



# ***Introducing MTN Zakhele Futhi***

*Now is the time to plant seeds for the future*

## **Prospectus**

A copy of this prospectus has been registered with the Companies and Intellectual Property Commission as required by the Companies Act 71 of 2008, as amended.

This prospectus and the documents referred to in paragraph 3 of section 4 of this prospectus were attached to the copy of the prospectus which was filed for registration with the Companies and Intellectual Property Commission.



# Overview



This quick overview gives you the highlights of how to apply for MTN Zakhele Futhi Shares. Please note that this overview is subject to all the terms and conditions of the full MTN Zakhele Futhi Prospectus.

## Who can apply?



1 Black People

2 Black Groups



## When can I apply?



START: 09:00 on  
**12 Sep 2016**



END: 16:00 on  
**21 Oct 2016**

Mon, 12 Sep 2016 | Fri, 21 Oct 2016

## How much will it cost me?



1 MTN Zakhele Futhi share

= **R20**

Cash Applicants must apply for at least

**100 SHARES**

## How do I apply?



### CASH APPLICANTS

- 1 Capture some of your data online at [www.mtn.com/zakhelefuthi](http://www.mtn.com/zakhelefuthi) or visit a Participating Nedbank Branch
- 2 Collect all your supporting documents
- 3 Every Applicant must visit a Participating Nedbank Branch to:
  - a) provide your outstanding information
  - b) sign the completed Application Form printed at the Participating Nedbank Branch; and
  - c) submit your supporting documents
- 4 You'll be SMSed payment instructions and a unique reference number
- 5 Make payment using your unique reference number as the payment reference

### RE-INVESTMENT APPLICANTS

- 1 If you hold dematerialised MTN Zakhele Shares, you must instruct your CSDP or broker in accordance with your mandate with them as to your election by no later than 12:00 on 21 October 2016. If you hold your MTN Zakhele Shares through Pacific Nominees, you must make an election on the MTN Zakhele transaction platform, or through the MTN Zakhele call centre on 083 123 6869, by 12:00 on 19 October 2016
- 2 If you hold certificated MTN Zakhele Shares, complete and deliver the form of surrender, election and transfer (the pink form in the MTN Zakhele Scheme circular) to MTN Zakhele transfer secretaries by latest 12:00 on 21 October 2016
- 3 From here, you'll follow the same application process as cash applicants, but you won't be required to make a cash payment. You can however also apply for additional MTN Zakhele Futhi Shares in cash, if you choose to do so, using your unique reference number as the payment reference

#### Transfer Secretaries

Link Market Services South Africa Proprietary Limited,  
13th Floor, Rennie House, 19 Ameshoff Street, Braamfontein  
(PO Box 4844, Johannesburg, 2000)

## A few things to note



After the Offer Period closes, MTN Zakhele Futhi will determine whether your application was accepted and how many shares you'll receive. If you do not receive all the MTN Zakhele Futhi Shares you applied for, you will receive your money back for the shares you didn't receive. If this is due to an oversubscription, you will also receive interest on the money from the Closing Date until the date of refund (both days excluded)

## Need a hand with your application?

Call the Nedbank Contact Centre on **083 900 6863** or visit a Participating Nedbank Branch



They can also assist you with any changes you need to make to your application

## What documents do I need to submit?

- 1 FICA documents
- 2 Bank statements stamped by your bank
- 3 Black Groups will need to submit a Valid BEE Ownership Certificate if:

**a.** You are a Cash Applicant applying for 50 000 or more MTN Zakhele Futhi Shares (i.e. R1m); or **b.** You are a Re-investment Applicant applying to re-invest 15 000 or more MTN Zakhele Shares; or **c.** You are a Re-investment Applicant applying to re-invest 8 000 or more MTN Zakhele Shares and have also applied for additional MTN Zakhele Futhi Shares as a Cash Applicant, in any amount

## How do I pay?



You can pay by cash or EFT. Whatever amount you deposit in the bank account prior to 16:00 on 21 October 2016 will be used to apply for as many MTN Zakhele Futhi shares up to that amount (in multiples of R100), but only payments received before the dates below will be accepted. Re-investment Applicants will not need to make a cash payment and the value of the scheme consideration due to you for the MTN Zakhele shares you elect to re-invest will be used to apply for as many MTN Zakhele Futhi Shares up to that amount. You can however increase the shares applied for by depositing additional cash under the same terms as Cash Applicants

	📍 WHERE/HOW?	🕒 WHEN?	📌 IMPORTANT TO NOTE
CASH	Participating Nedbank Branch or Nedbank Intelligent Depositor	By 16:00 on Fri, 21 Oct 2016	Maximum R24 999 per deposit
EFT	MTN Zakhele Futhi (RF) Limited Nedbank Current Account no: 1119098157 Branch code: 198765	By 16:00 on Tue, 18 Oct 2016	

Enter the unique reference number SMSed to you as your payment reference

## Why should I invest?

- MTN is facilitating the 2016 MTN BEE Transaction by providing Notional Vendor Finance to MTN Zakhele Futhi to subscribe for new MTN shares at a 20% discount to the Transaction Share Price
- The total value of this discount if the offer is fully subscribed is R1.974 billion

## Stay informed

We'll keep you updated by SMS. For any queries, visit a Participating Nedbank Branch or call the Nedbank Contact Centre 083 900 6863 (toll-free for MTN subscribers only)

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



**Investment Bank, Corporate Advisor, Arranger,  
and Bookrunner to MTN Zakhele Futhi**



**Distribution Agent**



**Co-funders to MTN Zakhele Futhi**



**Share Administration Agent**



**Custodian to MTN Zakhele Futhi**



**Legal and Tax Advisor to MTN Zakhele Futhi,  
MTN Zakhele and MTN**

**WEBBER WENTZEL**

in alliance with > **Linklaters**

**Registered Auditor to MTN Zakhele Futhi  
and MTN Zakhele**



**Joint Independent Registered Auditors  
to MTN**



**Legal Advisor to the Co-funders**



**Independent Counsel to MTN Zakhele Futhi  
and MTN Zakhele**



**Corporate advisor to MTN Zakhele**



The definitions and interpretations commencing on page 25 of this Prospectus apply to the entire document, including this cover page. This Prospectus, accompanied by the documents referred to under "Documents available for inspection" as set out in paragraph 3 of Section 4 of this Prospectus, was registered by the CIPC on 26 August 2016 and is issued in terms of the Companies Act and the Companies Regulations for the purpose of providing information to the Applicants wishing to participate in the MTN Zakhele Futhi Public Offer and to MTN Zakhele Shareholders wishing to participate in the MTN Zakhele Re-investment Offer. [Reg 51(4)]

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## **MTN ZAKHELE FUTHI (RF) LIMITED**

Incorporated in the Republic of South Africa

(Registration number 2016/268837/06)

("MTN Zakhele Futhi" or the "Company")

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# **PROSPECTUS**

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**This Prospectus relates to an invitation to Black People and Black Groups to subscribe for up to 123 416 819 ordinary shares in MTN Zakhele Futhi at R20.00 per MTN Zakhele Futhi Share.**

The Prospectus is also issued for the purpose of giving MTN Zakhele Shareholders the statutorily required information in connection with the MTN Zakhele Re-investment Offer under the MTN Zakhele Unwinding Scheme (if such a scheme is implemented), and does not amend the terms and conditions of the MTN Zakhele Unwinding Scheme and the MTN Zakhele Re-investment Offer made available thereunder. The MTN Zakhele Re-investment Offer under the MTN Zakhele Unwinding Scheme is one of the options available to MTN Zakhele Shareholders in consideration for their MTN Zakhele Shares under the MTN Zakhele Unwinding Scheme (if such scheme is implemented) and is an offer to apply to receive MTN Zakhele Futhi Shares from MTN Zakhele. To the extent that the right to such election constitutes an offer to the public of MTN Zakhele Futhi Shares in terms of Section 95(1)(h) of the Companies Act, this Prospectus also relates to such election.

Each MTN Zakhele Futhi Share has an underlying value, as at the Last Practicable Date, of R33.50 based on the assumptions contained on pages 45 and 46. (Please see paragraph 3.5 of Section 1 of this Prospectus.)

The minimum subscription required for participation by a Cash Applicant in the MTN Zakhele Futhi Offer is 100 MTN Zakhele Futhi Shares, which amounts to a minimum subscription payment of R2 000.00. The minimum subscription required for participation by a Re-investment Applicant in the MTN Zakhele Futhi Offer is the election to re-invest 50 MTN Zakhele Shares.

If the cash amount raised under the MTN Zakhele Futhi Public Offer is less than R250 million, then the 2016 MTN BEE Transaction will not be implemented.

If the total equity raised in the MTN Zakhele Futhi Offer (i.e. through cash and/or through the MTN Zakhele Re-investment) is less than R1 234.1 million, then the 2016 MTN BEE Transaction will also not be implemented. If the total equity raised is equal to or above R1 234.1 million but below R2 468.3 million, the 2016 MTN BEE Transaction may or may not be implemented, at the election of MTN. [Reg 54(3)(b)]

The MTN Zakhele Futhi Offer opens at 09:00 on Monday, 12 September 2016 and closes at 16:00 on Friday, 21 October 2016.

**Date of issue: Monday, 12 September 2016**

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## CORPORATE INFORMATION AND ADVISORS

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### **Registered Office of MTN Zakhele Futhi**

MTN Zakhele Futhi (RF) Limited  
(Registration number 2016/268837/06)  
216 – 14th Avenue, Fairland, 2195  
South Africa  
(Private Bag X9955, Cresta, 2118)

### **Investment Bank, Corporate Advisor and Transaction Sponsor to MTN and Investment Bank, Corporate Advisor and Arranger to MTN Zakhele Futhi**

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

### **Legal and Tax Advisor to MTN, MTN Zakhele and MTN Zakhele Futhi**

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

### **Distribution Agent**

Nedbank Limited  
(Registration number 1951/000009/06)  
135 Rivonia Road  
Sandton, 2196  
South Africa  
(PO Box 1144, Johannesburg, 2000)

### **Bookrunner to MTN Zakhele Futhi**

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

### **Legal Advisor to the Co-funders**

ENSAfrica  
150 West Street  
Sandton  
Johannesburg, 2196  
South Africa  
(PO Box 783347, Sandton, 2146)

### **Company Secretary**

Maitland Group South Africa Limited  
(Registration number 1981/009543/06)  
1 Maitland House  
River Park, Gloucester Road  
Mowbray, 7700  
(PO Box 3149, Cape Town, 8000)

### **Corporate Advisor to MTN Zakhele**

Tamela Holdings Proprietary Limited  
(Registration number 2008/011759/07)  
Ground Floor  
Ballyoaks Office Park  
35 Ballyclare Drive  
Bryanston  
2191  
(PO Box 379, Morningside, Gauteng, 2057)

### **Share Administration Agent**

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)

### **Auditor to MTN Zakhele Futhi, MTN Zakhele and Joint Independent Registered Auditor to MTN**

SizweNtsalubaGobodo 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)

### **Joint Independent Registered Auditor to MTN**

PricewaterhouseCoopers Inc.  
Chartered Accountants (SA)  
Registered Accountants and Auditors  
(Registration number 1998/012055/21)  
2 Eglin Road  
Sunninghill, 2157  
South Africa  
(Private Bag X36, Sunninghill, 2157)

### **Custodian**

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

**Co-funders to MTN Zakhele Futhi**

Nedbank Limited  
(Registration number 1951/000009/06)  
135 Rivonia Road  
Sandton, 2196  
South Africa  
(PO Box 1144, Johannesburg, 2000)

Rand Merchant Bank, a division of FirstRand Bank Limited  
(Registration number 1929/001225/06)  
4 Merchant Place  
Corner Fredman Drive and Rivonia Road  
Sandton, 2196  
South Africa  
(PO Box 650149, Benmore, 2010)

Absa Bank Limited  
(Registration number 1986/004794/06)  
7th Floor, Barclays Towers West  
15 Troye Street  
Johannesburg, 2001  
South Africa

**Independent Legal Advisors to MTN Zakhele Futhi and MTN Zakhele**

Prinsloo Tindle & Andropoulos Incorporated  
(Registration number 1998/021593/21)  
1st Floor, 17 Fricker Road  
Illovo Boulevard  
Illovo, 2196  
South Africa  
(PO Box 55024, Northlands, 2116)

Beja Attorneys Incorporated  
(Registration number 2015/244670/21)  
82 Maude Street  
Sandton, 2146  
South Africa  
(82 Maude Street, Sandton, 2146)

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## IMPORTANT INFORMATION

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Capitalised terms used in this Prospectus have been defined on pages 25 to 39. This Prospectus is addressed only to persons in South Africa, and does not constitute an offer or invitation to subscribe in, into or from, or capable of acceptance in, any jurisdiction other than in South Africa.

### FORWARD-LOOKING STATEMENTS

Some statements in this Prospectus are forward-looking and involve risks and uncertainties. These generally include, but are not limited to, terminology such as “may”, “will”, “expect”, “intend”, “plan”, “estimate”, “anticipate” and “believe”. These include statements regarding, amongst others, the future financial position, prospects, growth in markets, projected costs, estimates of capital expenditures and plans and objectives of management for the future operation of MTN Zakhele Futhi, MTN Zakhele and/or MTN. The actual performance could differ materially from these forward-looking statements.

Because many factors, including the risk factors referred to in this Prospectus, could cause the actual results or outcomes to differ materially from those expressed in any forward-looking statements made in this Prospectus, do not place undue reliance on these forward-looking statements. Further, any forward-looking statement speaks only as at the date on which it is made, and neither MTN, the Company nor MTN Zakhele undertake any obligation to update any forward-looking statement to reflect events or circumstances after the date on which the statement is made or to reflect the occurrence of unanticipated events or to advise any person of such changes, except where required to do so by law. New factors may emerge in the future, and it is not possible for MTN, the Company and/or MTN Zakhele to predict and list such factors. In addition, MTN, the Company and/or MTN Zakhele cannot assess the effect of each factor on their respective businesses or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those described in any forward-looking statements.

### PROSPECTUS COMPLIES WITH THE COMPANIES ACT

This Prospectus complies with section 100 of the Companies Act and Parts B and C of Chapter 4 of the Companies Regulations. The written consents of the experts and advisors set out in the "Corporate Information and Advisors" Section of this Prospectus have been attached to the copy of the Prospectus filed with the CIPC. Each of the aforementioned experts and advisors have consented to the use of any statement made by them in this Prospectus and/or the use of their names in this Prospectus, as the case may be, and have not withdrawn such consents as at the date of this Prospectus. The number of each applicable regulation of the Companies Regulations is given in square brackets after appropriate headings or sub-headings.

### OBTAINING COPIES OF THIS PROSPECTUS

Copies of this Prospectus may be obtained during normal business hours from 09:00 on Monday, 12 September 2016 until 16:00 on Friday, 21 October 2016 from:

- any Participating Nedbank Branch; or
- any participating MTN store; or
- the Registered Office of MTN Zakhele Futhi (see the “Corporate Information and Advisors” Section of this Prospectus for these details).

Unless permitted otherwise, copies will be limited to one per person.

Due to logistical constraints, the Company cannot guarantee that physical copies of the Prospectus will be available at all times at the above locations. You can also download copies of this Prospectus from the MTN website at [www.mtn.com/zakhelefuthi](http://www.mtn.com/zakhelefuthi).

## COMPLETING YOUR APPLICATION FORM

The process is different for you if you are a **Cash Applicant** or if you are a **Re-investment Applicant** (Details of what qualifies you as a Cash Applicant and/or a Re-investment Applicant are set out in question 2 (An Overview of the Application Process) on page 12 of the Prospectus.) Should you require assistance in completing your Application Form, you can contact the Nedbank Contact Centre on **083 900 6863** (toll-free number for MTN subscribers only). The Nedbank Contact Centre operating hours are from 08:00 until 16:30 from Monday to Friday.

	Cash Applicant	Re-investment Applicant
<p>Step 1</p> <p>Providing the required data to populate your Application Form</p>	<p>The following options are available to all Applicants to provide some of the required data for purposes of populating an Application Form prior to visiting a Participating Nedbank Branch if an Applicant wishes to do so in order to speed up the application process:</p> <ul style="list-style-type: none"> <li>• Applicants who are Black People may complete (but should not sign) the blue Application Form attached to this Prospectus by hand and Applicants who are Black Groups may complete (but should not sign) the green Application Form attached to this Prospectus by hand; or</li> <li>• Applicants may call the Nedbank Contact Centre on 083 900 6863 (toll-free number for MTN subscribers only); or</li> <li>• Applicants may visit the following MTN website to electronically capture some of your data for the Application Form – <a href="http://www.mtn.com/zakhelefuthi">www.mtn.com/zakhelefuthi</a>.</li> </ul> <p>The Participating Nedbank Branch will use the data provided to populate the Application Form, which will be printed at the Participating Nedbank Branch for signature by the Applicant. Please do not sign an Application Form prior to visiting a Participating Nedbank Branch and being requested to do so.</p>	
		<p>If you hold dematerialised MTN Zakhele Shares, you must instruct your CSDP or broker in accordance with your mandate with them as to your election under the MTN Zakhele Unwinding Scheme but by no later than 12:00 on 21 October 2016.</p> <p>If you hold your MTN Zakhele Shares through Pacific Nominees, you must make an election under the MTN Zakhele Unwinding Scheme on the MTN Zakhele transaction platform, or through the MTN Zakhele call centre on 083 123 6869, by 12:00 on 19 October 2016.</p> <p>If you hold certificated MTN Zakhele Shares, you must complete and deliver the form of surrender, election and transfer (the pink form attached to the MTN Zakhele Scheme Circular) to the transfer secretaries of MTN Zakhele, Link Market Services South Africa Proprietary Limited, 13th Floor, Rennie House, 19 Ameshoff Street, Braamfontein (PO Box 4844, Johannesburg, 2000), by no later than 12:00 on Friday, 21 October 2016.</p> <p>If you require any assistance as a Re-investment Applicant with the election process, you can contact the MTN Zakhele call centre on 083 123 6869 for assistance.</p>

<p>Step 2</p> <p>Complete, sign and submit your Application Form</p>	<p>Visit any Participating Nedbank Branch. Please bring a copy of the Prospectus with you to the Participating Nedbank Branch. If you do not have a copy of the Prospectus, the Participating Nedbank Branch will provide you with a copy.</p> <p>At the Participating Nedbank Branch you will be assisted in capturing all required data in order for the Participating Nedbank Branch to complete your Application Form.</p> <p>If you provided any data in accordance with Step 1, such data will also be used by the Participating Nedbank Branch to complete your Application Form. You will also be assisted to confirm, correct and update any information supplied in accordance with Step 1.</p> <p>The required FICA verification process will also be done at this stage at the Participating Nedbank Branch. Applicants must therefore bring and submit all supporting documents contemplated in paragraph 6.2 of Section 2 on page 57 of the Prospectus when they visit a Participating Nedbank Branch.</p> <p>Once all of the required data has been captured and the Application Form has been completed by the Participating Nedbank Branch, the Participating Nedbank Branch will print the Application Form to be signed by you at the Participating Nedbank Branch.</p> <p>At the time of and immediately prior to signing the Application Form printed by the Participating Nedbank Branch, you will be requested to sign and tear out the Confirmation of Possession attached to this Prospectus on page 165. Please do not sign or tear out the Confirmation of Possession prior to visiting the Participating Nedbank Branch and being requested to do so. The Participating Nedbank Branch will retain the original signed Confirmation of Possession.</p> <p>Black minors must be assisted by their parents or legal guardians. Black Groups must be represented by an authorised representative. Black Groups will be required to submit the original completed and signed appointment of authorised representative attached as Annexure 9 to this Prospectus for purposes of the authorised representative signing the Application Form.</p> <p>Only Application Forms created in the manner set out above will be accepted by a Participating Nedbank Branch. If you filled in an Application Form in accordance with Step 1, such document will not be accepted as your Application Form, but may be used by the Participating Nedbank Branch to fill out your Application Form for signature at the Participating Nedbank Branch.</p> <p>The Participating Nedbank Branch will retain your original signed Application Form and provide you with a copy thereof. You will be sent an SMS with a unique reference number which must be used with respect to all enquiries, payments and documents in connection with your application and the MTN Zakhele Futhi Offer.</p>
<p>Step 3</p> <p>Paying for the shares you have applied for</p>	<div> <div> <p>Cash Applicants only need to pay for the MTN Zakhele Futhi Shares you have applied for, but can also pay for additional shares, in each case using your unique reference number provided by the Participating Nedbank Branch, by 16:00 on 18 October 2016 if paying by EFT and by 16:00 on 21 October 2016 if paying in physical cash.</p> <p><b>Please use the following EFT banking details:</b></p> <ul style="list-style-type: none"> <li>✓ Account holder: MTN Zakhele Futhi (RF) Limited</li> <li>✓ Nedbank account number: 1119098157</li> <li>✓ Account type: Current account</li> <li>✓ Branch code: 198765</li> <li>✓ Reference: The unique reference number SMSed to you on submission of your Application Form and supporting documents.</li> </ul> </div> <div> <p>If you are a Re-investment Applicant, you do not need to make a cash payment as the relevant payment will be made as part of the MTN Zakhele Unwinding Scheme process. You can, however, increase your investment by depositing additional cash under the same terms as Cash Applicants, using your unique reference number SMSed to you.</p> <p>If you are a Black Group, you will also be required to submit your MTN Zakhele Shareholder number when applying to re-invest your MTN Zakhele Shares. You can call the MTN Zakhele Call Centre on 083 123 6869 for assistance in obtaining this MTN Zakhele Shareholder number.</p> </div> </div>

If you pay funds into the wrong bank account or use the wrong unique reference number	<p>If you (or someone on your behalf) transfer funds into the wrong bank account by mistake, these funds may not be recoverable and will not be applied towards the MTN Zakhele Futhi Offer.</p> <p>If you (or someone on your behalf) use the incorrect unique reference number provided by Nedbank via SMS, the transaction could be ineffective due to the funds being unassigned, or the funds deposited could be allocated to the wrong Applicant. You may thus lose your monies or otherwise suffer a loss.</p>
If you have made a mistake on your application	If you made a mistake when providing your bank account details for the Application Form (created and submitted through the above channels), you will need to visit any Participating Nedbank Branch during the Offer Period to update your bank account details and re-submit your proof of bank account supporting documents.
If your contact details have changed after you have submitted your application	<p>If any of your contact details in the Application Form (created and submitted through the above channels) change during the Offer Period, you will need to visit any Participating Nedbank Branch to update your contact details and, if your address has changed, re-submit your proof of address supporting documents for FICA purposes.</p> <p>If any of your details change after the close of the Offer Period, please contact the Nedbank Contact Centre on <b>083 900 6863</b> (toll-free number for MTN subscribers only).</p>

**To avoid the queues at Participating Nedbank Branches towards the end of the Offer Period, please complete the application process and submit all supporting documents as soon as possible.**

You will be able to speed up your application process by submitting some of the data required for your Application Form online or by contacting the Nedbank Contact Centre before visiting a Participating Nedbank Branch.

You should seek professional advice prior to subscribing for or electing to receive MTN Zakhele Futhi Shares to fully understand the tax obligations and other legal consequences arising from your acquisition, subscription, holding and future sale of MTN Zakhele Futhi Shares.

Before completing the application process, read the Prospectus, and in particular, the details and terms and conditions of the MTN Zakhele Futhi Offer as more fully set out in Section 2 of the Prospectus.

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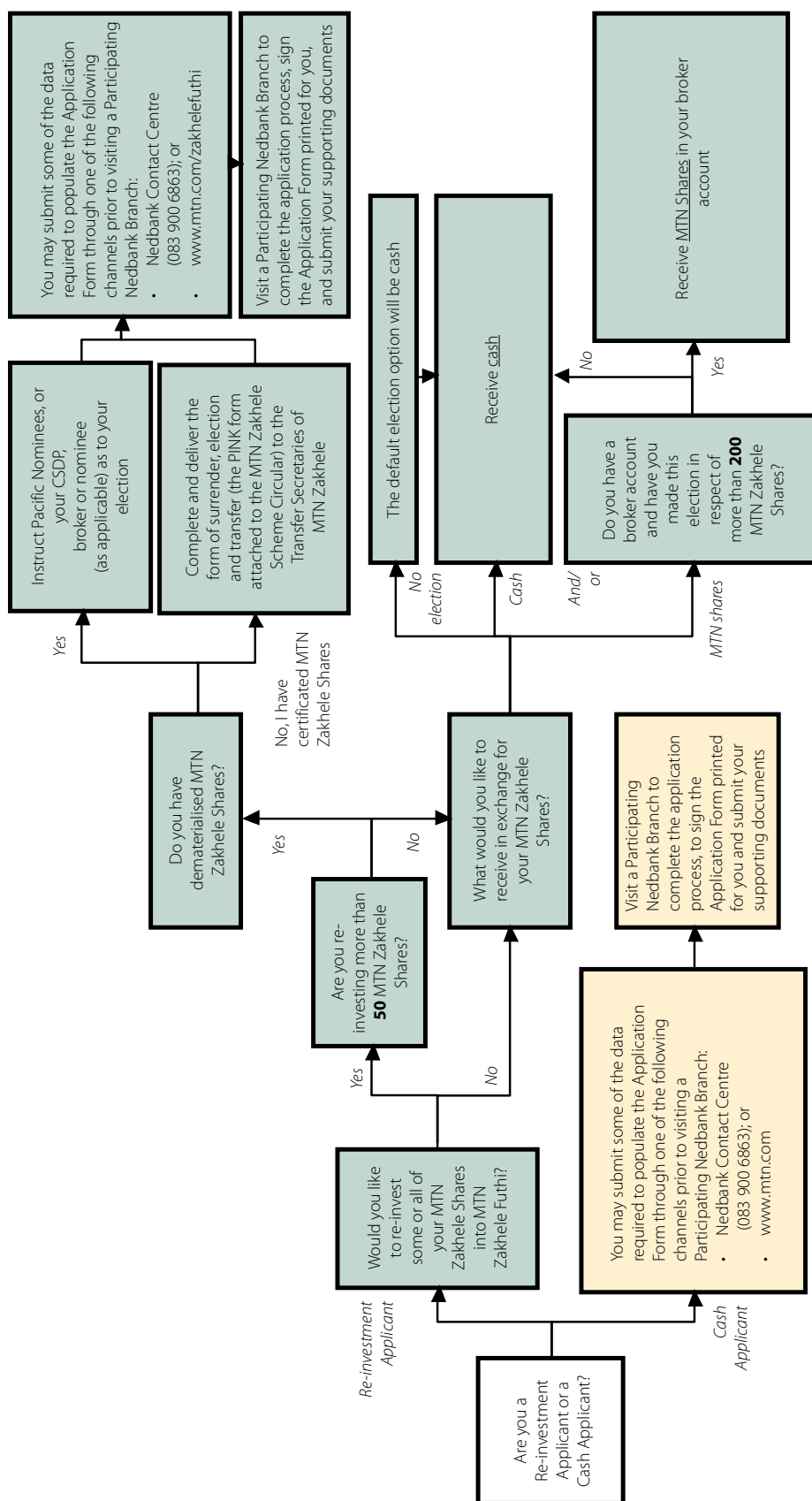
## IMPORTANT DATES AND TIMES FOR THE MTN ZAKHELE FUTHI OFFER

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MTN Zakhele Futhi Offer opening date	09:00	Monday	12 September 2016
MTN Zakhele Futhi Offer Closing Date	16:00	Friday	21 October 2016
MTN Zakhele Futhi Shares allocated		Wednesday	23 November 2016
Posting of MTN Zakhele Futhi Share confirmations and processing of refunds	By no later than Friday, 23 December 2016		

The dates and times of making allocations and processing of refunds and the MTN Zakhele Futhi Offer Closing Date are subject to change. Any material changes will be published in the press.

## RE-INVESTMENT APPLICANT AND CASH APPLICANT DECISION MAKING PROCESS



Please note that this table is a high level summary only, and does not reflect (or amend or change) all of the detailed terms and conditions applicable to the MTN Zakhele Futhi Offer and/or the MTN Zakhele Unwinding Scheme.

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## AN OVERVIEW OF THE APPLICATION PROCESS

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### 1. WHO CAN APPLY FOR MTN ZAKHELE FUTHI SHARES?

- **Black People:** Black People (African, Coloured and Indian people) who are natural persons and citizens of South Africa by birth or descent; or who are citizens through naturalisation before 27 April 1994 or after that date, but who would have qualified for naturalisation before that date. Minors (i.e. a Black Person below 18 years of age) must be assisted by their parent or legal guardian.
- **Black Groups:** Black Companies and Black Entities, as defined. In summary terms, these are companies or entities incorporated or formed in South Africa and in which Black People own at least 51% of the equity, exercise at least 51% of the voting rights and participate in at least 51% of the economic interests therein, on a flow-through basis.

### 2. WHAT IS THE DIFFERENCE BETWEEN A CASH APPLICANT AND A RE-INVESTMENT APPLICANT?

- A Cash Applicant is an Applicant who would like to apply for MTN Zakhele Futhi Shares in cash.
- A Re-investment Applicant is an MTN Zakhele Shareholder who wishes to receive MTN Zakhele Futhi Shares in respect of all or part of their scheme consideration under the MTN Zakhele Unwinding Scheme and who thus participates in the MTN Zakhele Re-investment Offer.
- Under the MTN Zakhele Unwinding Scheme (if such scheme is approved and implemented), MTN Zakhele Shareholders have three options to receive their consideration for the buy-back and cancellation of their MTN Zakhele Shares;
  - i. Re-investment into MTN Zakhele Futhi by acquiring MTN Zakhele Futhi Shares; and/or
  - ii. Cash; and/or
  - iii. MTN Shares.

### 3. IF I AM AN EXISTING MTN ZAKHELE SHAREHOLDER, CAN I ALSO APPLY FOR MTN ZAKHELE FUTHI SHARES IN CASH?

- Yes. MTN Zakhele Shareholders can also apply for MTN Zakhele Shares in cash and are not limited to (or required) to apply for MTN Zakhele Futhi Shares only through the MTN Zakhele Re-investment Offer.
- You can thus participate in either or both of the MTN Zakhele Re-investment Offer (i.e. as a Re-investment Applicant) and/or the MTN Zakhele Futhi Public Offer (i.e. as a Cash Applicant).
- If you wish to be a Cash Applicant and to thus participate in the MTN Zakhele Futhi Public Offer, you should separately follow all of the instructions, and will be subject to all of the terms and conditions, applicable to Cash Applicants in respect of that application. If you decide to participate in both, you will be treated as a Re-investment Applicant in respect of the MTN Zakhele Futhi Shares you apply for as part of the MTN Zakhele Re-investment Offer, and a Cash Applicant in respect of the MTN Zakhele Futhi Shares that you apply for in cash, using the unique reference number SMSed to you on or after submission of your Application Form and supporting documents.
- The MTN Zakhele Futhi Offer is seeking in aggregate to raise the Target Equity Raise of R2 468.3 million and, if the offer is oversubscribed, the allocation between the Black Public and MTN Zakhele Re-investing Shareholders will be determined by MTN Zakhele Futhi as part of its allocations process. (See paragraph 9.2 of Section 2 for further details.)

### 4. WHEN IS THE OFFER PERIOD?

- The MTN Zakhele Futhi Offer opens on 12 September 2016 at 09:00 and will close on 21 October 2016 at 16:00.
- Any changes to these dates and times (if any) will be released on SENS by MTN and published in at least one English language South African newspaper. All times referred to in this Prospectus are South African times.

### 5. WHO CAN HELP ME PROVIDE THE DATA REQUIRED TO FILL OUT THE APPLICATION FORM?

- You may submit some of the data required for purposes of populating an Application Form by contacting the Nedbank Contact Centre on 083 900 6863 (toll-free number for MTN subscribers only) or by visiting [www.mtn.com/zakhelefuthi](http://www.mtn.com/zakhelefuthi). All other required data must be provided at a Participating Nedbank Branch.
- Assistance in providing some of the data required for purposes of populating an Application Form can be provided to you by contacting the Nedbank Contact Centre on 083 900 6863 or by visiting any Participating Nedbank Branch.



## 6. WHAT DOCUMENTS MUST I SUBMIT WITH MY APPLICATION FORM?

- Please refer to the list of supporting documents contemplated in paragraph 6.2 of Section 2 on page 57 of the Prospectus.
- MTN Zakhele Futhi is entitled to verify your details (for BEE, FICA and other purposes) and you are obligated to assist in such verification promptly when requested to do so.
- Original BEE, FICA and other supporting documents must be presented at a Participating Nedbank Branch unless a certified copy (not older than 3 months) of the original document is required (copies of original documents can be certified at any South African Police Station). (Please refer to the supporting documents contemplated in paragraph 6.2 of Section 2 on page 57 of the Prospectus for more information).
- If you are an MTN subscriber, the information provided by you as part of the application process will not result in an update to any of your existing RICA information stored by MTN.
- If you are a Nedbank customer, the information provided by you will not result in an update to your existing customer profile, unless otherwise requested.

## 7. DO I NEED TO SUBMIT A BEE OWNERSHIP CERTIFICATE?

- Black People (i.e. individuals) who are applying for MTN Zakhele Futhi Shares do not need to submit a Valid BEE Ownership Certificate.
- If you are a Black Group applying for MTN Zakhele Futhi Shares you will need to submit a Valid BEE Ownership Certificate obtained from a Valid BEE Verification Agency as set out in paragraph 6.2.2.4 of Section 2 of this Prospectus if:
  - you apply as a Cash Applicant for MTN Zakhele Futhi Shares to the total value of R1 000 000 or more (i.e. a total of 50 000 MTN Zakhele Futhi Shares or more); or
  - you elect as a Re-investment Applicant to receive MTN Zakhele Futhi Shares in respect of 15 000 MTN Zakhele Shares, or more, **OR** if you elect to re-invest in respect of 8 000 MTN Zakhele Shares, or more, and have also applied for additional MTN Zakhele Futhi Shares as a Cash Applicant in any amount.
- If you are a Black Group applying for fewer MTN Zakhele Futhi Shares than those set out above, a Valid BEE Ownership Certificate is **not required** to be submitted, but you can nevertheless choose to do so.
- If you are not required to deliver a Valid BEE Ownership Certificate and you choose not to do so, you will instead be required to deliver the supporting documents set out in paragraph 6.2.2.5 of Section 2 on page 58 of the Prospectus.

## 8. CAN I WITHDRAW MY APPLICATION AFTER SUBMITTING IT?

- Applications for MTN Zakhele Futhi Shares under the MTN Zakhele Futhi Offer are irrevocable and may not be withdrawn once received by or on behalf of MTN Zakhele Futhi and/or MTN Zakhele (as applicable), unless MTN Zakhele Futhi or MTN Zakhele (in respect of the MTN Zakhele Re-investment Offer) issues, registers and publishes a supplement to the Prospectus, in which event applications made prior to the date of issue or publication of the supplement may be withdrawn on written notice to MTN Zakhele Futhi (in the case of applications under the MTN Zakhele Futhi Public Offer) and MTN Zakhele (in the case of applications under the MTN Zakhele Re-investment Offer) within 20 business days after the date of publication; provided that, in respect of any supplement published by MTN Zakhele the right to withdraw applications applies only to applications made under the MTN Zakhele Re-investment Offer and not to Cash Applicants.

## 9. WHAT IF I MAKE A MISTAKE WHEN PROVIDING THE DATA REQUIRED TO FILL OUT THE APPLICATION FORM?

- If you make a mistake when providing your bank account or other details on the Application Form (created and submitted through the above channels), you will need to visit any Participating Nedbank Branch during the Offer Period to update the bank account or other details.
- If any of your contact details in the Application Form (created and submitted through the above channels) change, you will need to visit any Participating Nedbank Branch during the Offer Period to update your contact details and, if your address has changed, re-submit your proof of address supporting documents for FICA purposes.
- If any of your details change after the close of the Offer Period please contact the Nedbank Contact Centre on 083 900 6863 (toll free number for MTN subscribers only).

## 10. IF NEDBANK ACCEPTS MY INFORMATION, DOES THIS MEAN THAT NO FURTHER INFORMATION IS REQUIRED?

- The obligation to give full and accurate information rests on each Applicant. The acceptance of an Application Form and supporting documentation by Nedbank, and the allotment and issue of MTN Zakhele Futhi Shares following acceptance of an application, does not imply that any such information has been verified or accepted as true and correct, and will not prevent MTN Zakhele Futhi, MTN Zakhele and/or MTN from taking action in connection therewith at any time, including after MTN Zakhele Futhi Shares have been issued or transferred to you.

## 11. HOW DO I PAY?

### If you are a Cash Applicant:

When you submit your application, you will be sent payment instructions via SMS, and will need to pay for your shares in accordance with those instructions and as set out below:

- Payment may be made in one of the following manners:
  - Cash payment: All physical cash payments (maximum R24 999 per deposit) must be made by latest 16:00 on 21 October 2016. Cash payments can be made:
    - by using a Nedbank Intelligent Depositor using your unique reference number; or
    - at any Participating Nedbank Branch using your unique reference number.
  - EFT: EFT payments must be made by latest 16:00 on 18 October 2016 (three days prior to the close of the Offer Period) into the MTN Zakhele Futhi bank account number referred to below (which will also be indicated in the SMS sent to you by Nedbank when you sign and submit your Application Form and supporting documents at a Participating Nedbank Branch). **It is critical that the unique reference number sent to you via SMS is used as the payment reference at the time of the cash payment/EFT transfer to avoid the transaction being rejected due to the funds being unallocated, and for the funds to be allocated to the correct recipient. The onus is on the Applicant to ensure that his/her/its payment reference is correct. None of MTN, MTN Zakhele, MTN Zakhele Futhi nor Nedbank will be held liable for payments made without reference numbers or with incorrect payment references.**

#### Please use the following EFT banking details:

- ✓ Account holder: MTN Zakhele Futhi (RF) Limited
  - ✓ Nedbank account number: 1119098157
  - ✓ Account type: Current account
  - ✓ Branch code: 198765
  - ✓ Reference: The unique reference number sent by Nedbank via SMS when you submit your Application Form and supporting documents.
- Whatever amount you (or other persons) deposit with your unique reference number into the above account prior to 16:00 on 21 October 2016, will constitute an offer by you to subscribe for MTN Zakhele Futhi Shares up to that amount.
  - This amount will be used, if you are successful with your application, to subscribe for as many MTN Zakhele Futhi Shares as possible (in multiples of R100) up to the maximum number of MTN Zakhele Futhi Shares allocated to you, and any excess amount will be refunded to you as provided for in the Prospectus. Please note that refunds are subject to Cash Applicants having complied with FICA.

**Please note: cheques, postal orders, credit cards and debit cards will NOT be accepted.**

### If you are a Re-investment Applicant:

- You do not need to make any cash payment for the MTN Zakhele Futhi Shares you apply for as part of the MTN Zakhele Re-investment Offer. You can, however, also apply for additional MTN Zakhele Futhi Shares in cash, if you choose to do so (refer to question 3 above). If you require any assistance as a Re-investment Applicant, you can contact the Nedbank Contact Centre on 083 900 6863 (toll-free number for MTN subscribers only).
- The number of MTN Zakhele Shares in respect of which you have elected to participate in the MTN Zakhele Re-investment Offer will be set aside in your share account as provided for in the MTN Zakhele Unwinding Scheme. To make this election:
  - if you hold **dematerialised MTN Zakhele Shares**, you must instruct your CSDP or broker in accordance with your mandate with them as to your election but by no later than 12:00 on Friday, 21 October 2016. If you hold your dematerialised MTN Zakhele Shares through Pacific Nominees, you must make an election on the MTN Zakhele transaction platform, or through the MTN Zakhele call centre on 083 123 6869, by 12:00 on Wednesday, 19 October 2016; and
  - if you hold **certificated MTN Zakhele Shares**, you must complete and deliver the form of surrender, election and transfer (the PINK form attached to the MTN Zakhele Scheme Circular) to the transfer secretaries of MTN Zakhele, Link Market Services South Africa Proprietary Limited, 13th Floor, Rennie House, 19 Ameshoff Street, Braamfontein (PO Box 4844, Johannesburg, 2000), by no later than 12:00 on Friday, 21 October 2016.
- The number of your MTN Zakhele Shares in respect of which you elect to participate in the MTN Zakhele Re-investment Offer will constitute an election (offer) by you to MTN Zakhele to receive MTN Zakhele Futhi Shares in exchange for the MTN Zakhele Scheme Consideration due to you in respect of such MTN Zakhele Shares, at R20.00 per MTN Zakhele Futhi Share.
- To the extent that you are allocated fewer MTN Zakhele Futhi Shares than you have elected, the balance of the MTN Zakhele Scheme Consideration due to you which has not been applied to receive MTN Zakhele Futhi Shares will be settled to you in cash and/or in MTN Shares, in accordance with the terms of the MTN Zakhele Unwinding Scheme.
- If you are a Black Group, you will be required to submit your MTN Zakhele Shareholder number when applying to re-invest your MTN Zakhele Shares. You can call the MTN Zakhele Contact Centre on 083 123 6869 for assistance in obtaining your MTN Zakhele Shareholder number.

## **12. I AM A CASH APPLICANT – WHEN DO I HAVE TO PAY?**

- You (and/or other persons on your behalf) can pay the full amount when you submit your Application Form and receive your unique reference number, or make one or more payments at a later date, but before the close of the Offer Period at 16:00 on 21 October 2016.
- If you (and/or other persons on your behalf) are paying by EFT, payment must be made by latest 16:00 on 18 October 2016 (three days prior to the close of the Offer Period to allow enough time for the money to reflect in the MTN Zakhele Futhi Account).

## **13. HOW MUCH WILL IT COST ME?**

- Each MTN Zakhele Futhi Share costs R20.00.
- If you are a Cash Applicant:
  - you must apply for at least 100 MTN Zakhele Futhi Shares;
  - simply, it will cost you R2 000 for every 100 MTN Zakhele Futhi Shares;
  - payments can only be made in multiples of R100.
- If you are a Re-investment Applicant:
  - you must elect to re-invest in respect of at least 50 MTN Zakhele Shares;
  - for an explanation of how these are applied to acquire MTN Zakhele Futhi Shares, please see paragraph 3.2.1 of Section 2 of the Prospectus.

## **14. HOW ARE APPLICATIONS PROCESSED?**

Once the MTN Zakhele Futhi Offer closes on 21 October 2016, the share allocation process will start, which can take up to 60 days to complete.

### **Allocation of MTN Zakhele Futhi Shares**

- After the Offer Period closes on 21 October 2016, MTN Zakhele Futhi will be able to determine:
  - Whether your application was accepted or rejected; and
  - If accepted, how many MTN Zakhele Futhi Shares (if any) you will receive.
- If there is an oversubscription (including by re-investment) and applications are received for more than 123 416 819 MTN Zakhele Futhi Shares, you may not get all or any of the shares you applied for, even if your application has been properly completed, payment (where required) has been made and all your supporting documents have been correctly submitted.
- Refunds to Cash Applicants
  - If, due to an oversubscription, you do not receive all the MTN Zakhele Futhi Shares you applied for, MTN Zakhele Futhi will return the funds paid into the MTN Zakhele Futhi Account using your unique reference number to you (but not to any other person who made any payments on your behalf) in respect of those MTN Zakhele Futhi Shares which you applied for, but did not receive, with interest calculated from the Closing Date until the date of the refund (both days excluded);
  - If your application is rejected for any reason or if you were disqualified, MTN Zakhele Futhi will return the funds paid into the MTN Zakhele Futhi Account using your unique reference number to you (but not to any other person who made any payments on your behalf) without interest after the close of the Offer Period.
  - Refunds will be paid by EFT, into the South African bank account identified on the Application Form. Please note that refunds are subject to Cash Applicants having complied with FICA.
  - One or more third parties may make any number of payments directly into the MTN Zakhele Futhi Account on your behalf or otherwise, using your unique reference number as a payment reference. However, no refunds will be made to any such third parties. All refunds relating to your application will only be paid to you. You agree to indemnify MTN Zakhele Futhi, MTN and Nedbank in respect of any claims made against us by any person who made any payment into the MTN Zakhele Futhi bank account using your unique reference number.
- Refund payments to Re-investment Applicants
  - If, due to an oversubscription, you do not receive all the MTN Zakhele Futhi Shares you applied for, you will receive either cash or MTN Shares depending on your alternative election in respect of the MTN Zakhele Unwinding Scheme.

### **Status updates**

- You will receive status updates via SMS with respect to the status of your application.
- Please note that you will only receive communications via SMS with respect to the status of your application and you will not be able to reply to those SMSes. If you have any queries with respect to any SMS received by you, you will need to visit any Participating Nedbank Branch or call the Nedbank Contact Centre on 083 900 6863.

- Please ensure that you are able to be contacted on the cell phone number that you provided to Nedbank on your Application Form during the Offer Period and for 60 days thereafter. If your cell phone number changes during this time, you will need to visit any Participating Nedbank Branch or call the Nedbank Contact Centre to update your contact details.

#### **Confirmation of allocation**

- Within 60 days after the MTN Zakhele Futhi Offer Closing Date, you will receive confirmation indicating the number of MTN Zakhele Futhi Shares allocated to you, if any.
- You will not receive a share certificate for MTN Zakhele Futhi Shares allocated to you, as the MTN Zakhele Futhi Shares will be issued in Dematerialised form (i.e. without a physical document). You will, though, receive a document confirming the number of shares issued to you.

During the Minimum Investment Period, your MTN Zakhele Futhi Shares will be held in an account on your behalf by the Custodian in accordance with the mandate agreement concluded with it under the Relationship Agreement. You will not be charged by the Custodian for this service during the Minimum Investment Period. After the Minimum Investment Period, upon the BEE Listing you will be able to have your MTN Zakhele Futhi Shares held directly in your name or by a Nominee Holder (e.g. via your broker) on your behalf, or you can continue to have the Custodian hold the shares on your behalf, subject to its terms and conditions.

#### **15. ARE THERE ANY HIDDEN COSTS IN APPLYING FOR THE MTN ZAKHELE FUTHI SHARES ON OFFER?**

- There are no hidden commissions or incentives for which you will be liable.

#### **16. I AM AN MTN ZAKHELE SHAREHOLDER – AM I GUARANTEED THE RIGHT TO RE-INVEST MY MTN ZAKHELE SHARES INTO MTN ZAKHELE FUTHI?**

- No. The opportunity to re-invest all or some of the value of your MTN Zakhele Shares into MTN Zakhele Futhi is subject to the MTN Zakhele Unwinding Scheme proceeding and to the 2016 MTN BEE Transaction proceeding.
- If the MTN Zakhele Unwinding Scheme is not approved by MTN Zakhele Shareholders or does not otherwise proceed, there will be no option to re-invest the value of your MTN Zakhele Shares into MTN Zakhele Futhi. If so, and you would like to apply for MTN Zakhele Futhi Shares, you should do so in cash as a Cash Applicant within the Offer Period.

#### **17. WHAT IS AN MTN ZAKHELE SHAREHOLDER NUMBER?**

- If you are a Black Group currently invested in MTN Zakhele and wish to re-invest your MTN Zakhele Shares, you will be required to submit your MTN Zakhele Shareholder number when applying to re-invest your MTN Zakhele Shares. You can call the MTN Zakhele Call Centre on 083 123 6869 for assistance in obtaining this MTN Zakhele Shareholder number.

## AN OVERVIEW OF THE MTN ZAKHELE FUTHI OFFER

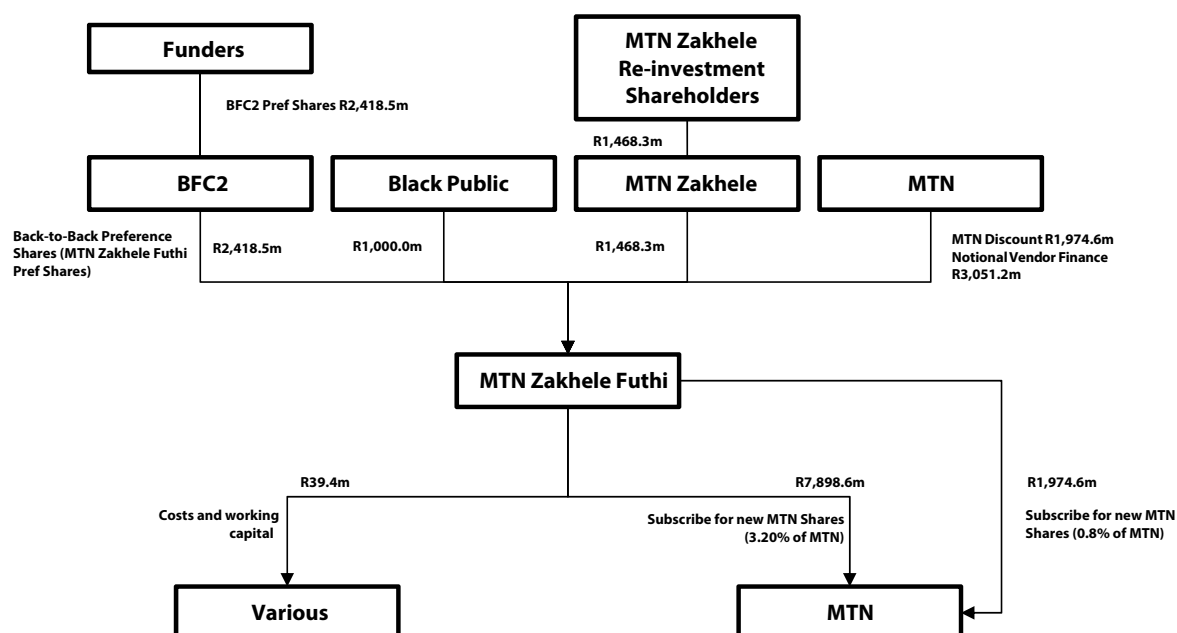
This Section gives a summary of the MTN Zakhele Futhi Offer. For a more detailed understanding of the MTN Zakhele Futhi Offer, MTN Zakhele Futhi and MTN Group, you should read the entire Prospectus. MTN Zakhele Shareholders considering participating in the MTN Zakhele Re-investment Offer should also read the entire MTN Zakhele Scheme Circular to which this Prospectus was annexed. For the purposes of this summary, it is assumed that the MTN Underwrite Option and/or the MTN Subordinated Loan are not needed, and are thus not utilised and that the Inception Total Share Cover Ratio is met. The information set out herein is summary in nature, is not comprehensive and must be read together with the detailed information and terms set out in the Prospectus.

### 1. WHAT IS THE PURPOSE OF THE MTN ZAKHELE FUTHI PUBLIC OFFER AND MTN ZAKHELE FUTHI RE-INVESTMENT OFFER?

The purpose of the MTN Zakhele Futhi Offer is to provide the Black Public with an opportunity to participate in the ownership of the MTN Group, either through the MTN Zakhele Futhi Public Offer or by continuing to participate therein through the MTN Zakhele Re-investment Offer. The MTN Zakhele Futhi Offer is a part of the 2016 MTN BEE Transaction, which is sized to be approximately 4.0% of MTN's issued share capital on a Fully Diluted Basis.

### 2. WHAT IS THE 2016 MTN BEE TRANSACTION STRUCTURE?

- MTN intends to implement the proposed 2016 MTN BEE Transaction, through MTN Zakhele Futhi, by means of the following core elements:
  - the MTN Zakhele Futhi Public Offer;
  - the MTN Zakhele Re-investment Offer, if the MTN Zakhele Unwinding Scheme proceeds;
  - MTN Zakhele Futhi raising third-party finance through the MTN Zakhele Futhi Pref Shares;
  - MTN providing MTN Zakhele Futhi with funding and vendor facilitation through, amongst others, the Notional Vendor Finance and the 20% transaction discount provided by it; and
  - the subscription for MTN Shares by MTN Zakhele Futhi using the funding raised through these sources.
- MTN Zakhele Futhi will apply the money raised through the issue of the MTN Zakhele Futhi Pref Shares, the money raised in the MTN Zakhele Futhi Public Offer from the Black Public, the re-investment value it receives from MTN Zakhele pursuant to the MTN Zakhele Re-investment arising from the MTN Zakhele Re-investment Offer and the Notional Vendor Finance from MTN to subscribe for new MTN Shares to be issued by MTN at a discount to the Transaction Share Price.
- The 2016 MTN BEE Transaction is sized to be approximately 4.0% of MTN's issued share capital on a Fully Diluted Basis, but may be scaled down should subscriptions under the MTN Zakhele Futhi Public Offer and/or re-investment elections under the MTN Zakhele Re-investment Offer not be sufficient to allow for this.



Please note that this diagram is illustrative only. It assumes that the Target Equity Raise is met and that the relevant Inception Total Share Cover Ratio is met for the advance of the preference share funding and that no adjustments to the structure are accordingly required.

### 3. HOW WILL THE 2016 MTN BEE TRANSACTION BE FUNDED?

The 2016 MTN BEE Transaction will be funded through a combination of:

- Money raised from the Black Public under the MTN Zakhele Futhi Public Offer;
- Re-investment value received from MTN Zakhele under the MTN Zakhele Re-investment, if any;
- Notional Vendor Finance from MTN;
- An upfront effective 20% discount being provided by MTN to the price payable by MTN Zakhele Futhi for the MTN Shares acquired by it; and
- Third party bank funding (raised through BFC2 issuing the BFC2 Pref Shares to the BFC2 Investors and utilising the aggregate subscription price of such BFC2 Pref Shares to subscribe for the MTN Zakhele Futhi Pref Shares).

### 4. HOW MANY MTN ZAKHELE FUTHI SHARES ARE BEING OFFERED AND AT WHAT PRICE?

- A maximum of 123 416 819 MTN Zakhele Futhi Shares at R20.00 each.
- The total MTN Zakhele Futhi Offer size is up to R2 468.3 million.

### 5. WHAT IS THE UNDERLYING VALUE OF EACH MTN ZAKHELE FUTHI SHARE?

Each MTN Zakhele Futhi Share has an underlying value, as at the Last Practicable Date and based on the assumptions in paragraph 3.5 of Section 1 of this Prospectus, of approximately R33.50. The market price of the MTN Shares is the most important factor affecting the value of an MTN Zakhele Futhi Share although such value is also significantly impacted by the financing obligations.

The table below sets out the indicative underlying value of an MTN Zakhele Futhi Share on commencement based on various MTN Share prices:

MTN Share price (Rand)	MTN Zakhele Futhi Share underlying value (Rand)
R100.00	R17.74
R120.00	R30.19
R125.31	R33.50
R140.00	R42.64
R160.00	R55.10
R180.00	R67.55

(As at the Last Practicable Date, the MTN Share price was R125.31)

### 6. CAN I LOSE MY R20.00 INVESTMENT?

- Yes, you can ultimately lose all or a part of your investment. The MTN Zakhele Futhi Shares you acquire will be subject to all the investment risks faced by the ordinary shareholders of any company. The value of the MTN Zakhele Futhi Shares will also be subject to all the risks faced by BFC2 pursuant to its preference share funding.
- As with all share investments, the value of the investment depends largely on the underlying value of the business or assets invested in and the financing obligations. The value of your MTN Zakhele Futhi Shares will therefore increase and decrease with reference, among others, to any changes in the value of MTN Shares and the costs of funding. (See the table in question 5 above for some illustrative movements in the underlying value of MTN Zakhele Futhi Shares as linked to the value of MTN Shares.) You will however not be required to invest any more money into MTN Zakhele Futhi, even if the value of your investment decreases. For more details of the factors that may affect the value of your investment, refer to paragraph 3.4 of Section 1 of this Prospectus.

### 7. WHAT IS NOTIONAL VENDOR FINANCE (NVF)?

- NVF involves the transfer of shares worth their market value to the BEE partner (here, MTN Zakhele Futhi) by the company requiring empowerment credentials (here, MTN) for a small actual cash payment (e.g. R0.0001 per share), and with the great majority of the value for the shares being effectively provided on notional loan account (with an agreed "interest" rate) by the company requiring empowerment credentials (here, MTN).
- During the funding period the transfer of shares is a legal transfer of ownership and in particular the BEE shareholder has the voting rights and the economic benefits (notably, dividends) of the shares acquired by it. Over time, the funding increases by the amount of

accumulated “interest” and decreases with any payments made towards the notional loan. On termination, if the value of all of the shares in the structure is higher than the then outstanding funding, the BEE shareholder keeps its shares and pays off the outstanding funding or surrenders sufficient shares to pay off the funding. If lower, the BEE partner surrenders all its shares but walks away from the funding.

## 8. HOW MANY MTN SHARES WILL MTN ZAKHELE FUTHI HOLD?

MTN Zakhele Futhi will subscribe for up to 76 835 378 MTN Shares.

## 9. FOR EVERY MTN SHARE HELD BY MTN ZAKHELE FUTHI HOW MANY MTN ZAKHELE FUTHI SHARES WILL THERE BE?

Based on 76 835 378 MTN Shares held and 123 416 819 MTN Zakhele Futhi Shares in issue, MTN Zakhele Futhi will hold 62.2 MTN Shares for every 100 MTN Zakhele Futhi Shares issued. This number may vary depending on the ultimate structure. See paragraph 1.2 of Section 4 of the Prospectus for further details.

## 10. DOES THIS MEAN THAT MY MTN ZAKHELE FUTHI SHARE IS ALMOST EQUIVALENT TO AN MTN SHARE?

- Working from a number of 62.2 MTN Shares for every 100 MTN Zakhele Futhi Shares, in the event of the liquidation of MTN Zakhele Futhi immediately on its commencement, and based on the MTN Share price of R125.31 at the Last Practicable Date, MTN Zakhele Futhi would need to sell:
  - 19 300 527 MTN Shares at R125.31 to pay off the amounts owing to the funders of R2 418.5 million (excluding break costs, early redemption penalties, gross-up payment and taxes, where applicable); and
  - 24 349 562 MTN Shares with a price of R125.31 to settle MTN’s Notional Vendor Finance of (R3 051.2 million);

thus leaving 33 185 289 MTN Shares for distribution to the MTN Zakhele Futhi Shareholders (i.e. you). This distribution would be (excluding taxation and costs) 26.9 MTN Shares for every 100 MTN Zakhele Futhi Shares held.

This equates to an immediate liquidation value (excluding liquidation costs and any taxes payable by MTN Zakhele Futhi and yourself) of R33.50 per MTN Zakhele Futhi Share.

## 11. GIVEN THAT THE TRANSACTION SHARE PRICE IS R128.50 PER MTN SHARE, HOW CAN I APPLY FOR IT AT R20.00 PER SHARE?

- You will not be applying for MTN Shares, but you will be applying for MTN Zakhele Futhi Shares.
- Your R20.00 investment for each MTN Zakhele Futhi Share will be pooled with funds from the funders and Notional Vendor Finance from MTN, for MTN Zakhele Futhi to acquire MTN Shares, thus providing you with an investment in MTN Shares through your MTN Zakhele Futhi Shares.

Below is a summary of how your R20.00 per share investment combines to acquire an MTN Share:

	<b>Total (R million)</b>	<b>Per MTN Share (R)</b>
Equity from MTN Zakhele Futhi Public Offer and MTN Zakhele Re-investment Offer	2 468.3	R32.12
Upfront costs and working capital	(39.4)	(R0.51)
MTN discount	1 974.6	R25.70
Third party bank funding through the MTN Zakhele Futhi Pref Shares	2 418.5	R31.48
Notional Vendor Finance from MTN	3 051.2	R39.71
<b>Total</b>	<b>9 873.2</b>	<b>R128.50</b>

## 12. DOES MTN SIGNIFICANTLY ASSIST THE MTN BEE TRANSACTION?

- Yes, MTN is significantly assisting the 2016 MTN BEE Transaction, including in the key ways described below.
- The funding raised by MTN Zakhele Futhi from the Black Public and, if applicable, the MTN Zakhele Re-investment from MTN Zakhele Shareholders will contribute only about 25.0% of the total funding needed for the 2016 MTN BEE Transaction. MTN has undertaken to provide Notional Vendor Finance of up to R3 051.2 million to MTN Zakhele Futhi. The Notional Vendor Finance will enable MTN Zakhele Futhi to subscribe for 23 745 086 MTN Shares (1.24% of MTN’s issued share capital after the 2016 MTN BEE Transaction).
- MTN will issue the MTN Shares subscribed for by MTN Zakhele Futhi at an effective, aggregate, discount of 20% to the Transaction Share Price, which discount represents up to R1 974.6 million in value.
- MTN’s Notional Vendor Finance is subordinated to (i.e. ranks behind) the funding raised by MTN Zakhele Futhi from the third party funders.

- In addition to these direct benefits to MTN Zakhele Futhi, MTN's assistance has enabled MTN Zakhele Futhi to raise significant (up to a maximum of R3 200 million) funding from third party funders at favourable terms and funding rates.

### **13. HOW WILL THE FUNDING BENEFIT MTN ZAKHELE FUTHI SHAREHOLDERS AND NOT ONLY THE FUNDERS**

- The funders of the transaction (including the third party preference share funders and MTN through the Notional Vendor Finance provided to the structure) enable MTN Zakhele Futhi to acquire a number of the MTN Shares well in excess of that which it would have been able to acquire with just the money and value raised by it from the Black Public in cash and through the MTN Zakhele Re-investment. The potential net benefits of these MTN Shares (after repayment of the funding and associated taxes and liabilities), including the dividends received on the MTN Shares and any increases in the value thereof that may occur, are for the benefit of the MTN Zakhele Futhi Shareholders.

### **14. WHY SHOULD I TAKE PART IN THE MTN ZAKHELE FUTHI OFFER AS A CASH APPLICANT?**

- You will acquire shares in MTN Zakhele Futhi, a vehicle created to provide the Black Public with an opportunity to invest in up to approximately 4.0% of MTN and which is significantly facilitated by MTN.
- MTN will provide facilitation through a 20% upfront discount on the MTN Shares worth up to R1 974.6 million and committed Notional Vendor Finance of up to R3 051.2 million.
- For every R2 000 you invest, MTN Zakhele Futhi will be able to make an investment into MTN Shares of about R8 000, facilitated by way of the 20% discount provided by MTN, and the funding raised by MTN Zakhele Futhi from MTN and the third party funders. This will give you exposure to a significant investment into the MTN Group, and its future, for a relatively small (25%) contribution. (For every R100.00 you put in, MTN and the funders will effectively put in about R301.60)

### **15. WHY SHOULD I RE-INVEST INTO THE MTN ZAKHELE FUTHI OFFER AS A RE-INVESTMENT APPLICANT?**

- You will acquire shares in MTN Zakhele Futhi, a vehicle created to provide the Black Public the opportunity to invest in up to approximately 4.0% of MTN and which is significantly facilitated by MTN.
- MTN will, amongst others, provide facilitation through a 20% upfront discount on the MTN Shares worth up to R1 974.6 million and committed Notional Vendor Finance of up to R3 051.2 million.
- By re-investing into MTN Zakhele Futhi you will defer the payment of any applicable taxes which would have otherwise arisen on the disposal of your MTN Zakhele Shares as part of the MTN Zakhele Unwinding Scheme until such date that you choose to sell your MTN Zakhele Futhi Shares. You will be able to sell your MTN Zakhele Futhi Shares after the Minimum Investment Period.
- For every R2 000 you re-invest, MTN Zakhele Futhi will be able to make an investment into MTN Shares of about R8 000, facilitated by way of the 20% discount provided by MTN, and the funding raised by MTN Zakhele Futhi from MTN and other sources. This will allow you to continue to have exposure to a significant investment into the MTN Group, and its future, for a relatively small (25%) contribution. (For every R100.00 you put in, MTN and the funders will effectively put in about R301.60)

### **16. HOW WILL MTN ZAKHELE FUTHI SHARES BE ALLOCATED IF THE OFFER IS OVERSUBSCRIBED?**

- Should applications for MTN Zakhele Futhi Shares in the MTN Zakhele Futhi Public Offer and MTN Zakhele Re-investment Offer exceed 123 416 819 MTN Zakhele Futhi Shares, MTN Zakhele Futhi will use its discretion (in accordance with principles and/or guidelines established by the MTN Board and in consultation with the MTN Board) in allocating MTN Zakhele Futhi Shares between Re-investment Applicants under the MTN Zakhele Re-investment Offer and Cash Applicants under the MTN Zakhele Futhi Public Offer and, within these groups, to successful Applicants.
- It is presently envisaged that, in order to ensure the broadest possible base of BEE Participants, the allocation of MTN Zakhele Futhi Shares will generally be made from the bottom up, starting with applications for the least number of MTN Zakhele Futhi Shares and with a priority for Black People (i.e. individuals). It is also presently envisaged that, in respect of re-investing MTN Zakhele Shareholders, allocations will be made 80% on a bottom-up basis through setting shareholding bands (where, within the band, each participating MTN Zakhele Shareholder will receive a stated percentage of the MTN Zakhele Futhi Shares applied for, with the allocation percentage ranging from highest in the bottom band to lowest in the top band) and 20% on a discretionary basis to enable greater optimisation of the overall balance and BEE effect of the 2016 MTN BEE Transaction. No preferential treatment will be given to employees, directors or subscribers of MTN or directors of MTN Zakhele or MTN Zakhele Futhi.
- If you are a Cash Applicant and have applied and paid for more MTN Zakhele Futhi Shares than are eventually issued to you, MTN Zakhele Futhi will refund to you the excess amount plus interest by EFT. Please note that refunds are subject to Cash Applicants having complied with FICA. If you are a Re-investment Applicant and have applied for more MTN Zakhele Futhi Shares than are eventually transferred to you, then the relevant portion of your MTN Zakhele Scheme Consideration which was not settled in MTN Zakhele Futhi Shares will remain with you and be settled to you as part of the MTN Zakhele Unwinding Scheme. As you have not paid any monies, no interest will apply to you.
- Interest will be calculated from the Closing Date until the date of refund (both days excluded).



## 17. WHAT HAPPENS IF LESS THAN THE FULL AMOUNT OF CAPITAL IS RAISED?

- In the event that the combined money raised from the Black Public under the MTN Zakhele Futhi Public Offer and/or through the MTN Zakhele Re-investment is equal to or above the Minimum Equity Raise (R1 234.1 million) but less than the Target Equity Raise (R2 468.3 million) in order to facilitate the 2016 MTN BEE Transaction, MTN may (but is not obliged to) enable MTN Zakhele Futhi to make up all or a part of the shortfall to the Target Equity Raise by subscribing for MTN Zakhele Futhi Shares at R20.00 per share and/or by providing additional funding to it through the MTN Subordinated Loan (Equity Top-up) and/or by providing additional Notional Vendor Finance – and the 2016 MTN BEE Transaction may then be scaled down to between approximately 2% and 4.0% of MTN's issued share capital on a Fully Diluted Basis depending on its decision. Should MTN subscribe for MTN Zakhele Futhi Shares, the intention is that MTN will then sell or place these MTN Zakhele Futhi Shares with qualifying BEE Participants in due course. (If MTN does not agree to reduce the size of the transaction or to provide this additional funding, the 2016 MTN BEE Transaction will not be implemented and the MTN Zakhele Futhi Offer will terminate.)
- To the extent that the combined money raised in the MTN Zakhele Futhi Public Offer and/or through the MTN Zakhele Re-investment is less than the Minimum Equity Raise, the 2016 MTN BEE Transaction will not be implemented and the MTN Zakhele Futhi Offer will terminate.
- To the extent that the cash raised in the MTN Zakhele Futhi Public Offer is less than the Minimum Cash Raise of R250 million, then the 2016 MTN BEE Transaction will also not be implemented and the MTN Zakhele Futhi Offer will terminate.

## 18. ARE THERE LIMITATIONS ON HOW MANY MTN ZAKHELE FUTHI SHARES ONE CAN APPLY FOR OR BE ALLOCATED?

No, there is no limit on the number of MTN Zakhele Futhi Shares that may be applied for; however, there is a 15% maximum ownership (directly or by persons in concert or connected) shareholding rule applicable per shareholder (and its connected persons and concert parties) on allocation of the MTN Zakhele Shares. Accordingly, no allocations of MTN Zakhele Futhi Shares in breach of the aforementioned maximum ownership may be made by MTN Zakhele Futhi without MTN's prior written consent. Any attempt to acquire or hold more than this percentage without MTN's prior written permission is prohibited and may trigger various adverse consequences to you. For further details, see paragraph 12.6 of Section 2.

## 19. WHAT ARE THE MINIMUM AND MAXIMUM INVESTMENT AMOUNTS?

- Minimum (Cash Applicants): 100 MTN Zakhele Futhi Shares, which will cost R2 000.
- Minimum (Re-investment Applicants): elections to re-invest in respect of 50 MTN Zakhele Shares.
- Maximum: there is no maximum number of MTN Zakhele Futhi Shares that may be applied for; however, there is a maximum allocation of 18 512 522 MTN Zakhele Futhi Shares, unless MTN consents otherwise. This maximum includes any MTN Zakhele Futhi Shares allocated through the MTN Zakhele Re-investment Offer.

The table below sets out the number of MTN Zakhele Futhi Shares that a prospective shareholder will acquire based on the amount invested:

Number of MTN Zakhele Futhi Shares applied for	Amount applied for (Rand)
100	R2 000
105	R2 100
110	R2 200
120	R2 400
250	R5 000
500	R10 000
2 500	R50 000
5 000	R100 000
25 000	R500 000
50 000	R1 000 000

## 20. WHAT ARE THE TRADING RESTRICTIONS ON THE SHARES?

- The Empowerment Period for MTN Zakhele Futhi is eight years after the date on which the MTN Zakhele Futhi Shares are issued to the Black Public, which is expected to be 23 November 2016.
- You cannot sell or otherwise Dispose of your MTN Zakhele Futhi Shares during the first three years of the Empowerment Period (i.e. the Minimum Investment Period).

- Restricted trading will be allowed during the fourth to eighth years, where you can only sell or Dispose of your MTN Zakhele Futhi Shares to Eligible MTN Zakhele Futhi Shareholders. All sales and Disposals during the fourth to eighth years are subject, amongst others, to approval and BEE verification processes.
- You cannot Encumber (e.g. use for security) your MTN Zakhele Futhi Shares during the Empowerment Period (i.e. eight years).
- There will be no special restrictions on the Disposal or Encumbrance of MTN Zakhele Futhi Shares after the Empowerment Period.
- During the Empowerment Period, you will be bound by the Relationship Agreement with MTN and MTN Zakhele Futhi.
- A breach of these restrictions or the terms of the Relationship Agreement could result in a Call Event and you being obliged to sell your MTN Zakhele Futhi Shares at a discount (see paragraph 12.6 of Section 2 of the Prospectus).

## **21. MAY I EXIT MTN ZAKHELE FUTHI DURING THE EMPOWERMENT PERIOD?**

You may only voluntarily exit after the Minimum Investment Period. Special provisions apply in the event of death, insolvency and sequestration – see questions 26, 27, and 28 below.

## **22. WHAT MAY DISQUALIFY ME FROM BECOMING AN MTN ZAKHELE FUTHI SHAREHOLDER?**

MTN Zakhele Futhi reserves the right to accept or reject applications, in its sole discretion. Without limiting this discretion, the following will likely disqualify you:

- If you are a Cash Applicant and you do not make payment in time and in accordance with this Prospectus.
- If your Application Form is not completed properly or is incomplete.
- If all the required supporting documents are not submitted.
- If you are an MTN Zakhele Shareholder and fail to make an election to re-invest your MTN Zakhele Shares.
- If your information cannot be verified.
- If you are not a Black Person or a Black Group as defined in terms of this Prospectus.
- If you make any fraudulent or untrue statements in your Application Form.

## **23. WHAT HAPPENS IF I AM DISQUALIFIED?**

- Your application will be rejected. If you were a Cash Applicant, any funds you have paid will be refunded, without interest. Please note that refunds are subject to Cash Applicants having complied with FICA.
- If you misrepresent your BEE Status or commit any action which amounts to fronting, you run the risk of either being disqualified from participating in MTN Zakhele Futhi or, if MTN Zakhele Futhi Shares are awarded to you, of a Call Event arising with the result that you may be forced to sell your MTN Zakhele Futhi Shares at a significant discount, depending on when the breach occurs and circumstances in which it arose. Please see paragraph 12.6 of Section 2 of the Prospectus for further details in relation to a Call Event.

## **24. CAN I BE FORCED TO SELL MY MTN ZAKHELE FUTHI SHARES?**

Yes, in the circumstances set out in paragraph 12.6 of Section 2 of the Prospectus, which include:

- You were a Black Group and you cease to continue to qualify as a Black Group during the Empowerment Period;
- You misrepresented that you were a Black Group or a Black Person or the intended beneficial owner of the shares, at the time of your application;
- You are a Black Group and, during the Minimum Investment Period, you cease to have at least the same level of Black ownership/membership/beneficiaries/participants that you had at the time of your application;
- You breach the terms of the Relationship Agreement;
- During the Empowerment Period, you Dispose of your shares to a person or group that you know or reasonably should have known is not a Black Person or Black Group;
- In the case of a Black Group, during the Empowerment Period, you are wound up;
- In the case of a Black Person, you are sequestered; and
- In the event of a death – see in this regard the answer to questions 26 and 27 below.

## **25. IF I AM A BLACK GROUP, MUST I MAINTAIN MY BEE STATUS?**

Yes. All Black Groups holding MTN Zakhele Futhi Shares must maintain their BEE Status during the Minimum Investment Period at a level no less than that which they were when they acquired their MTN Zakhele Futhi Shares (as set out in the Application Form), and must continue to qualify as a Black Group throughout the Empowerment Period. Should a Black Group fail to maintain its BEE Status and/or status as a Black Group and fail to remedy this, this may result in their MTN Zakhele Futhi Shares being acquired by MTN at a discount of up to 70% of

the Call Reference Price, depending on when the breach occurs and circumstances in which it arose. Furthermore, your rights to receive dividends and to vote your MTN Zakhele Futhi Shares will immediately be deemed to have been ceded to MTN or its nominee/s, unless it expressly agrees otherwise.

**26. WHAT HAPPENS IF I DIE OR BECOME INSOLVENT DURING THE EMPOWERMENT PERIOD?**

Your estate or insolvent trustee, as the case may be, will be permitted to transfer your MTN Zakhele Futhi Shares to your heir, provided that your heir is an Eligible MTN Zakhele Futhi Shareholder, or to transfer your MTN Zakhele Futhi Shares to an Eligible MTN Zakhele Futhi Shareholder within 120 days, failing which your estate or trustee may be forced to sell your MTN Zakhele Futhi Shares to MTN at: (i) the Call Reference Price in relation to death or at a 10% discount to the Call Reference Price in relation to involuntary sequestration or (ii) a discount of up to 70% of the Call Reference Price in relation to voluntary sequestration, depending on when it occurs.

**27. WHAT HAPPENS IF A MEMBER OF OUR BLACK GROUP DIES DURING THE EMPOWERMENT PERIOD, RESULTING IN THE BLACK GROUP CEASING TO MAINTAIN ITS BEE STATUS AND/OR QUALIFYING AS A BLACK GROUP?**

You will be permitted to rectify the breach or sell your MTN Zakhele Futhi Shares to an Eligible MTN Zakhele Futhi Shareholder within 120 days, failing which you may be forced to sell your MTN Zakhele Futhi Shares to MTN at a 10% discount to the Call Reference Price.

**28. WHAT HAPPENS IF OUR BLACK GROUP GETS INVOLUNTARILY LIQUIDATED DURING THE EMPOWERMENT PERIOD, RESULTING IN THE BLACK GROUP CEASING TO MAINTAIN ITS BEE STATUS AND/OR QUALIFY AS A BLACK GROUP?**

You and/or the liquidator will be permitted to rectify the breach or sell your MTN Zakhele Futhi Shares to an Eligible MTN Zakhele Futhi Shareholder within 120 days, failing which you and/or the liquidator may be forced to sell your MTN Zakhele Futhi Shares to MTN at a 40% discount to the Call Reference Price.

**29. WHAT HAPPENS IF I AM FORCED TO SELL MY SHARES, EXCEPT ON DEATH OR INSOLVENCY?**

- You will be obliged to sell all of your MTN Zakhele Futhi Shares at between a 70% to 25% discount to 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 Period.
- If the Call Event arises from fraud or a wilful misrepresentation, then the price will be the lesser of the discounted price (as summarised above) and what you paid for the MTN Zakhele Futhi Shares.

(Voluntary liquidation by a Black Group is treated as a breach of the Relationship Agreement. See question 24 above.)

**30. CAN I TRANSFER MY SHARES OR MY RIGHTS OR INTERESTS THERETO TO ANY THIRD PARTY DURING THE MINIMUM INVESTMENT PERIOD?**

No, only as a result of death, insolvency or sequestration. See questions 20, 26, 27 and 28 above.

**31. CAN I USE MY ALLOCATED MTN ZAKHELE FUTHI SHARES FOR SECURITY PURPOSES DURING THE MINIMUM INVESTMENT PERIOD OR THEREAFTER?**

No, not until the end of the Empowerment Period.

**32. WILL I HAVE ANY VOTING RIGHTS?**

- Yes. You can vote at the general meetings of MTN Zakhele Futhi.
- You are entitled to one vote for every MTN Zakhele Futhi Share held.
- MTN Zakhele Futhi Directors will vote at MTN general meetings on behalf of MTN Zakhele Futhi, but may in their discretion seek the approval of MTN Zakhele Futhi Shareholders when exercising this vote.

**33. WHAT IS A DIVIDEND?**

A dividend is a payment made by a company to its shareholders as a distribution of its assets or profits, if so decided by the directors of the company, taking into account (amongst others) the future cash requirements of the company.

**34. WILL I RECEIVE A DIVIDEND FROM MTN ZAKHELE FUTHI?**

- During the Minimum Investment Period (i.e. for the first three years), MTN Zakhele Shareholders will generally not receive a dividend. During this time the dividend income earned on the MTN Shares held by MTN Zakhele Futhi will in the ordinary course be used firstly

to pay or provide for permitted operational fees, costs and expenses and tax liabilities of MTN Zakhele Futhi and then a portion will be used to pay dividends and to provide a specified minimum amount *per annum* for settlement of the third party funding of MTN Zakhele Futhi. Any balance of such dividend income earned on the MTN Shares held by MTN Zakhele Futhi will generally then be used next to offer to pay or provide for settlement of the third party funding and/or be used to acquire additional MTN Shares and correspondingly reduce the Notional Vendor Finance as described in paragraph 1.4 of Section 4 of the Prospectus.

- From year four onwards, while the MTN Zakhele Futhi Pref Shares remain outstanding, the dividend income earned on the MTN Shares held by MTN Zakhele Futhi in the ordinary course will be used firstly to pay or provide for permitted operational fees, costs and expenses and tax liabilities of MTN Zakhele Futhi and then a portion will be used to pay dividends and to provide a specified minimum amount *per annum* for settlement of the third party funding of MTN Zakhele Futhi. If funds remain, the MTN Zakhele Futhi Board has a discretion to pay up to 20% of the total dividend received from MTN (less the above amounts which have been paid or provided for operational fees, costs and expenses and tax liabilities) as a dividend to MTN Zakhele Futhi Shareholders, subject to MTN's discretion. Any balance of such dividend income earned on the MTN Shares held by MTN Zakhele Futhi 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 Shares and correspondingly reduce the Notional Vendor Finance as described in paragraph 1.4 of Section 4 of the Prospectus. In the event that there is no such settlement of the third party funding and/or of the Notional Vendor Finance, MTN Zakhele Futhi Board has a discretion to pay further dividends to MTN Zakhele Futhi Shareholders, with MTN's consent.
- For more details, see paragraph 1.5 of Section 4 of the Prospectus.

### **35. WILL I RECEIVE FINANCIAL STATEMENTS FOR MTN ZAKHELE FUTHI?**

Annual financial statements of MTN Zakhele Futhi will be made available to all MTN Zakhele Futhi Shareholders and this will indicate the performance of its underlying investment in accordance with IFRS.

### **36. HOW DO I HELP APPOINT DIRECTORS FOR MTN ZAKHELE FUTHI?**

You can participate in the appointment of an MTN Zakhele Futhi Director by voting at annual general meetings of MTN Zakhele Futhi.

### **37. IS THIS SHARE LISTED ON A RECOGNISED STOCK EXCHANGE AND WILL I BE ABLE TO TRADE ON THIS EXCHANGE?**

The MTN Zakhele Futhi Shares will not be listed during the Minimum Investment Period. After this period, it is expected that the MTN Zakhele Futhi Shares will be listed on a recognised stock exchange to facilitate trading between Black People and Black Groups during the remaining fourth to eighth years of the Empowerment Period. After eight years you will be able to sell your MTN Zakhele Futhi Shares without special restrictions.

### **38. HOW CAN I TRACK THE SHARE PRICE OF MY MTN ZAKHELE FUTHI SHARES?**

During the Minimum Investment Period, MTN Zakhele Futhi Shares will not be traded and will therefore not have a listed price. Thereafter, once the MTN Zakhele Futhi Shares are listed on a recognised stock exchange, MTN Zakhele Futhi will publish the most recent closing price for an MTN Zakhele Futhi Share on the relevant exchange, which will represent the free market price that buyers and sellers transacted at.

### **39. IS THERE ANY CAPITAL PROTECTION?**

There is no capital protection. MTN Zakhele Futhi will be subject to all the investment risks faced by ordinary shareholders of a company.

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## DEFINITIONS AND INTERPRETATIONS

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In this Prospectus, unless otherwise stated or clearly indicated by the context, the words in the first column have the meanings stated opposite them in the second column, words in the singular include the plural and *vice versa*, words importing one gender include the other genders and references to a natural person include references to a juristic person and *vice versa*.

"2016 MTN BEE Transaction" or "Transaction"	MTN's proposed new BEE transaction or series of transactions given effect to under the Transaction Documents pursuant to which, <i>inter alia</i> , and subject to the relevant terms and conditions: (i) MTN Zakhele Futhi will issue MTN Zakhele Futhi Shares to Black Participants pursuant to the MTN Zakhele Futhi Public Offer; (ii) MTN Zakhele may acquire and distribute MTN Zakhele Futhi Shares to MTN Zakhele Shareholders who elect and are allocated MTN Zakhele Futhi Shares pursuant to the MTN Zakhele Re-investment Offer; and (iii) MTN Zakhele Futhi will subscribe for MTN Shares, up to approximately 4.0% of the issued share capital of MTN (which equates to 76 835 378 MTN Shares) (on a Fully Diluted Basis), using a combination of equity funding raised in the MTN Zakhele Futhi Public Offer and pursuant to the MTN Zakhele Re-investment (and, if applicable, equity raised from MTN through its subscription for the MTN Zakhele Futhi Underwrite Shares), vendor facilitation through the issue of the MTN Tranche 2 Nominal Subscription Shares, the Notional Vendor Finance and/or an MTN Subordinated Loan (Equity Top-up) (if applicable) and third party preference share funding;
"Account Bank"	the entity appointed as such from time to time under the Account Bank and Agency Agreement, initially being Nedbank acting through its Corporate and Investment Banking Division (Lending Middle Office);
"Account Bank and Agency Agreement"	the agreement entitled "Account Bank and Agency Agreement" concluded between MTN, the BFC2 Pref Shareholders, BFC2, MTN Zakhele Futhi, the Preference Share Agent and other agents of MTN Zakhele Futhi, BFC2 and/or the BFC2 Pref Shareholders (including, <i>inter alia</i> , the Security Custodian, the MTN Zakhele Futhi Administrator, the BFC2 Administrator, the Account Bank, the Capital Structure Model Agent and the Calculation Agent, all as defined therein) on or about 21 August 2016 pursuant to which, <i>inter alia</i> , the roles and responsibilities of various agents of BFC2, MTN Zakhele Futhi and the BFC2 Pref Shareholders are regulated;
"Additional Specific Issues"	the issues of MTN Shares for cash to MTN Zakhele Futhi at any time during the Empowerment Period of up to the same number of MTN Shares that are repurchased from MTN Zakhele Futhi pursuant to an exercise by MTN of the NVF Call Option, such issues of MTN Shares for cash being at the Market Value per MTN Share as at the date of exercise of the NVF Call Option;
"Applicable Laws"	has the meaning ascribed to that term in the MTN Zakhele Futhi Pref Subscription Agreement;
"Applicant"	a Cash Applicant and/or Re-investment Applicant, as applicable;
"Application Form(s)"	the application forms for applying for MTN Zakhele Futhi Shares, which application forms will be substantially in the form annexed to this Prospectus, but only printed by a Participating Nedbank Branch for signature by a BEE Participant after submission by a BEE Participant of all required data;
"Appraisal Rights"	the rights afforded to MTN Zakhele Shareholders in terms of section 164 of the Companies Act;
"Approved Nominee"	the Custodian and/or any Nominee Holder who is permitted to hold MTN Zakhele Futhi Shares on behalf of a Beneficial Holder thereof pursuant to the BEE Listing Terms and Conditions;
"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;
"BEE"	black economic empowerment;
"BEE Act"	the Broad-Based Black Economic Empowerment Act, 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 or a material member thereof; (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 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;
"BEE Listing"	on a date not earlier than the 3rd (third) anniversary of the Effective Date of the MTN Zakhele Futhi Offer, the admission to listing of the MTN Zakhele Futhi Shares as BEE Securities (as defined in the Listings Requirements) on the BEE Segment (as defined in the Listings Requirements) 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);
"BEE Listing Period"	the period commencing on the date upon which the BEE Listing takes place (if applicable) and ending on the earlier of (i) the last day of the Empowerment Period; and (ii) the date on which the BEE Listing terminates for any reason;
"BEE Listing Terms and Conditions"	the terms and conditions applicable to the holding and/or transfer of MTN Zakhele Futhi Shares (and beneficial interests therein) pursuant to the BEE Listing, as are or are to be set out in the MTN Zakhele Futhi 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 MTN Zakhele Futhi from time to time;
"BEE Participants"	individually and collectively (as the context may dictate), the Black Public, who are eligible to subscribe for and beneficially own MTN Zakhele Futhi Shares pursuant to (i) the MTN Zakhele Futhi Public Offer; or (ii) the MTN Zakhele Re-investment Offer (as the case may be), or are thereafter permitted to own MTN Zakhele Futhi Shares in terms of the provisions of the Relationship Agreement (read with the MTN Zakhele Futhi MOI);
"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;
"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;
"BFC"	means Newshelf 1041 (RF) Proprietary Limited (Registration number 2009/023961/07), a private company incorporated in accordance with the laws of South Africa, the special purpose vehicle created to facilitate the third party preference share funding for the MTN Zakhele BEE Transaction;
"BFC Pref Shares"	the Class A cumulative redeemable non-participating preference shares in the issued share capital of BFC, carrying such terms as are provided for in the BFC memorandum of incorporation;
"BFC2"	Jabisan 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, which, as at the date of this Prospectus, are 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;

"BFC2 Pref Shares"	the cumulative redeemable non-participating preference shares in the issued share capital of BFC2, carrying such terms as are to be provided for in the BFC2 memorandum of incorporation pursuant to the BFC2 Pref Subscription Agreement;
"BFC2 Pref Subscription Agreement"	the agreement entitled "BFC2 Preference Share Subscription Agreement" 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 or about 21 August 2016 in terms of which the BFC2 Investors will subscribe for, and BFC2 will allot and issue 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 Entities"	a South African: (i) vesting trust; (ii) broad-based ownership scheme; and (iii) 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 being held by a majority of Black People;
"Black Group"	Black Companies or Black Entities;
"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 Participants"	individually and collectively (as the context may dictate), Black People and Black Groups (i) who are eligible to subscribe for and beneficially own MTN Zakhele Futhi Shares pursuant to the MTN Zakhele Futhi Public Offer; (ii) who are MTN Zakhele Shareholders and who are eligible to elect MTN Zakhele Futhi Shares pursuant to the MTN Zakhele Unwinding Scheme; or (iii) who are otherwise permitted to own MTN Zakhele Futhi Shares in terms of the Relationship Agreement (as read with the MTN Zakhele Futhi MOI);
"Black People" or "Black Person"	"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 Last Practicable Date (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 and Indian persons who are natural persons and who: (a) are citizens of South Africa by birth or descent; or (b) became citizens of South Africa by naturalisation before 27 April 1994 or (c) became citizens of South Africa on or after 27 April 1994, but who would have qualified for naturalisation before that date. "Black" shall have a similar meaning when used as an adjective in relation to natural persons;
"Black Public"	Black People and Black Groups;
"Business Day"	any day other than a Saturday, Sunday or official South African public holiday;

"Calculation Agent"	the entity appointed as such from time to time under the Account Bank and Agency Agreement, initially Nedbank;
"Call Event"	the events and circumstances defined as such in the Relationship Agreement. (Call Events are summarised in paragraph 12.6 of Section 2 of this Prospectus);
"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 12.6 of Section 2 of this Prospectus);
"Call Shares"	such number of MTN Zakhele Futhi Shares as are subject to a Call Event as set out in the Relationship Agreement and summarised in paragraph 12.6 of Section 2 of this Prospectus;
"Capital Structure Model"	has the meaning given to that term in the Implementation Agreement, but is essentially the financial model which determines the various transaction tranches for the 2016 MTN BEE Transaction with reference to various factors, including the equity raised pursuant to the MTN Zakhele Futhi Public Offer and the MTN Zakhele Re-investment Offer, and the type and level of facilitation which the MTN Board resolves to provide in respect of the 2016 MTN BEE Transaction in the event that the Target Equity Raise is not achieved and/or the Inception Total Share Cover Ratio is not met;
"Capital Structure Model Agent"	the entity appointed as such pursuant to the terms of the Account Bank and Agency Agreement, being Nedbank;
"cash"	unless stated otherwise, references to payment by cash include payment by physical cash and/or payment by electronic funds transfer;
"Cash Applicant"	a person applying for MTN Zakhele Shares under the MTN Zakhele Futhi Public Offer, such application therefore being to subscribe in cash and not by way of an election to re-invest under the MTN Zakhele Re-investment Offer;
"Central Securities Depository"	a person who is licensed as a central securities depository under section 29 of the Financial Markets Act;
"cents"	South African cents, a denomination of the official currency of South Africa;
"Certificated Shareholder"	holders of Certificated Shares;
"Certificated Shares"	MTN Zakhele Futhi Shares, evidenced by share certificates or other physical Documents of Title, which have not been surrendered for dematerialisation in terms of the requirements of Strate;
"CIPC"	the Companies and Intellectual Property Commission, established pursuant to section 185 of the Companies Act, or its successor body;
"Closing Date"	the "New Empowerment Transaction Closing Date" as defined in the Implementation Agreement, being – subject to the fulfilment (deemed fulfilment) or waiver (as the case may be) of the relevant Transaction Conditions Precedent – 23 November 2016 in respect of certain initial closing steps in the implementation of the 2016 MTN BEE Transaction (" <b>First Closing Date</b> ") and 24 November 2016 in respect of the remaining closing steps and any steps which were not completed on the First Closing Date (" <b>Second Closing Date</b> "), with provision made for closing to be extended by a further Business Day if certain steps are not completed on the Second Closing Date;
"Codes"	the Codes of Good Practice on BEE issued by the Minister of Trade and Industry on 2 October 2013 in terms of section 9(1) of the BEE Act, as amended;
"Companies Act"	the Companies Act, 2008 (No. 71 of 2008), as amended;
"Companies Regulations"	Companies Regulations, 2011, the regulations in terms of the Companies Act, as amended;
"Company Secretary"	Maitland Group South Africa Limited (Registration number 1981/009543/06), a limited liability public company registered and incorporated in accordance with the laws of South Africa and the company secretary to MTN Zakhele Futhi;
"Confirmation of Possession"	the confirmation of possession of this Prospectus attached to this Prospectus on page 165;
"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;



"Custodian"	a person identified and appointed from time to time by MTN and/or MTN Zakhele Futhi, as directed by MTN, to fulfil the functions assigned to it under the Relationship Agreement, initially Nedbank, acting through its Nedbank Investor Services division;
"Dematerialised"	the process by which Certificated Shares are to be converted into or held in electronic form as uncertificated securities under Strate;
"Dematerialised Shareholders"	holders of Dematerialised Shares;
"Dematerialised Shares"	MTN Zakhele Futhi Shares that have been Dematerialised;
"Determination Date"	is as defined in the Implementation Agreement, being essentially the date on which the MTN board of directors meets to set the Final Capital Structure, which date is presently scheduled to be Friday, 18 November 2016;
"Dissenting Shareholders"	at any relevant time, an MTN Zakhele Shareholder who has validly exercised his/her/its Appraisal Rights and demanded, in terms of sections 164(5) to 164(8) of the Companies Act, that MTN Zakhele pay him, her or it the fair value of all his, her or its MTN Zakhele Shares, for so long as none of the circumstances contemplated in section 164(9) of the Companies Act have occurred in relation to such MTN Zakhele Shareholder;
"Documents of Title"	valid share certificate(s), certified transfer deed(s), balance receipts or any other documents of title acceptable to MTN Zakhele Futhi in respect of MTN Zakhele Futhi Shares;
"Dispose"	is as defined in the Relationship Agreement;
"EBITDA"	earnings before interest, tax, depreciation, amortisation and goodwill impairment;
"ECA"	the Electronic Communications Act, 2005 (No. 36 of 2005), as amended;
"Effective Date of the MTN Zakhele Futhi Offer"	the date on which MTN Zakhele Futhi Shares are allotted and issued to BEE Participants under the MTN Zakhele Futhi Public Offer, which date is presently scheduled to be 23 November 2016;
"Effective Interest"	any one or more of a direct or indirect ownership, economic or control interest, measure on a fully diluted basis and without any deeming rule or deeming provision being applied;
"EFT"	is an abbreviation for "electronic funds transfer";
"Eligible MTN Zakhele Futhi Shareholders"	(i) any BEE Participant who is accepted to become an MTN Zakhele Futhi Shareholder (whether pursuant to the MTN Zakhele Futhi Public Offer, the MTN Zakhele Re-investment Offer or otherwise); and (ii) such other persons as are permitted from time to time (and for the period so permitted) under the Relationship Agreement to hold, or have beneficial interest in, MTN Zakhele Futhi Shares, in each such case pursuant to the terms of, and as set out in, the Relationship Agreement;
"Empowerment Period"	a period of 8 (eight) years commencing on the Effective Date of the MTN Zakhele Futhi Offer and ending on the eighth anniversary of the Effective Date of the MTN Zakhele Futhi Offer;
"Encumber"	is as defined in the Relationship Agreement;
"ESTC"	the Empowerment Share Transfer Committee, being MTN or such committee/s or third party/ies or third party agent/s as MTN may nominate from time to time to, among others, consider and approve or decline any proposed transfer of MTN Zakhele Futhi Shares and, accordingly, to regulate, or procure the regulation of, the registration of any such transfer of MTN Zakhele Futhi Shares, under and in accordance with the Relationship Agreement;
"Existing MTN Tranche 1 Subscription and Call Option Agreement"	the agreement dated 12 July 2010 and entitled "MTN Tranche 1 Subscription and Call Option Agreement" concluded between MTN and MTN Zakhele, pursuant to which, <i>inter alia</i> , MTN provided notional vendor finance to MTN Zakhele for the MTN Zakhele BEE Transaction;
"Existing MTN Tranche 1 Subscription and Call Option Amendment"	the agreement entitled "Existing MTN Tranche 1 Subscription and Call Option Agreement – Amendment Agreement" entered into between MTN Zakhele and MTN on or about 21 August 2016, which agreement provides for the amendment of certain provisions of the Existing MTN Tranche 1 Subscription and Call Option Agreement on the Closing Date;
"Extended Closing Date"	has the meaning given to that term in the definition of "Closing Date";

"Final Capital Structure"	has the meaning given to that term in the Implementation Agreement, but is essentially the Capital Structure Model as finalised by the MTN Board and applied by the Capital Structure Model Agent prior to the Closing Date;
"FICA"	the Financial Intelligence Centre Act, 2001 (No. 38 of 2001), as amended;
"Finally Determined A Indemnified Provision Amount"	is as defined in the Implementation Agreement, being essentially an amount, if any, which is required to be held back by MTN Zakhele in cash to provide for certain contingent post-redemption tax liabilities (if any), which amount will be determined in accordance with the process set out in the Implementation Agreement and the MTN Zakhele Pref Subscription Agreement (as amended);
"Final MTN Zakhele Pref Dividend"	the Class A BIC Scheduled Preference Dividend (as such term is defined in the MTN Zakhele memorandum of incorporation) which is payable by MTN Zakhele to BFC (in its capacity as holder of the MTN Zakhele Pref Shares) on the applicable redemption date, immediately prior to the redemption of the last of the MTN Zakhele Pref Shares, the amount of which is determined in accordance with the Final Capital Structure Documents (as such term is defined in the Implementation Agreement);
"Finance Documents"	has the meaning ascribed thereto in the MTN Zakhele Futhi MOI;
"Finance Trading Day"	any day 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);
"Financial Markets Act"	the Financial Markets Act, 2012 (No. 19 of 2012), as amended;
"First Closing Date"	has the meaning given to that term in the definition of "Closing Date"; presently expected to be 23 November 2016;
"First Ranking Guarantee"	the first ranking guarantee between MTN Zakhele Futhi (as guarantor), the BFC2 Pref Shareholders and Nedbank (as Preference Share Agent) pursuant to which MTN Zakhele Futhi unconditionally and irrevocably guarantees 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;
"Fully Diluted Basis"	unless stated otherwise, references in this Prospectus to percentage holdings of MTN Shares on a 'Fully Diluted Basis' are to the percentage number of MTN Shares calculated as including the 2016 MTN BEE Transaction on the basis that the MTN Zakhele Futhi Offer is fully subscribed, but excluding the MTN Zakhele Specific Repurchase and MTN Zakhele NVF Specific Repurchase, and using the total issued ordinary MTN Shares as at the Last Practicable Date, being 1 844 049 073 MTN Shares;
"Future Specific Repurchases"	repurchases from time to time by MTN of MTN Shares from MTN Zakhele Futhi at R0.0001 per MTN Share up to the then Maximum NVF Call Option Shares on the exercise by MTN of an NVF Call Option in reduction or settlement of the NVF Balance;
"General Scheme Conditions"	the conditions precedent to which the MTN Zakhele Unwinding Scheme is subject as summarised in paragraph 3.2.3 of Section 2 of this Prospectus;
"IFRS"	International Financial Reporting Standards;
"ICASA"	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, 2000 (Act No. 13 of 2000), as amended;
"ICT Charter"	the Information and Communication Technology Sector Code, issued as a Code of Good Practice under section 9(5) of the BEE Act, applicable to stakeholders operating in the information and communication sector, such as MTN SA, as amended from time to time;
"Implementation Agreement"	means the agreement entitled "New Empowerment Transaction and MTN Zakhele Unwinding Implementation Agreement" concluded between, amongst others, MTN, MTN Zakhele, MTN Zakhele Futhi, BFC2, the Preference Share Agent and the BFC2 Investors on or about 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 MTN Zakhele Integrated Unwind;

"Inception Total Share Cover Ratio"	is as set out and more fully described in the MTN Zakhele Futhi 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 MTN Zakhele Futhi on the Closing Date (which market value will be measured at the One Day VWAP or the Five Day VWAP (as each term is defined in the MTN Zakhele Futhi 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 MTN Zakhele Futhi Pref Shares and the MTN Subordinated Loan (Ratio Cure), if any. (See paragraph 1.2 of Section 4 for further details);
"Income Tax Act"	Income Tax Act, 1962 (No. 58 of 1962), as amended;
"Independent Registered Auditor"	SizweNtsalubaGobodo Incorporated (Registration number 2005/034639/21), a personal liability company incorporated in accordance with the laws of South Africa, and PricewaterhouseCoopers Incorporated (Registration number 1998/012055/21), a personal liability company incorporated in accordance with the laws of South Africa;
"Indicative Capital Structure"	has the meaning given to that term in the Implementation Agreement, but is essentially the indicatively modelled Capital Structure Model annexed to the Implementation Agreement;
"Initial NVF Balance"	an amount calculated as the difference between: (i) the Transaction Share Price multiplied by the MTN Tranche 1 Subscription Shares and (ii) the MTN Tranche 1 Subscription Price;
"Initial Specific Issue"	the issue of MTN Shares for cash and in settlement of the MTN Loan Claim by MTN to MTN Zakhele Futhi on the Closing Date comprising the MTN Tranche 1 Subscription Shares, the MTN Tranche 2 Subscription Shares and the MTN Tranche 3 Subscription Shares;
"JSE"	the stock exchange operated by the JSE Limited (Registration number 2005/022939/06), a public company registered and incorporated in accordance with the laws of South Africa, licensed as an exchange under the Financial Markets Act;
"Key Material Agreements"	is as defined in the MTN Zakhele Futhi MOI, and which includes the Implementation Agreement, the Relationship Agreement, the MTN Zakhele Futhi Ords Subscription Agreement, the MTN Tranche 1 Subscription and Call Option Agreement, the MTN Tranche 2 Subscription Agreement, the MTN Tranche 3 Subscription Agreement, the MTN Zakhele Repurchase Agreement, the Loan Transfer and Cession Agreement, the Reversionary Pledge and Cession and the Reversionary Account Cession, each subordinated loan agreement pursuant to which the interest rates applicable to any subordinated loan advanced by MTN or any MTN Acceded Nominee (as such term is defined in the MTN Zakhele Futhi MOI) to MTN Zakhele Futhi or BFC2 is set out and the documents which are required to be executed for the purposes of the MTN Zakhele Futhi Public Offer;
"Key Transaction Documents"	the Key Material Agreements and the Finance Documents;
"King Code"	the King Code on Corporate Governance for South Africa, as amended from time to time;
"Last Practicable Date"	17 August 2016, being the last practicable date prior to finalisation of this Prospectus;
"Legal Advisor"	Webber Wentzel Attorneys, the legal advisor to MTN Zakhele Futhi;
"Licence(s)"	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;
"Listings Requirements"	the Listings Requirements of the JSE, as amended from time to time;
"Loan Transfer and Cession Agreement"	the agreement entitled "Loan Transfer and Cession Agreement" concluded between MTN Zakhele Futhi and MTN Zakhele on or about 21 August 2016 which agreement provides for the transfer and cession of the MTN Loan Claim from MTN Zakhele to MTN Zakhele Futhi in consideration for the issue by MTN Zakhele Futhi to it of MTN Zakhele Futhi Shares, which MTN Zakhele Futhi Shares are then to be distributed to MTN Zakhele Shareholders pursuant to and in accordance with the MTN Zakhele Re-investment Offer;
"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 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 in the MTN Tranche 1 Subscription and Call Option Agreement;

"Material Agreements"	collectively, the Key Material Agreements and Service Provider Agreements;
"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 MTN Zakhele Futhi Shares in issue from time to time, or such higher percentage as MTN may notify to MTN Zakhele Futhi from time to time;
"Minimum Cash Raise"	an amount of R250 million;
"Minimum Equity Raise"	R1 234.1 million, representing approximately 12.5% of the (Transaction Share Price multiplied by the sum of the MTN Tranche 1 Subscription Shares, the MTN Tranche 2 Subscription Shares and the MTN Tranche 3 Subscription Shares), as modelled in the Indicative Capital Structure;
"Minimum Investment Period"	a period of three years commencing on the Effective Date of the MTN Zakhele Futhi Public Offer and ending on the third anniversary of the Effective Date of the MTN Zakhele Futhi Public Offer;
"MTN"	MTN Group Limited (Registration number 1994/009584/06), a public company registered and incorporated in accordance with the laws of South Africa, all the shares of which are listed on the JSE;
"MTN Board"	the board of directors of MTN from time to time;
"MTN Circular"	the circular to be posted to MTN Shareholders regarding, <i>inter alia</i> , the MTN Zakhele Unwind and the 2016 MTN BEE Transaction;
"MTN Group"	MTN and its subsidiaries, from time to time;
"MTN Holdings"	Mobile Telephone Networks Holdings Limited (Registration number 1993/001411/06), a public company registered and incorporated in accordance with the laws of South Africa and a wholly-owned subsidiary of MTN;
"MTN Loan Claim"	that portion of the aggregate purchase consideration for the MTN Repurchase Shares which will be settled on loan account (being a loan from MTN Zakhele to MTN), in accordance with and subject to the terms of the MTN Zakhele Repurchase Agreement;
"MTN Material Adverse Event"	the occurrence of any event, circumstance or matter or combination of events, circumstances or matters which in MTN's opinion is likely to have a material adverse effect on: (i) the financial condition (including assets, revenues and liabilities), business, operations or affairs of MTN (taken as a whole), the MTN SA Group (taken as a whole) and/or MTN Zakhele (taken as a whole); and/or (ii) the ability of MTN, MTN Zakhele and/or MTN Zakhele Futhi to timeously perform any or all of its material obligations under any of the transaction documents relating to the MTN Zakhele BEE Transaction and/or Transaction Documents to which it is party; and/or (iii) the ability of MTN, MTN Zakhele and/or MTN Zakhele Futhi to comply with any Applicable Laws and/or the requirements of any Authority in relation to, or in connection with, the entry into and performance of its obligations under any of the transaction documents relating to the MTN Zakhele BEE Transaction and/or Transaction Documents to which it is party;
"MTN Nigeria"	MTN Nigeria Communications Limited (Registration number RC395010) a private limited liability company registered under the laws of the Federal Republic of Nigeria;
"MTN Repurchase Price"	the aggregate purchase price to be paid by MTN to MTN Zakhele in accordance with and subject to the terms of the MTN Zakhele Repurchase Agreement, being an amount equal to the MTN Repurchase Shares multiplied by the Repurchase Share Price. The MTN Repurchase Price is discharged in part in cash and, where applicable, in part through the MTN Loan Claim;
"MTN Repurchase Shares"	such number of MTN Shares that will be repurchased by MTN from MTN Zakhele in accordance with and subject to the terms of the MTN Zakhele Repurchase Agreement, up to a maximum of 44 068 683 MTN Shares;
"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 MTN Zakhele Futhi from time to time;
"MTN Shareholders"	holders of MTN Shares;

"MTN Shares"	ordinary shares with a par value of R0.0001 each in the share capital of MTN (and includes any class of shares, including no par value shares, into which such shares may be converted in the future);
"MTN South Africa"	Mobile Telephone Networks Proprietary Limited (Registration number 1993/001436/07), a private company registered and incorporated in accordance with the laws of South Africa which is a wholly-owned subsidiary of MTN;
"MTN Subordinated Loan"	collectively, or individually, as the case may be, any MTN Subordinated Loan (Equity Top-up) and/or MTN Subordinated Loan (Ratio Cure);
"MTN Subordinated Loan (Equity Top-up)"	a subordinated loan, if any, which may be advanced by MTN (or certain permitted subsidiaries) in its discretion pursuant to the Subordination and Undertaking Agreement on the Closing Date in order to increase the number of MTN Shares subscribed for by MTN Zakhele Futhi in the event that the Target Equity Raise is not met, further details of which are set out in paragraphs 1.2.2 and 1.2.3 of Section 4 of this Prospectus;
"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 MTN Zakhele Futhi to meet the Inception Total Share Cover Ratio on the Determination Date or, thereafter, during the life of the MTN Zakhele Futhi 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, further details of which are set out in paragraphs 1.2.2 and 1.2.3 of Section 4 of this Prospectus;
"MTN Tranche 1 Subscription and Call Option Agreement"	the agreement entitled "MTN 2016 Tranche 1 Subscription and Call Option Agreement" entered into or between MTN and MTN Zakhele Futhi on or about 21 August 2016 in terms of which, <i>inter alia</i> , MTN Zakhele Futhi will subscribe for, and MTN will issue and allot to MTN Zakhele Futhi, the MTN Tranche 1 Subscription Shares at their par value of R0.0001 each and MTN Zakhele Futhi will grant to MTN the NVF Call Option;
"MTN Tranche 1 Subscription Price"	the aggregate subscription price for the MTN Tranche 1 Subscription Shares, being the product of the MTN Tranche 1 Subscription Shares multiplied by R0.0001 per MTN Share (fractions of cents rounded up after aggregation);
"MTN Tranche 1 Subscription Shares"	a maximum of 51 863 881 MTN Shares to be issued to MTN Zakhele Futhi, at their par value of R0.0001 each, for the MTN Tranche 1 Subscription Price;
"MTN Tranche 2 Nominal Subscription Shares"	a maximum of 15 367 076 MTN Shares to be issued to MTN Zakhele Futhi, at their par value of R0.0001 each, as part of the MTN Tranche 2 Subscription Shares, pursuant to the provisions of the MTN Tranche 2 Subscription Agreement;
"MTN Tranche 2 Subscription Agreement"	the agreement entitled "MTN 2016 Tranche 2 Subscription Agreement" entered into or between MTN and MTN Zakhele Futhi on or about 21 August 2016 in terms of which, <i>inter alia</i> , MTN Zakhele Futhi will subscribe for, and MTN will issue and allot to MTN Zakhele Futhi, the MTN Tranche 2 Subscription Shares at the MTN Tranche 2 Subscription Price;
"MTN Tranche 2 Subscription Price"	the aggregate subscription price for the MTN Tranche 2 Subscription Shares, being the sum of (i) the product of the MTN Tranche 2 Subscription Shares (less the MTN Tranche 2 Nominal Subscription Shares) multiplied by the Transaction Share Price (fractions of cents rounded up); and (ii) the product of the MTN Tranche 2 Nominal Subscription Shares multiplied by R0.0001 (fractions of cents rounded up);
"MTN Tranche 2 Subscription Shares"	a maximum of 53 784 765 MTN Shares (which, for the avoidance of doubt, includes the MTN Tranche 2 Nominal Subscription Shares) to be issued to MTN Zakhele Futhi, at the MTN Tranche 2 Subscription Price, pursuant to the provisions of the MTN Tranche 2 Subscription Agreement;
"MTN Tranche 3 Subscription Agreement"	the agreement entitled "MTN 2016 Tranche 3 Subscription Agreement" entered into or between MTN and MTN Zakhele Futhi on or about 21 August 2016 in terms of which, <i>inter alia</i> , MTN Zakhele Futhi will subscribe for, and MTN will issue and allot to MTN Zakhele Futhi, the MTN Tranche 3 Subscription Shares at the MTN Tranche 3 Subscription Price;
"MTN Tranche 3 Subscription Price"	the aggregate subscription price for the MTN Tranche 3 Subscription Shares, being the face value of the MTN Loan Claim;
"MTN Tranche 3 Subscription Shares"	a maximum of 19 208 845 MTN Shares to be issued to MTN Zakhele Futhi, at the MTN Tranche 3 Subscription Price, pursuant to the provisions of the MTN Tranche 3 Subscription Agreement;

"MTN Underwrite Option"	a right, but not an obligation, which MTN has under the MTN Zakhele Futhi Ords Subscription Agreement to subscribe for the MTN Zakhele Futhi Underwrite Shares;
"MTN Zakhele"	MTN Zakhele (RF) Limited (Registration number 2010/004693/06), a public company registered and incorporated in accordance with the laws of South Africa, the special purpose vehicle created to give effect to the MTN Zakhele BEE Transaction and the ordinary shares of which are listed on the BEE segment of the JSE;
"MTN Zakhele Board"	the board of directors of MTN Zakhele from time to time;
"MTN Zakhele BEE Transaction"	MTN's BEE transaction implemented in November 2010, in terms of which, <i>inter alia</i> , (i) following a public offer, MTN Zakhele issued MTN Zakhele Shares to qualifying members of the Black Public; and (ii) MTN Zakhele acquired and/or subscribed for MTN Shares, up to a maximum of 4% of the then issued share capital of MTN (using a combination of equity funding, vendor facilitation through a donation from MTN, notional vendor finance from MTN and third-party preference share funding);
"MTN Zakhele Futhi" 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 MTN Zakhele Futhi Public Offer and related aspects of the 2016 MTN BEE Transaction;
"MTN Zakhele Futhi Account"	the bank account of MTN Zakhele Futhi at Nedbank established to receive application monies for purposes of the MTN Zakhele Futhi Public Offer;
"MTN Zakhele Futhi Board" or "MTN Zakhele Futhi Directors"	the board of directors of MTN Zakhele Futhi as constituted from time to time;
"MTN Zakhele Futhi Discharge Date"	the date on which all the MTN Zakhele Futhi Pref Shares have been redeemed in full and all post-redemption contingent indemnity amounts, if any, as determined in accordance with the MTN Zakhele Futhi Pref Subscription Agreement, have been paid into the relevant MTN Zakhele Futhi bank accounts over which the BFC2 Pref Shareholders have a security interest;
"MTN Zakhele Futhi Offer"	the MTN Zakhele Futhi Public Offer and, to the extent made, the MTN Zakhele Re-investment Offer;
"MTN Zakhele Futhi Offer Closing Date"	the date on which the MTN Zakhele Futhi Offer will close, presently being Friday, 21 October 2016;
"MTN Zakhele Futhi MOI"	the memorandum of incorporation of MTN Zakhele Futhi contemplated under the Companies Act;
"MTN Zakhele Futhi Ords Subscription Agreement"	the agreement entitled "BIC2 Ordinary Share Subscription Agreement" concluded between MTN Zakhele Futhi and MTN on or about 21 August 2016 in terms of which MTN will subscribe for, and MTN Zakhele Futhi will allot and issue to MTN, the MTN Zakhele Futhi Underwrite Shares (if any);
"MTN Zakhele Futhi Pref Shares"	the cumulative redeemable non-participating preference shares in the issued share capital of MTN Zakhele Futhi carrying the MTN Zakhele Futhi Pref Terms;
"MTN Zakhele Futhi Pref Share Terms"	the terms and conditions applicable to the MTN Zakhele Futhi Pref Shares which are to be provided for in the MTN Zakhele Futhi MOI pursuant to the MTN Zakhele Futhi Pref Subscription Agreement;
"MTN Zakhele Futhi Pref Subscription Agreement"	the agreement entitled "BIC2 Preference Share Subscription Agreement" concluded between BFC2, MTN Zakhele Futhi and the Preference Share Agent on or about 21 August 2016 in terms of which, <i>inter alia</i> , BFC2 will subscribe for, and MTN Zakhele Futhi will allot and issue to BFC2, the MTN Zakhele Futhi Pref Shares;
"MTN Zakhele Futhi Pref Subscription Consideration"	the price at which the BFC2 will subscribe for the MTN Zakhele Futhi Pref Shares, being R1 000.00 per share. In aggregate, an amount of up to R3 200 million may be raised through the issue of the MTN Zakhele Futhi Pref Shares;
"MTN Zakhele Futhi Public Offer"	the public offering in terms of which the Black Public are invited to subscribe for and beneficially own MTN Zakhele Futhi Shares pursuant to the terms of this Prospectus (and any supplement hereto), as more fully described in Section 2 of this Prospectus;
"MTN Zakhele Futhi Security Account"	the bank account to be maintained by MTN Zakhele Futhi into which certain sums are required under the Transaction Documents to be paid in respect of the MTN Zakhele Futhi Pref Shares;
"MTN Zakhele Futhi Shareholders"	in the case of: (i) Certificated Shares, the person who is the registered holder of such MTN Zakhele Futhi Shares from time to time; and (ii) Dematerialised Shares, the person who is the Beneficial Holder of such Dematerialised Shares from time to time and includes, where applicable and as the context requires, the Nominee Holder thereof;

"MTN Zakhele Futhi Shares"	ordinary shares having no par value in the share capital of MTN Zakhele Futhi;
"MTN Zakhele Futhi Underwrite Shares"	such MTN Zakhele Futhi Shares as MTN, in the MTN Board's discretion, may elect to subscribe for under the MTN Zakhele Futhi Ords Subscription Agreement to enable MTN Zakhele Futhi to increase the equity raised in the event of the amount raised under the MTN Zakhele Futhi Public Offer and/or through the MTN Zakhele Re-investment being less than the Target Equity Raise, in order to increase the ultimate size of the 2016 MTN BEE Transaction (i.e. the aggregate number of MTN Shares to be subscribed for by MTN Zakhele Futhi);
"MTN Zakhele Integrated Unwind"	the structured unwinding of MTN Zakhele in accordance with and pursuant to the implementation of the MTN Zakhele Unwinding Scheme and the relevant Transaction Documents to which MTN Zakhele is a party, in the event that the 2016 MTN BEE Transaction is implemented;
"MTN Zakhele NVF Specific Repurchase"	the specific repurchase of MTN Shares by MTN from MTN Zakhele to settle the notional vendor finance provided for the MTN Zakhele BEE Transaction pursuant to the Existing MTN Tranche 1 Subscription and Call Option Agreement, which repurchase was approved by MTN Shareholders at a general meeting of Shareholders held on Friday, 20 August 2010;
"MTN Zakhele Pref Shares"	class A cumulative redeemable non-participating preference shares in the issued share capital of MTN Zakhele, carrying such terms as are provided for in the MTN Zakhele memorandum of incorporation;
"MTN Zakhele Pref Subscription Agreement"	means the agreement entitled "Third Amended and Restated BIC Preference Share Subscription Agreement" concluded between, <i>inter alia</i> , MTN Zakhele and BFC in terms of which, <i>inter alia</i> , BFC subscribed for, and MTN Zakhele allotted and issued to BFC, the MTN Zakhele Pref Shares;
"MTN Zakhele Re-investment"	the acquisition by MTN Zakhele of MTN Zakhele Futhi Shares in consideration for the transfer of the MTN Loan Claim pursuant to the Loan Transfer and Cession Agreement and distribution of such MTN Zakhele Futhi Shares to successful Re-investment Applicants under the MTN Zakhele Re-investment Offer, subject to and in accordance with the terms of the MTN Zakhele Unwinding Scheme;
"MTN Zakhele Re-investment Offer"	subject to the MTN Zakhele Unwinding Scheme and the 2016 MTN BEE Transaction proceeding, one of three MTN Zakhele Unwinding Scheme Options under the MTN Zakhele Unwinding Scheme, pursuant to which qualifying MTN Zakhele Shareholders will be offered an election to receive all or a portion of their MTN Zakhele Scheme Consideration in MTN Zakhele Futhi Shares, thus allowing them an opportunity to re-invest all or a portion of their investment in MTN Zakhele into the 2016 MTN BEE Transaction;
"MTN Zakhele Re-investment Shareholder"	an MTN Zakhele Shareholder who elects to participate in the MTN Zakhele Re-investment Offer;
"MTN Zakhele Repurchase Agreement"	the agreement entitled "MTN Repurchase Agreement" concluded between MTN Zakhele and MTN on or about 21 August 2016 which governs the MTN Zakhele Specific Repurchase and in terms of which, <i>inter alia</i> , MTN will repurchase the MTN Repurchase Shares in consideration for the MTN Zakhele Repurchase Price (to be settled by means of the Repurchase Cash and the MTN Loan Claim);
"MTN Zakhele Scheme Circular"	the circular to be posted to MTN Zakhele Shareholders for purposes of <i>inter alia</i> the MTN Zakhele Board proposing the MTN Zakhele Unwinding Scheme and thereby providing MTN Zakhele Shareholders with the MTN Zakhele Unwinding Scheme Options;
"MTN Zakhele Scheme Consideration"	the consideration payable to MTN Zakhele Shareholders for the sale by them of their MTN Zakhele Shares to MTN Zakhele under the MTN Zakhele Unwinding Scheme;
"MTN Zakhele Shareholders"	the persons registered as holders of MTN Zakhele Shares from time to time in its certificated or uncertificated share register including, as the context requires, the beneficial holders thereof;
"MTN Zakhele Shares"	ordinary shares having a par value of R0.01 each in the issued share capital of MTN Zakhele, which shares are listed on the JSE;
"MTN Zakhele Specific Repurchase"	the specific repurchase of MTN Shares by MTN from MTN Zakhele under and in accordance with the terms of the MTN Zakhele Repurchase Agreement, to enable MTN Zakhele to realise sufficient cash to pay the final preference share dividend on, and redeem, the MTN Zakhele Pref Shares, pay or provide for certain taxes arising on the redemption of the MTN Zakhele Pref Shares and BFC Pref Shares, pay or provide for the post-redemption contingent liabilities on account of the MTN Zakhele Pref Shares and the BFC Pref Shares, if any, and the other costs and provisions arising as a result of the unwinding of the MTN Zakhele BEE Transaction, as well as to facilitate the MTN Zakhele Re-investment, in each case as determined under and subject to the limits set in the Implementation Agreement;

"MTN Zakhele Standalone Unwind"	the structured unwinding of MTN Zakhele in accordance with and pursuant to the terms of the MTN Zakhele Unwinding Scheme and the relevant Transaction Documents to which it is a party in the event that the 2016 MTN BEE Transaction is not implemented for any reason whatsoever;
"MTN Zakhele Tax Cash Top-up Amount"	the "MTNZ Tax Cash Top-up Amount" as set out in the MTN Zakhele Scheme Circular, being, in essence, a potential residual cash amount to be paid to MTN Zakhele Shareholders in consideration for their MTN Zakhele Shares under the MTN Zakhele Integrated Unwinding in the event that there is cash remaining after the realisation of a reserve withheld to provide for certain tax liabilities in MTN Zakhele;
"MTN Zakhele Unwinding Scheme"	the scheme of arrangement pursuant to section 114 of the Companies Act proposed or to be proposed by the MTN Zakhele Board as between MTN Zakhele and the MTN Zakhele Shareholders, for the purpose of MTN Zakhele buying back and cancelling all of the MTN Zakhele Shares from MTN Zakhele Shareholders (other than the MTN Zakhele Share held by MTN Holdings), pursuant to which scheme, <i>inter alia</i> , each MTN Zakhele Shareholder will be entitled to elect one or more of the MTN Zakhele Unwinding Scheme Options, in each case on and subject to the terms and conditions of such scheme;
"MTN Zakhele Unwinding Scheme Options"	the three options proposed to be granted to MTN Zakhele Shareholders in terms of the MTN Zakhele Unwinding Scheme by which they receive their consideration for the buy-back (and cancellation) of their MTN Zakhele Shares, being: (i) cash consideration ("Option 1"); (ii) MTN Shares ("Option 2"); and/or (iii) subject to the 2016 MTN BEE Transaction proceeding, MTN Zakhele Futhi Shares ("Option 3" or the Re-investment Option);
"NACM"	nominal annual compounded monthly in arrears;
"Nedbank"	Nedbank Limited (Registration number 1951/000009/06), a public company registered and incorporated in accordance with the laws of South Africa;
"Nominee"	has the meaning given to this term in the Financial Markets Act;
"Nominee Holder"	in relation to any Dematerialised Shares, the person who from time to time holds such shares as a Nominee;
"Notional Vendor Finance" or "NVF"	the notional funding provided by MTN to MTN Zakhele Futhi 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 MTN Zakhele Futhi of the MTN Tranche 1 Subscription Shares at their par value of R0.0001 per MTN Share;
"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 MTN Zakhele Futhi 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 MTN Zakhele Futhi 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 MTN Zakhele Futhi 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 MTN Zakhele Futhi 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 MTN Zakhele Futhi Discharge Date; and/or (b) MTN and MTN Zakhele Futhi may agree in writing; and (B) the MTN Zakhele Futhi Discharge Date (or such earlier date as MTN and the Preference Share Agent may agree in writing);
"NVF Refinancing Shares"	MTN Shares, is any, which are subscribed for (or acquired) by MTN Zakhele Futhi from MTN (or its subsidiaries) at R0.0001 per MTN Share pursuant to the Tranche 1 Subscription and Call Option Agreement in the circumstances described in paragraph 1.3.3 of Section 4 of this Prospectus;
"Offer Period"	the period between the opening of the MTN Zakhele Futhi Offer and its closing, presently scheduled to be from 09:00 on 12 September 2016 to 16:00 on 21 October 2016;
"Offer Price"	R20.00 per MTN Zakhele Futhi Share;



"Operative Date"	the date on which the MTN Zakhele Unwinding Scheme becomes operative, which is expected to be: (i) 24 November 2016 if the Transaction Conditions Precedent are fulfilled (or deemed fulfilled) or waived and the 2016 MTN BEE Transaction is implemented; or, otherwise, (ii) in the event of the MTN Zakhele Standalone Unwind, 24 November 2016 or a later date up to 15 December in certain instances;
"oversubscription" or "oversubscribed"	references to "oversubscription" (or "oversubscribed") include both applications for subscription under the MTN Zakhele Futhi Public Offer and elections to receive MTN Zakhele Futhi Shares under the MTN Zakhele Re-investment Offer;
"Pacific Nominees"	Link Investor Services Proprietary Limited, acting through its nominee and wholly-owned subsidiary, Pacific Custodians (Nominees) (RF) Proprietary Limited, registration number 2014/113298/07, a private company incorporated in accordance with the laws of South Africa;
"Participating Nedbank Branch"	All Nedbank branches and Nedbank outlets in Pick and Pay and Boxer stores in South Africa, excluding Nedbank outlets in Cashbuild stores;
"Preference Share Agent"	the entity appointed as such from time to time as the agent of the holders of the MTN Zakhele Futhi Pref Shares and the BFC2 Pref Shareholders pursuant to the terms of the Transaction Documents, initially Nedbank;
"Prime"	means the rate of interest (NACM) 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);
"Prospectus"	this entire document and all the annexures to it;
"Rand" or "R"	South African Rand, the official currency of South Africa;
"Reference Date"	any particular date in relation to the NVF Call Option;
"Register"	the securities register of MTN Zakhele Futhi, including the Uncertificated Register;
"Registered Office of MTN Zakhele Futhi"	the registered office of MTN Zakhele Futhi, being 216 – 14th Avenue, Fairland, Gauteng, 2195, South Africa;
"Re-investment Applicant"	an MTN Zakhele Shareholder who elects to receive MTN Zakhele Futhi Shares in respect of all or part of their scheme consideration under the MTN Zakhele Unwinding Scheme and who thus participates in the MTN Zakhele Re-investment;
"Re-investment Option"	subject to the MTN Zakhele Unwinding Scheme and the 2016 MTN BEE Transaction proceeding, one of three MTN Zakhele Unwinding Scheme Options under the MTN Zakhele Unwinding Scheme, pursuant to which MTN Zakhele Shareholders will be offered an election to receive all or a portion of their MTN Zakhele Scheme Consideration in MTN Zakhele Futhi Shares, thus allowing them an opportunity effectively to re-invest all or a portion of their MTN Zakhele Shares into the 2016 MTN BEE Transaction;
"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 MTN Zakhele Futhi Shares;
"Relationship Agreement"	the agreement entitled "Relationship Agreement" concluded between MTN Zakhele Futhi and MTN on or about 9 August 2016 and to which the MTN Zakhele Futhi Shareholders are bound pursuant to the MTN Zakhele Futhi Public Offer and the MTN Zakhele Re-investment regulating, <i>inter alia</i> , the rights and obligations of these parties relating to the holding of MTN Shares by MTN Zakhele Futhi and the holding of MTN Zakhele Futhi Shares by the MTN Zakhele Futhi Shareholders, a copy of which is attached hereto as Annexure 7;
"Repurchase Cash"	that portion of the MTN Repurchase Price which will be settled in cash by MTN, in accordance with and subject to the terms of the MTN Zakhele Repurchase Agreement;

"Repurchase Share Price"	the 30 Trading Day VWAP of MTN Shares as at the Determination Date as determined under and calculated in accordance with the Implementation Agreement;
"Reversionary Account Cession"	the reversionary cession of the rights to the MTN Zakhele Futhi Security Account entitled "BIC2 Reversionary Account Cession" concluded between MTN, MTN Holdings and MTN Zakhele Futhi on or about 21 August 2016, pursuant to which, <i>inter alia</i> , MTN and MTN Holdings are 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 MTN Zakhele Futhi to MTN and MTN Holdings pursuant to the Transaction Documents;
"Reversionary Pledge and Cession"	the reversionary pledge and cession agreement entitled "BIC2 Reversionary Pledge and Cession" concluded between MTN, MTN Holdings and MTN Zakhele Futhi on or about 21 August 2016, pursuant to which, <i>inter alia</i> , MTN and MTN Holdings are granted security over the MTN Shares held by MTN Zakhele Futhi, 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 MTN Zakhele Futhi to MTN and MTN Holdings pursuant to the Transaction Documents;
"RICA"	the Regulation of Interception of Communications and Provision of Communication-Related Information Act, 2002 (No. 70 of 2002), as amended;
"Scheme Consideration Record Date"	is as defined in the MTN Zakhele Scheme Circular, presently expected to be Friday, 18 November 2016;
"Scheme Participants"	<p>(a) holders of MTN Zakhele Shares who are entitled to receive the MTN Zakhele Scheme Consideration, being the MTN Zakhele Shareholders registered as such at 12:00 on the Scheme Consideration Record Date, except: (i) MTN Holdings; and (ii) any Dissenting Shareholders who have not withdrawn their demand made in terms of sections 164(5) to 164(8) of the Companies Act or allowed any offers made to them in terms of section 164(11) of the Companies Act to lapse on or before the Scheme Consideration Record Date; and</p> <p>(b) Dissenting Shareholders who are subsequently deemed to be Scheme Participants pursuant to the MTN Zakhele Scheme Circular;</p>
"Second Closing Date"	has the meaning given to that term in the definition of "Closing Date";
"SENS"	the Stock Exchange News Service of the JSE;
"Service Provider Agreements"	has the meaning given to this term in the MTN Zakhele Futhi MOI and includes: (i) trading platform agreements to be entered into between MTN Zakhele Futhi and one or more other parties in relation to the establishment and implementation of the BEE Listing, (ii) professional advisor agreements to be entered into between MTN Zakhele Futhi and one or more other parties in relation to professional advisory services provided to MTN Zakhele Futhi from time to time and (iii) if applicable, unwinding service agreements to be entered into between MTN Zakhele Futhi and one or more other parties in relation to the unwinding of the MTN Zakhele Futhi structure after the Empowerment Period;
"South Africa"	the Republic of South Africa;
"Strate"	the share settlement and clearing system utilised by the JSE for all share transactions concluded on the JSE, managed by Strate Proprietary Limited (Registration number 1998/022242/07), a private company registered and incorporated in accordance with the laws of South Africa;
"Subordination and Undertaking Agreement"	the agreement entitled "MTN Subordination and Undertaking Agreement" concluded between MTN, MTN Holdings, the BFC2 Pref Shareholders, BFC2, MTN Zakhele Futhi and the Preference Share Agent on or about 21 August 2016 pursuant to which, <i>inter alia</i> , MTN or an MTN Acceded Nominee (as such term is defined in the MTN Zakhele Futhi MOI) subordinates its claims against MTN Zakhele Futhi and BFC2 in favour of the claims against such companies by the BFC2 Pref Shareholders, and MTN (or an MTN Acceded Nominee) is granted the right, but not the obligation, to advance subordinated loans to MTN Zakhele Futhi and/or BFC2 to enable MTN Zakhele Futhi to restore certain financial covenant ratios, MTN and/or each MTN Acceded Nominee provides certain representations, warranties and undertakings to the BFC2 Pref Shareholders and MTN Holdings gives a guarantee in favour of the BFC2 Pref Shareholders;
"Target Equity Raise"	R2 468.3 million, representing approximately 25% of the (Transaction Share Price multiplied by the sum of the MTN Tranche 1 Subscription Shares, the MTN Tranche 2 Subscription Shares and the MTN Tranche 3 Subscription Shares), as modelled in the Indicative Capital Structure;

"Total Share Cover Ratio"	is as set out and more fully described in the MTN Zakhele Futhi Pref Share Terms, but essentially comprising, at the time of calculation, the Five Day VWAP (as defined in the MTN Zakhele Futhi Pref Share Terms) value of the MTN Shares held by MTN Zakhele Futhi, divided by the redemption amount of all unredeemed MTN Zakhele Futhi Pref Shares minus the credit balances in certain specified BFC2 and MTN Zakhele Futhi accounts;
"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 Shares traded freely;
"Transaction Conditions Precedent"	all the conditions precedent required to be fulfilled (deemed fulfilled) or waived, as the case may be, within the time permitted therefor and in the manner provided for in terms of the Implementation Agreement, in order to give effect to the 2016 MTN BEE Transaction;
"Transaction Documents"	collectively, the Finance Documents and the Material Agreements;
"Transaction Share Price"	means R128.50 per MTN Share;
"Transfer Secretary"	means the transfer secretary of MTN Zakhele Futhi as may be appointed from time to time;
"Uncertificated Register"	the uncertificated register of Dematerialised Shareholders of MTN Zakhele Futhi maintained in terms of the Companies Act and administered by a shareholder's CSDP in electronic form, which forms part of the Register;
"Valid BEE Ownership Certificate"	a BEE ownership certificate based on a Black Group's current shareholding, valid until at least 12 March 2017 and issued by a Valid BEE Verification Agency reflecting the matters set out in paragraph 6.2.2.4 of Section 2 of this Prospectus;
"Valid BEE Verification Agency"	a BEE verification agency that has applied for and been granted accreditation from the South African National Accreditation System;
"Verified MTN Zakhele Futhi Shareholder"	is as defined in the Relationship Agreement;
"Volatility Protection Share Cover Ratio"	is as set out and more fully described in the MTN Zakhele Futhi Pref Share Terms, but essentially comprising, at the time of calculation, the One Day VWAP (as defined in the MTN Zakhele Futhi Pref Share Terms) value of the MTN Shares held by MTN Zakhele Futhi, divided by the redemption amount of all unredeemed MTN Zakhele Futhi Pref Shares, minus the credit balances in certain specified BFC2 and MTN Zakhele Futhi accounts;
"VWAP"	volume weighted average price, in each case as calculated under the relevant Transaction Document in connection with which it is referred to;
"Wind-up Co"	Windup Co Proprietary Limited (Registration number 2016/297615/07), a private company incorporated in accordance with the laws of South Africa, a wholly-owned subsidiary of MTN Holdings; and
"Winding-up Transfer Agreement"	the agreement entitled "MTN Zakhele Winding-up Transfer Agreement" concluded between MTN Zakhele and Wind-up Co on or about 21 August 2016 in terms of which, <i>inter alia</i> , MTN Zakhele will transfer certain assets and liabilities to Wind-up Co should the MTN Zakhele Re-investment component of the MTN Zakhele Unwinding Scheme be implemented.

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## SECTION 1: INFORMATION ABOUT MTN ZAKHELE FUTHI [REG 56]

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**This Section provides an overview of the main business of MTN Zakhele Futhi, its future prospects and its performance.**

### 1. NAME, ADDRESS AND INCORPORATION [REG 57]

- 1.1** MTN Zakhele Futhi (RF) Limited, formerly BIC B Limited (Registration number 2016/268837/06), was registered and incorporated as a public company with the CIPC on 21 June 2016.
- 1.2** The Company was incorporated for the specific purpose of the 2016 MTN BEE Transaction and is not a subsidiary of any other company.
- 1.3** The address of the Company's registered office (which is also the Company's primary place of carrying on business in South Africa) is set out in "Corporate Information and Advisors" Section of this Prospectus. In view of transfer restrictions on the MTN Zakhele Futhi Shares during the Minimum Investment Period, MTN Zakhele Futhi has not yet appointed a Transfer Secretary.

### 2. MTN ZAKHELE FUTHI DIRECTORS, OTHER OFFICE HOLDERS, OR MATERIAL THIRD PARTIES [REG 58]

#### 2.1 Approach to corporate governance [Reg 54(1)b]

- 2.1.1** The MTN Zakhele Futhi Board recognises that, as the core of MTN Zakhele Futhi's corporate governance system, it is ultimately accountable and responsible for the performance and affairs of MTN Zakhele Futhi.
- 2.1.2** The MTN Zakhele Futhi Board embraces the principles of good corporate governance as espoused in the guidelines of the Code of Good Governance Principles for South Africa – 2009 as laid out in the King Code ("**King III**").
- 2.1.3** It 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.

#### 2.2 MTN Zakhele Futhi Directors

- 2.2.1** MTN Zakhele Futhi has a unitary board structure as at the Last Practicable Date comprising only of 3 non-executive MTN Zakhele Futhi Directors. Following the opening of the MTN Zakhele Futhi Offer, the MTN Zakhele Futhi Board may be reconstituted in accordance with the MTN Zakhele Futhi MOI, which will include the appointment of up to 5 independent non-executive directors.
- 2.2.2** The number of MTN Zakhele Futhi Directors shall not be less than 3 and not more than the greater of (i) 5 and (ii) the least number of persons which are required under the Companies Act to constitute the MTN Zakhele Futhi Board having regard to the composition from time to time and the mandatory requirements of the Companies Act.
- 2.2.3** MTN Zakhele Futhi has appointed the following initial MTN Zakhele Futhi Directors:

Name and nationality	Occupation	Business address
Sibongile Beatrice Mtshali	Group Secretary – MTN Group	216 – 14th Avenue, Fairland, Roodepoort, 2195
Shauket Allie Fakie	Director – MTN South Africa	216 – 14th Avenue, Fairland, Roodepoort, 2195
Innocent Simphiwe Cele	General manager – MTN Group	216 – 14th Avenue, Fairland, Roodepoort, 2195

- 2.2.4** The names and business addresses of the Company's Legal Advisor, the Independent Registered Auditor and the Company Secretary are set out in "Corporate Information and Advisors" Section of this Prospectus. The Company Secretary is Maitland Group South Africa Limited ("**Maitland**"). Maitland provides professional management and administration services to various companies, trusts and investment structures. Maitland's company secretarial services department administers approximately 200 local companies and 100 local trusts as well as 30 offshore companies in various jurisdictions. The team leader of the company secretarial staff has a CIS Professional Advanced Qualification in Governance and Administration qualification through the Institute of Chartered Secretaries South Africa. The company secretarial team consists of four senior company secretary administrators who were admitted attorneys before joining the team, each having a LLB degree.

## 2.3 Appointment of MTN Zakhele Futhi Directors

- 2.3.1** No MTN Zakhele Futhi Director is appointed on a fixed-term contract.
- 2.3.2** One-third of the MTN Zakhele Futhi Directors (other than the MTN Appointed Directors, as defined below) or if their number is not a multiple of three then the number nearest to, but not less than one-third and any MTN Zakhele Futhi Director who has had a tenure of two years since his or her last election are required to retire by rotation at each annual general meeting, but may stand for re-election at such meeting.
- 2.3.3** During the Empowerment Period:
- 2.3.3.1** MTN shall be entitled to nominate, appoint, remove and replace two MTN Zakhele Futhi Directors to the MTN Zakhele Futhi Board (and their respective alternates) ("**the MTN Appointed Directors**") on written notice to the Company; provided that at least one of such MTN Appointed Directors is a Black Person;
- 2.3.3.2** the chairman of the MTN Zakhele Futhi Board shall be one of the MTN Appointed Directors as they may determine between them or, failing agreement, as MTN may specify;
- 2.3.3.3** save in respect of the MTN Appointed Directors, no person shall be appointed as an MTN Zakhele Futhi Director (and any such appointee shall immediately cease to hold office) if:
- a) as a result of such appointment the majority of the MTN Zakhele Futhi Directors will not be Black People; or
  - b) immediately prior to such appointment the minority of the MTN Zakhele Futhi Directors were Black People, unless such proposed director is himself a Black Person;
- 2.3.3.4** no resolution proposing the appointment of an MTN Zakhele Futhi Director may be put to a general or annual general meeting and/or no nomination for an MTN Zakhele Futhi 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):
- a) if the election of such person as a director would be in conflict with the principles in the preceding paragraph requiring the majority of the MTN Zakhele Futhi Board to be Black Persons;
  - b) unless the intended resolution or proposal is notified to MTN Zakhele Futhi not less than 14 Business Days prior to the meeting, and – if applicable – contains such information concerning the identity, background and qualifications of the proposed director as the MTN Zakhele Futhi Directors or MTN Zakhele Futhi in general meeting may reasonably specify from time to time;
  - c) unless the intended resolution or proposal is in respect of a person who:
    - has been approved by either MTN or by the then-current MTN Zakhele Futhi Directors;
    - will, if such proposed director is appointed, meet the criteria to be an independent non-executive director of MTN Zakhele Futhi as contemplated in King III; and
    - 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% of MTN Shares.
- 2.3.4** Save in respect of the MTN Appointed Directors, MTN Zakhele Futhi Shareholders may by ordinary resolution remove any MTN Zakhele Futhi Director before the expiration of his/her period of office and may by ordinary resolution elect another person in his/her stead, subject to the above provisions.

## 2.4 MTN Zakhele Futhi Directors' remuneration

- 2.4.1** MTN Zakhele Futhi Directors' remuneration will be determined by the MTN Zakhele Futhi shareholders in general meetings, but subject always to the limits on administration costs applicable to MTN Zakhele Futhi under the MTN Zakhele Futhi MOI and the Transaction Documents. The remuneration applicable to the MTN Zakhele Futhi Directors until the first annual general meeting has been set at the same levels as those which currently apply to the MTN Zakhele directors, namely:

	Annual Retainer Fee (Rands)		Attendance fee (Rands) per meeting
	Quarterly fee	Total annually	
Chairperson	25 728	102 913	40 522
Director	11 249	44 995	22 497

and the remuneration of members of the audit committee (once appointed), and that of the MTN Zakhele Futhi Directors

in respect of special assignments/projects per day/ad hoc work, set at the same levels as those which currently apply to the directors of MTN Zakhele, as set out in special resolution number 1 contained in the MTN Zakhele notice of (sixth) annual general meeting for the year ended 31 December 2015.

- 2.4.2** The MTN Zakhele Futhi Directors will be paid all their travelling and other expenses necessarily incurred by them in conducting MTN Zakhele Futhi's business and attending meetings of the MTN Zakhele Futhi Board.

## **2.5 Borrowing powers of MTN Zakhele Futhi Directors**

MTN Zakhele Futhi is restricted under the MTN Zakhele Futhi MOI and/or the Transaction Documents from incurring actual or contingent liabilities or indebtedness, save for any liability or indebtedness permitted in terms of the MTN Zakhele Futhi MOI and the Transaction Documents, or otherwise permitted under the Transaction Documents.

## **2.6 Management of MTN Zakhele Futhi**

Certain day-to-day administration services will be performed by MTN or a third party that is procured to perform these services for MTN Zakhele Futhi, the details of which are as follows:

<b>Name and business address of the third party</b>	<b>Description of the business so managed</b>	<b>Summary of the basis on which the third party will be compensated by MTN Zakhele Futhi</b>
Nedbank, acting through its Share Scheme Administration division, 135 Rivonia Road Sandton, 2196	Share scheme administration services including contact centre, reporting, query handling, bank account and scrip account management, participant/scheme share register, deceased estates/participant changes, financial accounting, annual general meetings, roadshows and other events, management including corporate events, dividends.	The terms are still to be agreed on, but are presently expected to be a once-off scheme set up fee in 2016, an ongoing fixed monthly administration fee, ad hoc/special event fees and approximately 15% of the interest earned on cash managed bank accounts.
Maitland Group South Africa Limited, 18 Fricker Road, Illovo, 2196	Customary company secretarial functions.	R8 000 per annum.

In view of transfer restrictions on the MTN Zakhele Futhi Shares during the Minimum Investment Period, MTN Zakhele Futhi has not yet appointed Transfer Secretaries.

## **3. HISTORY, STATE OF AFFAIRS AND PROSPECTS OF MTN ZAKHELE FUTHI [REG 59]**

### **3.1 History and general business description**

- 3.1.1** MTN Zakhele Futhi was incorporated as a public company on 21 June 2016 as the special purpose vehicle to effect the 2016 MTN BEE Transaction, principally through:

- 3.1.1.1** the MTN Zakhele Futhi Public Offer to the Black Public;
- 3.1.1.2** if applicable, the MTN Zakhele Re-investment arising from the MTN Zakhele Re-investment Offer;
- 3.1.1.3** subscribing for and acquiring MTN Shares; and
- 3.1.1.4** raising the funding required to acquire such MTN Shares,

such that, after the implementation of the 2016 MTN BEE Transaction, MTN Zakhele Futhi will hold up to approximately 4.0% of the issued share capital of MTN (on a Fully Diluted Basis), depending on the demand for MTN Zakhele Futhi Shares from the Black Public and the level of the MTN Zakhele Re-investment.

- 3.1.2** MTN Zakhele Futhi is therefore a newly incorporated company with no historical performance and no subsidiaries. Consequently, MTN Zakhele Futhi has not yet produced annual financial statements and as a result historical financial information for the Company is not available.
- 3.1.3** The MTN Zakhele Futhi Directors have appointed SizweNtsalubaGobodo Inc. as the auditors to MTN Zakhele Futhi, who confirm the statement in paragraph 3.1.2 above of this Section 1 in the Independent Registered Auditor's report contained in Annexure 2 to this Prospectus.
- 3.1.4** As the proceeds from the MTN Zakhele Futhi Public Offer, the MTN Loan Claim received pursuant to the MTN Zakhele Re-investment, the proceeds from the MTN Underwrite Option (if applicable), the proceeds from the MTN Subordinated Loan (Equity Top-up) (if applicable) as well as the proceeds from the issue of the MTN Zakhele Futhi Pref Shares will be used principally to acquire MTN Shares, the historical financial information of MTN has been provided in Annexure 3 to this Prospectus.

- 3.1.5** Subject to the restrictive conditions set out in clause 7 of the MTN Zakhele Futhi MOI, MTN Zakhele Futhi's sole business and objective is to:
- 3.1.5.1** enter into the Transaction Documents, the "BEE Transaction Documents" and (subject to the provisions of the Transaction Documents) the "Refinancing Agreements" (as such terms are defined in the Relationship Agreement) to which it is a party;
  - 3.1.5.2** exercise its rights and perform its obligations under the Transaction Documents, the BEE Transaction Documents and (subject to the provisions of the Transaction Documents) the Refinancing Agreements to which it is a party;
  - 3.1.5.3** carry 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 Transaction Documents and BEE Transaction Documents to which it is a party;
  - 3.1.5.4** receive, retain, apply, distribute and otherwise deal with any dividends and other distributions it receives in respect of its MTN Shares in each case in terms of the Transaction Documents and BEE Transaction Documents to which it is a party; and
  - 3.1.5.5** perform such other main business as may, subject to the Finance Documents to which MTN Zakhele Futhi is a party, be approved in writing by MTN in its sole and absolute discretion from time to time.
- 3.1.6** MTN Zakhele Futhi's capacity and authority (and that of the MTN Zakhele Futhi Board) is accordingly limited to these purposes. These limitations are set out in the MTN Zakhele Futhi MOI, an extract of such key limitations which is included in Annexure 1 to this Prospectus, as well as the provisions of the Relationship Agreement, a copy of which is included in Annexure 7 to this Prospectus.

## **3.2 Material changes**

- 3.2.1** Since the incorporation of MTN Zakhele Futhi, it has:
- concluded Transaction Documents to which it is a party and adopted the MTN Zakhele Futhi MOI; and
  - taken various preparatory steps to make the MTN Zakhele Futhi Public Offer and to enable the MTN Zakhele Re-investment Offer.
- 3.2.2** No other material changes in the assets or liabilities of MTN Zakhele Futhi or the state of affairs of MTN Zakhele Futhi have taken place between the date of incorporation of the Company and the date of this Prospectus.

## **3.3 Prospects**

- 3.3.1** MTN Zakhele Futhi's performance will be dependent upon many market factors, including *inter alia*: (i) the performance of the underlying MTN Shares held by MTN Zakhele Futhi (including as to movements in the share price and the timing, size and frequency, if any, of dividends derived thereon), (ii) movements in the financing rates applicable to the Notional Vendor Finance and the MTN Zakhele Futhi Pref Shares, (iii) any subordinated loans advanced to MTN Zakhele Futhi, if applicable, and (iv) any acceleration of the funding prior to its scheduled maturity date.
- 3.3.2** Applicants are referred to MTN's current trading performance and prospects set out in paragraph 2.5 of Section 4 of the Prospectus, as well as the latest MTN annual report and interim trading results.
- 3.3.3** The prospects for MTN Zakhele Futhi are also dependent on the factors set out in paragraph 3.4 of this Section 1 of the Prospectus.
- 3.3.4** Having considered these factors, the MTN Zakhele Futhi Directors are of the opinion that the prospects of MTN Zakhele Futhi are satisfactory.

## **3.4 Key factors affecting the value of MTN Zakhele Futhi Shares**

- 3.4.1** Following the implementation of the 2016 MTN BEE Transaction, MTN Zakhele Futhi's only material investment and asset will consist of MTN Shares.
- 3.4.2** Consequently, the value of an MTN Zakhele Futhi Share will depend primarily on the following key factors:
- the market price of the MTN Shares owned by MTN Zakhele Futhi;
  - the dividends received on the MTN Shares held by MTN Zakhele Futhi;
  - the financing costs and related liabilities of MTN Zakhele Futhi Pref Shares and Notional Vendor Finance and, if applicable, any subordinated loans advanced directly or indirectly by MTN to MTN Zakhele Futhi;

- the ability to repay or refinance the initial MTN Zakhele Futhi Pref Shares at the end of their 5 year 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 MTN Zakhele Futhi Pref Shares and pay all accrued dividends on account of the MTN Zakhele Futhi Pref Shares, in full, in accordance with the provisions of the MTN Zakhele Futhi Pref Share Terms);
- the total expenses and taxes incurred by MTN Zakhele Futhi in the day-to-day running and operation of MTN Zakhele Futhi; and
- the deferred tax liability or asset recognised within the entity related to the re-measurement of “available-for-sale” assets (i.e. MTN Shares).

### **3.4.3 Price of MTN Shares**

The market price of the MTN Shares is the most important factor affecting the value of an MTN Zakhele Futhi Share. As stated in paragraph 3.5 of this Section 1 of the Prospectus and based on the assumptions set out therein, and for illustrative purposes only, the underlying value of an MTN Zakhele Futhi Share is estimated to increase/decrease by R0.62 for every R1 increase/decrease in the MTN Share price.

### **3.4.4 Anticipated dividends on the MTN Shares**

**3.4.4.1** As discussed more fully in paragraph 1.5 of Section 4 of this Prospectus, MTN Zakhele Futhi will principally utilise all dividends received on its MTN Shares to settle its permitted expenses, the preference dividend on the MTN Zakhele Futhi Pref Shares, the capital on the MTN Zakhele Futhi 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 as set out in paragraph 1.5 of Section 4, and subject to the terms of the Transaction Documents, MTN Zakhele Futhi may also pay a dividend to the holders of MTN Zakhele Futhi Shares.

**3.4.4.2** Consequently, the total dividends received by MTN Zakhele Futhi on its investment in MTN Shares will materially affect the amount outstanding on the MTN Zakhele Futhi 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 you may receive in respect of your MTN Zakhele Futhi Shares.

### **3.4.5 Financing costs of MTN Zakhele Futhi Pref Shares and Notional Vendor Finance**

**3.4.5.1** The financing costs incurred by MTN Zakhele Futhi on the MTN Zakhele Futhi Pref Shares and the escalation rate of the Notional Vendor Finance will reduce the value of an MTN Zakhele Futhi Share.

**3.4.5.2** 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 MTN Zakhele Futhi 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 is the amount that is required for the payment of the preference dividend on the MTN Zakhele Futhi Pref Shares and discharge of the Notional Vendor Finance, and the higher the outstanding amounts will be at the end of their respective terms.

**3.4.5.3** The financing costs of any subordinated loans advanced directly or indirectly to MTN Zakhele Futhi will be determined at the time of advance by agreement between MTN (or relevant lender) and MTN Zakhele Futhi. It is expected that certain of these costs will similarly be linked to a variable lending rate with the same implications as outlined above.

### **3.4.6 Expenses incurred by MTN Zakhele Futhi**

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

### **3.4.7 Repaying or refinancing the MTN Zakhele Futhi Pref Shares**

There is a difference in the maturity profile under the MTN Zakhele Futhi Pref Share funding (5 year term) and the 2016 MTN BEE Transaction (8 year term). MTN Zakhele Futhi will therefore be required to redeem all of the MTN Zakhele Futhi Pref Shares and pay all accrued dividends in respect of the MTN Zakhele Futhi Pref Shares on their maturity.

The difference in maturity profiles has various risks to the structure, including, *inter alia*:

- the risk that MTN Zakhele Futhi may not be able to refinance the MTN Zakhele Pref Share funding after 5 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 MTN Zakhele Futhi refinances the MTN Zakhele Futhi Pref Share funding on terms or financial effects which are less favourable than the current terms;
- the risk that the tax legislation changes making it less favourable for funders to provide preference share financing.

As markets change, the effectiveness of the MTN Zakhele Futhi 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. MTN Zakhele Futhi's ability to successfully redeem or refinance the MTN Zakhele Futhi 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 MTN Zakhele Futhi's access to financing sources is not available on favourable terms or at all. There is a risk that MTN Zakhele Futhi's inability to refinance its funding obligations under the MTN Zakhele Futhi Pref Shares on favourable terms, or at all, results in a material adverse effect on MTN Zakhele Futhi's financial condition and on the performance of the MTN Zakhele Futhi Shares. Further, the ability of MTN Zakhele Futhi to refinance the MTN Zakhele 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 MTN Zakhele Futhi Pref Share Terms) are not, at all times up to the date on which the MTN Zakhele Futhi Pref Shares are redeemed in full, subordinated to the rights of BFC2 and the BFC2 Pref Shareholders in all respects.

Should MTN Zakhele for any reason be unable to refinance MTN Zakhele Futhi 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 MTN Shares in order to raise the money required to settle these liabilities in full. (Please see paragraph 1.3.3 of Section 4 in respect of the potential, in such circumstances, for MTN to replace such shares through additional NVE.)

#### **3.4.8 Refinancing obligations – Relationship Agreement**

The Relationship Agreement reflects that the overriding objective for MTN in facilitating the 2016 MTN BEE Transaction is for MTN Zakhele Futhi, 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 Period. It further acknowledges that commercially it is MTN's and MTN Zakhele Futhi's common intention, in the future, for the maturity of the MTN Zakhele Futhi 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 Period.

MTN Zakhele Futhi 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 MTN Zakhele Futhi 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 MTN Zakhele Futhi Pref Shares, that it has committed third party funding in place for the full duration of the Empowerment Period on the basis that it:

- does not result in MTN Zakhele Futhi 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 MTN Zakhele Futhi 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 MTN Zakhele Futhi to MTN does not derogate from its obligations to redeem the MTN Zakhele Futhi Pref Shares on their required redemption date, and the rights of the holders of MTN Zakhele Futhi Pref Shares under the Finance Documents.

### **3.5 Underlying value of MTN Shares**

The calculation of the underlying value of the MTN Zakhele Futhi Shares set out below has been prepared to assist BEE Participants to assess the initial value of an MTN Zakhele Futhi Share.

It is prepared on the basis and assumption that MTN Zakhele Futhi is able to sell all of the MTN Shares at R125.31, being the trading price on the JSE as at the Last Practicable Date, and to repay the MTN Zakhele Futhi Pref Share funding and discharge the Notional Vendor Finance at the same time without penalties and at the same effective price per MTN Share.

The material assumptions used in the calculation of the underlying value of MTN Zakhele Futhi Shares are set out in the notes following the table below. The calculation of the underlying value of MTN Zakhele Futhi Shares does not constitute a representation of the current or future financial position of MTN Zakhele Futhi nor the market value of MTN Zakhele Futhi Shares as at the Last Practicable Date or at any other time. Consequently the underlying value of MTN Zakhele Futhi Shares is provided for illustrative purposes only.

The underlying value of an MTN Zakhele Futhi Share is indicatively calculated as follows:

	<b>Value (R'million)</b>
<i>Transaction size</i>	4.0%
Estimated value of MTN Shares acquired	R9 628.2 <sup>1</sup>
Less: MTN Zakhele Futhi Pref Shares	R(2 418.5) <sup>2</sup>
Notional Vendor Finance	R(3 051.2) <sup>3</sup>
Transaction costs	R(24.1)
Underlying value of MTN Zakhele Futhi	R4 134.4 <sup>5</sup>
Number of MTN Zakhele Futhi Shares (millions)	123 416 819 <sup>4</sup>
<b>Estimated underlying value per MTN Zakhele Futhi Share (R)</b>	<b>R33.50</b>

**Notes and key assumptions:**

1. Based on 76 835 378 MTN Shares subscribed for by MTN Zakhele Futhi multiplied by the MTN Share price as at the Last Practicable Date of R125.31 per MTN Share.
2. The subscription price of the MTN Zakhele Futhi Pref Shares is subtracted from the value of MTN Zakhele Futhi as they need to be repaid prior to any payment being made to MTN Zakhele Futhi Shareholders. No dividends or other amounts payable in relation to the MTN Zakhele Futhi Pref Shares have been taken into account.
3. The Notional Vendor Finance is subtracted from the value of MTN Zakhele Futhi as this needs to be discharged prior to any payment being made to MTN Zakhele Futhi Shareholders. No NVF roll-up or escalation has been taken into account.
4. Based on the assumption that 123 416 819 MTN Zakhele Futhi Shares are subscribed for and/or issued in terms of the MTN Zakhele Futhi Offer and the maximum equity required for a 4.0% 2016 MTN BEE Transaction (on a Fully Diluted Basis) is thus raised.
5. The calculation does not take into account any taxes or costs that may be incurred by MTN Zakhele Futhi on the disposal of its MTN Shares nor does it account for any taxes or costs that may be incurred by the MTN Zakhele Futhi Shareholders upon the disposal of MTN Zakhele Futhi Shares or on monies received in respect of such shares. Based on current corporate tax rates, the sale of the MTN Shares will result in a capital gains tax of approximately R1 070 .9 million, representing approximately R8.68 per MTN Zakhele Futhi Share.
6. It has been assumed for the purposes of this calculation that no MTN Zakhele Futhi Pref Shares have been redeemed with any dividends received over the Empowerment Period and that no expenses or liabilities were incurred by MTN Zakhele Futhi in the day-to-day running of MTN Zakhele Futhi or otherwise. It also assumes, for illustrative purpose, that the MTN Zakhele Futhi Pref Shares remain in place for the entire term, and that their maturity is thus extended accordingly without any change in terms.
7. The calculation does not take into account any discount for no or limited liquidity and/or minority interests.
8. The calculation is not based on an option pricing methodology.

**Each MTN Zakhele Futhi Share has an underlying value of approximately R33.50 on the Last Practicable Date on the basis of the assumptions and methodology set out above.**

<b>Offer Price</b>	<b>Underlying value</b>	<b>Discount</b>
R20.00	R33.50	40.30%

### 3.6 Subsidiary companies, principal immovable property and capital commitments

At the Last Practicable Date, other than as stated in this Prospectus, MTN Zakhele Futhi had no:

- subsidiary companies; or
- immovable property (owned or leased); or
- material capital commitments, lease payments or contingent liabilities.

#### 4. SHARE CAPITAL OF MTN ZAKHELE FUTHI [REG 60]

##### 4.1 Authorised and issued share capital

The table below sets out the authorised and issued share capital of MTN Zakhele Futhi as at the Last Practicable Date:

	Rand
<b>Authorised share capital</b>	
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
<b>Total authorised share capital</b>	N/A
	<b>Rand</b>
<b>Issued share capital</b>	
8 ordinary shares of no par value	8
Nil cumulative redeemable non-participating preference shares of no par value	Nil
<b>Total issued share capital</b>	8

##### 4.2 Rights attaching to shares

- 4.2.1** Each MTN Zakhele Futhi Share entitles an MTN Zakhele Futhi Shareholder to one vote at a general meeting of MTN Zakhele Futhi Shareholders. The rights to dividends and such other rights attaching to each issued MTN Zakhele Futhi Share are set out in Annexure 1 to this Prospectus. The Finance Documents and the Tranche 1 Subscription and Call Option Agreement also regulate the payment of dividends on the MTN Zakhele Futhi Shares and, in this regard, see paragraph 1.5 of Section 4 of this Prospectus for further details.
- 4.2.2** The MTN Zakhele Futhi Pref Shares entitle the holders thereof to vote at general meetings of MTN Zakhele Futhi only to the extent, and in the limited circumstances, set out in the MTN Zakhele Futhi MOI as summarised in Annexure 5 to this Prospectus. The rights to dividends and such other rights attaching to each issued MTN Zakhele Futhi Pref Share are set out and/or summarised, as applicable, in Annexure 5 to this Prospectus.
- 4.2.3** The MTN Zakhele Futhi Directors will exercise the Company's vote at general meetings of MTN on behalf of MTN Zakhele Futhi, but may in their discretion in turn seek the approval of MTN Zakhele Futhi shareholders when exercising this vote.
- 4.2.4** The Relationship Agreement also addresses certain limited instances affecting the exercise of voting rights by MTN Zakhele Futhi Shareholders. Please see paragraphs 12.3.4 (dealing with invalid holders of MTN Zakhele Futhi Shares) and 15 (dealing with unauthorised holdings in excess of the Maximum Shareholding Limit) of Section 2 for further details in respect thereof.

##### 4.3 Alterations to share capital

The only alterations to the share capital of the Company prior to the date of issue of this Prospectus have been:

- after incorporation, MTN Zakhele Futhi allotted and issued two MTN Zakhele Futhi Shares each to three persons, each of whom is an attorney at Webber Wentzel, and one MTN Zakhele Futhi Share each to two persons, each of whom is an employee of the MTN Group; and
- the aforementioned eight initial MTN Zakhele Futhi Shares will, to the extent not already held by an Eligible MTN Futhi Shareholder, be transferred to an Eligible MTN Zakhele Futhi Shareholder on or following the Closing Date.

##### 4.4 Public offers in the last three years

There have been no offers for subscription or sale of any MTN Zakhele Futhi Shares to the public prior to the date of issue of this Prospectus.

#### 5. OPTIONS OR PREFERENTIAL RIGHTS IN RESPECT OF SHARES [REG 61]

Save as provided for in the MTN Zakhele Futhi Pref Subscription Agreement and the MTN Zakhele Futhi Ords Subscription Agreement, no options or preferential rights to subscribe for any share in MTN Zakhele Futhi, have been granted prior to the date of issue of this Prospectus.

## **6. COMMISSIONS PAID OR PAYABLE IN RESPECT OF UNDERWRITING [REG 62]**

No commissions have been paid or are payable in the last two years by MTN Zakhele Futhi, and no commissions are payable in respect of the MTN Zakhele Futhi Offer, to any person for subscribing or agreeing to subscribe, or procuring or agreeing to procure, subscription for and/or underwriting of any securities of the Company.

## **7. MATERIAL CONTRACTS [REG 63]**

### **7.1 Directors and managerial remuneration, royalties, and secretarial and technical fees payable**

The remuneration payable to MTN Zakhele Futhi Directors is detailed in paragraph 2.4 of this Section 1 of the Prospectus. The Company has not entered into any agreements relating to the payment of any royalties and, save as regards to the appointment of the Company Secretary, has not entered into any agreements, written or oral, relating to secretarial and/or technical fees. The Company has appointed Nedbank (acting through its Share Scheme Administration division) to provide certain financial administration and related services to the Company, on the terms referred to and set out in the Account Bank and Agency Agreement.

### **7.2 Material contracts**

The only material contracts that have been entered into by MTN Zakhele Futhi are the Transaction Documents to which it is a party. These contracts are available for inspection at the Registered Office of MTN Zakhele Futhi as described in paragraph 3 of Section 4 of this Prospectus.

## **8. INTEREST OF DIRECTORS AND PROMOTERS [REG 64]**

No consideration has been paid, or agreed to be paid, within the previous three years before the date of issue of this prospectus to any of the MTN Zakhele Futhi Directors or to any associate of any of the MTN Zakhele Futhi Directors to induce such director or associated party to become a director of MTN Zakhele Futhi, or to qualify as an MTN Zakhele Futhi Director, or for services rendered by him or her or by a company, partnership, syndicate or other association in connection with the promotion or formation of MTN Zakhele Futhi.

The MTN Zakhele Futhi Directors have no direct or indirect material interest in

- (i) the promotion of the Company;
- (ii) any property proposed to be acquired by the Company out of the proceeds of MTN Zakhele Futhi Offer; or
- (iii) any property acquired or proposed to be acquired by MTN Zakhele Futhi during 3 years immediately before the date of the Prospectus, but may freely participate in the MTN Zakhele Futhi Offer.

The MTN Zakhele Futhi Directors are, if they qualify as BEE Participants, not precluded from participating in the MTN Zakhele Futhi Public Offer and/or the MTN Zakhele Re-investment Offer. Should they so participate, they will not have any special rights or enjoy any special privileges, or be awarded any special allocations.

At the Last Practicable Date, none of the MTN Zakhele Futhi Directors held any MTN Zakhele Futhi Shares.

## **9. LOANS [REG 65]**

As at the Last Practicable Date and at the issue date of this Prospectus, MTN Zakhele Futhi had no material loans outstanding.

## **10. SHARES ISSUED OR TO BE ISSUED OTHER THAN FOR CASH [REG 66]**

Save for the MTN Zakhele Futhi Shares proposed to be issued to MTN Zakhele in consideration for the MTN Loan Claim under the Loan Transfer and Cession Agreement as part of the MTN Zakhele Re-investment, no securities have been issued, or have been agreed to be issued within the three years immediately before the date of issue of this Prospectus and Last Practicable Date, by MTN Zakhele Futhi since its incorporation on 21 June 2016, to any person other than for cash.

## **11. PROPERTY ACQUIRED OR TO BE ACQUIRED [REG 67]**

MTN Zakhele Futhi has not in the three years preceding the issue date of this Prospectus, and do not propose to, acquire any material immovable property, any other material fixed asset or option to acquire such properties, and has not entered into any agreement to acquire any immovable property or material fixed assets.

## **12. AMOUNTS PAID OR PAYABLE TO PROMOTERS [REG 68]**

As at the Last Practicable Date, no amount has been paid or is proposed to be paid and no benefit has been or will be given by MTN Zakhele Futhi since its incorporation on 21 June 2016, to any promoter, or to any partnership, syndicate or other association of which the promoter is or was a member, in relation to the issue of the issue of MTN Zakhele Futhi Shares.

### 13. PRELIMINARY EXPENSES AND ISSUE EXPENSES [REG 69]

The expenses of the MTN Zakhele Futhi Public Offer, including costs of the professional advisors, all of which are exclusive of any applicable VAT and disbursements, are estimated to be R24 147 750, comprised as follows:

<b>Description</b>	<b>Estimated fees (R'000)</b>
Lenders' counsel legal fees	R2 700.00
Independent counsel legal fees	R655.00
Legal fees – joint counsel	R8 500.00
Independent Registered Auditors' costs	R200.00
MTN Zakhele Futhi Preference Share Participation Fee	R12 092.75
<b>Total</b>	<b>R24 147.75</b>

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## SECTION 2: INFORMATION ABOUT THE MTN ZAKHELE FUTHI OFFER

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### 1. PURPOSE OF THE MTN ZAKHELE FUTHI OFFER [REG 70]

On 22 August 2016, MTN announced the 2016 MTN BEE Transaction which is targeted to equate to approximately 4.0% of MTN's issued share capital on a Fully Diluted Basis, but may be scaled down depending on the level of equity raised from the Black Public directly or indirectly through the MTN Zakhele Re-investment Offer.

The purpose of the MTN Zakhele Futhi Offer is to provide the Black Public with an opportunity to participate and/or continue to participate in the ownership of MTN. MTN Zakhele Futhi is the newly created special purpose company through which the 2016 MTN BEE Transaction will be implemented.

Since its incorporation in South Africa in 1994, MTN has been at the forefront of empowerment and remains fully committed to the principles of broad-based BEE. MTN also embraces the principles of BEE enshrined in the Codes and relevant industry transformation charters (i.e. the ICT Charter).

A key pillar of BEE is black equity ownership. In 2010, MTN implemented the MTN Zakhele BEE Transaction in terms of which, *inter alia*, (i) MTN Zakhele issued MTN Zakhele Shares to qualifying members of the Black Public; and (ii) MTN Zakhele acquired and/or subscribed for MTN Shares, up to a maximum of 4% of the then-issued share capital of MTN (using a combination of equity funding, vendor facilitation through a donation from MTN, notional vendor finance from MTN and third-party preference share funding). The MTN Zakhele BEE Transaction is proposed to be unwound on 24 November 2016 by means of the MTN Zakhele Integrated Unwind when the MTN Zakhele Pref Shares and the notional vendor finance mature.

MTN intends to maintain core BEE targets as set out in the ICT Charter in relation to its South African businesses by proposing and implementing the 2016 MTN BEE Transaction at the same time as the MTN Zakhele Integrated Unwind and the steps interlinking the transactions. The MTN Zakhele Integrated Unwind is thus, for reasons set out below, inextricably linked to the proposed 2016 MTN BEE Transaction.

MTN intends to implement the proposed 2016 MTN BEE Transaction, through MTN Zakhele Futhi, by means of the following core elements: (i) the MTN Zakhele Futhi Public Offer; (ii) the MTN Zakhele Re-investment Offer, if the MTN Zakhele Unwinding Scheme proceeds; (iii) MTN Zakhele Futhi raising third party finance through the MTN Zakhele Futhi Pref Shares; (iv) MTN providing MTN Zakhele Futhi with funding and vendor facilitation through, among others, the Notional Vendor Finance and the transaction discount provided by it; and (v) the subscription for MTN Shares by MTN Zakhele Futhi using the funding raised through these sources.

It was announced on SENS on 22 August 2016 and in the press on or about 23 August 2016 that, for the purposes of unwinding the MTN Zakhele BEE Transaction and facilitating the implementation of the 2016 MTN BEE Transaction, the MTN Zakhele Board had resolved that, subject to the terms and conditions of the MTN Zakhele Unwinding Scheme, MTN Zakhele would, by way of a scheme of arrangement, acquire (and subsequently cancel) all of the MTN Zakhele Shares (other than 1 (one) MTN Zakhele Share held by MTN Holdings) for a consideration, at the election of MTN Zakhele Shareholders, of one or more of the MTN Zakhele Unwinding Scheme Options. One such option (i.e. Option 3) is the Re-investment Option under the MTN Zakhele Re-investment Offer.

The purpose of the MTN Zakhele Re-investment Offer as contemplated in this Prospectus is to facilitate the implementation of the MTN Zakhele Unwinding Scheme and to enhance the 2016 MTN BEE Transaction by allowing for the Re-investment Option pursuant to which MTN Zakhele Shareholders will be offered an election to receive all or a portion of their MTN Zakhele Scheme Consideration in MTN Zakhele Futhi Shares, thus allowing them an opportunity effectively to re-invest all or a portion of their MTN Zakhele Shares into the 2016 MTN BEE Transaction.

If MTN Zakhele Shareholders do not approve the resolutions required to give effect to the MTN Zakhele Unwinding Scheme, or it otherwise fails to become operative, neither the MTN Zakhele Integrated Unwind nor the MTN Zakhele Standalone Unwind will proceed and the Re-investment Option will not be available to MTN Zakhele Shareholders. However, the MTN Zakhele Public Offer may nevertheless proceed, in MTN's discretion.

Please refer to paragraphs 1.1 and 1.2.2 of Section 4 of the Prospectus for a detailed discussion on the mechanics of the 2016 MTN BEE Transaction and on how the 2016 MTN BEE Transaction may be scaled depending on the funding raised and other factors.

### 2. TIME AND DATE OF THE OPENING AND CLOSING OF THE MTN ZAKHELE FUTHI OFFER [REG 71]

The MTN Zakhele Futhi Public Offer will open on Monday, 12 September 2016 at 09:00 and close on Friday, 21 October 2016 at 16:00.

The MTN Zakhele Re-investment Offer as contemplated in this Prospectus will also open on Monday, 12 September 2016 at 09:00 (when the MTN Zakhele Scheme Circular and a copy of this Prospectus will be made available to MTN Zakhele Shareholders) and close on Friday, 21 October 2016 at 16:00.

### 3. PARTICULARS OF THE MTN ZAKHELE FUTHI OFFER [REG 72]

#### 3.1 General

Class of MTN Zakhele Futhi shares forming the subject matter of the MTN Zakhele Futhi Offer:	Ordinary shares of no par value (MTN Zakhele Futhi Shares)
Price per MTN Zakhele Futhi Share:	R20.00
Number of MTN Zakhele Futhi Shares offered:	123 416 819

The MTN Zakhele Futhi Shares allotted and issued pursuant to the MTN Zakhele Futhi Public Offer and the MTN Zakhele Re-investment Offer will rank *pari passu* (equally) to each other in all respects. The MTN Zakhele Futhi Shares will not be listed on any stock exchange for the first three years and restrictions will apply to the Encumbrance, Disposal of and trading in these MTN Zakhele Futhi Shares. (See paragraph 12 of this Section 2 of the Prospectus for additional information.)

Save for the initial issue of MTN Zakhele Futhi Shares as contemplated in paragraph 4.3 of Section 1 of the Prospectus, MTN Zakhele Futhi has not issued any other securities since its incorporation on 21 June 2016, nor has it issued any securities for a premium.

#### 3.2 MTN Zakhele Integrated Unwind and MTN Zakhele Re-investment Offer

The MTN Zakhele BEE Transaction was established as a six-year scheme, with the requirement for MTN Zakhele Shareholders to be (and remain) qualifying black persons and groups and the funding both scheduled to end on 24 November 2016, being the 6th anniversary of the start of the scheme. Accordingly, on 24 November 2016 MTN Zakhele is obliged to settle its third party preference share funding and the notional vendor finance from MTN in full, and the MTN Zakhele Shares will become tradable without restrictions relating to the BEE composition of its holders. But for the 2016 MTN BEE Transaction, and assuming that it would not be a preferred outcome for MTN Zakhele Shareholders to remain invested in a listed intermediate company holding only MTN Shares, MTN Zakhele would be required to sell some of its MTN Shares for cash in order to settle the third party funding, to settle its remaining notional vendor finance by selling the required number of MTN Shares back to MTN at their par value, and to then sell for cash or otherwise distribute the remaining MTN Shares to MTN Zakhele Shareholders (after settling its remaining liabilities, taxes, costs, expenses and the like) and then ultimately to wind-up and delist from the JSE. This process could be time-consuming, administratively burdensome and potentially costly.

In contrast, the MTN Zakhele Integrated Unwind represents an efficient and effective means to achieve the natural unwinding of MTN Zakhele in a way which is potentially beneficial to MTN Zakhele Shareholders, while at the same time enhancing the 2016 MTN BEE Transaction, *inter alia*, by enabling an effective and potentially economically attractive means for the existing MTN Zakhele Shareholders to effectively re-invest a portion of their MTN Zakhele Shares into the 2016 MTN BEE Transaction, thus enhancing the overall attractiveness of the 2016 MTN BEE Transaction and the likelihood that it will optimise the transaction size and successfully achieve its investment goals.

If, however, the MTN Zakhele Unwinding Scheme does not proceed, and the 2016 MTN BEE Transaction continues (i.e. the MTN Zakhele Futhi Public Offer proceeds), the MTN Zakhele Re-investment Offer will no longer be available and participation in the MTN Zakhele Futhi Offer will be limited to participation through the MTN Zakhele Futhi Public Offer.

##### 3.2.1 Particulars of the MTN Zakhele Re-investment Offer as contemplated in this Prospectus

In terms of section 114(1)(e) of the Companies Act, the MTN Zakhele Board has proposed (or will propose) the MTN Zakhele Unwinding Scheme between MTN Zakhele and the MTN Zakhele Shareholders (other than MTN Holdings). In terms of the MTN Zakhele Unwinding Scheme, MTN Zakhele will acquire (and subsequently cancel) all of the MTN Zakhele Shares (other than 1 (one) MTN Zakhele Share held by MTN Holdings) and the MTN Zakhele Shareholders will receive consideration, at the election of MTN Zakhele Shareholders, in the form of one or more of the MTN Zakhele Unwinding Scheme Options.

The relevant rights and entitlements of MTN Zakhele Shareholders pursuant to the MTN Zakhele Unwinding Scheme (and MTN Zakhele Integrated Unwind thereunder) are, or will be, set out in the MTN Zakhele Scheme Circular, to which the Prospectus will be an annexure in relation to the MTN Zakhele Re-investment Offer.

In broad commercial terms, under the MTN Zakhele Integrated Unwind, MTN Zakhele Shareholders will, as consideration for the repurchase (and cancellation) of their MTN Zakhele Shares effectively have a notional, attributable interest in a net number of MTN Shares in MTN Zakhele, calculated after MTN Zakhele has settled or provided for all of its present or prospective liabilities. Under the MTN Zakhele Re-investment Offer, in respect of those MTN Zakhele Shareholders that elect the Re-investment Option, and who are allocated MTN Zakhele Futhi Shares under the MTN Zakhele Re-investment Offer, they will be settled as follows:

- for every 1 MTN Share to which they are proportionately entitled in respect of their MTN Zakhele Shares for which they have elected to receive (and been allocated) MTN Zakhele Futhi Shares ("**Rollover MTN Shares**"), MTN will repurchase from MTN Zakhele under the MTN Zakhele Repurchase Agreement 1 MTN Share at the Repurchase Share Price on loan account, thus giving rise to a portion of the MTN Loan Claim in an amount equal to the Repurchase Share Price;

- the aggregate of all such elections and repurchases will then sum to the MTN Loan Claim, representing, in a 1:1 relationship, the number of MTN Shares in respect of which re-investment elections have been made and allocated (at the Repurchase Share Price). The total number of MTN Shares so repurchased are the **“Repurchase Loan Shares”** and the value thereof at the Repurchase Share Price is the MTN Zakhele Re-investment (which is equal to the MTN Loan Claim);
- the MTN Loan Claim is transferred by MTN Zakhele to MTN Zakhele Futhi under the Loan Transfer and Cession Agreement in consideration for MTN Zakhele Futhi issuing MTN Zakhele Futhi Shares at their offer price of R20.00 per share to MTN Zakhele, thus providing MTN Zakhele with a number of MTN Zakhele Futhi Shares which equals to the number of such shares that the MTN Zakhele Shareholders would in aggregate have received had they subscribed for such shares at R20.00 per share in an amount equal to the value of the Rollover MTN Shares at the Repurchase Share Price;
- the MTN Zakhele Futhi Ordinary Shares issued to MTN Zakhele are then distributed by it to the relevant MTN Zakhele Shareholders in accordance with their respective allocations, in full consideration for the repurchase by MTN Zakhele of such of their MTN Zakhele Shares in respect of which such MTN Zakhele Shareholders elected and were allocated MTN Zakhele Futhi Shares;
- MTN Zakhele Futhi then uses the MTN Loan Claim to subscribe for MTN Shares at the Transaction Share Price under the MTN Tranche 3 Subscription Agreement.

MTN Zakhele Shareholders participating in the MTN Zakhele Re-investment Offer are subject to the same qualifying criteria to apply for MTN Zakhele Futhi Shares as those participating in the MTN Zakhele Futhi Public Offer and must accordingly also be eligible Black Persons and Black Groups.

MTN Zakhele Shareholders wishing to participate in the MTN Zakhele Re-investment Offer must follow the directions set out in the MTN Zakhele Scheme Circular and must meet the requirements and follow the directions in this Prospectus in respect of Re-investment Applicants.

### **3.2.2 Key terms of the MTN Zakhele Unwinding Scheme and MTN Zakhele Re-investment Option thereunder**

Subject to the MTN Zakhele Unwinding Scheme becoming unconditional in accordance with its terms, with effect from the Operative Date:

- Scheme Participants (whether they voted in favour of the MTN Zakhele Unwinding Scheme or not, abstained or refrained from voting), other than MTN Holdings, shall be deemed to have disposed of (and shall be deemed to have undertaken to unconditionally transfer, cede and make over) all of the MTN Zakhele Shares held by them, to MTN Zakhele, which shall be deemed to have acquired and taken cession of the MTN Zakhele Shares, free of encumbrances, on the applicable Operative Date.
- In consideration for the repurchase and cancellation of each Scheme Participant's MTN Zakhele Shares, each Scheme Participant will become entitled to the MTN Zakhele Scheme Consideration and to receive such through (at its election) one or more of the MTN Zakhele Unwinding Scheme Options, on the basis that:
  - where an MTN Zakhele Shareholder does not make an election by 12:00 on the Scheme Consideration Record Date (or in the case of MTN Zakhele Shareholders who hold their MTN Zakhele Shares through Pacific Nominees, by 12:00 on Wednesday, 16 November 2016); or
  - for MTN Zakhele Shareholders who hold less than 50 MTN Zakhele Shares on the Scheme Consideration Record Date,

such MTN Zakhele Shareholders will be deemed to have elected to receive Option 1 (i.e. the cash consideration) under the MTN Zakhele Unwinding Scheme Options in respect of 100% of their MTN Zakhele Shares (or such portion of their MTN Zakhele Shares in respect of which no election was received, as the case may be).

- In the event that the 2016 MTN BEE Transaction is implemented, in consideration for the repurchase (and cancellation) of such number of a Scheme Participant's MTN Zakhele Shares in respect of which they have elected to receive and have been allocated MTN Zakhele Futhi Shares (ie Re-investment Applicants who have elected the Re-investment Option), on the applicable Operative Date:
  - each such Re-investment Applicant is granted the right to the MTN Zakhele Futhi Shares allocated to it, which right is then settled by the delivery of such shares in accordance with the provisions of the MTN Zakhele Unwinding Scheme (as read with this Prospectus); and
  - to the extent applicable, the MTN Zakhele Tax Cash Top-up Amount related to such repurchased MTN Zakhele Shares,
- The purpose of the MTN Zakhele Re-investment Offer as contemplated in this Prospectus is to facilitate the implementation of the MTN Zakhele Unwinding Scheme and to enhance the 2016 MTN BEE Transaction by allowing for the Re-investment Option pursuant to which MTN Zakhele Shareholders will be offered an election to receive all or a portion of their MTN Zakhele Scheme Consideration in MTN Zakhele Futhi Shares, thus allowing them an opportunity to re-invest all or a portion of their MTN Zakhele Shares into the 2016 MTN BEE Transaction.



- The MTN Zakhele Futhi Shares are authorised no par value shares in the authorised share capital of MTN Zakhele Futhi, and will be issued to MTN Zakhele pursuant to section 44 of the Income Tax Act under and in accordance with the Loan Transfer and Cession Agreement.
- MTN Zakhele will pursuant to section 44 of the Income Tax Act distribute such MTN Zakhele Futhi Shares to Scheme Participants as full consideration (plus, if applicable, the MTN Zakhele Cash Tax Top-up Amount and a nominal cash amount for rounding (see below)) for the repurchase and cancellation of their MTN Zakhele Shares (in respect of which they are allocated MTN Zakhele Futhi Shares under and in accordance with the MTN Zakhele Unwinding Scheme) on the applicable Operative Date.
- Scheme Participants who elect and who are subsequently allocated MTN Zakhele Futhi Shares pursuant to the MTN Zakhele Unwinding Scheme, will have:
  - a new dematerialised share account opened with Nedbank (acting through its Share Scheme Administration division); and
  - such account credited with the MTN Zakhele Futhi Shares, on the applicable Operative Date. The MTN Zakhele Futhi Shares will be held subject to and in accordance with the terms of the Relationship Agreement and the MTN Zakhele Futhi MOI.
- The whole number of MTN Zakhele Futhi Shares to which Scheme Participants who are allocated MTN Zakhele Futhi Shares will become entitled, in the case of fractional entitlements of less than a whole number will be rounded down and the consideration in respect of that fraction will be settled by way of cash. Where the cash consideration payable to a Scheme Participant includes a fraction of a cent, such fraction will be rounded upwards.

### **3.2.3 Conditions precedent to the MTN Zakhele Re-investment Offer**

The offer in terms of the MTN Zakhele Re-investment Offer contemplated in this Prospectus is conditional upon the 2016 MTN BEE Transaction proceeding and on the MTN Zakhele Unwinding Scheme becoming unconditional in accordance with its terms. The implementation of the MTN Zakhele Unwinding Scheme is subject to the fulfilment (deemed fulfilment) or, where appropriate, waiver of the following General Scheme Conditions, which must be fulfilled, or where appropriate, waived, on or before Thursday, 17 November 2016, (or such later date as may be agreed in writing between amongst others MTN and MTN Zakhele):

- all regulatory approvals and consents necessary in respect of the MTN Zakhele Unwinding Scheme being obtained, including, but not limited to approvals and consents from the JSE, the Takeover Regulation Panel (as established in terms of section 196 of the Companies Act), and the Financial Surveillance Department of the South African Reserve Bank (if and to the extent necessary);
- the special resolution to approve the MTN Zakhele Unwinding Scheme (including the disposal by MTN Zakhele of all or the greater part of its assets or undertaking for purposes of section 112 of the Companies Act and for all other purposes as set out in the MTN Zakhele Scheme Circular, being adopted by a majority representing not less than (i) 75% of the votes exercised by holders of all classes of shares in MTN Zakhele (including the MTN Zakhele Pref Shares) present and entitled to vote; and (ii) 75% of the votes exercised by MTN Zakhele Shareholders present and entitled to vote, either in person or by proxy at the general meeting of MTN Zakhele Shareholders to be convened under the MTN Zakhele Scheme Circular;
- the above-mentioned special resolution to approve the MTN Zakhele Unwinding Scheme not being opposed by 15% or more of the voting rights exercised on such resolution, or; should the resolution be opposed by 15% or more of the voting rights exercised on it, no person who voted against the special resolution requires MTN Zakhele to seek the approval of the court in terms of section 115(3) of the Companies Act;
- if the special resolution to approve the MTN Zakhele Unwinding Scheme is opposed by 15% or more of the voting rights exercised on such resolution, and a person who voted against the special resolution requires MTN Zakhele to seek the approval of the court in terms of section 115(3) of the Companies Act and MTN Zakhele waives that General Scheme Condition, MTN Zakhele does not elect to treat the special resolution as a nullity in terms of section 115(5) of the Companies Act;
- no leave is granted by the court, on an application within 10 Business Days after the vote, to any person who voted against the special resolution and who applied to the court for a review of the MTN Zakhele Unwinding Scheme and/or the disposal by MTN Zakhele of all or the greater part of its assets or undertaking, in terms of section 115(7) of the Companies Act;
- within the period prescribed under section 164(7) of the Companies Act, no valid demands having been received by, or remaining capable of being given to, MTN Zakhele in terms of such section which in aggregate represent more than 5% of the MTN Zakhele Shares in issue at the date of the scheme meeting;
- in the predicate that the 2016 MTN BEE Transaction is implemented, the MTN Zakhele On-Risk Tax Amount (as such term is defined in the Implementation Agreement) not exceeding R100 000 000 (one hundred million Rand) and between them, MTN and MTN Zakhele have agreed in accordance with the Implementation Agreement how this amount is to be funded;

- MTN not having, on or prior to Thursday, 17 November 2016, delivered a notice to MTN Zakhele recording that it is of the opinion that an MTN Material Adverse Event has occurred or is likely to occur on or before the applicable Operative Date. This condition may be waived by MTN on written notice to MTN Zakhele; and
- on Friday, 18 November 2016, there being no enforcement action ongoing by or on behalf of any party under or in connection with (i) the transaction documents in relation to the MTN Zakhele BEE Transaction and/or (ii) the Transaction Documents, and no 'Class A BIC Trigger Event' or 'Class A BFC Trigger Event' or 'Class A BIC Potential Trigger Event' or 'Class A BFC Potential Trigger Event' has been declared or notified to MTN Zakhele pursuant to the 'Finance Documents' as respectively defined in the MTN Zakhele memorandum of incorporation. This condition may be waived by MTN and the Preference Share Agent on written notice to MTN Zakhele.

In addition, in order for the MTN Zakhele Unwinding Scheme to become unconditional and operative, the following General Scheme Condition ("**the Final Scheme Conditions**") must be fulfilled (deemed fulfilled) or waived by the time/s stated:

- at the point in time in the implementation sequence set out in the Implementation Agreement that the MTN Zakhele Pref Shares are redeemed, there being no enforcement action ongoing by or on behalf of any party under or in connection with the transaction documents in relation to the MTN Zakhele BEE Transaction and/or no 'Class A BIC Trigger Event' or 'Class A BFC Trigger Event' has been declared or notified to MTN Zakhele pursuant to the 'Finance Documents' as respectively defined in the MTN Zakhele memorandum of incorporation. This condition may be waived by MTN on written notice to MTN Zakhele; and
- the Finally Determined A Indemnified Provision Amount is determined and does not exceed R100 000 000 (one hundred million Rand).

An announcement will be released on SENS and published in the South African press as soon as possible after the fulfilment (deemed fulfilment), waiver or non-fulfilment, as the case may be, of the General Scheme Conditions.

#### 4. MINIMUM SUBSCRIPTION [REG 73]

The MTN Zakhele Futhi Offer is dependent on MTN Zakhele Futhi raising a minimum cash amount through the MTN Zakhele Futhi Public Offer of at least R250 million (i.e. the Minimum Cash Raise). If it does not raise the Minimum Cash Raise amount, then the 2016 MTN BEE Transaction will **not** be implemented and the MTN Zakhele Futhi Offer will terminate.

The MTN Zakhele Futhi Offer is also dependent on MTN Zakhele Futhi raising sufficient money in aggregate through cash subscriptions from the Black Public and/or through the MTN Loan Claim as part of the MTN Zakhele Re-investment for at least the Minimum Equity Raise amount, being an aggregate amount equal to R1 234.1 million.

In the event that the aggregate money raised in the MTN Zakhele Futhi Offer is less than the Minimum Equity Raise amount, the 2016 MTN BEE Transaction will **not** be implemented.

In the event that the aggregate money raised from the Black Public and/or through the MTN Zakhele Re-investment pursuant to the MTN Zakhele Futhi Offer is at least R1 234.1 million, but is less than R2 468.3 million, at MTN's election:

- MTN may determine not to proceed with the 2016 MTN BEE Transaction; or
- MTN may determine to proceed with the 2016 MTN BEE Transaction, and, in this regard, may (but is not obliged to) enable MTN Zakhele Futhi to make up all or a part of the shortfall to the Target Equity Raise by it (or its nominee) subscribing for MTN Zakhele Futhi Shares at R20.00 per share pursuant to the MTN Underwrite Option and/or by providing additional funding to MTN Zakhele Futhi through the MTN Subordinated Loan (Equity Top-up) and/or by increasing the NVF by issuing MTN Tranche 1 Subscription Shares, with the net result that the 2016 MTN BEE Transaction may then be sized between 2% to 4.0% of MTN's issued share capital on a Fully Diluted Basis depending on its decision. In this instance, the preference share funding amount may, but will not necessarily, be increased or reduced, at MTN's discretion, but subject to the provisions of, and limit thereof in, the Finance Documents.

Should MTN (or its nominee) subscribe for MTN Zakhele Futhi Shares under the MTN Underwrite Option, the intention is that such MTN Zakhele Futhi Shares will then be sold or placed with qualifying BEE Participants in due course.

The MTN Underwrite Option and the options to provide the MTN Subordinated Loan (Equity Top-up) and/or to increase the NVF and/or to reduce the preference share funding amount, therefore provide MTN with the flexibility to manage the outcome of the 2016 MTN BEE Transaction in the event that the equity initially raised through the MTN Zakhele Futhi Offer is lower than R2 468.3 million.

Cash Applicants must apply for a minimum of 100 MTN Zakhele Futhi Shares. MTN Zakhele Shareholders electing the MTN Zakhele Re-investment Offer (i.e. Re-investment Applicants) will only be entitled to do so in respect of a minimum of 50 MTN Zakhele Shares.

No maximum subscription or election limit has been set for any one Applicant, and Applicants can therefore apply for as many MTN Zakhele Futhi Shares as are available in the MTN Zakhele Futhi Offer. However, Applicants are referred to paragraph 15 of this Section 2 in respect of the Maximum Shareholding Limit of 15% which applies to shareholdings in MTN Zakhele Futhi. Accordingly, no allocations of MTN Zakhele Futhi Shares above the Maximum Shareholding Limit may be made by MTN Zakhele Futhi without MTN's prior written consent.

There are no preliminary expenses payable by the Company or a commission payable to any person as consideration for either agreeing to subscribe for MTN Zakhele Futhi Shares; or procuring to agreeing to procure subscriptions for MTN Zakhele Futhi Shares.

## **5. QUALIFYING MEMBERS OF THE BLACK PUBLIC**

Only Black People and Black Groups qualify to participate in the MTN Zakhele Futhi Public Offer and MTN Zakhele Re-investment Offer.

## **6. APPLYING FOR MTN ZAKHELE FUTHI SHARES**

### **6.1 Application procedure**

- You may only apply to participate if you qualify to participate in the MTN Zakhele Futhi Offer.
- The following options are available to all Applicants to provide some of the required data for purposes of populating an Application Form prior to visiting a Participating Nedbank Branch if an Applicant wishes to do so to speed up the application process:
  - Applicants who are Black People may complete (but should not sign) the blue Application Form attached to this Prospectus by hand and Applicants who are Black Groups may complete (but should not sign) the green Application Form attached to this Prospectus by hand; or
  - Applicants may call the Nedbank Contact Centre on 083 900 6863 (toll free number for MTN subscribers only); or
  - Applicants may visit the following website to electronically capture some data for the Application Form: [www.mtn.co.za/zakhelefuthi](http://www.mtn.co.za/zakhelefuthi).
- Please note that you will not be able to submit all the information required online or via the Nedbank Contact Centre as some information will be required to be provided at a Participating Nedbank Branch.
- If you are unsure as to the correct way to capture some of your data for purposes of populating the Application Form prior to visiting a Participating Nedbank Branch or do not have online access, please contact the Nedbank Contact Centre on 083 900 6863 or visit a Participating Nedbank Branch for assistance.
- Every Applicant must visit a Participating Nedbank Branch to complete the application process, sign the Application Form printed by the Participating Nedbank Branch and submit all supporting documents contemplated in paragraph 6.2 of this Section 2 of the Prospectus.
- Please bring a copy of the Prospectus with you to the Participating Nedbank Branch. If you do not have a copy of the Prospectus, the Participating Nedbank Branch will provide you with a copy.
- At the Participating Nedbank Branch you will be assisted in capturing all required data in order for the Participating Nedbank Branch to complete and print your Application Form. If you provided data for purposes of populating your Application Form prior to visiting a Participating Nedbank Branch, such data will also be used by the Participating Nedbank Branch to complete your Application Form.
- Please do not sign an Application Form prior to visiting a Participating Nedbank Branch and being requested to do so. Once all the required data has been captured and the Application Form has been completed by the Participating Nedbank Branch, the Participating Nedbank Branch will print the Application Form to be signed by you at the Participating Nedbank Branch.
- Black minors must be assisted by their parents or legal guardians. Black Groups must be represented by an authorised representative and will be required to submit the original completed and signed appointment of authorised representative attached as Annexure 9 to this Prospectus for purposes of the authorised representative signing the Application Form for and on behalf of the Black Group at the Participating Nedbank Branch.
- You will also be required to submit all applicable supporting documents contemplated in paragraph 6.2 of this Section 2 of the Prospectus.
- Original BEE, FICA and other supporting documents must presented at a Participating Nedbank Branch, unless a certified copy (not older than 3 months, unless stated otherwise) of the original document is required (please refer to the supporting documents which are required as contemplated in paragraph 6.2 of this Section 2). Documents can be certified at any South African Police Station. To the extent that original documents are required, Applicants will be required to present the original document at a Participating Nedbank Branch for it to be photocopied and stamped at such Participating Nedbank Branch.
- At the time of and immediately prior to signing the Application Form printed by the Participating Nedbank Branch, you will be requested to sign and tear out the Confirmation of Possession attached to this Prospectus on page 165 for submission to the Participating Nedbank Branch. Please do not sign or tear out the Confirmation of Possession prior to visiting the Participating Nedbank Branch and being requested to do so. If you do not have a copy of the Prospectus with you, a copy will be provided to you by the Participating Nedbank Branch prior to signature of the Application Form printed by the Participating Nedbank Branch. The Participating Nedbank Branch will retain the original signed Confirmation of Possession.
- The Participating Nedbank Branch will retain your original signed Application Form and provide you with a copy thereof. You will also be sent an SMS with your unique reference number and payment instructions. Thereafter your unique reference number must be used with respect to all enquiries, all documents delivered to Nedbank and all payments made in connection

with the MTN Zakhele Futhi Offer. Cash Applicants must use the account details and the unique reference number sent to them via SMS to make payment by latest 16:00 on 18 October 2016 if paying by EFT and by latest 16:00 on 21 October 2016 if paying in cash. **The onus is on the Applicant to ensure that his/her/its payment reference is correct. None of MTN, MTN Zakhele, MTN Zakhele Futhi or Nedbank will be held liable for payments made without payment references or with incorrect payment references.**

- If you are a Cash Applicant, whatever amount is timeously deposited into the account nominated by Nedbank using your unique reference number will constitute an offer by you to subscribe for MTN Zakhele Futhi Shares up to that amount. This amount will be used, if you are successful with your application, to subscribe for as many MTN Zakhele Futhi Shares as possible (in multiples of R100) up to the maximum number of MTN Zakhele Futhi Shares allocated to you, and any excess amount will be refunded to you in accordance with the process as set out in paragraph 9.3 of this Section 2. The onus is on the Applicant to ensure that all payments are made into the correct account nominated by Nedbank. None of MTN, MTN Zakhele, MTN Zakhele Futhi or Nedbank will be held liable for payments made to the incorrect account.
- If you are a Re-investment Applicant, the number of your MTN Zakhele Shares in respect of which you timeously elect to participate in the MTN Zakhele Re-investment Offer will constitute an election (offer) by you to MTN Zakhele to receive MTN Zakhele Futhi Shares at R20.00 per MTN Zakhele Futhi Share in exchange for the MTN Zakhele Scheme Consideration (valued at the Repurchase Share Price) due to you in respect of such MTN Zakhele Shares. If you are successful with your application, MTN Zakhele will transfer to you as many MTN Zakhele Futhi Shares as possible up to the maximum number of MTN Zakhele Futhi Shares allocated to you, in settlement of your MTN Zakhele Scheme Consideration. To the extent that you are allocated fewer MTN Zakhele Futhi Shares than you have elected, the balance of the MTN Zakhele Scheme Consideration due to you which has not been applied to receive MTN Zakhele Futhi Shares will be settled to you in cash and/or in MTN Shares, in accordance with the terms of the MTN Zakhele Unwinding Scheme.
- If you are re-investing as a Re-investment Applicant and would like to apply for additional MTN Zakhele Futhi Shares as a Cash Applicant, you will need to follow the same payment process as Cash Applicants (but need not complete a further Application Form). All Re-investment Applicants will be sent payment instructions and a unique reference number via SMS which can be used in the event you would like to make an additional cash investment.
- If you are a Black Group currently invested in MTN Zakhele and wish to re-invest your MTN Zakhele Shares, you will be required to submit your MTN Zakhele Shareholder number when applying to re-invest your MTN Zakhele Shares. You can call the MTN Zakhele Call Centre on 083 123 6869 for assistance in obtaining this MTN Zakhele Shareholder number.
- In addition:
  - if you wish to participate in the MTN Zakhele Re-investment Offer as a Re-investment Applicant, and you hold dematerialised MTN Zakhele Shares, you must instruct your CSDP or broker in accordance with your mandate with them as to your election under the MTN Zakhele Unwinding Scheme but by no later than 12:00 on 21 October 2016. If you hold your dematerialised MTN Zakhele Shares through Pacific Nominees, you must make an election under the MTN Zakhele Unwinding Scheme on the MTN Zakhele transaction platform, or through the MTN Zakhele call centre on 083 123 6869, by 12:00 on 19 October 2016.
  - if you wish to participate in the MTN Zakhele Re-investment Offer as a Re-investment Applicant, and you hold certificated MTN Zakhele Shares, you must complete and deliver the form of surrender, election and transfer (the pink form attached to the MTN Zakhele Scheme Circular) to the transfer secretaries of MTN Zakhele, being Link Market Services South Africa Proprietary Limited, 13th Floor, Rennie House, 19 Ameshoff Street, Braamfontein (PO Box 4844, Johannesburg, 2000) by no later than 12:00 on Friday, 21 October 2016.
- Original BEE, FICA and other supporting documents must be presented at a Participating Nedbank Branch, unless a certified copy of the original document is required (please refer to the supporting documents which are required as contemplated in paragraph 6.2 of this Section 2). Documents can be certified at any South African Police Station.
- Certification of documents, as true copies of the original, must not be more than 3 months old, unless stated otherwise. To the extent that original documents are required, Applicants will be required to present the original document at a Participating Nedbank Branch for it to be photocopied and stamped at such Participating Nedbank Branch.
- If you made a mistake when providing your banking details for purposes of populating the Application Form (created and submitted through the above channels), you will need to visit a Participating Nedbank Branch during the Offer Period to update the bank details and re-submit a certified copy of your bank statements, certified by your bank.
- If any of your contact details in the Application Form (created and submitted through the above channels) change during the Offer Period, you will need to visit any Participating Nedbank Branch to update your contact details and, if your address has changed, re-submit your proof of address supporting documents for FICA purposes.
- If any of your details change after the close of the Offer Period please contact the Nedbank Contact Centre on 083 900 6863.
- The onus is on you as an investor in MTN Zakhele Futhi to ensure that whenever your address, contact and/or bank details change, that you advise and provide your updated information to the MTN Zakhele Futhi administrator, failing which, you may not receive relevant communications and/or payments. Please note that Applicants must keep informed of any changes of the FICA legislation which may occur after the date of this Prospectus, and will need to comply with any such changes, to the extent applicable.

- If you are an MTN subscriber, the information provided by you will **not** result in an update to any of your existing RICA information stored by MTN.
- If you are a Nedbank customer, the information provided by you will **not** result in an update to your existing customer profile unless you so request.

**If you have any questions regarding the application process, please call the Nedbank Contact Centre on 083 900 6863 (toll free number for MTN subscribers only).**

## **6.2 Supporting Documents**

### **6.2.1 Black People**

#### **6.2.1.1 FICA supporting documents**

Applicants will be required to be verified for FICA purposes by the Participating Nedbank Branch in accordance with the requirements under FICA. Details of the required supporting documents are set out in Annexure 8 to this Prospectus.

#### **6.2.1.2 Proof of bank account supporting documents**

You must provide a copy of your bank statement (not older than 3 months) stamped by your bank into which MTN Zakhele Futhi may pay refunds, dividends and any other payments in connection with your Application and/or the MTN Zakhele Futhi Offer and your holding of MTN Zakhele Futhi Shares thereafter.

If you do not have an existing South African transactional bank account or wish to open a separate account to use for your application, you can open a new South African bank account at any Nedbank branch (at the time of applying for MTN Zakhele Futhi Shares) or any other South African bank. This will become your transactional bank account into which MTN Zakhele Futhi may pay refunds, dividends and any other payments in connection with your Application and/or the MTN Zakhele Futhi Offer and your holding of MTN Zakhele Futhi Shares thereafter.

#### **6.2.1.3 BEE verification supporting documents**

No additional documents are required for BEE verification purposes by Black People.

### **6.2.2 Black Groups**

#### **6.2.2.1 FICA supporting documents**

**Please note that the authorised representative can fulfil the role of the manager/director, the natural person authorised to establish a business relationship on behalf of the Black Group as well as the natural person authorised to transact on behalf of the Black Group.**

Applicants will be required to be verified for FICA purposes by the Participating Nedbank Branch in accordance with the requirements under FICA. Details of the required supporting documents are set out in Annexure 8 to this Prospectus.

#### **6.2.2.2 Proof of bank account supporting documents**

Black Groups must provide a copy of their transactional South African bank statement (not older than three months) stamped by their bank into which MTN Zakhele Futhi may pay refunds, dividends and any other payments in connection with their Application and/or the MTN Zakhele Futhi Offer and their holding of MTN Zakhele Futhi Shares thereafter.

If the Applicant Black Group does not have an existing South African transactional bank account or wishes to open a separate account to use for this application, it can open a new South African bank account at any Nedbank branch (at the time of applying for MTN Zakhele Futhi Shares) or at any other South African bank. This will become its transactional bank account into which MTN Zakhele Futhi may pay refunds, dividends and any other payments in connection with its Application and/or the MTN Zakhele Futhi Offer and its holding of MTN Zakhele Futhi Shares thereafter.

#### **6.2.2.3 BEE verification supporting documents**

If you are a Black Group:

- applying as a Cash Applicant for MTN Zakhele Futhi Shares to the value of R1 000 000 or more (i.e. 50 000 MTN Zakhele Futhi Shares or more) over the application period; or
- applying as a Re-investment Applicant to receive MTN Zakhele Futhi Shares in respect of 15 000 MTN Zakhele Shares, or more, **OR** if you apply to re-invest in respect of 8 000 MTN Zakhele Shares, or more, and have also applied for additional MTN Zakhele Futhi Shares as a Cash Applicant in any amount; or

- unable to or do not wish to submit a list of all of the Black People who, both directly, or indirectly, hold an Effective Interest in the Black Group; or
- unable to or do not wish to submit a certified copy of their green bar-coded South African Identity Document or identity card (smart card) or South African passport showing their South African identity number ("**BEE Proof of Identity**") of all of the Black People who, both directly or indirectly, hold an Effective Interest in the Black Group; or
- unable to or do not wish to submit any of the other BEE supporting documents set out in paragraph 6.2.2.5 of this Section 2;

you will need to submit a certified copy of your Valid BEE Ownership Certificate. Please refer to paragraph 6.2.2.4 of this Section 2 for details on the requirements of a Valid BEE Ownership Certificate.

For all other Black Groups, a Valid BEE Ownership Certificate may be submitted, at the election of the Black Group. If these Black Groups choose not to submit a Valid BEE Ownership Certificate, the documentation contemplated in paragraph 6.2.2.5 of this Section 2 is required to be submitted to the extent they have not already been submitted for FICA purposes.

#### 6.2.2.4 Obtaining a Valid BEE Ownership Certificate

An Applicant which is a Black Group may submit an existing Valid BEE Ownership Certificate provided that:

- it was obtained from a Valid BEE Verification Agency;
- it must be valid for at least 6 months from the date the Offer Period opens (i.e. until at least 12 March 2017);
- it must have a confirmation stated on the Valid BEE ownership certificate that the "entity is equal to or more than 51% black owned and controlled (using the flow-through principle)" Or: "B-BBEE Controlled (company/trust/etc.) and B-BBEE Owned (company/trust/etc.), as defined in the Broad-Based Black Economic Empowerment Act.,"
- it must contain the following information as defined in the Codes using the flow-through principle:
  - % economic interest of Black People (compulsory);
  - % exercisable voting rights of Black People (compulsory);
- it may contain the following information as defined in the Codes using the flow-through principle (not compulsory):
  - % economic interest and exercisable voting rights of Black women (if known); and
  - % economic interest of black designated groups (if known);
  - % economic interest of black new entrants (if known); and
  - whether the combined shareholding of black designated groups and/or black new entrants are equal to or higher than 5% (if known).

If you do not have a Valid BEE Ownership Certificate, you can apply for one from a Valid BEE Verification Agency. Alternatively you can obtain information on Valid BEE Verification Agencies by visiting the FAQ section of the MTN Zakhele Futhi website at [www.mtn.co.za/zakhelefuthi](http://www.mtn.co.za/zakhelefuthi).

**It may take at least 15 days to issue a Valid BEE Ownership Certificate. You therefore need to apply as soon as possible.**

#### 6.2.2.5 BEE verification documents required for Black Groups not submitting a Valid BEE Ownership Certificate

Sole proprietor	<ul style="list-style-type: none"> <li>• Certified copy of (i) valid South African green barcoded identity document, or (ii) valid South African identity card (smart card), or (iii) valid South African passport;</li> <li>• Original affidavit found on the following website: <a href="http://www.thedit.gov.za/gazettes/Affidavit_EME.pdf">http://www.thedit.gov.za/gazettes/Affidavit_EME.pdf</a></li> </ul>
Company	<ul style="list-style-type: none"> <li>• Certificate of incorporation;</li> <li>• Certificate of change of name reflecting the current name of the company (if applicable);</li> <li>• Share register and share certificates; and</li> <li>• Latest shareholders agreement and sale of shares agreement with any of the B-BBEE shareholders (if applicable).</li> </ul>

Close corporation	<ul style="list-style-type: none"> <li>• CK1 (or CK2 if applicable);</li> <li>• Certificate of change of name reflecting the current name of the company (if applicable); and</li> <li>• Latest association agreement and sale of membership interest agreement with any of the B-BBEE members (if applicable).</li> </ul>
Trusts	<ul style="list-style-type: none"> <li>• Trust deed;</li> <li>• Letter of authority issued by the Master of the High Court; and</li> <li>• Representation from the Trustees to confirm the proportion of distributions towards black females, black designated groups and black new entrants.</li> </ul>
Partnership	<ul style="list-style-type: none"> <li>• Partnership agreement.</li> </ul>
Non-profit organisation	<ul style="list-style-type: none"> <li>• Constitution or founding document;</li> <li>• Letter from an independent third party confirming the percentage of black beneficiaries and black female beneficiaries.</li> </ul>
Unincorporated entities (Stokvels, Joint Ventures, Syndicates)	<ul style="list-style-type: none"> <li>• Constitution or founding document.</li> </ul>
<p>Requirements for all Black Groups:</p> <ul style="list-style-type: none"> <li>• Declaration of percentage of black new entrants who, either directly or indirectly, hold an Effective Interest in the Black Group signed by the authorised representative;</li> <li>• Declaration of percentage of black designated groups (applicable for black employee share ownership schemes, black broad-based ownerships schemes, black co-operatives) who, either directly or indirectly, hold an Effective Interest in the Black Group signed by the authorised representative;</li> <li>• Indirect interests held by Black People require a detailed organogram;</li> <li>• A list of all of the Black People who, both directly or indirectly, hold an Effective Interest in the Black Group including their names, identity numbers, nationality, gender and effective percentage economic interest held;</li> <li>• BEE Proof of Identity for all of the Black People who, either directly or indirectly, hold an Effective Interest in the Black Group (i.e. shareholders, members, beneficiaries or partners); and</li> <li>• Financing agreements between the B-BBEE shareholders and the financiers (if applicable).</li> </ul>	

**Certification of documents, as true copies of the original, must not be more than 3 months old, unless stated otherwise.**

**Documents already submitted for FICA purposes will not be required to be resubmitted for BEE verification purposes.**

### 6.3 Applications irrevocable

Applications for MTN Zakhele Futhi Shares under the MTN Zakhele Futhi Offer are irrevocable and may not be withdrawn once received by or on behalf of MTN Zakhele Futhi and/or MTN Zakhele (as applicable), unless MTN Zakhele Futhi or MTN Zakhele (in respect of the MTN Zakhele Re-investment Offer) issues, registers and publishes a supplement to the Prospectus, in which event applications made prior to the date of issue or publication of the supplement may be withdrawn on written notice to MTN Zakhele Futhi (in the case of applications under the MTN Zakhele Futhi Public Offer) and MTN Zakhele (in the case of applications under the MTN Zakhele Re-investment Offer) within 20 business days after the date of publication; provided that, in respect of any supplement published by MTN Zakhele the right to withdraw applications applies only to applications made under the MTN Zakhele Re-investment Offer and not to Cash Applicants.

### 6.4 Obligation to give accurate information

The obligation to give full and accurate information rests on each Applicant. The acceptance by the Participating Nedbank Branch of data for purposes of populating an Application Form, printing an Application Form, accepting supporting documentation, and the allotment and issue of MTN Zakhele Futhi Shares on acceptance of an application, does not imply that any such information has been verified or accepted as true and correct, and will not prevent MTN Zakhele Futhi and/or MTN Zakhele and/or MTN from taking action in connection therewith at any time, including after MTN Zakhele Futhi Shares have been allocated, issued and/or delivered to you.

MTN Zakhele Futhi is entitled to verify your details (for BEE, FICA and other purposes) and you are obligated to assist in such verification promptly when requested to do so. Failing to do so may result in your being disqualified from participating in the MTN Zakhele Futhi Offer.

Providing false information could result in persons, including MTN, MTN Zakhele and/or MTN Zakhele Futhi having claims and rights against you, and could be a criminal offence.

## 7. PAYMENT FOR MTN ZAKHELE FUTHI SHARES – CASH APPLICANTS

***This Section applies to all Cash Applicants only and therefore applies only to persons who are applying for MTN Zakhele Futhi Shares in cash under the MTN Zakhele Futhi Public Offer, including MTN Zakhele Shareholders who wish to apply for additional MTN Zakhele Futhi Shares in cash as a Cash Applicant. MTN Zakhele Shareholders who wish to apply for MTN Zakhele Futhi Shares under the MTN Zakhele Re-investment Offer should follow the process as set out in paragraph 8 of this Section 2.***

### 7.1 Methods of paying for MTN Zakhele Futhi Shares

Each MTN Zakhele Futhi Share costs R20.00, and you must apply for at least 100 MTN Zakhele Futhi Shares. It will therefore cost a minimum of R2 000.00. You must pay for all of the MTN Zakhele Futhi Shares that you apply for as a Cash Applicant. Payment may be made in one of the following manners:

- **Cash payment:** All physical cash payments must be made by latest 16:00 on Friday, 21 October 2016 using your unique reference number sent via SMS from Nedbank as the payment reference. You may not make a cash payment of more than R24 999 per deposit.
- **EFT:** EFT payments must be made by latest 16:00 on Tuesday, 18 October 2016 into the Nedbank account number indicated on the payment instruction (SMSed to you when you submit your Application Form and supporting documents and as reflected below). It is critical that the unique reference number SMSed to you is used as the payment reference at the time of the EFT transfer (i) to avoid the transaction from being rejected due to the funds being unallocated, and (ii) to ensure that the funds are allocated to the correct recipient. Please use the following EFT banking details:

Account holder: MTN Zakhele Futhi (RF) Limited

Nedbank account number: 1119098157

Account type: Current account

Branch code: 198765

Reference: The unique reference number SMSed to you when you submit your Application Form and supporting documents at any Participating Nedbank Branch.

**Please note that payment by means of cheques, bank issue cheques, postal orders, credit cards, debit cards and other forms of payment will not be accepted.**

### 7.2 When to pay for MTN Zakhele Futhi Shares

- Payment may be made when you submit your Application Form and supporting documents, or payments can be made at a later date but by latest 16:00 on Friday, 21 October 2016 for physical cash payments and 16:00 on Tuesday, 18 October 2016 for payments by EFT.
- If you are paying by EFT, payment must be made by latest 16:00 on Tuesday, 18 October 2016 and must be made using the unique reference number SMSed to you at the time of or after submitting your Application Form and supporting documents. This unique reference number must be used as the payment reference otherwise the payment will not be credited to you.
- You will not receive interest on money paid into the MTN Zakhele Futhi Account, however you will receive interest on any money refunded to you, calculated from the MTN Zakhele Futhi Offer Closing Date until the date of refund (both days excluded), if the 2016 MTN BEE Transaction does not proceed or if your application is fully or partially unsuccessful due to an oversubscription. No person who made any payments on your behalf will receive any such refunds or interest. In this regard, see paragraph 9.3 of this Section 2. Please note that refunds are subject to Cash Applicants having complied with FICA.
- The amount which you (and/or any other persons) deposit into the MTN Zakhele Futhi Account with your unique reference number will constitute an offer by you to subscribe for MTN Zakhele Futhi Shares up to that amount. This amount will be used, if you are successful with your application, to subscribe for as many MTN Zakhele Futhi Shares as possible (in multiples of R100.00) up to the maximum number of MTN Zakhele Futhi Shares allocated to you, and any excess amount will be refunded to you with interest (and not to any other person who made any payment on your behalf) as provided in paragraph 9.3 of this Section 2.



## 8. PAYMENT FOR MTN ZAKHELE FUTHI SHARES – RE-INVESTMENT APPLICANTS

***This Section only applies to members of the Black Public who are Re-investment Applicants and therefore applying for MTN Zakhele Futhi Shares under the MTN Zakhele Re-investment Offer. MTN Zakhele Shareholders who wish to also apply for MTN Zakhele Futhi Shares under the MTN Zakhele Futhi Public Offer as a Cash Applicant should also follow the process as set out in paragraph 7 of this Section 2.***

- MTN Zakhele Shareholders must have effectively make an election to participate in the MTN Zakhele Re-investment Offer by no later 12:00 on 21 October 2016. (See paragraph 6.1 of Section 2 as to how you should make this election, and by what time/s this must be made depending on whether you hold your MTN Zakhele shares in dematerialised or certificated form.)
- You do not need to make any cash payment for the MTN Zakhele Shares you apply for as part of the MTN Zakhele Re-investment Offer.
- The number of your MTN Zakhele Shares in respect of which you timeously elect to participate in the MTN Zakhele Re-investment Offer will constitute an election (offer) by you to MTN Zakhele to receive MTN Zakhele Futhi Shares, at R20.00 per MTN Zakhele Futhi Share in exchange for the MTN Zakhele Scheme Consideration due to you in respect of such MTN Zakhele Shares.
- If you are successful with your application, MTN Zakhele will transfer to you as many MTN Zakhele Futhi Shares as possible up to the maximum number of MTN Zakhele Futhi Shares allocated to you, in settlement of your MTN Zakhele Scheme Consideration. To the extent that you are allocated fewer MTN Zakhele Futhi Shares than you have elected, the balance of the MTN Zakhele Scheme Consideration due to you which has not been applied to receive MTN Zakhele Futhi Shares will be settled to you in cash and/or in MTN Shares, in accordance with the terms of the MTN Zakhele Unwinding Scheme.

## 9. ALLOCATION OF MTN ZAKHELE FUTHI SHARES

MTN Zakhele Futhi, in consultation with the MTN Board and in accordance with principles and/or guidelines established by the MTN Board, has full discretion over how the MTN Zakhele Futhi Shares are ultimately allocated under the MTN Zakhele Futhi Offer, and to accept or reject any particular application. Should MTN Zakhele Futhi receive valid applications for at least the Target Equity Raise (see paragraph 4 of this Section 2 of the Prospectus), such applications will (in aggregate) be accepted, subject to the relevant further terms and conditions of the MTN Zakhele Futhi Offer.

### 9.1 Preferential allocation

No preferential treatment will be given to employees, directors or subscribers of MTN or directors of MTN Zakhele or MTN Zakhele Futhi. In the event of an oversubscription, it is envisaged that preference will be given to Black Persons (i.e. individuals) when scaling back allocations. (See paragraph 9.2 of this Section 2 below.)

### 9.2 Oversubscription

If there are applications for more than 123 416 819 MTN Zakhele Futhi Shares, the MTN Zakhele Futhi Offer will have been oversubscribed. If this occurs, it is possible that you may not get all or any of the MTN Zakhele Futhi Shares you applied for.

Should the MTN Zakhele Futhi Offer be oversubscribed, MTN Zakhele Futhi will use its discretion in allocating MTN Zakhele Futhi Shares between Re-investment Applicants under the MTN Zakhele Re-investment Offer and Cash Applicants under the MTN Zakhele Futhi Public Offer and, as between these groups, in accordance with its discretion as further detailed below. MTN Zakhele Futhi is required to use its discretion in consultation with MTN and in accordance with the allocation methodology and/or guidelines established by the MTN Board, including MTN's interest in being able to optimise its BEE rating under the BEE Legislation in respect of MTN Zakhele Futhi's shareholding in it. It is presently envisaged that, in order to ensure the broadest possible base of BEE Participants, the allocation of MTN Zakhele Futhi Shares to the Black Public will generally be made from the bottom up, starting with applications for the least number of MTN Zakhele Futhi Shares and with a priority for Black People (i.e. individuals). It is also presently envisaged that, in respect of re-investing MTN Zakhele Shareholders, allocations will be made 80% on a bottom-up basis through setting shareholding bands (where, within the band, each participating MTN Zakhele Shareholder will receive a stated percentage of the MTN Zakhele Futhi Shares applied for, with the allocation percentage ranging from highest in the bottom band to lowest in the top band) and 20% on a discretionary basis to enable greater optimisation of the overall balance and BEE effect of the 2016 MTN BEE Transaction.

Applicants under the MTN Zakhele Futhi Public Offer (i.e. Cash Applicants) whose applications are accepted but who are allocated fewer MTN Zakhele Futhi Shares than the number they applied for, will be refunded the excess amount of the payment made at the time of their applications (plus interest thereon from the MTN Zakhele Futhi Offer Closing Date until the date of refund (both days excluded)). No person who made any payments on behalf of the Cash Applicants or otherwise into the MTN Zakhele Futhi bank account using their unique reference number will receive any such refunds or interest as the Applicant will receive the full refund. Please note that refunds are subject to Cash Applicants having complied with FICA. Applicants under the MTN Zakhele Re-investment Offer (i.e. Re-investment Applicants) who are allocated fewer MTN Zakhele Futhi Shares than the number they applied for, will receive the MTN Zakhele Scheme Consideration due to them which was not settled through MTN Zakhele Futhi Shares under the MTN Zakhele Unwinding Scheme in accordance with the terms of such scheme.

### 9.3 Refunds of Cash Application monies

In respect of Cash Applicants under the MTN Zakhele Futhi Public Offer, if for any reason your application was wholly or partly unsuccessful (including if you were disqualified prior to the allotment and issue of any MTN Zakhele Futhi Shares to you, or due to an oversubscription), you will be refunded the relevant amount of your application monies by EFT into your transactional bank account no later than 23 December 2016.

**Please note: In the event that your application was unsuccessful due to an oversubscription or due to the 2016 MTN BEE Transaction not proceeding, you will also receive interest on any money refunded to you calculated from the MTN Zakhele Futhi Offer Closing Date until the date of refund at a rate of interest (both days excluded) equal to that earned by MTN Zakhele Futhi on such monies. If your application was rejected, or was unsuccessful for any other reason, you will not receive interest on the monies refunded to you. Please note that refunds are subject to Cash Applicants having complied with FICA.**

No person who made any payments on behalf of the Cash Applicants or otherwise into the MTN Zakhele Futhi bank account using their unique reference number will receive any such refunds or interest.

### 9.4 Undersubscription

If fewer than 123 416 819 MTN Zakhele Futhi Shares are validly applied for and therefore less than R2 468.3 million is raised under the MTN Zakhele Futhi Offer, the 2016 MTN BEE Transaction may not be implemented. For further details see paragraph 4 of this Section 2 of the Prospectus.

## 10. RESERVATION OF RIGHTS AND GENERAL DISCRETION

MTN Zakhele Futhi reserves the right to accept or refuse any application as it determines in its sole and absolute discretion, and may reject any application or decline to make any allocation at any time prior to MTN Zakhele Futhi Shares being allotted and issued thereunder.

MTN Zakhele Futhi reserves the right to appoint a Valid BEE Verification Agency, or use other methods acceptable to it, to verify that you are a Black Person or Black Group, but shall not be obliged to do so. You remain fully responsible for the accuracy and completeness of the information set out in your Application Form and for all information provided in connection therewith.

MTN Zakhele Futhi also reserves a general discretion to relax or deviate from the specific process or procedures set out herein, including as to cut-off times, and otherwise to exercise a general discretion in respect of its receipt and handling of applications and monies under the MTN Zakhele Futhi Offer. MTN Zakhele Futhi further shall have the right at any time and from time to time to take any action it considers reasonably necessary to correct any errors or omissions which may occur howsoever under or in connection with the MTN Zakhele Futhi Offer, and is authorised by each Applicant to take such steps. Although MTN Zakhele Futhi accepts no obligation to do so, this right includes the right to correct payment errors into or from the MTN Zakhele Futhi Account and/to reverse allocations and/or issues of MTN Zakhele Futhi Shares which are allocated and/or issued to an Applicant as a result of another Applicant using the incorrect unique reference number, and to transfer and/or issue the relevant MTN Zakhele Futhi Shares to the intended Applicant, and/or to make fresh issues of MTN Zakhele Futhi Shares to Applicants and/or otherwise register such MTN Zakhele Futhi Shares in its name.

This paragraph 10 of Section 2 of the Prospectus applies notwithstanding anything else to the contrary in the Prospectus.

## 11. REPRESENTATION AND EXCLUSION OF LIABILITY

Once you submit an Application Form, you shall be deemed to have represented that you were in possession of a copy of this Prospectus at the time of your application.

You agree that MTN, MTN Zakhele, MTN Zakhele Futhi and its and their directors, officers, employees, agents, advisors and contractors, and Nedbank, Nedbank Group Limited, each Participating Nedbank Branch, and its and their directors, officers, employees, agents, advisors and contractors, shall – to the fullest extent permitted by applicable law – be excluded from any direct or indirect loss, liability or expense howsoever incurred or suffered by you as a direct or indirect result of, or arising from, MTN, MTN Zakhele, and/or Nedbank, Nedbank Group Limited, the Participating Nedbank Branch and/or MTN Zakhele Futhi's receiving, rejecting, handling, processing or dealing in any way with your application and/or Application Form including in respect of any refunds made or to be made thereunder, and any such claims are waived by you.

## 12. RELATIONSHIP AGREEMENT AND RESTRICTIONS ON THE MTN ZAKHELE FUTHI SHARES

The Relationship Agreement imposes restrictions on the Disposal (including by sale) and/or Encumbrance of MTN Zakhele Futhi Shares and contains various other rights in favour of and/or obligations imposed on MTN Zakhele Futhi Shareholders. In terms of the MTN Zakhele Futhi Offer, MTN Zakhele Futhi Shareholders are deemed to have knowledge of these restrictions, rights and obligations, and agree to be bound by them.

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 7 to this Prospectus and must be read carefully.

## 12.1 General undertakings by MTN Zakhele Futhi

MTN Zakhele Futhi in consultation with the MTN Board irrevocably and unconditionally undertakes, during the Empowerment 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 MTN Zakhele Futhi Shares or beneficial interest therein to any person, whether pursuant to the MTN Zakhele Futhi Public Offer, the MTN Zakhele Unwinding Scheme (including the MTN Zakhele Re-investment) or otherwise, unless such person agrees to be bound by the provisions of the Relationship Agreement and the MTN Zakhele Futhi 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 MTN Zakhele Futhi Shares or beneficial interest therein to any person, whether pursuant to the MTN Zakhele Futhi Public Offer, the MTN Zakhele Unwinding Scheme (including the MTN Zakhele Re-investment) or otherwise, other than to (i) Black Participants or (ii) an Approved Nominee;
- be a Black Company on the Effective Date of the MTN Zakhele Futhi Offer;
- not cease to be a Black Company at any time during the Empowerment Period;
- subject to the provisions of the Transaction Documents to which it is a party, at all times during the Empowerment Period procure that:
  - save to the extent permitted in terms of the Relationship Agreement, the beneficial interests in all MTN Zakhele Futhi 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 MTN Zakhele Futhi shall be exercisable, directly or indirectly, by Black People;
  - in excess of 50% of the directors of MTN Zakhele Futhi (who shall be entitled to in excess of 50% of the voting rights of directors at meetings of the MTN Zakhele Futhi Board) shall be Black People; and
  - no Nominee shall hold MTN Zakhele Futhi 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 MTN Zakhele Futhi Shareholders of their obligations under the Relationship Agreement and the MTN Zakhele Futhi MOI;
- procure and warrant that during the Empowerment Period, the MTN Zakhele Futhi Shares shall only be transferable by and transferred to Eligible MTN Zakhele Futhi Shareholders, and during the BEE Listing Period, MTN Zakhele Futhi Shares and the beneficial interests therein shall only be transferable by and transferred to Verified MTN Zakhele Futhi Shareholders or Approved Nominees (as applicable), as provided for in the Relationship Agreement;
- not apply for or take steps to wind up MTN Zakhele Futhi (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 MTN Zakhele Futhi 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 Period, such transfer is to an Eligible MTN Zakhele Futhi Shareholder; and
  - during the BEE Listing Period, any transfer of MTN Zakhele Futhi Shares and/or beneficial interests therein is to a Verified MTN Zakhele Futhi Shareholder or to an Approved Nominee on behalf of a Verified MTN Zakhele Futhi Shareholder;
  - such transfer is permitted in accordance with the provisions of clauses 8 (*restriction on disposal or encumbrance of MTN Zakhele Futhi 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 MTN Zakhele Futhi 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 MTN Zakhele Futhi MOI by executing a deed of adherence and has executed and delivered such deed of adherence to MTN Zakhele Futhi'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 MTN Zakhele Futhi Board if:
  - as a result of such appointment the majority of the directors of the MTN Zakhele Futhi Board are not Black People; or
  - immediately prior to such appointment the minority of the directors of the MTN Zakhele Futhi 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, MTN Zakhele Futhi's compliance with its undertakings, if proof is so required by MTN, and as and when so required from time to time.

## 12.2 MTN Zakhele Futhi Shareholder undertakings

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

- during the Empowerment Period, it shall not Dispose or Encumber its MTN Zakhele Futhi Shares or any beneficial interest therein, other than as permitted under the Relationship Agreement;
- in respect of any permitted transfer of MTN Zakhele Futhi Shares or any beneficial interest therein, it shall:
  - co-operate fully with the ESTC, the Transfer Secretaries or the relevant verification agent appointed by MTN Zakhele Futhi (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 MTN Zakhele Futhi Shareholder or a Verified MTN Zakhele Futhi Shareholder (as the case may be); and
  - ensure that the transferee Beneficial Holder has agreed to be bound by the terms of the Relationship Agreement and the MTN Zakhele Futhi 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, during the Minimum Investment Period:
  - in respect of MTN Zakhele Futhi Shares acquired by it under the MTN Zakhele Futhi 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 Form for such MTN Zakhele Futhi Shares under the MTN Zakhele Futhi Public Offer or, in the case of an acquisition pursuant to the MTN Zakhele Unwinding Scheme, not less the level of its BEE Status at the Operative Date; and
  - in respect of MTN Zakhele Futhi Shares acquired by it subsequent to the MTN Zakhele Futhi Public Offer and/or the MTN Zakhele Unwinding Scheme (as applicable), it shall maintain its BEE Status at not less than the level approved by the ESTC for such acquisition;
- if it is a Black Group, upon the conclusion of the Minimum Investment Period and for the remainder of the Empowerment Period, it shall continue to qualify as a Black Group;
- it will immediately notify MTN and MTN Zakhele Futhi of any Call Event (please see paragraph 12.6 of this Section 2 of the Prospectus for further details) 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 MTN Zakhele Futhi 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 MTN Zakhele Futhi breaching the provisions of the Relationship Agreement; and
- it will, where so requested by MTN or MTN Zakhele Futhi, exercise such rights as it has as an MTN Zakhele Futhi 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 MTN Zakhele Futhi Shareholders) as may be necessary or reasonably required to procure that the provisions of the Relationship Agreement are complied with by MTN Zakhele Futhi.

## 12.3 Restriction on Disposal or Encumbrance of MTN Zakhele Futhi Shares

### 12.3.1 General

Subject to certain exceptions set out below in this paragraph 12.3.1, MTN and MTN Zakhele Futhi agree that, during the Empowerment 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 MTN Zakhele Futhi Shares, unless otherwise agreed between MTN and MTN Zakhele Futhi:

- MTN Zakhele Futhi shall issue the MTN Zakhele Futhi Shares to MTN Zakhele Futhi Shareholders, whether pursuant to the MTN Zakhele Futhi Public Offer and/or the MTN Zakhele Unwinding Scheme, in uncertificated form;
- all MTN Zakhele Futhi Shares shall be held as Dematerialised Shares in the name of a Nominee approved by MTN and appointed by MTN Zakhele Futhi ("**the Custodian**") to act as the registered Nominee Holder, holding such Dematerialised 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 any applicable 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 Minimum Investment Period)), in respect of his/her/its MTN Zakhele Futhi Shares;

- if and to the extent that, for whatever reason, any MTN Zakhele Futhi Share is at any time held as a Dematerialised Share with the registered holder being someone other than the Custodian, and MTN and MTN Zakhele Futhi have not agreed that MTN Zakhele Futhi Shares may be held otherwise than as Dematerialised Shares with the Custodian as the registered holder; then the relevant MTN Zakhele Futhi Shareholder unconditionally undertakes and agrees that:
  - for so long as such MTN Zakhele Futhi 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 MTN Zakhele Futhi Shareholder's mandate agreement with the relevant CSDP recognises the relevant terms and restrictions in respect of such MTN Zakhele Futhi Share as contained in the Relationship Agreement and the MTN Zakhele Futhi 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 MTN Zakhele Futhi MOI.

During the BEE Listing Period, where an MTN Zakhele Futhi Share is held as a Dematerialised Share: (i) the relevant MTN Zakhele Futhi 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 MTN Zakhele Futhi Share; and (ii) 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.

In the event that in breach of the Relationship Agreement (or otherwise), MTN Zakhele Futhi Shares are held as Certificated Shares during the Empowerment Period, specific provisions apply, including that such Certificated Shares may be required to be Dematerialised. In this regard, see clause 8.1 of the Relationship Agreement for further details.

### **12.3.2 During the Minimum Investment Period**

With limited exceptions for death and involuntary liquidation/sequestration, no MTN Zakhele Futhi Shareholder (other than as contemplated in paragraph 13 of this Section 2) shall at any time during the Minimum Investment Period Dispose of or Encumber any MTN Zakhele Futhi Share held by it or any beneficial interest therein, or otherwise cease to be the Beneficial Holder thereof.

### **12.3.3 After the Minimum Investment Period**

MTN and MTN Zakhele Futhi 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 MTN Zakhele Futhi 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 MTN Zakhele Futhi 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 MTN Zakhele Futhi Shareholders agree and undertake in favour of MTN that, upon the conclusion of the Minimum Investment Period and for the remainder of the Empowerment Period: (i) no MTN Zakhele Futhi Shareholder shall Encumber any MTN Zakhele Futhi Share (or beneficial interest therein) held by it; and (ii) MTN Zakhele Futhi Shares (or beneficial interest therein) shall be transferable only to Eligible MTN Zakhele Futhi Shareholders as set out below:

- After the Minimum Investment Period: (i) only Eligible MTN Zakhele Futhi Shareholders may be Beneficial Holders of MTN Zakhele Futhi Shares and only Approved Nominees may be Nominee Holders of MTN Zakhele Futhi 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; (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 MTN Zakhele Futhi Shareholder and/or Verified MTN Zakhele Futhi Shareholder, as the case may be; and (iii) during the BEE Listing Period, only Verified MTN Zakhele Futhi Shareholders may be Beneficial Holders of MTN Zakhele Futhi Shares (and any holding in conflict with this will accordingly breach this provision) and only Approved Nominees may be Nominee Holders of MTN Zakhele Futhi Shares, and no Disposal may be effected inconsistent with this provision.
- During the Empowerment Period the ESTC shall consider and approve or decline any proposed transfer pursuant to a Disposal of MTN Zakhele Futhi 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 MTN Zakhele Futhi, or one or more persons appointed by it on its behalf.
- During the BEE Listing Period: (i) the Disposal of the MTN Zakhele Futhi Shares (or beneficial interests therein) shall be subject to the provisions of the Relationship Agreement, the MTN Zakhele Futhi MOI and certain verification terms and conditions; (ii) no MTN Zakhele Futhi 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 MTN Zakhele Futhi MOI and certain verification terms and conditions.

#### **12.3.4 Invalid holders of MTN Zakhele Futhi Shares**

To the extent that at any time during the Empowerment Period, and for whatever reason (whether intentionally, negligently or accidentally), and for so long as any MTN Zakhele Futhi Share (or beneficial interest therein) is transferred to or held by any person as Beneficial Holder who is not an Eligible MTN Zakhele Futhi Shareholder or a Verified MTN Zakhele Futhi Shareholder (as the case may be) and/or to any Nominee Holder who is not an Approved Nominee ("**the Non-qualifying Holder**"), such MTN Zakhele Futhi Share shall, unless MTN expressly permits otherwise in writing, result in such Non-qualifying Holder being deemed, on the date on which such MTN Zakhele Futhi 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 MTN Zakhele Futhi Share; and
- to have ceded to MTN or its nominee/s any voting rights attaching to such MTN Zakhele Futhi Share pursuant to the Relationship Agreement or the MTN Zakhele Futhi MOI and to have irrevocably appointed MTN or its nominee as proxy for the exercise of such voting rights.

### **12.4 Death**

#### **12.4.1 Death of a Black Person**

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

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

Failure by the deceased MTN Zakhele Futhi Shareholder's executor to comply with the above provisions shall result in a Call Event. Please see paragraph 12.6 of this Section 2 of the Prospectus for further details in relation to a Call Event.

#### **12.4.2 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 MTN Zakhele Futhi Shareholder, as a result of which:

- during the Minimum Investment Period, the MTN Zakhele Futhi 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 Period, the MTN Zakhele Futhi Shareholder fails to qualify as a Black Group,

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

Failure by the MTN Zakhele Futhi 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. Please see paragraph 12.6 of this Section 2 of the Prospectus for further details in relation to a Call Event.

### **12.5 Involuntary sequestration/liquidation**

#### **12.5.1 Involuntary sequestration of a Black Person**

In the event of an MTN Zakhele Futhi Shareholder who is a Black Person being involuntarily sequestered (whether provisionally or finally) during the Empowerment Period, the MTN Zakhele Futhi Shares held by such sequestered MTN Zakhele Futhi Shareholder shall be permitted and required to be transferred by the MTN Zakhele Futhi Shareholder and/or the trustee of such MTN Zakhele Futhi Shareholder's estate to an Eligible MTN Zakhele Futhi Shareholder (as approved by the ESTC) or a Verified MTN Zakhele Futhi 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 MTN Zakhele Futhi Shareholder and/or the MTN Zakhele Futhi Shareholder's trustee to comply with the above provisions shall result in a Call Event. Please see paragraph 12.6 of this Section 2 of the Prospectus for further details in relation to a Call Event.

### 12.5.2 **Involuntary liquidation of a Black Group**

In the event that an MTN Zakhele Futhi Shareholder which held MTN Zakhele Futhi 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 Period, it no longer qualifies as a Black Group,

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

Failure by the MTN Zakhele Futhi Shareholder and/or its liquidator to comply with the above provisions shall result in a Call Event. Please see paragraph 12.6 of this Section 2 of the Prospectus for further details in relation to a Call Event.

### 12.6 **Call option in favour of MTN**

A “**Call Event**” shall arise in respect of an MTN Zakhele Futhi Shareholder, if, at any time prior to the end of the Empowerment Period, the MTN Zakhele Futhi Shareholder:

- has misrepresented or misstated its/his/her BEE Status; or
- has made a fraudulent, untrue or inaccurate statement in the Application Form submitted to MTN Zakhele Futhi in terms of the MTN Zakhele Futhi Public Offer or in any supporting documents, or if any information contained in the Application Form submitted to MTN Zakhele Futhi in terms of the MTN Zakhele Futhi Public Offer cannot be verified to MTN’s satisfaction; or
- has made or given a fraudulent, untrue or inaccurate confirmation or representation in connection with the election to acquire MTN Zakhele Futhi Shares under the MTN Zakhele Unwinding Scheme, or its relevant information (including as to BEE Status) cannot be verified to MTN’s satisfaction; or
- has made a fraudulent, untrue or inaccurate statement in respect of any transfer or proposed transfer of MTN Zakhele Futhi 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 MTN Zakhele Futhi 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, MTN Zakhele Futhi, 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 MTN Zakhele Futhi Shareholder (and/or the MTN Zakhele Futhi Shares and/or beneficial interests held by it) of key provisions of the Relationship Agreement (including those summarised in paragraphs 12.2, 12.3, 12.4 and 12.5 of this Section 2 of the Prospectus), 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 MTN Zakhele Futhi to do so (or such additional period as MTN may agree to in writing).

**If and for so long as the Call Event persists, your rights to receive dividends and to vote your MTN Zakhele Futhi 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 MTN Zakhele Futhi Shareholder (or its Nominee Holder, if applicable) to that effect to require such MTN Zakhele Futhi Shareholder and/or Nominee Holder to sell to MTN all its MTN Zakhele Futhi Shares (and/or beneficial interests therein), or such number thereof as MTN may elect (“**Call Shares**”) and the MTN Zakhele Futhi Shareholder and/or Nominee Holder shall be obliged to sell the Call Shares to MTN (or its nominee), and MTN Zakhele Futhi shall procure that the MTN Zakhele Futhi 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 MTN Zakhele Futhi 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 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 MTN Zakhele Futhi Shareholder, the purchase price will be the lesser of the price determined above and the price paid by the MTN Zakhele Futhi Shareholder for the relevant Call Shares.**

The **"Call Reference Price"** shall be the value of the MTN Zakhele Futhi Shares as agreed between MTN and the relevant MTN Zakhele Futhi 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 Zakhele Futhi) at the 30 Trading Day VWAP on the relevant date, and (iii) while the MTN Zakhele Futhi 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 MTN Zakhele Futhi 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 MTN Zakhele Futhi to determine the Call Reference Price at the Valuation Date.

If MTN and the relevant MTN Zakhele Futhi 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 MTN Zakhele Futhi referred to above, provided that the Valuation Date is within a 6 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 MTN Zakhele Futhi 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 MTN Zakhele Futhi Shareholder in respect of whom a Call Event arises undertakes to MTN not to Dispose of its MTN Zakhele Futhi 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.

## **12.7 Refinancing and rebalancing subscriptions**

The funding provided to MTN Zakhele Futhi under the MTN Zakhele Futhi 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 of the MTN Zakhele Futhi Offer ("Initial Scheduled Maturity Date"), and are required to be settled in full at such time, whereas the Empowerment Period 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 of the MTN Zakhele Futhi Offer.

The overriding objective for MTN in facilitating the 2016 MTN BEE Transaction is for MTN Zakhele Futhi, as a Black Company, (i) to obtain a material shareholding in MTN and for MTN Zakhele Futhi 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 Empowerment Period.

Accordingly, MTN Zakhele Futhi has agreed in favour of MTN that:

- save to extent that MTN may notify MTN Zakhele Futhi otherwise, following the expiry of a period of three years and one day after the date of issue of the MTN Zakhele Futhi Pref Shares, as and when market circumstances may thereafter permit but in any event prior to the Initial Scheduled Maturity Date, MTN Zakhele Futhi 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 Period in such manner that does not result in MTN Zakhele Futhi Disposing of any MTN Shares held by it, which Refinancing may be effected by MTN Zakhele Futhi through *inter alia* (i) an extension of the Initial Scheduled Maturity Date of the MTN Zakhele Futhi Pref Shares to the end of the Empowerment 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;
- if at any time and for any reason during the Empowerment Period any or all of the MTN Shares held by MTN Zakhele Futhi 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 (as contemplated above) 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 at any time thereafter (but shall not be obligated) during the Empowerment Period on written notice to MTN Zakhele Futhi to require MTN Zakhele Futhi to subscribe for (or purchase) MTN Shares at the R0.0001 per MTN Share, and correspondingly to increase 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.

### 13. MTN ZAKHELE FUTHI 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 MTN Zakhele Futhi Shares, for whatever reason, including as envisaged under paragraph 12.6 of this Section 2 of the Prospectus and/or as a result of the MTN Underwrite Option, MTN and/or its nominee/s and/or its subsidiary/ies shall hold such MTN Zakhele Futhi Shares as “Warehousing MTN Zakhele Futhi Shareholders” and shall be exempt from the provisions of the Relationship Agreement and the MTN Zakhele Futhi MOI regulating the transfer of MTN Zakhele Futhi Shares and the restrictions upon the holding of such shares only by Black Participants.

### 14. MTN REPRESENTATION ON MTN ZAKHELE FUTHI BOARD

During the Empowerment Period, MTN shall be entitled to appoint, remove and replace two of the five directors to the MTN Zakhele Futhi Board (and their respective alternates). At all times, at least one such MTN Zakhele Futhi Director must be a Black Person.

### 15. MAXIMUM PERMITTED SHAREHOLDING IN MTN ZAKHELE FUTHI

Save as may be permitted by MTN, no MTN Zakhele Futhi Shareholder may at any time hold any MTN Zakhele Futhi Shares (or beneficial interest therein) which, when such shares are aggregated with the holdings of and/or beneficial interests in MTN Zakhele Futhi Shares held by: (i) all persons related or inter-related to such MTN Zakhele Futhi 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 MTN Zakhele Futhi 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 MTN Zakhele Futhi Shares or such higher percentage as MTN may notify to MTN Zakhele Futhi from time to time (“**the Maximum Shareholding Limit**”). This prohibition on holding MTN Zakhele Futhi 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 MTN Zakhele Futhi Shares (and/or relevant beneficial interests therein) that are held in excess of the Maximum Shareholding Limit (“**the Unauthorised Excess Shares**”) and the relevant MTN Zakhele Futhi Shareholder and/or Nominee Holder who holds such shares or beneficial interests and notify MTN Zakhele Futhi accordingly;
- once a notice has been issued to MTN Zakhele Futhi and until it is withdrawn or the breach is remedied, the relevant MTN Zakhele Futhi 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 MTN Zakhele Futhi Shareholder. If the requirements of the transfer notice are not complied with by the relevant MTN Zakhele Futhi 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). Please see paragraph 12.6 of Section 2 of this Prospectus for further details in relation to a Call Event.

Save as may be permitted by MTN in writing, no MTN Zakhele Futhi Shareholder may offer to Acquire (including by scheme of arrangement) or enter into any agreement (whether conditional or unconditional) to Acquire, any MTN Zakhele Futhi 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 MTN Zakhele Futhi Shareholder or by any of its Connected Persons or Concert Parties. (“Acquire” and “Acquisition”, as used here, is as defined in the Relationship Agreement.)

### 16. CONDITIONS PRECEDENT AND IMPLEMENTATION

Please see paragraph 1.6 of Section 4 of the Prospectus for a summary of the Transaction Conditions Precedent which apply to the 2016 MTN BEE Transaction (and the MTN Zakhele Futhi Public Offer) and of the implementation process for the 2016 MTN BEE Transaction (and the MTN Zakhele Futhi Public Offer).

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## SECTION 3: STATEMENTS AND REPORTS RELATING TO THE MTN ZAKHELE FUTHI PUBLIC OFFER

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### 1. STATEMENT AS TO ADEQUACY OF CAPITAL [REG 74]

The MTN Zakhele Futhi Directors are of the opinion that the issued share capital and working capital of MTN Zakhele Futhi will be adequate for the purpose of the business of MTN Zakhele Futhi, for at least 12 months after the date of this Prospectus.

### 2. REPORT BY MTN ZAKHELE FUTHI DIRECTORS AS TO MATERIAL CHANGES [REG 75]

The MTN Zakhele Futhi Directors report that, other than in the ordinary course of business and in terms of this Prospectus, there has been no material change in the assets or liabilities of MTN Zakhele Futhi since the date of incorporation on 21 June 2016 until the issue date of this Prospectus.

### 3. STATEMENT AS TO LISTING ON STOCK EXCHANGE [REG 76]

No application has been made for the listing of the MTN Zakhele Futhi Shares for purposes of the MTN Zakhele Futhi Offer.

### 4. REPORT BY AUDITOR WHERE BUSINESS UNDERTAKING TO BE ACQUIRED [REG 77]

The proceeds of: (i) the MTN Zakhele Futhi Public Offer and the MTN Loan Claim, (ii) the MTN Underwrite Option (if applicable), (iii) the MTN Subordinated Loan (Equity Top-up) (if applicable), and (iv) the issue of the MTN Zakhele Futhi Pref Shares are to be used to acquire MTN Shares constituting up to approximately 4.0% of MTN's issued share capital, on a Fully Diluted Basis. Although these do not constitute a business undertaking for purposes of Regulation 77, a report by the Independent Registered Auditor of MTN on:

- the profits or losses of MTN in respect of each of the three financial years preceding the date of this Prospectus (i.e. 31 December 2015, 31 December 2014 and 31 December 2013) and for the six month periods ended 30 June 2016 and 30 June 2015; and
- the assets and liabilities of MTN at the last date to which the financial statements of MTN were made out (31 December 2015) and at the six month periods ended 30 June 2016 and 30 June 2015, respectively,

is nevertheless attached hereto as Annexure 4, together with MTN's consolidated historical financial information as Annexure 3.

### 5. REPORT BY AUDITOR WHERE THE COMPANY WILL ACQUIRE A SUBSIDIARY [REG 78]

The acquisition by MTN Zakhele Futhi of the MTN Shares in terms of the 2016 MTN BEE Transaction does not result in MTN becoming a subsidiary of MTN Zakhele Futhi.

### 6. REPORT BY AUDITOR OF MTN ZAKHELE FUTHI [REG 79]

MTN Zakhele Futhi was incorporated on 21 June 2016 and has not yet, as at the Last Practicable Date, completed its first financial year since incorporation.

Consequently, MTN Zakhele Futhi has not yet produced annual financial statements and as a result historical financial information for the Company is not available.

The MTN Zakhele Futhi Directors have appointed SizweNtsalubaGobodo Inc. as the auditors to MTN Zakhele Futhi who confirm this statement in the Independent Registered Auditor's report contained in Annexure 2 to this Prospectus.

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## SECTION 4: ADDITIONAL MATERIAL INFORMATION

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### 1. ABOUT THE 2016 MTN BEE TRANSACTION

#### 1.1 The 2016 MTN BEE Transaction mechanics

In 2010, MTN implemented the MTN Zakhele BEE Transaction in terms of which, *inter alia*, (i) MTN Zakhele issued MTN Zakhele Shares to qualifying members of the Black Public; and (ii) MTN Zakhele acquired and/or subscribed for MTN Shares, up to a maximum of 4% of the then issued share capital of MTN (using a combination of equity funding, vendor facilitation through a donation from MTN, notional vendor finance from MTN and third-party preference share funding).

The MTN Zakhele BEE Transaction was established as a 6-year scheme, with the requirement for MTN Zakhele Shareholders to be (and remain) qualifying black persons and groups to endure until, and for the funding to mature on, 24 November 2016, being the 6th anniversary of the start of the scheme. Accordingly, on 24 November 2016 MTN Zakhele is obliged to settle its third party preference share funding and the notional vendor finance from MTN in full, and the MTN Zakhele Shares will become tradable without restrictions relating to the BEE Status of its holders.

The MTN Zakhele Unwinding Scheme as part of the MTN Zakhele Integrated Unwind will provide for the settlement of MTN Zakhele's funding obligations and the distribution of its residual assets (after providing for expenses of and relating to the unwinding and associated taxes and tax contingencies) to MTN Zakhele Shareholders in accordance with their elections under the MTN Zakhele Unwinding Scheme. Should the 2016 MTN BEE Transaction and the MTN Zakhele Unwinding Scheme proceed, MTN Zakhele Shareholders will have the option to re-invest in the 2016 MTN BEE Transaction through the MTN Zakhele Re-investment Offer.

MTN intends to implement the proposed 2016 MTN BEE Transaction through the following core elements: (i) the MTN Zakhele Futhi Public Offer; (ii) the MTN Zakhele Re-investment Offer, should the MTN Zakhele Unwinding Scheme be implemented; (iii) MTN Zakhele Futhi raising third party finance through the MTN Zakhele Futhi Pref Shares; (iv) MTN providing MTN Zakhele Futhi with funding and vendor facilitation through, among others, the Notional Vendor Finance and the transaction discount provided by it; and (v) the subscription for MTN Shares by MTN Zakhele Futhi using the funding raised through these sources.

MTN Zakhele Futhi will apply the proceeds of the subscription price of the MTN Zakhele Futhi Pref Shares (i.e. the preference share funding raised by it), the equity raised in the MTN Zakhele Futhi Public Offer, any equity raised by it from MTN in respect of the MTN Underwrite Option (if applicable), the Notional Vendor Finance from MTN, the monies received through the MTN Subordinated Loan (Equity Top-up) (if applicable) and the MTN Loan Claim transferred to it by MTN Zakhele arising from the MTN Zakhele Re-investment, to subscribe for new MTN Shares to be issued by MTN at an aggregate, effective 20% discount to the Transaction Share Price.

If the MTN Zakhele Futhi Offer is fully subscribed and the aggregate equity raise is at or above the Target Equity Raise, the 2016 MTN BEE Transaction is sized to be approximately 4.0% of MTN's issued ordinary share capital on a Fully Diluted Basis. If the aggregate equity raise is equal to or above the Minimum Equity Raise but below the Target Equity Raise, the 2016 MTN BEE Transaction may be scaled back and/or may be additionally facilitated by MTN, or it may not be implemented at all. (For further information on these scenarios, please see paragraphs 1.2.2. and 4 of Section 2.) To the extent however that the aggregate equity raised from: (i) the Black Public in the MTN Zakhele Futhi Public Offer; and (ii) the level of MTN Zakhele Re-investment is less than the Minimum Equity Raise, the 2016 MTN BEE Transaction will not be implemented. The 2016 MTN BEE Transaction will also not be implemented if the cash component of the monies raised is less than the Minimum Cash Raise.

If implemented, and by way of a high level summary for purposes of this Prospectus, the 2016 MTN BEE Transaction will be implemented on the Closing Date *via* a series of interlinked steps outlined below:

*Step 1:* MTN Zakhele Futhi undertakes the MTN Zakhele Futhi Public Offer in respect of MTN Zakhele Futhi Shares to raise up to the Target Equity Raise, being R2 468.3 million. The equity capital raising exercise is anticipated to be concluded by MTN Zakhele Futhi by 21 October 2016;

*On the First Closing Date*

*Step 2:* MTN Zakhele Futhi issues MTN Zakhele Futhi Shares to Black Participants under the MTN Zakhele Futhi Public Offer;

*Step 3:* MTN Zakhele Futhi applies the proceeds of the subscription price of the MTN Zakhele Futhi Pref Shares, the equity raised in the MTN Zakhele Futhi Public Offer and, if applicable, pursuant to the issue of the MTN Zakhele Futhi Underwrite Shares to MTN, and/or the MTN Subordinated Loan (Equity Top-up), to subscribe for the MTN Tranche 2 Subscription Shares at the MTN Tranche 2 Subscription Price in terms of the MTN Tranche 2 Subscription Agreement;

*Step 4:* MTN Zakhele Futhi subscribes for the MTN Tranche 1 Subscription Shares at the MTN Tranche 1 Subscription Price in terms of the MTN Tranche 1 Subscription and Call Option Agreement;

*On the Second Closing Date*

*Step 5:* MTN implements the MTN Zakhele Specific Repurchase in consideration for the MTN Repurchase Cash and the MTN Loan Claim;

*Step 6:* MTN Zakhele applies the Repurchase Cash received in Step 5 to pay the final dividend due on the MTN Zakhele Pref Shares, to redeem the MTN Zakhele Pref Shares and to pay and provide for various expenses, taxes and tax provisions;

*Step 7:* MTN Zakhele repays MTN the balance of the notional vendor finance (owing under the Existing MTN Tranche 1 Subscription and Call Option Agreement) through the MTN Zakhele NVF Specific Repurchase;

*Step 8:* Assuming that the MTN Zakhele Unwinding Scheme is approved and becomes operative, MTN Zakhele repurchases (and cancels) on the applicable operative date of the MTN Zakhele Unwinding Scheme that number of a Scheme Participant's MTN Zakhele Shares in respect of which a Scheme Participant elected (or is deemed to have elected) to receive MTN Shares and/or the cash consideration, in consideration for the Scheme Participant being granted (i) the right to its corresponding proportionate interest in MTN Zakhele's net assets, which right will be settled by delivery of MTN Shares and/or payment of cash, as the case may be, on the relevant settlement date in accordance with the provisions of the MTN Zakhele Unwinding Scheme and the relevant shareholder elections; and (ii) to the extent applicable, the right to payment of the MTN Zakhele Tax Cash Top-Up Amount on the relevant settlement date. R20.00 per MTN Zakhele Share will be distributed by MTN Zakhele to such Scheme Participants as a return of "contributed tax capital" (as that term is defined in section 1 of the Income Tax Act), with the balance of the distribution comprising a distribution of profits;

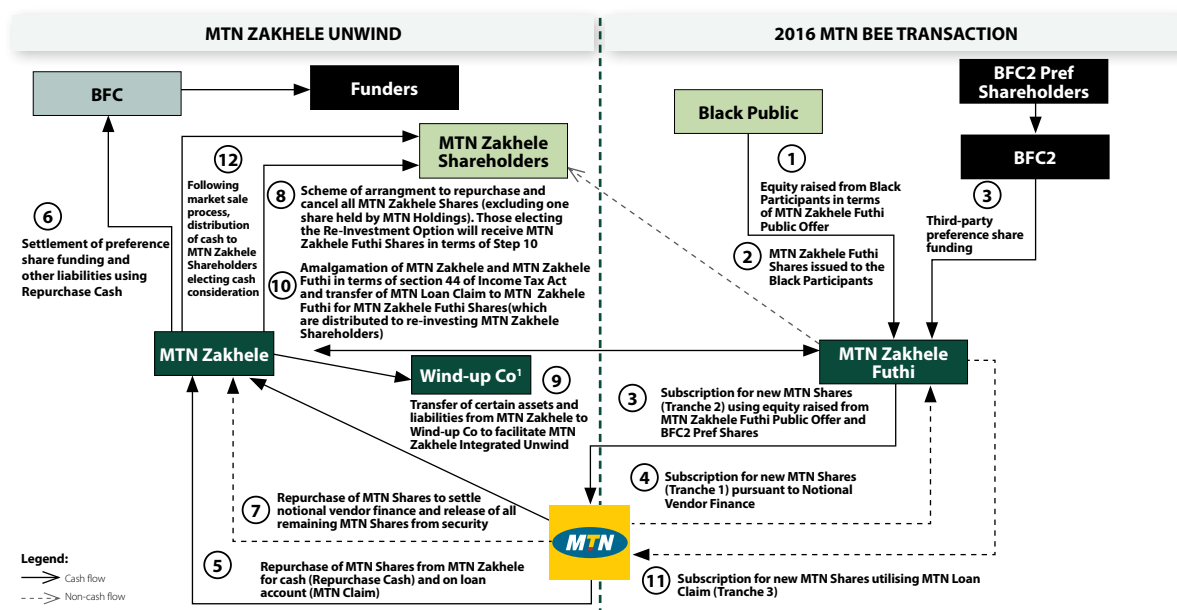
*Step 9:* MTN Zakhele then transfers its rights (whether actual, prospective or contingent), assets (other than the MTN Loan Claim, a loan claim against Wind-up Co arising from the sale of certain MTN Shares to it, and the MTN Zakhele Futhi Shares to which it may become entitled pursuant to the Loan Transfer and Cession Agreement and the net assets of MTN Zakhele to which Scheme Participants are proportionately entitled) and liabilities (whether actual, prospective or contingent, but excluding its obligations to settle the MTN Zakhele Scheme Consideration) to Wind-up Co pursuant to the Winding-up Transfer Agreement;

*Step 10:* In contemplation of MTN Zakhele's winding-up, and immediately after the transfer and cession contemplated in Step 9, MTN Zakhele will pursuant to section 44 of the Income Tax Act sell and transfer the MTN Loan Claim pursuant to the Loan Transfer and Cession Agreement, in consideration for the issue by MTN Zakhele Futhi of MTN Zakhele Futhi Shares to MTN Zakhele. MTN Zakhele will then pursuant to section 44 of the Income Tax Act distribute the MTN Zakhele Futhi Shares to the remaining Scheme Participants (to the extent of the allocation to them of MTN Zakhele Futhi Shares) as full consideration (save, potentially, for the MTN Zakhele Tax Cash Top-up Amount) for the repurchase and cancellation of their MTN Zakhele Shares on the Operative Date of the MTN Zakhele Unwinding Scheme;

*Step 11:* MTN Zakhele Futhi applies the MTN Loan Claim to subscribe for the MTN Tranche 3 Subscription Shares in terms of the MTN Tranche 3 Subscription Agreement at the MTN Tranche 3 Subscription Price; and

*Step 12:* Following an orderly market sales process, MTN Zakhele disposes of the MTN Shares held by it in respect of which MTN Zakhele Shareholders who elected (or are deemed to have elected) to receive cash and, on the relevant settlement date, remits the net cash raised through this market sale process to such Scheme Participants in settlement of their MTN Zakhele Scheme Consideration (or relevant portion thereof, as the case may be).

(Note: These steps are summarised on the basis that the MTN Zakhele Futhi Public Offer is fully subscribed, and that no adjustments are made as contemplated in paragraph 1.2.2 of this Section 4 of the Prospectus. Step 1 occurs prior to the Closing Date. Steps 8, 9, 10, 11 and 12 will only be implemented if all of the General Scheme Conditions are satisfied and/or waived, and MTN Zakhele Unwinding Scheme becomes operative.) The following table illustrates such steps diagrammatically:



## 1.2 Salient details of the funding terms

Sources of funds <sup>1</sup>	R'million
Equity from MTN Zakhele Futhi Public Offer	1 000.0
Equity from MTN Zakhele Re-investment Offer	1 468.3
MTN Zakhele Futhi Pref Shares	2 418.5
Notional Vendor Finance <sup>2</sup>	3 051.2
<b>Total</b>	<b>7 938.0</b>

Uses of funds	R'million
Costs and working capital	39.4
MTN Tranche 1 Subscription Shares (reflecting the Initial NVF Balance) <sup>2</sup>	3 051.2
MTN Tranche 2 Subscription Shares at the MTN Tranche 2 Subscription Price <sup>3</sup>	3 379.1
MTN Tranche 3 Subscription Shares to settle the MTN Loan Claim	1 468.3
<b>Total</b>	<b>7 938.0</b>

### Notes:

- Excludes the possible MTN Subordinated Loan and/or other funding adjustments as detailed in paragraph 1.2.2 of this Section 4 of the Prospectus, and assumes that the MTN Zakhele Futhi Public Offer (in conjunction with the level of MTN Zakhele Re-investment) is fully subscribed and no such funding adjustments are made. The amount set out in respect of MTN Zakhele Re-investment is include purely for illustrative purposes.
- MTN Tranche 1 Subscription Shares are issued at par value but the Initial NVF Balance is calculated with reference to the Transaction Share Price.
- Of the MTN Tranche 2 Subscription Shares, up to a maximum of 15 367 076 MTN Shares will be issued at par value and the balance of the Tranche 2 Subscription Shares will be issued at the Transaction Share Price.

MTN Zakhele Futhi has concluded the relevant agreements to secure the requisite funding, subject to the fulfilment of the applicable conditions, some of which are mentioned in paragraph 1.6 of this Section 4 of the Prospectus, to the advance of the funding thereunder. The salient terms of such funding are set out, or referred to, below.

### 1.2.1 MTN Zakhele Futhi Pref Shares and the BFC2 Pref Shares

The BFC2 Pref Shares will, subject to the fulfilment of the relevant conditions, be raised in the market from the BFC2 Pref Shareholders. The proceeds of the BFC2 Pref Shares will be applied by BFC2 in subscribing for the MTN Zakhele Futhi Pref Shares issued by MTN Zakhele Futhi. The salient terms of the MTN Zakhele Futhi Pref Shares mirror those of the BFC2 Pref Shares and are outlined in Annexure 5. The BFC2 Pref Shares (maximum R3 200 million) are required to be redeemed 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 MTN Zakhele Futhi Pref Subscription Agreement, the Inception Total Share Cover Ratio is required to be at least 4.0 times.

The terms of the BFC2 Pref Shares are more fully summarised in Annexure 5.

### **1.2.2 Subordinated loans and/or funding scaling**

In the event that the aggregate capital raised from the Black Public pursuant to the MTN Zakhele Futhi Public Offer and pursuant to the MTN Zakhele Re-investment Offer is equal to or greater than the Minimum Equity Raise but is less than the Target Equity Raise, then MTN will determine a target percentage holding for MTN Zakhele Futhi to hold in MTN following completion of the 2016 MTN BEE Transaction and, having regard to this transaction sizing, thereafter determine in its discretion, the following required transaction facilitations or adjustments which, in aggregate result in such target percentage being achieved: (i) subscribe for such number of MTN Zakhele Futhi Underwrite Shares as the MTN Board may determine; (ii) advance the MTN Subordinated Loan (Equity Top-up) to MTN Zakhele Futhi at a market-related interest rate and on such further terms as are to the satisfaction of the MTN Board; and/or (iii) increase or decrease (as the case may be) the Notional Vendor Finance; and/or (iv) increase or decrease the amount of the third party preference share funding within the limits permitted under the Finance Documents. The number of MTN Shares issued under the Tranche 1 Subscription and Call Option Agreement and Tranche 2 Subscription Agreement will then be adjusted accordingly. After all of the above facilitations and adjustments are made, the maximum total number of MTN Shares which MTN Zakhele Futhi will subscribe for will be 76 835 378 and the minimum will be 38 417 689, representing respectively an approximate maximum 4% and approximate minimum 2% shareholding in MTN when measured on a Fully Diluted Basis.

If the Inception Total Share Cover Ratio is less than 4.0 times, then the BFC2 Investors will not advance the required third party preference share funding to BFC2 and consequently, BFC2 will not be able to subscribe for the MTN Zakhele Futhi Pref Shares. However, if the Inception Total Share Cover Ratio is less than 4.0 times, MTN is entitled, but not obliged, to: (i) elect that the 2016 MTN BEE Transaction will not proceed; or (ii) elect that the 2016 MTN BEE Transaction will proceed but on the basis that the amount of the third party preference share funding will be decreased (or maintained as the case may be) and/or that one or more of the following transaction facilitations will be made: (a) advance the MTN Subordinated Loan (Ratio Cure) to MTN Zakhele Futhi at a market-related interest rate and on such further terms as are to the satisfaction of the MTN Board; and/or (b) increase the Notional Vendor Finance (by increasing the number of MTN Tranche 1 Subscription Shares issued); in each case under (ii) such that after such adjustments, MTN Zakhele Futhi is able to meet the Inception Total Share Cover Ratio. The number of MTN Shares issued under the Tranche 1 Subscription and Call Option Agreement and Tranche 2 Subscription Agreement will then be adjusted accordingly. After all of the above facilitations and adjustments are made, the maximum total number of MTN Shares which MTN Zakhele Futhi will subscribe for will be 76 835 378 and the minimum will be 38 417 689, representing respectively an approximate maximum 4% and approximate minimum 2% shareholding in MTN when measured on a Fully Diluted Basis.

Due to the transaction sizing, and the terms of the Implementation Agreement limiting the subscription to representing a maximum of 49% of MTN Zakhele Futhi's post-transaction issued ordinary share capital, the maximum subscription that the MTN Underwrite Option may involve is R1 209.4 million, representing just less than 12.5% of the 2016 MTN BEE Transaction (being the difference between the Minimum Equity Raise and the Target Equity Raise).

During the term of the 2016 MTN BEE Transaction, if the relevant Total Share Cover Ratio or if the Volatility Protection Share Cover Ratio falls below certain levels (which levels are calculated with reference to MTN's consolidated total net borrowings to adjusted consolidated EBITDA (excluding any goodwill impairment)), then MTN is entitled, but not obliged, to advance a subordinated loan (top-up option) to MTN Zakhele Futhi and/or BFC2 at a market-related interest rate and on such further terms to the satisfaction of the MTN Board (exercised in line with its fiduciary duties) to restore such Total Share Cover Ratio and/or the Volatility Protection Share Cover Ratio to the required minimum levels, all in accordance with the provisions of the Subordination and Undertaking Agreement. The reversionary security provided for the subordinated loan will be the same as that provided for the other obligations to MTN, being the Reversionary Pledge and Cession and the Reversionary Account Cession. This Total Share Cover Ratio top-up option is permitted no more than twice over the term of the 2016 MTN BEE Transaction and no more than once in any 12-month period, unless otherwise agreed with the Preference Share Agent, acting on the instructions of the BFC2 Pref Shareholders.

Subject to the provisions of the Subordination and Undertaking Agreement, the terms of any subordinated loan, which, based on the above, may be advanced over the term of the 2016 MTN BEE Transaction, will be agreed between the relevant parties at that time.

### **1.2.3 MTN subordination**

In terms of the Subordination and Undertaking Agreement, MTN and each MTN Acceded Nominee (as such term is defined in the MTN Zakhele Futhi MOI) has agreed to subordinate its claims against MTN Zakhele Futhi 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 MTN Zakhele Futhi 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 (also refer to paragraph 1.4 of this Section 4 of this Prospectus).

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

#### **1.2.4 Notional Vendor Finance**

Indivisibly with and as a condition for the subscription by MTN Zakhele Futhi for the MTN Tranche 1 Subscription Shares, MTN Zakhele Futhi irrevocably grants to MTN the NVF Call Option to purchase from it (and to require MTN Zakhele Futhi 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) (fractions rounded down).

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).

### **1.3 Subscriptions by MTN Zakhele Futhi for MTN Shares**

#### **1.3.1 Initial Specific Issue of MTN Shares to MTN Zakhele Futhi**

On the implementation of the 2016 MTN BEE Transaction on the Closing Date, MTN will issue the following maximum number of MTN Shares for cash to MTN Zakhele Futhi as set out below:

- a maximum of 51 863 881 MTN Shares will be issued at their par value of R0.0001 each (the MTN Tranche 1 Subscription Price) for a maximum aggregate subscription price of R51 863.89, on the terms and conditions of the MTN Tranche 1 Subscription and Call Option Agreement;
- a maximum of 53 784 765 MTN Shares (the MTN Tranche 2 Subscription Shares) will be issued at the MTN Tranche 2 Subscription Price, for a maximum aggregate subscription price of R4 936 674 573.70, on the terms and conditions of the MTN Tranche 2 Subscription Agreement (comprising a maximum of 38 417 689 MTN Shares for cash at the Transaction Share Price and 15 367 076 MTN Shares at the par value of R0.0001 each (i.e. the MTN Tranche 2 Nominal Subscription Shares)); and
- a maximum of 19 208 845 MTN Shares (the MTN Tranche 3 Subscription Shares) will be issued at the MTN Tranche 3 Subscription Price on the terms and conditions of the MTN Tranche 3 Subscription Agreement. MTN Zakhele Futhi shall pay the MTN Tranche 3 Subscription Price to MTN by way of the cession and transfer of the MTN Loan Claim by MTN Zakhele Futhi to MTN, following which the MTN Loan Claim will be extinguished by operation of law.

The maximum aggregate number of MTN Shares which MTN will issue to MTN Zakhele Futhi is 76 835 378, representing approximately 4,0% of its issued share capital, on a Fully Diluted Basis.

The actual number of MTN Shares to be issued and allotted to MTN Zakhele Futhi pursuant to the MTN Tranche 1 Subscription and Call Option Agreement, the MTN Tranche 2 Subscription Agreement and the MTN Tranche 3 Subscription Agreement will be determined with reference to the aggregate equity capital raised from the MTN Zakhele Futhi Public Offer and the MTN Zakhele Re-investment Offer, the aggregate amount of the funds raised from the issue of the MTN Zakhele Futhi Pref Shares, and, if applicable, from MTN under the MTN Underwrite Option (if applicable) and/or funding received from the MTN Subordinated Loan (Equity Top-up) (if applicable) and/or the amount of the Notional Vendor Finance, in each such case as may be adjusted as contemplated in paragraph 1.2.2 of Section 4 of the Prospectus, including any adjustments made as a result of having to meet the relevant Inception Total Share Cover Ratio.

The number of MTN Tranche 1 Subscription Shares ultimately initially issued by MTN (subject to the maximums above) will determine the initial Notional Vendor Finance and set the Initial NVF Balance, being such number of MTN Tranche 1 Subscription Shares multiplied by the Transaction Share Price (less the aggregate par value), which NVF Balance (as escalated, increased and/or reduced from time to time) determines the number of MTN Shares which MTN may re-acquire at par value under the NVF Call Option from time to time.

In the event that the Target Equity Raise is achieved through the MTN Zakhele Futhi Offer, and no adjustments are required or made as contemplated in paragraph 1.2.2 of Section 4 of this Prospectus, then the implementation of the 2016 MTN BEE Transaction will result in MTN issuing approximately 76 835 378 MTN Shares to MTN Zakhele Futhi, comprising approximately:

- 23 745 086 MTN Tranche 1 Subscription Shares, issued at their par value of R0.0001 each (giving rise to the Notional Vendor Finance at the Transaction Share Price);
- 37 723 217 MTN Tranche 2 Subscription Shares and/or Tranche 3 Subscription Shares issued at the Transaction Share Price (representing the MTN Shares issued to MTN Zakhele Futhi by it applying the cash raised from the Black Public and the third party funders (for the MTN Tranche 2 Subscription Shares) and the MTN Loan Claim it acquires under the MTN Zakhele Re-investment (for the MTN Tranche 3 Subscription Shares)); and
- 15 367 075 MTN Tranche 2 Nominal Subscription Shares issued at their par value of R0.0001 each (representing the aggregate 20% transaction discount provided by MTN for the 2016 MTN BEE Transaction).

### **1.3.2 Additional Specific Issues to MTN Zakhele Futhi during the Empowerment Period following settlement/s of the NVF**

In terms of the MTN Tranche 1 Subscription and Call Option Agreement, MTN Zakhele Futhi 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 as described in paragraph 1.4.2 of Section 4 of the Prospectus. During the Empowerment Period, pursuant to the early exercise of the NVF Call Option, MTN may require MTN Zakhele Futhi to subscribe for up to the same number of MTN Shares as will be acquired from MTN Zakhele Futhi pursuant to the early exercise of the NVF Call Option. Such subscriptions by MTN Zakhele Futhi for further MTN Shares shall be for cash at the then Market Value per MTN Share. Alternatively, MTN may require MTN Zakhele Futhi to acquire up to an equivalent number of MTN Shares in the open market or from third parties. These alternatives allow MTN Zakhele Futhi's shareholding in MTN to be maintained throughout the Empowerment Period, while at the same time reducing MTN's Notional Vendor Finance. Please refer to paragraphs 1.4.2 and 1.4.3 of this Section 4 of the Prospectus for additional details.

### **1.3.3 Further potential issues to MTN Zakhele Futhi during the Empowerment Period following Disposals of MTN Shares**

As more fully described in paragraph 3.4.7 of Section 1, the scheduled maturity of the MTN Zakhele Futhi Pref Shares is 5 years, and the Empowerment Period and scheduled term of the Notional Vendor Finance is 8 years. As such, there is the risk that, if MTN Zakhele Futhi is unable to refinance the MTN Zakhele Futhi 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 MTN Zakhele Futhi (or other Disposal) of MTN Shares during the Empowerment Period will cause the percentage shareholding of MTN Zakhele Futhi 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 Period to issue additional MTN Shares to MTN Zakhele Futhi at R0.0001 per MTN 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 MTN Zakhele 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 Shares on the date of issue. (Effectively, in such instances, the MTN Shares Disposed of by MTN Zakhele Futhi are replaced and refinanced through additional Notional Vendor Finance.)

## **1.4 Future Specific Repurchases**

### **1.4.1 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 MTN Zakhele Futhi) and/or (b) as may be permitted in the circumstances summarised in paragraphs 1.4.2 and 1.4.3 of this Section 4 of this Prospectus. Flexibility is also provided for MTN to exercise the NVF Call Option after the NVF Call Option Trigger Date, if MTN Zakhele Futhi 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.



#### **1.4.2 Early exercise of the NVF Call Option**

MTN Zakhele Futhi shall be entitled, and in certain instances obliged (when MTN Zakhele Futhi 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 cashflows are required to be applied by MTN Zakhele Futhi, please see paragraph 1.5 of Section 4 of the Prospectus.)

Following receipt of a notice from MTN Zakhele Futhi 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 no obligation) to exercise all (or, as applicable, part) of the NVF Call Option, subject to the limits offered by MTN Zakhele Futhi. These limits include: (i) the cash that MTN Zakhele Futhi 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 Period, MTN may (but shall not be obligated to) also require MTN Zakhele Futhi to rebalance the number of MTN Shares held by it by either acquiring MTN 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 1.3.2 of this Section 4 of the Prospectus, the additional MTN shares will be issued by MTN at the same Market Value for an MTN 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 Share).

#### **1.4.3 Acceleration of the right to exercise the NVF Call Option**

MTN shall have the right (but no obligation), on written notice to MTN Zakhele Futhi, to exercise the NVF Call Option (or any part thereof) at any time while there exists an unremedied acceleration event (which events include: (i) an unremedied breach by MTN Zakhele Futhi of any of the undertakings, representations and/or warranties in the MTN Tranche 1 Subscription and Call Option Agreement; (ii) any other unremedied 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 MTN Zakhele Futhi following an event of default). The representations and warranties provided by MTN Zakhele Futhi in terms of the MTN Tranche 1 Subscription and Call Option Agreement cover similar subject matter as that contained in the MTN Zakhele Futhi Pref Subscription Agreement and are given with a key purpose of preserving the ring-fenced status and balance sheet of MTN Zakhele Futhi for the period during which the NVF Call Option remains exercisable.

### **1.5 Application of cashflows**

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

**1.5.2** In summary terms, in terms of the MTN Zakhele Futhi MOI, for so long as there is no actual or potential trigger event under the MTN Zakhele Futhi Pref Shares, all ordinary cash distributions received by MTN Zakhele Futhi 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 MTN Zakhele Futhi or BFC2 under any Transaction Document; second, to pay or provide for the administration costs of MTN Zakhele Futhi or BFC2, up to the agreed maximum amounts; third, to pay or provide for any additional expenses due and payable by MTN Zakhele Futhi in terms of clauses 13 and 14 of the MTN Zakhele Futhi Pref Subscription Agreement, which provide for the reimbursements of certain additional expenses incurred by BFC2 or the BFC 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 MTN Zakhele Futhi) and certain indemnity claims; fourth, to pay any dividends in respect of the MTN Zakhele Futhi 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 3 years and one day after the issue date of the MTN Zakhele Futhi Pref Shares ("**Initial Period**") of the MTN Zakhele Futhi Pref Shares, for an annual aggregate amount of R150 000 000; sixth, after the Initial Period only, the MTN Zakhele Futhi 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 MTN Zakhele Futhi Shareholders, subject to MTN's discretion and provided there is no actual or potential trigger event in relation to the MTN Zakhele Futhi Pref Shares; seventh, to offer to the holders of MTN Zakhele Futhi Pref Shares to place an amount equal to the amount required to redeem all the MTN Zakhele Futhi Pref Shares in full into a bank account secured in favour of the holders of MTN Zakhele Futhi 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 MTN Zakhele Futhi; ninth, in the sole discretion of MTN Zakhele Futhi (but subject to MTN's consent), all or any portion of the remaining amounts towards a payment of a dividend to the MTN Zakhele Futhi Shareholders; and tenth, to pay the remaining balance into the BIC2 Security Account from where, during the Initial Period, voluntary

redemptions of the MTN Zakhele Futhi Pref Shares may be made and, during the period after the Initial Period, mandatory redemptions of the MTN Zakhele Futhi Pref Share must be made.

- 1.5.3** In terms of the MTN Tranche 1 Subscription and Call Option Agreement, once the MTN Zakhele Futhi Pref Shares have been redeemed in full and certain other obligations to the holders of MTN Zakhele Futhi Pref Shares have been discharged, on a quarterly basis (or more frequently if MTN Zakhele Futhi holds cash in excess of R50 000 000.00 at any time), cash held by MTN Zakhele Futhi, 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: firstly, to pay or provide for taxes, statutory charges and liabilities owed by MTN Zakhele Futhi; second, to pay or provide for reasonable provisions for taxes, statutory charges and liabilities of MTN Zakhele Futhi; third, to pay or provide for the administration costs of MTN Zakhele Futhi or BFC2, up to the agreed maximum amounts; fourth, after the Initial Period only, the MTN Zakhele Futhi 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 MTN Zakhele Futhi Shareholders, subject to MTN's discretion; fifth, to pay or repay all or part of any loan (and interest thereon) made by MTN to MTN Zakhele Futhi; sixth, to subscribe for MTN 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 MTN Zakhele Futhi; eighth, in the sole discretion of MTN Zakhele Futhi, but provided that MTN has provided its prior written consent, all or any portion of the remaining amounts towards a payment of a dividend to the MTN Zakhele Futhi Shareholders; and ninth, to retain any remaining balance in the collection account of MTN Zakhele Futhi, pending its further application under this waterfall on the next relevant date.

## **1.6 Transaction Conditions Precedent**

The implementation of the 2016 MTN BEE Transaction is subject to the fulfilment (or deemed fulfilment) or waiver in accordance with the Implementation Agreement of, *inter alia*, the following Transaction Conditions Precedent by no later than certain dates set in the Implementation Agreement, the last of which is Monday, 21 November 2016:

- the aggregate equity capital raised by MTN Zakhele Futhi under the MTN Zakhele Futhi Public Offer and the MTN Zakhele Re-investment Offer is at least an amount equal to the Minimum Equity Raise and the aggregate cash raised by MTN Zakhele Futhi under the MTN Zakhele Futhi Public Offer is at least an amount equal to the Minimum Cash Raise;
- the opening of bank accounts into and out of which the initial 2016 MTN BEE Transaction proceeds will flow on and immediately prior to the Closing Date;
- MTN Zakhele Futhi opening a securities account with a CSDP acceptable to the BFC2 Investors, in which the Dematerialised MTN Shares held by MTN Zakhele Futhi will be recorded;
- the signing of the relevant Key Transaction Documents on behalf of each of the parties thereto;
- the MTN Zakhele Board approves or ratifies in writing: (i) the entering into of the Implementation Agreement and the Key Transaction Documents to which MTN Zakhele is a party; and (ii) the transactions contemplated in the MTN Zakhele Scheme Circular and the dispatch of the MTN Zakhele Scheme Circular to MTN Zakhele Shareholders;
- all of the Key Transaction Documents have become unconditional in accordance with their terms, save only for: (i) any 'Specified Funding Conditions Precedent' (as defined in the MTN Zakhele Futhi MOI, being condition precedents relating to, amongst other things, the listed status of MTN Shares, the absence of default events, the absence of material adverse changes, the absence of an economic failure, the fulfilment of the Inception Total Share Cover Ratio, the absence of adjustment events in relation to the dividends payable on the MTN Zakhele Futhi Pref Shares and/or the BFC2 Pref Shares, all corporate approvals for any MTN Subordinated Loans being in place, agreement between MTN and MTN Zakhele as to the funding of any shortfall in the Finally Determined A Indemnified Provision Amount as well as the mechanical implementation of certain steps which are required to be effected prior to implementation of the preference share funding agreements in accordance with the Implementation Agreement; (ii) MTN Funding Conditions Precedent (as defined in the Implementation Agreement, being those conditions precedent summarised below which are marked with a "[#]"); (iii) the Final Scheme Conditions (as defined in paragraph 3.2.3 of Section 2) and (iv) any conditions therein requiring other Transaction Documents to become unconditional;
- the MTN Zakhele Board having obtained an opinion from an independent expert as required under and in accordance with the provisions of section 114(3) of the Companies Act, and otherwise complying with Schedule 5 of the Listings Requirements, relating to the relevant aspects of the MTN Zakhele Unwinding, and, unless MTN and MTN Zakhele agree otherwise in writing, confirming *inter alia* that, when having regard to the terms of the proposed MTN Zakhele Unwinding Scheme, the intended repurchase of MTN Zakhele Shares from MTN Zakhele Shareholders under the MTN Zakhele Unwinding Scheme is fair insofar as the MTN Zakhele Shareholders are concerned;
- all of the General Scheme Conditions other than the Final Scheme Conditions (as defined in paragraph 3.2.3 of Section 2) have been fulfilled (deemed fulfilled) or waived in accordance with the terms of the MTN Zakhele Scheme Circular; [#]
- MTN receiving a closing certificate from the Preference Share Agent stating that the conditions precedent to subscriptions under the BFC2 Pref Subscription Agreement and MTN Zakhele Futhi Pref Subscription Agreement have been met or waived (other than any Specified Funding Conditions Precedent (as described above));
- prior to registration of the Prospectus, MTN Zakhele Futhi having adopted a new memorandum of incorporation in a form and substance satisfactory to MTN and the Preference Share Agent;

- MTN Zakhele Futhi approving by special or ordinary resolution, as the case may be, the entry into and due performance by it of its obligations under specified Transaction Documents to which it is a party;
- the board of directors of each of MTN Zakhele Futhi and BFC2 approving the entry into and due performance of their respective obligations under each of the Transaction Documents to which they are a party;
- the requisite majority of MTN Shareholders approving all the resolutions required to effect the 2016 MTN BEE Transaction (as set out in the notice of general meeting in respect thereof);
- the MTN Board having approved or ratified the entering into of the Implementation Agreement and each Transaction Document to which MTN is a party, and provides all confirmations which may be required under the Companies Act, including in respect of sections 44(3) and 48(2) (as read with section 46);
- the MTN Board obtaining a fairness opinion from an independent expert, confirming that the relevant aspects of 2016 MTN BEE Transaction is fair insofar as the MTN Shareholders are concerned;
- the shareholder/s of MTN Holdings authorising: (i) it pursuant to sections 44 and/or 45 of the Companies Act to enter into and implement the Transaction Documents to which it is a party and (ii) the board of directors MTN Holdings having approved or ratified the entering into of the Implementation Agreement and each Transaction Document to which MTN Holdings is a party (and providing all confirmations which may be required under the Companies Act, including in respect of sections 44(3), 45 and 46);
- the JSE having consented to the admission to listing of the MTN Tranche 1 Subscription Shares, the MTN Tranche 2 Subscription Shares and the MTN Tranche 3 Subscription Shares (subject to customary administrative conditions and those relating to implementation of the relevant subscriptions);
- the MTN Zakhele Board approving in writing the payment of the final MTN Zakhele Pref dividend and the redemption of the MTN Zakhele Pref Shares on the applicable redemption date therefor and providing all confirmations which may be required under the Companies Act (including in respect of section 46);
- the board of directors of BFC approving the redemption of the BFC Pref Shares and providing all confirmations which may be required under the Companies Act (including in respect of section 46);
- MTN Zakhele Futhi is not, and is not likely on the Closing Date to be, in unremedied breach of any of the warranties or undertakings given by it to MTN in terms of certain of the Key Material Agreements or its interim undertakings in the Implementation Agreement; [#]
- in respect of any communication received by MTN (or any of its subsidiaries) from, or any ruling, judgment, demand, order or decree in respect of or affecting MTN (or any of its subsidiaries) made by, any Authority ("**Regulatory Action**") prior to the Determination Date, MTN has not formed a view that such Regulatory Action is or may adversely affect it, the MTN SA Group and/or the implementation, economic and/or intended regulatory effect of the 2016 MTN BEE Transaction (or any transaction contemplated as part thereof); [#]
- MTN has not formed a view that: (i) any Applicable Law is promulgated or any Applicable Laws (including the Income Tax Act and any BEE Legislation) are amended, interpreted or applied and which comes into operation or is likely to come into operation at any time prior to, or within 12 months after, the Closing Date (collectively, "**Change in Law**"), and (ii) such Change of Law is or may adversely affect MTN, the MTN SA Group and/or the implementation, economic and/or intended regulatory effect of the 2016 MTN BEE Transaction (or any transaction contemplated as part thereof); [#]
- MTN has not formed the view that an MTN Material Adverse Event has occurred or is likely to occur on or before the Closing Date; [#]
- MTN Zakhele confirming to MTN and the Preference Share Agent that, to the best of its knowledge and belief, no enforcement action is ongoing by or on behalf of any party, and no specified actual or potential trigger events have been declared or notified, under or in connection with, *inter alia*: (i) the transaction documents relating to the MTN Zakhele BEE Transaction and/or (ii) the Transaction Documents;
- if and to the extent required, the Takeover Regulation Panel (established in terms of section 196 of the Companies Act) issues a compliance certificate to MTN (or its relevant subsidiary), MTN Zakhele Futhi and/or MTN Zakhele (as applicable) in respect of, or exempts (as the case may be), the transactions contemplated under the Transaction Documents, as contemplated under section 115(1)(b) of the Companies Act;
- the Finally Determined A Indemnified Provision Amount has been determined and, if such amount exceeds R100 million, that agreement is reached between MTN, MTN Zakhele and, if applicable, the agent for the preference share funders of MTN Zakhele as to the funding of such amount; and
- pursuant to the Final Capital Structure, the number of MTN Shares forming part of the MTN Repurchase Shares which are to be purchased for cash does not exceed 50% of the total number of MTN Shares held by MTN Zakhele at the Determination Date.

An announcement will be released by MTN on SENS and published in the South African press as soon as possible after the fulfilment (or deemed fulfilment), waiver or non-fulfilment, as the case may be, of the Transaction Conditions Precedent.

## 1.7 Implementation conditions and process

On the assumption that, amongst other things, the above Transaction Conditions Precedent are fulfilled (or deemed fulfilled) or (where permitted) waived:

- if (i) subscriptions in terms of the MTN Zakhele Futhi Public Offer; and (ii) elections by MTN Zakhele Shareholders of MTN Zakhele Futhi Shares in terms of the MTN Zakhele Unwinding Scheme, are at least an amount equal to the Target Equity Raise (R2 468.3 million), the MTN Zakhele Futhi Public Offer will proceed subject to the implementation steps below;
- if (i) subscriptions in terms of the MTN Zakhele Futhi Public Offer; and (ii) elections by MTN Zakhele Shareholders of MTN Zakhele Futhi Shares in terms of the MTN Zakhele Unwinding Scheme, are at least the Minimum Equity Raise (R1 234.1 million) but less than Target Equity Raise, then MTN:
  - may elect not to proceed with the 2016 MTN BEE Transaction; or
  - may (but is not obliged) elect to proceed with the 2016 MTN BEE Transaction on the basis that MTN will determine a target percentage holding for MTN Zakhele Futhi to hold in MTN following completion of the 2016 MTN BEE Transaction and, having regard to this transaction sizing, thereafter determine in its discretion, the following required transaction facilitations and/or adjustments which, in aggregate, result in such target percentage being achieved (in each case subject to a maximum of 76 835 378 MTN Shares and a minimum of 38 417 689 (representing approximately 4% and 2% respectively on a Fully Diluted Basis)) and MTN may elect to:
    - ◊ subscribe for such number of MTN Zakhele Futhi Underwrite Shares which it may determine in its sole discretion;
    - ◊ advance an initial subordinated loan (i.e. the MTN Subordinated Loan (Equity Top-up)) to MTN Zakhele Futhi;
    - ◊ increase or decrease the Notional Vendor Finance; and/or
    - ◊ determine that the number of MTN Zakhele Futhi Pref Shares to be subscribed for by BFC2 may be increased, decreased or maintained (within the limits permitted under the Finance Documents), and the number of MTN Shares issued under the Tranche 1 Subscription and Call Option Agreement and Tranche 2 Subscription Agreement will be adjusted accordingly;
- if the MTN Zakhele Futhi Offer proceeds and the Inception Total Share Cover Ratio is less than 4.0 times, then MTN may elect:
  - not to proceed with the 2016 MTN BEE Transaction; or
  - that the 2016 MTN BEE Transaction will proceed on the basis that the number of MTN Zakhele Futhi Pref Shares to be subscribed for by BFC2 may be decreased or maintained (within the limits permitted under the Finance Documents) and/or may (in its sole discretion) elect to:
    - ◊ advance the MTN Subordinated Loan (Ratio Cure) to MTN Zakhele Futhi; and/or
    - ◊ increase or decrease the number of MTN Tranche 1 Subscription Shares to be subscribed for by MTN Zakhele Futhi at the MTN Tranche 1 Subscription Price, (i.e. to increase or decrease the Notional Vendor Finance), such that after such adjustments to the funding and equity structure the Inception Total Share Cover Ratio is at or above 4.0 times; (with such adjustments, in turn, adjusting the number of Tranche 2 Subscription Shares subscribed for);
- if the 2016 MTN BEE Transaction proceeds, then on the Business Day before the Closing Date, the relevant parties will proceed with the steps set out below, each of which will follow in sequential order on the basis that, unless otherwise agreed by the parties, no party is obliged to implement any step unless each preceding step has been completed:
  - MTN will transfer the amount of the MTN Subordinated Loan, (Equity Cure), and/or MTN Subordinated Loan (Ratio Cure), if any, into the MTN implementation account;
  - MTN will transfer the aggregate subscription price for the MTN Zakhele Futhi Underwrite Shares, if any, into the MTN implementation account;
  - MTN will transfer its on-risk contribution amount in respect of MTN Zakhele's post-redemption tax liabilities ("**the MTN On-risk Tax Amount**"), if any, into the MTN implementation account;
  - to the extent that the MTN Tranche 2 Subscription Price is less than the Repurchase Cash, MTN will transfer the amount of such difference in cash, into the MTN implementation account;
  - each of the BFC2 Investors will transfer their respective portions of the aggregate issue price for the BFC2 Pref Share to be subscribed for by such BFC2 Investor, into its respective BFC2 Investor implementation account; and
  - the Account Bank will notify each of the relevant notice parties of the above payments;
- subject to completion of the above pre-funding steps, the parties will proceed with the implementation of the 2016 MTN BEE Transaction on the basis that no party is obliged to implement any step unless each preceding step has been completed. The parties further agree that certain steps (being the steps of and relating to the MTN Zakhele Unwinding Scheme) will only be implemented if all of the General Scheme Conditions are fulfilled or waived (as the case may be) and if all of the General Scheme Conditions have not been satisfied and/or waived, as the case may be, MTN may elect to proceed with the implementation of 2016 MTN BEE Transaction by waiving the General Scheme Conditions (as part of the Transaction Conditions Precedent), but on the basis that certain of the implementation steps/transactions (being the steps of and relating to the MTN Zakhele Unwinding Scheme, as indicated with [\*] below) will not be implemented and will be treated as *pro non scripto*:

- on the First Closing Date:
  - the Account Bank will transfer an amount equal to the cash raised from the MTN Zakhele Futhi Public Offer into the MTN Zakhele Futhi subscriptions account;
  - the Account Bank will transfer the amount of interest earned on cash raised from the MTN Zakhele Futhi Public Offer into the MTN Zakhele Futhi subscriptions account;
  - the Account Bank will transfer the aggregate subscription price for the MTN Zakhele Futhi Underwrite Shares, if any, from MTN's implementation account into the MTN Zakhele Futhi subscriptions account;
  - MTN Zakhele Futhi will issue and allot or procure the issue and allotment of the finally allocated MTN Zakhele Futhi Shares to the relevant subscribers under the MTN Zakhele Futhi Public Offer (which, for the avoidance of doubt, will exclude any MTN Zakhele Futhi Shares to be allocated to MTN Zakhele (and, in turn, by it to MTN Zakhele Shareholders under the MTN Zakhele Unwinding Scheme)) and will issue and allot the MTN Zakhele Futhi Underwrite Shares to MTN, if any;
  - MTN will advance the MTN Subordinated Loan, if any, to MTN Zakhele Futhi as follows: (i) the Account Bank will transfer an amount equal to the MTN Subordinated Loan (Ratio Cure) from MTN's specified implementation account into the BIC2 Top-Up Loan Account (as such term is defined in the MTN Zakhele Futhi MOI); and (ii) the Account Bank will transfer an amount equal to the MTN Subordinated Loan (Equity Top-up) from the MTN's specified implementation account into the MTN Zakhele Futhi subscriptions account;
  - the BFC2 Investors will subscribe for their respective BFC2 Pref Shares and will pay their respective portion of the aggregate issue price for the BFC2 Pref Shares to BFC2 as follows: in relation to each of the BFC2 Investors, the Account Bank will transfer the corresponding aggregate subscription price for the BFC2 Pref Shares in relation to the aggregate BFC2 Pref Shares subscribed for by each BFC2 Investor from its respective BFC2 Investor implementation account into the BFC2 subscription account;
  - BFC2 will issue and allot the BFC2 Pref Shares to each respective BFC2 Investor;
  - BFC2 will subscribe for the MTN Zakhele Futhi Pref Shares and will pay the aggregate MTN Zakhele Futhi Pref Subscription Consideration to MTN Zakhele Futhi as follows: the Account Bank will transfer the aggregate MTN Zakhele Futhi Pref Subscription Consideration in relation to the aggregate MTN Zakhele Futhi Pref Shares from the BFC2 subscription account into the MTN Zakhele Futhi subscriptions account;
  - MTN Zakhele Futhi will issue and allot the MTN Zakhele Futhi Pref Shares to BFC2;
  - MTN Zakhele Futhi will pay the BIC2 Participation Fee (as such term is defined in the MTN Zakhele Futhi Pref Subscription Agreement) to BFC2 as follows: the Account Bank will transfer an amount equal to such Participation Fee (plus VAT thereon) from the MTN Zakhele Futhi subscriptions account into the BFC2 subscriptions account;
  - BFC2 will pay the BFC2 Participation Fee (as such term is defined in the BFC2 Pref Subscription Agreement) as follows: the Account Bank will transfer an amount equal to the aggregate BFC2 Participation Fee (plus VAT thereon) due to each of Nedbank Limited, United Towers Proprietary Limited and Rand Merchant Bank, a division of FirstRand Bank Limited, out of the BFC2 subscriptions account into each such entity's respective implementation accounts;
  - MTN Zakhele Futhi will pay the MTN Tranche 1 Subscription Price to MTN as follows: the Account Bank will transfer the MTN Tranche 1 Subscription Price into MTN's implementation account from the MTN Zakhele Futhi's subscriptions account;
  - MTN Zakhele Futhi will pay the MTN Tranche 2 Subscription Price to MTN as follows: the Account Bank will transfer the MTN Tranche 2 Subscription Price into MTN's implementation account from the MTN Zakhele Futhi's subscriptions account;
  - MTN shall allot and issue (credited as fully paid up) the MTN Tranche 1 Subscription Shares and the MTN Tranche 2 Subscription Shares to MTN Zakhele Futhi, in certificated form, and shall procure that MTN Zakhele Futhi's name is entered into MTN's register of members as the holder of such shares; and
  - the Preference Share Agent will deliver to MTN, and MTN will deliver to it, notices relating to the cession by MTN in favour of the third party funders of MTN's rights over the amounts in MTN's implementation account;
- on the Second Closing Date:
  - in accordance with the MTN Zakhele Repurchase Agreement, MTN will repurchase the MTN Repurchase Shares in consideration for the payment and crediting of the Repurchase Cash and the MTN Loan Claim, respectively, to MTN Zakhele. MTN will pay the Repurchase Cash to MTN Zakhele as follows: the Account Bank will transfer an amount equal to the Repurchase Cash from MTN's implementation account into the MTN Zakhele collections account;
  - each of MTN and MTN Zakhele shall take all such steps as may be necessary to procure that MTN's transfer secretary: (i) transfers the MTN Repurchase Shares into MTN's name (as the holder of such shares) in MTN's register of members; and (ii) immediately cancels the MTN Repurchase Shares from MTN's issued share capital;
  - MTN Zakhele will pay the final preference share dividend and redeem the MTN Zakhele Pref Shares in full and will pay the aggregate amount necessary for this (collectively "**BIC Pref Shares Redemption Amount**") to BFC as follows: the existing account bank (being Absa Bank Limited) will transfer an amount equal to the aggregate BIC Pref Shares Redemption Amount from the MTN Zakhele collections account into the BFC collections account;
  - BFC will pay the final dividend on the BFC Pref Shares and redeem all the BFC Pref Shares in full and will pay the aggregate BFC Pref Shares redemption amount to each respective BFC preference shareholder;

- the Account Bank will transfer the MTN On-risk Tax Amount, if any, from MTN's implementation account to the MTN Zakhele collections account;
- the existing account bank will transfer the Finally Determined A Indemnified Provision Amount (if applicable) from the MTN Zakhele collections account into the Class A BIC Security Account (as such term is defined in the MTN Zakhele Pref Subscription Agreement);
- the existing account bank will transfer the SARS Amount (as such term is defined in the Implementation Agreement) from the MTN Zakhele collections account into the MTN Zakhele tax provisions account;
- in accordance with the Existing MTN Tranche 1 Subscription and Call Option Agreement (as amended by the Existing Tranche 1 Subscription and Call Option Amendment) MTN Zakhele will settle the notional vendor finance and MTN will exercise and be deemed to have exercised its call option in full in accordance with clause 12.3 of the Existing MTN Tranche 1 Subscription and Call Option Agreement. MTN will pay the aggregate call option exercise price as follows: the Account Bank will transfer the amount of the aggregate call option exercise price due to MTN Zakhele out of MTN's implementation account into the MTN Zakhele collections account;
- each of MTN and MTN Zakhele shall take all such steps as may be necessary to procure that: (i) the maximum call option shares are transferred into MTN's name (as the holder of such shares) in MTN's register of members; and (ii) such shares are cancelled from MTN's issued share capital;
- pursuant to the MTN Zakhele Unwinding Scheme, MTN Zakhele will repurchase and cancel all MTN Zakhele Shares (other than, for the avoidance of doubt, the single MTN Zakhele Share held by MTN Holdings) in respect of which MTN Zakhele Shareholders elected to receive (or are deemed to have elected to receive) MTN Shares and/or the cash consideration ("**the Initial MTN Zakhele Repurchase Shares**"), in consideration for such MTN Zakhele Shareholders being granted rights to receive their respective MTN Shares and/or cash consideration on the applicable settlement date, in accordance with the terms and subject to the conditions of the MTN Zakhele Unwinding Scheme. MTN Zakhele shall take all such steps as may be necessary to procure that the MTN Zakhele transfer secretary: (i) transfers the Initial MTN Zakhele Repurchase Shares into MTN Zakhele's name (as the holder of such shares) in MTN Zakhele's register of members; and (ii) immediately cancels the Initial MTN Zakhele Repurchase Shares from MTN Zakhele's issued share capital; [\*]
- pursuant to the Winding-up Transfer Agreement, MTN Zakhele will then be deemed to have transferred and ceded certain assets, and delegated certain liabilities, to Wind-up Co, which transfer, cession and delegation will be deemed to have taken effect at such time (regardless of the actual delivery and/or transfer, as the case may be, of the relevant assets and the liabilities so transferred); [\*]
- pursuant to the Loan Transfer and Cession Agreement, MTN Zakhele will then be deemed to have transferred and ceded the MTN Loan Claim to MTN Zakhele Futhi, in consideration for the issue by MTN Zakhele Futhi to MTN Zakhele of MTN Zakhele Futhi Shares, which transfer and cession of the MTN Loan Claim, and issue and allotment of the MTN Zakhele Futhi Shares, will be deemed to have taken effect at such time; [\*]
- MTN Zakhele Futhi and the Preference Share Agent will deliver the duly executed notice as required under the "BIC2 Loan Account Cession" (as such term is defined in the MTN Zakhele Futhi MOI) to MTN, which will acknowledge receipt thereof; [\*]
- MTN Zakhele Futhi will then be deemed to have paid the MTN Tranche 3 Subscription Price to MTN in the manner contemplated under the MTN Tranche 3 Subscription Agreement, and will be deemed to have settled the MTN Tranche 3 Subscription Price at such time; [\*]
- MTN shall allot and issue (credited as fully paid up) the MTN Tranche 3 Subscription Shares to MTN Zakhele Futhi, in certificated form and shall procure that MTN Zakhele Futhi's name is entered into MTN's register of members as the holder of such shares; [\*]
- MTN Zakhele Futhi will issue and allot or procure the issue and allotment of the requisite number of MTN Zakhele Futhi Shares to MTN Zakhele pursuant to the Loan Transfer and Cession; [\*]
- pursuant to the MTN Zakhele Unwinding Scheme, MTN Zakhele will repurchase and cancel all of the remaining MTN Zakhele Shares (other than, for the avoidance of doubt, the single MTN Zakhele Share held by MTN Holdings) in respect of which MTN Zakhele Shareholders elected to receive and are allocated MTN Zakhele Futhi Shares pursuant to the MTN Zakhele Re-investment ("**the Subsequent MTN Zakhele Repurchase Shares**"), in consideration for such MTN Zakhele Shareholders being distributed such MTN Zakhele Futhi Shares on the applicable settlement date (as full consideration for the repurchase and cancellation of their MTN Zakhele Shares), in accordance with the terms and subject to the conditions of the MTN Zakhele Unwinding Scheme; [\*]
- subject to the BIC2 Commitment Fee (as such term is defined in the MTN Zakhele Futhi Pref Subscription Agreement) being incurred, MTN Zakhele Futhi will pay such BIC2 Commitment Fee (if applicable) to BFC2 as follows: the Account Bank will transfer an amount equal to the BIC2 Commitment Fee (if applicable) (plus VAT thereon) from the MTN Zakhele Futhi subscriptions account into the BFC2 subscription account;
- subject to the BFC2 Commitment Fee (as such term is defined in the BFC2 Pref Subscription Agreement) being incurred, BFC2 will pay such Commitment Fee as follows: the Account Bank will transfer an amount equal to the BFC2 Commitment Fee (if applicable) (plus VAT thereon) due to each of Nedbank Limited, United Towers Proprietary Limited and Rand Merchant Bank, a division of FirstRand Bank Limited, out of the BFC2 subscription account into each such entity's respective implementation accounts;

- the Account Bank will then transfer an amount equal to MTN Zakhele Futhi's tax provisions from the MTN Zakhele Futhi subscriptions account into the MTN Zakhele Futhi tax provisions account;
- the Account Bank will transfer an amount equal to MTN Zakhele Futhi's initial administration contingency from the MTN Zakhele Futhi subscriptions account into the MTN Zakhele Futhi provisions account;
- MTN Zakhele Futhi will pay or provide for payment of its transaction costs as follows: the Account Bank will transfer the amount of each transaction cost (to be paid or provided for) out of the MTN Zakhele Futhi subscriptions account into the respective accounts reflected in the funds flow statement, or into the MTN Zakhele Futhi provisions account, as the case may be. (It is recorded that to the extent that MTN has, prior to the Closing Date, discharged MTN Zakhele Futhi's obligation to pay any of the transaction costs (including any legal costs), such transaction costs will be payable to MTN into MTN's implementation account);
- the Account Bank will transfer an amount equal to the MTN Zakhele Futhi working capital provisions amount from the MTN Zakhele Futhi subscriptions account into the MTN Zakhele Futhi provisions account; and
- lastly, the Account Bank will transfer any amounts remaining in the MTN Zakhele Futhi subscriptions account into the MTN Zakhele Futhi collections account; and
- in relation to unsuccessful Cash Applicants under the MTN Zakhele Futhi Public Offer, MTN Zakhele Futhi will transfer to the Transfer Secretary the corresponding subscription monies in respect of these unsuccessful applicants, which will be refunded to such Applicants together, where applicable, with interest from the MTN Zakhele Futhi Offer Closing Date until the date of refund (both days excluded). Please note that refunds are subject to Cash Applicants having complied with FICA.

If the MTN Zakhele Unwinding Scheme does not become operative, the steps marked with an asterisk i.e. [\*] will not take place.

## 2. ABOUT MTN

**CAUTION: The information reflected in this paragraph 2 of Section 4 of the Prospectus has been sourced from the Integrated Report of MTN for the financial year ended 31 December 2015 as well as the interim six month period ended 30 June 2016 including related supplementary reports and has not been independently reviewed, audited, verified or updated by MTN Zakhele, MTN Zakhele Futhi, MTN and/or any of its or their directors, employees, professional advisors, external auditors or the like, and no such persons take any responsibility for the accuracy or completeness of its contents, or the matters reflected therein.**

### 2.1 Introduction

Launched in 1994, MTN is a leading emerging markets mobile operator, which is at the forefront of global technological changes. Guided by its values, its vision is to "Lead the delivery of a bold, new Digital World to its customers". The MTN Group is listed on the JSE under the share code "MTN".

MTN has operations in 22 countries where it offers voice, data and digital services to retail customers and operations in 25 countries where it offers enterprise solutions to corporate, SME and public sector customers. As at 30 June 2016, MTN Group subscriber numbers remained flat at 232,6 million when compared to 31 December 2015.

### 2.2 Group structure

From 1 January 2016, the Group has been structured into three regions, namely South and East Africa ("SEA"), West and Central Africa ("WECA") and the Middle East and North Africa ("MENA").

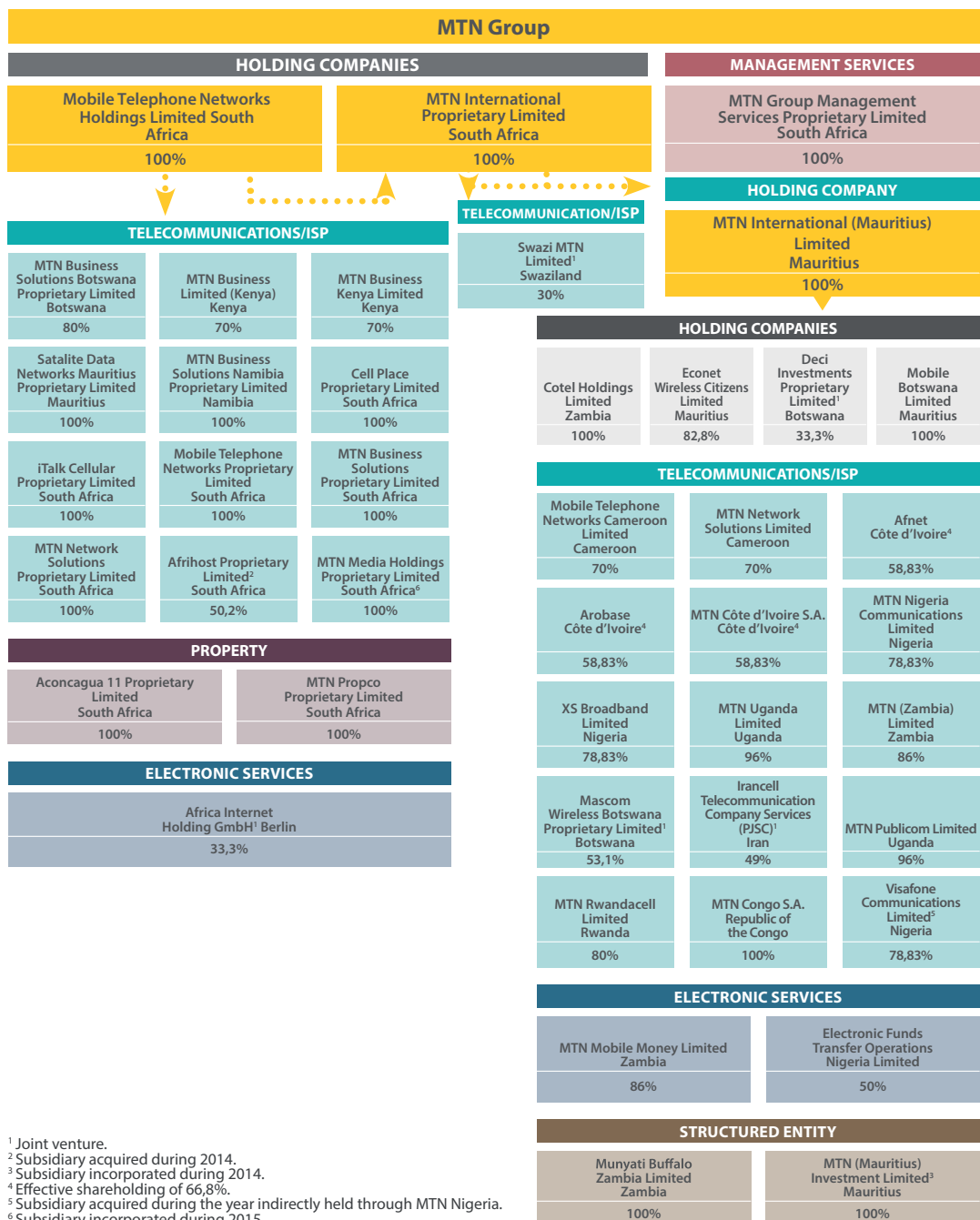
SEA region includes: South Africa, Uganda, Zambia, Rwanda, Botswana (joint venture – equity accounted), Swaziland (joint venture – equity accounted), Business Group and South Sudan.

The WECA region includes: Nigeria, Ghana, Cameroon, Ivory Coast, Benin, Conakry, Congo-Brazzaville, Liberia, and Bissau.

The MENA region includes: Syria, Sudan, Yemen, Afghanistan, Cyprus and Iran (joint venture – equity accounted).

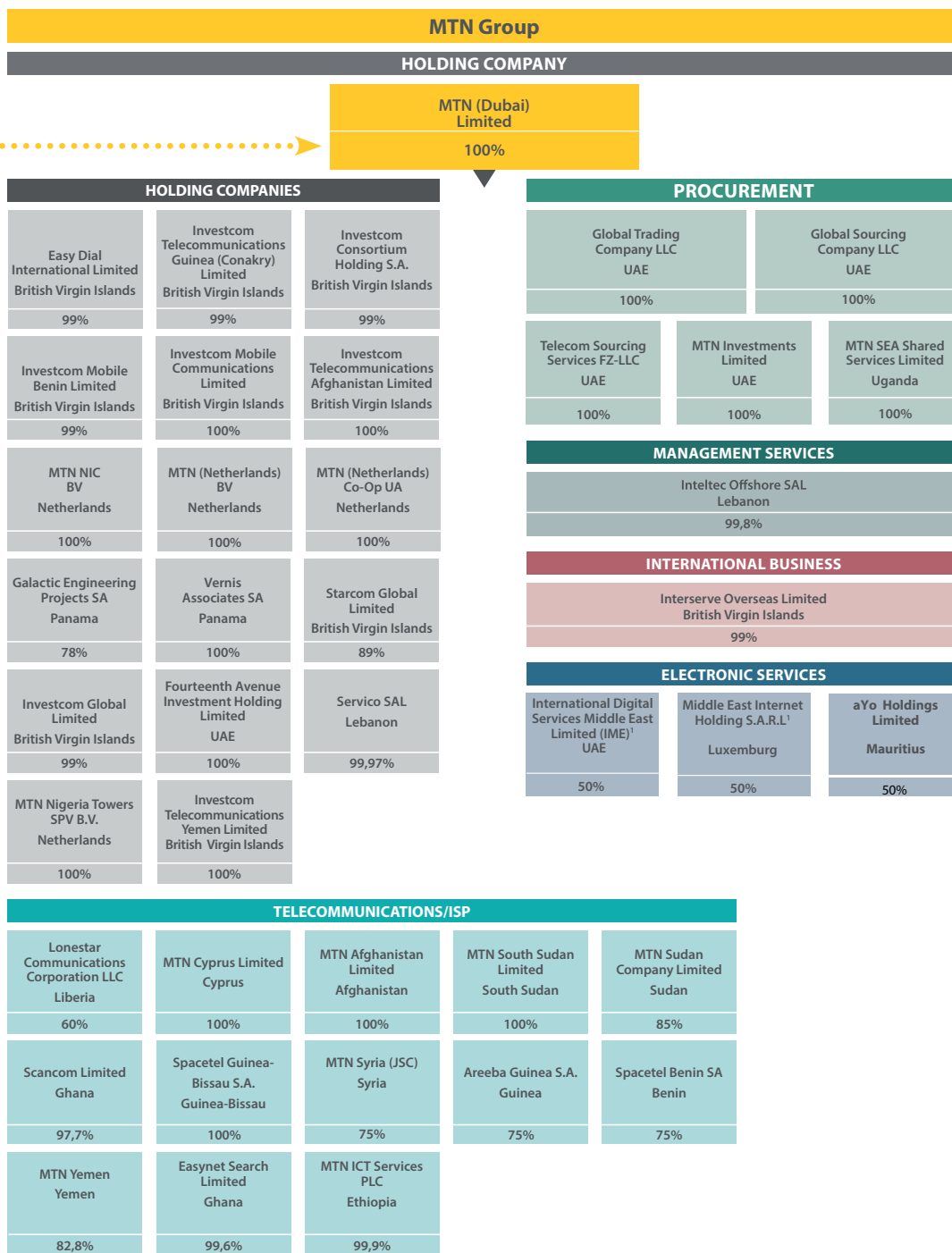
At the end of the 6 months ended 30 June 2016, the SEA region contributed 32% to the MTN Group revenue while the WECA and MENA regions contributed 59% and 9%, respectively. Its two most significant operations were in South Africa and Nigeria, jointly contributing 62% to revenue and 70% to EBITDA (adjusting for the effects of the Nigeria regulatory fine, hyperinflation and Tower profits).

The chart on page 84 and 85 sets out the corporate structure of the MTN Group as at 30 June 2016:



There were no changes in the effective holding in any of the Group's subsidiaries during the year unless otherwise indicated.





## 2.3 Overview of MTN's business

### Strategy

MTN's strategy is built around five strategic themes as per the table below. The themes of creating and managing stakeholder value as well as innovation and best practice sharing describe MTN's approach to its work, people and other stakeholders. Tangible priorities within the themes of creating a distinct customer experience, driving sustainable growth and transforming its operating model defines how MTN strives to secure a sustainable competitive advantage and deliver superior shareholder returns.

MTN further develops its strategic themes into strategic priorities, which have a three- to five-year time horizon as detailed below:

Strategic theme	Strategic priorities over three to five years	Key performance indicator target in 2015
Creating and managing stakeholder value	<ul style="list-style-type: none"> <li>Sustainable shareholder returns</li> <li>Responsible corporate citizenship</li> <li>Creating a great place to work</li> <li>Instilling sound governance and values</li> </ul>	<ul style="list-style-type: none"> <li>5% to 15% dividend growth</li> <li>Opportunistic share buy-backs</li> <li>Increase in positive media sentiment by 4% from a 2014 baseline</li> <li>Statistical improvement on vital behaviours in the MTN Group culture audit</li> </ul>
Creating a distinct customer experience	<ul style="list-style-type: none"> <li>Brand leadership</li> <li>Customer experience</li> <li>Customer analytics</li> <li>Network quality and coverage</li> </ul>	<ul style="list-style-type: none"> <li>Net Promoter Score improvements</li> <li>17.5 million net additions</li> <li>Implement core managed services</li> </ul>
Driving sustainable growth	<ul style="list-style-type: none"> <li>Growth of MTN in the digital space</li> <li>Growth into adjacent sectors</li> <li>Enterprise strategy</li> <li>Voice and data evolution</li> <li>M&amp;A and partnerships</li> </ul>	<ul style="list-style-type: none"> <li>Grow MTN Mobile Money (smaller operations)</li> <li>Increase new revenue streams (enterprise, digital and message format service) – target of US\$2.4 billion</li> <li>Grow Enterprise Business Unit (EBU) revenue 30% year-on-year</li> <li>M&amp;A and partnerships</li> </ul>
Transforming its operating model	<ul style="list-style-type: none"> <li>Asset optimisation</li> <li>Supply chain management</li> <li>Process standardisation and optimisation</li> </ul>	<ul style="list-style-type: none"> <li>Consolidated EBITDA margin of 44.6%</li> <li>Realisation of transformation benefits</li> <li>Improve procurement savings by more than 7%</li> <li>Improve capex efficiency and effectiveness in South Africa</li> <li>Improve capex efficiency and effectiveness in Nigeria</li> </ul>
Innovation and best practice	<ul style="list-style-type: none"> <li>Innovation</li> <li>Best practice sharing</li> </ul>	<ul style="list-style-type: none"> <li>Security framework rollout and adoption into standard applications</li> <li>ICT: Enterprise BSS standardisation and M2M strategy</li> <li>Digital readiness (services migration and deployment)</li> </ul>

## 2.4 Sustaining the MTN business

### Vision and focus areas

For MTN, sustainability is about protecting and creating economic value for MTN and its stakeholders through responsible environmental and social core business practices. To achieve this vision, MTN structures its implementation efforts using a materiality-based approach. MTN's material issues are classified in terms of three focus areas: creating sustainable economic value through digital inclusion and enterprise services addressing social and environmental imperatives, ensuring MTN takes responsibility for reducing its environmental impacts through its eco-responsibility focus, and contributing to sustainable societies through addressing matters of ethics, anti-corruption, digital human rights and responsible labour practices.

## **Governance**

The MTN Board dedicates standing agenda attention to sustainability considerations, risks, opportunities, stakeholder relations, innovation and creation of stakeholder value within the business' operating context. The board has delegated responsibility for the MTN Group's environmental, social and economic development performance to the MTN Group social and ethics committee, and this responsibility is formally incorporated in the committee's terms of reference. The MTN Group sustainability manager reports to the executive for MTN Group corporate affairs, who reports to the MTN Group human resources and corporate affairs officer.

Quarterly committee reports ensure the MTN Group chief human resources and corporate affairs officer accounts for the business' sustainability performance. This is a fundamental component to ensuring sustainability requirements are driven by and within core business functions and integrated within planning and management cycles.

## **Materiality**

Material issues are those issues that impact MTN's ability to remain commercially viable and socially relevant to stakeholders. The MTN Group follows the guidance of the sustainability standards and protocols as embodied in the UN Global Reporting Initiative (GRI) 4 report for 2015, in structuring a framework for selecting material issues and assessing its performance across the economic, social and environmental issues that most impact the business and stakeholders. Guidance is also sought by referring to developments, reports, publications and work efforts of industry bodies such as GSMA and ITU.

To determine the issues most material to MTN's sustainability each year, MTN takes the following sources into account:

- feedback from internal and external stakeholders that review the annual sustainability report;
- engagement with external stakeholders via letters or emails to [sustainability@mtn.co.za](mailto:sustainability@mtn.co.za), [investor.relations@mtn.co.za](mailto:investor.relations@mtn.co.za), [foundations@mtn.co.za](mailto:foundations@mtn.co.za) and [mtngroup.pressoffice@mtn.co.za](mailto:mtngroup.pressoffice@mtn.co.za) and to direct email addresses;
- information gained through engagements with regulatory authorities, media organisations, civil society and community-based organisations, its customers, and general members of the public;
- feedback from and engagement with the JSE socially responsible investment index, the carbon disclosure project and MTN's investors, shareholders and research organisations that consult MTN or assess its responsible business performance;
- information from third-party questionnaires and assessments of MTN's publicly reported performance by university organisations and other third parties not commissioned by MTN; and
- MTN's own internal review and research processes including industry, peer and global developments, and its risk and audit management processes.

Issues identified through this process are weighted during an internal materiality review. These issues are reviewed by the executive, and the MTN Group social and ethics committees. MTN undertakes this review periodically to ensure that it is responsive and can adapt to changing operating conditions.

## **Corporate governance**

A solid governance framework is essential for MTN to perform optimally, given the external environment in which it operates. Good corporate governance ensures that MTN is sustainable and delivers on its corporate obligations and legislative requirements.

During 2015, the MTN Group continued to evolve its governance structures and practices to make sure that the business achieves its vision to deliver a bold new digital world to its customers effectively, efficiently and transparently. MTN reviewed its governance framework to reflect changes of strategic priority, structural alignment and international best practice.

## **Role of the board**

The MTN Board remains committed to good governance and to ensuring an unequivocal tone from the top that requires commitment by all to the values of integrity, transparency and uninterrupted oversight over MTN. This is to ensure that MTN scrutinises and addresses all issues within its operating units.

In the current operating environment, the MTN Group's culture and ethics are of paramount importance. The MTN Board is focused on governance practices that are in sync with all legal and regulatory requirements and on making sure that MTN's culture is one which highlights the values of MTN. It is also focused on the systematic implementation of the cultural operating system and ensuring a robust process for strategic decision-making to address inherent ethical challenges.

## **Board charter**

The board charter is vital to the MTN Group's governance framework, and:

- provides the legal framework within which the MTN Board operates;
- outlines the policies that the board has agreed upon to meet its responsibilities;
- assists MTN's leadership in delivering good governance;
- allows communication of the MTN Board's expectations to management; and
- serves as an induction tool for new directors to the MTN Board.

## Board committees

The MTN Board has delegated its authority to various board committees with the mandate to deal with governance issues and report to the board on their activities on a quarterly basis.

Each committee operates under terms of reference which set out roles and responsibilities, composition and scope of authority. These are reviewed on an annual basis.

The MTN Board is assisted in the discharge of its duties through the following committees:

- Audit committee;
- Group risk management, compliance and corporate governance committee;
- Social and ethics committee;
- Remuneration committee; and
- Nominations committee.

## Delegation of authority

The MTN Board reserves all decision-making authority to itself, unless such power and authority is delegated to the MTN Group president and CEO, with the intention of ensuring that the correct balance of responsibility is struck between the board and executive management, in the interest of all stakeholders.

While the MTN Board plays an oversight role over MTN, the MTN Group president and chief executive officer and his executive management are empowered to manage and lead the business on a day-to-day basis, guided by an approved delegation of authority.

MTN's delegated structures, which include the board committees, encourage and promote open discussion which enhances the MTN Board's monitoring function over all areas of MTN.

## 2.5 Future prospects

MTN continues to work towards achieving its vision of leading the delivery of a bold, new digital world to its customers. MTN is in the process of undertaking, with external assistance, a deep and fundamental strategic review of its operations and processes to ensure it is operating far more optimally given the pressure on voice revenues, evolving customer needs for high quality data and more complex and competitive market environments. This will reset and position the business for future growth in a rapidly evolving sector.

The following key areas will be addressed, as part of this review:

- An advanced analytics unit will be established to support the business to drive network quality and high-speed data connectivity especially in key locations with high demand, provide compelling segmented offerings to consumers and enterprises, improve customer service and increase targeted smartphone uptake.
- Operating efficiencies and improving customer service remain a priority with a focus on the service channels productivity through digitisation and leveraging Mobile Money as a distribution channel. Continued network optimisation and improved operating expenses management, including the implementation of zero-based budgeting, will also contribute to improving efficiencies.
- MTN will continue to explore opportunities to create value through leveraging its extensive infrastructure across Africa and the Middle East.
- Improving the way of work through increased co-ordination between different parts of the business is key to the success of this strategy.
- The MTN Group will embark on a process of housing new revenue streams, particularly Digital Services, outside the core business. This will allow for more agility and greater flexibility to accelerate growth in these areas. New revenue streams are expected to increase their contribution to revenue over the next 12 to 18 months.

MTN will also continue to seek value-accretive expansion opportunities in selected geographies across Africa and the Middle East.

MTN's investments in towers with IHS Holding Limited are evidenced by its substantial ownership interest in INT Towers Limited and its direct investment in IHS. IHS continues to grow and develop its business with leading market positions in five markets and has recently led in-market consolidation in Africa through its acquisition of Helios Towers Nigeria. IHS is now the largest independent tower operator in EMEA by tower count and the tenth largest independent tower company in the world, with more than 24 000 towers. IHS is extremely well positioned for future growth and build-out from 3G upgrades and the move to LTE across its key markets. MTN will benefit from IHS' strong growth which will assist MTN in accelerating its network expansion in markets such as Nigeria, further improving the benefits and services for its customers.

MTN aims to list **MTN Nigeria** on The Nigerian Stock Exchange during 2017 and has established a management task team with the responsibility to guide the company towards such a listing. The proposed listing is subject to suitable market prevailing

circumstances and conditions and the appropriate approvals from relevant regulators and other stakeholders.

Following the re-instatement of regulatory services, MTN expects to improve their competitiveness in Nigeria and anticipate an improved performance for the remainder of the year. Data growth will also benefit from the increased investment in 3G and LTE networks in key cities and the utilisation of the recently acquired spectrum.

**MTN Ghana** will proceed with the localisation of 35% of its shares during the course of 2016. This is a requirement of winning the auction for a 4G/LTE licence earlier this year.

MTN is confident that by 31 December 2016 the business would have successfully completed the proposed management changes. In 2017, MTN will have a permanent and refreshed senior management team to take the MTN Group forward.

MTN anticipates a positive growth trend in **South Africa**, supported by a strong focus on customer service and improving the network quality, capacity and speed. Data growth will continue to be underpinned by ongoing significant investment in 3G and LTE.

The continued easing of sanctions in **Iran** and its related economic uplift offers significant opportunities to expand services particularly in the digital space, benefiting from MTN's strong position and a youthful population. MTN continues to work towards remitting some of its cash amounting to approximately R15,4 billion from MTN Irancell, although this a complex process.

<b>Financial information (unaudited)</b>	<b>June 2016<sup>1</sup></b>	<b>December 2015<sup>2</sup></b>	<b>December 2014<sup>2</sup></b>	<b>December 2013<sup>2</sup></b>	<b>December 2012<sup>2</sup></b>	<b>December 2011<sup>2</sup></b>
<b>Income statement – extracts (Rm)</b>						
Revenue	79 115	147 063	146 930	137 270	121 867	109 834
EBITDA	18 882	59 125	73 191	60 430	52 637	49 575
Profit from operations	5 191	35 328	49 645	41 152	36 685	35 512
Net finance costs	(5 945)	(3 010)	(3 668)	(1 234)	(3 790)	(1 512)
Income tax expense	(4 726)	(11 322)	(13 361)	(12 487)	(11 835)	(13 034)
Non-controlling interests	764	(3 366)	(5 623)	(4 111)	(3 364)	(3 033)
Attributable (loss)/earnings	(5 489)	20 204	32 079	26 751	20 704	20 754
Headline (loss)/earnings	(4 931)	13 600	28 183	25 860	20 018	19 811
<b>Balance sheet – extracts (Rm)</b>						
Property, plant and equipment	93 462	106 702	87 546	92 903	73 905	64 914
Intangible assets and goodwill	52 172	55 887	36 618	37 751	32 594	32 672
Investments and loans	54 039	55 304	37 945	20 385	12 409	11 440
Bank balances, deposits and cash	32 690	43 536	48 736	45 673	34 565	43 458
Deferred tax and other assets	50 552	52 438	42 840	32 944	22 601	21 589
<b>Total assets</b>	<b>282 915</b>	<b>313 867</b>	<b>253 685</b>	<b>229 656</b>	<b>176 074</b>	<b>174 073</b>
Ordinary shareholders' interest	116 669	146 369	128 517	116 479	89 006	88 897
Non-controlling interest	3 127	5 469	4 925	5 333	3 881	3 802
Interest-bearing liabilities	81 947	75 171	53 279	46 025	32 084	33 208
Deferred taxation and other liabilities	81 172	86 858	66 964	61 819	51 103	48 166
<b>Total liabilities</b>	<b>163 119</b>	<b>162 029</b>	<b>120 243</b>	<b>107 844</b>	<b>83 187</b>	<b>81 374</b>
<b>Total equity and liabilities</b>	<b>282 915</b>	<b>313 867</b>	<b>253 685</b>	<b>229 656</b>	<b>176 074</b>	<b>174 073</b>
<b>Cash flow statement – extracts (Rm)</b>						
Cash generated from operations	23 870	57 598	64 628	59 708	51 105	46 626
Cash (outflows)/inflows from operating activities	(436)	13 122	27 132	27 025	20 062	23 279
Cash outflows from investing activities	(14 209)	(34 290)	(25 991)	(19 835)	(24 212)	(17 492)
Cash inflows/(outflows) from financing activities	13 608	8 101	2 639	6 264	(5 280)	(8 867)
Cash and cash equivalents	26 937	34 139	43 072	39 577	22 539	33 074
Dividends paid to equity holders of the company	(15 212)	(23 506)	(20 527)	(16 187)	(14 919)	(11 722)

<b>Financial information (unaudited) (continued)</b>	<b>June 2016<sup>1</sup></b>	<b>December 2015<sup>2</sup></b>	<b>December 2014<sup>2</sup></b>	<b>December 2013<sup>2</sup></b>	<b>December 2012<sup>2</sup></b>	<b>December 2011<sup>2</sup></b>
Acquisition of property, plant and equipment	(10 134)	(21 612)	(19 562)	(24 568)	(20 741)	(13 191)
<b>Performance per ordinary share</b>						
Basic (loss)/earnings (cents)	(301)	1 109	1 752	1 460	1 126	1 119
Diluted (loss)/earnings (cents)	(301)	1 106	1 742	1 452	1 120	1 111
Headline (loss)/earnings (cents)	(271)	746	1 536	1 411	1 089	1 069
Dividends (cents)	250	1 310	1 245	1 035	824	749
<b>Returns and profitability ratios</b>						
Return on assets (%) <sup>3</sup>	n/a	12.4	20.5	20.3	21.0	22.1
Return on average shareholders' funds (%) <sup>4</sup>	n/a	9.9	23.0	25.2	22.5	24.6
EBITDA margin (%)	23.9 <sup>5</sup>	40.2	49.8	44.0	43.2	45.1
Adjusted free cash flow	15 501	29 514	47 785	30 266	23 810	33 170
Enterprise value/EBITDA multiple (times) <sup>6</sup>	n/a	4	5.5	6.7	6.4	5.7
Effective taxation rate (%)	309.5 <sup>7</sup>	32.4	26.2	28.8	33.0	35.4
<b>Share statistics</b>						
Number of ordinary shares in issue (million)						
– at period/year-end <sup>8</sup>	1 844	1 845	1 848	1 873	1 883	1 885
– weighted average during the period/year	1 823	1 827	1 841	1 833	1 838	1 854
Closing price (cents per share)	14 306	13 289	22 141	21 702	17 760	14 373
Market capitalisation (Rm)	262 217	245 248	409 213	406 539	334 507	270 904
<b>Operational information (unaudited)</b>	<b>June 2016</b>	<b>December 2015</b>	<b>December 2014</b>	<b>December 2013</b>	<b>December 2012</b>	<b>December 2011</b>
<b>South Africa</b>						
Mobile penetration (%)	162	170	154	135	131	120
Market share (%)	32	34	34	35	38	34
Subscribers (million)	30	31	28	26	25	22
ARPU (ZAR)	83	92	92	108	122	134
EBITDA margin (%)	30	33	32	35	35	35
Capex/revenue (%)	24	27	15	14	16	11
<b>Nigeria</b>						
Mobile penetration (%)	72	79	73	69	62	54
Market share (%)	46	45	49	49	48	50
Subscribers (million)	57	61	60	57	47	42
ARPU (US\$)	5	6	6	7	9	10
EBITDA margin (%)	50	53	59	61	58	62
Capex/revenue (%)	9	10	16	30	36	18
<b>Ghana</b>						
Mobile penetration (%)	117	114	102	99	91	78
Market share (%)	54	52	51	50	51	52
Subscribers (million)	17	16	14	13	12	10
ARPU (US\$)	3	3	4	6	6	7
EBITDA margin (%)	39	40	37	38	37	37
Capex/revenue (%)	32	23	20	20	16	14

<b>Operational information (unaudited) (continued)</b>	<b>June 2016</b>	<b>December 2015</b>	<b>December 2014</b>	<b>December 2013</b>	<b>December 2012</b>	<b>December 2011</b>
<b>Iran</b>						
Mobile penetration (%)	126	123	120	114	113	103
Market share (%)	46	47	46	47	47	45
Subscribers (million)	47	46	44	41	41	35
ARPU (US\$)	4	4	4	4	7	8
EBITDA margin (%)	38	41	43	43	44	43
Capex/revenue (%)	28	31	27	19	9	11
<b>Syria</b>						
Mobile penetration (%)	84	84	82	81	59	58
Market share (%)	41	42	44	44	45	46
Subscribers (million)	6	6	6	6	6	6
ARPU (US\$)	2	4	4	5	9	14
EBITDA margin (%)	29	18	19	17	23	26
Capex/revenue (%)	18	37	10	28	11	7
<b>Cameroon</b>						
Mobile penetration (%)	71	69	73	69	62	54
Market share (%)	57	56	59	59	56	55
Subscribers (million)	9	9	10	7	7	6
ARPU (US\$)	3	4	4	6	6	7
EBITDA margin (%)	38	36	43	46	46	44
Capex/revenue (%)	35	33	14	19	19	10
<b>Ivory Coast</b>						
Mobile penetration (%)	105	109	84	79	77	75
Market share (%)	33	32	39	38	36	37
Subscribers (million)	8	8	8	7	6	6
ARPU (US\$)	5	5	6	7	6	6
EBITDA margin (%)	36	34	39	41	40	42
Capex/revenue (%)	22	13	19	15	22	12
<b>Uganda</b>						
Mobile penetration (%)	46	44	47	44	41	42
Market share (%)	53	51	57	54	53	52
Subscribers (million)	10	9	10	9	8	8
ARPU (US\$)	2	2	3	4	4	4
EBITDA margin (%)	30	34	39	36	36	35
Capex/revenue (%)	13	18	13	12	13	26
<b>Sudan</b>						
Mobile penetration (%)	69	67	69	73	73	53
Market share (%)	34	34	36	34	32	27
Subscribers (million)	9	8	9	9	8	6
ARPU (US\$)	3	3	2	2	3	5
EBITDA margin (%)	35	35	34	32	28	22
Capex/revenue (%)	23	24	52	43	62	49

**Notes:**

- (1) The June 2016 numbers have been extracted/derived or calculated from the interim results for the 6 months ended 30 June 2016.
- (2) These December numbers have been extracted from the five-year financial review 2015 published on the MTN website (<https://www.mtn.com>).
- (3) Profit from operations as a percentage of the average of the opening and closing balances of total assets.
- (4) Headline (loss)/earnings as a percentage of the average of the opening and closing balances of MTN Ordinary Shareholders' interest.
- (5) The EBITDA margin increases to 37.1% after adjusting for the Nigeria fine, hyperinflation and realisation of deferred profit from the sale of towers in Ghana.
- (6) Market capitalisation plus net debt (interest-bearing liabilities less bank balances, deposits and cash) divided by EBITDA.

(7) The effective tax rate decreases to 49.2% after adjusting for the impact of the Nigeria regulatory fine and hyperinflation.

(8) Including treasury shares and MTN Shares held by MTN Zakhele.

### **3. DOCUMENTS AVAILABLE FOR INSPECTION [REG 53]**

The following documents will be available for inspection at the Registered Office of MTN Zakhele Futhi from Monday, 12 September 2016 to Friday, 4 November 2016, during normal business hours:

- a signed copy of this Prospectus;
- the MTN Zakhele Futhi MOI;
- a copy of MTN's memorandum of incorporation;
- copies of the written consents of the Investment Bank; Corporate Advisor and Transaction Sponsor to MTN; the Investment Bank, Corporate Advisor, Arranger and Bookrunner to MTN Zakhele Futhi; the Legal and Tax Advisor to MTN Zakhele Futhi, MTN Zakhele and MTN; the Distribution Agent; the Registered Auditor to MTN Zakhele Futhi and MTN Zakhele; the Joint Independent Registered Auditors to MTN; the Co-funders to MTN Zakhele Futhi; the Legal Advisor to the Co-funders; the Share Administration Agent, the Independent Counsel to MTN Zakhele Futhi and MTN Zakhele; the Custodian to MTN Zakhele Futhi; the Corporate Advisor to MTN Zakhele and the Company Secretary to MTN Zakhele Futhi;
- copies of the following agreements to which MTN Zakhele Futhi is a party: the Reversionary Pledge and Cession Agreement; the Reversionary Account Cession; the MTN Tranche 1 Subscription and Call Option Agreement; the MTN Tranche 2 Subscription Agreement; the MTN Tranche 3 Subscription Agreement; the Loan Transfer and Cession Agreement; the Implementation Agreement; the MTN Zakhele Futhi Ords Subscription Agreement; the MTN Zakhele Futhi Pref Subscription Agreement; the First Ranking Guarantee; the BIC2 Pledge and Cession (as defined in the MTN Zakhele Futhi MOI); the BIC2 Account Cession (as defined in the MTN Zakhele Futhi MOI); the BIC2 Loan Account Cession (as defined in the MTN Zakhele Futhi MOI); the Subordination and Undertaking Agreement; the Subject Shares Custody Agreement (as defined in the MTN Zakhele Futhi MOI) and the Account Bank and Agency Agreement;
- the powers of attorney, if applicable, and resolutions authorising the signing of the Prospectus; and
- the audited annual financial statements of MTN for the three years ended 31 December 2013, 2014 and 2015 and the reviewed condensed consolidated interim financial statements of MTN for the six months ended 30 June 2015 and 30 June 2016.



## INAPPLICABLE OR IMMATERIAL MATTERS

The following paragraphs of the Companies Act and the Companies Regulations are not applicable in the circumstances of the MTN Zakhele Futhi Public Offer:

Regulation number	Regulation heading
54(2)	General statement of required information
55	Specific matters to be addressed for a limited offer
57(2)	Name, address and incorporation
57(3)(a) and (b)	Name, address and incorporation
59(2)(a)	History, state of affairs and prospects of the company
59(4)	History, state of affairs and prospects of the company
64(2)(c)	Interest of directors and promoters
78	Report by auditor where company will acquire a subsidiary
80	Requirements for prospects of mining company

By order of the MTN Zakhele Futhi Board

**SB Mtshali**

22 August 2016

**SA Fakie**

**IS Cele**

### Registered Office

216 – 14th Avenue

Fairland, Gauteng, 2195

South Africa

(Private Bag X9955, Cresta, 2118)

And, in so far as required and in relation only to the MTN Zakhele Re-investment Offer, by order of the MTN Zakhele Board

**SEN Sebotsa**

22 August 2016

**GG Gelink**

**SN Mabaso-Koyana**

### Registered Office

4th Floor, Aloe Grove

Houghton Estate Office Park

2 Osborn Road

Houghton, 2198

South Africa

(PO Box 225, Highlands North, 2037)

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## ANNEXURE 1: EXTRACTS FROM THE MTN ZAKHELE FUTHI MOI

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Capitalised terms used in this Annexure 1, but not defined in the Prospectus shall bear the meanings ascribed to such terms in the MTN Zakhele Futhi MOI.

### 2. INCORPORATED PROVISIONS OF THE RELATIONSHIP AGREEMENT

**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 representation on 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 Agreements;

**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** 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, subject to compliance with clauses 6 and/or 7 the Company shall have the capacity and authority to negotiate, enter into and implement the Transaction Documents, the BEE Transaction Documents and the Refinancing Agreements 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 section 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);

- 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.
- 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 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 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; and

**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 JSE 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 24.15.
- 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 at least 3 (three) additional Persons entitled to vote are Present.
- 21.10** 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 at least 3 (three) additional 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  $\frac{1}{10}$ th (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  $\frac{1}{10}$ th (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 notarially 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, before the proxy exercises any rights of the Holder entitled to vote at a Shareholders Meeting, 48 (forty-eight) hours prior to the time scheduled for the commencement of the Shareholders Meeting (or, as applicable adjourned or postponed Shareholders Meeting), or such shorter period as may be specified in the notice convening the 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 MTN's rights to appoint Directors during the MTN Zakhele Futhi Empowerment Compliance Period, 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.

**24.3** Further to clause 2.1.9, during the MTN Zakhele Futhi Empowerment Compliance Period, MTN shall be entitled to appoint, remove and replace 2 (two) Directors to the Board of the Company (and their respective alternates) (“**the MTN Appointed Directors**”); provided that at least 1 (one) of such MTN Appointed Directors is a Black Person. The MTN Appointed Directors shall:

**24.3.1** meet the criteria prescribed by law from time to time;

**24.3.2** 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; and

**24.3.3** be nominated, appointed, removed, replaced and/or substituted by Written notice from MTN to the Company from time to time, and at any time in its sole discretion.

**24.4** During the MTN Zakhele Futhi Empowerment Compliance Period:

**24.4.1** the chairman of the Board shall be one of the MTN Appointed Directors as they may determine between them or, failing agreement, as MTN may specify;

**24.4.2** save in respect of the MTN Appointed Directors, no person shall be appointed as a Director (and any such appointee shall immediately cease to hold office) if:

**24.4.2.1** as a result of such appointment the majority of the Directors will not be Black People; or

- 24.4.2.2** immediately prior to such appointment the minority of the Directors were Black People, unless such proposed Director is himself a Black Person.
- 24.5** During the MTN Zakhele Futhi Empowerment Compliance Period, no resolution proposing the appointment of a 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):
- 24.5.1** if the election of such person as a Director would be in conflict with clause 24.4.2;
  - 24.5.2** 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;
  - 24.5.3** unless the intended resolution or proposal is in respect of a person who:
    - 24.5.3.1** has been approved by either MTN or by the then current Directors of the Company;
    - 24.5.3.2** 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
    - 24.5.3.3** 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.
- 24.6** 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 24.3, 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.
- 24.7** At the Annual General Meeting held in each year,  $\frac{1}{3}$  (one-third) of the Directors (other than the MTN Appointed Directors), or if their number is not a multiple of three then the number nearest to, but not less than  $\frac{1}{3}$  (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 24.15 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.
- 24.8** Retiring Directors shall be Eligible for re-election. No person other than a Director retiring at the Annual General Meeting 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 24.4 are complied with.
- 24.9** Subject to clause 24.8, 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 Appointed Directors. In electing Directors, the provisions of the Companies Act shall be complied with.
- 24.10** If at any Annual General Meeting at which an election of Directors ought to take place, the place of any retiring Director is not filled, she shall, if willing, continue in office until the dissolution of the Annual General Meeting in the next year, 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.

- 24.11** 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.
- 24.12** In any election of Directors and Alternate Directors, the election is to be conducted as follows:
- 24.12.1** 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
  - 24.12.2** in each vote to fill a vacancy –
    - 24.12.2.1** each Voting Right entitled to be exercised may be exercised once; and
    - 24.12.2.2** the vacancy is filled only if a majority of the Voting Rights exercised support the candidate.
- 24.13** 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.
- 24.14** 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.
- 24.15** Any vacancy occurring on the Board may be filled by the Board, but the Individual so appointed 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.
- 24.16** 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.
- 24.17** 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.
- 28.5** Notwithstanding anything to the contrary herein, during the MTN Zakhele Futhi Empowerment Compliance Period, the exercise by the Directors of their authority and powers under clauses 28.2, 28.3, 29 and/or 30, shall require the consent or approval of at least 1 (one) of the MTN Appointed Directors.

## **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, provided that, during the MTN Zakhele Futhi Empowerment Compliance Period, at least 1 (one) such Director is an MTN Appointed Director.
- 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** Subject to clause 24.4.1, 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 clauses 28.5 and 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; and provided further that, during the MTN Zakhele Futhi Empowerment Compliance Period, such resolution includes the affirmative vote of at least 1 (one) of the MTN Appointed Directors. 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;
- 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;
- 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.

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## ANNEXURE 2: INDEPENDENT REGISTERED AUDITOR'S REPORT ON MTN ZAKHELE FUTHI

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The Directors

MTN Zakhele Futhi (RF) Limited

216 – 14th Avenue

Fairland

2195

22 August 2016

Dear Sirs

### **Report by the auditor in terms of Regulation 79 of the Companies Act 71 of 2008 of South Africa**

SizweNtsalubaGobodo Inc. ("the auditors" or "we") are the appointed registered auditor of MTN Zakhele Futhi (RF) Limited (the "Company"). We have been advised that the Company intends to issue a prospectus on or about 12 September 2016 (the "Prospectus"), of an invitation to the black public to apply for MTN Zakhele Futhi (RF) Limited ordinary shares. For that purpose Regulation 79 of the Companies Act 71 of 2008 of South Africa (the "Act") requires a report by the auditor of the Company to be issued in relation to the annual financial statements of the company.

MTN Zakhele Futhi (RF) Limited has not completed its first financial year since incorporation nor has the company produced annual financial statements before the issue of the prospectus and consequently historical information for the company is not available.

### **Restriction on use and distribution**

Our report is solely for the purpose set forth in the first paragraph of this report and for your information and is not to be used for any other purpose or to be distributed to any other parties.

Yours faithfully

### **SizweNtsalubaGobodo Inc.**

Director: SY Lockhat

Registered Auditor

Woodmead

South Africa

## ANNEXURE 3: MTN'S CONSOLIDATED HISTORICAL FINANCIAL INFORMATION

MTN Zakhele Futhi was incorporated on 21 June 2016. It has not yet completed its first financial year since incorporation and has not yet produced financial statements. To assist in understanding MTN Zakhele Futhi's anticipated interest in MTN, the consolidated statements of financial position of MTN as at 30 June 2016, 31 December 2015 and 30 June 2015 as well as the consolidated income statements of MTN for the interim six month period ended 30 June 2016 and 30 June 2015, and the full year periods ended 31 December 2015, 31 December 2014 and 31 December 2013 have been included below.

The condensed consolidated statements of financial position and the condensed consolidated income statements for the interim periods ended 30 June 2016 and 30 June 2015 presented below, have been extracted from MTN's reviewed condensed consolidated interim financial statements for the six months ended 30 June 2016 and 30 June 2015, respectively. The summary full year consolidated income statements have been extracted from MTN's audited summary consolidated financial statements for the years ended 31 December 2015, 31 December 2014 and 31 December 2013. The summary consolidated statement of financial position has been extracted from MTN's audited summary consolidated financial statements for the year ended 31 December 2015. Hereinafter referred to as condensed/summary consolidated income statements and condensed/summary consolidated statements of financial position.

The information set out in this Annexure to the Prospectus is not a full set of financial statements in accordance with International Financial Reporting Standards ("IFRS") and the requirements of the Companies Act of 2008 of South Africa. Reading the information in this Annexure is therefore no substitute for reading the audited financial statements of MTN for the years ended 31 December 2015, 31 December 2014 and 31 December 2013 and the reviewed condensed consolidated interim financial statements for the periods ended 30 June 2016 and 30 June 2015 which are available for inspection at MTN Zakhele Futhi's registered office and on MTN's website at <https://www.mtn.com>.

### Condensed/summary consolidated income statement

<i>for the</i>	<b>Six months ended 30 June 2016 Reviewed Rm</b>	<b>Six months ended 30 June 2015 Restated Reviewed Rm</b>	<b>Financial year ended 31 December 2015 Audited Rm</b>	<b>Financial year ended 31 December 2014 Restated Audited Rm</b>	<b>Financial year ended 31 December 2013 Restated Audited Rm</b>
<b>Revenue</b>	<b>79 115</b>	<b>69 304</b>	147 063	146 930	137 270
Other income	<b>367</b>	<b>411</b>	8 409	7 928	1 327
Direct network and technology operating costs	<b>(12 291)</b>	<b>(8 327)</b>	(18 809)	(16 354)	(18 299)
Costs of handsets and other accessories	<b>(6 065)</b>	<b>(4 449)</b>	(10 829)	(10 314)	(10 744)
Interconnect and roaming costs	<b>(7 358)</b>	<b>(6 330)</b>	(13 102)	(13 653)	(13 816)
Staff costs	<b>(4 777)</b>	<b>(4 155)</b>	(8 587)	(8 838)	(8 670)
Selling, distribution and marketing expenses	<b>(9 624)</b>	<b>(8 439)</b>	(18 412)	(17 174)	(16 362)
Government and regulatory costs	<b>(2 982)</b>	<b>(2 835)</b>	(5 888)	(5 734)	–
Other operating expenses	<b>(7 004)</b>	<b>(4 505)</b>	(11 433)	(9 600)	(10 276)
<b>EBITDA before Nigeria regulatory fine</b>	<b>29 381</b>	<b>30 675</b>	68 412	73 191	60 430
Nigeria regulatory fine	<b>(10 499)</b>	–	(9 287)	–	–
<b>EBITDA</b>	<b>18 882</b>	<b>30 675</b>	59 125	73 191	60 430
Depreciation of property, plant and equipment	<b>(10 913)</b>	<b>(8 905)</b>	(19 557)	(18 262)	(16 458)
Amortisation of intangible assets	<b>(2 174)</b>	<b>(1 845)</b>	(3 736)	(3 251)	(2 820)
Impairment of goodwill	<b>(604)</b>	–	(504)	(2 033)	–
<b>Operating profit</b>	<b>5 191</b>	<b>19 925</b>	35 328	49 645	41 152
Net finance costs	<b>(5 945)</b>	<b>(2 319)</b>	(3 010)	(3 668)	(1 234)
Net monetary gain	<b>919</b>	<b>496</b>	1 348	878	–
Share of results of joint ventures and associates after tax	<b>(1 692)</b>	<b>2 027</b>	1 226	4 208	3 431
<b>(Loss)/profit before tax</b>	<b>(1 527)</b>	<b>20 129</b>	34 892	51 063	43 349
Income tax expense	<b>(4 726)</b>	<b>(6 249)</b>	(11 322)	(13 361)	(12 487)
<b>(Loss)/profit after tax</b>	<b>(6 253)</b>	<b>13 880</b>	23 570	37 702	30 862

	<b>Six months ended 30 June 2016 Reviewed Rm</b>	<b>Six months ended 30 June 2015 Restated Reviewed Rm</b>	Financial year ended 31 December 2015 Audited Rm	Financial year ended 31 December 2014 Restated Audited Rm	Financial year ended 31 December 2013 Restated Audited Rm
<i>for the</i>					
<b>Attributable to:</b>					
Equity holders of the Company	<b>(5 489)</b>	<b>11 900</b>	20 204	32 079	26 751
Non-controlling interests	<b>(764)</b>	<b>1 980</b>	3 366	5 623	4 111
	<b>(6 253)</b>	<b>13 880</b>	23 570	37 702	30 862
<b>Basic (loss)/earnings per share (cents)</b>	<b>(301)</b>	<b>653</b>	1 109	1 752	1 460
<b>Diluted (loss)/earnings per share (cents)</b>	<b>(301)</b>	<b>650</b>	1 106	1 742	1 452

**Condensed/summary consolidated statement of financial position**

	<b>30 June 2016 Reviewed Rm</b>	30 June 2015 Reviewed Rm	31 December 2015 Audited Rm
<i>as at</i>			
<b>Non-current assets</b>	<b>200 447</b>	161 219	218 435
Property, plant and equipment	<b>93 462</b>	85 501	106 702
Intangible assets and goodwill	<b>52 172</b>	37 484	55 887
Investment in joint ventures and associates	<b>32 169</b>	24 978	35 552
Deferred tax and other non-current assets	<b>22 644</b>	13 256	20 294
<b>Current assets</b>	<b>82 468</b>	85 269	95 432
Non-current assets held for sale	<b>466</b>	3 959	10
	<b>82 002</b>	81 310	95 422
Other current assets	<b>12 940</b>	12 292	15 940
Trade and other receivables	<b>41 470</b>	37 003	43 570
Restricted cash	<b>637</b>	1 001	1 735
Cash and cash equivalents	<b>26 955</b>	31 014	34 177
<b>Total assets</b>	<b>282 915</b>	246 488	313 867
<b>Total equity</b>	<b>119 796</b>	127 420	151 838
Attributable to equity holders of the Company	<b>116 669</b>	122 702	146 369
Non-controlling interests	<b>3 127</b>	4 718	5 469
<b>Non-current liabilities</b>	<b>84 000</b>	51 495	72 510
Interest-bearing liabilities	<b>64 190</b>	39 511	52 661
Deferred tax and other non-current liabilities	<b>19 810</b>	11 984	19 849
<b>Current liabilities</b>	<b>79 119</b>	67 573	89 519
Non-current liabilities held for sale	<b>208</b>	15	–
	<b>78 911</b>	67 558	89 519
Interest-bearing liabilities	<b>17 757</b>	16 548	22 510
Trade and other payables	<b>43 602</b>	31 896	40 484
Other current liabilities	<b>17 552</b>	19 114	26 525
<b>Total equity and liabilities</b>	<b>282 915</b>	246 488	313 867



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## **ANNEXURE 4: JOINT INDEPENDENT REGISTERED AUDITORS' REPORT ON MTN'S CONSOLIDATED HISTORICAL FINANCIAL INFORMATION**

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The Directors

MTN Zakhele Futhi (RF) Limited

216 – 14th Avenue

Fairland

2195

22 August 2016

### **Report by the auditor in terms of Regulation 77 of the Companies Act 71 of 2008 of South Africa**

Dear Sirs

PricewaterhouseCoopers Inc. and SizweNtsalubaGobodo Inc. ("the auditors" or "we") are the appointed joint auditors of MTN Group Limited ("MTN"). Regulation 77 of the Companies Act 71 of 2008 of South Africa (the "Act") requires a report by the auditor(s) of MTN, whose shares are to be acquired from the proceeds of the issue of shares through a public offer, to be included in the Prospectus of MTN Zakhele Futhi (RF) Limited ("MTN Zakhele Futhi" or the "Company"), and for such report to address the matters set out in Regulation 77 of the Act.

Consequently, we have been requested to provide this report on the following historical financial information of MTN to be included in the Prospectus of MTN Zakhele Futhi to be issued on or about 12 September 2016 (the "Prospectus"):

- MTN's summary consolidated income statements in respect of the years ended 31 December 2015, 31 December 2014 and 31 December 2013 and its condensed consolidated income statements for the six months ended 30 June 2016 and 30 June 2015, as set out in Annexure 3 of the Prospectus; and
- MTN's assets and liabilities included in MTN's condensed consolidated statement of financial position as at 30 June 2016 and 30 June 2015 and its summary consolidated statement of financial position as at 31 December 2015, as also set out in Annexure 3 of the Prospectus.

The above is collectively referred to as the "MTN Regulation 77 Financial Information".

The MTN Regulation 77 Financial Information has been accurately extracted from the audited summary consolidated financial statements of MTN for the years ended 31 December 2015, 31 December 2014 and 31 December 2013, which were prepared in accordance with the framework concepts and the measurement and recognition requirements of International Financial Reporting Standards (IFRS) and, as a minimum, contained the information required by (IAS) 34 Interim Financial Reporting and the requirements of the Act, and from the condensed consolidated interim financial statements of MTN for the periods ended 30 June 2016 and 30 June 2015 which were prepared in accordance with International Financial Reporting Standard (IAS) 34 Interim Financial Reporting and the requirements of the Act, as issued by the International Accounting Standards Board. The directors of MTN Zakhele Futhi take full responsibility for the preparation of the Prospectus and the accurate extraction of the Regulation 77 Financial Information.

We expressed unqualified audit opinions on those financial statements in our reports dated 2 March 2016, 3 March 2015 and 4 March 2014, respectively, based on our audits which were conducted in accordance with International Standards on Auditing. In addition, we expressed unmodified conclusions on the condensed consolidated interim financial statements in our reports dated 4 August 2016 and 2015, respectively, based on our reviews which were conducted in accordance with International Standard on Review Engagements 2410, Review of Interim Financial Information Performed by the Independent Auditor of the Entity (ISRE 2410).

The MTN Regulation 77 Financial Information does not reflect the effects of events that may have occurred subsequent to the date of our audit report on MTN's summary consolidated financial statements for the year ended 31 December 2015 or the date of our review conclusion on MTN's condensed consolidated interim financial statements for the period ended 30 June 2016. We have also not performed audit procedures in respect of events which occurred between 2 March 2016, the date of our audit report on the consolidated financial statements for the year ended 31 December 2015 or review procedures in respect of events which occurred between 4 August 2016, the date of our review conclusion on the condensed consolidated interim financial statements for the period ended 30 June 2016 and the date of issue of the Prospectus. Furthermore, the MTN Regulation 77 Financial Information set out in Annexure 3 of the Prospectus is not a full set of financial statements in accordance with IFRS and the requirements of the Act. Reading the MTN Regulation 77 Financial Information is therefore no substitute for reading the audited financial statements of MTN for the years ended 31 December 2015, 31 December 2014 and 31 December 2013 or the condensed consolidated interim financial statements for the periods ended 30 June 2016 and 30 June 2015.

**Restriction on use and distribution**

Our report is solely for the purpose set forth in the first paragraph of this report and for your information and is not to be used for any other purpose or to be distributed to any other parties.

**PricewaterhouseCoopers Inc.**

Director: JR van Huyssteen

Registered Auditor

Sunninghill

**SizweNtsalubaGobodo Inc.**

Director: SY Lockhat

Registered Auditor

Woodmead

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## ANNEXURE 5: KEY PROVISIONS OF THE BFC2 PEF SHARES AND THE MTN ZAKHELE FUTHI PEF SHARES

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Certain of the key terms of the MTN Zakhele Futhi Pref Shares and the BFC2 Pref Shares are summarised in the table below:

Amount:	A Maximum of R3 200 million for each of the BFC2 Pref Shares and the MTN Zakhele Futhi Pref Shares
Issuer:	BFC2 (BFC2 Pref Shares) MTN Zakhele Futhi (MTN Zakhele Futhi Pref Shares)
Final Redemption Date:	5 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"> <li>• MTN Zakhele Futhi 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.</li> <li>• 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 MTN Zakhele Futhi which are given as security for the obligations of MTN Zakhele Futhi 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.</li> <li>• As security for its obligations under the First Ranking Guarantee, MTN Zakhele Futhi will pledge and cede <i>in securitatem debiti</i> its right, title and interest in and to the MTN Shares held by MTN Zakhele Futhi from time to time, and all proceeds of realisation of such assets to the BFC2 Pref Shareholders (the “<b>Pledge and Cession</b>”).</li> <li>• As security for its obligations under the First Ranking Guarantee, MTN Zakhele Futhi will cede <i>in securitatem debiti</i> its rights to certain specified bank accounts held by MTN Zakhele Futhi from time to time and all amounts standing to the credit of such accounts to the BFC2 Pref Shareholders (the “<b>Account Cession</b>”).</li> <li>• MTN Zakhele Futhi 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.</li> <li>• MTN Zakhele Futhi 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 &amp; Cession.</li> <li>• MTN Zakhele Futhi will provide a cession <i>in securitatem debiti</i> over the MTN Loan Claim as security for its obligations under the First Ranking Guarantee.</li> <li>• 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 “<b>MTN Guarantee</b>”).</li> <li>• 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 “<b>MTN Account Cession</b>”).</li> </ul>

<p>Voting rights in relation to the MTN Zakhele Futhi Pref Shares:</p>	<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 MTN Zakhele Futhi Pref Shares. These include the following:</p> <ul style="list-style-type: none"> <li>• MTN Zakhele Futhi 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 MTN Zakhele Futhi Pref Share Terms);</li> <li>• 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 MTN Zakhele Futhi MOI);</li> <li>• there are any unpaid or arrear dividends or unpaid and arrear redemption amounts in relation to the MTN Zakhele Futhi Pref Shares;</li> <li>• 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 MTN Zakhele Futhi Pref Subscription Agreement and the MTN Zakhele Futhi MOI) or a special resolution is proposed for the approval of the remuneration of the directors of MTN Zakhele Futhi pursuant to section 66(9) of the Companies Act;</li> <li>• if any resolution is proposed: (i) which affects the rights attached to the MTN Zakhele Futhi Pref Shares or interests of the holders of the MTN Zakhele Futhi Pref Shares, (ii) for the winding up of MTN Zakhele Futhi (iii) for any acquisition by MTN Zakhele Futhi of its shares in terms of section 48 of the Companies Act or any acquisition by any subsidiary of MTN Zakhele Futhi of the shares in MTN Zakhele Futhi in terms of section 48 of the Companies Act, or (iv) to change MTN Zakhele Futhi's financial year.</li> </ul>
<p>Key covenants in relation to the MTN Zakhele Futhi Pref Shares:</p>	<ul style="list-style-type: none"> <li>• Inception Total Share Cover Ratio will be at least 4.0 times, as a condition precedent to advancing the preference share funding.</li> <li>• After issue of the MTN Zakhele Futhi 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 "<b>Financial Covenant</b>") 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).</li> <li>• After issue of the MTN Zakhele Futhi 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).</li> </ul>
<p>Key default trigger events in relation to the MTN Zakhele Futhi Pref Shares:</p>	<p>Each of the default trigger events are subject to agreed carve-outs and remedy periods contemplated in the MTN Zakhele Futhi Pref Share Terms.</p> <ul style="list-style-type: none"> <li>• MTN Zakhele Futhi's failure to declare and pay all or any dividends in relation to the MTN Zakhele Futhi Pref Shares when due and payable;</li> <li>• MTN Zakhele Futhi's failure to redeem any MTN Zakhele Futhi Pref Shares and pay the redemption amount on or prior to the scheduled redemption date in relation to such MTN Zakhele Futhi Pref Share;</li> <li>• The occurrence of a trigger event in relation to the BFC2 Pref Shares;</li> <li>• MTN Zakhele Futhi's failure to retain its black economic empowerment status as specified in the MTN Zakhele Futhi Pref Share Terms;</li> <li>• A material adverse event (as contemplated in the MTN Zakhele Futhi Pref Share Terms) occurs in relation to BFC2, MTN Zakhele Futhi or MTN;</li> <li>• MTN, MTN Zakhele Futhi or BFC2 breaches any of its respective obligations under the Finance Documents;</li> <li>• MTN Zakhele Futhi or BFC2 breach any obligation under any agreement to which they are a party;</li> <li>• 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;</li> <li>• It becomes unlawful for MTN Zakhele Futhi, BFC2 and/or MTN to perform any of its obligations under the Key Material Agreements;</li> <li>• There is a failure by MTN Zakhele Futhi, 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;</li> </ul>

- 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 MTN Zakhele Futhi 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 MTN Zakhele Futhi MOI) is breached and is not restored to a level which is 130% of the trigger level below which it is breached or more;
- Enforcement action is taken against MTN in relation to any of its financial indebtedness in excess of or equivalent to an aggregate amount of US\$50 000 000;
- If the Financial Covenant is greater than 2.5: 1;
- Other than pursuant to limited permitted actions, MTN Zakhele Futhi becomes entitled to acquire or acquires shares in an entity other than MTN;
- An Insolvency Event (as defined in the MTN Zakhele Futhi 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 MTN Zakhele Futhi Pref Share Terms) of the MTN Shares is an amount of R50.00 or less;
- Not all of the MTN Zakhele Futhi Pref Shares are irrevocably redeemed in full in accordance with the provisions of the MTN Zakhele Futhi MOI;
- MTN Zakhele Futhi's or BFC2's audited financial statements are qualified in any respect; or
- MTN's audited financial statements are qualified in any material respect.

#### Key indemnities and post redemption amounts

- MTN Zakhele Futhi has agreed to indemnify the holders of the MTN Zakhele Futhi Pref Shares and their officers, directors, employees and agents against liabilities arising from: (i) certain breaches by MTN Zakhele Futhi of the Finance Documents; (ii) an actual or potential trigger event or illegality event in relation to the MTN Zakhele Futhi Pref Shares; (iii) any payment in respect of the MTN Zakhele Futhi Pref Shares or under the Finance Documents being subject to any tax at any time after the redemption of such MTN Zakhele Futhi Pref Shares; (iv) any payment to a holder of MTN Zakhele Futhi Pref Shares in relation to the MTN Zakhele Futhi Pref Shares being set aside, refunded, reduced or becoming invalid; or (v) any BFC2 Indemnity Event (as defined in the MTN Zakhele Futhi Pref Subscription Agreement).
- In addition, for the Indemnity Period (as defined in the MTN Zakhele Futhi Pref Share Terms) (being a period of 5 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 MTN Zakhele Futhi Pref Subscription Agreement) occurs, MTN Zakhele Futhi 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 MTN Zakhele Futhi to pay amounts into the MTN Zakhele Futhi Security Account, if MTN Zakhele Futhi 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 MTN Zakhele Futhi Pref Subscription Agreement) will become payable after the redemption of all the MTN Zakhele Futhi Pref Shares. If MTN Zakhele Futhi is required to make any such deposit, disposals of MTN Zakhele Futhi's assets are restricted until the required deposits have been made. The proceeds of the MTN Zakhele Futhi Security Account will remain subject to the security interests of the relevant BFC2 Pref Shareholders for the Indemnity Period.

## ANNEXURE 6: PRICE HISTORY OF MTN SHARES ON THE JSE

Set out below is a table of the aggregate volumes and values traded in MTN Shares, and the highest and lowest prices traded, for each month over the 12 months prior to the date of issue of the Prospectus and for each day over the 30 days preceding the Last Practicable Date:

Month	Volume (’000)	Value (R’000)	Highest (cents per MTN Share)	Lowest (cents per MTN Share)
July 2016	129 907	18 460 149	15 150	13 600
June 2016	262 780	36 022 290	15 170	11 991
May 2016	144 070	18 735 139	15 100	12 250
April 2016	136 480	18 708 027	15 190	12 419
March 2016	176 079	25 008 093	15 274	12 529
February 2016	178 566	24 148 132	15 647	12 278
January 2016	174 642	21 575 249	13 978	10 956
December 2015	151 962	20 780 610	15 000	12 304
November 2015	174 489	25 880 284	16 449	13 201
October 2015	186 087	31 897 403	19 295	15 042
September 2015	173 935	30 641 475	18 620	16 126
August 2015	139 477	26 176 136	21 200	16 110

Day	Volume (’000)	Value (R’000)	Highest (cents per MTN Share)	Lowest (cents per MTN Share)
2016/08/17	14 001	1 804 714	13 000	12 750
2016/08/16	8 966	1 164 166	13 178	12 910
2016/08/15	8 752	1 137 179	13 100	12 920
2016/08/12	11 428	1 476 608	13 026	12 662
2016/08/11	9 239	1 143 985	12 640	12 250
2016/08/10	17 980	2 209 508	12 711	11 976
2016/08/08	11 678	1 485 433	13 079	12 505
2016/08/05	13 032	1 694 674	13 688	12 828
2016/08/04	9 543	1 276 298	13 839	12 687
2016/08/02	8 257	1 111 984	13 874	13 250
2016/08/01	7 151	1 004 702	14 338	13 823
2016/07/29	6 101	856 595	14 183	13 919
2016/07/28	7 448	1 054 928	14 670	13 908
2016/07/27	7 977	1 162 376	14 851	14 313
2016/07/26	8 530	1 258 924	15 150	14 492
2016/07/25	6 034	890 955	14 898	14 494
2016/07/22	7 799	1 128 212	14 600	14 288
2016/07/21	6 128	876 394	14 488	13 879
2016/07/20	5 941	840 155	14 488	14 025
2016/07/19	11 413	1 587 498	14 236	13 627
2016/07/18	4 648	654 601	14 360	13 966
2016/07/15	9 152	1 306 684	14 450	13 952
2016/07/14	4 795	673 604	14 212	13 737
2016/07/13	6 071	849 152	14 082	13 808
2016/07/12	8 114	1 123 823	14 067	13 600
2016/07/11	4 620	645 574	14 300	13 791
2016/07/08	3 128	436 941	14 140	13 728
2016/07/07	3 938	553 488	14 342	13 905
2016/07/06	5 266	733 740	14 186	13 794
2016/07/05	4 396	630 280	14 451	14 201

Source: I-Net BFA

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## ANNEXURE 7: THE RELATIONSHIP AGREEMENT

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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**

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**WEBBER WENTZEL**  
in alliance with > **Linklaters**



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## 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 *CASA*;

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;

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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:

the Person is an Eligible BIC2 Shareholder;

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

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

*f*

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"** – is 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;

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

**"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;

**"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;

**"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;

**"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;

**"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 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;

**"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;

**"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);

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1.1.41	<b>"Black People"</b> – "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	<b>"Business Day"</b> – any day other than a Saturday, Sunday or gazetted national public holiday in the Republic of South Africa;
1.1.43	<b>"Call Event"</b> – is as defined and determined under clause 11.1;
1.1.44	<b>"Call Option Notice"</b> – is as defined and determined under clause 11.2;
1.1.45	<b>"Call Reference Price"</b> – is as defined and determined under clause 12.1;
1.1.46	<b>"Call Shares"</b> – is as defined and determined under clause 11.2;
1.1.47	<b>"Call Trigger Date"</b> – is as defined and determined under clause 11.3.1;
1.1.48	<b>"Central Securities Depository"</b> – a person who is licensed as a central securities depository under section 29 of the Financial Markets Act;
1.1.49	<b>"Certificated BIC2 Ordinary Share"</b> – 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	<b>"Codes"</b> – 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	<b>"Companies Act"</b> – the Companies Act, No 71 of 2008;
1.1.52	<b>"Composition"</b> – 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	<b>"CSDP"</b> – 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	<b>"Custodian"</b> – 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	<b>"Deed of Adherence"</b> – 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	<b>"Dispose"</b> – 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 <b>"Disposal"</b> shall be construed accordingly;
1.1.57	<b>"EC Act"</b> – Electronic Communications Act, No 36 of 2005;
1.1.58	<b>"Effective Date"</b> 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	<b>"Effective Interest"</b> – 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	<b>"Effective Participants"</b> – in relation to an entity, means each and every person who directly or indirectly has an Effective Interest in such entity;
1.1.61	<b>"Eligible BIC2 Shareholder"</b> – (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, delegate 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	<b>"Empowerment Requirements"</b> – 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	<b>"Encumbrance"</b> – 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 <b>"Encumber"</b> , <b>"Encumbered"</b> and <b>"Encumbering"</b> shall have corresponding meanings;
1.1.64	<b>"ESTC"</b> or <b>"Empowerment Share Transfer Committee"</b> – 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;

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- 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 "ICASA" – 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;

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- 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 Annexure 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;

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1.1.92 **"State Rules and Directives"** – means the depository rules of Sirate 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 Sirate 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 of this Agreement;

1.1.100 **"Valuation Date"** – 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:

1.3.6.1 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

1.3.6.2 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

1.3.6.3 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 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; be a Black Company on the Effective Date;
- 6.1.4
- 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 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

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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

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- 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 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 2<sup>nd</sup> 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;

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 prices) 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 Shares) 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

21.2.1 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 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 <b>MTN</b> to:	
	physical address:	MTN Innovation Centre 216 14 <sup>th</sup> 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: 5<sup>th</sup> 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 14<sup>th</sup> Avenue  
Fairland

telefax no: (011) 912 4093

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 7<sup>th</sup> 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.

**26.7.2**

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**

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.

**26.11.1**

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.

**26.11.2****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:

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

**26.13.1**

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.

**26.13.2****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

NAPOLIDIS

Director

Signed at

on 9th August 2016.

**Witnesses:**

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

Director

## Annexe A

## Ring Fencing Provisions

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

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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.

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**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*

## ANNEXURE 8: FICA SUPPORTING DOCUMENTS REQUIRED FOR BLACK PEOPLE AND BLACK GROUPS

The information contained below has been summarised for general information purposes only and is not intended to provide an exhaustive list of information and documentation required in order to identify and verify the applicant in terms of FICA. The Applicant must refer to the Financial Intelligence Centre Act, 2001 to the extent there are changes to the FICA requirements.

### BLACK PEOPLE

Type of client	Document type	Guidelines of what documents may be required
<b>South African citizen resident in South Africa or resident abroad</b>	<u>Proof of identity</u>	<ul style="list-style-type: none"> <li>Original valid South African green barcoded identity document; or</li> <li>Original valid South African identity card (smart card); or</li> <li>Original valid SA passport (this document can be supplied by a South African citizen who resides abroad if any of the above cannot be provided).</li> </ul>
	<u>Proof of physical address</u>	<ul style="list-style-type: none"> <li>Refer to page 158 of this Annexure 8 for a full list of the acceptable documents.</li> <li>If you are a South African citizen resident abroad, please provide an original valid permit or visa as proof of your residency.</li> </ul>
<b>Minor (where a parent or guardian acts on behalf of the minor)</b>	<u>Proof of identity</u>	<p><u>For the minor:</u></p> <ul style="list-style-type: none"> <li>Original birth certificate; or</li> <li>Original valid South African green barcoded identity document; or</li> <li>Original valid South African identity card (smart card); or</li> <li>Original valid South African passport.</li> </ul> <p><u>For the guardian/parent:</u></p> <ul style="list-style-type: none"> <li>Original valid South African green barcoded identity document; or</li> <li>Original valid South African identity card (smart card).</li> </ul>
	<u>Proof of physical address</u>	<p><u>For the minor:</u></p> <ul style="list-style-type: none"> <li>Cohabitation declaration form (to be provided and signed at the Participating Nedbank Branch); and</li> <li>Proof of physical address in the name of the person signing the cohabitation form (original or certified copies will be accepted).</li> </ul> <p><u>For the guardian/parent: proof of physical address (if different from proof of physical address for the person signing the cohabitation form):</u></p> <ul style="list-style-type: none"> <li>Refer to page 158 of this Annexure 8 for the a full list of the acceptable documents. Original or certified copies will be accepted.</li> </ul>
	<u>Proof of authority</u>	Completed and signed legal-guardian/parent declaration form (to be provided and signed at the Participating Nedbank Branch).

## BLACK GROUPS

Type of client	Document type	Guidelines of what documents may be required
Sole proprietor/ practitioner	<u>Proof of trading name</u>	<ul style="list-style-type: none"> <li>A declaration (original letter) by the applicant confirming the trading name.</li> </ul>
	<u>Proof of identity</u>	<ul style="list-style-type: none"> <li>Original valid South African barcoded identity document; or</li> <li>Original valid South African identity card (smart card).</li> </ul>
	<u>Proof of physical address</u> (residential); and <u>Proof of trading address</u> (only if different from physical residential address)	<ul style="list-style-type: none"> <li>Refer to page 158 of this Annexure 8 for a full list of the acceptable documents.</li> <li>Original or certified copies will be accepted.</li> </ul>
	<u>Proof of authority (if applicable)</u>	<p>A proof of authority is only applicable in the event that the client grants another natural person authority to establish a business relationship or act/transact on the clients account. The following <b>original</b> written instructions provide proof of that person's authority and must be obtained:</p> <ul style="list-style-type: none"> <li>the resolution;</li> <li>a certified extract of the minutes proving authority; or</li> <li>a letter, signed by the sole proprietor.</li> </ul> <p><b>Note:</b> Where the sole proprietor acts on his own behalf, proof of authority to act does not need to be provided. Proof of authority must still be obtained if another person, other than the sole proprietor is granted authority to act on behalf of/for the sole proprietor.</p>
	<u>Associated-party information (if applicable)</u> Required for:	<p><u>Associated party who is a South African citizen resident in South Africa or an Asylum Seeker Resident in South Africa or a Refugee Resident in South Africa or a Minor:</u></p> <ul style="list-style-type: none"> <li>Proof of identity;</li> <li>Proof of physical address (if Nedbank client).</li> </ul> <p><u>Associated party who is a South African citizen resident abroad:</u></p> <ul style="list-style-type: none"> <li>Proof of identity;</li> <li>Proof of physical address (if Nedbank client); and</li> <li>Proof of residency (permit/visa), if applicable.</li> </ul> <p><u>Associated party who is a Foreign National Resident abroad:</u></p> <ul style="list-style-type: none"> <li>Proof of identity; and</li> <li>Proof of physical address (if Nedbank client).</li> </ul> <p><u>Associated party who is a Foreign National Resident in South Africa:</u></p> <ul style="list-style-type: none"> <li>Proof of identity;</li> <li>Proof of physical address (if Nedbank client); and</li> <li>Proof of residency (permit/visa), if applicable.</li> </ul>

Type of client	Document type	Guidelines of what documents may be required
Partnership	<u>Partnership agreement</u>	<ul style="list-style-type: none"> <li>Original partnership agreement in terms of which the partnership was formed; or</li> <li>In the case of a Professional Partnership which is registered with a professional body, proof of membership/registration with the professional body.</li> </ul>
	<u>Proof of authority</u>	<ul style="list-style-type: none"> <li>The original resolution; or</li> <li>A certified extract of minutes proving authority; or</li> <li>An original letter signed by the other partners on an official company letterhead.</li> </ul>
	<u>Proof of trading address</u>	<ul style="list-style-type: none"> <li>Refer to page 158 of this Annexure 8 for a full list of the acceptable documents.</li> </ul>
	<u>Associated-party information (if applicable)</u>	<u>Associated party who is a South African citizen resident in South Africa or an Asylum Seeker Resident in South Africa or a Refugee Resident in South Africa or a Minor:</u>
	Required for:	<ul style="list-style-type: none"> <li>Proof of identity; and</li> <li>Proof of physical address (if Nedbank client).</li> </ul>
	<ul style="list-style-type: none"> <li>the authorised representative who has signed the appointment of authorised representative form attached to the Prospectus as Annexure 9; and if different: <ul style="list-style-type: none"> <li>each natural person who purports to be authorised to establish a business relationship on behalf of the partnership;</li> <li>each natural person who is authorised to transact on behalf of the partnership.</li> </ul> </li> <li>each partner, including each member of a partnership <i>en commandite</i>,</li> <li>any anonymous/silent partner or any similar partner;</li> <li>the person/legal entity who exercises executive control over the partnership.</li> </ul>	<u>Associated party who is a South African citizen resident abroad:</u>
	Please call the Nedbank Contact Centre or visit any Participating Nedbank Branch or refer to the FAQ section of the MTN Zakhele Futhi website at <a href="http://www.mtn.com/zakhelefuthi">www.mtn.com/zakhelefuthi</a> for more specific associated-party information.	<ul style="list-style-type: none"> <li>Proof of identity; and</li> <li>Proof of physical address (if Nedbank client); and</li> <li>Proof of residency (permit/visa), if applicable.</li> </ul>
		<u>Associated party who is a Foreign National Resident abroad:</u>
		<ul style="list-style-type: none"> <li>Proof of identity; and</li> <li>Proof of physical address (if Nedbank client).</li> </ul>
		<u>Associated party who is a Foreign National Resident in South Africa:</u>
		<ul style="list-style-type: none"> <li>Proof of identity;</li> <li>Proof of physical address (if Nedbank client); and</li> <li>Proof of residency (permit/visa), if applicable.</li> </ul>
		<u>Associated party which is a Sole Proprietor:</u>
		<ul style="list-style-type: none"> <li>Proof of identity; and</li> <li>Proof of physical address and trading address if different (if Nedbank client).</li> </ul>
		<u>Associated party which is a South African listed company or a Wholly Owned Subsidiary of a South African company or a Foreign Listed Company or a Wholly Owned Subsidiary of a Foreign Listed Company or a Partnership:</u>
		<ul style="list-style-type: none"> <li>Proof of identity; and</li> <li>Proof of physical address (if Nedbank client).</li> </ul>
		<u>Associated party which is a South African non-listed company or a Foreign non-listed company:</u>
		<ul style="list-style-type: none"> <li>Proof of identity;</li> <li>Proof of physical address (if Nedbank client); and</li> <li>Proof of shareholding membership (if holding 25% or more of the voting rights).</li> </ul>



Type of client	Document type	Guidelines of what documents may be required
		<p><u>Associated party which is a Non-profit Company/ Section 21 Company or a Close Corporation or an Other Legal Entity:</u></p> <ul style="list-style-type: none"> <li>• Proof of identity; and</li> <li>• Proof of physical address (if Nedbank client).</li> </ul> <p><u>Associated party which is an Inter-Vivos trust or a Testamentary trust:</u></p> <ul style="list-style-type: none"> <li>• Proof of identity; and</li> <li>• Proof of physical address (if Nedbank client).</li> </ul>
Close Corporation	<p><u>Company documentation (only if close corporation)</u></p> <p>Original documents unless stated otherwise</p>	<ul style="list-style-type: none"> <li>• The full Certificate of Confirmation or Disclosure Certificate reflecting the details required; or</li> <li>• The original or a certified copy of the most recent founding statement and Certificate of Incorporation (form CK1);</li> </ul> <p>AND</p> <ul style="list-style-type: none"> <li>• If applicable, the Amended Founding Statement (form CK2) in conjunction with the CK1; or</li> <li>• If applicable, the Amended Founding Statement (form CK2) in conjunction with the CK2A; or</li> <li>• Full Certificate of Confirmation plus CK2A and CK2 combined.</li> </ul> <p><u>If there was a name change:</u></p> <ul style="list-style-type: none"> <li>• Full Certificate of Confirmation or Disclosure Certificate.</li> </ul>
	<p><u>Proof of authority</u></p> <p>Required for a natural person purporting to act on behalf of the close corporation mandated officials and/or authorised signatories</p> <p>Not required if there is only one member and no one else transacting on the account</p>	<p>The original resolution; or</p> <ul style="list-style-type: none"> <li>• A certified extract of minutes proving authority; or</li> <li>• An original letter signed by the managing member or all members where there is no managing member, on an official letterhead.</li> </ul>
	<p><u>Company documentation (only if converted close corporation)</u></p>	<ul style="list-style-type: none"> <li>• The original or a certified copy of the Close Corporation Registration Certificate (form CoR 18.3).</li> </ul>
	<p><u>Proof of shareholding (only if converted close corporation)</u></p> <p>(Of an individual/legal entity confirming % voting rights)</p>	<ul style="list-style-type: none"> <li>• An original letter confirming the shareholding, signed by the company secretary on an official letterhead; or</li> <li>• An original letter from the company auditors confirming the shareholding; or</li> <li>• The audited company financial statements; or</li> <li>• Sole shareholder declaration form, if applicable.</li> </ul>
	<p><u>Proof of trading address</u></p>	<ul style="list-style-type: none"> <li>• Refer to page 158 of this Annexure 8 for a full list of the acceptable documents.</li> <li>• The original documents are required to be presented at the Participating Nedbank Branch.</li> </ul>

Type of client	Document type	Guidelines of what documents may be required
	<p><u>Associated party information (if applicable) required for:</u></p> <ul style="list-style-type: none"> <li>the authorised representative who has signed the appointment of authorised representative form attached to the Prospectus as Annexure 9; and if different: <ul style="list-style-type: none"> <li>each natural person who purports to be authorised to establish the business relationship on behalf of the close corporation; and</li> <li>each natural person authorised to transact on behalf of the close corporation.</li> </ul> </li> <li>each member of the close corporation.</li> </ul> <p>Please call the Nedbank Contact Centre or visit any Participating Nedbank Branch or refer to the FAQ section of the MTN Zakhele Futhi website at <a href="http://www.mtn.com/zakhelefuthi">www.mtn.com/zakhelefuthi</a> for more specific associated-party information.</p>	<p><u>Associated party who is a South African citizen resident in SA or an Asylum Seeker Resident in South Africa or a Refugee Resident in South Africa or a Minor:</u></p> <ul style="list-style-type: none"> <li>Proof of identity; and.</li> <li>Proof of physical address (if Nedbank client).</li> </ul> <p><u>Associated party who is a South African citizen resident abroad:</u></p> <ul style="list-style-type: none"> <li>Proof of identity;</li> <li>Proof of physical address (if Nedbank client); and</li> <li>Proof of residency (permit/visa), if applicable.</li> </ul> <p><u>Associated party who is a Foreign National Resident abroad:</u></p> <ul style="list-style-type: none"> <li>Proof of identity; and.</li> <li>Proof of physical address (if Nedbank client).</li> </ul> <p><u>Associated party who is a Foreign National Resident in South Africa:</u></p> <ul style="list-style-type: none"> <li>Proof of identity;</li> <li>Proof of physical address (if Nedbank client); and</li> <li>Proof of residency (permit/visa), if applicable.</li> </ul> <p><u>Associated party which is a Sole Proprietor:</u></p> <ul style="list-style-type: none"> <li>Proof of identity; and</li> <li>Proof of physical address and trading address, if different (if Nedbank client).</li> </ul> <p><u>Associated party which is a South African listed company or a Wholly Owned Subsidiary of a South African company or a Foreign Listed Company or a Wholly Owned Subsidiary of a Foreign Listed Company or a Partnership:</u></p> <ul style="list-style-type: none"> <li>Proof of identity; and</li> <li>Proof of physical address (if Nedbank client).</li> </ul> <p><u>Associated party which is a South African non-listed company or a Foreign non-listed company:</u></p> <ul style="list-style-type: none"> <li>Proof of identity;</li> <li>Proof of physical address (if Nedbank client); and</li> <li>Proof of shareholding membership (if holding 25% or more of the voting rights).</li> </ul> <p><u>Associated party which is a Non-profit Company/ Section 21 Company or a Close Corporation or an Other Legal Entity:</u></p> <ul style="list-style-type: none"> <li>Proof of identity; and</li> <li>Proof of physical address (if Nedbank client).</li> </ul> <p><u>Associated party which is an Inter-Vivos trust or a Testamentary trust:</u></p> <ul style="list-style-type: none"> <li>Proof of identity; and</li> <li>Proof of physical address (if Nedbank client).</li> </ul>

Type of client	Document type	Guidelines of what documents may be required
South African non-listed company	<u>Company documentation</u> – Original documents unless stated otherwise	<p><b>Verification of identity:</b></p> <ul style="list-style-type: none"> <li>• Full Certification of Confirmation or Disclosure Certificate reflecting the registered name, registration number and registered address;</li> </ul> <p>OR</p> <ul style="list-style-type: none"> <li>• The Notice of Registered Office and Postal Address (Form CM22) and either</li> <li>• Memorandum and articles of association (Form CM2 and CM44), or the original or certified copy of the most recent Certificate of Incorporation (Form CM1) or (Form CM9) where a South Africa non-listed company's name has changed, and therefore differs from the CM1 if applicable, the Notice of Change Concerning a Director (Form CM 27/29);</li> <li>• if applicable, the Notice of change of Registered Office (Form CM 22);</li> </ul> <p>OR</p> <ul style="list-style-type: none"> <li>• the full Certification of Confirmation or Disclosure Certificate reflecting the details required; and</li> <li>• if applicable, the Notice of Change Concerning a Director (Form CoR 39);</li> <li>• if applicable, the Notice of change of Registered Office (Form CoR 21).</li> </ul> <p><b>Verification requirements for a converted Close Corporation:</b></p> <ul style="list-style-type: none"> <li>• The registered name and registration number of a converted close corporation must be verified by comparing these particulars with the original or certified copy of the Close Corporation Registration Certificate (Form CoR 18.3).</li> </ul> <p><b>Change of name of a South African Non-Listed Company:</b></p> <p>Where a South African non-listed company changes its name, after the Companies Act came into effect the following documents need to be obtained:</p> <ul style="list-style-type: none"> <li>• The new registration certificate (CoR 14.3);</li> </ul> <p>OR</p> <ul style="list-style-type: none"> <li>• Special resolution passed by the company authorising the name change;</li> <li>• CIPC issued CoR 15.2 reflecting the company's new name as set out in the special resolution;</li> </ul> <p>AND</p> <ul style="list-style-type: none"> <li>• The most recent Certificate of Incorporation (Form CM1/CoR 14.3) which reflects the company's registration number and previous name.</li> </ul> <p>OR</p> <ul style="list-style-type: none"> <li>• Disclosure Certificate reflecting the details required.</li> </ul>
	<u>Proof of authority</u> Required for a natural person, purporting to act on behalf of the South African non-listed company, mandated officials and/or authorised signatories. Not required if there is only one director and no one else transacting on the account	<ul style="list-style-type: none"> <li>• The original resolution; or</li> <li>• A certified extract of minutes proving authority; or</li> <li>• An original letter signed by the company secretary on an official letterhead.</li> </ul>

Type of client	Document type	Guidelines of what documents may be required
	<u>Proof of trading address</u>	<ul style="list-style-type: none"> <li>Refer to page 158 of this Annexure 8 for a full list of the acceptable documents.</li> <li>The original documents are required to be presented at any Participating Nedbank Branch.</li> </ul>
	<u>Proof of shareholding</u> (Of an individual/legal entity confirming % voting rights)	<ul style="list-style-type: none"> <li>An original letter, confirming the shareholding signed by the company secretary on an official letterhead; or</li> <li>An original letter from the company auditors confirming the shareholding; or</li> <li>The audited company financial statements; or</li> <li>Sole shareholder declaration form (available from any Participating Nedbank Branch), if applicable.</li> </ul>
	<u>Associated-party information (if applicable)</u> Required for: <ul style="list-style-type: none"> <li>the authorised representative who has signed the appointment of authorised representative form attached to the Prospectus as Annexure 9; and if different:               <ul style="list-style-type: none"> <li>The manager/director of the South African non-listed company;</li> <li>each natural person who purports to be authorised to establish a business relationship on behalf of the South African non-listed company;</li> <li>each natural person who is authorised to transact on behalf of the South African non-listed company;</li> </ul> </li> <li>each natural person holding 25% or more of the voting rights at a general meeting of the South African non-listed company; and</li> <li>each legal entity, partnership or trust holding 25% or more of the voting rights at a general meeting of the South African non-listed company.</li> </ul> Please call the Nedbank Contact Centre or visit any Participating Nedbank Branch or refer to the FAQ section of the MTN Zakhele Futhi website at <a href="http://www.mtn.com/zakhelefuthi">www.mtn.com/zakhelefuthi</a> for more specific associated-party information.	<u>Associated party who is a South African citizen resident in South Africa or an Asylum Seeker Resident in South Africa or a Refugee Resident in South Africa or a Minor:</u> <ul style="list-style-type: none"> <li>Proof of identity; and</li> <li>Proof of physical address (if Nedbank client).</li> </ul> <u>Associated party who is a South African citizen resident abroad:</u> <ul style="list-style-type: none"> <li>Proof of identity;</li> <li>Proof of physical address (if Nedbank client); and</li> <li>Proof of residency (permit/visa), if applicable.</li> </ul> <u>Associated party who is a Foreign National Resident abroad:</u> <ul style="list-style-type: none"> <li>Proof of identity; and</li> <li>Proof of physical address (if Nedbank client).</li> </ul> <u>Associated party who is a Foreign National Resident in South Africa:</u> <ul style="list-style-type: none"> <li>Proof of identity;</li> <li>Proof of physical address (if Nedbank client); and</li> <li>Proof of residency (permit/visa), if applicable.</li> </ul> <u>Associated party which is a Sole Proprietor:</u> <ul style="list-style-type: none"> <li>Proof of identity; and</li> <li>Proof of physical address and trading address, if different (if Nedbank client).</li> </ul> <u>Associated party which is a South African listed company or a Wholly Owned Subsidiary of a South African company or a Foreign Listed Company or a Wholly Owned Subsidiary of a Foreign Listed Company or a Partnership:</u> <ul style="list-style-type: none"> <li>Proof of identity; and</li> <li>Proof of physical address (if Nedbank client).</li> </ul> <u>Associated party which is a South African non-listed company or a Foreign non-listed company:</u> <ul style="list-style-type: none"> <li>Proof of identity;</li> <li>Proof of physical address (if Nedbank client); and</li> <li>Proof of shareholding membership (if holding 25% or more of the voting rights).</li> </ul>

Type of client	Document type	Guidelines of what documents may be required
		<p><u>Associated party which is a Non-profit Company/section 21 company or a Close Corporation or an Other Legal Entity:</u></p> <ul style="list-style-type: none"> <li>• Proof of identity; and</li> <li>• Proof of physical address (if Nedbank client).</li> </ul> <p><u>Associated party which is an <i>Inter-Vivos</i> trust or a Testamentary trust:</u></p> <ul style="list-style-type: none"> <li>• Proof of identity; and</li> <li>• Proof of physical address (if Nedbank client).</li> </ul>
<b>South African listed company/wholly owned subsidiary of a South African listed company</b>	Please call the Nedbank Contact Centre on 083 900 6863 for more information (toll free number for MTN subscribers only).	
<b>South African (non-profit company)</b>	<p><u>Company documentation</u></p> <ul style="list-style-type: none"> <li>• Original documents unless stated otherwise</li> </ul>	<p><b>Verification of identity:</b></p> <ul style="list-style-type: none"> <li>• Full Certification of Confirmation or Disclosure Certificate reflecting the registered name, registration number and registered address;</li> </ul> <p>OR</p> <ul style="list-style-type: none"> <li>• the Notice of Registered Office and Postal Address (Form CM22);</li> </ul> <p>AND either</p> <ul style="list-style-type: none"> <li>• memorandum and articles of association (Form CM4); or</li> <li>• the original or certified copy of the most recent Certificate of Incorporation (CM3);</li> </ul> <p>AND</p> <ul style="list-style-type: none"> <li>• where the CM 22 does not contain details of directorship, the details of the director and other directorships (Form CM27 or CM29);</li> </ul> <p>OR</p> <ul style="list-style-type: none"> <li>• the original or certified copy of the most recent Notice of Incorporation (Form CoR 14.1); or</li> <li>• the original or certified copy of the Registration Certificate (Form CoR 14.3), provided the certificate contains the registered address;</li> </ul> <p><b>Note:</b> <i>If the CoR14.3 does not contain the registered address, the CoR 14.1 must be obtained.</i></p> <ul style="list-style-type: none"> <li>• if applicable, the Notice of Change Concerning a Director (Form CoR 39); and</li> <li>• if applicable, the Notice of change of Registered Office (Form CoR 21).</li> </ul> <p><b>Verification requirements for a converted Close Corporation:</b></p> <p>The registered name and registration number of a converted close corporation must be verified by comparing these particulars with:</p> <ul style="list-style-type: none"> <li>• the original or certified copy of the Close Corporation Registration Certificate (Form CoR 18.3).</li> </ul>

Type of client	Document type	Guidelines of what documents may be required
		<p><b>Note:</b> The registered address of the converted close corporation does not need to be verified (currently there is no form issued by the Commissioner that contains the registered address of a converted close corporation).</p> <p><b>Change of name of a South African Non-Profit Company:</b></p> <p>Where a South African non-profit company changes its name the following documents need to be obtained.</p> <p>Where a company's name has changed, Nedbank must obtain:</p> <ul style="list-style-type: none"> <li>The new registration certificate (CoR 14.3);</li> </ul> <p>OR</p> <ul style="list-style-type: none"> <li>Special resolution passed by the company authorising the name change;</li> <li>CIPC issued CoR 15.2 reflecting the company's new name as set out in the special resolution;</li> </ul> <p>AND</p> <ul style="list-style-type: none"> <li>The most recent Certificate of Incorporation (Form CM 3/CoR 14.3);</li> </ul> <p>OR</p> <ul style="list-style-type: none"> <li>Disclosure Certificate reflecting the details required.</li> </ul>
	<u>Proof of authority</u>	<ul style="list-style-type: none"> <li>The original resolution; or</li> <li>A certified extract of minutes proving authority; or</li> <li>An original letter signed by the company secretary on an official letterhead.</li> </ul>
	Required for each natural person purporting to act/transact on behalf of the South African non-profit company.	
	<u>Proof of trading address</u>	<ul style="list-style-type: none"> <li>Refer to page 158 of this Annexure 8 for a full list of the acceptable documents.</li> <li>The original documents are required to be presented at the Participating Nedbank Branch.</li> </ul>
	<u>Associated-party information</u>	<u>Associated party who is a South African citizen resident in South Africa or an Asylum Seeker Resident in SA or a Refugee Resident in South Africa or a Minor:</u>
	Required for:	<ul style="list-style-type: none"> <li>Proof of identity;</li> <li>Proof of physical address (if Nedbank client).</li> </ul>
	<ul style="list-style-type: none"> <li>the authorised representative who has signed the appointment of authorised representative form attached to the Prospectus as Annexure 9; and if different: <ul style="list-style-type: none"> <li>the manager/director of the South African non-profit company;</li> <li>each natural person who purports to be authorised to establish a business relationship on behalf of the South African non-profit company;</li> <li>each natural person who is authorised to transact on behalf of the South African non-profit company;</li> </ul> </li> <li>each natural person holding 25% or more of the voting rights at a general meeting of the South African non-profit company;</li> <li>each legal entity, partnership or trust holding 25% or more of the voting rights at a general meeting of the South African non-profit company.</li> </ul>	<u>Associated party who is a South African citizen resident abroad:</u> <ul style="list-style-type: none"> <li>Proof of identity;</li> <li>Proof of physical address (if Nedbank client); and</li> <li>Proof of residency (permit/visa), if applicable.</li> </ul>
		<u>Associated party who is a Foreign National Resident abroad:</u>
		<ul style="list-style-type: none"> <li>Proof of identity; and</li> <li>Proof of physical address (if Nedbank client).</li> </ul>
		<u>Associated party who is a Foreign National Resident in South Africa:</u>
		<ul style="list-style-type: none"> <li>Proof of identity;</li> <li>Proof of physical address (if Nedbank client); and</li> <li>Proof of residency (permit/visa), if applicable.</li> </ul>

Type of client	Document type	Guidelines of what documents may be required
	<p>Please call the Nedbank Contact Centre or visit any Participating Nedbank Branch or refer to the FAQ section of the MTN Zakhele Futhi website at <a href="http://www.mtn.com/zakhelefuthi">www.mtn.com/zakhelefuthi</a> for more specific associated-party information.</p>	<p><u>Associated party which is a Sole Proprietor:</u></p> <ul style="list-style-type: none"> <li>• Proof of identity; and</li> <li>• Proof of physical address and trading address, if different (if Nedbank client).</li> </ul> <p><u>Associated party which is a South African listed company or a Wholly Owned Subsidiary of a South African company or a Foreign Listed Company or a Wholly Owned Subsidiary of a Foreign Listed Company or a Partnership:</u></p> <ul style="list-style-type: none"> <li>• Proof of identity; and</li> <li>• Proof of physical address (if Nedbank client).</li> </ul> <p><u>Associated party which is a South African non-listed company or a Foreign non-listed company:</u></p> <ul style="list-style-type: none"> <li>• Proof of identity;</li> <li>• Proof of physical address (if Nedbank client); and</li> <li>• Proof of shareholding membership (if holding 25% or more of the voting rights).</li> </ul> <p><u>Associated party which is a Non-profit Company/section 21 company or a Close Corporation or an Other Legal Entity:</u></p> <ul style="list-style-type: none"> <li>• Proof of identity;</li> <li>• Proof of physical address (if Nedbank client); and</li> <li>• Proof of trading address.</li> </ul> <p><u>Associated party which is an Inter-Vivos trust or a Testamentary trust:</u></p> <ul style="list-style-type: none"> <li>• Proof of identity; and</li> <li>• Proof of physical address (if Nedbank client).</li> </ul>
<b>Other “unincorporated” legal entities</b>	<p><u>Legal entity documentation</u></p> <ul style="list-style-type: none"> <li>• Original documents unless stated otherwise</li> </ul>	<ul style="list-style-type: none"> <li>• The constitution and/or other founding document or certified copy thereof in terms of which the other legal person/entity/organ of state is created; or</li> <li>• Other documents relating to the founding of the legal form.</li> </ul> <p><u>The following requirements are applicable for a cooperative:</u></p> <ul style="list-style-type: none"> <li>• Certificate of Registration of the cooperative (form CoR 10); or</li> <li>• CIPC printout; or</li> <li>• Constitution of the cooperative signed by the minimum number of founder members.</li> </ul> <p><u>If there was a name change for the cooperative:</u></p> <ul style="list-style-type: none"> <li>• Certification of Change of Name (form CoR 11).</li> </ul>
	<p><u>Proof of authority</u></p> <p>Required for a natural person purporting to act on behalf of the other legal person/legal entity/organ of state mandated officials or authorised signatories.</p>	<ul style="list-style-type: none"> <li>• The original resolution; or</li> <li>• A certified extract of minutes proving authority; or</li> <li>• An original letter signed on the letterhead the other legal person/entity/organ of state.</li> </ul>
	<p><u>Proof of trading address</u></p>	<ul style="list-style-type: none"> <li>• Refer to page 158 of this Annexure 8 for a full list of the acceptable documents.</li> <li>• The original documents are required to be presented at the Participating Nedbank Branch.</li> </ul>

Type of client	Document type	Guidelines of what documents may be required
	<p><u>Associated party information (if applicable)</u></p> <p>Required for:</p> <ul style="list-style-type: none"> <li>the authorised representative who has signed the appointment of authorised representative form attached to the Prospectus as Annexure 9; and if different: <ul style="list-style-type: none"> <li>Each natural person who purports to be authorised to establish the business relationship (chief financial officer, office bearers, chairperson, treasurer, secretary, etc.) on behalf of the other legal person/entity/organ of state; and</li> <li>Each natural person who is authorised to transact on behalf of the other legal person/entity/organ of state.</li> </ul> </li> </ul> <p>Please call the Nedbank Contact Centre or visit any Participating Nedbank Branch or refer to the FAQ section of the MTN Zakhele Futhi website at <a href="http://www.mtn.com/zakhelefuthi">www.mtn.com/zakhelefuthi</a> for more specific associated-party information.</p>	<p><u>Associated party who is a South African citizen resident in SA or an Asylum Seeker Resident in South Africa or a Refugee Resident in South Africa or a Minor:</u></p> <ul style="list-style-type: none"> <li>Proof of identity; and</li> <li>Proof of physical address (if Nedbank client).</li> </ul> <p><u>Associated party who is a South African citizen resident abroad:</u></p> <ul style="list-style-type: none"> <li>Proof of identity;</li> <li>Proof of physical address (if Nedbank client); and</li> <li>Proof of residency (permit/visa), if applicable.</li> </ul> <p><u>Associated party who is a Foreign National Resident abroad:</u></p> <ul style="list-style-type: none"> <li>Proof of identity; and</li> <li>Proof of physical address (if Nedbank client).</li> </ul> <p><u>Associated party who is a Foreign National Resident in South Africa:</u></p> <ul style="list-style-type: none"> <li>Proof of identity;</li> <li>Proof of physical address (if Nedbank client); and</li> <li>Proof of residency (permit/visa), if applicable.</li> </ul>
<b>Inter vivos trust (registered in South Africa)</b>	<u>Proof of identity</u>	<ul style="list-style-type: none"> <li>The trust deed or other founding document in terms of which the trust was created.</li> </ul>
	<u>Proof of authority</u>	<ul style="list-style-type: none"> <li>The trustees' resolution to establish the business relationship; or</li> <li>A certified extract of the minutes proving authority; or</li> <li>An original letter of authority signed by a trustee stating the decision was taken to establish a business relationship with Nedbank; or</li> <li>Proof of authority (for a natural person purporting to act on behalf of an <i>inter vivos</i> trust, but who is not a trustee): a document stating the capacity and authority of the person authorised to establish the business relationship.</li> </ul>
	<u>Proof of address</u>	<ul style="list-style-type: none"> <li>The authorisation given by the Master of the High Court in terms of section 7 of the Trust Property Control Act, 1998 (Act No. 57 of 1998), to each trustee of the trust to act in that capacity.</li> <li>Where the authorisation is issued in an Eastern Cape Court and amendments to the original authorisation has been made, a letter of endorsement is acceptable as an alternative to the authorisation.</li> </ul>



Type of client	Document type	Guidelines of what documents may be required
	<p><u>Associated party information</u></p> <p>Required for:</p> <ul style="list-style-type: none"> <li>the authorised representative who has signed the appointment of authorised representative form attached to the Prospectus as Annexure 9, and if different: <ul style="list-style-type: none"> <li>each trustee (whether a natural person, legal entity, another trust or partnership) of the trust; each natural person who purports to be authorised to establish a business relationship on behalf of the trust;</li> <li>each natural person who is authorised to transact on behalf of the trust;</li> <li>each beneficiary (whether a natural person, legal entity, another trust or partnership) of the trust referred to by name in the trust deed or other founding instrument in terms of which the trust was created;</li> <li>unnamed, undisclosed and discretionary beneficiaries (whether a natural person or legal entity, another trust or partnership). If they have not been referred to by name or have not been notified that they are beneficiaries, or are still to be determined by the trustees, the particulars of how the beneficiaries of the trust are determined must be documented.</li> <li>the founder(s) (whether a natural person, legal entity, another trust or partnership) of the trust.</li> </ul> </li> </ul> <p>Please call the Nedbank Contact Centre or visit any Participating Nedbank Branch or refer to the FAQ section of the MTN Zakhele Futhi website at <a href="http://www.mtn.com/zakhelefuthi">www.mtn.com/zakhelefuthi</a> for more specific associated-party information.</p>	<p><u>Associated party who is a South African citizen resident in South Africa or an Asylum Seeker Resident in South Africa or a Refugee Resident in South Africa or a Minor:</u></p> <ul style="list-style-type: none"> <li>Proof of identity; and</li> <li>Proof of physical address (if Nedbank client).</li> </ul> <p><u>Associated party who is a South African citizen resident abroad:</u></p> <ul style="list-style-type: none"> <li>Proof of identity; and</li> <li>Proof of physical address (if Nedbank client); and</li> <li>Proof of residency (permit/visa).</li> </ul> <p><u>Associated party who is a Foreign National Resident abroad:</u></p> <ul style="list-style-type: none"> <li>Proof of identity; and</li> <li>Proof of physical address (if Nedbank client).</li> </ul> <p><u>Associated party who is a Foreign National Resident in South Africa:</u></p> <ul style="list-style-type: none"> <li>Proof of identity;</li> <li>Proof of physical address (if Nedbank client); and</li> <li>Proof of residency (permit/visa).</li> </ul>

**Any of the following documents (original or certified) can be used as proof of address**

<b>TYPE OF UTILITY BILL/DOCUMENT</b>	<b>VALIDITY</b>
Utility bill	<3 months old
Bank statement from an institution other than Nedbank	<3 months old
Lease or rental agreement (must be a valid agreement at the date of application)	<12 months old
Permit to occupy premises (must be a valid permit at the date of application)	<3 months old
Site rental certificate	<3 months old
Letter from employer where client is housed in/on employer's premises – letter must show the period of occupation	<3 months old
Municipal rates and taxes invoice	<6 months old
Mortgage statement – from an institution other than the Nedbank Group	<6 months old
Telkom or other fixed-line-provider account	<3 months old
Official SARS document/letterhead-tax return/any other official document issued by the South African Revenue Service on its letterhead	<12 months old
IRP5 certificate as supplied by employer	<12 months old
Body corporate/Share block correspondence	<12 months old
Valid TV licence	<12 months old
Valid motor vehicle licence	<12 months old
Payslip or salary advice	<3 months old
Insurance policy document	<3 months old
Nedbank bond registration document-registration and/or Nedbank valuation certificate	<12 months old
National, provincial or local government document	<12 months old
Court order	<3 months old
Retail account including cell phone account	<3 months old
UIF or pension payment slip	<3 months old
Other official third-party document – from a credible source, e.g. doctors accounts; medical aid statements	<3 months old
University documentation – letter on official university letterhead confirming the student's full name, identity number, student number, current year of registration and physical address	<3 months old
Tribal chief/authority may sign the declaration with their official stamp or attach an official letterhead	<3 months old

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## ANNEXURE 9: APPOINTMENT OF AUTHORISED REPRESENTATIVE

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RESOLVED THAT \_\_\_\_\_ (insert full name of authorised representative),  
identity number \_\_\_\_\_ (insert identity number of authorised representative) be and is hereby  
authorised for and on behalf of \_\_\_\_\_ (insert name of  
Black Group) trading as \_\_\_\_\_ (if applicable),  
registration number \_\_\_\_\_ (insert registration number of Black Group, if applicable) (the "**Black Group**"),  
to:

- do all such things and sign all such documents (including, but not limited to the Application Form, FICA and BEE verification process) as may be required in connection with the MTN Zakhele Futhi Offer; and
- engage with and/or issue instructions to MTN Zakhele, MTN Zakhele Futhi, Nedbank and/or any service providers and/or third parties in connection with the MTN Zakhele Futhi Offer.

IT IS HEREBY CERTIFIED THAT THE ABOVE IS A TRUE EXTRACT FROM THE RESOLUTION OF THE DIRECTORS / TRUSTEES / PARTNERS / MEMBERS (delete where not applicable) OF THE BLACK GROUP DULY PASSED IN ACCORDANCE WITH ITS CONSTITUTIONAL DOCUMENTS ON \_\_\_\_\_ 2016 (insert date).

Name: \_\_\_\_\_

Identity number: \_\_\_\_\_

Capacity: \_\_\_\_\_

Date: \_\_\_\_\_



## MTN ZAKHELE FUTHI (RF) LIMITED

("MTN Zakhele Futhi")

(Incorporated in the Republic of South Africa)

(Registration number 2016/268837/06)

**MTN Zakhele Futhi Nedbank unique reference number (Nedbank to generate)**

## APPLICATION FORM FOR BLACK PEOPLE TO SUBSCRIBE FOR SHARES IN MTN ZAKHELE FUTHI

**All capitalised terms used in this Application Form are defined on pages 25 to 39 of the Prospectus (Definitions and Interpretation). This Application Form forms part of the Prospectus which was registered by the Registrar of Companies on 26 August 2016 and must be read in conjunction with it.**

**Applications submitted after 16:00 on 21 October 2016 will be disregarded.**

<b>Instructions:</b>
<p><b>1)</b> You may only apply to participate if you qualify to participate in the MTN Zakhele Futhi Offer.</p> <p><b>2)</b> The following options are available to all Applicants to provide some of the required data for purposes of populating an Application Form prior to visiting a Participating Nedbank Branch if an Applicant wishes to do so in order to speed up the application process:</p> <ul style="list-style-type: none"><li><b>a.</b> Applicants may complete (but should not sign) this Application Form by hand; or</li><li><b>b.</b> Applicants may call the Nedbank Contact Centre on 083 900 6863 (toll free number for MTN subscribers only); or</li><li><b>c.</b> Applicants may visit the following website to electronically capture some of the data for the Application Form – <a href="http://www.mtn.com/zakhelefuthi">www.mtn.com/zakhelefuthi</a></li></ul> <p><b>3)</b> Please note that you will not be able to submit all the information required online or via the Nedbank Contact Centre as some information will be required to be provided at a Participating Nedbank Branch.</p> <p><b>4)</b> Every Applicant must visit a Participating Nedbank Branch to complete the application process, sign the Application Form printed by the Participating Nedbank Branch and submit all supporting documents contemplated in paragraph 6.2 of Section 2 of the Prospectus commencing on page 57. Please bring a copy of the Prospectus with you to the Participating Nedbank Branch. If you do not have a copy of the Prospectus, the Participating Nedbank Branch will provide you with a copy.</p> <p><b>5)</b> Before completing the application process, read the Prospectus and, in particular, the details of the MTN Zakhele Futhi Offer (Refer to Section 2 of the Prospectus commencing on page 50). Re-investment Applicants must also read the MTN Zakhele Circular.</p> <p><b>6)</b> Applications for MTN Zakhele Futhi Shares under the MTN Zakhele Futhi Offer are irrevocable and may not be withdrawn once received by or on behalf of MTN Zakhele Futhi and/or MTN Zakhele (as applicable), unless MTN Zakhele Futhi or MTN Zakhele (in respect of the MTN Zakhele Re-investment Offer) issues, registers and publishes a supplement to the Prospectus, in which event applications made prior to the date of issue or publication of the supplement may be withdrawn on written notice to MTN Zakhele Futhi (in the case of applications under the MTN Zakhele Futhi Public Offer) and MTN Zakhele (in the case of applications under the MTN Zakhele Re-investment Offer) within 20 business days after the date of publication; provided that, in respect of any supplement published by MTN Zakhele the right to withdraw applications applies only to applications made under the MTN Zakhele Re-investment Offer and not to Cash Applicants.</p> <p><b>7)</b> The minimum subscription required for participation by a Cash Applicant in the MTN Zakhele Futhi Public Offer is 100 MTN Zakhele Futhi Shares at R20.00 per MTN Zakhele Futhi Share, which amounts to a minimum subscription payment of R2 000. The minimum subscription required for participation by a Re-investment Applicant in the MTN Zakhele Re-investment Offer is the election to re-invest 50 MTN Zakhele Shares.</p> <p><b>8)</b> Please ensure you have read the terms and conditions of the MTN Zakhele Futhi Offer as set out in Section 2 of the Prospectus commencing on page 50.</p> <p><b>9)</b> If you are unsure as to the correct way to capture some of your data for purposes of populating the Application Form prior to visiting a Participating Nedbank Branch or do not have online access, please contact the Nedbank Contact Centre on 083 900 6863 or visit any Participating Nedbank Branch for assistance.</p> <p><b>10)</b> Once the required data has been captured and the Application Form has been completed, the Participating Nedbank Branch will print the Application Form to be signed by you at the Participating Nedbank Branch.</p> <p><b>11)</b> At the time of and immediately prior to signing the Application Form printed by the Participating Nedbank Branch, you will be requested to sign and tear out the Confirmation of Possession attached to the Prospectus for submission to the Participating Nedbank Branch. Please do not sign or tear out the Confirmation or Receipt prior to visiting the Participating Nedbank Branch and being requested to do so.</p> <p><b>12)</b> The Participating Nedbank Branch will retain the original signed Application Form and Confirmation of Possession and provide you with a copy of your signed Application Form. You will be sent an SMS with a payment instruction. If you are a Cash Applicant, use the account details on the payment instruction to make payment before 16:00 on 21 October 2016 if paying in cash and before 16:00 on 18 October 2016 if paying by EFT. Nedbank will issue you with a unique reference number which must thereafter be used with respect to all communications with Nedbank, all documents delivered to Nedbank and all payments made. Whatever amount you (or other persons) deposit into the MTN Zakhele Futhi bank account, and, if you are a legal or beneficial shareholder in MTN's current BEE scheme (MTN Zakhele (RF) Limited), the value of the MTN Zakhele Scheme Consideration (valued at the Repurchase Share Price), in respect of your MTN Zakhele Shares (if any) that you elect to re-invest into MTN Zakhele Futhi in the manner provided for in the Prospectus, will constitute an offer by you to subscribe for MTN Zakhele Futhi Shares up to that amount. This offer is irrevocable, save as set out above. This amount will be used, if you are successful with your application, to subscribe for as many MTN Zakhele Futhi Shares as possible (in multiples of R100.00) up to the maximum number of MTN Zakhele Futhi Shares allocated to you, and if you are a Cash Applicant, any excess amount will be refunded to you as provided for in the Prospectus. Please note that refunds are subject to Cash Applicants having complied with FICA. If you are a Re-investment Applicant, any excess election will be settled in accordance with the terms of the MTN Zakhele Unwinding Scheme.</p> <p><b>13)</b> If you are re-investing as a Re-investment Applicant and would like to apply for additional MTN Zakhele Futhi shares as a Cash Applicant, you will need to follow the same payment process as Cash Applicants (but need not complete a further Application Form). All Re-investment Applicants will be sent payment instructions and a unique reference number via SMS which can be used in the event you would like to make an additional cash investment.</p> <p><b>14)</b> If you made a mistake when providing your banking or other details for purposes of populating the Application Form (created and submitted through the above channels), you will need to visit a Participating Nedbank Branch during the Offer Period to update the details.</p> <p><b>15)</b> If any of your contact details in the Application Form (created and submitted through the channels) change during the Offer Period, you will need to visit a Participating Nedbank Branch during the Offer Period to update your contact details and, if your address has changed, re-submit your proof of address supporting documents for FICA purposes.</p> <p><b>16)</b> If any of your details changes after the Offer Period, please contact the Nedbank Contact Centre on 083 900 6863.</p> <p><b>17)</b> MTN Zakhele Futhi is entitled to verify your details (for BEE, FICA and other purposes) and you are obligated to assist in such verification promptly when requested to do so.</p> <p><b>18)</b> BEE, FICA and other supporting documents submitted to any Participating Nedbank Branch must either be provided as the original documents or must be certified as a true copy of the original (which can, for example, be done at any South African Police Station). Please refer to the supporting documents contemplated in paragraph 6.2 of Section 2 of the Prospectus commencing on page 57.</p> <p><b>19)</b> If you are an MTN subscriber, the information provided by you with your Application Form or in this form will not result in an update to any of your existing RICA information stored by MTN SA.</p> <p><b>20)</b> Privacy notice: MTN Zakhele Futhi is collecting your personal information from you and its address is 216 14th Avenue, Fairland, 2170. The nature of the personal information collected relates to your personal contact details, your race, your citizenship, your country of residence, your tax number, certain financial details, whether you are disabled or unemployed, your age and whether you are a military veteran. Nedbank is collecting this information on MTN Zakhele Futhi's behalf. In the declaration and agreement below we ask for your consent to MTN Zakhele Futhi and Nedbank processing your personal information. Your personal information is being collected so that if your application to subscribe for shares in MTN Zakhele Futhi is successful, MTN Zakhele Futhi can facilitate and implement your participation in the MTN Zakhele Futhi Offer. FICA also requires MTN Zakhele Futhi to collect your personal information. Providing your personal information to MTN Zakhele Futhi is mandatory, and if you do not provide the information requested, your application to subscribe for shares will be declined. Your personal information will be shared with Nedbank, MTN, the CSDPs and the Transfer Secretary, Strate and any other applicable third party for the purposes of facilitating and implementing the MTN Zakhele Futhi Offer and your subsequent holding of MTN Zakhele Futhi Shares. You have the right to access your personal information, the right to correct your personal information, and the right to object to the processing of your personal information. Please see the website – <a href="http://www.mtn.com/zakhelefuthi">www.mtn.com/zakhelefuthi</a> for contact details.</p> <p><b>21)</b> The terms set out above are summary in nature and do not substitute or limit the full terms applicable to Applications and the MTN Zakhele Futhi Offer which are set out in the Prospectus and to which you are bound by signing this Application Form.</p>
<b>If you have any questions regarding the Application Form, please call the Nedbank Contact Centre on 083 900 6863 (toll free number for MTN subscribers only).</b>

### PERSONAL DETAILS OF APPLICANT

Title:	
Surname:	
First name/s (as per identity document):	
Other names:	
Initials:	
Gender: <input type="checkbox"/> Male <input type="checkbox"/> Female	
South African Identity number:	
South African citizen: YES/NO	
Country of Residence: SOUTH AFRICA/ OTHER	
SARS tax reference number, if available (ten digit reference number)	

By selecting "YES" you expressly permit MTN, its affiliates and business partners to contact you for the purpose of marketing our/their products and services to you, until you give instruction in the prescribed manner to the contrary	YES/NO
By selecting "YES" you expressly permit Nedbank, its affiliates and business partners to contact you for the purpose of marketing our/their products and services to you, until you give instruction in the prescribed manner to the contrary	YES/NO
Are you a legal or beneficial shareholder in MTN's current BEE scheme (MTN Zakhele (RF) Limited)	YES/NO

If yes, are you electing to re-invest some or all of your MTN Zakhele Shares into MTN Zakhele Futhi?

YES/NO

If you are a Re-investment Applicant, would you also like to apply to invest additional cash funds into MTN Zakhele Futhi?

YES/NO

Are you a member of any one or more of the following Designated Groups (as defined):

YES/NO/UNCERTAIN

- Disabled** as defined in the Codes of Good Practice on employment of people with disabilities issued under the Employment Equity Act

**Military veteran** who qualifies to be called a military veteran in terms of Military Veterans Act 18 of 2011

**Unemployed** and not attending and not required by law to attend an educational institutional and not awaiting admission to an educational institutional

Living in **rural** and under developed areas

**Youth** as defined in the National Youth Commission Act of 1996 (16 – 35 years old)

Before applying for shares in MTN Zakhele Futhi, have you held equity instruments (e.g. shares or similar securities) in any other entities (including non-BEE entities) which have a total value of more than R50 million, measured using a standard valuation method?

YES/NO/UNCERTAIN

CONTACT DETAILS FOR APPLICANT

E-mail address:

Cell phone number:

Work phone number:

Home phone number:

Postal address

PO Box number:

Suburb:

City/town:

Postal code:

Residential address:

Postal code:

Suburb:

City/town:

Postal code:

Address where notices must be served: Postal address/residential address

Please note that **you will only receive communications by SMS with respect to the status of your application** and you will not be able to reply to those SMSes. By signing this Application Form you agree to receiving regular status updates by SMS. If you have any queries with respect to any SMS received by you, you will need to visit a Participating Nedbank Branch or call the Nedbank Contact Centre.

Please ensure that you are able to be contacted on the cell phone number that you provided to Nedbank during the Offer Period and for 60 days thereafter. If your cell phone number changes during this time, you will need to visit any Participating Nedbank Branch to update your contact details.

If the Applicant is a minor (under 18 years of age): Insert details of his/her legal guardian or parents who by his/her signature below, in a representative capacity, provides the warranties and undertakings and acknowledgements set out in this Application Form and concludes the Relationship Agreement on behalf of the Applicant.

DETAILS OF PARENT/GUARDIAN IF APPLICANT IS A MINOR OR IF THE PERSON SIGNING THIS FORM IS SIGNING IN A REPRESENTATIVE CAPACITY

Capacity:

☐ Birth parent of minor

☐ Legal guardian

Title:

Surname:

First name/s (as per identity document):

Initials:

Identity number:

Email address:

Cell phone number:

Office phone number:

Home phone number:

Residential address:

Postal code:

Postal address:

Postal code:

BANK ACCOUNT DETAILS FOR APPLICANT (South African bank account denominated in South African Rand ONLY)

Name of bank account holder:

Bank name:

Bank account number:

Branch code:

Account type:

☐ Cheque/Current

☐ Savings

Please note that all refunds, dividends and other payments will be made in South African Rand to the above bank account which must be in the Applicant's name. Refunds, dividends and other payments will not be made in foreign currency, into foreign bank accounts or to any person or bank account other than to the Applicant's bank account above. Accordingly, if any person makes any payments on your behalf or otherwise into MTN Zakhele Futhi bank account using your unique reference number, all refunds, dividends and other payments will be paid to you and not to that person. You hereby agree to indemnify MTN Zakhele Futhi, MTN and Nedbank in respect of any claims made by any person who made any payment on your behalf or otherwise into the MTN Zakhele Futhi bank account using your unique reference number.

DECLARATION AND AGREEMENT:

To: MTN ZAKHELE FUTHI (RF) LIMITED

By signing this Application Form:

I \_\_\_\_\_, the undersigned confirm to MTN Zakhele Futhi that I have full legal capacity and that I am duly authorised to contract and, having read and understood the Prospectus, hereby irrevocably apply for the number of MTN Zakhele Futhi Shares contemplated in paragraph 12 of the instructions hereof; provided that if a supplement to the Prospectus is registered and published and I applied for MTN Zakhele Futhi Shares prior to the date of publication of the supplement, I shall be entitled to withdraw the application on written notice to MTN Zakhele Futhi and/or MTN Zakhele (as applicable) within 20 business days after the date of publication of the supplement in the circumstances set out in paragraph 6 of the instructions hereof.

I warrant to MTN Zakhele Futhi that I am a South African citizen and a Black Person (as defined in the Definitions and Interpretation section of the Prospectus commencing on page 25 of the Prospectus) and that all of the information provided by me in this Application Form (including all supporting documents) is true and correct in all respects.

I acknowledge to MTN Zakhele Futhi that I have been informed that various restrictions are imposed upon the Disposal and/or Encumbrance of MTN Zakhele Futhi Shares as set out in the Relationship Agreement and summarised in paragraph 12 of Section 2 of the Prospectus. I undertake to MTN Zakhele Futhi and MTN that, if MTN Zakhele Futhi Shares are issued to me, I will comply with the terms of the MTN Zakhele Futhi MOI including all the restrictions contained in the MTN Zakhele Futhi MOI, and I confirm and agree in favour of MTN Zakhele Futhi and MTN that I am and will be bound by the provisions of the Relationship Agreement forming Annexure 7 to the Prospectus. I understand that if I contravene these restrictions and/or breach the terms of the Relationship Agreement, I may have action taken against me which may result in me losing any benefit which I would otherwise have had in my investment in MTN Zakhele Futhi.

I acknowledge that MTN Zakhele Futhi will rely on the truthfulness and completeness of the information provided and statements made by me when making its decision to issue MTN Zakhele Futhi Shares to me.

I agree that MTN Zakhele Futhi is entitled to verify my details and that I am obliged to assist in such verification promptly when requested to do so.

I hereby consent to MTN Zakhele Futhi and MTN Zakhele (to the extent applicable) and their service providers transferring my personal information to Nedbank and any of Nedbank's service providers to be used for any purpose relating to the MTN Zakhele Futhi Offer and subsequent holdings of MTN Zakhele Futhi Shares.

**Dated**

**Place**

Surname:

First name/s (as per identity document):

Identity number:

Signature:

**If the Applicant is a minor (under 18 years of age): Insert details of his/her legal guardian or parents who by his/her signature below provides the above warranties and undertakings and acknowledgements and concludes the Relationship Agreement for and on behalf of the Applicant.**

Surname:

First name/s (as per identity document):

Identity number:

Capacity Parent/Guardian:

Signature:

**By signing this Application Form you confirm that the details contained in this Application Form and in your supporting documents are true and correct. Once you have signed this Application Form, you will not be able to claim later that the details that you have included in this Application Form and in your supporting documents were not true and correct when you gave us this Application Form or the supporting documents. MTN, MTN Zakhele and/or MTN Zakhele Futhi or other persons may also have claims and rights against you because of the details that you put in this Application Form, AND PROVIDING FALSE INFORMATION COULD BE A CRIMINAL OFFENCE.**

TERMS AND CONDITIONS

- By signing this Application Form you:
- 1) agree to: (i) the sharing of the information contained herein between Nedbank, MTN, the CSDPs, the Transfer Secretary, Strate and any other applicable third party for the purposes of facilitating and implementing the MTN Zakhele Futhi Offer/and your subsequent holding of shares in MTN Zakhele Futhi; and (ii) the use, process and/or transfer of the information contained herein, including intra-group transfers, transfers across a country border and transfers to entities in countries that do not provide statutory protections for personal information; and

2) confirm your acceptance of (and agreement to) the privacy policy and, to the extent applicable, the terms and conditions of the website, which can be found at [www.mtn.com/zakhelefuthi](http://www.mtn.com/zakhelefuthi)

## MTN ZAKHELE FUTHI (RF) LIMITED

("MTN Zakhele Futhi")

(Incorporated in the Republic of South Africa)

(Registration number 2016/268837/06)

**MTN Zakhele Futhi Nedbank unique reference number (Nedbank to generate)**

## APPLICATION FORM FOR BLACK GROUPS TO SUBSCRIBE FOR SHARES IN MTN ZAKHELE FUTHI

**All capitalised terms used in this Application Form are defined on pages 25 to 39 of the Prospectus (Definitions and Interpretation). This Application Form forms part of the Prospectus which was registered by the Registrar of Companies on 26 August 2016 and must be read in conjunction with it. Applications submitted after 16:00 on 21 October 2016 will be disregarded.**

### Instructions:

- 1) You may only apply to participate if you qualify to participate in the MTN Zakhele Futhi Offer.
- 2) The following options are available to all Applicants to provide some of the required data for purposes of populating an Application Form prior to visiting a Participating Nedbank Branch if an Applicant wishes to do so in order to speed up the application process:
  - a. Applicants may complete (but should not sign) this Application Form by hand; or
  - b. Applicants may call the Nedbank Contact Centre on 083 900 6863 (toll free number for MTN subscribers only); or
  - c. Applicants may visit the following website to electronically capture some of the data for the Application Form – [www.mtn.com/zakhelefuthi](http://www.mtn.com/zakhelefuthi)
- 3) Please note that you will not be able to submit all the information required online or via the Nedbank Contact Centre as some information will be required to be provided at a Participating Nedbank Branch.
- 4) Every Applicant must visit a Participating Nedbank Branch to complete the application process, sign the Application Form printed by the Participating Nedbank Branch and submit all supporting documents contemplated in paragraph 6.2 of Section 2 of the Prospectus commencing on page 57. Please bring a copy of the Prospectus with you to the Participating Nedbank Branch. If you do not have a copy of the Prospectus, the Participating Nedbank Branch will provide you with a copy.
- 5) Before completing the application process, read the Prospectus and, in particular, the details of the MTN Zakhele Futhi Offer (Refer to Section 2 of the Prospectus commencing on page 50). Re-investment Applicants must also read the MTN Zakhele Circular.
- 6) Applications for MTN Zakhele Futhi Shares under the MTN Zakhele Futhi Offer are irrevocable and may not be withdrawn once received by or on behalf of MTN Zakhele Futhi and/or MTN Zakhele (as applicable), unless MTN Zakhele Futhi or MTN Zakhele (in respect of the MTN Zakhele Re-investment Offer) issues, registers and publishes a supplement to the Prospectus, in which event applications made prior to the date of issue or publication of the supplement may be withdrawn on written notice to MTN Zakhele Futhi (in the case of applications under the MTN Zakhele Futhi Public Offer) and MTN Zakhele (in the case of applications under the MTN Zakhele Re-investment Offer) within 20 business days after the date of publication; provided that, in respect of any supplement published by MTN Zakhele the right to withdraw applications applies only to applications made under the MTN Zakhele Re-investment Offer and not to Cash Applicants.
- 7) The minimum subscription required for participation by a Cash Applicant in the MTN Zakhele Futhi Public Offer is 100 MTN Zakhele Futhi Shares at R20 per MTN Zakhele Futhi Share, which amounts to a minimum subscription payment of R2 000. The minimum subscription required for participation by a Re-investment Applicant in the MTN Zakhele Re-investment Offer is the election to re-invest 50 MTN Zakhele Shares.
- 8) Please ensure you have read the terms and conditions of the MTN Zakhele Futhi Offer as set out in Section 2 of the Prospectus commencing on page 50.
- 9) If you are unsure as to the correct way to capture some of your data for purposes of populating the Application Form prior to visiting a Participating Nedbank Branch or do not have online access, please contact the Nedbank Contact Centre on 083 900 6863 or visit any Participating Nedbank Branch for assistance.
- 10) Once the required data has been captured and the Application Form has been completed, the Participating Nedbank Branch will print the Application Form to be signed by you at the Participating Nedbank Branch.
- 11) At the time of and immediately prior to signing the Application Form printed by the Participating Nedbank Branch, you will be requested to sign and tear out the Confirmation of Possession attached to the Prospectus for submission to the Participating Nedbank Branch. Please do not sign or tear out the Confirmation or Receipt prior to visiting the Participating Nedbank Branch and being requested to do so.
- 12) The Participating Nedbank Branch will retain the original signed Application Form and Confirmation of Possession and provide you with a copy of your signed Application Form. You will be sent an SMS with a payment instruction. If you are a Cash Applicant, use the account details on the payment instruction to make payment before 16:00 on 21 October 2016 if paying in cash and before 16:00 on 18 October 2016 if paying by EFT. Nedbank will issue you with a unique reference number which must thereafter be used with respect to all communications with Nedbank, all documents delivered to Nedbank and all payments made. Whatever amount you (or other persons) deposit into the MTN Zakhele Futhi bank account, and, if you are a legal or beneficial shareholder in MTN's current BEE scheme (MTN Zakhele (RF) Limited), the value of the MTN Zakhele Scheme Consideration (valued at the Repurchase Share Price) in respect of your MTN Zakhele Shares (if any) that you elect to re-invest into MTN Zakhele Futhi in the manner provided for in the Prospectus, will constitute an offer by you to subscribe for MTN Zakhele Futhi Shares up to that amount. This offer is irrevocable, save as set out above. This amount will be used, if you are successful with your application, to subscribe for as many MTN Zakhele Futhi Shares as possible (in multiples of R100) up to the maximum number of MTN Zakhele Futhi Shares allocated to you and, if you are a Cash Applicant, any excess amount will be refunded to you as provided for in the Prospectus. Please note that refunds are subject to Cash Applicants having complied with FICA. If you are a Re-investment Applicant, any excess election will be settled in accordance with the terms of the MTN Zakhele Unwinding Scheme.
- 13) If you are re-investing as a Re-investment Applicant and would like to apply for additional MTN Zakhele Futhi shares as a Cash Applicant, you will need to follow the same payment process as Cash Applicants (but need not complete a further Application Form). All Re-investment Applicants will be sent payment instructions and a unique reference number via SMS which can be used in the event you would like to make an additional cash investment.
- 14) If you made a mistake when providing your banking or other details for purposes of populating the Application Form (created and submitted through the above channels), you will need to visit a Participating Nedbank Branch during the Offer Period to update the details.
- 15) If any of your contact details in the Application Form (created and submitted through the channels) change during the Offer Period, you will need to visit a Participating Nedbank Branch during the Offer Period to update your contact details and, if your address has changed, re-submit your proof of address supporting documents for FICA purposes.
- 16) If any of your details changes after the Offer Period, please contact the Nedbank Contact Centre on 083 900 6863.
- 17) MTN Zakhele Futhi is entitled to verify your details (for BEE, FICA and other purposes) and you are obligated to assist in such verification promptly when requested to do so.
- 18) BEE, FICA and other supporting documents submitted to any Participating Nedbank Branch must either be provided as the original documents or must be certified as a true copy of the original (which can, for example, be done at any South African Police Station). Please refer to the supporting documents contemplated in paragraph 6.2 of Section 2 of the Prospectus commencing on page 57.
- 19) If you are an MTN subscriber, the information provided by you with your Application Form or in this form will not result in an update to any of your existing RICA information stored by MTN SA.
- 20) Privacy notice: MTN Zakhele Futhi is collecting information from you and its address is 216 14th Avenue, Fairland, 2170. Nedbank is collecting the information on MTN Zakhele Futhi's behalf. In the declaration and agreement below we ask for your consent to MTN Zakhele Futhi and Nedbank processing your information. Your information is being collected so that if your application to subscribe for shares in MTN Zakhele Futhi is successful, MTN Zakhele Futhi can facilitate and implement your participation in the MTN Zakhele Futhi Offer. FICA also requires MTN Zakhele Futhi to collect your information. Providing your information to MTN Zakhele Futhi is mandatory, and if you do not provide the information requested, your application to subscribe for shares will be declined. Your information will be shared with Nedbank, MTN, the CSDPs and the Transfer Secretary, Strate and any other applicable third party for the purposes of facilitating and implementing the MTN Zakhele Futhi Offer and your subsequent holding of the MTN Zakhele Futhi Shares. You have the right to access your information, the right to correct your information, and the right to object to the processing of your information. Please see the website - [www.mtn.com/zakhelefuthi](http://www.mtn.com/zakhelefuthi) for contact details.
- 21) The terms set out above are summary in nature and do not substitute or limit the full terms applicable to Applications and the MTN Zakhele Futhi Offer which are set out in the Prospectus and to which you are bound by signing this Application Form.

**If you have any questions regarding the Application Form, please call the Nedbank Contact Centre on 083 900 6863 (toll free number for MTN subscribers only).**

### BLACK GROUP DETAILS

Black group category:

☐ Company ☐ Partnership ☐ Trust ☐ Close Corporation ☐ Other unincorporated entity or association

Black Group name (registered name for companies, close corporations and trusts):

Black Group trading name (if the trading name differs to the registered name):

Registration number (companies and close corporations)/Trust Number (trusts):

Are you a participant/shareholder in MTN's current BEE scheme (MTN Zakhele (RF) Limited)?

YES/NO

If yes, are you electing to re-invest some or all of your MTN Zakhele shares into MTN Zakhele Futhi?

YES/NO

If yes, what is your MTN Zakhele Shareholder number?

If you are a Re-investment Applicant, would you also like to apply to invest additional cash funds into MTN Zakhele Futhi?

YES/NO

Are you any one of the following (as defined):

☐ Black Employee Share Ownership Scheme (ESOP) ☐ Black Broad-Based Ownership Scheme (BBOS) ☐ Black Co-operative ☐ N/A

Tax reference number, if available:

Business Postal address PO Box number:

Suburb:

City/town:

Postal code:

Physical address:

Suburb:

City/town:

Postal code:

Address where notices must be served: Postal address/ residential address

By selecting "YES" you expressly permit MTN, its affiliates and its authorised business partners to contact you for the purpose of marketing our/their products and services to you, until you give instruction in the prescribed manner to the contrary

YES/NO

By selecting "YES" you expressly permit Nedbank, its affiliates and its authorised business partners to contact you for the purpose of marketing our/their products and services to you, until you give instruction in the prescribed manner to the contrary

YES/NO

BEE OWNERSHIP

Please provide the following details **using the “flow-through principle”** according to the Codes (www.thedti.gov.za).

51% or more black ownership (i.e. economic interest and voting rights)  
(using the flow-through principle) or BEE Owned and Controlled, as defined\*

YES/NO/UNCERTAIN

Black economic interest percentage\*

%

Black exercisable voting rights percentage\*

%

Black women ownership economic interest percentage (if known)

%

Black women exercisable voting rights percentage (if known)

%

Before applying for shares in MTN Zakhele Futhi, have you held equity instruments in any other entity (including non-BEE entities) which have a total value of more than R50 million, measured using a standard valuation method?

YES/NO/UNCERTAIN

Is the combined shareholding of black designated groups and/or black new entrants equal to or higher than 5% (if known)?

YES/NO/UNCERTAIN

\* Compulsory fields

**ACCREDITATION** (Only compulsory to complete if applying for 50 000 MTN Zakhele Futhi Shares or more as a Cash Applicant. i.e. R1 million or more, or applying to re-invest in respect of more than 15 000 MTN Zakhele Futhi Shares (with no cash application) or more than 8 000 MTN Zakhele Futhi Shares (with any additional cash application) as a Re-investment Applicant.)

Name of Valid BEE Verification Agency who issued your Valid BEE Ownership Certificate

Expiry date of Valid BEE Ownership Certificate

(Certificate must be valid until 12 March 2017)

CONTACT DETAILS FOR THE AUTHORISED REPRESENTATIVE OF THE BLACK GROUP

E-mail address:

Cell phone number:

Work number:

Postal address

PO Box number:

Suburb:

City/town:

Postal code:

Physical address:

Suburb:

City/town:

Postal code:

The original completed and signed appointment of authorised representative attached to the Prospectus as Annexure 9 must be submitted by the Applicant to the Participating Nedbank Branch during the application process.  
Please note that **the authorised representative will only receive communications by SMS with respect to the status of the Black Group’s application** and will not be able to reply to those SMSes. By signing this Application Form you agree to receiving regular status updates by SMS. If there are any queries with respect to any SMS received by the authorised representative, the authorised representative will need to visit any Participating Nedbank Branch or call the Nedbank Contact Centre.

Please ensure that the authorised representative is able to be contacted on the cell phone number provided to Nedbank during the Offer Period and for 60 days thereafter. If that cell phone number changes during this time, the authorised representative will need to visit any Participating Nedbank Branch to update his/her contact details.

BANK ACCOUNT DETAILS FOR APPLICANT (South African bank account denominated in South African Rand ONLY)

Name of bank account holder:

Bank name:

Bank account number:

Branch code:

Account type: ☐ Cheque/Current ☐ Savings

Please note that all refunds, dividends and other payments will be made in South African Rand to the above bank account which must be in the Applicant’s name. Refunds, dividends and other payments will not be made in foreign currency, into foreign bank accounts or to any person or bank account other than to the Applicant’s bank account above. Accordingly, if any person makes any payments on behalf of the Applicant or otherwise into the MTN Zakhele Futhi bank account using your unique reference number, all refunds and dividends will be paid to the Applicant and not to that person. You hereby agree to indemnify MTN Zakhele Futhi, MTN and Nedbank in respect of any claims made by any person who made any payment on your behalf or otherwise into the MTN Zakhele Futhi bank account using your unique reference number.

DECLARATION AND AGREEMENT:  
To: MTN ZAKHELE FUTHI (RF) LIMITED

By signing this Application Form:

We, \_\_\_\_\_, herein represented by the undersigned representatives, confirm to MTN Zakhele Futhi that we have full legal capacity and are duly authorised to contract and, having read and understood the Prospectus, hereby irrevocably apply for the number of MTN Zakhele Futhi Shares contemplated in paragraph 12 of the instructions hereof; provided that if a supplement to the Prospectus is issued, we shall be entitled to withdraw the application on written notice to MTN Zakhele Futhi and/or MTN Zakhele (as applicable) within 20 business days after the date of publication of the supplement in the circumstances set out in paragraph 6 of the instructions hereof.

We warrant to MTN Zakhele Futhi that we are a Black Group (as defined in the Definitions and Interpretation section of the Prospectus commencing on page 25 of the Prospectus) and that all of the information provided by us in this Application Form (including all supporting documents) is true and correct in all respects.

We acknowledge to MTN Zakhele Futhi that we have been informed that various restrictions are imposed upon the Disposal and/or Encumbrance of MTN Zakhele Futhi Shares as set out in the Relationship Agreement and summarised in paragraph 12 of Section 2 of the Prospectus. We undertake to MTN Zakhele Futhi and MTN that, if MTN Zakhele Futhi Shares are issued to us, we will comply with the terms of the MTN Zakhele Futhi MOI including all the restrictions contained in the MTN Zakhele Futhi MOI, and we confirm and agree in favour of MTN Zakhele Futhi and MTN that we are and will be bound by the provisions of the Relationship Agreement forming Annexure 7 to the Prospectus. We understand that if we contravene these restrictions and/or breach the terms of the Relationship Agreement, we may have action taken against us which may result in us losing any benefit which we would otherwise have had in our investment in MTN Zakhele Futhi.

We acknowledge that MTN Zakhele Futhi will rely on the truthfulness and completeness of the information provided and statements made by us when making its decision to issue MTN Zakhele Futhi Shares to us.

We agree that MTN Zakhele Futhi is entitled to verify our details and that we are obliged to assist in such verification promptly when requested to do so.

If we have delivered a Valid BEE Ownership Certificate as part of the application process, we confirm that our ownership structure has not changed after obtaining such certificate and that the information recorded therein remains true and correct in all material respects.

By signing this Application Form, we confirm that the details contained in this Application Form and in our supporting documents are true and correct. Once we have signed this Application Form, we will not be able to claim later that the details that we have included in this Application Form and in our supporting documents were not true and correct when we provided this Application Form or the supporting documents. MTN, MTN Zakhele and/or MTN Zakhele Futhi or other persons may also have claims and rights against us because of the details that we put in this Application Form, AND PROVIDING FALSE INFORMATION COULD BE A CRIMINAL OFFENCE.

We hereby consent to MTN Zakhele Futhi and MTN Zakhele (to the extent applicable) and their service providers transferring information to Nedbank and any of Nedbank’s service providers to be used for any purpose relating to the MTN Zakhele Futhi Offer and subsequent holdings of MTN Zakhele Futhi Shares.

Dated

Place

AUTHORISED REPRESENTATIVE 1

Title:

Surname:

First name/s (as per identity document):

Initials:

Identity number:

Signature:

Capacity:

AUTHORISED REPRESENTATIVE 2 (if applicable)

Title:

Surname:

First name/s (as per identity document):

Initials:

Identity number:

Signature:

Capacity:

TERMS AND CONDITIONS

By signing this Application Form you:

- 1) agree to: (i) the sharing of the information contained herein between Nedbank, MTN, the CSDPs, the Transfer Secretary, Strate and any other applicable third party for the purposes of facilitating and implementing the MTN Zakhele Futhi Offer/and your subsequent holding of shares in MTN Zakhele Futhi; and (ii) the use, process and/or transfer of the information contained herein, including intra-group transfers, transfers across a country border and transfers to entities in countries that do not provide statutory protections for personal information; and
- 2) confirm your acceptance of (and agreement to) the privacy policy and, to the extent applicable, the terms and conditions of the website, which can be found at www.mtn.com/zakhelefuthi.



**MTN ZAKHELE FUTHI (RF) LIMITED**

("MTN Zakhele Futhi")

(Incorporated in the Republic of South Africa)

(Registration number 2016/268837/06)

MTN Zakhele Futhi Nedbank unique reference number (Nedbank to complete: \_\_\_\_\_)

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**CONFIRMATION OF POSSESSION OF PROSPECTUS WITH RESPECT TO THE MTN ZAKHELE FUTHI OFFER**

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**All capitalised terms used in this Application Form are defined on pages 25 to 39 of the Prospectus (Definitions and Interpretation). This Confirmation of Possession forms part of the Prospectus which was registered by the Registrar of Companies on 26 August 2016 and must be read in conjunction with it.**

**Instructions:**

- 1) When you/your authorised representative attend at a Participating Nedbank branch for purposes of: (i) providing the outstanding data in order for the Participating Nedbank Branch to populate and print the Application Form for signature at the Participating Nedbank Branch, and (ii) submitting the supporting documents, you/your authorised representative must please bring a copy of the Prospectus to the Participating Nedbank Branch. If you/your authorised representative do/does not have a copy of this Prospectus, you/your authorised representative will be provided with a copy of the Prospectus at the Participating Nedbank Branch.
- 2) At the time of and immediately prior to signing the Application Form printed by the Participating Nedbank Branch, you/your authorised representative will be requested to show that you/your authorised representative are/is in possession of the Prospectus and to sign and tear out this Confirmation of Possession confirming that fact, which must then be submitted to the Participating Nedbank Branch. Please do not sign or tear out this Confirmation of Possession prior to being requested to do so at a Participating Nedbank Branch.

**If you have any questions regarding the Confirmation of Possession, please call the Nedbank Contact Centre on 083 900 6863 (toll free number for MTN subscribers only).**

**CONFIRMATION AND ACKNOWLEDGEMENT:**

To: **MTN ZAKHELE FUTHI (RF) LIMITED**

By signing this Confirmation of Possession, I (the undersigned)/we (herein represented by the undersigned authorised representative/s), hereby confirm to MTN Zakhele Futhi that I/we have full legal capacity, that I/we am/are duly authorised to contract and, at the time of making this application, I/we was/were in possession of a copy of the Prospectus.

Date \_\_\_\_\_ Place \_\_\_\_\_.

**APPLICANT WHO IS A BLACK PERSON TO COMPLETE AND SIGN BELOW:**

Surname: \_\_\_\_\_

First name/s (as per identity document): \_\_\_\_\_

Identity number: \_\_\_\_\_

Signature: \_\_\_\_\_

**If the Applicant is a minor (under 18 years of age): Insert details of his/her legal guardian or parents who by his/her signature below provides the above confirmation and acknowledgement for and on behalf of the Applicant.**

Surname: \_\_\_\_\_

First name/s (as per identity document): \_\_\_\_\_

Identity number: \_\_\_\_\_

Capacity (Parent / Guardian): \_\_\_\_\_

Signature: \_\_\_\_\_

**AUTHORISED REPRESENTATIVE/S OF APPLICANT WHO IS A BLACK GROUP TO COMPLETE AND SIGN BELOW:**

**AUTHORISED REPRESENTATIVE 1**

Title: \_\_\_\_\_

Surname: \_\_\_\_\_

First name/s (as per identity document): \_\_\_\_\_

Initials: \_\_\_\_\_

Identity number: \_\_\_\_\_

Signature: \_\_\_\_\_

Capacity: \_\_\_\_\_

**AUTHORISED REPRESENTATIVE 2 (if applicable)**

Title: \_\_\_\_\_

Surname: \_\_\_\_\_

First name/s (as per identity document): \_\_\_\_\_

Initials: \_\_\_\_\_

Identity number: \_\_\_\_\_

Signature: \_\_\_\_\_

Capacity: \_\_\_\_\_

**Once this Confirmation of Possession has been signed by or for and on behalf of the Applicant, the Applicant will not be able to claim later that the confirmation and acknowledgement contained herein were not true and correct when this Confirmation Possession was signed. MTN, MTN Zakhele and/or MTN Zakhele Futhi or other persons may also have claims and rights against the Applicant if this confirmation and acknowledgement was not true and correct when signed.**

**CONFIRMATION BY PARTICIPATING NEDBANK BRANCH**

**To: MTN ZAKHELE FUTHI (RF) LIMITED**

I, \_\_\_\_\_ the undersigned, hereby confirm to MTN Zakhele Futhi that this Confirmation of Possession was signed and torn out of a Prospectus in my presence by the Applicant or its authorised representative/s noted above

Date \_\_\_\_\_ Place \_\_\_\_\_

Surname: \_\_\_\_\_

First name/s (as per identity document): \_\_\_\_\_

Nedbank employee number: \_\_\_\_\_

Signature: \_\_\_\_\_