



**HOLDINGS LIMITED**

(Incorporated in the Republic of South Africa)  
(Registration number: 2007/007084/06)  
JSE share code: ELI ISIN: ZAE000103081  
("Ellies" or the "Company")

# DETAILED TERMS ANNOUNCEMENT OF THE BROAD-BASED BLACK ECONOMIC EMPOWERMENT ("B-BBEE") TRANSACTION

## 1. INTRODUCTION

Ellies is pleased to announce that it has entered into an agreement ("Subscription Agreement" or "the Agreement") with Imvula Education Empowerment Fund Trust ("Imvula" or "the Subscriber"), a Broad-Based Black Economic Empowerment ("B-BBEE") partner, in terms of which Ellies will issue to Imvula and Imvula will subscribe for 185 242 070 new ordinary shares of no par value ("Subscription Shares"), ("the Proposed B-BBEE Transaction"), subject to the fulfilment of the conditions precedent as set out in paragraph 5 below. The Subscription Shares will be issued at an issue price per ordinary share of 10 cents per share, ("Subscription Price"), for a total cash consideration of R18 524 207,00 ("Subscription Proceeds").

As set out in the Company's Chairperson's Report for 2020, the Company was rated as B-BBEE non-compliant relating to its beneficial shareholding for the period then under review. The non-compliant rating has posed challenges for the Company in, or prevented the Company from, procuring certain business opportunities or even tendering for certain business. The Company proposes, therefore, to implement the Proposed B-BBEE Transaction in order to increase its B-BBEE Status for the reasons set out in paragraph 2 below. Ellies has identified and selected Imvula based on Imvula's ability to meet not only the ownership criteria under the B-BBEE Codes of Good Practice, but also Imvula's ability to (i) enable the Company to meet and improve its performance in relation to other B-BBEE scorecard elements, and (ii) provide other strategic benefits including Imvula's access to appropriate potential business networks and opportunities.

In addition, Imvula has agreed to transaction terms that are favourable to Ellies, including:

- a 10-year lock-in period;
- Imvula funding the consideration payable for the Subscription Shares from its own sources with no funding assistance being required from Ellies; and
- Imvula agreeing to a price of 10 cents per Subscription Share which is equal to the prevailing share price of the Company as at 5 July 2021, and a premium of 1.6% to the Company's 30-day volume weighted average price up to and including 5 July 2021.

The Proposed B-BBEE Transaction is regarded as the specific issue of shares for cash in terms of section 5.51(g) of the JSE Limited ("JSE") Listings Requirements and is therefore subject to the necessary approval of the shareholders of Ellies, ("the Specific Issue").

The Proposed B-BBEE Transaction will result in an aggregate B-BBEE shareholding in Ellies of approximately 23% on the issue date. Ellies anticipates achieving a Level 4 B-BBEE Status as a result of the Proposed B-BBEE Transaction.

## 2. RATIONALE

Implementing the Specific Issue will improve the level of B-BBEE ownership in the Company and the Company's B-BBEE Status to a Level 4 contributor. As stated above, the Company is currently ranked as a non-compliant B-BBEE contributor. An improved B-BBEE scorecard is necessary for the future prospects of the Company, and will strengthen the Company's position in relation to its competitors.

The Specific Issue will reiterate the Company's commitment to sustainable B-BBEE ownership and transformation. It is intended that the Specific Issue will also assist to uplift and develop black people in the areas and communities in which the Subscriber operates.

In addition, the Company intends utilising the Subscription Proceeds, to be raised in terms of the Specific Issue to the Subscriber provided for herein in order to improve its operations and/or financial position in order to endeavour to increase returns for the shareholders of the Company.

### **3. INFORMATION ON INVULA AND MAHARISHI INVINCIBILITY INSTITUTE**

The Invula Education Empowerment Trust is the funding arm of initiatives aimed at providing a holistic set of solutions to historically disadvantaged young South Africans to enable them to become economically active citizens in high-level employment. These initiatives are facilitated by the Maharishi Invincibility Institute NPC (MI), a not for profit company. Invula provides an ideal B-BBEE solution, allowing partners to attain the highest possible B-BBEE scores, in the most impactful way for the future of South Africa, at an affordable cost, and with fair value paid to the business. Invula deploys 100% of future revenues to empower deserving unemployed young black South Africans, through access to quality education, specialist skills training, work experience, nutritional and counselling support and finally job placement, thereby assisting them to enter the economy productively.

This formula has proven to work over more than a decade, and Maharishi Invincibility Institute, with its predecessor organisations, has successfully put over 19 070 black individuals into decent jobs, earning combined annual salaries exceeding R1,45 billion and estimated career earnings of approximately R41,85 billion. These individuals support over 150 000 family members. Maharishi Invincibility Institute has won 34 awards locally and globally and has been selected as the most innovative youth development programme in the world.

The beneficiaries of the Invula Education Empowerment Fund Trust are 100% South African black individuals (youth). These will be youth specifically selected by the Maharishi Invincibility Institute, based on genuine financial and other needs.

### **4. SPECIFIC ISSUE**

In terms of the Specific Issue, the Company will issue 185 242 070 ordinary shares of no par value in the authorised share capital of the Company to Invula. The Subscription Shares will be of a class already in issue, will be listed on the JSE and will rank *pari passu* in all respects with the Ellies shares already in issue.

The Subscription Shares will be issued at an issue price of R0,10 per Share, equal to a total issue price of R18 524 207,00.

The Specific Issue will be made to a public shareholder as defined by the JSE Listings Requirements. Invula founders and trustees are Geoffrey Rothschild, Sandile Shepard Ndlungwane, Neo Petunia Makgato, Richard Herbert Peycke, Peter Samuel Mabila, Adam Paul Blecher, Thami Mathamsanqa Ngubeni and Edo Carlo Folli. Invula is currently not a related party but will become a related party upon conclusion of the Proposed B-BBEE Transaction, by virtue of becoming a material shareholder, as defined by the JSE Listings Requirements.

The Subscription Shares shall be issued to the Subscriber on the Issue Date, being the date upon which the Subscription Shares are allotted and issued by the Company to the Subscriber, expected to occur within five business days after fulfilment of all of the Conditions Precedent, or such later date as may be notified by the Company.

From the Issue Date, the Subscriber will be entitled to exercise voting rights in the Company with regard to the appointment of directors in accordance with the Companies Act, No. 71 of 2008, as amended from time to time ("Companies Act"), JSE Listings Requirements and the Company's Memorandum of Incorporation ("MOI"), subject to the B-BBEE undertakings by the Subscriber in paragraph 8 below.

In terms of paragraph 5.51(g) of the JSE Listings Requirements, the Specific Issue requires the approval by way of an ordinary resolution (requiring at least a 75% majority of the votes cast in favour of such resolution) by all Shareholders present or represented by proxy at the general meeting. Invula will be prohibited from selling their Subscription Shares for a period of 10 years from the Subscription Date ("Lock-in Period").

The undertakings by the Company and the Subscriber are set out in paragraphs 6, 7 and 8 below.

In addition to the above, the Subscription Agreement includes warranties and breach clauses usual for a transaction of this nature.

## 5. CONDITIONS PRECEDENT TO THE SPECIFIC ISSUE

- (a) The Agreement is subject to the fulfilment of the Conditions Precedent that on or before 30 September 2021 ("Long Stop Date"):

### Conditions Precedent required by law

- (i) the shareholders of the Company have voted at a general meeting of the Company to:
- (A) amend the MOI to increase the authorised shares of the Company by the creation of 50 000 000 Shares, resulting in the increase of the authorised shares of the Company from 800 000 000 to 850 000 000 ordinary Shares in accordance with in terms of section 16(1)(c) of the Companies Act and regulation 31(6) of the Companies Act;
  - (B) approve the Specific Issue;
  - (C) approve the pre-emptive right granted in favour of the Company and/or its nominee as more fully detailed in the pre-emptive right paragraph 10 below; and
  - (D) a specific buy-back of the Subscription Shares as more fully detailed in the Company call option paragraph 11 below, in terms of section 48(2)(a), as read with section 46, of the Companies Act, subject to the requirements of section 48(8)(b) of the Companies Act;
- (ii) all required approvals shall have been obtained, including from the JSE and the Financial Surveillance department of the South African Reserve Bank; and
- (iii) the Parties pass all required Board and/or shareholders' resolutions necessary for the implementation of the Agreement;

### Conditions Precedent in favour of the Subscriber

- (iv) the Subscriber (acting reasonably) has confirmed in writing that they have completed their due diligence on the Company to their satisfaction; and

### Conditions Precedent in favour of the Company

- (v) the Company (acting reasonably) has confirmed in writing that they have completed their due diligence on the Subscriber to their satisfaction.
- (b) The Conditions Precedent required by law are not capable of waiver.
- (c) The Condition Precedent in favour of the Subscriber is expressed for the benefit of the Subscriber who may, on or before the date for fulfilment thereof, waive or extend the date of fulfilment thereof on written notice to the Company.
- (d) The Condition Precedent in favour of the Company who may, on or before the date for fulfilment thereof, waive or extend the date of fulfilment thereof on written notice to the Subscriber.
- (e) The Parties shall use their reasonable endeavours and shall cooperate in good faith to procure the fulfilment of the Conditions Precedent by the Long Stop Date, or such later date as the Parties may agree in writing.
- (f) If the Conditions Precedent are not fulfilled on or before the Long Stop Date (or such later date/s as may be agreed in writing between the Parties), then the Agreement, save for the Surviving Provisions which will remain in full force and effect, shall be of no force or effect, the Parties shall be restored as near as possible to the positions in which they would have been had the Agreement not been entered into (status quo ante) and neither Party shall have any claim against the other in terms of the Agreement, save for a breach of clause 5(b) above.

## 6. UNDERTAKINGS BY THE COMPANY

- (a) The Company undertakes:
  - (i) to comply with the relevant requirements of the Companies Act and the JSE Listings Requirements in relation to the Specific Issue;
  - (ii) that the Subscription Shares will have been legally created and will be unencumbered;
  - (iii) that the Directors will have authorised the allotment and issue of the Subscription Shares;
  - (iv) to allocate all of its annual budgeted spend that enables a minimum B-BBEE score of Level 2 allocated to (a) Skills Development Expenditure, (b) Enterprise and Supplier Development Contributions, and (c) Socio-Economic Development Contributions in South Africa, as contemplated within the Codes ("B-BBEE Spend"), to beneficiaries identified by the Subscriber as suitable beneficiaries, to benefit from such B-BBEE Spend, and in order to further improve the Company's B-BBEE scorecard as provided for and approved by the shareholders of the Company in the circular in terms of which the transaction herein contemplated was approved by shareholders of the Company. To the extent that such B-BBEE Spend does not enable the Company to achieve a maximum achievable score relative to the budgeted spend, for any specific B-BBEE pillar with the beneficiaries (identified by the Subscriber), as contemplated in the B-BBEE Act and Codes, only then will the Company be entitled to direct the relevant portion of such spend to another B-BBEE beneficiary (the "Redirection Entitlement"). The Redirection Entitlement shall not apply in relation to commitments made by the Company and in relation to which Absorption Bonus points under the Skills Development element have been earned by the Company (i.e. in terms of Clause 2.1.3 of the Skills Development scorecard and Paragraph 3.5 in Statement 300 read together with the definition of "Absorption" in Schedule 1 of the Generic B-BBEE Codes, as amended on 31 May 2019, which require the Company to appoint the learners as permanent employees and the number of learners may be in excess of the permanent employees required by the Company); and
  - (v) to do the YES (Youth Employment Services) programme using the Subscriber as the implementation partner with the intention of improving the B-BBEE Status of the Company.
- (b) The Company shall be responsible for the payment of all of its costs of and incidental to:
  - (i) the making of the Specific Issue and the implementation of all matters incidental thereto; and
  - (ii) the allotment and issue of the Subscription Shares pursuant to the Specific Issue.
- (c) The Company (i) undertakes to apply the proceeds of the Subscription Price to improve its operations and/or financial position in order to endeavour to increase returns for the shareholders of the Company; and (ii) confirms that it has a written confirmation from Standard Bank that it has no intention to sweep the Subscription Proceeds towards a reduction of the Standard Bank loan.

## 7. SUBSCRIBER UNDERTAKINGS

The Subscriber confirms, acknowledges, represents, warrants and undertakes for the benefit of the Company that:

- (a) it has obtained all necessary consents and authorities and has the necessary funding to enable it to give and execute its commitment to subscribe for the Subscription Shares; and
- (b) it may lawfully subscribe for the Subscription Shares without any additional lodgement, registration or other formality or consents required.

## 8. B-BBEE UNDERTAKINGS BY THE SUBSCRIBER

For so long as it is a shareholder in the Company, the Subscriber undertakes and warrants to and in favour of the Company that it shall:

- (a) procure that the person appointed by the Subscriber to the Board of the Company shall have the necessary experience;
- (b) maintain a Level 1 B-BBEE Status (which it warrants it holds at the Signature Date) for as long as the Subscriber is a shareholder in the Company;
- (c) ensure that the B-BBEE Credentials are maintained for the Lock-in Period as follows: 100% black person-owned and 60% black women-owned;
- (d) not sell, transfer, cede or otherwise alienate its Shares, or any right or interest therein, other than in accordance with any rights and/or obligations which it has in terms of the Agreement and/or the MOI;
- (e) not in any way encumber and/or grant any right or option to any other person, save as provided for in the Agreement, in respect of the Subscription Shares; and
- (f) with effect from the Issue Date, on each anniversary of the Issue Date and upon request by the Company at any time, make itself available to the Company's B-BBEE accreditation agency in order to obtain a qualified certificate to the Company indicating the voting, Control and 100% of the economic interest in the Subscriber which is, and will continue to be held, directly or indirectly, by black people for the preceding 12-month period and the Subscriber shall ensure it provides all reasonably requested information timeously to ensure that the B-BBEE accreditation agency is able to provide the Company with the certificate concerned before the last day of the relevant anniversary of the Issue Date, with the first certificate to be issued to the Company within one month from the Issue Date, which certificate will reflect at least a Level 1 B-BBEE Status in relation to the Company, as contemplated in terms of the B-BBEE Act as read with the Codes (**B-BBEE Credentials**).

## 9. RESTRICTIONS ON TRANSFERS AND ENCUMBRANCE OF SHARES

Subject to the provisions of the MOI, the pre-emptive rights set out in paragraph 10 below, but save as specifically otherwise agreed to in writing by the Parties or specifically permitted by the Agreement, the Subscriber shall for the duration of the Lock-in Period not directly or indirectly dispose of or encumber any of the Subscription Shares or its rights or interest therein (or enter into any option, derivative or other transaction, the effect of which is or will be to dispose of or encumber or require it to dispose of or encumber any of its Shares or its rights or interest therein).

## 10. PRE-EMPTIVE RIGHT

- (a) If the Subscriber wishes to dispose of any of its Shares, the Subscriber shall offer such Shares by notice in writing to the Company and/or its nominee ("Offer") stating:
  - (i) the number of Shares which the Subscriber proposes to sell;
  - (ii) the price (in ZAR) at, and the terms and conditions upon which, the Subscriber proposes to sell the Shares; and
  - (iii) to the extent applicable, the name of the proposed transferee to whom the Subscriber intends selling and its ultimate holding company (if any), including a copy of any offer received.
- (b) Should the Offer not be accepted in full in writing within 30 business days after the date upon which the Offer is made, the Company shall be deemed to have declined the Offer.
- (c) Notwithstanding the provisions in clause 10(a) above, the acceptance of the Offer by the Company shall be subject to:
  - (i) the Takeover Regulation Panel granting an exemption to the Company in terms of section 119(6) of the Companies Act; and
  - (ii) the Board of Directors of the Company having approved and authorised the entering into of the Agreement and the transactions contemplated herein, including:
    - (A) authorising the Company to repurchase from the Subscriber the Subscription Shares in terms of section 48(2)(a), as read with section 46, of the Companies Act, subject to the requirements of section 48(8)(b) of the Companies Act; and
    - (B) acknowledge that the Board of the Company has applied the solvency and liquidity test, as set out in section 4 of the Companies Act, and reasonably conclude that the Company will satisfy the solvency and liquidity test immediately after the repurchase of the Shares following the acceptance of the Offer.

- (d) Should the Offer have not been accepted in accordance with the foregoing procedure, and a proposed transferee has been identified, then:
  - (i) the Subscriber will then be entitled to Dispose of all of its Shares offered, within a further period of 30 business days, to the proposed transferee referred to in clause 10(a)(iii) at a price not lower and on terms and conditions not more favourable to such person than the price and terms stated in the Offer; and
  - (ii) unless the Subscriber disposes of all its said Shares to the proposed transferee within the said further period of 30 business days, it may not thereafter Dispose of any Shares without again adopting the procedure referred to herein.
- (e) Following the expiration of the Lock-in Period, the Subscriber shall be entitled to dispose of the Subscription Shares and the Subscriber shall engage in reasonable consultation with the Company relating to whom the Subscription Shares are sold and that the Subscription Shares are not (i) "dumped" in the market (i.e. in large amounts at the same time with little or no concern for the price or market effect); and/or (ii) unreasonably sold below the market price; and/or (iii) sold to a competitor of the Company.

## 11. COMPANY CALL OPTION

- (a) A Trigger Event shall be deemed to have occurred in relation to the Subscriber if the Subscriber:
  - (i) commits a material breach of the provisions of the Agreement through an event or circumstance within its control and fails to remedy such breach in accordance with the Agreement;
  - (ii) should the Subscriber not maintain its B-BBEE Credentials and fails to action the appropriate amendments and do all things that is reasonably practicable, in order to achieve the required B- BBEE Credentials within three months or such reasonable time considering legislation and regulation procedures;
  - (iii) without the prior written consent of the Company, makes any amendments to the Trust Deed that would reduce the B-BBEE Credentials of the Subscriber;
  - (iv) without the prior written consent of the Company, becomes Controlled, whether directly or indirectly, by a person other than the person(s) who ultimately Controlled it, directly or indirectly at the Issue Date;
  - (v) takes any action regarding the winding up and/or deregistration of its affairs;
  - (vi) fails to comply with the undertakings in paragraphs 7 and 8 above; or
  - (vii) reduces its B-BBEE Credentials as confirmed by the Company's verification agent.
- (b) If a Trigger Event as contemplated in clause 11(a) above has occurred, then the Subscriber hereby grants in favour of the Company or its nominee, the irrevocable right and option ("Call Option"), to repurchase from the Subscriber, the Subscription Shares on the following terms:
  - (i) the Company shall, without prejudice to any of its other rights, be entitled, but not obliged, to exercise the Call Option at any time ("Call Option Period") by giving the Subscriber written notice ("Call Notice") of its intention to exercise the Call Option;
  - (ii) with effect from the date of the receipt by the Subscriber of the Call Notice ("Call Sale Date"), the Subscriber shall sell to the Company, who shall repurchase from the Subscriber, the Subscription Shares ("Repurchase"); and
  - (iii) the purchase price for the Subscription Shares during the Call Option Period, shall be the 30-day volume weighted average price of a Share as at the Call Sale Date.

- (c) Notwithstanding the provisions in clause 11(b) above, the exercise and implementation of the Call Option shall be subject to:
- (i) the Takeover Regulation Panel granting an exemption to the Company in terms of section 119(6) of the Companies Act in respect of the Repurchase;
  - (ii) the Board having approved and authorised the entering into of the Agreement and the transactions contemplated herein, including:
    - (A) authorising the Company to repurchase from the Subscriber the Subscription Shares in terms of section 48(2)(a), as read with section 46, of the Companies Act, subject to the requirements of section 48(8)(b) of the Companies Act; and
    - (B) acknowledge that the Board has applied the solvency and liquidity test, as set out in section 4 of the Companies Act, and reasonably conclude that the Company will satisfy the solvency and liquidity test immediately after completing the Repurchase.

## 12. FINANCIAL INFORMATION

The financial effect of the proposed Specific Issue on Ellies is a maximum cash inflow of approximately R18 524 207,00 and an increase in number of shares in issue to 805 400 305 and an increase in share capital. The estimated once-off transaction costs will be set out in the circular to shareholders.

## 13. IRREVOCABLE UNDERTAKINGS AND LETTERS OF SUPPORT

Ellies has received irrevocable undertakings and letters of support from the following shareholders to vote in favour of the authorised share increase, the Specific Issue, the Repurchase and the B-BBEE Spend:

### 13.1 Irrevocable undertakings

Name of Shareholders	Number of Shares	Percentage holding (%)
Mr Elliot Salkow	75 275 961	12,1%
Dr Shaun Prithivirajh	500 000	0,1%
Mr KS Bhala	2 025	0,0%
Mr ML Bhala	2 025	0,0%
<b>Total</b>	<b>75 780 011</b>	<b>12,2%</b>

### 13.2 Letters of support

Name of Shareholders	Number of Shares	Percentage holding (%)
Mazi Asset Management (Pty) Ltd	124 140 214	20%
<b>Total</b>	<b>124 140 214</b>	<b>20%</b>

Shareholders will be advised when additional irrevocable undertakings and/or letters of support are obtained.

## 14. JSE RULING

Shareholders are advised that Ellies had received a formal JSE ruling that the proposed B-BBEE Spend by Ellies to Imvula will not be treated as a related party transaction after the implementation of the Proposed B-BBEE Transaction, subject to Ellies shareholders pre-approving the capped B-BBEE Spend over the Lock-in Period at the general meeting, taking into account that Imvula is not a related party at the time of entering into the Subscription Agreement. Further details in this regard will be included in the circular to be issued to shareholders.

## **15. DIRECTORS' RECOMMENDATION**

The Board has considered the terms and conditions and is of the opinion that the Proposed B-BBEE Transaction is beneficial to the Company in that the Proposed B-BBEE Transaction will improve the level of B-BBEE ownership in the Company and consequently the Company's overall B-BBEE Status. The Board recommends that Shareholders vote in favour of the resolutions to be proposed at the general meeting. The Directors intend voting the Shares held by them in favour of the resolutions to be proposed at the general meeting.

## **16. SHAREHOLDER APPROVAL**

The Specific Issue is subject to Ellies' shareholder approval. A circular, containing the full details of the Proposed B-BBEE Transaction, incorporating a notice convening a shareholders meeting to shareholders, will be issued in due course in compliance with the JSE Listings Requirements. The salient dates and times of the Proposed B-BBEE Transaction, including the date of the shareholders meeting, will also be announced on SENS at the time of distributing the circular.

Johannesburg

6 July 2021

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**Corporate Advisor**



**Transaction Sponsor**

**Deloitte.**

**Legal Advisor**

**Baker  
McKenzie.**