

I hereby certify that these Articles of Association, which I have initialled for identification purposes, were adopted in substitution of the existing Articles of Association of the Company at a general meeting of the Company held on 26 October 2017.

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CHAIRPERSON

Form CM44A

REPUBLIC OF NAMIBIA
Companies Act 28 of 2004

ARTICLES OF ASSOCIATION OF A COMPANY HAVING A SHARE CAPITAL
NOT ADOPTING SCHEDULE 1
(Section 60(1); Regulation 18)

Registration no of company
88/024

Name of company

FNB NAMIBIA HOLDINGS LIMITED
("the company")

- A. The Articles of Table A or Table B contained in Schedule 1 to the Companies Act 28 of 2004, shall not apply to the Company.
- B. The Articles of the Company are as follows:

1.

INTERPRETATION

1.1 In these Articles, unless the context otherwise requires:

- 1.1.1 **“Authorised Representative”** means a person authorised, in the manner prescribed by the Act, as the representative of a company or other body corporate at any general meeting of the **Company**;
- 1.1.2 **“Board”** means the Board of Directors for the time being of the Company or the directors present at a duly convened meeting of directors at which a quorum is present;
- 1.1.3 **“Capital”** means the share or stated capital of the Company;
- 1.1.4 **“Chairperson: means a person elected in terms of clause 20.7 below by the Board from its own number as chairperson of the Board of Directors; provided that the chairperson may not be the Chair of the Audit Committee, but may serve as member on the Audit Committee;**
- 1.1.5 **“Company”** means, when used with reference to the Company, FNB Namibia Holdings Ltd;
- 1.1.6 **“Deputy-Chairperson” means a person elected in terms of clause 20.7 below by the Board from its own number as deputy-chairperson of the Board of Directors; provided that the Chairperson may not be the Deputy-Chairperson as well, but the Deputy-Chairperson may be the chair of any of the various committees set up in terms of these Articles;**
- 1.1.7 **“dividend”** means a dividend and/or bonus;
- 1.1.8 **“in writing” means correspondence in written or printed form, and also includes correspondence by electronic means;**
- 1.1.9 **“Legal Representative”** means any person who has submitted to the

necessary proof of his/her appointment as:

- 1.1.9.1 an executor of a deceased member or trustee, or curator or guardian of a member whose estate has been sequestrated or who is otherwise under disability;
- 1.1.9.2 the liquidator of any member which is a body corporate in the course of being wound up; or the judicial manager of any member which is a company under judicial management;
- 1.1.10 **“Month”** means a calendar month;
- 1.1.11 **“NSX”** means the Namibian Stock Exchange;
- 1.1.12 **“Office”** means the registered office of the Company;
- 1.1.13 **“paid”** means paid or credited as paid;
- 1.1.14 **“person”** includes any body of persons, whether or not incorporated under any law of any country;
- 1.1.15 **“Register”** means the register of members of the Company;
- 1.1.16 **“Seal”** means the common seal of the Company;
- 1.1.17 **“sign”** includes the reproduction of a signature by lithography, printing, or any kind of stamp or any other mechanical process, and "signature" has the corresponding meaning;
- 1.1.18 **“the Act”** means the Companies Act **28 of 2004, the Rules and Regulations passed in terms of this Act, any amendment thereto and any replacement thereof;**
- 1.1.19 **“the Bank”** means the Bank of Namibia, established in terms of the Bank of Namibia Act 15 of 1997;
- 1.1.20 **“the Statutes”** means the Act and every other Act from time to time in

force in Namibia concerning companies and banking institutions and affecting the Company including (but without limitation) the Banking Institutions Act 2 of 1998, and shall include any guidelines or notices issued by the Bank in terms of the Banking Institutions Act 2 of 1998;

- 1.1.21 “**the Republic**” means the Republic of Namibia;
 - 1.1.22 “**Transfer Office**” means the place where the **Register** is situated; and
 - 1.1.23 “**Year**” means calendar year.
- 1.2 Expressions defined in the Act or any statutory modification thereof in force at the date on which these Articles become binding on the Company shall have the meaning so defined.
- 1.3 Words importing any gender include the other genders and words importing the singular number include the plural, and visa versa;
- 1.4 These Articles shall be deemed to authorise the company to do anything which the Statutes empowers a company to do if so authorised by its Articles, unless that authority is expressly excluded.
- 1.5 Where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail.
- 1.6 Where any term is defined within the context of any particular article in these Articles, the term so defined, unless it is clear from the Article in question that the term so defined has limited application to the relevant Article, shall bear the meaning ascribed to it for all purposes in terms of these Articles, notwithstanding that that term has not been defined in this interpretation clause.
- 1.7 The rule of construction that the contract shall be interpreted against the party responsible for the drafting or preparation of these Articles shall not apply.
- 1.8 The expression "secretary" shall include a deputy or assistant secretary and any

person appointed by the **Board** to perform any of the duties of the secretary or deputy or assistant secretary and where two or more persons are appointed to act as joint secretaries shall include any one of these persons.

- 1.9 All such of the provisions of these Articles as are applicable to paid-up shares shall apply to stock, and the words "share" and "shareholder" shall be construed accordingly.

2.

PRELIMINARY

- 2.1 If the provisions of these Articles are in any way inconsistent with the provisions of the Act or the Statutes, the provisions of the Act and or Statutes shall prevail and these Articles shall be read in all respects subject to the Act and the Statutes.
- 2.2 Notwithstanding the omission from these Articles of any provision to that effect, the Company may do anything which the Act empowers the Company to do if so authorized by its Articles of Association.
- 2.3 The Company shall not give, whether directly or indirectly, and whether by means of a loan, guarantee, the provision of security or otherwise, any financial assistance for the purpose of or in connection with a purchase or subscription made or to be made by any person of or for any shares of the Company, nor shall the **Company** make a loan for any purpose whatever on the security of its shares or of the shares of its holding company, but nothing in this article shall prohibit transactions permitted by the Statutes.

3.

VARIATION OF RIGHTS

- 3.1 Subject to any right or restriction under which shares are held, the rights or restrictions attached to all or any shares of any class may be amended, modified, varied or cancelled by a general meeting, provided that no such amendment, modification, variation or cancellation which directly or indirectly adversely affects

those special rights or restrictions shall be effected without:

- 3.1.1 the written consent or ratification of the holders of at least three quarters of the shares in question; or
 - 3.1.2 the approval of or ratification by a resolution passed at a separate general meeting of holders of the shares in question in the same manner, *mutatis mutandis*, as a special resolution, and the provisions of these **Articles** relating to general meetings shall apply to any such separate general meeting except that a quorum at any such meeting shall be three persons holding or representing by proxy at least one-third of the issued shares of the class in question.
- 3.2 Unless otherwise provided by the terms of issue or by these **Articles**, any right or restriction attached to all or any class of shares shall be deemed not to be directly or indirectly adversely affected by:
- 3.2.1 the creation or issue of any other shares ranking *pari passu* with (but not in priority to) any such shares already issued by the **Company**;
 - 3.2.2 the cancellation in terms of the Act of any shares of any class in the capital.

4.

ALTERATION OF CAPITAL

- 4.1 The **Company** may, subject to the provisions of the Act:
- 4.1.1 increase, consolidate, divide, sub-divide or cancel all or any part of its capital;
 - 4.1.2 reduce its capital, any capital redemption reserve fund, or any share premium account;

- 4.1.3 convert any of its shares, whether issued or not, into shares of another class;
 - 4.1.4 convert all or any of its paid-up shares into stock and re-convert such stock into paid-up shares;
 - 4.1.5 convert any shares having a par value into shares having no par value and **vice** versa;
 - 4.1.6 convert any of its ordinary shares into redeemable preference shares;
- 4.2 Any new shares which are created shall be offered to the existing shareholders *pro rata* to their shareholding and any such issue shall also be subject to the rules and requirements of the NSX.

5.

PURCHASE OF ASSETS OR BUSINESS WITH RETROSPECTIVE EFFECT

- 5.1 Should the **Company** purchase:
- 5.1.1 any asset or business with retrospective effect (whether or not the effective date precedes the date of incorporation of the **Company**) on terms that the **Company** shall be entitled to the profits and / or shall bear the losses in respect of that asset or business from the effective date;
 - 5.1.2 any share or security, with the right to receive dividends or interest, accrued in respect of any period prior to such purchase;

the **Company** shall not be obliged to capitalise any such profits, losses, dividends or interest, and the directors may in their discretion treat the whole or any part thereof for all purposes as revenue profits or revenue losses of the **Company**.

6.

SHARES

- 6.1 Subject to the provisions of the Act and of the memorandum and these **Articles**, and without prejudice to any right previously conferred on the holder of an issued share, a general meeting, may by resolution:
- 6.1.1 issue any shares (whether with or without any preferred, deferred or other special right or restriction, in regard to dividends, voting, return of capital or otherwise);
- 6.1.2 issue preference shares which are, at the option of the **Company** liable to be redeemed;
- 6.2 No further shares ranking in priority to or *pari passu* with the existing preference shares or preference shares which may be issued in the future, of any class shall be created or issued without the consent in writing of the holders of 75% of the existing preference shares of such class or the sanction of a resolution of the holders of such class of preference shares passed at a separate general meeting of such holders and at which members holding in the aggregate not less than one quarter of the total votes of all the members holding shares in that class entitled to vote at that meeting are present in person or by proxy and the resolution has been passed by not less than three quarters of the total votes to which the members of that class present in person or by proxy are entitled.
- 6.3 Subject to any waiver by shareholders of their pre-emptive rights in accordance with the requirements of the NSX, all unissued or new shares shall be offered to existing shareholders pro rata to their shareholding unless these are issued for the acquisition of assets.
- 6.4 Subject to Section **230** of the Act, the shareholders in a general meeting may authorise the directors to issue unissued shares and / or give options to subscribe for unissued shares as the directors may in their discretion think fit, provided this has been approved by all stock exchanges on which the shares of the **Company**

may be listed at the time of the issue.

6.5 Should there be any issued preference shares in the capital, the issue of further shares ranking in priority or *pari passu* with those preference shares shall be deemed to be a variation of the rights attached to those preference shares which adversely affects those rights.

6.6 Subject to the provisions of the Act, the **Company** may:

6.6.1 pay interest on any shares issued for the purpose of raising money to defray the expenses of works or buildings or for the provision of plant;

6.6.2 pay a commission to any person in consideration of his subscribing or agreeing to subscribe or of procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the company.

6.7 The Company shall be entitled to allow the dematerialisation of any of its shares. Once such dematerialisation has been allowed:

6.7.1 any new shares that are issued may be issued in uncertificated form if so requested by the subscriber to those shares; or

6.7.2 Members may dematerialise shares already issued into uncertificated securities, in such manner as may be decided by the **directors** from time to time.

Shares dematerialised under this Article shall have the same rights as attached to such shares prior to their dematerialisation.

7.

CERTIFICATES

7.1 A certificate signed:

7.1.1 by any two directors of the **Company**; or

7.1.2 by one director and one officer duly authorised thereto by the directors; or

7.1.3 in the case of the **Company** having only one director and no officer, by that director,

and specifying any shares or stock of the **Company** held by any member, shall be *prima facie* evidence of the title of the member to such shares or stock.

7.2 Any such signatures may be affixed to the certificate by autographic or mechanical means.

7.3 All certificates shall be issued under the authority of the directors in such manner and form as the directors may determine from time to time, provided that:

7.3.1 any member shall be entitled to require more than one certificate in respect of shares registered in his name;

7.3.2 if any certificate is defaced, lost or destroyed it may be replaced upon provision of suitable documentation to the satisfaction of and on such terms as the directors may determine and subject, in addition, to any requirements determined from time to time by the NSX.

8.

TRANSFER OF SHARES

- 8.1 Every instrument of transfer of a share shall be left at the transfer office at which it is presented for registration accompanied by the certificate of the shares to be transferred and / or such other evidence as the **Company** may require to prove the title of the transferor or his rights to transfer the shares. All authorities to sign **transfer deeds** granted by members for the purpose of transferring shares which may be lodged, produced or exhibited with or to the Company at any of its proper offices shall as between the **Company** and the grantor of such authorities be taken and deemed to continue and remain in full force and effect and the **Company** may allow the same to be acted upon until such time as express written notice of the revocation of the same shall have been given and lodged at the **Company's Transfer Offices** at which the authority was lodged, produced or exhibited. Even after the giving and lodging of such notices, the **Company** shall be entitled to give effect to any instruments signed under the authority, signed and certified by any officer of the **Company** as being in order before the giving and lodging of such notice.
- 8.2 A **Legal Representative** (not being one of several joint holders) shall be the only person recognised by the **Company** as a member or having any title to a share registered in the name of the member whom he represents.
- 8.3 A **Legal Representative** shall be entitled to be registered as a member *nomine officii* in respect of any share registered in the name of any member whom he represents or to transfer any such share to himself or any other person provided that:
- 8.3.1 should any **Legal Representative** fail to elect either to be registered as a member or to transfer any such share to himself or any other person within ninety days after the directors have given him notice requiring him to do so, the directors shall be entitled to withhold any dividends, bonuses, return of capital or other accruals in respect of such share until compliance with the notice.

- 8.4 The directors may in their discretion record in the **Company's Register** of members that any share is held in trust or by a nominee and for whom the share is so held.
- 8.5 The instrument of transfer of any share shall be in writing in the usual common form, or in such form as the directors shall from time to time determine and as may be approved by the NSX. The directors may not decline to register any proposed transfer of shares on any grounds whatever and in all respects shares shall be free from any restrictions on the rights of transfer and shall be free from any liens.
- 8.6 If a **m**ember wishes to rematerialise all or part of his uncertificated securities held by the participant and to obtain a certificate in respect of such uncertificated securities he should notify the participant accordingly.
- 8.7 The participant shall within seven days of receipt of the notification referred to in Article 8.6, notify the Company to provide a certificate and shall remove the uncertificated securities so rematerialised from the sub-register.
- 8.8 The Company shall immediately upon receipt of the notification from the participant enter the necessary details of the Member and his shareholding into the register and indicate in the register that the uncertificated securities so rematerialised are no longer held in uncertificated form.
- 8.9 The Company shall within fourteen days of receipt of the notification from the participant, prepare and deliver to the relevant **m**ember a certificate and notify the central securities depository that those securities are no longer held in uncertified form.

9.

FRACTION OF SHARES

If, on any capitalisation issue or consolidation of shares, members would, but for the provisions of this article, become entitled to fractions of shares, the directors shall be entitled to sell the shares resulting from the aggregation of such fractions on such terms and conditions as they deem fit for the benefit of the relevant members; and any director shall be empowered to sign any instrument of transfer or other instrument necessary to give effect to such sale.

10.

JOINT HOLDERS OF SHARES

10.1 Where two or more persons are registered as the holders of any share they shall be deemed to hold that share jointly, and:

10.1.1 notwithstanding anything to the contrary in these **Articles**, on the death, sequestration, liquidation or legal disability of any one of such joint holders the remaining joint holders may be recognised, at the discretion of the directors, as the only persons having title to such share;

10.1.2 any one of such joint holders may give effectual receipts for any dividends, bonuses or returns of capital or other accruals payable to such joint holders;

10.1.3 only the joint holder whose name stands first in the **Register** shall be entitled to delivery of the certificate relating to that share, or to receive notices from the **Company** (and any notice given to such joint holder shall be deemed to be notice to all the joint holders);

10.1.4 any one of the joint holders of any share conferring a right to vote may vote either personally or by proxy at any meeting in respect of such share as if he were solely entitled thereto, and if more than one of such joint holders is present at any meeting, either personally or by proxy, the joint

holder who tenders a vote and whose name stands in the **Register** before the other joint holders who are present in person or by proxy shall be entitled to vote in respect of that share.

11.

TRANSMISSION OF SHARES

- 11.1 The parent or guardian of a member who is a minor, the *curator bonis* of a lunatic member or any person becoming entitled to a share in consequence of the death or insolvency of a member or **through marriage** or otherwise by operation of law may (subject as hereinafter provided) upon supplying to the Company such evidence as the Board may reasonably require to show his title to the share either be registered himself as the holder of the share upon giving to the Company notice in such form as the Board may prescribe of such his desire or transfer such share to some other person. All the limitations, restrictions and provisions of these Articles relating to the right to transfer and the registration of transfers or shares shall be applicable to any such notice or transfer as aforesaid as if the event or circumstances giving rise to the aforesaid person's title had not occurred and the notice or transfer were a transfer executed by such member.
- 11.2 Save as otherwise provided by or in accordance with these Articles, a person becoming entitled to a share in consequence of the death or insolvency of a member or otherwise by operation of law (upon supplying to the Company such evidence as the **Board** may reasonably require to show his title to the share) shall be entitled to receive and may give a discharge for any dividends or other monies payable in respect of the share, but he shall not be entitled in respect of the share to exercise any right conferred by membership in relation to meetings of the Company or, save as aforesaid, to exercise in respect of the share any of the rights or privileges of a member until he shall have become registered as the holder thereof.

12.

STOCK

- 12.1 The Company may from time to time by special resolution convert all or any of its paid-up shares of any denomination into stock and reconvert such stock into any number of paid-up shares.
- 12.2 The holders of stock may transfer the same or any part thereof in the same manner and subject to the same regulations as and subject to which the shares from which the stock arose might previously to conversion have been transferred or as near thereto as circumstances admit. The **Board** may however from time to time fix the minimum amount of stock transferable and restrict or forbid the transfer of fractions of such minimum (but so that the minimum amount shall not exceed the nominal amount of the shares from which the stock arose) and the **Board** may prescribe that stock is to be divided and transferable in units of corresponding amount.
- 12.3 The holders of stock shall according to the amount of the stock held by them have the same rights, privileges and advantages as regards dividend, return of capital, voting and other matters as if they held the shares from which the stock arose; but no such right, privilege or advantage (except as regards participation in the profits or assets of the Company) shall be conferred by an amount of stock which would not, if existing in shares, have conferred such right, privilege or advantage.

13.

GENERAL MEETINGS

- 13.1 An annual general meeting and any general meeting at which it is proposed to pass a special resolution shall be called by twenty one days' notice in writing at the least, **and any general meeting at which it is proposed to pass a resolution for which special notice must be given shall be called by twenty eight days' notice in writing at the least,** and any other general meeting by fourteen days' notice in writing at the least (exclusive in either case of the day on which it is served or deemed to be served and of the day for which it is given) given in manner hereinafter mentioned to the auditors for the time being and to all members (other

than such as are not under the provisions of these Articles entitled to receive such notices from the Company) and to every other person who by virtue of the statutes or these Articles is entitled to receive notices of meetings of the Company: provided that a general meeting **(except one at which it is proposed to pass a resolution for which special notice must be given)** notwithstanding that it has been called by a shorter notice than that specified above shall be deemed to have been duly called if it is so agreed—

13.1.1 in the case of an annual general meeting by all members entitled to attend and vote thereat; and

13.1.2 in the case of a special general meeting by a majority in number of the members having a right to attend and vote thereat, being a majority together holding not less than ninety five per centum in nominal value of the shares giving that right.

13.2 The Board may, whenever it thinks fit, convene an extraordinary general meeting, and an extraordinary general meeting shall also be convened on a requisition made in terms of Section **189** of the Act, or, in default, may be convened by the requisitionists as provided by and subject to the provisions of that section: provided that the requisition referred to in that section shall be valid if it is signed by not less than one hundred members or members holding not less than 5% of the voting rights of the **Company**. If at any time there are not within the Republic sufficient directors capable of acting to form a quorum, any director or any two members may convene a special general meeting in the same manner as nearly as possible as that in which meetings may be convened by the **Board**.

14.

PROCEEDINGS AT GENERAL MEETINGS

- 14.1 All business shall be deemed special that is transacted at a special general meeting and also all business that is transacted at an annual general meeting with the exception of—
- 14.1.1 the consideration and adoption of the accounts, the ordinary reports of the directors and auditors and other documents required to be annexed to the accounts;
- 14.1.2 the declaration of dividends.
- 14.2 No business shall be transacted at any general meeting unless a quorum is present at the time when the meeting proceeds to business. Save as in these Articles otherwise provided, three members present in person and entitled to vote shall be a quorum for all purposes. Provided that, for so long as the Company is a subsidiary company, a quorum shall be established when at least one representative of the Company's holding company is present.
- 14.3 If within thirty minutes from the time appointed for a general meeting a quorum is not present, the meeting, if convened on the requisition of members, shall be dissolved. In any other case it shall stand adjourned to the same day in the next week, at the same time and place, or if that day be a public holiday, to the next succeeding day other than a public holiday, and if at such adjourned meeting a quorum is not present within thirty minutes from the time appointed for holding the meeting, the members present in person or by proxy shall be a quorum. When a meeting has been adjourned as aforesaid, the secretary of the Company shall upon a date not later than two days after the adjournment, publish in one or more newspapers circulating in the Republic where the registered office of the Company is situated, a notice stating—
- 14.3.1 the time and place to which the meeting was adjourned; and

- 14.3.2 that the meeting was adjourned because of the absence of a quorum and that if at the adjourned meeting a quorum is not present within half an hour of the appointed time, the members present shall be a quorum.
- 14.4 The **Chairperson** of the **Board** shall be entitled to preside at every general meeting but should there be no **Chairperson**, the other members present shall choose one of them to preside as **Chairperson** at that meeting.
- 14.5 The **Chairperson** of the meeting may with the consent of any general meeting at which a quorum is present (as shall if so directed by the meeting) adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting other than business left unfinished at the meeting from which the adjournment took place.
- 14.6 When a meeting is adjourned, notice of the adjourned meeting shall be given in terms of Section **200**(2) of the Act. Save as aforesaid, and subject to Article 14.3, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.
- 14.7 At any general meeting a resolution put to the vote of a meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded by either—
- 14.7.1 the **Chairperson** of the meeting; or
- 14.7.2 at least **three** members present in person or by proxy and entitled to vote;
or
- 14.7.3 any member or members present in person or by proxy and representing in the aggregate not less than one tenth of the total voting rights of all the members having the right to vote at the meeting; or
- 14.7.4 any member or members present in person or by proxy and holding shares in the Company conferring a right to vote at the meeting being

shares on which an aggregate sum has been paid-up equal to not less than one tenth of the total sum paid-up on all the shares conferring that right.

- 14.8 A demand for a poll may be withdrawn. Unless a poll be so demanded (and the demand be not withdrawn) a declaration by the **Chairperson** of the meeting that a resolution has been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the minute book, shall be conclusive evidence of that fact without proof of the number or proportion of the votes recorded for or against such resolution. If a poll is duly demanded and the demand not be withdrawn, it shall be taken in such manner (including the use of ballot or voting papers or tickets) as the **Chairperson** of the meeting may direct and the result of a poll shall be deemed to be the resolution of the meeting at which the poll was demanded. The **Chairperson** of the meeting may (and if so directed by the meeting shall) appoint scrutinizers and may adjourn the meeting to some place and time fixed by him for the purpose of declaring the result of the poll.
- 14.9 If any votes shall be counted which ought not to have been counted or might have been rejected or if any votes shall not be counted which ought to have been counted, the error shall not vitiate the resolution unless it be pointed out at the same meeting or any adjournment thereof and not in that case unless it shall, in the opinion of the **Chairperson** of the meeting, be of sufficient magnitude to vitiate the resolution.
- 14.10 In the case of an equality of votes, whether on a show of hands or on a poll, the **Chairperson** of the meeting at which the show of hands takes place or at which the poll is demanded shall be entitled to a casting vote in addition to the vote or votes to which he may be entitled as a member or on behalf of any other member.
- 14.11 It shall not be competent to demand a poll on the election of a **Chairperson** of the meeting or on a question of adjournment. A poll demanded on any other question shall be taken either immediately or at such subsequent time (not being more than thirty days from the date of the meeting) and place as the **Chairperson** of the meeting may direct.

14.12 The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll has been demanded.

15.

VOTES OF MEMBERS

- 15.1 Subject to any special terms as to voting upon which any share may be issued, and subject to the **Statutes**, on a show of hands every member present in person at a general meeting, and every proxy who is not a member and who is present at a general meeting, shall have one vote only, but upon a poll every member present in person or by proxy at a general meeting shall have one vote for every share held by him.
- 15.2 In the case of joint holders of a share any one of such holders may vote at any general meeting either in person or by proxy in respect thereof as if he were the sole holder thereof but if more than one of such joint holders be present at any meeting either in person or by proxy that one of such persons so present whose name stands first in the **Register** in respect of such share shall alone be entitled to vote in respect thereof.
- 15.3 The parent or guardian of a member who is a minor and the *curator bonis* of a lunatic member and any person becoming entitled by operation of law to a share in consequence of the marriage of any member may vote at any general meeting, whether on a show of hands or on a poll, in respect thereof in the same manner as if he were the registered holder of the shares in question: provided that such evidence as the **Board** may require of the authority of the person claiming to vote shall have been deposited at the **Office** not less than forty eight hours before the time appointed for holding the meeting or for the taking of the poll at which it is desired to vote.
- 15.4 No member shall, unless the **Board** otherwise determines, be entitled to vote at a general meeting either personally or by proxy or to exercise any other right

conferred by membership in relation to meetings of the Company unless all sums presently payable by him in respect of shares in the Company have been paid.

- 15.5 No objection shall be raised as to the admissibility of any vote except at the meeting or adjourned meeting at which the vote objected to is or may be given or tendered and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection shall be referred to the **Chairperson** of the meeting whose decision shall be final and conclusive.
- 15.6 On a poll votes may be given either personally or by a proxy and a person entitled to more than one vote need not use all his votes or cast all the votes he uses in the same way.
- 15.7 A proxy need not be a member of the Company.
- 15.8 An instrument appointing a proxy shall be in writing in any usual or common form or in any other form which the **Board** may accept or approve and –
- 15.8.1 in the case of an individual shall be signed by the appointer or by his attorney; and
- 15.8.2 in the case of a corporation shall be either given under its common seal and signed on its behalf by an attorney or officer of the corporation.

The Board may, but shall not be bound to, require evidence of the authority of any such attorney or officer. The signature on such instrument need not be witnessed.

- 15.9 An instrument appointing a proxy shall be deposited at the **Office**, or at such other place or one of such places (if any) as may be specified for that purpose in the notice convening the meeting, not less than forty eight hours before the time appointed for the holding of the meeting or for the taking of the poll at which it is to be used, and in default shall not be treated as valid. An instrument appointing a proxy shall be valid for one specified meeting only or any adjournment thereof and

no proxy shall be used at an adjourned meeting which could not have been used at the original meeting.

15.10 An instrument appointing a proxy shall be deemed to include the right to demand or join in demanding a poll and shall, unless the contrary is stated thereon, be valid as well for any adjournment of the meeting as for the meeting to which it relates.

15.11 A vote cast by proxy shall not be invalidated by the previous death or insanity of the principal or by the revocation of the appointment of the proxy or of the authority under which the appointment was made provided that no intimation in writing of such death, insanity or revocation shall have been received by the Company at the office at least one hour before the commencement of the meeting or adjourned meeting or the time appointed for the taking of the poll at which the vote is cast.

16.

CORPORATIONS ACTING BY REPRESENTATIVES

Any corporation (whether a company within the meaning of the Act or not) which is a member of the Company may by resolution of its directors or other governing body authorise such person as it thinks fit to act as its representative at any meeting of the Company or of any class of member of the Company. The person so authorised shall be entitled to exercise the same powers on behalf of such corporation as the corporation could exercise if it were an individual member of the Company.

17.

DIRECTORS

17.1 The first directors shall be nominated and appointed by the majority of the subscribers to the Memorandum and Articles of Association. The number of directors shall not be less than **five or more than fifteen.**

17.2 Not more than one half of the total number of the directors appointed in terms of Article 17.1 **may, in terms of section 41(2) of the Banking Institutions Act 2 of 1998 as amended,** be employed by the Company, its holding company or by any of

its subsidiaries; **provided that the Company may apply to the Bank in terms of section 41(4) of the Banking Institutions Act 2 of 1998 as amended to be exempt from section 41(2).** Of those directors appointed in terms of Article 17.1, for so long as the Company is a subsidiary company, a majority of one half of the total number of the directors so appointed shall be appointees of the Company's holding company (one of whose appointees shall be resident in the Republic).

- 17.3 There shall be no share qualification for any director.
- 17.4 The directors shall be paid out of the funds of the Company by way of remuneration for their services such sum as the Company in general meeting shall from time to time determine.
- 17.5 If any director shall devote to the business of the Company either his whole time and attention, or more of his time and attention than in the opinion of the **Board** would usually be so devoted by a person holding such office, or shall undertake or perform any duties or services other than those which, in the opinion of the **Board**, would usually be undertaken or performed by a person holding such office, or shall be called upon to perform and shall perform extra services or make any special exertions for any of the purposes of the Company, then and in any of such cases the **Board** may remunerate the director concerned either by a fixed sum, annual or otherwise, or in such other manner as shall be determined by the **Board**, and such remuneration may at the discretion of the **Board** be either in addition to or in substitution for all or any part of any other remuneration to which such director may be entitled under these Articles in accordance with the provisions of Article 17.10.
- 17.6 The **Board** may repay to any director all such travelling, hotel and other expenses as he may properly incur in attending and returning from meetings of the **Board** or of any committee of the **Board** or general meetings or otherwise in or about the business of the Company.
- 17.7 Each director not resident in the Republic shall have the power to nominate one of the members possessing the necessary qualifications of a director to act as alternate director in his place during his absence or inability to act as such director,

and provided that the appointment of an alternate director shall be approved by the **Board**, and on such appointment being made, the alternate director shall be subject in all respects to the terms, qualifications and conditions existing with reference to the other directors of the Company. Each alternate director, while so acting, shall exercise and discharge all the functions, powers and duties as a director of his appointer in such appointer's absence. An alternate director shall *ipso facto* cease to be an alternate director if his appointer ceases for any reason to be a director but so that if at any meeting any director not resident in the Republic retires by rotation or otherwise but is re-elected at the same meeting, any appointment made by him pursuant to this article which was in force immediately before his retirement shall remain in force as though he had not retired. Any appointment or removal of an alternate director shall be effected by instrument in writing delivered at the office and signed by the appointer.

- 17.8 A director may continue to be or become a director or other officer of or otherwise interested in any company promoted by the Company or in which the Company may be interested, and (save as the **Board** may otherwise determine) no such director shall be accountable for any remuneration or other benefits received by him as a director or officer of or from his interest in such other company, but subject to Section 41(8) and (10) of the Banking Institutions Act **2 of** 1998, or any amendments thereof and with the *proviso* that such director shall act honestly and in good faith, in the best interest and for the benefit of the Company and its depositors.
- 17.9 A **Board** may exercise the voting power conferred by the shares in any other company held or owned by the Company in such manner in all respects as it thinks fit, including the exercise thereof in favour of any resolution appointing all or any members of the **Board** as directors or officers of such other company, or voting or providing for the payment of remuneration to the directors or officers of such other company.
- 17.10 A director may hold any office or place of profit under the Company (other than the office of auditor) in conjunction with his office of director upon such terms as the

Board may determine and may receive such remuneration in addition to any remuneration under these Articles as the **Board** may think fit.

- 17.11 A director may, subject to Article 17.8, act by himself or his firm in a professional capacity for the Company (otherwise than as auditor and as legal practitioner) and he or his firm shall be entitled to remuneration for professional services as if he were not a director.
- 17.12 Any remuneration payable in terms of Article 17.11 and/or Article 17.5 and 17.14 shall be fixed by a disinterested quorum of the directors or a disinterest committee of the directors. However, any director holding such office and interest shall be obliged to comply with Article 17.8.
- 17.13 Subject to the provisions of Articles 17.8, 20.1, 20.4 and 20.5, no director or intending director shall be disqualified by his office from being a customer of the Company in the ordinary course of banking business or contracting with the Company either with regard to his tenure of any other office or place of profit, or as vendor, purchaser or in any other manner whatsoever, nor shall any such contract, or any contract or arrangement entered into by or on behalf of the Company in which any director is in any way, whether directly or indirectly, interested be liable to be avoided, nor shall any director so contracting or being so interested be liable to account to the Company for any profits realised by any such contract or arrangement by reason of such director holding that office or of the fiduciary relationship thereby established.
- 17.14 The **Board** may from time to time appoint one or more of its members to the office of chief executive officer or other executive director on such terms as to remuneration, pension and otherwise as it may think fit and for such period as the **Board** may determine (but with a maximum period of five years at any one time) and, subject to the terms of any contract entered into in any particular case, may at any time revoke any such appointment. A director so appointed shall, subject to the terms of any agreement between him and the Company and save as provided in Article **21.3**, be subject to the same provisions as to resignation or removal as the other directors and, without prejudice to any claim for damages or compensation to

which he may be entitled, his appointment shall be automatically determined if he ceases from any cause to be a director of the Company.

17.15 The **Board** may entrust to and confer upon a chief executive officer and/or other executive director, any of the powers and authorities vested in it upon such terms and conditions and with such restrictions as it thinks fit and either collaterally with or to the exclusion of, and in substitution for, all or any of its powers, and may from time to time (subject to the terms of any agreement entered into in any particular case) revoke, withdraw, alter or vary all or any of such powers and authorities. In exercising the powers and/or authorities entrusted to or conferred upon him, the chief executive officer or other executive officer shall conform to any **Board** charter which may from time to time be the charter agreed to with the Company's holding company.

18.

APPOINTMENT AND RETIREMENT OF DIRECTORS

18.1 Subject as hereinafter mentioned, at the first annual general meeting all the directors shall retire from office and at the annual general meeting in each subsequent year one-third of the directors for the time being, or if their number is not three or a multiple of three, then the number nearest to but not less than one-third, shall retire from office. A chief executive officer or other executive director holding that office for an unexpired term shall not be subject to retirement by rotation under this article or be taken into account in determining the number of directors so to retire. A retiring director shall retain office until the conclusion of the meeting.

18.2 The directors to retire by rotation at an annual general meeting shall be those non-executive directors who have been longest in office and so that as between persons who became or were last re-elected directors on the same day those to retire shall (unless they otherwise agree amongst themselves) be determined by lot. The length of time during which a director has been in office shall be computed from the time when he was last elected or re-elected. A retiring director shall be eligible for re-election.

- 18.3 The Company at the meeting at which a director retires in the manner aforesaid may by ordinary resolution fill up the office being vacated by electing thereto a person eligible for appointment and in default the retiring director shall if willing to continue to act be deemed to have been re-elected unless at such meeting it is expressly resolved not to fill such vacated office or unless a resolution for the re-election of such director shall have been put to the meeting and lost.
- 18.4 The Company may also in general meeting elect to be a director any person eligible for appointment either to fill a casual vacancy or as an addition to the existing **Board**, but so that the total number of directors shall not at any time exceed the maximum number fixed by these Articles. The power to elect directors at a special general meeting shall be exercised only by special resolution.
- 18.5 A resolution for the election of two or more persons as directors by a single resolution shall not be moved at any general meeting unless a resolution that it shall be so moved has first been agreed to by the meeting without any vote being given against it; and any resolution moved in contravention of this provision shall be void.
- 18.6 No person other than a director retiring at the meeting shall be eligible for election as a director at any general meeting unless not less than seven nor more than fourteen clear days before the day appointed for the meeting there shall have been given to the secretary of the Company notice in writing signed by some member (other than the person to be proposed) duly qualified to attend and vote at the meeting for which such notice is given of his intention to propose such person for election and also notice in writing signed by the person to be proposed of his willingness to be elected.
- 18.7 The Company may in accordance with and subject to the provisions of the statutes by ordinary resolution of which special notice has been given remove any director from office notwithstanding any provision of these Articles or of any agreement between the Company and such director, but without prejudice to any claim he may have for damages for breach of any such agreement, and elect another person in place of a director so removed from office and any person so elected shall be

treated for the purpose of determining the time at which he or any other director is to retire by rotation as if he had become a director on the day on which the director in whose place he is elected was last elected a director.

- 18.8 Without prejudice to the power of the Company in general meeting under these Articles, the **Board** shall have power at any time and from time to time, subject to the **Statutes**, to appoint any person to be a director either to fill the casual vacancy or as an additional director, but so that the total number of directors shall not at any time exceed the maximum number fixed by these Articles. Any director so appointed shall hold office only until the next annual general meeting and shall then be eligible for re-election, but shall not be taken into account in determining either the directors or the number of directors who are to retire by rotation at such meeting.

19

GENERAL POWERS OF DIRECTORS

- 19.1 The business of the Company shall be managed by the **Board**, which may exercise all such powers of the Company as are not by the statutes or by these Articles required to be exercised by the Company in general meeting, subject nevertheless to these **Articles**, to the provisions of the **Statutes** and to such resolutions (being not inconsistent with the aforesaid articles of provisions) as may be passed by the Company in general meeting; but no resolution so passed by the Company shall invalidate any prior act of the **Board** which would have been valid if such resolution had not been passed. The general powers given by this article shall not be limited or restricted by any special authority or power given to the **Board** by any other article. In exercising all such powers as aforesaid, however, the **Board** shall conform to any **Board** charter which may from time to time be imposed by the Company's holding company.
- 19.2 No director shall enter into any of the following transactions on behalf of the Company without the prior approval of a resolution passed by the **Board** in terms of these Articles (in respect of which resolution the directors appointed by the

Company's holding company and included in the quorum or comprising the quorum, as the case may be, have voted in favour):

- 19.2.1 the acquisition of any shares, debentures or other securities and/or the disposal of any shares, debentures or other securities of the Company;
- 19.2.2 the acquiring and/or establishing of any other business or company;
- 19.2.3 the disposal and/or transfer of the whole or a substantial part of the business of the Company;
- 19.2.4 the merging or amalgamating of the business of the Company with any other business;
- 19.2.5 the material expansion or diversification of the business activities of the Company;
- 19.2.6 the incurring of any capital expenditure other than that which may have been approved in the Company's relevant operating budget;
- 19.2.7 the mortgaging, pledging or encumbering, in any manner whatsoever, of any of the Company's movable, immovable, corporeal or incorporeal assets;
- 19.2.8 the incurring of any borrowings other than short-term loans and overdraft facilities incurred in the ordinary course of the Company's business;
- 19.2.9 the guaranteeing of any obligation of any subsidiary company or branch of the Company's business in favour of any person;
- 19.2.10 the adopting of any IT or other system or process that entails a shift in the Company's relevant IT or other policy or strategy;

- 19.2.11 the entering into of any material contract or the conclusion of any material transaction.
- 19.3 Any person contracting with the Company in respect of any of the aforesaid transactions shall be entitled to request and receive from the Company a copy of the relevant resolution passed by the **Board**, certified as a true copy in terms of these Articles.
- 19.4 It is hereby declared pursuant to the provisions of the **Statutes** that although the **Board** shall have power to enter into a provisional contract for the sale or alienation of the undertaking of the Company, or the whole or the greater part of the assets of the Company, such provisional contract shall only become binding on the Company in the event of the specific transaction proposed by the **Board** being ratified and confirmed by **a special resolution passed by** the Company in general meeting.
- 19.5 The **Board** may establish any divisional, departmental, regional or local boards, managing committees or agencies for managing or advising on any of the affairs of the Company, either in the Republic or elsewhere and may appoint any persons (whether being directors or not) to be members of such boards or committees and may appoint any such persons as aforesaid to be regional directors, local directors, managers or agents, and may fix the remuneration of any persons so appointed, and may delegate to any such board, managing committee, regional director, local director, manager or agent any of the powers, authorities and discretions vested in the **Board** with power to sub-delegate, and may authorise the member of any such boards or managing committees, or any of them, to fill any vacancies therein, and to act notwithstanding vacancies, and any such appointment or delegation may be made upon such terms and subject to such conditions as the **Board** may think fit, and the **Board** may remove any person so appointed, and may annul or vary any such delegation, but no person dealing in good faith and without notice of any such annulment or variation shall be affected thereby.
- 19.6 The **Board** may from time to time and at any time by power of attorney or otherwise appoint any company, firm, or person or any fluctuating body of persons, whether nominated directly or indirectly by the **Board**, to be the legal practitioner or legal

practitioners of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the **Board** under these Articles) and for such period and subject to such conditions as it may think fit, and any such power of attorney may contain such provisions for the protection and convenience of persons dealing with any such legal practitioners as the **Board** may think fit and may also authorise any such legal practitioner to delegate all or any of the powers, authorities and discretions vested to him.

19.7 Subject to and to the extent permitted by the **Statutes**, the **Board** may cause to be kept in any country outside the Republic a branch register of members resident in such country and the **Board** may make and vary such regulations as it may think fit respecting the keeping of any such register.

19.8 The **Board** may in its discretion borrow or raise from time to time such amounts as it deems fit for the Company's purposes: provided that it will be obliged to procure (and as regards any subsidiaries of the Company, only insofar as by the exercise of voting and other rights or powers of control exercisable by it the **Board** can so procure) that the aggregate principal amount at any one time outstanding in respect of monies so borrowed or raised by –

19.8.1 the Company; and/or

19.8.2 all its subsidiaries for the time being,

shall not without the previous written approval of the Company's holding company, which shall be in accordance with any directive from the FirstRand Banking Group, exceed the amount for the time being authorised to be borrowed or secured in the aggregate by the directors of the Company's ultimate holding company and all the subsidiaries for the time being of such ultimate holding company. For the purposes of this Article, the expression "ultimate holding company" means the body corporate listed or quoted on the JSE Securities Exchange, South Africa, of which the Company is a subsidiary, but which itself is not a subsidiary. Nevertheless, no lender or other person dealing with the Company shall be concerned to see or enquire whether this limit has been observed.

- 19.9 For the purposes of the aforesaid provisions, "borrowing" will not include-
- 19.9.1 monies borrowed or raised by or deposited with or any undertaking, guarantee or suretyship given in the course of its business by the Company or any subsidiary of the Company while registered as a banking institution or bank under any law of the Republic or of any country outside of the Republic;
 - 19.9.2 monies borrowed or raised by the Company from any of its subsidiaries or its holding company or by any of the Company's subsidiaries from it or its holding company or any other subsidiary of its holding company;
 - 19.9.3 such proportion of borrowings of a partly owned subsidiary as represent the minority interest.
- 19.10 Approval will not be required for the borrowing of any monies intended to be applied and which are actually applied within ninety days to the repayment (with or without any premium) of any monies then already borrowed and outstanding, notwithstanding the fact that that new borrowing may result, as at the date thereof, in the aforesaid limit being exceeded.
- 19.11 However, the directors shall restrict the borrowings of the **Company** and exercise all voting and other rights and powers of control exercisable by the **Company** in relation to its subsidiaries, if any, so as to ensure (as regards subsidiaries, so far as by such exercise they can ensure) that, without the previous sanction of a general meeting, the aggregate amount at any one time owing by the company and its subsidiaries if any, in respect of monies borrowed by it or them or any of them (otherwise than from each other) shall not exceed the aggregate of:
- 19.11.1 the issued and paid-up capital of the **Company**; and

19.11.2 the amounts standing to the credit of all distributable and non-distributable reserve accounts, including share premium account and share capital redemption reserve fund, but excluding:

19.11.2.1 any provision for taxation;

19.11.2.2 any reserve created by the writing up of any assets of the **Company** after the acquisition of such assets by the **Company**; and

19.11.2.3 any reserve created by the writing up of any asset of any subsidiary of the **Company** after the date on which such subsidiary became a subsidiary of the **Company**,

19.11.3 all as set out in the latest audited balance sheet of the **Company** or in the latest consolidated balance sheet of the **Company** and its subsidiaries, as the case may be adjusted by:

19.11.3.1 the addition thereto of share capital and share premium attributable to the issue of shares by the **Company**;

19.11.3.2 the deduction therefrom of the amount of any reduction of share capital, share premium account or share capital redemption reserve fund (otherwise than by transfer to a reserve);

that may have taken place after the date as at which that balance sheet was prepared.

19.12 Notwithstanding the provisions of Article 19.11:

19.12.1 no sanction shall be required to the borrowing of any monies intended to be applied and actually applied within ninety days in the payment, with or without any premium of any monies then already borrowed and

outstanding, and / or interest thereon, and notwithstanding that the new borrowing may result in the limit in Article 19.11 being exceeded;

19.12.2 no debt incurred or security given in breach of the provisions of Article 19.11 shall be invalid or ineffectual except in the case of express notice to the lender or the recipient of the security at the time when the debt was incurred or security given to the effect that the provisions of Article 19.11 had been or were thereby breached.

20.

PROCEEDINGS OF DIRECTORS

- 20.1 The **Board** may meet together for the despatch of business, adjourn and otherwise regulate its meetings as it thinks fit. Questions arising at any meeting shall be determined by majority of votes, and in case of an equality of votes the **Chairperson** of the meeting shall have a second or casting vote. The **Chairperson** or any two directors may, and the secretary on the requisition of the **Chairperson** or any two directors shall, at any time summon a meeting of the **Board**. It shall not be necessary to give notice of a meeting of the **Board** to any director for the time being absent from the Republic but notice shall be given to his duly appointed alternate director who may at the time be within the Republic.
- 20.2 At the request of any Director, a meeting of the Directors may be held by means of such telephone or other conference facility or electronic medium as permits all persons participating in the meeting to communicate with each other simultaneously and instantaneously. A Director or alternate Director who attends a meeting of the Directors by telephone or other conference facility shall be deemed to be personally present at such meeting for all purposes of these articles and shall be counted in the quorum accordingly.
- 20.3 The quorum necessary for the transaction of the business of the **Board** shall be **a simple majority, ie a minimum of 50%** of the directors appointed at any one time, plus one (if that is an even number) or rounded up to the nearest whole number (if that is an odd number).

- 20.4 A director of the Company shall at the commencement of every **Board** meeting disclose his interest in contracts with the Company in accordance with Sections **242** to **249** inclusive of the Act and of Section 41(12) of the Banking Institutions Act **2 of** 1998 or any amendments thereof.
- 20.5 A director shall not vote in respect of any contract or arrangement in which he is interested (and if he shall do so his vote shall not be counted) nor shall he be counted for the purposes of any resolution regarding the same in the quorum present at the meeting.
- 20.6 The continuing directors may act notwithstanding any vacancies in their body, but if and so long as the number of directors is reduced below the minimum number fixed by these Articles as the quorum of directors the continuing directors may act for the purpose of summoning general meetings of the Company, but not for any other purpose. If there be no directors or director able or willing to act, then any two members may summon a general meeting for the purpose of appointing directors.
- 20.7 The **Board** shall elect from its own number a **Chairperson** and may elect a **Deputy-Chairperson. The Chairperson shall be an independent non-executive director and may not be the Chief Executive Officer.** All such officers shall hold office till the first **Board** meeting in the calendar year following their election but they shall then be eligible for re-election. Any casual vacancy in the office of **Chairperson** or **Deputy-Chairperson** may be filled up by the **Board** for the remainder of the current year.
- 20.8 The **Chairperson** shall preside at all meetings of the **Board**, but if at any time there is no **Chairperson** or if at any meeting the **Chairperson** be not present, the deputy **Chairperson** shall preside. In the event that there be no **Chairperson** or deputy **Chairperson** or if neither of them is present within **fifteen** minutes from the time appointed for holding the meeting, then the directors present shall choose one of the vice chairmen, or failing any vice chairmen, one of their own number to be **Chairperson** of the meeting.

- 20.9 A resolution in writing signed by all the directors for the time being in the Republic and being not less than are sufficient to form a quorum shall be valid and effectual as if it had been passed at a meeting of the **Board** duly convened and constituted and such resolution may consist of several documents in like form each signed by one or more directors: provided that where a director, who is not then present, has an alternate who is so present, then such resolution must be signed by such alternate. Provided also that such resolution be duly entered in the **Board** minutes book.
- 20.10 The **Board** may delegate all or any of its powers to any committee or committees as it may think fit including the power to sub-delegate. Such committee or committees shall include but not be limited to, an Audit Committee, Remuneration Committee and Senior Risk Committee. Any such committee may consist of one or more members of the **Board**, and the **Board** shall also be entitled to appoint such other person or persons as it considers expedient to a committee but so that the majority at least of the members of any such committee shall consist of directors appointed by the Company. Any committee so formed shall in the exercise of the powers so delegated conform to any regulations or charters which may from time to time be imposed by the **Board**. The **Board** may at any time dissolve, or revoke any delegation made to any committee established under this article.
- 20.11 The meetings and proceedings of any such committee consisting of two or more **committee** members shall be governed by the provisions of these Articles regulating the meetings and proceedings of the **Board**, so far as the same are applicable and are not superseded by any regulations or charters made by the **Board** under the last preceding article.
- 20.12 All acts done by any meeting of the **Board**, or of a committee of the **Board**, or by any person acting as a director, shall as regards all persons dealing in good faith with the Company, notwithstanding that there was some defect in the appointment or continuance in office of any member of the **Board** or such committee or person acting as aforesaid, or that they or any of them were disqualified or had vacated office, or were not entitled to vote, be as valid as if every such person had been duly appointed and was qualified and had continued to be a director or a member or

such committee and had been entitled to vote. In terms of Section 42 of the Banking Institutions Act 2 of 1998, the **Board** of directors shall establish an audit committee with such powers, duties and functions as the **Board** of directors may from time to time specify.

21.

DISQUALIFICATION OF DIRECTORS

- 21.1 Without prejudice to the provisions for retirement by rotation or otherwise herein contained, the office of a director shall *ipso facto* be vacated upon the happening of any of the following events, namely –
- 21.1.1 if he shall become prohibited by law from acting as a director;
 - 21.1.2 if he shall resign by writing under his hand left at the office of if he shall tender his resignation and the **Board** shall resolve to accept the same;
 - 21.1.3 if he shall become insolvent, or assign his estate for the benefit of his creditors or suspend payment or file a petition for the liquidation of his affairs, or compromise with his creditors;
 - 21.1.4 if he shall become of unsound mind;
 - 21.1.5 if any executive director be absent from meetings of the **Board** for a continuous period of six months without special leave from the **Board**, and is not represented at any such meetings by an alternate, and the **Board** resolves that the office be vacated: provided that the **Board** may grant to any director not resident in the Republic leave of absence for any or an indefinite period;
 - 21.1.6 if he is removed from office by a resolution of the **Board** in favour of which at least two-thirds of the total number of directors for the time being shall have voted.

- 21.2 If a non-executive director has failed to attend at least seventy five percent of the **Board** meetings of the Company in any one year, the suitability or not of that non-executive director continuing in office shall be reviewed at the AGM of the Company. However, a non-executive director who has failed to attend seventy five percent of such **Board** meetings for two consecutive years without valid reasons shall be discharged, however subject to any rights he may have in the Act.
- 21.3 Notwithstanding any contrary provision contained in these Articles, the office of a director may be vacated at the close of the Annual General Meeting of the Company relating to the financial year of the Company in which the director reaches the age of 70 (seventy) years, but is subject to the discretion and review by the Board.

22.

PENSIONS, ALLOWANCES AND DONATIONS

- 22.1 Subject to the statutes and such directions which may be given by the Company in general meeting from time to time –
- 22.1.1 the **Board** may grant pensions, bonuses, gratuities, benefits and allowances to any persons who are or have been directors of the Company and who may hold or have held any executive office or who are or have been employees of the Company or of any subsidiary of the Company or of its holding company, if any, and to the wives, widows and dependants of such persons, and may establish and contribute to any scheme, fund, insurance, trust in respect of any such persons and may continue any such existing scheme, fund, insurance or trust;
- 22.1.2 The **Board** may authorise the payment of such donations by the Company to such charitable, public or other bodies or associations or persons as may seem to them desirable in the interests of the Company.

23.

SECRETARY

- 23.1 The secretary shall be appointed by the **Board** on such terms and for such period as it may think fit. Any secretary so appointed may at any time be removed from office by the **Board**, but without prejudice to any claim for damages for breach of any contract of service between him and the Company.
- 23.2 The **Board** may from time to time appoint any person or persons to the office of deputy or assistant secretary, and the foregoing provisions of this article shall mutatis mutandis apply in relation to each such office.

24.

THE SEAL

- 24.1 The Company may be provided with a common seal on which its name shall be engraved in legible characters, and the Company may from time to time exercise the powers given by the statutes with respect to official seals in foreign countries, and such powers shall be vested in the **Board**.
- 24.2 The common seal of the Company shall not be affixed to any instrument except by the authority of a resolution of the **Board** or of a committee of the **Board**, and one director and the secretary or such other person as the directors may appoint for the purpose, shall sign every instrument to which the seal of the Company is so affixed.
- 24.3 Every instrument so signed, shall be binding on the Company.

25.

AUTHENTICATION OF DOCUMENTS

- 25.1 Subject to the provisions of the **Statutes**, any director or the secretary or any person appointed by the **Board** for the purpose shall have power to authenticate any documents affecting the constitution of the Company and any resolution passed by the Company or the **Board** or any committee of the **Board**, and any books,

records, documents and accounts relating to the business of the Company, and to certify copies thereof or extracts therefrom as true copies or extracts; and where any books, records, documents or accounts are elsewhere than at the office, the local manager or other officer of the Company having the custody thereof shall be deemed to be a person appointed by the **Board** as aforesaid.

- 25.2 A document purporting to be a copy of a resolution, or an extract from the minutes of a meeting of the Company or of the **Board** or any committee of the **Board** which is certified as aforesaid shall be conclusive evidence in favour of all persons dealing with the Company upon the faith thereof that such resolution has been duly passed, or as the case may be, that such minute or extract is a true and accurate record of proceedings at a duly constituted meeting.

26.

DIVIDENDS

- 26.1** The Board may by ordinary resolution declare and pay dividends to the members according to their rights and interests in the profits if it reasonably appears that the company will satisfy the solvency and liquidity test immediately after completing the proposed payment and meet its legal obligations including the provisions of the Banking Institutions Act with respect to liquidity; and the **Board** of the **Company**, by resolution, has acknowledged that it has applied the solvency and liquidity test, and reasonably concluded that the **Company** will satisfy the solvency and liquidity test immediately after completing the proposed payment; **provided that:**

26.1.1 a period of not less than fourteen days shall be allowed between the date of the declaration or confirmation of the dividend, whichever is the later, and the closing of the transfer register in respect of such dividend; and

26.1.2 the last day for members to be registered shall be a Friday and if the Friday is not a business day, then the last day to register shall be the preceding business day.

- 26.2 The **Company** may transmit any dividend or the amount payable in respect of a

share by ordinary post to the address of the holder thereof recorded in the **Register** or such other address as the holder thereof may previously have given to the company in writing, and the **Company** shall not be responsible for any loss in transmission.

26.3 Any dividend payable on or in respect of a share:

26.3.1 which is unclaimed, may be retained by the **Company** and may be invested or used as the directors may deem fit for the benefit of the **Company** until claimed by the member concerned;

26.3.2 which is retained and unclaimed:

26.3.2.1 for twelve years; or

26.3.2.2 for three years, should the **Company** be wound up or deregistered,

after the payment date of the dividend in question, shall be forfeited and revert to the **Company** or its assigns and may be dealt with by the directors or such assigns as they deem fit;

26.3.3 shall not bear interest against the **Company**.

26.4 Any monies other than dividends due to shareholders shall be held in trust by the **Company** indefinitely or until lawfully claimed by the shareholders; and the **Company** shall, for the purpose of facilitating its winding up or deregistration, or the reduction of its share capital, any share premium account or capital redemption reserve fund, be entitled by special resolution to delegate to any bank, registered as such in accordance with the laws of the Republic of Namibia, the liability for payment of any such dividend, payment of which has not been forfeited in terms of the foregoing or other monies held in trust as aforesaid.

27.

RESERVES

27.1 The directors may:

- 27.1.1 set aside and carry to a reserve account any part of the profits of the **Company** which may at their discretion be applied for any purpose for which the profits of the **Company** may properly be applied in such manner as the directors deem fit;
- 27.1.2 divide any such reserve account into such special accounts as they deem fit and consolidate such special accounts (or any part thereof) into one or more accounts.

28.

CAPITALISATION

28.1 The directors, subject to the provisions of the Act, or a general meeting, on recommendation of the directors, may resolve to capitalise the whole or any part of:

- 28.1.1 any amount available for distribution as a dividend and not required for the payment or provision of dividends on preference shares;
- 28.1.2 any amount standing to the credit of any of the **Company** reserve accounts (including its share premium account or capital redemption reserve fund);

by applying such amount in paying up in full unissued shares of the **Company**, to be issued to the members in the same proportions as if those shares had constituted a dividend declared by the **Company**.

29.

MINUTES AND BOOKS

29.1 The **Board** shall cause minutes to be made in books to be provided for the purpose—

29.1.1 of all appointments of officers made by the **Board**;

29.1.2 of the names of the directors present at each meeting of the **Board**;

29.1.3 of all resolutions and proceedings at all meetings of the Company and of any class of member of the Company and of the **Board**, and including all written resolutions of directors in accordance with the provisions of Article **20.9**;

29.1.4 of any decision relating to any of the matters provided for in Section 41(10) and (12) of the Banking Institutions Act **2 of** 1998 in so far as they relate to First National Bank Ltd;

and record shall be kept of every director present at any meeting of the **Board** or a committee of the **Board** in whatever practical way.

29.2 Any register, index, minute book, book of account or other book required by these Articles or the **Statutes** to be kept by or on behalf of the Company may be kept either by making entries in bound books or by recording them in any other manner. In any case in which bound books are not used, the **Board** shall take adequate precautions for guarding against falsification and for facilitating its discovery.

30.

ACCOUNTING RECORDS AND MATTERS ANCILLARY THERETO

30.1 The directors shall cause such accounting records as are prescribed by Section **292** of the Act to be kept. Proper accounting records shall be deemed to be kept if they are kept as are necessary to fairly present the state of affairs and business of the

- Company** and to explain the transactions and financial position of the trade or business of the **Company**.
- 30.2 The accounting records shall be kept at the registered office of the **Company** or at such other place or places as the directors think fit, and shall always be open to inspection by the directors.
- 30.3 The directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounting records of the **Company** or any of them shall be open to inspection by members not being directors, and no member (not being a director) shall have any right of inspecting any accounting records or documents of the **Company** except as conferred by the Act or authorised by the directors or by the **Company** in a general meeting.
- 30.4 The directors shall from time to time, in accordance with Sections **294** and **296** of the Act, cause to be prepared and laid before the **Company** in a general meeting such annual financial statements, group annual financial statements and group reports (if any) as referred to in those sections.
- 30.5 The directors shall, in accordance with Section **310** of the Act, prepare or cause to be prepared an interim report, a copy of which shall be sent to every member of the **Company** and to the Registrar.
- 30.6 If the **Company** is a holding company, as defined in the Act, the directors' report attached to the annual financial statements issued by the **Company** pursuant to the Act shall disclose full particulars of all special resolutions and resolutions passed at general meetings (excluding annual general meetings) of the **Company's** subsidiaries since the date of the directors' report attached to the previous annual financial statements of the **Company**.
- 30.7 The directors shall cause the required number of copies of the financial statements of the **Company** and if the **Company** has subsidiaries, of the group financial statements of the **Company** and its subsidiaries, together with reports of the

auditors, all as required to be laid before a general meeting, to be sent to members at least twenty-one days before the general meeting at which they are to be considered, and also to any recognised stock exchange on which any shares of the **Company** are for the time being listed, in accordance with the requirements of the NSX.

31.

AUDITORS

Notwithstanding anything to the contrary contained in the Act, the Company shall annually appoint an auditor.

32.

NOTICES

32.1 Any notice of any nature whatsoever as opposed to "notices of general meetings" shall be sent in writing to all registered members.

32.2 Notice by advertisement shall be published in two newspapers circulating in Windhoek and Walvis Bay.

32.3 Notices of general meetings shall be sent in writing to all registered members with 21 clear days' notice. Subject to the provisions of these **Articles**, any notice shall be in writing and shall be given or served by the **Company** upon any member or director either by delivery or by sending it through the post, properly addressed to:

32.3.1 a member at his address shown in the register of members;

32.3.2 a director at his postal address shown in the directors' register;

and any such notice to members shall simultaneously be given to the Manager (Listings) of the NSX in accordance with the requirements of the NSX.

32.4 A member may by notice require the **Company** to record an address within the Republic of Namibia, which shall be deemed to be his address for the purpose of

service of notices.

- 32.5 Every such notice shall be deemed, until the contrary is proved, to have been received:
- 32.5.1 if it is delivered, on the date on which it is so delivered;
- 32.5.2 if it is sent by post, on the date on which it would normally be received in the ordinary course of business of the post office.
- 32.6 When given a number of days' notice or notice over any period is required to be given, the date on which it is deemed to be received shall not be counted in such number of days or period.
- 32.7 The omission to give notice of a general meeting or of a meeting of directors to or the non-receipt of, or delay in transmission through the post of, any such notice by or to any member or director, as the case may be, shall not invalidate any resolution passed at any such meeting.

33.

WINDING UP

- 33.1 If the **Company** is wound up, whether voluntarily or compulsorily:
- 33.1.1 the assets remaining after payment of the liabilities of the **Company** and the costs of winding up shall be distributed amongst the members in proportion to the number of shares respectively held by them, subject to the rights of any members to whom shares have been issued on special conditions and subject to the **Company's** right to apply set-off against the liability, if any, of members for unpaid capital or premium;
- 33.1.2 the liquidator, with the authority of a special resolution, may divide amongst the members *in specie* or kind the whole or any part of the assets and whether or not those assets consist of property of one kind or different

kinds.

34.

INDEMNITY

Every director, alternate director, manager, secretary and other officer of the **Company** and any person employed by the company as its auditor shall be indemnified out of the **Company's** funds against all liability incurred by him in defending any proceedings (whether civil or criminal) arising out of any actual or alleged negligence, default, breach of trust on his part in relation to the **Company** in which judgement is given in his favour or in which he is acquitted or in connection with any matter in which relief is granted to him by the court in terms of the Act.