
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): June 26, 2017 (June 19, 2017)

NET 1 UEPS TECHNOLOGIES, INC.

(Exact name of registrant as specified in its charter)

Florida
(State or other jurisdiction
of incorporation)

000-31203
(Commission
File Number)

98-0171860
(IRS Employer
Identification No.)

**President Place, 4th Floor, Cnr. Jan Smuts Avenue and Bolton Road
Rosebank, Johannesburg, South Africa**

(Address of principal executive offices) (ZIP Code)

Registrant's telephone number, including area code: **011-27-11-343-2000**

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined in as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter). Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Item 1.01 Entry into a Material Definitive Agreement.

Investment in Cell C Proprietary Limited

On June 19, 2017, Net 1 UEPS Technologies, Inc. (the "Company"), through one of its subsidiaries, Net1 Applied Technologies South Africa Proprietary Limited ("Net1 SA"), entered into an Equity Implementation Agreement (the "Equity Implementation Agreement") with Cell C Proprietary Limited ("Cell C"), a leading mobile provider in South Africa, 3C Telecommunications Proprietary Limited, Cell C's sole shareholder ("3C"), and certain other Cell C stakeholders (the "Other Parties"). Pursuant to the Equity Implementation Agreement, the parties thereto agreed to an implementation framework for a number of transactions related to equity investments by Net1 SA and the Other Parties in Cell C in connection with a restructuring of Cell C's equity and debt. The Equity Implementation Agreement provides for certain key commercial and legal principles, terms and conditions which will be applicable to the envisaged transactions.

On June 19, 2017, in connection with the Equity Implementation Agreement, Net1 SA entered into a Subscription Agreement (the "Subscription Agreement") with Cell C. Pursuant to the Cell C Subscription Agreement, Net1 SA will purchase, subject to the satisfaction of closing conditions, approximately 75,000,000 class "A" shares for an aggregate purchase price of ZAR2.0 billion (\$155.3 million) in cash. The Company expects to fund the transaction through a combination of cash resources and a debt facility from South African banks.

On June 19, 2017, in connection with its investment in Cell C, Net1 SA entered into the Cell C Shareholders Agreements (the "Shareholders Agreement") with the Other Parties and Cell C to set the basis on which the parties thereto will participate as shareholders of Cell C.

On June 19, 2017, the USD/ZAR exchange rate was \$1.00/ZAR12.88.

The foregoing description of the Agreements are qualified in their entirety by reference to the text of such agreements, which are filed as Exhibits 10.67 - 10.69 to this Current Report on Form 8-K and incorporated herein by reference.

Item 9.01. Financial Statements and Exhibits.

- (d) Exhibits

Exhibit

No. Description

[10.67](#) [Equity Implementation Agreement, dated as of June 19, 2017, by and among 3C Telecommunications Proprietary Limited, The Prepaid Company Proprietary Limited, Net1 Applied Technologies South Africa Proprietary Limited, the parties identified on Schedule 1.1.52 thereto, Albanta Trading 109 Proprietary Limited, Cedar Cellular Investment 1 \(RF\) Proprietary Limited, Magnolia Cellular Investment 2 \(RF\) Proprietary Limited, Yellowwood Cellular Investment 3 \(RF\) Proprietary Limited, and Cell C Proprietary Limited.](#)

[10.68](#) [Subscription Agreement, dated as of June 19, 2017, by and between Net1 Applied Technologies South Africa Proprietary Limited and Cell C Proprietary Limited.](#)

[10.69](#) [Cell C Shareholders Agreement, dated as of June 19, 2017, by and between Albanta Trading 109 Proprietary Limited, the parties identified on Schedule 1.1.55 thereto, The Prepaid Company Proprietary Limited, Net1 Applied Technologies South Africa Proprietary Limited, Cedar Cellular Investment 1 \(RF\) Proprietary Limited, Magnolia Cellular Investment 2 \(RF\) Proprietary Limited, Yellowwood Cellular Investment 3 \(RF\) Proprietary Limited, and Cell C Proprietary Limited](#)

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

NET 1 UEPS TECHNOLOGIES, INC.

Date: June 26, 2017

By: /s/ Herman G. Kotzé
Name: Herman G. Kotzé
Title: Chief Executive Officer and
Chief Financial Officer

EQUITY IMPLEMENTATION AGREEMENT

between
3C TELECOMMUNICATIONS PROPRIETARY LIMITED
and
THE PREPAID COMPANY PROPRIETARY LIMITED
and
NET1 APPLIED TECHNOLOGIES SOUTH AFRICA PROPRIETARY LIMITED
and
THE PARTIES IDENTIFIED IN SCHEDULE 1.1.52
and
ALBANTA TRADING 109 PROPRIETARY LIMITED
and
CEDAR CELLULAR INVESTMENT 1 (RF) PROPRIETARY LIMITED
and
MAGNOLIA CELLULAR INVESTMENT 2 (RF) PROPRIETARY LIMITED
and
YELLOWWOOD CELLULAR INVESTMENT 3 (RF) PROPRIETARY LIMITED
and
CELL C PROPRIETARY LIMITED

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PARTIES:

This Agreement is made between:

- (1) **3C TELECOMMUNICATIONS PROPRIETARY LIMITED**, a company incorporated in South Africa under registration number 1999/010091/07 (**3C**);
- (2) **THE PREPAID COMPANY PROPRIETARY LIMITED**, a company incorporated in South Africa under registration number 1999/016716/07 (**BLT**);
- (3) **NET1 APPLIED TECHNOLOGIES SOUTH AFRICA PROPRIETARY LIMITED**, a company incorporated in South Africa under registration number 2002/031446/07 (**NET1**);
- (4) **THE PARTIES IDENTIFIED IN SCHEDULE 1.1.52 HERETO** (collectively referred to as **M5**);
- (5) **ALBANTA TRADING 109 PROPRIETARY LIMITED**, a company incorporated in South Africa under registration number 2015/261614/07 (**MS15**);
- (6) **CEDAR CELLULAR INVESTMENT 1 (RF) PROPRIETARY LIMITED**, a company incorporated in South Africa under registration number 2017/068178/07 (**SPV1**);
- (7) **MAGNOLIA CELLULAR INVESTMENT 2 (RF) PROPRIETARY LIMITED**, a company incorporated in South Africa under registration number 2017/068221/07 (**SPV2**);
- (8) **YELLOWWOOD CELLULAR INVESTMENT 3 (RF) PROPRIETARY LIMITED**, a company incorporated in South Africa under registration number 2017/068241/07 (**SPV3**); and
- (9) **CELL C PROPRIETARY LIMITED**, a company incorporated in South Africa under registration number 1999/007722/07 (the **Company**).

WHEREAS

- A. Following a period of financial difficulties, the Company and certain other stakeholders have been in negotiations with the objective of reaching an agreement for the restructuring of the Company's equity and debt.
- B. Each of BLT, NET1, M5, MS15 and the SPV Subscribers have been identified as parties which would add significant value as shareholders in the Company and, as such, have agreed to partake in the Proposed Transaction.

- C. The Parties are entering into this Agreement in order to provide an implementation framework for the Proposed Transaction and to provide for certain key commercial and legal principles, terms and conditions which will, as amongst them, be applicable to the envisaged transactions collectively.

IT IS AGREED AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

For the purposes of this Agreement and the preamble above, unless the context requires otherwise:

- 1.1.1 **3 C** means 3C Telecommunications Proprietary Limited, a company incorporated in South Africa under registration number 1999/010091/07;
- 1.1.2 **Accounting Principles** means the latest accounting principles, policies and generally accepted accounting practice applied by the Company in accordance with all Applicable Laws and IFRS, consistently applied, and consistent with past accounting and management practice as is contained and/or reflected in the Annual Financial Statements;
- 1.1.3 **Affiliate** means:
- 1.1.3.1 in relation to any Undertaking, any subsidiary (or its equivalent) or any parent Undertaking (namely, a holding company or its equivalent) of that Undertaking and any subsidiary (or its equivalent) of any such parent Undertaking (namely, a holding company or its equivalent), in each case from time to time; and
- 1.1.3.2 in relation to an individual means a Related Person or any Undertaking (including any trusts) in which such individual or his/her Related Person has ownership or a Controlling Interest;
- 1.1.4 **AFSA** has the meaning given to it in clause 14.3;
- 1.1.5 **Aggrieved Party** has the meaning given to it in clause 10.1;
- 1.1.6 **Agreed Form** means, in relation to a document, the form of that document which has been initialed for the purpose of identification by or on behalf of 3C and the Subscribing Parties (in each case as validly amended, substituted, varied, novated, revived, replaced, restated and/or supplemented from time to time);
- 1.1.7 **Agreement** means this equity implementation agreement and includes the Schedules which shall form part of it;

- 1.1.8 **Annual Financial Statements** means the signed consolidated audited financial statements of the Group for the year ended December 2016, prepared in accordance with the Accounting Principles and including the audited: (i) balance sheet; (ii) income statement; (iii) cash flow statement; and (iv) statement of changes in equity, including related notes and schedules thereto;
- 1.1.9 **Applicable Law** means any laws, by-laws, statutes, rules, regulations, subordinate legislation, orders, ordinances, notices, notifications, directions, restrictions, common law, judgments, decrees, circulars, decisions or other requirements or directives of any Governmental Entity, and includes the Companies Act, the Currency and Exchanges Act, anti-bribery legislation, as well as any protocols, policies, codes, guidelines, standards, resolutions, guidance notes and any interpretation of any of the foregoing by a Governmental Entity, in all cases only to the extent that they have the force of law;
- 1.1.10 **Approvals** means, as applicable, licences, permits, permissions, authorisations, rights, consents, clarifications, approvals, clearances, confirmations, waivers, exemptions and registrations from any Governmental Entity, including without limitation any licences and registrations under Applicable Law relating to Tax;
- 1.1.11 **Associates** means Undertakings where a minority part of the shares or portion of the other interest in such Undertaking is held by a member of the Group but where such Undertaking does not form part of the Group and is not consolidated into the financial accounts of the Company;
- 1.1.12 **BLT** means The Prepaid Company Proprietary Limited, a company incorporated in South Africa under registration number 1999/016716/07;
- 1.1.13 **BLT Parent** means Blue Label Telecoms Limited, a company incorporated in South Africa under registration number 2006/022679/06;
- 1.1.14 **BLT Subscription Agreement** means the subscription agreement between the Company and BLT pertaining to the subscription by BLT for the BLT Subscription Shares, entered into simultaneously with this Agreement;
- 1.1.15 **BLT Subscription Price** means the BLT Subscription Price as defined in the BLT Subscription Agreement;
- 1.1.16 **BLT Subscription Shares** means the BLT Subscription Shares as defined in the BLT Subscription Agreement;
- 1.1.17 **Board of Directors** means the board of directors of the Company from time to time;

- 1.1.18 **Business** means the business conducted by the Group from time to time being, predominantly as at the Implementation Date, the operation of an Electronic Communications Network and the provision of Electronic Communications Network services to the public and includes all ancillary activities and successor technologies;
- 1.1.19 **Business Day** means any calendar day other than a Saturday, Sunday or statutory holiday in South Africa;
- 1.1.20 **Cell C SP** means Cell C Service Provider Company Proprietary Limited, a company registered in accordance with the laws of South Africa under registration number 2001/008017/07;
- 1.1.21 **CIPC** means the Companies and Intellectual Properties Commission established by section 185 of the Companies Act;
- 1.1.22 **Closing** means completion of all the matters envisaged in clause 9 on the Implementation Date;
- 1.1.23 **Companies Act** means the Companies Act, No. 71 of 2008, as amended;
- 1.1.24 **Companies Regulations** means the Companies Regulations, 2011;
- 1.1.25 **Company** means Cell C Proprietary Limited, a company registered in accordance with the laws of South Africa under registration number 1999/007722/07;
- 1.1.26 **Company Indemnity Agreement** means the indemnity agreement to be entered into between the Company and Oger Telecom Limited pertaining to certain indemnities provided by the Company to Oger Telecom Limited;
- 1.1.27 **Conditions** means the conditions precedent to which this Agreement is subject set out in clause 3 and **Condition** means any of them;
- 1.1.28 **Confidential Information** has the meaning given to it in clause 12.1;
- 1.1.29 **Controlling Interest** means:
- 1.1.29.1 the ownership or control (directly or indirectly) of more than 50% (fifty per cent) of the voting share capital of the relevant Undertaking;
- 1.1.29.2 the ability to direct the casting of more than 50% (fifty per cent) of the votes exercisable at general meetings of the relevant Undertaking on all, or substantially all, matters;
- 1.1.29.3 the ability otherwise to direct or instruct the affairs, decisions or actions of the relevant Undertaking; or

- 1.1.29.4 the right to appoint or remove directors of the relevant Undertaking holding a majority of the voting rights at meetings of the board of such Undertaking on all, or substantially all, matters, in each case by a person or persons acting individually or in concert, directly or indirectly, including by virtue of their shareholding or management rights or shareholders' agreements or voting agreements or in any other manner;
- 1.1.30 **Currency and Exchanges Act** means the Currency and Exchanges Act, No. 9 of 1933, as amended;
- 1.1.31 **Defaulting Party** has the meaning given to it in clause 10.1;
- 1.1.32 **Designated Representative** has the meaning given to it in the Master Implementation Agreement;
- 1.1.33 **Directors** means the Company's directors from time to time, and **Director** means any of them;
- 1.1.34 **Dispute Notice** has the meaning given to it in clause 14.2;
- 1.1.35 **Electronic Communications** means the emission, transmission or reception of information, including without limitation, voice, sound, data, text, video, animation, visual images, moving images and pictures, signals or a combination thereof by means of magnetism, radio or other electromagnetic waves, optical, electromagnetic systems or any agency of a like nature, whether with or without the aid of tangible conduct, but does not include content service;
- 1.1.36 **Electronic Communications Network** means any system of Electronic Communications facilities (excluding subscriber equipment), including without limitation:
- 1.1.36.1 satellite systems;
 - 1.1.36.2 fixed systems (circuit- and packet-switched);
 - 1.1.36.3 mobile systems;
 - 1.1.36.4 fibre optic cables (undersea and land-based);
 - 1.1.36.5 electricity cable systems (to the extent used for Electronic Communications services); and
 - 1.1.36.6 other transmission systems, used for conveyance of Electronic Communications,
- and all successor technologies;
- 1.1.37 **Encumbrance** in relation to any shares, includes any pledge, 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 those shares, or any lending of shares, and the words **Encumber**, **Encumbered** and **Encumbering** shall have corresponding meanings;

- 1.1.38 **Exchange Control Regulations** means the Exchange Control Regulations, 1961, as amended (including any applicable directive and rulings of Exchange Control and Treasury);
- 1.1.39 **Financial Markets Act** means the Financial Markets Act, No. 19 of 2012, as amended;
- 1.1.40 **FinSurv** means the Financial Surveillance Department of the SARB responsible for the administration of exchange control on behalf of the Minister of Finance or an officer of Treasury who, by virtue of the division of work in Treasury, deals with the matter on the authority of the Minister of Finance;
- 1.1.41 **Funds Flow Bank** has the meaning given to it in the Master Implementation Agreement;
- 1.1.42 **Governmental Entity** means:
- 1.1.42.1 the government of South Africa (including any national, state, municipal or local government or any political or administrative subdivision thereof) and any department, ministry, agency, instrumentality, court, central bank, commission or other authority thereof;
- 1.1.42.2 any governmental, quasi-governmental or private body or agency lawfully exercising, or entitled to exercise, any administrative, executive, judicial, legislative, regulatory, licensing, competition, tax, importing or other governmental authority or quasi-governmental authority within South Africa; and
- 1.1.42.3 any licensed exchange in terms of the Financial Markets Act within South Africa;
- 1.1.43 **Group** means the Company and its Subsidiaries from time to time and **Group Company** shall mean any one company or Undertaking within the Group, as the context may require;
- 1.1.44 **IFRS** means International Financial Reporting Standards as issued from time to time by the International Accounting Standards Board or its successor body;
- 1.1.45 **Implementation Date** has the meaning given to it in the Master Implementation Agreement;
- 1.1.46 **Independent Expert** has the meaning given to it in clause 13.2;
- 1.1.47 **Interim Period** means the period between 1 January 2016 and Closing on the Implementation Date;

- 1.1.48 **JSE** means JSE Limited, a company registered in accordance with the laws of South Africa under registration number 2005/022939/06, trading under the name and style of “Johannesburg Stock Exchange” which is licensed as an exchange under the Financial Markets Act;
- 1.1.49 **Listing Requirements** means the listing requirements of the JSE, as amended from time to time;
- 1.1.50 **Long Stop Date** has the meaning given to it in clause 3.1;
- 1.1.51 **Losses** means all losses, damages, costs (including without being limited to reasonable attorneys’ fees and any out-of-pocket expenses incurred in connection with applicable investigations) and other liquidated liabilities, but excludes consequential damages or damages that may result from damage to reputation, goodwill and/or brand;
- 1.1.52 **M5** means, collectively, those individuals set out in **Schedule 1.1.52** and any reference to **M5** shall be a reference to such individuals acting jointly, unless the context specifically indicates otherwise;
- 1.1.53 **M5 Subscription Agreement** means the subscription agreement between the Company and M5 pertaining to the subscription by M5 for the M5 Subscription Shares, entered into simultaneously with this Agreement;
- 1.1.54 **M5 Subscription Price** means the M5 Subscription Price as defined in the M5 Subscription Agreement;
- 1.1.55 **M5 Subscription Shares** means the M5 Subscription Shares as defined in the M5 Subscription Agreement;
- 1.1.56 **Management Accounts** means the monthly statements of comprehensive income and statements of financial position prepared and finalised by the Company during the month immediately following the calendar month to which the relevant statement of comprehensive income and statement of financial position relates, which shall be prepared on the same basis and include the same level of detail that the Company has prepared such statements historically and shall include cash flow statements;
- 1.1.57 **Master Implementation Agreement** means the agreement titled “Master Implementation and Funds Flow Agreement” between, *inter alia*, the Parties and the Company’s lenders to be concluded on or about the Signature Date;
- 1.1.58 **MOI** means the Agreed Form memorandum of incorporation of the Company to be adopted with effect from Closing;

- 1.1.59 **MS15** means Albanta Trading 109 Proprietary Limited, a company incorporated in South Africa under registration number 2015/261614/07;
- 1.1.60 **MS15 Subscription Agreement** means the subscription agreement between the Company and MS15 pertaining to the subscription by MS15 for the MS15 Subscription Shares, entered into simultaneously with this Agreement;
- 1.1.61 **MS15 Subscription Price** means the MS15 Subscription Price as defined in the MS15 Subscription Agreement;
- 1.1.62 **MS15 Subscription Shares** means the MS15 Subscription Shares as defined in the MS15 Subscription Agreement;
- 1.1.63 **Net Debt** means any contractual obligation for the Group pertaining to monies borrowed, including shareholder loans:
- 1.1.63.1 less cash and cash equivalents (excluding cash received from working capital receivables and paid in respect of working capital payables outside of the ordinary course of business and Restricted Cash);
- 1.1.63.2 adjusted for working capital payables and working capital receivables that are exceptional and outside of the ordinary course of business that:
- 1.1.63.2.1 are not settled in a timely manner in accordance with normal payment terms;
- 1.1.63.2.2 are unusual, material and non-recurring, and
- 1.1.63.2.3 whose timely settlement is not restricted by:
- 1.1.63.2.4 lack of budgetary approvals;
- 1.1.63.2.5 lack of board approvals;
- 1.1.63.2.6 lack of regulatory approvals (including that of the SARB); or
- 1.1.63.2.7 lack of bank financing;
- 1.1.63.3 adjusted for current and owing income tax assets and/or liabilities;
- 1.1.63.4 adjusted for dividends declared but not settled;

- 1.1.63.5 adjusted for any credit deposits advanced by customers not covered in the working capital payables or the working capital receivables (without double counting); and
- 1.1.63.6 adjusted for any committed but unpaid capital drawdowns due in respect of investments in Associates / joint ventures made by the Company.
- For the avoidance of doubt, Net Debt shall not include financial lease obligations;
- 1.1.64 **Net Debt Confirmation** has the meaning given to it in clause 5.1.1;
- 1.1.65 **NET1** means Net1 Applied Technologies South Africa Proprietary Limited, a company incorporated in accordance with the laws of South Africa under registration number 2002/031446/07;
- 1.1.66 **NET1 Subscription Agreement** means the subscription agreement between the Company and NET1 pertaining to the subscription by NET1 for the NET1 Subscription Shares, entered into simultaneously with this Agreement;
- 1.1.67 **NET1 Subscription Price** means the NET1 Subscription Price as defined in the NET1 Subscription Agreement;
- 1.1.68 **NET1 Subscription Shares** means the NET1 Subscription Shares as defined in the NET1 Subscription Agreement;
- 1.1.69 **Notice Period** has the meaning given to it in clause 10.1;
- 1.1.70 **Operative Provisions** has the meaning given to it in clause 2;
- 1.1.71 **Parties** means each of 3C, BLT, NET1, M5, MS15, the SPV Subscribers and the Company, and **Party** means any one of them;
- 1.1.72 **Pro Forma Net Debt Statement** has the meaning given to it in clause 3.1.11;
- 1.1.73 **Proposed Transaction** means all the transactions contemplated by the Transaction Documents;
- 1.1.74 **Rand** or **ZAR** means South African Rand, the lawful currency of South Africa;
- 1.1.75 **Related Person** has the meaning given to it in Section 2 of the Companies Act;
- 1.1.76 **Restricted Cash** means cash and cash equivalents, as interpreted under IFRS, which are used as surety, security or restricted in some way by a contractual obligation (excluding any cash deposited into an account where the release of such cash is only subject to providing relevant notice to the financial institution in question). Where such restricted cash is used as surety or security in respect of a liability, to the extent: (i) such liability is treated as monies borrowed; and (ii) such restricted cash can be offset against such liability as part of the settlement of that liability, then Net Debt shall be stated by netting off the Restricted Cash with the associated monies borrowed;

- 1.1.77 **Return of Airtime Agreement** means the agreement between the Company, BLT and Cell C SP pertaining to the sale of airtime by BLT to Cell C SP;
- 1.1.78 **SARB** means the South African Reserve Bank;
- 1.1.79 **Schedules** means Schedules 1.1.52, 9 and 13.2 to this Agreement, and **Schedule** shall be construed accordingly;
- 1.1.80 **Shareholders Agreement** means the shareholders agreement between the Subscribing Parties and the Company entered into simultaneously with the entering into of this Agreement;
- 1.1.81 **Shares** means shares in the issued ordinary share capital of the Company;
- 1.1.82 **Signature Date** means the date on which this Agreement is signed by the Party signing last in time;
- 1.1.83 **South Africa** means the Republic of South Africa;
- 1.1.84 **SPV Subscribers** means, collectively, SPV1, SPV2 and SPV3;
- 1.1.85 **SPV Subscription Agreements** means, collectively, the SPV1 Subscription Agreement, the SPV2 Subscription Agreement and the SPV3 Subscription Agreement;
- 1.1.86 **SPV Subscription Price** means the total of the SPV1 Subscription Price, SPV2 Subscription Price and the SPV3 Subscription Price;
- 1.1.87 **SPV Subscription Shares** means the total of the SPV1 Subscription Shares, SPV2 Subscription Shares and SPV3 Subscription Shares;
- 1.1.88 **SPV1** means Cedar Cellular Investment 1 (RF) Proprietary Limited, a company incorporated in South Africa under registration number 2017/068178/07;
- 1.1.89 **SPV1 MOI** means the Agreed Form memorandum of incorporation of SPV1 to be adopted with effect from Closing;
- 1.1.90 **SPV1 Subscription Agreement** means the subscription agreement between the Company and SPV1 pertaining to the subscription by SPV1 for the SPV1 Subscription Shares, entered into simultaneously with this Agreement;

- 1.1.91 **SPV1 Subscription Price** means the SPV1 Subscription Price as defined in the SPV1 Subscription Agreement;
- 1.1.92 **SPV1 Subscription Shares** means the SPV1 Subscription Shares as defined in the SPV1 Subscription Agreement;
- 1.1.93 **SPV2** means Magnolia Cellular Investment 2 (RF) Proprietary Limited, a company incorporated in South Africa under registration number 2017/068221/07;
- 1.1.94 **SPV2 MOI** means the Agreed Form memorandum of incorporation of SPV2 to be adopted with effect from Closing;
- 1.1.95 **SPV2 Subscription Agreement** means the subscription agreement between the Company and SPV2 pertaining to the subscription by SPV2 for the SPV2 Subscription Shares, entered into simultaneously with this Agreement;
- 1.1.96 **SPV2 Subscription Price** means the SPV2 Subscription Price as defined in the SPV2 Subscription Agreement;
- 1.1.97 **SPV2 Subscription Shares** means the SPV2 Subscription Shares as defined in the SPV2 Subscription Agreement;
- 1.1.98 **SPV3** means Yellowwood Cellular Investment 3 (RF) Proprietary Limited, a company incorporated in South Africa under registration number 2017/068241/07;
- 1.1.99 **SPV3 MOI** means the Agreed Form memorandum of incorporation of SPV3 to be adopted with effect from Closing;
- 1.1.100 **SPV3 Subscription Agreement** means the subscription agreement between the Company and SPV3 pertaining to the subscription by SPV3 for the SPV3 Subscription Shares, entered into simultaneously with this Agreement;
- 1.1.101 **SPV3 Subscription Price** means the SPV3 Subscription Price as defined in the SPV3 Subscription Agreement;
- 1.1.102 **SPV3 Subscription Shares** means the SPV3 Subscription Shares as defined in the SPV3 Subscription Agreement;
- 1.1.103 **Subscribing Parties** means BLT, NET1, M5, MS15 and the SPV Subscribers, and **Subscribing Party** means any one of them;

- 1.1.104 **Subscription Agreements** means the BLT Subscription Agreement, the NET1 Subscription Agreement, the M5 Subscription Agreement, the MS15 Subscription Agreement and the SPV Subscription Agreements;
- 1.1.105 **Subscription Consideration** means, collectively the BLT Subscription Price, the NET1 Subscription Price, the M5 Subscription Price, the MS15 Subscription Price and the SPV Subscription Price;
- 1.1.106 **Surviving Provisions** has the meaning given to it in clause 3.2.2;
- 1.1.107 **Suspended Provisions** has the meaning given to it in clause 3.1;
- 1.1.108 **Takeover Regulation Panel** means the Takeover Regulation Panel, established pursuant to section 196 of the Companies Act;
- 1.1.109 **Takeover Regulations** means the regulations made by the Minister in terms of sections 120 and 223 of the Companies Act;
- 1.1.110 **Target Net Debt** means Net Debt of not more than ZAR6,000,000,000 (six billion Rand) immediately following Closing;
- 1.1.111 **Tax** means all taxes, charges, imports, duties, levies, deductions, withholdings or fees of any kind whatsoever, or any amount payable on account of or as security for any of the foregoing, imposed, levied, collected, withheld or assessed by a Governmental Entity, together with any penalties, fines or interest relating thereto, and Taxes and Taxation shall be construed accordingly;
- 1.1.112 **Transaction Documents** means this Agreement, the Master Implementation Agreement, the BLT Subscription Agreement, the NET1 Subscription Agreement, the M5 Subscription Agreement, the MS15 Subscription Agreement, the SPV Subscription Agreements, the Shareholders Agreement and the MOI, each as validly amended, substituted, varied, novated, revived, replaced, restated and/or supplemented from time to time; and
- 1.1.113 **Undertaking** means a company, a body corporate or partnership or unincorporated association carrying on trade or business with or without a view to profit. In relation to an undertaking which is not a company, expressions in this Agreement appropriate to companies are to be construed as references to the corresponding persons, officers, documents or agents (as the case may be) appropriate to undertakings of that description.
- 1.2 **Interpretation**
- 1.2.1 Unless expressly provided to the contrary or inconsistent with the context, a reference in this

Agreement to:

- 1.2.1.1 this **Agreement** or any other agreement, document or instrument shall be construed as a reference to this Agreement or that other agreement, document or instrument as amended, varied, novated or substituted from time to time;
- 1.2.1.2 a **clause, sub-clause or Schedule** is to a clause, sub-clause or schedule to this Agreement;
- 1.2.1.3 a **person** includes any natural person, firm, company, corporation, body corporate, juristic person, unincorporated association, government, state or agency of a state or any association, trust, partnership, syndicate, consortium, joint venture, charity or other entity (whether or not having separate legal personality);
- 1.2.1.4 any one gender, whether masculine, feminine or neuter, includes the other two;
- 1.2.1.5 the singular includes the plural and *vice versa*;
- 1.2.1.6 a word or expression given a particular meaning includes cognate words or expressions;
- 1.2.1.7 any number of days prescribed shall be determined by excluding the first and including the last day or, where the last day is a day that is not a Business Day, the next Business Day;
- 1.2.1.8 a statutory provision includes any subordinate legislation made from time to time under that provision and a reference to a statutory provision includes that provision as from time to time modified or re-enacted as far as such modification or re-enactment applies, or is capable of applying, to this Agreement or any transaction entered into in accordance with this Agreement;
- 1.2.1.9 the words **including, include or in particular** followed by specific examples shall be construed by way of example or emphasis only and shall not be construed, nor shall it take effect, as limiting the generality of any preceding words, and the *eiusdem generis* rule is not to be applied in the interpretation of such specific examples or general words; and
- 1.2.1.10 the words **other** or **otherwise** shall not be construed *eiusdem generis* with any foregoing words where a wider construction is possible.
- 1.2.2 All the headings and sub-headings in this Agreement are for convenience and reference only and shall be ignored for the purposes of interpreting it.
- 1.2.3 A term defined in a particular clause or Schedule in this Agreement, unless it is clear from the clause or Schedule in question that application of the term is to be limited to the relevant clause or Schedule bears the meaning ascribed to it for all purposes of in this Agreement, notwithstanding that

that term has not been defined in clause 1.1 and, where there is any inconsistency between any term defined in clause 1.1 and any term defined in any clause or Schedule in this Agreement, then, for the purposes of construing such clause or Schedule the term as defined in such clause or Schedule prevails.

- 1.2.4 No rule of construction may be applied to the disadvantage of a Party because that Party was responsible for or participated in the preparation of this Agreement or any part of it.
- 1.2.5 If a definition confers substantive rights or imposes substantive obligations on a Party, such rights and obligations shall be given effect to and are enforceable as substantive provisions of this Agreement, notwithstanding that they are contained in that definition.

2. PROVISIONS WHICH TAKE IMMEDIATE EFFECT

The provisions of this clause 2 and clauses 1, 3, 4, 5, 6, 7, 8 and 10 to 18 (both inclusive) shall take effect and become operative immediately upon the Signature Date (the **Operative Provisions**).

3. CONDITIONS PRECEDENT

- 3.1 All the provisions of this Agreement (except for the Operative Provisions (such provisions the **Suspended Provisions**)) take effect and become operative only upon the fulfilment or waiver of the following Conditions by or on 31 August 2017, unless otherwise stipulated below (unless otherwise specified or agreed to in writing by the Parties) (**Long Stop Date**):
 - 3.1.1 any exchange control approval which may be required from FinSurv in terms of the Exchange Control Regulations to implement the Proposed Transaction is duly obtained in writing in accordance with all applicable legal requirements, provided that the Company undertakes to apply for such approval as soon as may be reasonably practicable after the Signature Date;
 - 3.1.2 the Takeover Regulation Panel grants waivers on the application of the Takeover Regulations to the Proposed Transaction, if applicable, and that, to the extent applicable and not already obtained, all necessary shareholder waivers are obtained by 31 August 2017;
 - 3.1.3 that, by no later than 31 August 2017 (or such later date as may be agreed in writing between the Company, NET1 and BLT), the shareholders of BLT Parent have passed, to the extent necessary, the resolutions required in terms of the Companies Act and the Listings Requirements to approve and implement, *inter alia*, the Proposed Transaction and the entering into of this Agreement, including the following resolutions:

- 3.1.3.1 an ordinary resolution approving the implementation of the Proposed Transaction as a "Category 1" transaction under the Listings Requirements; and
- 3.1.3.2 an ordinary resolution authorising any director of BLT Parent to take all actions necessary and sign all documents required to give effect to the resolutions listed in this clause,
- it being agreed that the Company shall, by 30 June 2017, deliver to BLT Parent the reporting accountant's report as well as certain reviewed financial information in respect of the period ending 31 December 2016 as may reasonably be required by BLT Parent in order to prepare its shareholder circular to obtain the approvals envisaged in this clause 3.1.3;
- 3.1.4 that the Parties obtain all such regulatory approvals as may be required by Applicable Law in order to implement the Proposed Transaction;
- 3.1.5 that, by no later than 3 (three) Business Days prior to the Implementation Date (or such later date as may be agreed in writing by the Company, BLT and NET1), BLT provides the other Parties with written confirmation that it has raised the required funding to pay the BLT Subscription Price as set out in this Agreement and the BLT Subscription Agreement;
- 3.1.6 that, by no later than 3 (three) Business Days prior to the Implementation Date (or such later date as may be agreed in writing by the Company, BLT and NET1), NET1 provides the other Parties with written confirmation that it has raised the required funding to pay the NET1 Subscription Price as set out in this Agreement and the NET1 Subscription Agreement;
- 3.1.7 that, by no later than 2 (two) days prior to the Implementation Date, the Company has procured that all documents required in order to register the MOI with CIPC are duly lodged with CIPC in order for the MOI to be registered with effect from the Implementation Date. The Parties undertake that, to the extent that the MOI is not registered with CIPC following the Implementation Date, they will use their reasonable endeavours to ensure that all such amendments are agreed and made to the MOI in order to address all concerns raised by CIPC in order for the MOI to be acceptable to CIPC for registration;
- 3.1.8 that, by no later than 2 (two) days prior to the Implementation Date, SPV1 has procured that all documents required in order to register the SPV1 MOI with CIPC are duly lodged with CIPC in order for the SPV1 MOI to be registered with effect from the Implementation Date. The Parties undertake that, to the extent that the SPV1 MOI is not registered with CIPC following the Implementation Date, they will use their reasonable endeavours to ensure that all such amendments are agreed and made to the SPV1 MOI in order to address all concerns raised by CIPC in order for the SPV1 MOI to be acceptable to CIPC for registration;

- 3.1.9 that, by no later than 2 (two) days prior to the Implementation Date, SPV2 has procured that all documents required in order to register the SPV2 MOI with CIPC are duly lodged with CIPC in order for the SPV2 MOI to be registered with effect from the Implementation Date. The Parties undertake that, to the extent that the SPV2 MOI is not registered with CIPC following the Implementation Date, they will use their reasonable endeavours to ensure that all such amendments are agreed and made to the SPV2 MOI in order to address all concerns raised by CIPC in order for the SPV2 MOI to be acceptable to CIPC for registration;
- 3.1.10 that, by no later than 2 (two) days prior to the Implementation Date, SPV3 has procured that all documents required in order to register the SPV3 MOI with CIPC are duly lodged with CIPC in order for the SPV3 MOI to be registered with effect from the Implementation Date. The Parties undertake that, to the extent that the SPV3 MOI is not registered with CIPC following the Implementation Date, they will use their reasonable endeavours to ensure that all such amendments are agreed and made to the SPV3 MOI in order to address all concerns raised by CIPC in order for the SPV3 MOI to be acceptable to CIPC for registration;
- 3.1.11 that the Company delivers a written pro forma statement (signed by the Chief Executive Officer and the Chief Financial Officer of the Company) to BLT, NET1 and the SPV Subscribers, accompanied by a confirmatory certificate from the auditors of the Company, estimating the Net Debt and composition thereof immediately following Closing and confirming that the Net Debt shall not exceed the Target Net Debt (**Pro Forma Net Debt Statement**). The Pro Forma Net Debt Statement shall be accompanied by a working capital schedule reflecting a detailed breakdown of the Company's working capital payables and the working capital receivables as at 30 June 2017;
- 3.1.12 that, by no later than 5 (five) days after receipt of the Pro Forma Net Debt Statement and other documents referred to in clause 3.1.11 (or such later date as may be agreed between the Company, BLT and NET1), each of BLT and NET1 confirms to the Company in writing that it is satisfied with the composition of the Net Debt as it is proposed to be constituted immediately following Closing and as it is reflected in the Pro Forma Net Debt Statement. The Company irrevocably and unconditionally undertakes to:
- 3.1.12.1 consult with and include BLT and NET1 in discussions and negotiations around the Group's debt refinancing; and
- 3.1.12.2 provide BLT and NET1 with all documents reasonably necessary or as otherwise reasonably requested by BLT and NET1 to enable BLT and NET1 to assess the composition and quantum of the Net Debt;

- 3.1.13 that the Company confirms to BLT and NET1 in writing that none of the following licences of the Company (or any other material licence, permit or approval required by the Company or any other Group Company to conduct their respective businesses as they were conducted on 30 November 2016) have lapsed, been revoked, permanently suspended or cancelled (nor has the Company or any other Group Company received any notice by any Governmental Entity to revoke, suspend or cancel any such licence, permit or approval, nor does the Company or any other Group Company have any actual knowledge of any matter which could reasonably be expected to invalidate any such licence, permit or approval after Closing):
- 3.1.13.1 radio frequency spectrum licence with number 00-476-898-6 for the use of 900MHz and 1,800MHz radio frequency spectrum;
 - 3.1.13.2 radio frequency spectrum licence with number 00-495-213-2 for the use of 2,100MHz radio frequency spectrum;
 - 3.1.13.3 radio frequency spectrum licence with number 00-529-438-0 for the use of 7GHz radio frequency spectrum;
 - 3.1.13.4 10.5GHz fixed link network licence;
 - 3.1.13.5 15GHz fixed link network licence;
 - 3.1.13.6 38GHz fixed link network licence;
 - 3.1.13.7 individual electronic communications network service licence, with number 001/IECNS/JAN/2009; and
 - 3.1.13.8 individual electronic communications service licence, with number 001/IECS/JAN/2009;
- 3.1.14 that the Return of Airtime Agreement is entered into by the parties thereto and has become fully unconditional in accordance with its terms (save for any condition requiring this Agreement to become unconditional);
- 3.1.15 that the Company Indemnity Agreement is entered into by the parties thereto and has become fully unconditional in accordance with its terms (save for any condition requiring this Agreement to become unconditional);
- 3.1.16 that each of BLT and NET1, as soon as may be reasonably practicable after receiving the Litigation List (as defined below), confirms to the Company in writing that it does not object to any litigation reflected in the Litigation List. In order to enable BLT and NET1 to provide the aforementioned confirmation, the Company shall, as soon as reasonably practicable after the Signature Date, provide BLT and NET1 with written details, which shall include a reasonable description of such matters, (**Litigation List**) of:

- 3.1.16.1 any Insolvency Event (as defined in the Shareholders Agreement) having occurred in respect of any member of the Group;
- 3.1.16.2 all instituted and outstanding litigation and applications as well as all pending litigation and applications where pending litigation and applications shall be such matters: (i) where the relevant third party (not being BLT Parent or any Affiliate thereof) has made a formal or written demand in writing indicating that relevant proceedings will be instituted; or (ii) which the Company reasonably believes will be instituted, pursuant to which an Insolvency Event (as defined in the Shareholders Agreement) may reasonably occur in respect of any member of the Group; and
- 3.1.16.3 all instituted and outstanding litigation and pending litigation, where pending litigation shall be such matters: (i) where the relevant third party (not being BLT Parent or any Affiliate thereof) has made a formal or written demand in writing indicating that relevant litigation proceedings will be instituted; or (ii) which the Company reasonably believes will be instituted, between the direct or indirect shareholders of 3C where the Company or any other member of the Group is a party to such proceedings;
- 3.1.17 that, to the extent that any additional litigation arises that meet the criteria for inclusion in the Litigation List between the date of the Litigation List and the date on which all the other Conditions are fulfilled, the Company shall be obliged to notify BLT and NET1 in writing of such additional litigation as soon as may be reasonably practicable and that each of BLT and NET1 confirms to the Company in writing that it does not object to such litigation;
- 3.1.18 that the Master Implementation Agreement is entered into by the parties thereto and has become fully unconditional in accordance with its terms (save for any condition requiring this Agreement or any such other Transaction Document to become unconditional); and
- 3.1.19 that all of the Transaction Documents are entered into by the parties thereto and have become fully unconditional in accordance with their terms (save for any condition requiring this Agreement or any such other Transaction Document to become unconditional).
- 3.2 If any one or more of the Conditions are not fulfilled or not waived (as applicable) prior to the date and time stipulated for fulfilment or waiver thereof, then the Suspended Provisions shall not take effect and this Agreement shall terminate automatically without any further action required by any of the Parties. In the event that this Agreement is validly terminated in accordance with this clause 3.2, each of the Parties shall be relieved of its respective duties and obligations arising in terms of this Agreement from and after the date of such termination, and such termination shall be without liability to any other Party, provided that:

- 3.2.1 no such termination shall relieve any Party from liability (including any liability for damages) for any breach of this Agreement or other liability arising prior to termination hereof; and
- 3.2.2 the provisions and/or obligations of the Parties set out in this clause 3.2 and clauses 1 and 10 to 18 (both inclusive) of this Agreement (**Surviving Provisions**) shall survive any such termination and shall be enforceable in terms of this Agreement.
- 3.3 The Conditions set out in:
- 3.3.1 clauses 3.1.1, 3.1.2, 3.1.3 and 3.1.4 may not be waived;
- 3.3.2 clauses 3.1.5 and 3.1.14 are stipulated for the benefit of BLT and BLT shall consequently be entitled to waive them, in whole or in part, at any time on or before the stipulated date for fulfilment, provided that no such waiver shall be effective unless it is in writing and notified to NET1 and the Company;
- 3.3.3 clause 3.1.6 is stipulated for the benefit of NET1 and NET1 shall consequently be entitled to waive it, in whole or in part, at any time on or before the stipulated date for fulfilment, provided that no such waiver shall be effective unless it is in writing and notified to BLT and the Company;
- 3.3.4 clauses 3.1.11, 3.1.12, 3.1.13, 3.1.16 and 3.1.17 are stipulated for the benefit of NET1 and BLT who may be entitled to waive them, in whole or in part, at any time on or before the stipulated date for fulfilment;
- 3.3.5 clauses 3.1.7, 3.1.8, 3.1.9 and 3.1.10 are stipulated for the benefit of the Subscribing Parties and the Subscribing Parties shall consequently jointly be entitled to waive them, in whole or in part, at any time on or before the stipulated date for fulfilment, provided that the Subscribing Parties agree thereto in writing;
- 3.3.6 clause 3.1.15 is stipulated for the benefit of 3C who may waive it, in whole or in part, at any time on or before the stipulated date for fulfilment; and
- 3.3.7 clauses 3.1.18 and 3.1.19 are stipulated for the benefit of all of the Parties and the Parties shall consequently jointly be entitled to waive them, in whole or in part, at any time on or before the stipulated date for fulfilment, provided that the Parties agree thereto in writing.

- 3.4 The Parties shall use their reasonable endeavours, co-operate with each other and provide all such assistance as may be reasonably required of each other to bring about the fulfilment of the Conditions and the Parties shall further comply with their respective obligations under clause 4.
- 3.5 Following fulfilment or waiver of the Conditions, each of the Parties shall procure that its Designated Representative provides the necessary confirmation of such fact to the Funds Flow Bank as provided for the Master Implementation Agreement.

4. TRANSACTION UNDERTAKINGS

- 4.1 Each Party undertakes to each other Party to, and to procure (so far as they are legally able), that their Affiliates, take all reasonable steps and use all reasonable endeavours to consummate the Proposed Transaction including complying with all of the obligations set out in the applicable Transaction Documents.
- 4.2 By no later than 5 (five) Business Days after the Signature Date:
- 4.2.1 in respect of the Company, the Company shall deliver to the Subscribing Parties a certified copy of the minutes of a meeting of the Board of Directors authorising the execution by the appropriate signatories by and on behalf of the Company of the Transaction Documents to which it is a party, and the performance by the Company of its obligations thereunder;
- 4.2.2 in respect of 3C, 3C shall deliver to the other Subscribing Parties a certified copy of the written resolutions of the board of directors of 3C authorising the execution by the appropriate signatories by and on behalf of 3C of the Transaction Documents to which it is a party, and the performance by 3C of its obligations thereunder;
- 4.2.3 as the sole shareholder of the Company, 3C shall deliver to the other Subscribing Parties a certified copy of the minutes of a meeting of 3C as the sole shareholder of the Company authorising, among other things, the waiver of the statutory pre-emptive rights, conversion of the entire number of ordinary shares in the Company from shares having a par value to shares having no par value, the increase in the Company's number of authorised shares, the issue of shares with voting power in excess of 30% (thirty per cent) of the voting power of all of the ordinary shares of the Company and the adoption of a new MOI;
- 4.2.4 in respect of BLT, BLT shall deliver to the other Subscribing Parties a certified copy of the minutes of a meeting of the board of directors of BLT authorising the execution by the appropriate signatories by and on behalf of BLT of the Transaction Documents to which it is a party, and the performance by BLT of its obligations thereunder;

- 4.2.5 in respect of NET1, NET1 shall deliver to the other Subscribing Parties a certified copy of the minutes of a meeting of the board of directors of NET1 authorising the execution by the appropriate signatories by and on behalf of NET1 of the Transaction Documents to which it is a party, and the performance by NET1 of its obligations thereunder;
- 4.2.6 in respect of MS15, MS15 shall deliver to the other Subscribing Parties a certified copy of the minutes of a meeting of the board of directors of MS15 authorising the execution by the appropriate signatories by and on behalf of MS15 of the Transaction Documents to which it is a party, and the performance by MS15 of its obligations thereunder;
- 4.2.7 in respect of SPV1, SPV1 shall deliver to the other Subscribing Parties a certified copy of the minutes of a meeting of the board of directors of SPV1 authorising the execution by the appropriate signatories by and on behalf of SPV1 of the Transaction Documents to which it is a party, and the performance by SPV1 of its obligations thereunder;
- 4.2.8 in respect of SPV2, SPV2 shall deliver to the other Subscribing Parties a certified copy of the minutes of a meeting of the board of directors of SPV2 authorising the execution by the appropriate signatories by and on behalf of SPV2 of the Transaction Documents to which it is a party, and the performance by SPV2 of its obligations thereunder; and
- 4.2.9 in respect of SPV3, SPV3 shall deliver to the other Subscribing Parties a certified copy of the minutes of a meeting of the board of directors of SPV3 authorising the execution by the appropriate signatories by and on behalf of SPV3 of the Transaction Documents to which it is a party, and the performance by SPV3 of its obligations thereunder.
- 4.3 Without derogating from clause 6, each Party further undertakes to each other Party that neither it, nor any of its Affiliates, shall, before Closing (other than as necessary to effect the Proposed Transaction), enter into any agreement or arrangement, incur any obligation, give any indication of intent or take or omit to take any action which is designed to:
 - 4.3.1 restrict or impede it or any of its Affiliates from complying with its obligations under this Agreement or any of the other applicable Transaction Documents; or
 - 4.3.2 be incompatible with completion of the Proposed Transaction.

5. NET DEBT CONFIRMATION

- 5.1 No later than 5 (five) Business Days after the Implementation Date, the Company shall:
- 5.1.1 prepare (or cause to be prepared) and issue (or cause to be issued) a confirmation (signed by both the Chief Executive Officer and the Chief Financial Officer of the Company) of the Net Debt immediately following Closing and as at the Implementation Date (the Net Debt Confirmation) setting out the composition of the Net Debt and confirming that: (i) the Net Debt does not exceed the Target Net Debt following Closing; and (ii) the terms of the Net Debt are materially the same as the terms of the estimated Net Debt reflected in the Pro Forma Net Debt Statement, unless otherwise agreed to in writing with BLT and NET1;
 - 5.1.2 procure delivery of the Net Debt Confirmation to each of the Subscribing Parties; and
 - 5.1.3 procure that the Net Debt Confirmation be accompanied by a certificate by the auditors of the Company confirming that the Net Debt does not exceed the Target Net Debt following Closing.
- 5.2 The Company warrants to BLT and NET1 that the Net Debt (excluding any drawn down portion of the facilities provided to the Company by ZTE Corporation, Huawei Technologies Co. Limited or BLT up to an amount of ZAR700,000,000 (seven hundred million Rand) as at the Implementation Date) will not exceed the Target Net Debt immediately following Closing on the Implementation Date.

6. CONDUCT OF BUSINESS

- 6.1 Subject to clauses 6.2 and 6.3 and during the Interim Period, the Company shall ensure that the Business is carried on in substantially the usual and ordinary course and as prescribed by any Applicable Law and that no Group Company shall enter into any material contract or commitment or do anything which, in any such case, is either out of the ordinary or usual course of its Business or of a material nature without obtaining the prior joint written consent of BLT, NET1, MS15 and M5 (as envisaged below), which consent shall not be unreasonably withheld or delayed.
- 6.2 In particular, but without limitation (except as permitted or required under clause 6.1), the Company shall ensure and, to the extent that the relevant matter is referred to the Board of Directors for consideration, 3C shall procure that, during the Interim Period, save: (i) with such joint consent of BLT, NET1, MS15 and M5 (which consent shall not be unreasonably withheld or delayed), provided that such request for consent is in writing; and (ii) as may be required to prepare for or effect the transactions envisaged in the Transaction Documents and the Proposed Transaction in general, none of the Group Companies shall:
- 6.2.1 manage its business other than in accordance with its business and trading policies and practices to

- date, except as may be necessary to comply with any changes in Applicable Law;
- 6.2.2 declare, pay or make any dividend or distribution;
- 6.2.3 redeem or repurchase any shares or return any capital to any shareholder;
- 6.2.4 enter into any material transaction other than on arms' length terms and for full and proper consideration;
- 6.2.5 grant or agree to grant any material loans or other financial debt to or any guarantees or indemnities for the benefit of any person or create or allow to subsist any mortgage, charge or other Encumbrance over the whole or any part of its undertaking, property or assets, other than the granting or agreement to grant financial debt in the form of capital expenditure financing in the ordinary course of business;
- 6.2.6 amend the terms and conditions of the employment contracts of any member of M5, other than changes or amendments resulting from the Company's annual salary review in the ordinary or usual course of Business;
- 6.2.7 make or agree to any material amendment, variation, deletion, addition, renewal or extension to or of, terminate or give any notice or intimation of termination of, or breach or fail to comply with the material terms of any material contract;
- 6.2.8 dispose of any material Affiliates (other than FibreCo Telecommunications Holdings Proprietary Limited);
- 6.2.9 assume or incur any liabilities out of the ordinary course of business (or give any indemnity in respect thereof);
- 6.2.10 assume or incur any liabilities (directly or indirectly) for the benefit of any member of 3C, M5, MS15 or their respective Affiliates or Related Persons;
- 6.2.11 make any changes to the Accounting Principles of any of the Group Companies;
- 6.2.12 fail to renew all material licenses (which shall include those in clause 3.1.13) or fail to comply with the provisions thereof;
- 6.2.13 issue or create any shares other than as set out in the Transaction Documents;
- 6.2.14 action or implement any of the matters set out in clause 5.5.2 (*Reserved Matters*) of the MOI;
- 6.2.15 amend any of the Transaction Documents to which they are a party; or

- 6.2.16 transfer or permit the transfer of any shares in any Group Company, save as may be permitted or envisaged in the Transaction Documents.
- 6.3 For purposes of this clause 6, **material** shall exclude any transaction, agreement or matter which falls within: (i) the approved budget for the Group for the 2017 financial year approved by the Board of Directors on 26 January 2017; and (ii) the delegation of authority of the Chief Executive Officer of the Company stamped by the company secretary for identification purposes (it being agreed that such delegation of authority may not be amended during the Interim Period without the consent of all the Subscribing Parties, which consent shall not be unreasonably withheld or delayed).
- 6.4 The Parties agree that, during the Interim Period, each of BLT, NET1 and 3C shall be provided with Management Accounts as soon as reasonably practicable following the end of each calendar month but in any event no later than 20 (twenty) days thereafter.
- 6.5 Without derogating from any other provision hereof or any other Transaction Document, each of the Parties undertakes to forthwith notify the other of them in writing should they become aware of any of the undertakings, representations and/or warranties contained in the Transaction Documents being breached.
- 6.6 The Company represents and warrants to BLT and NET1 that none of the events or matters listed in clause 6.2 has occurred or has been implemented in contravention of the provisions of clause 6.2 from 30 November 2015 up to the Signature Date, other than those that have been notified to BLT and NET1 in writing prior to the Signature Date.

7. **PRE-CLOSING COVENANTS**

- 7.1 During the Interim Period, 3C shall exercise its shareholding rights, whether directly or indirectly, and other powers of influence and control and otherwise use its reasonable endeavours to cause each member of the Group to comply with the obligations set out in clause 6.
- 7.2 The Parties shall negotiate in good faith, with a view to agreeing before Closing, the final form of any Transaction Document which is not in Agreed Form at the date of this Agreement.

8. **PRE-CLOSING MEETING**

- 8.1 The Parties agree that they, and shall procure that their respective financial and legal advisors (if any), shall meet at 10h00 2 (two) Business Days prior to the Implementation Date at the Sandton, Johannesburg offices of Bowmans, or such other appropriate time or venue as the Parties may agree upon in writing in order to prepare for Closing.

8.2 At the meeting referred to in clause 8.1, the Parties and their respective advisors (if any) shall ensure that all outstanding items necessary for a successful Closing on the Implementation Date are implemented and/or finalised. The Parties undertake to use their reasonable endeavours to ensure that all such outstanding items are dealt with efficiently and in such a manner as will ensure a successful Closing on the Implementation Date.

9. CLOSING

9.1 Closing of this Agreement and the other Transaction Documents shall happen on the Implementation Date and as set out in the Master Implementation Agreement.

9.2 At Closing, the relevant Parties shall deliver or perform (or ensure that there is delivered or performed) all those documents, items and actions respectively listed in relation to that Party or any of their Affiliates (as the case may be) in each of the Transaction Documents, the Master Implementation Agreement and **Schedule 9**.

10. BREACH AND TERMINATION

10.1 If a Party (**Defaulting Party**) commits any breach of this Agreement and fails to remedy such breach within 20 (twenty) Business Days (**Notice Period**) of written notice requiring the breach to be remedied, then the Party giving the notice (**Aggrieved Party**) will be entitled, at its option:

10.1.1 to claim immediate specific performance of all or any of the Defaulting Party's obligations under this Agreement, with or without claiming damages, whether or not such obligation has fallen due for performance and to require the Defaulting Party to provide security to the satisfaction of the Aggrieved Party for the Defaulting Party's obligations; or

10.1.2 to cancel this Agreement, with or without claiming damages, in which case written notice of the cancellation shall be given to the Defaulting Party, and the cancellation shall take effect on the giving of the notice. No Party shall be entitled to cancel this Agreement unless the breach is a material breach. A breach will be deemed to be a material breach if:

10.1.2.1 it is capable of being remedied, but is not so remedied within the Notice Period; or

10.1.2.2 it is incapable of being remedied and payment in money will compensate for such breach but such payment is not made once finally determined,

provided that, without derogating from clauses 10.1.1 and 10.1.2, the Implementation Date shall be postponed to the second Business Day following the expiry of the Notice Period in the event that the Implementation Date is scheduled to occur prior to the end of any Notice Period.

- 10.2 The Parties agree that any costs awarded will be recoverable on an attorney-and-own-client scale unless the arbitrators or the court, as the case may be, specifically determine that such scale shall not apply, in which event the costs will be recoverable in accordance with the High Court tariff, determined on an attorney-and-client scale.
- 10.3 The Aggrieved Party's remedies in terms of this clause 10 are without prejudice to any other remedies to which the Aggrieved Party may be entitled in law.
- 10.4 Notwithstanding the foregoing, after Closing, none of the Parties will have the right to cancel this Agreement or any other Transaction Document as a result of a breach thereof.

11. WARRANTIES

Each Party represents and warrants to each other Party, severally but not jointly (and solely with respect to itself), as at the Signature Date and the Implementation Date, that:

- 11.1 all necessary corporate actions have been taken to authorise its entry into this Agreement and all Transaction Documents to which it is a party and its carrying out of the Proposed Transaction contemplated in this Agreement;
- 11.2 it has the right, power and authority, and has taken all action necessary, to execute, deliver and exercise its rights, and perform its obligations, under this Agreement and all the Transaction Documents to which it is a party;
- 11.3 its obligations under this Agreement and all the Transaction Documents to which it is a party are, or when the relevant document is executed will be, enforceable in accordance with their terms against the Company;
- 11.4 this Agreement and all Transaction Documents to which it is a party constitute its legal, valid and binding obligations, enforceable against it in accordance with the terms set out in this Agreement and the Transaction Documents to which it is a party; and
- 11.5 neither its execution of this Agreement and the Transaction Documents to which it is a party nor the carrying out by it of the Proposed Transaction contravenes or will contravene:
- 11.5.1 any law or order by any government agency binding on it or its property; and
- 11.5.2 any agreement, undertaking or instrument binding on it or any of its property.

12. ANNOUNCEMENTS AND CONFIDENTIALITY

- 12.1 For purposes of this Agreement, **Confidential Information** shall mean all written and/or tangible information related to this Agreement and information and/or data created by the Company or by any of the Parties or their Affiliates and disclosed by either the Company or any Party or its Affiliate to another Party or such Party's Affiliate which is confidential, proprietary and/or not generally available to the public, including, but not limited to, information relating in whole or in part to the Company, including present and future services, business plans and strategies, marketing ideas and concepts, especially with respect to unannounced services, present and future business plans, marketing plans, sales strategies, customer information, development plans, customer requirements, or other technical and business information.
- 12.2 The Parties shall not, and each Party shall use all reasonable endeavours to procure that every Affiliate of such Party shall not, disclose to any Person or use (other than in connection with claims against such Parties in respect of any breach of their obligations and duties under this Agreement or other documents related thereto or otherwise enforcing any right) any Confidential Information which may have come to its or their knowledge, provided however that in respect of each Party (or Affiliates thereto) the foregoing obligations shall not apply to the disclosure of Confidential Information if and to the extent:
- 12.2.1 disclosure is required by law or for the purpose of any judicial proceedings or by any Governmental Entity if (to the extent practicable) prior notice is given to the other Parties;
- 12.2.2 that a Party is obliged to make such disclosure in terms of the Companies Act or any other law or enactment, or the Listings Requirements or the rules and regulations of any other stock exchange or any other regulator having jurisdiction, provided that the Party in question shall, where possible and provided that it will not delay the Party concerned from complying with its obligations, consult with the other Parties before making any such announcement or statement;
- 12.2.3 the Confidential Information is disclosed by a Party in connection with judicial or arbitral proceedings (and only to the extent it is used in the proceedings), brought by any Party for the purposes of enforcing the provisions of this Agreement;
- 12.2.4 the Confidential Information is or becomes generally available to the public other than as a result of a breach of any undertaking or duty of confidentiality by any Person;
- 12.2.5 the Confidential Information is disclosed on a confidential basis by a Party to its Affiliates and their advisers, representatives, directors, shareholders, auditors or bankers for the purposes of its business;

- 12.2.6 the Confidential Information is disclosed by 3C to its Affiliates and holding companies for announcement purposes through its usual reporting lines;
- 12.2.7 the Confidential Information is disclosed on a confidential basis by the Parties, their Affiliates and/or the Company for the taking of any action contemplated by this Agreement or related documentation;
- 12.2.8 disclosure is by a Party to one of its Affiliates which accepts or is otherwise subject to reasonable confidentiality restrictions; or
- 12.2.9 the other Parties have given their prior written consent to the contents and the manner of the disclosure by a Party (not to be unreasonably withheld or delayed).
- 12.3 Nothing in this clause 12 will prohibit any Party from utilising information which it is able to show:
- 12.3.1 was lawfully in its possession at the time of receipt;
- 12.3.2 was at the time of receipt part of the public domain or lawfully after receipt became part of the public domain;
- 12.3.3 was lawfully received from a third party entitled to possess and disclose that information;
- 12.3.4 was disclosed to a potential purchaser of the Shares and the potential purchaser has entered into a confidentiality agreement with the Company to its reasonable satisfaction prior to such disclosure; or
- 12.3.5 was required by law or any securities exchange or regulatory or Governmental Entity to which any Party is subject, wherever situated, whether or not the requirement for information has the force of law, provided that the Party required to make the disclosure has taken all reasonable steps to oppose or prevent the disclosure and to limit, as far as reasonably possible, the extent of such disclosure and, additionally, has given the other Parties reasonable notice of the required disclosure and a reasonable opportunity to participate in opposing, preventing or limiting the disclosure.
- 12.4 Save as set out in clause 12.2.2, no Party shall make any announcement or statement about this Agreement, or its contents or the Proposed Transaction without first having obtained the other Parties' prior written consent to the announcement or statement and to its contents, provided that such consent may not be unreasonably withheld.
- 12.5 Parties acknowledge that damages would not be a sufficient remedy for any breach of this clause 12 and each Party will be entitled to the remedy of injunction, specific performance and other equitable relief for any threatened or actual breach, in addition to any damages or other remedy to which it may be entitled and no proof of special damages will be necessary for the enforcement of this Agreement.

13. INDEPENDENT EXPERT DETERMINATION

- 13.1 Subject to clause 14.1, any dispute, claim or controversy arising out of or in connection with this Agreement shall, if either this Agreement expressly provides for determination by an Independent Expert or the Parties agree in writing that such dispute, claim or controversy is of a financial or accounting nature, be resolved in accordance with this clause. In any other case, the matter shall be resolved in accordance with clause 14.
- 13.2 Any Party may give notice to the others requiring the matter to be referred to an independent expert (the **Independent Expert**), which Independent Expert shall be selected from the agreed list of investment banks attached as **Schedule 13.2** to this Agreement, provided that the Independent Expert shall be one of Deloitte, PricewaterhouseCoopers, Ernst & Young or KPMG if the dispute in question relates to the calculation of Net Debt. The Parties shall appoint the Independent Expert by agreement within 10 (ten) Business Days of such notice requiring the matter to be referred to the Independent Expert. In the event that the Parties are unable to agree upon which Independent Expert to appoint, within a period of 10 (ten) Business Days of the date of the notice, then the Independent Expert shall be appointed by the President for the time being of the South African Institute of Chartered Accountants on the application of any Party within 10 (ten) Business Days of such notice.
- 13.3 The Independent Expert shall be required to accept written and oral submissions from each of the Parties to the dispute, and shall, subject to making the necessary arrangements with regard to confidentiality, be entitled to engage and consult any appropriately qualified professionals, the costs of which shall be paid by the Parties to the dispute in accordance with clause 13.6. All documents and information provided to the Independent Expert by any Party must also simultaneously be provided to all other Parties. In this regard the Parties record their intention that, where appropriate and insofar as legal matters are concerned, and in reaching his determination, the Independent Expert may engage the services of an advocate with at least 10 (ten) years of post-pupillage experience in commercial matters.
- 13.4 Each of the Parties agrees to execute, if requested by the Independent Expert, an engagement letter containing terms and conditions that are reasonably requested by an Independent Expert, and further that each of them shall co-operate with the Independent Expert and promptly provide all documents and information reasonably requested by the Independent Expert.
- 13.5 The Independent Expert shall be bound by the terms and methodologies set out in this Agreement and act as an expert and not as an arbitrator and his or her decision shall (in the absence of manifest error) be final and binding on the Parties. The Independent Expert shall afford the Parties the opportunity of making written representations to him or her. The Independent Expert shall use its best endeavours to ensure that a determination on any matter referred to it is made within a period of 20 (twenty) Business Days following receipt by it of all the required documents and submissions entered into in clause 13.4.

13.6 The fees and expenses of the Independent Expert shall be borne by the Parties in equal shares unless the Independent Expert otherwise determines.

14. DISPUTE RESOLUTION

14.1 In the event of any dispute arising out of or relating to this Agreement or any of the Transaction Documents, or the breach, termination or invalidity thereof, any Party may invite the other(s) in writing to a meeting of the respective Chief Executive Officers (or other officials holding executive positions) of the Parties to the dispute and the Parties to the dispute shall attempt to resolve the dispute through negotiation between the Chief Executive Officers (or other officials holding executive positions) within 10 (ten) Business Days from the date of such written invitation.

14.2 Should the respective Chief Executive Officers (or other officials holding executive positions) of the Parties fail to resolve the dispute referred to in clause 14.1, then any Party to the dispute shall (if it requires a dispute to be settled in terms of this Agreement) be obliged to give written notice to any other Parties to the dispute (other than where the Company is a party to the dispute in which case the notice shall be provided to all the Shareholders) to initiate the arbitration procedure set out below (the **Dispute Notice**).

14.3 The Parties may agree on the arbitrators and the arbitration procedure and, failing agreement within 5 (five) Business Days from the date of the Dispute Notice or such longer period of time as may be agreed to in writing, then: (i) the arbitration shall take place in accordance with the rules of the Arbitration Foundation of South Africa (**AFSA**) in force at the time of the dispute (or the last rules in existence if, for whatever reason, AFSA ceases to exist); and (ii) the arbitrators shall be nominated and appointed by AFSA upon written request by any Party, provided that the arbitrators shall each have at least 15 (fifteen) years' relevant experience and, in the case of a lawyer, shall be a senior counsel of the Johannesburg Bar or a retired judge.

14.4 Unless agreed otherwise, the arbitration shall be administered by the Parties. The number of arbitrators shall be 3 (three) and the place of the arbitration hearing shall be Sandton, Johannesburg and the arbitration shall be conducted in the English language.

14.5 The governing substantive law of the Agreement shall be the law of South Africa. The governing procedural law of the arbitration shall be the law of South Africa.

14.6 The arbitrators shall have the same remedial powers as a court of law in South Africa would have were it adjudicating the dispute. The arbitrators shall deliver an award together with written reasons within 30 (thirty) days from the date upon which the arbitration ends which award shall be final and binding on the Parties save for any manifest error.

14.7 Nothing in this clause 14 shall preclude any Party from applying to a duly constituted court of competent jurisdiction for urgent interim relief: (i) to compel arbitration; (ii) to obtain interim measures of protection prior to or pending arbitration; (iii) to seek such injunctive relief as may be necessary and appropriate; (iv) to enforce any decision of the arbitrators, including the final award; (v) for judgment in relation to a liquidated claim; or (vi) to enforce any security granted in terms of, or relating to, this Agreement and to this end the Parties hereby consent to the jurisdiction of the High Court of South Africa, Gauteng Local Division, Johannesburg (or its successor).

15. ADDRESSES FOR LEGAL PROCESSES AND NOTICES

15.1 The Parties choose for the purposes of this Agreement the following addresses, telefax numbers and email addresses:

- 15.1.1 3C Cnr Maxwell Drive and Pretoria Main Road
Buccleuch Ext 10
2090
Email address: serenta@cellc.co.za
Marked for the attention of: The Company Secretary
With a copy to Bowmans:
11 Alice Lane, Sandton, Johannesburg, 2146
Email address: ezra.davids@bowmanslaw.com
Marked for the attention of: The Senior Partner
- 15.1.2 BLT 75 Grayston Drive
Morningside Ext 5
Sandton
2196
Email address: legal@blts.co.za
Marked for the attention of: The Chief Executive Officer
- 15.1.3 NET1 6th Floor President Place
Corner of Jan Smuts Avenue & Bolton Road
Rosebank
2121
Email address: hermank@net1.com
Marked for the attention of: Herman Kotze

- 15.1.4 M5 Cnr Maxwell Drive and Pretoria Main Road
Buccleuch Ext 10
2090
Email address: graham@cellc.co.za
Marked for the attention of: Graham Mackinnon
- 15.1.5 MS15 Cnr Maxwell Drive and Pretoria Main Road
Buccleuch Ext 10
2090
Email address: graham@cellc.co.za
Marked for the attention of: The Chairman
- 15.1.6 SPV1 Cnr Maxwell Drive and Pretoria Main Road
Buccleuch Ext 10
2090
Email address: serenta@cellc.co.za
Marked for the attention of: The Company Secretary
With a copy to Bowmans:
11 Alice Lane, Sandton, Johannesburg, 2146
Email address: ezra.davids@bowmanslaw.com
Marked for the attention of: The Senior Partner
- 15.1.7 SPV2 Cnr Maxwell Drive and Pretoria Main Road
Buccleuch Ext 10
2090
Email address: serenta@cellc.co.za
Marked for the attention of: The Company Secretary
With a copy to Bowmans:
11 Alice Lane, Sandton, Johannesburg, 2146
Email address: ezra.davids@bowmanslaw.com
Marked for the attention of: The Senior Partner
- 15.1.8 SPV3 Cnr Maxwell Drive and Pretoria Main Road
Buccleuch Ext 10
2090
Email address: serenta@cellc.co.za
Marked for the attention of: The Company Secretary

With a copy to Bowmans:
11 Alice Lane, Sandton, Johannesburg, 2146
Email address: ezra.davids@bowmanslaw.com
Marked for the attention of: The Senior Partner

- 15.1.9 Company Cnr Maxwell Drive and Pretoria Main Road
Buccleuch Ext 10
2090
Email address: serenta@cellc.co.za
Marked for the attention of: The Company Secretary
- 15.2 Any legal process to be served on either of the Parties may be served on it at the address specified for it in clause 15.1 and it chooses that address as its *domicilium citandi et executandi* for all purposes under this Agreement and all the Transaction Documents.
- 15.3 Any notice or other communication to be given to any of the Parties in terms of this Agreement is valid and effective only if it is given in writing, provided that any notice given by telefax or email is regarded for this purpose as having been given in writing.
- 15.4 A notice to any Party which is delivered to the Party by hand at that address is deemed to have been received on the day of delivery, provided it was delivered to a responsible person during ordinary business hours.
- 15.5 A notice to any Party which is sent by overnight courier in a correctly addressed envelope to the address specified for it in clause 15.1 is deemed to have been received on the Business Day following the date it is sent.
- 15.6 Each notice by telefax or email to a Party at the telefax number or email address specified for it in clause 15.1 is deemed to have been received within 6 (six) hours of transmission if it is transmitted during normal business hours of the receiving Party or within 3 (three) hours of the beginning of the next Business Day at the destination after it is transmitted, if it is transmitted outside those business hours.
- 15.7 Notwithstanding anything to the contrary in this clause 15, a written notice or other communication actually received by any Party is adequate written notice or communication to it notwithstanding that the notice was not sent to or delivered at its chosen address.
- 15.8 Any Party may by written notice to the other Parties change its address or telefax number or email address for the purposes of clause 15.1 to any other address (other than a post office box number) provided that the change will become effective on the day following receipt of the notice.

16. **LIMITATION OF LIABILITY**

The Parties hereby unconditionally and irrevocably agree and acknowledge that they are each bound by the limitation of liability provisions of the Subscription Agreement to which they are a Party and that the recourse available to each Party against each other Party under this Agreement and the remainder of the Transaction Documents (excluding the Shareholders Agreement, the Memorandum of Incorporation and the Company Indemnity Agreement) shall be limited in accordance therewith.

17. **GENERAL**

17.1 **Communications between the Parties**

All notices, demands and other oral or written communications given or made by or on behalf of one of the Parties to another Party shall be in English or accompanied by a certified translation into English.

17.2 **Remedies**

Subject to the provisions of clause 10, no remedy conferred by this Agreement is intended to be exclusive of any other remedy which is otherwise available at law, by statute or otherwise. Each remedy is cumulative and in addition to every other remedy given hereunder or now or hereafter existing at law, by statute or otherwise. The election of any one or more remedies by a Party does not constitute a waiver by such Party of the right to pursue any other remedy.

17.3 **Entire Agreement**

17.3.1 This Agreement and the Transaction Documents constitutes the entire agreement between the Parties in regard to its subject matter.

17.3.2 None of the Parties shall have any claim or right of action arising from any undertaking, representation or warranty not included in this Agreement.

17.4 **Variations**

No agreement to vary, add to or cancel this Agreement or any Transaction Document shall be of any force or effect unless recorded in writing and signed by or on behalf of all of the Parties. For the purposes of this clause 17.4, "writing" shall not include email or other data message and "signed" shall not include electronic signature, as defined in the Electronic Communications and Transactions Act, 2002.

17.5 **No Waiver**

17.5.1 A waiver of any right or remedy under this Agreement or by law is only effective if given in writing and is not deemed a waiver of any subsequent breach or default.

17.5.2 A failure to exercise or a delay by a Party in exercising any right or remedy provided under this Agreement or by law does not constitute a waiver of that or any other right or remedy, nor does it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this Agreement or by law prevents or restricts the further exercise of that or any other right or remedy.

17.6 **Conflict with other Agreements**

If there is any conflict between the terms of this Agreement and any other agreement or Transaction Document, the Shareholders Agreement and the MOI shall prevail (as between the Parties) unless: (i) such other agreement or Transaction Document expressly states that it overrides the Shareholders Agreement and the MOI in the relevant respect; or (ii) the Parties otherwise expressly agree in writing that such other agreement shall override the Shareholders Agreement and the MOI or Transaction Documents in that respect.

17.7 **Effect of Closing**

Notwithstanding Closing: (i) each provision of this Agreement not performed at or before Closing but which remains capable of performance; and (ii) all covenants and other undertakings and assurances contained in or entered into pursuant to this Agreement or any other Transaction Document, will remain in full force and effect and (except as otherwise expressly provided) without limit in time, except as may be expressly provided otherwise in this Agreement.

17.8 **Third Party Enforcement Rights**

No person who is not a Party to this Agreement, other than a person granted specific rights under this Agreement, shall have any right under any applicable legislation giving rights to such persons or on any other basis, to enforce any of its terms.

17.9 **No Partnership or Agency**

Nothing in this Agreement (or any of the arrangements contemplated by it) is or shall be deemed to constitute a partnership between the Parties or, except as may be expressly set out in it or them, constitute any Party the agent of any other for any purpose.

17.10 **Set-Off**

Save as expressly provided for in this Agreement, any other Transaction Document or specifically in relation to each Subscribing Party's obligation to discharge its portion of the Subscription Consideration, no Subscribing Party nor BLT Parent may set off any liability of the other of them under this Agreement or any of the Transaction Documents against any liability which it may have to the other of them under this Agreement or any of the Transaction Documents.

17.11 **Further Assurances**

Each of the Parties hereto shall, and shall cause their respective Affiliates to, execute and deliver such additional documents, instruments, conveyances and assurances and take such further actions as may be reasonably required or desirable to carry out the provisions of this Agreement and each of the other Transaction Documents and give effect to the Proposed Transaction contemplated hereby and thereby.

17.12 **Survival of Rights, Duties and Obligations**

Termination or expiry of this Agreement for any cause does not release any Party from any liability which at the time of termination or expiry has already accrued to such Party or which thereafter may accrue in respect of any act or omission prior to such termination or expiry.

17.13 **Severance**

If any provision of this Agreement that is not material to its efficacy as a whole is rendered void, illegal or unenforceable in any respect under any law of any jurisdiction, the validity, legality and enforceability of the remaining provisions are not in any way affected or impaired thereby and the legality, validity and unenforceability of such provision under the law of any other jurisdiction are not in any way affected or impaired.

17.14 **Assignment**

Save as permitted by the provisions of this Agreement, no Party may cede any of its rights or delegate any of its obligations under this Agreement.

17.15 **Counterparts**

This Agreement may be signed in any number of counterparts, and by each signatory on separate counterparts. Each counterpart is an original, but all counterparts shall together constitute one and the same instrument. Delivery of an executed counterpart signature page of this Agreement by email (PDF) or telecopy shall be as effective as delivery of a manually executed counterpart of this Agreement. In relation to each counterpart, upon confirmation by or on behalf of the signatory that the signatory authorises the attachment of such counterpart signature page to the final text of this Agreement, such counterpart signature page shall take effect together with such final text as a complete authoritative counterpart.

17.16 **Applicable Law**

17.16.1 This Agreement is governed by and shall be construed in accordance with the laws of South Africa.

17.16.2 Subject to the provisions of this Agreement, the Parties consent and submit to the non-exclusive jurisdiction of the High Court of South Africa, Gauteng Local Division, Johannesburg (or its successor) in any dispute arising from or in connection with this Agreement.

18. **COSTS**

Each Party is responsible for its own costs, legal fees and other expenses incurred in the negotiation, preparation and execution of this Agreement.

SIGNED at Dubai on this the 19th day of June 2017.

For and on behalf of
3C TELECOMMUNICATIONS PROPRIETARY LIMITED

/s/ Mazen Abouchakra

Signatory: Mazen Abouchakra

Capacity: Director

Who warrants his authority hereto

SIGNED at Sandton on this the 19th day of June 2017.

For and on behalf of
**THE PREPAID COMPANY PROPRIETARY
LIMITED**

/s/ B. Levy

Signatory: B. Levy

Capacity: Director

Who warrants his authority hereto

SIGNED at Sandton on this the 19th day of June 2017.

For and on behalf of
**NET1 APPLIED TECHNOLOGIES SOUTH AFRICA
PROPRIETARY LIMITED**

/s/ H. Kotze
Signatory: H. Kotze
Capacity: Director
Who warrants his authority hereto

SIGNED at Sandton on this the 19th day of June 2017.

/s/ José Guilherme Vieira Dos Santos
JOSÉ GUILHERME VIEIRA DOS SANTOS

SIGNED at Sandton on this the 19th day of June 2017.

/s/ Robert Killigrew Sabine Pasley
ROBERT KILLIGREW SABINE PASLEY

SIGNED at Sandton on this the 19th day of June 2017.

/s/ Graham Neil Mackinnon
GRAHAM NEIL MACKINNON

SIGNED at Buccleuh on this the 19th day of June 2017.

/s/ Hilton Roy Coverly
HILTON ROY COVERLY

SIGNED at Sandton on this the 19th day of June 2017.

For and on behalf of
ALBANTA TRADING 109 PROPRIETARY LIMITED

/s/ R. Pasley
Signatory: R. Pasley
Capacity: Director
Who warrants his authority hereto

SIGNED at Sandton on this the 19th day of June 2017.

For and on behalf of
**CEDAR CELLULAR INVESTMENT 1 (RF)
PROPRIETARY LIMITED**

/s/ G. Mackinnon
Signatory: G. Mackinnon
Capacity: Director
Who warrants his authority hereto

SIGNED at Sandton on this the 19th day of June 2017.

For and on behalf of

**MAGNOLIA CELLULAR INVESTMENT 2 (RF)
PROPRIETARY LIMITED**

/s/ G. Mackinnon
Signatory: G. Mackinnon
Capacity: Director
Who warrants his authority hereto

SIGNED at Sandton on this the 19th day of June 2017.

For and on behalf of
**YELLOWWOOD CELLULAR INVESTMENT 3 (RF)
PROPRIETARY LIMITED**

/s/ G. Mackinnon
Signatory: G. Mackinnon
Capacity: Director
Who warrants his authority hereto

SIGNED at Sandton on this the 19th day of June 2017.

For and on behalf of
CELL C PROPRIETARY LIMITED

/s/ J. Dos Santos
Signatory: J. Dos Santos
Capacity: Chief Executive Officer
Who warrants his authority hereto

SCHEDULE 1.1.52

MEMBERS OF M5

Members of M5	Identity Number
José Guilherme Vieira Dos Santos	[xxx]
Robert Killigrew Sabine Pasley	[xxx]
Graham Neil Mackinnon	[xxx]
Hilton Roy Coverly	[xxx]

SCHEDULE 9
CLOSING ARRANGEMENTS

PART A: Closing Obligations of 3C and the Company

1. At Closing, 3C shall deliver or ensure that there is delivered to the Subscribing Parties (or made available to the Subscribing Parties' reasonable satisfaction):
 - 1.1 **Approvals**
 - 1.1.1 written evidence of the satisfaction (or, to the extent applicable, waiver) of the Conditions set out in clause 3 of this Agreement;
 - 1.1.2 a certified copy of an extract of the minutes of a meeting of 3C in its capacity as sole shareholder of the Company authorising:
 - 1.1.2.1 by ordinary resolution, the appointment of the Subscribing Parties' nominees as Directors with effect from the Implementation Date; and
 - 1.1.2.2 by special resolution:
 - 1.1.2.2.1 the waiver of the required notice period in respect of the calling of such shareholder meeting;
 - 1.1.2.2.2 the waiver of the statutory pre-emptive right available to 3C as shareholder of the Company in accordance with section 39(2) of the Companies Act;
 - 1.1.2.2.3 the conversion of the entire number of ordinary shares in the Company from shares having a par value to shares having no par value;
 - 1.1.2.2.4 the increase in the Company's number of authorised shares;
 - 1.1.2.2.5 the amendment of the Company's MOI in order to give effect to, amongst other things, the conversion of shares and increase in the number of shares contemplated in paragraphs 1.1.2.2.2 and 1.1.2.2.3 respectively; and
 - 1.1.2.2.6 the issue of shares with a voting power in excess of 30% (thirty per cent) of the voting power of all of the ordinary shares of the Company held by 3C immediately before the Proposed Transaction in terms of section 41(3) of the Companies Act.

- 1.1.3 in respect of the Company:
- 1.1.3.1 certified copies of the following resolutions passed by the Board of Directors:
- 1.1.3.1.1 approving the conversion report prepared for or on behalf of the Board of Directors in terms of regulation 31(6) of the Companies Regulations and recommending that the shareholder of the Company approves the conversion of the Company's shares from shares having a par value to shares having no par value;
- 1.1.3.1.2 a resolution approving the issue of the M5 Subscription Shares to M5, in accordance with the terms of the M5 Subscription Agreement and the Master Implementation Agreement;
- 1.1.3.1.3 a resolution approving the issue of the MS15 Subscription Shares to MS15, in accordance with the terms of the MS15 Subscription Agreement and the Master Implementation Agreement;
- 1.1.3.1.4 a resolution approving the issue of the BLT Subscription Shares to BLT, in accordance with the terms of the BLT Subscription Agreement and the Master Implementation Agreement;
- 1.1.3.1.5 a resolution approving the issue of the NET1 Subscription Shares to NET1 in accordance with the terms of the NET1 Subscription Agreement and the Master Implementation Agreement;
- 1.1.3.1.6 a resolution approving the issue of the SPV1 Subscription Shares to SPV1 in accordance with the terms of the SPV1 Subscription Agreements and the Master Implementation Agreement;
- 1.1.3.1.7 a resolution approving the issue of the SPV2 Subscription Shares to SPV2 in accordance with the terms of the SPV2 Subscription Agreements and the Master Implementation Agreement;
- 1.1.3.1.8 a resolution approving the issue of the SPV3 Subscription Shares to SPV3 in accordance with the terms of the SPV3 Subscription Agreements and the Master Implementation Agreement;
- 1.1.3.1.9 a resolution approving the Subscription Consideration as adequate for purposes of section 40(1)(a) of the Companies Act;
- 1.1.3.1.10 a resolution approving the entry of BLT, NET1, M5, MS15, SPV1, SPV2 and SPV3 in the securities register of the Company;

- 1.1.3.1.11 a resolution approving the issue of new share certificates to each of: (a) BLT for the BLT Subscription Shares, (b) NET1 for the NET1 Subscription Shares; (c) the members of M5 for their respective proportion of the M5 Subscription Shares, (d) MS15 for the MS15 Subscription Shares, and (e) the SPV Subscribers for the SPV Subscription Shares registered in their respective names in accordance with the provisions of paragraph 1.1.3.1.10; and
- 1.1.3.1.12 a resolution noting the appointment to the Board of Directors of the Subscribing Parties' nominees and, if applicable, accepting the resignation of the relevant persons as Directors with effect from the Implementation Date;
- 1.2 **Corporate documents**
- 1.2.1 a certified copy of the MOI of the Company;
- 1.2.2 certified copies of the resolutions referred to in paragraph 1.1.3.1; and
- 1.2.3 to each of BLT, NET1, the members of M5, MS15 and the SPV Subscribers, the original signed share certificates for the BLT Subscription Shares, NET1 Subscription Shares, M5 Subscription Shares, MS15 Subscription Shares, and the SPV Subscription Shares, respectively;
- 1.3 **Announcements** the announcements/press releases of 3C in the Agreed Form;
- 1.4 **Directors**
- 1.4.1 the resignation letters of the relevant Directors appointed by 3C and resigning from the Board of Directors of the Company, with effect from the Implementation Date, and confirming that such Directors do not have any claims against the Company, as well as certified copies of such resigning Directors' passports or South African identity documents, as applicable; and
- 1.4.2 upon receipt of the resignation letters, a document delivered by the Company confirming that the Company does not have any claims against such resigning Directors;
- 1.5 **Other**
- a certified copy of the Company's securities register, updated to reflect the respective holdings of Shares of the Subscribing Parties immediately following Closing.

Part B: Closing Obligations of the Subscribing Parties

1. At Closing, BLT shall deliver or ensure that there is delivered to the Company (or made available to the Company's reasonable satisfaction):
 - 1.1 **Approvals**
 - 1.1.1 a certified copy of the minutes of a meeting of the board of directors of BLT, including a resolution authorising the subscription by BLT for the BLT Subscription Shares in accordance with the terms of the BLT Subscription Agreement, with effect from the Implementation Date;
 - 1.1.2 evidence to the reasonable satisfaction of the Company that the shareholders of BLT Parent have passed an ordinary resolution approving the Proposed Transaction as a "Category 1" transaction under the Listings Requirements;
 - 1.2 **Announcements**

the finalisation announcement and press release of BLT Parent, in the Agreed Form;
 - 1.3 **Directors**

the appointment letter of each new director to be appointed by BLT to the Board of Directors with effect from the Implementation Date, as well as certified copies of such appointed directors' passports or South African identity documents, as applicable.
2. At Closing, NET1 shall deliver or ensure that there is delivered to the Company (or made available to the Company's reasonable satisfaction):
 - 2.1 **Approvals**

a certified copy of the minutes of a meeting of the board of directors of NET1, including a resolution authorising the subscription by NET1 for the NET1 Subscription Shares in accordance with the terms of the NET1 Subscription Agreement, with effect from the Implementation Date;
 - 2.2 **Announcements**

the finalisation announcement and press release of NET1, in the Agreed Form;

2.3 **Directors**

the appointment letter of each new director to be appointed by NET1 to the Board of Directors with effect from the Implementation Date, as well as certified copies of such appointed directors' passports or South African identity documents, as applicable.

3. At Closing, each Party listed in **Schedule 1.1.52** shall deliver or ensure that there is delivered to the Company, NET1 and BLT (or made available to the Company's, NET1's or BLT's reasonable satisfaction):

3.1 **Approvals**

to the extent that any such Party is married in community of property, the written consent of such Party's spouse authorising the subscription by such Party for his *pro-rata* share of the M5 Subscription Shares in accordance with the terms of the M5 Subscription Agreement.

4. At Closing, MS15 shall deliver or ensure that there is delivered to the Company, NET1 and BLT (or made available to the Company's, NET1's and BLT's reasonable satisfaction):

4.1 **Approvals**

4.1.1 a certified copy of the minutes of a meeting of the board of directors of MS15:

4.1.2 including a resolution authorising the subscription by MS15 for the MS15 Subscription Shares in accordance with the terms of the MS15 Subscription Agreement; and

4.2 **Other**

a certificate issued not more than 30 (thirty) days prior to the date of delivery thereof by MS15 to BLT, NET1 and the Company 3C, by a recognised, reputable, independent and accredited BEE verification agency appointed by MS15 and reasonably acceptable to BLT, NET1 and the Company (each acting reasonably), certifying that MS15 has the Black Interest as at the Implementation Date.

5. At Closing, SPV1 shall deliver or ensure that there is delivered to the Company (or made available to the Company's reasonable satisfaction):

5.1 **Approvals**

certified copies of the minutes of meetings of the board of directors of SPV1, including resolutions authorising the subscription by SPV1 for the SPV1 Subscription Shares in accordance with the terms of the SPV1 Subscription Agreement, with effect from the Implementation Date.

6. At Closing, SPV2 shall deliver or ensure that there is delivered to the Company (or made available to the Company's reasonable satisfaction):

6.1 **Approvals**

certified copies of the minutes of meetings of the board of directors of SPV2, including resolutions authorising the subscription by SPV2 for the SPV2 Subscription Shares in accordance with the terms of the SPV2 Subscription Agreement, with effect from the Implementation Date.

7. At Closing, SPV3 shall deliver or ensure that there is delivered to the Company (or made available to the Company's reasonable satisfaction):

7.1 **Approvals**

certified copies of the minutes of meetings of the board of directors of SPV3, including resolutions authorising the subscription by SPV3 for the SPV3 Subscription Shares in accordance with the terms of the SPV3 Subscription Agreement, with effect from the Implementation Date.

8. At Closing, the Subscribing Parties shall take any other action required to give effect to the Transaction Documents.

Part C: General

All documents and items delivered at Closing pursuant to this Schedule and clause 9 of the Agreement shall be held by the recipient to the order of the person delivering the same until such time as Closing shall be deemed to have taken place. Simultaneously with delivery of all documents and all items required to be delivered at Closing (or waiver of the delivery of it by the person entitled to receive the relevant document or item), the documents and items delivered in accordance with each of the Transaction Documents and as set out in the Master Implementation Agreement and this **Schedule 9** shall cease to be held to the order of the person delivering them and Closing shall be deemed to have taken place.

SCHEDULE 13.2
INDEPENDENT EXPERT

1. Goldman Sachs
2. Barclays Capital
3. Deutsche Bank
4. Bank of America Merrill Lynch
5. Rand Merchant Bank
6. Morgan Stanley
7. JP Morgan
8. Investec
9. Standard Bank
10. UBS
11. HSBC
12. BNP Paribas
13. Citi Bank
14. Commerzbank

SUBSCRIPTION AGREEMENT

between

NET1 APPLIED TECHNOLOGIES SOUTH AFRICA PROPRIETARY LIMITED

and

CELL C PROPRIETARY LIMITED

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Subscription Agreement

Parties **NET1 Applied Technologies South Africa Proprietary Limited**
 Cell C Proprietary Limited

Introduction

- A Each of the Parties has entered into the Implementation Agreements in order to provide an implementation framework for the Transaction. This Agreement constitutes the Net1 Subscription Agreement as envisaged in the Implementation Agreements.
- B Pursuant to the Implementation Agreements, Net1 is to subscribe for the Net1 Subscription Shares in accordance with the terms and the conditions of this Agreement as read with the Implementation Agreements.

It is agreed

1 **DEFINITIONS AND INTERPRETATION**

- 1.1 In this Agreement:
- 1.1.1 **Accounting Principles** has the meaning given to it in the Equity Implementation Agreement;
- 1.1.2 **Act** means the Companies Act, No. 71 of 2008;
- 1.1.3 **Agreement** means this subscription agreement between the Parties, and schedules thereto, together with any amendments to this agreement or the schedules agreed to in writing between the Parties from time to time;
- 1.1.4 **Annual Financial Statements** has the meaning given to it in the Equity Implementation Agreement;
- 1.1.5 **Aware** means the knowledge, after having made necessary and diligent enquiries, of senior executive management of the Company or Subsidiary;
- 1.1.6 **Business** has the meaning given to it in the Equity Implementation Agreement;
- 1.1.7 **Business Day** means any day other than a Saturday, Sunday or official public holiday in South Africa;
- 1.1.8 **Closing** has the meaning given to it in the Master Implementation Agreement;
- 1.1.9 **Company** means Cell C Proprietary Limited, a company incorporated in South Africa under registration number 1999/007722/07;
- 1.1.10 **Company Indemnity Agreement** means the indemnity agreement to be entered into between the Company and Oger Telecom Limited pertaining to certain indemnities provided by the Company to Oger Telecom Limited;
-

- 1.1.11 **Company's Warranties** means the warranties provided by the Company to the Subscriber as set out in **Schedule 1**, and **Company's Warranty** shall have a corresponding meaning;
- 1.1.12 **Disclosure Schedule** means the disclosure schedule to be provided in terms of clause 6.4 and attached hereto as **Schedule 3**;
- 1.1.13 **Encumbrance** in relation to any shares, includes any pledge, 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 those shares, or any lending of shares, and the words **Encumber**, **Encumbered** and **Encumbering** shall have corresponding meanings;
- 1.1.14 **Equity Implementation Agreement** means the agreement entitled "Equity Implementation Agreement" between, *inter alia*, the Parties to be concluded on or about the Signature Date;
- 1.1.15 **Existing Shareholder** means 3C Telecommunications Proprietary Limited;
- 1.1.16 **Fairly Disclosed** means disclosed in such a manner and in such detail as would enable a prospective investor, acting reasonably and in good faith, to make an informed assessment of the matter concerned and to establish what the consequences thereof will be;
- 1.1.17 **Financial Statements** means the audited financial statements of the Company as at December 2015;
- 1.1.18 **Financial Year** means a 12 (twelve) month period commencing on 1 January and ending on the following 31 December;
- 1.1.19 **Group** means the Company and its Subsidiaries;
- 1.1.20 **ICASA** means the Independent Communications Authority of South Africa;
- 1.1.21 **IFRS** means International Financial Reporting Standards;
- 1.1.22 **Implementation Agreements** means collectively, the Master Implementation Agreement and the Equity Implementation Agreement;
- 1.1.23 **Implementation Date** has the meaning given to it in the Master Implementation Agreement;
- 1.1.24 **Income Tax Act** means the Income Tax Act, 58 of 1962;
- 1.1.25 **JIBAR** as at any date shall mean the mid-market rate for deposits in Rand for the succeeding period of 3 (three) months which appears on the Reuters screen, SAFETY page under the caption "YIELD" at approximately 10:00am, Johannesburg time, on that date (as determined by the Standard Bank of South Africa Limited);
- 1.1.26 **Long Stop Date** has the meaning given to it in the Master Implementation Agreement;
- 1.1.27 **Losses** has the meaning given to it in the Equity Implementation Agreement and **Loss** shall have a corresponding meaning;

- 1.1.28 **Management Accounts** means the most recent management accounts of the Company, on a consolidated basis, for the period from 1 January 2016 onwards, a copy of which is attached as
- Schedule 4;**
- 1.1.29 **Master Implementation Agreement** means the agreement titled "Master Implementation and Funds Flow Agreement" between, *inter alia*, the Parties and the Company's lenders to be concluded on or about the Signature Date;
- 1.1.30 **Memorandum of Incorporation** means the memorandum of incorporation which the Company will adopt in the form attached to the Shareholders' Agreement, as amended from time to time;
- 1.1.31 **Mutual Warranties** means the warranties provided by: (i) the Company to the Subscriber; and (ii) the Subscriber to the Company as set out in **Schedule 2**, and **Mutual Warranty** shall have a corresponding meaning;
- 1.1.32 **Net Debt** has the meaning given to it in the Equity Implementation Agreement;
- 1.1.33 **Net Debt Confirmation** has the meaning given to it in the Equity Implementation Agreement;
- 1.1.34 **Net1** means NET1 Applied Technologies South Africa Proprietary Limited, a company incorporated in South Africa under registration number 2002/031446/07;
- 1.1.35 **Net1 Subscription Price** means the subscription price payable by the Subscriber for the NET1 Subscription Shares, being ZAR2,000,000,000 (two billion Rand);
- 1.1.36 **Net1 Subscription Shares** means 75,000,000 (seventy five million) class "A" shares in the unissued share capital of the Company to be subscribed for by the Subscriber in terms of this Agreement on the Implementation Date so that the Subscriber holds Shares constituting 15% (fifteen per cent) of the entire issued Shares of the Company immediately following Closing;
- 1.1.37 **Ordinary Shares** means ordinary shares in the share capital of the Company having the rights set out in the Shareholders Agreement and the Memorandum of Incorporation as at the Implementation Date;
- 1.1.38 **Parties** means the Subscriber and the Company and **Party** means, as the context requires, any one of them;
- 1.1.39 **Prime Rate** means in relation to any period means the published prime overdraft rate ruling from time to time, expressed as a percentage rate per annum, as quoted by The Standard Bank of South Africa Limited from time to time during that period, as certified by any manager of The Standard Bank of South Africa Limited (whose appointment or authority need not be proved), whose certification at that time shall, in the absence of manifest error, be *prima facie* proof thereof;
- 1.1.40 **Pro Forma Net Debt Statement** has the meaning given to it in the Equity Implementation Agreement;
- 1.1.41 **Rand or R** means the South African Rand;

- 1.1.42 **Shareholders' Agreement** means the agreement entitled "Shareholders Agreement" concluded or to be concluded between, *inter alia*, the Parties (upon terms acceptable to them) on or about the Signature Date;
- 1.1.43 **Signature Date** means the date of the last signature to this Agreement;
- 1.1.44 **South Africa** means the Republic of South Africa as constituted from time to time, and **South African** shall have a corresponding meaning;
- 1.1.45 **Subscriber** means Net1;
- 1.1.46 **Suspensive Condition** means the suspensive condition set out in clause 3;
- 1.1.47 **Target Net Debt** has the meaning given to it in the Equity Implementation Agreement;
- 1.1.48 **Tax** has the meaning given to it in the Equity Implementation Agreement;
- 1.1.49 **Transaction** means all the transactions contemplated by the Transaction Documents; and
- 1.1.50 **Transaction Documents** has the meaning given to it in the Equity Implementation Agreement.
- 1.2 Any reference in this Agreement to:
- 1.2.1 a **clause** is, subject to any contrary indication, construed as a reference to a clause of this Agreement;
- 1.2.2 **law** is construed as any law including common law, statute, constitution, decree, judgment, treaty, regulation, directive, by-law, order or any other measure of any government, local government, statutory or regulatory body or court having the force of law; and
- 1.2.3 **person** is construed as a reference to any natural or juristic person, firm, company, corporation, government, state, agency or organ of a state, association, trust or partnership (whether or not having separate legal personality).
- 1.3 Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.
- 1.4 The headings do not govern or affect the interpretation of this Agreement.
- 1.5 If any provision in a definition confers rights, or imposes obligations on any Party, effect is given to it as a substantive provision of this Agreement.
- 1.6 Unless the context indicates otherwise an expression which denotes any gender includes the other; reference to a natural person includes a juristic person and *vice versa*; the singular includes the plural, and the plural includes the singular.
- 1.7 Any number of days prescribed in this Agreement excludes the first day and includes the last day unless the last day falls on a day which is not a Business Day, in which event the last day shall be the next succeeding Business Day, and any relevant action or notice may be validly done or given on the last day.

- 1.8 The words "including" and "in particular" are without limitation, and the *eiusdem generis* rule shall not apply.
- 1.9 Any reference to legislation includes any subordinate legislation made from time to time under that legislation and is to that legislation as at the Signature Date, as amended or replaced from time to time.
- 1.10 Any reference to a document or instrument includes the document or instrument as ceded, delegated, novated, altered, supplemented or replaced from time to time.
- 1.11 A reference to a Party includes that Party's successors-in-title and permitted assigns.
- 1.12 A time of day must be construed as a reference to South African Standard Time.
- 1.13 The rule of interpretation that, in the event of ambiguity, the contract must be interpreted against the party responsible for the drafting of the contract (i.e. the *contra proferentem* rule) does not apply.
- 1.14 The termination of this Agreement does not affect those of its provisions which expressly provide that they will operate after termination, or which must continue to have effect after termination, or which must by implication continue to have effect after termination, notwithstanding that the relevant provisions themselves do not provide for this.
- 1.15 Unless specifically stated otherwise in this Agreement, no provision of this Agreement constitutes a stipulation for the benefit of any person who is not a party to this Agreement.
- 1.16 The schedules to this Agreement form an integral part of it and words and expressions defined in this Agreement shall bear, unless the context otherwise requires or differently defined in a particular schedule, the same meaning in such schedules. To the extent that there is any conflict between the schedules to this Agreement and the provisions contained in the main body of this Agreement, the provisions in the main body of this Agreement shall prevail.
- 1.17 Where any term is defined within the context of any particular clause in this Agreement, the term so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, shall bear the same meaning as ascribed to it for all purposes in terms of this Agreement, despite that that term has not been defined in this interpretation clause.
- 1.18 The use of any expression covering a process available under South African law (including, for example, a winding-up) shall, if any of the Parties is subject to the law of any other jurisdiction, be interpreted in relation to that Party as including any equivalent or analogous proceeding under the law of such other jurisdiction.

2 PROVISIONS WHICH TAKE IMMEDIATE EFFECT

The provisions of this clause 2 and clauses 1, 3, 6.9 and 7 to 9 (inclusive) shall take effect and become operative immediately upon the Signature Date (the **Operative Provisions**).

3 **SUSPENSIVE CONDITION**

- 3.1 This entire Agreement, save for the Operative Provisions, which shall be of immediate force and effect, (the **Suspended Provisions**) is subject to the fulfilment of the Suspensive Condition that the Equity Implementation Agreement becomes fully unconditional in accordance with its terms through either the fulfilment or waiver, as the case may be, of all conditions to which it may be subject save for any condition requiring this Agreement to become unconditional.
- 3.2 The Parties shall, where it is within their respective power and control to do so, use their respective reasonable commercial endeavours to procure the fulfilment of the Suspensive Condition as soon as reasonably possible after the Signature Date, but in any event within the time permitted therefor. If the Suspensive Condition is not fulfilled by the Long Stop Date, then the Suspended Provisions shall never become effective and no Party shall have any claim against any other Party for anything done hereunder or arising hereout, save for a claim relating to a breach of, or pursuant to, the provisions of this clause 3.
- 3.3 If the Suspensive Condition is fulfilled prior to the Long Stop Date, then all the Suspended Provisions of this Agreement shall also take effect and become operative, and the whole of this Agreement shall accordingly become unconditional.

4 **SUBSCRIPTION AND PAYMENT OF NET1 SUBSCRIPTION PRICE**

- 4.1 Upon the terms and subject to the conditions contained in this Agreement and clause 9 (*Transaction Steps*) of the Master Implementation Agreement, the Subscriber shall subscribe for, and the Company shall issue to the Subscriber, the Net1 Subscription Shares in the Company for the Net1 Subscription Price.
- 4.2 The Net1 Subscription Price shall be paid by the Subscriber to the Company, and the Net1 Subscription Shares shall be issued by the Company to the Subscriber, at the time and in the manner provided for in the Master Implementation Agreement, against compliance by the Company with the provisions of clause 9 (*Transaction Steps*) in the Master Implementation Agreement, subject to the further terms and conditions contained in the Master Implementation Agreement and against compliance by the Subscriber and the Company of their respective obligations and the provision of required documents as set out in **Schedule 9** (*Closing Arrangements*) of the Equity Implementation Agreement.

5 **NON – DEDUCTIBLE INTEREST INDEMNITY**

- 5.1 The Company hereby irrevocably and unconditionally indemnifies the Subscriber and holds the Subscriber harmless, *pro rata* and in proportion to the Subscriber's shareholding in the Company, against any Losses incurred by or imposed on the Company in connection with any assessments arising, directly or indirectly, from, or in connection with, any costs or Taxes arising, including any reduction of Tax losses, from the deduction of interest which is found to be non-deductible, in respect of any period prior to the Implementation Date.
- 5.2 The Company shall not be liable for any Losses suffered by the Subscriber under this clause 5 if the Subscriber has not made a demand for arbitration in regard thereto in terms of clause 14 (*Dispute Resolution*) of the Equity Implementation Agreement by the 5th (fifth) anniversary of the Implementation Date.

5.3 The Company's maximum liability under this clause 5 to the Subscriber shall be limited to R11,250,000 (eleven million two hundred and fifty thousand Rand).

6 WARRANTIES

6.1 The Company gives the Subscriber the Company's Warranties, it being agreed that each Company's Warranty shall be a separate warranty and shall in no way be limited or restricted by reference to or inference from the terms of any other Warranty.

6.2 The Company gives to the Subscriber and the Subscriber gives to the Company, the Mutual Warranties, it being agreed that each Mutual Warranty shall be a separate warranty and shall in no way be limited or restricted by reference to or inference from the terms of any other Mutual Warranty.

6.3 Unless otherwise stated or otherwise required by the context, the Company's Warranties shall apply as at the Signature Date and the Implementation Date and during the period between those dates.

6.4 The Company's Warranties, when given at the Signature Date, are qualified to the extent, but only to the extent, of those matters Fairly Disclosed in the Disclosure Schedule.

6.5 The Company shall not be liable in respect of a claim for breach of the Company's Warranties to the extent that the facts giving rise to such claim were Fairly Disclosed in the Disclosure Schedule.

6.6 Where the same facts may give rise to a claim under this clause 6 or under any other provision of this Agreement, the amount of such claim shall not be reckoned twice in determining the aggregate value of claims.

6.7 The Company's Warranties and the Mutual Warranties are the only warranties and representations given by the Parties in respect of the subject matter of this Agreement (including but not limited to in respect of the Net1 Subscription Shares, the Company and the Business). Other than for the Company's Warranties and those Mutual Warranties given by the Company, the Net1 Subscription Shares are issued and allotted to the Subscriber on a *voetstoots* basis.

6.8 The warranties are limited and qualified to the extent to which, and no Party shall be entitled to make a claim in respect of a breach of any of those warranties if and to the extent that, any breach of those warranties or the facts, information or circumstances giving rise to or causing any breach of those warranties or a claim of a Party in respect of any breach of those warranties are: (i) Fairly Disclosed to the other Party in the Disclosure Schedule; or (ii) was known to such Party on or prior to the Signature Date.

6.9 Should the Company become aware of any facts or circumstances which could reasonably be expected to give rise to, or result in, a claim for breach of the Company's Warranties or the Mutual Warranties being made against the Company, the Company shall forthwith notify the Subscriber thereof in writing.

- 6.10 If at any time, any fact, matter or circumstance comes to the knowledge of the senior executive management of the Company which has resulted or may result in any of the warranties being inaccurate or breached, the Company shall (without detracting from the Company's liability for any such inaccuracy or breach) immediately give written notice of that fact to the Subscriber.

7 LIMITATION OF LIABILITY

7.1 Total Liability

The Parties agree that the recourse available to each Party against each other Party under this Agreement (other than the provisions of clause 5 of this Agreement) and the remainder of the Transaction Documents (excluding the Shareholders Agreement and the Memorandum of Incorporation), shall be limited in accordance with the terms of this clause 7. Any claims which a Party may have against any other Party under this Agreement or the remainder of the Transaction Documents (excluding the Shareholders Agreement and the Memorandum of Incorporation) and which sound in money, shall be deemed to be a claim by such Party against such other Party under this Agreement and shall be dealt with under this Agreement and not under the applicable Transaction Document.

7.2 Time Limitation for Claims

Save for any claim arising out of: (i) clause 5; (ii) the Company Indemnity Agreement; and/or (iii) a breach of the warranties at clauses 3.1.1 and 3.1.2 of **Schedule 1**, no liability shall attach to any Party (**Defaulting Party**) in relation to Losses of or incurred by any other Party (**Non-Defaulting Party**) as a result of any of the warranties being incorrect, false or untrue or arising from any cause under the Transaction Documents (other than the Shareholders Agreement and the Memorandum of Incorporation) of whatsoever nature if the Non-Defaulting Party has not issued summons against the Defaulting Party for recovery of such Losses or made a demand for arbitration in regard thereto in terms of clause 14 (*Dispute Resolution*) of the Equity Implementation Agreement by a date which is 60 (sixty) days after the date on which the Annual Financial Statements (duly signed by the Auditors) in respect of the period ending December 2018 are received by the Subscriber.

7.3 Minimum Claims

Other than Losses: (i) pursuant to the provisions of clause 5 of this Agreement; and/or (ii) arising out of a breach of the warranties at clauses 3.1.1 and 3.1.2 of **Schedule 1**, the Defaulting Party shall not be liable for any Losses of or incurred by the Non-Defaulting Party, unless:

- 7.3.1 the value of an individual Loss exceeds R100,000 (one hundred thousand Rand), provided that individual Losses which arise from substantially the same cause of action shall be aggregated and not be regarded as individual Losses for this purpose, and subject further to the proviso in clause 7.3.2; and
- 7.3.2 the value of the Losses suffered or incurred by the Non-Defaulting Party in aggregate exceed R3,000,000 (three million Rand) (such applicable quantum of damages being referred to as the **Cumulative Threshold**), provided that once the Cumulative Threshold is reached, the Non-Defaulting Party shall, subject to clause 7.4, only be entitled to claim the aggregate quantum of Losses above the Cumulative Threshold (i.e the Rand amount above R3,000,000 (three million Rand))

7.4 **Aggregate Liability**

Notwithstanding the warranties, representations or undertakings given by the Parties, the aggregate liability of the Company to the Subscriber in relation to all claims or Losses under this Agreement and under any of the remaining Transaction Documents (other than the Shareholders Agreement and the Memorandum of Incorporation) is limited to an amount equal to the Net1 Subscription Price (other than with regard to the provisions of clause 5), on the basis that the aggregate amount recoverable from the Company, from such causes arising, shall be limited to the aforesaid amount.

7.5 **Insurance and Tax Benefits**

Any claim made against the Defaulting Party in respect of the warranties or otherwise under any of the Transaction Documents (other than the Shareholders Agreement and the Memorandum of Incorporation) shall be reduced by the proportionate amount of: (i) any payment received by the Non-Defaulting Party by way of an indemnity in terms of a policy of insurance concluded by the Non-Defaulting Party in respect of any event giving rise to such claim; or (ii) a Tax benefit derived by the Company in respect of any event giving rise to such claims.

7.6 **Contingent Liabilities**

No Party shall be liable for any potential claim of the other Parties in respect of liability which is contingent unless and until such contingent liability ceases to be contingent and becomes an actual liability and is due and payable.

7.7 **Special, Indirect or Consequential Losses or Damages**

No Party shall be liable under this Agreement or any other Transaction Document in respect of any loss of profit, loss of revenue, loss of goodwill, or any special, indirect or consequential losses or damages.

7.8 **No Double Recovery**

The Non-Defaulting Party shall not be entitled to recover from the Defaulting Party the same sum or loss more than once in respect of any Loss.

7.9 **Parties Obligation to Mitigate Loss**

Nothing in this clause 7 shall in any way diminish a Party's common law obligations to mitigate its Loss.

7.10 **Conflicts**

Notwithstanding anything to the contrary contained elsewhere in this Agreement, to the extent that any conflict exists between the provisions of this clause 7 and any other provisions of this Agreement, the provisions of this clause 7 shall prevail and be implemented.

8 CLOSING AND DELIVERY

The closing and delivery provisions relating to the subscription by the Subscriber for the Net1 Subscription Shares are contained in the Master Implementation Agreement and Closing is to occur in accordance with the provisions of clause 4 of this Agreement, **Schedule 9** of the Equity Implementation Agreement, and the Master Implementation Agreement.

9 EQUITY IMPLEMENTATION AGREEMENT

9.1 There shall be and shall be deemed to be incorporated by reference into this Agreement the following clauses of the Equity Implementation Agreement as if set out in this Agreement in full to apply, with such changes as the context may require, as provisions of this Agreement and so to bind the Parties: clauses 10 (*Breach and Termination*), 12 (*Announcements and Confidentiality*), 14 (*Dispute Resolution*), 15 (*Addresses for Legal Processes and Notices*), 17 (*General*) and 18 (*Costs*).

9.2 If there is a conflict or inconsistency between the provisions of this Agreement and the Equity Implementation Agreement, the provisions of the Equity Implementation Agreement shall prevail.

9.3 The Parties select as their respective *domicilia citandi et executandi* the physical addresses, and for purposes of giving or sending any notice provided for or required under this Agreement, the physical addresses as well as the email addresses set out in clause 15 (*Addresses for Legal Processes and Notices*) of the Equity Implementation Agreement.

9.4 The delivery of any notice in terms of this Agreement will be subject to and dealt with in the manner set out in the Equity Implementation Agreement.

10 COSTS

The Parties agree that any costs awarded in favour of a Party enforcing any right in terms of this Agreement will be recoverable on an attorney-and-own-client scale unless the arbitrators or the court, as the case may be, specifically determine that such scale shall not apply, in which event the costs will be recoverable in accordance with the High Court tariff, determined on an attorney-and-client scale.

Signed at Sandton on the 19th day of June 2017.

For and on behalf of
NET1 APPLIED TECHNOLOGIES SOUTH AFRICA PROPRIETARY LIMITED

/s/ H. Kotze
Name: H. Kotze
Capacity:
Who warrants his authority

Signed at Sandton on the 19th day of June 2017.

For and on behalf of
CELL C PROPRIETARY LIMITED

/s/ J. Dos Santos
Name: J. Dos Santos
Capacity: Chief Executive Officer
Who warrants his authority

SCHEDULE 1: COMPANY'S WARRANTIES

1. INTRODUCTION

The Company's Warranties set out in this **Schedule 1** are qualified only by the disclosures contained in **Schedule 3**.

1.1 Interpretation

Expressions defined in the subscription agreement to which this is attached as **Schedule 1 (Agreement)** shall bear the same meaning in this **Schedule 1** as that assigned to them in the Agreement. In addition, the following words and phrases shall have the meaning attributed to them as follows:

- 1.1.1 **AFS** means the signed consolidated audited financial statements of the Group for the year ended December 2015 and the consolidated financial statements of the Group for the year ended December 2016, prepared in accordance with the Accounting Principles and comprising the audited: (i) balance sheet; (ii) income statement; and (iii) cash flow statement, including related notes and schedules thereto, a copy of which is attached as **Schedule 4**;
- 1.1.2 **Commissioner** means the Commissioner for the South African Revenue Service (or his successor in title) for purposes of the Income Tax Act, including his lawful representative and including any other authority entitled to administer any taxes in South Africa;
- 1.1.3 **Group** means the Company and its Subsidiaries;
- 1.1.4 **Group Member** means any member of the Group;
- 1.1.5 **Income Tax Act** means the Income Tax Act, No. 58 of 1962, as amended;
- 1.1.6 **Insolvency Act** means the Insolvency Act, No. 24 of 1936, as amended;
- 1.1.7 **Intellectual Property Rights** means, in relation to a person, any registered or unregistered trademark, patent, design or rights of copyright as well as other intellectual property rights (including any application in relation to any of the foregoing) and all rights in any trade secrets, know-how or confidential information, used by that person in the conduct of its business;
- 1.1.8 **Labour Relations Act** means the Labour Relations Act, No. 65 of 1995, as amended;
- 1.1.9 **Management Accounts** means management accounts of the Company, on a consolidated basis, for the period from 1 January 2017 to 30 May 2017, a copy of which is attached as **Schedule 5**;
- 1.1.10 **M5** has the meaning given to it in the Equity Implementation Agreement;
- 1.1.11 **MS15** has the meaning given to it in the Equity Implementation Agreement;
- 1.1.12 **National Credit Act** means the National Credit Act, No. 34 of 2005, as amended;

- 1.1.13 **Relevant Agreements** means this Agreement, and each of the Transaction Documents (as defined in the Equity Implementation Agreement);
- 1.1.14 **SPV Subscribers** has the meaning given to it in the Equity Implementation Agreement; and
- 1.1.15 **Subsidiary** means a subsidiary company as defined in the Act and subsidiaries shall have a corresponding meaning.
- 1.2 To the extent that the Company's Warranties are given on a date which results in the use of any tense being inappropriate, the warranties set out below shall be read in the appropriate tense.
- 1.3 Unless the context clearly indicates a contrary intention, each Company's Warranty hereafter set out shall:
- 1.3.1 remain in force notwithstanding completion of the matters provided for in the **Agreement**;
- 1.3.2 be a separate and independent warranty and in no way be limited or restricted by reference to or inference from the terms of any other warranty or by any other provision in the Agreement (save any provision relating to or in respect of any disclosures contemplated in the Disclosure Schedule); and
- 1.3.3 apply as at the Signature Date and the Implementation Date.
- 1.4 The Company's Warranties set out below are given by the Company.

2. **CAPACITY AND AUTHORITY**

2.1 **Incorporation and Existence**

- 2.1.1 The Company is a company duly incorporated and registered under South African law and has been in continuous existence since incorporation.
- 2.1.2 Each other Group Member is a private company duly incorporated and registered under South African law and has been in continuous existence since incorporation.
- 2.1.3 The Company has an authorised share capital as at the Signature Date of 641 (six hundred and forty one) Ordinary Shares with a par value of R1 (one Rand) each and as at the Implementation Date of 1,000,000,000 (one billion) ordinary no par value shares.
- 2.1.4 The Company has the Subsidiaries set out in **Schedule 6**, each of which is a wholly-owned Subsidiary of the Company. Save for those Subsidiaries listed in **Schedule 6**, the Company has no other Subsidiaries.

2.2 **Right, Power, Authority and Action**

- 2.2.1 The Company has the right, power and authority to conduct the Business.
- 2.2.2 Each other Group Company has the right, power and authority to conduct the businesses conducted by them.

2.2.3 The Company has the right, power and authority, and has taken all action necessary, to execute, deliver and exercise its rights, and perform its obligations, under each Relevant Agreement.

2.3 Binding Agreements

2.3.1 The Company's obligations under this Agreement and each document to be executed at or before the Signature Date are, or when the relevant document is executed will be, enforceable against the Company in accordance with their terms.

2.3.2 The entry into each Relevant Agreement by the Company, and the performance by it of its obligations under each Relevant Agreement, does not, and will not:

2.3.2.1 as at the Implementation Date, result in any present or future material indebtedness of any member of the Group becoming due or capable of being declared due and payable prior to its stated maturity;

2.3.2.2 contravene, conflict with, or result in a violation of, any applicable laws; or

2.3.2.3 as at the Implementation Date, contravene, conflict with, or result in a breach or default of, the terms of, or give any person the right to declare a default or exercise any remedy under, or to accelerate the maturity or performance of, or to cancel, terminate or modify, any agreement, indenture, mortgage or other instrument of any kind to which it/he is a party, that has not been waived or consented to in writing by that person prior to the Signature Date.

3. SHARES

3.1 The Shares

3.1.1 The Net1 Subscription Shares will, upon issue and immediately following Closing, comprise the percentage of 15% (fifteen per cent) of the total issued number of ordinary shares of the Company.

3.1.2 As at the Signature Date, 100% (one hundred per cent) of the issued shares of the Company are held solely by the Existing Shareholder. As at the Implementation Date, the authorised shares of the Company shall comprise 1,000,000,000 (one billion) shares and the issued shares will be held as follows:

3.1.2.1 75,000,000 (seventy five million) class "A" ordinary shares of the same class and ranking *pari passu* which are to be held by the Subscriber;

3.1.2.2 225,000,000 (two hundred and twenty five million) class "A" ordinary shares of the same class and ranking *pari passu* which are to be held by BLT;

3.1.2.3 59,000,000 (fifty nine million) class "A" ordinary shares of the same class and ranking *pari passu* which are to be held by SPV1;

3.1.2.4 80,000,000 (eighty million) class "A" ordinary shares of the same class and ranking *pari passu* which are to be held by SPV2;

- 3.1.2.5 11,000,000 (eleven million) class "A" ordinary shares of the same class and ranking *pari passu* which are to be held by SPV3;
- 3.1.2.6 25,000,000 (twenty five million) class "A" ordinary shares of the same class and ranking *pari passu* which are to be held by MS15; and
- 3.1.2.7 25,000,000 (twenty five million) class "B" ordinary shares of the same class and ranking *pari passu* which are to be held by M5.
- 3.1.3 Save as contemplated in the Transaction Documents and pursuant to the Transaction or as Fairly Disclosed in the Disclosure Schedule, as at the Signature Date and the Implementation Date, there is no Encumbrance, and there is no agreement, arrangement or obligation to create or give an Encumbrance, in relation to any Shares in the Company (including the allotment and issue of the Net1 Subscription Shares). As far as the Company is Aware, no person has claimed to be entitled to an Encumbrance in relation to any of the shares in the Company.
- 3.1.4 As at the Implementation Date, save as contemplated in the Transaction Documents and pursuant to the Transaction, there is no agreement, arrangement or obligation requiring the creation, allotment, issue, transfer, redemption or repayment of, or the grant to a person of the right (conditional or not) to require the allotment, issue, transfer, redemption or repayment of, a share in the capital of the Company or any other Group Member (including, without limitation, an option or right of pre-emption or conversion), in terms of which such creation, allotment, issue, transfer, redemption or repayment must still occur.
- 3.1.5 As at the Implementation Date, save as contemplated in the Transaction Documents and pursuant to the Transaction, neither the Company nor any Group Member is and will not be under any obligation (whether contingently upon the exercise of any right or otherwise), and no resolution shall have been passed, requiring the Company or any Group Member to increase or to reduce its authorised or issued share capital, or to vary any of the rights attaching to any of its shares, or to buyback any of its shares, or to make any payment(s) to its shareholder.
- 3.1.6 As at the Implementation Date, no person (other than the Subscribing Parties (as defined in the Equity Implementation Agreement) has any right, actual or contingent, (including, *inter alia*, any option or right of first refusal) to subscribe for any shares or any other Securities in the authorised capital of any member of the Group.
- 3.1.7 No person is entitled to participate in, or to a commission on the dividends or profits of, any member of the Group, except as a shareholder.
- 3.1.8 As at the Implementation Date, save as contemplated by the Transaction, no member of the Group is obliged to cancel any of the shares in its capital or to create or issue any debentures or any derivatives.
- 3.2 **Securities Register**
- 3.2.1 The securities register of the Company contains true and accurate records of the holders of securities from time to time issued by the Company and the Company does not know of any facts or circumstances which may give rise to a rectification of the securities register of the Company.

3.2.2 No person has any right to obtain an order for the rectification of the securities register of any member of the Group.

3.3 **Receivables**

As at the Implementation Date and as far as the Company is Aware:

3.3.1 the receivables book will be in the name of the Company or relevant Group Member;

3.3.2 security relating to the receivables book will be documented to reflect the terms of the security and all such documents are in the possession, or under the Control of the Company;

3.3.3 as far as the Company is Aware, the provision by the Company for bad or doubtful debt is adequate;

3.3.4 the contracts with customers forming part of the receivables book and all documents ancillary thereto will be in the possession, and under the Control, of the Company; and

3.3.5 as far as the Company is Aware, the receivables book has accurately recorded the principle and material terms of these contracts (including the sum outstanding and the payment/repayment dates).

4. **RECORDS**

Each Group Member complies in all material respects with all record keeping requirements imposed by applicable laws and all such records (including the books, registers, accounts, ledgers and accounting records) of that Group Member:

4.1 are up-to-date in all material respects;

4.2 are in its possession or under its control;

4.3 give and reflect a true and fair view of the Group Member concerned and are not misleading in any material way; and

4.4 are properly completed on a basis consistent with the accounting records of the 3 (three) most recent financial years of the Group Member concerned (unless otherwise stated therein) and in accordance with the Act, IFRS (to the extent applicable) and the law of, and applicable standards, principles and practices generally accepted in, South Africa.

5. **FINANCIAL STATEMENTS**

5.1 **General**

5.1.1 For the purposes of this paragraph 5, "material" shall mean an amount that would be regarded as material by the auditor of the Company.

- 5.1.2 The Financial Statements have been prepared and audited on a proper and consistent basis in accordance with the Accounting Principles.
- 5.1.3 No change in accounting policies has been made in preparing the Financial Statements and Management Accounts of the Company or any Subsidiary for each of the 3 (three) most recent financial years of the Company or relevant Subsidiary, and (i) do not include any unusual, one off or extraordinary items, and (ii) correctly and accurately treat all items of revenue or expense in accordance with IFRS except as stated in those Financial Statements and Management Accounts. The AFS show a true and fair view of the assets, liabilities (including contingent, unquantified or disputed liabilities) and state of affairs as well as of the profits and losses of the Company (on a consolidated basis) as at the end of the financial years ending December 2015 and December 2016.
- 5.1.4 The financial information contained in the Financial Statements and Management Accounts is complete, accurate and is not misleading in any material respect.
- 5.1.5 Adequate provision has been made in the Financial Statements and Management Accounts:
- 5.1.5.1 for depreciation and/or amortization of fixed assets;
- 5.1.5.2 for all actual and contingent liabilities, including any material ongoing litigation. The Financial Statements adequately reflect, disclose or adequately provide for all actual liabilities of the Company for the period to which they relate;
- 5.1.5.3 as far as the Company is Aware, for bad or doubtful debts uncollected; and
- 5.1.5.4 for any employee benefits and claims.

5.2 No Undisclosed Liabilities

- 5.2.1 The Company has no liabilities, which would be regarded as material by an auditor, of any kind (including, for the avoidance of doubt, off statement of financial position liabilities) that would have been required to be reflected in, reserved against or otherwise described on the Financial Statements/Management Accounts or in the notes thereto in accordance with IFRS and were not so reflected, reserved against or described, other than: (i) liabilities incurred in the ordinary course of business after the financial year ending December 2016; and (ii) liabilities incurred in connection with the transactions contemplated hereby.
- 5.2.2 No shareholder of the Company or any Related Person to any such person has any claims against any Group Company whether on loan account, current account or otherwise other than Shareholders' claims on loan account which have been Fairly Disclosed.
- 5.2.3 The Company has paid its creditors which would be regarded as material creditors by an auditor, within the time limits agreed with such creditors save where a creditor's claim is disputed.
- 5.2.4 The Financial Statements have been reported on by the Auditors without any qualification and have been approved and signed by the directors of the Company.

5.2.5 No report has been furnished to any Group Member by its auditor concerning a material irregularity as contemplated in the Auditing Professions Act No. 26 of 2005 (as amended), or any similar predecessor section, or any analogous legislation in a relevant jurisdiction.

5.2.6 Since the 2014 AFS and Management Accounts, the Company's Business has been operated in the usual way so as to maintain it as a going concern.

5.3 **Management Accounts**

As at the Signature Date and the Implementation Date, the Management Accounts of the Company subsequent to the financial year ended December 2015 have been properly prepared on a basis consistent with the management accounts of the most recent financial year of the Company, unless otherwise stated therein. The Management Accounts show, in all material respects, a true and fair view of the assets, liabilities (including contingent, unquantified or disputed liabilities) and state of affairs as well as of the profits and losses of the Company (on a consolidated basis) for the period to which they relate.

5.4 **Minute Books**

As at the Signature Date and the Implementation Date, the minute book of each Group Member contains all material resolutions passed by the directors and members thereof, save for resolutions required to give effect to the provisions of this Agreement.

5.5 **Specific**

Since the 2014 AFS:

5.5.1 no Group Member has, other than in the ordinary course of its business:

5.5.1.1 acquired or disposed of, or agreed to acquire or dispose of, an asset which an auditor would regard as material; or

5.5.1.2 assumed or incurred, or agreed to assume or incur, a liability, obligation or expense (actual or contingent) that an auditor would regard as material;

5.5.2 the Group's business has not been materially and adversely affected by the termination of, or a change in the terms of, any licence, an agreement or by the loss of a customer or supplier or by an abnormal factor not affecting similar businesses;

5.5.3 the Company has not declared, paid or made a dividend or distribution (including, without limitation, a distribution within the meaning of the Income Tax Act), except as provided for in the 2014 Annual Financial Statements;

5.5.4 no Group Member has changed its financial year end or its auditors.

5.6 **Net Debt**

The Net Debt (excluding any drawn down portion of the facilities provided to the Company by ZTE Corporation or Huawei Technologies Co. Limited as at the Implementation Date) will not exceed the Target Net Debt immediately following Closing on the Implementation Date.

6. **TAX**

6.1 Each Group Member shall at all times have complied in all material respects with the provisions of the Income Tax Act, the Value-added Tax Act, No. 89 of 1991 (**VAT Act**) and all Tax returns (including without limitation employees' tax returns and specifically including all returns and information that relate to reportable arrangements as contemplated in Part B of Chapter 4 (sections 34 to 39 of the Tax Administration Act or sections 80M to 80T of the Income Tax Act) and declarations required to be returned shall have been made by it in respect of the 4 (four) financial years immediately preceding the Implementation Date and shall have accurately disclosed all information properly required to be disclosed to the Commissioner or other appropriate authorities, and all provisional and other Taxes shall have been paid as at the due date thereof in material compliance with the provisions of the Income Tax Act.

6.2 Each Group Member has paid and discharged when due, all Taxes payable by it from the date of its incorporation to the Implementation Date, including any Tax in respect of:

6.2.1 its assets, income or profits;

6.2.2 any transactions concluded by the Group Member concerned;

6.2.3 the declaration and payment of dividends and/or deemed dividends by the Group Member concerned.

6.3 All assessments for Tax raised in respect of the Group where the due date for payment of the Tax arises on or before the Implementation Date or which relate to the period prior to the Implementation Date or as otherwise provided in the Management Accounts shall have been paid in full by the Implementation Date, unless disputed by the Company in good faith. In respect of any Tax of the Group which is due for payment after the Implementation Date, adequate provision therefor shall have been made therefor in the financial statements of the Company. Final assessments have been issued for all Tax periods in respect of which the Group Member has submitted Tax returns and no Group Member is Aware of any intention by the Commissioner to re-open any such assessment.

6.4 As far as the Company is Aware, no Group Member is liable to pay any penalty, late payment penalty, administrative non-compliance penalty, understatement penalty, fine or interest in connection with any Tax.

6.5 As far as the Company is Aware, no Group Member is party to any transactions in respect of which the Tax authority may lawfully substitute, for purposes of Tax, a different consideration for the actual consideration given or received by the Group.

- 6.6 The wear and tear, depreciation or capital allowances applied in the past to the Group's fixed or other assets for Tax purposes shall conform in all material respects to, and shall not exceed, those permitted in terms of the Income Tax Act.
- 6.7 All financing costs incurred to date (including any interest or similar expenses) in relation to any financing entered into by the Group before Closing have been and will be deductible on an accruals basis.
- 6.8 As far as the Company is Aware, no facts or circumstances exist which could cause a revenue authority to disallow any existing assessable/accumulated tax losses or the carrying forward of such losses.
- 6.9 As far as the Company is Aware, the current and deferred Tax provisions and/or assets included in the Financial Statements have been properly provided for in accordance with the Accounting Principles.
- 6.10 Where required, a Group Member has duly registered as a VAT vendor in terms of the VAT Act, has complied in all material respects with all statutory provisions and regulations relating to VAT and has duly paid or provided for all amounts of VAT which have become due and payable or for which that Group Member is liable; and is not operating any special arrangement or scheme relating to VAT nor has it agreed any special method of accounting for VAT.
- 6.11 Except as otherwise Fairly Disclosed in the Disclosure Schedule, no Group Member has, at any time since the date of its incorporation:
- 6.11.1 entered into any transaction as contemplated in sections 41 to 47 of the Income Tax Act;
- 6.11.2 issued any "hybrid equity instrument", as contemplated in section 8E of the Income Tax Act, or any "third-party backed share", as contemplated in section 8EA of the Income Tax Act;
- 6.11.3 issued any "hybrid debt instrument" as contemplated in section 8F of the Income Tax Act;
- 6.11.4 incurred "hybrid interest" as contemplated in section 8FA of the Income Tax Act.
- 6.12 The Company is:
- 6.12.1 a resident for South African tax purposes and has not ceased such residence since the date of its incorporation;
- 6.12.2 is not treated as resident or liable to Tax in any other jurisdiction for any Tax purpose (including for the purposes of any double taxation agreement);
- 6.12.3 not subject to the interest-limitation provisions contained in sections 23M or 23N of the Income Tax Act.
- 6.13 The Company shall not at any time or times have been party to any 'company formation transaction', 'share-for-share transaction', 'amalgamation transaction', 'intra-group transaction', 'unbundling transaction' or 'liquidation, winding-up or deregistration transaction' all as contemplated in Part III of the Income Tax Act, or any other transaction which might be so classified.

- 6.14 As at the Signature Date, there are no material queries, notices, suits, proceedings, investigations or inspections pending against any Group Member by any Tax authority relating to any claim for any additional Tax or assessment, or any material matters under discussion with any Tax authority relating to any claim for any Tax or assessment, nor is there any pending Tax objection or appeal by any Group Member.
- 6.15 As far as the Company is Aware, the Tax files and records of the Group contain complete, full and accurate details in all material respects of all communications with Tax officials and Tax advisors, respectively, for the 3 (three) year period prior to the Implementation Date.
- 6.16 As far as the Company is Aware, to the extent that any Group Member claimed Tax allowances or deductions prior to the Implementation Date (including, without limitation, in respect of leasehold improvements) it was, insofar as it was Aware, entitled to do so in accordance with the provisions of the Income Tax Act.

7. BUSINESS OF THE COMPANY

- 7.1 The sole business of the Company is the Business which the Company conducts as a going concern solely in South Africa.
- 7.2 As far as the Company is Aware, no Group Member is bound by any restraint of trade agreement and no Group Member has committed (whether actually or contingently) to entering into any restraint of trade agreement by which it may be so bound.
- 7.3 The Company is not Aware of anything which will prevent the Company from carrying on the Business nor any other Group Company carrying on its business.
- 7.4 As far as the Company is Aware, as at the Signature Date, none of the matters listed under clause 6 (*Conduct of Business*) of the Equity Implementation Agreement have occurred between 1 December 2015 and such date.

8. ASSETS

8.1 Title and Condition

- 8.1.1 Each asset included in the Management Accounts or acquired by the Group since the Management Accounts (other than stock disposed of in the ordinary course of business or leased assets) is:
- 8.1.1.1 legally and beneficially owned solely by the Group; and
- 8.1.1.2 where capable of possession, in the possession or under the control of the Group.

- 8.1.2 Unless otherwise Fairly Disclosed in the Disclosure Schedule, all the material assets of the Group included in the Management Accounts or acquired by the Group since the Financial Statements, whether movable, immovable, fixed or of whatever nature or description will be owned by the Group in full, free and unencumbered ownership, and none of them will be subject to:
- 8.1.2.1 any credit agreement, credit transaction, instalment sale transaction or leasing transaction;
 - 8.1.2.2 any other credit agreement, instalment sale agreement, hire-purchase or suspensive sale agreement, lease or any like agreement whatever its form, save for motor vehicle leases in the ordinary course of business;
 - 8.1.2.3 any pledge, mortgage bond, lien or notarial bond;
 - 8.1.2.4 any other right in favour of any third person; or
 - 8.1.2.5 any arrangement for the payment of a premium or like consideration to or by the Group for the use of the asset concerned.
- 8.1.3 As far as the Company is Aware, no person has or will have any right (including any option or right of first refusal) to acquire or claim delivery, ownership or transfer or the use, occupation, possession or enjoyment of, any of the assets of any Group Member, other than in the ordinary course of its business.
- 8.1.4 There has been no exercise, purported exercise or claim for any Encumbrance over any of the assets of any Group Member, and there is no dispute directly or indirectly relating to any such assets.
- 8.1.5 Each Group Member has the legal capacity and power to own its assets and carry on its business as it is presently being conducted.
- 8.1.6 No Group Member has stopped or suspended payment of a material portion of its debts, or otherwise become unable to pay its debts or otherwise become insolvent in any relevant jurisdiction.

9. INTELLECTUAL PROPERTY

- 9.1 Each of the Intellectual Property Rights owned or licensed by the Group and material to the conduct of the Business is:
- 9.1.1 valid and enforceable and nothing has been done or omitted to be done by any Group Member by which it may cease to be valid and enforceable;
 - 9.1.2 legally and beneficially owned by the Group alone, or legally licensed by the Group; and
 - 9.1.3 as far as the Company is Aware, not the subject of a claim or opposition from a person (including, without limitation, an employee of the Group) as to title, validity, enforceability, entitlement or otherwise.

- 9.2 As far as the Company is Aware, no Group Member has infringed any third party's Intellectual Property Rights or rendered any Group Member liable to an action in respect of the infringement of any Intellectual Property Rights belonging to a third party, provided that the aforesaid Warranty does not apply to instances where any infringement occurs or may have occurred as a result of any Intellectual Property Rights not having been licensed to the Company validly by a licensor purporting to do so. There is and during the 2 (two) years ending on the Signature Date has been, no civil, criminal, arbitration, administrative or other proceeding or dispute in any jurisdiction by or against any Group Member concerning any of the Intellectual Property Rights. The Company is not Aware of any civil, criminal, arbitration, administrative or other proceeding or dispute concerning any of the Intellectual Property Rights being pending or threatened against it or any Group Member.
- 9.3 The Group is entitled to use the Intellectual Property Rights and the Company is not Aware of anything prohibiting its use of any Intellectual Property Rights and computer systems or other similar property licensed to the Group and used by the Company at present in connection with or for the Business operations of the Group.

10. NETWORK FACILITIES

- 10.1 The Network currently has sufficient capacity to serve the customers of the Group and, as far as the Company is Aware, the Group will be able to meet the requirements of their customers consistent with the growth in the requirements of their customers in the 2017, 2018 and 2019 financial years business plan of the Group, taking into consideration the capital expenditure program for the Group for the financial years 2017, 2018 and 2019.
- 10.2 The Network has not experienced any material and persistent capacity shortfalls or failures within the previous 12 (twelve) months.

11. INSURANCE

11.1 Status of the Policies

- 11.1.1 As far as the Company is Aware, each of the current insurance and indemnity policies in respect of which the Group has an interest (including any active historic policies which provide cover on a losses occurring basis) (**Policies**) is valid and enforceable.
- 11.1.2 As far as the Company is Aware, no Group Member has done or omitted to do anything which:
- 11.1.2.1 makes any of the Policies unenforceable; or
- 11.1.2.2 prejudices the ability to effect insurance on the same or better terms in the future.
- 11.1.3 No insurer under any of the Policies has disputed, or given any indication that they intend to dispute, the validity of any of the Policies on any grounds.

11.2 Insurance of Assets

All Policies are and remain in full force and effect, and as far as the Company is Aware, are adequate in respect of the assets to which such Policies relate.

11.3 **Claims**

- 11.3.1 As far as the Company is Aware, no material claims have been made under any Policy (other than claims made in the ordinary course of business), no claim is outstanding and the Company is not Aware of the existence of any fact or circumstance exists which will give rise to a material claim under any of the Policies.
- 11.3.2 As far as the Company is Aware, no event, act or omission has occurred which requires notification under any of the Policies the failure of which would have material adverse effect on the Business of the Company.
- 11.3.3 The Company is not Aware that any of the insurers under any of the Policies has refused, or given any indication to the Company that it intends to refuse, indemnity in whole or in part in the ordinary course of business in respect of any material claims under the Policies.
- 11.3.4 The Company is not Aware that anything has been done or omitted to be done by the Group, which will entitle the insurers under any of the Policies to refuse indemnity in whole or in part in respect of any material claims under the Policies.

11.4 **Premiums**

- 11.4.1 All premiums which are due under the Policies have been paid.
- 11.4.2 The Company is not Aware that it has done anything or omitted to do anything (other than to submit claims in the ordinary course of business of the Company) which will result in a material increase in the premium payable under any of the Policies (excluding annual increases of premiums in the ordinary course).

12. **PROPERTY**

12.1 **Immovable Property**

The Group owns no immovable property.

12.2 **Leasehold Property used by the Group**

- 12.2.1 The warranties in paragraphs 12.2.2 to 12.2.7 (inclusive) are given only to the extent that a breach thereof would have a material adverse financial effect on the Group as a whole.
- 12.2.2 No person (including, without limitation, the landlord) may bring the term of any lease agreement to which any Group Member is a party as a lessee to an end before the expiry of the term of the relevant lease agreement by effluxion of time (except by forfeiture).
- 12.2.3 There is no fact or circumstance which will restrict or terminate the Group's continued and uninterrupted possession or occupation of its premises, where such restriction or termination will have a material adverse effect on the Business.
- 12.2.4 The Group has the right to conduct the Business from the premises from which it trades in the ordinary course thereof.

- 12.2.5 No Group Member has any obligation to alter, renovate or improve the premises from which it trades, save as otherwise provided in any lease agreement, and in such an event, such obligation will not have a material adverse effect on the Business.
- 12.2.6 Rent payable in respect of the Group's premises is not being reviewed and cannot be reviewed before the Implementation Date, save for reviews in the ordinary course as provided for in the relevant lease agreements.
- 12.2.7 No Group Member is in breach of any lease agreement to which it is a party.

13. AGREEMENTS

13.1 Validity of Agreements

- 13.1.1 As at the Implementation Date, the Company is not Aware of the existence of any fact or circumstance which will invalidate or give rise to a ground for termination, avoidance or repudiation of an agreement or arrangement to which any Group Member is a party which would have a material adverse effect on the Business. As far as the Company is Aware, no party with whom any Group Member has entered into a material agreement or arrangement has given notice of its intention to terminate, or has sought to repudiate or disclaim, the agreement or arrangement.
- 13.1.2 No Group Member is in breach of any agreement, arrangement or obligation entered into by any Group Member and which is material to the business of the Group. The Company is not Aware that any party with whom any Group Member has entered into an agreement, arrangement or obligations which is material to the business of the Group is in breach of the agreement, arrangement or obligation. The Company is furthermore not Aware of the existence of any fact or circumstance which will give rise to a breach of this type which would have a material adverse effect on the Business.
- 13.1.3 No Group Member is party to any agreement of a material nature which has not been entered into: (i) on an arms'-length basis; and (ii) on terms which are normal having regard to the nature of its business.

13.2 Effect of Transaction

- 13.2.1 The Company is not Aware that either the execution or the performance of the Relevant Agreements will result in any Group Member losing the benefit of a material asset, grant, subsidy, right or privilege which it enjoys at the Signature Date which would have a material adverse effect on the Business.
- 13.2.2 Neither the execution nor the performance of the Relevant Agreements will conflict with, result in a breach of, give rise to an event of default under, require the consent of a person under, enable a person to terminate, or relieve a person from an obligation under any material agreement or arrangement to which any Group Member is a party which would have a material adverse effect on the Business of the Company.

14. EMPLOYEES

14.1 General

- 14.1.1 The Group owes no amount to a present or former director, other officer or employee of the Group (or his dependant) other than for accrued remuneration or reimbursement of business expenses in the ordinary course of business.
- 14.1.2 There is no agreement or arrangement between any Group Member and an employee or former employee with respect to his employment, his ceasing to be employed or his retirement which is not included in the written terms of his employment or previous employment. The Group has not provided, nor agreed to provide, a gratuitous payment or benefit to a director, officer or employee or to any of their dependants.
- 14.1.3 The Group has maintained in all material respects up-to-date, full and accurate records regarding the employment of each of its employees (including, without limitation, details of terms of employment, payments of statutory sick pay and statutory maternity pay, income tax and social security contributions, disciplinary and health and safety matters) and termination of employment.
- 14.1.4 No executive employee of any member of the Group, being an employee of the Group and with annual cost to company in excess of R1,000,000 (one million Rand) (**Employee**), is entitled to any exceptional benefits in relation to leave privileges, accumulated leave in excess of 30 (thirty) days, pension or the like, other than provided for by the documented policies of the Group as at the Signature Date.
- 14.1.5 Save for market-related annual wage and salary increases and salary increases attributable to Employee promotions in the ordinary course of business, between 1 November 2016 and the Implementation Date, no member of the Group has in any way improved or undertaken to improve the terms of service of any of the Employees from those which prevailed on 1 November 2016.

14.2 Payments to employees and consultants/independent contractors

The Company is not Aware of:

- 14.2.1 any material liability which it has incurred, or which it may incur between the Signature Date and the Implementation Date, for breach of any contract of employment with any of its employees, or termination of an employment contract with any of its employees, including, without limitation, a severance (whether voluntary or otherwise) payment, protective award and/or compensation for wrongful, unlawful dismissal, unfair dismissal, unfair labour practice, unfair discrimination or any other form of compensation for sex, race or disability discrimination, reinstatement or re-employment and/or failure to comply with an order for the reinstatement or re-employment of an employee or former employee; or
- 14.2.2 any material liability which it has incurred, or which it may incur between the Signature Date and the Implementation Date, whether arising in contract, statute, delict or otherwise, for breach or termination of a consultancy agreement; or

14.2.3 having made or agreed to make a material payment or provided or agreed to provide a material benefit to a present or former director, other officer or employee of the Group or to any of their dependants in connection with the actual or proposed termination or suspension of employment or variation of an employment contract.

14.3 **Compliance with Law and Disputes**

14.3.1 The Company is not Aware of any material claims or threatened material claims and/or investigations against the Group relating to:

14.3.1.1 the refusal by the Group to employ any person;

14.3.1.2 the employment by the Group of any person the terms and conditions of the employment relationship between them and/or the termination of such employment; or

14.3.1.3 any workplace related accident, injury, disease or illness suffered by any employee or former employee of the Group.

14.3.2 Save in respect of those disputes Fairly Disclosed in the Disclosure Schedule, no Group Member is a party to any dispute (with a maximum claim against it exceeding R1 000 000 (one million Rand)) with any employee before any court or tribunal, whether under the Labour Relations Act, the Basic Conditions of Employment Act No. 75 of 1997 (as amended), the Employment Equity Act 55 of 1998, the Occupational Health and Safety Act 85 of 1983, the Compensation for Occupational Injuries and Diseases Act 130 of 1993, the Skills Development Act 97 of 1998, the Skills Development Levies Act 9 of 1999, the common law or otherwise, and the Company is not Aware of any facts or circumstances that may afford grounds or give rise to any such dispute.

14.3.3 The Company warrants that all statutory levies and contributions due in respect of any employee of the Group has been paid in all material respects and that it has no material undischarged liability to any government, regulatory authority or similar authority or any other person in respect of employees engaged in the Business.

14.4 **Trade Unions**

The Group is not involved in, and is not Aware of a fact or circumstance, or demand from any employee, trade union or association of employees for any alterations to the terms of their employment including demands for increased remuneration which will give rise to, a dispute of any nature whatsoever with a trade union, works council, workplace forum, employee or staff association or other body representing any of its employees.

15. **PENSIONS AND OTHER BENEFITS**

15.1 The Company's retirement benefit scheme is a defined contribution scheme.

15.2 The total contributions payable to the aforesaid scheme/fund will have been paid as at the Implementation Date.

15.3 There is no litigation pending and/or anticipated in respect of the aforesaid scheme/fund.

- 15.4 The aforesaid scheme/fund has been adequately insured against any loss resulting from dishonesty, negligence or fraud of any of the trustees and/or officials of the aforesaid scheme/fund.
- 15.5 The aforesaid scheme/fund complies with the provisions of the Pension Funds Act 24 of 1956 and the Pension Funds Second Amendment Act 39 of 2001 in respect of minimum benefits.
- 15.6 No Group Member has at any time utilized any portion of any surplus available in the aforesaid scheme/fund.
- 15.7 The Group has no obligation to pay part or all of the post-retirement medical aid contribution costs of any of the employees of the Group.

15.8 **Events of Default**

The Company is not Aware of any event which has occurred or has been alleged to have occurred which:

- 15.8.1 constitutes an event of default (howsoever described), or otherwise gives rise to an obligation to repay in full earlier than the agreed maturity date, under an agreement relating to borrowing or indebtedness in the nature of borrowing (or will do so with the giving of notice or lapse of time or both which would have an effect on the Company's Business); or
- 15.8.2 entitles a party under an Encumbrance constituted or created in connection with borrowing or indebtedness in the nature of borrowing, a guarantee, an indemnity or other obligation of the Group, to enforce its rights under such Encumbrance (or will have that effect with the giving of notice or lapse of time or both).

16. **LICENCES AND PERMITS**

- 16.1 Each member of the Group is in possession of all material approvals, consents, licences, permits and other authorities as are prescribed by applicable law for the lawful conduct of the business/es carried on by it, and, as far as the Company is Aware, all such consents and licences are valid and subsisting and will not terminate or be terminable at the election of any person by virtue of the execution or implementation of this Agreement or any other Relevant Agreement.
- 16.2 No Group Member is in breach of any of the terms or conditions of any such approvals, consents, licences, permits or other authorities which may lead to the termination of any licences critical to the operation of the Group, and, as far as the Company is Aware, there are no circumstances, facts or matters that may give rise to such approvals, consents, licences, permits and other authorities being cancelled or not being renewed in the future or only being renewed subject to the imposition of onerous terms.
- 16.3 As far as the Company is aware, there are no outstanding requirements of any relevant authorities with which the Group is required to comply or has been called upon to comply before it may lawfully carry on or continue its Business generally, and the Company is not Aware of any contravention or breach by the Group of any such material requirements. The Company is furthermore not Aware of anything which will or may prejudice the renewal of any authorisation or licence required by the

Group to conduct its Business generally, including those listed in paragraphs 16.6.1 to 16.6.8 (both inclusive).

- 16.4 Each action required by the Group for the renewal or extension of each licence or permit to be issued by relevant authorities in order to enable the Group lawfully to carry on or continue its Business generally, has, as far as the Company is Aware, been taken.
- 16.5 As at the Signature Date, all licences, permits and/or authorisations issued or granted to the Group by ICASA and required for the operation of the Business:
- 16.5.1 are in full force and effect;
- 16.5.2 the Group has complied in all material respects with the terms of each of the ICASA licences, permits and/or authorisations and all laws and regulations mentioned therein, including complying with the payment of all licence fees; and
- 16.5.3 the Company is not Aware of any reason that such licences, permits and/or authorisations will lapse, be revoked, permanently suspended or cancelled.
- 16.6 The only licences which are material and which are prescribed by applicable law for the lawful conduct of the business/es carried on by the Company are:
- 16.6.1 radio frequency spectrum licence with number 00-476-898-6 for the use of 900MHz and 1,800MHz radio frequency spectrum;
- 16.6.2 radio frequency spectrum licence with number 00-495-213-2 for the use of 2,100MHz radio frequency spectrum;
- 16.6.3 radio frequency spectrum licence with number 00-529-438-0 for the use of 7GHz radio frequency spectrum;
- 16.6.4 10.5GHz fixed link network licence;
- 16.6.5 15GHz fixed link network licence;
- 16.6.6 38GHz fixed link network licence;
- 16.6.7 individual electronic communications network service licence, with number 001/IECNS/JAN/2009; and
- 16.6.8 individual electronic communications service licence, with number 001/IECS/JAN/2009.

17. **INSOLVENCY AND WINDING UP**

17.1 **Proceedings**

No Group Member has taken any action, nor have any proceedings been served on or notified to any Group Member to commence business rescue proceedings in respect of any Group Member or for its winding up or dissolution or for the appointment of a liquidator, business rescue practitioner, curator or similar officer, nor is the Company Aware of any execution or other similar process which has been commenced or undertaken or threatened in respect of the assets of the Group or in respect of any Group Member, nor is the Company Aware of any unfulfilled or unsatisfied judgment or court order which is outstanding against the Company. Save for discussions with funders or major suppliers in respect of the Transaction, no Group Member shall enter into any arrangement or composition for the benefit of creditors generally.

17.2 **Payment of Debts and Acts of Insolvency**

The Group is not unable to pay its debts as they fall due, nor has the Group commenced negotiations, save in respect of the Transaction, with one or more of its creditors with a view to rescheduling or restructuring any of its indebtedness, and no Group Member has committed an act of insolvency as defined in the Insolvency Act, which will have an impact on the Company's or Group's ability to continue its business as a going concern.

17.3 **Removal from Register**

The Company is not Aware of any steps pending or threatened against any Group Member for its deregistration in terms of section 82 of the Act.

17.4 **SPV Subscribers Warranties**

The Company warrants that no member of the Group has provided or will provide any security whatsoever, directly or indirectly, for the obligations of the SPV Subscribers or their shareholders and whether under the Relevant Agreements or otherwise.

18. **LITIGATION AND COMPLIANCE WITH LAW**

18.1 **Litigation**

18.1.1 Except as otherwise Fairly Disclosed in the Disclosure Schedule, the Group is not involved, as at the Signature Date and the Implementation Date, in a civil, criminal, arbitration, administrative or other proceeding, which has, or will have, a material adverse effect on the Business. Except as otherwise Fairly Disclosed in **Schedule 3**, no civil, criminal, arbitration, administrative or other proceeding is pending or threatened by or against the Group or any of its directors or officers, which will have a material adverse effect on the Business. Except as otherwise Fairly Disclosed in **Schedule 3**, the Company is not Aware that any person for whose acts or defaults the Group may be vicariously liable is involved, or has during the 2 (two) years prior to the Signature Date been involved, in a civil, criminal, arbitration, administrative or other proceeding. Except as otherwise Fairly Disclosed in **Schedule 3**, the Company is not Aware that any civil, criminal, arbitration, administrative or other proceeding is pending or threatened by or against a person for whose acts or defaults the Group may be vicariously liable.

18.1.2 As far as the Company is Aware, there is no material outstanding judgment, order, decree, arbitral award or decision of a court, tribunal, arbitrator or governmental agency against any member of the Group and the Company is not Aware of any outstanding judgment, order, decree, arbitral award or decision of a court, tribunal, arbitrator or governmental agency against a person for whose acts or defaults any member of the Group may be vicariously liable.

18.2 **Compliance with Law**

The Group has complied in all material respects with all laws and administrative requirements governing its assets and Business where the failure to do so would have a material adverse effect on its Business, and to the extent that the Group has contravened any such laws, administrative requirements or regulations in the past, those contraventions have been remedied in full and the Group has paid all penalties or fines imposed for those contraventions, or has provided therefor in the Financial Statements.

18.3 **Investigations of a Material Nature**

All action formally requested by any regulatory authority has been taken (save where it has been agreed with any regulatory authority that no action need be taken) within any time limit specified and any request for action or activities to be discontinued has been complied with in a timely manner where failure would have a material adverse effect on the Business of the Company.

18.4 **Unlawful Payments**

The Group has not, nor is the Company Aware that any person for whose acts or defaults the Group may be vicariously liable has:

- 18.4.1 induced a person to enter into an agreement or arrangement with the Group by means of an unlawful payment, contribution, gift or other inducement;
- 18.4.2 offered or made an unlawful payment, contribution, gift or other inducement to a government official or employee; or
- 18.4.3 made an unlawful contribution to a political activity.

19. **CONSTITUTION, REGISTERS AND RETURNS**

19.1 **Constitution**

The Group is operating and has always operated its business in all material respects in accordance with its Memoranda of Incorporation at the relevant time.

19.2 **Registers**

Each register and other book which the Act requires the Group to keep has been properly kept and contains a materially complete and accurate record of the matters which it is required by the Act to record. No notice has been received or allegation made that a register or book is incorrect or should be rectified.

19.3 **Returns**

All material returns, particulars, resolutions and other documents required to be delivered by the Group to the Companies and Intellectual Property Commission (**Commission**) or another governmental or other authority or agency have been properly prepared and delivered.

20. **MONEY LAUNDERING**

Each Group Member has in all material respects complied with any know your customer and money laundering reporting laws and all laws for detecting and identifying money laundering, and detecting, identifying and reporting suspicions of money laundering to the appropriate regulators, in force in South Africa at the relevant time.

21. **DEALING WITH CLIENTS**

All services and products provided by the Group to clients have been provided or organised in all material respects in accordance with the agreements governing such services and products and the Group has been compensated for such services and products in all material respects in accordance with such agreements.

22. **GENERAL**

22.1 As far as the Company is Aware:

22.1.1 all disclosures made to the Subscriber during the process of its due diligence were, at the time of such disclosure, true and correct in all material respects; and

22.1.2 it has not withheld any information which the Company, acting *bona fide*, believes is material to disclose to a Subscriber in terms of the Transaction.

22.2 The Company has, to the best of its "knowledge", disclosed to the Subscriber all facts and circumstances which are material to the Subscriber or would be reasonably likely to be material to a subscriber of the Net1 Subscription Shares or to the subscription price payable in respect thereof, provided that the Company's "knowledge" for purposes of the foregoing shall comprise of:

22.2.1 the actual knowledge of the Company's senior executive management; and

22.2.2 the further actual knowledge of the members of M5 and the senior executive management of the Company's Subsidiaries, which knowledge is hereby imputed to the Company.

SCHEDULE 2: MUTUAL WARRANTIES

The warranties stipulated in paragraph 1 below are hereby given by the Company to the Subscriber and the warranties stipulated in paragraph 2 below by the Subscriber to the Company on the basis set forth in clause 6.2 of the Agreement. The warranties shall be read in the appropriate tense where they refer to past or future events, or past or future financial statements or other documents:

1. COMPANY WARRANTIES

The Company warrants that:

- 1.1 all necessary corporate actions have been taken to authorise its entry into this Agreement, all Transaction Documents to which the Company is a party and its carrying out of the Transaction contemplated in this Agreement and the transactions in each Transaction Document to which it is a party;
- 1.2 it has the right, power and authority, and has taken all action necessary, to execute, deliver and exercise its rights, and perform its obligations, under this Agreement and all the Transaction Documents to which it is a party;
- 1.3 its obligations under this Agreement and all the Transaction Documents are, or when the relevant document is executed will be, enforceable in accordance with their terms against the Company;
- 1.4 this Agreement and all Transaction Documents constitute its legal, valid and binding obligations, enforceable against it in accordance with the terms set out in this Agreement and the Transaction Documents; and
- 1.5 neither its execution of this Agreement or any other Transaction Document to which it is a party nor the carrying out by it of the Transaction contemplated in this Agreement or any other Transaction Document to which it is a party contravenes or will contravene:
 - 1.5.1 any law or order by any government agency binding on it, any Subsidiary or its property or that of any Subsidiary; and
 - 1.5.2 any agreement, undertaking or instrument binding on it or any Subsidiary or any of its property or that of any Subsidiary.

2. SUBSCRIBER WARRANTIES

The Subscriber warrants that:

- 2.1 all necessary corporate actions have been taken to authorise its entry into this Agreement, all Transaction Documents to which it is a party and its carrying out of the Transaction contemplated in this Agreement;
- 2.2 it has the right, power and authority, and has taken all action necessary, to execute, deliver and exercise its rights, and perform its obligations, under this Agreement and all the Transaction Documents to which it is a party;

- 2.3 its obligations under this Agreement and all the Transaction Documents to which it is a party are, or when the relevant document is executed will be, enforceable in accordance with their terms against it;
- 2.4 this Agreement and all Transaction Documents to which it is a party constitute its legal, valid and binding obligations, enforceable against it in accordance with the terms set out in this Agreement and the Transaction Documents; and
- 2.5 as at the Signature Date, it is not aware of any facts or circumstances which could reasonably be expected to give rise to, or result in, a claim for breach of the Company's Warranties or the Mutual Warranties being made against the Company;
- 2.6 neither its execution of this Agreement nor the carrying out by it of the Transaction contemplated in this Agreement contravenes or will contravene:
 - 2.6.1 any law or order by any government agency binding on it or its property; and
 - 2.6.2 any agreement, undertaking or instrument binding on it or any of its property.

SCHEDULE 3: DISCLOSURE SCHEDULE

SCHEDULE 4: AFS

SCHEDULE 5: MANAGEMENT ACCOUNTS

SCHEDULE 6: SUBSIDIARIES



Cell C Shareholders Agreement

between

Albanta Trading 109 Proprietary Limited

The Parties Identified In Schedule 1.1.55

The Prepaid Company Proprietary Limited

Net1 Applied Technologies South Africa Proprietary Limited

Cedar Cellular Investment 1 (RF) Proprietary Limited

Magnolia Cellular Investment 2 (RF) Proprietary Limited

Yellowwood Cellular Investment 3 (RF) Proprietary Limited

and

Cell C Proprietary Limited

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Cell C Shareholders Agreement

PARTIES

- (1) **ALBANTA TRADING 109 PROPRIETARY LIMITED**, a company incorporated in South Africa under registration number 2015/261614/07 (**MS15**);
- (2) **THE PARTIES IDENTIFIED IN SCHEDULE 1.1.55 HERETO** (collectively referred to as **M5**);
- (3) **THE PREPAID COMPANY PROPRIETARY LIMITED**, a company incorporated in South Africa under registration number 1999/016716/07 (**BLT**);
- (4) **NET1 APPLIED TECHNOLOGIES SOUTH AFRICA PROPRIETARY LIMITED**, a company incorporated in South Africa under registration number 2002/031446/07 (**NET1**);
- (5) **CEDAR CELLULAR INVESTMENT 1 (RF) PROPRIETARY LIMITED**, a company incorporated in South Africa under registration number 2017/068178/07 (**SPV1**);
- (6) **MAGNOLIA CELLULAR INVESTMENT 2 (RF) PROPRIETARY LIMITED**, a company incorporated in South Africa under registration number 2017/068221/07 (**SPV2**);
- (7) **YELLOWWOOD CELLULAR INVESTMENT 3 (RF) PROPRIETARY LIMITED**, a company incorporated in South Africa under registration number 2017/068241/07 (**SPV3**); and
- (8) **CELL C PROPRIETARY LIMITED**, a company incorporated in South Africa under registration number 1999/007722/07 (the **Company**).

Introduction

- A This Agreement sets out the basis on which the Parties will participate as shareholders of the Company.
- B Each Shareholder undertakes that it will comply, and will use its reasonable commercial endeavours to procure that, through its appointees to the Board, the Company complies, with all Applicable Laws and regulations and that the Business of the Company is conducted with the aim to maximise the commercial benefit to the Shareholders.
- C To the extent not already established or provided for, this Agreement establishes and makes provision for appropriate and good corporate governance procedures, including, without limitation, procedures and practices regarding the disclosure of conflicts of interest and the recusal of interested parties from the decision-making process with respect to matters involving such conflict.

It is agreed

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

Unless inconsistent with the context, the words and expressions set forth below shall bear the following meanings and cognate expressions shall bear corresponding meanings:

- 1.1.1 **Act** means the Companies Act, 71 of 2008;

- 1.1.2 **Accounting Principles** means the latest accounting principles, policies and generally accepted accounting practice applied by the Company in accordance with all Applicable Laws and IFRS, consistently applied, and consistent with past accounting and management practice as is contained and/or reflected in the annual financial statements of the Company for the 12 (twelve) month period ending 31 December 2016;
- 1.1.3 **Affiliate** means:
- 1.1.3.1 in relation to any Undertaking, any subsidiary (or its equivalent) or any parent Undertaking (namely, a holding company or its equivalent) of that Undertaking and any subsidiary (or its equivalent) of any such parent Undertaking (namely, a holding company or its equivalent), in each case from time to time; and
- 1.1.3.2 in relation to an individual means a Related Person or any Undertaking (including any trusts) Controlled by such individual or his/her Related Person;
- 1.1.4 **Agreement** means this shareholders agreement including any schedules or annexures attached hereto, together with any amendments to this agreement agreed to in writing between the Parties from time to time;
- 1.1.5 **Applicable Laws** means any laws, by-laws, statutes, rules, regulations, subordinate legislation, orders, ordinances, notices, notifications, directions, restrictions, common law, judgments, decrees, circulars, decisions or other requirements or directives of any Governmental Entity, and includes the Companies Act, the Currency and Exchanges Act, anti-bribery legislation, as well as any protocols, policies, codes, guidelines, standards, resolutions, guidance notes and any interpretation of any of the foregoing by a Governmental Entity, in all cases only to the extent that they have the force of law;
- 1.1.6 **Associates** means Undertakings where a minority part of the shares or portion of the other interest in such Undertaking is held by a member of the Group but where such Undertaking does not form part of the Group and is not consolidated into the financial accounts of the Company;
- 1.1.7 **Auditors** means the auditors of the Company, as appointed from time to time;
- 1.1.8 **BEE Act** means the Broad-Based Black Economic Empowerment Act, 53 of 2003;
- 1.1.9 **BEE Codes** means the Broad-Based Black Economic Empowerment Codes of Good Practice gazetted from time to time under the BEE Act in terms of Code 100 - the Measurement of the Ownership Element;
- 1.1.10 **Believe Trust** means the Employee Believe Trust, a trust duly registered with the Master of the High Court of South Africa, Gauteng Division, Pretoria under Master's reference number IT003241/2016;
- 1.1.11 **Black People** means "black people", as defined in the BEE Act, read together with the BEE Codes, and Black Person shall have a corresponding meaning;
- 1.1.12 **BLT** means The Prepaid Company Proprietary Limited, a company incorporated in South Africa under registration number 1999/016716/07;

- 1.1.13 **BLT Parent** means Blue Label Telecoms Limited, a company incorporated in South Africa under registration number 2006/022679/06;
- 1.1.14 **Board** means the board of directors of the Company as constituted from time to time;
- 1.1.15 **Business** means the business conducted by the Group from time to time being, predominantly as at the Implementation Date, the operation of an Electronic Communications Network and the provision of Electronic Communications Network services to the public and includes all ancillary activities and successor technologies;
- 1.1.16 **Business Day** means any calendar day other than a Saturday, Sunday or official public holiday in South Africa;
- 1.1.17 **Claims** means all claims by any Lending Shareholder against the Company arising from Shareholders loans;
- 1.1.18 **Class "A" Shares** has the meaning given to it in clause 5.2.2.1;
- 1.1.19 **Class "B" Shares** has the meaning given to it in clause 5.2.2.7;
- 1.1.20 **Closing** has the meaning given to it in the Equity Implementation Agreement;
- 1.1.21 **Company** means Cell C Proprietary Limited, a company incorporated in South Africa under registration number 1999/007722/07;
- 1.1.22 **Competitor of the Company** means Vodacom Group Limited, MTN Group Limited, Telkom SA SOC Limited and Neotel Proprietary Limited, any Undertakings within their group of companies and such other entities holding, at the relevant time, an Electronic Communications Network Services licence and a Radio Frequency Spectrum licence, as issued by ICASA, allowing it or any Undertaking within its group of companies to use more than 20MHz of spectrum below 2GHz;
- 1.1.23 **Completion** means completion of a transfer of Equity under this Agreement, including the final settlement of any amount due in consideration for such transfer of Equity and Complete shall have a corresponding meaning;
- 1.1.24 **Condition** means the condition precedent to which this Agreement is subject set out in clause 2;
- 1.1.25 **Control** means, in relation to an Undertaking: (i) the legal or beneficial ownership, directly or indirectly, of 50% (fifty per cent) or more of the share capital or other ownership interests of such Undertaking; (ii) the ability, directly or indirectly, to appoint half or more of the board or other controlling body of such Undertaking; or (iii) the ability, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise to direct or cause the direction of the management and policies of such Undertaking. An Undertaking shall be deemed to direct or cause the direction of the management and policies of an Undertaking if the consent or approval of such Undertaking is required with respect to all or substantially all material decisions and **Controlled** shall have a corresponding meaning;
- 1.1.26 **Conversion Date** means the date on which the Class "B" Shares convert into Class "A" Shares in accordance with the terms and subject to the conditions of such class of share;

- 1.1.27 **Creditors** has the meaning given to it in the Master Implementation Agreement;
- 1.1.28 **Deed of Accession** means a deed of accession in the form or substantially in the form set out in **Schedule 1.1.28** or as amended by written agreement between the Parties;
- 1.1.29 **Director** means a director of the Company;
- 1.1.30 **Dispose** means to sell, alienate, donate, exchange, distribute, transfer, or in any manner whatsoever dispose of, or enter into any arrangement or transaction of whatsoever nature which has the same or 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 similar transaction/s which would have the same economic effect), or realise any value in respect of, and **Disposal** and **Disposed** shall be construed accordingly;
- 1.1.31 **Drag Equity** has the meaning given to it in clause 12;
- 1.1.32 **EBITDA** means the consolidated operating profits from ordinary activities (prepared using consistent Accounting Principles and with consistent classification of line items per historic management accounts or audited financial statements, as applicable) adjusted to exclude any non-core trading activities, one-off or non-recurring or unusual items in nature, foreign exchange gains and/or losses (but not foreign exchange gains and/or losses arising in respect of working capital) including, but not limited to, the following adjustments:
- 1.1.32.1 interest, depreciation and amortization and any impairments, costs or reversals;
- 1.1.32.2 any gain or loss arising from an upward or downward revaluation of any property, plant and equipment asset or on the disposal of any property, plant and equipment;
- 1.1.32.3 corrections of errors in earnings relating to errors in prior periods or accounting policy corrections relating to corrections or omissions in prior periods; and
- 1.1.32.4 any fees, costs or charges of a non-recurring nature related to any equity offering or acquisition (and whether or not successful);
- 1.1.33 **Electronic Communications** means the emission, transmission or reception of information, including without limitation, voice, sound, data, text, video, animation, visual images, moving images and pictures, signals or a combination thereof by means of magnetism, radio or other electromagnetic waves, optical, electromagnetic systems or any agency of a like nature, whether with or without the aid of tangible conduct, but does not include content service;
- 1.1.34 **Electronic Communications Network** means any system of Electronic Communications facilities (excluding subscriber equipment), including without limitation:
- 1.1.34.1 satellite systems;
- 1.1.34.2 fixed systems (circuit- and packet-switched);
- 1.1.34.3 mobile systems;

- 1.1.34.4 fibre optic cables (undersea and land based);
- 1.1.34.5 electricity cable systems (to the extent used for conveyance of electronic communications services); and
- 1.1.34.6 other transmission systems, used for conveyance of electronic communications,
and all successor technologies;
- 1.1.35 **Encumbrance** in relation to any shares, includes any pledge, 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 those shares, or any lending of shares, and the words **Encumber**, **Encumbered** and **Encumbering** shall have corresponding meanings;
- 1.1.36 **Enterprise Value Adjustments** means the sum of the Net Debt plus the Value of Minorities less the Value of Associates;
- 1.1.37 **Equity** means collectively Claims and Shares held by, or owing to, any Shareholder;
- 1.1.38 **Equity Implementation Agreement** means the agreement titled "Equity Implementation Agreement" between, *inter alios*, the Parties pertaining to the implementation of the Transaction, entered into simultaneously with this Agreement;
- 1.1.39 **Expert** means a person appointed in accordance with the provisions of clause 26;
- 1.1.40 **Fair Market Value** means the value of the shares as may be agreed to in writing by Shareholders holding not less than 75.1% (seventy five point one per cent) of the Shares or, failing such agreement, such value as may be determined by the Expert in terms of clauses 26 and 27;
- 1.1.41 **Financially Distressed** means in relation to any person:
- 1.1.41.1 it appears to be reasonably unlikely to be able to pay all of its debts as they become due and payable within the immediately ensuing 6 (six) months; or
- 1.1.41.2 it appears to be reasonably likely to become insolvent within the immediately ensuing 6 (six) months;
- 1.1.42 **Financial Year** means the financial year of the Company, being a 12 (twelve) month period commencing on 1 January and ending on the following 31 December;
- 1.1.43 **Funder Deed of Accession** means a deed of accession in the form or substantially in the form set out in **Schedule 1.1.43** or as amended by written agreement between the Parties;
- 1.1.44 **Government Entity** means:
- 1.1.44.1 the government of South Africa (including any national, state, municipal or local government or any political or administrative subdivision thereof) and any department, ministry, agency, instrumentality, court, central bank, commission or other authority thereof;

- 1.1.44.2 any governmental, quasi-governmental or private body or agency lawfully exercising, or entitled to exercise, any administrative, executive, judicial, legislative, regulatory, licensing, competition, tax, importing or other governmental authority or quasi-governmental authority within South Africa; and
- 1.1.44.3 any stock exchange within South Africa;
- 1.1.45 **Group** means the Company and its Subsidiaries;
- 1.1.46 **ICASA** means the Independent Communication Authority of South Africa, a statutory body established in terms of Section 3 of the Independent Communication Authority of South Africa Act, 13 of 2000 (or its successor body);
- 1.1.47 **IFRS** means International Financial Reporting Standards as issued from time to time by the International Accounting Standards Board or its successor body;
- 1.1.48 **Implementation Date** has the meaning given to it in the Master Implementation Agreement;
- 1.1.49 **Insolvency Event** means in relation to a Shareholder:
- 1.1.49.1 a receiver, liquidator, curator, business rescue practitioner, trustee or similar official being appointed in respect of such Shareholder;
- 1.1.49.2 the Shareholder suspending payment of its debts generally;
- 1.1.49.3 the Shareholder is or becomes Financially Distressed;
- 1.1.49.4 the Shareholder enters into or resolves to enter into any arrangement, scheme or compromise with, or assignment for the benefit of, its creditors generally or any class of them;
- 1.1.49.5 a final order is made for the winding-up, sequestration or dissolution of, or the appointment of a provisional liquidator to, the Shareholder or an order is granted to commence business rescue proceedings under the Act otherwise than for the purpose of an amalgamation or reconstruction which has the prior written consent of all Shareholders;
- 1.1.49.6 a resolution is passed for the winding-up, sequestration, dissolution or commencement of business rescue proceedings of the Shareholder or upon commencement of business rescue of the Shareholder, otherwise than for the purpose of an amalgamation or reconstruction which has the prior written consent of all Shareholders; or
- 1.1.49.7 any event occurring or circumstance arising which is analogous to any of the events referred to above;
- 1.1.50 **JSE** means JSE Limited, a company registered in accordance with the laws of South Africa under registration number 2005/022939/06, trading under the name and style of "Johannesburg Stock Exchange" which is licensed as an exchange under the Financial Markets Act, No. 19 of 2012 (as amended);
- 1.1.51 **Lending Shareholder** has the meaning given to it in clause 6.2.1;

- 1.1.52 **Listing** means:
- 1.1.52.1 a successful application being made for the admission of the issued voting share capital of the Company to trading on the JSE or any other recognised stock exchange; or
- 1.1.52.2 the grant of permission to deal in the issued voting share capital of the Company on the JSE or or any other recognised stock exchange,
- in each case, pursuant to an initial public offering by way of a prospectus that satisfied the minimum liquidity requirements pertaining to shares held by the public of the relevant exchanges or markets;
- 1.1.53 **Listings Requirements** means the listings requirements of the JSE, as amended from time to time;
- 1.1.54 **Long Stop Date** has the meaning given to it in the Equity Implementation Agreement;
- 1.1.55 **M5** means, collectively, those shareholders of the Company set out in **Schedule 1.1.55** and any reference to **M5** shall be a reference to such shareholders acting jointly, unless the context specifically indicates otherwise, it being recorded and agreed that the holders of the Class "B" Shares must always act together jointly and shall, as a class, be treated as if they were 1 (one) shareholder, save where they are specifically and expressly entitled or obliged to act independently;
- 1.1.56 **M5 Shares** means the Shares held by M5 from time to time;
- 1.1.57 **Master Implementation Agreement** means the agreement titled "Master Implementation and Funds Flow Agreement" between, *inter alios*, the Parties pertaining to the implementation of the Transaction, entered into simultaneously with this Agreement
- 1.1.58 **Memorandum of Incorporation** or **MOI** means the agreed form memorandum of incorporation which the Company has adopted or in the process of adopting in accordance with the Act, a copy of which is attached to this Agreement as **Schedule 1.1.58**, as amended from time to time;
- 1.1.59 **Minorities** means members of the Group where a minority part of the shares or portion of the other interest in such member is not held by a member of the Group;
- 1.1.60 **MS 15** means Albanta Trading 109 Proprietary Limited, a company incorporated in South Africa under registration number 2015/261614/07;
- 1.1.61 **MS15 Becoming Aware** means any member of the board of directors of MS15 becoming aware;
- 1.1.62 **MS15 Shares** means the Shares held by MS15 from time to time;

- 1.1.63 **Net Debt** means any contractual obligation for the Group pertaining to monies borrowed, including shareholder loans:
- 1.1.63.1 less cash and cash equivalents (excluding cash received from working capital receivables and paid in respect of working capital payables outside of the ordinary course of business and Restricted Cash);
 - 1.1.63.2 adjusted for working capital payables and working capital receivables that are exceptional and outside of the ordinary course of business that:
 - 1.1.63.2.1 are not settled in a timely manner in accordance with normal payment terms;
 - 1.1.63.2.2 are unusual, material and non-recurring;
 - 1.1.63.2.3 whose timely settlement is not restricted by:
 - 1.1.63.2.3.1 lack of budgetary approvals;
 - 1.1.63.2.3.2 lack of board approvals;
 - 1.1.63.2.3.3 lack of regulatory approvals (including that of the South African Reserve Bank); or
 - 1.1.63.2.3.4 lack of bank financing;
 - 1.1.63.2.4 adjusted for current and owing income tax assets and/or liabilities;
 - 1.1.63.2.5 adjusted for dividends declared but not settled;
 - 1.1.63.2.6 adjusted for any credit deposits advanced by customers not covered in the working capital payables or the working capital receivables (without double counting); and
 - 1.1.63.2.7 adjusted for any committed but unpaid capital drawdowns due in respect of investments in Associates / joint ventures made by the Company.

For the avoidance of doubt, Net Debt shall not include financial lease obligations;

- 1.1.64 **NET1** means Net1 Applied Technologies South Africa Proprietary Limited, a company incorporated in South Africa under registration number 2002/031446/07;
- 1.1.65 **NET1 Parent** means Net1 UEPS Technologies Incorporated, a company incorporated in the state of Florida, United States under employer identification number 98-0171860;
- 1.1.66 **NET1 Shares** means the Shares held by NET1 from time to time;
- 1.1.67 **Offer Notice** has the meaning given to it in in clause 10.2;
- 1.1.68 **Original Shareholder** means any one of MS15, M5 (provided that M5 has converted its Class "B" Shares to Class "A" Shares in order to exercise its rights), BLT or BLT Parent (should the Shares held by BLT be transferred to, or otherwise acquired by, BLT Parent from BLT), NET1 or NET1 Parent (should the Shares held by NET1 be transferred to, or otherwise acquired by, NET1 Parent), SPV1, SPV2 and SPV3;

- 1.1.69 **Parties** means MS15, M5, BLT, NET1, SPV1, SPV2, SPV3 and the Company and **Party** means any one of them as the context may require;
- 1.1.70 **Permitted Disposal** has the meaning given in clause 9.2;
- 1.1.71 **Price** means the price per Share at which an offer is made or accepted to buy or sell Shares;
- 1.1.72 **Prime Rate** in relation to any period means the published prime overdraft rate ruling from time to time, expressed as a percentage rate per annum, at which The Standard Bank of South Africa Limited lends on overdraft to its customers from time to time during that period, as certified by any manager of The Standard Bank of South Africa Limited (whose appointment or authority need not be proved), whose certification at that time shall, in the absence of manifest error, be *prima facie* proof thereof;
- 1.1.73 **Rand** or **R** means the South African Rand;
- 1.1.74 **Related Person** shall have the meaning given to it in Section 2 of the Act;
- 1.1.75 **Restricted Cash** means cash and cash equivalents, as interpreted under IFRS, which are used as surety, security or restricted in some way by a contractual obligation (excluding any cash deposited into an account where the release of such cash is only subject to providing relevant notice to the financial institution in question). Where such restricted cash is used as surety or security in respect of a liability, to the extent: (i) such liability is treated as monies borrowed; and (ii) such restricted cash can be offset against such liability as part of the settlement of that liability, then Net Debt shall be stated by netting off the Restricted Cash with the associated monies borrowed;
- 1.1.76 **Secretary** means the Company's secretary, or where there is no secretary, then the Chief Executive Officer (or equivalent);
- 1.1.77 **Seller** means a Shareholder, or 2 (two) or more Shareholders acting together, expecting or intending to sell Equity under a contract or a notice given under this Agreement (other than by a Permitted Disposal);
- 1.1.78 **Shares** means an issued and paid up share in the capital of the Company, whether Class "A" Shares or Class "B" Shares (as applicable), and **Share** shall have a corresponding meaning;
- 1.1.79 **Shareholders** means MS15, M5, BLT, NET1, SPV1, SPV2 and SPV3 and **Shareholder** will, as the context requires, be a reference to any one of them, or any other holder of Shares from time to time;
- 1.1.80 **Signature Date** means the date of the last signature to this Agreement;
- 1.1.81 **South Africa** means the Republic of South Africa as constituted from time to time, and South African shall have a corresponding meaning;
- 1.1.82 **SPV Documents** means, collectively:
- 1.1.82.1 the SPV1 Documents;
- 1.1.82.2 the SPV2 Documents; and

- 1.1.82.3 the SPV3 Documents;
- 1.1.83 **SPV1** means Cedar Cellular Investment 1 (RF) Proprietary Limited, a company incorporated in South Africa under registration number 2017/068178/07;
- 1.1.84 **SPV1 Bonds** has the meaning given to it in the Master Implementation Agreement;
- 1.1.85 **SPV1 Documents** has the meaning given to it in the Master Implementation Agreement;
- 1.1.86 **SPV1 Shares** means the Shares held by SPV1 from time to time;
- 1.1.87 **SPV2** means Magnolia Cellular Investment 2 (RF) Proprietary Limited, a company incorporated in South Africa under registration number 2017/068221/07;
- 1.1.88 **SPV2 Documents** has the meaning given to it in the Master Implementation Agreement;
- 1.1.89 **SPV2 Shares** means the Shares held by SPV2 from time to time;
- 1.1.90 **SPV3** means Yellowwood Cellular Investment 3 (RF) Proprietary Limited, a company incorporated in South Africa under registration number 2017/068241/07;
- 1.1.91 **SPV3 Documents** has the meaning given to it in the Master Implementation Agreement;
- 1.1.92 **SPV3 Shares** means the Shares held by SPV3 from time to time;
- 1.1.93 **Subsidiary** means a subsidiary company as defined in the Act;
- 1.1.94 **Tag Along Right** has the meaning given in clause 11;
- 1.1.95 **Tag Equity** has the meaning given in clause 11;
- 1.1.96 **Targeted Black Interest** means the status of a company as a company or the status of a trust as a trust which has been rated as having 100% (one hundred per cent) of its shares, interest or beneficial entitlement held or deemed to be held by Black People as determined by the application of the modified flow through principle in accordance with the BEE Codes as they apply at the Signature Date;
- 1.1.97 **Tax** means all taxes, charges, imports, duties, levies, deductions, withholdings or fees of any kind whatsoever, or any amount payable on account of or as security for any of the foregoing, imposed, levied, collected, withheld or assessed by a Government Entity, together with any penalties, fines or interest relating thereto, and Taxes and Taxation shall be construed accordingly;
- 1.1.98 **Transaction** means all the transactions contemplated by the Transaction Documents;
- 1.1.99 **Transaction Documents** has the meaning given to it in the Equity Implementation Agreement;

- 1.1.100 **Trigger Event** in relation to a Shareholder means:
- 1.1.100.1 a person (other than such Shareholder) acquiring any registered or beneficial interest in Shares held by the Shareholder except as permitted under this Agreement;
- 1.1.100.2 subject to clause 1.1.100.3, the Shareholder undergoing a change of Control without the prior written consent of the other Shareholders at the relevant time;
- 1.1.100.3 the Shareholder, in the event of BLT, ceasing to be Controlled by BLT Parent at any time prior to the 4th (fourth) anniversary of the Implementation Date (other than pursuant to a listing of BLT) without the prior written consent of the remaining Shareholders holding the majority of the voting rights (which consent shall not be unreasonably withheld or delayed) at the relevant time;
- 1.1.100.4 the Shareholder, in the event of MS15, not being a wholly-owned subsidiary of the Believe Trust and/or the beneficiaries of the Believe Trust no longer being solely *bona fide* employees of the Group and/or should any member of M5 be a beneficiary (directly or indirectly) of the Believe Trust without the prior written consent of the other Shareholders at the relevant time;
- 1.1.100.5 the Shareholder being the subject of an Insolvency Event; or
- 1.1.100.6 the Shareholder breaching this Agreement or the Memorandum of Incorporation in any material respect, and the breach remaining unremedied for 30 (thirty) Business Days after the Company or another Shareholder has notified the Shareholder in breach;
- 1.1.101 **Undertaking** means a company, a body corporate or partnership or unincorporated association carrying on trade or business with or without a view to profit. In relation to an undertaking which is not a company, expressions in this Agreement appropriate to companies are to be construed as references to the corresponding persons, officers, documents or agents (as the case may be) appropriate to undertakings of that description;
- 1.1.102 **Value of Associate** means, for each Associate, the result of the last 12 (twelve) month rolling EBITDA of that Associate multiplied by an EBITDA multiple as applicable in the relevant clause of this Agreement, less the Enterprise Value Adjustments of such Associate multiplied by the percentage shareholding in such Associate held by the Group;
- 1.1.103 **Value of Associates** means the sum of the Value of Associate for all Associates held by the Group;
- 1.1.104 **Value of Minority** means, for each Minority, the result of the last 12 (twelve) month rolling EBITDA of that group of companies in which a Minority shareholding is held multiplied by an EBITDA multiple as applicable in the relevant clause of this Agreement, less the Enterprise Value Adjustments of the group of companies in which the Minority shareholding is held multiplied by the percentage shareholding in such group of companies not held by the Group; and
- 1.1.105 **Value of Minorities** means the sum of each Value of Minority.

1.2 Interpretation

- 1.2.1 Unless expressly provided to the contrary or inconsistent with the context, a reference in this Agreement to:
- 1.2.1.1 this Agreement or any other agreement, document or instrument shall be construed as a reference to this Agreement or that other agreement, document or instrument, as amended varied, novated or substituted from time to time;
- 1.2.1.2 a clause, sub-clause, Schedule or Appendix is to a clause, Schedule or Appendix of this Agreement;
- 1.2.1.3 law is construed as any law including common law, statute, constitution, decree, judgment, treaty, regulation, directive, by-law, order or any other measure of any government, local government, statutory or regulatory body or court, having the force of law; and
- 1.2.1.4 a person includes any natural person, firm, company, corporation, body corporate, juristic person, unincorporated association, government, state or agency of a state, or any association, trust, partnership, syndicate, consortium, joint venture, charity or other entity (whether or not having separate legal personality).
- 1.2.2 Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.
- 1.2.3 All the headings and sub-headings in this Agreement are for convenience and reference only and do not govern or affect the interpretation of this Agreement.
- 1.2.4 If any provision in a definition confers rights, or imposes obligations on any Party, effect is given to it as a substantive provision of this Agreement.
- 1.2.5 Unless the context indicates otherwise, an expression which denotes any gender includes both the others; reference to a natural person includes a juristic person; the singular includes the plural, and the plural includes the singular.
- 1.2.6 Any number of days prescribed in this Agreement excludes the first day and includes the last day, and if that day is not a Business Day, the next Business Day, and any relevant action or notice may be validly done or given on the last day.
- 1.2.7 The words including, include or in particular followed by specific examples shall be construed by way of example or emphasis only and shall not be construed, nor shall it take effect, as limiting the generality of any preceding words, and the *eiusdem generis* rule is not to be applied in the interpretation of such specific examples or general words.
- 1.2.8 The words other or otherwise shall not be construed *eiusdem generis* with any foregoing words where a wider construction is possible.
- 1.2.9 Any reference to legislation is to that legislation as at the Signature Date, as amended or replaced from time to time.
- 1.2.10 Any reference to a document or instrument includes the document or instrument as ceded, delegated, novated, altered, supplemented or replaced from time to time.

- 1.2.11 A reference to a Party includes that Party's successors-in-title and permitted assigns.
- 1.2.12 A time of day must be construed as a reference to South Africa Standard Time.
- 1.2.13 The rule of interpretation that, in the event of ambiguity, the contract must be interpreted against the party responsible for the drafting of the contract does not apply.
- 1.2.14 The termination of this Agreement does not affect those of its provisions which expressly provide that they will operate after termination, or which must continue to have effect after termination, or which must by implication continue to have effect after termination.
- 1.2.15 Unless the context indicates otherwise, any reference in this Agreement to agreed in writing means agreed in writing by means of one or more written instruments signed by all the Parties on the same document or in counterpart, and which clearly provides that the relevant matter or document is separately agreed specifically for purposes of, and/or must be read with, one or more specific provisions of this Agreement.
- 1.2.16 Unless the context indicates otherwise, no provision of this Agreement constitutes a stipulation for the benefit of any person who is not a party to this Agreement.
- 1.2.17 The Schedules or Annexures to this Agreement form an integral part of it and words and expressions defined in this Agreement will bear, unless the context otherwise requires, the same meaning in such Schedules or Annexures. To the extent that there is any conflict between the Schedules or Annexures to this Agreement and the provisions of this Agreement, the provisions of this Agreement will prevail.
- 1.2.18 Where any term is defined in a particular clause, Schedule or Appendix in this Agreement, unless it is clear from the clause, Schedule or Appendix in question that it has limited application, the relevant clause Schedule or Appendix, will bear the same meaning ascribed to it for all purposes in this Agreement, even though that term has not been defined in clause 1.1, and where there is an inconsistency between any term defined in any clause, Schedule or Appendix in this Agreement, then, for the purposes of construing such clause, Schedule or Appendix the term, as defined in such clause, Schedule or Appendix, prevails.
- 1.2.19 The reference to any South African legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official, or any legal concept or thing will in respect of any jurisdiction other than South Africa be treated as a reference to any analogous term in that jurisdiction.
- 1.2.20 Where figures are referred to in numerals and in words, if there is any conflict between the two, the words will prevail.

2. **SUSPENSIVE CONDITION**

- 2.1 This entire Agreement, excluding clauses 1, 2 and 29 to 41 (both inclusive), which shall be of immediate force and effect from the Signature Date, is subject to the fulfilment or waiver of the suspensive condition that the Equity Implementation Agreement is signed by all the parties thereto and becomes unconditional (save insofar as it refers to this Agreement becoming unconditional) by no later than the Long Stop Date (**Condition**).

- 2.2 The Parties shall, where it is within their respective power and control to do so, use their respective reasonable endeavours to procure the fulfilment of the Condition as soon as reasonably possible after the Signature Date, but in any event within the time permitted therefor.
- 2.3 If the Condition is not fulfilled or waived on or prior to the date provided for fulfilment or waiver thereof, the provisions of this Agreement (save for clauses 1, 29, 30, 33, 34, 35 to 38 (both inclusive), 40 and 41, which shall remain of full force and effect) shall never become effective, and no Party shall have any claim against any other Party for anything done hereunder or arising here from, save for a claim relating to a breach of, or pursuant to, the provisions of clause 2.2.
- 2.4 The Condition is for the benefit of all the Parties and may only be waived with their mutual written consent.

3. COMMENCEMENT OF THIS AGREEMENT

- 3.1 Subject to the fulfilment or waiver of the Condition, this Agreement shall commence on the Implementation Date (save for those clauses specified in clause 2.1 which come into effect on the Signature Date and which are effective from the Signature Date) and shall bind the Company and each Shareholder for as long as such Shareholder holds Shares in the Company.
- 3.2 The Parties hereby acknowledge that no agreement shall come into place on the terms set out in this Agreement unless and until all Parties to this Agreement have signed it.

4. RANKING OF DOCUMENTS

- 4.1 To the extent that the provisions of the Memorandum of Incorporation and/or the memorandum of incorporation of any Subsidiary of the Company (**Relevant Entity MOI**) are inconsistent with any provision of this Agreement, the Memorandum of Incorporation and/or Relevant Entity MOI (as applicable) shall, to the extent of any such inconsistency and to the extent required by the Act, take precedence over that provision of this Agreement until the Memorandum of Incorporation and/or Relevant Entity MOI (as applicable) is amended in accordance with clause 4.2. If, however:
- 4.1.1 any provision of this Agreement merely supplements, but is not inconsistent with, the Memorandum of Incorporation and/or Relevant Entity MOI (as applicable); or
- 4.1.2 the Act does not require the Memorandum of Incorporation and/or Relevant Entity MOI (as applicable) to take precedence over that provision of this Agreement,
- then that provision of this Agreement shall be given effect to by the Parties.
- 4.2 Any Shareholder shall be entitled, by giving written notice to that effect to the Company and the other Shareholders, to require the Memorandum of Incorporation and/or Relevant Entity MOI (as applicable) to be amended, to the extent permissible in terms of the Act, so as to be consistent with this Agreement or to record any supplementary provisions of this Agreement. Upon receipt of that notice:
- 4.2.1 the Company shall procure that a meeting of the shareholders of the Company or the Subsidiary concerned is called as soon as practically possible; and

4.2.2 the Shareholders (or the Company if the entity concerned is a Subsidiary of the Company) shall exercise all votes which they may have to vote in favour of or procure the adoption of all resolutions of the Company or the Subsidiary concerned necessary to amend the Memorandum of Incorporation and/or Relevant Entity MOI (as applicable) in terms of this clause 4.2.

5. SHARE CAPITAL

5.1 As at the Signature Date:

5.1.1 the authorised share capital of the Company is 1,000 (one thousand) ordinary shares;

5.1.2 the authorised and issued ordinary shares rank equally in all respects; and

5.1.3 the entire issued share capital of the Company, being 641 (six hundred and forty one) Shares, is held by 3C Telecommunications Proprietary Limited.

5.2 It is recorded that, pursuant to the adoption of the Memorandum of Incorporation and subsequent implementation of the Equity Implementation Agreement and the Master Implementation Agreement:

5.2.1 the authorised share capital of the Company will be 1,000,000,000 (one billion) ordinary shares; and

5.2.2 the issued share capital of the Company will be as follows:

5.2.2.1 225,000,000 (two hundred and twenty five million) class "A" ordinary no par value shares (**Class "A" Shares**), comprising 45% (forty five per cent) of the issued Shares, held by BLT;

5.2.2.2 75,000,000 (seventy five million) Class "A" Shares, comprising 15% (fifteen per cent) of the issued Shares, held by NET1;

5.2.2.3 59,000,000 (fifty nine million) Class "A" Shares, comprising 11.8% (eleven point eight per cent) of the issued Shares, held by SPV1;

5.2.2.4 80,000,000 (eighty million) Class "A" Shares, comprising 16% (sixteen per cent) of the issued Shares, held by SPV2;

5.2.2.5 11,000,000 (eleven million) Class "A" Shares, comprising 2.2% (two point two per cent) of the issued Shares, held by SPV3;

5.2.2.6 25,000,000 (twenty five million) Class "A" Shares, comprising 5% (five per cent) of the issued Shares, held by MS15; and

5.2.2.7 25,000,000 (twenty five million) class "B" ordinary no par value shares (**Class "B" Shares**), comprising 5% (five per cent) of the issued Shares, held by M5.

5.3 Except where expressly stated to the contrary herein or in the MOI, each Share and, following the Conversion Date, each Class "B" Share shall have the same dividend, voting and other rights and shall rank *pari passu* in all respects with each Class "A" Share.

6. **FUNDING OF THE COMPANY**

- 6.1 Subject always to the restrictions imposed by clause 7, the funding requirements of the Company shall be determined by the Board, from time to time, and shall:
- 6.1.1 firstly, be provided by the Company from its own cash resources;
- 6.1.2 secondly, if the Company's own cash resources are insufficient for the purposes in question, be obtained from loans by outside sources to the extent required, based on the creditworthiness of the Company and upon such terms and conditions as the Board may think fit; and/or
- 6.1.3 thirdly, if the Company is unable to source funding from outside sources on terms reasonably acceptable to the Board and within such reasonable time period as may be acceptable in the circumstances, be obtained from any loans by Shareholders in accordance with the provisions set out in clause 6.2, provided that nothing herein shall oblige any Shareholder to provide any loan to the Company.
- 6.2 Claims shall be subject to the following terms and conditions:
- 6.2.1 the loans advanced to the Company by any Shareholder (each such Shareholder being a **Lending Shareholder**) shall be advanced on such terms and conditions as may be suggested by the Board and then agreed upon in writing between the Lending Shareholders and the Company, provided that:
- 6.2.1.1 the rate, accrual, payment and calculation of interest and all other material terms in respect thereof shall (save as provided for to the contrary in clause 6.3) be the same for each Lending Shareholder providing funding on a proportionate basis to its shareholding in the Company in that round of funding;
- 6.2.1.2 the interest charged on such loans shall not be less than the Prime Rate plus 2% (two per cent);
- 6.2.1.3 the period for which interest shall run shall not be longer than the period from the date on which the debt is incurred to the date of repayment;
- 6.2.1.4 such interest shall be calculated and paid monthly in arrears, unless otherwise agreed in writing between the Company and the Lending Shareholders; and
- 6.2.1.5 such loans shall be recorded separately in the Company's books of account, together with the date on which they were advanced;
- 6.2.2 subject to clause 6.4 and the subordination provisions contained in any intercreditor agreement to which the Company may be a party, all repayments of loans and payments of interest shall be paid proportionately, by repaying to each Lending Shareholder an amount which is *pro rata* to the Claims held by such Lending Shareholder in relation to all the Claims held by Lending Shareholders;
- 6.2.3 notwithstanding anything to the contrary in this Agreement but subject to the subordination provisions contained in any intercreditor agreement to which the Company may be a party, Claims shall be repaid in full on any earlier date on which any of the following circumstances occur:

- 6.2.3.1 the Board resolves that the Company should do so, provided that the Board shall also be entitled to determine that the Claims shall be repaid in part, in which event the Company shall, subject to clauses 6.2.2 and 6.4, make such repayment;
 - 6.2.3.2 the Company ceases to carry on business;
 - 6.2.3.3 any licences of the Group being revoked, permanently suspended or not renewed so that the Company materially ceases to carry on business;
 - 6.2.3.4 a provisional or final order for the curatorship, liquidation, winding-up or business rescue of the Company is made by any competent court or other competent authority;
 - 6.2.3.5 the Board or the Shareholders pass a resolution for the Company's voluntary liquidation or the commencement of business rescue proceedings (as contemplated in the Act) in relation to the Company; or
 - 6.2.3.6 the Company submits an offer of compromise or similar offer to its creditors generally (or otherwise becomes party to a compromise arrangement with its creditors generally).
- 6.3 Should a Shareholder not provide a loan in such amounts as are in proportion to each Shareholder's shareholding in the Company, then the other Shareholders may provide such loan funding to the Company as may be disproportionate to their shareholding in the Company (such non-proportionate shareholder loans hereinafter referred to as Disproportionate Loans). For so long as the funding required by the Company as contemplated in this clause 6 is not provided by the Shareholders *pro rata* to their respective shareholdings, interest shall accrue on the amount by which any Lending Shareholders' Claims exceeds such Shareholders' *pro rata* share of all Claims, at an interest rate 2% (two per cent) higher than the applicable interest rate agreed to between the Company and the Lending Shareholders in terms of clause 6.2.1 (**Disproportionate Loan Interest**) or, if more than one rate has been agreed in respect of previous loans granted under clause 6.2.1, the highest applicable rate then in effect under such loans. The Disproportionate Loan Interest accruing on a Lending Shareholder's Claims in terms of this clause 6.3 shall accrue, be calculated and paid monthly in arrears, unless otherwise agreed to in writing between the Company and the Lending Shareholders. The rate, accrual, payment and calculation of interest and all other material terms in respect thereof shall (save as provided for to the contrary in this clause 6.3) be the same for each Lending Shareholder providing Disproportionate Loans.
- 6.4 Subject to the subordination provisions contained in any intercreditor agreement to which the Company may be a party, Disproportionate Loans shall always be repaid by the Company in preference to any Claims provided by Lending Shareholders in proportion to their shareholding in the Company, provided that all Claims (whether disproportionate or not) shall be repaid on the final date stipulated for repayment as may have been agreed in terms of clause 6.2.1. The Company undertakes to repay all outstanding Claims (whether disproportionate or not) as soon as it is reasonably able to do so and as soon as there is free cash available for such repayments. In the event of any of the events stipulated in clause 6.2.3.2 to 6.2.3.6 (both inclusive) occurring, all Claims shall be subordinated to the Disproportionate Loans (to the extent that such Claims are disproportionate) and the Disproportionate Loans shall be repaid in preference to the other Claims, which Claims shall be repaid as set out in clause 6.2.2.

- 6.5 Notwithstanding anything to the contrary contained herein, all loans (together with any interest payable thereon) comprising the Claims shall, subject to the requirements of all Applicable Laws and the subordination provisions contained in any intercreditor agreement to which the Company may be a party, be repaid in full on the Business Day immediately preceding the 10th (tenth) anniversary of the date on which such loan was advanced (**End Date**). Each such loan shall, for the purposes of calculating the End Date in respect of such loan, be recorded separately in the Company's books of account, together with the date on which it was advanced, on the basis that, subject to the provisions of clauses 6.2.2, 6.2.3 and 6.4, the loans comprising the Claims shall be repaid in the order in which they were advanced.
- 6.6 If the Company is unable to raise sufficient loan funding from Shareholders pursuant to this clause 6, the Board may decide to raise any funding required from Shareholders by way of a *pro rata* rights offer of shares ranking *pari passu* with all other shares in the Company (the **Rights Offer**), upon the following terms and conditions:
- 6.6.1 the Company shall send a written notice to each Shareholder specifying: (i) the total number of shares in the Company required to be subscribed for; (ii) the number of the shares in the Company required to be subscribed for by each Shareholder (which shall be determined *pro rata* to each Shareholder's shareholding in the Company as at the date on which the Company resolves to implement the provisions of the Rights Offer); (iii) the subscription price at which the shares in the Company will be subscribed for; and (iv) the date by which such shares in the Company are to be subscribed for, which date shall not be earlier than 30 (thirty) days from the date of the aforementioned notice (**Shareholder Subscription Notice**);
- 6.6.2 any shares in the Company to be issued under such Rights Offer and as contained in the Shareholder Subscription Notice shall be issued at a subscription price equal to the Fair Market Value thereof as at the date of the Shareholder Subscription Notice. If the Fair Market Value is to be determined by the Expert, the date of the Shareholder Subscription Notice shall be deemed to be the 1st (first) Business Day after the Fair Market Value determination has been received by the Company from the Expert and notified to all the Shareholders;
- 6.6.3 upon receiving a Shareholder Subscription Notice, a Shareholder may elect whether or not to subscribe for its portion of such shares in the Company, and shall notify the Board in writing of its election within 20 (twenty) Business Days of receipt by it of such Shareholder Subscription Notice. Should a Shareholder elect to subscribe for its portion of such shares in the Company, such Shareholder shall pay to the Company, in cash, the subscription price stated in such Shareholder Subscription Notice within 30 (thirty) Business Days of notifying the Board of its election to subscribe for such shares in the Company (provided that such time period may be extended to take cognisance of any regulatory approvals required);
- 6.6.4 if a Shareholder does not subscribe at all, or does not subscribe in full, for its portion of shares pursuant to a Rights Offer in terms of this clause 6.6 (the **Non-Subscribing Shareholder**), then the Non-Subscribing Shareholder shall be deemed to have renounced its entitlement to subscribe for such shares or the unsubscribed portion of such shares in the Company (as the case may be) in favour of the Shareholders who have agreed to subscribe in full for their portion of such shares, free of any consideration, *pro rata* to their shareholding in the Company;

- 6.6.5 the aforementioned process set out in clauses 6.6.1 to 6.6.4 (both inclusive) will be repeated until:
- 6.6.5.1 all the Non-Subscribing Shareholder's shares have been subscribed for; or
- 6.6.5.2 there are no further Shareholders who are willing to subscribe for such shares,
- whichever is applicable.
- 6.7 If, after completion of the process described in clause 6.6, the funding requirements of the Company called upon under this clause 6 have still not been satisfied completely, the Company shall be entitled to raise any additional funding required by way of an offer of the unsubscribed shares in the Company pursuant to the completion of the abovementioned subscription process (**Unsubscribed Rights Offer Shares**) to such third parties (provided that the Unsubscribed Rights Offer Shares shall not be offered to a Competitor of the Company) at the Fair Market Value thereof (provided that if the Expert provided its determination of the Fair Market Value under clause 6.6.2 within the last 6 (six) months of the determination being required under this clause 6.7, such earlier determination by the Expert shall be binding on the Shareholders and the Board as to the Fair Market Value of the shares under this clause 6.7), provided that such price shall not be lower than the price at which the shares were offered to Shareholders under clause 6.6.
- 6.8 If, at any time, the Company wishes to obtain funding from a third party, and that third party requires suretyships, guarantees and/or indemnities to be given to it by any of the Shareholders, and if any of the Shareholders agree in writing to provide such suretyships, guarantees and/or indemnities (**Guaranteeing Shareholders**), only then shall the Guaranteeing Shareholders provide such suretyships, guarantees or indemnities in a form acceptable to the third party, provided that the liability for such suretyships, guarantees or indemnities shall be limited to the amount of the funding.
- 6.9 The Guaranteeing Shareholders agree that such suretyships, guarantees or indemnities shall be in proportion to the number of Shares held by each of them at the time of giving such suretyships, guarantees or indemnities.

7. LIMITATIONS ON BORROWINGS

Notwithstanding any contrary provisions herein but subject to any changes agreed to pursuant to clause 5.5.2.12 (*Ordinary Resolutions, Special Resolutions and Restrictions on Board Powers*) of the MOI, the Group's indebtedness shall not be increased if the Net Debt of the Group is (or would be as a result of such increase), in the period:

- 7.1 from the Implementation Date to 31 December 2017, greater than 4 x (four times) the Group's last 12 (twelve) month rolling EBITDA (as reflected in the most recent Group management accounts or annual financial statements, as applicable); and

7.2 after 31 December 2017, greater than 3.5 x (three point five times) the Group's last 12 (twelve) month rolling EBITDA (as reflected in the most recent Group management accounts or annual financial statements, as applicable).

8. DIVIDEND POLICY

8.1 It is agreed that no dividends shall be declared or paid until all Claims have been repaid in full to the Lending Shareholders, unless each Lending Shareholder agrees otherwise in writing.

8.2 Subject to the provisions of clauses 7 and 8.3, the Shareholders record their intention to declare the maximum amount of dividends bi-annually with effect from the 2017 Financial Year. However, any declaration or payment of a dividend made in terms of this clause 8.2 shall be subject to:

8.2.1 the restrictions set out in clause 7;

8.2.2 the requirements of the Act and any other applicable legislation or regulations;

8.2.3 the working capital requirements of the Company for the following 12 (twelve) months, acting reasonably;

8.2.4 the investment commitments of the Company for the following 12 (twelve) months, acting reasonably;

8.2.5 the declaration being permissible in terms of the agreements between the Company and any third-party lenders (including any bondholders) to the Company; and

8.2.6 any additional restrictions as may be contained in the Memorandum of Incorporation.

8.3 The Board's decision on whether or not to declare and pay a dividend in terms of this clause 8 shall be subject to the following: if the Group's Net Debt (as evidenced by a certificate duly issued by the Auditors at the relevant time of declaring the dividend) post-proposed dividend, divided by the Group's last 12 (twelve) month rolling EBITDA (as evidenced by a certificate duly issued by the Auditors at the relevant time) results in a multiple that:

8.3.1 is equal or greater than 4 (four), then no dividend shall be declared or paid;

8.3.2 is greater than 3.5 (three point five) but less than 4 (four), then a maximum dividend of up to R100,000,000 (one hundred million Rand) (gross of applicable dividends tax) shall be declared and paid, provided that the multiple does not equal or exceed 4 (four) following such declaration and payment;

8.3.3 is greater than 3 (three) but less than or equal to 3.5 (three point five), then a maximum dividend of up to R200,000,000 (two hundred million Rand) (gross of applicable dividends tax) shall be declared and paid, provided that the multiple does not equal or exceed 3.5 (three point five) following such declaration and payment; or

8.3.4 is less than or equal to 3 (three), then the maximum permitted dividend shall be declared and paid by the Company as long as the multiple does not equal or exceed 3 (three) following such declaration and payment. Notwithstanding the aforementioned, a minimum dividend of R200,000,000 (two hundred million Rand) (gross of applicable dividends tax) shall always be declared and paid if the multiple is less or equal to 3 (three) whether or not the multiple exceeds 3 (three) following such declaration or payment.

9. **DISPOSAL OF EQUITY AND LOCK-UP**

- 9.1 A Shareholder may not Dispose of any of its Equity except as specifically provided or permitted under this Agreement. Except as otherwise provided in this Agreement, no Shares shall be Disposed of by any Shareholder unless a proportionate percentage of Claims are Disposed of simultaneously by such Shareholder.
- 9.2 Subject to clause 24, a Disposal of Equity is permitted: (i) with the written consent of all Shareholders; or (ii) without the written consent of all Shareholders, by an Original Shareholder (other than M5 and MS15) to an Affiliate, provided that:
- 9.2.1 notwithstanding any contrary provisions in this Agreement: (i) BLT Parent shall be entitled to Dispose of all or any of its shares in, or claims against, BLT to another wholly-owned subsidiary of BLT Parent; and (ii) BLT shall be entitled to merge its interests (which may include a transfer by BLT to BLT Parent of its Equity) into BLT Parent as part of a *bona fide* internal restructuring, without invoking the provisions of clauses 10, 11, 12, 14, 16 of this Agreement and/or clause 3.4 (*Pre-emption*) of the MOI and each Shareholder waives any and all of its pre-emptive rights to enable such transfer to occur;
- 9.2.2 notwithstanding any contrary provisions in this Agreement: (i) NET1 Parent shall be entitled to Dispose of all or any of its shares in, or claims against, NET1 to another wholly-owned subsidiary of NET1 Parent; and (ii) NET1 shall be entitled to merge its interests (which may include a transfer by NET1 to NET1 Parent of its Equity) into NET1 Parent as part of a *bona fide* internal restructuring, without invoking the provisions of clauses 10, 11, 12, 14, 16 of this Agreement and/or clause 3.4 (*Pre-emption*) of the MOI and each Shareholder waives any and all of its pre-emptive rights to enable such transfer to occur,

in each case, a **Permitted Disposal**.

- 9.3 It is specifically agreed that:
- 9.3.1 MS15 shall not be entitled to Dispose of any of its Shares or Claims for a period of 4 (four) years from the Implementation Date other than as specifically provided for in clauses 11, 12, 14, 16, 19 or 20 of this Agreement or pursuant to the enforcement by any of the Creditors of their rights under the respective SPV Documents;
- 9.3.2 MS15 was set up for the sole purpose of acquiring and holding Shares, directly or indirectly, including the MS15 Shares, and MS15 may not, accordingly, conduct any business or incur any debt not strictly necessary to fulfil its stated and sole purpose; and
- 9.3.3 should MS15 Dispose of any or all of its MS15 Shares after the 4 (four) year period referred to in clause 9.3.1, it may only do so subject to complying with the provisions of clauses 10 and 21.

- 9.4 Should an Affiliate to whom any Equity has been Disposed to in terms of clause 9.2 cease to be an Affiliate in relation to the Original Shareholder from whom it acquired its Equity, then that Affiliate (now Shareholder) undertakes, by virtue of having acceded to the terms of this Agreement, to immediately transfer all the Equity back to the Original Shareholder concerned, or to such other Affiliate of that Original Shareholder, as may be so nominated, subject to clause 24. Furthermore, should Equity be transferred to an Affiliate of an Original Shareholder as contemplated and permitted in this clause 9, such Affiliate may not in turn Dispose of any Equity to any other Affiliate other than back to the Original Shareholder from whom the Affiliate acquired the Equity.
- 9.5 Other than a Disposal of Equity in accordance with this Agreement or an Encumbrance of Equity by:
- 9.5.1 BLT or NET1; or
- 9.5.2 any other Shareholder pursuant to any agreement for the pledge of Shares or any other related financing or security arrangement entered into in order to implement the Transaction,

which shall at all times be permitted in accordance with the terms of this Agreement, an Encumbrance of Equity requires the prior written consent of all the Shareholders and the share certificate evidencing any Encumbered Shares must be endorsed to that effect.

10. PRE-EMPTION

- 10.1 Subject to clauses 11, 12, 13, 14, 15, 16, 19, 20 and 32, it is recorded and agreed that the holder of Class "B" Shares shall not be entitled to Dispose of any Class "B" Shares and, following the conversion of the Class "B" Shares into Class "A" Shares, M5 shall not be entitled to Dispose of any Class "A" Shares in terms of this clause 10 prior to the 5th (fifth) anniversary of the Implementation Date and, after such date, M5 may Dispose of Class "A" Shares in terms of this clause 10.
- 10.2 Subject to the provisions of clauses 9, 10.1, 11, 12 and 13, if any Shareholder (referred to below as the **Seller**), receives an offer for, or otherwise wishes to Dispose of, all or some of its Shares in the Company and a corresponding amount of its Claims (**Sale Equity**) to, a *bona fide* third party (**Third Party Offer**) (provided that Shares shall not be offered to or otherwise transferred to a Competitor of the Company) such shareholder must:
- 10.2.1 if the Seller is BLT, first offer the Sale Equity in writing to NET1;
- 10.2.2 if the Seller is NET1, first offer the Sale Equity in writing to BLT;
- 10.2.3 if the Seller is any member of M5, first offer the Sale Equity in writing to BLT, NET1 and the other members of M5 *pro rata* to their percentage shareholding in the Company;
- 10.2.4 if the Seller is SPV1, first offer the Sale Equity in writing to the other Shareholders, other than SPV2 and SPV3;
- 10.2.5 if the Seller is SPV2, first offer the Sale Equity in writing to the other Shareholders, other than SPV1 and SPV3;
- 10.2.6 if the Seller is SPV3, first offer the Sale Equity in writing to the other Shareholders, other than SPV1 and SPV2; or

- 10.2.7 if the Seller is any Shareholder other than BLT, NET1, any member of M5, SPV1, SPV2 or SPV3, offer the Sale Equity in writing to all the other Shareholders *pro rata* to their percentage shareholding in the Company,
- (collectively referred to as the **Offer Notice**) on the terms and conditions as set out in the Third Party Offer.
- 10.3 The Offer Notice should set out full details of:
- 10.3.1 the Sale Equity, it proposes to Dispose of;
- 10.3.2 the name of the proposed purchaser and of any person who Controls the proposed purchaser, or where there is no proposed purchaser, then this fact must be stated;
- 10.3.3 the price per Share and the amount payable for the Claims, if any (all of which is payable on Completion in accordance with clause 17.5) (**Proposed Purchase Price**);
- 10.3.4 the warranties (if any) the Seller proposes to give the proposed purchaser; and
- 10.3.5 all other terms of the proposed sale.
- 10.4 An Offer Notice delivered by a Seller is irrevocable and constitutes:
- 10.4.1 an offer by the Seller to sell the Sale Equity to all the other Shareholders who received the notice at the Proposed Purchase Price and on the same terms *mutatis mutandis*, all as stated in the Offer Notice and in the manner outlined in this clause 10; and
- 10.4.2 appointment of the Secretary as agent of the Seller for the purpose of that offer.
- 10.5 Each Shareholder which elects to purchase its portion of the Sale Equity in response to an Offer Notice (referred to below as a **Buyer**), shall notify the Seller, the Company and the Secretary in writing of its election within 30 (thirty) calendar days of receipt of the Offer Notice. Should a Shareholder elect to purchase its portion of the Sale Equity, such Shareholder shall pay to the Seller, in cash and subject to clause 10.11, its portion of the Proposed Purchase Price within 30 (thirty) calendar days of notifying the Seller of its election to purchase the Sale Equity.
- 10.6 If any of the Shareholders fail to purchase all of the Sale Equity offered to it in the Offer Notice by SPV1, SPV2 or SPV3 then the relevant Seller shall again be obliged to issue an Offer Notice in respect of the Sale Equity not purchased to all the Buyers and the Buyers shall again be entitled to purchase its portion of the Sale Equity on offer and, if there are no other Buyers, all of the Sale Equity on offer by any of SPV1, SPV2 or SPV3. Following the aforementioned additional offer of Sale Equity, if any of the Shareholders fail to purchase all of the Sale Equity offered to it in the Offer Notice by:
- 10.6.1 SPV1 as referred to in clause 10.2.4, then SPV1 must offer the Sale Equity not accepted by any such Shareholder to SPV2 and SPV3;
- 10.6.2 SPV2 as referred to in clause 10.2.5, then SPV2 must offer the Sale Equity not accepted by any such Shareholder to SPV1 and SPV3; or
- 10.6.3 SPV3 as referred to in clause 10.2.6, then SPV3 must offer the Sale Equity not accepted by any such Shareholder to SPV1 and SPV2,

on the terms set out in clauses 10.2 to 10.5.

10.7 Should:

10.7.1 either SPV2 or SPV3 fail to purchase at all, or do not purchase in full, the Sale Equity offered to it in the Offer Notice by SPV1 as envisaged to in clause 10.6.1;

10.7.2 either SPV1 or SPV3 fail to purchase at all, or do not purchase in full, the Sale Equity offered to it in the Offer Notice by SPV2 as envisaged to in clause 10.6.2;

10.7.3 either SPV1 or SPV2 fail to purchase at all, or do not purchase in full, the Sale Equity offered to it in the Offer Notice by SPV3 as envisaged to in clause 10.6.3; or

10.7.4 a Shareholder otherwise not purchase at all, or does not purchase in full, its *pro rata* portion of the Sale Equity offered to it pursuant to clause 10.2.7,

(referred to as the **Non-Accepting Shareholder**), then the Non-Accepting Shareholder shall be deemed to have renounced its entitlement to purchase its full *pro rata* portion of the Sale Equity in favour of the Buyers who have agreed to purchase in full their respective *pro rata* portions of the Sale Equity, such renunciation being free of any consideration.

10.8 If all (and not some only) of the Sale Equity is not acquired by the Shareholders following compliance with the process set out in this clause 10, then the Seller shall be entitled to dispose of all of the Sale Equity to the named third party:

10.8.1 at a price not less than that, and on terms and conditions that are materially no less favourable than those, set out in the original Third Party Offer;

10.8.2 subject, where applicable, to rights contained in clauses 9, 11, 12 or 13 provided that clauses 9, 11, 12 or 13 do not apply to SPV3 where SPV3 is the seller; and

10.8.3 subject to clause 10.11, within a period of 180 (one hundred and eighty) calendar days from the date of the Offer Notice, after which the Seller will once again be obliged to offer the Sale Equity to the other Shareholders as set out in this clause 10.

10.9 Should no proposed purchaser be set out in the Offer Notice as envisaged in clause 10.3.2, then the Seller will once again be obliged to offer the Sale Equity to the other Shareholders as set out in this clause 10 upon disclosing the details of the proposed purchaser to the other Shareholders and prior to disposing of the Sale Equity to the proposed purchaser.

10.10 The Secretary may not allocate what would otherwise be fractional interests in Shares, but shall round off to the nearest whole number with 0.5 (zero point five) being rounded up.

10.11 Completion under clause 17 must take place as soon as possible after the Sale Equity has been allocated to the Buyers or such extended period as may be required to obtain regulatory approvals and Complete the acquisition of such shares.

10.12 The pre-emption rights set out in this clause 10 shall apply, *mutatis mutandis*, to any issue of new shares of any class by the Company, other than as contemplated in clause 6.6.

11. TAG ALONG RIGHTS

- 11.1 Subject to Shareholder compliance with the provisions of clause 10, if any one or more Shareholders (**Selling Shareholders**) issues an Offer Notice that is for Shares constituting 50% (fifty per cent) or more of the issued Share capital of the Company (and corresponding Claims, if any) (**Tag Equity**), in one or a series of transactions, then each other Original Shareholder (or its Affiliate pursuant to a Permitted Disposal) other than SPV1, without the prior written consent of the holders of the SPV1 Bonds, and NET1 but including, subject to clause 11.6, M5, has the right (**Tag Along Right**) to require the Selling Shareholders to cause the purchaser named in the Offer Notice or, where there is no named purchaser, the party to whom the Selling Shareholders wish to sell the Tag Equity to, to also buy a *pro rata* portion of their Equity (**Pro Rata Equity**) at the same price and on the same terms and conditions applicable to the sale of the Tag Equity.
- 11.2 To exercise its Tag Along Right, an Original Shareholder (or its Affiliate pursuant to a Permitted Disposal) must, within 20 (twenty) calendar days following receipt of the Offer Notice, notify the Selling Shareholders and the Secretary in writing of the exercise of its Tag Along Right.
- 11.3 If the Selling Shareholders of the Tag Equity Completes the sale notified in the Offer Notice, they must ensure that the purchaser of their Tag Equity simultaneously completes the acquisition of all Equity which is subject to the exercise of a Tag Along Right provided that the same price, terms and conditions applicable to the sale of the Tag Equity shall apply to the sale of all of the Equity (including the provision of warranties by all sellers of Equity).
- 11.4 Completion under clause 17 must take place as soon as possible after the Tag Along Right has been exercised or such extended period as may be required to obtain regulatory approvals and Complete the acquisition of Tag Equity and each other Shareholder waives its pre-emptive rights to enable a sale under this clause 11 to be effected. It being recorded and agreed that any sale in terms of this clause 11 will be subject to the warranties in clause 20.5 *mutatis mutandis*.
- 11.5 Notwithstanding the remaining provisions in this clause 11, it is agreed that:
- 11.5.1 the Tag Along Right under this clause 11 shall not be triggered if the sale of Shares by the Selling Shareholders is pursuant to a Listing or a listing as initiated by the Shareholders (or any of them); and
- 11.5.2 MS15 shall not be entitled to follow its Tag Along Right under this clause 11 in the first 7 (seven) years following the Implementation Date unless: (i) BLT and NET1 have consented thereto in writing; and (ii) doing so would not be prejudicial in any manner to the Company.
- 11.6 M5 will only be entitled to exercise the Tag Along Right set out in clause 11.1 provided that:
- 11.6.1 it is the holder of Class "A" Shares; and
- 11.6.2 at the time that the Selling Shareholders issue the Offer Notice referred to above, a period of at least 4 (four) years have elapsed from the Implementation Date; or

- 11.6.3 at the time that the Selling Shareholders issue the Offer Notice referred to above as well as at the time of Completion of such sale (and the period in between):
- 11.6.3.1 José dos Santos is the Chief Executive Officer of the Company; or
- 11.6.3.2 if José dos Santos is not the Chief Executive Officer of the Company, it is not due to him having been dismissed by the Company for any of the following reasons:
- 11.6.3.2.1 him breaching his terms of employment, or being found guilty of misconduct or gross negligence that justifies his dismissal;
- 11.6.3.2.2 him committing any breach or offence which results in a criminal conviction due to him being dismissed for cause; or
- 11.6.3.2.3 him becoming prohibited by law from being a director of a company,
- provided that any such dismissal (save in the case of clause 11.6.3.2.3) will be subject to the relevant provisions of the Labour Relations Act, 66 of 1995 and the Company's internal disciplinary procedures.
- 11.7 Notwithstanding anything to the contrary contained herein and for the avoidance of any doubt, this clause 11 shall no longer apply upon a Listing.

12. DRAG ALONG RIGHTS

- 12.1 Subject to Shareholder compliance with the provisions of clause 10 and clause 12.2, if any one or more Shareholders (**Selling Shareholders**) issues an Offer Notice that is for Shares constituting 50% (fifty per cent) or more of the issued Share capital of the Company (and corresponding Claims, if any) (**Drag Equity**) in one or a series of transactions, then the Selling Shareholders shall be entitled to require the other Shareholders (other than (i) NET1; and (ii) SPV1, SPV2 and SPV3 within the first 12 (twelve) months following the Implementation Date) (**Dragged Shareholders**) to sell all of their Equity at the same price, terms and conditions applicable to the sale of the Drag Equity (including the provision of warranties).
- 12.2 Notwithstanding the provisions of clause 12.1:
- 12.2.1.1 M5 shall not be required to sell their Shares under this clause 12 if the price is less than the result of: (i) 7 (seven) times the Group's last 12 (twelve) month rolling EBITDA (as evidenced by a certificate duly issued by the Auditors at the relevant time); less (ii) the Enterprise Value Adjustments; multiplied by (iii) the percentage shareholding in the Company of the relevant Dragged Shareholder;
- 12.2.1.2 unless otherwise agreed to in writing by SPV2, SPV2 shall not be required to sell its Shares under this clause 12 if the price attributable to the SPV2 Shares is less than the aggregate of the principal amount and the accrued interest on the loan between SPV2 and China Development Bank and Industrial and Commercial Bank of China Limited then outstanding;
- 12.2.1.3 unless otherwise agreed to in writing by SPV1, SPV1 shall not be required to sell its Shares under this clause 12: (i) until such time as SPV2 is obliged to sell its Shares following the fulfilment of the requirement set out in clause 12.2.1.2; and (ii) for a value less than the Fair Market Value of such Shares; or

- 12.2.1.4 unless otherwise agreed to in writing by SPV3, SPV3 shall not be required to sell its Shares under this clause 12 until such time as SPV2 is obliged to sell its Shares following the fulfilment of the requirement set out in clause 12.2.1.2.
- 12.3 For a period of 7 (seven) years from the Implementation Date, should MS15 not retain the Targeted Black Interest (provided that there shall be a period of 30 (thirty) days from the date of MS15 Becoming Aware or being notified in writing of the relevant event resulting in MS15 not retaining the Targeted Black Interest to remedy such non-compliance) then, regardless of the cause thereof other than a change in law, MS15 shall retain its rights and obligations under this clause 12, provided that the minimum price provided in clause 12.1 shall no longer apply.
- 12.4 Completion under clause 17 must take place as soon as possible after having reached agreement on the sale of the Drag Equity, subject to obtaining the required regulatory approvals and each other Shareholder waives its pre-emptive rights to enable a sale under this clause 12 to be effected. It being recorded and agreed that any sale in terms of this clause 12 will be subject to the warranties in clause 20.5 *mutatis mutandis*.

13. M5 PUT OPTION

- 13.1 Subject to Shareholder compliance with the provisions of clauses 10 and 11.6, should any Shareholder (**Controlling Shareholder**), other than M5, agree to acquire, in one or more transactions, Shares that will result in its entire shareholding constituting more than 50% (fifty per cent) of the entire issued Share capital of the Company (and corresponding Claims, if any) in one or more transactions (**Control Put Equity**), then the Controlling Shareholder shall be obliged to give written notice thereof (**M5 Put Notice**) to M5 and M5 has the option (**M5 Put Option**) to put its entire Equity (and not only part thereof) to the Controlling Shareholder and accordingly oblige the Controlling Shareholder to buy M5's Equity at a price that is equal to the result of: (i) 5 (five) times the Group's last 12 (twelve) month rolling EBITDA (as evidenced by a certificate duly issued by the Auditors at the relevant time); less (ii) the Enterprise Value Adjustments; multiplied by (iii) the percentage shareholding in the Company of M5 (subject to clause 13.3) and otherwise on the same terms and conditions applicable to the acquisition of the Control Put Equity. It is agreed that the M5 Put Option as set out in this clause 13 shall lapse and be of no further force or effect with effect from the 5th (fifth) anniversary of the Implementation Date.
- 13.2 To exercise the M5 Put Option, M5 must, within 20 (twenty) calendar days of receiving the M5 Put Notice, notify the Controlling Shareholder, BLT, NET1 and the Secretary in writing of the exercise of the M5 Put Option.
- 13.3 The Controlling Shareholder must simultaneously with the Completion of the sale of the Control Put Equity Complete the acquisition of M5's Equity and the payment of the purchase price in respect thereof, provided that the same terms and conditions (other than the price as set out in clause 13.1) applicable to the sale of the Control Put Equity shall apply to the sale of M5's Equity (including the provision of warranties by all sellers of Equity).
- 13.4 Completion under clause 17 must take place as soon as possible after the M5 Put Option has been exercised or such extended period as may be required to obtain regulatory approvals and Complete the acquisition of the Control Put Equity. Completion of the exercise of the M5 Put Option as provided for in this clause 13 shall be subject to all Applicable Laws and the relevant parties obtaining the necessary consents (including that of the competition authorities and ICASA, if required) and each other Shareholder waives its pre-emptive rights to enable a sale under this clause 13 to be effected. It being recorded and agreed that any sale in terms of this clause 13 will be subject to the warranties in clause 20.5 *mutatis mutandis*.

13.5 If M5 Disposes of some or all of its Shares in terms of this clause 13, such Disposal shall not be subject to the provisions of clauses 10, 14 or 16.1.

14. **M5 CALL OPTION**

- 14.1 Subject to Shareholder compliance with the provisions of clauses 10 and 11.6, should any Shareholder (**Controlling Shareholder**), other than M5, agree to acquire, in one or more transactions, Shares that will result in its entire shareholding constituting more than 50% (fifty per cent) of the entire issued Share capital of the Company (and corresponding Claims, if any) (**Control Call Equity**), then the Controlling Shareholder shall be obliged to give written notice thereof (**M5 Call Notice**) to M5 and the Controlling Shareholder has the option (**M5 Call Option**) to call upon M5's Equity and oblige M5 to sell M5's Equity to the Controlling Shareholder, at the same price (subject to clause 14.3) and on the same terms and conditions applicable to the acquisition of the Control Call Equity provided that M5 shall not be required to sell their Shares under this clause 14 if the price is less than the result of: (i) 7 (seven) times the Group's last 12 (twelve) month rolling EBITDA (as evidenced by a certificate duly issued by the Auditors at the relevant time); less (ii) the Enterprise Value Adjustments; multiplied by (iii) the percentage shareholding in the Company of M5 and otherwise on the same terms and conditions applicable to the acquisition of the Control Call Equity. It is agreed that the M5 Call Option as set out in this clause 14 shall lapse and be of no further force or effect 60 (sixty) days after the expiry of the 5th (fifth) anniversary of the Implementation Date.
- 14.2 To exercise the M5 Call Option, the Controlling Shareholder must, within 20 (twenty) calendar days of delivering the M5 Call Notice to M5, notify BLT, NET1 and the Secretary in writing of the exercise of the M5 Call Option.
- 14.3 The Controlling Shareholder must simultaneously with the Completion of the sale of the Control Call Equity Complete the acquisition of M5's Equity and the payment of the purchase price in respect thereof, provided that the same terms and conditions (other than the price as set out in clause 14.1) applicable to the sale of the Control Call Equity shall apply to the sale of M5's Equity (including the provision of warranties by all sellers of Equity).
- 14.4 Completion under clause 17 must take place as soon as possible after the M5 Call Option has been exercised or such extended period as may be required to obtain regulatory approvals and Complete the acquisition of Control Call Equity. Completion of the exercise of the M5 Call Option as provided for in this clause 14 shall be subject to all Applicable Laws and the relevant parties obtaining the necessary consents (including that of the competition authorities and ICASA, if required) and each other Shareholder waives its pre-emptive rights to enable a sale under this clause 14 to be effected. It being recorded and agreed that any sale in terms of this clause 14 will be subject to the warranties in clause 20.5 *mutatis mutandis*.

14.5 If M5 Disposes of some or all of its Shares in terms of this clause 14, such Disposal shall not be subject to the provisions of clauses 10, 13 or 16.1.

15. FORCED TRANSFER OF EQUITY ON TRIGGER EVENT

15.1 A Shareholder (**Defaulting Shareholder**) shall immediately notify the other Shareholders and the Company in writing if it is the subject of a Trigger Event. If a Defaulting Shareholder so notifies the other Shareholders or the other Shareholders otherwise become aware of such Trigger Event, then any other Shareholder or combination of Shareholders, other than the Defaulting Shareholder, SPV1, SPV2 and SPV3 (**Acquiring Shareholder(s)**) may notify the Defaulting Shareholder, the Company and all other Shareholders that it or they will buy all of the Defaulting Shareholder's Equity at the Fair Market Value of such Shares less 10% (ten per cent) and Claims, if any, at face value (which must be payable on Completion in accordance with clause 17.5) (**Trigger Price**), provided that all Acquiring Shareholders shall be entitled to participate as such *pro rata* to its shareholding in the Company.

15.2 For the avoidance of doubt, where a Party comprising M5 is the subject of a Trigger Event, only such Party shall be deemed a Defaulting Shareholder and the remaining Parties comprising M5 shall not be deemed to be Defaulting Shareholders.

15.3 A notice under clause 15.1 is irrevocable.

15.4 If the sale of the Defaulting Shareholder's Equity is to proceed under this clause, then:

15.4.1 the Secretary must notify all Shareholders of the proposed sale and the Trigger Price;

15.4.2 the Defaulting Shareholder must be treated as having issued to all other Shareholders an Offer Notice for sale of all its Equity;

15.4.3 clauses 10 and 17 apply; and

15.4.4 the Acquiring Shareholders shall be obliged to purchase all (and not some only) of the Defaulting Shareholder's Equity, provided that if any Acquiring Shareholder fails to purchase its total *pro rata* portion of the Defaulting Shareholder's Equity, such Shareholder shall be deemed to have renounced its entitlement to purchase such portion to the other Acquiring Shareholders and the other Acquiring Shareholders may proportionally increase their share in the Defaulting Shareholder's Equity.

15.5 Tag Along Rights do not apply to a sale of Equity under this clause 15. The Defaulting Shareholder is not required to give any warranties other than customary title warranties in respect of such Equity.

16. CHANGE OF CONTROL

16.1 Should any Party comprising M5 (**Defaulting M5 Party**) sell any of its Shares to any party (**Purchasing Third Party**) without offering such Shares to the other Shareholders in accordance with the provisions set out in clause 10 or without the prior written consent of the other Shareholders, then a deemed offer of: (i) all the Shares held by such Purchasing Third Party; and (ii) all the remaining Shares held by the Defaulting M5 Party, if any, (collectively referred to as the **Defaulting Shares**) shall be deemed to have been triggered. The Equity subject to the deemed offer and held by the Purchasing Third Party or the Defaulting M5 Party, as the case may be, in the Company shall be deemed to have been offered to the other Shareholders (other than the Defaulting M5 Party) at the Fair Market Value of such shares less 10% (ten per cent) and Claims, if any, at face value and as set out in clause 16.3.

- 16.2 For a period of 7 (seven) years from the Implementation date, should MS15 not retain the Targeted Black Interest (provided that there shall be a period of 30 (thirty) days from the date of MS15 Becoming Aware or being notified in writing of the relevant event resulting in MS15 not retaining the Targeted Black Interest to remedy such non-compliance) then, regardless of the cause thereof other than a change in law, a deemed offer of the MS15 Shares shall be triggered. The Equity subject to the deemed offer and held by MS15 in the Company shall be deemed to have been offered to the other Shareholders at the Fair Market Value of such shares less 10% (ten per cent) and Claims, if any, at face value and as set out in clause 16.3.
- 16.3 If a sale of Equity is to proceed under either clause 16.1 or 16.2, then:
- 16.3.1 the Secretary must notify all Shareholders (other than SPV1, SPV2 and SPV3) of the proposed sale and the price;
- 16.3.2 if M5 triggers the deemed offer under clause 16.1, the Defaulting M5 Party or the Purchasing Third Party, as the case may be, must issue to all other Shareholders (other than SPV1, SPV2 and SPV3) an Offer Notice for sale of the Defaulting Shares provided that, should the Defaulting M5 Party or the Purchasing Third Party, as the case may be, fail to issue an Offer Notice as contemplated, any other Party aware of such trigger may issue an Offer Notice; or
- 16.3.3 if MS15 triggers the deemed offer under clause 16.2, MS15 must issue to all other Shareholders (other than SPV1, SPV2 and SPV3) an Offer Notice for sale of all its Equity in the Company provided that, should MS15 fail to issue an Offer Notice as contemplated, any other Party aware of such trigger may issue an Offer Notice; and
- 16.3.4 clause 17 shall apply.
- 16.4 Should the Defaulting Shares or MS15's Equity, as the case may be, not be acquired in full by the other Shareholders (other than SPV1, SPV2 and SPV3) following the provisions of clauses 16.3.1, 16.3.2 and 16.3.3 then the Defaulting M5 Party or MS15, as the case may be, shall be obliged to issue the Offer Notices to all of the Shareholders (including SPV1, SPV2 and SPV3) offering any Defaulting Shares or MS15's Equity not acquired when the Offer Notices were first issued.
- 17. COMPLETION OF TRANSFERS OF EQUITY**
- 17.1 This clause 17 applies to the Completion of any Disposal of Equity under this Agreement other than a Permitted Disposal.
- 17.2 The rights and obligations of the Parties in respect of any Disposal of Equity under this Agreement are subject to, where necessary, the prior approval of any competent and necessary regulatory authority provided that the Disposal shall always be subject to any specific time periods set out in the clause triggering the Disposal of Equity. Each Party will use all reasonable efforts on its part to ensure that any necessary approvals are obtained.

- 17.3 If the transferee is not already a Shareholder in the Company, the transferee must sign a Deed of Accession or a Funder Deed of Accession (as applicable) as envisaged in clause 24.3.
- 17.4 The Secretary must notify each transferor and transferee of Equity of the arrangements for Completion including the time (between 10:00 and 15:00), date (between 5 (five) and 10 (ten) Business Days after receipt of the notice) and place (in Johannesburg) for Completion.
- 17.5 At Completion, each transferee must pay to each transferor the Price for all the Shares and the amount owing for any Claims being transferred by inter-bank or other electronic funds transfer into an account notified by the transferor at least 2 (two) Business Days before Completion.
- 17.6 At Completion, each transferor must deliver:
- 17.6.1 to the transferee for its Shares:
- 17.6.1.1 duly executed proper instrument of transfer for the Shares being transferred;
- 17.6.1.2 clear title in those Shares, free of any Encumbrance unless otherwise agreed to by the relevant transferor and transferee; and
- 17.6.1.3 the original share certificates for all those Shares (if issued);
- 17.6.2 to the transferee for its Claims, a duly executed cession of the Claims; and
- 17.6.3 to the Company, resignation of any director or directors nominated or appointed by the transferor under the Memorandum of Incorporation whom, following Completion, the transferor is no longer entitled to appoint, together with certified copies of such directors' identity documents or passports not older than 3 (three) months from the date of transfer of the Equity.
- 17.7 If a transferor required to transfer Equity under this Agreement fails to deliver at Completion any required executed instruments of transfer, the Secretary may sign a transfer instrument for the relevant Shares and/or cession for the relevant Claims, in each case as agent for the transferor. The Secretary may also receive, and give a good discharge for, the Price of any Share and the amount owing for any Claim transferred by the Secretary as agent for the transferor.
- 17.8 Following Completion, stamping of share transfers (if required) and compliance with clause 24 (if required), the Company must register the transfer of the relevant Equity.
- 17.9 The Company will pay all securities transfer tax payable in respect of a transfer of Shares and will be entitled to claim such securities transfer tax from the transferor.

18. **RELEASE OF GUARANTEES**

- 18.1 Whenever a Shareholder (**Selling Shareholder**) Disposes of all its Equity to any other Shareholders (**Buying Shareholders**), the Buying Shareholders shall use their reasonable endeavours to procure the release of the Selling Shareholder and its Affiliates from all suretyships, guarantees and/or indemnities executed by the Selling Shareholder or its Affiliates on behalf of or for the benefit of the Company or any of its Affiliates in favour of third parties.

18.2 The Buying Shareholders hereby indemnify the Selling Shareholder, in proportion to the Equity acquired from the Selling Shareholder, in respect of any liability which the Selling Shareholder may have under any of the said suretyships, guarantees and/or indemnities until the Buying Shareholders have procured the said release.

19. LISTING

19.1 It is the stated intention of the Shareholders to pursue, in good faith, a Listing within a reasonable time after the conclusion of this Agreement.

19.2 At any stage following the Implementation Date, the Board may resolve to pursue a Listing and implement the provisions of this clause 19. Should the Board resolve to pursue a Listing, each Party agrees to:

19.2.1 act reasonably and provide such assistance to each other, the appointed underwriters and bookrunners and/or the Company as may reasonably be required for a successful Listing in accordance with standard market practice in respect of a Listing of its size and nature (**Reasonable Assistance**) and to vote in favour of all such resolutions as may be required to effect the Listing. Such Reasonable Assistance will include, amongst others:

19.2.1.1 reconstitution of the Board to comply with the Listings Requirements and appropriate governance practices, including the appointment of an appropriate number of independent directors to the Board;

19.2.1.2 appropriate post-Listing lock-in restrictions up to a maximum period of 12 (twelve) months following the date of Listing;

19.2.1.3 establishing an appropriate capital structure of the Company post-Listing; and

19.2.1.4 a stand still on any share transfers in the period commencing 6 (six) weeks prior to the publication of the pre-listing statement or the prospectus, as the case may be, and ending on Listing; and

19.2.2 as a pre-condition to Listing, procure the release of any third party guarantees, sureties and/or all other undertakings provided on behalf of the Company by any Shareholder;

19.2.3 waive any pre-emptive rights which they may have over the Shares to be placed pursuant to the Listing; and

19.2.4 use their respective reasonable endeavours to prepare and file an offering document for the Listing, develop a plan for the marketing of the offering, procure agreements with Listing, transfer and paying agents and procure comfort letters and opinions, all as necessary or advisable, in the reasonable discretion of the underwriters or bookrunners, to facilitate a successful Listing.

19.3 The cost of the Listing and any primary issuance of the Shares shall be borne by the Company. The on-going stock exchange and other costs related to the Company being a publicly traded company shall also be borne by the Company.

- 19.4 In the event that:
- 19.4.1 M5 elects to sell Shares as part of the Listing, it shall be entitled to dispose of up to a maximum of 50% (fifty per cent) of the Shares held by M5 pursuant to the Listing, which disposal shall occur through the sale of Shares by each member of M5 listed in **Schedule 1.1.55 pro rata** to their holding of Shares; and
- 19.4.2 MS15 elects to sell Shares as part of the Listing, it shall be entitled to dispose of up to a maximum of 30% (thirty per cent) of its Shares pursuant to the Listing provided that MS15 shall still be obliged to comply with the provisions of clause 21 following such disposal notwithstanding the termination of this Agreement.
- 19.5 SPV1 shall only be entitled to sell Shares as part of the Listing to the extent that the holders of the SPV1 Bonds have consented to such sale in writing.

20. M5 LISTING, BUY-BACK AND CALL OPTION

- 20.1 In the event that no Listing has taken place or has been triggered or commenced under clause 19 within 5 (five) years from the Implementation Date, M5 shall be entitled to require a Listing of the Company on, *mutatis mutandis*, the same terms and conditions as set out in clause 19.2 by giving written notice thereof to the Company and the other Shareholders (**M5 Listing Notice**) within 60 (sixty) days after the expiry of the aforementioned 5 (five) year period (**M5 Listing Notice Period**) and provided that:
- 20.1.1 the Group's last 12 (twelve) month rolling EBITDA reached an amount of R3,500,000,000 (three billion five hundred million Rand). The Company shall instruct the Auditors to prepare a certificate confirming the Group's last 12 (twelve) month rolling EBITDA number as envisaged in this clause 20.1.1, which Auditor's certificate will be attached to the M5 Listing Notice. Should M5 fail to invoke the provisions of this clause 20.1 when it is entitled to do so, and the Group's last 12 (twelve) month rolling EBITDA at any time thereafter falls below R3,500,000,000 (three billion five hundred million Rand), then M5 can thereafter only invoke the provisions of this clause 20.1 upon the Group's last 12 (twelve) month rolling EBITDA once again reaching an amount of R3,500,000,000 (three billion five hundred million Rand);
- 20.1.2 the Main Board Listing Criteria contained in the Listings Requirements are complied with; and
- 20.1.3 in the event that MS15 elects to sell Shares as part of the Listing, it shall be entitled to dispose of up to a maximum of 30% (thirty per cent) of its Shares pursuant to the Listing provided that MS15 shall still be obliged to comply with the provisions of clause 21 following such disposal.
- 20.2 Should M5 elect to pursue a Listing resulting in the listing for trading of the Shares as contemplated in clause 20.1, the Listing process shall be controlled by Shareholders together holding not less than 75.1% (seventy five point one per cent) of the Shares and the appointment of the underwriters and bookrunners shall be appointed by agreement amongst Shareholders together holding not less than 75.1% (seventy five point one per cent) of the total issued share capital of the Company from the agreed list of potential underwriters and bookrunners, a copy of which is attached to this Agreement as **Schedule 20.2**.

- 20.3 Should the Company for any reason wish not to pursue a Listing following receipt of the M5 Listing Notice, the Company shall be obliged, by the delivery of a written notice (**Buy- Back Notice**) to M5, BLT and NET1 within 60 (sixty) days of the date of the M5 Listing Notice, to acquire M5's Equity (the **M5 Buy-Back**). The M5 Buy-Back shall be exercised against payment of a price that is equal to the result of: (i) 5 (five) times the Group's last 12 (twelve) month rolling EBITDA (as evidenced by a certificate duly issued by the Auditors at the relevant time); less (ii) the Enterprise Value Adjustments; multiplied by (iii) the percentage shareholding in the Company of M5 (the **Buy-Back Price**). Completion of the M5 Buy Back shall be subject to all Applicable Laws and the relevant parties obtaining the necessary consents (including that of the competition authorities and ICASA, if required).
- 20.4 The Buy-Back Price shall be payable by the Company to M5, subject to Completion, as follows:
- 20.4.1 an initial amount equal to the lesser of 30% (thirty per cent) of the Buy-Back Price or an amount of R1,000,000,000 (one billion Rand), against transfer of M5's Equity to it; and
- 20.4.2 the remainder of the Buy-Back Price shall be paid in equal monthly instalments over 36 (thirty six) months (**Buy-Back Instalments**). Interest shall be charged on such Buy- Back Instalments at the Prime Rate and payable with each Buy-Back Instalment. The Company may, at its election, accelerate the payment of the Buy-Back Instalments without any penalty. Should the Company fail to pay any Buy-Back Instalment together with accrued interest on the due date for such payment, the entire Buy-Back Price together with all unpaid Buy-Back Instalments and accrued interest shall immediately become due and payable by the Company.
- 20.5 M5 warrants to the Company, on delivery of the Buy-Back Notice immediately prior to Completion of any sale in terms thereof, that:
- 20.5.1 M5 will be the sole beneficial and, where applicable, registered owner of the Shares held by it (and corresponding Claims, if any) (**M5 Equity**) and will be able to give free and unencumbered title of the M5 Equity to the Company;
- 20.5.2 no third party will have any right (including any option or right of first refusal) to acquire the M5 Equity;
- 20.5.3 upon delivery of the M5 Equity and the documents of title to the Company in terms of this clause 20, ownership of the M5 Equity will pass to the Company and the Company will become the sole registered and beneficial owner of the M5 Equity; and
- 20.5.4 the M5 Equity will, when delivered to the Company, be free of any cession, pledge, lien, hypothec or other Encumbrance of any nature whatsoever and free of any other security interest or right of retention or right of pre-emption and no agreement shall have been entered into which may give rise to the M5 Equity sold being thus Encumbered.
- 20.6 If M5 does not deliver the M5 Listing Notice within the M5 Listing Notice Period, then from the day after the expiry of the M5 Listing Notice Period (**Call Option Effective Date**) the Company will be entitled to exercise a call option to purchase all of M5's Equity within 60 (sixty) days of the Call Option Effective Date (**Call Option Period**) and M5 will be obliged to sell its Equity to the Company against payment of a price that is equal to or higher than the result of: 7 (seven) times the Group's last 12 (twelve) month rolling EBITDA (as evidenced by a certificate duly issued by the Auditors at the relevant time); less (ii) the Enterprise Value Adjustments; multiplied by (iii) the percentage shareholding in the Company of M5 (the **Call Option Price**) (the **Call Option**).

- 20.7 The Call Option Price shall be payable by the Company to M5, subject to Completion, as follows:
- 20.7.1 an initial amount equal to the lesser of 30% (thirty per cent) of the Call Option Price or an amount of R1,000,000,000 (one billion Rand), against transfer of M5's Equity to it; and
- 20.7.2 the remainder of the Call Option Price shall be paid in equal monthly instalments over 36 (thirty six) months (**Call Option Instalments**). Interest shall be charged on such Call Option Instalments at the Prime Rate and payable with each Call Option Instalment. The Company may, at its election, accelerate the payment of the Call Option Instalments without any penalty. Should the Company fail to pay any Call Option Instalment together with accrued interest on the due date for such payment, the entire Call Option Price together with all unpaid Call Option Instalments and accrued interest shall immediately become due and payable by the Company.
- 20.8 All payments to be made pursuant to this clause 20 shall be payable by electronic funds transfer into the bank account notified in writing by M5 to the Company.
- 20.9 For the purposes of, and in the circumstances contemplated by, this clause 20, each of the other Shareholders hereby waives any pre-emptive right which it may have over the Shares, in terms of this Agreement, the Memorandum of Incorporation or any Applicable Laws, and undertakes to vote in favour of all such resolutions as may be required in order to enable the Company to acquire M5's Equity.

21. **BEE WARRANTY AND UNDERTAKING**

- 21.1 MS15 hereby warrants and undertakes that, for a period of 7 (seven) years following the Implementation Date, MS15 shall retain the Targeted Black Interest provided that there shall be a period of 30 (thirty) days from the date of MS15 Becoming Aware or being notified in writing of the relevant event resulting in MS15 not retaining the Targeted Black Interest to remedy such non-compliance.
- 21.2 Notwithstanding any contrary provisions contained in this Agreement but subject to clause 11.5.2 and other than a transfer of any MS15 Shares to BLT and/or NET1 or pursuant to the provisions of clause 19.4.2 or 20.1.3 or as may otherwise be agreed to by BLT and NET1 in writing, should MS15 transfer any of the MS15 Shares in terms of and in accordance with this Agreement, it shall only be entitled to do so to the extent that the proposed acquirer of such MS15 Shares is bound by and complies with the provisions of this clause 21.
- 21.3 In the event of a change in the BEE Act, the BEE Codes or the law generally that results in a change in the way that the Targeted Black Interest is defined, measured or otherwise calculated, MS15 shall use its reasonable endeavours to comply with such change in the law in order to give effect to the provisions and intent of this Agreement and adhere to such revised or amended Targeted Black Interest.

21.4 It is specifically recorded and agreed that NET1 shall not be obliged to contribute to or maintain the Targeted Black Interest or any other empowerment credentials of the Group as may be required by the BEE Act, the BEE Codes or otherwise. Should the Group undergo a drop in empowerment credentials or ratings under the BEE Act, the BEE Codes or otherwise then BLT and/or MS15 shall do all such things as may be required in order to rectify such situation.

22. **SHAREHOLDERS NOT TO BIND THE COMPANY**

22.1 None of the Shareholders will have the ability, power or capacity independently to bind the Company in any way.

22.2 Each of the Shareholders undertakes that it will not seek to bind the Company in any way and each of the Shareholders respectively undertakes not to hold itself out at any time, to any third party, as having authority to bind the Company in any manner.

23. **FINANCIAL MATTERS AND ACCESS TO RECORDS**

23.1 The Parties will procure that the financial policies of the Company will be in accordance with the Accounting Principles. These include policies as to:

23.1.1 the keeping of accounting records;

23.1.2 the preparation and format of strategic and management plans;

23.1.3 the preparation of monthly financial and management reports and accounts by no later than 20 (twenty) days following the end of the previous month and the distribution thereof to all Directors and Shareholders within such time period;

23.1.4 the preparation of interim financial statements by no later than 45 (forty five) days following the end of the first 6 (six) months of each financial year and the distribution thereof to all Directors and Shareholders within such time period;

23.1.5 the preparation of management reports stamped by the Auditors by no later than 60 (sixty) days following the end of May and November each year and the distribution thereof to all Directors and Shareholders within such time period; and

23.1.6 the preparation of annual audited financial statements by no later than 60 (sixty) days following the end of the previous financial year and the distribution thereof to all Directors and Shareholders within such time period.

23.2 The Company will keep complete, accurate and current records and books of accounts and the Shareholders or their authorised representatives will be entitled to inspect such records at any time.

23.3 The Company shall ensure that all transactions entered into by any entity within the Group with a Director or any other Related Party is reported to the Board in each quarter for all the transactions in the preceding quarter.

24. **NEW SHAREHOLDERS**

- 24.1 No Party may Dispose of its Shares to a person not already a Shareholder other than as permitted in terms of this Agreement and unless that person has first executed and delivered to each Shareholder and the Company a Deed of Accession. For the avoidance of doubt, a Funder Deed of Accession is required to be signed at the date of Encumbering of the Shares should such Shares be pledged as security for the debt of the Shareholder, and should the third party funder receiving such pledge be entitled to take ownership of such Shares upon an enforcement thereof, provided that, in the event that a Shareholder wishes to Encumber its Shares and the relevant third party funder refuses to sign or has an objection to signing a Funder Deed of Accession on the date of Encumbrance, the Parties shall negotiate in good faith in order to find a solution to such situation.
- 24.2 It is further recorded that, save as specifically set out in clause 6, no person not already a Shareholder shall be entitled to any of the rights allocated by clauses 11, 12 or 19.
- 24.3 The Company must not register in its records or otherwise recognise any Disposal of Shares unless a Deed of Accession or Funder Deed of Accession has been executed and delivered as required under clause 24.1, and unless all obligations of the Shareholder under this Agreement have been satisfied.

25. **NON-CIRCUMVENTION**

Each of the Shareholders undertakes in favour of the Company that it shall not, and shall procure that its Affiliates shall not, for the duration of this Agreement:

- 25.1 circumvent, avoid, bypass or obviate any of the rights or obligations contained in this Agreement; or
- 25.2 in any other way do, or omit to do, anything which is in any way designed or intended to circumvent, or which has the effect of circumventing, any of the rights and obligations contained in this Agreement.

26. **APPOINTMENT OF EXPERT**

Where certification or determination is required by any Expert under this Agreement:

- 26.1 the Expert must be an investment bank jointly appointed by the Shareholders affected by the determination to be made, from the list of investment banks contained in **Schedule 20.2**. The Parties affected by the determination to be made shall appoint the Expert by agreement within 10 (ten) Business Days of such notice requiring the matter to be referred to the Expert. In the event that the Parties are unable to agree upon which investment bank to appoint, within a period of 10 (ten) Business Days of the date of the notice, then the Expert shall be appointed by the President for the time being of the South African Institute of Chartered Accountants (or its successor body) on the application of any Party;
- 26.2 the certification or determination must be prepared or undertaken by the Expert acting as expert and not as arbitrator, and will be final and binding on the Parties save for manifest error in calculation or fraud; and

26.3 each of the Parties agrees to execute, if requested, by the Expert, an engagement letter containing terms and conditions that are reasonably requested by the Expert, and further that each of them shall co-operate with the Expert and promptly provide all documents and information reasonably requested by the Expert.

27. DETERMINATION OF VALUE OF EQUITY

27.1 In determining the Fair Market Value of the Shares of a Shareholder as provided for in this Agreement, the Expert shall use such accepted valuation methodology as the Expert may deem appropriate and the Expert will take into account, amongst other things and as may be appropriate, the following principles:

27.1.1 the value of the Shares of a relevant Shareholder must be the market value of the Shares as between a willing buyer and a willing seller provided, however, that the Expert will not take into account for the purposes of the valuation the fact, if it is so, that the relevant Shares represent a minority shareholding;

27.1.2 the Expert will not take into account any potential disadvantage that the Company may suffer due to the loss of the contribution of the particular Shareholder to the Company;

27.1.3 the Expert will, in the determination of the value of the Equity of a Shareholder, allow the Shareholders an opportunity to make written representations to the Expert in respect of the deemed value of the said Shares;

27.1.4 the Expert will be obliged to disclose to the Shareholders the basis of their valuation of the relevant Equity on the date of determination of such value;

27.1.5 the value of the Claims will be their face value. If the Company has advanced any loans to the Shareholders, the amount of such loans will be set off against the value of the Shares of such Shareholder; and

27.1.6 the costs of the Expert in effecting the valuation will be borne by the Shareholders in proportion to their holding of Shares in the Company, unless otherwise determined by the Expert or, when applied in circumstances set out in clause 14 and the Valuation Price is within 5% (five per cent) of the Proposed Purchase Price or less than the Proposed Purchase Price, in which case the costs of the Expert will be borne by the Defaulting Shareholder.

27.2 The Parties undertake to do everything reasonably in their power to ensure that the Expert completes the process set out in this clause 27 and delivers its determination within 30 (thirty) days of the relevant matter being referred to the Expert.

28. VOTING UNDERTAKING, GOOD FAITH, CONSENT AND WAIVER

28.1 Each Shareholder undertakes in favour of the other Shareholders to exercise all such voting rights to implement and observe (and procure the implementation and observance of) the provisions of this Agreement.

- 28.2 The Parties shall at all times during the continuance of this Agreement observe the principles of good faith towards one another in the performance of their obligations in terms of this Agreement. This implies, without limiting the generality of the foregoing, that they shall:
- 28.2.1 at all times during the term of this Agreement act reasonably, honestly and in good faith;
- 28.2.2 perform their obligations arising from this Agreement diligently and with reasonable care; and
- 28.2.3 not unreasonably withhold or delay any consent that they are required to give under this Agreement.
- 28.3 To the extent that Chapter 5 of the Act and/or any of the Takeover Regulations prescribed in terms of the Act (collectively **Takeover Provisions**) apply to any transaction contemplated in this Agreement, including a transaction referred to in clause 11 to 17 (both inclusive) and 19 (**Relevant Transaction**), each of the Parties, to the extent permitted by law, hereby:
- 28.3.1 agrees and acknowledges that such Party has been advised and made aware of the Takeover Provisions relating to the regulation of an "affected transaction", as defined in the Act;
- 28.3.2 irrevocably consents to each member of the Group and all parties to the Relevant Transaction being exempted from compliance with the relevant Takeover Provisions by the Panel (as defined in the Act);
- 28.3.3 irrevocably agrees to do all such things and sign all such documents as may be reasonably required to obtain the exemptions contemplated in clause 28.3.2 from the Panel;
- 28.3.4 irrevocably waives all rights that such Party may have in terms of the Takeover Provisions (including the right to receive a mandatory or other offer in terms of the Takeover Provisions and/or any circular, fairness opinion or financial information from the Directors) in connection with any Relevant Transaction; and
- 28.3.5 irrevocably undertakes that it shall not accept any mandatory or other offer that may be required to be made in terms of the Takeover Provisions in connection with any Relevant Transaction.

29. **PUBLICATIONS AND ANNOUNCEMENTS**

The Parties record their intention that, wherever practically possible, no public announcement other than announcements which may be required in terms of applicable legislation, the Listings Requirements or the rules and regulations of the JSE or any other recognised securities exchange will be made by the Company or by any of the Shareholders concerning the Company without the prior approval of all Shareholders, which shall not be unreasonably withheld or delayed.

30. **CONFIDENTIAL INFORMATION**

- 30.1 For purposes of this Agreement, **Confidential Information** shall mean all written and/or tangible information related to this Agreement and information and/or data created by the Company or by any of the Parties or their Affiliates and disclosed by either the Company or any Party or its Affiliate to another Party or such Party's Affiliate which is confidential, proprietary and/or not generally available to the public, including, but not limited to, information relating in whole or in part to the Company, including present and future services, business plans and strategies, marketing ideas and concepts, especially with respect to unannounced services, present and future business plans, marketing plans, sales strategies, customer information, development plans, customer requirements, or other technical and business information.
- 30.2 The Parties shall not, and each Party shall use all reasonable endeavours to procure that every Affiliate of such Party shall not, disclose to any Person or use (other than in connection with claims against such Parties in respect of any breach of their obligations and duties under this Agreement or other documents related thereto or otherwise enforcing any right) any Confidential Information which may have come to its or their knowledge, provided however that in respect of each Party (or Affiliates thereto) the foregoing obligations shall not apply to the disclosure of Confidential Information if and to the extent:
- 30.2.1 disclosure is required by law or for the purpose of any judicial proceedings or by any Government Entity if (to the extent practicable) prior notice is given to the other Parties;
- 30.2.2 that a Party is obliged to make such disclosure in terms of the Act or any other law or enactment, or the Listings Requirements or the rules and regulations of any other securities exchange or any other regulator having jurisdiction, provided that the Party in question shall, where possible and provided that it will not delay the Party concerned from complying with its obligations, consult with the other Parties before making any such announcement or statement in the event that the content of the announcement or statement is not limited to the minimum disclosure requirements as prescribed by the aforementioned rules and regulations;
- 30.2.3 the Confidential Information is disclosed by a Party in connection with judicial or arbitral proceedings (and only to the extent it is used in the proceedings), brought by any Party for the purposes of enforcing the provisions of this Agreement;
- 30.2.4 the Confidential Information is or becomes generally available to the public other than as a result of a breach of any undertaking or duty of confidentiality by any Party;
- 30.2.5 the Confidential Information is disclosed on a confidential basis by a Party to its Affiliates and their advisers, representatives, directors, Shareholders, auditors or bankers for the purposes of its business;
- 30.2.6 the Confidential Information is disclosed on a confidential basis by the Parties, their Affiliates and the Company for the taking of any action contemplated by this Agreement or related documentation;

- 30.2.7 the Confidential Information is disclosed on a confidential basis by a Party to a Creditor pursuant to the exercise by the relevant Creditor of its rights under the SPV Documents;
- 30.2.8 disclosure is by a Party to one of its Affiliates which accepts or is otherwise subject to reasonable confidentiality restrictions; or
- 30.2.9 the other Parties have given their prior written consent to the contents and the manner of the disclosure by a Party (not to be unreasonably withheld or delayed).
- 30.3 Nothing in this clause 30 will prohibit any Shareholder from utilising information which it is able to show that:
 - 30.3.1 was lawfully in its possession at the time of receipt;
 - 30.3.2 was at the time of receipt part of the public domain or lawfully after receipt became part of the public domain;
 - 30.3.3 was lawfully received from a third party entitled to possess and disclose that information;
 - 30.3.4 was disclosed to a potential purchaser of the Shareholder's Equity and the potential purchaser has entered into a confidentiality agreement with the Company to its reasonable satisfaction prior to such disclosure; or
 - 30.3.5 was required by law or any securities exchange or regulatory or Government Entity to which any Party is subject, wherever situated, whether or not the requirement for information has the force of law, provided that the Shareholder required to make the disclosure has taken all reasonable steps to oppose or prevent the disclosure and to limit, as far as reasonably possible, the extent of such disclosure and, additionally, has given the other Shareholders reasonable notice of the required disclosure and a reasonable opportunity to participate in opposing, preventing or limiting the disclosure.
- 30.4 The restrictions contained in this clause 30 shall bind each Shareholder and Party for so long as it or he is a Shareholder or Party and for a period of 12 (twelve) months after such person ceases to be a Shareholder or Party for any reason.
- 30.5 Parties acknowledge that damages would not be a sufficient remedy for any breach of this clause 30 and each Party will be entitled to the remedy of injunction, specific performance and other equitable relief for any threatened or actual breach, in addition to any damages or other remedy to which it may be entitled and no proof of special damages will be necessary for the enforcement of this Agreement.

31. **TERMINATION**

This Agreement will terminate:

- 31.1 on a Listing of the Company; or
- 31.2 in respect of a Shareholder, upon that Shareholder ceasing to hold any Equity, provided that the Shareholder will remain bound by the provisions of clauses 1, 29, 30, 34, 35 to 38 (both inclusive), 40 and 41 and such person will have no further rights or obligations under this Agreement, save as provided in this Agreement and without prejudice to the accrued rights or obligations of any Party prior to such termination.

32. CEO REMOVAL

- 32.1 Should José dos Santos (**CEO**) cease to be employed by the Company for any reason other than his resignation or for any of the reasons detailed in clauses 11.6.3.2.1, 11.6.3.2.2 or 11.6.3.2.3 (**Removal**), the CEO will be entitled, pursuant to the delivery of a written notice (**CEO Put Option Notice**) to the Company, BLT and NET1 within 6 (six) months of the Removal (the **CEO Put Option Period**), to put such number of Shares in, and claims against, the Company that the CEO holds (**CEO Equity**) to the Company against payment of a price that is equal to or higher than the result of: (i) 5 (five) times the Group's last 12 (twelve) month rolling EBITDA (as evidenced by a certificate duly issued by the Auditors at the relevant time); less (ii) the Enterprise Value Adjustments; multiplied by (iii) the percentage shareholding in the Company that the CEO Equity represents and an amount in respect of CEO's claims against the Company forming part of the M5 Equity equal to the face value thereof (the **CEO Put Option Price**) and the Company will be obliged to acquire the CEO Equity (the **CEO Put Option**).
- 32.2 The CEO Put Option Price shall be payable by the Company to the CEO in full by electronic funds transfer into the bank account notified by the CEO in writing, upon Completion, provided that Completion shall take place within 30 (thirty) days of the date of the CEO Put Option Notice, or such other date as may be agreed to in writing between the CEO and the Company and provided further that Completion of the CEO Put Option shall be subject to all Applicable Laws and the relevant parties obtaining the necessary consents (including that of the competition authorities and ICASA, if required).
- 32.3 On Completion of any sale pursuant to the CEO Put Option, the CEO shall deliver to the Company free, clear and unencumbered title to the CEO Equity in freely transferable form, including share certificates (together with signed share transfer forms) in respect of the CEO Equity.
- 32.4 The CEO warrants to the Company, on delivery of the CEO Put Option Notice and immediately prior to Completion of any sale in terms thereof, that:
- 32.4.1 the CEO will be the sole beneficial and, where applicable, registered owner of the CEO Equity and will be able to give free and unencumbered title of the CEO Equity to the Company;
- 32.4.2 no third party will have any right (including any option or right of first refusal) to acquire the CEO Equity;
- 32.4.3 upon delivery of the CEO Equity and the documents of title to the Company in terms of this clause 32, ownership of the CEO Equity will pass to the Company and the Company will become the sole registered and beneficial owner of the CEO Equity; and
- 32.4.4 the CEO Equity will, when delivered to the Company, be free of any cession, pledge, lien, hypothec or other Encumbrance of any nature whatsoever and free of any other security interest or right of retention or right of pre-emption and no agreement shall have been entered into which may give rise to the CEO Equity sold being thus Encumbered.

32.5 If the CEO Disposes of some or all of his Shares in terms of this clause 32, such Disposal shall not be subject to the provisions of clauses 10, 14 or 16.1.

33. BREACH

33.1 Should a Shareholder and/or the Company (**Defaulting Party**) commit a material breach of any of the terms and conditions of this Agreement, then any of the other Shareholders and/or the Company (**Aggrieved Party**) may give the Defaulting Party 30 (thirty) days' written notice to remedy the default.

33.2 Subject to clause 34, if the Defaulting Party fails to remedy such breach within 30 (thirty) days' of receipt of a written notice requiring it to do so, such breach shall not constitute grounds for winding up the Company, and any Aggrieved Party will be entitled at its option without prejudice to any other specific remedy or right that it may have under the Agreement or in law:

33.2.1 to uphold the Agreement against the Defaulting Party and sue for specific performance of the Defaulting Party's obligations to it under this Agreement, with or without a claim for damages; or

33.2.2 to uphold the Agreement against the Defaulting Party and sue for damages;

it being hereby recorded that the remedy of cancellation shall not be available to the Aggrieved Party.

34. DISPUTE RESOLUTION

34.1 In the event of any dispute arising out of or relating to this Agreement, or the breach, termination or invalidity thereof, any Party may invite the other(s) in writing to a meeting of the respective Chief Executive Officers (or other officials holding executive positions) of the Parties to the dispute and the Parties to the dispute shall attempt to resolve the dispute through negotiation between the Chief Executive Officers (or other officials holding executive positions) within 10 (ten) Business Days from the date of such written invitation.

34.2 Should the respective Chief Executive Officers (or other officials holding executive positions) of the Parties fail to resolve the dispute referred to in clause 34.1, then any Party to the dispute shall (if it requires a dispute to be settled in terms of this Agreement) be obliged to give written notice to any other Parties to the dispute (other than where the Company is a party to the dispute in which case the notice shall be provided to all the Shareholders) to initiate the arbitration procedure set out below (the **Dispute Notice**).

34.3 The Parties may agree on the arbitrators and the arbitration procedure and, failing agreement within 5 (five) Business Days from the date of the Dispute Notice or such longer period of time as may be agreed to in writing, then: (i) the arbitration shall take place in accordance with the rules of the Arbitration Foundation of South Africa (**AFSA**) in force at the time of the dispute (or the last rules in existence if, for whatever reason, AFSA ceases to exist); and (ii) the arbitrators shall be nominated and appointed by AFSA upon written request by any Party, provided that the arbitrators shall each have at least 15 (fifteen) years' relevant experience and, in the case of lawyer, shall be a senior counsel of the Johannesburg Bar or a retired judge.

- 34.4 Unless agreed otherwise, the arbitration shall be administered by the Parties. The number of arbitrators shall be 3 (three) and the place of the arbitration hearing shall be Sandton, Johannesburg and the arbitration shall be conducted in the English language.
- 34.5 The governing substantive law of the Agreement shall be the law of South Africa. The governing procedural law of the arbitration shall be the law of South Africa.
- 34.6 The arbitrators shall have the same remedial powers as a court of law in South Africa would have were it adjudicating the dispute. The arbitrators shall deliver an award together with written reasons within 30 (thirty) days from the date upon which the arbitration ends which award shall be final and binding on the Parties save for any manifest error.
- 34.7 Nothing in this clause 34 shall preclude any Party from applying to a duly constituted court of competent jurisdiction for urgent interim relief: (i) to compel arbitration; (ii) to obtain interim measures of protection prior to or pending arbitration; (iii) to seek such injunctive relief as may be necessary and appropriate; (iv) to enforce any decision of the arbitrators, including the final award; (v) for judgment in relation to a liquidated claim; or (vi) to enforce any security granted in terms of, or relating to, this Agreement and to this end the Parties hereby consent to the jurisdiction of the High Court of South Africa, Gauteng Local Division, Johannesburg (or its successor).

35. **GENERAL**

- 35.1 This Agreement read with the Transaction Documents comprises the whole agreement between the Parties in regard to its subject matter.
- 35.2 Each Party has entered into this Agreement without relying on any representation by any other Party or any person purporting to represent that Party.
- 35.3 No addition to or variation or consensual cancellation of this Agreement or any other Transaction Document, including this clause 35, and no waiver of any right under this Agreement, has effect unless in writing and signed by the Parties. For the purposes of this clause 35.3, "writing" shall not include email or other data message and "signed" shall not include electronic signature, as defined in the Electronic Communications and Transactions Act, 2002.
- 35.4 No indulgence by a Party to another Party, or failure strictly to enforce the terms of this Agreement, is to be construed as a waiver or be capable of founding an estoppel.
- 35.5 The exercise of a power or right does not preclude either its exercise in the future or the exercise of any other power or right.
- 35.6 A waiver is not effective unless it is in writing.
- 35.7 Waiver of a power or right is effective only in respect of the specific instance to which it relates and for the specific purpose for which it is given.
- 35.8 The Parties undertake to do everything reasonable in their power necessary for or incidental to the effectiveness and performance of this Agreement.
- 35.9 Save as is specifically provided in this Agreement, no Party is entitled to cede any of its rights or delegate any of its obligations under this Agreement without the prior written consent of each of the other Parties affected by the transfer of rights or obligations which may not be unreasonably withheld.

35.10 Each provision of this Agreement is, notwithstanding the grammatical relationship between that provision and the other provisions of this Agreement, severable from the other provisions of this Agreement. Any provision of this Agreement which is or becomes invalid, unenforceable or unlawful in any jurisdiction shall, in such jurisdiction only, be treated as *pro non scripto* to the extent that it is so invalid, unenforceable or unlawful, without invalidating or affecting the remaining provisions of this Agreement which shall remain of full force and effect. The Parties declare that it is their intention that this Agreement would be executed without such invalid, unenforceable or unlawful provision if they were aware of such invalidity, unenforceability or unlawfulness at the time of execution of this Agreement.

36. **RELATIONSHIP**

36.1 None of the Parties shall be entitled or empowered to represent or hold out to any third party that the relationship between the Parties is that of a partnership, joint venture or the like.

36.2 Subject to the provisions of this Agreement and the Memorandum of Incorporation, the Board shall manage and direct the Company's business and affairs.

36.3 The Shareholders undertake to exercise the votes attaching to their Shares in such manner as may be necessary to give effect to this Agreement.

36.4 For the sake of clarity, it is recorded and agreed that nothing in this Agreement nor in any of the Transaction Documents creates a voting pool agreement or similar arrangement between the Shareholders.

37. **APPLICABLE LAW**

This Agreement, and all disputes and claims arising out of or in connection with it, will be governed by, and construed in accordance with, the laws of South Africa.

38. **JURISDICTION**

Subject to clause 34, the Parties unconditionally consent and submit to the non-exclusive jurisdiction of the High Court of South Africa, Gauteng Local Division, Johannesburg in regard to all matters arising from this Agreement.

39. **COUNTERPARTS**

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

40. **COSTS**

Each Party must pay its own costs and disbursements connected with the negotiation, preparation and execution of this Agreement.

41. **NOTICES AND ADDRESSES**

41.1 **Notices**

Any notice, consent, approval or other communication in connection with this Agreement (Notice) will be in writing in English.

41.2 Addresses

Each Party chooses the physical address, fax number and/or email address corresponding to its name below as the address to which any Notice must be sent.

41.2.1	M5:	Physical address:	Cnr Maxwell Drive and Pretoria Main Road, Buccleuch Ext 10, 2090
		Email address:	graham@cellc.co.za
41.2.2	MS15:	Marked for the attention of: Graham Mackinnon	
		Physical address:	Cnr Maxwell Drive and Pretoria Main Road, Buccleuch Ext 10, 2090
		Email address:	graham@cellc.co.za
41.2.3	BLT:	Marked for the attention of: The Chairman	
		Physical address:	75 Grayston Drive, Morningside Ext 5, Sandton, 2196
		Email address:	legal@blts.co.za
41.2.1	NET1:	Marked for the attention of: The Chief Executive Officer;	
		Physical address:	6 th Floor, President Place, Corner of Jan Smuts Avenue & Bolton Road, Rosebank, 2121
		Email address:	hermank@net1.com
41.2.2	SPV1:	Marked for the attention of: Herman Kotzé;	
		Physical address:	Cnr Maxwell Drive and Pretoria Main Road, Buccleuch Ext 10, 2090
		Email address:	serenta@cellc.co.za
	Secretary;	Marked for the attention of: The Company	

- 41.2.3 **SPV2:**
Physical address: Cnr Maxwell Drive and Pretoria Main Road, Buccleuch Ext 10, 2090
Email address: **serenta@cellc.co.za**
Marked for the attention of: The Company Secretary;
- 41.2.4 **SPV3 :**
Physical address: Cnr Maxwell Drive and Pretoria Main Road, Buccleuch Ext 10, 2090
Email address: **serenta@cellc.co.za**
Marked for the attention of: The Company Secretary;
- 41.2.5 **Company:**
Physical address: Cnr Maxwell Drive and Pretoria Main Road, Buccleuch Ext 10, 2090
Email address: **serenta@cellc.co.za**
Marked for the attention of: The Company Secretary
- 41.2.6 Any Party may by Notice to the other Party change its address and/or the person, if any, for whose attention any Notice must be marked in this clause 41.2.
- 41.3 **Effective on receipt**
- 41.3.1 Any Notice takes effect when received by the recipient (or on any later date specified in the Notice) and, unless the contrary is proved, is deemed to be received:
- 41.3.1.1 on the day of delivery, if delivered by hand to a responsible person at the recipient's physical address in clause 41.2;
- 41.3.1.2 on the date of transmission, if sent by fax to the recipient's fax number in clause 41.2;
- 41.3.1.3 on the date of transmission, if sent by email to the recipient's email address in clause 41.2, and
- 41.3.1.4 in each case if delivery is not on a Business Day, or is after ordinary business hours on a Business Day, the Notice is deemed to be received on the Business Day after the date of delivery.
- 41.3.2 Despite anything to the contrary in this Agreement, a Notice actually received by a Party is effective even though it was not sent, or delivered, or sent and delivered to its address in clause 41.2.
- 41.4 **Service of legal process**
- 41.4.1 Each Party chooses its physical address referred to in clause 41.2 as its address at which legal process and other documents in legal proceedings in connection with this Agreement may be served (*domicilium citandi et executandi*).

41.4.2 Any Party may by Notice to all the other Parties change its address at which legal process and other documents in legal proceedings in connection with this Agreement may be served to another physical address in South Africa.

Signed at Sandton on the 19th day of June 2017.

For and on behalf of
Albanta Trading 109 Proprietary Limited

/s/ R. Pasley
Name: R. Pasley
Capacity: Director
Who warrants authority

Signed at Sandton on the 19th day of June 2017.

/s/ José Guilherme Vieira Dos Santos
José Guilherme Vieira Dos Santos

Signed at Sandton on the 19th day of June 2017

/s/ Robert Killigrew Sabine Pasley
Robert Killigrew Sabine Pasley

Signed at Sandton on the 19th day of June 2017.

/s/ Graham Neil Mackinnon
Graham Neil Mackinnon

Signed at Buccleuh on the 19th day of June 2017.

/s/ Hilton Roy Coverly
Hilton Roy Coverly

Signed at Sandton on the 19th day of June 2017.

For and on behalf of
The Prepaid Company Proprietary Limited

/s/ B. Levy
Name: B. Levy
Capacity: Director
Who warrants authority

Signed at Sandton on the 19th day of June 2017.

For and on behalf of
Net1 Applied Technologies South Africa Proprietary Limited

/s/ H. Kotze
Name: H. Kotze
Capacity: Director
Who warrants authority
Signed at Sandton on the 19th day of June 2017.

For and on behalf of
Cedar Cellular Investment 1 (RF) Proprietary Limited

/s/ G. Mackinnon
Name: G. Mackinnon
Capacity: Director
Who warrants authority

Signed at Sandton on the 19th day of June 2017.

For and on behalf of
Magnolia Cellular Investment 2 (RF) Proprietary Limited

/s/ G. Mackinnon
Name: G. Mackinnon
Capacity: Director
Who warrants authority

Signed at Sandton on the 19th day of June 2017.

For and on behalf of
Yellowwood Cellular Investment 3 (RF) Proprietary Limited

/s/ G. Mackinnon
Name: G. Mackinnon
Capacity: Director
Who warrants authority

Signed at Sandton on the 19th day of June 2017.

For and on behalf of
Cell C Proprietary Limited

/s/ J. Dos Santos
Name: J. Dos Santos
Capacity: Chief Executive Officer
Who warrants authority

Schedule 1.1.28 – Deed of Accession

Date

Name

Address

(Acceding Party)

1 Introduction

This Deed is supplemental to the Cell C Shareholders Agreement dated **[insert]** 2017 between MS15, M5, NET1, SPV1, SPV2, SPV3, BLT and Cell C.

2 Terms

2.1 The Acceding Party confirms that it has been supplied with a copy of the Cell C Shareholders Agreement and covenants with the parties to the Cell C Shareholders Agreement (whether original or by accession) (**Parties**) to observe, perform and be bound by the Cell C Shareholders Agreement so that the Acceding Party is deemed, from the date on which the Acceding Party is registered as a holder of Shares in the Company, to be a party to the Cell C Shareholders Agreement.

2.2 The Acceding Party's address details for services of notices under the Cell C Shareholders Agreement are:

Name: **[Company name]**

Attention: **[insert]**

Address: **[insert]**

Facsimile no: **[insert]**

Electronic mail address: **[insert]**

2.3 This Deed is governed by the laws of South Africa.

Signed at _____ on the _____ day of _____ 20__.

For and on behalf of

[Name of Party 1]

Name:

Capacity:

Who warrants authority

Schedule 1.1.43 – Funder Deed of Accession

Date

Name

Address

(Acceding Party)

1 Introduction

This Deed is supplemental to the Cell C Shareholders Agreement dated **[insert]** 2017 between MS15, M5, NET1, SPV1, SPV2, SPV3, BLT and Cell C.

2 Terms

2.1 The Acceding Party confirms that it has been supplied with a copy of the Cell C Shareholders Agreement and covenants with the parties to the Cell C Shareholders Agreement (whether original or by accession) (**Parties**) to observe, perform and be bound by the Cell C Shareholders Agreement so that the Acceding Party is deemed, from the date on which the Acceding Party enforces the pledge and/or other security interest held by it over the relevant Shares in the Company (if it elects to do so), to be a party to the Cell C Shareholders Agreement.

2.2 The Acceding Party's address details for services of notices under the Cell C Shareholders Agreement are:

Name: **[Company name]**

Attention: **[insert]**

Address: **[insert]**

Facsimile no: **[insert]**

Electronic mail address: **[insert]**

2.3 This Deed is governed by the laws of South Africa.

Signed at _____ on the _____ day of _____ 20__.

For and on behalf of

[Name of Party 1]

Name:

Capacity:

Who warrants authority

Schedule 1.1.58 – Memorandum of Incorporation

Schedule 1.1.55 – Members of M5

- 1 José Guilherme Vieira Dos Santos (Identity Number: [xxx])
- 2 Robert Killigrew Sabine Pasley (Identity Number: [xxx])
- 3 Graham Neil Mackinnon (Identity Number [xxx])
- 4 Hilton Roy Coverly (Identity Number [xxx])

Schedule 20.2 – Potential Underwriters and Bookrunners

- 1 Goldman Sachs
- 2 Barclays Capital
- 3 Deutsche Bank
- 4 Bank of America Merrill Lynch
- 5 Rand Merchant Bank
- 6 Morgan Stanley
- 7 JP Morgan
- 8 Investec
- 9 Standard Bank
- 10 UBS
- 11 HSBC
- 12 BNP Paribas
- 13 Citi Bank
- 14 Commerzbank