*” assets (i.e. the MTN Shares); and
- the mechanics of unwinding MTNZF at the end of the Empowerment Compliance Period.

6.1 Price of MTN Shares

The market price of the MTN Shares is the most important factor affecting the value of an MTNZF Share. The net asset value of an MTNZF Share may increase or decrease when there is an increase or decrease in the price of MTN Ordinary Shares.

6.2 Anticipated dividends from the MTN Shares held by MTNZF

- 6.2.1** MTNZF will principally utilise all dividends received on its MTN Shares to settle its permitted expenses, the preference dividend on the MTNZF Pref Shares, the capital on the MTNZF Pref Shares, the interest on the Notional Vendor Finance and the capital on the Notional Vendor Finance and, if applicable, the amount owing on any subordinated loans advanced directly or indirectly by MTN to it, in each case as permitted and required under the Transaction Documents. In certain circumstances and subject to the terms of the Transaction Documents, MTNZF may pay dividends to the holders of MTNZF Shares. To date, no ordinary dividends have been declared or paid to the MTNZF Shareholders. Should any ordinary dividends be declared in respect of the MTNZF Shares, the MTNZF Shareholders will participate in such ordinary dividends.
- 6.2.2** Consequently, the total dividends received by MTNZF on its investment in the MTN Shares will materially affect the amount outstanding on the MTNZF Pref Shares, the Notional Vendor Finance and any subordinated loans advanced directly or indirectly by MTN to it, and its ability to timeously service its obligations thereunder, and will affect the extent, if any, of the dividends receivable in respect of MTNZF Shares.
- 6.2.3** MTNZF does not have a liquidity facility as contemplated in section 19.80 of the Listings Requirements in place, nor is such a facility required. Subject at all times to the terms of the Transaction Documents, any dividends declared by MTNZF would be calculated and paid from actual dividends received in respect of the MTN Shares held by MTNZF.

6.3 Financing costs of the MTNZF Pref Shares and the Notional Vendor Finance

- 6.3.1** The financing costs incurred by MTNZF on the MTNZF Pref Shares and the escalation rate of the Notional Vendor Finance are liabilities in MTNZF and will reduce the value of MTNZF and accordingly, the value of an MTNZF Share.
- 6.3.2** These costs are linked to a variable funding rate, which may increase or decrease over time. The lower the amount that is required for the payment of the preference dividend on the MTNZF Pref Shares and the lower the escalation rate of the Notional Vendor Finance, the lower the outstanding amounts will be at the end of their respective terms. Conversely, the higher the financing costs, the greater the amount that is required for the payment of the preference dividend on the MTNZF Pref Shares and on discharge of the Notional Vendor Finance, and the higher the outstanding amounts will be at the end of their respective terms.
- 6.3.3** The financing costs of any subordinated loans advanced directly or indirectly to MTNZF will be determined at the time of advance, by agreement between MTN (or the relevant lender) and MTNZF. It is expected that certain of these costs will similarly be linked to a variable lending rate with the same implications as outlined above.

6.4 Expenses incurred by MTNZF

The day-to-day expenses of MTNZF reduce the value of an MTNZF Share. If MTNZF is able to keep the expenses incurred in the running of MTNZF to a minimum, this would enhance the value to MTNZF Shareholders.

6.5 Repaying or Refinancing the MTNZF Pref Shares

There is a difference in the maturity profile under the MTNZF Pref Share funding (five-year term) and the 2016 MTN BEE Transaction (eight-year term). MTNZF will therefore be required to redeem all of the MTNZF Pref Shares and pay all accrued dividends in respect of the MTNZF Pref Shares on their maturity. The difference in maturity profiles has various risks to the structure, including, *inter alia*:

- the risk that MTNZF may not be able to refinance the MTNZF Pref Share funding after five years due to there being insufficient preference share capacity in the market at the time the Refinancing is required or lack of funding appetite by funders to provide preference share funding or other forms of funding;
- the risk that MTNZF refinances the MTNZF Pref Share funding on terms or financial effects which are less favourable than the current terms; and
- the risk that South African tax legislation changes, making it less favourable for funders to provide preference share financing.

As markets change, the effectiveness of the MTNZF Pref Share funding will be re-evaluated before its maturity date and the Refinancing thereof will be considered as well as other methods of financing. MTNZF's ability to successfully redeem or refinance the MTNZF Pref Share funding in full is dependent on the performance of the MTN Shares and the conditions of the debt capital, preference share funding and loan markets and its financial condition at the relevant time. Even if the debt capital, preference share funding and loan markets stay the same or improve, there is a risk that MTNZF's access to financing sources is not available on favourable terms or at all. There is a risk that MTNZF's inability to refinance its funding obligations under the MTNZF Pref Shares on favourable terms, or at all, results in a material adverse effect on MTNZF's financial condition and on the performance of the MTNZF Shares. Further, the ability of MTNZF to refinance the MTNZF Pref Shares is subject, essentially, at the relevant time, to the consent of MTN and the Preference Share Agent being obtained, provided that such consent may not be unreasonably withheld or delayed by the Preference Share Agent if the rights of the funders under the Refinancing Agreements (as defined in the MTNZF Pref Share Terms) are not, at all times up to the date on which the MTNZF Pref Shares are redeemed in full, subordinated to the rights of BFC2 and the BFC2 Pref Shareholders in all respects.

Should MTNZF for any reason be unable to refinance MTNZF Pref Share funding in full, it will likely not be able to fully discharge this liability on its scheduled maturity date from the funds available to it. In such circumstances, it will be required (either through a process agreed with the third party funders and MTN) or, following a default, by way of a forced sale, to sell the MTN Shares in order to raise the money required to settle these liabilities in full. See paragraph 6.6 below in respect of the potential, in such circumstances, for MTN to replace such shares through additional Notional Vendor Finance.

6.6 Refinancing obligations – Relationship Agreement

The Relationship Agreement reflects that the overriding objective for MTN in facilitating the 2016 MTN BEE Transaction is for MTNZF, as a Black Company, to obtain a material shareholding in MTN on the commencement of the 2016 MTN BEE Transaction and for it to maintain such shareholding for the duration of the Empowerment Compliance Period. It further acknowledges that commercially it is MTN's and MTNZF's common intention, in the future, for the maturity of the MTNZF Pref Shares to either be extended or for such liabilities to be otherwise amended or refinanced such that the scheduled maturity of the third-party funding extends throughout the Empowerment Compliance Period.

MTNZF is thus committed, pursuant to clause 22 of the Relationship Agreement that, following a period of three years and one day after the issue of the MTNZF Pref Shares and as and when market circumstances thereafter permit (and as permitted and under and in terms of the Finance Documents), to using all reasonable endeavours to ensure that, through a Refinancing of the existing MTNZF Pref Shares, that it has committed third party funding in place for the full duration of the Empowerment Compliance Period on the basis that it:

- does not result in MTNZF Disposing of any MTN Shares held by it;
- is on terms, conditions and rates approved by MTN; and
- is effected strictly in accordance with, and subject to, the terms and conditions of the Finance Documents.

This Refinancing may, in principle, be implemented through, among others:

- (i) an extension of the scheduled maturity of the MTNZF Pref Shares; and/or
- (ii) the issue of new or additional preference shares; and/or
- (iii) loans or other form of debt instrument; or
- (iv) other forms of funding approved by MTN.

This commitment by MTNZF to MTN does not derogate from its obligations to redeem the MTNZF Pref Shares on their required redemption date, and the rights of the holders of MTNZF Pref Shares under the Finance Documents.

6.7 Discount to underlying value of MTN Shares

MTNZF Shares can only be traded amongst Verified Shareholders and MTNZF is not permitted to sell its MTN Shares without the consent of the Preference Share Agent and MTN for so long as any funding and related amounts are outstanding under the Finance Documents. Given the limited pool of potential acquirers of MTNZF Shares and the disposal restrictions applicable to the MTN Shares, MTNZF Shares may trade at a discount to their underlying value.

6.8 Tax implications

Certain tax implications will arise as a result of trading in MTNZF Shares. MTNZF Shareholders must seek their own independent tax advice as regards the holding or Disposal of any MTNZF Shares.

6.9 MTNZF after the Empowerment Compliance Period

The MTN Shares which remain held by MTNZF following the settlement of the MTNZF Pref Shares (or any other liability, including any preference share liability arising from the Refinancing) and the Notional Vendor Finance, and the provision for all other known and contingent liabilities and cost of winding-up, would be available for distribution to MTNZF Shareholders if so elected by the MTNZF Board.

The Empowerment Compliance Period comes to an end on 25 November 2024. At this point in time, the MTNZF Shares will no longer be subject to the restrictions that they may only be traded amongst Verified Shareholders or that they may not be Encumbered as contemplated under the Relationship Agreement. MTNZF's listing on the JSE will not automatically discontinue after the Empowerment Compliance Period but may be subject to such alternative structure or arrangement collaboratively determined by MTNZF, MTN and, as applicable, MTNZF Shareholders.

The MTNZF Board, in conjunction with MTN, will consider the options available with regard to MTNZF upon conclusion of the Empowerment Compliance Period.

SECTION 3: INFORMATION ON MTNZF DIRECTORS AND MANAGEMENT

7. THE MTNZF MANAGEMENT FUNCTIONS

MTNZF is a special purpose company which only has non-executive directors and does not employ any full-time employees. MTNZF has engaged various service providers, the details of which are contained in the “*Corporate Information and Advisors*” section of this Pre-Listing Statement, with the necessary expertise to provide services required by MTNZF to effectively carry out its functions and activities before and after the BEE Listing.

The MTNZF Board recognises that, at the core of MTNZF’s corporate governance system, it is ultimately accountable and responsible for the performance and affairs of MTNZF. The MTNZF Board embraces the principles of good corporate governance as set out in the Code of Corporate Practices and Conduct, in the King Report on Corporate Governance for South Africa, 2016.

MTNZF is committed to business integrity, transparency and professionalism in all its activities to ensure that it acts ethically and responsibly to enhance the value of its business for the benefit of all stakeholders.

8. INFORMATION RELATING TO THE MTNZF DIRECTORS AND THE MANAGEMENT OF MTNZF

8.1 MTNZF Directors

The full names, addresses, qualifications and profiles of the MTNZF Directors are set out below:

8.1.1 Sindisiwe Nombenhle Mabaso-Koyana (50)

Independent non-executive Chairperson (Appointed: 6 June 2017)

Member of the Audit, Risk & Compliance Committee (Appointed: 6 June 2017)

Business address

Registered Office of MTNZF

Qualifications

CA(SA), BComm (Natal), Post Graduate Diploma in Accounting (Natal)

Directorships

Sindi is currently the Chairperson of African Women Chartered Accountants (“**AWCA**”) Investment Holding Company, the Chartered Accountancy Sector Charter, the Advisory Board of AWCA and the Chairperson of the Advanced Group of Companies. Her other board positions include that of non-executive director of Adcorp Holdings Limited, Eskom Holdings SOC Ltd and Toyota South Africa Motors (Pty) Ltd and interim (to 31 July 2020) non-executive director of the Public Investment Corporation SOC Limited.

Skills, expertise and work experience

Sindi is a Chartered Accountant by profession with experience in financial management, auditing and governance in both the public and private sector. She is a renowned leader and champion in the growth and development of young women. She has been named by the Financial Mail as one of the top 20 most powerful business women in South Africa and was a finalist for the Business Woman of the Year Award in 2004. In 2013 she was nominated by The CEO Magazine as the most Influential Women in Business and the Public Sector. She is also the past Chairperson of the task team of the South African Institute of Chartered Accountants which launched the paper on meaningful reporting on Broad-Based Black Economic Empowerment.

8.1.2 **Sonja De Bruyn (47)**

Independent non-executive Director (Appointed: 6 June 2017)

Member of the Audit, Risk & Compliance Committee (Appointed: 6 June 2017)

Business address

Registered Office of MTNZF

Qualifications

LLB (Hons), MA: Economic Policy Management SFA (UK), Harvard Executive Program

Directorships

Non-executive director of RMB/RMI Holdings, Discovery Holdings Limited and Remgro Limited. Sonja is also the Chairperson of the Ethos Mid-Market Fund I GP Proprietary Limited.

Skills, expertise and work experience

Sonja is the founder and principal partner of investment, advisory and financing firm Identity Capital Partners. She commenced her career in investment banking in 1997, working on mergers and acquisitions, privatisations, initial public offerings and financings, ultimately becoming a vice-president of Deutsche Bank. She was appointed as executive director of Women's Development Bank Investment Holdings from 2002 to 2007. She was previously a trustee of the National Empowerment Fund and member of the Presidential Working Group on BEE. Sonja has been awarded and recognised by the Black Management Forum and the Association of Black Securities and Investment Professionals. She is also a Young Global Leader of the World Economic Forum.

8.1.3 **Grant Glenn Gelink (69)**

Independent non-executive Director (Appointed: 9 June 2017)

Chairman of the Audit, Risk & Compliance Committee (Appointed: 9 June 2017)

Business address

Registered Office of MTNZF

Qualifications

CA(SA), BComm, BCompt (Hons)

Directorships

Non-executive director of FirstRand Limited, Grindrod Limited, Santam Limited, Allied Electronics Limited, Rain Group Holdings Proprietary Limited and Pralene Investments Proprietary Limited.

Skills, expertise and work experience

Grant was a chief executive of Deloitte & Touche from 2006 to 2012. His vast experience at Deloitte & Touche spans over 26 years and includes being Lead Client Service Partner across a number of different industries servicing clients such as Barloworld Limited, Imperial Holdings Limited, Murray & Roberts Holdings Limited, Nedbank Limited, Sappi Limited, South African Airways and Transnet SOC Limited.

8.2 **MTNZF Directors' interests in MTNZF Shares**

As at the Last Practicable Date, the MTNZF Directors have the following direct and indirect beneficial interests in MTNZF Shares:

MTNZF Director	Direct beneficial interest	Indirect beneficial interest	Total	% of total issued MTNZF Shares
Sindisiwe Mabaso-Koyana	–	50 000	50 000	0.04
Sonja De Bruyn	–	5 000 000	5 000 000	4.05
Grant Gelink	61 023	–	61 023	0.05
Total	61 023	5 050 000	5 111 023	4.14

8.3 Qualification, borrowing powers and appointment of the MTNZF Directors

The relevant provisions of the MTNZF MOI governing the appointment, qualification, and remuneration of MTNZF Directors are set out in paragraph 24 of **Annexure 1**.

The borrowing powers of MTNZF are limited by the terms of the Finance Documents and the Transaction Documents. In particular, as at the Last Practicable Date, the consent of MTN and the Preference Share Agent is required prior to MTNZF incurring any borrowings, other than those expressly permitted in the Finance Documents.

8.4 Administration of MTNZF

8.4.1 Introduction and role of the Share Scheme Administration Agent

The role of Share Scheme Administration Agent is performed by Nedbank SSA, a specialist business unit within Nedbank, that has extensive experience in the administration of all types of share schemes and share scheme entities. The Nedbank SSA team provides end-to-end share scheme administration services to clients, utilising robust systems, and the services of many other specialist business units within Nedbank, including the Nedbank Contact Centre, Secretarial, Finance, Tax, Legal, Compliance, Risk and Technology divisions.

8.4.2 Key services to be rendered by the Share Scheme Administration Agent

The services to be rendered by Nedbank SSA to MTNZF include, *inter alia*, performing the role of the MTNZF Call Centre, Transfer Secretary, MTNZF BEE Verification Agent, company secretarial services, day-to-day administration services, company financial, tax and record keeping management services.

SECTION 4: INFORMATION RELATING TO MTNZF SHARES

9. SHARE CAPITAL OF MTNZF

9.1 Authorised and issued share capital

The authorised and issued share capital of MTNZF as at the Last Practicable Date, is set out below:

	R
Authorised share capital	
300 000 000 ordinary shares of no par value	n/a
3 200 000 cumulative redeemable non-participating preference shares of no par value	n/a
Total authorised share capital	n/a
	R
Issued share capital	
123 416 826 ordinary shares of no par value	2 468 336 335
1 172 468 cumulative redeemable non-participating preference shares of no par value	1 172 468 000
Total issued share capital	3 640 804 335

There are no shares held in treasury.

Only the ordinary shares of no par value, i.e. the MTNZF Shares, will be listed under the BEE Listing. The cumulative redeemable non-participating preference shares of no par value, i.e. the MTNZF Pref Shares, will not be listed on any exchange. There will be no change in the authorised and issued share capital of MTNZF as a result of the BEE Listing.

9.2 Major shareholders

As at the Last Practicable Date, the following MTNZF Shareholders, other than the MTNZF Directors, beneficially hold 5% or more of the issued MTNZF Shares:

MTNZF Shareholder	Direct beneficial	Indirect beneficial	Total	% of issued MTNZF Shares
MTN	18 277 026	–	18 277 026	14.8
Mion Securities (RF) (Pty) Ltd	10 065 658	–	10 065 658	8.2
Total	28 342 684	–	28 342 684	23.0

9.3 Alterations to share capital

There have been no alterations in the authorised share capital of MTNZF in the three years prior to the Last Practicable Date.

The authority of the MTNZF Board to issue any shares in MTNZF's shares capital is limited such that the MTNZF Board may not issue any shares in MTNZF's share capital without the prior written approval of MTNZF, MTN and the Preference Share Agent.

9.4 Rights attaching to MTNZF Shares and MTNZF Pref Shares

9.4.1 Each MTNZF Share entitles an MTNZF Shareholder to one vote at general meetings of MTNZF Shareholders. The rights to dividends and such other rights attaching to each issued MTNZF Share are set out in **Annexure 1** to this Pre-Listing Statement. The Finance Documents, the MTNZF MOI and the Tranche 1 Subscription and Call Option Agreement also regulate the payment of dividends on the MTNZF Shares and, in this regard, see paragraph 10 of this Pre-Listing Statement for further details.

- 9.4.2** The MTNZF Pref Shares entitle the holders thereof to vote at general meetings of MTNZF Shareholders only to the extent, and in the limited circumstances, set out in the MTNZF MOI as summarised in paragraph 21.24.1 of **Annexure 1** to this Pre-Listing Statement. The rights to dividends and such other rights attaching to each issued MTNZF Pref Share are set out and/or summarised, as applicable, in paragraph 35 of **Annexure 1** to this Pre-Listing Statement.
- 9.4.3** The MTNZF Directors will exercise MTNZF's vote at general meetings of MTN on behalf of MTNZF, but may in their discretion, in turn, seek the approval of MTNZF Shareholders when exercising this vote.
- 9.4.4** The Relationship Agreement also addresses certain limited instances affecting the exercise of voting rights by MTNZF Shareholders. Please see paragraph 11.3.4 (dealing with invalid holders of MTNZF Shares) and paragraph 11.10 (dealing with unauthorised holdings in excess of the Maximum Shareholding Limit) for further details in respect thereof.

9.5 Variation, conversion of rights and other rights of MTNZF Shareholders

The provisions of the MTNZF MOI relating to the variation of rights attaching to MTNZF Shares and MTNZF Pref Shares are summarised in paragraph 7 of **Annexure 1**.

There are no conversion or exchange rights to MTNZF Shares, nor do any MTNZF Shareholders have any redemption rights or preferential rights to profits or capital.

The rights of MTNZF Shareholders and MTNZF Pref Shareholders to participate in dividends, rights to profits or capital, including the rights of MTNZF Shareholders and MTNZF Pref Shareholders on liquidation or distribution of capital assets of MTNZF, are determined by the MTNZF MOI and the relevant summaries thereof are set out in paragraph 35 of **Annexure 1**.

10. DIVIDEND POLICY

While the MTNZF Pref Shares remain outstanding, the dividend income earned on the MTN Shares held by MTNZF in the ordinary course will be used firstly to pay or provide for permitted operational fees, costs and expenses and tax liabilities of MTNZF and then a portion will be used to pay preference dividends and to provide a specified minimum amount per annum for settlement of the third party funding of MTNZF. If funds remain, the MTNZF Board has the discretion to pay up to 20% of the total dividend received from the MTN Shares held (less the above amounts which have been paid or provided for operational fees, costs and expenses and tax liabilities) as a dividend to MTNZF Shareholders, subject to the Dividend Payment Share Cover Ratio being met and there being no actual or potential trigger events under the Finance Documents and no reasonable likelihood of any such trigger events occurring.

Any balance of such dividend income earned on the MTN Shares held by MTNZF will generally then be used next to further offer to pay or provide for settlement of the third-party funding and/or be used to acquire additional MTN Ordinary Shares and correspondingly reduce the Notional Vendor Finance. In the event that there is no such settlement of the third-party funding and/or of the Notional Vendor Finance, MTNZF Board has the discretion to pay further dividends to MTNZF Shareholders, subject to compliance with the Dividend Payment Share Cover Ratio.

11. RESTRICTIONS ASSOCIATED WITH MTNZF SHARES

The Relationship Agreement, the MTNZF MOI and the other Transaction Documents impose restrictions on the Disposal (including by sale) and/or Encumbrance of MTNZF Shares and the Relationship Agreement and the MTNZF MOI also contain various other rights in favour of and/or obligations imposed on MTNZF Shareholders. The restrictions outlined below are a summary of those included in the Relationship Agreement. The full terms of the Relationship Agreement are set out in **Annexure 3** to this Pre-Listing Statement.

Capitalised terms used in this paragraph 11 otherwise not defined in the "Definitions and Interpretations" section of this Pre-Listing Statement commencing on page 4, shall bear the meanings given to such terms in the Relationship Agreement.

11.1 General undertakings by MTNZF

MTNZF in consultation with the MTN Board has irrevocably and unconditionally undertaken, during the Empowerment Compliance Period (to the extent that and for so long as it holds any MTN Shares or any other form of equity interest, directly or indirectly, in the MTN SA Group), to MTN that, save as MTN may otherwise permit by prior written consent, it shall, *inter alia*:

- comply in all respects with the provisions of the Relationship Agreement and the Transaction Documents to which it is a party;

- not issue or permit the transfer of any MTNZF Shares or beneficial interest therein to any person, unless such person agrees to be bound by the provisions of the Relationship Agreement and the MTNZF MOI, in such capacity, in a form and on terms to the reasonable satisfaction of MTN, or is an Approved Nominee of any such person;
- not issue or permit the transfer of any MTNZF Shares or beneficial interest therein to any person, other than to: (i) Black Participants; or (ii) an Approved Nominee;
- subject to the provisions of the Transaction Documents to which it is a party, at all times during the Empowerment Compliance Period procure that:
 - save to the extent permitted in terms of the Relationship Agreement, the beneficial interests in all MTNZF Shares shall be owned by Black Participants;
 - save to the extent permitted in terms of the Relationship Agreement, the majority of all of the voting rights in MTNZF shall be exercisable, directly or indirectly, by Black People;
 - in excess of 50% of the Directors of MTNZF (who shall be entitled to in excess of 50% of the voting rights of Directors at meetings of the MTNZF Board) shall be Black People; and
 - no Nominee shall hold MTNZF Shares other than an Approved Nominee for and on behalf of a Beneficial Holder who is a Black Participant;
- co-operate with MTN and take such steps as are reasonably open to it to procure and/or enforce compliance by the MTNZF Shareholders of their obligations under the Relationship Agreement and the MTNZF MOI;
- procure and warrant that during the Empowerment Compliance Period, the MTNZF Shares shall only be transferable by and transferred to Eligible Shareholders, and during the BEE Listing Period, MTNZF Shares and the beneficial interests therein shall only be transferable by and transferred to Verified Shareholders or Approved Nominees (as applicable), as provided for in the Relationship Agreement;
- not apply for or take steps to wind up MTNZF (voluntarily or involuntarily) or be deregistered or be subject to any business rescue provisions or otherwise cease to be a juristic entity and have control over its business and affairs;
- not register the transfer of any MTNZF Shares or beneficial interest therein, and to procure that no transfer is registered, unless:
 - subject to the provisions of the Relationship Agreement, during the Empowerment Compliance Period, such transfer is to an Eligible Shareholder;
 - during the BEE Listing Period, any transfer of MTNZF Shares and/or beneficial interests therein is to a Verified Shareholder or to an Approved Nominee on behalf of a Verified Shareholder;
 - such transfer is permitted in accordance with the provisions of clauses 8 (*restriction on disposal or encumbrance of MTNZF Shares*), 9 (*death*), 10 (*involuntary sequestration/liquidation*), 11 (*call option in favour of MTN*) and/or 14 (*no restriction on MTN, its nominees or subsidiaries holding MTNZF Shares, and founding shareholders*) of the Relationship Agreement;
 - the transferee Beneficial Holder has agreed to be bound by the terms of the Relationship Agreement and the MTNZF MOI by executing a deed of adherence and has executed and delivered such deed of adherence to MTNZF's Company Secretary (or is otherwise so bound in a form and on terms to the reasonable satisfaction of MTN); and
 - in respect of a transfer to a Nominee Holder, such person is an Approved Nominee;
- not permit any director to be appointed to the MTNZF Board if:
 - as a result of such appointment the majority of the directors of the MTNZF Board are not Black People; or
 - immediately prior to such appointment the minority of the directors of the MTNZF Board are Black People, unless such a director is himself a Black Person;
- provide such documents and other evidence as may reasonably be requested by MTN from time to time to prove to MTN, MTNZF's compliance with its undertakings, if proof is so required by MTN, and as and when so required from time to time.

11.2 MTNZF Shareholder undertakings

Each MTNZF Shareholder irrevocably and unconditionally undertakes in favour of each of MTN and MTNZF that, *inter alia*, with MTN's prior written consent:

- during the Empowerment Compliance Period, it shall not Dispose or Encumber its MTNZF Shares or any beneficial interest therein, other than as permitted under the Relationship Agreement;

- in respect of any permitted transfer of MTNZF Shares or any beneficial interest therein, it shall:
 - co-operate fully with the ESTC, the Transfer Secretaries or the relevant verification agent appointed by MTNZF (as applicable) in respect of such transfer;
 - thoroughly check that the transferee Beneficial Holder is, and at the time of transfer will be, an Eligible Shareholder or a Verified Shareholder (as the case may be);
 - ensure that the transferee Beneficial Holder has agreed to be bound by the terms of the Relationship Agreement and the MTNZF MOI by executing a deed of adherence in a prescribed form or other form and on terms to the reasonable satisfaction of MTN; and
 - where applicable, that any transferee's Nominee Holder is an Approved Nominee;
- if it is a Black Group, upon the conclusion of the Minimum Investment Period and for the remainder of the Empowerment Compliance Period, it shall continue to qualify as a Black Group;
- it will immediately notify MTN and MTNZF of any Call Event in respect of itself (or of any matter, fact, event or circumstance which, following the giving of notice and no further steps being taken by the recipient of the notice will give rise to a Call Event in respect of itself);
- it will not:
 - (i) perform any act or refrain from performing any act within its power or control or of which it is capable; or
 - (ii) attempt to procure or propose (other than where it is specifically required by law or by a court of law to so procure or propose) any resolution; or
 - (iii) exercise any right as an MTNZF Shareholder in any way; or
 - (iv) enter into any arrangement, transaction or agreement; or
 - (v) otherwise take any action whatsoever or procure the taking of any actions, which (alone or taken together with the acts, omissions or votes of any other person) will or is reasonably likely to (or which, following the giving of notice and no further steps being taken by the recipient of the notice, will or is reasonably likely to) result in MTNZF breaching the provisions of the Relationship Agreement; and
- it will, where so requested by MTN or MTNZF, exercise such rights as it has as an MTNZF Shareholder to vote in favour of any resolution or take such other action as will itself (or with such other affirmative votes and/or actions by other MTNZF Shareholders) as may be necessary or reasonably required to procure that the provisions of the Relationship Agreement are complied with by MTNZF.

11.3 Restrictions on Disposal and Encumbrance of MTNZF Shares

11.3.1 General

Subject to certain exceptions set out below, MTN and MTNZF agree that, during the Empowerment Compliance Period and for purposes of ensuring compliance with the Relationship Agreement while at the same time facilitating the BEE Listing and consequent future trading in MTNZF, unless otherwise agreed between MTN and MTNZF:

- all MTNZF Shares shall be held as Dematerialised Shares in the name of a Nominee approved by the Custodian to act as the registered Nominee Holder, holding such Dematerialised Shares for and on behalf of each MTNZF Shareholder who will be the Beneficial Holder thereof. Each MTNZF Shareholder agrees to be bound by the provisions of any applicable Strate Rules, as well as any applicable custody/mandate arrangement with the Custodian in respect of his/her/its MTNZF Shares;
- if and to the extent that, for whatever reason, any MTNZF Share is at any time held as a Dematerialised Share with the registered holder being someone other than the Custodian, and MTN and MTNZF have not agreed that MTNZF Shares may be held otherwise than as Dematerialised Shares with the Custodian (as the registered holder), then the relevant MTNZF Shareholder unconditionally undertakes and agrees that:
 - for so long as such MTNZF Share is held in uncertificated form other than in the name of the Custodian, it shall only be deposited with a CSDP approved by MTN, it being recorded that MTN shall require that such MTNZF Shareholder's mandate agreement with the relevant CSDP recognises the relevant terms and restrictions in respect of such MTNZF Share as contained in the Relationship Agreement and the MTNZF MOI; and
 - it shall not give any instructions to its CSDP which would constitute or result in a contravention of the Relationship Agreement or the MTNZF MOI.

During the BEE Listing Period, where an MTNZF Share is held as a Dematerialised Share:

- (i) the relevant MTNZF Shareholder's mandate agreement with the person providing custody and administration services in respect of such Dematerialised Share (including any nominee or intermediary of such service provider) must be an Approved Nominee and shall accordingly be required to recognise the restrictions imposed upon the holding and/or transfer of such MTNZF Share; and
- (ii) the relevant MTNZF Shareholder shall not give any instruction to its broker or CSDP (or any nominee or intermediary thereof or Nominee Holder) which would constitute or result in a contravention of the provisions of the BEE Listing Terms and Conditions.

In the event that in breach of the Relationship Agreement (or otherwise), MTNZF Shares are held as Certificated Shares during the Empowerment Compliance Period, specific provisions apply, including that such Certificated Shares may be required to be Dematerialised.

11.3.2 During the Minimum Investment Period

With limited exceptions for death and involuntary liquidation/sequestration, no MTNZF Shareholder shall at any time during the Minimum Investment Period Dispose of or Encumber any MTNZF Share held by him/her/it or any beneficial interest therein, or otherwise cease to be the Beneficial Holder thereof.

11.3.3 After the Minimum Investment Period

MTN and MTNZF shall use their respective good faith endeavours (but otherwise without any liability or obligation) to procure the BEE Listing on and from the end of the Minimum Investment Period for the purpose of facilitating trading in MTNZF Shares, subject at all times to the restrictions imposed upon the transfer of ownership of such shares in terms of the Relationship Agreement and the MTNZF MOI.

In acknowledgement and furtherance of the MTN SA Group's imperative to procure and maintain an optimal BEE rating under the BEE Legislation, each of the MTNZF Shareholders agree and undertake in favour of MTN that, upon the conclusion of the Minimum Investment Period and for the remainder of the Empowerment Compliance Period:

- (i) no MTNZF Shareholder shall Encumber any MTNZF Share (or beneficial interest therein) held by him/her/it; and
- (ii) MTNZF Shares (or beneficial interest therein) shall be transferable only to Eligible Shareholders as set out below:
 - After the Minimum Investment Period:
 - (i) only Eligible Shareholders may be Beneficial Holders of MTNZF Shares and only Approved Nominees may be Nominee Holders of MTNZF Shares, and no transfer of any beneficial interest or nominee holding shall be permitted unless such transfer has first been approved in writing by either MTN or the ESTC (which approval shall not be unreasonably withheld or delayed) pursuant to its consideration of any proposed transfer and subject to its verification of the BEE Status of the proposed transferee; and
 - (ii) MTN may, or the ESTC may, acting reasonably, at any time withdraw the BEE Verification status of any person, on notice to such person, whereupon such person shall cease to be classified as an Eligible Shareholder and/or Verified Shareholder, as the case may be.
 - During the BEE Listing Period, only Verified Shareholders may be Beneficial Holders of MTNZF Shares (and any holding in conflict with this will accordingly breach this provision) and only Approved Nominees may be Nominee Holders of MTNZF Shares, and no Disposal may be effected inconsistent with this provision.
 - During the Empowerment Compliance Period the ESTC shall consider and approve or decline any proposed transfer pursuant to a Disposal of MTNZF Shares (or beneficial interests therein), and shall accordingly regulate, or procure the regulation of, the registration of any such transfer. If for any reason and for so long as the ESTC is not or ceases to be constituted, then the rights and obligations of the ESTC shall be fulfilled by MTNZF, or one or more persons appointed by it on its behalf.

- During the BEE Listing Period:
 - (i) the Disposal of the MTNZF Shares (or beneficial interests therein) shall be subject to the provisions of the Relationship Agreement, the MTNZF MOI and certain verification terms and conditions; and
 - (ii) no MTNZF Shares (or beneficial interests therein) shall be approved for Disposal or transferred where, in the good faith opinion of MTN or the ESTC, such transfer will or might or is reasonably likely to result in a breach of any of the provisions of the Relationship Agreement, the MTNZF MOI and certain verification terms and conditions.

11.3.4 Invalid holders of MTNZF Shares

To the extent that at any time during the Empowerment Compliance Period, and for whatever reason (whether intentionally, negligently or accidentally), and for so long as any MTNZF Share (or beneficial interest therein) is transferred to or held by any person as Beneficial Holder who is not an Eligible Shareholder or a Verified Shareholder (as the case may be) and/or to any Nominee Holder who is not an Approved Nominee ("**the Non-qualifying Holder**"), such MTNZF Share shall, unless MTN expressly permits otherwise in writing, result in such Non-qualifying Holder being deemed, on the date on which such MTNZF Share (or beneficial interest therein) was transferred to such Non-qualifying Holder:

- to have ceded to MTN or its nominee/s all rights to any dividend, distribution, or payment or other economic benefit by virtue of the holding of that MTNZF Share; and
- to have ceded to MTN or its nominee/s any voting rights attaching to such MTNZF Share pursuant to the Relationship Agreement or the MTNZF MOI and to have irrevocably appointed MTN or its nominee as proxy for the exercise of such voting rights.

11.4 Death

11.4.1 Death of a Black Person

In the event of the death during the Empowerment Compliance Period of an MTNZF Shareholder who is a Black Person, the executor of the deceased MTNZF Shareholder's estate shall be entitled to transfer the relevant MTNZF Shares to such MTNZF Shareholder's heir, provided that such person is an Eligible Shareholder (as approved by the ESTC) or a Verified Shareholder.

If the heir is not an Eligible Shareholder or a Verified Shareholder, the heir and/or the executor shall be permitted (and obligated) to transfer the relevant MTNZF Shares to an Eligible Shareholder (as approved by the ESTC) or a Verified Shareholder within a period of 120 days from the date of death.

Failure by the deceased MTNZF Shareholder's executor to comply with the above provisions shall result in a Call Event.

11.4.2 Death of a member of a Black Group

In the event of the death of a shareholder, member, participant and/or beneficiary of a Black Group which is an MTNZF Shareholder, as a result of which:

- during the Minimum Investment Period, the MTNZF Shareholder fails to maintain its BEE Status or no longer qualifies as a Black Group; or
- after the Minimum Investment Period, but during the Empowerment Compliance Period, the MTNZF Shareholder fails to qualify as a Black Group,

then, the MTNZF Shareholder shall have a period of 120 days to remedy the breach caused by such death or to transfer the MTNZF Shares held by it to an Eligible Shareholder (as approved by the ESTC) or a Verified Shareholder.

Failure by the MTNZF Shareholder to comply with the above provisions, or the breach caused by the death has not otherwise been remedied within 120 days from the date of the death in question, shall result in a Call Event.

11.5 Involuntary sequestration or liquidation

11.5.1 Involuntary sequestration of a Black Person

In the event of an MTNZF Shareholder who is a Black Person being involuntarily sequestered (whether provisionally or finally) during the Empowerment Compliance Period, the MTNZF Shares held by such sequestered MTNZF Shareholder shall be permitted and required to be transferred by the MTNZF Shareholder and/or the trustee of such MTNZF Shareholder's estate to an Eligible Shareholder (as approved by the ESTC) or a Verified Shareholder within a period of 120 days from the date of provisional or final sequestration (whichever is the earlier), unless the sequestration order is set aside within 120 days.

Failure by the MTNZF Shareholder and/or the MTNZF Shareholder's trustee to comply with the above provisions shall result in a Call Event.

11.5.2 Involuntary liquidation of a Black Group

In the event that an MTNZF Shareholder which held MTNZF Shares as a Black Group is involuntarily liquidated (whether provisionally or finally), and as a result of which:

- during the Minimum Investment Period, it fails to maintain its BEE Status or no longer qualifies as a Black Group, as the case may be; or
- after the Minimum Investment Period, but during the Empowerment Compliance Period, it no longer qualifies as a Black Group,

then the MTNZF Shareholder (and/or its liquidator) shall have a period of 120 days to remedy the breach caused by such events or to transfer the MTNZF Shares held by it to an Eligible Shareholder (as approved by the ESTC) or a Verified Shareholder unless the liquidation order is set aside within such 120-day period.

Failure by the MTNZF Shareholder and/or its liquidator to comply with the above provisions shall result in a Call Event.

11.6 Call Option in favour of MTN

A **"Call Event"** shall arise in respect of an MTNZF Shareholder, if, at any time prior to the end of the Empowerment Compliance Period, the MTNZF Shareholder:

- has misrepresented or misstated its/his/her BEE Status; or
- has made a fraudulent, untrue or inaccurate statement in respect of any transfer or proposed transfer of MTNZF Shares (or beneficial interest therein), or in any documents supporting such transfer or proposed transfer, or any information provided to the ESTC and/or any other service provider in respect of any transfer of MTNZF Shares (or beneficial interest therein) cannot thereafter be verified to MTN's satisfaction; or
- has made a fraudulent, untrue or inaccurate statement in respect of any other documentation or information submitted to MTN, MTNZF, the ESTC and/or any other service provider, as may be required under the Relationship Agreement, or any such information cannot be verified to MTN's satisfaction; or
- commits an act, or there arises an event or circumstance (howsoever arising), constituting or resulting in a breach by or in respect of such MTNZF Shareholder (and/or the MTNZF Shares and/or beneficial interests held by it) of key provisions of the Relationship Agreement, and fails to remedy any such breach within the time period (if any) provided or, if no such express remedy period is provided, within 30 days of receiving written notice from MTN or MTNZF to do so (or such additional period as MTN may agree to in writing).

If and for so long as the Call Event persists, the relevant MTNZF Shareholder's rights to receive dividends and to vote its MTNZF Shares will immediately be deemed to have been ceded to MTN or its nominee/s, unless MTN expressly agrees otherwise.

Furthermore, for so long as the Call Event persists, MTN shall be entitled, but not obliged, by giving written notice to the relevant MTNZF Shareholder (or its Nominee Holder, if applicable) to that effect to require such MTNZF Shareholder and/or Nominee Holder to sell to MTN all its MTNZF Shares (and/or beneficial interests therein), or such number thereof as MTN may elect ("**Call Shares**") and the MTNZF Shareholder and/or Nominee Holder shall be obliged to sell the Call Shares to MTN (or its nominee), and MTNZF shall procure that the MTNZF MOI contain such obligation to sell.

The Call Shares shall be acquired by MTN at a price equal to:

- the Call Reference Price, in relation to a failure to transfer the relevant Call Shares following the death of an MTNZF Shareholder who is a Black Person; or
- a 10% discount to the Call Reference Price, in relation to the death of a member of a Black Group, and the involuntary sequestration of a Black Person; or
- at a 40% discount to the Call Reference Price in respect of the involuntary liquidation of a Black Group; or
- in other instances (including voluntary liquidation or sequestration), at a discount ranging between 70% and 25% of the Call Reference Price, depending on whether the relevant Call Event occurs between the first and second years (70%), the third and fourth years (50%), the fifth and sixth years (40%) or the seventh and eighth years (25%) of the Empowerment Compliance Period,

provided that in each such case if the Call Event arises from a fraudulent act or wilful misrepresentation by or on behalf of the MTNZF Shareholder, the purchase price will be the lesser of the price determined above and the price paid by the MTNZF Shareholder for the relevant Call Shares.

The **"Call Reference Price"** shall be the value of the MTNZF Shares as agreed between MTN and the relevant MTNZF Shareholder on the relevant date applicable to the Call Shares, provided that such determination shall, *inter alia*:

- (i) include a discount for no or limited liquidity of 10%;
- (ii) value the MTN Shares (as an asset held by MTN) at the 30 Trading Day VWAP on the relevant date; and
- (iii) while the MTNZF Shares are listed on the JSE, not exceed the 30 Trading Day VWAP of such shares on the JSE on the relevant date.

For purposes of expediting potential sales and transfers of Call Shares, MTN and MTNZF may, from time to time, by written recordal determine the Call Reference Price as at a stipulated date **"Valuation Date"** and may do so with regard to such professional advice as they consider appropriate. Alternatively, MTN may appoint an investment bank agreed to by MTNZF to determine the Call Reference Price at the Valuation Date.

If MTN and the relevant MTNZF Shareholder are unable to agree on the Call Reference Price on any particular date, the Call Reference Price shall, at MTN's election:

- be the Call Reference Price (if any) determined between MTN and MTNZF referred to above, provided that the Valuation Date is within a six-month period before or after the relevant date applicable to the Call Shares and where there is more than one such determination within this period, the determination nearest in time to the relevant date applicable to the Call Shares; or
- be determined by way of final and binding expert determination, which expert shall be an investment bank with experience in the telecommunications industry.

The Call Reference Price, and resulting sale under the call option, will be effected with effect from the date of the Call Event or the date on which MTN exercises its call option rights, as MTN may determine. MTN shall, on written notice to MTNZF from time to time, be entitled to: (i) exercise its rights pursuant to the above provisions through one or more nominees; and/or (ii) cede to any person all or any part of its rights and/or delegate its obligations to a third party pursuant to the above provisions.

Each MTNZF Shareholder in respect of whom a Call Event arises undertakes to MTN not to Dispose of its MTNZF Shares at any time while such Call Event persists, other than pursuant to an exercise by MTN of the call option or with MTN's prior written permission, and agrees that it shall not be entitled to (and shall account on demand to MTN for) any gain or profit made by it from any Disposal made in breach of this undertaking.

11.7 Refinancing and rebalancing subscriptions

The funding provided to MTNZF under the MTNZF Pref Shares (and the related liabilities and obligations under the Finance Documents) have a scheduled maturity on the fifth anniversary of the Effective Date of the MTNZF Offer (**"Initial Scheduled Maturity Date"**), and are required to be settled in full at such time, whereas the Empowerment Compliance Period and the scheduled maturity of the Notional Vendor Finance from MTN (and related liabilities and obligations in respect thereof) are both eight years after the Effective Date of the MTNZF Offer.

The overriding objective for MTN in facilitating the 2016 MTN BEE Transaction was for MTNZF, as a Black Company:

- (i) to obtain a material shareholding in MTN and for MTNZF to maintain such shareholding for the duration of the Empowerment Compliance Period such that the MTN SA Group derives all or a meaningful portion of its empowerment status (as regards equity ownership) from such shareholding; and

- (ii) commercially it is the parties common intention, in the future, for the third party financing to either be extended or otherwise amended or refinanced so as to have such third party financing endure until, and have a scheduled maturity at, the end of the Empowerment Compliance Period.

Accordingly, MTNZF has agreed in favour of MTN that:

- save to extent that MTN may notify MTNZF otherwise, following the expiry of a period of three years and one day after the date of issue of the MTNZF Pref Shares, as and when market circumstances may thereafter permit but in any event prior to the Initial Scheduled Maturity Date, MTNZF will use all reasonable endeavours and as permitted and under and in terms of the Finance Documents to procure, through a Refinancing, that it has committed third party funding in place for the full duration of the Empowerment Compliance Period in such manner that does not result in MTNZF disposing of any MTN Shares held by it, which Refinancing may be effected by MTNZF through *inter alia*:
 - (i) an extension of the Initial Scheduled Maturity Date of the MTNZF Pref Shares to the end of the Empowerment Compliance Period; and/or
 - (ii) the issue of new or additional preference shares; and/or
 - (iii) loans or other form of debt instrument; and/or
 - (iv) other forms of funding approved by MTN (all such being “**the Replacement Funding**”), which Replacement Funding:
 - a. is on terms, conditions and rates approved by MTN; and
 - b. is effected strictly in accordance with, and subject to, the terms and conditions of the Finance Documents;
- if at any time and for any reason during the Empowerment Compliance Period any or all of the MTN Shares held by MTNZF are Disposed of, including any voluntary or involuntary Disposal as a result of the third party funding being or becoming due and payable (including as a result of a failure to refinance all or any part thereof in circumstances where the relevant terms, conditions and/or funding rates were not approved by MTN), MTN shall have the right pursuant to the Tranche 1 Subscription and Call Option Agreement to require MTNZF to subscribe for or purchase from a member of the MTN Group an equal (or, in MTN’s discretion, lesser) number of MTN Shares as those Disposed of at a price of R0.0001 per MTN Share; and
- correspondingly to increase in the Notional Vendor Finance, in such number as may be up to, but not in excess of, the number of MTN Shares which have been Disposed, in each such case as further provided for in the Tranche 1 Subscription and Call Option Agreement.

11.8 MTNZF Shares held by MTN or its nominees

If MTN and/or its nominee/s and/or Subsidiary/ies designated in writing by MTN for this purpose at any time become the beneficial and/or registered holder/s of any MTNZF Shares, for whatever reason, MTN and/or its nominee/s and/or its Subsidiary/ies shall hold such MTNZF Shares as “**Warehousing MTNZF Shareholders**” and shall be exempt from the provisions of the Relationship Agreement and the MTNZF MOI regulating the transfer of MTNZF Shares and the restrictions upon the holding of such shares only by Black Participants.

11.9 MTN representation on MTNZF Board

During the Empowerment Compliance Period, MTN shall be entitled to nominate for appointment, two persons (and his/her respective alternate) to serve as directors on the MTNZF Board. Such persons shall first be considered, and where applicable, approved by the MTNZF Board in which event such persons shall be appointed as MTNZF Directors. However, such persons shall subsequently cease to hold office at the termination of the first shareholders meeting to be held after their appointment, unless they are duly elected as MTNZF Directors at such meeting of shareholders. MTN shall, from time to time, by written notice, be entitled to remove such nominated MTNZF Director(s) from office. At all times, at least one such nominated MTNZF Director must be a Black Person.

11.10 Maximum permitted shareholding in MTNZF

Save as may be permitted by MTN, no MTNZF Shareholder may at any time hold any MTNZF Shares (or beneficial interest therein) which, when such shares are aggregated with the holdings of and/or beneficial interests in MTNZF Shares held by:

- i. all persons related or inter-related to such MTNZF Shareholder (as contemplated in section 2, read with section 3 of the Companies Act) (“**Connected Persons**”); and/or

- ii. any other person/s who is/are acting in concert with such MTNZF Shareholder (i.e. co-operating for the common purpose in relation to the direct or indirect exercise of control of or the influence of votes in relation to MTN Zakhele Futhi) ("**Concert Parties**"),

exceed 15% of the issued MTNZF Shares or such higher percentage as MTN may notify to MTNZF from time to time ("**the Maximum Shareholding Limit**"). This prohibition on holding MTNZF Shares in excess of the Maximum Shareholding Limit applies jointly and severally to each relevant Connected Person and Concert Party to the extent that such person is, by separate application of the provision with reference to it, also in breach of the Maximum Shareholding Limit.

If the Maximum Shareholding Limit is breached:

- MTN may, in its sole discretion, identify those MTNZF Shares (and/or relevant beneficial interests therein) that are held in excess of the Maximum Shareholding Limit ("**the Unauthorised Excess Shares**") and the relevant MTNZF Shareholder and/or Nominee Holder who holds such shares or beneficial interests and notify MTNZF accordingly;
- once a notice has been issued to MTNZF and until it is withdrawn or the breach is remedied, the relevant MTNZF Shareholder shall, unless MTN directs otherwise, be deemed:
 - to have ceded to MTN or its nominee/s all rights to any dividend, distribution or payment or other economic benefit by virtue of holding the Unauthorised Excess Shares;
 - to have ceded to MTN or its nominee/s any voting rights attaching to the Unauthorised Excess Shares and to have irrevocably appointed MTN or its nominee as proxy for the exercise of such voting rights; and
- MTN may require the sale or other outright Disposal of all or any of the Unauthorised Excess Shares by the issue of a written transfer notice to the relevant MTNZF Shareholder. If the requirements of the transfer notice are not complied with by the relevant MTNZF Shareholder (or its Nominee Holder, if applicable) within 28 days of receipt of the transfer notice, in MTN's sole discretion: (a) MTN may sell the specified Unauthorised Excess Shares (or any lesser number thereof) in such manner and on such terms as it in its absolute discretion determines; or (b) a Call Event shall occur in respect of the Unauthorised Excess Shares (or part thereof notified by MTN).

Save as may be permitted by MTN in writing, no MTNZF Shareholder may offer to Acquire (including by scheme of arrangement) or enter into any agreement (whether conditional or unconditional) to Acquire, any MTNZF Shares if, as a result of that Acquisition or upon implementation of the relevant Acquisition agreement, the Maximum Shareholding Limit would be breached by such MTNZF Shareholder or by any of its Connected Persons or Concert Parties. ("**Acquire**" and "**Acquisition**", as used here, is as defined in the Relationship Agreement).

SECTION 5: OTHER INFORMATION

12. FUNDING

12.1 MTNZF Pref Shares and the BFC2 Pref Shares

Pursuant to the 2016 MTN BEE Transaction, the BFC2 Pref Shares were raised in the market from the BFC2 Investors. The proceeds of the BFC2 Pref Shares were applied by BFC2 in subscribing for the MTNZF Pref Shares issued by MTNZF. The salient terms of the MTNZF Pref Shares mirror those of the BFC2 Pref Shares and are outlined in **Annexure 2**. The BFC2 Pref Shares are required to be redeemed by no later than the date that falls five years after issue and earn a semi-annual dividend equal to 75% of Prime. As a condition precedent to advancing the preference share funding, in addition to the other conditions precedent contained in the MTNZF Pref Subscription Agreement, the Inception Total Share Cover Ratio was required to be at least 4.0 times. The terms of the BFC2 Pref Shares are more fully summarised in **Annexure 2**.

12.2 MTN subordination

In terms of the Subordination and Undertaking Agreement, MTN and each MTN Acceded Nominee (as such term is defined in the MTNZF MOI) has agreed to subordinate its claims against MTNZF and BFC2 in favour of the claims against such companies by BFC2 and the BFC2 Pref Shareholders. MTN's and each MTN Acceded Nominee's claims against MTNZF under the various Transaction Documents (including under any subordinated loan agreement and under the MTN Tranche 1 Subscription and Call Option Agreement) are therefore limited by the subordination provisions for so long as there remain amounts outstanding to BFC2 and/or the BFC2 Pref Shareholders.

These subordination provisions impact, among others, the nature and timing of MTN's ability to exercise the NVF Call Option and the amounts in respect of which such option can be exercised.

MTNZF has provided various undertakings to MTN which will help protect the assets in MTNZF under both the Relationship Agreement and the MTN Tranche 1 Subscription and Call Option Agreement. These undertakings, among others, seek to ensure that MTNZF is and remains a ring-fenced, limited purpose, vehicle until such time as the third-party funding liabilities and the Notional Vendor Finance are discharged.

12.3 Notional Vendor Finance

Indivisibly with and as a condition for the subscription by MTNZF for the MTN Tranche 1 Subscription Shares, MTNZF irrevocably granted to MTN the NVF Call Option to purchase from it (and to require MTNZF to sell and deliver to MTN) at a price of R0.0001 per MTN Share a variable number of MTN Shares equal in number to the Maximum NVF Call Option Shares (as calculated from time to time under the MTN Tranche 1 Subscription and Call Option Agreement).

Except in limited circumstances which allow for the earlier exercise, the NVF Call Option is exercisable by MTN on or after the NVF Call Option Trigger Date. MTN shall be entitled to:

- (i) exercise its rights under the NVF Call Option (in whole or part) through one or more nominees; and/or
- (ii) cede and/or delegate to any person all or any part of its rights and/or obligations in respect of an NVF Call Option (or any part thereof).

13. ISSUE OF MTN ORDINARY SHARES

13.1 Additional specific issues to MTNZF during the Empowerment Compliance Period following settlement of the Notional Vendor Finance

In terms of the MTN Tranche 1 Subscription and Call Option Agreement, MTNZF may be required at various times to offer to MTN an early exercise of all or part of the NVF Call Option, in which event, MTN shall have the right (but no obligation) to exercise all or any part of the NVF Call Option. During the Empowerment Compliance Period, pursuant to the early exercise of the NVF Call Option, MTN may require MTNZF to subscribe for up to the same number of MTN Shares as is currently held by MTNZF pursuant to the early exercise of the NVF Call Option. Such subscriptions by MTNZF for further MTN Ordinary Shares shall be for cash at the then Market Value per MTN Ordinary Share.

Alternatively, MTN may require MTNZF to acquire up to an equivalent number of MTN Ordinary Shares in the open market or from third parties. These alternatives allow MTNZF's shareholding in MTN to be maintained throughout the Empowerment Compliance Period, while at the same time reducing the Notional Vendor Finance.

13.2 Further potential issues to MTNZF during the Empowerment Compliance Period following Disposals of MTN Shares

The scheduled maturity of the MTNZF Pref Shares is five years from the Effective Date of the MTNZF Offer, and the Empowerment Compliance Period and scheduled term of the Notional Vendor Finance is eight years from the Effective Date of the MTNZF Offer. As such, there is the risk that, if MTNZF is unable to refinance the MTNZF Pref Shares, or if an event of default arises under the third-party funding, it may be required to sell MTN Shares in order to raise the required cash to settle its funding obligations or other unscheduled liabilities which may arise.

Any sale by MTNZF (or other Disposal) of MTN Shares during the Empowerment Compliance Period will cause the percentage shareholding of MTNZF in MTN to decrease which, in turn, may adversely impact the BEE Status derived by the MTN SA Group from this shareholding.

As such, in order to give MTN the flexibility in the future to restore all or any part of this shareholding, MTN has the right (but no obligation) during the Empowerment Compliance Period to issue additional MTN Ordinary Shares to MTNZF at R0.0001 per MTN Ordinary Share ("**NVF Refinancing Shares**") under the MTN Tranche 1 Subscription and Call Option Agreement in such number, in its discretion, up to but not in excess of the relevant number of MTN Shares which MTNZF has Disposed of. On issue of the NVF Refinancing Shares, the NVF Balance (and corresponding NVF Call Option) will be increased by the market value of the MTN Ordinary Shares on the date of issue. Effectively, in such instances, the MTN Shares Disposed of by MTNZF are replaced and refinanced through additional Notional Vendor Finance.

14. REPURCHASE OF MTN SHARES

14.1 Repurchases of MTN Shares prior to, on or after the NVF Call Option Trigger Date

MTN shall be entitled to exercise the NVF Call Option (or part thereof):

- (i) on or after the NVF Call Option Trigger Date; or
- (ii) at such time or times prior to the NVF Call Option Trigger Date:
 - a. as the Preference Share Agent may, in its sole discretion permit (provided that such date may not be earlier than the eighth anniversary of the Closing Date without the written consent of MTNZF); and/or
 - b. as may be permitted in the circumstances summarised in paragraphs 14.2 and 14.3 below. Flexibility is also provided for MTN to exercise the NVF Call Option after the NVF Call Option Trigger Date, if MTNZF agrees.

Where MTN exercises the NVF Call Option in respect of fewer shares than the then current Maximum NVF Call Option Shares, the NVF Balance will be reduced by an amount equal to the number of NVF Call Option Shares so acquired by MTN multiplied by the Market Value of the MTN Shares on the date of exercise of the NVF Call Option, and the NVF Call Option (correspondingly resized with a reduced NVF Balance and reduced Maximum NVF Call Option Shares) will continue to be exercisable by MTN. The MTN Shares repurchased by MTN will be cancelled as required under the Companies Act and delisted from the JSE.

14.2 Early exercise of the NVF Call Option

MTNZF shall be entitled, and in certain instances obliged (when MTNZF has sufficient funds and the funds have not, in accordance with the Finance Documents, been used to settle its obligations to BFC2), at any time and from time to time prior to the NVF Call Option Trigger Date to offer to MTN an early exercise of all or part of the NVF Call Option. (For more details on the order in which cash flows are required to be applied by MTNZF, please see paragraph 15 below).

Following receipt of a notice from MTNZF offering to MTN the opportunity to exercise the NVF Call Option prior to the NVF Call Option Trigger Date, MTN shall have the right (but shall not be obligated to) to exercise all (or, as applicable, part) of the NVF Call Option, subject to the limits offered by MTNZF. These limits include:

- (i) the cash that MTNZF has available and is permitted to apply under the various cash flow waterfalls under the Transaction Documents;

- (ii) the maximum amount by which the NVF Balance is permitted to be reduced under the relevant Transaction Documents; and
- (iii) the date on or by which MTN must elect in writing whether or not to exercise all (or relevant part) of the NVF Call Option.

In this event, during the Empowerment Compliance Period, MTN may (but shall not be obligated to) also require MTNZF to rebalance the number of MTN Shares held by it by either acquiring MTN Ordinary Shares in the open market or by subscribing for cash for up to an equal number of MTN Shares as were acquired by MTN pursuant to its early exercise of all or part of the NVF Call Option. In the latter instance, as described in paragraph 14.1 above, the additional MTN Ordinary Shares will be issued by MTN at the same Market Value for an MTN Ordinary Share as will be used in calculating the amount by which the NVF Balance was decreased (i.e. the then 30 Trading Day VWAP of an MTN Ordinary Share).

14.3 Acceleration of the right to exercise the NVF Call Option

MTN shall have the right (but shall not be obligated to), on written notice to MTNZF, to exercise the NVF Call Option (or any part thereof) at any time while there exists an un remedied acceleration event (which events include):

- (i) an un remedied breach by MTNZF of any of the undertakings, representations and/or warranties in the MTN Tranche 1 Subscription and Call Option Agreement;
- (ii) any other un remedied material breach of any of the terms, conditions, warranties, representations or undertakings contained in the MTN Tranche 1 Subscription and Call Option Agreement; and
- (iii) any acceleration of the funding owing by MTNZF following an event of default).

The representations and warranties provided by MTNZF in terms of the MTN Tranche 1 Subscription and Call Option Agreement cover similar subject matter as that contained in the MTNZF Pref Subscription Agreement and are given with a key purpose of preserving the ring-fenced status and balance sheet of MTNZF for the period during which the NVF Call Option remains exercisable.

15. APPLICATION OF FUNDING CASH FLOWS

15.1 The use and flow of cash received or held by MTNZF is regulated under the Finance Documents as well as under the MTN Tranche 1 Subscription and Call Option Agreement, which prescribe the order in which, and uses to which, the funds received and held by MTNZF from time to time are to be put.

15.2 In summary, in terms of the MTNZF MOI, for so long as there is no actual or potential trigger event under the MTNZF Pref Shares, all ordinary cash distributions received by MTNZF in relation to the MTN Shares held by it, must be applied in the following order and on the basis that each level of priority below is to be paid or provided for before any payment of or provision of the following level of priority:

- first, to pay or provide for taxes owed by MTNZF or BFC2 under any Transaction Document;
- second, to pay or provide for the administration costs of MTNZF or BFC2, up to the agreed maximum amounts;
- third, to pay or provide for any additional expenses due and payable by MTNZF in terms of clauses 13 and 14 of the MTNZF Pref Subscription Agreement, which provide for the reimbursements of certain additional expenses incurred by BFC2 or the BFC2 Pref Shareholders (in respect of certain illegality events, non-compliance with certain Transaction Documents, and amendment or waivers in respect of certain Transaction Documents requested by MTNZF) and certain indemnity claims;
- fourth, to pay any dividends in respect of the MTNZF Pref Shares, which are scheduled for payment on the date on which this waterfall is applied;
- fifth, towards an offer for the redemption (which shall be a voluntary redemption in the first three years and one day after the issue date of the MTNZF Pref Shares on 24 November 2016 ("**Initial Period**") of the MTNZF Pref Shares, for an annual aggregate amount of R150 000 000;
- sixth, after the Initial Period only, the MTNZF Board has a discretion to pay up to 20% of the total dividend received from MTN (less the amounts which have been paid or provided for under the first and second items above) as a dividend to MTNZF Shareholders, subject to the Dividend Payment Share Cover Ratio being met and there being no actual or potential trigger events under the Finance Documents and no reasonable likelihood of any such trigger events occurring;
- seventh, to offer to the holders of MTNZF Pref Shares to place an amount equal to the amount required to redeem all the MTNZF Pref Shares in full into a bank account secured in favour of the holders of MTNZF Pref Shares ("**BIC2 Security Account**");

- eighth, at the election of MTN:
 - (i) to subscribe for MTN Shares and accordingly reduce the Notional Vendor Finance; and/or
 - (ii) to pay or repay all or part of any loan (and interest thereon) made by MTN to MTNZF;
- ninth, in the sole discretion of MTNZF (but subject to compliance with the Dividend Payment Share Cover Ratio), all or any portion of the remaining amounts towards a payment of a dividend to the MTNZF Shareholders; and
- tenth, to pay the remaining balance into the BIC2 Security Account from where, during the Initial Period, voluntary redemptions of the MTNZF Pref Shares may be made and, during the period after the Initial Period, mandatory redemptions of the MTNZF Pref Share must be made.

15.3 In terms of the MTN Tranche 1 Subscription and Call Option Agreement, once the MTNZF Pref Shares have been redeemed in full and certain other obligations to the holders of MTNZF Pref Shares have been discharged, on a quarterly basis (or more frequently if MTNZF holds cash in excess of R50 000 000 at any time), cash held by MTNZF, must be applied in the following order and on the basis that each level of priority below is to be paid or provided for before any payment of or provision of the following level of priority:

- first, to pay or provide for taxes, statutory charges and liabilities owed by MTNZF;
- second, to pay or provide for reasonable provisions for taxes, statutory charges and liabilities of MTNZF;
- third, to pay or provide for the administration costs of MTNZF or BFC2, up to the agreed maximum amounts;
- fourth, after the Initial Period only, the MTNZF Board has a discretion to pay up to 20% of the total dividend received from MTN (less the amounts which have been paid or provided for under items one, two and three above) as a dividend to MTNZF Shareholders, subject to the Dividend Payment Share Cover Ratio being met and there being no actual or potential trigger events under the MTN Tranche 1 Subscription and Call Option Agreement and no reasonable likelihood of any such trigger events occurring;
- fifth, to pay or repay all or part of any loan (and interest thereon) made by MTN to MTNZF;
- sixth, to subscribe for MTN Ordinary Shares and accordingly reduce the Notional Vendor Finance;
- seventh, to pay or make reasonable provisions for any other third-party liabilities or expenses which are or will become due and payable and such matters would not reasonably be expected to be funded out of future revenues of MTNZF;
- eighth, in the sole discretion of MTNZF, but subject to compliance with the Dividend Payment Share Cover Ratio, all or any portion of the remaining amounts towards a payment of a dividend to the MTNZF Shareholders; and
- ninth, to retain any remaining balance in the collection account of MTNZF, pending its further application under this waterfall on the next relevant date.

16. SOUTH AFRICAN EXCHANGE CONTROL REGULATIONS

16.1 General

- Currency and MTNZF Shares are not freely transferable from South Africa to any jurisdiction outside the geographical borders of South Africa or jurisdictions outside of the Common Monetary Area. Transfers must comply with the Exchange Control Regulations as described below. The Exchange Control Regulations also regulate the acquisition by former residents and non-residents of MTNZF Shares.
- Applicants who are resident outside the Common Monetary Area should seek advice as to whether any Governmental and/or other legal consent is required and/or whether any other formality must be observed to enable an application to be made pursuant to the BEE Listing. The following summary is intended as a guide and is therefore not comprehensive. If an MTNZF Shareholder or prospective MTNZF Shareholder is in any doubt regarding Exchange Control Regulations, they should consult their professional advisor.

16.2 Emigrants from the Common Monetary Area

- A former resident of the Common Monetary Area who has emigrated from South Africa may use funds from their Emigrant's capital account to acquire MTNZF Shares.
- All payments in respect of purchases of MTNZF Shares by an Emigrant using funds from their Emigrant's capital account must be made through the Authorised Dealer in foreign exchange controlling their remaining assets.
- MTNZF Shares acquired with funds from their Emigrant's capital account will be credited to their Emigrant share account at the CSDP controlling their remaining portfolios.

- Certificated Shares acquired with funds from their Emigrant's capital account will be endorsed "*Non-Resident*" in accordance with the Exchange Control Regulations and will be placed under the control of an Authorised Dealer in foreign exchange through which the payment was made.
- The CSDP or broker through which the MTNZF Shareholder has Dematerialised their MTNZF Shares is responsible for ensuring adherence to the Exchange Control Regulations.

16.3 Persons resident outside the Common Monetary Area

- A person who is not a resident of the Common Monetary Area, including an Emigrant not using funds from their Emigrant's capital account, should obtain advice as to whether any Governmental and/or other legal consent is required and/or whether any other formality must be observed for them to acquire MTNZF Shares.
- All Dematerialised Shares issued will be credited directly to the MTNZF Shareholder's non-resident share account held by his duly appointed CSDP. The CSDP or broker through whom the MTNZF Shareholder has Dematerialised their MTNZF Shares will ensure that they adhere to the Exchange Control Regulations.
- Persons resident outside the Common Monetary Area should note that, while there are no restrictions similar to those placed on Emigrants using funds from their Emigrant capital account, in the case of Certificated Shares, the share certificates will be endorsed with the words "*Non-Resident*" and, in the case of Dematerialised Shares, an appropriate electronic entry will be made in the relevant Register reflecting a "*Non-Resident*" endorsement in accordance with the Exchange Control Regulations.

17. EXPENSES OF THE BEE LISTING

- 17.1** The costs of the BEE Listing, including the costs applicable to this Pre-Listing Statement, shall be borne by MTNZF.
- 17.2** Other than as set out below, MTNZF has not incurred any preliminary expenses in the three years preceding the date of this Pre-Listing Statement with regards to the BEE Listing. As at the Last Practicable Date, the estimated expenses of the BEE Listing (exclusive of VAT) are set out below:

Nature of expense	Payable to	Estimated amount (R'000)
Investment Bank, Corporate Advisor and Transaction Sponsor	Nedbank CIB	2 500
Joint Corporate Adviser and JSE Sponsor	Tamela	450
Share Scheme Administration Agent, BEE Verification Agent and Transfer Secretary	Nedbank SSA	2 913
Stockbroker	NPW	2 652
Technology Facilitator	Nedbank SSA and NPW	1 000
Legal Advisor to MTNZF	Webber Wentzel	4 000
Legal Advisor to the BFC2 Pref Shareholders	DLA Piper	435
Listing fees	JSE	27
Listing fees	Strate	4
Document inspection fees	JSE	112
Printing, publication and distribution costs	Isiqhingi Communications	936
Venue costs	Various suppliers	330
Radio communications and other roadshow costs	No-Line Communications	1 113
Roadshows and shareholder communications	Mohapi Group	512
Reimburse costs for roadshows	Nedbank SSA	232
Advertising and marketing	Various suppliers	2 235
Contingency	–	622
Total estimated expenses		20 073

18. RESPONSIBILITY STATEMENT

Each of the MTNZF Directors, whose names and details are given on pages 28 to 29 of this Pre-Listing Statement, collectively and individually, accept full responsibility for the accuracy of the information contained in this Pre-Listing Statement, and certify that, to the best of their knowledge and belief, there are no facts that have been omitted which would make any statement herein false or misleading in any material respect and they have made all reasonable enquiries to ascertain such facts and this Pre-Listing Statement contains all information required by the Listings Requirements.

MTNZF certifies that to the best of its knowledge and belief there are no facts that have been omitted which would make any statement false or misleading and that all reasonable enquiries to ascertain such facts have been made as well as that this Pre-Listing Statement contains all information required by the Listings Requirements. MTNZF accepts full responsibility for the accuracy of the information contained in this Pre-Listing Statement, MTNZF's reviewed financial results for the interim period ended 30 June 2019 and the annual financial statements of MTNZF for the three years ended 31 December 2018, 2017 and 2016, the amendments to the aforementioned annual financial statements and interim results, including any supplements from time to time, except as otherwise stated therein.

19. LITIGATION STATEMENT

There are no legal or arbitration proceedings, including any proceedings that are pending or threatened against MTNZF, of which MTNZF is aware, that may have or have had in the recent past, being at least the previous 12 months, a material effect on MTNZF's financial position.

20. EXPERTS' CONSENT

Each of the Investment Bank, Corporate Advisor and Transaction Sponsor, Joint Corporate Advisor and JSE Sponsor, Share Scheme Administration Agent, BEE Verification Agent and Transfer Secretary, Stockbroker, Auditor, Legal Advisor and Company Secretary have consented in writing to act in the capacity stated and to its name being stated in this Pre-Listing Statement and has not withdrawn its consent prior to the publication of this Pre-Listing Statement.

21. MATERIAL CHANGES

There have been no material changes in the financial or trading position of MTNZF between the publication of MTNZF's reviewed financial results for the interim period ended 30 June 2019 and the Last Practicable Date.

The MTNZF Board has confirmed the aforementioned material change statement is made after due and careful inquiry and confirms that there has been no involvement by the Auditor in making this statement.

22. ENHANCEMENTS TO THE MTNZF STRUCTURE

The MTNZF MOI and the original Relationship Agreement were amended pursuant to resolutions taken at the MTNZF annual general meeting held on 17 May 2019, including for the purposes of enhancing the MTNZF structure.

In this regard, MTN released a statement on 15 July 2019 in relation to the Black Economic Empowerment Commission's ("**Commission**") enquiry into MTNZF which reflects that:

- i. MTN has taken note of the Commission's announcement that MTN's voluntary remedial actions have addressed concerns raised by the Commission regarding MTNZF;
- ii. MTN has also appreciated the Commission's acknowledgement that *"On the basis of the cooperation demonstrated by MTN, the Commission issued its final findings which included remedial recommendations to be implemented by MTN, which in the view of the Commission will address the concerns raised"*;
- iii. MTN remains confident that the MTNZF structure meaningfully advances empowerment, conforms to the relevant B-BBEE legislation applicable to MTN, promotes the ultimate objectives of that legislation, and that the terms and structure of MTNZF are reasonable and commercially justifiable;
- iv. MTN recognises that empowerment is a journey and remains committed to advancing transformation, and it is in that spirit that in engagements with the Commission, MTN in good faith voluntarily offered to effect certain enhancements to the MTNZF structure, which were materially in line with the issues raised by the Commission.

The enhancements to the MTNZF structure referred to above included amendments to the MTNZF MOI and to the original Relationship Agreement, which have been implemented.

23. STATEMENT AS TO NO OTHER LISTING

MTNZF has not applied for a listing on any securities exchange other than the JSE and has accordingly never been refused a listing on any exchange nor has any such application for a listing been deferred.

24. MATERIAL CONTRACTS

A list of MTNZF's material contracts are set out in **Annexure 5**. These contracts are available for inspection in terms of paragraph 27.

25. TRANSACTION SPONSOR

In terms of paragraph IV of the Appendix to Schedule 16 contained in the Listings Requirements, Nedbank CIB in its capacity as Transaction Sponsor to MTNZF, is required to disclose details of all matters that might reasonably be expected to impair its independence and objectivity in its professional dealings with MTNZF in relation to the BEE Listing. The following matters may be perceived to influence Nedbank CIB's independence in relation to its role as Transaction Sponsor to MTNZF in connection with the BEE Listing:

- i. as at 31 December 2018, being MTNZF's most recent financial year-end, Nedbank's total funding advanced by Depfin Investments Proprietary Limited, a wholly-owned subsidiary of Nedbank, to MTNZF was c. R579.7 million, which is immaterial in relation to Nedbank's (and its subsidiaries') total advances to clients; and
- ii. Nedbank, acting through various divisions, have been appointed as follows in relation to the BEE Listing:

Division/ business unit	Role
Nedbank CIB	Investment Bank, Corporate Advisor and Transaction Sponsor
Nedbank SSA	Share Scheme Administration Agent (including providing or procuring the provision of the MTNZF Website and the MTNZF Call Centre, which call centre capability will be procured from Nedbank Contact Centre), BEE Verification Agent, and Transfer Secretary
NPW	Stockbroker, Trading Entity and Custody Entity (including providing or procuring the provision of the Trading Entity Website and the Trading Entity Call Centre part of which call centre capability will be procured from Nedbank Contact Centre)
Nedbank SSA and NPW jointly	Technology facilitator
Nedbank GS	Company Secretary

The following procedures are in place to manage/mitigate such perceived conflicts and to ensure that Nedbank CIB's Sponsor and Regulatory division's professional dealings with MTNZF are maintained:

- i. Nedbank CIB has been structured such that the various business units within Nedbank CIB which will be rendering the services to MTNZF are separate and distinct units within the larger Nedbank CIB division (i.e. transaction sponsor services which will be rendered by the "*Sponsor and Regulatory*" unit and corporate advisory services which will be rendered by the "*Corporate Finance Advisory*" unit). These business units are independent and separate from each other;
- ii. the Nedbank Sponsor and Regulatory unit is comprised of four individuals, whose sole responsibilities are that of fulfilling the functions of a JSE equity sponsor, and in relation to the BEE Listing, in its role as Transaction Sponsor, of drafting and obtaining the necessary approval of this Pre-Listing Statement and ancillary documentation;
- iii. the Nedbank Corporate Finance Advisory unit is comprised of three individuals, all of, whom are different from the team comprising the Sponsor and Regulatory unit; and
- iv. Nedbank, as a strictly regulated entity, has significant compliance procedures in place to ensure that the activities of all its business units within the various divisions are monitored and that effective Chinese Walls are in place between the business units and/or the various divisions (i.e. the Sponsor and Regulatory and Corporate Finance Advisory business units within Nedbank CIB, Nedbank SSA, NPW and Nedbank GS), which ensures the independence and objectivity of each business unit or division in relation to the BEE Listing.

26. DOCUMENTS INCORPORATED BY REFERENCE

Document	Source
Audited financial statements of MTNZF for the years ended 31 December 2018, 2017 and 2016	https://www.mtnzakhelefuthi.co.za/investor-relations
Reviewed interim financial results of MTNZF for the six-month period ended 30 June 2019	https://www.mtnzakhelefuthi.co.za/investor-relations
MTN 2018 Integrated Report	https://www.mtn.com/investors/financial-reporting/integrated-reports/
MTN 2019 Interim Results	https://www.mtn.com/investors/financial-reporting/interim-results/
Audited financial results of MTN for the years ended 31 December 2018, 2017 and 2016	https://www.mtn.com/investors/financial-reporting/annual-results/

27. DOCUMENTS AVAILABLE FOR INSPECTION

Copies of the following documents will be available for inspection at the Registered Office of MTNZF, during normal business hours (excluding Saturdays, Sundays and South African public holidays), from the date of issue of this Pre-Listing Statement up to and including Monday, 25 November 2019:

- the MTNZF MOI;
- the material contracts set out in **Annexure 5**;
- audited financial statements of MTNZF for the years ended 31 December 2018, 2017 and 2016;
- reviewed interim financial results of MTNZF for the six-month period ended 30 June 2019;
- written consents of the advisors of MTNZF to being named as acting in the stated capacity in the "Corporate Information and Advisors" section on page 1 of this Pre-Listing Statement and the use of their names in this Pre-Listing Statement;
- copies of the letters of appointment of the MTNZF Directors;
- the MTNZF Independent Trading Process Verification Terms and Conditions;
- the MTNZF Facilitated Trading Process Verification Terms and Conditions; and
- a signed copy of this Pre-Listing Statement.



Sindisiwe N Mabaso-Koyana

Non-executive Chairperson

MTN Zakhele Futhi (RF) Limited

Place: Johannesburg

Date: 11 November 2019

EXTRACTS FROM THE MTNZF MOI

Capitalised terms used in this **Annexure 1**, but not defined in the Pre-Listing Statement shall bear the meanings ascribed to such terms in the MTNZF MOI.

2. INCORPORATED PROVISIONS OF THE RELATIONSHIP AGREEMENT (see full copy in Annexure 3)

- 2.1** Without derogating from the provisions of the Relationship Agreement, but subject to clause 2.2 below, each of the provisions of:
- 2.1.1** clause 7 (*BIC2 Shareholder undertakings*) of the Relationship Agreement;
 - 2.1.2** clause 8 (*Restriction on Disposal or Encumbrance of BIC2 Ordinary Shares*) of the Relationship Agreement;
 - 2.1.3** clause 9 (*Death*) of the Relationship Agreement;
 - 2.1.4** clause 10 (*Involuntary sequestration/liquidation*) of the Relationship Agreement;
 - 2.1.5** clause 11 (*Call Option in favour of MTN*) of the Relationship Agreement;
 - 2.1.6** clause 12 (*Calculation of the Call Reference Price*) of the Relationship Agreement;
 - 2.1.7** clause 13 (*Funding of BIC2 by MTN*) of the Relationship Agreement;
 - 2.1.8** clause 14 (*No restriction on MTN, its nominees or subsidiaries holding BIC2 Ordinary Shares, and founding shareholders*) of the Relationship Agreement;
 - 2.1.9** clause 15 (*MTN nominations to the BIC2 Board*) of the Relationship Agreement;
 - 2.1.10** clause 16 (*BIC2 Ordinary Shares certificates*) of the Relationship Agreement;
 - 2.1.11** clause 19 (*BIC2 Ownership Certificate of Compliance*) of the Relationship Agreement;
 - 2.1.12** clause 20 (*Listing*) of the Relationship Agreement;
 - 2.1.13** clause 21 (*Maximum shareholding*);
 - 2.1.14** clause 22 (*Refinancing*); and
 - 2.1.15** in so far as such clause relates to the foregoing provisions, clause 24 (*Breach*) of the Relationship Agreement, are hereby incorporated into this MOI and binding on the Company and its Shareholders hereunder (including in relation to the grant of rights in favour of MTN and other third parties, as specified in such provisions) in accordance with the stipulated terms as if such terms were expressly set out herein. Each such clause and sub-clause so incorporated will be numbered with reference to the clause by which it is so incorporated and assigned a sub-clause number equal to the relevant clause number in the Relationship Agreement, and clause cross-references within such clauses are amended accordingly. (For example, clause 16.1 of the Relationship Agreement will be incorporated as clause 2.1.10.16.1).
- 2.2** The application of any of the Incorporated Provisions or part thereof shall, however, for the purposes of this MOI be capable of being suspended or waived, whether for a specific matter, or class of matters, or generally, and whether conditionally or unconditionally, and from time to time: (i) by Written notice from MTN to the Company in respect of matters stipulated for the benefit of MTN, and/or in respect of rights specifically accorded to it; and (ii) in respect of any other matter, with the Written consent of MTN and, if prior to the MTN Zakhele Futhi Discharge Date, the Preference Share Agent.

7. RESTRICTIVE CONDITIONS

- 7.1** The following special conditions shall apply to the Company (and the authority of the Directors, officers and other organs and bodies of the Company shall be limited accordingly):
- 7.1.1** capitalised terms used in this clause 7.1.1 and in clause 7.3 shall bear the meanings ascribed to them in this clause 7.1.1 and/or in clause 1.4 read with **Annexe A**. Notwithstanding anything to the contrary contained in this MOI, until the later of the date on which:

- 7.1.1.1** all the MTN Zakhele Futhi Preference Shares and/or BFC2 Preference Shares have been redeemed and the Company has paid the Indemnified Amount, if any, into the BIC2 Security Account and/or the SARS Amount, if any, into the BIC2 Security Account (as contemplated in clause 14 of the MTN Zakhele Futhi Preference Share Subscription Agreement) ("**Preference Share Discharge Date**"); and
- 7.1.1.2** all obligations of the Company to MTN and any MTN Acceded Nominee under each Transaction Document to which the Company is a party have been unconditionally discharged in full ("**MTN Discharge Date**");
- 7.1.1.2.1** no (a) agreement, or undertaking, whether directly or indirectly given, issued or entered into by the Company (including, without limitation, any deed or instrument, arrangement, undertaking or understanding whatsoever), (b) indebtedness incurred including, without limitation any indebtedness incurred by the Company entering into or becoming a party to any guarantee, suretyship or indemnity, (c) assent to or any participation in any amendment to its issued or authorised Share Capital or issue of any new Shares in its capital or (d) assumption of any obligation of whatsoever nature and howsoever arising, shall be of any force and effect unless, and until, reduced to Writing and signed by the Company, MTN and, if prior to the Preference Share Discharge Date, the Preference Share Agent save for:
- 7.1.1.2.1.1** the entry into, the performance of its obligations and enforcement of its rights under and in terms of (a) the Transaction Documents to which the Company is a party and/or which may be required to render same unconditional; and (b) all documents, waivers, agreements, instruments or certificates required to be delivered or performed by the Company under and in terms of the Transaction Documents and implementation thereof, whether in order to render the same unconditional, or otherwise; (c) any amendments or reinstatement of any of the Transaction Documents; and (d) any Refinancing Documents;
- 7.1.1.2.1.2** the incurral of costs and expenses in the ordinary course and scope of its business and which are necessary for the maintenance of its corporate existence (including, without limitation, any audit and/or legal fees) and which are permitted by the Transaction Documents;
- 7.1.1.2.1.3** exercising any voting or other rights attaching to the Subject Shares or the Additional Shares (as defined in **Annexe A** to this MOI);
- 7.1.1.2.1.4** issuing of MTN Zakhele Futhi Ordinary Shares in its Share Capital to the MTN Zakhele Futhi Ordinary Shareholders;
- 7.1.1.2.1.5** the appointment of Professional Advisors;
- 7.1.1.2.1.6** the borrowing of BIC2 Subordinated Loans;
- 7.1.1.2.1.7** the opening of the BIC2 Collection Account, the BIC2 Security Account, the BIC2 Top-Up Loan Account, the Subject Share Securities Account, the BIC2 Public Offer Account, the BIC2 Provisions Account, the BIC2 Tax Provisions Account and any other bank account referred to in the Account Bank and Agency Agreement in terms of which *inter alia* each of the Security Custodian, the Calculation Agent, the Account Bank, the BIC2 Administrator and the BFC2 Administrator are appointed to perform certain functions in relation to the Transaction Documents, all on the terms and conditions contained therein;
- 7.1.1.2.1.8** rendering tax and other statutory returns; and
- 7.1.1.2.1.9** the carrying on the business of holding and managing the MTN Shares, cash and other property as may be received or acquired solely by virtue of or in relation to the MTN Shares, subject to the provisions of the Transaction Documents;

- 7.1.2** without derogating from the restrictions set out in clause 7.1.1 and in addition thereto, (i) prior to the Preference Share Discharge Date, except pursuant to or as expressly required or permitted under the Transaction Documents to which it is a party or with the prior Written consent of the Preference Share Agent; and (ii) during the MTN Zakhele Futhi Empowerment Compliance Period, except pursuant to or as is expressly required or permitted under the BEE Transaction Documents to which it is a party, unless, and until, the Company obtains the prior Written consent of MTN, none of the following shall be of any force or effect (and, to the maximum extent permitted by law, the powers of the board of Directors of the Company and each other body and organ shall be restricted accordingly):
- 7.1.2.1** any alteration to the Company's issued or authorised Share Capital including issuing any options or instruments which are by nature equity;
 - 7.1.2.2** any variation, amendment or other alteration by the Company of the rights attaching to any class of Shares in its Share Capital;
 - 7.1.2.3** any cancellation, repurchase, consolidation, subdivision or extension of any rights offer over its Shares;
 - 7.1.2.4** any incurrence of any material indebtedness other than as is permitted in terms of the BEE Transaction Documents;
 - 7.1.2.5** any change by the Company to this MOI (to the extent such is within the Company's power) or the Company agreeing to an amendment to this MOI;
 - 7.1.2.6** any holding by the Company of any investment or conducting of any business, other than as set out in clause 5 of this MOI;
 - 7.1.2.7** any Disposal of or Encumbrance or entry into of any other transaction in respect of the MTN Shares (or any rights and interests therein);
 - 7.1.2.8** any Disposal of or Encumbrance of or ceasing to exercise direct control over the whole or any material part of the Company's present or future undertakings, assets, rights or revenues, whether by one or a series of transactions related or not;
 - 7.1.2.9** any amendment or modification by the Company, or consent by the Company to the amendment or modification of, any BEE Transaction Document to which it is a party, the effect of which is or may, in the opinion of MTN, be materially adverse to the rights, obligations or interests of MTN and/or any member of the MTN SA Group, including under the BEE Legislation;
 - 7.1.2.10** any entry into by the Company of any merger, consolidation, or amalgamation or similar restructuring;
 - 7.1.2.11** except in respect of funding provided to it in respect of the Company's main or ancillary objectives in clause 5, making any loans, the granting by the Company of any credit or giving of any guarantee, insurance or indemnity to or for the benefit of any person or otherwise voluntarily assuming any liability by the Company, whether actual or contingent, in respect of any obligation of any other person; and/or
 - 7.1.2.12** undertaking, issuing or entering into, whether directly or indirectly, by the Company of any agreement, arrangement, undertaking or understanding whatsoever except only as is necessary for or reasonably incidental to the purpose of conducting the limited business permitted in clause 5 or for exercising its rights, or performing its obligations, under the BEE Transaction Documents to which it is a party.
- 7.2** For the avoidance of doubt, nothing in clauses 6 and/or 7 shall preclude or be construed to limit the Company's capacity and authority to negotiate and enter into the Transaction Documents or the BEE Transaction Documents to which it is a party.
- 7.3** No amendment, variation, modification, supplement or deletion of clause 7.1.1 shall be effective unless reduced to Writing and executed by (i) the Company, MTN and the Preference Share Agent if such amendment, variation, modification, supplement or deletion occurs prior to the Preference Share Discharge Date; and (ii) the Company and MTN if such amendment, variation, modification, supplement or deletion occurs after the Preference Share Discharge Date.

- 7.4** No amendment, variation, modification, supplement or deletion of clause 7.1.2 and/or of any provision of this MOI shall be effective unless specifically consented to in Writing by MTN and, if such amendment, variation, modification, supplement or deletion is proposed prior to the Preference Share Discharge Date, also the prior Written consent of the Preference Share Agent.
- 7.5** There are no other conditions applicable to the Company.

8. AMENDMENTS TO THE MOI

- 8.1** During the MTN Zakhele Futhi Empowerment Compliance Period, each of the MTN Zakhele Futhi Shareholders undertakes in favour of MTN that she shall not vote in favour of any resolution for the amendment or substitution or other alteration of this MOI, except in accordance with the Conditions, unless the amendment, substitution or alteration thereto, as the case may be, has received the prior Written approval of MTN and, if such amendment, substitution or alteration is requested prior to the Preference Share Discharge Date, the Preference Share Agent.
- 8.2** Save for correcting errors substantiated as such from objective evidence or which are self-evident errors (including, but without limitation *eiusdem generis*, spelling, punctuation, reference, grammar or similar defects) in the MOI, which the Board is empowered to do, all other amendments of the MOI shall, subject to clause 8.1, be effected in accordance with sections 16(1) and 16(4) of the Companies Act. The Board shall publish a copy of any such correction effected by the Board on the Company's web site (if any).

10. AUTHORISED SECURITIES

- 10.1** The Company is authorised to issue (and, as applicable, re-issue if and upon any such issued Shares being cancelled or repurchased and otherwise being restored to authorised, but unissued, Shares) the following numbers and classes of Shares (which includes Shares already issued at any time):
- 10.1.1** 300 000 000 ordinary Shares of no par value, designated as "MTN Zakhele Futhi Ordinary Shares", which shall have voting rights, on the basis set out in clause 21.23, in respect of every matter that may be decided by voting and which shall rank after all other classes of Shares in the Company which do not rank *pari passu* with the MTN Zakhele Futhi Ordinary Shares as regards Distributions, except as otherwise provided under the conditions of issue of such other class of Shares (provided that, for the avoidance of doubt, no such other Shares shall rank ahead of or *pari passu* with the MTN Zakhele Futhi Preference Shares); and
- 10.1.2** 3 200 000 cumulative redeemable non-participating preference Shares of no par value, designated as "MTN Zakhele Futhi Preference Shares", having the preferences, rights, limitations and other terms set out in **Annexe A** to this MOI.
- 10.2** Save as otherwise expressly limited in this MOI, and subject to the provisions of clause 7 hereof, the Board shall have the powers under section 36(3) of the Companies Act where so permitted by MTN in Writing (whether in relation to a specific exercise of such power/s or generally), and otherwise such powers shall vest in the Shareholders in general meeting.
- 10.3** Subject to the provisions of the Companies Act and this MOI (including clause 2 and clause 7), any Share in the Company may be issued with or have attached thereto such preferred, deferred or other special rights or such restrictions, whether in regard to dividend, return of Share Capital or otherwise, and (subject as provided by the Companies Act) such limited or suspended rights to voting as the Company in general meeting may from time to time determine; provided that the Company may by Resolution passed at a general meeting direct that Shares shall be issued by the Directors on such terms and conditions, and with such rights, privileges or restrictions attached thereto as the Directors may determine; provided further that special rights previously conferred on the Holders of existing Shares or class of Shares shall not be varied other than in accordance with clauses 10.4 and **Annexe A** (as applicable).
- 10.4** Save as otherwise provided for in **Annexe A**, and subject to clause 7, the Companies Act and any other provisions of this MOI, no preferences, rights, limitations and other terms for the time being attached to any class of Shares of the Company may (unless otherwise provided by the terms of the Shares of that class) whether or not the Company is being wound up, be varied in any manner adverse to the Holders of that class of Shares, unless:
- 10.4.1** the prior Written consent of the Holders of not less than 75% (seventy five per cent) of the issued Shares of that adversely affected class has been obtained; or
- 10.4.2** a Special Resolution has been passed by the Holders of that adversely affected class of Shares with the support of more than 75% (seventy five per cent) of the voting rights exercised on the Special Resolution at a separate meeting of the Holders of that class; or

- 10.4.3** in relation to clause 2 (and any consequential provisions of any other clause which refers to or incorporates the provisions of such clause 2), by any agreement between MTN and the Company which is approved by a Special Resolution passed by the Holders of MTN Zakhele Futhi Ordinary Shares with the support of more than 65% (sixty five per cent) of the Voting Rights exercised on the Special Resolution at a separate meeting of the Holders of the MTN Zakhele Futhi Ordinary Shares at that meeting.
- 10.5** The provisions of this MOI relating to Shareholders Meetings shall *mutatis mutandis* apply to any such separate meeting except that:
- 10.5.1** subject to section 63(3)(a) of the Companies Act, the necessary quorum shall (unless there is only 1 (one) Shareholder of such class) be Holders holding or representing by proxy not less than 25% (twenty five per cent) of the issued Shares of that class in respect of MTN Zakhele Futhi Ordinary Shares and 25% (twenty five per cent) of the issued Shares of that class in respect of any other class of Shares; and
- 10.5.2** if at any adjourned meeting such quorum is not present, the Shareholders Present shall form a quorum and that any Holder of Shares of the class Present in person or by proxy may demand a poll and, on a poll, shall have one vote for each Share of the class of which she is a Holder.
- 10.6** Save as otherwise provided for in **Annexe A**, and subject to clause 7, the creation or issue of additional Shares ranking in all respects as to capital and dividends after the MTN Zakhele Futhi Preference Shares and/or MTN Zakhele Futhi Ordinary Shares shall not be deemed to be a variation of the preferences, rights, limitations and other terms of the Holders of any MTN Zakhele Futhi Preference Shares and/or MTN Zakhele Futhi Ordinary Shares.
- 10.7** Save as otherwise provided for in **Annexe A**, and subject to clause 7, the preferences, rights, limitations and other terms conferred upon the Holders of the Shares of any class shall not, unless otherwise expressly provided by the conditions of issue of such Shares, be deemed to be varied by the creation or issue of further Shares ranking *pari passu* therewith.
- 10.8** Save as otherwise provided for in **Annexe A**, and subject to clause 7, the preferences, rights, limitations and other terms conferred upon the Holders of the MTN Zakhele Futhi Ordinary Shares shall not be deemed to be varied by the creation or issue of Shares ranking in priority to such Shares, whether as to Distributions, capital or otherwise.

11. INCREASE OR REDUCTION OF SHARE CAPITAL

Subject to clauses 10.2 and 7:

- 11.1** the Company may from time to time by a resolution of Shareholders passed in accordance with the Companies Act increase the number of its Shares of no par value to such number, as the resolution shall prescribe;
- 11.2** the Company may increase its Share Capital, if any, constituted by Shares of no par value by transferring reserves or profits to the stated capital, with or without a distribution of Shares;
- 11.3** except insofar as is otherwise provided by the conditions of issue or by this MOI, any capital raised by the creation and issue of new Shares shall be considered part of the original capital, and shall be subject to the provisions herein contained with reference to transfer and transmission and otherwise;
- 11.4** the Company may from time to time by a resolution of Shareholders passed in accordance with the Companies Act reduce its Share Capital, stated capital or any capital redemption reserve fund in any manner permitted by law and, without prejudice to the generality of the power hereby conferred, may cancel any Paid-Up capital which is lost or unrepresented by available assets, or pay off any Paid-Up capital which is in excess of the wants of the Company. Any capital which is in excess of the wants of the Company may be paid in cash or may be satisfied either wholly or in part, by the distribution of specific assets, including Paid-Up Shares or debentures of any other company or in any way specified in the Special Resolution reducing the capital. If any difficulty arises in regard to the distribution, the Directors may settle the same as they think expedient, and in particular may fix the value for distribution of such specific assets and they may determine that cash payments shall be made to any Shareholders on the basis of the value so fixed in order to adjust the rights of all parties and they may vest any such assets in trustees upon such trusts as the Directors deem appropriate. If as a result of a reduction of capital, any Shareholder becomes entitled to specific assets and does not claim such assets within 6 (six) months from the date she became so entitled, the Directors may sell such assets and, after deducting the expenses of such sale, hold the balance of the proceeds of the sale for the account of the Shareholder. All unclaimed amounts due as a result of a reduction of capital or a consolidation of any Shares in terms of clause 12 may be invested or otherwise utilised by the Directors for the benefit of the Company until claimed;

- 11.5** dividends shall be declared in the currency of South Africa. The Directors may from time to time make such regulations as they may think fit in regard to the payment of dividends to Shareholders having registered addresses outside South Africa, and such regulations may provide for the payment of such dividends in any foreign currency and the rate of exchange at which such payment shall be made and such other matters as the Directors may think fit; and
- 11.6** upon a resolution of Shareholders passed in accordance with the Companies Act authorising the Directors to apply for the name of the Company to be struck off the register of companies, the Directors may nominate a trustee or trustees as paying agent for the final repayment of capital and may pay to such trustee or trustees for distribution to Shareholders in accordance with their rights the full amount of such final repayment of capital, and may also pay to such trustee or trustees all amounts unclaimed in respect of dividends and repayments of capital not forfeited pursuant to the provisions of the MOI to be held by such trustee or trustees for the benefit of the Persons entitled thereto until the said amounts are claimed by such Persons, or until such amounts become liable to or qualify for payment into the Guardians Fund in accordance with the provisions of the Administration of Estates Act, No 66 of 1965, as amended. Upon payment to the trustee or trustees pursuant hereto, the Company shall be absolved from all or any claims which any Shareholder may have had in respect of such dividends or repayments of capital and the said Shareholder's rights shall thenceforth be confined to making claim upon the said trustee or trustees or the Guardians Fund as the case may be.

12. ALTERATIONS OF CAPITAL AND ALTERATION OF THIS MOI

- 12.1** Subject to clauses 10.2 and 7, the Company may from time to time by a resolution of Shareholders passed in accordance with the Companies Act, and subject to applicable law:
- 12.1.1** consolidate and reduce the number of the issued Shares;
 - 12.1.2** increase the number of its issued Shares without an increase of its stated capital;
 - 12.1.3** cancel any Shares which, at the time of passing of the resolution in respect thereof, have not been taken or agreed to be taken by any Person, and diminish the amount of its Share Capital by the amount of the Shares so cancelled;
 - 12.1.4** vary, modify or amend any preferences, rights, limitations and other terms attached to any Shares whether issued or not (including the conversion of any Shares into preferred Shares) subject to any consent or sanction required from the Holders of that and/or any other class of shares under clause 10;
 - 12.1.5** approve the acquisition of Shares or debentures issued by the Company or, if the Company is a subsidiary, by its holding company, which approval may be a general approval subject to the provisions of the Companies Act or a specific approval for a particular transaction;
 - 12.1.6** convert all its Shares of one class having a par value into stated capital constituted by Shares of no par value;
 - 12.1.7** convert any of its Shares, whether issued or not, into Shares of another class, including preference Shares which are, or at the option of the Company are liable to be redeemed; and/or
 - 12.1.8** amend, vary or substitute this MOI, or any part thereof.
- 12.2** Anything done in pursuance of clause 12.1 shall be done in a manner provided and subject to any conditions imposed by the Companies Act and subject to any restrictions in the MOI, so far as they shall be applicable, and so far as they shall not be applicable, in accordance with the terms of the resolution authorising the same and, so far as such resolution shall not be applicable, in such manner as the Directors deem most expedient. Whenever as the result of any consolidation a fraction of a Share is included in the holding of any Shareholder such fraction (together, where applicable, with other fractions included in holdings of other Shareholders) may be sold by some person appointed by the Directors for that purpose and the proceeds thereof paid to such Shareholder. When a fraction is sold as aforesaid the person so appointed to sell it shall be deemed to be authorised to make such sale the validity of which shall not be questioned. The Directors shall cause a rateable proportion of the net proceeds of the sale to be accounted for to the Holders whose fractions of Shares are so sold.

13. ACQUISITION BY THE COMPANY OF ITS OWN SHARES

Subject to the Companies Act and this MOI (including clause 7), the Company may from time to time acquire Shares in itself and may also permit a subsidiary of the Company to acquire Shares issued by the Company.

15. CERTIFICATED AND UNCERTIFICATED SECURITIES AND SECURITIES REGISTER

15.1 Subject to clause 15.2, during the MTN Zakhele Futhi Empowerment Compliance Period, unless otherwise agreed between MTN and MTN Zakhele Futhi:

15.1.1 all MTN Zakhele Futhi Ordinary Shares shall be held as Uncertificated MTN Zakhele Futhi Ordinary Shares in the name of the Custodian to act as the registered Nominee Holder, holding such Uncertificated MTN Zakhele Futhi Ordinary Shares for and on behalf of each MTN Zakhele Futhi Shareholder who will be the Beneficial Holder thereof. Each MTN Zakhele Futhi Shareholder agrees to be bound by the provisions of the Strate Rules, as well as any applicable custody/mandate arrangement with the Custodian (to the extent that they relate to them (save that they shall not be liable for the fees of the Custodian in respect of the custodial role during the MTN Zakhele Futhi Shareholder Minimum Investment Period)), in respect of her MTN Zakhele Futhi Ordinary Shares;

15.1.2 if and to the extent that, for whatever reason, any MTN Zakhele Futhi Ordinary Share is at any time held as either (i) a Certificated MTN Zakhele Futhi Ordinary Shares; or (ii) an Uncertificated MTN Zakhele Futhi Ordinary Share with the registered holder being someone other than the Custodian, and MTN and MTN Zakhele Futhi have not agreed that MTN Zakhele Futhi Ordinary Shares may be held otherwise than as Uncertificated MTN Zakhele Futhi Ordinary Shares with the Custodian, then each relevant MTN Zakhele Futhi Shareholder unconditionally undertakes to MTN and the Company and agrees that:

15.1.2.1 it shall, at MTN's election, either:

15.1.2.1.1 allow any Certificated MTN Zakhele Futhi Ordinary Share to be dematerialised into an Uncertificated MTN Zakhele Futhi Ordinary Share within 14 (fourteen) days of receipt of a Written notice from MTN requesting that such MTN Zakhele Futhi Ordinary Share be so dematerialised, and the relevant MTN Zakhele Futhi Shareholder hereby unconditionally and irrevocably consents to, and authorises and instructs MTN and/or the Company to procure the dematerialisation, with such Uncertificated MTN Zakhele Futhi Ordinary Share to be held in the name of a Nominee Holder appointed by the Company to act as the registered holder; or

15.1.2.1.2 deposit the share certificate in respect of any Certificated MTN Zakhele Futhi Ordinary Share with the Custodian within 14 (fourteen) days of receipt of a written notice from MTN requesting that the share certificate for such MTN Zakhele Futhi Ordinary Share be so deposited with the Custodian, who will retain such Certificated MTN Zakhele Futhi Ordinary Share for so long as it is held in such form;

15.1.2.2 for so long as such MTN Zakhele Futhi Ordinary Share is held in uncertificated form other than in the name of the Custodian, it shall only be deposited with a CSDP approved of by MTN, it being recorded that MTN shall require that such MTN Zakhele Futhi Shareholder's mandate agreement with the relevant CSDP recognises the relevant terms and restrictions in respect of such MTN Zakhele Futhi Ordinary Share as contained in the Relationship Agreement and this MOI;

15.1.2.3 it shall not give any instructions to its CSDP which would constitute or result in a contravention of the Relationship Agreement or this MOI; and

15.1.2.4 an MTN Zakhele Futhi Shareholder will, subject to clause 15.2, be entitled to rematerialise her Uncertificated MTN Zakhele Futhi Ordinary Shares in accordance with section 49(6) read with section 54 of the Companies Act, whereupon her MTN Zakhele Futhi Ordinary Shares will be held in certificated form subject to the principles recorded in clause 15.1.2.1.2.

15.2 During the BEE Listing Period, the MTN Zakhele Futhi Ordinary Shares may be held as Certificated MTN Zakhele Futhi Ordinary Shares or Uncertificated MTN Zakhele Futhi Ordinary Shares; provided that:

15.2.1 if an MTN Zakhele Futhi Ordinary Share is held as a Certificated MTN Zakhele Futhi Ordinary Share, the share certificate in respect thereof shall be deposited with and retained by the Custodian for so long as it is held in such form; and

15.2.2 if an MTN Zakhele Futhi Ordinary Share is held as an Uncertificated MTN Zakhele Futhi Ordinary Share:

15.2.2.1 the relevant MTN Zakhele Futhi Shareholder's mandate agreement with the person providing custody and administration services in respect of such Uncertificated MTN Zakhele Futhi Ordinary Share (including any nominee or intermediary of such service provider) must be an Approved Nominee and shall accordingly be required to recognise the restrictions imposed upon the holding and/or transfer of such MTN Zakhele Futhi Ordinary Share as contained in the Verification Terms and Conditions; and

15.2.2.2 the relevant MTN Zakhele Futhi Shareholder shall not give any instruction to its broker or CSDP (or any nominee or intermediary thereof or Nominee Holder) which would constitute or result in a contravention of the provisions of the BEE Listing Terms and Conditions;

15.2.3 should the BEE Listing be terminated for whatsoever reason at any time during the MTN Zakhele Futhi Empowerment Compliance Period, the provisions of clauses 15.2.1 and 15.2.2 shall cease to apply and the provisions of clause 15.1 shall thereupon again apply for the remainder of the MTN Zakhele Futhi Empowerment Compliance Period.

15.3 The Company shall maintain a Securities Register which shall reflect:

15.3.1 the number of Securities authorised and the number available to be issued and the date of authorisation;

15.3.2 the total number of Securities of a class that have been issued, re-acquired or surrendered to the Company;

15.3.3 the number of Securities of that class that are the subject of options or conversion rights which, if exercised, would require Securities of that class to be issued.

15.4 As soon as practicable after:

15.4.1 issuing any Securities, the Company must enter or cause to be entered in its Securities Register, in respect of every class of Securities evidenced by certificates that it has issued:

15.4.1.1 the names and addresses and identity numbers of the Persons to whom the Securities were issued;

15.4.1.2 those Persons' Electronic Addresses who have furnished them;

15.4.1.3 the number and class of Securities issued to each of them, the date of issue, distinguishing numbers and the Consideration;

15.4.1.4 the total number of Securities of a class held by any Person;

15.4.1.5 the date on which any such Securities were transferred by the Holder or by operation of law to another Person or re-acquired by or surrendered to the Company;

15.4.1.6 the number of, and prescribed circumstances relating to, any Securities:

15.4.1.6.1 that have been placed in trust as contemplated in section 40(5)(b)(ii) of the Companies Act by reason of not having been fully paid for; or

15.4.1.6.2 whose transfer has been restricted;

15.4.1.7 as regards debt instruments as contemplated in section 43 of the Companies Act:

15.4.1.7.1 the number of those Securities still in issue;

15.4.1.7.2 the names and addresses of the Holders of the Securities;

15.4.2 the re-acquisition or surrender of any Securities, the Company must enter or cause to be entered in its Securities Register, in respect of Securities re-acquired or surrendered:

15.4.2.1 the date on which the Securities were re-acquired or surrendered to the Company;

15.4.2.2 the distinguishing number or numbers of any certificated Securities re-acquired or surrendered to the Company;

15.4.2.3 the Consideration for which the Securities were re-acquired by, or surrendered to the Company; and

15.4.2.4 the name of the Person from or by whom the Securities were re-acquired or surrendered, as the case may be;

- 15.4.3** transferring any Securities, the Company must enter or cause to be entered in its Securities Register, in respect of Securities evidenced by certificates that it has transferred:
- 15.4.3.1** the name and address of the transferee;
 - 15.4.3.2** the description of the Securities, or interest transferred;
 - 15.4.3.3** the date of the transfer;
 - 15.4.3.4** the value of any Consideration still to be received by the Company on each Security or interest, in the case of a transfer of Securities the subscription price for which has not been fully paid; and
 - 15.4.3.5** any other information contemplated in clause 15.4.1, any reference to issue being read as a reference to transfer,
- provided that such entry may only be made where to do so is in compliance with section 51(6) of the Companies Act.
- 15.5** Securities certificates shall be issued in such manner and form as the Directors shall from time to time prescribe save that they must, if and to the extent so required under the Companies Act:
- 15.5.1** state on the face:
 - 15.5.1.1** the name of the Company;
 - 15.5.1.2** the name of the Person to whom the Securities were issued;
 - 15.5.1.3** the number and class of Shares and the designation of the series, if any, evidenced by that certificate; and
 - 15.5.1.4** any restriction on the transfer of the Securities evidenced by that certificate;
 - 15.5.2** be signed by two Persons authorised by the Board by autographic, mechanical or electronic means.
- 15.6** Each class of Shares, and any other Securities, must be distinguished by an appropriate numbering system.
- 15.7** Each Holder shall be entitled to 1 (one) certificate for all the Securities of a particular class registered in his name, or to several certificates, each for a part of such Securities.
- 15.8** A certificate for Securities registered in the names of 2 (two) or more Persons shall be Delivered (but clause 37.3 shall not apply) to the Person first named in the Securities Register and Delivery of a certificate for Securities to that Person shall be a sufficient Delivery to all joint Holders.
- 15.9** If a certificate for Securities is defaced, lost or destroyed, it may be renewed, on such terms, as to evidence and indemnity and payment of such fee as the Directors think fit, and (in case of defacement) on delivery of the old certificate to the Company.
- 15.10** A Person:
- 15.10.1** acquires the rights associated with any particular Securities of the Company when that Person's name is entered in the Company's Securities Register as a Person to whom those Securities have been issued or transferred; and
 - 15.10.2** ceases to have the rights associated with any particular Securities of the Company when the transfer to another Person, re-acquisition by the Company, or surrender to the Company of those Securities has been entered in the Company's Securities Register.
- 15.11** The Directors may suspend the registration of transfers of Shares (other than the MTN Zakhele Futhi Preference Shares) during the period up to 14 (fourteen) Business Days immediately preceding any general meeting of the Company and at any other times, provided that the periods of suspension at such other times shall not in any 1 (one) year exceed 60 (sixty) Business Days. During the BEE Listing Period, the provisions of this clause 15.11 shall be subject to the Listings Requirements.
- 15.12** The Directors may decline to register any transfer unless:
- 15.12.1** the instrument of transfer, duly stamped, is lodged with the Company, accompanied (unless the Directors either generally or in any particular case otherwise resolve) by the certificate of the Shares to which it relates, and such other evidence as the Company may reasonably require to show the right or capacity of the transferor to make the transfer and of the transferee to accept it;
 - 15.12.2** the Securities transfer tax (if any) thereon has been paid;

- 15.12.3** the instrument of transfer is in respect of only one class of Share;
 - 15.12.4** the provisions of any law affecting transfer have been complied with; and
 - 15.12.5** (where applicable) the provisions of clause 17 have been complied with.
- 15.13** In addition to clause 15.12, during the MTN Zakhele Futhi Empowerment Compliance Period, save as MTN may otherwise permit by prior Written consent, no transfer of MTN Zakhele Futhi Ordinary Shares may be effected, and the Directors shall decline to register any such transfer, unless:
- 15.13.1** such transfer is permitted in accordance with clauses 2.1.2, 2.1.3, 2.1.4, 2.1.5, 2.1.6, 2.1.8 and/or 2.1.13;
 - 15.13.2** the transferee has agreed to be bound by the terms of the Relationship Agreement and this MOI by executing a Deed of Adherence (or otherwise is bound in a form and on terms to the reasonable satisfaction of MTN) and has delivered such Deed of Adherence to the secretary.
- 15.14** If the Directors refuse to register a transfer, they shall within 30 (thirty) Business Days after the date on which the instrument of transfer was lodged, send to the transferee notice of the refusal.
- 15.15** Nothing contained in this MOI (but for the avoidance of doubt subject to clause 17) shall preclude the Company from recognising a renunciation of the allotment of any Share by the allottee in favour of some other Person.
- 15.16** As regards any uncertificated Securities issued by the Company at any time, the Company shall comply with the provisions of sections 52 to 55 (both sections inclusive) of the Companies Act.

16. BENEFICIAL INTERESTS

- 16.1** The Company shall permit Securities to be held by one Person for the Beneficial Interest of another pursuant to section 56(1) of the Companies Act; provided that:
- 16.1.1** subject to clause 16.1.2, during the MTN Zakhele Futhi Empowerment Compliance Period, Securities shall not be held by one Person for the Beneficial Interest of another without the prior Written consent of MTN; and
 - 16.1.2** during the BEE Listing Period, the prohibition contemplated in clause 16.1.1 shall cease to apply; provided, however, that the Person who holds any MTN Zakhele Futhi Ordinary Shares for the Beneficial Interest of another as a condition to such holding recognises the terms and restrictions transfer in respect of such MTN Zakhele Futhi Ordinary Share as contained in the Relationship Agreement, this MOI and the Verification Terms and Conditions, and the relevant MTN Zakhele Futhi Shareholder shall procure that the registered holder shall not give any instructions in respect of such MTN Zakhele Futhi Ordinary Shares which would constitute or result in a contravention of the Relationship Agreement, this MOI and the Verification Terms and Conditions.
- 16.2** Save as set out in the specific terms and conditions of any documents in terms of which Securities other than Shares are to be issued, the Company shall not permit Securities to be voted upon by the holder of a Beneficial Interest who does not hold a proxy appointment from the Holder, notwithstanding any agreement permitting the holder of the Beneficial Interest to vote the Securities to the exclusion of the Holder between the Holder and the holder of the Beneficial Interest.
- 16.3** If any Securities of the Company are registered in the name of a Person who is not the Holder of the Beneficial Interests in all such Securities of the Company, that registered Holder of Securities must disclose:
- 16.3.1** the identity of the person on whose behalf the Securities are held; and
 - 16.3.2** the identity of each Person with a Beneficial Interest in the Securities so held, the number and class of Securities held for each such Person with a Beneficial Interest, and the extent of each such Beneficial Interest,
- in accordance with the time periods as stipulated in section 56(4) of the Companies Act.

17. RESTRICTIONS ON THE SALE OR ENCUMBRANCE AND TRANSMISSION OF MTN ZAKHELE FUTHI ORDINARY SHARES

Notwithstanding any provision of clause 15 (and such clause being read as subject to this clause 17), during the MTN Zakhele Futhi Empowerment Compliance Period, the Disposal and/or Encumbrance and/or transfer and/or registration of transfer of MTN Zakhele Futhi Ordinary Shares shall be subject to and, as applicable and where permitted, shall be effected in accordance with clauses 2.1.1, 2.1.2, 2.1.3, 2.1.4, 2.1.5 (read with clause 2.1.6), 2.1.7, 2.1.8 and 2.1.13 (incorporating respectively the provisions of clauses 7.1.1, 7.1.2, 8, 9, 10, 11 (read with clause 12), 13, 14 and 21 of the Relationship Agreement), as read with clause 2.2.

21. SHAREHOLDERS MEETINGS AND ROUND ROBIN RESOLUTIONS

- 21.1** The Company shall convene an Annual General Meeting once in every calendar year, but no more than 15 (fifteen) months after the date of the previous Annual General Meeting, or within an extended time allowed by the Companies Tribunal, on good cause shown, which must, at a minimum, deal with such matters as are required under the Companies Act to be dealt with at such meeting.
- 21.2** The Company shall, as determined by the Board, either:
- 21.2.1** hold a Shareholders Meeting in order to consider one or more resolutions; or
 - 21.2.2** as regards such resolution/s that could be voted on at a Shareholders Meeting, other than an Annual General Meeting, instead require them to be dealt with by Round Robin Resolution.
- 21.3** A Company must hold a Shareholders Meeting or propose the proposed resolution by way of a Round Robin Resolution:
- 21.3.1** at any time that the Board is required by the Companies Act or this MOI to refer a matter to Holders entitled to vote thereon for decision; or
 - 21.3.2** whenever required to fill a vacancy on the Board other than in accordance with clause 24.14.
- 21.4** The Board or a Shareholder/s holding not less than 10% (ten per cent) of the voting rights attached to the ordinary Shares, or not less than 3 (three) of the ordinary Shareholders or, if the Company has no Directors, any single Holder entitled to vote, may, whenever he thinks fit, convene a Shareholders Meeting or propose the proposed resolution by way of a Round Robin Resolution. A Shareholders Meeting must be convened or the Board must propose the proposed resolution by way of a Round Robin Resolution if one or more Written and signed demands for such a Shareholders Meeting or Round Robin Resolution is/are delivered to the Company, and:
- 21.4.1** each such demand describes the specific purpose for which the Shareholders Meeting is proposed; and
 - 21.4.2** in aggregate, demands for substantially the same purpose are made and signed by the Holders at the earliest time specified in any of those demands, of at least 10% (ten per cent) of the Voting Rights entitled to be exercised in relation to the matter proposed to be considered at the Shareholders Meeting.
- 21.5** Round Robin Resolutions will be passed if signed by Persons entitled to exercise sufficient voting rights for it to have been adopted as an Ordinary or Special Resolution, as the case may be, at a properly constituted Shareholders Meeting.
- 21.6** Every Shareholders Meeting shall be held where the Board determines from time to time. The authority of the Company to conduct a Shareholders Meeting entirely by Electronic Communication, or to provide for participation in a Shareholders Meeting by Electronic Communication in the manner contemplated in section 63(2) of the Companies Act, is not limited or restricted; except, to the extent so permitted by law, for if and for so long as there are more than 20 Holders of MTN Zakhele Futhi Ordinary Shares any meeting at which such Shareholders are entitled to participate and Vote shall not be held by electronic communication as contemplated in section 63(2)(a) of the Companies Act.
- 21.7** Subject to section 62(2A) of the Companies Act, a Shareholders Meeting shall be called by at least 15 (fifteen) Business Days' notice Delivered by the Company (but for this purpose clause 37.3 shall not apply) to all Holders entitled to vote or otherwise entitled to receive notice in accordance with, and subject to, the provisions of the Companies Act.
- 21.8** Business may be transacted at any Shareholders Meeting only while a quorum is present.
- 21.9** The quorum necessary for the commencement of a Shareholders Meeting shall be sufficient MTN Zakhele Futhi Shareholders present at the Shareholders Meeting to exercise, in aggregate, at least 25% (twenty five per cent) of all of the voting rights attaching to the MTN Zakhele Futhi Ordinary Shares that are entitled to be exercised in respect of at least one matter to be decided at the Shareholders Meeting, provided that if the Company has more than 2 (two) Persons entitled to vote, the Shareholders Meeting may not begin unless additionally at least 3 (three) Persons entitled to vote are Present.
- 21.10** Subject to the provisions of clause 2.6.2 of **Annexure A**, a matter to be decided at the Shareholders Meeting may not begin to be considered unless sufficient MTN Zakhele Futhi Shareholders are present at the Shareholders Meeting to exercise, in aggregate, at least 25% (twenty five per cent) of all of the voting rights attaching to

the MTN Zakhele Futhi Ordinary Shares that are entitled to be exercised on that matter at the time the matter is called on the agenda for the Shareholders Meeting, provided that if the Company has more than 2 (two) Persons entitled to vote, a matter may not begin to be debated, unless additionally at least 3 (three) Persons entitled to vote, are Present.

- 21.11** Subject to section 64(5) of the Companies Act, if within 30 (thirty) minutes from the time appointed for the Shareholders Meeting to commence, a quorum is not present or if the quorum requirements in clause 21.10 cannot be achieved for any one or more matters, the Shareholders Meeting shall be postponed, without motion, vote or further notice, subject to clause 21.15, for 1 (one) week to the same time on the same day in the next week or, if that day be a public holiday, to the next succeeding day which is not a public holiday or such other earlier or later date, time and place as the chairperson of the meeting may announce at the meeting or may subsequently specify by notice to Shareholders. If at such adjourned Shareholders Meeting a quorum is not present within 30 (thirty) minutes from the time appointed for the Shareholders Meeting then, the Person/s entitled to vote Present shall be deemed to be the requisite quorum.
- 21.12** A Shareholders Meeting, or the consideration of any matter being debated at the Shareholders Meeting, may be adjourned from time to time without further notice on a motion supported by Persons entitled to exercise, in aggregate, a majority of the voting rights:
- 21.12.1** held by all of the Persons who are present at the Shareholders Meeting at the time; and
- 21.12.2** that are entitled to be exercised on at least one matter remaining on the agenda of the Shareholders Meeting, or on the matter under debate, as the case may be.
- 21.13** An adjournment contemplated in clause 21.12 may be either to a fixed time and place or until further notice (in which latter case a further notice shall be Delivered to Holders), as resolved by Ordinary Resolution at the Shareholders Meeting.
- 21.14** A Shareholders Meeting may not be adjourned beyond the earlier of:
- 21.14.1** the date that is 120 (one hundred and twenty) Business Days after the Record Date of notice for the relevant Shareholders Meeting; or
- 21.14.2** the date that is 60 (sixty) Business Days after the date on which the adjournment occurred.
- 21.15** No further notice is required to be Delivered by the Company of a Shareholders Meeting that is postponed or adjourned as contemplated in clauses 21.11 and 21.12, unless the location or time for the Shareholders Meeting is different from:
- 21.15.1** the location or time of the postponed or adjourned Shareholders Meeting; or
- 21.15.2** a location or time announced at the time of adjournment, in the case of an adjourned Shareholders Meeting.
- 21.16** Business may be transacted at any Shareholders Meeting only while the quorum requirements are met.
- 21.17** The chairperson, if any, of the Board shall preside as chairperson at every Shareholders Meeting. If there is no such chairperson, or if at any Shareholders Meeting he is not present within 15 (fifteen) minutes after the time appointed for holding the Shareholders Meeting or is unwilling to act as chairperson, the Persons entitled to vote which are Present shall select a Director present at the Shareholders Meeting, or if no Director is present at the Shareholders Meeting, or if all the Directors present decline to take the chair, the Persons entitled to vote shall select one of their number which is Present to be chairperson of the Shareholders Meeting.
- 21.18** At any Shareholders Meeting a resolution put to the vote shall be decided on a show of hands, unless before or on the declaration of the result of the show of hands a poll shall be demanded by:
- 21.18.1** not less than 2 (two) Persons having the right to vote on that matter; or
- 21.18.2** a Person/s entitled to exercise not less than 1/10th (one tenth) of the total voting rights entitled to vote on that matter; or
- 21.18.3** by Person/s entitled to vote at the meeting and holding in the aggregate not less than 1/10th (one tenth) of the issued Share Capital of the Company; or
- 21.18.4** the chairperson,
- and, unless a poll is so demanded, a declaration by the chairperson that a resolution has, on a show of hands been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the minute book of the Company, shall be conclusive evidence of the fact, without proof of the number or

proportion of the votes recorded in favour of, or against, such resolution. No objection shall be raised as to the admissibility of any vote except at the Shareholders Meeting or adjourned Shareholders Meeting at which the vote objected to is or may be given or tendered and every vote not disallowed at such Shareholders Meeting shall be valid for all purposes. Any such objection shall be referred to the chairperson of the Shareholders Meeting, whose decision shall be final and conclusive.

- 21.19** If a poll is duly demanded it shall be taken in such manner as the chairperson directs save that it shall be taken forthwith, and the result of the poll shall be deemed to be the resolution of the Shareholders Meeting at which the poll was demanded. Scrutineers may be appointed by the chairperson to count the relevant votes and declare the result of the poll, and if appointed their decision, which shall be given by the chairperson of the Shareholders Meeting, shall be deemed to be the resolution of the Shareholders Meeting at which the poll is demanded. The demand for a poll shall not prevent the continuation of a Shareholders Meeting for the transaction of any business other than the question upon which the poll has been demanded. The demand for a poll may be withdrawn.
- 21.20** In the case of an equality of votes, whether on a show of hands or on a poll, the chairperson of the Shareholders Meeting at which the show of hands takes place, or at which the poll is demanded, shall not be entitled to a second or casting vote.
- 21.21** Any Person entitled to a Share in terms of clause 18 may vote at any Shareholders Meeting in respect thereof in the same manner as if he were the Holder of that Security: provided that (except where the Directors have previously accepted his right to vote in respect of that Security, and such recognition has not been withdrawn by the Directors) at least 24 (twenty four) hours before the time of holding the Shareholders Meeting at which he proposes to vote, he shall have satisfied the Directors that he is entitled to exercise the right referred to in clause 18.
- 21.22** Every resolution of Shareholders is either an Ordinary Resolution or a Special Resolution. An Ordinary Resolution, save to the extent expressly provided in respect of a particular matter contemplated in this MOI, shall require to be adopted with the support of more than 50% (fifty per cent) of the voting rights exercised on the resolution. A Special Resolution, save to the extent expressly provided in respect of a particular matter contemplated in this MOI, shall require to be adopted with the support of at least 75% (seventy five per cent) of the voting rights exercised on the resolution.
- 21.23** Subject to any rights or restrictions attaching to any class or classes of Securities, on a show of hands a Person entitled to vote Present at the Meeting shall have only 1 (one) vote, irrespective of the number of voting rights that Person would otherwise be entitled to Exercise. A proxy shall irrespective of the number of holders of Securities entitled to vote he represents have only 1 (one) vote on a show of hands. On a poll every Person entitled to vote who is Present at the Meeting or represented by proxy, shall have 1 (one) vote for every Share held by him.
- 21.24** The Persons entitled to attend and vote at general meetings of the Company shall be:
- 21.24.1** the Shareholders, subject to the provisions of the MOI as regards joint Holders of Shares and subject to any special terms upon which any Share may be issued or may for the time being be held (including the holders of the MTN Zakhele Futhi Preference Shares which shall only be entitled to attend and vote at general meetings in the circumstances and on the matters set out in **Annexe A**); and
- 21.24.2** proxies of the Persons referred to in clause 21.24.1, duly appointed in the manner prescribed in this MOI.
- 21.25** Every such Person shall also be entitled to speak at general meetings and, subject to clause 21.18, to demand a poll.
- 21.26** In the case of joint Holders the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint Holders; and for this purpose seniority shall be determined by the order in which the names stand in the Securities Register.
- 21.27** No form appointing a proxy shall be valid after the expiration of 1 (one) year from the date when it was signed unless the proxy itself provides for a longer or shorter duration but, subject to the remaining provisions of this clause 21.27, it may be revoked at any time. The appointment is revocable unless the proxy appointment expressly states otherwise, and may be revoked by cancelling it in Writing, or making a later inconsistent appointment of a proxy, and delivering a copy of the revocation instrument to the Company. The appointment of a proxy shall be suspended at any time if and to the extent that the Holder entitled to vote chooses to act directly and in person in the exercise of any rights as a Holder entitled to so vote.

- 21.28** The form appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notorially certified copy of such power or authority shall be delivered to the Company or any Person which it has identified in the notice of meeting as being a Person to whom proxies may be delivered on behalf of the Company, at any time before the proxy exercises any rights of the Holder entitled to vote at a Shareholders Meeting (or, as applicable adjourned or postponed Shareholders Meeting).
- 21.29** A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the death or mental disorder of the principal or revocation of the proxy or of the authority under which the proxy was executed, or the transfer of the Securities in respect of which the proxy is given, provided that no intimation in Writing of such death, insanity, revocation or transfer as aforesaid shall have been received by the Company at its Registered Office before the commencement of the Shareholders Meeting or postponed or adjourned Shareholders Meeting at which the proxy is used.
- 21.30** Subject to the provisions of the Companies Act, a form appointing a proxy may be in any usual or common form provided that it is in Writing, or such other form as the Company may make available from time to time.
- 21.31** If a proxy is received duly signed but with no indication as to how the Person named therein should vote on any issue (including any new resolution, whether procedural or substantive, which is put to a vote at the Shareholder Meeting), the proxy may vote or abstain from voting as he sees fit unless the proxy indicates otherwise.
- 21.32** Notwithstanding anything to the contrary contained in this section entitled "*Shareholders Meetings and Round Robin Resolutions*", the requirements for convening and holding meetings in respect of the Securities other than Shares, including notices, notice periods, requisition rights, quorum provisions, adjournment, proxies, voting rights and voting percentages for adoption of resolutions, shall be in accordance with the specific terms and conditions set out in the document(s) in terms of which such Securities are issued, insofar as such terms and conditions amend the relevant provisions of the Companies Act and to the extent such amendments are permissible in terms of the Companies Act, and otherwise in accordance with the provisions of the Companies Act.

22. STIPULATIONS IN FAVOUR OF MTN; AND TRANSFER OF MTN'S RIGHTS

- 22.1** Each representation, warranty, undertaking and/or right in this MOI given to or in favour of MTN constitutes an irrevocable and unconditional contractual undertaking or right for the benefit of MTN and accordingly the relevant representations, warranties, undertakings and/or rights (and related terms of this MOI) may at any time be accepted (either expressly, tacitly or by conduct) and are intended to be, and shall be enforceable at any time, by MTN (by virtue of such provisions constituting a *stipulatio alteri* or a contract for the benefit of a third party) as though MTN was a party to this MOI in relation to such representations, warranties, undertakings and/or rights (and related terms of this MOI).
- 22.2** In addition to any other rights of MTN under this MOI and/or the Relationship Agreement (in particular the rights under clause 2.1.5 (incorporating clause 11 of the Relationship Agreement) and in respect of the ESTC or the MTN Zakhele Futhi Verification Agent), MTN shall be entitled on notice to the Company to transfer any right or rights which it has under this MOI (including any warranties and/or representations given in its favour; any discretions, elections, notices or consents which it may exercise, make or give; and the rights under clauses 2.1.1, 2.1.5, 2.1.9 and/or 2.1.11 (incorporating clauses 7, 11, 15 and 19 of the Relationship Agreement) and/or delegate any obligations which it has hereunder to any of its subsidiaries and/or to any member/s of the MTN SA Group, or to any other single person nominated by it, or to such subsidiary/ies and/or members of the MTN SA Group and such one other person, as it deems fit.

24. ELECTION OF DIRECTORS AND ALTERNATE DIRECTORS AND VACANCIES

- 24.1** The minimum number of Directors shall, subject to any further requirements under section 66(2) of the Companies Act, be 3 (three). During the MTN Zakhele Futhi Empowerment Compliance Period, unless MTN consents otherwise in Writing, the maximum number of Directors shall be the greater of (i) 5 (five); and (ii) the least number of persons which are required under the Companies Act to constitute the Company's board having regard to its composition from time to time and the mandatory requirements of the Companies Act. Any failure by the Company at any time to have the minimum number of Directors, or its exceeding the maximum number, does not limit or negate the authority of the Board, or invalidate anything done by the Board or the Company.

24.2 Subject to maintaining the 2 (two) positions on the Board available (subject to the further provisions of this MOI) to be filled by the MTN Nominated Directors during the MTN Zakhele Futhi Empowerment Compliance Period pursuant to clause 24.2(A) and any appointments made thereunder, the number of Directors which constitute the Board (within the restrictions in clause 24.1) shall be set by Ordinary Resolution from time to time; provided that where the number of Directors which constitute the Board is reduced to below the number of Directors which then hold office then, unless the resolution by which the number of Directors was reduced provides otherwise, the Director/s appointed most recently in time (and their associated Alternate Director/s) (and as between persons of equal seniority, the person to retire shall, in the absence of agreement between those of equal seniority, be selected from among them by lot) shall cease to hold office such that the exact reduced number of positions is filled, and not exceeded.

24.2(A) Further to clause 2.1.9, during the MTN Zakhele Futhi Empowerment Compliance Period:

- 24.2(A)1** 2 (two) positions on the Board shall be reserved for persons appointed from time to time pursuant to the provisions of this clause 24.2(A) ("**Reserved Positions**");
- 24.2(A)2** in respect of each Reserved Position which at any time is vacant for any reason, MTN shall be entitled to nominate a person (and his/her respective alternate) to be appointed to such position. Any such nomination shall be made in writing to the Board;
- 24.2(A)3** if the person nominated by MTN to fill the vacancy of a Reserved Position (and/or act as Alternate Director in respect of such Reserved Position, as the case may be) is approved by the Board (which approval it may give or withhold in its discretion), then the Board shall appoint the person to fill such vacancy (and/or act as Alternate Director, as the case may be) pursuant to the provisions of clause 24.1 and, upon such appointment the relevant Director (and her Alternate, as applicable) shall hold the position as an "**MTN Nominated Director**";
- 24.2(A)4** in making such nomination, MTN shall ensure that at least 1 (one) of the MTN Nominated Directors is a Black Person;
- 24.2(A)5** the MTN Nominated Directors shall:
 - 24.2(A)5.1** meet the criteria prescribed by law from time to time;
 - 24.2(A)5.2** subject to the Companies Act, be entitled to vote on any matter under consideration by the Board, and in this regard shall each have the same number of votes as each other Director;
- 24.2(A)6** MTN may from time to time remove any MTN Nominated Director (and/or any Alternate Director to an MTN Nominated Director) from office. Such removal shall be effected by written notice to the Company, and shall be effective on and as from the date on which the notice is given to the Company or, if a later effective date is stated in the notice, such later date;
- 24.2(A)7** in addition to clause 24.2(A)6, each MTN Nominated Director (and/or any Alternate Director to an MTN Nominated Director) may be removed from office and shall be subject to retirement by rotation (and, if approved, re-election on such retirement) in all respects on the same terms and conditions as apply to the other Directors, and the provisions of clauses 24.6 and 25.1.8 shall accordingly apply to the MTN Nominated Directors;
- 24.2(A)8** for the avoidance of doubt, an MTN Nominated Director who is elected or re-elected to hold office pursuant to clauses 24.7 and/or 24.14 shall continue to hold such position as an MTN Nominated Director following such election and/or re-election, as the case may be, until such time as their term of office ceases (including pursuant to clauses 24.2(A)6 and/or 24.2(A)7); and
- 24.2(A)9** the Directors (and their Alternate Directors) who hold office as "MTN Appointed Directors" as at the time of commencement of this amended clause 24.2(A) shall thereupon continue to hold office and shall be classified as MTN Nominated Directors until such time as their respective terms of office cease (including pursuant to clauses 24.2(A)6 and/or 24.2(A)7).

- 24.3** During the MTN Zakhele Futhi Empowerment Compliance Period:
- 24.3.1** save in respect of the MTN Nominated Directors, no person shall be appointed as a Director (and any such appointee shall immediately cease to hold office) if:
 - 24.3.1.1** as a result of such appointment the majority of the Directors will not be Black People; or
 - 24.3.1.2** immediately prior to such appointment the minority of the Directors were Black People, unless such proposed Director is himself a Black Person.
- 24.4** During the MTN Zakhele Futhi Empowerment Compliance Period, no resolution proposing the appointment of a Director (other than an MTN Nominated Director) may be put to a general or Annual General Meeting and/or no nomination for a Director may be proposed at any general or Annual General Meeting (other than, in each case, a resolution or proposal for the re-election and/or confirmation of an existing Director, including a Director retiring by rotation):
- 24.4.1** if the election of such person as a Director would be in conflict with clause 24.3.1;
 - 24.4.2** unless the intended resolution or proposal is notified to the Company not less than 14 (fourteen) Business Days prior to the meeting, and, if applicable, contains such information concerning the identity, background and qualifications of the proposed Director as Directors or the Company in general meeting may reasonably specify from time to time;
 - 24.4.3** unless the intended resolution or proposal is in respect of a person who:
 - 24.4.3.1** has been approved by either MTN or by the then current Directors of the Company;
 - 24.4.3.2** will, if such proposed Director is appointed, meet the criteria to be an independent non-executive Director of the Company as contemplated in the Code of Good Governance Principles for South Africa – 2009 as laid out in the King III Report on Corporate Governance for South Africa – 2009 published by the Institute of Directors in Southern Africa, as such is amended and substituted from time to time ("**King III**"); and
 - 24.4.3.3** meets the criteria to be classified as an independent non-executive director of MTN (as contemplated in King III) if he were to hold a directorship in such company and, further, is not (i) an existing employee of the MTN Group; (ii) a director of any company in the MTN Group; or (iii) a beneficial owner of more than 2% (two per cent) of MTN Shares.
- 24.5** An Alternate Director may serve in the place of 1 (one) or more Director/s named in the resolution electing him during the Director's/s' absence or inability to act as Director. If a Person is an Alternate Director to more than 1 (one) Director or if an Alternate Director is also a Director, he shall have a separate vote, on behalf of each Director he is representing in addition to his own vote, if any. Save for the Alternate Directors appointed under clause 24.2(A), Alternate Directors shall be elected by the Shareholders in general meeting and shall serve in office until the earlier of (i) the cessation of office of the Director in respect of whom they are an Alternate Director (for which purpose any such Director retiring by rotation and being re-elected shall not be deemed to have ceased office); or (ii) such Alternate Director otherwise ceasing to hold office as contemplated in clause 25.1 or otherwise pursuant to the Companies Act. An Alternate Director shall be entitled to act at all meetings and in all proceedings in which, and on all occasions when, the Director in respect of whom he acts as an Alternate Directors shall not act himself.
- 24.6** At the Annual General Meeting held in each year, 1/3 (one-third) of the Directors (including the MTN Nominated Directors), or if their number is not a multiple of three then the number nearest to, but not less than 1/3 (one-third), shall retire from office, provided that in determining the number of Directors to retire no account shall be taken of any Director who by reason of the provisions of clause 29.2 is not subject to retirement. The Directors to retire at each Annual General Meeting shall be those who have been longest in office since their last election or appointment. As between Directors of equal seniority, the Directors to retire shall, in the absence of agreement, be selected from among them by lot; provided that notwithstanding anything herein contained, if, at the date of any Annual General Meeting any Director will have held office for a period of 2 (two) years since his last election or appointment, he shall retire at such meeting, either as 1 (one) of the Directors to retire in pursuance of the foregoing or additionally thereto. A retiring Director shall act as a Director throughout the meeting at which he retires. The length of time a Director has been in office shall, save in respect of Directors appointed or elected in terms of the provisions of clause 24.14 be computed from the date of his last election or appointment. The length of time a Director has been in office shall be computed from his last election; appointment or date upon which he was deemed re-elected. A Director retiring at a meeting shall retain office until the close or adjournment of the meeting.

- 24.7** Retiring Directors shall be Eligible for re-election. No person other than a Director retiring at the Annual General Meeting or a Director standing for confirmation pursuant to clause 24.14 shall, unless recommended by the Directors for election, be Eligible for election to the office of Director at any general meeting unless the provisions of clause 24.3 are complied with.
- 24.8** Subject to clauses 24.2(A) and 24.7, the Company in general meeting may fill the vacated offices by electing a like number of persons to be Directors and may fill any other vacancies other than those in respect of positions reserved for the MTN Nominated Directors. In electing Directors, the provisions of the Companies Act shall be complied with.
- 24.9** If at any Annual General Meeting and/or Shareholders Meeting at which an election of Directors ought to take place, the place of any retiring Director or a Director standing for confirmation pursuant to clause 24.14 is not filled, she shall, if willing, continue in office until the dissolution of the next succeeding Annual General Meeting, and so on from year to year until his place is filled, unless it shall be determined by Ordinary Resolution at such meeting not to fill such vacancy. This provision shall not apply to any MTN Nominated Director who retires and/or stands for confirmation pursuant to clause 24.14 but is not appointed and/or re-appointed, as the case may be, at the relevant meeting; and any such Director who is not appointed and/or re-appointed, as the case may be, at such meeting shall accordingly cease to hold office upon the conclusion of the meeting.
- 24.10** There are no general qualifications prescribed by the Company for a Person to serve as a Director or an Alternate Director in addition to the requirements of the Companies Act.
- 24.11** In any election of Directors and Alternate Directors, the election is to be conducted as follows:
- 24.11.1** a series of votes of those entitled to exercise votes regarding such election, each of which is on the candidacy of a single individual to fill a single vacancy, with the series of votes continuing until all vacancies on the Board at that time have been filled; and
 - 24.11.2** in each vote to fill a vacancy:
 - 24.11.2.1** each Voting Right entitled to be exercised may be exercised once; and
 - 24.11.2.2** the vacancy is filled only if a majority of the Voting Rights exercised support the candidate.
- 24.12** No Person shall be elected as a Director or Alternate Director, if he is Ineligible or Disqualified and any such election shall be a nullity. A Person who is Ineligible or Disqualified must not consent to be elected as a Director or Alternate Director nor act as a Director or Alternate Director. A Person placed under probation by a court must not serve as a Director or an Alternate Director unless the order of court so permits.
- 24.13** No election of a Director (or Alternate Director) shall take effect until he has delivered to the Company a Written consent to serve in such capacity.
- 24.14** Any vacancy occurring on the Board may be filled by the Board, but the Individual so appointed (including any MTN Nominated Director) shall cease to hold office at the termination of the first Shareholders Meeting to be held after the appointment of such Individual as a Director unless he is elected at such Shareholders Meeting or by Round Robin Resolution. This provision shall not apply to Alternate Directors.
- 24.15** The continuing Directors (or sole continuing Director) may act notwithstanding any vacancy in their body, but, if their number is reduced below the number fixed by or pursuant to this MOI as a quorum, the continuing Directors or Director must, as soon as is reasonably practicable, fill the vacancy or call a Shareholders Meeting to fill such vacancy.
- 24.16** If there is no Director able and willing to act, then any Holder entitled to exercise Voting Rights in the election of a Director may convene a Shareholders Meeting for the purpose of electing Directors.

28. GENERAL POWERS AND DUTIES OF DIRECTORS

- 28.1** Subject to the express limitations set out in this MOI, (i) the powers and authority granted to the Directors in terms of section 66(1) of the Companies Act are not limited; and (ii) the Directors shall, in addition to the powers and authorities expressly conferred upon them by this MOI, may exercise all such powers and do all such acts and things as may be exercised or done by the Company, and are not hereby or by the Companies Act expressly directed or required to be exercised or done by the Company in general meeting, have all such further and additional powers and authority (including as to delegation) as may validly be invested by law in the Directors, including the power to conduct, or cease to conduct, or to operate, or cease to operate, the business or affairs of the Company, and/or to cause such matters to be done, or not done, as the case may be. The general powers given by this clause 28.1 shall not be limited or restricted by any special authority or power given to the Directors by any other clause of this MOI.

28.2 Subject to clause 7, the Directors may:

28.2.1 establish and maintain any non-contributory or contributory pension, superannuation, provident and benefit funds for the benefit of; and

28.2.2 give pensions, gratuities and allowances to and make payments for or towards the insurance of, any Persons who are employees or ex-employees (including Directors or ex-Directors) of the Company, or of any company which is or was a subsidiary of the Company or is or was in any way allied to or associated with it or any such subsidiary, and the wives, widows, families and dependants of such Persons. The Directors may authorise the payment of such donations by the Company to such religious, charitable, public or other bodies, clubs, funds or associations or persons as may seem to them advisable or desirable in the interest of the Company.

28.3 Where the Directors power to enter into an agreement or take any action pursuant to such an agreement is subject to an approval of the Company in general meeting (whether by way of Ordinary or Special Resolution), or is subject to other approval under the Companies Act, the Directors shall be permitted to enter into such contract or to undertake to take such action on the basis that such agreement or undertaking is suspensively conditional upon the Directors obtaining the relevant Shareholder or other approval.

28.4 For the purpose of this MOI, the expression “executive Director” shall mean a Director appointed to an executive office in the Company and receiving salary or remuneration for additional services whether under a service agreement or otherwise.

32. PROCEEDINGS OF DIRECTORS

32.1 The Directors may meet for the despatch of business, adjourn and otherwise regulate their meetings as they think fit, provided that there shall be at least 2 (two) Board meetings *per annum*.

32.2 A Director may at any time convene or require the secretary to convene a meeting of the Directors. Notice of a meeting shall be given to a Director at the address of the Director as nominated by the Director, or such other means and/or place as such Director may permit from time to time. A meeting of the Directors shall not be called on less than 48 (forty eight) hours’ notice, unless the chairperson determines in their sole discretion that the business to be conducted is so urgent that shorter notice is required or unless all Directors waive such notice. The minutes of a meeting called on less than 48 (forty eight) hours’ notice shall, as soon as reasonably possible after the meeting, be circulated to all Directors.

32.3 The Directors may determine the means of giving notice of Directors meetings, which may include telephone, telefax or Electronic Communication. It shall be necessary to give notice of a meeting of Directors to all Directors even those for the time being absent from South Africa.

32.4 If all of the Directors:

32.4.1 acknowledge actual receipt of the notice;

32.4.2 are present at a meeting of the Directors; or

32.4.3 waive notice of the meeting,

the meeting may proceed even if the Company failed to give the required notice of that meeting, or there was a defect in the giving of the notice.

32.5 The Directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit.

32.6 Unless otherwise resolved by the Directors, all their meetings shall be held in the city or town where the Company’s Registered Office is for the time being situated. A meeting of Directors may be conducted by Electronic Communication and/or one or more Directors may participate in a meeting of Directors by Electronic Communication in accordance with section 73(3) of the Companies Act.

32.7 The quorum for a Directors’ meeting is any 2 (two) Directors present and voting throughout the meeting.

32.8 If within 30 (thirty) minutes from the time appointed for a meeting a quorum is not present, the meeting shall stand adjourned to the same day in the next week at the same time and place, or if that day is a public holiday in South Africa, to the next succeeding Business Day. If present within 30 (thirty) minutes from the time appointed for the meeting, the Directors at that meeting shall constitute a quorum.

- 32.9** The Directors may elect a chairperson of their meetings and determine the period for which she/he is to hold office; but if no such chairperson is elected, or if at any meeting the chairperson is not present within 15 (fifteen) minutes after the time appointed for holding it, the Directors present may choose one of their number to be chairperson of the meeting.
- 32.10** Each Director has 1 (one) vote on a matter before the Board and, save as provided in clause 32.15, a majority of the votes cast on a resolution is sufficient to approve that resolution.
- 32.11** In the case of a tied vote the chairperson may not cast a deciding vote even if the chairperson did not initially have or cast a vote and the matter being voted on fails.
- 32.12** The Company must keep minutes of the meetings of the Board, and any of its committees.
- 32.13** Resolutions adopted by the Board:
- 32.13.1** must be dated and sequentially numbered; and
- 32.13.2** are effective as of the date of the resolution, unless the resolution states otherwise.
- 32.14** Any minutes of a meeting, or a resolution, signed by the chairperson of the meeting, or by the chairperson of the next meeting of the Board, are/is evidence of the proceedings of that meeting, or adoption of that resolution, as the case may be, without the necessity for further proof of the facts stated.
- 32.15** A Round Robin Resolution of Directors shall be as valid and effectual as if it had been passed at a meeting of the Directors duly called and constituted; provided that each Director has received notice of the matter to be decided upon, and it is signed by such number of Directors (or Alternate Directors) as are sufficient to constitute a quorum, and who between them exercise a majority of the votes which may be passed on the relevant matters. One or more Alternate Directors shall be entitled to sign a Round Robin Resolution if one or more Directors are not present in South Africa to sign, and without his vote/s the requisite majority cannot be achieved. A resolution passed in terms of this clause 32.15 may consist of several documents in like form each signed by one or more Directors (or Alternate Directors). A resolution passed in terms of this clause 32.15 shall be deemed to be passed on the day it was signed by the last Director or Alternate Director entitled to sign it (and constituted the necessary majority), unless a statement to the contrary is made in that resolution.

35. DISTRIBUTIONS

Subject to clauses 2, 7 and the rights attached to the MTN Zakhele Futhi Preference Shares:

- 35.1** the Directors may from time to time, and in accordance with the provisions of the Companies Act, declare and/or make any Distribution; provided that any Distribution in the form of a dividend which is declared or paid by the Company generally on the Shares of a class of Shares shall be such that each Share in such class shall (subject to the further clauses of this clause 35) enjoy a proportionate right to the dividend so declared or paid. For the avoidance of doubt, no Shareholder shall, unless the terms of such Share expressly provide otherwise, (i) have a right to any Distribution, either specifically or proportionately; or (ii) have a proportionate right to any Distribution other than a dividend as contemplated in the first sentence of this clause 35.1, including any right as to any Distribution contemplated in sub-paragraphs (a)(ii), (a)(iii), (a)(iv), (b) or (c) of the definition of "distribution" under the Companies Act;
- 35.2** dividends payable in monetary form shall, unless the Board determines otherwise, be declared in the currency of South Africa ("**ZAR**"). The Board may determine the exchange rate applicable to distributions declared in ZAR and to be paid in another currency or declared in another currency and payable in ZAR. The directors may from time to time make such regulations as they may think fit in regard to the payment of dividends to members having registered addresses outside South Africa, and such regulations may provide for the payment of such dividends in any foreign currency and the rate of exchange at which such payment shall be made and such other matters as the directors may think fit;
- 35.3** a dividend may be declared out of any lawful source (including from capital, reserves, realised or unrealised profits), and any dividend so declared may be paid and satisfied either wholly or in part by the distribution of specific assets, and in particular of paid-up shares or debentures of any other company, or in cash, or in any one or more of such ways as the Directors may at the time of declaring the dividend determine and direct. Where any difficulty arises in regard to the distribution of such specific assets or any part thereof the Directors may settle the same as they think expedient, and in particular may fix the value for distribution of such specific assets or any part thereof, and may determine that cash payments shall be made to any members upon the footing of the value so fixed in order to adjust the rights of all parties and may vest any such assets in trustees upon such trusts for the persons entitled to the dividend as may seem expedient to them;

- 35.4** except as otherwise provided under the conditions of issue of the Shares in respect of which the dividend is payable, no dividend shall carry interest as against the Company. Dividends may be declared either free of or subject to the deduction of income tax and any other tax or duty chargeable on or in respect of such dividend;
- 35.5** in cases where several persons are registered as the joint holders of any Shares, any one of such persons may give effectual receipts for all dividends and payments on account of dividends in respect of such Shares, as the Directors may determine;
- 35.6** all dividends, interest or other moneys payable to the Holder of Shares may be paid by cheque, electronic transfer or otherwise as the Directors may from time to time determine, and may be sent by post to the last registered address requested by him, or, in the case of joint holders, to that one of them first named in the register in respect of such joint holdings; and the payment of such cheque or electronic transfer shall be a good discharge to the Company in respect thereof;
- 35.7** no notice of change of registered address or instructions as to payment being made at any other address which is received by the Company between the record date for the payment and the respective date on which the payment is made shall, unless the Directors permit otherwise, become effective until after such date of payment;
- 35.8** all unclaimed dividends or other monies payable as contemplated in this clause 35 may be invested or otherwise be made use of by the Directors for the benefit of the Company until claimed, without the payment of interest, provided that any dividend remaining unclaimed for a period of not less than 3 (three) years from the date on which it became payable may be forfeited by resolution of the Directors for the benefit of the Company;
- 35.9** the Company shall be entitled at any time to delegate its obligations in respect of unclaimed dividends to any person or persons; and
- 35.10** the provisions of clauses 35.2 to 35.9 shall apply *mutatis mutandis* to any Distributions, to the extent not already constituting a dividend.

39. RESERVE FUND

Subject to section 46 of the Companies Act, clauses 2 and 7 and to the rights of the Holders of the MTN Zakhele Futhi Preference Shares:

- 39.1** the Directors may, before declaring or recommending any dividends, set aside out of the amount available for dividends such sum as they think proper as a reserve fund or as an addition thereto. The Directors may divide the reserve fund into such special funds as they think fit, with full power to employ the assets constituting such fund or funds in the business of the Company, or may invest the same upon such investments (other than Shares of the Company) as they may select, without being liable for any depreciation of or loss in consequence of such investments whether the same be usual or authorised investments for trust funds or not; and
- 39.2** the reserve fund shall, at the discretion of the Directors be available for the equalisation of dividends or for making provision for exceptional losses, expenses or contingencies, or for the extension or development of the Company's business, or for writing down the value of any of the assets of the Company, or for repairing, improving and maintaining any buildings, plant, machinery or works connected with the business of the Company, or to cover the loss in wear and tear or other depreciation in value of any property of the Company, or for any other purpose to which the profits of the Company may be properly applied; and the Directors may at any time divide among the Shareholders by way of bonus, or special dividends, any part of the reserve funds which they, in their discretion, may determine not to be required for the purposes aforesaid.

40. CAPITALISATION

Subject to section 46 of the Companies Act, clauses 2 and 7 and to the rights of the Holders of the MTN Zakhele Futhi Preference Shares:

- 40.1** subject to the provisions of the Companies Act, the Company in general meeting, or the Directors, may at any time and from time to time pass a resolution to capitalise any sum forming part of the undivided profits standing to the credit of the Company's reserve fund, or any sum in the hands of the Company and available for dividend, or any sum carried to reserve as the result of a sale or revaluation of the assets of the Company or any part thereof, or any sum received by way of premium on the issue of any Shares, Debentures or Debenture stock of the Company. Such resolution may provide that any such sum or sums shall be set free for Distribution and be appropriated to and amongst the Shareholders holding MTN Zakhele Futhi Ordinary

Shares either with or without deduction for income tax, rateably according to their rights and shareholdings in such manner as the resolution may direct; provided that no such Distribution shall be made by the Company unless recommended by the Directors, and the Directors shall, in accordance with such resolution, apply such sum or sums in paying up Shares, Debentures or Debenture stock of the Company and appropriate such Shares, Debentures or Debentures stock to or distribute the same amongst the Holders of the MTN Zakhele Futhi Ordinary Shares rateably according to their shareholding thereof respectively as aforesaid, or shall otherwise deal with such sum or sums as provided for in such resolution; and

- 40.2** where any difficulty arises in respect of such Distribution, the Directors may settle the same as they think expedient, fix the value for distribution of any fully paid Shares, Debentures or Debenture stock, make cash payments to any Holders of Shares on the footing of the value so fixed in order to adjust rights, and vest any Shares or assets in trustees upon such trusts for the persons entitled in the appropriation or Distribution, and generally shall do all acts and things required to give effect thereto, with full power to the Directors to provide that fractions shall be ignored altogether, or by payment in cash or otherwise, in all such instances as may seem just and expedient to the Directors. When deemed requisite, a contract shall be entered into and filed in accordance with the Companies Act, and the Directors may appoint any person to sign such contract on behalf of the Persons entitled in the appropriation or Distribution, and such appointments shall be effective, and the contract may provide for the acceptance by the Holders of the Shares to be allotted to them respectively in satisfaction of their claims in respect of the sum so capitalised.

42. WINDING UP

Save as otherwise provided for in **Annexe A**, and subject to clause 7:

- 42.1** if the Company is wound up, the assets remaining after payment of the debts and liabilities of the Company and the costs of the liquidation shall be applied as follows:

42.1.1 to repay to the MTN Zakhele Futhi Shareholders the amounts Paid Up on the Shares respectively held by each of them; and

42.1.2 the balance (if any) shall be distributed among the MTN Zakhele Futhi Shareholders in proportion to the number of Shares respectively held by each of them;

provided that the provisions of this clause 42 shall be subject to the rights of the Holders of Shares (if any) issued upon special conditions.

- 42.2** In a winding-up, any part of the assets of the Company, including any Shares or Securities of other companies may, with the sanction of a Special Resolution of the Company, be paid to the MTN Zakhele Futhi Shareholders of the Company *in specie*, or may, with the same sanction, be vested in trustees for the benefit of such MTN Zakhele Futhi Shareholders, and the liquidation of the Company may be closed and the Company dissolved.

KEY PROVISIONS OF THE BFC2 PEF SHARES AND THE MTNZF PEF SHARES

Certain of the key terms of the MTNZ Pref Shares and the BFC2 Pref Shares are summarised in the table below. For purposes of this Annexure, capitalised terms otherwise not defined in the Pre-Listing Statement shall bear the meaning given to such terms in the MTNZF Pref Subscription Agreement:

Amount:	A Maximum of R3 200 million for each of the BFC2 Pref Shares and the MTNZF Pref Shares.
Issuer:	BFC2 (BFC2 Pref Shares) MTNZF (MTNZF Pref Shares)
Final Redemption Date:	Five years after date of issue.
Dividend payment dates:	Dividends are paid on 30 April and 30 September of each year during the term of the preference shares and at any other time and manner prescribed in the Finance Documents. Additional dividends, arrear dividends and unpaid dividends are payable at the times and in the manner prescribed in the Finance Documents.
Preference Share Dividend Rate:	A floating dividend rate of 75% of Prime (compounded semi-annually).
Redemption profiles:	Bullet (with provision for earlier redemption at the times and in the manner prescribed in the Finance Documents).
Security ranking:	First ranking, in relation to the security provided to the BFC2 Pref Shareholders; and Second ranking, in relation to the security provided to MTN and MTN Holdings.
Security package:	<ul style="list-style-type: none"> • MTNZF will issue the First Ranking Guarantee to the BFC2 Pref Shareholders as security for the obligations of BFC2 to the BFC2 Pref Shareholders under the Finance Documents. • The First Ranking Guarantee will be limited to the proceeds of enforcement of the Pledge and Cession and the Account Cession and the proceeds received on realisation of any other assets of MTNZF which are given as security for the obligations of MTNZF under the First Ranking Guarantee at the time of realisation plus interest on such proceeds at Prime until the amount to be paid under the First Ranking Guarantee is determined. • As security for its obligations under the First Ranking Guarantee, MTNZF will pledge and cede <i>in securitatem debiti</i> its right, title and interest in and to the MTN Shares held by MTNZF from time to time, and all proceeds of realisation of such assets to the BFC2 Pref Shareholders (the "Pledge and Cession"). • As security for its obligations under the First Ranking Guarantee, MTNZF will cede <i>in securitatem debiti</i> its rights to certain specified bank accounts held by MTNZF from time to time and all amounts standing to the credit of such accounts to the BFC2 Pref Shareholders (the "Account Cession"). • MTNZF will provide a reversionary cession <i>in securitatem debiti</i> in respect of the aforementioned bank accounts to MTN and MTN Holdings, pursuant to the Reversionary Account Cession. • MTNZF will provide a reversionary cession <i>in securitatem debiti</i> in respect of the MTN Shares to MTN and MTN Holdings, pursuant to the Reversionary Pledge and Cession. • MTNZF will provide a cession <i>in securitatem debiti</i> over the MTN Loan Rights (as defined in the MTNZF MOI) as security for its obligations under the First Ranking Guarantee. • MTN will provide a first ranking guarantee to the BFC2 Pref Shareholders as security for the obligations of BFC2 owing to the BFC2 Pref Shareholders under the Finance Documents, the recourse of the BFC2 Pref Shareholders thereunder shall be limited to the proceeds of enforcement of the MTN Account Cession (the "MTN Guarantee"). • As security for its obligations under the MTN Guarantee, MTN will cede <i>in securitatem debiti</i> its rights to the MTN implementation account and all amounts standing to the credit of such account to the BFC2 Pref Shareholders (the "MTN Account Cession").

Voting rights in relation to the MTNZF Pref Shares:	<p>No voting except in the case of certain voting events (including any default trigger event) when 95% of the votes will, to the extent possible at law, be held by the holders of the MTNZF Pref Shares. These include the following:</p> <ul style="list-style-type: none"> • MTNZF proposes to, or purports to, dispose of the whole or substantially the whole of its undertaking or the whole or greater part of its assets (save as permitted under the MTNZF Pref Share Terms); • there is a continuing: (i) default trigger event; (ii) event which would, with the expiry of a grace period, by the giving of a notice or making of a determination, be a default trigger event; or (iii) illegality event (as such events are contemplated in the MTNZF MOI); • there are any unpaid or arrear dividends or unpaid and arrear redemption amounts in relation to the MTNZF Pref Shares; • if a special resolution is proposed (save where this is pursuant to a disposal or other action pursuant to which the Company disposes of the MTN Shares held by it as explicitly permitted under the MTNZF Pref Subscription Agreement and the MTNZF MOI or a special resolution is proposed for the approval of the remuneration of the MTNZF Directors pursuant to section 66(9) of the Companies Act), in which event MTNZF Pref Shareholders have voting rights in relation to that special resolution only (unless another voting event exists); and • if any resolution is proposed: (i) which affects the rights attached to the MTNZF Pref Shares or interests of the holders of the MTNZF Pref Shares; (ii) for the winding up of MTNZF; (iii) for any acquisition by MTNZF of its shares in terms of section 48 of the Companies Act or any acquisition by any subsidiary of MTNZF of the shares in MTNZF in terms of section 48 of the Companies Act; or (iv) to change MTNZF's financial year.
Key covenants in relation to the MTNZF Pref Shares:	<ul style="list-style-type: none"> • Inception Total Share Cover Ratio will be at least 4.0 times, as a condition precedent to advancing the preference share funding. • After issue of the MTNZF Pref Shares, Total Share Cover Ratio of 2.0 times if MTN's consolidated total net borrowings: adjusted consolidated EBITDA (excluding any goodwill impairment) (the "Financial Covenant") is below 2.0 times (and such Total Share Cover Ratio is not restored to at least 2.9 times within the applicable remedy period); and 2.2 times if the Financial Covenant is at or above 2.0 times (and such Total Share Cover Ratio is not restored to at least 3.2 times within the applicable remedy period). • After issue of the MTNZF Pref Shares, Volatility Protection Share Cover Ratio of 2.3 times if the Financial Covenant is below 2.0 times (and such Volatility Protection Share Cover Ratio is not restored to at least 2.6 times within the applicable remedy period); and 2.6 times if the Financial Covenant is at or above. • 2.0 times (and such Volatility Share Cover Ratio is not restored to at least 2.9 times within the applicable remedy period).
Key default trigger events in relation to the MTNZF Pref Shares:	<p>Each of the default trigger events are subject to agreed carve-outs and remedy periods contemplated in the MTNZF Pref Share Terms:</p> <ul style="list-style-type: none"> • MTNZF's failure to declare and pay all or any dividends in relation to the MTNZF Pref Shares when due and payable; • MTNZF's failure to redeem any MTNZF Pref Shares and pay the redemption amount on or prior to the scheduled redemption date in relation to such MTNZF Pref Share; • The occurrence of a trigger event in relation to the BFC2 Pref Shares; • MTNZF's failure to retain its black economic empowerment status as specified in the MTNZF Pref Share Terms; • A material adverse event (as contemplated in the MTNZF Pref Share Terms) occurs in relation to BFC2, MTNZF or MTN;

	<ul style="list-style-type: none"> • MTN, MTNZF or BFC2 breaches any of its respective obligations under the Finance Documents; • MTNZF or BFC2 breach any obligation under any agreement to which they are a party; • Any Encumbrance created under or evidenced by any Finance Document in favour of BFC2 or the BFC2 Pref Shareholders, is or becomes unlawful or is not, or ceases to provide security rights or the ranking that it purports to provide or to be legal, valid, binding and enforceable, or certain of the Finance Documents cease to be valid, binding and enforceable against the parties thereto; • It becomes unlawful for MTNZF, BFC2 and/or MTN to perform any of its obligations under the Key Material Agreements; • There is a failure by MTNZF, BFC2 and/or MTN to fully and timeously perform or comply with any obligation which is expressed to be assumed by it under any Key Material Agreement to which it is a party; • If the Total Share Cover Ratio is less than: (i) 2.0 times (if the Financial Covenant is below 2.0 times); or (ii) 2.2 times (if the Financial Covenant is at or above 2.0 times) and such Total Share Cover Ratio is not restored to 2.9 times (if the Financial Covenant was below 2.0 times when most recently measured) or 3.2 times (if the Financial Covenant was at or above 2.0 times when most recently measured) or more; • The Revised Total Share Cover Ratio (as defined in the MTNZF MOI) is breached and is not restored to a level which is, in each case, 145% of the trigger level below which it is breached or more; • If the Volatility Protection Share Cover Ratio is: (i) less than 2.3 times (if the Financial Covenant is below 2.0 times); or (ii) 2.6 times (if the Financial Covenant is at or above 2.0 times), in each case for a period exceeding 10 consecutive trading days on the JSE and the Volatility Protection Share Cover Ratio is not restored to not less than: (a) 2.6 times if the Financial Covenant is below 2.0 times; and (b) 2.9 times if the Financial Covenant is at or above 2.0 times; • The Revised Volatility Protection Share Cover Ratio (as defined in the MTNZF MOI) is breached and is not restored to a level which is 130% of the trigger level below which it is breached or more;
	<ul style="list-style-type: none"> • Enforcement action is taken against MTN in relation to any of its financial indebtedness in excess of or equivalent to an aggregate amount of USD50 000 000; • If the Financial Covenant is greater than 2.5:1; • Other than pursuant to limited permitted actions, MTNZF becomes entitled to acquire or acquires shares in an entity other than MTN; • An Insolvency Event (as defined in the MTNZF Pref Share Terms) occurs; • There is a suspension of or publication of a notice of intention to suspend trading in the MTN Shares; • On any day that is a trading day on the JSE (other than a day on which trading on the JSE is scheduled to close prior to its regular weekday closing time), the One Day VWAP (as defined in the MTNZF Pref Share Terms) of the MTN Shares is an amount of R50.00 or less; • Not all of the MTNZF Pref Shares are irrevocably redeemed in full in accordance with the provisions of the MTNZF MOI; • MTNZF's or BFC2's audited financial statements are qualified in any respect; or • MTN's audited financial statements are qualified in any material respect.

<p>Key indemnities and post redemption amounts:</p>	<ul style="list-style-type: none"> • MTNZF has agreed to indemnify the holders of the MTNZF Pref Shares and their officers, directors, employees and agents against liabilities arising from: (i) certain breaches by MTNZF of the Finance Documents; (ii) an actual or potential trigger event or illegality event in relation to the MTNZF Pref Shares; (iii) any payment in respect of the MTNZF Pref Shares or under the Finance Documents being subject to any tax at any time after the redemption of such MTNZF Pref Shares; (iv) any payment to a holder of MTNZF Pref Shares in relation to the MTNZF Pref Shares being set aside, refunded, reduced or becoming invalid; or (v) any BFC2 Indemnity Event (as defined in the MTNZF Pref Subscription Agreement). • In addition, for the Indemnity Period (as defined in the MTNZF Pref Share Terms) (being a period of five years following the date on which the last of the BFC2 Pref Shares have been redeemed, or such shorter period as the Preference Share Agent may agree to in writing), if a Post Redemption Event (as defined in the MTNZF Pref Subscription Agreement) occurs, MTNZF indemnifies each BFC2 Pref Shareholders and undertakes to put each BFC2 Pref Shareholder into the same after tax position it would have been in if the Post Redemption Event had not occurred, or if the effects of the Post Redemption Event had not only become apparent during the Indemnity Period. • The Preference Share Agent may require MTNZF to pay amounts into the MTNZF Security Account, if MTNZF agrees (or, if a senior counsel at the Johannesburg Bar determines) that there is a reasonable prospect of any of the following events occurring: (i) a Post Redemption Event has occurred or there is a reasonable likelihood of such an event occurring; and/or (ii) the SARS Amount (as defined in the MTNZF Pref Subscription Agreement) will become payable after the redemption of all the MTNZF Pref Shares. If MTNZF is required to make any such deposit, disposals of MTNZF's assets are restricted until the required deposits have been made. The proceeds of the MTNZF Security Account will remain subject to the security interests of the relevant BFC2 Pref Shareholders for the Indemnity Period.
--	--

THE RELATIONSHIP AGREEMENT

Relationship Agreement - EXECUTION VERSION

EXECUTION VERSION

RELATIONSHIP AGREEMENT

between

MTN GROUP LIMITED

and

MTN ZAKHELE FUTHI (RF) LIMITED

and

THE BIC2 SHAREHOLDERS WHO ARE BOUND THEREBY

WEBBER WENTZEL
in alliance with > **Linklaters**



Table of Contents

	Page No
PART 1: PRELIMINARY PROVISIONS	1
1. Definitions and Interpretation	1
2. Introduction	11
3. Suspensive Condition	12
4. Duration	12
PART 2: MTN SHAREHOLDER PROVISIONS	12
5. MTN Shares certificates	12
PART 3: EMPOWERMENT PROVISIONS	12
6. General undertakings by BIC2	12
7. BIC2 Shareholder undertakings	15
8. Restriction on Disposal or Encumbrance of BIC2 Ordinary Shares	17
8.1 General	17
8.2 During the BIC2 Shareholder Minimum Investment Period	18
8.3 After the BIC2 Shareholder Minimum Investment Period	19
9. Death	22
9.1 Death of a Black Person	22
9.2 Death of a member of a Black Group	22
10. Involuntary sequestration/liquidation	23
10.1 Involuntary sequestration of a Black Person	23
10.2 Involuntary liquidation of a Black Group	23
11. Call Option in favour of MTN	23
12. Calculation of the Call Reference Price	26
13. Funding of BIC2 by MTN	27
14. No restriction on MTN, its nominees or subsidiaries holding BIC2 Ordinary Shares, and founding shareholders	27
15. MTN representation on the BIC2 Board	28
16. BIC2 Ordinary Shares certificates	28
17. Changes to the BIC2 Constitutional Documents	29
18. Amendments	30
19. The BIC2 Ownership Certificate of Compliance	30
20. Listing	31
21. Maximum shareholding	31
21.1 Definitions	31
21.2 Maximum shareholding	32
21.3 Disposal of Unauthorised Excess Shares	32

21.4	Restriction on Acquisitions	33
21.5	Provision of information	33
22	Refinancing	33
23	Change of name of BIC2	34
PART 4: GENERAL		34
24	Breach	34
25	Confidentiality	35
26	Miscellaneous matters	35
26.1	address for service of legal documents	35
26.2	entire contract	36
26.3	no stipulation for the benefit of a third person	37
26.4	no representations	37
26.5	variation, cancellation and waiver	37
26.6	indulgences	37
26.7	cession and delegation	37
26.8	severability	37
26.9	applicable law	37
26.10	jurisdiction of South African courts	38
26.11	costs	38
26.12	signature in counterparts	38
26.13	independent advice	38
26.14	co-operation	38
Annexe A	Ring Fencing Provisions	39
Annexe B	Pro Forma Deed of Adherence	41

PART 1: PRELIMINARY PROVISIONS
1. Definitions and interpretation

1.1 In this Agreement, the following words shall, unless otherwise stated or inconsistent with the context in which they appear, bear the following meanings and other words derived from the same origins as such words (that is, cognate words) shall bear corresponding meanings:

1.1.1 **"30-Day VWAP"** – as at a date ("**Determination Date**"), the volume weighted average price of the relevant share for the 30 Trading Days immediately preceding the Determination Date, such volume weighted average price to be calculated and rounded to the fifth decimal place (ie the sixth decimal place rounded up if greater than or equal to five and rounded down if less than five), and as further determined and adjusted, if applicable, as set out in clause 12.4;

1.1.2 **"the/this Agreement"** – this relationship agreement, together with any annexes or schedules hereto;

1.1.3 **"Approved Nominee"** – the Custodian and/or any Nominee Holder who is permitted to hold BIC2 Ordinary Shares on behalf of a Beneficial Holder thereof pursuant to the BEE Listing Terms and Conditions;

1.1.4 **"Authority"** – any government or governmental, administrative, fiscal or judicial authority, body, court, department, commission, tribunal, registry or any state owned, controlled or legislatively constituted authority which principally performs public, governmental or regulatory functions and/or which is responsible for applying national security, foreign investment, exchange control, telecommunications, merger control or other competition or antitrust legislation or regulations, in South Africa, including without limitation ICASA;

1.1.5 **"BBBEE Act"** – the Broad-Based Black Economic Empowerment Act, 53 of 2003, and any regulations and codes of good practice published thereunder (including the Codes);

1.1.6 **"BEE"** – black economic empowerment;

1.1.7 **"BEE Legislation"** – each and all of (i) the BBBEE Act; (ii) any codes of good practice and/or any transformation charters issued under sections 9 and/or 12 of the BBBEE Act applicable to the MTN SA Group or a material member thereof; (iii) any communications sector legislation (including the EC Act) and any regulations published under such legislation and any Licence conditions made pursuant to such legislation from time to time, as applicable to the MTN SA Group or a material member thereof; and (iv) any other charter, law, condition of a material Licence, regulation or (mandatory or voluntary) practice pursuant to which ownership and/or control by black people in the MTN SA Group (or a material member thereof) is measured or a requirement relating thereto is imposed on it, or its rights, interests and/or obligations are affected thereby whether directly or through its customers;

1.1.8 **"BEE Listing"** – the admission to listing of the BIC2 Ordinary Shares as BEE Securities on the BEE Segment of the main board of the exchange operated by the JSE (or such other licensed exchange as MTN may approve of in its sole and absolute discretion);

1.1.9 **"BEE Listing Period"** – the period commencing on the date upon which the BEE Listing takes place (if applicable) and ending on the earlier of (a) the last day of the BIC2 Empowerment Compliance Period; and (b) the date on which the BEE Listing terminates for any reason;

1.1.10 **"BEE Listing Terms and Conditions"** – the terms and conditions applicable to the holding and/or transfer of BIC2 Ordinary Shares (and beneficial interests therein) pursuant to the BEE Listing, as are or are to be set out in the BIC2 Constitutional Documents and this Agreement read with the BEE Market Notice (if any) and any other terms and conditions notified to a Person by or on behalf of MTN and/or BIC2 from time to time;

1.1.11 **"BEE Market Notice"** – a market notice published by the JSE in respect of the BEE Listing, as amended from time to time, which sets out particulars in respect of the restrictions, limitations and requirements applicable to the listing and transfer of the BIC2 Ordinary Shares (and/or beneficial interests therein) as BEE Securities, including as regards the various mandates and other contractual arrangements which a Verified BIC2 Shareholder is required to conclude with persons acceptable to MTN in its sole and absolute discretion;

1.1.12 **"BEE Ownership Certificate of Compliance"** – is as defined and determined under clause 7.2.3;

1.1.13 **"BEE Securities"** – has the meaning given to such term in the JSE Listings Requirements from time to time;

1.1.14 **"BEE Segment"** – has the meaning given to such term in the JSE Listings Requirements from time to time;

1.1.15 **"BEE Status"** – in relation to a Black Group, the Black Group's percentage ownership and percentage economic interest by Black People (by shareholding, membership, beneficiary interest and/or other comparable interest, as the case may be having regard to the juristic nature of the relevant Black Group) and the Black Group's percentage representation by Black People at board or trustee or other similar governing body, as measured under the BEE Legislation and, in relation to a natural person, whether or not that person qualifies as a Black Person;

1.1.16 **"BEE Transaction Documents"** – the BIC2 Transaction Documents, and such further agreements and documents which MTN and BIC2 may agree in writing to designate as BEE Transaction Documents from time to time;

1.1.17 **"BEE Verification"** – the verification of a Person by the BIC2 Verification Agent, which verification must conclude, *inter alia*, that:

1.1.17.1 the Person is an Eligible BIC2 Shareholder;

1.1.17.2 such Eligible BIC2 Shareholder has been notified of the necessary restrictions, limitations and requirements applicable to the BIC2 Ordinary Shares from time to time as set out in the BIC2 Constitutional Documents and this Agreement (read with the BEE Market Notice, if any), and has agreed to be bound by the provisions of the BIC2 Constitutional Documents and this Agreement by executing a Deed of Adherence hereto (or otherwise is bound in a form and on terms to the reasonable satisfaction of MTN); and

1.1.17.3 such Eligible BIC2 Shareholder has accepted the Verification Terms and Conditions and has signed all documents and contracts required in terms of the Verification Terms and Conditions;

1.1.18 **"Beneficial Holder"** – in relation to any Uncertificated BIC2 Ordinary Shares, the Person who from time to time holds a beneficial interest in such Uncertificated BIC2 Ordinary Shares, regardless of whether they are registered in the uncertificated securities register

of BIC2 in the name of such Person directly by way of "own name" registration or in the name of a Nominee Holder;

1.1.19 **"beneficial interest"** – has the meaning given to this term in the Companies Act;

1.1.20 **"BIC2"** or **"MTN Zakhele"** – MTN Zakhele Futhi Limited (formerly BIC B Limited, and to be named "MTN Zakhele Futhi (RF) Limited on or following the Effective Date"), registration number 2016/268837/06, a public company incorporated in accordance with the laws of the Republic of South Africa;

1.1.21 **"BIC2 Board"** – the board of directors of BIC2, as constituted from time to time;

1.1.22 **"BIC2 Consideration Shares"** – the BIC2 Ordinary Shares which MTN Zakhele Shareholders may elect to receive in accordance with and subject to the terms of the MTN Zakhele Unwinding Scheme;

1.1.23 **"BIC2 Constitutional Documents"** – the memorandum of incorporation of BIC2 contemplated under the Companies Act;

1.1.24 **"BIC2 Empowerment Compliance Period"** or **"Empowerment Period"** – a period of eight years commencing on the Effective Date and ending on the Termination Date;

1.1.25 **"BIC2 Ordinary Shares"** – ordinary shares of no par value in the issued share capital of BIC2. For the avoidance of doubt, references to the BIC2 Ordinary Shares include references – changed as necessary – to any class of shares into which such shares may be converted (whether pursuant to the Companies Act or otherwise) and to such shares as they may be consolidated and sub-divided from time to time;

1.1.26 **"BIC2 Ownership Certificate of Compliance"** – as defined and determined under clause 19.1.2;

1.1.27 **"BIC2 Pref Shares"** – the cumulative redeemable non-participating preference shares in the issued share capital of BIC2;

1.1.28 **"BIC2 Pref Subscription Agreement"** – the preference share subscription agreement entitled "BIC2 Preference Share Subscription Agreement" concluded or to be concluded between, *inter alia*, BIC2 and BFC2 in terms of which, *inter alia*, BFC2 will subscribe for, and BIC2 will allot and issue to BFC2, the BIC2 Pref Shares;

1.1.29 **"BIC2 Public Offer"** – the public offering in terms of which Black Participants are invited to subscribe for and beneficially own BIC2 Ordinary Shares, subject to the qualification criteria of such offer as set out in the prospectus published in respect of the offer;

1.1.30 **"BIC2 Shareholder"** – means:

1.1.30.1 in the case of Certificated BIC2 Ordinary Shares, the Person who is the registered holder of such BIC2 Ordinary Shares from time to time; and

1.1.30.2 in the case of Uncertificated BIC2 Ordinary Shares, the Person who is the Beneficial Holder of such Uncertificated BIC2 Ordinary Shares from time to time and includes, where applicable and as the context requires, the Nominee Holder thereof;

1.1.31 **"BIC2 Shareholder Minimum Investment Period"** or **"Minimum Investment Period"** – a period of three years commencing on the Effective Date and ending on the third anniversary of the Effective Date;

1.1.32 **"BIC2 Transaction Documents"** – the "Transaction Documents" as defined in the BIC2 Pref Subscription Agreement;

1.1.33 **"BIC2 Verification Agent"** – during the BEE Listing Period, a person appointed from time to time by MTN and/or BIC2 (with the consent of MTN), to fulfil the functions assigned to it under this Agreement in respect of performing BEE Verification;

1.1.34 **"BFC2"** – means Jabisaan 04 Proprietary Limited, registration number 2014/021122/07, a private company incorporated in accordance with the laws of the Republic of South Africa;

1.1.35 **"Black Company"** – a company incorporated in accordance with the laws of the Republic of South Africa, and which is both a Black Majority Owned Company and a Black Majority Controlled Company, and a reference to "company" in this definition shall include a reference to a close corporation;

1.1.36 **"Black Entity"** – (i) a vesting trust, (ii) a broad based ownership scheme, and (iii) an unincorporated entity or association, including a partnership, joint venture, syndicate or Stokvel, in each case under (i) to (iii) as may be determined from time to time (generally or in relation to any particular Black Entity or category of Black Entities) by MTN in its sole discretion as an entity or association which qualifies under the BEE Legislation (and the Codes in particular) for recognition and measurement of ownership, economic interest and control by Black People such that the MTN SA Group may claim recognition of such ownership, economic interest and control under the BEE Legislation as all being held by a majority of Black People;

1.1.37 **"Black Group"** – a Black Company or Black Entity;

1.1.38 **"Black Majority Controlled Company"** – a "B-BBEE Controlled Company" (or comparable term) as defined from time to time under the BEE Legislation, which definition as at the Signature Date is as follows: *"means juristic person, having shareholding or similar members interest, in which black participants enjoy a right to Exercisable Voting Rights that is at least 51% of the total such rights measured using the Flow Through Principle"*; provided that where the BEE Legislation contains more than one definition of a "Black Majority Controlled Company" and such definitions are not the same, then the term "Black Majority Controlled Company" shall mean (and be restricted to) the class of persons who satisfy the relevant criteria in every such definition;

1.1.39 **"Black Majority Owned Company"** – a "B-BBEE Owned Company" (or comparable term) as defined from time to time under the BEE Legislation, which definition as at the Signature Date is as follows: *"means juristic person, having shareholding or similar members interest, that is B-BBEE controlled, in which Black participants enjoy a right to Economic Interest that is at least 51% of the total such rights measured using the Flow Through Principle"*; provided that where the BEE Legislation contains more than one definition of a "Black Majority Owned Company" and such definitions are not the same, then the term "Black Majority Owned Company" shall mean (and be restricted to) the class of persons who satisfy the relevant criteria in every such definition;

1.1.40 **"Black Participants"** – individually and collectively (as the context may dictate), Black People, Black Companies and Black Entities (i) who are eligible to subscribe for and beneficially own BIC2 Ordinary Shares pursuant to the BIC2 Public Offer; (ii) who are MTN Zakhele Shareholders and who are eligible to elect BIC2 Consideration Shares pursuant to the MTN Zakhele Unwinding Scheme; or (iii) who are otherwise permitted to own BIC2 Ordinary Shares in terms of the provisions of this Agreement (as read with the BIC2 Constitutional Documents);

1.1.41 **"Black People"** – "black people" (or comparable term) as defined from time to time under the BEE Legislation; provided that where the BEE Legislation contains more than one definition of "black people" (or comparable term) and such definitions are not the same, then the term "Black People" shall mean (and be restricted to) the class of persons who satisfy the relevant criteria in every such definition;

1.1.42 **"Business Day"** – any day other than a Saturday, Sunday or gazetted national public holiday in the Republic of South Africa;

1.1.43 **"Call Event"** – is as defined and determined under clause 11.1;

1.1.44 **"Call Option Notice"** – is as defined and determined under clause 11.2;

1.1.45 **"Call Reference Price"** – is as defined and determined under clause 12.1;

1.1.46 **"Call Shares"** – is as defined and determined under clause 11.2;

1.1.47 **"Call Trigger Date"** – is as defined and determined under clause 11.3.1;

1.1.48 **"Central Securities Depository"** – a person who is licensed as a central securities depository under section 29 of the Financial Markets Act;

1.1.49 **"Certificated BIC2 Ordinary Share"** – a BIC2 Ordinary Share which is evidenced by way of a certificate, and which is recorded as such in BIC2's securities register (maintained by BIC2, or by the Transfer Secretaries on behalf of BIC2, from time to time);

1.1.50 **"Codes"** – the Codes of Good Practice on Broad Based Black Economic Empowerment issued by the Minister of Trade and Industry on 2 October 2013 in terms of Section 9 of the BBBEE Act;

1.1.51 **"Companies Act"** – the Companies Act, No 71 of 2008;

1.1.52 **"Composition"** – in relation to a person, refers to each and all of the corporate, commercial, personal and other attributes and characteristics of such person and of its Effective Participants, and includes (i) the identities of its/their Effective Participants; (ii) the personal characteristics of its/their Effective Participants (eg whether they are Black Persons, female, or "new entrants"); and (iii) the extent of or terms relating to the direct or indirect ownership, control or economic interest of such Effective Participants in the person (including, as governed by, any applicable trust deeds, constitutional documents, call options, shareholders and voting pool agreements);

1.1.53 **"CSDP"** – a person that holds in custody and administers securities or an interest in securities, and that has been accepted in terms of section 31 of the Financial Markets Act by a Central Securities Depository as a participant in that Central Securities Depository;

1.1.54 **"Custodian"** – a person identified and appointed under clause 8.1.1.2 from time to time by MTN and/or BIC2 to fulfil the functions assigned to it under this Agreement;

1.1.55 **"Deed of Adherence"** – a deed of adherence, which is to be completed and executed by each person who acquires any BIC2 Ordinary Shares, whereby such person undertakes to be bound by the provisions of this Agreement materially in the form or on the terms set out in Schedule 2 hereto (or such other form and terms as MTN may permit from time to time, including through the BEE Listing Terms and Conditions and associated BEE Market Notice);

1.1.56 **"Dispose"** – sell, alienate, donate, exchange, distribute, transfer or in any manner whatsoever dispose of, whether voluntarily or involuntarily, or enter into any arrangement or transaction whatsoever which may have the same or a similar effect as any of the aforementioned sale, alienation, donation, exchange, distribution, transfer or disposal (including but not limited to any transaction, or series of arrangements or transactions, or the cession of any rights or the granting of any option or any similar transaction/s which would have the same economic effect), or realise any value in respect of, and **"Disposal"** shall be construed accordingly;

1.1.57 **"EC Act"** – Electronic Communications Act, No 36 of 2005;

1.1.58 **"Effective Date"** the earlier of the date on which (i) BIC2 Ordinary Shares are allotted and issued to or on behalf of Black Participants under the BIC2 Public Offer or (ii) BIC2 Ordinary Shares are issued to MTN Zakhele pursuant to the New Empowerment Transaction;

1.1.59 **"Effective Interest"** – any one or more of a direct or indirect ownership, economic or control interest, measured on a fully diluted basis and without any deeming rule or deeming provision being applied;

1.1.60 **"Effective Participants"** – in relation to an entity, means each and every person who directly or indirectly has an Effective Interest in such entity;

1.1.61 **"Eligible BIC2 Shareholder"** – (a) any Black Participant who is accepted to become a BIC2 Shareholder (whether pursuant to the BIC2 Public Offer, the MTN Zakhele Unwinding Scheme or otherwise) (i) in MTN's (or its nominee's, delegate's or agent's) sole discretion, such acceptance to be recorded in writing; or (ii) pursuant to any decision made by the ESTC (or its nominee, delegatee or agent) as contemplated in clause 8.3.3.1 (unless MTN determines otherwise on written notice to the ESTC in respect of such decision), such acceptance by the ESTC to be recorded in writing, (and in the case of either (i) or (ii), including, if applicable, through the BEE Listing and its related processes, for example BEE Verification); and (b) such other persons as are permitted from time to time (and for the period so permitted) under clauses 9, 10, 11, 13 and 14 of this Agreement to hold, or have beneficial interests in, BIC2 Ordinary Shares, including the Warehousing BIC2 Shareholders;

1.1.62 **"Empowerment Requirements"** – in relation to a person, the requirements, obligations, commitments and/or measurement methodologies applicable from time to time to such person or its business or assets, relating to ownership of (and/or economic interest in) and control by Black Persons of the person or its business or assets under the BEE Legislation, and including any requirements, obligations, commitments and/or measurement methodologies which apply (i) pursuant to any Licenses held by the person; and/or (ii) in respect of the present or future grant, extension, renewal, conversion or the like in respect of any Licenses issued or applied for by the person;

1.1.63 **"Encumbrance"** – in relation to any property, includes any pledge, security cession, charge, hypothecation, lien, subordination, mortgage, option over, right of retention or any other encumbrance whatsoever, or any form of hedging or similar derivative instrument of any nature whatsoever of or over or in respect of that property or class of property (or any part or proceeds thereof), or any lending of that property, and the words **"Encumber"**, **"Encumbered"** and **"Encumbering"** shall have corresponding meanings;

1.1.64 **"ESTC"** or **"Empowerment Share Transfer Committee"** – MTN or such committee/s or third party/ies or third party agent/s as MTN may nominate from time to time to fulfil the functions assigned to the ESTC under this Agreement;

- 1.1.65 **"Finance Documents"** – the documents defined as such under the BIC2 Pref Subscription Agreement;
- 1.1.66 **"Financial Markets Act"** – the Financial Markets Act, No 19 of 2012;
- 1.1.67 **"CASA"** – the Independent Communications Authority of South Africa, a regulatory body established in terms of section 3 of the Independent Communications Authority of South Africa Act, No 13 of 2000;
- 1.1.68 **"JSE"** – JSE Limited, registration number 2005/022939/06, a limited liability company duly registered and incorporated in South Africa being licensed in terms of section 9 of the Financial Markets Act;
- 1.1.69 **"JSE Listings Requirements"** – the Listings Requirements of the JSE as amended from time to time;
- 1.1.70 **"Licenses"** – any license or other form of regulatory right or permission issued or granted by or under any Authority, including telecommunications licenses issued pursuant to the EC Act;
- 1.1.71 **"MTN"** – MTN Group Limited, registration number 1994/009584/06, a public company incorporated in accordance with the laws of the Republic of South Africa, the ordinary shares of which are listed on the main board of the stock exchange maintained by the JSE;
- 1.1.72 **"MTN BIC2 Board Directors"** – is as defined and determined under clause 15.1;
- 1.1.73 **"MTN Consideration Shares"** – the MTN Shares which MTN Zakhele Shareholders may elect to receive in accordance with and subject to the terms of the MTN Zakhele Unwinding Scheme;
- 1.1.74 **"MTN Shares"** – ordinary shares with a par value of R0.0001 each in the issued share capital of MTN;
- 1.1.75 **"MTN SA Group"** – Mobile Telephone Networks Proprietary Limited, and its South African subsidiaries from time to time, and any other South African operating subsidiary of any of MTN, Mobile Telephone Networks Holdings Proprietary Limited and/or MTN International Proprietary Limited designated in writing by MTN to BIC2 from time to time;
- 1.1.76 **"MTN Zakhele"** – MTN Zakhele (RF) Limited, registration number 2010/004693/06, a public company incorporated in accordance with the laws of the Republic of South Africa;
- 1.1.77 **"MTN Zakhele Board"** – the board of directors of MTN Zakhele, as constituted from time to time;
- 1.1.78 **"MTN Zakhele Ordinary Shares"** – ordinary shares having a par value of R0.01 in the issued share capital of MTN Zakhele;
- 1.1.79 **"MTN Zakhele Scheme Circular"** – the circular to be sent to MTN Zakhele Shareholders for the purpose of seeking the approval of MTN Zakhele Shareholders for the MTN Zakhele Unwinding Scheme;
- 1.1.80 **"MTN Zakhele Shareholders"** – the Persons registered as holders of MTN Zakhele Ordinary Shares from time to time in its certificated or uncertificated share register including, as the context requires, the beneficial holders thereof;

- 1.1.81 **"MTN Zakhele Unwinding Scheme"** – the scheme of arrangement pursuant to section 114 of the Companies Act to be proposed by the MTN Zakhele Board as between MTN Zakhele and the MTN Zakhele Shareholders, for the purposes of MTN Zakhele buying back and cancelling all of the MTN Zakhele Ordinary Shares from MTN Zakhele Shareholders (other than the MTN Zakhele Ordinary Share to be held by MTN or its subsidiary), and pursuant to which scheme and subject to the terms thereof each MTN Zakhele Shareholder will be entitled to elect to receive (i) MTN Consideration Shares; (ii) cash; (iii) BIC2 Consideration Shares; or (iv) a combination of the MTN Consideration Shares, cash and the BIC2 Consideration Shares;
- 1.1.82 **"New Empowerment Transaction"** – the empowerment transaction or series of transactions given effect to under the BIC2 Transaction Documents pursuant to which, *inter alia*, (i) BIC2 will subscribe for MTN Shares, up to an approximate maximum of 4% of the diluted issued share capital of MTN (measured as at the Signature Date); (ii) BIC2 will issue BIC2 Ordinary Shares to Black Participants pursuant to the BIC2 Public Offer; and (iii) MTN Zakhele will acquire and distribute BIC2 Ordinary Shares to MTN Zakhele Shareholders who elect to receive BIC2 Consideration Shares pursuant to the MTN Zakhele Unwinding Scheme should such scheme be implemented;
- 1.1.83 **"Nominee"** – has the meaning given to this term in the Financial Markets Act;
- 1.1.84 **"Nominee Holder"** – in relation to any Uncertificated BIC2 Ordinary Shares, the Person in whose name such shares are registered from time to time as a Nominee;
- 1.1.85 **"Non-qualifying Shareholder"** – is as defined and determined under clause 8.3.8;
- 1.1.86 **"Parties"** – the parties to this Agreement, being initially MTN and BIC2, and thereafter, any BIC2 Shareholder or other person who becomes a party to this Agreement (or is otherwise bound to its terms) from time to time in accordance with the provisions of this Agreement;
- 1.1.87 **"Preference Share Agent"** – shall bear the meaning ascribed thereto in the BIC2 Pref Subscription Agreement;
- 1.1.88 **"Refinancing"** – in relation to any financial liabilities and obligations means (i) any extension of the scheduled maturity of such liabilities or obligations and/or any variation of the financial terms of such liabilities or obligations and/or (ii) any financial liabilities and/or obligations incurred in replacement of and/or in order to discharge or procure the discharge of all or any part of such liabilities or obligations, including by way of the issue of preference shares or through loans or other means, but does not include the issue of BIC2 Ordinary Shares;
- 1.1.89 **"Ring Fencing Provisions"** – the restrictions on the powers and functions of BIC2 set out in Annex A which are to be incorporated into the BIC2 Constitutional Documents to secure that BIC2 remains an insolvency-remote, special purpose company during the BIC2 Empowerment Compliance Period;
- 1.1.90 **"Signature Date"** – when this Agreement has been signed by each of MTN and BIC2 (whether or not in counterpart), the latest of the dates on which this Agreement (or any counterpart) was signed by such initial Parties;
- 1.1.91 **"Stokvel"** – an association of two or more members who contribute funds to the association on a regular basis, the funds of which are paid, in whole or in part, to its members in accordance with its rules, whether on a rotational basis or upon the occurrence of an event or otherwise;

1.1.92 **"Strate Rules and Directives"** – means the depository rules of Strate made or amended from time to time in accordance with section 35 of the Financial Markets Act, and any depository directive issued or amended by Strate in accordance with such depository rules from time to time;

1.1.93 **"Suspensive Condition"** – the suspensive condition referred to in clause 3.1 of this Agreement;

1.1.94 **"Termination Date"** – the eighth anniversary of the Effective Date;

1.1.95 **"Third Party Financing"** – initially, the financial liabilities and obligations owing from time to time by BIC2 under the Finance Documents, and thereafter any financial liabilities and obligations arising from any Refinancing thereof;

1.1.96 **"Trading Day"** – any day: (i) that is an ordinary trading day on the exchange operated by the JSE (and does not include a day on which trading on the exchange operated by the JSE is scheduled to close prior to its regular weekday closing time); and (ii) on which trading in the relevant MTN Shares and/or BIC2 Ordinary Shares, as the case may be, was not subject to any suspension;

1.1.97 **"Transfer Secretaries"** – a Person appointed from time to time by BIC2 to fulfil the functions of maintaining BIC2's securities register and providing related services;

1.1.98 **"Uncertificated BIC2 Ordinary Share"** – a BIC2 Ordinary Share which is dematerialised (ie not evidenced by way of a certificate) and which is recorded as such in BIC2's uncertificated securities register (as administered and maintained by a CSDP or Central Securities Depository, as determined in accordance with the rules of the Central Securities Depository, and which forms part of BIC2's securities register);

1.1.99 **"Verified BIC2 Shareholder"** – during the BEE Listing Period, any Eligible BIC2 Shareholder which BIC2 (or its nominee, delegate or agent) has notified has successfully completed BEE Verification, and whose BEE Verification status has not expired or been withdrawn in accordance with the Verification Terms and Conditions or this Agreement;

1.1.100 **"Valuation Date"** – is as defined and determined under clause 12.2;

1.1.101 **"Verification Terms and Conditions"** – the terms, conditions, restrictions and limitations applicable to each Verified BIC2 Shareholder and acknowledged and accepted by such Verified BIC2 Shareholder during the BEE Verification process; and

1.1.102 **"Warehousing BIC2 Shareholder"** – any person who acquires BIC2 Ordinary Shares pursuant to clause 11 (where, pursuant to such acquisition, such person is designated by MTN as a "Warehousing BIC2 Shareholder") or pursuant to clauses 13 and/or 14.

1.2 The clause headings in this Agreement are for the purpose of convenience only and shall not be taken into account in the interpretation of this Agreement.

1.3 Unless inconsistent with the context or unless a contrary intention clearly appears from the context, in this Agreement:

1.3.1 any reference to a gender shall include the other genders;

1.3.2 any reference to the singular shall include the plural and vice versa;

1.3.3 any reference to a **"person"** or **"Person"** includes any natural, juristic or quasi-juristic person, including without limitation any sole proprietorship, Stokvel, firm, partnership,

trust, close corporation, company, undertaking, joint venture, government or public entity, or other incorporated or unincorporated entity or association;

1.3.4 references to a **"subsidiary"** or a **"holding company"** shall be references to a subsidiary or holding company as defined in the Companies Act, save that the interpretation and application of these definitions in the Companies Act shall not be limited to South African companies;

1.3.5 the use of the words **"including"**, or **"in particular"** or **"for example"** followed by a specific example/s shall not be construed as limiting the meaning of the general wording preceding it and the *ejusdem generis* rule shall not be applied in the interpretation of such general wording or such specific example/s. Such references to **"including"**, **"in particular"** and **"for example"** shall not be construed restrictively but shall mean **"including, without prejudice to the generality of the foregoing"** and **"in particular, but without prejudice to the generality of the foregoing"** and **"for example (but without prejudice to the generality of the foregoing)"** respectively;

1.3.6 any reference to any **"law"** (including the BEE Legislation), or any part thereof, shall be a reference to:

any law, legislation, statutes, regulations, directives, orders, notices, promulgations and other decrees of any Authority, which have force of law or which it would be an offence not to obey, and any regulations and subordinate legislation promulgated thereunder, and the common law; and

such **"laws"** (as defined above) as interpreted, amended, modified, re-enacted, consolidated or substituted from time to time, whether before or after the Signature Date, including, without limitation, in relation to the BEE Legislation; and

any reference to any document or agreement (including this Agreement and the BIC2 Constitutional Documents) shall be a reference to that document or agreement as at the Signature Date (or, if later, as at the date on which such agreement is first concluded or document first executed), and as novated, amended, reinstated or substituted from time to time thereafter in accordance with its terms.

1.4 If any provision in this clause 1 is a substantive provision conferring rights or imposing obligations on a Party, effect shall be given to it as if it were a substantive clause in the body of this Agreement, notwithstanding that it is only contained in the interpretation and definitions or in the introduction clauses.

1.5 The rule of construction that, in the event of an ambiguity in respect of a term or terms of an agreement, such term or terms shall be interpreted against the Party responsible for drafting or preparing them, shall not apply.

1.6 References to a **"day"** shall be to any calendar day. Where any number of days or Business Days is prescribed in this Agreement to be before, or after a date, or within a set number of days of a date, the period will be calculated by excluding the reference date and including the date at the end of the set number of days from such reference date unless (in the case of days after a stated date) the last day falls on a day not being a Business Day, in which event the last day shall be the next succeeding Business Day.

1.7 Unless stated otherwise, a reference in this Agreement to any person shall be a reference to such person's permitted successors in title, transferee, cessionary and/or delegatee.

1.8 The expiration or termination of this Agreement shall not affect such of the provisions of this Agreement which are expressly provided to operate after any such expiration or termination,

or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the relevant provisions themselves do not provide for this.

1.9 Unless stated otherwise, where any reference is made in this Agreement to the consent or agreement of, or election by, any Party, such consent, agreement or election may, for the avoidance of doubt, be made, given or withheld, conditionally or unconditionally, in the relevant Party's sole and absolute discretion.

1.10 Any references in this Agreement to the Empowerment Requirements and/or the "requirements" of or under the BEE Legislation shall, in addition to any mandatory obligations thereunder, include:

1.10.1 any matter, fact or circumstance which is measured or evaluated thereunder, and the target set in respect of such matter, fact or circumstance, whether or not such target or measurement criteria are mandatory under law; and

1.10.2 any matter, fact or circumstance which may result in a right or benefit being withdrawn or detrimentally varied or not being granted and/or may result in a significant liability being imposed,

in each case in relation solely to the ownership, economic interest and/or control elements by Black People under the BEE Legislation and such requirements shall be considered to be satisfied or met or complied with in relation to the matters, facts or circumstances referred to in clause 1.10.1 only if the measurement or evaluation return or result in an outcome which is the maximum favourable outcome which can apply to such category of matters, facts or circumstances (and, accordingly, meets in full any target set therefor), but excluding any bonus points, and shall be considered to be satisfied or met or complied with in relation to the matters, facts or circumstances referred to in clause 1.10.2 only if the relevant right or benefit is granted in full, without qualification or penalty, is not withdrawn or detrimentally varied, and if no significant liability is imposed.

1.11 References to "control" (without capitalisations) shall include any manner by which the business or affairs of a company or entity may be directed, in whole or in part (including where such part is capable, when aggregated with the rights of other persons, of conferring effective control (eg securities carrying voting rights)), and includes through the exercise of rights under an agreement, the exercise of rights as a holder of securities and the right to appoint persons who (alone or together with other persons) have the authority or power to direct the business or affairs of the company or entity.

2. Introduction

2.1 MTN wishes to implement the New Empowerment Transaction, being part of the BEE ownership initiative in furtherance of its empowerment objectives in respect of the MTN SA Group.

2.2 This empowerment strategy involves, *inter alia*, BIC2 (a Black Company) being afforded the opportunity to subscribe for MTN Shares representing up to approximately 4% of the diluted issued share capital of MTN.

2.3 It is an imperative of the New Empowerment Transaction that BIC2 qualifies as a Black Company and that, at all times during the BIC2 Empowerment Compliance Period, it remains a Black Company.

2.4 This Agreement accordingly records the terms and conditions agreed between MTN and BIC2, and the BIC2 Shareholders who become Parties hereto, to give effect to the objectives stated above and matters ancillary thereto.

3. Suspensive Condition

3.1 The rights and obligations of the Parties under this Agreement (other than those rights and obligations set out in clause 1, this clause 3 and in clauses 24 to 26 which shall be of full force and effect and unconditional on and with effect from the Signature Date) shall be subject to and suspensively conditional upon the Effective Date occurring by no later than 25 November 2016 (or such later date/s as MTN may specify in writing from time to time).

3.2 The Suspensive Condition is for the benefit of both MTN and BIC2, and may be waived in writing, in whole or in part, jointly by MTN and BIC2 (such waiver to be binding on all Parties). In addition, MTN and BIC2 may jointly, in writing, and from time to time extend the period for the fulfilment of the Suspensive Condition to an agreed date (such extension to be binding on all Parties).

3.3 If the Suspensive Condition is not timeously fulfilled (and fulfilment thereof is not waived in terms of clause 3.2), this Agreement (save for the provisions of clauses 1, this clause 3 and in clauses 24 to 26, which rights and obligations shall continue to be of full force and effect) shall never become effective and the Parties shall restore to one another any performance which they may have rendered or received under this Agreement. No Party shall have any claim against any of the others under this Agreement as a result of the failure of the Suspensive Condition, except for such claims, if any, as may arise from the provisions of clause 1, this clause 3 and in clauses 24 to 26.

4. Duration

This Agreement shall commence on the Effective Date and endure until the end of the BIC2 Empowerment Compliance Period, on which date all of the ongoing rights and obligations of the Parties pursuant to this Agreement shall expire, without prejudice to any of the accrued rights and/or obligations of any of the Parties hereunder.

PART 2: MTN SHAREHOLDER PROVISIONS

5. MTN Shares certificates

Save to the extent as may otherwise be required under the BEE Transaction Documents to which BIC2 is a party (including in particular the Finance Documents to which BIC2 is a party), the MTN Shares held by BIC2 shall be held in certificated form and the relevant share certificates in respect thereof shall be retained and held by MTN (or its nominees or agents) on behalf of BIC2. Such share certificates shall only be released, if necessary, for the purposes of implementing any transfer permitted in terms of this Agreement and/or required under the BEE Transaction Documents on the basis that once such transfer is implemented, all share certificates in respect of the remaining MTN Shares after such transfer are retained and held by MTN (or its relevant nominees or agents).

PART 3: EMPOWERMENT PROVISIONS

6. General undertakings by BIC2

6.1 BIC2 irrevocably and unconditionally undertakes, during the BIC2 Empowerment Compliance Period (to the extent that and for so long as it holds any MTN Shares or any other form of equity interest, directly or indirectly, in the MTN SA Group), to MTN that – save as MTN may otherwise permit by prior written consent – it shall:

6.1.1 comply in all respects with the provisions of this Agreement and the BEE Transaction Documents to which it is a party;

- 6.1.2 not issue or permit the transfer of any BIC2 Ordinary Shares or beneficial interest therein to any person, whether pursuant to the BIC2 Public Offer, the MTN Zakhele Unwinding Scheme or otherwise, unless such person agrees to be bound by the provisions of this Agreement and the BIC2 Constitutional Documents, in such capacity, in a form and on terms to the reasonable satisfaction of MTN, or to an Approved Nominee of such person;
- 6.1.3 not issue or permit the transfer of any BIC2 Ordinary Shares or beneficial interest therein, whether pursuant to the BIC2 Public Offer, the MTN Zakhele Unwinding Scheme or otherwise, other than (i) to Black Participants or (ii) an Approved Nominee;
- 6.1.4 be a Black Company on the Effective Date;
- 6.1.5 not cease to be a Black Company at any time during the BIC2 Empowerment Compliance Period;
- 6.1.6 subject to the provisions of this Agreement and the BEE Transaction Documents to which it is a party, at all times during the BIC2 Empowerment Compliance Period procure that:
- 6.1.6.1 (save for the limited exceptions temporarily permitted in clauses 9 and 10) the beneficial interests in all BIC2 Ordinary Shares shall be owned by Black Participants;
- 6.1.6.2 (save for the limited exceptions temporarily permitted in clauses 9 and 10) the majority of all of the voting rights in BIC2 shall be exercisable, directly or indirectly by Black People; and
- 6.1.6.3 in excess of 50% of the directors of BIC2 (who shall be entitled to in excess of 50% of the voting rights of directors at meetings of the BIC2 Board) shall be Black People;
- 6.1.6.4 no Nominee shall hold BIC2 Ordinary Shares other than a Permitted Nominee for an on behalf of a Beneficial Holder who is a Black Participant;
- 6.1.7 co-operate with MTN and to take such steps as are reasonably open to it to procure and/or enforce compliance by the BIC2 Shareholders of their obligations under this Agreement and the BIC2 Constitutional Documents;
- 6.1.8 procure and hereby warrants that:
- 6.1.8.1 during the BIC2 Empowerment Compliance Period, the BIC2 Ordinary Shares shall only be transferable by and transferred to Eligible BIC2 Shareholders as provided for in this Agreement; and
- 6.1.8.2 during the BEE Listing Period, (i) Certificated BIC2 Ordinary Shares and the beneficial interests therein shall only be transferable by and transferred to Verified BIC2 Shareholders as provided for in this Agreement and (ii) Uncertificated BIC2 Ordinary Shares and the beneficial interests therein shall only be transferable by and transferred to Verified BIC2 Shareholders or Approved Nominees as provided for in this Agreement;
- 6.1.9 not apply for or take steps to secure, or do anything which would have the effect of or result in, BIC2 being wound up (voluntarily or involuntarily) or being de-registered or being subject to any business rescue provisions or otherwise ceasing to be a juristic entity and having control over its business and affairs;

- 6.1.10 not register the transfer of any BIC2 Ordinary Shares or beneficial interest therein, and shall procure that no such transfer is registered, unless:
- 6.1.10.1 subject to the provisions of clause 6.1.10.2 below, during the BIC2 Empowerment Compliance Period, such transfer is to an Eligible BIC2 Shareholder; or
- 6.1.10.2 during the BEE Listing Period, any transfer of (i) Certificated BIC2 Ordinary Shares and/or beneficial interests therein is to a Verified BIC2 Shareholder and (ii) Uncertificated BIC2 Ordinary Shares and/or beneficial interests therein is to a Verified BIC2 Shareholder or to an Approved Nominee on behalf of a Verified BIC2 Shareholder; and
- 6.1.10.3 unless such transfer is permitted in accordance with the provisions of clauses 8, 9, 10, 11 and/or 14;
- 6.1.10.4 the relevant transferee Beneficial Holder has agreed to be bound by the terms of this Agreement and the BIC2 Constitutional Documents by executing a Deed of Adherence and has executed and delivered such Deed of Adherence to BIC2's company secretary (or is otherwise so bound in a form and on terms to the reasonable satisfaction of MTN); and
- 6.1.10.5 in respect of a transfer to a Nominee Holder, such person is an Approved Nominee;
- 6.1.11 not permit any director to be appointed to the BIC2 Board if:
- 6.1.11.1 as a result of such appointment the majority of the directors on the BIC2 Board are not Black People; or
- 6.1.11.2 immediately prior to such appointment the minority of the directors on the BIC2 Board are Black People, unless such director is himself a Black Person,
- and BIC2 accordingly undertakes that it will not give effect to any agreement or exercise any right in terms of any such agreement that permits the appointment of directors to the BIC2 Board otherwise than in accordance with the foregoing;
- 6.1.12 not do or omit to do anything and will not permit anything to be done, directly or indirectly, which would negate any one or more or all of the undertakings given by it in this Agreement;
- 6.1.13 comply with the Ring Fencing Provisions and procure that, for so long as such provisions apply to BIC2, and to the maximum extent permitted by applicable law and in a manner consistent with the terms of the Finance Documents to which BIC2 is a party, the BIC2 Constitutional Documents shall incorporate the Ring Fencing Provisions and such other provisions of this Agreement as may be required to be included in the BIC2 Constitutional Documents from time to time, and that the powers of BIC2 will be limited accordingly;
- 6.1.14 procure that the BIC2 Constitutional Documents (as applicable) shall contain *inter alia* the undertakings set out in clauses 6 and 7, as well as the provisions set out in clauses 8, 9, 10, 11, 12, 13, 14, 15, 16, 19, 20, 21, 22 and, in so far as such clause relates to the foregoing provisions inserted into the BIC2 Constitutional Documents, clause 24;
- 6.1.15 procure that, save for changes required under and made pursuant to clause 17, the provisions of the BIC2 Constitutional Documents will not be changed without the prior written consent of MTN having been obtained (which consent shall not be unreasonably

withheld or delayed – it being agreed that MTN's consent shall not be regarded as being unreasonably withheld or delayed if the proposed change will, or in MTN's opinion are reasonably expected to, negatively affect MTN's compliance with the Empowerment Requirements (including its BEE rating thereunder) and/or or will negatively affect the BEE Status of BIC2 under the BEE Legislation); and

6.1.16 provide such documents and other evidence as may reasonably be requested by MTN from time to time to prove to MTN BIC2's compliance with its undertakings in this Agreement, if proof is so required by MTN, and as and when so required from time to time.

6.2 The provisions of this clause 6 shall not serve to limit or restrict, and shall not be breached by, anything done or not under or in connection with clauses 13 and/or 14.

7. BIC2 Shareholder undertakings

7.1 Each BIC2 Shareholder (other than the Warehousing BIC2 Shareholders) irrevocably and unconditionally undertakes in favour of each of MTN and BIC2 that (save with MTN's prior written consent):

7.1.1 during the BIC2 Empowerment Compliance Period, it shall not Dispose of or Encumber its BIC2 Ordinary Shares or any beneficial interest therein other than as is consistent with or permitted under clauses 8, 9 or 10;

7.1.2 in respect of any permitted transfer of BIC2 Ordinary Shares or any beneficial interest therein, it shall, save in respect of any transfer effected in accordance with the BEE Listing Terms and Conditions on the exchange in respect of which the BEE Listing occurs:

7.1.2.1 co-operate fully with the ESTC, the Transfer Secretaries or the BIC2 Verification Agent (as applicable) in respect of such transfer;

7.1.2.2 thoroughly check that the transferee Beneficial Holder is, and at the time of transfer will be, an Eligible BIC2 Shareholder or a Verified BIC2 Shareholder (as applicable, as contemplated under clause 6.1.8 above);

7.1.2.3 ensure that the relevant transferee Beneficial Holder has agreed to be bound by the terms of this Agreement and the BIC2 Constitutional Documents by executing a Deed of Adherence (or otherwise is bound in a form and on terms to the reasonable satisfaction of MTN); and

7.1.2.4 where applicable, that any transferee's Nominee Holder is an Approved Nominee;

7.1.3 if it is a Black Group, during the BIC2 Shareholder Minimum Investment Period:

7.1.3.1 in respect of BIC2 Ordinary Shares acquired by it under the BIC2 Public Offer and/or pursuant to the MTN Zakhele Unwinding Scheme (as applicable), it shall remain a Black Group and shall maintain its BEE Status at not less than the level set out in its application for such shares under the BIC2 Public Offer or, in the case of an acquisition pursuant to the MTN Zakhele Unwinding Scheme, not less than the level of its BEE Status at the 'operative date' of the MTN Zakhele Unwinding Scheme (as such term is defined in the MTN Zakhele Scheme Circular);

7.1.3.2 in respect of BIC2 Ordinary Shares acquired by it subsequent to the BIC2 Public Offer and/or the MTN Zakhele Unwinding Scheme (as applicable), it shall maintain

its BEE Status at not less than the level pursuant to which it secured the approval of the ESTC for such acquisition;

7.1.4 if it is a Black Group, upon the conclusion of the BIC2 Shareholder Minimum Investment Period and for the remainder of the BIC2 Empowerment Compliance Period, it shall continue to qualify as a Black Group;

7.1.5 it will immediately notify MTN and BIC2 of any Call Event in respect of itself (or of any matter, fact, event or circumstances which, following the giving of notice and no further steps being taken by the recipient of the notice, will give rise to a Call Event in respect of itself);

7.1.6 it will not (i) perform any act or refrain from performing any act within its power or control or of which it is capable; or (ii) attempt to procure or propose (other than where it is specifically required by law or by a court of law to so procure or propose), any resolution; or (iii) exercise any right as BIC2 Shareholder in any way; or (iv) enter into any arrangement, transaction or agreement; or (v) otherwise take any action whatsoever or procure the taking of any actions, which (alone or taken together with the acts, omissions or votes of any other person) will or is reasonably likely to (or which, following the giving of notice and no further steps being taken by the recipient of the notice, will or is reasonably likely to) result in BIC2 breaching the provisions of this Agreement;

7.1.7 it will not vote in favour of, and will vote against, any resolution which may be proposed to remove the directors appointed to the BIC2 Board by MTN under clause 15, unless such resolution is consented to by MTN in writing; and

7.1.8 it will, where so requested by MTN or BIC2, exercise such rights as it has as a BIC2 Shareholder to vote in favour of any resolution or take such other action as will itself (or with such other affirmative votes and/or actions by other BIC2 Shareholders) as may be necessary or reasonably required to procure that the provisions of this Agreement are complied with by BIC2.

7.2 Each BIC2 Shareholder (other than the Warehousing BIC2 Shareholders) agrees in favour of MTN and BIC2 that MTN (for itself and any member of the MTN SA Group) and/or BIC2 shall be entitled from time to time (and at least once in every calendar year) in their sole discretion during the BIC2 Empowerment Compliance Period to:

7.2.1 request in writing any BIC2 Shareholder to provide it with all information and documents reasonably requested by BIC2 and/or MTN (or other member of the MTN SA Group) pertaining to such BIC2 Shareholder to enable it to determine and officially obtain and/or maintain its BEE Status under the BEE Legislation and/or its compliance with the Empowerment Requirements; and/or

7.2.2 request in writing each BIC2 Shareholder to confirm, formally in writing, its continuing compliance with its obligations under this Agreement and the BIC2 Constitutional Documents; and/or

7.2.3 request in writing the preparation and issue by an accredited or approved BEE rating agency (or another suitable person) nominated by MTN from time to time of a certificate ('BEE Ownership Certificate of Compliance') recording any or all of the following (as may be requested):

7.2.3.1 the identity and Composition of the Effective Participants in such BIC2 Shareholder and the Composition of its board of directors, board of trustees or analogous body; and/or

7.2.3.2 whether or not the BIC2 Shareholder qualifies as a Black Person or Black Group; and/or

7.2.3.3 the BEE Status of the BIC2 Shareholder; and/or

7.2.3.4 any other matter pertaining to such BIC2 Shareholder relevant to an assessment by MTN and/or BIC2 and/or members of the MTN SA Group of its or their compliance with the Empowerment Requirements,

and undertakes to comply fully with such request within 45 days thereof.

7.3 For the avoidance of doubt, the costs to a BIC2 Shareholder of complying with its obligations under this clause 7 shall be for its own account.

8. Restriction on Disposal or Encumbrance of BIC2 Ordinary Shares

8.1 General

8.1.1 Subject to clause 8.1.2, the Parties agree that, during the BIC2 Empowerment Compliance Period and for purposes of ensuring compliance with this Agreement while at the same time facilitating the BEE Listing and consequent future trading in BIC2 Ordinary Shares pursuant thereto, unless otherwise agreed between MTN and BIC2:

8.1.1.1 BIC2 shall issue the BIC2 Ordinary Shares to BIC2 Shareholders, whether pursuant to the BIC2 Public Offer and/or the MTN Zakhele Unwinding Scheme, in uncertificated form, to be held in accordance with the provisions of this clause 8.1.1;

8.1.1.2 all BIC2 Ordinary Shares shall be held as Uncertificated BIC2 Ordinary Shares in the name of a Nominee approved by MTN and appointed by BIC2 ("the Custodian") to act as the registered Nominee Holder, holding such Uncertificated BIC2 Ordinary Shares for and on behalf of each BIC2 Shareholder who will be the Beneficial Holder thereof. Each BIC2 Shareholder agrees to be bound by the provisions of the Strate Rules and Directives, as well as any applicable custody/mandate arrangement with the Custodian (to the extent that they relate to them (save that they shall not be liable for the fees of the Custodian in respect of the custodial role during the BIC2 Shareholder Minimum Investment Period)), in respect of his/her/its BIC2 Ordinary Shares;

8.1.1.3 if and to the extent that, for whatever reason, any BIC2 Ordinary Share is at any time held as either (i) a Certificated BIC2 Ordinary Share; or (ii) an Uncertificated BIC2 Ordinary Share with the registered holder being someone other than the Custodian, and the provisions of clause 8.1.1.2 still prevail (ie MTN and BIC2 have not agreed that BIC2 Ordinary Shares may be held otherwise than as Uncertificated BIC2 Ordinary Shares with the Custodian), then the relevant BIC2 Shareholder unconditionally undertakes and agrees that:

8.1.1.3.1 it shall, at MTN's election, either:

8.1.1.3.1.1 allow any Certificated BIC2 Ordinary Share to be dematerialised into an Uncertificated BIC2 Ordinary Share within 14 days of receipt of a written notice from MTN requesting that such BIC2 Ordinary Share be so dematerialised, and the relevant BIC2 Shareholder hereby unconditionally and irrevocably consents to, and authorises and instructs MTN and/or BIC2 to procure, the dematerialisation with such Uncertificated BIC2 Ordinary Share to be held in the name of a Nominee Holder appointed by BIC2 to act as the registered holder; or

8.1.1.3.1.2 deposit the share certificate in respect of any Certificated BIC2 Ordinary Share with the Custodian within 14 days of receipt of a written notice from MTN requesting that the share certificate for such BIC2 Ordinary Share be so deposited with the Custodian, who will retain such Certificated BIC2 Ordinary Share for so long as it is held in such form;

8.1.1.3.2 for so long as such BIC2 Ordinary Share is held in uncertificated form other than in the name of the Custodian, it shall only be deposited with a CSDP approved of by MTN, it being recorded that MTN shall require that such BIC2 Shareholder's mandate agreement with the relevant CSDP recognises the relevant terms and restrictions in respect of such BIC2 Ordinary Share as contained in this Agreement and the BIC2 Constitutional Documents; and

8.1.1.3.3 it shall not give any instructions to its CSDP which would constitute or result in a contravention of this Agreement or the BIC2 Constitutional Documents; and

8.1.1.4 a BIC2 Shareholder will, subject to clause 8.1.2, be entitled to rematerialise his/her/its Uncertificated BIC2 Ordinary Shares in accordance with section 49(6) read with section 54 of the Companies Act, whereupon his/her/its BIC2 Ordinary Shares will be held in certificated form subject to the principles recorded in clause 8.1.1.3.1.2;

8.1.2 During the BEE Listing Period, the BIC2 Ordinary Shares may be held as Certificated BIC2 Ordinary Shares or Uncertificated BIC2 Ordinary Shares; provided that:

8.1.2.1 if a BIC2 Ordinary Share is held as a Certificated BIC2 Ordinary Share, the share certificate in respect thereof shall be deposited with and retained by the Custodian for so long as it is held in such form; and

8.1.2.2 if a BIC2 Ordinary Share is held as an Uncertificated BIC2 Ordinary Share:

8.1.2.2.1 the relevant BIC2 Shareholder's mandate agreement with the person providing custody and administration services in respect of such Uncertificated BIC2 Ordinary Share (including any nominee or intermediary of such service provider) must be an Approved Nominee and shall accordingly be required to recognise the restrictions imposed upon the holding and/or transfer of such BIC2 Ordinary Share as contained in the Verification Terms and Conditions; and

8.1.2.2.2 the relevant BIC2 Shareholder shall not give any instruction to its broker or CSDP (or any nominee or intermediary thereof or Nominee Holder) which would constitute or result in a contravention of the provisions of the BEE Listing Terms and Conditions.

8.1.3 For the avoidance of doubt, should the BEE Listing be terminated for whatsoever reason at any time during the BIC2 Empowerment Compliance Period, the provisions of clause 8.1.2 shall cease to apply and the provisions of clause 8.1.1 shall thereupon again apply for the remainder of the BIC2 Empowerment Compliance Period.

8.2 During the BIC2 Shareholder Minimum Investment Period

Save and only to the limited extent permitted under clauses 9, 10, 11 and 14, no BIC2 Shareholder (other than the Warehousing BIC2 Shareholders) shall at any time during the BIC2 Shareholder Minimum Investment Period Dispose of or Encumber any BIC2 Ordinary Share held by it or any beneficial interest therein, or otherwise cease to be the Beneficial Holder thereof.

8.3 After the BIC2 Shareholder Minimum Investment Period

8.3.1 In acknowledgement and furtherance of the MTN SA Group's imperative to procure and maintain an optimal BEE rating under the BEE Legislation, each of the BIC2 Shareholders (other than the Warehousing BIC2 Shareholders) agree and undertake in favour of MTN that, upon the conclusion of the BIC2 Shareholder Minimum Investment Period and for the remainder of the BIC2 Empowerment Compliance Period, save and only to the limited extent permitted under clauses 9, 10, 11 and 14, (i) it shall not Encumber any BIC2 Ordinary Share (or beneficial interest therein) held by it; and (ii) it shall not Dispose of any BIC2 Ordinary Shares (or beneficial interest therein) other than to Eligible BIC2 Shareholders or Verified BIC2 Shareholders (as applicable) in accordance with the provisions of this clause 8.3, and BIC2 undertakes not to accept and register the transfer of any BIC2 Ordinary Shares (or beneficial interest therein) in contravention of any provision of this clause 8.3.

8.3.2 BIC2 shall use its good faith endeavours (but otherwise without any liability or obligation) to procure the BEE Listing on and from the end of the BIC Shareholder Minimum Investment Period for the purpose of facilitating trading in BIC2 Ordinary Shares, subject at all times to the restrictions imposed upon the transfer of ownership of and/or beneficial interests in such shares in terms of this Agreement and the BIC2 Constitutional Documents.

8.3.3 After the BIC2 Shareholder Minimum Investment Period, subject to clauses 9, 10, 11 and 14:

8.3.3.1 subject to clause 8.3.3.3 below, during the BIC2 Empowerment Compliance Period, only Eligible BIC2 Shareholders may be Beneficial Holders of BIC2 Ordinary Shares and only Approved Nominees may be Nominee Holders of BIC2 Ordinary Shares, and no transfer of any beneficial interest or nominee holding shall be permitted unless such transfer has first been approved in writing by either MTN or the ESTC (which approval shall not be unreasonably withheld or delayed) pursuant to its consideration of any proposed transfer and subject to its verification of the BEE Status of the proposed transferee;

8.3.3.2 MTN may, or the ESTC may, acting reasonably, at any time withdraw the BEE Verification status of any Person, on notice to such Person, whereupon such Person shall cease to be classified as an Eligible BIC2 Shareholder and/or Verified BIC2 Shareholder, as the case may be;

8.3.3.3 during the BEE Listing Period, only Verified BIC2 Shareholders may be Beneficial Holders of BIC2 Ordinary Shares (and any holding in conflict with this will accordingly breach this provision) and only Approved Nominees may be Nominee Holders of BIC2 Ordinary Shares, and no Disposal may be effected inconsistent with this provision.

8.3.4 Subject to clause 8.3.5, during the BIC2 Empowerment Compliance Period:

8.3.4.1 the ESTC shall consider and approve or decline any proposed transfer pursuant to a Disposal of BIC2 Ordinary Shares (or beneficial interests therein), and shall accordingly regulate, or procure the regulation of, the registration of any such transfer. The exact identity and/or composition of the ESTC shall be determined by MTN from time to time. (If for any reason, and for so long as, the ESTC is not or ceases to be constituted, the rights and obligations of the ESTC shall be fulfilled by BIC2, or any Person appointed by it on its behalf);

8.3.4.2 all proposed transfers of BIC2 Ordinary Shares (including a change in beneficial interests), must therefore be submitted to the ESTC for consideration together with

such supporting documentation in respect of the proposed transferee as is reasonably required by the ESTC from time to time, and which initially includes the following:

8.3.4.2.1 in respect of individuals, a copy of the proposed transferee's identity document, proof of residence and an affidavit signed by the proposed transferee confirming that the proposed transferee is a Black Person, and any other such document as may reasonably be required by the ESTC;

8.3.4.2.2 in respect of Black Companies, a certified copy of their latest BEE Status certification being no older than 12 months (issued by a BEE rating or verification agency acceptable to MTN in its sole and absolute discretion), a certified copy of their memorandum of incorporation, a certified copy of their securities register, and any other such document as may reasonably be required by the ESTC; and

8.3.4.2.3 in respect of Black Entities, a certified copy of any applicable constitutional or other such document, a certified copy of any rules or regulations governing the operations and management of such entity, certified copies of the identity documents of the trustees or representatives of the governing body of such entity (if any), and any other such documents as may reasonably be required by the ESTC;

8.3.4.3 in considering any proposed transfer of BIC2 Ordinary Shares (including a change in beneficial interests), the ESTC shall, for the purposes of ascertaining the BEE Status of any proposed transferee (and/or its impact thereon on the compliance by the MTN SA Group with the Empowerment Requirements) or other relevant matter under this Agreement, be entitled in addition to requesting any such additional documents as may be necessary to ascertain such BEE Status, to request that such transferee (at its own expense) provide a BEE Ownership Certificate of Compliance (*mutatis mutandis* as contemplated in clause 7.2.3);

8.3.4.4 all proposed transfers of BIC2 Ordinary Shares (including a change in beneficial interests) shall be considered by the ESTC as soon as reasonably possible in the circumstances subsequent to being lodged with the ESTC;

8.3.4.5 the ESTC may make any further requirements and stipulations from time to time in respect of the consideration and verification of the transfer of BIC2 Ordinary Shares (including a change in beneficial interests), and associated approvals process, as it reasonably deems fit, with the prior written approval of MTN. Without derogating from the ESTC's general discretion to regulate the approvals process and to amend the requirements and stipulations from time to time, and/or to call for and require additional information, whether generally or in relation to a specific transfer or class of transfers, the ESTC will take reasonable steps to make the relevant requirements available for inspection by BIC2 Shareholders at the registered offices of BIC2 (or such other location/s in South Africa as the ESTC may determine from time to time) and electronically on a website designated for such purpose by the ESTC. Notwithstanding the foregoing, BIC2 Shareholders remain responsible for ascertaining the requirements and stipulations which apply to them and to any proposed transfer by them; and

8.3.4.6 If the ESTC is satisfied that the provisions of this Agreement and the BIC2 Constitutional Documents have been complied with, it shall approve the transfer.

8.3.5 During the BEE Listing Period:

8.3.5.1

the Disposal of BIC2 Ordinary Shares (and beneficial interests therein) shall be subject to the provisions of this Agreement, the BIC2 Constitutional Documents and the Verification Terms and Conditions. The BIC2 Verification Agent shall accordingly conduct BEE Verification in respect of each Beneficial Holder (and proposed Beneficial Holder) of BIC2 Ordinary Shares;

8.3.5.2

In conducting BEE Verification, the BIC2 Verification Agent shall, for the purposes of ascertaining the BEE Status of any proposed transferee (and/or its impact thereon on the compliance by the MTN SA Group with the Empowerment Requirements) or other relevant matter under this Agreement, be entitled in addition to requesting any such additional documents as may be necessary to ascertain such BEE Status, to request that such transferee (at its own expense) provide a BEE Ownership Certificate of Compliance (*mutatis mutandis* as contemplated in clause 7.2.3). The BIC2 Verification Agent may, on the instruction of MTN, make any further requirements and stipulations from time to time in respect of the BEE Verification process and/or any BIC2 Verified Shareholder. The BIC2 Verification Agent will take reasonable steps to make the relevant requirements for BEE Verification available for inspection at the registered offices of BIC2 (or such other location/s in South Africa as the ESTC may determine from time to time) and electronically on a website designated for such purpose by the ESTC. Notwithstanding the foregoing, BIC2 Shareholders (and proposed BIC2 Shareholders) remain responsible for ascertaining the requirements and stipulations which apply to them under this Agreement, the BIC2 Constitutional Documents and the Verification Terms and Conditions, and to any proposed transfer by them (including the requirements for BEE Verification).

8.3.6

No BIC2 Ordinary Shares (or beneficial interest therein) shall be approved for transfer or transferred where, in the good faith opinion of MTN, the ESTC or their relevant nominees, delegates or agents, such transfer will or might or is reasonably likely to result in a breach of any of the provisions of this Agreement, the BIC2 Constitutional Documents and/or the Verification Terms and Conditions.

8.3.7

To the maximum extent permitted in law, neither MTN nor the ESTC, nor any of its or their directors, officers, employees, nominees, delegates and or agents, shall be liable to BIC2 and/or any of the BIC2 Shareholders for any direct, indirect, extrinsic, special, penal, punitive, exemplary or consequential loss or damage of any kind whatsoever or howsoever caused, arising as a result of any act or omission (including any negligent act or omission) on the part of MTN or the ESTC (or, as the case may be, its or their directors, officers, employees, nominees, delegates and or agents), and any such claims are hereby waived.

8.3.8

To the extent that at any time during the BIC2 Empowerment Compliance Period, and for whatever reason (whether intentionally, negligently or accidentally), and for so long as any BIC2 Ordinary Share (or beneficial interest therein) is transferred to or held by any Person as Beneficial Holder who is not an Eligible BIC2 Shareholder or a Verified BIC2 Shareholder (as the case may be) and/or to any Nominee Holder who is not an Approved Nominee ("**the Non-qualifying Holder**"), such BIC2 Ordinary Share shall, unless MTN expressly permits otherwise in writing, result in such Non-qualifying Holder being deemed, on the date on which such BIC2 Ordinary Share (or beneficial interest therein) was transferred to or so held by such Non-qualifying Holder:

8.3.8.1

to have ceded to MTN or its nominee/s all rights to any dividend, distribution, or payment or other economic benefit by virtue of the holding of that BIC2 Ordinary Share; and

8.3.8.2

to have ceded to MTN or its nominee/s any voting rights attaching to such BIC2 Ordinary Share pursuant to this Agreement or the BIC2 Constitutional Documents

and to have irrevocably appointed MTN or its nominee as proxy for the exercise of such voting rights.

8.3.9 For the avoidance of doubt, neither the ESTC nor the BIC2 Verification Agent will be required to approve, verify or confirm the transfer of BIC2 Ordinary Shares to a Warehousing BIC2 Shareholder approved by MTN.

8.3.10 The reasonable costs and disbursements of the ESTC shall be borne by BIC2.

8.3.11 Where the ESTC is a third party (ie a person other than a member of the MTN Group (or committee or sub-committee appointed by such member), MTN will consult with BIC2 prior to making the appointment.

9. Death

9.1 Death of a Black Person

9.1.1 In the event of the death during the BIC2 Empowerment Compliance Period of a BIC2 Shareholder who is a Black Person, the executor of the deceased BIC2 Shareholder's estate shall be entitled to transfer the relevant BIC2 Ordinary Shares to such BIC2 Shareholder's heir, provided that such person is an Eligible BIC2 Shareholder (as approved by the ESTC *mutatis mutandis* under clause 8.3) or a Verified BIC2 Shareholder (as the case may be), as contemplated under clause 6.1.8 above.

9.1.2 If the heir is not an Eligible BIC2 Shareholder or a Verified BIC2 Shareholder (as the case may be), the heir and/or the executor shall be permitted (and obligated) to transfer the relevant BIC2 Ordinary Shares to an Eligible BIC2 Shareholder (as approved by the ESTC *mutatis mutandis* under clause 8.3) or a Verified BIC2 Shareholder (as the case may be) within a period of 120 days from the date of death.

9.1.3 In the event that the deceased BIC2 Shareholder's executor fails to comply with the provisions of clause 9.1.2, a Call Event shall arise and the provisions of clause 11 shall apply.

9.2 Death of a member of a Black Group

9.2.1 In the event of the death of a shareholder, member, participant and/or beneficiary of a BIC2 Shareholder which held BIC2 Ordinary Shares as a Black Group, as a result of which:

9.2.1.1 during the BIC2 Shareholder Minimum Investment Period, the BIC2 Shareholder fails to maintain its BEE Status or no longer qualifies as a Black Group; or

9.2.1.2 after the BIC2 Shareholder Minimum Investment Period, but during the BIC2 Empowerment Compliance Period, the BIC2 Shareholder no longer qualifies as a Black Group,

then,

9.2.1.3 the BIC2 Shareholder shall have a period of 120 days to remedy the breach caused by such death or to transfer the BIC2 Ordinary Shares held by it to an Eligible BIC2 Shareholder (as approved by the ESTC *mutatis mutandis* under clause 8.3) or a Verified BIC2 Shareholder (as the case may be), as contemplated under clause 6.1.8 above.

9.2.2 In the event that the BIC2 Shareholder fails to comply with the provisions of clause 9.2.1.3 or the breach caused by the death has not otherwise been remedied within 120 days from the date of the death in question, a Call Event shall arise and the provisions of clause 11 shall apply.

10. Involuntary sequestration/liquidation

10.1 Involuntary sequestration of a Black Person

10.1.1 In the event of a BIC2 Shareholder who is a Black Person being involuntarily sequestrated (whether provisionally or finally) during the BIC2 Empowerment Compliance Period, the BIC2 Ordinary Shares held by such sequestrated BIC2 Shareholder shall be permitted and required to be transferred by the BIC2 Shareholder and/or the trustee of such BIC2 Shareholder's estate to an Eligible BIC2 Shareholder (as approved by the ESTC *mutatis mutandis* under clause 8.3) or a Verified BIC2 Shareholder (as the case may be), as contemplated under clause 6.1.8 above, within a period of 120 days from the date of provisional or final sequestration (whichever is the earlier), unless the sequestration order is set aside within such 120 day period.

10.1.2 In the event that the BIC2 Shareholder and/or the sequestrated BIC2 Shareholder's trustee fails to comply with the provisions of clause 10.1.1, a Call Event shall arise and the provisions of clause 11 shall apply. The application by a Black Person for voluntary sequestration shall be a breach of clause 7.1.6.

10.2 Involuntary liquidation of a Black Group

10.2.1 In the event that a BIC2 Shareholder which held BIC2 Ordinary Shares as a Black Group is involuntarily liquidated (whether provisionally or finally) and as a result of which:

10.2.1.1 during the BIC2 Shareholder Minimum Investment Period, it fails to maintain its BEE Status or no longer qualifies as a Black Group, as the case may be; or

10.2.1.2 after the BIC2 Shareholder Minimum Investment Period, but during the BIC2 Empowerment Compliance Period, it no longer qualifies as a Black Group, then,

10.2.1.3 the BIC2 Shareholder (and/or its liquidator) shall have a period of 120 days to remedy the breach caused by such events or to transfer the BIC2 Ordinary Shares held by it to an Eligible BIC2 Shareholder (as approved by the ESTC *mutatis mutandis* under clause 8.3) or a Verified BIC2 Shareholder (as the case may be), as contemplated under clause 6.1.8 above, unless the liquidation order is set aside within such 120 day period.

10.2.2 In the event that the BIC2 Shareholder and/or its liquidator fails to comply with the provisions of clause 10.2.1.3, a Call Event shall arise and the provisions of clause 11 shall apply. The passing of a resolution for the voluntary winding-up or deregistration of a Black Group shall be a breach of clause 7.1.6.

11. Call Option in favour of MTN

11.1 A "Call Event" shall arise in respect of a BIC2 Shareholder (for the avoidance of doubt excluding any Warehousing BIC2 Shareholder) if, at any time prior to the end of the BIC2 Empowerment Compliance Period, the circumstances set out in clauses 9.1.3, 9.2.2, 10.1.2, 10.2.2 and/or 21.3.2 occur and/or if the BIC2 Shareholder:

11.1.1 has misrepresented or misstated its/his/her BEE Status; or

11.1.2 has made a fraudulent, untrue or inaccurate statement in the application form submitted to BIC2 in terms of the BIC2 Public Offer or in any supporting documents, or if any information contained in the application from submitted to BIC2 in terms of the BIC2 Public Offer cannot be verified to MTN's satisfaction; or

11.1.3 has made or given a fraudulent, untrue or inaccurate confirmation or representation in connection with the election to acquire BIC2 Shares under the MTN Zakhele Unwinding Scheme, or its relevant information (including as to BEE Status) cannot be verified to MTN's satisfaction; or

11.1.4 has made a fraudulent, untrue or inaccurate statement in respect of any transfer or proposed transfer of BIC2 Ordinary Shares (or beneficial interest therein), or in any documents supporting such transfer or proposed transfer, or in any information provided to the ESTC, the BIC2 Verification Agent and/or any other service provider in respect of any transfer of BIC2 Ordinary Shares (or beneficial interest therein) to such BIC2 Shareholder cannot thereafter be verified to MTN's satisfaction;

11.1.5 has made a fraudulent, untrue or inaccurate statement in respect of any other documentation or information submitted to MTN, BIC2, the ESTC, the BIC2 Verification Agent and/or any other service provider, including but not limited to the information provided under clauses 7.2 and 19, or any such information cannot be verified to MTN's satisfaction; or

11.1.6 commits an act, or there arises an event or circumstance (howsoever arising), constituting or resulting in a breach by or in respect of such BIC2 Shareholder (and/or the BIC2 Ordinary Shares and/or beneficial interests held by it) of any of clauses 7, 8, 9, 10, 13.1, 16, 17, 19, 20 and/or 21 of this Agreement, and fails to remedy any such breach within the time period (if any) provided in the relevant clause or, if no such express remedy period is provided, within 30 days of receiving written notice from MTN or BIC2 to do so (or such additional period as MTN may agree to in writing).

11.2 If and for so long as the Call Event persists, MTN shall be entitled, but not obliged, by giving written notice to the relevant BIC2 Shareholder (or its Nominee Holder, if applicable) to that effect ("**the Call Option Notice**"), to require such BIC2 Shareholder and/or Nominee Holder to sell to MTN all of its BIC2 Ordinary Shares (and/or beneficial interests therein, or such number thereof as MTN in its discretion may elect ("**the Call Shares**"), and the BIC2 Shareholder and/or Nominee Holder shall be obliged to sell the Call Shares, and BIC2 shall procure that the BIC2 Constitutional Documents contain such obligation to sell.

11.3 The sale of the relevant BIC2 Ordinary Shares shall be concluded on the following terms and conditions:

11.3.1 at MTN's sole election and as recorded in the Call Option Notice, the Call Shares shall be sold and transferred with effect from either the date the Call Event occurred or the date of the Call Option Notice ("**Call Trigger Date**");

11.3.2 the Call Shares shall be delivered and transferred (as further envisaged below) on the 2nd Business Day following the later of (a) the date on which the Call Option Notice is delivered to the BIC2 Shareholder or (b) the date of determination of the price therefor pursuant to clauses 11.3.3, 11.3.4, 11.3.5 and/or 11.3.6, as read with clause 12;

11.3.3 the purchase price of the Call Shares shall, if the Call Event is a breach of clause 9.1.3, be the Call Reference Price calculated as at or with reference to the Call Trigger Date;

- 11.3.4 the purchase price of the Call Shares shall, if the Call Event is a breach of clauses 9.2.2 or 10.1.2, be the Call Reference Price calculated as at or with reference to the Call Trigger Date discounted by 10%;
- 11.3.5 the purchase price of the Call Shares shall, if the Call Event is a breach of clause 10.2.2, be the Call Reference Price calculated as at or with reference to the Call Trigger Date discounted by 40%;
- 11.3.6 the purchase price of the Call Shares shall, if the Call Event is any event or circumstances other than those under clauses 9.1.3, 9.2.2, 10.1.2 or 10.2.2, be:
- 11.3.6.1 the Call Reference Price calculated as at or with reference to the Call Trigger Date discounted by 70%, if the Call Event occurs during the first two years following the Effective Date;
- 11.3.6.2 the Call Reference Price calculated as at or with reference to the Call Trigger Date discounted by 50%, if the Call Event occurs during the third or fourth years following the Effective Date; or
- 11.3.6.3 the Call Reference Price calculated as at or with reference to the Call Trigger Date discounted by 40%, if the Call Event occurs during the fifth or sixth years following the Effective Date; or
- 11.3.6.4 the Call Reference Price calculated as at or with reference to the Call Trigger Date discounted by 25%, if the Call Event occurs during the seventh or eighth years following the Effective Date;

provided that in each such case if the Call Event arises from a fraudulent act or wilful misrepresentation by or on behalf of the BIC2 Shareholder the purchase price will be the lesser of the price determined in this clause 11.3.6 and the price paid by the BIC2 Shareholder for the relevant Call Shares;

11.3.7 the purchase price shall be payable against delivery by the BIC2 Shareholder of the transfer form and share certificate/s in respect of the Call Shares if such shares are held as Certificated BIC2 Ordinary Shares, or against entry of such transfer being effected in the relevant account of the CSDP if such shares are held as Uncertificated BIC2 Ordinary Shares (as applicable). As regards Certificated BIC2 Ordinary Shares, for purposes of providing the share certificate/s to MTN, the BIC2 Shareholder shall, upon delivering a copy of the Call Option Notice to the Custodian, procure the release of its share certificate/s from the Custodian to MTN. If MTN has not received the requisite transfer form and share certificate/s within 3 days of the date of the Call Option Notice, or for any other reason the BIC2 Shareholder fails to effect transfer of the Call Shares to MTN within such 3 day period, MTN is irrevocably and *in rem* *suam* authorised and appointed as the BIC2 Shareholder's attorney and agent, to sign the necessary transfer forms and to take all such other steps as may be required to effect the transfer of the Call Shares to MTN. As regards Uncertificated BIC2 Ordinary Shares, for purposes of effecting transfer thereof to MTN, the BIC2 Shareholder shall promptly instruct its Nominee Holder/s, if any, or its CSDP (and any other relevant nominee or intermediary), as the case may be, to effect the required transfer. If such instruction has not been issued within 3 days of the date of the Call Option Notice, or for any other reason the BIC2 Shareholder fails to effect transfer of the Call Shares to MTN within such 3 day period, MTN is irrevocably and *in rem* *suam* authorised and appointed as the BIC2 Shareholder's attorney and agent to take all such steps as may be required to effect the transfer of the Call Shares to MTN;

11.3.8 the BIC2 Shareholder represents and warrants to MTN that, on transfer of the Call Shares, (i) MTN shall become the sole beneficial and registered owner of the Call

Shares; (ii) the Call Shares are not Encumbered; and (iii) no person has any right of any nature whatsoever to acquire the relevant Call Shares;

11.3.9 the Call Shares are transferred together with all rights and benefits attaching to them as from the Call Trigger Date; and

11.3.10 the securities transfer tax payable in respect of the registration of the transfer of the BIC2 Ordinary Shares sold in terms of this clause 11 shall be borne by MTN.

11.4 Notwithstanding the provisions of clauses 11.3.3, 11.3.4, 11.3.5 and 11.3.6, MTN shall be entitled, in its sole and absolute discretion, taking into account all relevant circumstances, to increase the price at which it shall acquire the Call Shares from the relevant BIC2 Shareholder.

11.5 MTN shall, on written notice to BIC2 from time to time, be entitled to (i) exercise its rights pursuant to this clause 11 through one or more nominees; and/or (ii) cede to any person all or any part of its rights and/or delegate any of its obligations pursuant to this clause 11 and whether in respect of a specific Call Event or generally from time to time, and in such instances references in this clause 11 to MTN shall be read *mutatis mutandis* to be such nominees and/or cessionary.

11.6 Each BIC2 Shareholder in respect of whom a Call Event arises under clause 11.1 undertakes to MTN not to Dispose of its BIC2 Ordinary Shares at any time while such Call Event persists, other than pursuant to an exercise by MTN of the Call Option or with MTN's prior written permission, and agrees that it shall not be entitled to (and shall account on demand to MTN for) any gain or profit made by it from any Disposal made in breach of this undertaking.

12. Calculation of the Call Reference Price

12.1 For the purposes of clause 11, "Call Reference Price" shall mean the value of the BIC2 Ordinary Shares on the relevant date as agreed or determined under this clause 12; provided that such determination shall *inter alia* (a) include a discount for no or limited liquidity of 10% (but not more than that) and (b) shall - as assets within BIC2 - value the MTN Shares held by BIC2 (while such shares are listed on the JSE) at the 30-Day VWAP and (c) shall, while the BIC2 Ordinary Shares are listed on the JSE, not exceed (and shall thus be limited to) the 30-Day VWAP of such shares on the JSE, in each case as at the relevant date on which the Call Reference Price is set.

12.2 In order to expedite any potential sales and transfers under clause 11, MTN and BIC2 may, from time to time, by written recordal determine the Call Reference Price as at a stipulated date ("the Valuation Date"), and may do so with regard to such professional advice as they consider appropriate. In the alternative, MTN may (at its cost) appoint an investment bank with experience in the telecommunications industry to determine the Call Reference Price at the Valuation Date. The relevant investment bank shall be agreed to in writing by MTN and BIC2 and, failing agreement within 5 days of MTN requesting BIC2 to agree to a proposed investment bank, the investment bank shall be nominated by the South African Institute of Chartered Accountants on the written request of MTN. The investment bank shall act as an expert and not as an arbitrator.

12.3 For the purposes of any sale under clause 11, the Call Reference Price of the BIC2 Ordinary Shares shall be as agreed in writing between the disposing BIC2 Shareholder and MTN. If MTN and the relevant BIC2 Shareholder fail to agree on the Call Reference Price within 5 Business Days of MTN requesting in writing such agreement (or such longer period as they may agree), then the Call Reference Price shall, at MTN's election:

12.3.1 be the Call Reference Price (if any) determined under clause 12.2; provided that the relevant Valuation Date for such determination is within a 6 month period before or after the relevant Call Trigger Date and provided further that where there is more than one such determination within this period, the determination nearest in time to the Call Trigger Date shall be used; or

12.3.2 be determined by way of final and binding expert determination. The expert shall be an investment bank with experience in the telecommunications industry agreed to in writing by MTN and the relevant BIC2 Shareholder, and failing agreement within 5 days of the expiry of the aforementioned 5 day period, the expert (being an investment bank with experience in the telecommunications industry) shall be appointed by the South African Institute of Chartered Accountants on the written request of either MTN or the BIC2 Shareholder. The expert shall act as an expert and not as an arbitrator, and his decision shall (absent manifest error) be final and binding on MTN and the relevant BIC2 Shareholder in relation to the sale and transfer (and only such sale and transfer) to which the determination applies.

12.4 For purposes of this Agreement, the 30-Day VWAP shall:

12.4.1 be calculated from, and with reference to, the volume weighted daily data supplied by the JSE (or relevant third party data provider, as the case may be) to MTN from time to time in accordance with the data package subscribed for from time to time by MTN;

12.4.2 if the shares trade 'cum dividend' for any Trading Day forming part of the 30-Day VWAP calculation, be adjusted to exclude from the 30-Day VWAP calculation (by subtracting from the relevant trading price/s) the face value of any cash distribution (and the fair value of any *in specie* distribution) on each such affected Trading Day; and

12.4.3 if any share split or share consolidation occurs in respect of the shares during the period in respect of which the 30-Day VWAP is determined, or after its determination but before the delivery of the relevant shares, then the 30-Day VWAP will be adjusted such that the aggregate value determined, or price payable, as the case may be, for the relevant shares, as so split or consolidated, will remain the same.

13. Funding of BIC2 by MTN

13.1 The Parties record that in certain circumstances under the BIC2 Transaction Documents, MTN (or its nominee or subsidiary) has the right (but no obligation) to subscribe for BIC2 Ordinary Shares, in order to facilitate the New Empowerment Transaction; it being MTN's intention that it will in due course transfer such BIC2 Ordinary Shares (or the beneficial interests therein) to Black Participants.

13.2 In addition to clause 13.1, the Parties acknowledge that MTN may, on such terms as may be agreed to between it and BIC2 (neither Party being obliged to so agree), (i) subscribe for BIC2 Ordinary Shares; (ii) subscribe for and/or acquire preference shares in the share capital of BIC2; (iii) make subordinated loans to BIC2 on arms' length terms; or (iv) give such other funding assistance to BIC2, as may be required by it from time to time. Each of the BIC2 Shareholders agrees to give such authorisations and consents, and pass such resolutions, as may be necessary to enter into, approve and/or implement any such agreement reached between MTN and BIC2.

14. No restriction on MTN, its nominees or subsidiaries holding BIC2 Ordinary Shares, and founding shareholders

14.1 The Parties acknowledge that, should MTN and/or its nominee/s and/or subsidiary/ies designated in writing by MTN for this purpose at any time become the beneficial and/or

registered holder/s of any BIC2 Ordinary Shares, for whatever reason, including as envisaged under clauses 11 and/or 13, unless MTN specifies otherwise in writing, MTN and/or its nominee/s and/or its subsidiary/ies shall hold such BIC2 Ordinary Shares as "Warehousing BIC2 Shareholders" and shall accordingly be exempt from any and all of the provisions of this Agreement and the BIC2 Constitutional Documents regulating the transfer of BIC2 Ordinary Shares and the restrictions upon the holding of such BIC2 Ordinary Shares only by Black Participants.

14.2 The Parties further acknowledge that shareholders that initially founded BIC2 (each holding up to 2 BIC2 Ordinary Share) shall hold such initial BIC2 Ordinary Shares (but no further BIC2 Ordinary Shares) as "Warehousing BIC2 Shareholders", and shall accordingly be exempt from any and all of the provisions of this Agreement and the BIC2 Constitutional Documents regulating the transfer of BIC2 Ordinary Shares and the restrictions upon the holding of such BIC2 Ordinary Shares only by Black Participants.

15. MTN representation on the BIC2 Board

15.1 For so long as the BIC2 Empowerment Compliance Period subsists, MTN shall be entitled to appoint, remove and replace 2 of the 5 directors to the BIC2 Board (and their respective alternates) ("**the MTN BIC2 Board Directors**"), at least one of which must at all times be a Black Person.

15.2 The MTN BIC2 Board Directors shall:

15.2.1 meet the criteria prescribed by law from time to time;

15.2.2 be nominated by MTN in its sole discretion;

15.2.3 be entitled to vote on any matter under consideration by the BIC2 Board, and in this regard shall each have the same number of votes as each other director; and

15.2.4 be appointed, removed, replaced and/or substituted by written notice from MTN to BIC2.

16. BIC2 Ordinary Shares certificates

16.1 Subject to the provisions of clause 8.1.1, all share certificates issued to BIC2 Shareholders in respect of Certificated BIC2 Ordinary Shares shall:

16.1.1 upon their issue, be endorsed as follows:

"This certificate and the shares represented hereby are transferable only in compliance with the provisions of the Relationship Agreement dated during or about [•] 2016, as amended from time to time (a copy of which is on file with the company secretary of [MTN Zakhele Futhi] (RF) Limited) and in the specific circumstances contemplated in the memorandum of incorporation (as amended from time to time) of [MTN Zakhele Futhi] (RF) Limited (a copy of which is on file with the company secretary of [MTN Zakhele Futhi] (RF) Limited). Restrictions also apply to the transfer of all and any rights in and to the shares and to the granting of any encumbrance over the shares.", and

16.1.2 be retained and held by the Custodian. Such share certificates shall only be released, if necessary, for the purpose of implementing any transfer permitted in terms of this Agreement and/or the BIC2 Constitutional Documents on the basis that once such transfer is implemented, all share certificates resulting from such transfer are retained and held by the Custodian.

16.2 Upon the conclusion of the BIC2 Empowerment Compliance Period, the Custodian will, at BIC2's election, post to each BIC2 Shareholder such BIC2 Shareholder's share certificate (if any), at the address nominated by such BIC2 Shareholder in terms of clause 26.1.1 from time to time (or such other address as may be provided for in the BIC2 Constitutional Documents), at such BIC2 Shareholder's risk or shall retain such share certificate pending collection thereof by the relevant BIC2 Shareholder, should BIC2 determine that such retention poses less risk to the BIC2 Shareholder as opposed to the posting thereof.

16.3 The terms and conditions under which the Custodian will fulfil its obligations contemplated in this Agreement shall be regulated by the relevant agreement governing such services concluded between MTN (and/or BIC2, as the case may be) and the Custodian on terms reasonably available or standard in the market for such services, and such terms shall be binding on the BIC2 Shareholders to the extent that they relate to them (save that they shall not be liable for the fees of the Custodian). Such terms may provide that neither the Custodian nor any of its directors, officers, employees or agents shall be liable to the BIC2 Shareholders for any indirect, extrinsic, special, penal, punitive, exemplary or consequential loss or damage of any kind whatsoever or howsoever caused, or any loss of value or profit, arising as a result of any act or omission (including any negligent act or omission) on the part of the Custodian (or any of its directors, officers, employees or agents) as regards such BIC2 Shareholder's BIC2 Ordinary Shares.

17. Changes to the BIC2 Constitutional Documents

17.1 To the maximum extent permitted by applicable law, if (i) there is any conflict or inconsistency between the provisions of this Agreement as at the Effective Date and the provisions of the BIC2 Constitutional Documents at any time, the provisions of this Agreement shall (except where the relevant conflict or inconsistency relates to those provisions of BIC2's Constitutional Documents which are inserted pursuant to Annexure "A" of the BIC2 Pref Subscription Agreement) prevail to the extent of the conflict or inconsistency, or if (ii) there is any conflict or inconsistency between any amended term of this Agreement effected after the Effective Date and the provisions of the BIC2 Constitutional Documents at any time, the provisions of this Agreement shall, except where such amended term of this Agreement is in conflict with the Finance Documents (other than the BIC2 Constitutional Document) to which BIC2 is a party, prevail to the extent of the conflict or inconsistency, and the Parties shall whenever necessary promptly exercise all voting and other rights and powers available to them to procure the amendment, waiver or suspension of the relevant provisions of BIC2's Constitutional Documents to the extent necessary to permit the affairs of BIC2 to be administered as provided for in this Agreement.

17.2 The Parties agree that if any provisions of this Agreement become unenforceable following the implementation of any replacement or amendment to the Companies Act or any other applicable law, then they will promptly enter into such agreements and/or arrangements and take such steps as may be necessary (including amending the BIC2 Constitutional Documents), insofar as legally possible, to preserve, implement and give effect to such provisions such that the Parties are placed insofar as legally possible in the same position they were in prior to such change in the law.

17.3 For the avoidance of doubt, the BIC2 Constitutional Documents shall be deemed to be in conflict with this Agreement, as the case may be, to the extent that such BIC2 Constitutional Documents permit (in whole or in part) the doing of anything by BIC2 and/or the BIC2 Shareholders which is not permitted by this Agreement, or which would or is reasonably likely to give rise to a Call Event.

17.4 The provisions of this clause 17 are subject to the BIC2's obligations under the Finance Documents to which it is a party to obtain the consent of the Preference Share Agent (as defined therein) to amend the BIC2 Constitutional Documents.

18. Amendments

The BIC2 Shareholders acknowledge and agree that:

18.1 the terms of this Agreement, as they apply to BIC2 Shareholders, can be amended either by:
 18.1.1 the BIC2 Shareholders, BIC2 and MTN signing a written agreement to that effect (such agreement being binding on the relevant Parties who sign such agreement which for the avoidance of doubt need not be all of the BIC2 Shareholders); and/or

18.1.2 BIC2 and MTN signing a document incorporating any amendment approved by resolution passed at a separate meeting of the BIC2 Shareholders at which BIC2 Shareholders present or represented at the meeting and exercising not less than 65% of the votes exercisable in respect of the BIC2 Ordinary Shares at that meeting, voted in favour of such resolution, which amendments will, subject to MTN and BIC2 signing the document referred to above, bind all BIC2 Shareholders as from the date specified in the amending resolution;

18.2 the rights and obligations of MTN and BIC2 in terms of and in relation to this Agreement, as between one another, may be amended by BIC2 and MTN signing a written agreement to that effect.

19. The BIC2 Ownership Certificate of Compliance

19.1 BIC2 and each of the BIC2 Shareholders acknowledge the importance to the MTN SA Group of successfully implementing the New Empowerment Transaction in order that the MTN SA Group may optimise its BEE rating under the Empowerment Requirements, and of demonstrating such successful implementation to stakeholders in MTN as well as to the relevant authorities. The Parties accordingly acknowledge and accept that MTN (for itself and any member of the MTN SA Group) will from time to time (and at least once every calendar year) be entitled to:

19.1.1 request in writing that BIC2 provide it with all information and documents reasonably required by MTN (or member of the MTN SA Group) to enable it to determine and officially obtain and/or maintain its BEE Status and/or compliance with the Empowerment Requirements; and/or

19.1.2 procure (at its cost) the preparation and issue by an accredited or approved BEE rating agency (or another suitable person) nominated by MTN from time to time of a certificate ("BIC2 Ownership Certificate of Compliance") recording any or all of the following (as may be requested):

19.1.2.1 the identity and Composition of the Effective Participants in BIC2 and the Composition of its board of directors; and/or

19.1.2.2 whether BIC2 qualifies as a Black Company; and/or

19.1.2.3 the BEE Status of BIC2; and/or

19.1.2.4 any other matter relevant to an assessment by MTN of its compliance with the Empowerment Requirements,

and BIC2 undertakes to comply fully with such request within 60 days thereof (or such longer period and MTN may agree to).

19.2 BIC2 shall, for the duration of this Agreement, fully co-operate with and assist MTN and its representatives by providing them with access to all information and records which are in its possession or which it may be entitled and/or obliged to keep in its possession or to require to be placed in its possession, within 10 Business Days of a written request therefor from MTN or such representatives, for purposes of enabling MTN to obtain the issue of the BIC2 Ownership Certificate of Compliance.

19.3 Each BIC2 Shareholder undertakes to MTN and BIC2, in addition to their obligations under clause 7.2, to do all things reasonable necessary or requested within its power or control or of which it is capable to enable and assist MTN to obtain the BIC2 Ownership Certificate of Compliance.

19.4 Upon receipt of each BIC2 Ownership Certificate of Compliance, MTN shall provide a copy thereof to BIC2.

20. Listing

The Parties agree that BIC2 may not list any of the BIC2 Ordinary Shares on any securities exchange, including but not limited to the securities exchange operated by the JSE, at any time during the BIC2 Empowerment Compliance Period unless MTN consents thereto in writing.

21. Maximum shareholding

21.1 Definitions

For the purposes of this clause 21:

21.1.1 "Acquire" means to purchase, receive by distribution, donation or exchange or in any manner whatsoever acquire, whether voluntarily or involuntarily, or enter into any arrangement or transaction whatsoever which may have the same or a similar effect as any of the aforementioned (including but not limited to any transaction, or series of arrangements or transactions, or the cession of any rights or the granting of any option or any similar transaction/s which would have the same economic effect), and "Acquisition" shall be construed accordingly;

21.1.2 "Acting in Concert" means co-operation for the common purpose in relation to the direct or indirect exercise of control of or the influence of votes in relation to a company by two or more persons pursuant to an agreement, arrangement or understanding, whether formal or informal, between them; and "Act in Concert" shall have a corresponding meaning

21.1.3 "Concert Party" means, in respect of any person, any other person who is Acting in Concert with such person;

21.1.4 "Connected Person" means any persons related or inter-related to such person in terms of section 2 (read with section 3) of the Companies Act; provided that for such purposes references to a company therein shall be read to include any juristic person, trust or unincorporated association or other legal entity, howsoever formed, foreign or domestic, with expressions appropriate to companies being construed as references to the corresponding persons, officers, documents or agents (as the case may be) appropriate to undertakings of that description; and

21.1.5 "Shareholding Limit" means 15% of the issued ordinary share capital of BIC2, or such higher percentage as MTN may notify to BIC2 in writing from time to time.

21.2 Maximum shareholding

21.2 Save as may be permitted by MTN in writing, no BIC2 Shareholder may at any time hold any BIC2 Ordinary Shares (or beneficial interest therein) which, when such shares are aggregated with the holdings of and/or beneficial interests in BIC2 Ordinary Shares held by all Connected Persons and Concert Parties of such person, exceed the Shareholding Limit.

21.2.2 This prohibition on holding BIC2 Ordinary Shares (or beneficial interests) in excess of the Shareholding Limit shall apply jointly and severally to each relevant Connected Person and Concert Party, to the extent such person is, by separate application of the provision with reference to it, also in breach of the Shareholding Limit.

21.2.3 If clause 21.2.1 is breached:

21.2.3.1 MTN may, in its sole discretion, identify those BIC2 Ordinary Shares (and/or relevant beneficial interests therein) that are held in excess of the Shareholding Limit and the relevant BIC2 Shareholder and/or Nominee Holder who holds such shares or beneficial interests ("the Unauthorised Excess Shares"; "Relevant BIC2 Shareholder"), and notify BIC2 in writing accordingly ("Excess Shares Notice"). While the relevant breach of clause 21.3 persists, MTN may withdraw the Excess Shares Notice and/or, if so withdrawn, re-issue it from time to time in its sole discretion;

21.2.3.2 once an Excess Shares Notice has been issued to BIC2 and until such Excess Shares Notice is withdrawn or the breach is remedied, the Relevant BIC2 Shareholder shall, unless MTN directs otherwise in writing, be deemed hereby:

21.2.3.2.1 to have ceded to MTN or its nominee/s all rights to any dividend, distribution, or payment or other economic benefit by virtue of the holding of the Unauthorised Excess Shares; and

21.2.3.2.2 to have ceded to MTN or its nominee/s any voting rights attaching to the Unauthorised Excess Shares and to have irrevocably appointed MTN or its nominee as proxy for the exercise of such voting rights; and

21.2.3.3 MTN may require the sale or other outright disposal of all or any of the Unauthorised Excess Shares in accordance with clause 21.3.

21.3 Disposal of Unauthorised Excess Shares

21.3.1 If an Excess Shares Notice has been issued, MTN may, at any time while a breach of clause 21.2 persists, by a written transfer notice ("transfer notice") to the Relevant BIC2 Shareholder (or its Nominee Holder, if applicable), require that Relevant BIC2 Shareholder (or its Nominee Holder, if applicable) to sell or otherwise dispose outright of all or part of the Unauthorised Excess Shares. The number of Unauthorised Excess Shares required to be disposed of will be specified in the transfer notice.

21.3.2 If the requirements of the transfer notice are not complied with by the Relevant BIC2 Shareholder (or its Nominee Holder, if applicable) within 28 days of the transfer notice, in MTN's sole discretion (a) a Call Event shall occur in respect of the Unauthorised Excess Shares (or any part thereof notified by MTN) or (b) MTN may sell the number of Unauthorised Excess Shares specified in the transfer notice (or any lesser number of those Unauthorised Excess Shares) in such manner and on such terms as it in its absolute discretion determines.

21.3.3 In respect of any sale under clause 21.3.2:

21.3.3.1 MTN is authorised to do all things necessary to sell those Unauthorised Excess Shares including signing or authorising a transfer of those Unauthorised Excess Shares; and

21.3.3.2 BIC2 is authorised and obliged, and the Relevant BIC2 Shareholder (or its Nominee Holder, if applicable) is obliged, to do all things necessary or reasonably required to affect the transfer of those Unauthorised Excess Shares sold by MTN.

21.3.4 MTN may deduct the costs associated with a sale of Unauthorised Excess Shares under clause 21.3.2. MTN will then pay the remaining balance of the proceeds of sale to the registered holder of the Unauthorised Excess Shares so sold by cheque posted to the address of the registered holder or by transfer to the bank account reflected for such holder in the corporate records of BIC2 at such time.

21.4 Restriction on Acquisitions

Save as may be permitted by MTN in writing, no BIC2 Shareholder may offer to Acquire (including by scheme of arrangement) or enter into any agreement (whether conditional or unconditional) to Acquire, any BIC2 Ordinary Shares if, as a result of that Acquisition or upon implementation of the relevant Acquisition agreement, the provisions of clause 21.2.1 would be breached by such BIC2 Shareholder or by any of its Connected Persons or Concert Parties.

21.5 Provision of information

Each BIC2 Shareholder undertakes to MTN to provide it with all information and documents reasonably requested by MTN in order to verify compliance, or establish non-compliance, by that BIC2 Shareholder and/or any other BIC2 Shareholder with this clause 21, and to do so within 14 Business Days of receipt of such request. MTN shall be entitled to make such request at any time and from time to time in its sole discretion.

22. Refinancing

22.1 The Parties note that the funding provided to BIC2 under the BIC2 Pref Shares (and the related liabilities and obligations under the Finance Documents) have a scheduled maturity on or about the fifth anniversary of the Effective Date ("Initial Scheduled Maturity Date"), and are required to be settled at such time, whereas the BIC2 Empowerment Compliance Period of the scheme and the scheduled maturity of the notional vendor finance from MTN (and related liabilities and obligations in respect thereof) are both 8 years after the Effective Date.

22.2 BIC2 acknowledges that (i) the overriding objective for MTN in facilitating the New Empowerment Transaction is for BIC2, as a Black Company, to obtain a material shareholding in MTN on the commencement of the New Empowerment Transaction and for it thereafter to maintain such shareholding for the duration of the Empowerment Period such that the MTN SA Group derives all or a meaningful portion of its empowerment status (as regards equity ownership) from such shareholding, and (ii) commercially it is the parties common intention, in the future, for the Third Party Financing to either be extended or otherwise amended or refinanced so as to have such Third Party Financing endure until, and have a scheduled maturity at, the end of the BIC2 Empowerment Compliance Period.

22.3 Accordingly, BIC2 agrees in favour of MTN that, save to extent that MTN may notify BIC2 otherwise in writing: following the expiry of a period of three years and one day after the date of issue of the BIC2 Pref Shares, as and when market circumstances may thereafter permit but in any event prior to the Initial Scheduled Maturity Date, BIC2 will use all reasonable

endeavours and as permitted and under and in terms of the Finance Documents to procure, through a Refinancing, that it has committed Third Party Funding in place for the full duration of the BIC2 Empowerment Compliance Period in such manner that does not result in BIC2 Disposing of any MTN Shares held by it, which Refinancing may be effected by BIC2 through *inter alia* (i) an extension of the Initial Scheduled Maturity Date of the BIC2 Pref Shares to the end of the BIC2 Empowerment Compliance Period and/or (ii) the issue of new or additional preference shares and/or (iii) loans or other form of debt instrument and/or (iv) other forms of funding approved by MTN (all such being "**the Replacement Funding**"), which Replacement Funding (i) is on terms, conditions and rates approved by MTN and (ii) is effected strictly in accordance with, and subject to, the terms and conditions of the Finance Documents.

22.4 Nothing in this clause 22 shall derogate from the obligations of BIC2 to redeem the BIC2 Prefs in full on the applicable Redemption Date (as such terms is defined in the BIC2 MOI) or the rights of the holders of the BIC2 Pref Shares under and in terms of the Finance Documents.

23. Change of name of BIC2

23.1 The Parties record that BIC2 has procured that its name has been changed from the name on incorporation of "BIC B" to "MTN Zakhele Futhi" pursuant to the limited license granted to it in this clause 23.

23.2 MTN hereby grants (or undertakes to procure the grant) of a non-transferable, non-exclusive limited licence to BIC2 to use the term "MTN Zakhele Futhi" in its corporate name and related branding and corporate communications until the earlier of 30 days after (i) the date on which BIC2 ceases to hold any shares in MTN; or (ii) the date on which MTN, in its sole discretion, gives it written notice to cease to use such term, or any part thereof. In the event of the termination of the aforesaid limited licence, BIC2 shall immediately cease all direct or indirect uses thereof, or any part thereof, and shall *inter alia* accordingly remove such name from any signage and cease to use it on any communication materials and other corporate documents.

23.3 BIC2 agrees that nothing in this Agreement (or anything done pursuant hereto) shall operate as an agreement to transfer (nor shall transfer) any right, title or interest in any trade mark, house mark, domain name, web site or company name to the extent it contains or consists of the words and/or abbreviations "Mobile Telephone Networks", "MTN", "Zakhele" and/or "Futhi", or any related or associated emblem or in any other mark in which one of those names or elements appears, or to the words or abbreviations in any translational, transliteral or phonetic form, and that it will not seek to assert any such right or challenge MTN's (or any member of the MTN Group's) rights thereto.

PART 4: GENERAL

24. Breach

24.1 No Party shall be entitled to cancel this Agreement for any reason, including for any breach hereof.

24.2 If any Party breaches any material provision or term of this Agreement (other than those provisions which contain their own remedies or limit the remedies in the event of a breach thereof) and fails to remedy such breach within 14 days of receipt of written notice from an aggrieved Party requiring it to do so, then the aggrieved Party shall be entitled without further notice, in addition to any other remedy available to it at law or under this Agreement (but subject always to clause 24.1), including obtaining an interdict, to claim specific performance of the relevant obligation, and any related obligation, whether or not the due date for performance thereof has arrived, and without prejudice to the aggrieved Party's rights to claim damages.

24.3 For the sake of clarity, the provisions of clause 24.224.1 shall only be applicable with effect from the Effective Date.

25. Confidentiality

BIC2 shall at all times keep confidential any information of or relating to MTN or its operations or affairs which it has acquired or may acquire in relation to MTN or its operations or affairs prior to or pursuant to this Agreement, save for any information:

- 25.1 which is publicly available or becomes publicly available through no act or default of BIC2;
 - 25.2 which was in the possession of BIC2 prior to its disclosure otherwise than as a result of any breach by BIC2 of any obligation of confidentiality owed to any other person whether pursuant to this Agreement or otherwise;
 - 25.3 which is disclosed to BIC2 by a person which person did not acquire the information under an obligation of confidentiality;
 - 25.4 which is reasonably required (and only to such extent) by BIC2 in the course of the enforcement of its rights or performance of its obligations under the BEE Transaction Documents, or in defending legal or arbitration proceedings to which it is a party; in which event it shall take such steps as are open to it to limit such disclosures to the minimum disclosure required, and will advise MTN in writing prior to making any such disclosure); or
 - 25.5 which is independently acquired by BIC2 as a result of work carried out by a person to whom no disclosure of such information has been made,
- and BIC2 shall not use or disclose such information except with the prior written consent of MTN or in accordance with an order of court of competent jurisdiction or in order to comply with any law or governmental regulations by which any Party concerned is bound or as may be lawfully requested in writing by any governmental authority.

26. Miscellaneous matters

26.1 address for service of legal documents

26.1.1 Each BIC2 Shareholder shall, on becoming a shareholder in BIC2, provide to BIC2 a physical address within the Republic of South Africa at which such BIC Shareholder can be served notices and documents under this Agreement.

26.1.2 The Parties choose the following physical addresses at which written notices and documents in legal proceedings in connection with this Agreement may be served (ie their *domicilia citandi et executandi*):

26.1.2.1	in the case of MTN to:	
	physical address:	MTN Innovation Centre 216 14 th Avenue Fairland
	telefax no:	Roodepoort (011) 912 4093

and shall be marked for the attention of the Group Company Secretary;

26.1.2.2 in the case of **BIC2** to:

physical address: 5th Floor
Block D, 135 Rivonia Road
Sandown, Sandton, 2196
(011) 294 8018

telefax no:

and shall be marked for the attention: c/o Nedbank Share Administration;
with a copy to **MTN** at:

physical address: MTN Innovation Centre
216 14th Avenue
Fairland
Roodepoort
(011) 912 4093

telefax no:

and is marked for the attention of the Group Company Secretary;

26.1.2.3 in the case of a BIC2 Shareholder, to the physical address or telefax number provided for this purpose pursuant to clause 26.1.1.

26.1.3 A notice shall be deemed to have been duly given:

26.1.3.1 if delivered, on the date of delivery;

26.1.3.2 if sent by post, 10 days after posting;

26.1.3.3 if sent by telefax, on the Business Day following the day on which the telefax is transmitted.

26.1.4 A Party may change that Party's address for this purpose to another physical address in the Republic of South Africa, by notice in writing to the other Parties, such change to be effective only on and with effect from the 7th Business Day after the giving of such notice.

26.1.5 MTN and/or BIC2 shall be entitled to give notice to the BIC2 Shareholders, or any of them, (i) by publishing such notice in a newspaper circulating generally in the Republic of South Africa, and such notice will be effective as from the first Business Day after the date of publication thereof, or (ii) in any other manner provided for in the BIC2 Constitutional Documents for the giving of notices by BIC2.

26.1.6 Notwithstanding anything to the contrary herein contained, a written notice or communication actually received by a Party shall be an adequate service of such written notice or communication to it notwithstanding that it was not sent to or delivered or served at its chosen *domicilium citandi et executandi*.

26.2 entire contract

This Agreement contains all the express provisions agreed on by the Parties with regard to the subject matter of the Agreement and supersedes and novates in its entirety any previous understandings or agreements between the Parties in respect thereof, and the Parties waive the right to rely on any alleged provision not expressly contained in this Agreement.

26.3 no stipulation for the benefit of a third person

Save as is expressly provided for in this Agreement, no provision of this Agreement constitutes a stipulation for the benefit of a third person (ie a *stipulatio alteri*) which, if accepted by the person, would bind any Party in favour of that person.

26.4 no representations

A Party may not rely on any representation which allegedly induced that Party to enter into this Agreement, unless the representation is recorded in this Agreement.

26.5 variation, cancellation and waiver

Save as provided in clause 18, no contract varying, adding to, deleting from or canceling this Agreement, and no waiver of any right under this Agreement, shall be effective unless reduced to writing and signed by or on behalf of the relevant Parties.

26.6 indulgences

The grant of any indulgence, extension of time or relaxation of any provision by a Party under this Agreement shall not constitute a waiver of any right by the grantor or prevent or adversely affect the exercise by the grantor of any existing or future right of the grantor.

26.7 cession and delegation

Except as provided for elsewhere in this Agreement, a Party may not cede any or all of that Party's rights or delegate any or all of that Party's obligations under this Agreement.

26.7.1 In addition to any other rights of MTN under this Agreement (in particular the rights under clause 11 and in respect of the ESTC and the BIC2 Verification Agent), MTN shall be entitled on prior written notice to BIC2 to transfer any right or rights which it has under this Agreement (including any warranties and/or representations given in its favour; any discretions, elections, notices or consents which it may exercise, make or give; and the rights under clauses 6, 7, 11, 15 and 19) and/or delegate any obligations which it has hereunder to any of its subsidiaries and/or to any member/s of the MTN SA Group, or to any other person nominated by it, or to such subsidiary/ies and/or members of the MTN SA Group and such one other person, as it deems fit. In addition, the ESTC shall, with the written consent of MTN, be entitled to exercise any of its rights and fulfil any of its obligations under this Agreement directly or delegate any of its powers and functions to such person or persons as the ESTC may determine.

26.8 severability

Any provision in this Agreement which is or may become illegal, invalid or unenforceable in any jurisdiction shall, as to such jurisdiction, be reduced in scope so as to remove the illegality, invalidity or unenforceability (and to the least such extent) or, to the extent that such reduction in scope is not permissible, the provision shall (to the least extent possible) be treated as having not been written (ie *pro non scripto*) and severed from the balance of this Agreement, without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

26.9 applicable law

This Agreement is to be governed, interpreted and implemented in accordance with the laws of the Republic of South Africa.

26.10 jurisdiction of South African courts

The Parties consent to the non-exclusive jurisdiction of the High Court of South Africa (Gauteng Local Division, Johannesburg) for any proceedings arising out of or in connection with this Agreement.

26.11 costs

26.11.1 Save as otherwise expressly provided in this Agreement, each Party shall bear its own costs in relation to the execution and implementation of this Agreement.

26.11.2 Any costs including attorney and client costs incurred by a Party arising out of a breach by any other Party of any of the privileges of this Agreement shall be borne by the Party in breach.

26.12 signature in counterparts

This Agreement may be executed in counterparts, each of which shall be deemed to be an original and which together shall constitute one and the same agreement.

26.13 independent advice

Each of the Parties hereby respectively agrees and acknowledges that:

26.13.1 it has been free to secure independent legal advice as to the nature and effect of each provision of this Agreement and that it has either taken such independent legal advice or has dispensed with the necessity of doing so; and

26.13.2 each provision of this Agreement is fair and reasonable in all the circumstances and is part of the overall intention of the Parties in connection with this Agreement.

26.14 co-operation

Each of the Parties undertakes at all times to do all such things, perform all such acts and take all such steps, and to procure the doing of all such things, within its power and control, as may be open to it and necessary for and incidental to the putting into effect or maintenance of the terms, conditions and import of this Agreement.

SIGNED by the initial Parties and witnessed on the following dates and at the following places respectively:

Signed at Fairland on 8 August 2016.

Witnesses:

for MTN Group Limited, who warrants he/she is duly authorised

Director

on 9th August 2016.

Witnesses:

for MTN Zakhela Futhi (RF) Limited, who warrants he/she is duly authorised

Director

Ring Fencing Provisions

Annexe A

1. BIC2's main purpose and main business is solely to (i) enter into the BEE Transaction Documents to which it is a party; (ii) exercise its rights and perform its obligations under the BEE Transaction Documents to which it is a party; (iii) to carry on the business of holding and managing and generally dealing with the MTN Shares, cash and such other property as may be received or acquired solely by virtue of or in relation to the MTN Shares, in each case in accordance with and subject to the BEE Transaction Documents to which it is a party; (iv) receiving and distributing dividends and other distributions in terms of the BEE Transaction Documents to which it is a party; and (v) such other main business as may, subject to the Finance Documents to which BIC2 is a party, be approved in writing by MTN in its sole discretion.
2. During the BIC2 Empowerment Compliance Period, except pursuant to or as is expressly required under the BEE Transaction Documents to which it is a party, BIC2 shall not (and, to the maximum extent permitted by law, the board of directors of BIC2 and each other body and organ shall not have the capacity to), without the prior written consent of MTN:
 - 2.1 alter its issued or authorised share capital including issuing any options or instruments which are by nature equity;
 - 2.2 vary, amend or otherwise alter the rights attaching to any class of shares in its share capital;
 - 2.3 cancel, repurchase, consolidate, subdivide or extend any rights offer over its shares;
 - 2.4 incur any material indebtedness;
 - 2.5 change the BIC2 Constitutional Documents (to the extent within its power) or agree to an amendment to the BIC2 Constitutional Documents;
 - 2.6 hold any investment or conduct any business, other than as set out in paragraph 1;
 - 2.7 Dispose of or Encumber or enter into any other transaction in respect of the MTN Shares (or any rights and interests therein);
 - 2.8 Dispose of or Encumber or cease to exercise direct control over the whole or any material part of its present or future undertakings, assets, rights or revenues, whether by one or a series of transactions related or not;
 - 2.9 amend or modify, or consent to the amendment or modification of, any BEE Transaction Document to which it is a party, the effect of which is or may, in the opinion of MTN, be materially adverse to the rights, obligations or interests of MTN and/or any member of the MTN SA Group, including under the BEE Legislation;
 - 2.10 enter into any merger, consolidation, or amalgamation or similar restructuring;
 - 2.11 except in respect of funding provided to it in respect of its main business, make any loans, grant any credit or give any guarantee, insurance or indemnity to or for the benefit of any person or otherwise voluntarily assume any liability, whether actual or contingent, in respect of any obligation of any other person;
 - 2.12 undertake, issue or enter into, whether directly or indirectly, any agreement, arrangement, undertaking or understanding whatsoever except only as is necessary for or reasonably incidental to the purpose of conducting the limited business permitted in paragraph 1 or for

exercising its rights, or performing its obligations, under the BEE Transaction Documents to which it is a party.

3. For the avoidance of doubt, nothing in this Annexe A shall preclude or be construed to limit BIC2's capacity and authority to negotiate and enter into the BEE Transaction Documents to which it is a party, and from time to time to amend, novate, re-instate and cancel such BEE Transaction Documents to which it is a party in accordance with their terms.
4. No amendment to the special conditions in this Annexe A shall be of any force or effect unless such amendment has been agreed to in writing by MTN.
5. Nothing in this Annex A shall derogate from, or serve in any way to relax or modify, any restrictions placed on BIC2 under the Finance Documents to which it is a party and/or the BIC2 Constitutional Documents, which restrictions shall apply in addition to those imposed herein.

Annexe B

Pro Forma Deed of Adherence

I/We the undersigned, **[insert full name and particulars]**, ("**the New Shareholder**") wish to become a shareholder of and/or acquire a beneficial interest in the ordinary shares of [MTN ZAKHELE FUTHI] (RF) Limited ("**the Company**"). I/We acknowledge that as a precondition to acquiring any shares in the Company, the New Shareholder is required to bind itself to the agreement titled "Relationship Agreement" dated [●] 2016 (as amended, substituted or novated from time to time) then subsisting between the Company, MTN Group Limited and holders of ordinary shares in the Company ("**the Relationship Agreement**").

I/We the New Shareholder, hereby acknowledge that we have read the terms of the Relationship Agreement and agree and undertake that, with immediate effect from the date of acquisition of any shares and/or beneficial interests in the ordinary shares of the Company, I/we will be bound by all of the provisions of the Relationship Agreement and the BIC2 Constitutional Documents (as defined in the Relationship Agreement) and all the terms thereof will be enforceable against me/us by the relevant parties to the Relationship Agreement as from such date of such acquisition.

Signed at on
.....
for: **The New Shareholder**

Received and acknowledged at on
.....
for: **MTN Zakhele Futhi (RF) Limited, for itself
and on behalf of MTN Group Limited**

R

AMENDMENT AGREEMENT IN RESPECT OF THE MTN 2016 TRANCHE 1 SUBSCRIPTION AND CALL OPTION AGREEMENT AND THE RELATIONSHIP AGREEMENT

EXECUTION VERSION

AMENDMENT AGREEMENT

between

MTN ZAKHELE FUTHI (RF) LIMITED
(Registration number 2016/268837/06)

and

MTN GROUP LIMITED
(Registration number 1994/009584/06)

in respect of

**MTN 2016 TRANCHE 1 SUBSCRIPTION AND CALL OPTION AGREEMENT AND THE
RELATIONSHIP AGREEMENT**

WEBBER WENTZEL

in alliance with > **Linklaters**

Table of Contents

	Page No
1. Definitions and interpretation	1
2. Introduction.....	3
3. Conditions Precedent.....	3
4. Amendments	4
5. Alignment of shareholder meetings and direct shareholder engagement	7
6. Immediate interim effect.....	7
7. Miscellaneous.....	7

1. Definitions and interpretation

- 1.1 In this Amendment Agreement, unless otherwise defined herein or the context indicates otherwise, words and expressions defined and/or incorporated in the MTN Tranche 1 Subscription and Call Option Agreement and Relationship Agreement will have the same meanings in this Amendment Agreement and the following words and phrases shall, unless otherwise stated or where inconsistent with the context in which they appear, bear the following meanings, and cognate terms and expressions shall bear corresponding meanings:
- 1.1.1 **"Agreed Form"** means, in relation to a document or an amendment to a document, the document or proposed amendment thereto in the form and substance agreed between the Parties as at the Amendment Signature Date (or substantively such form and substance), or such other form and/or substance as is subsequently agreed to in writing between the Parties;
- 1.1.2 **"Amendment Agreement"** means this amendment agreement to the MTN Tranche 1 Subscription and Call Option Agreement and the Relationship Agreement;
- 1.1.3 **"Amendment Conditions Precedent"** shall have the meaning ascribed thereto in clause 3.1 below;
- 1.1.4 **"Amendment Effective Date"** means the later of (i) the Amendment Signature Date and (ii) the date on which the Amendment Conditions Precedent have been fulfilled or waived, or are deemed fulfilled or waived, as applicable;
- 1.1.5 **"Amendment Signature Date"** means the date on which this Amendment Agreement has been signed by both Parties;
- 1.1.6 **"CIPC"** means the Companies and Intellectual Property Commission established in terms of section 185 of the Companies Act, or its successor body;
- 1.1.7 **"MOI Amendment"** means an amended and restated memorandum of incorporation of MTN Zakhele Futhi in the Agreed Form giving effect to the changes to the MTN Zakhele Futhi memorandum of incorporation jointly proposed by MTN and MTN Zakhele Futhi;
- 1.1.8 **"MTN"** means MTN Group Limited, registration number 1994/009584/06, a public company as defined in the Companies Act, the ordinary shares of which are listed on the main board of the securities exchange maintained by the JSE;
- 1.1.9 **"MTN Zakhele Futhi"** means MTN Zakhele Futhi (RF) Limited, registration number 2016/268837/06, a public company as defined in the Companies Act;
- 1.1.10 **"MTN Tranche 1 Subscription and Call Option Agreement"** means the subscription and call option agreement entitled "MTN 2016 Tranche 1 Subscription and Call Option Agreement" entered into between MTN and MTN Zakhele Futhi on or about 21 August 2016;
- 1.1.11 **"Parties"** means the parties to this Amendment Agreement, being MTN and MTN Zakhele Futhi; and
- 1.1.12 **"Relationship Agreement"** means the agreement entitled "Relationship Agreement" entered into between MTN and MTN Zakhele Futhi on or about 9 August 2018 and thereafter by the holders of MTN Zakhele Futhi Ordinary

Shares pursuant to (i) the MTN Zakhele Unwinding Scheme; and (ii) the MTN Zakhele Futhi Public Offer;

1.2 The clause headings in this Amendment Agreement are for the purpose of convenience only and shall not be taken into account in the interpretation of this Amendment Agreement.

1.3 Unless inconsistent with the context or unless a contrary intention clearly appears from the context, in this Amendment Agreement:

1.3.1 any reference to a gender shall include the other genders;

1.3.2 any reference to the singular shall include the plural and vice versa;

1.3.3 any reference to a **"person"** or **"Person"** includes any natural, juristic or quasi-juristic person, including any sole proprietorship, stokvel, firm, partnership, trust, close corporation, company, undertaking, joint venture, government or public entity, or other incorporated or unincorporated entity or association;

1.3.4 the use of the words "including", or "in particular" or "for example" followed by a specific example/s shall not be construed as limiting the meaning of the general wording preceding it and the *ejusdem generis* rule shall not be applied in the interpretation of such general wording or such specific examples. Such references to "including", "in particular" and "for example" shall not be construed restrictively but shall mean "including, but without prejudice to the generality of the foregoing" and "in particular, but without prejudice to the generality of the foregoing" and "for example, but without prejudice to the generality of the foregoing" respectively;

1.3.5 any reference to any document or agreement (including this Amendment Agreement) shall be a reference to that document or agreement as at the Amendment Signature Date (or, if later, as at the date on which such agreement is first concluded or document first executed), and as novated, amended, reinstated or substituted from time to time thereafter in accordance with its terms.

1.4 If any provision in this clause 1 is a substantive provision conferring rights or imposing obligations on a Party, effect shall be given to it as if it were a substantive clause in the body of this Amendment Agreement, notwithstanding that it is only contained in the interpretation and definitions clause.

1.5 The rule of construction that, in the event of an ambiguity in respect of a term or terms of an agreement, such term or terms shall be interpreted against the Party responsible for drafting or preparing them, shall not apply.

1.6 References to a "day" shall be to any calendar day. Where any number of days or Business Days is prescribed in this Amendment Agreement to be before, or after a date, or within a set number of days of a date, the period will be calculated by excluding the reference date and including the date at the end of the set number of days from such reference date unless (in the case of days after a stated date) the last day falls on a day not being a Business Day, in which event the last day shall be the next succeeding Business Day.

1.7 Unless stated otherwise, a reference in this Amendment Agreement to any person shall be a reference to such person's permitted successor in title, transferee, cessionary and/or delegatee.

1.8 Unless stated otherwise, where any reference is made in this Amendment Agreement to the consent or agreement of, or election by, any Party, such consent, agreement or

election may, for the avoidance of doubt, be made, given or withheld, conditionally or unconditionally, in the relevant Party's sole and absolute discretion.

2. Introduction

2.1 The Parties implemented the New Empowerment Transaction on 23 and 24 November 2016, documented through the Transaction Documents which include:

2.1.1 the MTN Tranche 1 Subscription and Call Option Agreement;

2.1.2 the Relationship Agreement; and

2.1.3 the MTN Zakhele Futhi memorandum of incorporation.

2.2 MTN and MTN Zakhele Futhi wish to amend certain provisions of the BIC2 Transaction Documents referred to above to, among others, (i) remove MTN's veto right over MTN Zakhele Futhi declaring a dividend to its ordinary shareholders in circumstances where such dividend is otherwise permitted to be made under the relevant priority of payments, subject to *inter alia* certain financial conditions being met, and (ii) to provide for the persons nominated by MTN to the MTN Zakhele Futhi board to be approved by both the MTN Zakhele Futhi board and, through confirmation at the next annual general meeting, the MTN Zakhele Futhi ordinary shareholders. MTN and MTN Zakhele Futhi also wish to provide for MTN Zakhele Futhi to hold its annual general meeting (and, where applicable, other shareholder meetings) in advance of those of MTN so as to enable the MTN Zakhele Futhi board to seek guidance from its shareholders on the resolutions proposed at the relevant MTN shareholder meetings.

2.3 The Parties accordingly wish to enter into this Amendment Agreement.

3. Conditions Precedent

3.1 Other than clauses 1, 3, 6 and 7 which shall be unconditional and of immediate force and effect on and with effect from the Amendment Signature Date, the provisions contained in this Amendment Agreement are subject to the fulfilment (or deemed fulfilment) or waiver of the following conditions precedent (**"Amendment Conditions Precedent"**):

3.1.1 on or before 30 September 2019 the entry into and implementation by MTN Zakhele Futhi of this Amendment Agreement (including the MOI Amendment in the Agreed Form) is approved in writing by or on behalf of the New Preference Share Agent;

3.1.2 on or before 30 June 2019, if required by MTN, the approval for the Amendment Agreement (or relevant part/s thereof) being granted by MTN's shareholders in general meeting;

3.1.3 on or before 30 June 2019 the MOI Amendment in the Agreed Form is adopted by special resolution passed by the relevant shareholders of MTN Zakhele Futhi (including, as applicable, any resolution required to be passed separately by the holders of the BIC2 Pref Shares), and MTN Zakhele Futhi has filed a Notice of Amendment in Form CoR15.2 (together with the prescribed fee and a copy of the amended memorandum of incorporation of MTN Zakhele Futhi) thereof with the CIPC; and

3.1.4 on or before 31 July 2019 the CIPC has confirmed in writing (including by electronic notice) that it has accepted the notice of amendment referred to in clause 3.1.3 and placed it on file.

3.2 The Parties shall, where it is within their respective power and control to do so, use their reasonable endeavours to procure the fulfilment of the Amendment Conditions Precedent within the time/s permitted therefor but in each case without an obligation to waive a condition or to incur material costs or liabilities (other than any costs or liabilities which are reasonably or necessarily required by such Party in order for the fulfilment of the Amendment Conditions Precedent).

3.3 MTN Zakhele Futhi and MTN shall be entitled to waive, in whole or in part, fulfilment of any or all of the Amendment Conditions Precedent (save for the Amendment Condition Precedent set out in clause 3.1.1, which shall not be capable of waiver) by written agreement concluded between them prior to the due date for fulfilment of the relevant Amendment Condition/s Precedent.

3.4 MTN Zakhele Futhi and MTN may from time to time extend the period or date/s for the fulfilment of the various Amendment Conditions Precedent by agreement in writing concluded by no later than the date stipulated for fulfilment thereof.

3.5 On the first Business Day on which MTN and MTN Zakhele Futhi are satisfied that all of the Amendment Conditions Precedent have been fulfilled or waived (as the case may be), MTN and MTN Zakhele Futhi shall in writing confirm this to one another and to the New Preference Share Agent, whereupon all of the Amendment Conditions Precedent will be deemed to have been timeously fulfilled or waived in accordance with this Amendment Agreement.

3.6 If any of the Amendment Conditions Precedent fails (and fulfilment thereof is not waived or extended in terms of clauses 3.3 and/or 3.4 or deemed fulfilled under clause 3.5), the provisions of this Agreement (other than clauses 1, 3, 6 and 7) shall never become effective. No Party shall have any claim against any of the others under this Amendment Agreement as a result of the failure of such Amendment Condition/s Precedent, except for such claims, if any, as may arise from the provisions of this clause 3 and clauses 1 and 7, and any claim under common law for any performance made hereunder to be restored and/or compensated for.

4. Amendments

Amendments to the MTN Tranche 1 Subscription and Call Option Agreement

4.1 Pursuant to clause 25.6 (*variation, cancellation and waiver*) of the MTN Tranche 1 Subscription and Call Option Agreement and on and with effect from the Amendment Effective Date the MTN Tranche 1 Subscription and Call Option Agreement is hereby amended as follows:

4.1.1 by the amendment in clause 12.2 of the phrase "save as otherwise provided in clause 12.3" to include a reference to clause 15.6, so as to read "save as otherwise provided in clauses 12.3 and/or 15.6";

4.1.2 by the amendment of clause 15.4 to insert the words "on or" immediately before the phrase "prior to the Longstop Date" and to insert the phrase "and, where applicable, clause 15.6" immediately before "save that";

4.1.3 by the insertion of the phrase "or as may be determined under clause 15.6" in the initial sentence of clause 15.5 such that it reads "... pursuant to a subscription and/or market purchases, in such combination as MTN may direct or as may be determined under clause 15.6, as follows:";

4.1.4 by the insertion of a new clause 15.6 (and consequent re-numbering of the clauses thereafter, and relevant cross-references) to read as follows;

"15.6 If under clause 15.4 for any reason MTN does not make an express election to exercise all (or, as applicable, part) of the NVF Call Option in respect of NVF Call Option Early Exercise Notice and does not notify BIC2 that it declines the offer made thereunder (which elections and/or notifications may, for the avoidance of doubt, be given either in relation to a specific offer or generally so as to apply on a standing basis until otherwise amended or revoked), then MTN shall – without further written notice to BIC2 being required – be deemed, as at 16h30 on the Longstop Date:

15.6.1 to have exercised the NVF Call Option to the maximum limit set in clause 15.4.1; and

15.6.2 to have directed BIC2 to effect a subscription of additional MTN Shares under clause 15.5 in the Balancing Subscription Amount equal to the Maximum NVF Reduction applicable under the relevant NVF Call Option Early Exercise Notice; provided that, in this regard, if so notified in writing by MTN from time to time prior to the applicable Longstop Date, MTN shall have the right, in lieu of a subscription, to require BIC2 to effect the rebalancing by way of a purchase of MTN Shares from a designated member of the MTN Group, and shall timeously notify BIC2 of the identity of such member of the MTN Group. Any such purchase shall be effected *mutatis mutandis* (including as to the price for and number of the MTN Shares) as set out in clause 15.5.2";

4.1.5 by the deletion of the phrase "but provided that MTN has provided its prior written consent," from where it appears in clauses 18.2.4 and 18.2.8 respectively and the substitution thereof of the phrase "but provided that (i) the financial covenant/s (measured immediately before and after the proposed dividend payment) set by MTN in writing from time to time in respect thereof is/are satisfied and (ii) no Default or Potential Default exists, as defined in Annexe C hereto".

Amendments to the Relationship Agreement

4.2 Pursuant to clause 26.5 (*variation, cancellation and waiver*) read with clause 18 (*Amendments*) of the Relationship Agreement and on and with effect from the Amendment Effective Date the Relationship Agreement is hereby amended as follows:

4.2.1 by the deletion of clause 15 thereof and the replacement thereof with the following clause numbered 15:

"15. MTN nominations to the BIC2 Board

15.1 During the BIC2 Empowerment Compliance Period:

15.1.1 2 positions on the BIC2 Board shall be reserved for persons appointed from time to time in accordance with the provisions of this clause 15 ("**Reserved Positions**");

15.1.2 in respect of each Reserved Position which at any time is vacant for any reason, MTN shall be entitled to nominate a person (and her respective alternate) to be appointed to such position. Any such nomination shall be made in writing to the BIC2 Board;

15.1.3 if the person nominated by MTN to fill the vacancy of a Reserved Position (and/or act as Alternate Director in respect of such

Reserved Position, as the case may be) is approved by the BIC2 Board (which approval it may give or withhold in its discretion), then the BIC2 Board shall appoint the person to the BIC2 Board to fill such vacancy (and/or act as Alternate Director, as the case may be) pursuant to the provisions of the BIC2 MOI and, upon such appointment the relevant Director (and her alternate, as applicable) shall hold the position as an "MTN Nominated Director";

15.1.4 in making such nomination, MTN shall ensure that at least 1 (one) of the MTN Nominated Directors is a Black Person;

15.1.5 the MTN Nominated Directors shall:

15.1.5.1 meet the criteria prescribed by law from time to time; and

15.1.5.2 subject to the Companies Act, be entitled to vote on any matter under consideration by the BIC2 Board, and in this regard shall each have the same number of votes as each other director;

15.1.6 MTN may from time to time remove any MTN Nominated Director (and/or any Alternate Director to an MTN Nominated Director) from office. Such removal shall be effected by written notice to BIC2, and shall be effective on and as from the date on which the notice is given to BIC2 or, if a later effective date is stated in the notice, such later date;

15.1.7 in addition to clause 15.1.6, each MTN Nominated Director (and/or any Alternate Director to an MTN Nominated Director) may be removed from office and shall be subject to retirement by rotation (and, if approved, re-election on such retirement) in all respects on the same terms and provisions as apply to the other Directors, and the provisions of clauses 24.7 and 25.1.8 of the BIC2 MOI shall accordingly apply to the MTN Nominated Directors;

15.1.8 for the avoidance of doubt, an MTN Nominated Director who is elected or re-elected to hold office pursuant to clauses 24.8 and/or 24.15 of the BIC2 MOI shall continue to hold such position as an MTN Nominated Director following such election and/or re-election, as the case may be, until such time as their term of office ceases (including pursuant to clauses 15.1.6 and/or 15.1.7); and

15.1.9 the Directors (and their Alternate Directors) who hold office as "MTN Appointed Directors" as at the time of commencement of this amended clause 15 shall thereupon continue to hold office and shall be classified as MTN Nominated Directors until such time as their respective terms of office cease (including pursuant to clauses 15.1.6 and/or 15.1.7);".

by the insertion of the phrase "(or such higher percentage or basis as MTN and BIC2 may agree to in writing from time to time)" in clause 18.1.2 after the phrase "... exercising not less than 65% of the votes exercisable in respect of the BIC2 Ordinary Shares at that meeting".

4.2.2

MOI Amendment

4.3 The Parties record their mutual desire to effect the changes to MTN Zakhele Futhi's memorandum of incorporation contained in the MOI Amendment, subject to the approval thereof by the New Preference Share Agent as envisaged in clause 3.1.1 hereof and the MTN Zakhele Futhi shareholders as envisaged in clause 3.1.3 above. Such changes to MTN Zakhele Futhi's memorandum of incorporation shall, if approved, take effect on the date provided for under the Companies Act.

5. Alignment of shareholder meetings and direct shareholder engagement

5.1 To enable the MTN Zakhele Futhi board to seek guidance from its shareholders in relation to resolutions proposed at the annual general meetings and any extraordinary general meetings of MTN during the BIC2 Empowerment Compliance Period, MTN Zakhele Futhi will schedule its annual general meetings (and, where appropriate, extraordinary general meetings) to occur in advance of the relevant MTN meeting. MTN will make a representative available to attend such MTN Zakhele Futhi shareholder meetings to address questions relating to MTN and to the relevant MTN resolutions.

5.2 As part of MTN's shareholder engagement process (usually bi-annual), MTN will engage with the MTN Zakhele Futhi board with respect to MTN's financial results, strategy and other operational issues.

6. Immediate interim effect

The Parties acknowledge their mutual desire to implement the matters dealt with in this Amendment Agreement as soon as is practically possible. As the majority of the changes and related matters agreed hereunder ("Proposed Changes") can be implemented unilaterally by MTN and/or MTN Zakhele Futhi, and/or on a *de facto* basis, in the interim pending the formalisation of the Proposed Changes in due course following the fulfilment (or waiver) of the Amendment Conditions Precedent, the Parties record their respective intentions to unilaterally and/or *de facto* implement the Proposed Changes as fully as they are able to: it being acknowledged that the changes proposed to the BIC2 Priority of Payments in the memorandum of incorporation of MTN Zakhele Futhi shall only be given effect to after the approval thereof by the New Preference Share Agent and the relevant amendments to MTN Zakhele Futhi's memorandum of incorporation being effected as envisaged in clauses 3.1.1 and 3.1.3 respectively above.

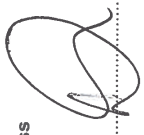
7. Miscellaneous

7.1 Save as amended by this Amendment Agreement, the Transaction Documents shall remain unchanged and shall continue in full force and effect in accordance with the terms of such documents.

7.2 This Amendment Agreement, once approved by the New Preference Share Agent as envisaged in clause 3.1.1, shall constitute a "Key Material Agreement" for all purposes under the Transaction Documents.

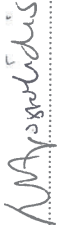
7.3 No amendment or variation of this Amendment Agreement shall affect the terms hereof unless (i) such amendment or variation is reduced to writing and signed by each of the Parties and (ii) permitted in terms of the Transaction Documents.

7.4 This Amendment Agreement may be executed in counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall be deemed to constitute one and the same agreement.

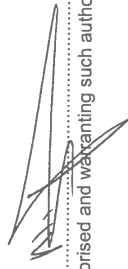
Signed at *MORNINGSIDES* on *02/07* 2019
Witness

1.
duly authorised and warranting such authority
2.

for MTN Zakhele Futhi (RF) Limited



Signed at *Fairland* on *11/06/* 2019
Witness

1.
duly authorised and warranting such authority
2.

for MTN Group Limited



MATERIAL CONTRACTS

Capitalised (defined terms) used in this Annexure 5 bear the same meanings ascribed to such terms in the Pre-Listing Statement to which this Annexure 5 is attached.

Other than the agreements listed below, there are no contracts that are material to MTNZF, being restrictive funding arrangements and/or a contract entered into otherwise than in the ordinary course of the business carried on:

NO	DESCRIPTION OF DOCUMENT	SIGNATORIES/PARTIES
1.	Relationship Agreement, dated 9 August 2016, as amended pursuant to an amendment agreement entitled "Amendment Agreement", dated 2 July 2019	MTNZF, MTN and MTNZF Shareholders
2.	MTNZF Independent Trading Process Verification Terms and Conditions	MTNZF and Verified Shareholder(s)
3.	MTNZF Facilitated Trading Process Verification Terms and Conditions	MTNZF and Verified Shareholder(s)
4.	MTNZF BEE Contract signed on behalf of MTNZF, MTN and MTN Holdings, dated 15 October 2019	MTNZF, MTN and MTN Holdings (as initial signatories) and the relevant MTNZF Shareholder and Market Participant(s) (as subsequent signatories)
5.	ESTC Terms of Reference, dated 15 October 2019	MTN and MTNZF
6.	MTN Tranche 1 Subscription and Call Option Agreement, as amended pursuant to an amendment agreement entitled "Amendment Agreement", dated 2 July 2019	MTN and MTNZF
FINANCE DOCUMENTS		
7.	BIC2 Account Cession, dated 21 August 2016	MTNZF (as cedent), BFC2 Pref Shareholders (as security cessionaries) and the Preference Share Agent
8.	BIC2 Loan Account Cession, dated 21 August 2016	MTNZF (as security cedent), BFC2 Pref Shareholders (as security cessionaries) and the Preference Share Agent
9.	BIC2 Pledge and Cession, dated 21 August 2016	MTNZF (as pledgor and security cedent), BFC2 Pref Shareholders (as pledgees and security cessionaries) and the Preference Share Agent
10.	BIC2 Preference Share Subscription Agreement, dated 21 August 2016	BFC2 (as MTNZF investor), MTNZF (as issuer) and the Preference Share Agent
11.	BIC2 Reversionary Account Cession, dated 21 August 2016	MTN, MTN Holdings (as security cessionary) and MTNZF (as cedent)
12.	BIC2 Reversionary Pledge and Cession, dated 21 August 2016	MTN, MTN Holdings (as pledgee and security cessionary) and MTNZF (as pledgor and security cedent)
13.	BFC2 Owner Trust Deed, dated 8 August 2016	The trustees for the time being of the BFC2 Owner Trust and the Preference Share Agent
14.	BFC2 Pref Share Subscription Agreement, dated 21 August 2016	BFC2, FirstRand Bank, United Towers, Depfin Investments, and Nedbank (in its capacity as Preference Share Agent and as a recipient of a BFC2 Participation Fee)

NO	DESCRIPTION OF DOCUMENT	SIGNATORIES/PARTIES
15.	Account Bank and Agency Agreement, dated 21 August 2016	MTN, MTNZF, BFC2, the BFC2 Pref Shareholders and Nedbank (in various capacities)
16.	Call Option Agreement, dated 21 August 2016	MTN, the BFC2 Pref Shareholders and the Preference Share Agent
17.	First Ranking Guarantee Agreement, dated 21 August 2016	MTNZF (as guarantor), the BFC2 Pref Shareholders and the Preference Share Agent
18.	MTN Account Cession, dated 21 August 2016	MTN (as cedent), the BFC2 Pref Shareholders (as security cessionaries) and the Preference Share Agent
19.	MTN Guarantee Agreement, dated 21 August 2016	MTN, the BFC2 Pref Shareholders and the Preference Share Agent
20.	MTN Subordination and Undertaking Agreement, dated 21 August 2016	The BFC2 Pref Shareholders, BFC2, MTNZF, MTN and the Preference Share Agent
21.	Preference Shares Custody Agreement, dated 21 August 2016	Nedbank (in its capacity as Preference Share Agent and as Preference Share Custodian) and BFC2
22.	Safe Custody Agency Agreement, dated 21 August 2016	Nedbank and MTNZF