



## **Bank Windhoek Limited**

*(Incorporated with limited liability under registration number 79/081 in the Republic of Namibia)*

### **N\$ 1,000,000,000 Domestic Medium Term Note Programme ("Programme Memorandum")**

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**Distribution of this Programme Memorandum is restricted and limited only to the persons to whom it has been forwarded ("the addressees"). It may not be copied, disclosed, disseminated or otherwise distributed to other persons. Information included herein constitutes private and confidential information of the Issuer (as herein defined). Should any addressee decline to make an offer and to subscribe for Notes under any accompanying Applicable Pricing Supplement (as herein defined), this document and all accompanying documents must be returned to the Issuer forthwith, without any copies having been made. Secondary trades in Notes listed on the NSX under the Programme may, however, be undertaken without restriction, and upon listing the notes this Programme Memorandum constitutes a public document and is open for secondary market trades.**

Under this N\$1,000,000,000 Domestic Medium Term Note Programme ("the Programme Memorandum") Bank Windhoek Limited ("the Issuer"), may from time to time issue notes ("the Notes"), subject to the terms and conditions ("Terms and Conditions") contained in this Programme Memorandum. Any other terms and conditions not contained in the Terms and Conditions that are applicable to any Notes, replacing or modifying the Terms and Conditions, will be set forth in a pricing supplement (the "Applicable Pricing Supplement"). Save as set out herein, the Notes will not be subject to any maximum or minimum maturity. The maximum aggregate nominal amount of all Notes from time to time outstanding will not exceed N\$1,000,000,000.

Application will be made for this Programme to be approved by the Namibian Stock Exchange ("the NSX") or its successor, or such other or further exchange as may be determined by the Issuer and the relevant authority and subject to the applicable ruling laws. Application may be made for the Notes to be issued under this Programme to be listed on the NSX or its successor, or such other or further exchange as may be determined by the Issuer and the relevant authority and subject to the applicable ruling laws. Notice of the aggregate Nominal Amount of Notes, (as herein defined), interest (if any) payable in respect of Notes, the issue price of Notes and any other terms and conditions not contained herein which are applicable to each Tranche (as defined under "Terms and Conditions") of Notes will be set forth in the Applicable Pricing Supplement which will be delivered to the NSX (as defined under "Form of Notes") on or before the date of issue of such Notes and the Notes may then be traded by or through members of the NSX from the date specified in the Applicable Pricing Supplement. The Issuer may determine that particular Notes will not be listed on the NSX or any other exchange and in that case, the Applicable Pricing Supplement will also be delivered to the NSX.

The Notes may be issued on a continuing basis and be placed by one or more of the Dealers specified under "Summary of Programme" and any additional Dealer appointed from time to time, which appointment may be for a specific issue or on an ongoing basis. The Dealer or Dealers with whom the Issuer agrees or proposes to agree on the issue of any Notes is or are referred to as "the relevant Dealer(s)" in respect of those Notes.

This Programme has, as at the date of this Programme Memorandum, not been rated by any rating agency, however, the Issuer may at any time obtain a rating from a rating agency for the Programme or any issue of Notes issued pursuant to the terms of this Programme. The Issuer may agree with any Dealer that Notes may be issued in a form not contemplated by the Terms and Conditions herein contained, in which case a supplementary Programme Memorandum, if appropriate, will be made available which will describe the effect of the agreement reached in relation to such Notes.

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#### ***Arranger and Dealer***

Bank Windhoek Limited

#### ***Sponsor***

IJG Securities (Proprietary) Limited  
(Member of the NSX)

***Programme Memorandum dated 28 June 2010***

*The Issuer accepts responsibility for the information contained in this Programme Memorandum. To the best of the knowledge and belief of the Issuer the information contained in this Programme Memorandum is in accordance with the facts and does not omit anything likely to affect the import of such information.*

*The Issuer, having made all reasonable enquiries, confirms that this Programme Memorandum contains or incorporates all information which is material in the context of the issue and the offering of Notes, that the information contained or incorporated in this Programme Memorandum is true and accurate in all material respects and is not misleading, that the opinions and the intentions expressed in this Programme Memorandum are honestly held and that there are no other facts the omission of which would make this Programme Memorandum or any of such information or expression of any such opinions or intentions misleading in any material respect.*

*This Programme Memorandum is to be read in conjunction with all documents which are deemed to be incorporated herein by reference (see "Documents Incorporated by Reference"). This Programme Memorandum shall be read and construed on the basis that such documents are incorporated into and form part of this Programme Memorandum.*

*The Arrangers, the Dealers and other professional advisers have not separately verified the information contained herein. Accordingly, no representation, warranty or undertaking, express or implied, is made and no responsibility is accepted by the Arrangers, the Dealers or other professional advisers as to the accuracy or completeness of the information contained in this Programme Memorandum or any other information provided by the Issuer. The Arrangers, the Dealers and other professional advisers do not accept any liability in relation to the information contained in this Programme Memorandum or any other information provided by the Issuer in connection with the Programme.*

*No person has been authorised to give any information or to make any representation not contained in or not consistent with this Programme Memorandum or any other information supplied in connection with the Programme and, if given or made, such information or representation must not be relied upon as having been authorised by the Issuer or any of the Arrangers or the Dealers.*

*Neither this Programme Memorandum nor any other information supplied in connection with the Programme is intended to provide a basis for any credit or other evaluation, or should be considered as a recommendation by the Issuer, the Arrangers or any of the Dealers that any recipient of this Programme Memorandum or any other information supplied in connection with the Programme, should subscribe for or purchase any Notes.*

*Each investor contemplating the subscription for or purchase of any Notes should make its own independent investigation of the financial condition and affairs, and its own appraisal of the creditworthiness of the Issuer. Neither this Programme Memorandum nor any other information supplied in connection with the Programme constitutes an offer or invitation by or on behalf of the Issuer, the Arrangers or any of the Dealers to any person to subscribe for or to purchase any Notes.*

*The delivery of this Programme Memorandum does not at any time imply that the information contained herein concerning the Issuer is correct at any time subsequent to the date hereof or that any other financial statements or other information supplied in connection with the Programme is correct as at any time subsequent to the date indicated in the document containing the same. The Arrangers and Dealers expressly do not undertake to review the financial condition or affairs of the Issuer during the life of the Programme. Investors should review, among others, the most recent non-consolidated and/or consolidated financial statements of the Issuer when deciding whether or not to subscribe for or purchase any Notes.*

***This Programme Memorandum does not constitute an offer to sell or the solicitation of an offer to subscribe for or buy any Notes in any jurisdiction to any person to whom it is unlawful to make the offer or solicitation in such jurisdiction.***

***The distribution of this Programme Memorandum and the offer for subscription or sale of Notes may be restricted by law in certain jurisdictions. Persons into whose possession this Programme Memorandum or any Notes come must inform themselves about, and observe any such restrictions. In particular, there are restrictions on the distribution of this Programme Memorandum and the offer or sale of Notes in the United States of America and the United Kingdom. None of the Issuer, the Arrangers, the Dealers or the other professional advisers represents that this Programme Memorandum may be lawfully distributed, or that any Notes may be lawfully offered, in compliance with any applicable registration or other requirements in any such jurisdiction, or pursuant to an exemption available thereunder, or assumes any responsibility for facilitating any such distribution or offering. In particular, no action has been taken by the Issuer, the Arrangers, the Dealers or the other professional advisers which would permit a public offering of any Notes or distribution of this document in any jurisdiction where action for that purpose is required. Accordingly, no Notes may be offered or subscribed for or sold, directly or indirectly, and neither this Programme Memorandum nor any advertisement or other offering material may be distributed or published in any jurisdiction, except under circumstances that will result in compliance with any applicable laws and regulations, and the Dealers have represented that all offers and sales by them will be made in compliance with this prohibition.***

***Notes have not been and will not be registered under the United States Securities Act of 1933 (the "Securities Act"). Notes may not be offered, subscribed for or sold or delivered within the United States of America or to U.S. persons except in accordance with Regulation S under the Securities Act.***

*Where any term is defined within the context of any particular clause or section in this Programme Memorandum, the term so defined, unless it is clear from the clause or section in question that the term so defined has limited application to the relevant clause or section, shall bear the meaning ascribed to it for all purposes in this Programme Memorandum, unless qualified by the terms and conditions of any particular Tranche of Notes (as defined in the Terms and Conditions ) as set out in the Applicable Pricing Supplement or unless the context otherwise requires. Expressions defined in this Programme Memorandum shall bear the same meanings in supplements to this Programme Memorandum which do not themselves contain their own definitions.*

*In connection with the issue and distribution of any Tranche of Notes (as defined in the Terms and Conditions), the Dealer may over-allot or effect transactions which stabilise or maintain the market price of the Notes of the Series (as defined in the Terms and Conditions) of which such Tranche forms part, at a level which might not otherwise prevail. Such stabilising shall be carried out in accordance with all applicable laws and regulations and if commenced, may be discontinued at any time.*

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## DOCUMENTS INCORPORATED BY REFERENCE

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The following documents shall be deemed to be incorporated in, and to form part of, this Programme Memorandum:

1. Each Applicable Pricing Supplement relating to a Series or Tranche of Notes issued under this Programme Memorandum;
2. the audited annual financial statements, and notes thereto, of the Issuer for the financial years ended 30 June 2007, 2008 and 2009 as well as the approved audited annual financial statements and notes thereto of the Issuer in respect of further financial years, as and when such become available;
3. the 2006 ISDA Definitions as published by the International Swaps and Derivatives Association, Inc (as amended or supplemented from time to time) as specified in the applicable Pricing Supplement;

save that any statement contained herein or in a document which is incorporated by reference herein shall be deemed to be modified or superseded for the purpose of this Programme Memorandum to the extent that a statement contained in any such subsequent document which is deemed to be incorporated by reference herein modifies or supersedes such earlier statement (whether expressly, by implication or otherwise).

In the event that any of the Notes issued under this Programme are outstanding, the Issuer will, publish a new Programme Memorandum or a further supplement to the Programme Memorandum on the occasion of any subsequent issue of Notes where there has been a material adverse change in the condition (financial or otherwise) of the Issuer which is not then reflected in the Programme Memorandum or any supplement to the Programme Memorandum or any modification of the terms of the Programme which would then make the Programme Memorandum inaccurate or misleading.

Any such new Programme Memorandum or Programme Memorandum as supplemented shall be deemed to have been substituted for this Programme Memorandum from the date of its original issue.

The Issuer will provide, free of charge, to each person to whom a copy of the Programme Memorandum has been delivered, upon request of such person, a copy of any of the documents deemed to be incorporated herein by reference, unless such documents have been modified or superseded. Requests for such documents should be directed to the Registrar at its registered office as set out herein.

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## **GENERAL DESCRIPTION OF THE PROGRAMME**

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Under the Programme the Issuer may from time to time issue Notes denominated in Namibia Dollars. The applicable terms of any Notes will be set out in the Terms and Conditions incorporated by reference into the Notes as modified and supplemented by the Applicable Pricing Supplement and any supplement to the Programme Memorandum. A summary of the Programme and Terms and Conditions is set out below.

This Programme Memorandum will only apply to Notes issued and Outstanding under the Programme in an aggregate nominal amount which does not exceed N\$1,000,000,000

From time to time, the Issuer may wish to increase the aggregate nominal amount of the Notes that may be issued under the Programme. Subject to the requirements of the NSX and/or any such other exchange or exchanges on which the Notes may be listed or in terms of any law, the Issuer may without the consent of the Noteholders, increase the aggregate nominal amount of the Notes that may be issued under the Programme by delivering a supplementary Programme Memorandum thereof to the Noteholders and the relevant exchange in accordance with Condition 16 of the Terms and Conditions. Upon such notice being given, all references in the Programme Memorandum or any other agreement, deed or document in relation to the Programme, to the aggregate nominal amount of the Notes, shall be deemed to be references to the increased aggregate nominal amount.

For the purpose of calculating the aggregate amount of Notes issued under the Programme from time to time the amount of Zero Coupon Notes (as defined under "Terms and Conditions") and other Notes issued at a discount or premium shall be calculated by reference to the net proceeds received by the Issuer for the relevant issue.

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## SUMMARY OF THE PROGRAMME

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*The following summary does not purport to be complete and is taken from, and is qualified by, the remainder of this Programme Memorandum and, in relation to the Terms and Conditions of any particular Tranche of Notes, the Applicable Pricing Supplement. Capitalised terms not separately defined herein shall bear the meaning given to them in the Terms and Conditions.*

<b>Arranger</b>	Bank Windhoek Limited; (Registration number79/081) (“Bank Windhoek”); acting through its Treasury Department.
<b>Blocked Dollars</b>	Blocked Namibia Dollars may be used for the purchase of Notes, subject to Namibian Exchange Control Regulations;
<b>Calculation Agent</b>	Bank Windhoek Limited; acting through its Treasury Department or such other person specified in the Applicable Pricing Supplement as the Calculation Agent;
<b>Currency</b>	Namibia Dollar (NAD or N\$);
<b>Dealer</b>	Bank Windhoek Limited; (Registration number79/081) (“Bank Windhoek”); acting through its Treasury Department or any Dealers as may be appointed by the Issuer, from time to time, as indicated in the Applicable Pricing Supplement, subject to the Issuers right to terminate the appointment of any Dealer;
<b>Default Interest</b>	The rate per annum, which is the aggregate of the Interest Rate plus a default margin of 2 percent for both the Floating Rate Notes and Fixed Rate Notes (including Zero Coupon Notes) and which applies with effect from the day following the Redemption Date where Redemption has not occurred on or before the Redemption Date.
<b>Denomination of Notes</b>	Notes will be issued in such denominations as may be indicated in the Applicable Pricing Supplement;
<b>Description of Programme</b>	Bank Windhoek N\$1,000,000,000 Domestic Medium Term Note Programme;
<b>Distribution</b>	Notes may be offered by way of private placement or any other means permitted by law and in each case on a syndicated or non-syndicated basis as determined by the Issuer and reflected in the Applicable Pricing Supplement;
<b>Event of Default</b>	an event of default by the Issuer as set out in Condition 12
<b>Extraordinary Resolution</b>	a resolution passed at a meeting (duly convened) of the relevant Class of Noteholders by a majority consisting of not less than 75% of the Nominal Amount of the Notes Outstanding, present in person or by proxy or through a Representative voting thereat upon a show of hands or if a poll be duly demanded then by a majority consisting of not less than 75% of the votes given on such poll;

<b>Form of Notes</b>	The Notes will be issued in the form of registered notes as described in “Form of the Notes” below, with each tranche of note evidenced by an Individual Certificate, which shall be registered in the name of the registered holder thereof. The Notes may not be issued in bearer form;
<b>Governing Law</b>	The Notes will be governed by, and construed in accordance with the laws of the Republic of Namibia;
<b>Interest on Notes</b>	The Issuer may offer Notes in the form of fixed rate, floating rate and zero coupon notes as indicated in the Applicable Pricing supplement;
<b>Interest Period(s) or Interest Payment Dates(s)</b>	Such period(s) or date(s) as specified or indicated in the Applicable Pricing Supplement;
<b>Issue Price</b>	Notes will be issued on a fully paid basis and at their nominal amount or at a discount or premium to their Nominal Amount as specified in the Applicable Pricing Supplement;
<b>Issuer</b>	Bank Windhoek Limited (Registration number 79/081), a public company incorporated in the Republic of Namibia, and a registered banking institution in terms of the Banking Institutions Act with its principal place of business and registered address situated at 6 <sup>th</sup> Floor, CIH House, Kasino Street, Windhoek, Namibia;
<b>Listing</b>	The Programme has been approved by the NSX. Notes issued under the Programme may be listed on the NSX (or on a successor exchange to the NSX or such other or further exchange or exchanges as may be selected by the Issuer in relation to such issue provided that such listing has been approved by such other or further exchange or exchanges). Unlisted notes may also be issued under the Programme in which case the Certificate(s) will be endorsed as such. The applicable Pricing Supplement will indicate whether the Notes are to be listed or not;
<b>Maturity of Notes</b>	Such maturity as may be indicated in the Applicable Pricing Supplement. The Notes are not subject to any minimum or maximum maturity.
<b>Method of Issue</b>	Notes issued under the Programme may be issued pursuant to this Programme Memorandum and the Applicable Pricing Supplement prepared in connection with a particular Tranche of Notes.  For a Tranche of Notes the terms of its Applicable Pricing Supplement will for the purposes of that Tranche only, complete, amend and/or replace the Terms and Conditions of the Notes to the extent described in the relevant Applicable Pricing Supplement and this Programme Memorandum and must be read in conjunction therewith.  Notes may be distributed by way of private or syndicated placements.  The Issuer may issue Notes in Series. Notes comprised in a Series shall have identical terms (save for the Issue Date, the Interest Commencement Date and/or the Issue Price). The Issuer reserves the right from time to time without the consent of the Noteholders to issue additional notes of any Series issued by itself with identical terms, so that the same shall be consolidated, form a single series with and increase the aggregate principal amount of the respective Series (subject, however, to any

limitation to this right as may be set out in the Applicable Pricing Supplement).

<b>Negative Pledge (Senior Notes)</b>	The Negative Pledge granted by the Issuer under Condition 22 of the Terms and Conditions
<b>Notes</b>	Notes issued by the Issuer under the Programme;
<b>Noteholder(s)</b>	The holders of the Registered Notes (as recorded in the Register);
<b>Paying Agent</b>	Bank Windhoek, acting through its Treasury Department, unless the Issuer elects to appoint, in relation to a particular Tranche or Series of Notes, another entity as Paying Agent, in which event that other entity shall act as Paying Agent in respect of that Tranche or Series of Notes, as indicated in the Applicable Pricing Supplement;
<b>Rating</b>	<p>As at the date of this Programme Memorandum, the Notes to be issued under this Programme are not rated by any rating agency. The Issuer may however at any time obtain a rating by a rating agency of any issue of Notes issued pursuant to this Programme, in which case such rating will be indicated in the Applicable Pricing Supplement. Tranches of Notes issued under the Programme may be rated or unrated. Investors should understand that a rating is not a recommendation to buy, sell or hold any Notes, that it may be subject to revision or withdrawal at any time by the assigning rating organisation, and that each rating should be evaluated independently of any other;</p>
<b>Redemption</b>	Notes can be redeemed as stipulated in the Applicable Pricing Supplement read together with Condition 9 of the Terms and Conditions;
<b>Register</b>	The register of Noteholders maintained by the Registrar in accordance with the Terms and Conditions. Listed and unlisted Notes will be issued in registered form. The Register of Notes (each Note represented by a Note Certificate) will be held and updated by the Registrar, who shall record each Series and Tranche of Notes, the number of Notes in each Series and Tranche, the number of Notes in each Series and Tranche held by each Noteholder and the name(s) and addresses and bank account details of each Noteholder. Subject to Condition 4 of the Terms and Conditions, the Issuer shall regard the Register as the conclusive record of title to the Notes.
<b>Registrar</b>	Bank Windhoek, Global Investment and Transactional Services Division, or such other person specified in the Applicable Pricing Supplement as the Registrar, will act as Registrar and will maintain the Register and handle all transfers of notes;
<b>Selling Restrictions</b>	These are selling restrictions as may be required to be met in relation to an offering or sale of a particular Tranche of Notes which may be included in the Applicable Pricing Supplement;
<b>Settlement Agent</b>	Bank Windhoek, Global Investment and Transactional Services Division, or such other person/entity as specified in the Applicable Pricing Supplement as the Settlement Agent and approved by the NSX in terms of

the rules of the NSX to perform the net settlement of both funds and scrip on behalf of market participants;

<b>Settlement</b>	Each Tranche of Notes which is listed on the NSX will be issued, cleared and settled in accordance with the rules and settlement procedures for the time being of the NSX. Notes not listed on the NSX will be settled via the settlement agent.
<b>Size of Programme</b>	Up to a nominal value of N\$1,000,000,000 outstanding at any time, subject thereto that the Issuer may in accordance with any applicable laws and/or requirements of the and/or any such other Exchange or Exchanges on which the Notes may be listed, without the consent of Noteholders, increase the amount of the Notes that may be issued under the Programme by delivering a notice thereof to Noteholders and the relevant exchange in accordance with Condition 16 of the Terms and Conditions. Upon such notice being given, all references in the Programme Memorandum or any other agreement, deed or document in relation to the Programme, to the aggregate nominal amount of the Notes, shall be and shall be deemed to be references to the increased aggregate nominal amount.
<b>Sponsor</b>	IJG Securities (Pty) Limited, member of the NSX, or such person/entity as specified in the Applicable Pricing Supplement as Sponsor
<b>Stamp Duty</b>	Stamp Duty will be payable on the Notes, if applicable, in terms of the provisions of the <i>Stamp Duty Act 15 of 1993</i> as applicable in the Republic of Namibia from time to time;
<b>Status and Characteristics of Senior Notes</b>	Unless otherwise specified in the Applicable Pricing Supplement, the Senior Notes will constitute direct, unconditional, unsubordinated and unsecured obligations of the Issuer and will rank <i>pari passu</i> among themselves and (save for certain debts required to be preferred by law) equally with all other unsecured obligations (other than subordinated obligations, if any) of the Issuer from time to time outstanding. Notes issued with the status set out in Condition 5; and being subject to those set out in Condition 22.
<b>Status and Characteristics of Subordinated Notes</b>	Unless otherwise specified in the Applicable Pricing Supplement, the Subordinated Notes will constitute direct, unconditional, unsecured and subordinated obligations of the Issuer and will rank <i>pari passu</i> among themselves and will rank at least <i>pari passu</i> with all other present and future unsecured and subordinated obligations of the Issuer, save for those that have been accorded preferential rights by law. Subject to applicable law, in the event of the dissolution of the Issuer or if the Issuer is placed into liquidation or wound up, the claims of the persons entitled to be paid amounts due in respect of the Subordinated Notes, shall be subordinated to all other claims in respect of any other indebtedness of the Issuer except for other Subordinated Indebtedness (as defined below). Accordingly, in any such event and provided as aforesaid, no amount shall be eligible for set-off or shall be payable to any or all the persons entitled to be paid amounts due in respect of the Subordinated Notes until all other indebtedness of the Issuer which is admissible in any such dissolution, liquidation or winding-up (other than Subordinated Indebtedness) has been paid or discharged in full. Notes issued with the status set out in Condition 6

**Subordinated  
Indebtedness**

Any indebtedness of the Issuer, including any guarantee by the Issuer, under which the right of payment of the person(s) entitled thereto is, or is expressed to be, or is required by any present or future agreement of the Issuer to be, subordinated to the rights of all unsubordinated creditors of the Issuer in the event of the dissolution, winding-up or placing into liquidation of the Issuer;

**Taxation**

All payments in respect of the Notes will be made subject to the provisions of the applicable legislation of the Republic of Namibia.

**Terms and Conditions**

The terms and conditions set out below in section entitled "*Terms and conditions*" and in accordance with which the notes will be issued; and

**Unlisted Notes**

Notes which are not listed on the NSX, any successor exchange or any further exchange as contemplated in the Programme.

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## **FORM OF THE NOTES**

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Notes will only be issued in Registered form as specified in the Applicable Pricing Supplement.

The Notes may be listed on the NSX or may be Unlisted Notes.

Each Tranche of Notes will be issued in accordance with the terms and conditions set out below in this Programme Memorandum (the “Terms and Conditions”) and should be read together with the Applicable Pricing Supplement prepared in connection with a particular Tranche of Notes. The Terms and Conditions applicable to any particular Tranche of Notes, which is the subject of an Applicable Pricing Supplement, are the Terms and Conditions of the Notes as completed, amended and/or replaced to the extent described in the relevant Applicable Pricing Supplement.

The Notes, whether listed or unlisted, will be represented by Certificates and will be registered in the name of the Noteholder in the Register of Noteholders maintained by the Registrar on behalf of the Issuer. The Issuer shall regard the Register as the conclusive record of title to the Notes.

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## **USE OF PROCEEDS**

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Unless otherwise stated in the Applicable Pricing Supplement, the net proceeds from the issue of the notes will be applied by the Issuer to fund loans and advances to its customers and for general corporate purposes, including but not limited to liquidity and capital management, the rearrangement of the term structure of funding in line with the Issuers Asset Liability Committee (ALCO) strategy and to comply with regulatory long term funding requirements.

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## PRO FORMA PRICING SUPPLEMENT

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Set out below is the form of Pricing Supplement which will be completed for each Tranche of Notes issued under the Programme:



**Bank Windhoek Limited**

*(Registration Number 79/081)*

**Issue of [Aggregate Nominal Amount of Tranche] [Title of Notes]**

**[Listed on the NSX/Unlisted]**

**Under its N\$1,000,000,000 Domestic Medium Term Note Programme**

This document constitutes the Applicable Pricing Supplement relating to the issue of Notes described herein. Terms used herein shall be deemed to be defined as such for the purposes of the Terms and Conditions set forth in the Programme Memorandum dated ..... This Applicable Pricing Supplement contains the final terms of the Notes and must be read in conjunction with such Programme Memorandum. To the extent that there is any conflict or inconsistency between the contents of this Applicable Pricing Supplement and the Programme Memorandum, the provisions of the Applicable Pricing Supplement shall prevail.

### DESCRIPTION OF THE NOTES

1) Issuer	<b>Bank Windhoek Limited</b>
2) Senior Notes or Subordinated Notes	Unsecured [Senior/Subordinated] Notes ]
3) (a) Series Number	[ ]
(b) Tranche Number	[ ]
4) ISIN	[ ]
5) Aggregate Nominal Amount of this Tranche	[ ]
6) Interest/Payment Basis	[Fixed Rate/Floating Rate/Zero Coupon] Notes
7) Form of Notes	[Registered Notes]
8) Automatic/Optional Conversion from one Interest/Payment Basis to another	[insert details including date for conversion]
9) Issue Date	[ ]
10) Specified denomination	[ ]
11) Issue Price	[ ]

- 12) Interest Commencement Date [ ]
- 13) Maturity Date [ ]
- 14) Applicable Business Day Convention [Floating Rate Business Day/Following Business Day/Modified Following Business Day/Modified Following Business Day Adjusted/Preceding Business Day/other convention – insert details
- 15) Definitions of Business Day (if different from that set out in the Terms and Conditions) [ ]
- 16) Final Redemption Amount [ ]
- 17) Last Day to Register by 17h00 on [...] and [...]of each year
- 18) Books Close Period(s) The Register will be closed from [...] to [...] and from [...] to [...] (all dates inclusive) in each year until the Maturity Date

### FIXED RATE NOTES

- 19) Fixed Rate of Interest [ ] percent
- 20) Interest Payment Date(s) [ Dates/Periods ]
- 21) Initial Broken Amount [ ]
- 22) Final Broken Amount [ ]
- 23) Calculation Amount [ ]
- 24) Fixed Coupon Amount [ ] per calculation amount
- 25) Default Rate [ ] +2%
- 26) Any other terms relating to the particular method of calculating interest [ ]

### FLOATING RATE NOTES

- 27) Interest Payment Date(s) [ dates/Periods ]
- 28) Interest Period(s) [ ]
- 29) Interest Rate [ ] percent
- 30) Minimum Rate of Interest [ ] percent
- 31) Maximum Rate of Interest [ ] percent
- 32) Interest Determination Date [ ]
- 33) Other terms relating to the method of calculating interest [ ]
- 34) Manner in which the Reference Rate of Interest is to be determined [ISDA Determination/Screen Rate Determination/other (insert details)]
- 35) Reference Rate [ ]
- 36) Margin [ ] +/- ( ) per cent per annum to be added to/subtracted from the relevant (ISDA rate/ Reference Rate)]
- 37) If ISDA Determination
- a) Floating Rate [ ]

- b) Floating Rate Option [ ]
- c) Designated Maturity [ ]
- d) Reset Date(s) [ ]
- e) ISDA Definition to apply [ ]

38) If Screen Determination

- a) Reference Rate (including relevant period by reference to which the Rate of Interest is to be calculated) [e.g..ZAR-JIBAR-SAFEX]
- b) Interest Rate Determination Date(s) [ ]
- c) Relevant Screen Page and Reference Code [ ]

39) If Rate of Interest to be calculated otherwise than by reference to 37 or 38 above, insert basis for determining Interest Rate/Margin/Fall back provisions [ ]

40) If different from the Calculation Agent, the agent responsible for calculating amount of principal and interest [ ]

41) Default Rate [ ] +2%

**ZERO COUPON NOTES**

42) Implied Yield [ ]percent  
[NACA][NACS][NACM][NACQ][other method of compounding]

43) Reference Price [ ]

44) Default Rate [ ] +2%

**PROVISIONS REGARDING REDEMPTION / MATURITY**

45) Prior consent of Bank of Namibia required for any redemption prior to the Maturity date [Yes/No]

46) Issuer's Optional Redemption: if yes [Yes/No]

- a) Optional Redemption Date(s) [ ]
- b) Optional Redemption Amount(s) and method, if any, of calculation of such amount(s) [ ]
- c) Minimum period of notice (if different to Condition 9.3) [ ]
- d) If redeemable in part;
  - (1) Minimum Redemption Amount [ ]
  - (2) Higher Redemption Amount [ ]

- e) Other terms applicable on Redemption [       ]
- f) Step-up Rate if not Redeemed [       ]
  - (1) Terms of Step-up [       ]
- 47) Early Redemption Amount(s) payable on redemption for taxation reasons or on event of default (if required) [       ]

**GENERAL**

- 48) Additional selling restrictions [       ]
- 49) Material Adverse changes in the Issuer's financial position since the date of its last audited financial statements? [yes/no]
  - If yes please specify
- 50) Paying Agent [       ]
- 51) Registrar [       ]
- 52) Settlement Agent [       ]
- 53) Sponsor [       ]
- 54) Calculation Agent [       ]
- 55) Financial Exchange [       ]
- 56) Method of distribution [       ]
- 57) Credit Rating assigned to Notes (if any) [       ]
- 58) Any other terms and conditions [       ]

The Issuer accepts responsibility for the information contained in this Applicable Pricing Supplement.  
 [Application is hereby made to list this issue of Notes pursuant to the approval of the N\$1,000,000,000 Domestic Medium Term Note Programme of Bank Windhoek Limited (as from (date of Issue of Notes)).]

**SIGNED** at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

For and on behalf of  
**BANK WINDHOEK LIMITED Issuer**

\_\_\_\_\_  
 Name:  
 Capacity:  
 Who warrants his authority hereto

\_\_\_\_\_  
 Name:  
 Capacity:  
 Who warrants his authority hereto

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## TERMS AND CONDITIONS

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*The following are the Terms and Conditions to be issued by the Issuer, which will be incorporated by reference into each Definitive Certificate (as herein defined). The Issuer will sign the Applicable Pricing Supplement, based on the pro forma Applicable Pricing Supplement included in the Programme*

### 1 Interpretation

In these Terms and Conditions, unless inconsistent with the context or separately defined in the Applicable Pricing Supplement, the following expressions shall have the following meanings:

<b>“Agency Agreement”</b>	the agency agreement (if any) to be entered into between the Issuer, the Registrar, the Calculation Agent and the Paying Agent, if the Issuer is not acting in any of the aforementioned capacities;
<b>“Applicable Pricing Supplement”</b>	the Pricing Supplement relating to each Tranche of Notes;
<b>“Applicable Procedures”</b>	the rules and operating procedures for the time being of the NSX, Settlement Agents and/or any other relevant financial exchange, as the case may be and if applicable;
<b>“Books Closed Period”</b>	the period as specified in the Applicable Pricing Supplement, commencing after the Last Date to Register, during which transfer of the Notes will not be registered, or such shorter period as the Issuer may decide in order to determine those Noteholders entitled to receive interest
<b>“Broken Amount”</b>	the amount of any initial or final interest amount which does not correspond to the Fixed Coupon Amount and the Interest Payment Dates to which they relate, calculated in respect of a Fixed Rate Note as provided for by the Applicable Pricing Supplement;
<b>“Business Day”</b>	a day (other than a Saturday or Sunday or public holiday within the meaning of the Public Holidays Act No.26 of 1990) which is a day on which commercial banks settle NAD payments in Namibia
<b>“Business Day Convention”</b>	if any Interest Payment Date (or other date), which is specified in the Applicable Pricing Supplement, falls on a day which is not a Business Day, then such Interest Payment Date (or other date) will be subject to adjustment in accordance with the Business Day Conventions as described in Condition 7.3 :
<b>“Calculation Amount”</b>	if applicable, has the meaning given in the Applicable Pricing Supplement
<b>“Certificate(s)” or “Individual</b>	a certificate issued by the Issuer to a registered Noteholder with respect to the notes issued to that Noteholder in

<b>Certificate</b>	accordance with Condition 3 and any further certificate issued in consequence of a transfer thereof;
<b>“Class of Noteholders” or “Class”</b>	the holders of a Series of Notes or, where appropriate, the holders of different Series of Notes;
<b>“Day Count Fraction”</b>	means, in respect of the calculation of an amount of interest in accordance with Condition 7.3
<b>“Definitive Certificate”</b>	a Note in the definitive registered form issued in exchange for a beneficial interest in accordance with Condition 13;
<b>“Early Redemption Amount”</b>	the amount at which the Notes will be redeemed by the Issuer pursuant to the provisions of Condition 9.2 and/or Condition 12 as set out in Condition 9.4;
<b>“Final Redemption Amount”</b>	the amount of principal specified in the Applicable Pricing Supplement payable in respect of each Note upon the Maturity Date;
<b>“Fixed Coupon”</b>	has the meaning given in the Applicable Pricing Supplement;
<b>“Fixed Interest Period”</b>	the period from (and including) a Fixed Interest Payment date (or the Interest Commencement date) to (but excluding) the next (or first) Fixed Interest Payment Date;
<b>“Fixed Rate Notes”</b>	Fixed Rate Notes will bear interest at a fixed interest rate, as indicated in the Applicable Pricing Supplement, and more fully described in Condition 7.1;
<b>“Floating Rate Notes”</b>	Floating Rate Notes will bear interest at a floating interest rate, as indicated in the Applicable Pricing Supplement, and more fully described in Condition 7.2;
<b>“Implied Yield”</b>	the yield accruing on the Issue Price of Zero Coupon notes, as specified in the Applicable Pricing supplement;
<b>“Interest Amount”</b>	the amount of interest payable in respect of each Principal Amount of the Notes, as determined in accordance with Condition 7;
<b>“Interest Commencement Date”</b>	the first date from which the interest on the Notes will accrue, as specified in the Applicable Pricing Supplement;
<b>“Interest Payment Date(s)”</b>	the Interest Payment Date(s) specified in the Applicable Pricing Supplement or if no express Interest Payment Date(s) is/are specified in the Applicable Pricing Supplement, each date which occurs after a bi-annual period following the preceding Interest Payment Date or, in the case of the first Interest Payment Date, after the Interest Commencement Date;
<b>“Interest Period”</b>	the period(s) in respect of which interest accrues on Notes other than Zero Coupon Notes and falls due for payment on the applicable Interest Payment Date as specified in the

	Applicable Pricing Supplement;
<b>“Interest Rate”</b>	the rate or rates of interest applicable to Notes other than Zero Coupon Notes as indicated in the Applicable Pricing Supplement;
<b>“ISDA”</b>	International Swaps and Derivatives Association, Inc.;
<b>“ISDA Definitions”</b>	the 2006 ISDA Definitions as published by the International Swaps and Derivatives Association, Inc (as amended or supplemented from time to time) as specified in the applicable Pricing Supplement;
<b>“ISIN”</b>	International Securities Identification Number as issued by the NSX;
<b>“Last Day to Register”</b>	with respect to a particular Series of Notes (as reflected in the Applicable Pricing Supplement), the last date or dates preceding a Payment Day on which the Registrar will accept Transfer Forms and record the transfer of Notes in the Register for that particular Series of Notes and whereafter, the Register is closed for further transfers or entries until the Payment Day;
<b>“Margin”</b>	the margin which will be aggregated with the Reference Rate on notes to determine the interest rate which will be applied to the Note. This margin will be specified in the applicable Pricing Supplement;
<b>“Material Adverse Effect”</b>	means a material adverse change with regards to: <ul style="list-style-type: none"> <li>a) the financial condition of the Issuer taken as a whole; or</li> <li>b) the ability of the Issuer to perform its obligations under and in respect of the Notes; or</li> <li>c) the validity or enforceability of the Notes;</li> </ul>
<b>“Maturity Date”</b>	the date specified in each Applicable Pricing Supplement on which the Principal Amount is due;
<b>“NACA”</b>	nominal annual compounded annually;
<b>“NACM”</b>	nominal annual compounded monthly;
<b>“NACQ”</b>	nominal annual compounded quarterly;
<b>“NACS”</b>	nominal annual compounded semi-annually;
<b>“Namibia Dollar” or “N\$” or “NAD”</b>	the lawful currency of the Republic of Namibia, being Namibia Dollar, or any successor currency;
<b>“NSX”</b>	the Namibian Stock Exchange, a duly licensed stock exchange under the provisions of the Stock Exchange Control Act No. 1 of 1985, or any exchange which operates

	as a successor exchange to the NSX;
<b>“Outstanding”</b>	<p>in relation to the Notes, all the Notes issued other than:</p> <ul style="list-style-type: none"> <li>(a) those which have been redeemed in full;</li> <li>(b) those in respect of which the date for redemption in accordance with the Terms and Conditions has occurred and the redemption moneys wherefore (including all interest (if any) accrued thereon to the date for such redemption and any interest (if any) payable under the Terms and Conditions after such date) remain available for payment against presentation of such Notes;</li> <li>(c) those which have been purchased and cancelled as provided in Condition 9;</li> <li>(d) those which have become prescribed under Condition 11;</li> <li>(e) those mutilated or defaced Notes which have been surrendered in exchange for replacement Notes pursuant to Condition 13;</li> </ul> <p>provided that for each of the following purposes, namely:</p> <ul style="list-style-type: none"> <li>(i) the right to attend and vote at any meeting of the Noteholders; and</li> <li>(ii) the determination of how many and which Notes are for the time being Outstanding for the purposes of Conditions 17 and 18,</li> </ul> <p>all Notes (if any) which are for the time being held by the Issuer (subject to any applicable law) or by any person for the benefit of the Issuer and not cancelled (unless and until ceasing to be so held) shall be deemed not to be Outstanding;</p>
<b>“Payment Day”</b>	any day which is a Business Day and upon which a payment is due by the Issuer in respect of any Notes;
<b>“Principal” or “Principal Amount”</b>	the nominal amount of each Note specified on the Definitive Certificate evidencing such Note and as specified in the Applicable Pricing Supplement;
<b>“Programme”</b>	the N\$1,000,000,000 Domestic Medium Term Note Programme under which the Issuer may from time to time issue Notes;
<b>“Registered Note(s)”</b>	a Note issued in registered form and transferable in accordance with Condition 13;
<b>“Relevant Date”</b>	in respect of any payment relating to the Notes, the date on which such payment first becomes due;
<b>“Representative”</b>	a person duly authorised to act on behalf of a Noteholder, who may be regarded by the Issuer, the Registrar and the Paying Agent (acting in good faith) as being duly authorised

based upon the tacit or express representation thereof by such Representative, in the absence of express notice to the contrary from such Noteholder;

<b>“Senior Notes”</b>	Notes issued with the status set out in Condition 5; and being subject to those set out in Condition 22
<b>“Series”</b>	a Tranche of Notes together with any further Tranche or Tranches of Notes which are: (i) expressed to be consolidated and form a single series; and (ii) identical in all respects (including as to listing) except for their respective issue dates, Interest Commencement Dates and/or Issue Prices;
<b>“Subordinated Notes”</b>	Notes issued with the status set out in Condition 6;
<b>“Terms and Conditions”</b>	the terms and conditions incorporated in this section headed “Terms and Conditions” and in accordance with which the Notes will be issued, subject to the provisions of the Applicable Pricing Supplement;
<b>“Tranche”</b>	in relation to any particular Series, all Notes which are identical in all respects;
<b>“Transfer Form”</b>	the written form for the transfer of any Note, in the form approved by the Registrar, and signed by the transferor and transferee;
<b>“ZAR”</b>	the lawful currency of the Republic of South Africa being South African Rand, or any successor currency.
<b>“ZAR-JIBAR-SAFEX”</b>	the mid-market rate for deposits in ZAR for a period of the Designated Maturity (as indicated in the Applicable Pricing Supplement) which appears on the Reuters Screen SAFEX Page as at 12:00, CAT time on the relevant date;
<b>“Zero Coupon Notes”</b>	Zero Coupon Notes will be offered and sold at a discount to their nominal amount or at par as set out in the applicable Pricing Supplement. Zero Coupon Notes will not bear interest other than in the case of late payment.

## 2. ISSUE

- 2.1 Notes may be issued by the Issuer in Tranches pursuant to the Programme. A Tranche of Notes may, together with a further Tranche or Tranches, form a Series of Notes issued under the Programme.
- 2.2 The Noteholders are deemed to have notice of, and are entitled to the benefit of, and are subject to, all the provisions of the Applicable Pricing Supplement.
- 2.3 The Applicable Pricing Supplement for each Tranche of Notes is (to the extent relevant) incorporated herein for the purposes of those Notes and supplements these Terms and Conditions. The Applicable Pricing Supplement may specify other terms and conditions which shall, to the extent so specified or to the extent inconsistent with these Terms and Conditions, replace or modify these Terms and Conditions for the purposes of those Notes. Capitalised

expressions used in these Terms and Conditions and not here defined shall bear the meaning assigned to them in the Applicable Pricing Supplement.

- 2.4 Copies of the Applicable Pricing Supplement are available for inspection at the specified offices of the Registrar.

### **3. FORM AND DENOMINATION**

- 3.1 Notes will be issued in such denominations as may be determined by the Issuer and as indicated in the Applicable Pricing Supplement.
- 3.2 Listed and unlisted Notes issued in registered form will be issued in the form of Certificates.
- 3.3 Each Tranche of Registered Notes listed on the NSX will be issued in the form of Individual Certificates.
- 3.4 Each Note shall be a Senior Note or a Subordinated Note, as indicated in the Applicable Pricing Supplement.
- 3.5 Each Note, whether a Senior Note or a Subordinated Note, may be a Fixed Rate Note, a Floating Rate Note, or a Zero Coupon Note or such other types of Note as may be determined by the Issuer, as indicated in the Applicable Pricing Supplement.
- 3.6 All payments in relation to the Notes will be made in Namibia Dollar.

### **4. TITLE**

Subject as set out below, title to the Notes will pass upon registration of transfer in the Register in accordance with Condition 14.1. The Issuer, Paying Agent and the Registrar may deem and treat the registered holder of any Note as the absolute owner thereof (whether or not overdue and notwithstanding any notice of ownership or writing thereon or notice of any previous loss or theft thereof) for all purposes and shall not be bound to enter any trust in the Register or to take notice of or to accede to the execution of any trust (express, implied or constructive) to which any Note may be subject.

Should an Event of Default occur, then for the purposes of pursuing a remedy against the Issuer and/or the placing of the Issuer in default pursuant to Condition 12, the owner of a beneficial interest shall be deemed to be in the same position as a holder of a Definitive Certificate whose name was entered onto the Register.

### **5. STATUS OF THE SENIOR NOTES**

The Senior Notes are direct, unconditional, unsubordinated and unsecured obligations of the Issuer and rank *pari passu* among themselves and (subject to Condition 6) (save for certain debts required to be preferred by law) equally with all other unsecured and unsubordinated obligations of the Issuer from time to time outstanding.

### **6. STATUS AND CHARACTERISTICS RELATING TO SUBORDINATED NOTES**

- 6.1 The Subordinated Notes constitute direct, unconditional, unsecured and subordinated obligations of the Issuer and rank *pari passu* among themselves and, in the event of liquidation, shall rank at least *pari passu* with all other present and future unsecured and subordinated obligations of the Issuer, save for those that have been accorded by law preferential rights.
- 6.2 Subject to applicable law, in the event of the dissolution of the Issuer or if the Issuer is placed into liquidation or wound-up the claims of the persons entitled to be paid amounts due in respect

of the Subordinated Notes shall be subordinated to all other claims in respect of any other indebtedness of the Issuer except for other Subordinated Indebtedness, to the extent that in any such event, and provided as aforesaid, no amount shall be eligible for setting-off or shall be payable to any or all the persons entitled to be paid amounts due in respect of the Subordinated Notes in respect of the obligations of the Issuer thereunder until all other indebtedness of the Issuer which is admissible in any such dissolution, insolvency or winding-up (other than Subordinated Indebtedness) has been paid or discharged in full.

## **7. INTEREST**

### **7.1 Interest on Fixed Rate Notes**

Except if otherwise specified in the Applicable Pricing Supplement, interest on Fixed Rate Notes will be paid on a bi-annual basis, on the Interest Payment Dates.

Each Fixed Rate Note bears interest on its Principal Amount from (and including) the Interest Commencement Date to (but excluding) the Maturity Date specified in the Applicable Pricing Supplement at the rate(s) per annum equal to the Fixed Rate(s) of Interest specified in the Applicable Pricing Supplement. Such interest shall fall due for payment in arrear on the Interest Payment Date(s) specified in the Applicable Pricing Supplement in each year and on the Maturity Date specified in the Applicable Pricing Supplement, if such date does not fall on an Interest Payment Date. The first payment of interest will be made on the Interest Payment Date next following the Interest Commencement Date.

Unless otherwise specified, the interest in respect of any six month period shall be calculated by multiplying the Fixed Rate of Interest by the Principal Amount and by dividing the product by 2, provided that:

- (a) if an Initial Broken Amount is specified in the Applicable Pricing Supplement, then the first interest amount shall equal the Initial Broken Amount specified in the Applicable Pricing Supplement; and
- (b) if a Final Broken Amount is specified in the Applicable Pricing Supplement, then the final interest amount shall equal the Final Broken Amount.

#### **Accrual of Interest on Fixed Rate Notes**

Each Note (or in the case of the redemption of only part of a Note, that part only of such Note) will cease to bear interest from the date of its redemption unless, upon due presentation thereof, payment of the Principal Amount is improperly withheld or refused. In such event, interest will continue to accrue at the interest rate applicable to such Note until whichever is the earlier of:

- (c) the date on which all amounts due in respect of such Note have been paid; and
- (d) the date on which the full amount of the moneys payable has been received by the Paying Agent and notice to that effect has been given to Noteholders in accordance with Condition 16.

### **7.2 Interest on Floating Rate Notes**

#### **General**

Floating Rate Notes will bear interest

(i) on the same basis as the floating rate note under a notional interest rate swap transaction in Namibia Dollars governed by an agreement incorporating the ISDA Definitions and as amended and updated as at the issue date of the first Tranche of the notes of the relevant Series, or

(ii) on the basis of a reference rate appearing on the agreed screen page of a commercial quotation service or,

(iii) on such other basis as may be agreed between the Issuer and the relevant Dealer(s) (as indicated in the Applicable Pricing Supplement).

### **Interest Payment Dates**

Each Floating Rate Note bears interest on its Principal Amount from (and including) the Interest Commencement Date at the rate equal to the rate of interest payable in arrear on the Interest Payment Date(s) specified in the Applicable Pricing Supplement.

### **ISDA Determination**

Where ISDA Determination is specified in the Applicable Pricing Supplement as the manner in which the rate of interest is to be determined, the rate of interest for each Interest Period will be the relevant ISDA Rate plus or minus (as indicated in the Applicable Pricing Supplement) the Margin (if any). For the purposes of this sub-paragraph, "**ISDA Rate**" for an Interest Period means a rate equal to the Floating Rate that would be determined by such agent as is specified in the Applicable Pricing Supplement under an interest rate swap transaction if that agent were acting as Calculation Agent for that swap transaction under the terms of an agreement incorporating the ISDA Definitions and under which:

- (a) the Floating Rate Option is as specified in the Applicable Pricing Supplement;
- (b) the Designated Maturity is the period specified in the Applicable Pricing Supplement; and
- (c) the relevant Reset Date is as specified in the Applicable Pricing Supplement.

For the purposes of this sub-paragraph "**Floating Rate**", "**Floating Rate Option**", "**Designated Maturity**" and "**Reset Date**" have the meanings given to those terms in the ISDA Definitions.

When this sub-paragraph (headed "ISDA Determination") applies, in respect of each relevant Interest Period such agent as is specified in the Applicable Pricing Supplement will be deemed to have discharged its obligations under Condition [7](#) (sub-paragraph headed "Determination of Rate of Interest and Calculation of Interest Amount") in respect of the determination of the Rate of Interest if it has determined the Rate of Interest in respect of such Interest Period in the manner provided in this sub-paragraph.

### **Minimum and/or Maximum Rate of Interest**

If the Applicable Pricing Supplement specifies a Minimum Rate of Interest for any Interest Period, then the Rate of Interest for such Interest Period shall in no event be less than such Minimum Rate of Interest and/or if it specifies a Maximum Rate of Interest for any Interest Period, then the Rate of Interest for such Interest Period shall in no event be greater than such Maximum Rate of Interest.

### **Determination of Rate of Interest and Calculation of Interest Amount**

The Calculation Agent, in the case of Floating Rate Notes will, at or as soon as practicable after each time at which the Rate of Interest is to be determined, determine the Rate of Interest and calculate the Interest Amount for the relevant Interest period, in the case that the Paying Agent

and the Calculation Agent are separate persons or entities, then the Calculation Agent shall notify the Paying Agent of the Rate of Interest for the relevant Interest Period as soon as practicable after calculating the same. Each Interest Amount shall be calculated by applying the Rate of Interest to the Specified Denomination, multiplying such sum by the applicable Day Count Fraction and rounding the resultant figure to the nearest cent, half a cent being rounded upwards.

**"Day Count Fraction"** means, in respect of the calculation of an Interest Amount for any Interest Period:

- (d) if **"Actual/365"** is specified in the Applicable Pricing Supplement, the actual number of elapsed days in the Interest Period divided by 365; or
- (e) such other calculation method as is specified in the Applicable Pricing Supplement.

### **Notification of Rate of Interest and Interest Amount**

The Calculation Agent (or such other agent as is specified in the Applicable Pricing Supplement) will cause the Rate of Interest and each Interest Amount for each Interest Period and the relevant Interest Payment Date to be notified to the Issuer, the Noteholders, the Paying Agent (if the Paying Agent is not the Calculation Agent), the Calculation Agent and any exchange on which the relevant Floating Rate Notes are for the time being listed and notice thereof to be published in accordance with Condition 16, as soon as possible after their determination but in no event later than the fourth Business Day thereafter. Each Interest Amount and Interest Payment Date so notified may subsequently be amended (or appropriate alternative arrangements made by way of adjustment) in the event of an extension or shortening of the Interest Period. Any such amendment will be promptly notified to each exchange on which the relevant Floating Rate Notes are for the time being listed and to the Noteholders in accordance with Condition 16 or individually.

### **Certificates to be Final**

All certificates, communications, opinions, determinations, calculations, quotations and decisions given, expressed, made or obtained for the purposes of the provisions of this sub-paragraph, by the Calculation Agent shall (in the absence of wilful deceit, bad faith or manifest error) be binding on the Issuer, the Paying Agent or, if applicable, the Calculation Agent, as the case may be, and all Noteholders, and in the absence as aforesaid, no liability to the Issuer or the Noteholders shall attach to the Paying Agent or Calculation Agent (as the case may be) in connection with the exercise or non-exercise by it of its powers, duties and discretions pursuant to such provisions.

### **Accrual of Interest of Floating Rate Notes**

Each Note (or in the case of the redemption of only part of a Note, that part only of such Note) will cease to bear interest from the date of its redemption unless, upon due presentation thereof, payment of principal is improperly withheld or refused. In such event, interest will continue to accrue at the rate specified in the Applicable Pricing Supplement until the earlier of:

- (f) the date on which all amounts due in respect of such Note have been paid; and
- (g) the date on which the full amount of the moneys payable has been received and paid by the Paying Agent immediately once notice to that effect has been given in accordance with Condition 16 or individually.

### 7.3 **Business Day Convention**

If any Interest Payment Date (or other date), which is specified in the Applicable Pricing Supplement, falls on a day which is not a Business Day, then such Interest Payment Date (or other date) will be subject to adjustment in accordance with the under mentioned Business Day Conventions:

- (a) the Floating Rate Convention, such Interest Payment Date (or other date) shall be postponed to the next day which is a Business Day unless it would thereby fall into the next calendar month, in which event: (i) such Interest Payment Date (or other date) shall be brought forward to the immediately preceding Business Day; and (ii) each subsequent Interest Payment Date (or other date) shall be the last Business Day in the month which falls after the number of months or other period specified as the Interest period in the Applicable Pricing Supplement after the preceding applicable Interest Payment Date (or other date) has occurred; or
- (b) the Following Business Day Convention, such Interest Payment Date (or other date) shall be postponed to the next day which is a Business Day; or
- (c) the Modified Following Business Day Convention, such Interest Payment Date (or other date) shall be postponed to the next day which is a Business Day unless it would thereby fall into the next calendar month, in which event such Interest Payment Date (or other such date) shall be brought forward to the immediately preceding Business Day; or
- (d) the Preceding Business Day Convention, such Interest Payment Date (or other date) shall be brought forward to the immediately preceding Business Day.

## 8. **PAYMENTS**

Only Noteholders reflected in the Register on the close of business on the Last Date to register (as specified in the Applicable Pricing Supplement) shall be entitled to payments of interest and/or principal.

### 8.1 **Method of Payment**

Subject to the provisions set out below, payments of interest and the Principal Amount to holders of Definitive Certificates will be made by electronic funds transfer and shall constitute a full and final discharge of the obligations of the Issuer in terms of such payments.

On written request by a registered holder of a Definitive Certificate to the Paying Agent, payment of interest or the Principal Amount may be made by cheque provided that where a payment exceeds such amount as constitutes the maximum amount for which a cheque may be drawn, the Noteholder concerned shall be obliged to make arrangements for an electronic funds transfer.

All payments made by cheque shall be sent by post to the address as may be specified in the request sent by the Noteholder to the Paying Agent. All such written requests for payment by cheque by a holder of a Definitive Certificate shall reach the Paying Agent at least 14 days prior to the Relevant Date for payment. Payments sent by cheque shall be posted, in the case of interest payments, at least 7 days prior to the Interest Payment Date, and in the case of principal, at least 7 days prior to the relevant Redemption Date. Payments by cheque shall be posted by ordinary mail, unless otherwise stipulated by the Noteholder, and neither the Issuer nor the Paying Agent shall accept liability for any loss in transmission or mail and the post authorities shall be deemed to be the Agent of the payees for the purpose of such transmission of cheques.

If the Issuer is prevented or restricted directly or indirectly from making any payment by electronic funds transfer in accordance with the preceding paragraph (whether by reason of strike, lockout, fire, explosion, floods, riot, war, accident, act of God, embargo, legislation, shortage of or breakdown in facilities, civil commotion, unrest or disturbances, cessation of labour, Government interference or control or any other cause or contingency beyond the control of the Issuer), the Issuer shall make such alternative arrangements for payments as may be appropriate in the circumstances.

Payments will be subject in all cases to any taxation or other laws and regulations applicable thereto in the place of payment, but without prejudice to the provisions of Condition 10.

## 8.2 **Surrender of Notes**

The Definitive Certificate in respect of the Note to be redeemed shall be surrendered to the Paying Agent 5 Business Days prior to the redemption date. Documents required to be presented and/or surrendered to the Paying Agent in accordance with these Terms and Conditions shall be so presented and/or surrendered at the office of the Paying Agent specified in the Applicable Pricing Supplement.

## 8.3 **Interpretation of Principal and Interest**

Any reference in these Terms and Conditions to principal in respect of the Notes shall be deemed to include, as applicable:

- (a) any additional amounts which may be payable with respect to principal under Condition 10;
- (b) the Final Redemption Amount of the Notes or the Early Redemption Amount of the Notes, as the case may be;
- (c) the Optional Redemption Amount(s) (if any) of the Notes;
- (d) in relation to Zero Coupon Notes, the amortised face amount (which shall be an amount equal to the sum of (i) the reference price; and (ii) the product of the accrual yield (as set out in the Applicable Pricing Supplement) (compounded semi-annually) being applied to the reference price from (and including) the issue date to (but excluding) the date fixed for redemption or (as the case may be) the date upon which such Note becomes due and repayable, or such other amount as is provided for in the Applicable Pricing Supplement; and
- (e) any premium and any other amounts which may be payable under or in respect of the Notes, but excluding for the avoidance of doubt, interest.

## 9. **REDEMPTION AND PURCHASE**

### 9.1 **At maturity**

Unless previously redeemed or purchased and cancelled as specified below, each Note will be redeemed by the Issuer at its Final Redemption Amount together (where applicable) with interest accrued to (but excluding) the Final Maturity date and as specified in, or determined in the manner specified in, the Applicable Pricing Supplement on the maturity date.

### 9.2 **Redemption for tax reasons**

All Notes in a tranche may be redeemed at the option of the Issuer (subject to the consent of the Bank of Namibia to the extent required) at any time (in the case of Notes other than Floating Rate Notes) or on any Interest Payment Date (in the case of Floating Rate Notes), on giving not

less than 30 nor more than 60 days notice to the Noteholders in accordance with Condition 16 (which notice shall be irrevocable), if:

- (a) on the occasion of the next payment due under the Notes, the Issuer has or will become obliged to pay additional amounts as provided for or referred to in Condition 10 as a result of any change in or amendment to, the laws or regulations of the Republic of Namibia or any political subdivision or any authority thereof or therein having power to tax, or any change in the application or official interpretation of such laws or regulations, which change or amendment becomes effective on or after the issue date; and
- (b) such obligation cannot be avoided by the Issuer taking reasonable measures available to it,

provided that no such notice of redemption shall be given earlier than 90 days prior to the earliest date on which the Issuer would be obliged to pay such additional amounts were a payment in respect of the Notes then due. Prior to the publication of any notice of redemption pursuant to this Condition 9.2, the Issuer shall deliver to the Registrar and the Paying Agent at their specified offices, for inspection by any holder of Notes so redeemed, a certificate signed by two authorised signatories of the Issuer stating that the Issuer is entitled to effect such redemption and setting forth a statement of facts showing that the conditions precedent to the right of the Issuer so to redeem have occurred, and an opinion of independent legal advisers of recognised standing to the effect that the Issuer has or will become obliged to pay such additional amounts as a result of such change or amendment.

Notes redeemed for tax reasons pursuant to this Condition 9.2 will be redeemed at their Early Redemption Amount referred to in Condition 9.4 together (if appropriate) with interest accrued to (but excluding) the date of redemption.

### 9.3 **Redemption at the option of the Issuer**

If the Issuer is specified in the Applicable Pricing Supplement as having an option to redeem, the Issuer shall be entitled to (subject to the consent of the Bank of Namibia to the extent required), having given:

- (a) not less than 15 and no more than 30 days' notice to the Noteholders in accordance with Condition 16 and
- (b) not less than seven days before giving the notice referred to in (a) above, notice to the Registrar, Calculation Agent and Paying agent

(both of which notices shall be irrevocable) to redeem all or some of the Notes then Outstanding on the Optional Redemption Date(s) and at the Optional Redemption Amount(s) specified in, or determined in the manner specified in, the Applicable Pricing Supplement together, if appropriate, with interest accrued to (but excluding) the Optional Redemption Date(s).

Any such redemption amount must be of a nominal amount equal to or greater than the Minimum Redemption Amount or equal to or less than a Higher Redemption Amount, both as indicated in the Applicable Pricing Supplement. In the case of a partial redemption of Notes, the Notes to be redeemed ("**Redeemable Notes**") will be selected in accordance with the Applicable Procedures not more than 30 days prior to the date fixed for redemption (the "**Selection Date**").

A list of the serial numbers of the Definitive Certificate of each Redeemable Notes will be published in accordance with Condition 16 not less than 15 days prior to the date fixed for redemption.

Holders of Redeemable Notes shall surrender the Definitive Certificates representing the Notes in accordance with the provisions of the notice given to them by the Issuer as contemplated in paragraph (a) above. Where only a portion of the Notes represented by the Definitive Certificates are redeemed, the Registrar shall deliver a new Definitive Certificates to such Noteholders in respect of the balance of the Notes.

#### 9.4 **Early Redemption Amounts**

For the purpose of Condition 9.2 and Condition 12 (and otherwise as stated herein), the Notes will be redeemed at the Early Redemption Amount to be determined in the manner specified in the Applicable Pricing Supplement.

#### 9.5 **Purchases**

With the prior consent of the Bank of Namibia, the Issuer may at any time purchase Notes at any price in the open market or otherwise. In the event of the Issuer purchasing Notes, such Notes may (subject to restrictions of any applicable law) be held, resold or, at the option of the Issuer, surrendered to the Registrar for cancellation.

#### 9.6 **Cancellation**

All Notes which are redeemed will forthwith be cancelled. All Definitive Certificates representing the Notes so cancelled and the Notes purchased and cancelled pursuant to Condition 9.5 shall be forwarded to the Registrar for cancellation. Where only a portion of Notes represented by a Definitive Certificate are cancelled, the Registrar shall deliver a Definitive Certificate to such Noteholder in respect of the balance of the Notes.

#### 9.7 **Late Payment on Zero Coupon Notes**

If the amount payable in respect of any Zero Coupon Note upon redemption of such Zero Coupon Note, pursuant to the paragraphs under Condition 8 above headed "Method of Payment", "Surrender of Notes", "Payment Day", or "Interpretation of Principal and Interest" or upon it becoming due and repayable as provided in Condition 9.1, is improperly withheld or refused, the amount due and repayable in respect of such Zero Coupon Note shall be the amount calculated as provided in paragraph 9.4 under this Condition headed "Early Redemption Amounts", above as though the references therein to the date fixed for the redemption or the date upon which such Zero Coupon Note becomes due and payable were replaced by references to the date on which all amounts due in respect of such Zero Coupon Notes have been paid.

### 10. **TAXATION**

All payments in respect of the Notes will be made in accordance with Namibian legislation regarding taxation applicable at the time of payment. The Issuer will pay the amounts due as set out in these Terms and Conditions and no additional amounts will become payable as a result of the provisions of the applicable legislation, or any change in any tax legislation or regulation.

Each investor contemplating purchasing any Note should make its own independent investigation of the tax implications of the payments due under the Notes. Neither this Programme Memorandum, nor any Applicable Pricing Supplement nor any other information supplied in connection with the Notes constitutes an opinion regarding the tax implications of an investment in the Notes or regarding any payment due under the Notes.

## 11. PRESCRIPTION

Subject to the further provisions of the *Prescription Act 68 of 1969*, the prescription period for debts arising from Notes is three years from the Relevant Date therefore.

## 12. EVENTS OF DEFAULT

### Senior Notes

Any one or more of the following events occurring after the date of this Programme Memorandum and issue of a note shall each constitute an Event of Default:

- 12.1 the Issuer fails to pay any interest or principal in respect of any of the Notes on due date for payment and the failure to pay continues for more than ten days; or
- 12.2 the Issuer fails to perform or observe any of its other obligations under the Notes and such failure has continued for a period of ten days following the service on the Issuer of a notice requiring the same to be remedied; or
- 12.3 the Issuer is placed in liquidation, dissolved or is wound-up, whether provisionally or finally or is placed under judicial management, whether provisionally or finally or any process similar thereto, or an order is made or an effective resolution is passed for the winding-up, dissolution or liquidation of the Issuer save for the purposes of a merger, amalgamation, consolidation, reconstruction or reorganisation within the Issuer's group of companies on terms approved by an Extraordinary Resolution of Noteholders and subject to such approval of the Bank of Namibia as may be required; or
- 12.4 the Issuer ceases or threatens to cease to carry on the whole or a substantial part of its business, other than in terms of a merger, amalgamation, consolidation, reconstruction or reorganisation within the Issuer's group of companies on terms approved by an Extraordinary Resolution of the Noteholders, or if the Issuer stops or threatens to stop payment of, or is unable to, or admits to being unable to pay its debts (or any class of its debts) as they fall due, or is deemed unable to pay its debts (or any class of its debts); or
- 12.5 any step is taken by or under any authority with a view to the seizure, compulsory acquisition, expropriation or nationalisation of all or any of the Issuer or any of the securities issued by the Issuer or a material part of the assets of the Issuer; or
- 12.6 the Issuer initiates or consents to judicial proceedings relating to itself under any applicable compromise with creditors, liquidation, winding-up or insolvency or other similar laws or compromises, or attempts to compromise, with its creditors generally (or any significant class of creditors) or any meeting of creditors is convened by the Issuer to consider a proposal for an arrangement of compromise with its creditors generally (or any significant class of its creditors); or
- 12.7 if proceedings are initiated against the Issuer such that a person takes possession of the whole or a material part of the undertaking or assets of the Issuer, or an execution or attachment or other process is levied, enforced upon, sued out or put in force against the whole or a part of the undertaking or assets of the Issuer and such is not discharged within 30 days;

then any Registered holder of Senior Notes may, by written notice to the Issuer at its registered office, effective upon the date of receipt thereof by the Issuer, declare the Notes held by such holder to be forthwith due and payable whereupon the same shall become due and payable forthwith at the Early Redemption Amount (as described in Condition 9), together with accrued interest (if any) to the date of

payment, provided that no such action may be taken by a holder of Senior Notes if the Issuer withholds or refuses to make any such payment in order to comply with any law or regulation in the Republic of Namibia or to comply with any order of a court of competent jurisdiction.

### **Subordinated Notes**

If any one or more of the events contemplated in 12.1 to 12.7 above (each an "**Event of Default**") occurs after the date of this Programme Memorandum and issue of a note, any holder of Subordinated Notes may, by written notice to the Issuer at its registered office, effective upon the date of receipt thereof by the Issuer, declare the Notes held by such holder to be forthwith due and payable whereupon the same shall become forthwith due and payable at the Early Redemption Amount (as described in Condition 9) together with accrued interest (if any) to the date of payment, provided that no such action may be taken by a holder of Subordinated Notes if the Issuer withholds or refuses to make any such payment in order to comply with any law or regulation of the Republic of Namibia or to comply with any order of a court of competent jurisdiction.

## **13. TRANSFER AND EXCHANGE OF NOTES AND REPLACEMENT OF NOTES**

Notes of each Tranche will be represented by a Definitive Certificate(s). Notes will be exchangeable and transferable only in accordance with the Terms and Conditions and the Applicable Procedures.

Transfers between Participants will be affected in the ordinary way in accordance with the Applicable Procedures.

Unless the Applicable Pricing Supplement provides otherwise, Notes represented by a Definitive Certificate may be transferred in whole or in part (in the nominal amounts set out in the Applicable Pricing Supplement) by the holder or holders surrendering the Definitive Certificate for registration of the transfer of the Definitive Certificate (or the relevant part of the Definitive Certificate) at the specified office of the Registrar. The Definitive Certificate shall have the form of transfer thereon duly executed by, or shall be accompanied by a written instrument of transfer in a form satisfactory to the Issuer and Registrar duly executed by, the transferor and the transferee thereof or their attorney or attorneys duly authorised in writing. Upon the Registrar, after due and careful enquiry, being satisfied with the documents of title and the identity of the person making the request and subject to such reasonable regulations as the Registrar may prescribe, the requested transfer shall be effected in the Register. Such form of transfer shall comply with the applicable Namibian legal requirements.

Subject as provided above, the Registrar will, within three Business Days of receipt by it of the request (or such longer period as may be required to comply with any applicable fiscal or other laws, regulations or Applicable Procedures), authenticate and deliver at its specified office to the transferee or (at the risk of the transferee) send by mail to such address as the transferee may request a new Definitive Certificate in respect of the Notes transferred. In the case of the transfer of part only of the Notes represented by a Definitive Certificate, a new Definitive Certificate in respect of the balance of the Notes not transferred will be so authenticated and delivered or (at the risk of the transferor) sent to the transferor. The surrendered Definitive Certificate will forthwith be cancelled and retained by the Registrar. The transferor of Notes represented by a Definitive Certificate shall remain the owner thereof until registration of the transferee as Noteholder in the Register.

Trades in Notes represented by Definitive Certificates shall be carried out in accordance with the Applicable Procedures.

In the event of a partial redemption of Notes under paragraph 9.3 the Issuer and Registrar shall not be required:

- (a) to register the transfer of Notes (or parts of Notes) during the period beginning on the tenth day before the date of the partial redemption and ending on the day on which notice is given for redemption (both inclusive); or
- (b) to register the transfer of any Note, or part of a Note, called for partial redemption.

The costs and expenses of effecting any exchange or registration of transfer pursuant to the foregoing provisions (except for the expenses of delivery by a means other than regular mail (if any) and, if the Issuer shall so require, for the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto which will be borne by the Noteholder) will be borne by the Issuer.

The liquidator(s) or trustee(s) of an estate of a liquidated or sequestrated Noteholder and the executors or the administrators of the estate of a deceased Noteholder shall be the only person(s) recognised by the Issuer and the Registrar as having any title to such Notes.

Any person becoming entitled to Notes in consequence of the death or insolvency of the holder of such Notes may upon producing such evidence that he holds the position in respect of which he proposes to act under this paragraph or of his title as the Issuer shall require, be registered himself as the holder of such Notes or, subject to the requirements the Applicable Procedures and of this Condition 13, may transfer such Notes. The Issuer and the Registrar shall be entitled to retain any amount payable upon the Notes to which any person is so entitled until such person shall be registered as aforesaid or shall duly transfer the Notes.

Unless otherwise requested by him, the holder of Notes of any Series shall be entitled to receive only one Definitive Certificate in respect of his entire holding of such Series.

Where a Noteholder has transferred part only of his holding of Notes represented by a single Definitive Certificate there shall be delivered to him a Definitive Certificate in respect of the balance of such holding.

If any Definitive Certificate is mutilated, defaced, stolen, destroyed or lost it may be replaced at the office of the Registrar, on payment by the claimant of such costs and expenses as may be incurred in connection therewith and the provision of such indemnity as the Issuer may reasonably require. Mutilated or defaced Definitive Certificates must be surrendered before replacements will be issued.

## 14. REGISTER

- 14.1 The Register shall be kept at the specified offices of the Registrar. The Register shall reflect the number of Notes issued and Outstanding. The Register shall contain the name, address, and bank account details of the registered Noteholders. The Register shall set out the Principal Amount of the Notes issued to such Noteholder and shall show the date of such issue. The Register shall show the serial number Definitive Certificates issued in respect of the Notes. The Register shall be open for inspection during the normal business hours of the Registrar to any Noteholder or any person authorised in writing by any Noteholder. The Registrar shall not be obliged to record any transfer while the Register is closed. The Registrar shall not be bound to enter any trust into the Register or to take notice of any or to accede to any trust executed, whether express or implied, to which any Note may be subject. The Register shall be closed from the Last Day to register until each Payment Date of principal and interest in respect of the Notes, as the case may be.
- 14.2 The Registrar shall alter the Register in respect of any change of name, address or bank account number of any of the Noteholders of which it is notified in accordance with these Terms and Conditions.

- 14.3 No holder of a Beneficial Interest or any other beneficial owner of any Note shall be entitled to apply for rectification of the Register to reflect such person as the Noteholder in respect of the relevant Note and it shall be a condition of the acquisition of such Beneficial Interest or beneficial ownership that no right of rectification as such shall exist.

## 15. **REGISTRAR, PAYING AGENT AND CALCULATION AGENT**

The names of the initial Registrar, Paying Agent and Calculation Agent and their specified offices are set out on the last page of this Programme Memorandum.

The Issuer is entitled to vary or terminate the appointment of the Registrar, Paying Agent and Calculation Agent and/or appoint additional or other agents and/or approve any change in the specified office through which any agent acts, provided that there will at all times be a Registrar, Paying Agent and Calculation Agent with an office in such place as may be required by the Applicable Procedures. The Registrar, Paying Agent and Calculation Agent act solely as the agents of the Issuer and do not assume any obligation towards or relationship or agency of trust for or with any Noteholders.

## 16. **NOTICES**

All notices regarding the Notes shall be published in two English language daily newspapers of general circulation in the Republic of Namibia.

All notices to holders of Definitive Certificates will be valid if mailed to their registered addresses appearing on the Register. Any such notice shall be deemed to have been given on the fourth day after the day on which it is mailed.

Notices to be given by any holder of the Notes shall be in writing and given by lodging the same, together with a certified copy of the relative Definitive Certificate(s), if applicable, with the Registrar.

## 17. **MEETINGS OF NOTEHOLDERS, MODIFICATION AND WAIVER**

- 17.1 Annexure A contains provisions for convening meetings of any Class of Noteholders to consider any matter affecting their interests, including the sanctioning by Extraordinary Resolution of a modification of the Notes if proposed by the Issuer. Such meetings may be convened by the Issuer or Noteholders holding not less than twenty-five percent, in nominal amount of the Notes of such Class for the time being Outstanding.
- 17.2 Subject to the remainder of this Condition 17.2 the quorum at any such meeting for passing an Extraordinary Resolution is one or more persons holding or representing not less than a clear majority in nominal amount of the Notes of such Class for the time being Outstanding, or at any adjourned meeting one or more persons being or representing Noteholders of such Class whatever the nominal amount of the Notes so held or represented. At the meeting of the business of which includes the modification of certain provisions of any of the Notes (including, but not limited to, modifying the date of maturity of any of the Notes or any date for payment of interest thereof, reducing or cancelling the amount of principal or the rate of interest payable in respect of the Notes or modifying the majority required to pass an Extraordinary Resolution), the necessary quorum for passing an Extraordinary Resolution will be one or more persons holding or representing not less than two-thirds in nominal amount of the Notes of such Class for the time being Outstanding, or at any adjourned such meeting not less than one third, in nominal amount of the Notes of such Class for the time being Outstanding.
- 17.3 An Extraordinary Resolution passed at any meeting of the Noteholders shall be binding on all the Noteholders of the relevant Class, whether or not they are present at the meeting.

## 18. MODIFICATION

- 18.1 No modification of these Terms and Conditions may be effected without the written agreement of the Issuer. The Issuer may effect, without the consent of the relevant Class of Noteholders any modification of the Terms and Conditions which is of a formal, minor or technical nature or is made to correct a manifest error or to comply with mandatory provisions of the laws of the Republic of Namibia and the governing law in accordance with which Notes are issued. Any such modification shall be binding on the relevant Class of Noteholders and any such modification shall be notified to the relevant Class of Noteholders in accordance with Condition 16 as soon as practicable thereafter.
- 18.2 Save as provided in Condition 18.1 no modification of these Terms and Conditions may be effected unless:
- (a) in writing and signed by or on behalf of the Issuer, and by or on behalf of the members of the relevant Class of Noteholders holding not less than 75%, in nominal amount, of the Notes in that Class for the time being Outstanding; or
  - (b) sanctioned by an Extraordinary Resolution.

## 19. TRANSFER OF NOTES

### 19.1 Registered Notes

In order for any transfer of Notes to be effected through the Register and for the transfer to be recognize by the Issuer, each transfer of a Note:

- a) must be in writing on the specified Transfer Form approved by the Registrar;
- b) must be signed by the relevant Noteholder and the transferee, or any authorized representative of that registered Noteholder and/or transferee;
- c) shall only be in the Specified Denomination of the Note or multiples thereof and consequently the Issuer will not recognize any fraction of the Specified Denomination; and
- d) must be delivered to the Registrar together with the original Certificate in question for cancellation or, if only part of the Notes represented by a Certificate is transferred, a new Certificate for the balance will be delivered to the transferor and the cancelled Certificate will be retained by the Registrar.

The transferor of any Registered Notes represented by a Certificate shall be deemed to remain the owner thereof until the transferee is registered in the Register as the holder thereof.

Before any transfer is registered all relevant transfer taxes (if any) must have been paid and such evidence must be furnished as the Issuer may reasonably require as to the identity and title of the transferor and transferee.

No transfer will be affected or registered whilst the Register is closed.

- 19.2 In the event of a partial redemption of Notes under Condition 9.3 the Issuer and the Registrar (as applicable) shall not be required:
- a) To register the transfer of any Notes during the period beginning on the tenth day before the date of the partial redemption and ending on the date of the partial redemption (both inclusive); or

- b) To register the transfer of any Note, or part thereof, called for partial redemption.

## 20. FURTHER ISSUES

The Issuer shall be at liberty from time to time without the consent of the Noteholders to create and issue further Notes having terms and conditions the same as any of the other Notes issued under the Programme or the same in all respects save for the amount and date of the first payment of interest thereon, the Issue Price and the issue date, so that the further Notes shall be consolidated to form a single Series with the Outstanding Notes.

## 21. GOVERNING LAW

Unless otherwise specified in the Applicable Pricing Supplement, the provisions of the Programme Memorandum and the Notes are governed by, and shall be construed in accordance with, the laws of the Republic of Namibia.

## 22. NEGATIVE PLEDGE

22.1 The Issuer will not create or permit the creation of any Encumbrance (defined below) other than Permitted Encumbrance (defined below) over any of its present or future business, undertaking, assets or revenues to secure any present or future Indebtedness (defined below) (save for those that have been accorded preferential rights by law) without at the same time securing all Notes equally and rateably with such Indebtedness or providing such other security as may be approved by Extraordinary Resolution of the Noteholders, unless the provision of any such security is waived by an Extraordinary Resolution of the holders of those Notes.

22.2 For the purposes of this Condition 22:

- (a) **“Encumbrances”** means any mortgage, pledge, hypothecation, assignment, cession-in-*securitatem debiti*, deposit by way of security or any other agreement or arrangement (whether conditional or not and whether relating to existing or to future assets), having the effect of providing a security interest to a creditor or any agreement or arrangement to give any form of security to a creditor but excluding statutory preferences and/or requirements and any security interest arising by operation of law; and
- (b) **“Permitted Encumbrance”** means:
- (i) any Encumbrance existing as at the date of the Applicable Pricing Supplement; or
  - (ii) any Encumbrance with respect to the receivables of the relevant entity which is created pursuant to any securitisation or like arrangement in accordance with normal market practice and whereby the Indebtedness is limited to the value of such receivables; or
  - (iii) any Encumbrance created over any asset owned, acquired, developed or constructed by the relevant entity, being an Encumbrance created for the sole purpose of financing or refinancing that asset owned, acquired, developed or constructed, provided that the Indebtedness so secured shall not exceed the *bona fide* market value of such asset or the cost of that acquisition, development or construction (including all interest and other finance charges, adjustments due to changes in circumstances and other charges reasonably incidental to such cost, whether contingent or otherwise); or
  - (iv) any Encumbrance over deposit accounts securing the loan to the relevant entity of funds equal to the amounts standing to the credit of such deposit accounts; or

(v) any Encumbrance created in the ordinary course of the relevant entity's business over stock-in-trade, inventory, accounts receivable, set-offs, swaps or deposit accounts.

(c) "**Indebtedness**" means, in respect of the Issuer any indebtedness in respect of monies borrowed and (without double counting) guarantees (other than those given in the ordinary course of business) given, whether present or future, actual or contingent.

22.3 The Issuer shall be entitled but not obliged, to form, or procure the formation of, a trust or trusts or appoint, or procure the appointment of, an agent or agents to hold any such rights of security for the benefit or on behalf of such Noteholders.

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## **TAXATION**

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*The comments below are intended as a general guide to the current position under the laws of the Republic of Namibia as at the date of the Programme Memorandum and is not intended as comprehensive advice and do not constitute tax advice and persons who are in any doubt as to their tax position should consult their professional advisers.*

*Words used in this section shall have the same meanings as defined in the Terms and Conditions, unless they are defined in this section or this is clearly inappropriate from the context.*

### **NATURE OF THE DISCOUNT ON ORIGINAL ISSUE OF THE NOTES**

Insofar as the Notes are issued at a discount (by having regard to the difference between the subscription price and the face value thereof) the discount will be treated as interest for tax purposes, and the discount amount will be deemed to accrue to the Noteholder on a yield to maturity basis until the current Noteholder disposes of the Note or until maturity of the Note. Interest is taxed on the basis of the yield to maturity unless an election has been made to treat the Notes held as trading stock on a mark-to-market basis.

### **STAMP DUTY**

Stamp Duty will be payable, if applicable, in terms of the Namibian *Stamp Duties Act 15 of 1993* as applicable in the Republic of Namibia from time to time.

### **GENERAL**

All payments in respect of the Notes will be made subject to the provisions of the applicable legislation of the Republic of Namibia

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## SUBSCRIPTION AND SALE

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The Notes will be distributed by Bank Windhoek Ltd and/or any person appointed as dealer by the Issuer (if any) and then in terms of the provisions of such an agreement entered into between the Dealer and the Issuer relating to the Programme.

### Republic of Namibia

The Issuer and each Dealer, in accordance with the relevant Dealers agreements, have represented and agreed that they will not solicit any offers for subscription for the Notes in contravention of any law and/or regulation of the Republic of Namibia.

### United States of America

The Notes have not been and will not be registered under the US Securities Act and may not be offered or sold within the United States or to, or for the account of or benefit of, US persons except in certain transactions exempt from the registration requirements of the US Securities Act. Terms used in this paragraph have the meanings given to them by Regulation S under the US Securities Act.

The Issuer and each Dealer agrees that it will not solicit offers for the subscription for, or deliver, any Notes within the United States or to, or for the account or benefit of, US persons.

### United Kingdom

The Issuer and each Dealer has represented, warranted and agreed that:

- i. in relation to Notes which have a maturity of one year or more, it has not offered or sold and will not offer or sell any such Notes to persons in the United Kingdom prior to admission of such Notes to listing in accordance with Part VI of the Financial Services and Markets Act, 2000 (the “**FSMA**”), except to persons whose ordinary activities involve them in acquiring, holding, managing or disposing of investments (as principal or agent) for the purposes of their businesses or otherwise in circumstances which have not resulted and will not result in an offer to the public in the United Kingdom within the meaning of the Public Offers of Securities Regulations, 1995 or the FMSA;
- ii. in relation to the Notes which have a maturity of 1 year or more, it has not offered or sold and, prior to the expiry of a period of six months from the issue date, will not offer or sell any such Notes to persons in the United Kingdom except to persons whose ordinary activities involve it in acquiring, holding, managing or disposing of investments (as principal or agent) for the purposes of their businesses or otherwise in circumstances which have not resulted and will not result in an offer to the public in the United Kingdom within the meaning of the Public Offers of Securities Regulations, 1995;
- iii. it has only communicated or caused to be communicated and will only communicate or cause to be communicated any invitation or inducement to engage in investment activity (within the meaning of section 21 of the FSMA) received by it in connection with the issue of such Notes in circumstances in which section 21(1) of the FSMA does not apply to the Issuer; and (iv) it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to the Notes in, from or otherwise involving the United Kingdom.

**General**

Neither the Issuer nor any Dealer represents that Notes may at any time lawfully be sold in compliance with any applicable registration or other requirements in any jurisdiction, or pursuant to any exemption available there under or assumes any responsibility for facilitating such sale.

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## **SETTLEMENT, CLEARING AND TRANSFER OF NOTES**

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All notes shall be issued in definitive form. Listed and unlisted Notes are transferable in accordance with the provisions of Condition 19 of the Terms and Conditions.

No Notes will be issued in bearer form.

Payments of interest and principal in respect of individual certificates will be made to Noteholders in accordance with Condition 8 of the Terms and Conditions.

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## GENERAL INFORMATION

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### Authorisation

All consents, approvals, authorizations or other orders of all regulatory authorities required by the Issuer under the laws of the Republic of Namibia have been given for the establishment of the Programme and the issue of Notes and for the Issuer, Registrar, Calculation Agent and Paying Agent to undertake and perform their respective obligations under the Notes and the Programme Memorandum.

### Listing

The Programme has been approved by the NSX. Notes to be issued under the Programme may be listed on the NSX and/or on such other exchange or exchanges as determined by the Issuer. Unlisted Notes may also be issued under this Programme.

### Documents Available

So long as Notes are in issue under the Programme, copies of the following documents will, when published, be available from the specified office of the Issuer as set out herein:

- (a) the audited Annual Financial Statements, and notes thereto, of the Issuer in respect of the financial years ended 30 June 2007, 2008 and 2009 as well as the approved audited Annual Financial Statements, and notes thereto, of the Issuer in respect of further financial years, as and when such become available;
- (b) a copy of this Programme Memorandum;
- (c) the form of the Definitive Certificates; and
- (d) any future supplements to this Programme Memorandum and any other documents incorporated herein or therein by reference.

### Material Change

Save as disclosed in this Programme Memorandum, and in the Applicable Pricing Supplement, there has been no material adverse change in the financial or trading position of the Issuer since 30 June 2009.

### Litigation

Save as disclosed herein, the Issuer is not engaged (whether as defendant or otherwise) in any legal, arbitration, administration or other proceedings, the results of which might have or have had a material effect on the financial position or the operations of the Issuer, nor is it aware of any such proceedings being threatened or pending.

### Non-Namibian Resident Noteholders and Emigrants from the Common Monetary Area

The information below is not intended as advice and it does not purport to describe all of the considerations that may be relevant to a prospective purchaser of Notes. Prospective purchasers of Notes that are non-Namibian residents or emigrants from the Common Monetary Area are urged to seek further professional advice in regard to the purchase of Notes under the Programme.

Blocked Dollars may be used for the purchase of Notes. Any principal amounts payable by the Issuer in respect of the Notes purchased with Blocked Dollars may not, in terms of the Namibian Exchange Control Regulations, be remitted out of Namibia or paid into any non-Namibian resident's bank account. For the purposes of this clause, Blocked Dollars are defined as funds which may not be remitted out of the Common Monetary Area or paid into a non-Namibia resident's bank account.

**Emigrants from the Common Monetary Area**

Any Definitive Certificate(s) issued to Noteholders who are emigrants from the Common Monetary Area will be endorsed "*non-resident*" by the Registrar.

Any payments of interest or principal due to an emigrant Noteholder will be deposited into such emigrant's Blocked Dollar account, as maintained by an authorised foreign exchange dealer.

**Non-residents of the Common Monetary Area**

Any Definitive Certificate(s) issued to Noteholders who are not resident in the Common Monetary Area will be endorsed "*non-resident*" by the Registrar.

For the purposes of these paragraphs, the Common Monetary Area includes the Republic of South Africa, the Republic of Namibia and the Kingdoms of Lesotho and Swaziland.

## Annexure A

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### PROVISIONS FOR MEETINGS OF NOTEHOLDERS

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*Words used in this Annexure A shall have the same meanings as defined in the Terms and Conditions.*

1.
  - (a) A Noteholder may by an instrument in writing (a "**form of proxy**") signed by the holder or, in the case of a corporation, executed under its common seal or signed on its behalf by an attorney or a duly authorised officer of the corporation, appoint any person (a "**proxy**") to act on his or its behalf in connection with any meeting or proposed meeting of the Noteholders.
  - (b) Any Noteholder which is a corporation may by resolution of its directors or other governing body authorise any person to act as its representative (a "**representative**") in connection with any meeting or proposed meeting of the Noteholders.
  - (c) Any proxy appointed pursuant to subparagraph (a) or representative appointed pursuant to subparagraph (b) shall, so long as the appointment remains in force, be deemed for all purposes in connection with any meeting or proposed meeting of the Noteholders specified in the appointment, to be the holder of the Notes to which the appointment relates and the holder of the Notes shall be deemed for such purposes not to be the Noteholder.
2. The proxies and representatives need not be Noteholders.
3. Each form of proxy shall be deposited at such place as the Registrar shall approve not less than 24 hours before the time appointed for holding the meeting or adjourned meeting at which the proxies named in the form of proxy propose to vote and in default the form of proxy shall not be treated as valid unless the Chairman of the meeting decides otherwise before such meeting or adjourned meeting proceeds to business.
4. The instrument appointing a proxy shall be in writing under the hand of the appointer or of his authorised agent or if the appointer is a company or any other body corporate either signed by its authorised officer or agent.
5. A certified copy of each form of proxy shall be deposited with the Registrar before the commencement of the meeting or adjourned meeting but the Registrar shall not thereby be obliged to investigate or be concerned with the validity of or the authority of the proxies named in any such form of proxy.
6. Any vote given in accordance with the terms of a proxy shall be valid notwithstanding the previous revocation or amendment of the form of proxy or of any of the Noteholders' instructions pursuant to which it was executed provided that no intimation in writing of such revocation or amendment shall have been received by the Registrar or the Issuer at its specified office (or such other place as may have been approved by the Registrar for the purpose) by the time being 24 hours before the time appointed for holding the meeting or adjourned meeting at which the block voting instruction is to be used.
7. The Issuer may at any time and, upon a requisition in writing of Noteholders holding not less than 25 per cent in nominal amount of the Notes for the time being outstanding, shall convene a meeting of the Noteholders and if the Issuer makes default for a period of 7 days in convening such a meeting the

same may be convened by the requisitionists. Whenever the Issuer is about to convene any such meeting it shall forthwith give notice in writing to the Registrar and the Dealers of the day, time and place thereof and of the nature of the business to be transacted thereat. Every such meeting shall be held at such time and place as the Registrar may approve.

8. At least 21 days' notice (exclusive of the day on which the notice is given and the day on which the meeting is held) specifying the place, day and hour of meeting shall be given to the Noteholders prior to any meeting of the Noteholders in the manner provided by Condition 16. Such notice shall state generally the nature of the business to be transacted at the meeting thereby convened but (except for an Extraordinary Resolution) it shall not be necessary to specify in such notice the terms of any resolution to be proposed. Such notice shall include a statement to the effect that proxy forms may be deposited with the Registrar for the purpose of appointing proxies not less than 24 hours before the time fixed for the meeting or that, in the case of corporations, they may appoint representatives by resolution of their directors or other governing body. A copy of the notice shall be sent by post to the Issuer (unless the meeting is convened by the Issuer).
9. Some person (who may but need not be a Noteholder) nominated in writing by the Issuer shall be entitled to take the chair at every such meeting but if no such nomination is made or if at any meeting the person nominated shall not be present within fifteen minutes after the time appointed for holding the meeting the Noteholders present shall choose one of their number to be Chairman.
10. At any such meeting one or more Noteholders present or being proxies or representatives and holding or representing in the aggregate not less than one third in nominal amount of the Notes for the time being outstanding shall (except for the purpose of passing an Extraordinary Resolution) form a quorum for the transaction of business and no business (other than the choosing of a Chairman) shall be transacted at any meeting unless the requisite quorum be present at the commencement of business. The quorum at any such meeting for passing an Extraordinary Resolution shall (subject as provided below) be one or more Noteholders present or being proxies or representatives and holding or representing in the aggregate a clear majority in nominal amount of the Notes for the time being outstanding provided that at any meeting the business of which includes any of the following matters (each of which shall only be capable of being effected after having been approved by Extraordinary Resolution) namely:
  - (a) modification of the maturity date of the Notes or reduction or cancellation of the nominal amount payable upon maturity; or
  - (b) reduction or cancellation of the amount payable or modification of the payment date in respect of any interest in respect of the Notes or variation of the method of calculating the rate of interest in respect of the Notes; or
  - (c) reduction of any Minimum Interest Rate and/or Maximum Interest Rate specified in the applicable Pricing Supplement of any Note; or
  - (d) modification of the currency in which payments under the Notes are to be made; or
  - (e) modification of the majority required to pass an Extraordinary Resolution; or
  - (f) the sanctioning of any such scheme or proposal as is described in paragraph 21(f) below; or
  - (g) alteration of this proviso or the proviso to paragraph 11 below;

the quorum shall be one or more Noteholders present or being proxies or representatives and holding or representing in the aggregate not less than two thirds in nominal amount of the Notes for the time being outstanding. An Extraordinary Resolution passed at any meeting of the holders of Notes will be binding on all holders of Notes, whether or not they are present at the meeting.

11. If within fifteen minutes after the time appointed for any such meeting a quorum is not present the meeting shall if convened upon the requisition of Noteholders be dissolved. In any other case it shall stand adjourned to the same day in the next week (or if such day is a public holiday the next succeeding business day) at the same time and place (except in the case of a meeting at which an Extraordinary Resolution is to be proposed in which case it shall stand adjourned for such period being not less than 14 days nor more than 42 days, and at such place as may be appointed by the Chairman and approved by the Registrar) and at such adjourned meeting one or more Noteholders present or being proxies or representatives (whatever the nominal amount of the Notes so held or represented by them) shall (subject as provided below) form a quorum and shall (subject as provided below) have power to pass any Extraordinary Resolution or other resolution and to decide upon all matters which could properly have been dealt with at the meeting from which the adjournment took place had the requisite quorum been present provided that at any adjourned meeting the business of which includes any of the matters specified in the proviso to paragraph 10 above the quorum shall be one or more Noteholders present or being proxies or representatives and holding or representing in the aggregate not less than one third in nominal amount of the Notes for the time being outstanding.
12. Notice of any adjourned meeting at which an Extraordinary Resolution is to be submitted shall be given in the same manner as notice of an original meeting but as if 10 were substituted for 21 in paragraph 8 above and such notice shall (except in cases where the proviso to paragraph 11 above shall apply when it shall state the relevant quorum) state that one or more Noteholders present or being proxies or representatives at the adjourned meeting whatever the nominal amount of the Notes held or represented by them will form a quorum. Subject as aforesaid it shall not be necessary to give any notice of an adjourned meeting.
13. Except where otherwise provided every resolution proposed to be passed at a meeting shall be decided in the first instance by a show of hands and unless all vote for the same result there will be a poll as defined below.
14. At any meeting, unless a poll is (before or on the declaration of the result of the show of hands) demanded by the Chairman, the Issuer or by one or more Noteholders present or being proxies or representatives (whatever the nominal amount of the Notes so held by them), a declaration by the Chairman that a resolution has been carried or carried by a particular majority or lost or not carried by a particular majority shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.
15. Subject to paragraph 17 below, if at any such meeting a poll is so demanded it shall be taken in such manner and subject as hereinafter provided either at once or after an adjournment as the Chairman directs and the result of such poll shall be deemed to be the resolution of the meeting at which the poll was demanded as at the date of the taking of the poll. The demand for a poll shall not prevent the continuance of the meeting for the transaction of any business other than the motion on which the poll has been demanded.
16. The Chairman may with the consent of (and shall if directed by) any such meeting adjourn the same from time to time and from place to place but no business shall be transacted at any adjourned meeting except business which might lawfully (but for lack of required quorum) have been transacted at the meeting from which the adjournment took place.
17. Any poll demanded at any such meeting on the election of a Chairman or on any question of adjournment shall be taken at the meeting without adjournment.
18. Any officer of the Issuer, and/or their legal practitioners may attend and speak at any meeting. Save as aforesaid, but without prejudice to the proviso to the definition of "Outstanding" (as defined in the Terms and Conditions), no person shall be entitled to attend and speak nor shall any person be entitled to vote at any meeting of the Noteholders or join with others in requisitioning the convening of such a meeting unless he either produces proof acceptable to the Issuer that he is the Noteholder or is

a proxy or a representative. The Issuer shall not be entitled to vote at any meeting in respect of Notes held by it for the benefit of any person and no other person shall be entitled to vote at any meeting in respect of Notes held by it for the benefit of any other person. Nothing herein contained shall prevent any of the proxies named in any form of proxy or any representative from being a director, an officer or representative of or otherwise connected with the Issuer.

19. Subject as provided in paragraph 17 hereof at any meeting on a show of hands (in proportion to Notes held) or pursuant to a poll, every Noteholder who is present in person and produces proof acceptable to the Issuer that he is the Noteholder or is a proxy or a representative shall have one vote per N\$1, 000, 000's worth of Notes (or the nearest rounded off multiple thereof) which he holds or the person which he represents or for whom he acts as proxy, holds.
20. Without prejudice to the obligations of the proxies any person entitled to more than one vote need not use all his votes or cast all the votes to which he is entitled in the same way.
21. A meeting of the Noteholders shall in addition to the powers hereinbefore given have the following powers exercisable by Extraordinary Resolution (subject to the provisions relating to quorum contained in paragraphs 10 and 11 above and subject to the provisos of any applicable statute) only namely:
  - (a) Power to sanction any compromise or arrangement proposed to be made between the Issuer and the Noteholders or any of them.
  - (b) Power to sanction any abrogation, modification, compromise or arrangement in respect of the rights of the Noteholders against the Issuer or against any of its property whether such rights shall arise under the Notes or otherwise.
  - (c) Power to assent to any modification of the provisions contained in the Terms and Conditions which shall be proposed by the Issuer.
  - (d) Power to give any authority or sanction which under the provisions of the Notes is required to be given by Extraordinary Resolution.
  - (e) Power to appoint any persons (whether Noteholders or not) as a committee or committees to represent the interests of the Noteholders and to confer upon such committee or committees any powers or discretions which the Noteholders could themselves exercise by Extraordinary Resolution.
  - (f) Power to sanction any scheme or proposal for the exchange or sale of the Notes for, or the conversion of the Notes into or the cancellation of the Notes in consideration of, shares, stock, notes, bonds, debentures, debenture stock and/or other obligations and/or securities of the Issuer or any entity (corporate or otherwise) formed or to be formed, or for or into or in consideration of cash, or partly for or into or in consideration of such shares, stock, notes, bonds, debentures, debenture stock and/or other obligations and/or securities as aforesaid and partly for or into or in consideration of cash.
22. Any resolution passed at a meeting of the Noteholders duly convened and held in accordance with the provisions hereof shall be binding upon all the Noteholders whether present or not present at such meeting and whether or not voting, and all the Noteholders shall be bound to give effect thereto accordingly and the passing of any such resolution shall be conclusive evidence that the circumstances justify the passing thereof. Notice of the result of the voting on any resolution duly considered by the Noteholders shall be published in accordance with Condition 16 by the Issuer within 14 days of such result being known provided that the non-publication of such notice shall not invalidate such resolution.

23. A majority, upon a show of hands or if a poll be duly demanded then by a majority consisting of the votes given on such poll, shall be required to ordinarily pass a resolution of Noteholders.
24. Minutes of all resolutions and proceedings at every such meeting as aforesaid shall be made and duly entered in books to be from time to time provided for that purpose by the Issuer and any such minutes as aforesaid if purporting to be signed by the Chairman of the meeting at which such resolutions were passed or proceedings had shall be conclusive evidence of the matters therein contained and until the contrary is proved every such meeting in respect of the proceedings of which minutes have been made shall be deemed to have been duly held and convened and all resolutions passed or proceedings had thereat to have been duly passed or had.
25. Subject to all other provisions contained herein the Registrar may without the consent of the Issuer or the Noteholders prescribe such further regulations regarding the requisitioning and/or the holding of meetings of Noteholders and attendance and voting thereat as the Registrar may in its sole discretion think fit.

**ISSUER, ARRANGER, DEALER, PAYING AGENT AND CALCULATION AGENT**

**Bank Windhoek Limited**  
**Treasury Department**  
**Claire Hobbs or Diederik Kruger**  
**7<sup>TH</sup> Floor**  
262 Independence Avenue  
Windhoek  
Namibia  
Tel: +264 61 299 1640/1  
Fax: +264 61 299 1649

**SPONSOR**

**IJG Securities (Proprietary) Limited**  
Member of the NSX  
Heritage Square  
100 Robert Mugabe Avenue  
Windhoek  
Namibia  
Tel: +264 61 383 510  
Fax: +264 61 304 671

**REGISTRAR AND SETTLEMENT AGENT**

**Bank Windhoek Global Investment and Transactional Services**  
**Bernadette Moller or Michelle Juling**  
2<sup>nd</sup> Floor  
Capricorn House  
Independence Avenue  
Windhoek  
Namibia  
Tel: +264 61 299 1371  
Fax: +264 61 299 1349

**AUDITOR OF THE ISSUER**

**PricewaterhouseCoopers**  
344 Independence Avenue  
Windhoek  
Namibia  
Tel: +264 61 284 1000  
Fax: +264 61 284 1001